CITY COUNCIL SPECIAL SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
1005 BAKER AVENUE
MONDAY, DECEMBER 7, 2015, 5:00 PM

1. Call to Order
2. Interviews:
   - 5:00 Steve Qunell – Planning Board
   - 5:10 Melissa Picoli – Planning Board
   - 5:20 Mitchell Drachman – Planning Board and Architectural Review Committee
   - 5:30 Scott Sorensen – Planning Board and Board of Adjustment
   - 5:40 Mike Kelley – Board of Adjustment
   - 5:50 Eleanor Gray, RLA – Architectural Review Committee
   - 6:00 John Repke – Architectural Review Committee
   - 6:10 Brian Sullivan – Lake & Lakeshore Protection Committee
   - 6:20 John Middleton – Whitefish Housing Authority

   Also applying: Ralph Ammondson – Whitefish Housing Authority (resident)

   Vacancies advertised for Impact Fee Advisory Committee but no applicants

3. Public Comment
4. Appointments

   Planning Board – One position – 2-year term, (Council)
   Lake/Lakeshore Protection Committee - Two positions - terms ending 12-31-17, (Council)
   One position – City member at Large
   One position – County lakefront property owner (no applicant)
   Architectural Review Committee – remainder of one term ending 5-31-17, (Council)
   Board of Adjustment – Three positions – 3-year terms, (Council)
   Whitefish Housing Authority Board – One position - 5-year term, (Mayoral)
   and One Resident Appointment, 2-year term (Mayoral)

(If time runs out before appointments are made they will be at the end of the regular meeting)

5. Adjourn

CITY COUNCIL WORK SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
1005 BAKER AVENUE
MONDAY, DECEMBER 7, 2015, 6:30 PM

1. Call to Order
2. Whitefish Fire Service Area – proposed renewal of Interlocal Agreement
3. Public Comment
4. Adjourn

PUBLIC NOTICE
VACANCIES ON CITY BOARDS/ COMMITTEES

HOUSING AUTHORITY - One position – 5 Year Term. Open to city residents or residents within a 10-mile radius of the City of Whitefish.

IMPACT FEE ADVISORY COMMITTEE – Three Positions, 2-Year terms. Openings are for a person from the Development Community, a Certified Public Accountant, and a Member at Large. Committee specifications require the applicant either lives or works within the Whitefish zoning jurisdiction. The Committee meets once a year.

WHITEFISH PLANNING BOARD - One Position – 2-Year Term. Applicants must live inside the City Limits.

BOARD OF ADJUSTMENT – Three Positions – 3-Year Terms. Applicants must live inside the City Limits.

WHITEFISH LAKE & LAKESHORE PROTECTION COMMITTEE - Two positions open for terms ending December 31, 2017. 1 member who lives inside City Limits (lakeshore ownership not required); and 1 non-city resident who owns Whitefish Lakefront property outside the City Limits.

AD HOC CEMETERY COMMITTEE – One position is open to residents of the Community who reside either inside or outside of the City Limits, for a term expiring June 30, 2016.

ARCHITECTURAL REVIEW COMMITTEE – open to residents of the City who are either employed by or is an owner of a business in the city of Whitefish, or owner of property in the city of Whitefish. At least two members of the Committee should be Montana licensed architects or a licensed design professional. 1 Position to fill the remainder of a term expiring May 31, 2017.

Interested citizens – Please submit a letter of interest to serve on the above committees to the Whitefish City Clerk's Office at 1005 Baker Avenue or mail to P.O. Box 158, Whitefish, MT 59937, by Monday, November 30, 2015. Interviews will be held **Monday, December 7, 2015.** Thereafter, if vacancies still exist, letters of interest will be accepted until the positions are filled. If you have any questions please call the City Clerk's Office at 863-2400. This is also posted on the City's website: www.cityofwhitefish.org

THANK YOU FOR YOUR INTEREST!

5:00

Subject: Interest in planning board opening.
From: Steve Qunell <squnell@post.harvard.edu>
Date: 11/19/2015 1:01 PM
To: nlorang@cityofwhitefish.org

Dear Ms. Lorang,

I write to express my interest in the opening on the Whitefish Planning Board. I have owned property in Whitefish since 2004 and previously served on the board from 2006-2009.

Please let me know if I should bring a signed copy of this request to your office or if this email is good enough. Also, please let me know if there is any other information you need from me regarding my interest.

Regards,

Steve Qunell
523 West 4th Street
Whitefish, MT 59937
808-298-2575

5.10

Subject: Planning Board Applcation
From: Melissa Picoli <picolimelissa@gmail.com>
Date: 11/18/2015 12:40 PM
To: Necile Lorang <nlorang@cityofwhitefish.org>

Hello Necile,

Please excuse my delay in re-applying for the City Planning Board. It has been an honor to be a part of it. Before re-applying, I wanted to reach out to a few Whitefish constituents to ensure that I am adding value and ensure that my place on the Board was beneficial to the City.

After several conversations with other Board members and prior applicants, I feel confident that I can continue to add a different perspective which ultimately supports healthy, sustainable growth for Whitefish.

I would very much like to re-apply for the City Planning Board and look forward to interviews on December 7th.

Best Regards,

Melissa Picoli
565 Spokane Ave.
Whitefish, MT 59937
406.531.4295

5:20

received
11-20-15

LETTER OF INTEREST

November 20th, 2015

Att: Necile Lorang

Administrative Services Director/City Clerk

Please be advised that I, Mitchell Drachman a full time resident of Whitefish Montana wish to apply and serve on the following Board and or Committee.

1) Whitefish Planning Board
2) Architectural Review Committee

I wish to serve in order to participate in volunteering my knowledge and experience in making Whitefish a better community in which to thrive.

My prior experience is as follows:

1) City of Pembroke Pines Planning & Zoning Board – Worked with City Planner & City Engineer – 6 years of service. This Board reviewed planning, zoning, architectural, and variances.
2) Broward County Florida Parks & Recreation Advisory Board – Chairman & Vice Chairman - 19 years of service. Chaired subcommittee that worked with Staff on the Design & Planning of all County Parks. Was instrumental in implementing two multimillion County Bond Projects which was primarily for the acquisition of land and construction of new County parks.
3) City of Pembroke Pines Florida Charter Review Board – Vice Chairman - 4 years of service.
4) City of Pembroke Pines Florida – Served on various other Boards and Committees over 19 years.

I thank you for your consideration in my willingness to serve the community.

Sincerely,

Mitchell Drachman

Mitchell Drachman

6002 St. Moritz Dr. Unit F, Whitefish, MT. 59937 Tel: 406-730-8465

5:30

received
11/3/15

Dear City Council Members,

I would like to apply for the open Planning Board position.

I served 4 terms on the board & would like to return.

Thank you.

Sincerely,

R Scott Sorensen

285 Glenwood Rd.

867-3669

5:30

received
11/3/15

City of Whitefish

City of Whitefish, City Clerk's Office
1005 Baker Avenue, PO Box 158
Whitefish, Mt 59937
406-863-2400
nlorang@cityofwhitefish.org

October 26, 2015

Dear Scott Sorensen:

Your term on the Whitefish Board of Adjustment

expires on December 31, 2015.

As a matter of course, the City will also be advertising this position along with others also expiring at this time. The deadline to receive letters of application, and to receive your letter of interest if you want to reapply to serve another term, is Monday, November 30, 2015. Interviews with the Council will be scheduled for December 7, 2015. I will call you to set up your specific interview time if you are re-applying. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

I have enclosed a copy of the ad we will be running.

If you are not planning to 're-up' for your position again, please let me know that as well.

Thank you, and thank you for your service to the community of Whitefish!

Necile Lorang

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:
I am interested in serving another term on the Board of Adjustment

862-3669

Signature Daytime Phone #

R. Scott Sorensen

WHITEFISH PLANNING BOARD

2-15-1: STANDING COMMITTEE ESTABLISHED:
Pursuant to and under the provisions of title 76, Montana Code Annotated, the city council of the city of Whitefish does create and establish a city planning board to be known as the "Whitefish planning board" consistent with the state law. (Ord 14-08, 9-15-2014)

2-15-2: PURPOSE, POWERS AND DUTIES:
By this chapter, the city council of the city of Whitefish adopts all of the sections of the laws of Montana aforementioned that specifically pertain to a city planning board, granting and delegating to the Whitefish planning board all of the rights, privileges, powers, duties, and responsibilities thereto appertaining. The Whitefish planning board shall have such jurisdiction as provided by state law. (Ord 14-08, 9-15-2014)

2-15-3: MEMBERSHIP:
The Whitefish planning board shall consist of seven (7) members, residing within the corporate limits of the city of Whitefish, to be appointed as follows:

A. One member appointed by the city council from its owns membership;
B. One member appointed by the city council who, at the council's discretion, may be an employee of the city of Whitefish or hold public office in Whitefish or Flathead County.
C. One member appointed by the mayor upon designation by the Flathead County board of commissioners, who may be a member of the board of county commissioners or an office holder or employee of the county; and
D. Four (4) citizen members appointed by the mayor, who shall be qualified by knowledge and experience in matters pertaining to the development of the city.

Board members shall receive no compensation. (Ord 14-08, 9-15-2014)

2-15-4: TERMS, POSITIONS
Board terms shall be two (2) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the Whitefish planning board. Members serving on the effective date of this chapter shall be assigned to positions that correspond with the following expiration dates:

Position Number	Term Expiration Date
1	December 31, 2015
2	December 31, 2015
3	December 31, 2015
4	December 31, 2015
5	December 31, 2016
6	December 31, 2016
7	December 31, 2016

As each of the above listed expiration dates has past, a member appointed to the position shall serve for a two (2) year term. Terms shall begin on January 1 following the initial expiration of the preceding term. At the discretion of the city council, members may be appointed for more than one term. (Ord. 14-08, 9-15-2014)

2-15-5: REMOVAL OF MEMBER

A member of Whitefish planning board may be removed from the board by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of state statutes, city ordinances and the rules of procedure of the board, or absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chair or secretary of Whitefish planning board at least twenty four (24) hours prior to any scheduled meeting. (Ord. 14-08, 9-15-2014)

2-15-6: VACANCY

Pursuant to sections 2-15-3 and 2-15-4 of this chapter, any vacancy on Whitefish planning board shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The city council may appoint members of the city council to temporarily fill vacant positions on Whitefish planning board. (Ord. 14-08, 9-15-2014)

2-15-7: ORGANIZATION

Whitefish planning board, at its first meeting after January 1 of each year, shall elect a chair and vice chair for the next twelve (12) month period. Upon the absence of the chair, the vice chair shall serve as chair pro tem. If a vacancy occurs in the chair or vice chair position, the board shall elect a member to fill the vacancy at the next meeting. (Ord. 14-08, 9-15-2014)

2-15-8: MEETINGS; RULES AND REGULATIONS:

Four (4) members of Whitefish planning board shall constitute a quorum. Not less than a quorum of the board may transact any business or conduct any proceedings before the board. The concurring vote of four (4) members of the board shall be necessary to decide any question or matter before the board, except a motion for a continuance and motions to elect a chair and vice chair may be decided by a simple majority vote of the board. The board shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. All meetings shall be open to the public. (Ord. 14-08, 9-15-2014)

2-15-9: EXPENDITURE AUTHORIZED

Whitefish planning board shall not have authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds except as has been included in the city budget and after the city council shall have authorized the expenditure by resolution, which resolution shall provide the administrative method by which funds shall be drawn and expended. (Ord. 14-08, 9-15-2014)

WHITEFISH PLANNING BOARD – ORD 14-08 – MEETINGS: 3RD THURSDAY OF THE MONTH

			TERM EXPIRATION DATE	
Councilor Sweeney, Council Representative PO Box 158		863-4848 (O)	December 31, 2015	Council Appointment
Melissa Picoli	PO Box 4644	406-531-4295	December 31, 2015	Council Appointment
Jim Laidlaw	1230 Lion Mountain Drive	406-250-1473	December 31, 2015	County Appointment
Chairman Ken Meckel	1129 W. 7th Street	406-862-5682	December 31, 2016	Mayoral Appointment
Vice-Chairman Ken Stein	509 E. 6th Street	406-250-0599	December 31, 2016	Mayoral Appointment
Rebecca Norton	530 Scott Avenue	4069-762-8175	December 31, 2016	Mayoral Appointment
John Ellis	PO Box 520	406-250-4328	December 31, 2016	Mayoral Appointment

5:40

received
11-3-15

City of Whitefish

City of Whitefish, City Clerk's Office
1005 Baker Avenue, PO Box 158
Whitefish, Mt 59937
406-863-2400
nlorang@cityofwhitefish.org

October 26, 2015

Dear Mike Kelley:

Your term on the Whitefish Board of Adjustment

expires on December 31, 2015.

As a matter of course, the City will also be advertising this position along with others also expiring at this time. The deadline to receive letters of application, and to receive your letter of interest if you want to reapply to serve another term, is Monday, November 30, 2015. Interviews with the Council will be scheduled for December 7, 2015. I will call you to set up your specific interview time if you are re-applying. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

I have enclosed a copy of the ad we will be running.

If you are not planning to 're-up' for your position again, please let me know that as well.

Thank you, and thank you for your service to the community of Whitefish!

Necile Lorang

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:
I am interested in serving another term on the Board of Adjustment

2016-2018 Term

Signature

406-863-2311
Daytime Phone #

BOARD OF ADJUSTMENT

2-3-1: BOARD ESTABLISHED:

There is hereby established a board of adjustment for the city, hereinafter referred to as the board. (Ord. 01-08, 3-5-2001)

2-3-2: PURPOSE, POWERS AND DUTIES:

A. The powers and duties of the board are set forth in Montana code 76-2-321 through 76-2-328, this chapter and rules of procedure adopted by the board.

B. The purpose of the board is to:

1. Hear and decide applications for appeals in which it is alleged that there is an error in an order, requirement, decision or determination made by the zoning administrator in the enforcement of these regulations.

2. Hear and grant or deny any application for a variance to the terms of the Whitefish zoning jurisdiction regulations, except where such regulations specifically limit the power of the board.

C. Decisions rendered by the board on applications for appeals and variances shall be made based upon written findings of fact establishing the reasons for each decision pursuant to the procedures for consideration established in either section 11-7-6 of this code, being the zoning jurisdiction regulations for appeals, or section 11-7-7 of this code, being the zoning jurisdiction regulations for variances. For each application whereupon the board renders a decision, the city clerk shall enter a copy of the findings of fact, along with the pertinent minutes of the board, into the public record.

D. The board of adjustment shall not by either variance or appeal process make any changes in the uses categorically permitted in any zoning classification or zoning district, or amend the zoning text or map. (Ord. 01-08, 3-5-2001)

2-3-3: MEMBERSHIP:

A. Appointments; Compensation: The board shall have seven (7) members. Members shall reside within the corporate limits of the City. Members shall be appointed by the city council. Board members shall receive no compensation. (Ord. 15-02, 2-2-15)

B. Terms Of Office: Board terms shall be three (3) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the board. Members serving on the effective date of this chapter shall be assigned to positions that correspond with the expiration dates of their existing terms.

Position	Term

Number	Expiration Date
1	December 31, 2004
2	December 31, 2004
3	December 31, 2005
4	December 31, 2005
5	December 31, 2005
6	December 31, 2003
7	December 31, 2003

As each of the above listed expiration dates has past, a member appointed to the position shall serve for a three (3) year term. Terms shall begin on January 1 following the initial expiration date of the preceding term. At the discretion of the city council, members may be appointed for more than one term. (Ord. 03-06, 4-7-2003)

C. Removal Of Member: A member of the board may be removed from the board by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of state statutes, city ordinances and the rules of procedures of the board, or absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year, shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his inability to attend a specific meeting shall notify the chair or secretary of the board at least twenty four (24) hours prior to any scheduled meeting.

D. Vacancy: Pursuant to subsections A and B of this section, any vacancy on the board shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The city council may appoint members of the city council to temporarily fill vacant positions on the board. (Ord. 01-08, 6-1-2015)

2-3-4: ORGANIZATION:
At its first meeting after January 1 of each year, the board shall elect a chair, vice chair and secretary for the next twelve (12) month period. Upon the absence of the chair, the vice chair shall serve as chair pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chair, vice chair or secretary positions, the board shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the board and shall keep an accurate record of all board proceedings. (Ord. 01-08, 3-5-2001)

2-3-5: MEETINGS, RULES AND REGULATIONS:
Four (4) members of the board shall constitute a quorum. Not less than a quorum of the board may transact any business or conduct any proceedings before the board. The concurring vote of four (4) members of the board shall be necessary to decide any question or matter before the board, except a motion for a continuance and motions to elect a chair, vice chair and secretary may be decided by a simple majority vote of the board. The board shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. All meetings shall be open to the public. (Ord. 01-08, 3-5-2001)

2-3-6: EXPENDITURES:
The board shall have no authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds except as has been included in the city budget and after the city council shall have authorized the expenditure by resolution, which resolution shall provide the administrative method by which funds shall be drawn and expended. (Ord. 01-08, 3-5-2001)

BOARD OF ADJUSTMENT - WCC 2-3-1 - (As needed – 1st Tuesday, 7:00 p.m.) – 3 YEAR TERMS
(4 Members constitutes a quorum)

Position #				TERM EXPIRATION DATE	
1.	Mike Kelley	6310 Locarno Dr, Unit G	863-2311 (O) 270-0530 (H)	12/31/2015	
2.	Norm Nelson	503 Somers Avenue	862-4574	12/31/2015	
3.	Herb Peschel	1404 W. Lakeshore Dr.	862-4503 (H) 250-4524 (C)	12/31/2017	Chairman
4.	Josh Akey	120 Hueth Ln	253-6320	12/31/2017	Vice-Chair
5.	Brandon Jacobson	6203 Monterra Ave #A	471-8280	12/31/2017	
6.	Scott Sorensen	285 Glenwood Road	862-3669	12/31/2015	
7.	Doug Peppmeier	815 E. 2nd St.	212-0671	12/31/2017	

Councilors appointed as Temporary Members to fill vacancies (1-5-15) Jen Frandsen and Pam Barberis

5:50

received
11-30-15

DATE: 11/25/15

TO: Necile Lorang
City of Whitefish

RE: Architectural Review Committee Opening

I have resided in Flathead County for approximately 3 years. I am currently employed at Bruce Boody Landscape Architect, Inc. as a Landscape Architect licensed in the State of Montana. I have been in this position for 2 years. As you know, we develop site plans for various types of projects on a regular basis. I have been involved in many of these projects and thus have become quite familiar with the various regulations, Zoning Requirements and Architectural Review Standards within the City of Whitefish.

During prior employment, I have served as consultant to two Architectural Review Committees for Master Planned Communities. My responsibilities included reviewing landscaping plans submitted by property owners for adherence to the Architectural Review Standards and presenting those plans to the Committee for consideration and approval/conditional approval or denial.

I am interested in filling the open position on the Architectural Review Committee. My experience in Site Planning and Landscape Design will help fill a gap which currently exists within the Committee. Although I do not live in the community, I value the efforts that have been put forth by both members of the community, the City staff, and various Board members to make Whitefish what it is today. I hope to contribute to that ongoing process.

Thank you for your consideration.

Sincerely,

Eleanor Gray, RLA

Bruce Boody Landscape Architect, Inc.
301 Second Street, Suite 1B
Whitefish, MT 59937
406-862-4755
(personal cell) 406-260-1286

6:00

received
11-30-15

November 30, 2015

Whitefish City Clerk's Office
Attn: Necile Lorang
1005 Baker Ave
Whitefish, MT 59937

To Whom It May Concern,

The purpose of this letter is to express my interest in the open volunteer position on the Architectural Review Committee.

My interest is founded in my longstanding belief that a community is strongly influenced by the design and character of its private and public spaces. Whitefish is very fortunate to have a solid foundation in these areas – which makes it a very nice place to live and also supports the economic success of the community. As such, I believe that the Architectural Review Committee plays a critical role in the future of Whitefish by maintaining standards that support continued development consistent with the character, charm and livability of the City.

I agree with the Vision Statement of the Architectural Review Committee and support the principles upon which the design standards are based. I believe that I can be a strong advocate for the vision and principles while maintaining a reasonable, open-minded approach to new ideas and developments.

I do not have professional experience in architecture or design, but have an appreciation of the value of good design and certainly an interest in maintaining Whitefish as the wonderful place that it is. I am a property owner in the city of Whitefish.

Thank you for consideration of my interest.

Best Regards,

John Repke
411 Sunset View Ct

ARCHITECTURAL REVIEW COMMITTEE

- **2-10-1: COMMITTEE ESTABLISHED:**
- There is hereby established an architectural review committee, hereinafter "committee". (Ord. 03-26, 9-15-2003)

- **2-10-2: PURPOSE, POWERS AND DUTIES:**
- Primary Purpose: The primary purpose of the committee shall be to review and act on applications submitted to the committee by individuals or entities proposing to construct commercial, industrial, public or municipal buildings, or fiveplex or greater residential structures within the city of Whitefish zoning jurisdiction, as provided more fully in the city of Whitefish architectural review standards. Upon receipt of a formal application that has been determined by the committee or its staff, as appropriate, to be complete, the committee shall conduct a meeting regarding the proposed application, and its compliance with the city of Whitefish architectural review standards. The committee shall make one of the following decisions at the time of the meeting: to approve, to approve with conditions, to table the application pending submission of revisions or additional materials, or to deny the applicant's proposal. The committee's decision shall be announced at the meeting, and its decision, together with findings supporting its decision, shall be provided to the applicant, in writing, within five (5) working days of such meeting. The applicant may appeal a decision of the architectural review committee to the city council by delivering a written letter of appeal to the city manager within ten (10) days of the committee's issuance of its written decision. More information regarding the necessary content of an appeal, and the process before the city council, may be found in the Whitefish zoning jurisdiction regulations[1].

- Secondary Purpose: The secondary purpose of the committee shall be to make recommendations to the city's planning staff with respect to proposed amendments to the city of Whitefish architectural review standards, or the procedures utilized by the committee. (Ord. 03-26, 9-15-2003)
- **2-10-3: MEMBERSHIP:**
- Appointment; Compensation: The committee shall have seven (7) members who are either residents of the Whitefish zoning jurisdiction area, employed or own a business in the city of Whitefish, or own property in the city of Whitefish. Members shall be appointed by the city council. Two (2) of the committee members shall be Montana licensed architects and one of the members shall be a licensed design professional (i.e., either architect, engineer or landscape architect). If, within the discretion of the city council, less than two (2) licensed architects or one licensed design professional, as described above, is identified after publication of a notice of position vacancy, the city council may make an appointment of an individual that is not a licensed architect or licensed design professional. No member of the committee shall concurrently serve on the Whitefish city council, the Whitefish city-county planning board or the Whitefish

board of adjustment. No member of the committee with any interest in a project may sit in review of that project, or attempt to influence other members of the committee other than through the normal application and public meeting process. Committee members shall receive no compensation.

- Terms; Positions: Committee terms shall be three (3) years. There are hereby created positions numbered 1 through 7 inclusive. The initial term of members in each position shall begin on June 1, 2003, and terminate on the date specified below for each position:

Position Number	Position Specification	Initial Expiration Date
1	Member	May 31, 2004
2	Member	May 31, 2004
3	Member	May 31, 2004
4	Member	May 31, 2005
5	Member	May 31, 2005
6	Member	May 31, 2006
7	Member	May 31, 2006

- In making the initial appointments, the city council shall determine which appointees shall serve one, two (2) or three (3) year terms. Thereafter members appointed to each position shall serve for three (3) year terms. At the discretion of the city council, members may be appointed for more than one term.
- Removal Of Member: A member of the committee serves at the pleasure of the council and may be removed by a majority vote of the same. Absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year shall constitute grounds for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chairperson or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting.
- Vacancy: Pursuant to subsections A and B of this section, any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. (Ord. 03-26, 9-15-2003)
- **2-10-4: ORGANIZATION:**
- The committee, at its first meeting after June 1 of each year, shall elect a chairperson, vice chairperson and secretary for the next twelve (12) month

period. Upon the absence of the chairperson, the vice chairperson shall serve as chairperson pro tem. If both the chairperson and the vice chairperson are absent from a specific meeting, the attending members shall elect a chairperson pro tem for the meeting. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chairperson, vice chairperson or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 03-26, 9-15-2003)

- **2-10-5: MEETINGS, RULES AND REGULATIONS:**
- Five (5) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business or conduct any proceedings before the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. The committee shall meet as frequently as is necessary in order to provide a timely decision with respect to all applications that it considers. The committee shall decide the time, place and date of meetings. All meetings shall be open to the public. (Ord. 03-26, 9-15-2003)

- **2-10-6: STAFF SUPERVISION:**
- The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. (Ord. 03-26, 9-15-2003)

- **2-10-7: EXPENDITURES:**
- The committee shall not have authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds except as has been included in the city budget and after the city council shall have authorized the expenditure by resolution, which resolution shall provide the administrative method by which funds shall be drawn and expended. (Ord. 03-26, 9-15-2003)

Footnote 1: See section 11-7-6 of this code.

ARCHITECTURAL REVIEW COMMITTEE – WCC 2-10-1 - Terms – 3 years – 1st Tuesday - 8:45 a.m. *
In Council Conference Room

1.	Duane Reisch	209 Fairway Drive	862-3025	May 31, 2016	Owns Markus Foods
2.	Kathryn Skemp	3038 River Lakes Drive	262-424-1680	May 31, 2016	Architect
3.	Ian Collins	898 Blue Herron Dr, WF	863-9376, 270-7047	May 31, 2016	Architect in Training
4.	Vacancy			May 31, 2017	
5.	Scott Freudenberger	PO Box 1354	862-3600	May 31, 2017	Member at Large
6.	Jillian Lawrance)	530 W. 4th St.	508-450-2679, 862-8152 (W)	May 31, 2017	Architect in Training
7.	Chad Phillips	309 Wisconsin Ave	862-7451	May 31, 2017	Licensed Architect

*Ordinance 03-26 includes provision to appoint others at the discretion of the Council, (if not 2 Licensed Architects, 1 Design Professional)

6:10

received
11-19-15

Brian F. Sullivan

932 Columbia Avenue

Whitefish, MT 59937

John Muhlfeld

Mayor

City of Whitefish

November 19, 2015

Dear John,

With this letter I would like to apply for the current opening of the member who lives inside the city limits on the Whitefish Lake and Lakeshore Protection Committee.

Thank you for your consideration of this request.

Sincerely,

Brian F. Sullivan

LAKE AND LAKESHORE PROTECTION REGULATIONS

2-16-1: STANDING COMMITTEE ESTABLISHED:
Pursuant to and under the provisions of Montana Code Annotated sections 75-7-201 et seq., the city council of the city of Whitefish does create and establish the Whitefish Lake and lakeshore protection committee as a standing committee of the city, consistent with state law. (Ord. 15-10, 6-1-2015)

2-16-2: PURPOSE, POWERS AND DUTIES:
By this chapter, the city council of the city of Whitefish grants and delegates to the Whitefish Lake and lakeshore protection committee all of the rights, privileges, powers, duties, and responsibilities thereto appertaining. The Whitefish Lake and lakeshore protection committee shall have such jurisdiction as provided by state law. (Ord. 15-10, 6-1-2015)

2-16-3: MEMBERSHIP:
The Whitefish Lake and lakeshore protection committee shall consist of seven (7) members, to be appointed as follows:

A. The Whitefish city council shall appoint a total of six (6) members, two (2) members shall reside within the corporate limits of the city of Whitefish, two (2) shall be lakefront property owners and residents within the corporate limits of the city of Whitefish, and two (2) members shall reside outside the corporate limits of the city of Whitefish and shall be lakefront property owners.

B. The seventh member shall be appointed by the Whitefish planning board, reside within the corporate limits of the city of Whitefish, and be a member of the planning board. He/she shall serve for a two (2) year term unless he/she requests removal or is removed by a majority vote of the planning board.

Committee members shall receive no compensation. (Ord. 15-10, 6-1-2015)

2-16-4: TERMS; POSITIONS:
Committee terms shall be two (2) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the Whitefish Lake and lakeshore protection committee. Members serving on the effective date of this chapter shall be assigned to positions that correspond with the following expiration dates:

Position Number	Term Expiration Date
1	December 31, 2017
2	December 31, 2017
3	December 31, 2017
4	December 31, 2017
5	December 31, 2018
6	December 31, 2018
7	December 31, 2018

As each of the above listed expiration dates has passed, a member appointed to the position shall

serve for a two (2) year term. Terms shall begin on January 1 following the initial expiration of the preceding term. At the discretion of the city council, members may be appointed for more than one term. (Ord. 15-10, 6-1-2015)

2-16-5: REMOVAL OF MEMBER:
A member of the Whitefish Lake and lakeshore protection committee may be removed from the committee by majority vote of the city council for cause upon written charges and after a public hearing. Willful disregard of state statutes, city ordinances and the rules of procedure of the committee, or absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chair or city staff member assigned to the Whitefish Lake and lakeshore protection committee at least twenty four (24) hours prior to any scheduled meeting. (Ord. 15-10, 6-1-2015)

2-16-6: VACANCY:
Pursuant to sections 2-16-3 and 2-16-4 of this chapter, any vacancy on the Whitefish Lake and lakeshore protection committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The city council may appoint members of the city council to temporarily fill vacant positions on the Whitefish Lake and lakeshore protection committee. (Ord. 15-10, 6-1-2015)

2-16-7: ORGANIZATION:
The Whitefish Lake and lakeshore protection committee, at its first meeting after January 1 of each year, shall elect a chair and vice chair for the next twelve (12) month period. Upon the absence of the chair, the vice chair shall serve as chair pro tem. If a vacancy occurs in the chair or vice chair positions, the committee shall elect a member to fill the vacancy at the next meeting. (Ord. 15-10, 6-1-2015)

2-16-8: MEETINGS; RULES AND REGULATIONS:
Four (4) members of the Whitefish Lake and lakeshore protection committee constitute a quorum to conduct business. Not less than a quorum of the committee may transact any business or conduct any proceedings before the committee. The concurring vote of four (4) members of the committee shall be necessary to decide any question or matter before the committee, except a motion for a continuance and motions to elect a chair and vice chair may be decided by a simple majority vote of the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. Meetings of the committee shall be held at the call of the chair and at such other times as the committee may determine. All meetings shall be open to the public. (Ord. 15-10, 6-1-2015)

2-16-9: EXPENDITURE AUTHORIZED:
The Whitefish Lake and lakeshore protection committee shall not have authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds except as has been included in the city budget and after the city council shall have authorized the expenditure by resolution, which resolution shall provide the administrative method by which funds shall be drawn and expended. (Ord. 15-10, 6-1-2015)

WHITEFISH LAKE & LAKESHORE PROTECTION COMMITTEE –WCC 13-4-1 - 2 YEAR TERMS

(2nd Wednesday; Planning & Building Department Conference Room)

***2 City who own or reside on lakefront property, 2 City at Large, 2 County who own or reside lakefront property, & 1 other**

			TERM EXPIRATION DATE	
*Joe Malletta	1240 Birch Hill Dr.	862-6343	12/31/2018	City Lakefront owner
*Herb Peschel, Chair	1404 W. Lakeshore Dr.	862-4503 (H)	12/31/2018	City Lakefront owner
Donna Emerson	PO Box 4793	471-2295	12/31/2017	City Member at Large
			12/31/2017	City Member at Large
Koel Abell, Vice-Chair	355 Lost Coon Trail	730-1409 (H), 407-1962 (C)	12/31/2018	County Lakefront owner
			12/31/2017	County Lakefront owner
Jim Laidlaw	1230 Lion Mountain Drive	406-250-1473	12/31/2017	Planning Board or other -2yr term

6:20

received
11/30/15

City of Whitefish

City of Whitefish, City Clerk's Office
1005 Baker Avenue, PO Box 158
Whitefish, Mt 59937
406-863-2400
nlorang@cityofwhitefish.org

October 26, 2015

Dear John Middleton:

Your term on the Whitefish Housing Authority Board

expires on December 31, 2015.

As a matter of course, the City will also be advertising this position along with others also expiring at this time. The deadline to receive letters of application, and to receive your letter of interest if you want to reapply to serve another term, is Monday, November 30, 2015. Interviews with the Council will be scheduled for December 7, 2015. I will call you to set up your specific interview time if you are re-applying. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

I have enclosed a copy of the ad we will be running.

If you are <u>not</u> planning to 're-up' for your position again, please let me know that as well.

Thank you, and thank you for your service to the community of Whitefish!

Necile Lorang

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:
I am interested in serving another term on the W F Housing Auth.

(406) 270-5187

Signature Daytime Phone #

Resident

received
11/30/15

City of Whitefish

City of Whitefish, City Clerk's Office
1005 Baker Avenue, PO Box 158
Whitefish, Mt 59937
406-863-2400
nlorang@cityofwhitefish.org

October 26, 2015

Dear Ralph Ammondson:

Your term on the Whitefish Housing Authority Board

expires on December 31, 2015.

The deadline to receive letters of application, and to receive your letter of interest if you want to reapply to serve another term, is Monday, November 30, 2015. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

If you are not planning to 're-up' for your position again, please let me know that as well.

Thank you, and thank you for your service to the community of Whitefish!

Necile Lorang

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:
I am interested in serving another term on the Whitefish Housing Authority Board

Ralph Ammondson
Signature

Daytime Phone #
270 5390

MONTANA CODE ANNOTATED 2011

7-15-4431. Appointment of commissioners. (1) An authority consists of seven commissioners appointed by the mayor. The mayor shall designate the first presiding officer. A commissioner may not be a city official.

(2) Two of the commissioners must be directly assisted by the housing authority and are known as resident commissioners. The staff of the housing authority may not involve itself in the nomination or appointment of resident commissioners, except that the housing authority shall notify all of the households directly assisted by the housing authority when a resident commissioner position is vacant.

(3) The mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner, and the certificate is conclusive evidence of the proper appointment of the commissioner.

History: En. Sec. 5, Ch. 140, L. 1935; re-en. Sec. 5309.5, R.C.M. 1935; R.C.M. 1947, 35-105(part); amd. Sec. 2, Ch. 514, L. 1989; amd. Sec. 5, Ch. 472, L. 1997; amd. Sec. 1, Ch. 197, L. 2001.

7-15-4432. Term of office. (1) Subject to subsection (2), the commissioners who are first appointed must be designated by the mayor to serve for terms of 1, 2, 3, 4, and 5 years, respectively, from the date of their appointment. After the initial appointments, the term of office is 5 years.

(2) The resident commissioners who are first appointed shall serve for terms of 1 and 2 years, respectively, from the date of their appointment. After the initial appointments, the term of office is 2 years.

(3) A commissioner shall hold office until the commissioner's successor has been appointed and qualified.

History: En. Sec. 5, Ch. 140, L. 1935; re-en. Sec. 5309.5, R.C.M. 1935; R.C.M. 1947, 35-105(part); amd. Sec. 3, Ch. 514, L. 1989; amd. Sec. 2, Ch. 197, L. 2001.

7-15-4433. Compensation of commissioners. A commissioner may not receive compensation for services, but is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of authority duties.

History: En. Sec. 5, Ch. 140, L. 1935; re-en. Sec. 5309.5, R.C.M. 1935; R.C.M. 1947, 35-105(part); amd. Sec. 621, Ch. 61, L. 2007.

7-15-4434. Vacancies. Vacancies shall be filled for the unexpired term.

History: En. Sec. 5, Ch. 140, L. 1935; re-en. Sec. 5309.5, R.C.M. 1935; R.C.M. 1947, 35-105(part).

HOUSING AUTHORITY – MCA 7-15-4431 - City Resident or Within a 10 mile radius – 5 YEAR TERMS – MAYORAL APPOINTMENTS

			TERM EXPIRATION DATE	
Ralph Ammondson	Apt 222 – Mountain View Manor (Resident) 100 E. 4th Street	862-8160	12/31/2015	2 yr. Term
Robert FitzGerald	Mountain View Manor Resident, 100 E. 4th Street, #101		12/31/2016	2 yr. Term
Myrna Fleming	104 Railway Street	862-3568	12/31/2016	Chairwoman
John Middleton	1285 Lion Mountain Dr., WF	406-862-7200	12/31/2015	
Bill Mulcahy	2 Granite Springs Trail, WF	730-2701	12/31/2018	
Ben Davis	140 Burly Bear Trail	652-222-9530	12/31/2019	
Alison Young	1205 Hodgson Rd., Columbia Falls	407-1706	12/31/2017	

IMPACT FEE ADVISORY COMMITTEE – WCC 2-13-1 – Two year terms Per Ordinance 10-03 – Annual Meetings

1. Development community	Vacancy			12-30-2015
2. Certified public accountant	Vacancy			12-30-2014
3. City Councilor	Jen Frandsen	PO Box 158	270-7249	12-30-2015
4. Finance Director	Dana Smith	PO Box 158	863-2405	
5. Member at Large	Vacancy			12-30-2014

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CITY COUNCIL REGULAR MEETING AGENDA

The following is a summary of the items to come before the
City Council at its regular session to be held on Monday,
December 7, 2015, at **7:10 p.m.** at Interim City Hall, 1005 Baker Avenue.

Ordinance numbers start with 15-19. Resolution numbers start with 15-50.

1) CALL TO ORDER

2) PLEDGE OF ALLEGIANCE

3) PRESENTATIONS

   a) Proclamation – Arbor Day 2016 (p.58)

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

5) COMMUNICATIONS FROM VOLUNTEER BOARDS

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

   a) Minutes from the November 16, 2015 City Council regular meeting (p.60)
   b) Resolution No. 15-___; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City certain tracts of land known as 1750 and 1770 US Highway 93 West, for which the owners have petitioned for and consented to annexation (p.69)
   c) Resolution No. 15-___; A Resolution affirming the denial of a zone change for properties identified as 1820, 1822, 1824, 1830, 1840, 1842, 1844 and 1848 Baker Avenue (p.88)
   d) Consideration of an application from Whitefish Lakefront Estates Condo Owners Association c/o Shane Roest for Whitefish Lake Lakeshore Permit (#WLP-15-W30) at 22, 24, and 26 Woodland Place for an after the fact Permit for Revegetation and Landscaping within the Lakeshore Protection Zone subject to 20 conditions (p.91)
   e) Consideration of approving an application from Launching Eagle c/o Joseph Gregory for Whitefish Lake Lakeshore Permit (#WLP-15-W36) at 830 Dakota Avenue for repair of damaged existing boat ramp within the Lakeshore Protection Zone subject to 17 conditions (p. 116)

7) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC))
   a) Continuation of public hearing on a request by Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC & 1820 Baker LLC, for a Conditional Use Permit in order to develop a project with multiple principle structures. The property is zoned WI/WB-2–SC (Industrial/Secondary Business Districts with Special Conditions), located at 1842, 1844, 1846 & 1848 Baker Avenue (p.134)
   b) Ordinance No. 15-___; An Ordinance amending Subdivision Regulations in Whitefish City Code Title 12 to amend parkland dedication requirements (First Reading) (p.225)
   c) Consideration of a request by 2nd Street Lofts LLC for a Conditional Use Permit in order to develop a mixed-use multi-family project with fifteen dwelling units and a footprint greater 7,500 square feet at 214 E 2nd Street (p.266)
   d) Consideration of a request by Whitefish West Ltd Partnership for an amended Preliminary Plat in order to develop five (5) duplex lots into ten (10) townhouse lots at 265 Haugen Heights Road (Maple Ridge formerly known as Timber Ridge subdivision) (p.404)
   e) Consideration of a request from Sparrow's Nest of NW Montana for a Conditional Use Permit for a Type I Community Residential Facility to house five unaccompanied homeless high school students at 200 Colorado Avenue (p.484)
   f) Ordinance No. 15-18; An Ordinance reaffirming the prior approval of the City Hall project and Parking Structure project, designating the projects as urban renewal projects and approving the financing thereof (Second Reading) (p.533)
   g) Resolution No. 15-___; A Resolution establishing rates charged to purchase the space for a nameplate on a Memory Wall in the Whitefish Cemetery (p.707)

8) COMMUNICATIONS FROM CITY MANAGER
   a) Written report enclosed with the packet. Questions from Mayor or Council? (p.711)
   b) Other items arising between December 2nd and December 7th
   c) Resolution No. 15-___; A Resolution approving an Interlocal Agreement with the Whitefish Fire Service Area (WFSA) for a new 5 ½ year contract for fire protection services in the WFSA (p. 717)
   d) Update on City Hall/Parking Structure project (p. 742)
      i) Mike Cronquist – Owner's Representative
      ii) Ben Tintinger – Mosaic Architecture
   e) Consideration of changes to the budget level for the City Hall/Parking Structure project (p. 744)
   f) Consideration of Amendment No. 3 to the master construction contract with Martel Construction, Inc. for City Hall/Parking Structure project for most of the remaining construction costs of $10,294,553.76 (p. 754)
   g) Resolution No. 15 - 50; Resolution relating to $120,000 Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2015 Bond; authorizing the issuance and fixing the terms and conditions thereof (p.816)
   h) Resolution No. 15 - 51; Resolution relating to $960,000 Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015; Authorizing the issuance and fixing the terms and conditions thereof (p. 869)

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS
   a) Email from Marti Bruce regarding existing single track mountain bike trails in proposed Haskill Basin Conservation Easement area (p. 921)
   b) Letter from Dziko Zuckert regarding the housing situation in Whitefish (p. 922)
   c) Consideration of appointments to volunteer boards and committees not made during the special session preceding tonight's meeting (p.1)

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

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

- We provide a safe environment where individual perspectives are respected, heard, and acknowledged.

- We are responsible for respectful and courteous dialogue and participation.

- We respect diverse opinions as a means to find solutions based on common ground.

- We encourage and value broad community participation.

- We encourage creative approaches to engage public participation.

- We value informed decision-making and take personal responsibility to educate and be educated.

- We believe that respectful public dialogue fosters healthy community relationships, understanding, and problem-solving.

- We acknowledge, consider and respect the natural tensions created by collaboration, change and transition.

- We follow the rules and guidelines established for each meeting.

Adopted by Resolution 07-09
February 20, 2007

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December 2, 2015

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

Mayor Muhlfeld and City Councilors:

Monday, December 7, 2015 City Council Agenda Report

There will be a work session at 5:00 p.m. for interviews followed by a work session on the proposed Interlocal Agreement with the Whitefish Fire Service Area. Food will be provided.

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

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

a) Minutes from the November 16, 2015 City Council regular meeting (p.60)
b) Resolution No. 15-___; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City certain tracts of land known as 1750 and 1770 US Highway 93 West, for which the owners have petitioned for and consented to annexation (p. 69)
c) Resolution No. 15-___; A Resolution affirming the denial of a zone change for properties identified as 1820, 1822, 1824, 1830, 1840, 1842, 1844 and 1848 Baker Avenue (p. 88)
d) Consideration of an application from Whitefish Lakefront Estates Condo Owners Association c/o Shane Roest for Whitefish Lake Lakeshore Permit (#WLP-15-W30) at 22, 24, and 26 Woodland Place for an after the fact Permit for Revegetation and Landscaping within the Lakeshore Protection Zone subject to 20 conditions (p. 91)
e) Consideration of approving an application from Launching Eagle c/o Joseph Gregory for Whitefish Lake Lakeshore Permit (#WLP-15-W36) at 830 Dakota Avenue for repair of damaged existing boat ramp within the Lakeshore Protection Zone subject to 17 conditions (p. 116)

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

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

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

a) Continuation of public hearing on a request by Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC & 1820 Baker LLC, for a Conditional Use Permit in order to develop a project with multiple principle structures. The property is zoned WI/WB-2–SC (Industrial/Secondary Business Districts with Special Conditions), located at 1842, 1844, 1846 & 1848 Baker Avenue (p. 134)

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

Summary of Requested Action: Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC & 1820 Baker LLC, is requesting approval of a Conditional Use Permit to have multiple primary uses on a single lot. The Whitefish Zoning Regulations, §11-2-3B(12), permit only one primary use per lot unless a Conditional Use Permit is obtained. The project is located at 1840, 1842, 1844, 1846, 1848 Baker Avenue. The property is undeveloped and is zoned WI/WB-2-SC (Industrial District/Secondary Business District with Special Conditions). The Whitefish Growth Policy designates this property as 'Planned Industrial'.

Background: At the November 16, 2015 public hearing for this matter, the Council approved a motion to postpone action on the Conditional Use Permit in light of the rezone request denial. Council requested the staff report and findings of fact be updated to reflect the current zoning in place. Staff requested the applicant submit an updated site plan to remove uses that were not approved by the Council. The staff report has been updated and includes the Planning Board recommended conditions of approval.

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.

Planning Board Public Hearing: The applicant, his representative and one member of the public spoke at the public hearing on November 5, 2015. The minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on November 5, 2015 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with eleven (11) conditions as contained in the staff report, adopted the staff report as findings of fact, amended condition #8 and added an additional condition of approval:

8. No ~~additional~~ parking shall be installed in front of the 1820 Baker Avenue building. Existing reconfigured parking is nonconforming and must to removed ~~may remain~~. The

percentage of compact spaces shall be reconfigured to be less than 20%. The ADA parking space location and design shall be reviewed by an architect licensed in the state of Montana. (§11-6-1C, 11-6-3-2D, IBC)

12. The applicant shall install a stop sign pursuant to the Traffic Impact Study.

City Council Hearing: The applicant, his representative and two members of the public spoke at the public hearing on November 16, 2015. The Council minutes are part of the Council packet.

There are a staff report and other documents along with this item in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing, the staff report, and the Planning Board recommendation, approve a Conditional Use Permit for the project at 1842, 1844, 1846 & 1848 Baker Avenue along with the Findings of Fact in the staff report and the twelve (12) conditions of approval, as recommended by the Whitefish Planning Board.

This item is a quasi-judicial matter.

b) Ordinance No. 15-___; An Ordinance amending Subdivision Regulations in Whitefish City Code Title 12 to amend parkland dedication requirements (First Reading) (p. 225)

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

Summary of Requested Action: This application is a request by the City of Whitefish to amend the subdivision regulations related to parkland dedication.

Planning & Building Department Recommendation: Staff recommended approval of the text amendment attached to the staff report.

Public Hearing: At the public hearing, no one from the public spoke on the proposed amended draft ordinance. The draft minutes of the Planning Board hearing are included.

Planning Board Recommendation: The Whitefish Planning Board held a public hearing on November 19, 2015. Following this hearing, the Planning Board unanimously recommended approval of the amendments and adopted the supporting findings of fact in the staff report.

The Board had a discussion concerning §12-4-11E(2) of the amendments and the subsection detailing the requirement for an appraisal if the land is being appraised as agriculture, but converting to an urban use. The Board wondered if that the section

may also need to include lands being appraised as forest lands. As a result, staff did some research and we agree that 'forest lands' should also be included requiring an appraisal if it is being converted to urban lands. As such we would recommend the following amendment:

For property being appraised by the state of Montana as agricultural <u>or forest lands</u>, the applicant shall submit an appraisal no more than 60 days old with the final plat application for the purpose of determining fair market value.

There are a staff report and other documents along with this item in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing, the staff report, and the Planning Board recommendation, approve an Ordinance amending Subdivision Regulations in Whitefish City Code Title 12 to amend parkland dedication requirements.

This item is a legislative matter.

c) Consideration of a request by 2nd Street Lofts LLC for a Conditional Use Permit in order to develop a mixed-use multi-family project with fifteen dwelling units and a footprint greater 7,500 square feet at 214 E 2nd Street (p. 266)

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

Summary of Requested Action: Mark Panissidi of 2nd Street Lofts, is requesting a Conditional Use Permit in order to construct a mixed-use multi-family project. The applicant is proposing a three story building with office/retail space and two live-work units on the first floor. The 2nd and 3rd floors have thirteen (13) residential units. A Conditional Use Permit is required for this project because the building will have more than four (4) dwelling units (§11-2L-3) and the footprint of the building exceeds 7,500 square feet in the Old Town – Railway District (§11-2L-4; bulk and scale). The property is undeveloped and is zoned WB-3 (General Commercial District). The Whitefish Growth Policy designates this property as 'Core Commercial'.

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

Public Hearing: The applicant's representatives and two members of the public spoke at the public hearing on November 19, 2015. The neighboring property owner was concerned about parking and congestion within the alley. The draft minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on November 19, 2015 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with eleven (11) conditions as contained in the staff report and adopted the staff report as findings of fact. The Planning Board requested a copy of the Phase I Environmental Site Assessment be provided to the Council, as there were some questions regarding ground contamination. The report, completed by Applied Water Consulting on April 20, 2015, found the property to be within the Whitefish Solvent facility. The report included construction recommendations, but no additional investigation was warranted. This report is attached for your review.

There are a staff report and other documents along with this item in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing, the staff report, and the Planning Board recommendation, approve a Conditional Use Permit for the 2nd Street Lofts project 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 is a quasi-judicial matter.

d) Consideration of a request by Whitefish West Ltd Partnership for an amended Preliminary Plat in order to develop five (5) duplex lots into ten (10) townhouse lots at 265 Haugen Heights Road (Maple Ridge formerly known as Timber Ridge subdivision) (p. 404)

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

Summary of Requested Action: This is a request by Whitefish West Limited Partnership to amend their previously approved preliminary plat to convert five (5) duplex lots into ten (10) townhouse lots. The property is located at 265 Haugen Heights Road and the entire subdivision is 4.39 acres.

Planning & Building Department Recommendation: Staff recommended approval of the above referenced amended preliminary plat.

Public Hearing: The applicant's representative was available for questions and no one spoke at the public hearing.

Planning Board Action: The Whitefish Planning Board met on November 19, 2015 and considered the requested preliminary plat. Following the public hearing, the Planning Board unanimously recommended approval subject to the eighteen (18) conditions of approval and the findings of fact. (Ellis, Stein and Picoli were absent).

There are a staff report and other documents along with this item in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing, the staff report, and the Planning Board recommendation, approve an amended Preliminary Plat in order to develop five (5) duplex lots into ten (10) townhouse lots at 265 Haugen Heights Road (Maple Ridge formerly known as Timber Ridge subdivision) along the Findings of Fact in the staff report and the eighteen (18) conditions of approval.

This item is a quasi-judicial matter.

e) Consideration of a request from Sparrow's Nest of NW Montana for a Conditional Use Permit for a Type I Community Residential Facility to house five unaccompanied homeless high school students at 200 Colorado Avenue (p. 484)

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

Summary of Requested Action: Sparrow's Nest is requesting a Conditional Use Permit for a Type I Community Residential Facility to house five unaccompanied homeless high school students. A Conditional Use Permit is required for a Type I Community Residential Facility. The property is developed with a single family home and is zoned WR-4 (High Density Multi-Family Residential District). The Whitefish Growth Policy designates this property as 'High Density Residential'.

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

Public Hearing: Members of the Sparrow's Nest Board and six members of the public spoke at the public hearing on November 19, 2015. Three members were in support of the project and three members had concerns. The draft minutes for this item are attached as part of this packet.

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

There are a staff report and other documents along with this item in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing, the staff report, and the Planning Board recommendation, approve a Conditional Use Permit for a Type I Community

Residential Facility to house five unaccompanied homeless high school students at 200 Colorado Avenue along with the Findings of Fact in the staff report and the six (6) conditions of approval

This item is a quasi-judicial matter.

f) Ordinance No. 15-18; An Ordinance reaffirming the prior approval of the City Hall project and Parking Structure project, designating the projects as urban renewal projects and approving the financing thereof (Second Reading) (p. 533)

Introduction/History

In working with our Bond Counsel, Dorsey and Whitney of Missoula, on our upcoming Tax Increment Bond issue for the City Hall and Parking Structure project, they reviewed our Urban Renewal Plan (attached to this report) and our prior approvals of the City Hall and Parking Structure project (see summary memo attached to this report). While the City Hall project was contemplated in the Urban Renewal Plan as far back as 1987, it was in a different location as described in the Urban Renewal Plan. Also, while parking problems were generally described as a condition limiting the economic development of the City, the mention of a parking structure at the proposed location was not specifically identified in the Urban Renewal Plan. Therefore, despite the prior City Council approvals of the project, the Bond Counsel would like us to adopt a Resolution of Intention and an Ordinance to reaffirm our prior approvals of the City Hall and Parking Structure project, designate them as specific Urban Renewal projects, and approve the financing of the projects with a $9,800,000 Tax Increment Bond. The Resolution of Intention was adopted on November 2, 2015.

Current Report

The proposed sources and uses of funds for the upcoming $9,800,000 Tax Increment Bond issue are attached to this report. In addition to the bond issue, we would use current funds earmarked and accumulated since 2003 (Resolution 03-63), TIF funds budgeted in 2015, proceeds from the Special Improvement District #167 bond issue, and City Hall impact fees.

The proposed Ordinance is contained in the packet. The remaining schedule for the issuance of the Tax Increment Bond for the City Hall and Parking Structure is shown below:

December 7, 2015—public hearing; second reading of ordinance

January 6, 2016—ordinance is effective (30 days after 2nd reading)

February 1, 2016—adopt parameters resolution for TIF bond sale

February 8, 2016—execute Bond Purchase Agreement with First Interstate Bank and Glacier Bank – sets the pricing of the bond issue

February 16, 2016—adopt bond resolution (February 15 is President's Day)

March 1, 2016—close on bond issue; receive funds

Financial Requirement

Dana Smith and I have worked with our Financial Advisor, David MacGillvray of Springsted, Inc. of Minneapolis on various aspects of the upcoming Tax Increment Bond for the City Hall and Parking Structure. As you can see in the attached sources and uses of funds for the bond issue, funds on hand and accumulated, along with Impact Fees, and $750,000 from the Parking Structure SID #167 would result in a bond size of $9,800,000.

It is desirable to keep the total of all of our tax-exempt bond issues in 2016 under $10,000,000 because, if we issue less than $10,000,000 for all tax-exempt bond issues in 2016, the bonds can be deemed "bank qualified" which enables a lower interest rate. (See attached document describing "bank qualified" bonds). Pursuant to our term sheet from First Interstate Bank and Glacier Bank, having "bank qualified" bonds would save us 15 basis points or an interest rate differential of 0.15%. Over the five year life of the bond, the "bank qualified" designation would save us approximately $46,000.

We also have to be sure that our future bond issue is not deemed a "private activity" bond, where no more than 10% of the proceeds of a bond issue can be used to benefit private enterprise or private activities. Our leases of the retail space and the parking spaces are considered "private activities" because they benefit private, not public interests. However, with over $5,000,000 of funds spent to date, saved up from Tax Increment funds over the years, and budgeted in FY16, we should be able to designate those funds, rather than the funds from the bond issue as applying toward the construction costs of the retail lease space and the parking spaces. We and bond counsel are still doing those calculations.

If the bond were to exceed the 10% threshold, we could issue the bonds as taxable bonds. However, if you look at the term sheet attached to this memo from First Interstate Bank and Glacier Bank, the interest rate premium for a taxable bond is 130 basis points or a 1.3% premium on our bond issue. That interest rate premium over five years would cost us approximately $400,000 more in interest cost than if we can issue tax exempt bonds.

The issuance of $9,800,000 of bonds is based on the current City Council approval limit for City Hall/Parking Structure construction and ancillary costs of $14,952,636 (see attached allocation breakdown of June 15, 2015). If there are higher costs that

we have to incur (remember there will likely be some significant savings of $300,000 to $400,000 for the ancillary costs (column T of the attachment for our interim City Hall lease, moving costs, Owner's Representative contract, parking structure equipment, etc.), we will have some flexibility in future year TIF revenues (see attached pro-forma spreadsheet) or we can always delay other TIF projects such as Depot Park Master Plan. Therefore, as described above, it is good to leave the sizing of our bond issue at $9,800,000.

As the Sources and Uses sheet, the Debt Service schedule, and the TIF pro-forma scheduled through 2020 attached to this report show, we can finance this $9,800,000 bond issue and the City Hall/Parking Structure project within our current revenues and adopted City Council budget for the project. We can also finance some additional costs if the City Council wanted to consider additional costs once we get all of the cost estimates in.

There are a staff report and other documents along with this item in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing and the staff report adopt Ordinance No. 15-18, reaffirming the prior approval of the City Hall Project and Parking Structure Project, Designating the projects as Urban Renewal Projects and approving the financing thereof (Second Reading)

This item is a legislative matter.

g) Resolution No. 15-___; A Resolution establishing rates charged to purchase the space for a nameplate on a Memory Wall in the Whitefish Cemetery (p. 707)

From Administrative Service Director/City Clerk Necile Lorang's staff report:

As reported to the Mayor and Council in the Ad Hoc Cemetery Committee (Committee) Report last May, a new Memory Wall was installed in the Whitefish Cemetery in February 2015. During the surveys conducted by the Committee a few years ago, as well as various public comments received by the City regarding ideas of expansion of services available to the public at the Cemetery, the idea of a Memory Wall was suggested by several. A Memory Wall is an alternative for families and friends to have a written memorial for their loved ones who may have ashes scattered elsewhere or placed at an alternative location. The current bronze Memory Wall, which has spaces for 102 more bronze nameplates, was privately donated and installed by the City. A picture of the Wall is on the next page of this report.

In calculating the fee to be charged for a space for a nameplate, staff has considered the purchase and installation cost for an additional Memory Wall in the future when the first one is filled and a second one is needed. By that time the City envisions a second

Columbarium will be in place, and the Memory Walls are installed on the Columbarium. As of February, 2015, the company that sold and installed the current Memory Wall to the City estimated replacement costs at $6,000. By the time the City is ready to order a second wall, the price will be greater; but at the rate currently being proposed, 102 spaces at $60.00 will yield $6,120 towards the purchase price of the next wall. There is an additional price to the customer for the engraved nameplate and installation, but that is a pass-through fee that the City will collect for the vendor, and since that rate is subject to change according to that company's costs, that fee is noted but not included in this resolution. The current cost for the purchase and installation of an engraved nameplate is $290.00

No additional City costs at this time. The City's expenditure for installation was incurred in FY15, and collection of fees will be set aside for the future addition of a second wall.

There are a staff report and other documents along with this item in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing and the staff report adopt A Resolution establishing rates charged to purchase the space for a nameplate on a Memory Wall in the Whitefish Cemetery.

This item is a legislative matter.

COMMUNICATIONS FROM CITY MANAGER

a) Written report enclosed with the packet. Questions from Mayor or Council? (p.711)
b) Other items arising between December 2nd and December 7th
c) Resolution No. 15-___; A Resolution approving an Interlocal Agreement with the Whitefish Fire Service Area (WFSA) for a new 5 ½ year contract for fire protection services in the WFSA (p. 717)

On September 20, 2010, the City Council approved an amendment to an Interlocal Agreement with the Whitefish Fire Service Area (WFSA) to extend our fire service agreement to the rural WFSA for five years, ending December 31, 2015. That agreement provided for annual payments of $225,603 (with no inflationary increase) and a one-time $300,000 payment that the City could use as it wanted, either for annual operations and maintenance costs or capital equipment costs. (We used it primarily to help purchase new equipment) A copy of that amendment is attached to this memo.

Fire Chief Joe Page and I have had negotiation sessions with the WFSA Board since earlier this summer. A copy of the WFSA Board membership is attached to this memo.

The WFSA Board and city negotiators are ready to present a proposed, new Interlocal Agreement to the Mayor and City Council for review at a work session and for possible consideration. A draft, redline version of the revised Interlocal Agreement is attached to this memo along with a spreadsheet which shows the derivation of the financial calculations which are a basis of this proposed Interlocal Agreement.

As shown in the spreadsheet, city negotiators proposed that the WFSA Board increase their annual financial contributions to the City in a significant manner. First and foremost, we wanted the WFSA to increase the annual contribution so that the cost to a house in the WFSA would equal the amount of property taxes that a median value house in the City of Whitefish pays for fire service or $102.59 per year. Even though this figure would represent a 13.99% increase in the WFSA annual contribution for FY16, the WFSA Board agreed to this increase after they were able to increase their annual assessment on a WFSA house from $90 to $144.

The Flathead Board of County Commissioners approved this WFSA fee increase earlier this fall, however, the Commissioners had some reservations for such a fee increase and admonished the WFSA Board to start planning for a transition to another type of fire service as future fee increases might not be granted. Moreover, on this topic, once the City of Whitefish attains first class city status (10,000 census population) it is widely held that we can no longer employ volunteer firefighters and, at a minimum, the WFSA will need to employ the volunteers after that point.

I initially proposed that the WFSA also increase their annual contribution by an inflationary increase of 4% per year (see attached spreadsheet) and pay for ½ of the annual debt service costs for our new Water Tender and Fire Pumper equipment costs. We took out Intercap loans to help pay for the costs of the Water Tender and the Fire Pumper. Former Fire Chief Tom Kennelly told the City Council in prior memos that the WFSA Board had agreed to pay ½ of the cost of the loans' debt service costs, but the WFSA Board disputes that they ever agreed to pay those costs. (See attached memos from Tom Kennelly). Also, the WFSA Board says that state law and direction from the Flathead Board of County Commissioners do not allow them to buy equipment for the City of Whitefish to own.

However, the WFSA has agreed to increase their annual contribution with a 2% annual increase to the base fee calculation and add another $16,000 to that contribution for the equivalent of the cost of ½ of the debt service of the Water Tender (see attached spreadsheet and loan debt service schedule). The WFSA Board argued that the CPI which the City uses was only 1.3% in recent years (which is correct) and that Social Security had a 0% CPI this year and only 1% in the past (some of the WFSA Board members are on Social Security). I countered with a 3% inflation proposal because City wage increases in recent years have been 2.3% to 3.8%, but the WFSA Board resisted that inflationary figure.

While the monetary difference over five years between our first proposal (4% inflation and ½ of debt service for both pieces of equipment) and the WFSA proposal (2% inflation and equivalent of ½ of debt service only for Water Tender) is $186,070, the five year difference between my 3% proposal and their 2% proposal is only $32,451. So we are very close on negotiations. I also think there are some reasons for accepting their proposal as shown below:

- The WFSA did get an increase in their annual residential assessment from $90 to $144 which solidifies their financial ability to increase payments to the City.
- The WFSA Board agreed to increase their residential assessment to the equivalent of the City's property tax cost on a median house to $102.59 for FY16 which is the first time in history that they will pay equivalent of the same cost that the City's residential property owners pay for fire service. Such equity has long been a basis of the City's negotiations.
- For the first time in history, the WFSA Board agreed to an annual inflationary increase, rather than the fixed annual payments for five years as in past agreements.
- The WFSA Board agreed to meet us part way and pay an increase for the equivalent of the Water Tender equipment because the Water Tender is primarily a benefit for rural fire service where fire hydrants don't exist.

A correspondence from the WFSA Board may also be attached to this report in the packet.

If the Mayor and City Council accept the WFSA proposal, we would receive a total of $1,594,365 over a five and one-half year period – the WFSA Board wanted to extend the contract by an additional ½ year so that the agreement expires at the end of both of our fiscal years (June 30th) rather than on December 31st so that they have more time to consider assessment increases or other options before their assessments are set by the County Commissioners.

RECOMMENDATION: Staff respectfully recommends the City Council consider the WFSA proposal for a five and one-half year Interlocal Agreement and approve the agreement if the City Council believes it is fair. While I would like 4% inflation and ½ the cost for the debt service for both pieces of equipment, the WFSA proposal reaches many of our prior requests (equity for city taxpayers and an inflationary increase) and we should recognize their willingness to meet us part way on our requests. Such negotiations often result in a compromise and the WFSA proposal represents compromises of both parties.

This item is a legislative matter.

d) Update on City Hall/Parking Structure project (p. 742)
   i) Mike Cronquist – Owner's Representative
   ii) Ben Tintinger – Mosaic Architecture

e) Consideration of changes to the budget level for the City Hall/Parking Structure project (p. 744)

On June 15, 2015, the City Council unanimously approved the following motion establishing a budget of $14,952,637 for the new City Hall/Parking Structure project.

> **Councilor Feury made a motion, second by Councilor Fitzgerald, to agree with the Building Committee's recommendation for the new City Hall/Parking Structure project construction cost of $13,335,599 and contingency costs of $617,038; also including $1M for other costs including an interim city hall relocation, for a total of $14,952,637.**

A breakdown of the allocation of the costs of the $14,952,637 project between the City Hall and Parking Structure project is attached to this report.

Despite efforts by the City Hall Steering Committee sub-committee to reduce construction costs with value engineering options and project cutbacks, the sub-committee wants to recommend the City Council consider increasing the $14,952,637 budget.

One method to consider is to capitalize three years of the projected lease revenue payments from the approximately 3,000 square foot retail space by borrowing $162,000 from the Tax Increment Fund (TIF) and repaying that amount over three years from the lease revenues to the Tax Increment Fund. Our Realtor Chap Godsey believes that we can rent the approximate 3,000 square foot retail space at the NW corner of the parking structure for $18.00 per square foot per year ($1.50 per square foot per month) which would result in $162,000 of revenue over three years. The sub-committee would like to borrow that amount from the TIF and repay it over the three years leading up to the end of the TIF on June 30, 2020.

Also, the sub-committee has recommended some reductions to the City Hall/Project costs that are significant changes to the design which the City Council approved on June 15, 2015. As the final decision on design and budget rests with the City Council, it is important for the City Council to consider each of these proposed design changes and cost savings and either ratify/adopt those changes or agree to increase the budget to accommodate those design issues. Those changes are shown below along with the vote tally of the sub-committee at their last meeting on November 19, 2015.

1.	Cut finishing the basement storage area and locker/bathrooms - vote)	$ 28,013 (5-2
2.	Cut skylight in City Council Chambers -	$ 19,000 (5-2)
3.	Cut some canopies on Baker Avenue – from retail space to City Hall	$ 53,000 (5-2)
4.	Cut detail design on roof cornice	$ 32,030 (7-0)
5.	Cut oversize brick on east side of building (alley side) and replace with painted block	$ 7,085 (7-0)

6. Cut SW Elevator (leave shaft for future elevator) $ 90,000 (5-2)

Sub-total $229,128

A copy of the draft minutes from the November 19, 2015 sub-committee meeting is attached to this report for more information on the changes recommended above.

Also attached is a value engineering spreadsheet from our architect Ben Tintinger of Mosaic Architecture and Martel Construction, Inc., our General Contractor/Construction Manager. That sheet shows value engineering savings from doing things differently without affecting greatly the quality of the project would result in another $181,194 of savings ($174,203 plus $6,991). In addition, there are still some other value engineering items in the list which Ben Tintinger and Mosaic Construction are researching and verifying.

Also, within the $1,000,000 of ancillary costs that we have budgeted for the City Hall/Parking Structure for the Owner's Representative, interim City Hall lease costs, moving costs, audio-visual system costs, building security costs, and parking system equipment costs, there is probably at least $200,000 that will not be used from that budget and can be allocated to the design costs.

Thus, to summarize the current situation, the City Council needs to consider the following items:

1. Adding $162,000 to the budget for City Hall/Parking Structure by capitalizing three years of lease payments from the retail space and borrowing that money from the TIF.
2. Cutting $229,128 as shown above from the project.
3. Approving the value engineering changes of $181,194
4. Allocate $200,000 left over from the ancillary costs budget to the building design

As these three figures equal $772,322, there is still $227,687 of costs either to reduce from the project or add to the cost of the project. This difference can come from additional value engineering savings, other design cost reductions, an increase of the budget and increase contribution from TIF, a use of the 5% contingency, or private fundraising. The City Council should give us further direction on these options.

I am attaching a copy of the current TIF pro-forma schedule of revenues and expenditures between now and the end of the TIF in 2020 to help the City Council consider the options. While there are additional funds available in the TIF, the Mayor and City Council members of the sub-committee have generally recommended that no more money come from TIF and that we either cut additional costs (or maybe do private fundraising).

It is fair to say that the cost increases in the City Hall/Parking Structure project over the past months are caused by the Parking Structure portion of the project and the City Hall portion of the project is still in line with historic cost projections. The

exterior of the Parking Structure, a third elevator, and increasing construction costs for steel, concrete, and labor seem to be driving the cost increases.

Most of the financial issues are discussed above. If the City Council chooses to add money to the budget, those funds would most likely come from the Tax Increment Fund. There are some members of the community who feel that we should revise the Resort Tax list of priority projects and pay for the sidewalk and streetscape costs of the project from the Resort Tax, but that concept has not had support of the elected officials on the sub-committee nor City staff.

All costs of the City Hall/Parking Structure are paid from the accumulated savings of TIF, current year TIF appropriation, a future Tax Increment Bond, and $750,000 from the approved $880,000 Special Improvement District #167.

RECOMMENDATION: Staff respectfully recommends the City Council review the above information and decide on increases to the budget of the City Hall/Parking Structure project and/or cost reductions and set a revised budget for the project.

This item is a legislative matter.

f) Consideration of Amendment No. 3 to the master construction contract with Martel Construction, Inc. for City Hall/Parking Structure project for most of the remaining construction costs of $10,294,553.76 (p. 754)

Introduction/History

On November 3, 2014, the City Council approved using the Construction Manager At Risk method of bidding for the construction of the future City Hall and Parking Structure.

On January 20, 2015, the City Council approved the selection of Martel Construction as the City's General Contractor/Construction Manager (GC/CM). The motion was:

Councilor Hildner made a motion, second by Councilor Sweeney, to select Martel Construction as the city's General Contractor/Construction Manager for the new City Hall & Parking Structure, and to authorize Manager Stearns to enter into negotiations with Martel Construction for a contract to be presented for future City Council Approval. The motion passed unanimously.

On August 17, 2015 the City Council approved a GC/CM contract with Martel Construction. That contract anticipates a number of amendments along the way, including an amendment for a Guaranteed Maximum Price contract once the construction drawings are completed.

Also on August 17, 2015, the City Council approved Amendment #1 to the Martel GC/CM contract for asbestos abatement, demolition, and Martel's General

Conditions of construction. Amendment #2 to the Martel GC/CM contract for excavation and shoring was approved on November 2, 2015.

Current Report

In order to continue construction, it is necessary to order steel as the steel requires time for fabricating and delivery. Also, rebar is needed for the concrete work and concrete is scheduled to begin before the City Council's January 4th meeting. Therefore, Amendment #3 to the Martel GC/CM Construction Contract, as attached to this report in the packet, is for most of the rest of the City Hall/Parking Structure project costs other than interior finishes, furniture, and final determination of cost savings from Value Engineering and design changes. Thus Amendment #3 for construction packages equals $10,049,792.

In addition to those costs, Martel Construction is entitled to indirect costs for insurance and the 1% Gross Receipts Tax in addition to their 4.5% construction fee which was part of their proposal submitted in response to our RFP, and contingency (which will not be spent or paid unless needed). Our architect Ben Tintinger and has reviewed this amendment and found that it is proper. With Martel's contractual add-on costs and an estimated reduction for Value Engineering and design reductions of $409,432, that would bring Amendment #3 to a total of $10,294,553.76.

*** Please note, in Amendment #3, one of the successful low bidding sub-contractors is listed as Stearns Masonry. I don't know who Stearns Masonry is and I am not related to the owner of Stearns Masonry and I have no affiliation with Stearns Masonry.

With Amendment #3, because we will now contractually exceed the amount of money that we have on hand and because we are not scheduled to close on the Tax Increment Bonds and receive the bond funds until March 1, 2016, we added a Financing Contingency to the Amendment. This Financing Contingency was prepared by our Bond Counsel, Dorsey and Whitney, and was reviewed by Tony Martel of Martel Construction.

Financial Requirement

The City Hall and Parking Structure Construction Fund will pay these costs. Most of that fund comes from Tax Increment Funds either set aside historically or from the upcoming TIF revenue bond which First Interstate Bank and Glacier Bank have agreed to underwrite. SID #167 for the Parking Structure will also provide $750,000 towards the cost of the Parking Structure. The sources and uses of the entire financing package are elsewhere in this packet with the Tax Increment project Ordinance.

RECOMMENDATION: Staff respectfully recommends the City Council approve Amendment #3 for $10,294,553.76 to the construction contract with Martel Construction as the General Contractor/Construction Manager for the future City Hall/Parking Structure project and authorize the City Manager to sign the Amendment.

This item is a legislative matter.

g) Resolution No. 15 - 50; Resolution relating to $120,000 Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2015 Bond; authorizing the issuance and fixing the terms and conditions thereof (p. 816)

From Finance Director Dana Smith's staff report:

In 2014, the Montana Department of Transportation (MDT) continued reconstruction of Highway 93 North from Karrow Avenue west to Mountainside Drive, often referred to as Phase II of the Whitefish West Project. The City knew that during Phase II of the reconstruction project it was necessary to continue to replace and increase the capacity of the water lines under the Highway 93 North while the road was under construction. Phase II, from Karrow Avenue to Mountainside Drive, is now substantially complete.

When MDT does a project, they typically require any City contributions for the costs of construction to be paid up front. However, similar to the process in Phase I, MDT allowed the City to pay only a portion of the City's contribution to the construction costs upfront for Phase II. In July 2014, the City paid $199,802 to MDT from water impact fees with the remaining construction costs estimated at $472,000 (including bond issuance costs) to be financed through the State's Revolving Fund (SRF) Loan Program and paid to MDT at the end of the project.

The current costs owed to MDT for the water improvements is $372,275. Due to the reserve requirements changing from one-year's debt service to one half of one-year's debt service for the SRF Loan Program, the City will be able to use approximately $268,846 in cash that is currently restricted for reserves to pay for the next debt service payment due in January. As a result, cash from the current year's operating activity that was anticipated to be used for those debt service payments will now be used to reduce the loan amount to $120,000. Loan reserves of $3,438, bond counsel costs of $5,000, and construction costs of $252,275 will therefore be paid with cash on hand. The remaining amount due to MDT will be paid through proceeds from the $120,000 revenue bond from the SRF Loan Program.

The packet contains the standard bond resolution prepared by the Bond Counsel Dorsey & Whitney in Missoula. City Manager Chuck Stearns and I have reviewed and revised the Bond Resolution with the City's bond counsel, Dorsey and Whitney.

The total loan amount of the water revenue bond will be $120,000. The total interest rate on the bond/loan will be 2.5% and payable over 20 years. Net Revenues (annual operating revenues minus annual operating costs) currently meet the 110% coverage requirement so no water rate increase is needed to pay for this bond. The coverage calculations by the DNRC and the amortization schedule for the loan is included in the packet.

The total costs due to MDT are within the budgeted amounts included in the FY16 Adopted Budget.

RECOMMENDATION: Staff respectfully recommends the City Council approve Resolution No. 15 - 50; A Resolution relating to $120,000 Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2015 Bond; authorizing the issuance and fixing the terms and conditions thereof.

This item is a legislative matter.

h) Resolution No. 15 - 51; Resolution relating to $960,000 Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015; Authorizing the issuance and fixing the terms and conditions thereof (p. 869)

From Finance Director Dana Smith's staff report:

In 2014, the Montana Department of Transportation (MDT) continued reconstruction of Highway 93 North from Karrow Avenue west to Mountainside Drive, often referred to as Phase II of the Whitefish West Project. The City knew that during Phase II of the reconstruction project it was necessary to continue to replace and increase the capacity of sewer lines under the Highway 93 North while the road was under construction. Phase II, from Karrow Avenue to Mountainside Drive, is now substantially complete.

When MDT does a project, they typically require any City contributions for the costs of construction to be paid up front. However, similar to the process in Phase I, MDT allowed the City to pay only a portion of the City's contribution to the construction costs upfront for Phase II. In July 2014, the City paid $398,050 to MDT from water impact fees with the remaining construction costs estimated at $996,527 (including bond issuance costs) to be financed through the State's Revolving Fund (SRF) Loan Program and paid to MDT at the end of the project.

The current estimated costs owed to MDT for the sewer improvements is $967,873, which includes an estimated change-order for the cost to remove the very large and unanticipated boulders while expanding the services of the sewer system. Loan reserves of $30,919, bond counsel costs of $8,000, and construction related costs of $921,081 will be paid for from proceeds of the $960,000 revenue bond from the SRF

Loan Program. The remaining portion of the construction costs will be paid with additional Impact Fees (estimated at $50,000) due to the unexpected additional costs of expanding services. Also, since these are estimated costs, any additional costs incurred and billed are expected to be paid using cash on-hand in the Sewer Fund.

The packet contains the standard bond resolution prepared by the Bond Counsel Dorsey & Whitney in Missoula. City Manager Chuck Stearns and I have reviewed and revised the Bond Resolution with the City's bond counsel, Dorsey and Whitney.

The total loan amount of the sewer revenue bond will be $960,000. The total interest rate on the bond/loan will be 2.5% and payable over 20 years. Net Revenues (annual operating revenues minus annual operating costs) currently meet the 110% coverage requirement so no water rate increase is needed to pay for this bond. The coverage calculations by the DNRC and the amortization schedule for the loan is included in the packet.

RECOMMENDATION: Staff respectfully recommends the City Council adopt Resolution No. 15 - 51; A Resolution relating to $960,000 Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015; Authorizing the issuance and fixing the terms and conditions thereof.

This item is a legislative matter.

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

a) Email from Marti Bruce regarding existing single track mountain bike trails in proposed Haskill Basin Conservation Easement area (p. 921)
b) Letter from Dziko Zuckert regarding the housing situation in Whitefish (p. 922)
c) Consideration of appointments to volunteer boards and committees not made during the special session preceding tonight's meeting (p. 1)

ADJOURNMENT

Sincerely,

Chuck

Chuck Stearns, City Manager

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

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ARBOR DAY

PROCLAMATION

WHEREAS, natural areas, trees and landscapes provide not only community beautification but also economic and environmental benefits; and

WHEREAS, trees provide many benefits to the community, including air purification, windbreaks, noise reduction, shade and energy savings; and

WHEREAS, planting trees and maintaining older trees provides an opportunity for community interaction, volunteerism, economic development, and environmental conservation; and

WHEREAS, our efforts to improve the environment benefit present and future generation; and

WHEREAS, Arbor Day in Montana is officially the last Friday in April:

BE IT THEREFORE RESOLVED,

I, John Muhlfeld, Mayor of Whitefish, Montana, do hereby proclaim Friday, April 29, 2016 as Arbor Day, and encourage citizens to participate in appropriate activities and to take advantage of the benefits of the parks and other natural areas in our community.

IN WITNESS THEREOF,

I have hereunto set my hand and caused the Seal of the City/Town/Community of

Whitefish, Montana to be affixed on December 7, 2015.

_____

Mayor

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WHITEFISH CITY COUNCIL
NOVEMBER 16, 2015
7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Hildner, Feury, Barberis, Frandsen, Sweeney, and Fitzgerald. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney Jacobs, Finance Director Smith, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, Senior Planner Compton-Ring, and Fire Chief Page. Approximately 16 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld congratulated Katie Williams on her successful election as City Councilor for a term starting in 2016, and asked her to lead the audience in the Pledge of Allegiance.

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

Mayre Flowers, Citizens for a Better Flathead (CBF), 35 4th Street West, Kalispell, said she had talked to Public Works Director Workman regarding signage on the new central recycling center and was glad to hear the City's signs will be consistent with county-wide standards. She pointed out that Mixed Paper does not include brown paper bags or plastic bags; they cause jams in the recycling process. She reiterated comments she had submitted on October 5, 2015 regarding eight concerns CBF has with the Whitefish Planning Board Process and the Whitefish Planning Director's Guidance on the future proposed zoning for the Westside Corridor Plan. She perceives a conflict of interest because a Planning Board Member is also a property owner in the subject lands. The eight concerns include adequate and legal notice of planning board work sessions; clarification and resolution of nonpublic record *ex parte* communications; clarification, disclosure, and resolution of potential conflicts of interest; identification of the scope of changes that the planning board has been asked by this council to consider in proposing zoning for this area; direction on steps needed to avoid the potential of "spot zoning"; consideration of affordable housing needs; allowing adequate time for public response; and overall policies regarding hearings. She resubmitted the same memo. (Memo appended to the 11-16-15 packet as After Packet Materials).

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

Dylan Boyle, Executive Director of the Whitefish Convention and Visitors Bureau (WCVB), said they are beginning to issue a quarterly report; the "Whitefish Tourism Dashboard" which he distributed to the Mayor and Council. This report covers July – September 2015 and reflects year to date TPA Collections (Tourist Promotion Assessment) per month, FY15 Resort Tax Collections and Lodging Tax Revenue. Additionally the report shows total rooms/units available in Whitefish including The Whitefish Mountain Resort (1200) plus those in development (161). He mentioned that even during peak seasons not all rooms are occupied and they offer resources for each business to share occupancy vacancies for their guest's information to assist in finding available rooms. Along with tracking Whitefish overnight visitors, the report tracks Glacier National Park Visitation, Airport

Passengers, and Amtrak Passengers; the same promotion and discount for Amtrak passengers in and out of Whitefish will be offered during ski season the same as in the past. He said the numbers definitely showed some decrease during the smoky fire season. He said he would be bringing this report to the Council quarterly. (Report appended to the 11-16-15 packet as After Packet Materials).

Councilor Sweeney, as Council Representative on the Park Board, reported that the contract has been approved for the new private management for the ice rink effective November 22, 2015; and he thanked all those involved for their hard work. The Board continues to work on Depot Park design and has currently been discussing the gazebo design.

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 November 2, 2015 City Council session (p. 23)

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

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

a) Ordinance No. 15-__; An Ordinance approving a zone change for properties identified as 1820/1822/1824/1830/1840/1842/1844/1848 Baker Avenue to add the Commerce Street Condos at 1820/1822 Baker to the adjacent WI-SC (Industrial and Warehousing with a Statement of Conditions) zoning district, and amend the State of Conditions to add three additional uses for the district – trade schools, music schools, and hotels. The new district will be comprised of 2.71 acres of property (First Reading) (WZC 15-03) (p.30) (CD 19:40)

Planning and Building Director Taylor reported that Ordinance 13-04 established the WI/WB-2-SC (Industrial and Warehousing and Secondary Business with a Statement of Conditions) zoning district on the adjacent lands. This request to include the Commerce Street Condos at 1820/1822 Baker Avenue would result in a total of 2.71 acres in the district; and requests to amend the Statement of Conditions to add three additional uses for the district – hotels, music schools and trade schools. Staff found the request in conformance to the Growth Policy wherein the property is designated as 'Planned Industrial' and in accordance with the Whitefish Zoning Regulations based on statutory criterial review. The Planning Board's public hearing and consideration of the application was held on November 5, 2015, and the Board unanimously voted for approval of the staff report and the rezone. Director Taylor noted that some of the draft Planning Board minutes submitted with the packet had some missing information but he had since provided the additional information to the Council, and it was also in written form distributed to the Council tonight.

Mayor Muhlfeld opened the public hearing.

Eric Mulcahy, Sand Surveying, 2 Village Loop, Kalispell, spoke representing the applicant, started with some history of this project. The first time the new zoning district was brought to the Council in 2013, it was the developers' intent to create a district that would serve as a buffer and transitional area between the adjacent heavy-industrial properties, the gravel pit and the City shops, and the businesses along Hwy 93 South. Currently on south Baker Avenue is a mixture between existing warehouses and other various commercial uses. Therefore, the action in 2013 struck the heavy-industrial uses as shown on the staff report; and tonight's request is to add Hotels as a Permitted Use,

and add Colleges, business, trade and music schools as Conditionally Permitted Uses. Eric said both he and the owner's representative will be able to answer questions, if any.

Jeff Badelt, 157 Arielle Way, said he was speaking not only for himself but on behalf of the Whitefish Hotel Group (of which he was an investor, stakeholder and project manager), in support of this project. He said they missed the Planning Board hearing, but have now reviewed it and even though the proposed hotel would be competition, and according to the WCVB report Whitefish could be reaching its saturation of hotel rooms, but supports the project especially with the additional mix of the proposed culinary school and music school along with a small "boutique" hotel (10 to 14 units). He said he also talked to the Averill family today who also offer their support.

Mayre Flowers, Citizens for a Better Flathead (CBF), 35 4th Street West, Kalispell, distributed printed comments which have been appended to the 11-16-15 packet as After Packet Materials). CBF spoke against this application, and noted a typographical error in the Staff Report WZC 15-03, the Municipal Code Section 11-7-12 Conditional Zoning has been incorrectly identified as 11-7-11. CBF finds the recommendation for approval of this application is likely an illegal abuse and application of the city's conditional zoning provisions as set out in Definitions and Conditional Zoning. CBF found that by definition; "Conditional Zoning……more restrictive…..than are found in the text of the zoning ordinance." CBF findings: (1) Instead of more restrictive the proposal illegally blends two zones. This isn't allowed in other states. (2) The proposal is not more restrictive, but appears to be "cherry picking" uses. (3) The proposal is similar to "blending of density" between zones that CBF formerly opposed and CBF attached a 10-27-14 letter from Attorney Tom Tornow addressed to the City on that subject. (4) There could be potential legal challenges on the City's interpretation of conditional zoning, and advised further review by the City Attorney. (5) The City applied conditional zoning previously to this property, but CBF disagreed that would be justification to approve this proposal. (6) Question if current development and improvements are in compliance with 18-month provision in the Zoning Ordinance. Mayre noted it was difficult to track what had happened during the Planning Board as the draft minutes in the packet were incomplete; revised minutes were distributed and she hoped all the Council had read the revised minutes, and she discussed submittal of written comments. Number Seven (7) CBF recommendations if the Council moves forward with action: Staff Report Findings 1,2,7,11,12 are not adequate or supportable. The Public could not review the Traffic Study because it was submitted to the City the day of meeting. Public Comment at the Planning Board meeting regarding an easement crossing adjacent property needs further consideration. In addition, CBF listed 7 requirements from City Code 11-7-12 (D) 10 through 15; and 11-7-12 (C) 1c, that all should be included in any record of this decision. CBF concluded:

1. The proposal before you tonight, which allows for the "cherry picking" of uses from multiple zones or blended zoning, CBF asserts is not allowed for under a careful review of the Whitefish City Code, nor could (CBF) find that this blending of uses is allowed for in other states that have adopted provisions for conditional zoning.
2. CBF urged the Council table any decision on this application until the City Attorney reviews this proposed zoning scheme before the Council tonight; in compliance with city code and state law, and for its implications if this concept is allowed to be applied not only in this site specific location but in all other rezoning requests that come before the city.
3. This Council, a little less than a year ago, rejected the concept of blended zoning density under the city's PUD standards when the illegality of this practice was raised and it is appropriate and essential that the Council rejects this concept of blended uses under city conditional zoning standards for the reasons that CBF presented tonight.

Mayre Flowers thanked the Council for their consideration.

Rhonda Fitzgerald, 412 Lupfer Avenue, said she would reiterate her comments she made at the Planning Board because that was part of the draft minutes that were missing in the original Council packet, however she understands the Council now has the corrected draft minutes. Historically, the community, over time in community meetings, have built a vision that she feels is supported by most of the community, identifying issues as crucially important; two of which are: (1) Affordable housing and (2) Opportunity for small manufacturing. Industrial zoned lands provide properties that are inexpensive enough to build a warehouse or a small factory for small manufacturing businesses. She said the City is getting less lands with that zoning for that type of use; and the property being considered for rezoning is one of that shrinking inventory. The current businesses in this area is a shirt company and an ice-cream manufacturing company that are successfully operating in this zone. Similarly, land zoned for Affordable Housing. If land is continually being upgraded to commercial uses, it can be sold for higher costs and the ability to buy affordable land for affordable housing is lost. She said the cost of doing business is based on the cost of the land, and how property is zoned affects value and cost of the land. Therefore, she said, land uses are determined by the Planning Board and the City Council; their decisions affect how the community progresses. She said one of the fastest ways to make money in Whitefish is buy land, get it rezoned, and sell it for a profit; she said that has happened. She asked Council to consider this as they make their decisions.

Mayor Muhlfeld asked if there was further public comment and there was none, and the Mayor turned the matter over to the Council for their consideration.

Council and staff discussed the timeframe for consideration of this application.

Councilor Feury made a motion, second by Councilor Hildner, to deny the application to rezone the subject property.

Councilor Feury amended his motion, agreeable to the second, that City Attorney Jacobs prepare and bring back to the Council's December 7, 2015 meeting, findings to support the denial based on comments Councilor Feury made after his original motion was seconded; and those comments were:

Councilor Feury did not support the process of "blending zone" to rezone property. The zoning regulations probably contain different "tools" an applicant can use to accomplish the desired result. Staff Report Finding 11 states "The zoning encourages land use compatible with existing adjacent industrial and commercial uses." Councilor Feury did not feel adding a school and a hotel next to a dumpsite were compatible uses. The community has set zoning districts over time for specific reasons and it is a problem to mix and match them to make something new.

The amendment passed unanimously.

The original motion, as amended, passed unanimously.

b) **Consideration of a request by Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC & 1820 Baker LLC, for a Conditional Use Permit in order to develop a project with multiple principle structures. The property is zoned WI/WB-2-SC (Industrial/Secondary Business Districts with Special Conditions), located at 1842, 1844, 1846, & 1848 Baker Avenue (WCUP 15-14) (p. 81)** (CD 56:02)

Senior Planner Compton-Ring said this application for a Conditional Use Permit is requesting to have multiple primary-use buildings on a single site that is already zoned WI/WB-2-SC (Industrial/Secondary Business Districts with Special Conditions). The Zoning Regulations permit only one primary use per lot unless a Conditional Use Permit is obtained. The applicant proposes four buildings on one lot (Tract 6BGA in 1-30-22), and shares access and parking with the two tracts to the north (Tract 6BK, and the Commerce Street Condo tract). The four buildings proposed will house a variety of commercial and industrial uses consistent with the zoning. The Growth Policy designation for this area is 'Planned Industrial'. Adjacent property owners were notified of the application and no written responses were received. The application was evaluated by staff based on the criteria required for consideration of Conditional Use Permit; and found to be in compliance as reported in the findings in the staff report. Staff recommended approval subject to eleven (11) Conditions of Approval. The Planning Board held a public hearing on November 5, 2015 and voted to approve the Conditional Use Permit as recommended by staff with the addition of a 12th Condition of Approval regarding traffic circulation and amendments to Condition #8 regarding parking.

Council asked and staff clarified the properties involved, and the existing conditions for this WI/WB-2-SC zoning district.

Mayor Muhlfeld opened the public hearing.

Eric Mulcahy, Sand Surveying, 2 Village Loop, Kalispell, spoke representing the applicant, said he concurred with staff that, even without the zone change request that was denied under Agenda Item 6a; this application remains valid with proposals in compliance with current zoning because this request for conditional use is for the "multiple" primary-use buildings on a single tract of land, instead of just one building; and the existing zoning allows for many options for light industrial and commercial uses. The project complies with the setbacks, lot coverage, parking and landscaping requirements. Of the two existing structures, one houses the T-shirt Company and Sweet Peaks; the second structure (the condos) are vacant, dilapidated, and in need of repair. It is the developer's plan to upgrade and improve those two units. With full development of the property it is the developer's plan to have a finished product improving this area on south Baker Avenue; and hopefully encouraging adjacent owners to upgrade their properties as well. Eric clarified for the Council that the two Commerce Street Condos are zoned WI; and that tracts 6BK and 6BGA are zoned WI/WB-2-SC. This application applies to Tract 6BGA only.

Mayre Flowers, Citizens for a Better Flathead (CBF), 35 4th Street West, Kalispell, said it was difficult to understand which uses were allowed in the WI/WB-2-SC district. She thought it might be confusing to all, and she said there was an easement issue to address as to how it impacts this proposal, and there may be issues with the storm water drainage site. She had questions if all standards of the zoning that was set in place in 2013 have been reviewed and met and thought more questions should be answered before moving forward.

Rhonda Fitzgerald, 412 Lupfer Avenue, said the site plan includes parking plans based on the uses of the original plan that included a hotel. Parking requirements are contingent upon use; so she said the parking plan is set without knowing, now, what the buildings will be used for; or the configuration of traffic circulation. She thought approval of this application was jumping the gun because there was not a plan to approve.

Vik Keuylian, PO Box 5270 in Whitefish, said he was the project manager and represents Elaine Edwards. He said for the last hour he has listened to two ladies complaining and hasn't heard anything

positive; and he said there are positive aspects of their project. He said the easement issue that has been brought up does not apply here because the application before the Council is for four buildings on one piece of land. The amount of parking does not matter today, that can be addressed at the time of development. When the time comes, they may find out they only have room for three buildings with the required parking. They have been working on this project for three years and it already has been approved for multi-use. The zoning in place allows restaurants; that is a current permitted use in the zoning district and can't be changed at this point.

Mayor Muhlfeld closed the public hearing and turned the matter over to the Council for their consideration.

Council and Staff discussed the parking issue; when uses are unknown how can parking standards be addressed and Director Taylor said different businesses go in and out of established buildings all the time and it is part of the Planning Department's process to be sure each new business complies with parking standards. Discussion followed regarding single or multiple primary uses. Director Taylor said there is not a limit for multiple primary uses; and Planner Compton-Ring said the applicable Municipal Code that allows more than one primary use with a Conditional Use Permit is §11-2-3B(12).

Councilor Frandsen made a motion, second by Councilor Sweeney, to approve a Conditional Use Permit, a request by Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC & 1820 Baker LLC, for a Conditional Use Permit in order to develop a project with multiple principle structures. The property is zoned WI/WB-2-SC, located at 1842, 1844, 1846, & 1848 Baker Avenue.

Council discussion regarding the fact the staff report for this project includes information contingent upon approval of revised zoning for this and adjacent properties, which got denied by the Council in Agenda Item 6a; but existing zoning does allow multiple principle structures with a Conditional Use Permit.

Councilor Frandsen withdrew her motion which was agreed to by the second.

Discussion followed that a revised staff report, providing information on existing zoning in place of the premise of revised zoning would be helpful for further consideration by the Council; however the 90-day review period for action on the application will have lapsed by the next Council Meeting.

Eric Mulcahy, the applicant's representative, stated the applicant agrees to an extension of the time beyond the 90-day review period to accommodate consideration of a revised staff report at the December 7th Council Meeting; and he said he would verify that request by written email to City Attorney Jacobs.

Councilor Hildner made a motion, second by Councilor Fitzgerald, to postpone action on this agenda item to the December 7th Council Meeting, subject to the request for an extension by the applicant. Councilor Frandsen added direction to staff to bring forward a revised staff report and findings supported by current zoning not the proposed zoning that was presented earlier tonight. The second agreed to the addition. Councilor Hildner clarified that his motion to postpone implies the public hearing remains open, and the second agreed. The motion passed unanimously.

7) COMMUNICATIONS FROM CITY MANAGER (CD 1:30:05)

a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 137)-None

b) Other items arising between November 11th and November 16th

City Manager Stearns asked Council if all except Councilor Fitzgerald are planning to attend the December 7th Council Meeting as it will be a full agenda. All Council indicated their plan to be present.

c) Resolution No. 15-49; A Resolution authorizing participation in the Board of Investments of the State of Montana Annual Adjustable Rate Tender Option Municipal Finance Consolidation Act Bonds (INTERCAP Revolving Program), approving the form and terms of the Loan Agreement and authorizing the execution and delivery of documents related thereto – Fire Department Self-Contained Breathing Apparatus (SCBA) (p. 146)

Finance Director Smith said the purchase of the Self-Contained Breathing Apparatus (SCBA) for the Fire Department was approved with the adoption of the FY16 Budget; and financing the purchase was anticipated to be a $275,000 INTERCAP Loan through the Montana Board of Investment program. An application for that amount was submitted prior to the bid award to insure financing. At their October 6, 2015 Council Meeting the Council awarded a bid for $233,445 for the SCBA. Director Smith discussed this difference with the Bond Program Officer who has assured the City that the difference of the drawdown of a lesser amount than requested will not impact future request for funding. City Attorney Jacobs has reviewed the proposed Resolution. Councilor Frandsen asked if there would be additional request for funds over the $233,445 and Director Smith said no; the actual invoices are sent in with drawdown requests so they won't go above what was awarded for the bid.

Councilor Feury made a motion, second by Councilor Frandsen, to approve Resolution 15-49. The motion passed unanimously.

8) COMMUNICATIONS MAYOR AND CITY COUNCILORS (CD 1:35:08)

a) Emails from Mayre Flowers of Citizens for a Better Flathead regarding recycling (p. 191)

Mayor Muhlfeld thanked Mayre for all her efforts towards valley-wide recycling. Councilor Hildner verified with Director Workman the City's signs will be consistent with the signs being posted valley-wide. In addition, Councilor Hildner said they had received photos from John Repke of over-flowing recycling sites and hoped that our new central recycling site will be better able to handle the need. Director Workman confirmed the City signs will match valley-wide signs. The new centralized site should be in operation next week; then signs will be posted on the satellite sites informing patrons of the new location so the satellite sites can be phased out. Temporary measures around the new site will trap stray garbage this winter; permanent screening is planned for next spring upon the Council's final approval of the new centralized recycling center.

COUNCIL COMMENTS:

Councilor Feury said this is Councilor Fitzgerald's last meeting and he thanked her for filling in the vacant position and said it had been a pleasure working with her again. He said congratulations and condolences to all those who won and lost elections. His missed reporting during Committee Reports that the Whitefish Lake Institute's (WLI) Whitefish area water-resources report; the status of Whitefish Lake watershed and surrounding area was released and he said it is a fabulous document and

he complimented the WLI on it. It is weighty and lengthy, it contains some scary information, but a lot of good information is included in the report; and it emphasizes the importance of issues that will have to be dealt with sooner than later. The Real Estate Advisory Committee met this morning, part of the discussion included plans for the new retail space in City Hall that will be available for lease. A request for proposals (RFP) will be prepared to go out by sometime in February 2016.

Councilor Hildner mentioned the Whitefish football team has a championship game this weekend.

Councilor Frandsen said if it was okay with the rest of the Council she would like to get a report regarding comments made by Mayre Flowers regarding minute taking and public notices, and having a visible clock. She also requested a report from Director Workman on the City's snow removal policy, and the department's plan for staffing for snow removal, especially for weekend snowfalls. She thanked Councilor Fitzgerald for serving the interim term on Council and said she enjoyed serving with her.

Councilor Fitzgerald asked Director Workman for an update on water-billing processes. Director Workman said to follow up on comments made at the last meeting regarding an unprecedented number of late fees and shut-off notices in October, he inquired with the billing staff and found that there had been a delay with the US Postal Service. The bills originate from a billing company in Boise, ID and are routed through Missoula before delivery; and that was part of the problem. He discussed with his staff the $10 late fee that is assessed to an account if it is not paid by the 20th of each month. That due date and the $10 assessment is all according to the City's Rules and Regulations. The Rules and Regulations also state that if an account is still overdue and outstanding; a notice must be sent to the customer, that if an account is not brought current in 10 days the water will be shut off. What is not stated in the Rules and Regulations is the timing of that 10-day notice; so he has worked out with staff to wait approximately 5 days after the 20th of the month due date; allowing customers a little more leeway in which they can pay their bill without further late fees charged. The department also has a policy that if the $10 late fee crosses with a payment and payment is received in a couple days, if a customer calls - the staff can, as a courtesy, waive that fee. That has been the practice for the last several years, and he said that is a precedent that he will continue to honor. There is also an issue with online bill pay; for some reason the turnaround for the payment to the City of Whitefish takes longer than is does for other utilities in the valley. Staff and the banks are researching reasons for that issue. He noted that it did not come up in tonight's work session that provided background and update of the ongoing rate study; but part of that rate study will include the City's late fees policy so more information can potentially be forthcoming.

Councilor Fitzgerald said she had received many comments on the new equipment at the Memorial Field; everyone loves it. However, there used to be one swing, among the old swings, designed for babies and she has heard requests to have that again. And she asked staff about the missing and incomplete information in the staff report regarding the public hearing at the Planning Board; she did note that Council had received the corrections prior to tonight's meeting. Director Taylor agreed there was public input missing from the first draft due to a technical glitch. This particular time was especially tough because, due to lack of quorums in October, the Planning Board added a meeting at the first of the month and the turnaround time for staff to get information from that meeting into the Council Packet is only 3 days. Councilor Fitzgerald said it had been an honor and privilege to serve out the interim position on Council. She enjoyed it and she hopes to return again someday.

Mayor Muhlfeld said he would echo his fellow Councilors in thanking Councilor Fitzgerald for

stepping in at a critical time, she did an awesome job. He thanked Parks and Recreation Director Butts for her work in getting the agreement finalized for the new private management of the ice rink. The Mayor reported he attended the Whitefish Legacy Partners strategic planning session last Friday; he said initially they had hoped to work on a 5-year plan completing the north loops of the trail that include Taylor Creek, Big Mountain and Haskill Basin lands but it quickly became apparent that will be a 7 to 10-year plan. Opportunities with Trust for Public Land were discussed regarding the Plum Creek/Weyerhaeuser lands at the north end of Whitefish Lake, and hopefully they can work together with those conservation groups for more trails. And, similar to WLI, Legacy Partners is considering some strategic staffing to bring in someone with expertise in fundraising and capital campaigns to work on projects coming forward for the next few years. And the good news, the endowment fund held by the Community Foundation has grown by over 20% from the original endowment, for long-term operation and maintenance of the Whitefish Trail. The Mayor asked if there was anything else and Councilor Hildner said Happy Thanksgiving!

9) ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)
(CD 1:49:34)

Mayor Muhlfeld adjourned the meeting at 9:03 p.m.

_____
Mayor Muhlfeld

Attest:

_____
Necile Lorang, Whitefish City Clerk

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

RESOLUTION NO. 15-___

A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City certain tracts of land known as 1750 and 1770 US Highway 93 West, for which the owners have petitioned for and consented to annexation.

WHEREAS, Philip Mitchell and Belinda Mitchell, have filed Petitions for Annexation with the City Clerk requesting annexation and waiving any right of protest to annexation as the sole owners of real property representing 50% or more of the total area to be annexed. Therefore, the City Council will consider this petitions for annexation pursuant to the statutory Annexation by Petition method set forth in Title 7, Chapter 2, Part 46, Montana Code Annotated; and

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

WHEREAS, it is the considered and reasoned judgment of the City Council of the City of Whitefish that the City is able to provide and has been providing municipal services to the area proposed for annexation. Further, it is hereby determined by the Whitefish City Council to be in the best interest of the City of Whitefish, and the inhabitants thereof, as well as the current and future inhabitants of the area to be annexed described herein, that the area be annexed into the City of Whitefish and it is hereby declared to be the intent of the City of Whitefish that the corporate boundaries of the City of Whitefish be extended to include the boundaries of the area described in the Petitions for Annexation within the limits of the City of Whitefish.

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

Section 1: The corporate boundaries of the City of Whitefish are hereby extended to annex the boundaries of the area herein described in the Petitions for Annexation, according to the map or plat thereof, on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana, legally described as:

Tract 1 and Tract 2 of Certificate of Survey No. 19517
Section 35, Township 31 North, Range 22 West
(except roads and right of ways)

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

Section 3: The City Clerk is hereby instructed to certify a copy of this Resolution so entered upon the December 7, 2015 Minutes of the City Council. Further that this document shall be filed with the office of the Clerk and Recorder of Flathead County. Pursuant to §7-2-4607, MCA, this annexation shall be deemed complete effective from and after the date of the filing of said document with the Flathead County Clerk and Recorder.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 7TH DAY OF DECEMBER, 2015.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

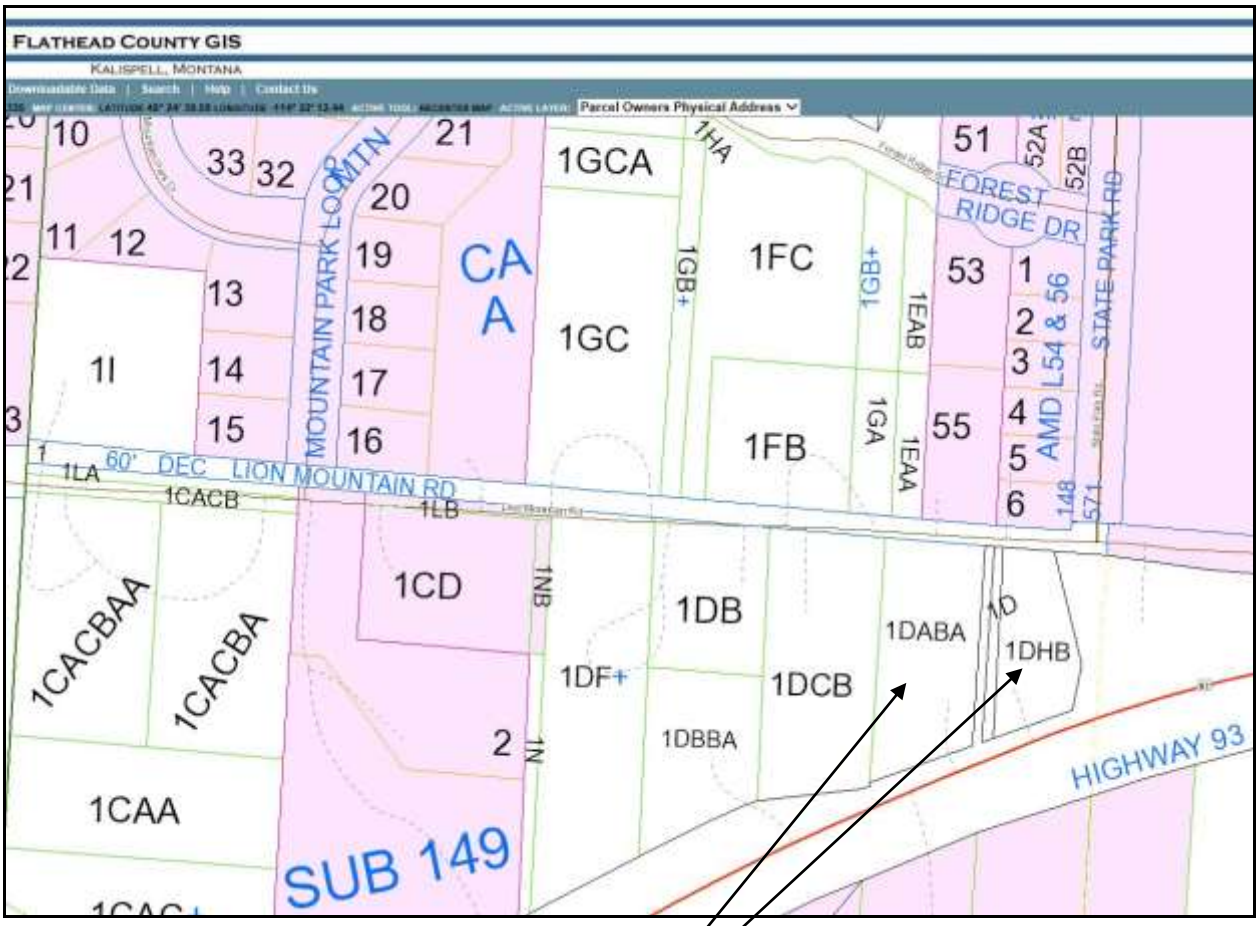
CERTIFICATE AS TO RESOLUTION
AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Whitefish, Montana (the "City"), hereby certify that the attached resolution is a true copy of a resolution entitled: "A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City certain tracts of land known as 1750 and 1770 US Highway 93 West, for which the owners have petitioned for and consented to annexation" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on December 7, 2015, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, Councilors voted unanimously in favor thereof.

WITNESS my hand and seal officially this 7th day of December 2015.

_____
Necile Lorang, City Clerk



1770 and 1750 US Highway 93 West
Assessor No. 0272760

CERTIFICATE OF SURVEY

RETRACEMENT

LOCATED IN SW ¼ NW ¼ SEC.35, T.31N., R.22W., P.M.,M.

FLATHEAD COUNTY MONTANA

FOR: MT. DEPT. OF TRANSPORTATION

DATE: APRIL 2013

OWNERS:

Philip & Belinda Mitchell (TRACT 1)

Dana L. Gesek (TRACT 2)

LEGEND

- SECTION COR. FOUND 1¼ OPC 7328S
- ¼ COR. FOUND BRASS CAP BY DOYLE
- 1/16 COR. FOUND ½" REBAR
- FOUND 2" MDT AC NO SURVEY NUMBER
- FOUND SURVEY MONUMENT SEE COORDINATE DETAIL
- SET 3¼" AC. 14742LS FOR 1/16 COR.
- SET 2" AC ON ½"X24" REBAR 14742LS
- COMPUTED POINT NOT SET

NOTE 2

C.O.S. 1559 shows a distance of 132 feet along the north line of the SW¼NW¼ from the northeast corner of said line for the point of beginning. Deed Reception No. 91290011460 shows a distance of 122 feet along the same line and from the same point. The Flathead County has been treating this discrepancy of 10 feet as being a gap between the two tracts of land. It was found in this survey that the two points are the same and no gap was intended to be created. This can be substantiated by the fact that in 1974 there was a common ownership line between the two parties (SEE NOTE 1).

NOTE 1

(ALL TRACTS AND AREAS REFER TO THOSE AS SHOWN ON THIS C.O.S. UNLESS OTHERWISE NOTED)

April 3, 1969 Hamilton purchased a tract of land from Webber per B.504 P.713. The legal description for said tract included the area of tract 1 including area 'A'

May 31, 1974 C.O.S. No.1559 was filed showing a boundary line adjustment that included tract 1 and area 'A'. No adjoining land owners were shown on the survey to the east or west of the property being surveyed.

June 6, 1974 Hamilton purchased the property from Duffy per B.567 P.804; the legal description included both tract 1 and area 'A'.

October 30, 1974 Devall purchased area 'A' from Hamilton per B.574 P.511. Devall was the record land owner for tract 2 at the time and the deed refers to C.O.S. 1559.

November 20, 1974 Hamilton purchased tract 1 from Johnson per B.574 P.719. The deed's legal description describes the area being tract 2 of C.O.S. No. 1559 and does not include area 'A', this deed refers to C.O.S. No. 1559.

A diligent search was made in the Flathead County records and no record was found wherein Duffy nor Johnson had any RECORDED interest in the property that Hamilton purchased from Webber in 1969. It appears that in 1974 Hamilton attempted to clear the title of the property by obtaining deeds to parties that possibly had some unfiled interest in the land.

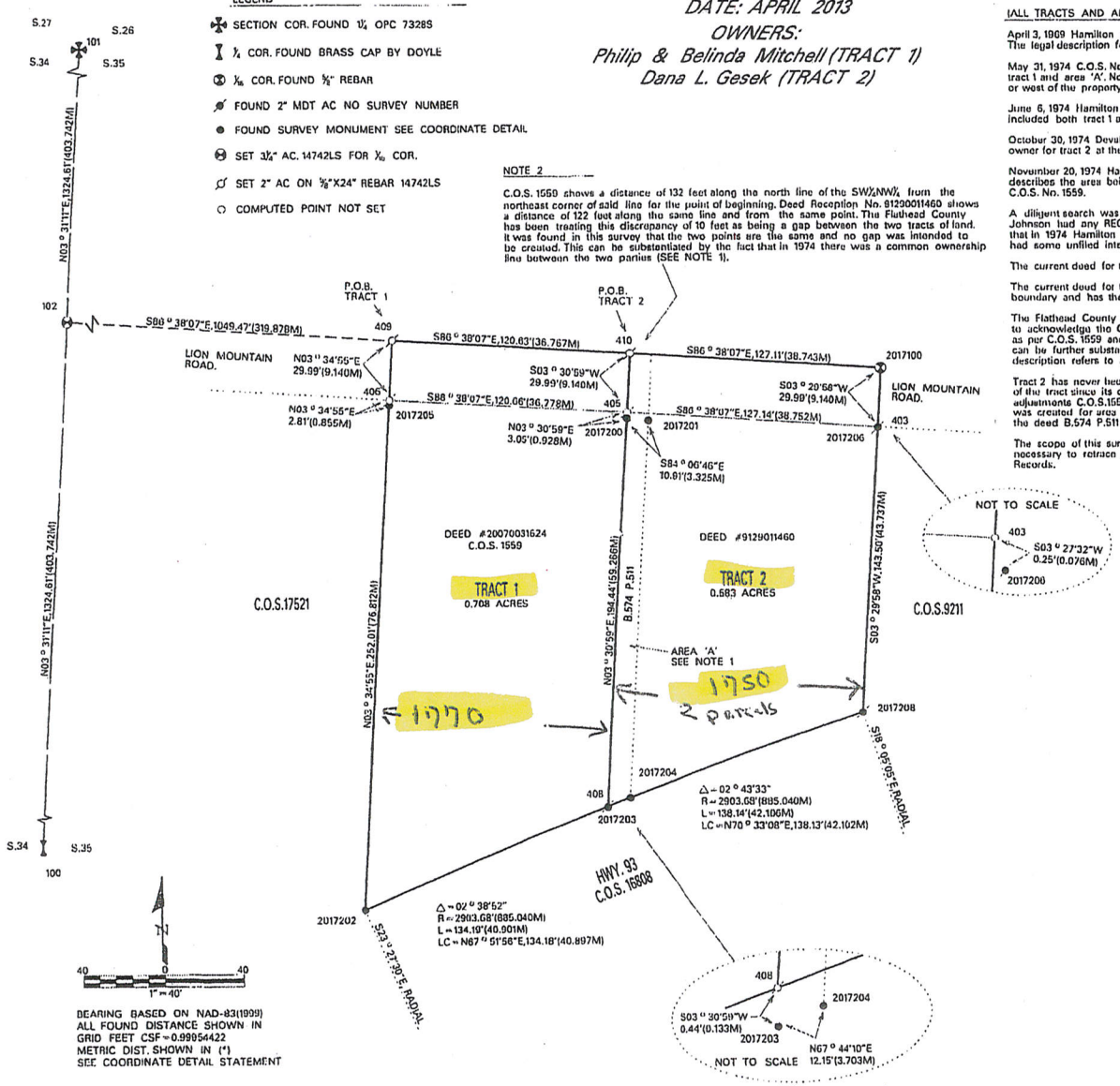
The current deed for tract 1 Reception No.200700316240 legal description includes area 'A' within its boundary.

The current deed for tract 2 Reception No.91290011460 legal description does not include area 'A' within its boundary and has the same legal description that existed prior to 1974

The Flathead County tract book currently shows that the owner of tract 1 still owns area 'A' and does not seem to acknowledge the October 30, 1974 deed from Hamilton to Devall. It is clear that the boundary line adjustment as per C.O.S. 1559 and B.574 P.511 intended area 'A' to become part of and made whole with tract 2. This can be further substantiated by the legal description per B.574 P.719 dated November 1974 wherein the legal description refers to a tract of land that no longer includes area 'A'.

Tract 2 has never been surveyed until this survey and only the deeds have conveyed and described the boundaries of the tract since its creation. No deed was found that merged area 'A' into tract 2 per the 1974 boundary line adjustments C.O.S.1559 and B.574 P.511. Per the Montana Subdivision and Platting act of 1973 no new tract of land was created for area 'A' and even though C.O.S. No. 1559 did not correctly show to whom area 'A' was intended the deed B.574 P.511 did and per said act of 1973 area 'A' would now be part of and made whole with tract 2

The scope of this survey is only to retrace Tract 2 as shown on this C.O.S.. However it is necessary to retrace both Tract 1 and 2 to clarify the discrepancy within the Flathead County Records.



BEARING BASED ON NAD-83(1999)
ALL FOUND DISTANCE SHOWN IN GRID FEET CSF=0.99954422
METRIC DIST. SHOWN IN (*)
SEE COORDINATE DETAIL STATEMENT

Jimmie A. Turner, PLS — Date

Montana Registration No. 14742LS

MONTANA JIMMIE ALLEN TURNER No. 14742LS LICENSED LAND SURVEYOR

CERTIFICATE OF EXAMINING SURVEYOR

APPROVED THIS 5th DAY OF May, 201

EXAMINING LAND SURVEYOR

MONTANA REGISTRATION No.

STATE OF MONTANA } ss

COUNTY OF FLATHEAD

Filed on the 13th day of June, 2013 A.D. at 9:23 o'clock A.M.

Paula Robinson by Glasser $6.00

COUNTY CLERK AND RECORDER — DEPUTY — FEE

INSTRUMENT NO. 201300014378

SHEET 1 OF 2

CERTIFICATE OF SURVEY NO. 19517

PROJECT: 2017
DRAFTED BY: JIM TURNER
REVISED BY: JIM TURNER
CHECKED BY: DMR

MONTANA DEPARTMENT OF TRANSPORTATION

COS# 19517

201300014378 Fees: $6.00 by: JL
by JIM A TURNER
Date 6/13/2013 Time 9:23 AM
Paula Robinson, Flathead County Montana

¼	Sec.	T.	R.
	35	31N.	22W

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

PETITION
BEFORE THE CITY COUNCIL
OF THE
CITY OF WHITEFISH

PETITION FOR ANNEXATION TO CITY

Dated this 12th day of Nov, 2015.

The undersigned Property Owner hereby petitions the City Council of the City of Whitefish, pursuant to Section 7-2-4601(3)(a), MCA, requesting annexation of the following real property into the City of Whitefish and to remove the following real property from the Rural Fire District.

This petition is pursuant to the Contract Agreement for Annexation and City Water and/or Sanitary Sewer Service dated the 12th day of Nov, 2015.

Petitioner agrees that this annexation petition is irrevocable, and that the City may act on this petition, and actually accomplish the annexation of such real property, at any time in the future, without limitation. Petitioner has had an opportunity to review the City of Whitefish Plan for Extension of Services applicable to such real property, and Petitioner is satisfied with such Plan.

LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED:

Philip & Belinda Mitchell
Tract 2 of Certificate of Survey 19517
S 35 | T 31 N | R 22 W
except roads & right of ways

PROPERTY ADDRESS: 1750 Hwy 93 NW

ZONED AS: R-1

Philip Mitchell
Philip Mitchell
[Printed Name]

Belinda Mitchell
Belinda Mitchell
[Printed Name]

STATE OF Montana)
) :ss
County of Flathead)

On this 12 day of November, 2015, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared Philip Mitchell and Belinda Mitchell, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same.

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

VANICE WOODBECK NOTARIAL SEAL STATE OF MONTANA
(SEAL) VANICE WOODBECK
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
February 23, 2016

Vanice Woodbeck
Notary Public for the State of
Print or Type Name of Notary:
Residing at
My Commission expires:

1750 Hwy. 93 W

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

CONTRACT AGREEMENT FOR ANNEXATION AND CITY WATER AND/OR SANITARY SEWER SERVICE

THIS AGREEMENT is entered into as of 12th day of Nov, 2015, by and between the City of Whitefish, a municipal corporation ("CITY") as grantor of City water and/or sanitary sewer services, and Philip and Belinda Mitchell ("OWNER"), as grantee recipient(s) of City water and/or sanitary sewer services, whose mailing address is Box 1567, WF, MT 59937 with respect to the following facts:

A. CITY owns and operates a municipal water and sanitary sewer system.

B. OWNER is the sole owner of the real property that is legally described below, or as fully disclosed and shown on Exhibit "A" attached and made a part of this Agreement ("OWNER'S REAL PROPERTY"):

LEGAL DESCRIPTION

Phil & Belinda Mitchell
Tract 2 of Cert. of Survey 19517
S35 / T31N / R22W
(except Rds & Right of Ways)

C. OWNER'S REAL PROPERTY is located outside of the current corporate limits of the CITY.

D. OWNER desires to obtain municipal water/sewer service from the CITY to serve OWNER'S REAL PROPERTY.

E. The parties desire to enter into an Agreement pursuant to MCA §§ 7-13-4312 and 7-13-4314, for the CITY to furnish municipal water and/or sanitary sewer service at rates adopted in accordance with Montana State Law in return for OWNER'S agreement that OWNER'S REAL PROPERTY may be annexed to the corporate limits of the CITY at any time.

In consideration of the performance of the terms and conditions of this Agreement on the part of each party, and pursuant to MCA §§ 7-13-4312 and 7-13-4314, it is hereby

agreed as follows:

(1) Furnishing of Sewer Services: The CITY hereby agrees to furnish municipal water and/or sanitary sewer service to OWNER'S REAL PROPERTY. Unless otherwise agreed in writing between the parties, OWNER shall be solely responsible for all costs involved in extending municipal water and/or sanitary sewer service to OWNER'S REAL PROPERTY and connecting OWNER'S REAL PROPERTY to the municipal water and/or sewer system. Nothing in this Agreement shall obligate CITY to pay the costs of right-of-way acquisition, engineering, construction and other related costs involved in extending or connecting municipal water and/or sewer service to OWNER'S REAL PROPERTY.

(2) Municipal Water and/or Sanitary Sewer Connections: Upon approval by the CITY Public Works Department of the design and construction of all the municipal water and/or sanitary sewer lines and other facilities necessary to serve OWNER'S REAL PROPERTY, and acceptance of all of such water and/or sewer facilities by the CITY, OWNER will be given permission to connect no more than ___1___ connection to the CITY'S municipal water and/or sanitary sewer system. Any additional water and/or sewer connections shall require a new application for service and approval obtained from the CITY Public Works Department.

Upon approval by the CITY Public Works Department, OWNER will be given permission to extend ___1___ water and sanitary sewer stubs from the municipal sanitary main to the property line of the property described herein. Any additional water and/or sanitary sewer stubs shall require a new application for CITY water and/or sanitary sewer service. Prior to connecting any residential or commercial building or any other structure to the water and/or sanitary sewer service stub-out(s), a request must be submitted to CITY for municipal water and/or sanitary sewer service describing the use of the building proposed to be connected. Any connections must comply with the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility. The request is to be reviewed and approved by CITY prior to any connection of a residential or commercial building, or other structure. No residential or commercial building or any other structure shall be allowed to connect to the municipal water and/or sanitary sewer service extension unless approval has first been obtained from the CITY Public Works Department.

(3) Transfer of Title: Within thirty (30) days of the completion of the construction and CITY acceptance of the said water and/or sanitary sewer extension, OWNER hereby agrees to transfer, or cause to be transferred to CITY by appropriate documents any right, title and interest that OWNER may have in the municipal water and/or sanitary sewer lateral and main extensions to be built by OWNER to provide service to the herein described property.

OWNER agrees that the municipal water and/or sanitary sewer line extension to the property shall be constructed in a public right-of-way or on land either owned by OWNER or subject to an appropriate easement approved by CITY, granting OWNER, CITY, and their successors and assigns the right to construct, repair, and maintain the sanitary

sewer extension lines. If any portion of the lateral extension is constructed on land owned by OWNER at the time OWNER transfers their interest in the sanitary sewer extension line to the CITY, they shall also grant the CITY an appropriate easement for construction, repair, and maintenance of the municipal water and/or sanitary sewer extension lines. The CITY shall not be required to accept any previously constructed water or sewer lines unless they are properly located in the right-of-way or a valid easement.

(4) **Maintenance**: Upon completion and acceptance of construction and the approval of access to the municipal water and/or sanitary sewer lines constructed in easements, maintenance, and repair of the mains servicing OWNER'S REAL PROPERTY shall become and remain the responsibility of CITY. Maintenance and repair of the lateral service lines serving the OWNER'S REAL PROPERTY shall become and remain the responsibility of the OWNER.

(5) **Rates, Rules and Policies**: OWNER agrees to pay to the CITY such charges, rates, and fees, including but not limited to connection fees and impact fees, as are established by the CITY in accordance with Montana Law. In addition, OWNER agrees to comply with and be subject to all of the CITY'S rules, regulations and policies, as amended from time to time, with respect to the operation of the CITY'S municipal water and/or sanitary sewer system.

(6) **Consent to Annexation**: OWNER acknowledges and agrees that the CITY is willing to provide municipal water and/or sanitary sewer services only if OWNER provides all of the promises and representations contained in this Agreement. Pursuant to MCA § 7-13-4314, the CITY requires that any person, firm, or corporation outside of the incorporated CITY limits is required, as a condition to initiate such service(s), to consent to and petition for annexation of the tract served by the CITY, and in consideration for the CITY'S agreement to provide municipal water and/or sanitary sewer service, OWNER agrees to consent to annexation under the following conditions and in the following manner:

a) OWNER hereby irrevocably consents to the annexation of OWNER'S REAL PROPERTY, and OWNER irrevocably waives any right of protest to any annexation proceedings initiated by the CITY. OWNER agrees that the CITY may initiate annexation of OWNER'S REAL PROPERTY, relying upon this consent and waiver of protest, at any time in the future, without limitation. OWNER acknowledges that, but for this waiver, OWNER would have a right to protest the annexation of OWNER'S REAL PROPERTY.

b) OWNER hereby petitions to have OWNER'S REAL PROPERTY annexed to the CITY, pursuant to MCA § 7-2-4601, et seq. OWNER agrees that the CITY may act on this petition at any time in the future, without limitation. OWNER furthermore expressly waives the provisions of MCA § 7-2-4608, which provides, in effect, that no property used for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing purposes or for any purpose incident thereto shall be annexed pursuant to the provisions of MCA § 7-2-4601, et seq.

c) OWNER hereby signs the petition requesting annexation attached to and made a part hereof under this Agreement for municipal water and/or sanitary sewer services at the time of signing this Agreement. Such Petition shall be filed with the City Clerk.

d) OWNER acknowledges and agrees that OWNER has had an opportunity to inspect the contents of the CITY'S Plan for Extension of Services, as adopted by the CITY, and which describes the manner in which CITY services may be extended to properties annexed by the CITY. OWNER acknowledges and agrees that OWNER is satisfied with the CITY'S Plan for Extension of Services, and that the CITY'S Plan for Extension of Services adequately provides for the extension of CITY services to OWNER'S REAL PROPERTY. OWNER hereby waives the right to object or otherwise challenge the CITY'S Plan for Extension of Services.

e) OWNER hereby irrevocably waives for all time the right to file an action in court to challenge, for any reason, the CITY'S annexation of OWNER'S REAL PROPERTY, whether such annexation occurs now or in the future.

f) OWNER acknowledges and agrees that all of OWNER'S REAL PROPERTY, as described above, will clearly and immediately, and not merely potentially, be serviced by the municipal water and/or sanitary sewer service to be provided by the CITY pursuant to this Agreement.

g) OWNER agrees that if ever OWNER, their heirs, assigns, successors, purchasers, administrators, personal representatives or subsequent holders of title to OWNER'S REAL PROPERTY, breach, challenge, disregard, or otherwise violate any of the terms of this Agreement, the CITY may, after providing twenty (20) days written notice, terminate water and/or sanitary sewer services to OWNER'S REAL PROPERTY, in addition to any other remedies that the CITY may have.

h) OWNER agrees that if OWNER, in violation of this Agreement, submits a protest to the annexation of OWNER'S REAL PROPERTY, the CITY may disregard such protest, in addition to any other remedies that the CITY may have.

i) The promises, covenants, representations, and waivers provided pursuant to this Agreement are voluntarily and knowingly given, with full knowledge of the OWNER'S legal rights. OWNER acknowledges and agrees that it is has had an opportunity to consult with legal counsel of its choice regarding the provisions of this Agreement.

(7) **Recording; Binding Effect**: OWNER agrees that this entire Agreement shall be recorded in the office of the Clerk and Recorder of Flathead County, and OWNER agrees that this Agreement shall run to, with, and be binding upon OWNER'S REAL PROPERTY and OWNER'S title to such real property, and shall be binding upon the OWNER'S heirs, assigns, successors, administrators, personal representatives and any and

all subsequent holders or owners of OWNER'S REAL PROPERTY.

(8) **Future Deeds**: Subsequent to this Agreement all deeds to parcels of land within the property subject to this Agreement granted by OWNER shall contain the following consent to annexation and waiver:

> The Owner hereby covenants and agrees that acceptance of this deed does constitute a waiver of the statutory right of protest against any annexation procedure initiated by the City of Whitefish with respect to the property described herein. Owner also agrees that acceptance of a deed constitutes an obligation on the part of Owner to initiate annexation procedures per the Petition to Annex on file at the City Clerk's Office.
>
> This consent to annexation and waiver shall run with the land and shall forever be binding upon the Owner, transferees, successors and assigns.

OWNER agrees that this Agreement shall be binding even if OWNER fails to include the language set forth above in future deeds. After annexation of OWNER'S REAL PROPERTY, future deeds need not contain the language set forth above.

(9) **Term**: This Agreement shall be in perpetuity.

(10) **Entire Agreement**: This Agreement contains the entire agreement between the parties and any additional agreement hereafter made shall be ineffective to alter, change, modify or discharge it in whole or in part, unless such additional agreement is in writing and signed by the parties hereto.

(11) **Partial Invalidity**: Each term, covenant, condition or provision of this Agreement shall be viewed as separate and distinct, and in the event that any such term, covenant, condition or provision shall be held by a court of competent jurisdiction to be invalid, the remaining provisions shall continue in full force and effect.

(12) **Necessary Acts**: Each party to this Agreement agrees to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

CITY OF WHITEFISH

By: Charles C. Stearns
Charles C. Stearns, City Manager

OWNER(S)

Philip Mitchell
Philip Mitchell
[Printed Name]

Belinda Mitchell
Belinda Mitchell
[Printed Name]

ATTEST:

Necile Lorang

Necile Lorang, City Clerk

STATE OF MONTANA)
) ss.
County of Flathead)

On this 12 day of November, 2015, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared CHARLES C. STEARNS and NECILE LORANG, known to me to be the City Manager and City Clerk of the City of Whitefish, whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

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

VANICE WOODBECK
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
February 23, 2016

Vanice Woodbeck

Notary Public for the State of Montana

STATE OF MONTANA)
) ss.
County of Flathead)

On this 12 day of November, 2015, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared Philip Mitchell and Belinda Mitchell, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same.

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

Vanice Woodbeck

(SEAL) VANICE WOODBECK
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
February 23, 2016

Notary Public for the State of _____

_____

[print or type name of Notary]

Residing at _____

My Commission expires: _____

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

PETITION
BEFORE THE CITY COUNCIL
OF THE
CITY OF WHITEFISH

PETITION FOR ANNEXATION TO CITY

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LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED:

Philip & Belinda Mitchell
Tract 1 of Certificate of survey 19517
S35/T31N/R22W
(except roads & right of ways)

PROPERTY ADDRESS: 1770 Hwy 93 West

ZONED AS: R-1

Philip Mitchell
Philip Mitchell
[Printed Name]

Belinda Mitchell
Belinda Mitchell
[Printed Name]

STATE OF Montana)
) :ss
County of Flathead)

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

VANICE WOODBECK NOTARIAL SEAL STATE OF MONTANA
(SEAL)
VANICE WOODBECK
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
February 23, 2016

Vanice Woodbeck
Notary Public for the State of
Print or Type Name of Notary:
Residing at
My Commission expires:

1770 Hwy 93 West

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

CONTRACT AGREEMENT FOR ANNEXATION AND CITY WATER AND/OR SANITARY SEWER SERVICE

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A. CITY owns and operates a municipal water and sanitary sewer system.

B. OWNER is the sole owner of the real property that is legally described below, or as fully disclosed and shown on Exhibit "A" attached and made a part of this Agreement ("OWNER'S REAL PROPERTY"):

LEGAL DESCRIPTION

Phil & Belinda Mitchell
Tract 1 of Certificate of Survey 19517
S35 / T31N / R22W
(except roads & right of ways)

C. OWNER'S REAL PROPERTY is located outside of the current corporate limits of the CITY.

D. OWNER desires to obtain municipal water/sewer service from the CITY to serve OWNER'S REAL PROPERTY.

E. The parties desire to enter into an Agreement pursuant to MCA §§ 7-13-4312 and 7-13-4314, for the CITY to furnish municipal water and/or sanitary sewer service at rates adopted in accordance with Montana State Law in return for OWNER'S agreement that OWNER'S REAL PROPERTY may be annexed to the corporate limits of the CITY at any time.

In consideration of the performance of the terms and conditions of this Agreement on the part of each party, and pursuant to MCA §§ 7-13-4312 and 7-13-4314, it is hereby

agreed as follows:

(1) Furnishing of Sewer Services: The CITY hereby agrees to furnish municipal water and/or sanitary sewer service to OWNER'S REAL PROPERTY. Unless otherwise agreed in writing between the parties, OWNER shall be solely responsible for all costs involved in extending municipal water and/or sanitary sewer service to OWNER'S REAL PROPERTY and connecting OWNER'S REAL PROPERTY to the municipal water and/or sewer system. Nothing in this Agreement shall obligate CITY to pay the costs of right-of-way acquisition, engineering, construction and other related costs involved in extending or connecting municipal water and/or sewer service to OWNER'S REAL PROPERTY.

(2) Municipal Water and/or Sanitary Sewer Connections: Upon approval by the CITY Public Works Department of the design and construction of all the municipal water and/or sanitary sewer lines and other facilities necessary to serve OWNER'S REAL PROPERTY, and acceptance of all of such water and/or sewer facilities by the CITY, OWNER will be given permission to connect no more than ___1___ connection to the CITY'S municipal water and/or sanitary sewer system. Any additional water and/or sewer connections shall require a new application for service and approval obtained from the CITY Public Works Department.

Upon approval by the CITY Public Works Department, OWNER will be given permission to extend ___1___ water and sanitary sewer stubs from the municipal sanitary main to the property line of the property described herein. Any additional water and/or sanitary sewer stubs shall require a new application for CITY water and/or sanitary sewer service. Prior to connecting any residential or commercial building or any other structure to the water and/or sanitary sewer service stub-out(s), a request must be submitted to CITY for municipal water and/or sanitary sewer service describing the use of the building proposed to be connected. Any connections must comply with the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility. The request is to be reviewed and approved by CITY prior to any connection of a residential or commercial building, or other structure. No residential or commercial building or any other structure shall be allowed to connect to the municipal water and/or sanitary sewer service extension unless approval has first been obtained from the CITY Public Works Department.

(3) Transfer of Title: Within thirty (30) days of the completion of the construction and CITY acceptance of the said water and/or sanitary sewer extension, OWNER hereby agrees to transfer, or cause to be transferred to CITY by appropriate documents any right, title and interest that OWNER may have in the municipal water and/or sanitary sewer lateral and main extensions to be built by OWNER to provide service to the herein described property.

OWNER agrees that the municipal water and/or sanitary sewer line extension to the property shall be constructed in a public right-of-way or on land either owned by OWNER or subject to an appropriate easement approved by CITY, granting OWNER, CITY, and their successors and assigns the right to construct, repair, and maintain the sanitary

sewer extension lines. If any portion of the lateral extension is constructed on land owned by OWNER at the time OWNER transfers their interest in the sanitary sewer extension line to the CITY, they shall also grant the CITY an appropriate easement for construction, repair, and maintenance of the municipal water and/or sanitary sewer extension lines. The CITY shall not be required to accept any previously constructed water or sewer lines unless they are properly located in the right-of-way or a valid easement.

(4) **Maintenance**: Upon completion and acceptance of construction and the approval of access to the municipal water and/or sanitary sewer lines constructed in easements, maintenance, and repair of the mains servicing OWNER'S REAL PROPERTY shall become and remain the responsibility of CITY. Maintenance and repair of the lateral service lines serving the OWNER'S REAL PROPERTY shall become and remain the responsibility of the OWNER.

(5) **Rates, Rules and Policies**: OWNER agrees to pay to the CITY such charges, rates, and fees, including but not limited to connection fees and impact fees, as are established by the CITY in accordance with Montana Law. In addition, OWNER agrees to comply with and be subject to all of the CITY'S rules, regulations and policies, as amended from time to time, with respect to the operation of the CITY'S municipal water and/or sanitary sewer system.

(6) **Consent to Annexation**: OWNER acknowledges and agrees that the CITY is willing to provide municipal water and/or sanitary sewer services only if OWNER provides all of the promises and representations contained in this Agreement. Pursuant to MCA § 7-13-4314, the CITY requires that any person, firm, or corporation outside of the incorporated CITY limits is required, as a condition to initiate such service(s), to consent to and petition for annexation of the tract served by the CITY, and in consideration for the CITY'S agreement to provide municipal water and/or sanitary sewer service, OWNER agrees to consent to annexation under the following conditions and in the following manner:

a) OWNER hereby irrevocably consents to the annexation of OWNER'S REAL PROPERTY, and OWNER irrevocably waives any right of protest to any annexation proceedings initiated by the CITY. OWNER agrees that the CITY may initiate annexation of OWNER'S REAL PROPERTY, relying upon this consent and waiver of protest, at any time in the future, without limitation. OWNER acknowledges that, but for this waiver, OWNER would have a right to protest the annexation of OWNER'S REAL PROPERTY.

b) OWNER hereby petitions to have OWNER'S REAL PROPERTY annexed to the CITY, pursuant to MCA § 7-2-4601, et seq. OWNER agrees that the CITY may act on this petition at any time in the future, without limitation. OWNER furthermore expressly waives the provisions of MCA § 7-2-4608, which provides, in effect, that no property used for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing purposes or for any purpose incident thereto shall be annexed pursuant to the provisions of MCA § 7-2-4601, et seq.

c) OWNER hereby signs the petition requesting annexation attached to and made a part hereof under this Agreement for municipal water and/or sanitary sewer services at the time of signing this Agreement. Such Petition shall be filed with the City Clerk.

d) OWNER acknowledges and agrees that OWNER has had an opportunity to inspect the contents of the CITY'S Plan for Extension of Services, as adopted by the CITY, and which describes the manner in which CITY services may be extended to properties annexed by the CITY. OWNER acknowledges and agrees that OWNER is satisfied with the CITY'S Plan for Extension of Services, and that the CITY'S Plan for Extension of Services adequately provides for the extension of CITY services to OWNER'S REAL PROPERTY. OWNER hereby waives the right to object or otherwise challenge the CITY'S Plan for Extension of Services.

e) OWNER hereby irrevocably waives for all time the right to file an action in court to challenge, for any reason, the CITY'S annexation of OWNER'S REAL PROPERTY, whether such annexation occurs now or in the future.

f) OWNER acknowledges and agrees that all of OWNER'S REAL PROPERTY, as described above, will clearly and immediately, and not merely potentially, be serviced by the municipal water and/or sanitary sewer service to be provided by the CITY pursuant to this Agreement.

g) OWNER agrees that if ever OWNER, their heirs, assigns, successors, purchasers, administrators, personal representatives or subsequent holders of title to OWNER'S REAL PROPERTY, breach, challenge, disregard, or otherwise violate any of the terms of this Agreement, the CITY may, after providing twenty (20) days written notice, terminate water and/or sanitary sewer services to OWNER'S REAL PROPERTY, in addition to any other remedies that the CITY may have.

h) OWNER agrees that if OWNER, in violation of this Agreement, submits a protest to the annexation of OWNER'S REAL PROPERTY, the CITY may disregard such protest, in addition to any other remedies that the CITY may have.

i) The promises, covenants, representations, and waivers provided pursuant to this Agreement are voluntarily and knowingly given, with full knowledge of the OWNER'S legal rights. OWNER acknowledges and agrees that it is has had an opportunity to consult with legal counsel of its choice regarding the provisions of this Agreement.

(7) **Recording; Binding Effect**: OWNER agrees that this entire Agreement shall be recorded in the office of the Clerk and Recorder of Flathead County, and OWNER agrees that this Agreement shall run to, with, and be binding upon OWNER'S REAL PROPERTY and OWNER'S title to such real property, and shall be binding upon the OWNER'S heirs, assigns, successors, administrators, personal representatives and any and

all subsequent holders or owners of OWNER'S REAL PROPERTY.

(8) **Future Deeds**: Subsequent to this Agreement all deeds to parcels of land within the property subject to this Agreement granted by OWNER shall contain the following consent to annexation and waiver:

> The Owner hereby covenants and agrees that acceptance of this deed does constitute a waiver of the statutory right of protest against any annexation procedure initiated by the City of Whitefish with respect to the property described herein. Owner also agrees that acceptance of a deed constitutes an obligation on the part of Owner to initiate annexation procedures per the Petition to Annex on file at the City Clerk's Office.
>
> This consent to annexation and waiver shall run with the land and shall forever be binding upon the Owner, transferees, successors and assigns.

OWNER agrees that this Agreement shall be binding even if OWNER fails to include the language set forth above in future deeds. After annexation of OWNER'S REAL PROPERTY, future deeds need not contain the language set forth above.

(9) **Term**: This Agreement shall be in perpetuity.

(10) **Entire Agreement**: This Agreement contains the entire agreement between the parties and any additional agreement hereafter made shall be ineffective to alter, change, modify or discharge it in whole or in part, unless such additional agreement is in writing and signed by the parties hereto.

(11) **Partial Invalidity**: Each term, covenant, condition or provision of this Agreement shall be viewed as separate and distinct, and in the event that any such term, covenant, condition or provision shall be held by a court of competent jurisdiction to be invalid, the remaining provisions shall continue in full force and effect.

(12) **Necessary Acts**: Each party to this Agreement agrees to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

CITY OF WHITEFISH

By: Charles C. Stearns
Charles C. Stearns, City Manager

OWNER(S)

Philip Mitchell
Philip Mitchell
[Printed Name]

Belinda Mitchell
Belinda Mitchell
[Printed Name]

ATTEST:

Necile Lorang

Necile Lorang, City Clerk

STATE OF MONTANA)
) ss.
County of Flathead)

On this 12 day of November, 2015, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared CHARLES C. STEARNS and NECILE LORANG, known to me to be the City Manager and City Clerk of the City of Whitefish, whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

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

VANICE WOODBECK
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
February 23, 2016

Vanice Woodbeck

Notary Public for the State of Montana

STATE OF MONTANA)
) ss.
County of Flathead)

On this 12 day of November, 2015, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared Philip Mitchell and Belinda Mitchell, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he/she/they executed the same.

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

Vanice Woodbeck

(SEAL)

VANICE WOODBECK
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
February 23, 2016

Notary Public for the State of _____

_____

[print or type name of Notary]

Residing at _____

My Commission expires: _____

RESOLUTION NO. 15-___

A Resolution of the City Council of the City of Whitefish, Montana, affirming the denial of a zone change for properties identified as 1820, 1822, 1824, 1830, 1840, 1842, 1844 and 1848 Baker Avenue.

WHEREAS, Elaine Edwards, 1820 Baker LLC, 1822 Baker LLC, and 1840 Baker LLC filed a Petition for Zoning Map Amendment with the Whitefish Planning & Building Department; and

WHEREAS, the applicants requested a change from the existing WI (Industrial and Warehousing) zoning to WI/WB-2-SC (Industrial and Warehousing/Secondary Business) zoning for the Commerce Street Condos at 1820 and 1822 Baker Avenue and also requested to add three additional uses from the WB-2 (Secondary Business) to the WI-WB-2-SC zone; and

WHEREAS, the three additional uses the applicants sought to add from the WB-2 (Secondary Business) zone to the WI-WB-2-SC zone were trade schools, music schools and hotels; and

WHEREAS, Section 11-7-12-D-1 of the Whitefish City Code, "Conditional Zoning," provides:

> In the event that it is found to be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain more restrictive conditions were proposed by property owners as part of their request for rezoning, an owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

; and

WHEREAS, Section 11-7-12-D-4 of the Whitefish City Code, "Conditional Zoning," provides:

> The city council, while reviewing the compatibility of the rezoning request with the considerations of subsection E1 of this section, shall consider compatibility of allowed uses and the performance of the conditional restrictions along with the intent of the underlying future land use shown for the parcel in the city-county growth policy maps rather than strict adherence to growth policy land use designations such as commercial and residential.

; and

WHEREAS, the Whitefish Planning & Building Department prepared Zone Change Report WZC-15-03, dated October 15, 2015, which recommended in favor of the zone change; and

WHEREAS, at a lawfully noticed public hearing on November 5, 2015, the Whitefish Planning Board received an oral report from Planning staff, reviewed the Zone Change Report

WZC-15-03, invited public comment, and thereafter voted to recommend in favor of the proposed zone change; and

WHEREAS, at a lawfully noticed public hearing on November 16, 2015, the Whitefish City Council received an oral report from Planning staff, reviewed Zone Change Report WZC 15-03, and invited public comment; and

WHEREAS, the City Council voted unanimously to deny the application for a zone change on the basis that they did not feel adding a school and a hotel next to an industrial dumpsite were compatible uses and that the community has set zoning districts over time for specific reasons.

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

Section 1: In affirming and in support of its denial of the application for a zone change, the City Council adopts the recitals set forth above, and the following Findings of Fact:

a) The addition of the Commerce Street Condos located at 1820 and 1822 Baker Avenue to the WI/WB-2-SC zone and the addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone are not compatible with the intent of the property's Whitefish City-County Growth Policy Future Land Use Map designation of "Planned Industrial" which is to provide vital industries in areas where they will not compete against commercial development for land;

b) The addition of the Commerce Street Condos located at 1820 and 1822 Baker Avenue to the WI/WB-2-SC zone and the addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone would secure safety from fire and other dangers;

c) The addition of the Commerce Street Condos located at 1820 and 1822 Baker Avenue to the WI/WB-2-SC zone and the addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone would have no effect on public health, public safety and the general welfare;

d) The addition of the Commerce Street Condos located at 1820 and 1822 Baker Avenue to the WI/WB-2-SC zone and the addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone would have no effect on the facilitation of the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;

e) The addition of the Commerce Street Condos located at 1820 and 1822 Baker Avenue to the WI/WB-2-SC zone and the addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone would provide for adequate light and air;

f) The addition of the Commerce Street Condos located at 1820 and 1822 Baker Avenue to the WI/WB-2-SC zone and the addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone may have

an impact on motorized and non-motorized transportation systems;

g) The addition of the Commerce Street Condos located at 1820 and 1822 Baker Avenue to the WI/WB-2-SC zone and the addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone are not compatible with the existing industrial uses of adjacent property;

h) The addition of the Commerce Street Condos located at 1820 and 1822 Baker Avenue to the WI/WB-2-SC zone and the addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone are not in keeping with the industrial character of the district;

i) The addition of the Commerce Street Condos located at 1820 and 1822 Baker Avenue to the WI/WB-2-SC zone and the addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone do not encourage the most appropriate use of the property which has been designated as "Planned Industrial" in the Whitefish City-County Growth Policy Future Land Use Map and which is adjacent to industrial uses;

j) The addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone do not conform with the purpose and intent of the zoning district because it would allow additional commercial uses in district that is intended to be primarily industrial;

k) The addition of the Commerce Street Condos located at 1820 and 1822 Baker Avenue to the WI/WB-2-SC zone and the addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone are not in the best interests of the City.

Section 2: The City Council hereby reaffirms its denial of the applicants' Petition for Zoning Map Amendment.

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

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

WHITEFISH LAKEFRONT ESTATES HOA
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-15-W30
December 7, 2015

Property Owner:	Whitefish Lakefront Estates Condo Owners Association c/o Shane Roest
Mailing Address:	642 Canyonview Landing W. Lethbridge, AB T1K 5R9 Canada
Contractor:	None Specified
Property Legal Description:	COMMONAREA in Whitefish Lakefront Estates Condo on L2 WFSH LF EST Subdivision in Section 26, Township 31 North, Range 22 West
Property Address:	22, 24, 26 Woodland Place
Lake:	Whitefish Lake
Lake Frontage:	32' per plat
Project Description:	After the Fact Permit for Revegetation and Landscaping within the Lakeshore Protection Zone.

Proposal: On August 19, 2015 our office received a complaint of work being completed within the Lakeshore Protection Zone without a permit on Whitefish Lake in violation of the Whitefish Lake and Lakeshore Protection Regulations. Staff completed a site visit immediately and observed heavy equipment operating within the Lakeshore Protection Zone, as well as the removal of vegetation, the placement of large boulders, and no erosion control present. The work was being completed without an approved Lakeshore Construction Permit.

A Stop Work Order was issued by the Planning Director and the property owners were advised that a surveyor was required as soon as possible to identify and stake the Whitefish Lake high water elevation (3,000.79 msl) as well as the 20 foot boundary of the Lakeshore Protection Zone. He also advised the property owner on-site to contact our office immediately to discuss a native vegetation remediation plan and submittal of a Lakeshore Construction Permit. Contact had been attempted through multiple voice mails, but no direct verbal communication had been established by August 26, 2015. Therefore, staff mailed a violation letter to the property owners stating that while some of the proposed work could be permitted within the Lakeshore Protection Zone, a permit must first be granted, especially if the use of heavy equipment is proposed. This includes the placement of erosion control barriers along the entire lakefront property. The owners had until September 9th to contact our office, and were required to submit a Lakeshore Construction Permit application by September 23rd in order for the application to be reviewed by the Lakeshore Protection Committee at their next meeting on October 14th.

The applicant is proposing to revegetate and landscape the area that has been disturbed with native plants and mulch. They are proposing a gravel path to extend through the lakeshore protection zone to access the existing dock. As outlined in the lakeshore regulations, walkways may only be a maximum of 4 feet wide. Additionally there are some large boulders located on the eastern side of the property which will remain in place.

The total amount of impervious constructed area, including the existing shared dock, is approximately 587 square feet.

Frontage and allowable constructed area: The subject property has 32 feet of lakeshore frontage, and is eligible for 256 square feet of constructed area.

Existing Constructed Area: There is an existing shared dock on the property approved under WLP-13-W12. The dock is 587 square feet of constructed area.

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

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

Recommended Conditions of Approval:

1. This permit is valid for a period of one year from the date of issuance. Upon completion of the work, please contact the Planning Department at 406-863-2410 for final inspection.
2. The Lakeshore Protection Zone shall be defined as the lake, lakeshore and all land within 20 horizontal feet of the average high water line at elevation 3,000.79'.
3. The proposed project dimensions specified on the application project drawing shall not be exceeded unless modified by conditions of the approved permit. Changes or modifications to increase any dimension or change configuration must be approved through a permit amendment.
4. Temporary storage of vehicles, trailers, equipment, or construction materials in the lakeshore protection zone is prohibited.
5. The natural protective armament of the lakeshore and lakebed must be preserved whenever possible. Following installation, the lakeshore and lakebed shall be returned to its condition prior to construction.
6. Prior to the start of any construction activity, an effective siltation barrier shall be installed at the lakeshore protection zone boundary. The barrier shall be designed and constructed to prevent silt and other debris from the construction site entering the lakeshore protection zone, and shall be maintained until such a time as permanent erosion control and site stabilization are established on the property.
7. All work shall be done when the lake is at low pool and the construction site is dry.
8. Any existing or disturbed areas inside the lakeshore zone may be revegetated. New plants shall be native to the Flathead Valley or cultivars whose form, color, texture, and character approximates that of natives. A resource file on native plants is available at the City of Whitefish Planning Department.
9. A finely ground bark (less than ½ inch in size) or compost is recommended for ground cover in conjunction with the native plants.

10. Application of fertilizer, pesticide, insecticide, or herbicide is prohibited in the lakeshore protection zone.
11. The walking path shall have a maximum width of four feet (4') and shall be designed to provide access only.
12. The path shall be located as shown on the application project drawing.
13. Walkways constructed of impervious material, including dry laid stone, are subject to the maximum allowable constructed area.
14. Application of gravel is allowed only where the predominant existing surface is gravel.
15. All fill shall be clean, washed gravel of three-fourths inch (¾") to one and one-half (1 ½") diameter, free of silts, sands and fine materials. Gravel type and color shall approximate that existing on the adjacent lakeshore.
16. Maximum fill depth is four inches (4") to six inches (6").
17. The volume of fill shall not exceed one (1) cubic yard per eight (8) linear feet of lake frontage.
18. Placement of gravel directly into the lake is prohibited.
19. Any fill/gravel material over the approved amount shall be completely removed from the lakeshore protection zone.
20. <u>The gravel walking path shall not be installed below the high water elevation.</u>

Report by: Bailey Minnich

WHITEFISH LAKESHORE PROTECTION COMMITTEE
MINUTES OF November 10, 2015

The meeting was called to order at 6:00pm by Chairman Herb Peschel.

MEMBERS PRESENT:

- Herb Peschel, Donna Emerson, Jim Laidlaw, Koel Abell, and Joe Malletta via phone. Bailey Minnich of the Whitefish Planning Office was also present.

MEMBERS ABSENT: none

ADDITIONS/CORRECTIONS TO TONIGHT'S AGENDA: none

APPROVAL OF OCTOBER MINUTES:

- Donna moved to approve the October minutes as presented. Jim seconded the motion. All in favor and motion carried.

GENERAL PUBLIC COMMENT: none

Old Business:

WLP-15-W30 – Whitefish Lakefront Estates HOA – After the Fact Permit
[Present: none]

Discussion:
Staff began with a presentation of the proposed project and draft lakeshore permit report. This item had been tabled from the October meeting pending notifications from the additional property owners since the project will occur within Common Area. Emails were received from all owners or representatives regarding the proposed application. Discussion was held regarding the proposed revegetation, gravel proposed for the walkway, and the definition of constructed area within the lakeshore protection zone. Further discussion occurred on the shared dock that was permitted in 2013 between the subject property and the adjacent lot. If the shared dock were to be removed and individual docks installed for each property, a new dock permit would need to be issued for each property. However, as the subject property is only 32 feet wide, an individual dock would not be permitted, as the dock could not comply with the required setbacks.

Motion:

- Herb moved to approve the application with an additional condition that the gravel walkway is not installed below the high water elevation. Koel seconded the motion. All in favor and the motion carried.

NEW BUSINESS

WLP-15-W36 – Launching Eagle LLC – Repair Boat Ramp
[Present: none]

DRAFT

Discussion:
Staff began with a presentation of the proposed project and draft lakeshore permit report. Discussion was held regarding the potential for the repaired structure to be damaged again in the following years or be able to last another 20 years. Further discussion followed regarding previous lakeshore permits and if any other structures on the subject property were non-conforming.

Motion:

- Koel moved to approve with the staff recommended comments. Donna seconded the motion. All in favor and the motion carried.

STAFF NOTICE
Staff indicated they had talked with the City Attorney regarding the Committee's past bylaws. Since the Committee is listed in the City Code under Title 2, Chapter 16, separate bylaws are not required. Staff also reviewed administrative permits which have been approved since the last committee meeting. Koel asked if there was a way to see the administrative permit applications, even though the committee is not reviewing them. The files are available as they are public records. Staff will work with the Committee members who are interested in viewing those files, to determine a way to send them electronically.

ADJOURNMENT
The meeting was adjourned at 6:25pm.

NEXT MEETING

December 9, 2015 * 6:00pm
Whitefish Planning & Building Office
510 Railway Street – Whitefish, MT

DRAFT

WHITEFISH LAKEFRONT ESTATES HOA
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-15-W30
NOVEMBER 10, 2015

Property Owner:	Whitefish Lakefront Estates Condo Owners Association c/o Shane Roest
Mailing Address:	642 Canyonview Landing W. Lethbridge, AB T1K 5R9 Canada
Contractor:	None Specified
Property Legal Description:	COMMONAREA in Whitefish Lakefront Estates Condo on L2 WFSH LF EST Subdivision in Section 26, Township 31 North, Range 22 West
Property Address:	22, 24, 26 Woodland Place
Lake:	Whitefish Lake
Lake Frontage:	32' per plat
Project Description:	After the Fact Permit for Revegetation and Landscaping within the Lakeshore Protection Zone.

Proposal: On August 19, 2015 our office received a complaint of work being completed within the Lakeshore Protection Zone without a permit on Whitefish Lake in violation of the Whitefish Lake and Lakeshore Protection Regulations. Staff completed a site visit immediately and observed heavy equipment operating within the Lakeshore Protection Zone, as well as the removal of vegetation, the placement of large boulders, and no erosion control present. The work was being completed without an approved Lakeshore Construction Permit.

A Stop Work Order was issued by the Planning Director and the property owners were advised that a surveyor was required as soon as possible to identify and stake the Whitefish Lake high water elevation (3,000.79 msl) as well as the 20 foot boundary of the Lakeshore Protection Zone. He also advised the property owner on-site to contact our office immediately to discuss a native vegetation remediation plan and submittal of a Lakeshore Construction Permit. Contact had been attempted through multiple voice mails, but no direct verbal communication had been established by August 26, 2015. Therefore, staff mailed a violation letter to the property owners stating that while some of the proposed work could be permitted within the Lakeshore Protection Zone, a permit must first be granted, especially if the use of heavy equipment is proposed. This includes the placement of erosion control barriers along the entire lakefront property. The owners had until September 9th to contact our office, and were required to submit a Lakeshore Construction Permit application by September 23rd in order for the application to be reviewed by the Lakeshore Protection Committee at their next meeting on October 14th.

The applicant is proposing to revegetate and landscape the area that has been disturbed with native plants and mulch. They are proposing a gravel path to extend through the lakeshore protection zone to access the existing dock. As outlined in the lakeshore regulations, walkways may only be a maximum of 4 feet wide. Additionally there are some large boulders located on the eastern side of the property which will remain in place.

The total amount of impervious constructed area, including the existing shared dock, is approximately 587 square feet.

Frontage and allowable constructed area: The subject property has 32 feet of lakeshore frontage, and is eligible for 256 square feet of constructed area.

Existing Constructed Area: There is an existing shared dock on the property approved under WLP-13-W12. The dock is 587 square feet of constructed area.

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

Recommendation: Staff recommends that the Whitefish Lakeshore Protection Committee recommend approval of the requested lakeshore construction permit to the Whitefish City Council subject to the following conditions.

Recommended Conditions of Approval:

1. This permit is valid for a period of one year from the date of issuance. Upon completion of the work, please contact the Planning Department at 406-863-2410 for final inspection.
2. The Lakeshore Protection Zone shall be defined as the lake, lakeshore and all land within 20 horizontal feet of the average high water line at elevation 3,000.79'.
3. The proposed project dimensions specified on the application project drawing shall not be exceeded unless modified by conditions of the approved permit. Changes or modifications to increase any dimension or change configuration must be approved through a permit amendment.
4. Temporary storage of vehicles, trailers, equipment, or construction materials in the lakeshore protection zone is prohibited.
5. The natural protective armament of the lakeshore and lakebed must be preserved whenever possible. Following installation, the lakeshore and lakebed shall be returned to its condition prior to construction.
6. Prior to the start of any construction activity, an effective siltation barrier shall be installed at the lakeshore protection zone boundary. The barrier shall be designed and constructed to prevent silt and other debris from the construction site entering the lakeshore protection zone, and shall be maintained until such a time as permanent erosion control and site stabilization are established on the property.
7. All work shall be done when the lake is at low pool and the construction site is dry.
8. Any existing or disturbed areas inside the lakeshore zone may be revegetated. New plants shall be native to the Flathead Valley or cultivars whose form, color, texture, and character approximates that of natives. A resource file on native plants is available at the City of Whitefish Planning Department.
9. A finely ground bark (less than ½ inch in size) or compost is recommended for ground cover in conjunction with the native plants.

10. Application of fertilizer, pesticide, insecticide, or herbicide is prohibited in the lakeshore protection zone.
11. The walking path shall have a maximum width of four feet (4') and shall be designed to provide access only.
12. The path shall be located as shown on the application project drawing.
13. Walkways constructed of impervious material, including dry laid stone, are subject to the maximum allowable constructed area.
14. Application of gravel is allowed only where the predominant existing surface is gravel.
15. All fill shall be clean, washed gravel of three-fourths inch (¾") to one and one-half (1 ½") diameter, free of silts, sands and fine materials. Gravel type and color shall approximate that existing on the adjacent lakeshore.
16. Maximum fill depth is four inches (4") to six inches (6").
17. The volume of fill shall not exceed one (1) cubic yard per eight (8) linear feet of lake frontage.
18. Placement of gravel directly into the lake is prohibited.
19. Any fill/gravel material over the approved amount shall be completely removed from the lakeshore protection zone.

Report by: Bailey Minnich

Bailey Minnich

From: Kent McCulloch <stonedev@live.ca>
Sent: Wednesday, October 21, 2015 7:14 AM
To: Bailey Minnich; 'Shane Roest'
Cc: lbljc@telus.net
Subject: RE: Native Plant List

Good morning Bailey,

Yes I am aware of the application and support it.

Thanks
Kent

On behalf of Haig Lake Holdings (24 Woodland Place)

Kent McCulloch
President/Owner
Stone Developments Inc.
403-380-9730

From: bminnich@cityofwhitefish.org
To: Shane@bestroest.ca
CC: stonedev@live.ca; lbljc@telus.net
Subject: RE: Native Plant List
Date: Tue, 20 Oct 2015 09:12:35 -0600

Hi Shane,
I was waiting to contact you until I heard from some of the Committee members regarding next month's meeting. That's because, unfortunately, they tabled your application until the November meeting, which will be on **November 10th**. They voted to table the application because they want something in writing from the other two owners saying they are aware of the application submittal, since the project involves an after the fact permit on common area between the 3 triplex owners. Basically, I just need a letter or an email from the other two owners saying they are aware of the situation and approve of the application submittal.

Let me know if you have any questions.

Bailey

Bailey Minnich, AICP, CFM
Planner II
City of Whitefish
510 Railway Street
P.O. Box 158

WHITEFISH LAKEFRONT ESTATES HOA
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-15-W30
OCTOBER 7, 2014

Property Owner:	Whitefish Lakefront Estates Condo Owners Association c/o Shane Roest
Mailing Address:	642 Canyonview Landing W. Lethbridge, AB T1K 5R9 Canada
Contractor:	None Specified
Property Legal Description:	COMMONAREA in Whitefish Lakefront Estates Condo on L2 WFSH LF EST Subdivision in Section 26, Township 31 North, Range 22 West
Property Address:	22, 24, 26 Woodland Place
Lake:	Whitefish Lake
Lake Frontage:	32' per plat
Project Description:	After the Fact Permit for Revegetation and Landscaping within the Lakeshore Protection Zone.

Proposal: On August 19, 2015 our office received a complaint of work being completed within the Lakeshore Protection Zone without a permit on Whitefish Lake in violation of the Whitefish Lake and Lakeshore Protection Regulations. Staff completed a site visit immediately and observed heavy equipment operating within the Lakeshore Protection Zone, as well as the removal of vegetation, the placement of large boulders, and no erosion control present. The work was being completed without an approved Lakeshore Construction Permit.

A Stop Work Order was issued by the Planning Director and the property owners were advised that a surveyor was required as soon as possible to identify and stake the Whitefish Lake high water elevation (3,000.79 msl) as well as the 20 foot boundary of the Lakeshore Protection Zone. He also advised the property owner on-site to contact our office immediately to discuss a native vegetation remediation plan and submittal of a Lakeshore Construction Permit. Contact had been attempted through multiple voice mails, but no direct verbal communication had been established by August 26, 2015. Therefore, staff mailed a violation letter to the property owners stating that while some of the proposed work could be permitted within the Lakeshore Protection Zone, a permit must first be granted, especially if the use of heavy equipment is proposed. This includes the placement of erosion control barriers along the entire lakefront property. The owners had until September 9th to contact our office, and were required to submit a Lakeshore Construction Permit application by September 23rd in order for the application to be reviewed by the Lakeshore Protection Committee at their next meeting on October 14th.

The applicant is proposing to revegetate and landscape the area that has been disturbed with native plants and mulch. They are proposing a gravel path to extend through the lakeshore protection zone to access the existing dock. As outlined in the lakeshore regulations, walkways may only be a maximum of 4 feet wide. Additionally there are some large boulders located on the eastern side of the property which will remain in place.

The total amount of impervious constructed area, including the existing shared dock, is approximately 587 square feet.

Frontage and allowable constructed area: The subject property has 32 feet of lakeshore frontage, and is eligible for 256 square feet of constructed area.

Existing Constructed Area: There is an existing shared dock on the property approved under WLP-13-W12. The dock is 587 square feet of constructed area.

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

Recommendation: Staff recommends that the Whitefish Lakeshore Protection Committee recommend approval of the requested lakeshore construction permit to the Whitefish City Council subject to the following conditions.

Recommended Conditions of Approval:

1. This permit is valid for a period of one year from the date of issuance. Upon completion of the work, please contact the Planning Department at 406-863-2410 for final inspection.
2. The Lakeshore Protection Zone shall be defined as the lake, lakeshore and all land within 20 horizontal feet of the average high water line at elevation 3,000.79'.
3. The proposed project dimensions specified on the application project drawing shall not be exceeded unless modified by conditions of the approved permit. Changes or modifications to increase any dimension or change configuration must be approved through a permit amendment.
4. Temporary storage of vehicles, trailers, equipment, or construction materials in the lakeshore protection zone is prohibited.
5. The natural protective armament of the lakeshore and lakebed must be preserved whenever possible. Following installation, the lakeshore and lakebed shall be returned to its condition prior to construction.
6. Prior to the start of any construction activity, an effective siltation barrier shall be installed at the lakeshore protection zone boundary. The barrier shall be designed and constructed to prevent silt and other debris from the construction site entering the lakeshore protection zone, and shall be maintained until such a time as permanent erosion control and site stabilization are established on the property.
7. All work shall be done when the lake is at low pool and the construction site is dry.
8. Any existing or disturbed areas inside the lakeshore zone may be revegetated. New plants shall be native to the Flathead Valley or cultivars whose form, color, texture, and character approximates that of natives. A resource file on native plants is available at the City of Whitefish Planning Department.
9. A finely ground bark (less than ½ inch in size) or compost is recommended for ground cover in conjunction with the native plants.

10. Application of fertilizer, pesticide, insecticide, or herbicide is prohibited in the lakeshore protection zone.
11. The walking path shall have a maximum width of four feet (4') and shall be designed to provide access only.
12. The path shall be located as shown on the application project drawing.
13. Walkways constructed of impervious material, including dry laid stone, are subject to the maximum allowable constructed area.
14. Application of gravel is allowed only where the predominant existing surface is gravel.
15. All fill shall be clean, washed gravel of three-fourths inch (¾") to one and one-half (1 ½") diameter, free of silts, sands and fine materials. Gravel type and color shall approximate that existing on the adjacent lakeshore.
16. Maximum fill depth is four inches (4") to six inches (6").
17. The volume of fill shall not exceed one (1) cubic yard per eight (8) linear feet of lake frontage.
18. Placement of gravel directly into the lake is prohibited.
19. Any fill/gravel material over the approved amount shall be completely removed from the lakeshore protection zone.

Report by: Bailey Minnich

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

File #: WLP-15-W30
Date: 9/23/15
Intake Staff: BM
Date Complete: _____

LAKESHORE CONSTRUCTION PERMIT APPLICATION

WHITEFISH or LOST COON LAKE

FEE ATTACHED $ ATF $1400.00

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

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

INSTRUCTIONS:

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

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

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

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

A. LEGAL DESCRIPTION OF PROPERTY:

Street Address 22/24, 26 Woodland Place

How many feet of the lake frontage do you own? 32'

Assessor's Tract No.(s)_____ Lot No(s)_____

Block # _____ Subdivision Name _____

1/4 Sec _____ Section _____ Township _____ Range_____

I hereby certify that the information contained or accompanied in this application is true and correct to the best of my knowledge. The signing of this application signifies approval for the Whitefish Staff to be present on the property for routine monitoring and inspection during the approval and development process.

Owner's Signature[1] Date Sept. 23, 2015

Shane Roest
Print Name

SEP 23 2015

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

Revised 7-28-15

Applicant's Signature _____ Date _____

Print Name _____

Representative's Signature _____ Date _____

Print Name _____

APPLICATION CONTENTS:

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

✓ Lakeshore Construction Permit Application

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

___ Site Plan drawn to scale

___ Project Drawing that is drawn to scale

___ Vicinity Map

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

B. OWNER(S) OF RECORD:

Name: Shane Roest Phone: (403) 315-1397

Mailing Address: 642 Canyon view Landing W Lethbridge, Alberta

City, State, Zip: Lethbridge, AB, Canada T1K 5R9

Email: Shane@bestroest.ca

APPLICANT (if different than above):

Name: _____ Phone: _____

Mailing Address: N/A.

City, State, Zip: _____

Email: _____

CONTRACTOR:

Name: _____ Phone: _____

Mailing Address: _____

City, State, Zip: _____

Email: _____

C. NATURE OF THE PROPOSED WORK: (describe what you propose to build, demolish or install. Give dimensions, material and list heavy equipment, if any to be used.)

We will be re landscaping and revegitating the Lakeshore Protection Zone to a similar state. We would like to add a 3' foot gravel path to the dock area from the property line.

- Replant area with native plants as per standards and mulch - around plants.

D. Describe any Environmental Impacts (e.g. impacts on water quality or fish and wildlife habitat, increased sedimentation, etc.). Explain what measures will be taken to alleviate these impacts.

- There should be minimal impact to the area. And no heavy equipment will be used.

E. Describe existing improvements on the property within the lakeshore protection zone along with the square footage of each such as an existing dock, stairs, deck or patio and when they were constructed, if known, or the permit number.

Dock was Added in Spring of 2015 -

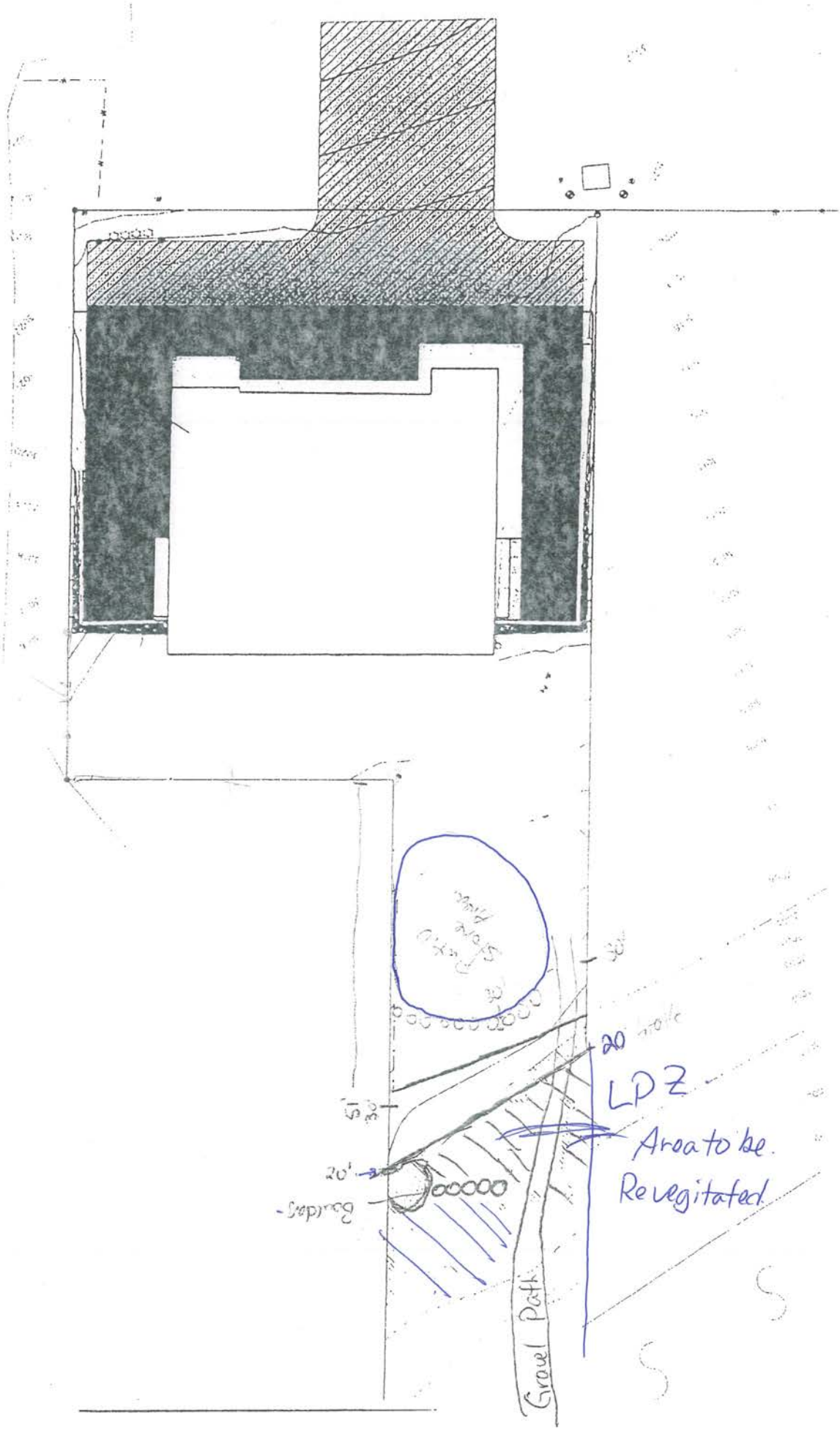
permit #. WLP-13-W12.

F. If a variance is requested in addition to this permit, specify the reasons or conditions which require or warrant the variance on a separate variance form. An additional fee is required for a variance request. What is the variance proposal?

N/A

FEES:

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


20' hole
LPZ
Area to be Revegitated
20'
Gravel Path

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

August 26, 2015

Allison & Shane Roest
642 Canyonview Landing W.
Lethbridge, AB T1K 5R9 Canada

Re: 22/24/26 Woodland Place (Lot COMMONAREA, WFSH Lakefront Est Condo on L2 WFSH LF EST) Lakeshore Violation

On August 19, 2015 our office received a complaint of work being completed within the Lakeshore Protection Zone without a permit on Whitefish Lake in violation of the Whitefish Lake and Lakeshore Protection Regulations (WLLPR). Staff completed a site visit immediately and observed heavy equipment operating within the Lakeshore Protection Zone, as well as the removal of vegetation, the placement of large boulders, and no erosion control present. The work was being completed without an approved Lakeshore Construction Permit. (See Figure 1.)

While on-site, the Planning & Building Director issued a Stop Work Order and advised that a surveyor was required as soon as possible to identify and stake the Whitefish Lake high water elevation (3,000.79 msl) as well as the 20 foot boundary of the Lakeshore Protection Zone. He also advised the property owner on-site to contact our office immediately to discuss a native vegetation remediation plan and submittal of a Lakeshore Construction Permit. While contact has been attempted through multiple voice mails, no direct verbal communication has been established to discuss and outline a course of action.

The Lakeshore Protection Zone is defined as *"the lake, lake bed, and the land area which is within 20 horizontal feet of the parameter of the lake and adjacent wetlands when the lake is at the mean annual high water elevation."* [§13-1-5 WLLPR] The lakeshore regulations further state that *"no person shall proceed with any work on, or alteration or disturbance of, a lake, lake bed or lakeshore within city limits until he/she has obtained, and has physical possession of a valid 'lakeshore construction permit' from the city."* [§13-2-1 WLLPR] While some of the proposed work could be permitted within the Lakeshore Protection Zone, a permit must first be granted which would establish conditions to minimize potential impacts to Whitefish Lake and surrounding neighbors, especially if the use of heavy equipment is proposed. This includes the placement of erosion control barriers along the entire lakefront property.

Additionally, the lakeshore regulations state that *"a person who performs work in the lake, lake bed, or lakeshore without a permit for that work shall, if required by the governing body, restore the lake, lake bed, or lakeshore to its condition before he/she disturbed it."* [§13-2-4(A) WLLPR] If the disturbance created within the Lakeshore Protection Zone cannot be permitted, you will be required to restore the lakeshore to the pre-violation condition. All proposed projects must

comply with the applicable criteria outlined in §13-3-1 General Construction Standards of the Whitefish Lake and Lakeshore Protection Regulations.

You have two weeks from the date of this letter (until **September 9, 2015)** to contact our office outlining a proposed work plan. In order for a permit to be reviewed at the next available Lakeshore Protection Committee meeting, a Lakeshore Construction Permit application must be submitted by September 23, 2015. Please be aware that due to the violation, the application would be for an 'After the Fact' Permit, which includes a four times the normal fees. A copy of the City of Whitefish's current fee schedule is attached.

If no contact has been made by September 8, 2015, the city will enforce the regulations outlined under §13-4-4 which includes enforcement as a potential misdemeanor resulting in a possible sentencing to 30 days in jail, fined $500.00 or both; or enforcement as a municipal infraction with a civil citation which could force you to pay a first time offense of $100.00 or appear before a Municipal Judge.

Also, please be aware that the City of Whitefish has established separate Water Quality Protection Regulations, which regulates an additional 10 feet beyond the Lakeshore Protection Zone, as well as any construction within 75 feet of the high water elevation of Whitefish Lake. Any proposed work could also be in violation of these regulations and subject to enforcement as well.

Please submit the Lakeshore Construction Permit application as soon as possible so we may determine if your proposed scope of work can even be permitted. If you have any questions, please contact me at 406-863-2412.

Sincerely,

Bailey Minnich, AICP, CFM
Planner II

Att: Site Photos

CC: Haig Lake Holdings LTD
119 Stonecrest Place
Lethbridge, AB T1K 5S3 Canada

Jason Constant
977 Canyonview Place
Lethbridge, AB T1K 5R9 Canada

Figure 1: Post-Violation work (08/24/2015)

Figure 2: Post-Violation work (08/25/2015)

Figure 3: Pre-Violation Conditions

Figure 4: Pre-Violation Conditions

Figure 5: Pre-Violation Conditions

9/15/2015

8/25/2015

05/01/2014

LAUNCHING EAGLE LLC
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-15-W36
DECEMBER 7, 2015

Property Owner:	Launching Eagle, LLC c/o Joseph Gregory
Mailing Address:	620 Shelby Street Bristol, TN 37620
Telephone Number:	423.793.0120
Contractor:	None Specified
Property Legal Description:	Tract 7HAB & 7HB in Section 25, Township 31 North, Range 22 West
Property Address:	830 Dakota Avenue
Lake:	Whitefish Lake
Lake Frontage:	224' per COS #8033
Project Description:	Repair of damaged existing boat ramp within the Lakeshore Protection Zone.

Proposal: The applicant is proposing to repair a damaged non-conforming boat ramp within the Lake and Lakeshore Protection Zone. The boat ramp was damaged last winter due to ice movement on the lake. The boat ramp is approximately 32 feet long by 12 feet wide. The proposal includes repairing approximately 22 feet of the ramp with new concrete. The proposal is consistent with the definition of repair as it will maintain the exact same design, size and configuration of the original structure.

The existing constructed area for the property is approximately 1,545.40 square feet. The proposed project will repair a portion of the existing boat ramp to the exact same size, therefore the constructed area will remain the same.

Frontage and allowable constructed area: The subject property has 224 feet of lakeshore frontage, and is eligible for 1,792 square feet of constructed area.

Existing Constructed Area: According to the most recent lakeshore permit approved for the subject property (WLP-13-W20) there is an existing dock, boathouse, deck, stairs, and the existing boat ramp all totaling 1,545.40 square feet of constructed area.

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

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

Recommended Conditions of Approval:

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

<u>Boat Ramp Repair</u>

11. The new portion of the ramp shall be constructed at the same grade as the existing damaged portion of the ramp.
12. All material excavated from the lakeshore to construct the boat ramp and not used as the ramp foundation material shall be immediately and completely removed from the lakeshore protection zone and deposited in such a manner as to prohibit its reentry into the lake.
13. No boat ramp shall exceed 600 square feet in surface area waterward of the average high water line.
14. All ramps shall be finished with nonskid surface to ensure maximum traction for vehicles launching and retrieving boats.

15. Concrete may be utilized only where the structural strength and location dictate no other alternative.
16. In all cases, concrete shall be aesthetically shielded by the creative use of rock or wood.
17. Wet concrete shall not be poured into or allowed to come in contact with the lake.

Report by: Bailey Minnich

WHITEFISH LAKESHORE PROTECTION COMMITTEE
MINUTES OF November 10, 2015

The meeting was called to order at 6:00pm by Chairman Herb Peschel.

MEMBERS PRESENT:

- Herb Peschel, Donna Emerson, Jim Laidlaw, Koel Abell, and Joe Malletta via phone. Bailey Minnich of the Whitefish Planning Office was also present.

MEMBERS ABSENT: none

ADDITIONS/CORRECTIONS TO TONIGHT'S AGENDA: none

APPROVAL OF OCTOBER MINUTES:

- Donna moved to approve the October minutes as presented. Jim seconded the motion. All in favor and motion carried.

GENERAL PUBLIC COMMENT: none

Old Business:

WLP-15-W30 – Whitefish Lakefront Estates HOA – After the Fact Permit
[Present: none]

Discussion:
Staff began with a presentation of the proposed project and draft lakeshore permit report. This item had been tabled from the October meeting pending notifications from the additional property owners since the project will occur within Common Area. Emails were received from all owners or representatives regarding the proposed application. Discussion was held regarding the proposed revegetation, gravel proposed for the walkway, and the definition of constructed area within the lakeshore protection zone. Further discussion occurred on the shared dock that was permitted in 2013 between the subject property and the adjacent lot. If the shared dock were to be removed and individual docks installed for each property, a new dock permit would need to be issued for each property. However, as the subject property is only 32 feet wide, an individual dock would not be permitted, as the dock could not comply with the required setbacks.

Motion:

- Herb moved to approve the application with an additional condition that the gravel walkway is not installed below the high water elevation. Koel seconded the motion. All in favor and the motion carried.

NEW BUSINESS

WLP-15-W36 – Launching Eagle LLC – Repair Boat Ramp
[Present: none]

DRAFT

Discussion:
Staff began with a presentation of the proposed project and draft lakeshore permit report. Discussion was held regarding the potential for the repaired structure to be damaged again in the following years or be able to last another 20 years. Further discussion followed regarding previous lakeshore permits and if any other structures on the subject property were non-conforming.

Motion:

- Koel moved to approve with the staff recommended comments. Donna seconded the motion. All in favor and the motion carried.

STAFF NOTICE
Staff indicated they had talked with the City Attorney regarding the Committee's past bylaws. Since the Committee is listed in the City Code under Title 2, Chapter 16, separate bylaws are not required. Staff also reviewed administrative permits which have been approved since the last committee meeting. Koel asked if there was a way to see the administrative permit applications, even though the committee is not reviewing them. The files are available as they are public records. Staff will work with the Committee members who are interested in viewing those files, to determine a way to send them electronically.

ADJOURNMENT
The meeting was adjourned at 6:25pm.

NEXT MEETING

December 9, 2015 * 6:00pm
Whitefish Planning & Building Office
510 Railway Street – Whitefish, MT

DRAFT

LAUNCHING EAGLE LLC
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-15-W36
NOVEMBER 10, 2015

Property Owner:	Launching Eagle, LLC c/o Joseph Gregory
Mailing Address:	620 Shelby Street Bristol, TN 37620
Telephone Number:	423.793.0120
Contractor:	None Specified
Property Legal Description:	Tract 7HAB & 7HB in Section 25, Township 31 North, Range 22 West
Property Address:	830 Dakota Avenue
Lake:	Whitefish Lake
Lake Frontage:	224' per COS #8033
Project Description:	Repair of damaged existing boat ramp within the Lakeshore Protection Zone.

Proposal: The applicant is proposing to repair a damaged non-conforming boat ramp within the Lake and Lakeshore Protection Zone. The boat ramp was damaged last winter due to ice movement on the lake. The boat ramp is approximately 32 feet long by 12 feet wide. The proposal includes repairing approximately 22 feet of the ramp with new concrete. The proposal is consistent with the definition of repair as it will maintain the exact same design, size and configuration of the original structure.

The existing constructed area for the property is approximately 1,545.40 square feet. The proposed project will repair a portion of the existing boat ramp to the exact same size, therefore the constructed area will remain the same.

Frontage and allowable constructed area: The subject property has 224 feet of lakeshore frontage, and is eligible for 1,792 square feet of constructed area.

Existing Constructed Area: According to the most recent lakeshore permit approved for the subject property (WLP-13-W20) there is an existing dock, boathouse, deck, stairs, and the existing boat ramp all totaling 1,545.40 square feet of constructed area.

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

Recommendation: Staff recommends that the Whitefish Lakeshore Protection Committee recommend approval of the requested lakeshore construction permit to the Whitefish City Council subject to the following conditions.

Recommended Conditions of Approval:

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

<u>Boat Ramp Repair</u>

11. The new portion of the ramp shall be constructed at the same grade as the existing damaged portion of the ramp.
12. All material excavated from the lakeshore to construct the boat ramp and not used as the ramp foundation material shall be immediately and completely removed from the lakeshore protection zone and deposited in such a manner as to prohibit its reentry into the lake.
13. No boat ramp shall exceed 600 square feet in surface area waterward of the average high water line.
14. All ramps shall be finished with nonskid surface to ensure maximum traction for vehicles launching and retrieving boats.

15. Concrete may be utilized only where the structural strength and location dictate no other alternative.
16. In all cases, concrete shall be aesthetically shielded by the creative use of rock or wood.
17. Wet concrete shall not be poured into or allowed to come in contact with the lake.

Report by: Bailey Minnich

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

File #: WLP-19-W3L0
Date: 10/23/15
Intake Staff: BM
Date Complete: _____

LAKESHORE CONSTRUCTION PERMIT APPLICATION

WHITEFISH or LOST COON LAKE

FEE ATTACHED $ _____

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

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

INSTRUCTIONS:

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

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

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

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

A. LEGAL DESCRIPTION OF PROPERTY:

Street Address 830 Dakota Avenue

How many feet of the lake frontage do you own? 220 Ft

Assessor's Tract No.(s) 0414000 Lot No(s) _____
Block # _____ Subdivision Name _____
1/4 Sec _____ Section 25 Township 31 Range 22

I hereby certify that the information contained or accompanied in this application is true and correct to the best of my knowledge. The signing of this application signifies approval for the Whitefish Staff to be present on the property for routine monitoring and inspection during the approval and development process.

Joseph R. Gregory — 8/31/15
Owner's Signature[1] — Date

Joseph R Gregory
Print Name

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

Revised 7-28-15

OCT 23 2015

Applicant's Signature _____ Date 8/31/15

Joseph R Gregory
Print Name

Representative's Signature _____ Date SEPT 20 2015

Chris Hyatt
Print Name

APPLICATION CONTENTS:

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

____ Lakeshore Construction Permit Application

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

____ Site Plan drawn to scale

____ Project Drawing that is drawn to scale

____ Vicinity Map

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

B. OWNER(S) OF RECORD:

Name: LAUNCHING EAGLE LLC Phone: 423-793-0120

Mailing Address: 620 SHELBY ST

City, State, Zip: BRISTOL, TN 37620-2241

Email: _____

APPLICANT (if different than above):

Name: JOSEPH R GREGORY Phone: 423-793-0120

Mailing Address: 620 SHELBY ST

City, State, Zip: BRISTOL, TN 37620-2241

Email: _____

CONTRACTOR:

Name: _____ Phone: _____

Mailing Address: _____

City, State, Zip: _____

Email: _____

C. NATURE OF THE PROPOSED WORK: (describe what you propose to build, demolish or install. Give dimensions, material and list heavy equipment, if any to be used.)

Boat ramp repair:

Removal of all broken boat ramp concrete from the lake shoreline. The removal of cracked boat ramp concrete for repair and secure tie-in of replaced ramp concrete. Hodges Concrete will build forms and pour concrete via pump truck. Green Space will removal all of the broken concrete by skid-steer.

D. Describe any Environmental Impacts (e.g. impacts on water quality or fish and wildlife habitat, increased sedimentation, etc.). Explain what measures will be taken to alleviate these impacts.

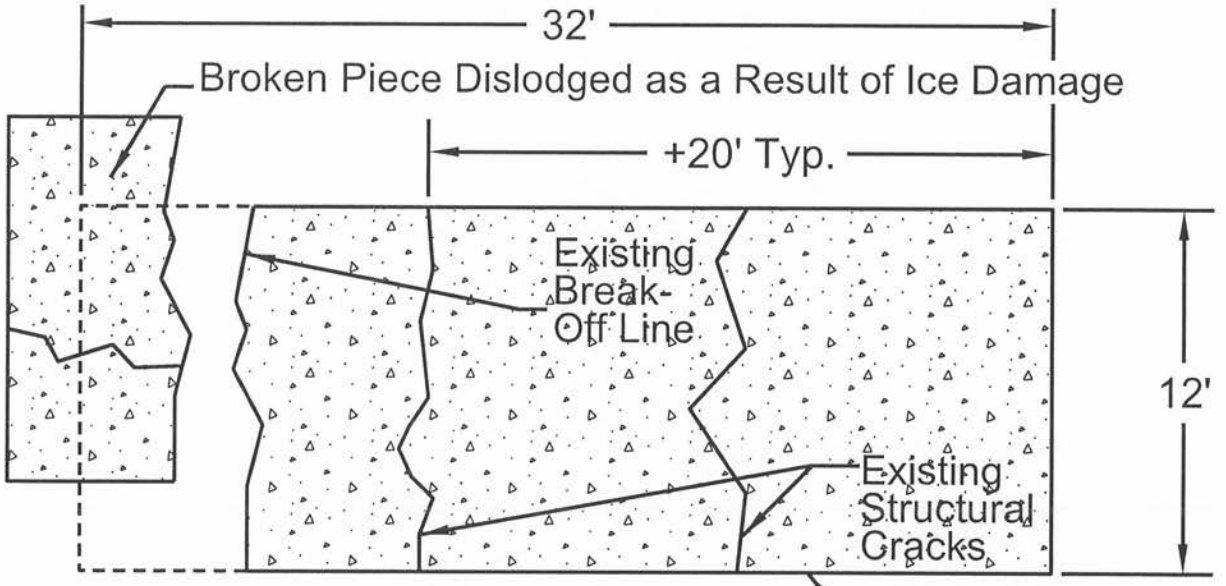
All work will be done during the lakes low pool. At no time will the skidsteer's tires come into contact with the lake. All work will be done in accordance to lake shore construction best practices.

E. Describe existing improvements on the property within the lakeshore protection zone along with the square footage of each such as an existing dock, stairs, deck or patio and when they were constructed, if known, or the permit number.

Boat house built in 1974 12'x24' with a 10'x10' deck along south side of structure. Dock also located to the south side of structure totaling 40'x8' length and 2 slips 10'x18'.

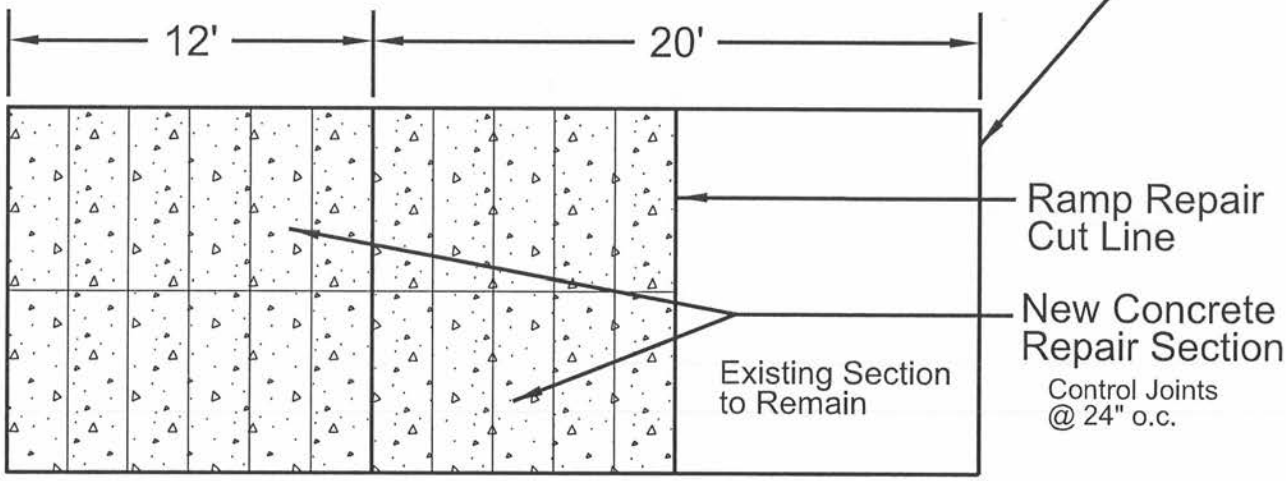
F. If a variance is requested in addition to this permit, specify the reasons or conditions which require or warrant the variance on a separate variance form. An additional fee is required for a variance request. What is the variance proposal?

N/A



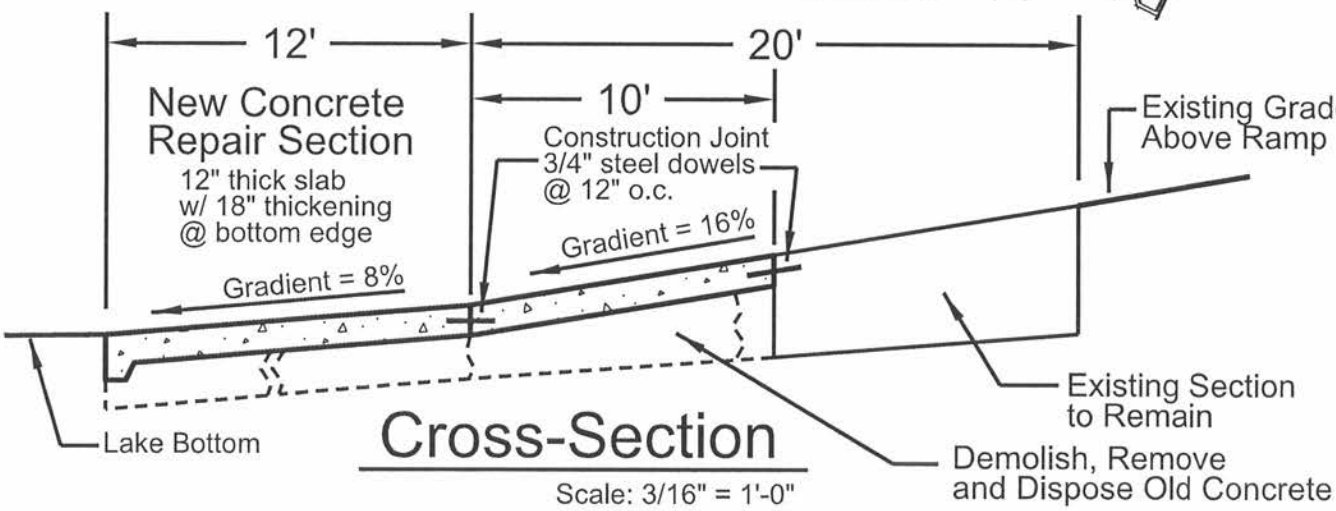
Plan - Existing Ramp

Scale: 3/16" = 1'-0"



Plan - Proposed Ramp Repair

Scale: 3/16" = 1'-0"



Cross-Section

Scale: 3/16" = 1'-0"

RAMP REPAIR DRAWINGS

Date: 10-23-2015

Take up back
to here

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

December 1, 2015

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

RE: The Mix at Whitefish; (WCUP 15-14) – continuation of public hearing

Honorable Mayor and Council:

Summary of Requested Action: Elaine Edwards, on behalf of 1840 Baker llc, 1822 Baker llc & 1820 Baker llc, is requesting approval of a Conditional Use Permit to have multiple primary uses on a single lot. The Whitefish Zoning Regulations, §11-2-3B(12), permit only one primary use per lot unless a Conditional Use Permit is obtained. The project is located at 1840, 1842, 1844, 1846, 1848 Baker Avenue. The property is undeveloped and is zoned WI/WB-2-SC (Industrial District/Secondary Business District with Special Conditions). The Whitefish Growth Policy designates this property as 'Planned Industrial'.

Background: At the November 16, 2015 public hearing for this matter, the Council approved a motion to postpone action on the Conditional Use Permit in light of the rezone request denial. Council requested the staff report and findings of fact be updated to reflect the current zoning in place. Staff requested the applicant submit an updated site plan to remove uses that were not approved by the Council. The staff report has been updated and includes the Planning Board recommended conditions of approval.

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.

Planning Board Public Hearing: The applicant, his representative and one member of the public spoke at the public hearing on November 5, 2015. The minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on November 5, 2015 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with eleven (11)

conditions as contained in the staff report, adopted the staff report as findings of fact, amended condition #8 and added an additional condition of approval:

8. No ~~additional~~ parking shall be installed in front of the 1820 Baker Avenue building. Existing reconfigured parking is nonconforming and must to removed ~~may remain~~. The percentage of compact spaces shall be reconfigured to be less than 20%. The ADA parking space location and design shall be reviewed by an architect licensed in the state of Montana. (§11-6-1C, 11-6-3-2D, IBC)

12. The applicant shall install a stop sign pursuant to the Traffic Impact Study.

City Council Hearing: The applicant, his representative and two members of the public spoke at the public hearing on November 16, 2015. The Council minutes are part of the Council packet.

Proposed Motion:

- I move to approve WCUP 15-14 along with the Findings of Fact in the staff report and the twelve (12) conditions of approval, as recommended by the Whitefish Planning Board.

This item has been placed on the agenda for your regularly scheduled meeting on December 7, 2015. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

Wendy Compton-Ring, AICP
Senior Planner

Att: Exhibit A: Recommended Conditions of Approval
Minutes of 11-5-15 Planning Board Meeting

Exhibits from 11-5-15 Staff Packet to Planning Board:

1. Staff Report – WCUP 15-14, 10-29-15
2. Adjacent Landowner Notice, 9-25-15
3. Advisory Agency Notice, 9-25-15
4. Application for Conditional Use Permit, 9-1-15

The following Exhibits were added after the 11-16-15 Council Meeting:

5. Email, Eric Mulcahy of Sands Surveying, 11-17-15
6. Revised Site Plan, 11-30-15
7. Ordinance 13-04, 5-6-13
8. Letter, Citizens for a Better Flathead, 11-30-15

c: w/att Necile Lorang, City Clerk
Eric Mulcahy, Sands Surveying 2 Village Loop Kalispell, MT 59901

Exhibit A
The Mix @ Whitefish
WCUP 15-14
Whitefish Planning Board
Recommended Conditions of Approval
November 5, 2015

1. The project shall be constructed in compliance with the plans dated September 1, 2015, except as amended by these conditions. Minor deviations from the plans shall require review pursuant to §11-7-8E(8) and major deviations from the plans shall require review pursuant to §11-7-8. The applicant shall maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.

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.

3. Approval of the conditional use permit is also subject to approval of detailed design of all on and off site improvements, including drainage. Through review of detailed access and drainage plans, the applicant is advised that the number, density and/or location of buildings, as well as the location of the access shown on the Conditional Use Permit site plan may change depending upon constructability of the road, on-site stormwater retention, drainage easements or other drainage facilities or appurtenances needed to serve the subject property and/or upstream properties as applicable. This plan shall also include a strategy for long-term maintenance. Fill on-site shall be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion.

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.
   - Properly installed erosion and siltation control measures.
   - 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.

5. Architectural Review approval shall be obtained prior to the issuance of a building permit. (§11-3-3)

6. A landscaping plan shall be submitted and approved prior to the issuance of the building permit. The overall landscaping, parking lot landscaping and tree density credits shall be met. (§11-4)

7. All on-site lighting shall be dark sky compliant. (§11-3-25)

8. No ~~additional~~ parking shall be installed in front of the 1820 Baker Avenue building. Existing reconfigured parking is nonconforming and must be removed ~~may remain~~. The percentage of compact spaces shall be reconfigured to be less than 20%. The ADA parking space location and design shall be reviewed by an architect licensed in the state of Montana. (§11-6-1C, 11-6-3-2D, IBC)

9. A sign permit shall be obtained prior to the installation of any signage. (§11-5)

10. The applicant shall work with the Public Works Department to install appropriate Baker Avenue frontage improvements along Tracts 6BGA+, 6BK and Commerce Street Condo. (Findings of Fact 4 & 5, Engineering Standards , Section 8)

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

12. The applicant shall install a stop sign pursuant to the Traffic Impact Study.

Ken asked about the minimum parking requirement for the proposed music school and/or restaurant, and Director Taylor said that is addressed in the Whitefish City Code and will be looked at through CUP process. He said the specific uses within the zoning should be addressed as part of the CUP.

Rebecca asked if Sweet Peaks and the Montana Shirt Company own their own buildings and Director Taylor said Dave Elliott owns the building which is leased by Sweet Peaks and the Montana Shirt Company, and that the rest of the buildings will be owned by this other group or sold, and that he did not know the ownership for sure. Rebecca asked if approval was solely to change zoning and Director Taylor replied it was to permit hotels, music schools and trade schools.

Ken asked about uses and parking, especially of the hotel and culinary school both need evening parking. Ken does not have a problem with music school or trade school uses, but does have a problem with the hotel use.

Rebecca asked about easement issue and Director Taylor said that is outside the scope of this request, that the easement would come up during the CUP process. Melissa asked if there are other cases in Whitefish with this zoning and Director Taylor replied that this is unique to this request.

Rebecca called for the question.

VOTE

The motion passed unanimously. The matter is scheduled to go before the Council on November 16, 2015.

PUBLIC HEARING 2: ELAINE EDWARDS ON BEHALF OF 1840 BAKER LLC, 1822 BAKER LLC AND 1820 BAKER LLC CONDITIONAL USE PERMIT

A request by Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC & 1820 Baker LLC, for a Conditional Use Permit pursuant to §11-2-3B(12) in order to develop a project with multiple principle structures. The property is zoned WI/WB-2–SC (Industrial/Secondary Business Districts with Special Conditions), located at 1842, 1844, 1846 and 1848 Baker Avenue and can be legally described as Tract 6BGA in S1 R30N R22W, P.M.M., Flathead County.

STAFF REPORT WCUP 15-14 (Compton-Ring)

Senior Planner Compton-Ring reviewed her staff report and findings. The Traffic Information Study has now been received and reviewed by the Public Works Department. It recommends a stop sign, and she will suggest that as a Condition 12.

Staff recommended adoption of the findings of fact within staff report WCUP 15-14 and for **approval** to the Whitefish City Council.

BOARD QUESTIONS OF STAFF

Rebecca asked why detention pond was necessary. Wendy indicated the project will have more than 5,000 square foot of impervious surface which will require an engineered stormwater facility.

Rebecca also asked about the easement on the Montana Shirt Company property for the project. Senior Planner Compton-Ring stated the applicant could describe it for the Board.

APPLICANT / AGENCIES

Eric Mulcahy spoke for the applicants. They have read the staff report Planner Compton-Ring has prepared and are comfortable with the Conditions, as well as additional Condition No. 12 for stop sign. Mr. Mulcahy said the property was sold with an easement that provides access to the rear of the property. There is two-way traffic on southern approach onto Baker Avenue and one-way traffic on northern approach onto Baker, and there is not room for more on the northern approach.

Rebecca asked what the issue is between the parties and Mr. Mulcahy said he cannot talk to that issue but the easement into the property is there for access and parking.

MOTION / BOARD DISCUSSION

Rebecca moved and Ken seconded to adopt the findings of fact within staff report WCUP 15-14, with the 11 Conditions of Approval as recommended by City Staff.

John asked to discuss the three parking spaces in the front as he is concerned with the nonconforming use because it violates the setback. The Downtown Master Plan addresses in the future the possibility of making Baker Avenue one-way and Spokane Avenue one-way the opposite direction, and feels that regardless of whether that happens, traffic on Baker is going to increase. He said there is no parallel parking on Baker Avenue from where it comes off Highway 93 all the way to the bridge over the River, other than parking for the three houses on the east side of Baker Avenue just south of the river. He feels additional parallel parking spaces on Baker Avenue is a traffic hazard for cars, bicycles, pedestrians, etc., and there is no good reason for it. They need 91 parking spaces and they have 123 proposed, so removing the three parallel parking spaces will not be a great problem for them, and they can put the ADA parking somewhere else. He urged the Board to modify the Conditions to remove three parking spaces. John made motion to amend Condition No. 8 to read, *"No parking shall be installed in front of the building. Existing reconfigured parking is nonconforming and must be removed."* Rebecca seconded the motion as she feels Baker Avenue will eventually become a conduit. The motion was amended to remove the parking in front of the existing building at

1820 Baker Avenue.

Melissa asked if the frontage improvements would come up with Public Works. Ken said no, if sidewalks are allowed now, they would stay. Public Works Director Craig Workman respectfully disagreed and said the parking spots would probably be required to be removed. He said we would probably have to honor pre-existing agreements but this stretch of Baker has a 66-foot right of way.

A vote was taken on John's amendment regarding parking spaces and passed unanimously.

John made a motion with a second by Rebecca to amend staff report WCUP 15-14 to add that a stop sign be erected by the applicant where their southern driveway meets Baker Avenue as Condition No. 12. The motion passed unanimously.

PUBLIC COMMENT

Chairman Meckel opened for public comment.

Rhonda Fitzgerald said she called a major Music School sponsor and they said they knew nothing about the Music School relocating, and she felt the Board was not getting the full story. Mr. Keuylian said 100% without a doubt that he has met with people from the current Music School, and they have been to the site and seen plan, but it was supposed to be kept confidential.

MOTION / BOARD DISCUSSION

Chairman Meckel closed the discussion to public comment. Ken said it is not part of the scope of this Board to say who goes where, but that he feels the current location of the Music School is an accident waiting to happen, and Rebecca apologized for bringing it up. Ken asked about parking requirements for a hotel, and Planner Compton-Ring replied that according to our Code, one space per room, plus one space for every two employees on a shift is the requirement. If there is a night-operated business, then the number of parking spaces needs to be adequate.

Rebecca asked for clarification on whether 11 or 14 hotel rooms are proposed. Mr. Keuylian originally said 13 rooms, but then changed that to 11. Melissa asked if the Board should add a condition of approval to require the applicant and the Montana Shirt Company owner to enter into mediation. Senior Planner Compton-Ring indicated that the Conditional Use Permit criteria start on Page 3 of staff report and that is what they should stick to for their review.

VOTE

The motion passed unanimously. The matter is scheduled to go

before the Council on November 16, 2015.

NEW BUSINESS

Work Session to review Neighborhood Mixed Use and Industrial Transition zones, Artisan Manufacturing special provisions, and various definitions as part of the Highway 93 West Plan implementation (continued from September 17, 2015), and includes public comment.

GOOD AND WELFARE

1. Matters from Board. Rebecca mentioned making sure the Planning Staff has current contact information for everyone.

2. Matters from Staff. Wendy reminded Melissa and Jim that their positions are up at the end of the year so if interested in reapplying, Jim should contact the County and Melissa should contact Necile. Wendy also said in two weeks, the meeting will be a whopper, so have a hearty dinner and bring some caffeine.

3. Poll of Board members available for the next meeting on November 19, 2015. Ken and John will not be able to attend, but all others indicated they thought they would be available.

ADJOURNMENT

Ken made a motion to adjourn the meeting at approximately 9:45 p.m. and John seconded. The motion passed unanimously. The next regular meeting of the Whitefish Planning Board will be held on November 19, 2015, at 6:00 pm, at 1005 Baker Avenue.

/s/ Ken Meckel
Ken Meckel, Chair of the Board

/s/ Keni Hopkins
Keni Hopkins, Recording Secretary

*APPROVED AS SUBMITTED/**CORRECTED**: 11-19-15*

THE MIX @ WHITEFISH
CONDITIONAL USE PERMIT
WCUP 15-14
December 1, 2015

This is a report to the Whitefish City Council regarding a request for a conditional use permit for multiple primary uses on one lot. This application has been scheduled before the Whitefish City Council on Monday, December 7, 2015.

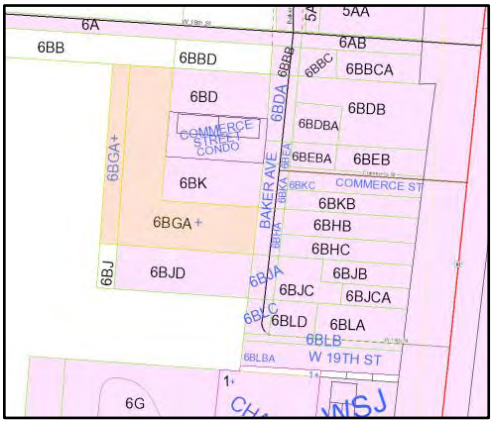
BACKGROUND

At the November 16, 2015 Whitefish City Council meeting, the Council postponed action on this Conditional Use Permit in light of the Zoning Text Amendment being denied. Council directed staff to revise the staff report to reflect the current zoning. At the hearing, the applicant's representative agreed to the postponement of the application pursuant to §11-7-8E(7) and waiving the 90 day review period.

Below find the updated staff report with deletions show with strikethrough in red and insertions shown underlined in red.

PROJECT SCOPE

Elaine Edwards, on behalf of 1840 Baker llc, 1822 Baker llc & 1820 Baker llc, is requesting approval of a Conditional Use Permit to have multiple primary uses on a single lot. The Whitefish Zoning Regulations, §11-2-3B(12), permit only one primary use per lot unless a Conditional Use Permit is obtained.



The project is proposing a multi-building/multi-tenant development. The applicant is proposing to construct four buildings that will house a variety of commercial and industrial uses ~~and a small hotel~~ consistent with the ~~revised~~ zoning. While the Conditional Use Permit is only for Tract 6BGA, the project will share access and parking with the two parcels to the north (Tracts 6BK and Commerce Street Condos). Access will be off Baker Avenue (ingress and egress) on 1830 Baker Ave (Tract 6BK) and an additional ingress on 1820 Baker Avenue (Commerce Street Condos Tract). Shared parking will be located throughout the project for all the uses and adjacent buildings. A total of ~~123~~ 129 spaces are being provided on the entire project.

A. **OWNER:**
1840 Baker llc, 1822 Baker llc, 1820 Baker llc
attn: Elaine Edwards
PO Box 5270

Whitefish, MT 59937

TECHNICAL ASSISTANCE:
Sands Surveying
attn: Eric Mulcahy
2 Village Loop
Kalispell, MT 59901

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

The parcel is ~~1.30~~ 1.74 acres. It is addressed as 1842, 1844, 1846, 1848 Baker Avenue and can be legally described as Tract 6BGA (~~S36-T31N-R22W~~ S1-T30N-R22W).

C. **EXISTING LAND USE:**

The subject property is currently undeveloped, but access will be through Tracts 6BK and Commerce Street Condos which are developed with warehouse buildings and uses.

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

North:	commercial	WI/County Zoning
West:	undeveloped	County Zoning
South:	undeveloped	WI
East:	commercial	WB-2

E. **ZONING DISTRICT:**

The property is zoned WI/WB-2-SC, Industrial District/Secondary Business District with Special Conditions. The purpose of this district is intended to provide a blending of both the WI (Industrial District) and the WB-2 (Secondary Business District) some industrial-type uses along with commercial uses that do not require the large storage areas or highway frontage.

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

The Growth Policy designation for this area is 'Planned Industrial' which corresponds to the WB-4 and WI. "Vital industries need to be provided for in areas where they will not compete against commercial development for land, but also where they will not impact residential neighborhoods with intense industrial activities and truck and rail traffic. Industrial uses tend to centers of employment,

generate far less traffic than commercial, and do not generally depend on drive by traffic for clientele. WB-4 and WI are the applicable zoning districts."

G. **UTILITIES:**

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

H. **PUBLIC COMMENTS:**

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on September 25, 2015. A notice was emailed to advisory agencies on September 25, 2015. A notice of the public hearing was published in the *Whitefish Pilot* on September 30, 2015. As of the writing of this report, no comments have been received.

REVIEW AND FINDINGS OF FACT

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

1. Growth Policy Compliance:

Finding 1: The proposed use generally complies with Growth Policy Designation of Planned Industrial because the zoning allows industrial uses while also permitting compatible commercial uses that are similar to what is allowed in the WI and WB-4 zoning districts.

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

The property is zoned WI/WB-2-SC, Industrial District/Secondary Business District with Special Conditions. The purpose of this district is intended to be blend of compatible commercial and industrial uses in an urban setting connected to all municipal utilities and services. The development proposal is consistent with the purpose and intent of the applicable regulations.

There have been questions about the requested zone change and the zone change that was approved by the Council in 2013. The zone change is unrelated to the Conditional Use Permit. This request is for multiple buildings which could also be

developed under the WI zoning designation. However, the zoning administrator has determined that the applicant has been proceeding diligently toward completion of the project by obtaining permits including:

- Building Permit (remodel), 12-5-13
- Preliminary Plat Approval, 2-4-14
- Architectural Review Approval, 6-3-14
- Stormwater & Erosion Control Approval, 6-17-14
- Architectural Review Approval (1840 Baker), 4-7-15
- Building Permit (remodel), 4-28-15
- Site Review, 8-13-15
- Conditional Use Permit, application submitted on 10-1-15

Setbacks:
The zoning setbacks are: 20-foot front, 5-foot side and rear and are met with this site plan.

Lot Coverage:
The maximum lot coverage is 70% and the development is below the lot coverage at approximately 56%.

Parking:
§11-6-2, requires off-street parking at the following rates:

- professional offices – 1 space per 400 square feet
- hotel – 1 space per room plus 1 space per every two employees on a maximum shift
- manufacturing/warehousing – 1 space per 800 square feet
- retail – 1 space per 300 square feet
- restaurant – 1 space per 100 square feet
- high school/colleges – 1 space per 25 students + 1 space per employee

There are ~~91~~ 112 parking spaces required and the applicant is providing ~~123~~ 129 parking spaces. They are showing parking in front of 1830 and have eliminated the parking in front of 1820 Baker Avenue, which is not part of the Conditional Use Permit request, but part of the overall parking calculations. The parking in front of 1820 Baker Avenue was an area of concern from the Planning Board. There is existing parking in front of 1840 Baker Avenue, but with this site plan, the parking is being reduced and reconfigured to not back out onto Baker Avenue. In addition, the Off-Street Parking Chapter limits no more than 20% of the parking be devoted to compact spaces. The current compact parking is 26%; therefore, eight (8) of the compact spaces need to be regular parking stalls. Staff will recommend a condition of approval that the parking in the front yard setback may not be expanded, the ADA parking spaces be reviewed by an architect licensed in the state of MT for conformance with the Code and the percentage of compact parking spaces be reduced to 20%.

Finding 2: The proposal complies with the WI/WB-2-SC zoning regulations approved by the Whitefish City Council on May 6, 2013 (Ordinance 13-04) because it is consistent with the purpose, intent, and applicable provisions of the zoning regulations and the zoning district, as conditioned. Since approval of the Zone Change in 2013, the applicant has been working diligently toward completion of the project because several land use and building permits have been issued and applied during the 18 month timeframe.

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

Adequate usable land area: The subject parcel is ~~1.30~~ 1.74 acres in size. There is adequate space for the proposed structures to meet all required setbacks, parking and lot coverage.

Access that meets the standards set forth in these regulations, including emergency access: The Whitefish Fire Marshal has reviewed the project and was generally satisfied with the access. The Fire Marshal will review the final design at the time the engineering plans are submitted to ensure adequate turn around and turning radii.

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: There are no environmental constraints on this property or within 200-feet of the property.

Finding 3: The site is suitable for the subject property because there is adequate usable land area, access standards are being met and there are no environmental constraints.

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

Parking locations and layout: As described above, there are parking requirements for the proposed uses. Parking on Tract 6BGA+ and the

adjacent lots are shared. The proposed site plan, including adjacent Tracts, shows adequate parking for the uses. As new uses move into the buildings, parking will need to be re-evaluated. An overall parking plan will be kept on file and be updated as uses change.

Traffic Circulation: The traffic for the project will circulate through the two lots to the north and east of the subject parcel. Two-way traffic will be located on Tract 6BK and one-way traffic into the site will be located on the Commerce Street Condo Tract. While the CUP request is only for Tract 6BGA+, Tracts 6BK and Commerce Street Condo are integral to the project for both parking and vehicular access & circulation. Due to the integral nature of these lots, the lack of frontage improvements along Baker Avenue, and the site plan's focus on pedestrians and bicycles, staff will recommend as a condition of approval that frontage improvements to Baker Avenue, along all three lots, be installed.

Open space: The site plan has adequate open space.

Fencing/Screening: Fencing is not proposed or required.

Landscaping: A landscaping plan will be required for the site and parking lot. In addition, tree density credits will be required. Staff will recommend this as a condition of approval. A final landscaping plan will be reviewed and approved at the time of building permit review.

Signage: Signage for the development will meet the signage standards for the Highway Sign District. A separate sign permit is required and staff will recommend this as a condition of approval.

Undergrounding of new and existing utilities: There are overhead utilities along Baker Avenue and servicing the existing uses. The applicant will underground their private utilities.

Finding 4: The quality and functionality of the proposed development meets the required parking spaces. Open space is preserved. New utilities will be placed underground during construction and new landscaping will be installed. There are no frontage improvements along this portion of Baker Avenue; however, due to the integral nature of Tracts 6BK and Commerce Street Condo for access and parking and the pedestrian and bicycle focus of the site plan this can be mitigated by the

installation of appropriate frontage improvements on Tracts 6BK and Commerce Street Condo, as a condition of approval.

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: An engineered drainage plan shall be reviewed and approved by the city prior to its installation.

Fire Protection: The Whitefish Fire Department serves the site and response times are good. The Fire Marshal will review each building and proposed use, as they are constructed to determine the type of fire suppression needed. The proposed use is not expected to have significant impacts upon fire services.

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

Streets: The subject property is accessed off of Baker Avenue. This portion of Baker Avenue does not have any frontage improvements and is not listed on the street reconstruction priority list. As this will be a dense commercial development with a focus on pedestrian and bicycle circulation, staff will make a recommendation to have the applicant work with the Public Works Department to install frontage improvements along Tracts 6BGA+, 6BK and Commerce Street Condo. While this Conditional Use Permit request is only on Tract 6BGA+, the access for the entire project is only on Tracts 6BK and Commerce Street Condo. Frontage improvements may include: curb, gutter, planter strip, street trees, street lights and sidewalk.

Finding 5: Municipal water and sewer are available and will be extended to the buildings. Response times for police and fire are not anticipated to be affected due to the proposed development. The property has adequate access to Baker Avenue. There are no frontage improvements along this portion of Baker Avenue; however, due to the pedestrian and bicycle focus of the site plan this can be mitigated by the installation of appropriate improvements, as a condition of approval.

6. Neighborhood/Community Impact:

Traffic Generation: The project should generate an average of 281 trips per day at full build-out. A Traffic Impact Study (TIS) was developed by a professional engineer and prepared according to the Engineering Standards. The TIS was submitted to our office the day before the Planning Board packet was mailed out.

The Public Works department ~~will~~ reviewed the report, offered comments to the Planning Board at the meeting on November 5th and agreed with the recommendations in the TIS to install a stop sign at the exit of the parking lot. These were recommended as a condition of approval.

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 a typical commercial use.

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

Hours of Operation: The commercial uses will have typical commercial hours while the hotel, if the zoning is approved, will have typical hotel hours 24 hours per day 7 days a week.

Finding 6: The proposed development is not anticipated to have a negative neighborhood impact because all identified intersection will continue to operate at an acceptable level and negative impacts on noise, dust, smoke, odor or other environmental nuisances are not expected.

7. Neighborhood/Community Compatibility:

Structural Bulk and Massing: The applicant has been working with the Architectural Review Committee on the details of the structures. The structures are a variety of single and two-story buildings, which is similar in bulk and massing as the surrounding neighborhood.

Context of Existing Neighborhood: The neighborhood is a combination of warehouse and industrial uses. The proposed uses are not expected to impact or change the character of the existing neighborhood. The proposed uses, consistent with the revised zoning, will fit well into the neighborhood.

Community Character: The overall development will require Architectural Review approval.

Finding 7: The project is compatible with the existing uses in the neighborhood and is consistent with the design, size and density of the immediate area.

ADDITIONAL FINDINGS OF FACT:

Finding 8: On May 6, 2013, the Whitefish City Council approved Ordinance 13-04 changing the zoning from WI (Industrial District) to WB-2/WI-SC.

Finding 9: On November 16, 2015, the Whitefish City Council approved a motion to postpone action on The Mix at Whitefish Conditional Use Permit until December 7, 2015 leaving the public hearing open and directing staff to update the staff report WCUP 15-14 to reflect a denial of WZC 15-03.

Finding 10: On November 17, 2015, the applicant agreed to waive the 90-day review period pursuant to 11-7-8E(7) in order for the Council to consider the applicant's Conditional Use Permit request.

RECOMMENDATION

It is recommended that the Whitefish City Council ~~Planning Board~~ adopt the findings of fact within staff report WCUP 15-14 and that this conditional use permit be recommended for **approval** ~~to the Whitefish City Council~~ subject to the following conditions recommended by the Planning Board:

1. The project shall be constructed in compliance with the plans dated September 1, 2015, except as amended by these conditions. Minor deviations from the plans shall require review pursuant to §11-7-8E(8) and major deviations from the plans shall require review pursuant to §11-7-8. The applicant shall maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.

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.

3. Approval of the conditional use permit is also subject to approval of detailed design of all on and off site improvements, including drainage. Through review of detailed access and drainage plans, the applicant is advised that the number, density and/or location of buildings, as well as the location of the access shown on the Conditional Use Permit site plan may change depending upon constructability of the road, on-site stormwater retention, drainage easements or other drainage facilities or appurtenances needed to serve the subject property and/or upstream properties as applicable. This plan shall also include a strategy

for long-term maintenance. Fill on-site shall be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion.

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.
   - Properly installed erosion and siltation control measures.
   - 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.

5. Architectural Review approval shall be obtained prior to the issuance of a building permit. (§11-3-3)

6. A landscaping plan shall be submitted and approved prior to the issuance of the building permit. The overall landscaping, parking lot landscaping and tree density credits shall be met. (§11-4)

7. All on-site lighting shall be dark sky compliant. (§11-3-25)

8. No ~~additional~~ parking shall be installed in front of the 1820 Baker Avenue building. Existing reconfigured parking is nonconforming and must be removed ~~may remain~~. The percentage of compact spaces shall be reconfigured to be less than 20%. The ADA parking space location and design shall be reviewed by an architect licensed in the state of Montana. (§11-6-1C, 11-6-3-2D, IBC)

9. A sign permit shall be obtained prior to the installation of any signage. (§11-5)

10. The applicant shall work with the Public Works Department to install appropriate Baker Avenue frontage improvements along Tracts 6BGA+, 6BK and Commerce Street Condo. (Findings of Fact 4 & 5, Engineering Standards , Section 8)

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

12. The applicant shall install a stop sign purusant to the Traffic Impact Study.

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

Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that Elaine Edwards, on behalf of 1840 Baker llc, 1822 Baker llc & 1820 Baker llc, is requesting a Conditional Use Permit pursuant to §11-2-3B(12) in order to develop a project with multiple principle structures. The property is undeveloped and is zoned WI/WB-2–SC (Industrial/Secondary Business Districts with Special Conditions). The property is located at 1842, 1844, 1846 & 1848 Baker Avenue and can be legally described as Tract 6BGA in S1 R30N R22W.

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

Thursday, October 15, 2015
6:00 p.m.
Whitefish City Council Chambers, City Hall
1005 Baker Avenue, Whitefish MT 59937

The Whitefish Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on **Monday, November 2, 2015** at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, October 5, 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: September 25, 2015

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, October 15, 2015 at 6:00 pm in the Whitefish City Council Chambers at **1005 Baker Avenue**. During the meeting, the Board will hold a public hearing 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 Monday, November 2, 2015. City Council meetings start at 7:10 pm at **1005 Baker Avenue** in the Whitefish City Council Chambers.

1. Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC, and 1820 Baker LLC is requesting to amend the Whitefish zoning jurisdiction map to add the Commerce Street Condos at 1820/1822 Baker to the adjacent WI-SC (Industrial and Warehousing with a Statement of Conditions) zoning district, and amend the Statement of Conditions to add three additional uses for the district – trade schools, music schools, and hotels. The new district will be comprised of 2.71 acres of property addressed as 1820, 1822, 1824, 1830, 1840, 1842, 1844, and 1848 Baker. These properties can legally be described as Tracts 6BGA and 6BK and Units 1 and 2 of Commerce Street Condominiums, S01, T30N, R22W, P.M.M., Flathead County, Montana. (WZC 15-03) Taylor

2. Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC & 1820 Baker LLC, is requesting a Conditional Use Permit pursuant to §11-2-3B(12) in order to develop a project with multiple principle structures. The property is zoned WI/WB-2–SC (Industrial/Secondary Business Districts with Special Conditions), located at 1842, 1844, 1846 & 1848 Baker Avenue and can be legally described as Tract 6BGA in S1 R30N R22W. (WCUP 15-14) 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*. For questions or further information regarding these proposals, phone 406-863-2410.

WCUP 15-14

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

APPLICATION FOR CONDITIONAL USE PERMIT
CITY OF WHITEFISH

FEE ATTACHED $1,980.00 (See current fee schedule)

OWNER(S) OF RECORD:

Name: 1840 Baker, LLC, 1822 Baker LLC and 1820 Baker LLC - Attn: Elaine Edwards

Mailing Address: P.O. Box 5270

City/State/Zip: Whitefish, MT 59937 Phone: (406) 862-4828

APPLICANT:

Name: Same as Owner

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

LEGAL DESCRIPTION OF PROPERTY (Refer to Property Records):
Street
Address: 1842, 1844, 1846, and 1848 Baker Avenue, Whitefish

Sec. No.	Town-ship	Range No.
36	31	22

Subdivision Name:	Tract No(s).	Lot No(s).	Block No.
N/A	6BGA		

DESCRIBE PROPOSED USE: Per Section 11-2-3.12 of the Whitefish Zoning Regulations, a Conditional Use Permit is required when multiple principle structures are placed on a single tract of record. In this case, the applicant requests a Conditional Use Permit to place four buildings a what is currently a single tract of record. The buildings would be commercial and light industrial in conformance with adopted Conditional Zoning (Ordinance No: 13-04) and the proposed amendment to the Conditional Zoning that is under consideration in an application that accompanies this CUP Application. Specifically, the applicant wants one of the buildings to contain a specialty grocery store and a second to contain a restaurant both of which are permitted in Ord # 13-04. The applicant also wants to construct a small boutique hotel and allow for a cooking school to accompany the restaurant, these uses could only occur if the Council approves the

SEP 0 1 2015

Revised 3-22-10

amendments to the Conditional Zoning. The last building is of undetermined use at present. The building footprints are as follows: Building A is 5,823 sf, Building B is 6,619 sf, Building C is 5,383 sf, and Building D is 3,396 sf.

ZONING DISTRICT: WI/WB-2/SC (Ord #13-04)

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 Whitefish Growth Policy Map supports the industrial use on the West side of Baker Avenue and that is what the current Conditional Zoning supports. The east side of Baker Avenue is planned and zoned for Commercial use. The existing land uses along this southern part of Baker Avenue are a blend of commercial and light industrial uses and they all work in a compatible fashion. The applicants request would allow the construction of four building on the single tract of record. The proposal will not detract from the pattern of use within the neighborhood. The proposal would help to visually buffer or screen the old gravel pit that sits directly west of the applicants property and most likely improve values and the aesthetic qualities of this end of Baker Avenue.

Specific Goals and Policies of the Whitefish Growth Policy are listed as follows:

Future Land Use Goals:

1. Preserve and enhance the character, qualities, and small town feel and ambiance of the Whitefish Community through an innovative and comprehensive growth management system

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

Economic Development Goals:

1. Maintain a healthy and vibrant base economy that sustains an influx of dollars into the community.

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

Economic Development Policies:

3. It shall be the policy of the City of Whitefish to promote beneficial job growth in the base economy, and especially in those areas that tend to diversify the base economy beyond development related and visitation based business and industries.

Economic Development Recommended Actions:

6. Investigate alternatives and possible partnerships to identify and recruit clean, community-compatible industry to Whitefish.

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

The applicant requested and received Conditional Zoning from the City of Whitefish back in 2013. The proposed builds will conform to the bulk and dimensional requirements of the Conditional Zoning (Ord # 13-04). Along with this request, the applicant is requesting an amendment to the conditional zoning that would allow three additional uses: hotel, music school, and "college, business, trade school" (single category).

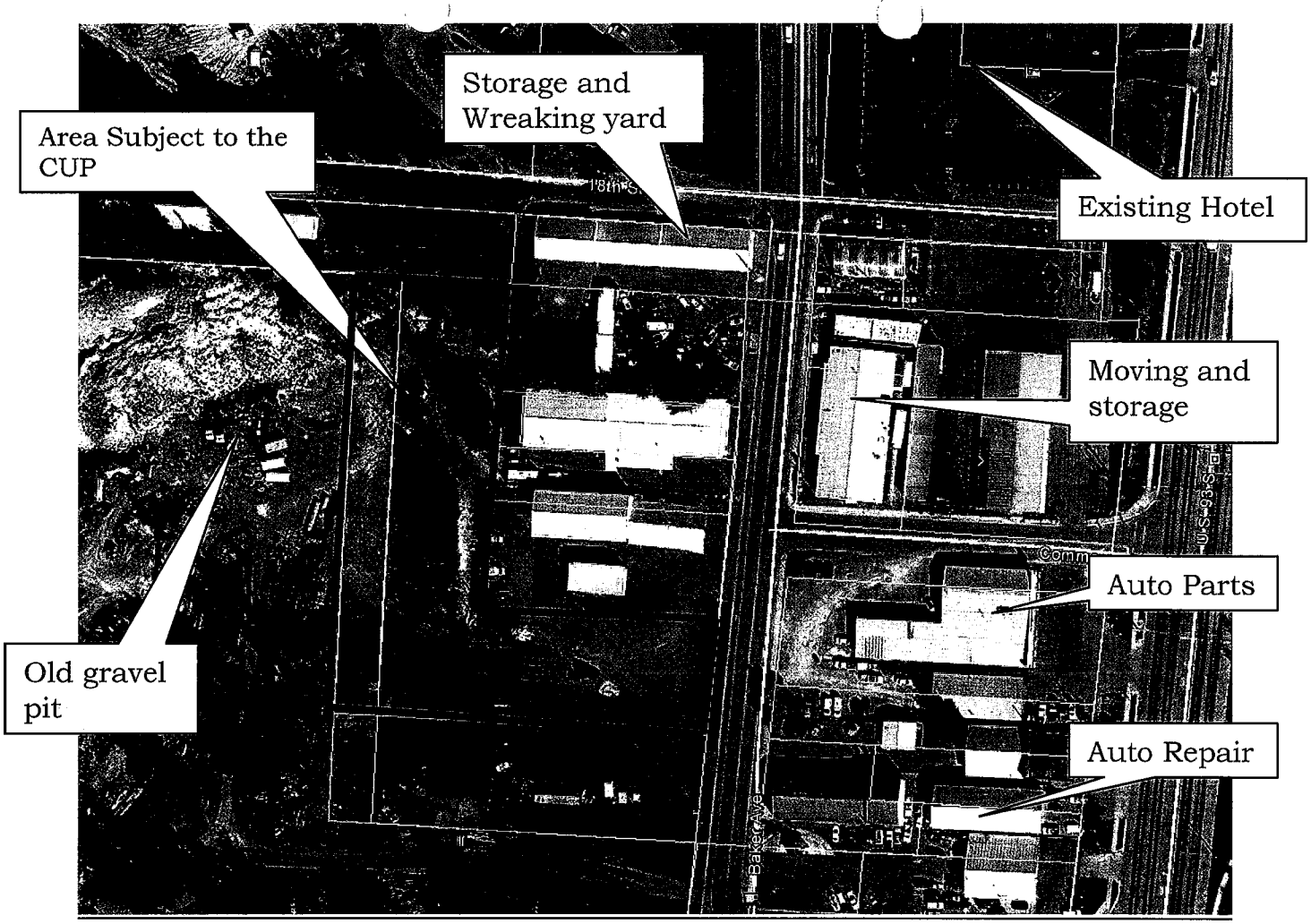
The Conditional Zoning was approved for this site because of the unique mix of uses that are already present in this neighborhood and the zoning blends the less impacting industrial uses of the I-1 zoning with some of the compatible business uses of the B-2 zoning. Many of the uses established in the Conditional Zoning and those proposed in the Conditional Zoning Amendment are already present in the south Baker neighborhood.

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

The property is currently vacant and is a suitable location for investment and development of new structures. The property is surrounded by a mix of industrial and commercial uses. Some of the uses like the old gravel pit could use screening from the Baker Avenue corridor. Investment on this site could spark investment in neighboring properties.

The property has good access to Baker Avenue and the Emergency Services building is only a couple block north of the subject property.

There are no environmentally sensitive areas on the site such as, wetlands, floodplain, or high groundwater. There is some slope on the northwest corner of the property but this can be addressed by retaining walls reviewed by the Building Department during the Building Permit process.



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

a. Parking locations and layout _

The applicant has proposed a site plan with a parking layout that would support the buildings for some of the uses prescribed by zoning and compliant with the parking standards of the Zoning Regulations. As the future uses are not completely set some uses may require more parking than allotted for and therefore those uses would not be allowed within the project. As standard, all parking will be reviewed prior to issuance of any building permits for the property..

b. Traffic circulation

The proposed site plan has gone through the City's Site Review for preliminary review. As proposed, the traffic circulation works to the satisfaction of Fire and Public Works.

c. Open space

There is a maximum lot coverage of 70% in the I-1 zoning designation which is the standard for the Conditional Zoning on this parcel. The proposed site layout has 21,321 square feet of building foot print and the property is 75,925 square feet in size for 28% lot coverage.

d. Fencing/screening

No fencing is proposed at this time, however some fence may be constructed along the rear property line to avoid trespass into the neighbor

gravel pit. If fencing does go up, it will be subject to a permit from the building department and the standards of the zoning ordinance.

e. Landscaping
The applicant will landscape the areas shown in green on the site plan. The Whitefish Zoning Regulations require a minimum of 8% of the lot area to be landscaped when the developable area is between 22,000 sf and five acres. There is over 13,100 square feet of landscaping proposed within the project for a coverage of 17%.

f. Signage
A sign package has not yet been developed for the site. If the CUP is approved, the applicant will work with a sign maker to prepare a sign plan that complies with the Whitefish Sign Regulation.

g. Undergrounding of new utilities
All utilities will be extended underground into the site.

h. Undergrounding of existing utilities
The only existing utilities come off the poles along Baker Avenue. The applicant does not have the ability to underground these existing utilities.

5. Are all necessary public services and facilities available and adequate? If not, how will public services and facilities are upgraded?
a. Sewer
The site plan is in the process of having sewer services reviewed for extension into the site.

b. Water
The site plan is in the process of having water services reviewed for extension into the site.

c. Stormwater
If the CUP is approved, the site plan will be reviewed for stormwater facilities by Public Works. The applicants engineer has started preliminary review with Public Works for stormwater

d. Fire Protection
The Whitefish Fire Department currently serves the property. The fire department has reviewed access and finds it acceptable. The Fire Marshall will review specific building plans for compliance with fire code at a future date.

e. Police Protection
Whitefish Police Department currently serves the property.

f. Street (public or private)
The property fronts on Baker Avenue, a publicly owned and maintained street. The access into the property will be developed as a private street and parking area for the benefit of the business complex. All new street and parking areas will be asphalted and maintained by the property owners.

g. Parks (residential only)

N/A

h. Sidewalks

There is a public sidewalk on the east side of the City's Baker Avenue right-of-way but there is not a sidewalk on the west side of the street. Internal to the development are a number of walkways that provide access to the building fronts from the parking lots

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

There is a stripped bike path on the west side of Baker Avenue that provides bicycle access to the proposed business complex and neighboring businesses.

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 industrial/commercial use and has been used for a number of different light industrial uses over the years. Baker Avenue is a collector street and is intended as a route to move traffic and access various businesses along the route. The growth policy and the zoning that implements the growth policy encourages business growth in this area.

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

The site is located in an industrial/commercial district. The proposed uses will be light industrial and commercial. Any impacts from noise, vibration, dust, glare, heat, smoke, fumes or odors will be consistent or less impacting than some of the neighboring uses.

7. What are the proposed hours of operation?

As this is a commercial setting, business hours will be typical of other business. However, if the zoning amendment is passed for a hotel, than that facility would have a 24 hour presence.

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 development, with four buildings, is compatible with the surrounding property which have multiple buildings and or uses. There is no residential zoning or use adjacent to the property so commercial uses should fit the mass and bulk of neighboring industrial and commercial uses.

b. Scale

The south Baker Avenue area is a mix of small businesses, storage buildings, warehouse buildings most of which are metal sided structures of one to one and a half stories. The proposed structures should fit the scale of what is built around the site.

c. Context of existing neighborhood

The south Baker Avenue neighborhood is a mix of industrial, commercial, and lodging uses. The proposed complex of four buildings, with a mix of light industrial and commercial uses, should fit the context of the neighborhood and with the new investment perhaps ignite investment on neighboring properties.

d. Density

Neither the I-1 or the B-2 zoning districts have a minimum lot size or maximum density. The I-1 has a maximum lot coverage of 70% of which the Mix at Whitefish is well below. The proposed project is in compliance with the zoning regulations and the proposed density is not out of character with neighboring uses.

e. Community Character

The City of Whitefish has established a business corridor at the south end of Baker Avenue. Historically this has been an area dominated by industrial use and the back door for businesses that front on Highway 93. Approximately twenty years ago the City of Whitefish rebuilt Baker Avenue and widened the right-of-way. The street reconstruction was an effort to lessen congestion on Highway 93 and widen the commercial district on both sides of the highway rather than continue it south in a traditional strip fashion. Over time south Baker has seen new investment with a Bank, Window and Tile Company, Emergency Services Building, the Wave. Adjacent to the site in question the Montana Tee Shirt Company and Sweet Peaks have taken residence. The proposed Mix at Whitefish will fit the character of Whitefish and continue the reinvestment in the south part of Baker Avenue.

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

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

File #: _____
Date: _____
Intake Staff: _____
Date Complete: _____

CONDITIONAL USE PERMIT

FEE ATTACHED $ _____
(See current fee schedule)

INSTRUCTIONS:

☐ A Site Review Meeting with city staff is required. Date of Site Review Meeting: _____

☐ Submit the application fee, completed application and appropriate attachments to the Whitefish Planning & Building Department a minimum of **forty five (45) days prior** to the Planning Board meeting at which this application will be heard.

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

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

A. PROJECT INFORMATION:

Project Name: _____

Project Address: _____

Assessor's Tract No.(s)_____ Lot No(s)_____
Block # _____ Subdivision Name _____
Section _____ Township _____ Range_____

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.

Elaine J Edwards — 8-21-15
Owner's Signature[1] — Date

ELAINE I. EDWARDS
Print Name

Elaine J Edwards — 8-21-15
Applicant's Signature — Date

ELAINE I. EDWARDS
Print Name

_____ — _____
Representative's Signature — Date

_____
Print Name

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

Proposed Mixed Use Development:

The Mix @ Whitefish

1840/1842/1864/1846 Baker Avenue, Whitefish, Montana

Color Key

- Concrete Sidewalks See Notes on Plan
- Landscaping/Planter Areas
- Openings In Asphalt No Curbs-Mulch
- Yellow Striped Asphalt Areas
- Proposed Building Footprint

Vicinity Map

Parking Calculations:

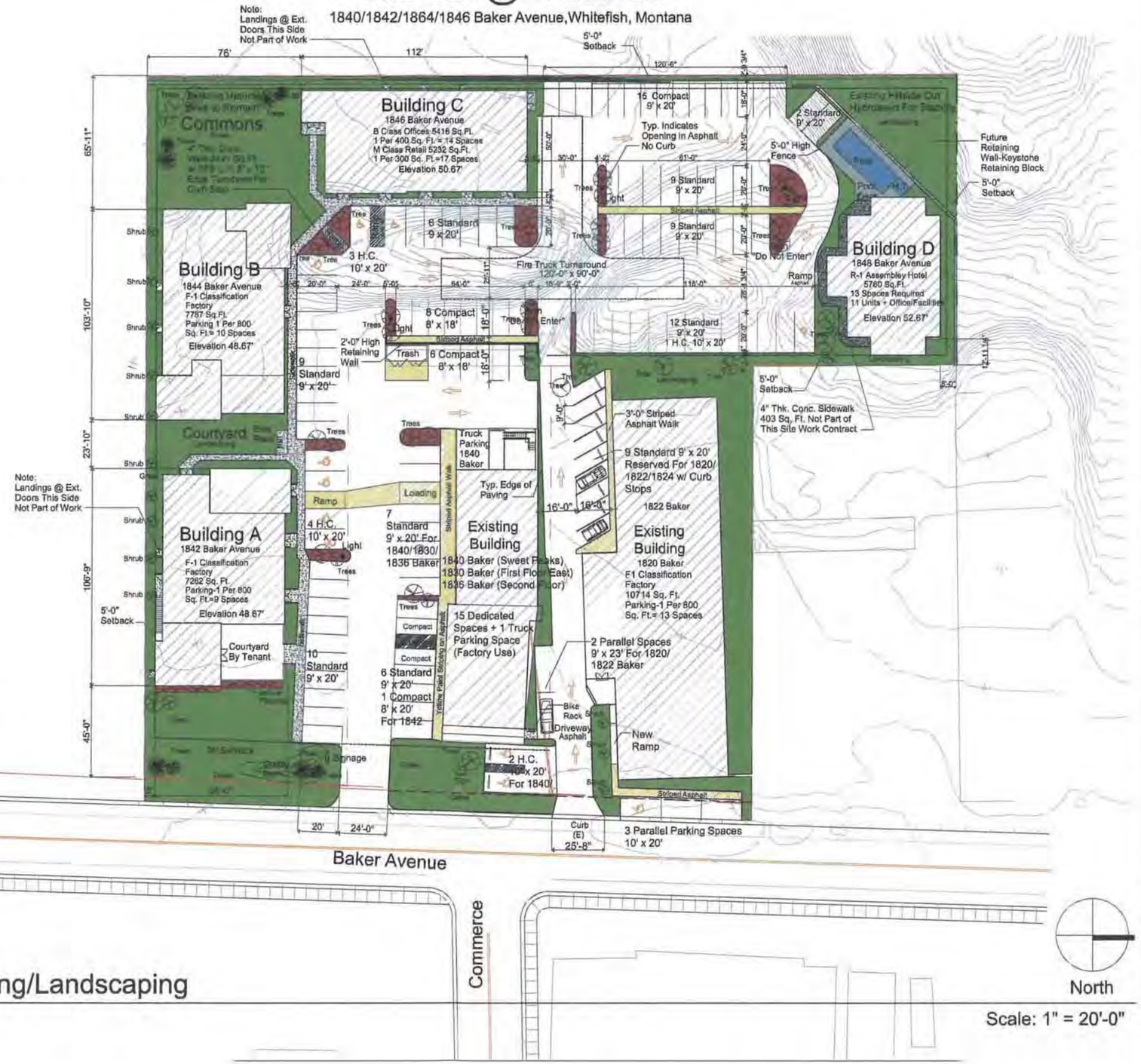
Proposed Use: Mixed F1/B/R-1

Parking Required:
- Building A 9 Spaces
- Building B 10 Spaces
- Building C 31 Spaces
- Building D 13 Spaces
- 1840/1836 15 Spaces
- 1820/1822 13 Spaces

Total 91 Spaces Required

Parking Provided:
- 81 Standard Spaces 9' x 20'
- 30 Compact Spaces 8' x 16'
- 11 HC Spaces 10 x 20
- 1 Truck Space

123 Spaces Total



Site Plan/ Parking/Landscaping

HUTSON & PARTNERS ARCHITECTURE
305 NORTH COAST HIGHWAY, SUITE L
LAGUNA BEACH
CALIFORNIA 92651
TEL (949) 715-4062

Architect Stamp

Lyndon L. Steinmetz
Design Studio, LLC
Kalispell, Montana (406) 257-5463

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1840 Baker Avenue
The Mix @ Whitefish
Whitefish, Montana

All dimensions & notes shall verify at levels, datums and dimensions prior to commencement of the work. All errors and omissions must be reported immediately to the CONTRACTOR for clarification prior to proceeding with the work.

Do Not Scale these Drawings

This drawing must not be used for construction unless it is marked ISSUED FOR CONSTRUCTION.

Site Plan
- Issued For Pricing
- Issued For Construction
- Date Printed

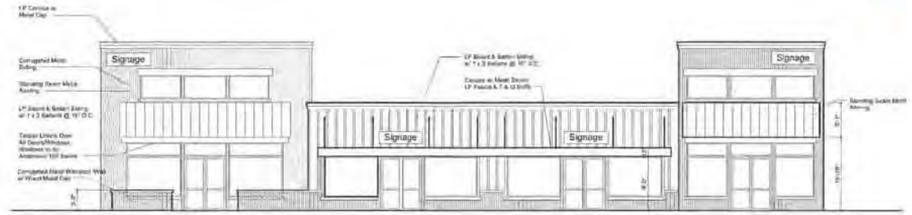
Drawing Info	
Drawn	L.L.S.
Date	09/01/15
Scale	1/1"
Job	M2009.14
Sheet	ARB1

1 of 5

BUILDING A

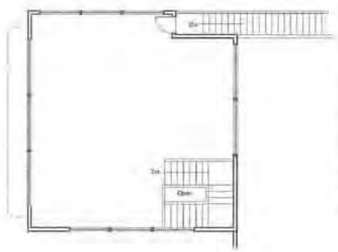
Conceptual East Elevation

1/8" = 1'-0"



Conceptual North Elevation

1/8" = 1'-0"

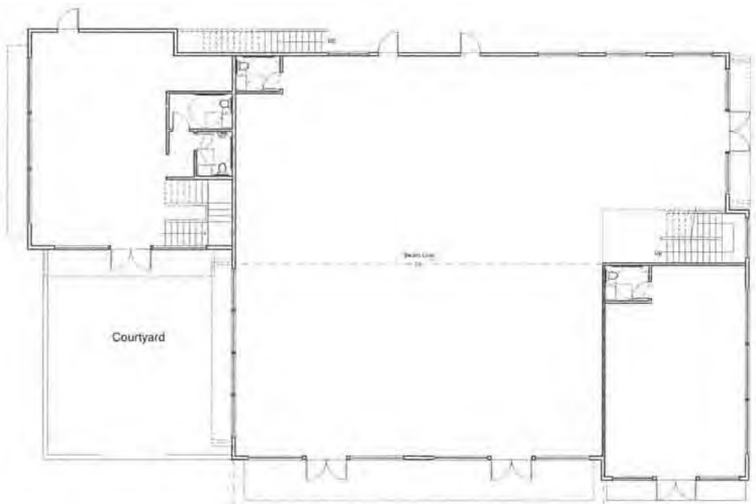


Building A 1842 Baker Avenue

Conceptual 2nd Floor Plan-Scheme 2

872 Sq.Ft.

1/8" = 1'-0"



Building A 1842 Baker Avenue

Conceptual Floor Plan-Scheme 2

5600 Sq.Ft.

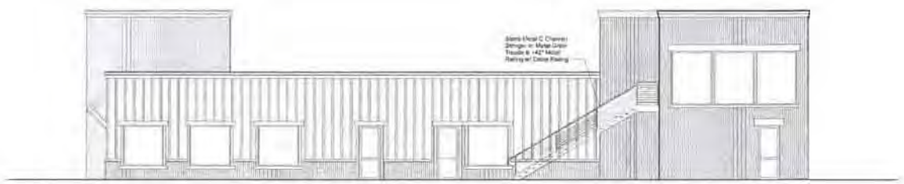
1/8" = 1'-0"

Building A 1842 Baker Avenue

Conceptual 2nd Floor Plan-Scheme 2

790 Sq.Ft.

1/8" = 1'-0"



Conceptual South Elevation

1/8" = 1'-0"

Conceptual West Elevation

1/8" = 1'-0"

Revisions

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Office/Restaurant/Mfr. Study For:
The Mix @ Whitefish
1842 Baker Ave.
Whitefish, Montana

Building A Concept Drawings

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Drawing Info.

Drawn L.L.S.

Date

Scale

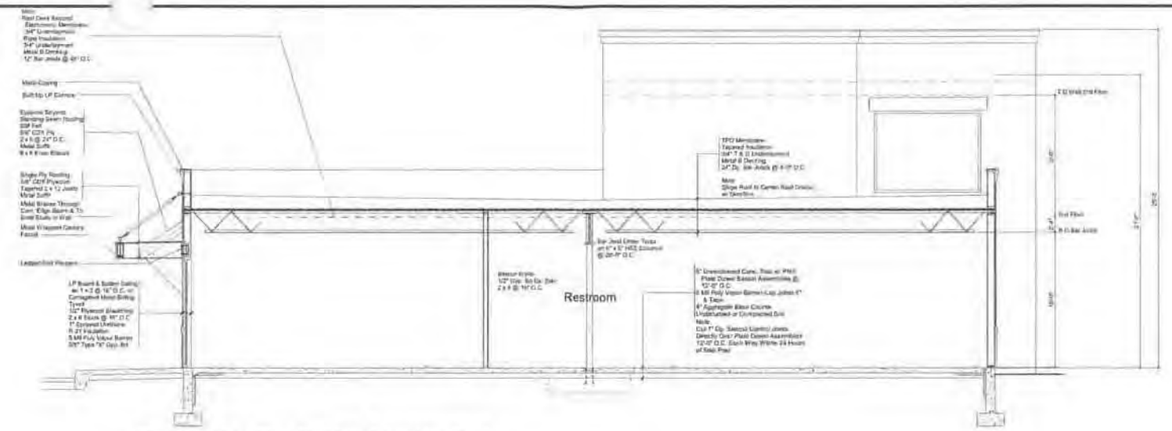
Job

Sheet

ARB2

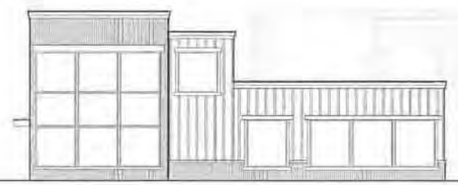
2 of 6

BUILDING B



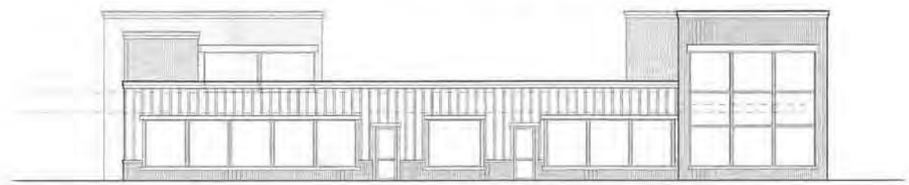
Study Section Thru Building A Looking East

1/4" = 1'-0"



Conceptual West Elevation

1/8" = 1'-0"



Conceptual South Elevation

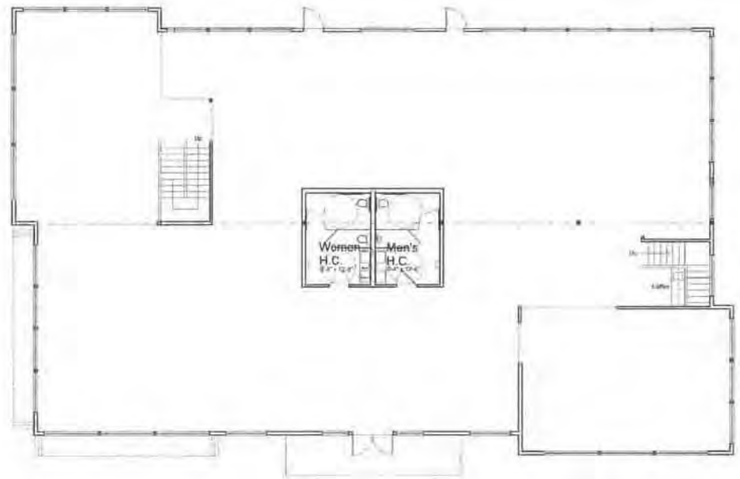
1/8" = 1'-0"

Building B

Second Floor Study

754 Sq.Ft. This Level

1/8" = 1'-0"



3712 Sq.Ft.

Building B 1844 Baker Avenue

Conceptual First Floor Plan

6329 Sq. Ft. Main Floor + 1458 Sq. Ft. 2nd Floor= 7787 Sq.Ft.

1/8" = 1'-0"

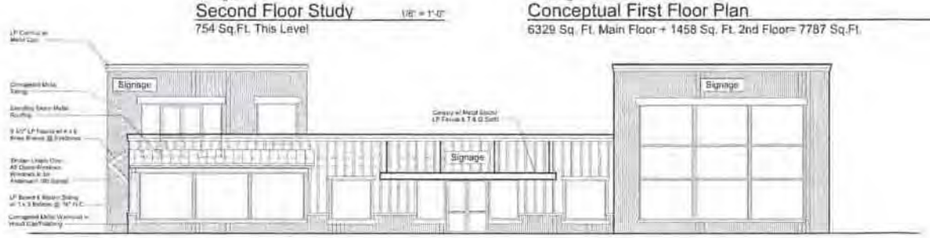
3712 Sq.Ft.

Building B

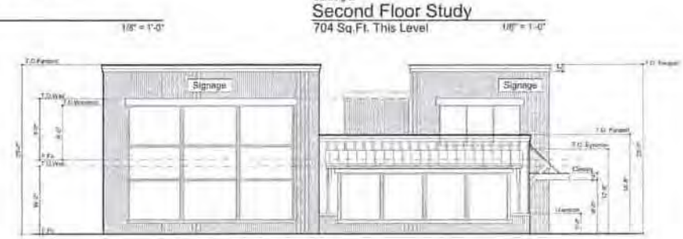
Second Floor Study

704 Sq.Ft. This Level

1/8" = 1'-0"



Conceptual North Elevation



Conceptual East Elevation

1/8" = 1'-0"

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Date
Scale
Job

Sheet

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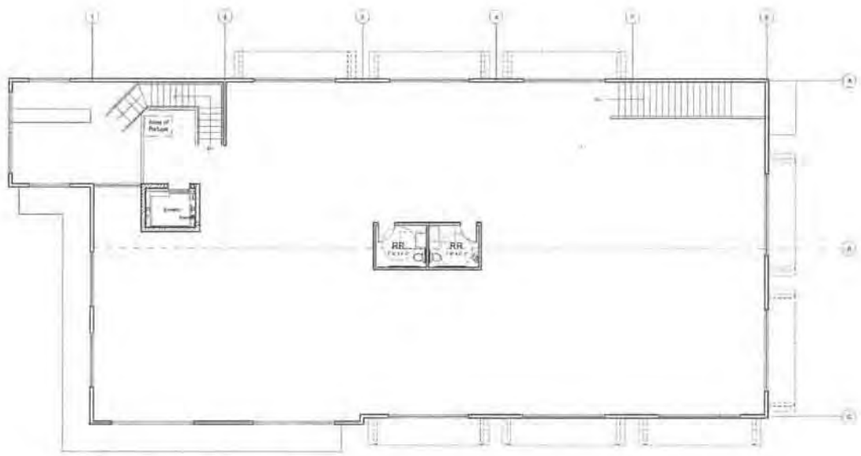
BUILDING C

Conceptual South Elevation

Conceptual Front (East) Elevation

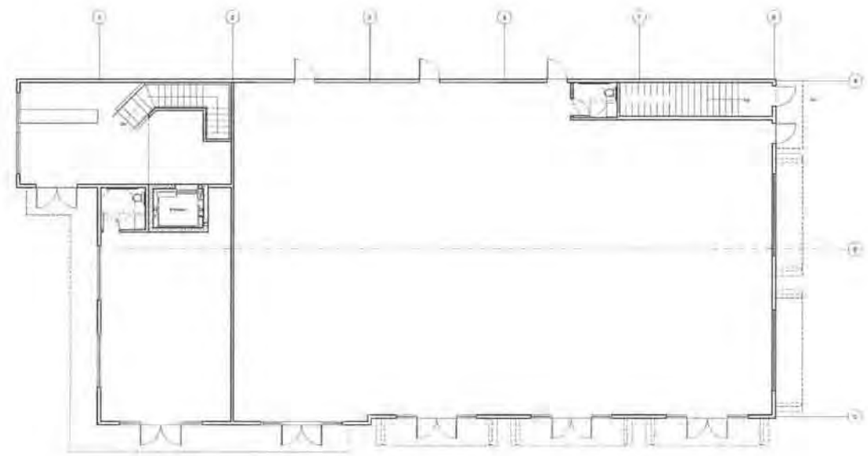
1/8" = 1'-0"



Building C 1846 Baker Avenue

Conceptual 2nd Floor Plan

1/8" = 1'-0"



Building C 1846 Baker Avenue

Conceptual 1st Floor Plan

5232 Sq.Ft. This Level

1/8" = 1'-0"

Building C

Conceptual North Elevation

1/8" = 1'-0"

Building C

Conceptual West Elevation

1/8" = 1'-0"

Revisions

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Office/Light Factory Study For:
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Whitefish, Montana

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Drawing Info

Drawn
Date
Scale
Job.

Sheet

ARB4

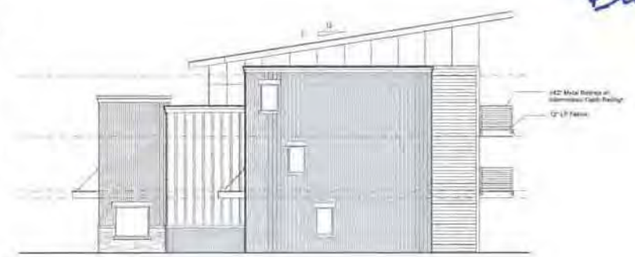
4 of 6

BUILDING D

Conceptual South Elevation

1/8" = 1'-0"

Note:
This Building to be Fully Fire Sprinklered



Conceptual East Elevation

1/8" = 1'-0"

1848 Baker Avenue
Conceptual Floor Plan
2470 Sq.Ft. This Level

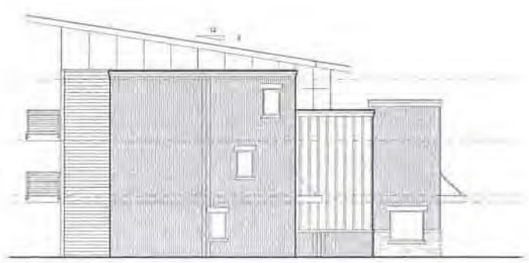
1/8" = 1'-0"

1848 Baker Avenue
Conceptual Second Floor Plan
3433 Sq.Ft. This Level

1/8" = 1'-0"

1848 Baker Avenue
Conceptual First Floor Plan
3433 Sq.Ft. This Level

1/8" = 1'-0"



Conceptual West Elevation

1/8" = 1'-0"

Conceptual North Elevation

1/8" = 1'-0"

Revisions:

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Hotel Study For:
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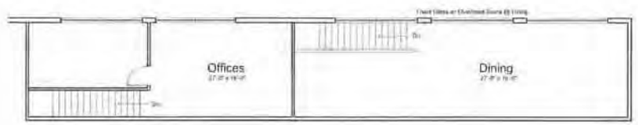


Second Floor Plan

1/8" = 1'-0"

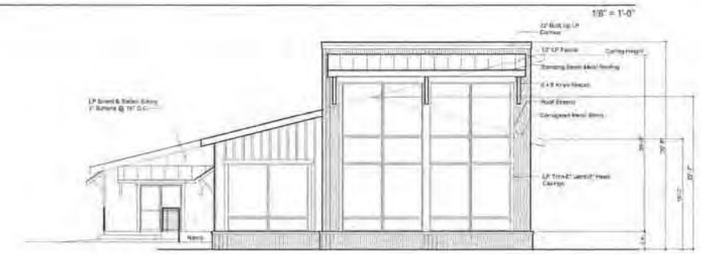
1820/1822/1824 Baker Proposed Floor Plan Renovations

Note:
This Building Will Be Fully Sprinklered

1/8" = 1'-0"

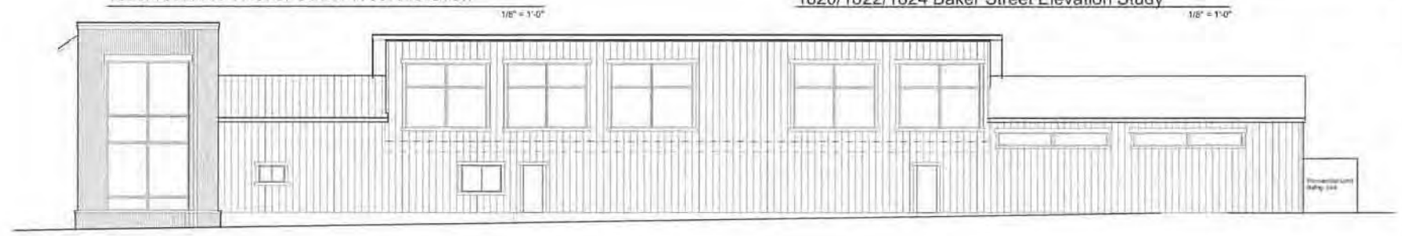
1820/1822/1824 Baker Street West Elevation

1/8" = 1'-0"



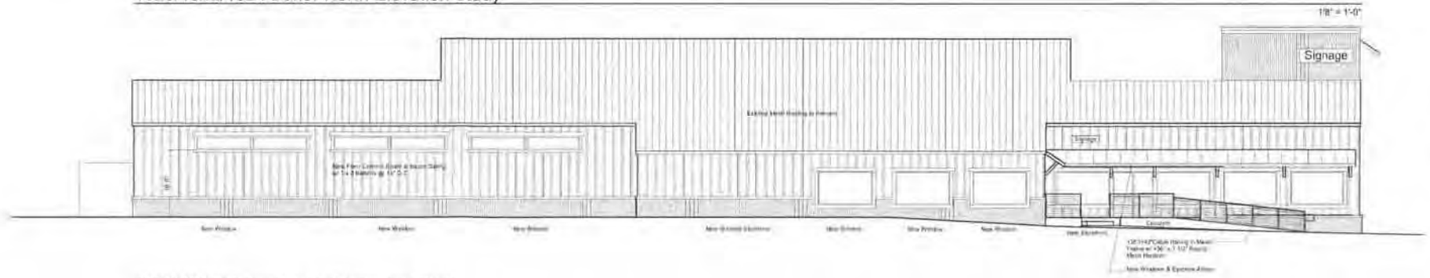
1820/1822/1824 Baker Street Elevation Study

1/8" = 1'-0"



1820/1822/1824 Baker North Elevation Study

1/8" = 1'-0"



1820/1822 Baker South Elevation Study

1/8" = 1'-0"

Vicinity Map

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1820/1822/1824 Baker Ave.
Whitefish, Montana

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Sheet	ARB6

October 2015

The MIX at Whitefish
Traffic Impact Study

For submission to:

City of Whitefish

Report prepared by:

A2Z Engineering, PLLC.
138 East Center Street, Suite A
Kalispell, MT 59901
(406) 755-7888
A2Z-Engineering.com

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Vicinity Map ..... Exhibit 4
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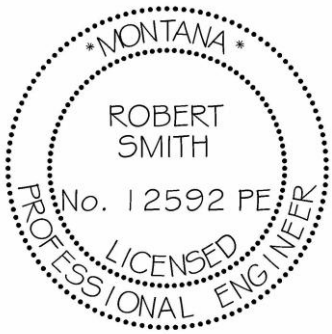
Intersection / Entrance Offset ..... Exhibit 10



Section 1 – Narrative

The MIX at Whitefish is a proposed mixed use light manufacturing - office - retail and hotel development located at the address 1840 Baker Avenue. The site has two existing buildings with business park type occupants. The proposed improvements include the addition of three commercial buildings and a motel structure. All proposed and existing facilities will share parking and vehicular access onto Baker Avenue. The development does not have any proposed phasing within the development/build out plan.

The development proposes two access points onto Baker Avenue. The northernmost access will be a 16 foot wide drive that will run between the existing 1820 and 1840 buildings. This drive will be "entrance only" with one-way movement allowed in the westerly direction. The southernmost access will be a full entrance/exit access meeting Baker Avenue at a 90 degree angle. Traffic internal to the development will travel along the provided 24 foot wide (minimum) access lanes between the rows of parking spaces. An area within the development is provided as a "T" turnaround for emergency vehilces.

This traffic study has been written to be in compliance to the City of Whitefish Engineering Standards Section 8.9 and 8.11.

Section 2 – Site Plan

See plan sheets **Exhibit 1** (pre-project site plan) and **Exhibit 2** (post-project site plan) attached to this report.

Section 3 – Study Area

A phone meeting and follow-up email correspondence was initiated between the author of this report and Karin Hilding, PE, of the city's Public Works Engineering office. That email can be read in **Exhibit 3** attached to this report.

Section 4 – Vicinity Map

See **Exhibit 4** attached to this report.

Section 5 – Existing Conditions

The proposed development is located on Tract 6BK and Tract 6BGA in Section 1, Township 30N, Range 22W in the city of Whitefish, Montana. There are two existing commercial buildings accessed by two separate paved drives. The drives connect to Baker Avenue, which is classified as a local road in the 2009 city transportation plan where it passes in front of the site. The east side of Baker Avenue has an existing sidewalk while the west side does not. There is double yellow striping down the center and 6 ft paved shoulders beyond the fog lines on each side which are marked to be bike lanes.

Traffic counts were performed on Baker Avenue in front of the proposed development and the results were an average daily traffic volume of approximately 6,250 vehicles per day, with generally about 500 vehicles passing by in the AM and PM peak hour.

These values were developed using the observed PM peak hour count and an assumed urban area peak hour usage of 8%. They were also adjusted to account for seasonal variation using factors developed by the Montana Department of Transportation (MDT). In areas with high seasonal recreational impacts the MDT recommends multiplying the weekday count values in the year 2015 by the following factors to achieve an annual average daily traffic (or AADT) number:

January = 1.98	February = 1.85	March = 1.68	April = 1.39
May = 0.98	June = 0.70	July = 0.52	August = 0.58
September = 0.75	October = 1.15	November = 1.60	December = 1.93

These factors work to tamp down the high summer counts and boost up the low winter counts, which allows you to develop the AADT value. However, they can also be used to predict that in the month of June there will be (AADT / 0.52) = 192% of the AADT value actually using the road system. Likewise, in the month of January there will be (AADT / 1.98) = 51% of the AADT value on the roads. Of course, these factors are taken from state wide totals and may not precisely predict Whitefish's special combination of the lake, Glacier Park, ski area and foreign (Canadian) visitation through the year.

In areas with peak seasonal usage there can be much difficulty in addressing road system concerns. The community has to find the balance between building a very large and expensive infrastructure to handle the highest traffic periods verses dealing with the congestion that will result seasonally from more modestly sized system. Since the City asked specifically for an analysis of the seasonal peaks, this report will look at the seasonal impact upon the nearest intersection (namely Baker and Commerce).

The existing conditions of other locations in the adjacent road system are as follows:

- Intersection of Baker Avenue and Commerce Street - This is a typical "T" shaped intersection with Commerce as the eastern approach and Baker as the north/south approaches. The Commerce approach is stop sign controlled. There are sidewalks located on the eastern edge of Baker and the northern edge of Commerce, but there are no marked cross walks. or stop bars. Baker has bike lanes on both sides. Both streets are striped with double solid centerline; and no separate left or right-turn lanes have been marked out. There appears to be sufficient corner site distance at the intersection for the westbound vehicles on Commerce to pull onto Baker.
- Intersection of US Highway 93 & West 19th Street - The intersection is a typical four-approach intersection with US93 running north/south, 19th being the western approach and a Mountain Mall parking lot access being the eastern approach. The highway has a through movement and the east/west approaches are stop sign controlled. US93 is configured five-lines wide with two lanes northbound, two lanes southbound, and a center two-way-left-turn-lane (TWLTL) acting as a de-facto left turn bay for vehicles turning left off of US93. US93 has 10 foot wide paved shoulders, sidewalks each side and curbing. The eastern approach is entirely unstriped and about 36 feet wide with a short stacking distance leading into the parking lot. The western approach (19th Street) has bike lanes on each side, a sidewalk on the south edge, and striping with a stop bar. There are no left or right-turn lanes. It is highly unlikely that this intersection would ever be upgraded to a traffic signal given it's close proximity to the traffic signal at Commerce and US93.
- Intersection of US Highway 93 & Commerce Street - The intersection is a fully signalized 4-legged intersection with US93 running north/south, Commerce being the western approach and an entrance to the Mountain Mall being the eastern approach. US93 has two lanes northbound, two lanes southbound, a center left turn lane and wide paved shoulders with curbing and sidewalks each side. There are marked crosswalks on all four approaches. The eastern approach has a left turn lane and a right/through lane. The western approach (Commerce) has the same layout.
- Intersection of Baker Avenue & West 13th Street - As a vehicle travels north on Baker Avenue from the development, the first fully controlled intersection that it will encounter is a four-way stop at West 13th Street. This intersection has crosswalks and stop bars on all four approaches and corner sight triangle clearances. The Baker approaches have bike lanes, sidewalks and curbs on both sides. There are also curbs and sidewalks on both sides of West 13th. None of the approaches have separate left or right turn lanes.

Photographs of the road system around the development are included in Exhibit 5.

Section 6 – Development Traffic

Trip Generation

The MIX at Whitefish has two existing buildings that are now occupied; these are 1820 and 1840 Baker Avenue and they have a total floor area of 18,790 square feet. The proposed additional buildings to be added to the site will include:

- Building A .....factory .....7,262 square feet
- Building B .....factory .....7,787 square feet
- Building C .....offices & retail.....5,232 square feet
- Building D .....hotel .....11 rooms plus manager's office

The critical issue to examine will be this development's impact upon the surrounding traffic system during the peak hours, typically 7 to 9 AM and 4 to 6 PM. Therefore the calculations were done to find the daily, AM and PM peak hour trips generated.

Using the Trip Generation manual, 8th edition, by the Institute of Transportation Engineers it was determined that two classifications best fit this development. These were:

- Business Park, Land Use 770 - Business parks consist of a group of flex-type or incubator one- or two-story buildings served by a common roadway system. They tenant space is flexible and lends itself to a variety of uses; the rear side of the building is usually served by a garage door. Tenants may be start-up companies or small mature companies that require a variety of space. The space may include offices; retail and wholesale stores; restaurants; recreational areas; and warehousing, manufacturing, light industrial, or scientific research functions. The average mix is 20 to 30% office/commercial and 70 to 80% industrial/warehousing.

- Motel, Land Use 320 - Motels are places of lodging that provide sleeping accommodations and often a restaurant. Motels generally offer free on-site parking and provide little or no meeting space and few (if any) supporting facilities.

Since so many calculations are required to cover daily, AM & PM, entering and exiting trips from six separate buildings, they were condensed into a spread sheet. This spread sheet can be viewed in Exhibit 6. The results were:

- Weekday.....563 trips .....281 entering .....281 exiting
- AM Peak Hour .....46 trips .....38 entering .....7 exiting
- PM Peak Hour.....42 trips .....10 entering .....32 exiting

Trip Distribution

The development's main entrance will be onto Baker Ave. The communities in closest proximity are Whitefish with a population of 6,650 and Kalispell (14.5 miles south) with a population of 21,000. It is assumed that the fairly small businesses in this development will primarily serve the Whitefish community. Therefore, the following trip distribution will be applied:

- 75% of trips shall originate or end north of the development (i.e. to/from Whitefish)
- 25% of trips shall originate or end south of the development (i.e. to/from Kalispell)

Applying this distribution, the generated new trips will be distributed as follows:

- Weekday.....563 trips
  - 281 entering .....211 from North .....70 from South
  - 281 exiting.....211 to North.....70 to South
- AM Peak Hour .....46 trips
  - 38 entering .....29 from North .....9 from South

  - 7 exiting..... 5 to North ..... 2 to South
- PM Peak Hour ..... 42 trips
  - 10 entering ..... 8 from North ..... 2 from South
  - 32 exiting..... 24 to North..... 8 to South

Section 7 – Impact on City Transportation Network

The transportation network in the area of the proposed development includes several key locations that will be most impacted by the additional trips generated in the MIX. These are reviewed one by one in the sections below:

Intersection of Baker Avenue & Commerce Street

To develop a sense of the possible impacts to this intersection, a base line must be established. A2Z Engineering reviewed the City's 2009 Transportation Study, found the applicable expected growth rate and studied the proposed future transportation system upgrade projects. We also performed a peak hour traffic count and used the data to run standard Highway Capacity Software 2010 (HCS) software performance analysis of the intersection. These evaluations were performed for the AM and PM peak hour periods in the years 2015 and 2020. They were also done specifically for the peak summer season traffic volumes (as requested by the City engineer), which can be 92% greater than average daily rates.

The HCS analysis of intersections with side streets controlled by stop signs does not review every vehicle movement in the intersection. Instead it computes a measurement of the amount of "delay" that someone sitting at the stop sign or waiting to turn left from the through street. The average delay for these vehicles is then applied to a graded scale as follows:

- Level of Service A - less than 10 seconds of delay
- Level of Service B - 10 to 15 seconds of delay
- Level of Service C - 15 to 25 seconds of delay
- Level of Service D - 25 to 35 seconds of delay
- Level of Service E - 35 to 50 seconds of delay
- Level of Service F - greater than 50 seconds of delay

The results of the modeling are summed up in the table on the next page:

Baker Avenue & Commerce Street						
Year	Peak Hour	Westbound Left/Right Turns		Southbound Left Turn		
		Delay	LOS	Delay	LOS	
2015	AM	11.2	B	8.3	A	City traffic, nothing from the MIX
	PM	10.3	B	8.0	A	
July 2015	AM	18.8	C	10.0	B	
	PM	14.4	B	9.0	A	
2020	AM	11.6	B	8.4	A	City traffic, nothing from the MIX
	PM	10.6	B	8.0	A	
July 2020	AM	22.1	C	10.5	B	
	PM	14.1	B	9.0	A	
2020	AM	11.7	B	8.4	A	City traffic & the MIX
	PM	10.8	B	8.1	A	
July 2020	AM	22.4	C	10.5	B	
	PM	14.6	B	9.1	A	

The modeling shows that the intersection currently performed at a very high level and will continue to do so into the year 2020 and with the additional trips generated by The MIX. Looking at the busiest time of the year, there is a lesser level of service but that level is very well maintained even with The MIX adding trips. None of the calculated service levels drop below a "B" level on an average daily basis or a "C" level on a peak seasonal usage basis.

Baker Avenue & The MIX Entrance

Using the HCS to model the level of service expected from the new entrance onto Baker Avenue finds that when the full development is built out in the year 2020 there will be a very good "B" level of service on the average day and an acceptable "C" level of service on a peak seasonal day.

Baker Avenue & The MIX						
Year	Peak Hour	Eastbound Left/Right Turns		Northbound Left Turn		
		Delay	LOS	Delay	LOS	
2020	AM	11.8	B	7.7	A	City traffic & the MIX
	PM	12.2	B	7.9	A	
July 2020	AM	17.8	C	8.3	A	
	PM	19.6	C	8.8	A	

Given that the northbound vehicles tuning into The MIX reach a maximum of nine per hour in the AM and only 2 per hour in the PM, the normal typical gap between morning left turners will be (60 minutes / 9 minutes) = 6 minutes 40 seconds. This number of left turning vehicles is very low. Utilizing the MDT Traffic Engineering Manual guidance provided in Chapter 28.4, the average daily traffic levels come nowhere close to warranting a left-turn or right-turn lane.

The approach width of the entrance onto Baker Avenue is designed as 24 feet wide. This entrance width is designed specifically to accommodate the needs of both the largest emergency vehicles (fire truck) and delivery of goods by modestly sized (WB-40) semi-trucks. An interior "T" turnaround area is also provided to have room for getting the same vehicles out without undue issues. The site has not been design to work flawlessly for the very largest semi-trucks that are common to interstates and primary highways (WB-67). Making that a requirement upon inner-city business locations would cause significant cost increases to allow for both the widened drives and the needed turn-around areas. Generally, in the infrequent deliveries by a very large vehicle, it is common to parallel park the truck on an adjacent city street (i.e. Baker Avenue) and use personnel and/or forklifts to move the freight from the truck to the business.

Exhibit 7 attached to this report shows the entrance / exit maneuver of an emergency vehicle. Exhibit 8 shows a typical WB-40 entrance / exit. And Exhibit 9 is included for comparison to an intersection in downtown Whitefish.

Separation of Baker/Commerce & The MIX Entrance

The issue has been raise that the main entrance / exit from The MIX does not align well with Commerce Street. Referencing Exhibit 10 attached to this report there are two things to consider. First, in the City's engineering standards there is a requirement of a 125 ft minimum spacing between side street intersections, so this has been illustrated on the exhibit in green. The engineering standards also cite requirements for drives entering city streets and the minimum offsets from City streets. The 2009 City transportation plan has a map (Figure 2.2) shows Baker Avenue as a local street south of West 18th Street. Therefore the requirement is to place the edge of any new drives at least 35 feet from the edge of any City streets (Section 8.3). This development appears to meet that standard.

Looking at the actual street center to drive center dimension, the spacing is approximately 63 feet. Turning templates are set on Exhibit 10 showing the expected turning pathway of vehicles entering Baker Avenue from both these approaches. The turns don't physically overlap, but factoring in driver reaction times, traffic on Baker, motorist inattention and other human factors there isn't much left for a factor of safety. Relocation of The MIX approach further to the south would be an improvement for this situation but it would cause the development to need to be significantly redesigned, and may also cause the loss of an entire building pad. The driveways into The MIX are basically improvements of drives that already exist.

Intersection of Commerce Street & US Highway 93

During the meeting with the city engineer it was expressed that there have been some difficulties reported on the western approach to the traffic signal at US93 & Commerce. Review of this intersection approach shows the following:

- there are three signal heads for eastbound vehicles which exceed the minimum standards
- sight distance on the corners is adequate for the type of control
- there is a provided separate left-turn lane with storage for two to three vehicles, which removes those vehicles from blocking through and right-turning vehicles

So overall the approach provides good service for the motorists. However there is a possible issue. The striping showing the left turn lane can be obscured by a waiting vehicle if it does not pull fully up to the stop bar. If further observations or citizen complaints indicate that this causes some level of confusion,

one possible resolution would be to request from MDT the installation of intersection lane control signs over the left turn lane, such as the following:

Intersection of West 19th Street & US Highway 93

One of the concerns of the city engineer was for the traffic that travels southward on Baker Avenue from the development who then turn onto West 19th Street and pull up to US Highway 93 and seek to turn left.

The author of this report used the Highway Capacity Software and the available MDT and A2Z traffic counts on US93 and Baker to perform a rough peak hour analysis of the intersection. The findings were that the left-turns from US93 perform at LOS's A & B, the West 19th Street right-turns are at an LOS C. The movement of primary concern, left-turns from eastbound W 19th Street to US93 northbound, do have a rather poor LOS of F with an average control delay per vehicle of 59 seconds (with and without any contribution from The MIX).

The city engineer's voiced concern was whether this approach may be better served if the city were to place a sign prohibiting vehicles from turning left. This is a reasonable concern. With an average vehicle waiting a minute before finding a sufficient gap to turn left safety across US93, there will be many drivers that are impatient and try to use gaps that are too short. This has the effect of increasing the number of crashes and near-crashes. The best course of action would be for the city engineer to obtain the last three years of crash reports at the intersection from the State/Whitefish PD and determine how many crashes are being generated annually.

There are several points to be made in this situation:

- Generally for locals this situation is self correcting. A motorist who waits so long to make this turning movement will notice that there is a traffic signal located only one block to the north. If they need to make a left turn onto US93 in this area regularly they will adjust to using the traffic signal during periods of heavy traffic. Therefore, it is usually the motorists driving an unusual route or someone new to the area that will enter the situation most often. So the crash reports will provide the best indicator of a problem that needs a turning-prohibition as a solution.
- To effectively prohibit left-turns will likely take more than just erecting a sign or painting the pavement. Often the road authority has to install concrete curbing as a barrier, forcing the vehicles to turn right. This curbing located out in an intersection can cause issues related to snow plowing and vehicle damage if it is not correctly designed and maintained. Since it adjoins the federal/state highway, the City would need to come to an agreement with MDT for implementation.

- Creating a turning prohibition does not get rid of the motorist's need to get to the northbound lane of US93. These turning movements are not eliminated but are actually moved to a new location. The city engineer would need to evaluate where the turns would now occur and whether that location provides an improvement in safety. Currently the nearest turn-around location would be the entrance and parking lot of the Les Schwab tire store, or possibly using the US93 two-way-left-turn-lane and a gap in the northbound traffic to make some type of mid-highway "U" turn.

Intersection of Baker Avenue & West 13th Street

Baker & 13th is a typical 4-approach all-way stop controlled intersection. The corner site distances are adequate for the type of control. The intersection is estimated to accommodate approximately 10,000 trips per day moving north/south by MDT; and east/west volumes are likely less possibly ranging from 2,000 to 4,000 per day. The City's 2009 traffic study suggested that it should be inspected periodically as traffic increases as a candidate for a traffic signal. A general review of the nine warrants for installation of a traffic signal given by the federal Manual on Uniform Traffic Control Devices (MUTCD) seems to indicate that the present conditions and traffic volumes are not sufficient for an upgrade to the control.

Casual observation suggests that the heaviest turning movements are (1) the southbound left-turn and (2) the westbound right-turn. The northern approach receives the most usage, followed by the southern and eastern.

The MIX development will primarily impact this intersection in the AM and PM peak hours. The contribution, assuming that all the trips originating/ending on Baker Avenue north of the development travel five blocks up or down Baker without turning on or off, that will go through the intersection is as follows:

- AM peak hour
  - five trips going north
  - 29 trips going south
- PM peak hour
  - 24 trips going north
  - eight trips going south

Assuming the intersection see's a peak flowrate of 8% of the Baker Avenue AADT of 10,000, the north approach will increase from about 400 to 429 trips per hour maximum. This is an increase of about 7% to the through movement. At these volumes, the level of service on the most used approaches in such an intersection are typically low B to high C, which is very typical and acceptable in most transportation networks.

Section 8 – Access Management

Applicable access management standards appear to be outlined in the Whitefish city ordinances Section 11-6-8 Part B. The standards assert that there shall be:

- Regulation B.1. - 10 ft to 24 ft in width for a one-way entrance
  - The MIX design - the northernmost entrance in one-way entry and is 16 ft wide
- Regulation B.1. - 20 ft to 36 ft in width for two-way entrance
  - The MIX design - the southernmost entrance has a width of 24 feet
- Regulation B.2. - no more than two accesses for each 100 ft of frontage
  - The MIX design - two entrances in just over 300 feet are shown
- Regulation B.3. - no 2 roadways closer than 12 ft or closer to the side property line than 2 ft
  - The MIX design - the drives have sufficient spacing to meet these

Section 9 – Traffic Calming

Traffic calming is explained at length in the City's engineering standards in Section 8.11. This report can only focus upon one of the three aspects of traffic calming which are Engineering, Education and Enforcement. Engineering is the element most related to the development site design at this point. It is also mentioned in the City document that applications of after-thought measures like speed bumps and speed limit signs are typically either not effective or attempts to cover up a lack of good initial design.

The MIX development is in general is on the small side to see application of a large number of traffic calming design features. It does not provide a pathway for cut-through traffic from one city street to another; but only serves the buildings in the development. There will be elements of landscaping coming out to the edge of the driving lane (parking lot islands). The interior drives run along parking spaces and makes 90 degree turns in several locations. These are elements that will naturally cause motorists to moderate their speeds.

This report has no additional recommendations beyond the existing design layout.

Section 10 – Mitigation Measures

This report suggests the following measures to mitigate impacts upon the adjacent city street:

- To provide standardized control to vehicles exiting the site, a stop sign is recommended on The MIX entrance approach

The other issues of concern are less concrete:

1. There is a valid concern about whether left-turns from West 19th Street onto US Highway 93 northbound can be accommodated in a safe and efficient way. This report recommends review of the last three years of crashes to determine if it is an issue that needs to be solved. However, the author cannot link any number of trips generated by The MIX development that would then want to make this particular turn, so it is an issue likely beyond the scope of this study.
2. The northbound stop controlled approach at West 13th Street and Baker Avenue will be impacted by trips from The MIX. However the next level of control to impose upon the intersection is a traffic signal and the warrants for that are clearly not being met.
3. The eastbound approach to the traffic signal at Commerce Street and US Highway 93 has garnered some citizen complaints for confusion about lane selection. Asking MDT to study the situation for possible installation of lane control signage on the signal mast arm may be in order.
4. The close proximity of the main entrance into The MIX to the intersection of Baker Avenue and Commerce Street is certainly a concern. However it appears to technically meet the City regulations. There are numerous locations where drives from commercial parking lots, with higher numbers of vehicles, are not set off significant distances from adjacent streets. So forcing a re-design of the site layout to modify driveway location is likely not justified.

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Fax 406.755.7880
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MONTANA
ROBERT SMITH
No. 12592 PE
LICENSED PROFESSIONAL ENGINEER

REVISIONS:

DRAWN BY: R Smith
CHECKED BY: R Smith

CALL BEFORE YOU DIG!
406-755-1810 (GSHA)
CALL BEFORE YOU DIG!

THE MIX AT WHITEFISH
Mixed Use Development

Existing Site Plan

Baker Avenue
Whitefish, Montana 59937

Plan Sheet Number:

Exhibit
1

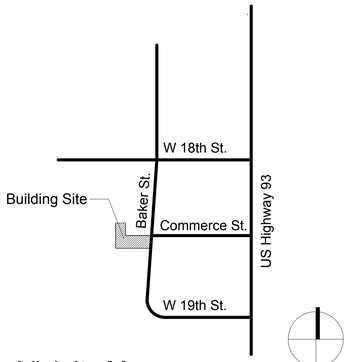
Proposed Mixed Use Development:

The Mix @ Whitefish

1840/1842/1864/1846 Baker Avenue,Whitefish, Montana

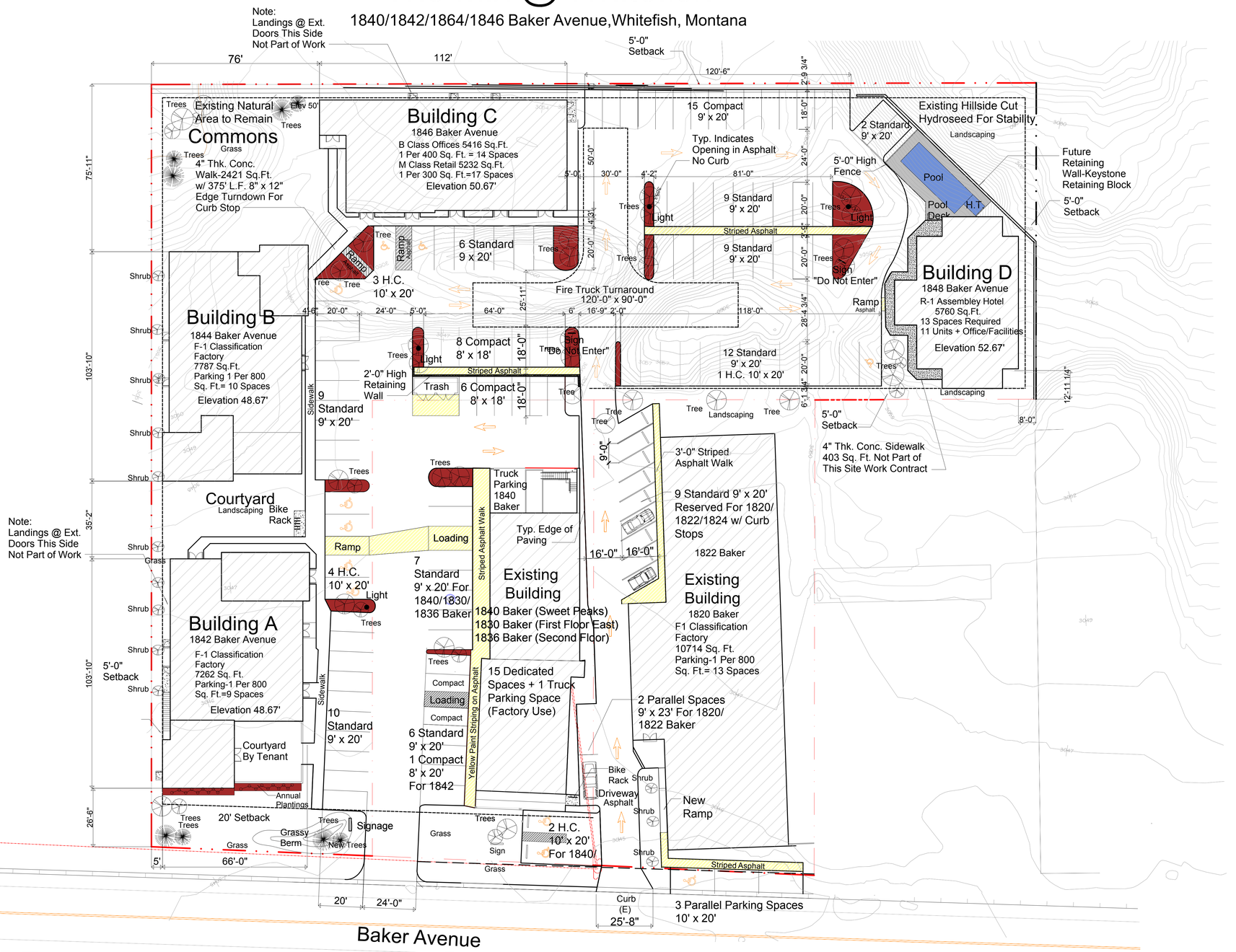
Color Key

- Concrete Sidewalks See Notes on Plan
- Landscaping/Planter Areas
- Openings In Asphalt No Curbs-Mulch
- Yellow Striped Asphalt Areas
- Proposed Building Footprint



Vicinity Map

North
No Scale



Note: Landings @ Ext. Doors This Side Not Part of Work

Parking Calculations:

Proposed Use: Mixed F1/B/R-1

Parking Required:
- Building A 9 Spaces
- Building B 10 Spaces
- Building C 31 Spaces
- Building D 13 Spaces
- 1840/1836 15 Spaces
- 1820/1822 13 Spaces

Total 91 Spaces Required

Parking Provided:
- 81 Standard Spaces 9' x 20'
- 30 Compact Spaces 8' x 16'
- 11 HC Spaces 10 x 20
- 1 Truck Space

123 Spaces Total

Site Plan/ Parking/Landscaping

Scale: 1" = 20'-0"

HUTSON & PARTNERS ARCHITECTURE
305 NORTH COAST HIGHWAY, SUITE L
LAGUNA BEACH
CALIFORNIA 92651
TEL (949) 715-4062

Architect Stamp

Lyndon L. Steinmetz Design Studio, LLC
Kalispell, Montana (406) 257-5463

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1840 Baker Avenue
The Mix @ Whitefish
Whitefish, Montana

All craftsman & trades shall verify all levels, datums, and dimensions prior to commencement of the work. All errors and omissions must be reported immediately to the CONTRACTOR for clarification prior to proceeding with the work.

Do Not Scale these Drawings

This drawing must not be used for construction unless it is marked ISSUED FOR CONSTRUCTION.

Site Plan

● Issued For Pricing
○ Issued For Construction
● Date Printed 08/21/15

Drawing Info	
Drawn	L.L.S.
Date	08/21/15
Scale	1/4"
Job	MT00614
Sheet	ARB1

1 of 5

Exhibit 3 - Study Scoping Email

From: Karin Hilding [khilding@cityofwhitefish.org]
Sent: Tuesday, October 20, 2015 12:22 PM
To: Rob Smith
Cc: Wendy Compton-Ring
Subject: Re: THE MIX - Traffic Study Scope

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Rob,
Wendy and I would also like you to look at the offset of the approach onto Baker with the Commerce Street intersection. With the close offset please look at possible conflicts between vehicles turning left out of the Mix onto Baker with vehicles turning left onto Baker from Commerce Street. Also, check the width of the approach onto Baker Avenue considering that the project includes commercial development and truck traffic.
Thanks,
Karin

Karin Hilding, PE, LEED AP
Senior Project Engineer
City of Whitefish
(406) 863-2450
khilding@cityofwhitefish.org

On 10/19/2015 3:00 PM, Rob Smith wrote:

Karin - To summarize our conversation this afternoon, I thought I would send you this email outlining the items that the traffic study for The MIX project. The main concerns you expressed included:

- examination of the intersection of Commerce and Baker
- examination of the intersection of Baker and US93 (especially left turns from Baker onto US93)
- examination of the intersection of Baker and 13th (4-way stop)
- examination of the west leg of the intersection of Commerce and US93 (possible motorist confusion)
- review of the need for a left-turn or right-turn lane from Baker into The MIX
- review of seasonal traffic volume surges on Baker Avenue

Please let me know if you have any other concerns.

Thanks,

Robert Smith, PE, PTOE
Project Engineer

A2Z Engineering, PLLC
138 East Center St., Ste A
Kalispell, MT 59901
406.755.7888

Exhibit 4 - Vicinity Map

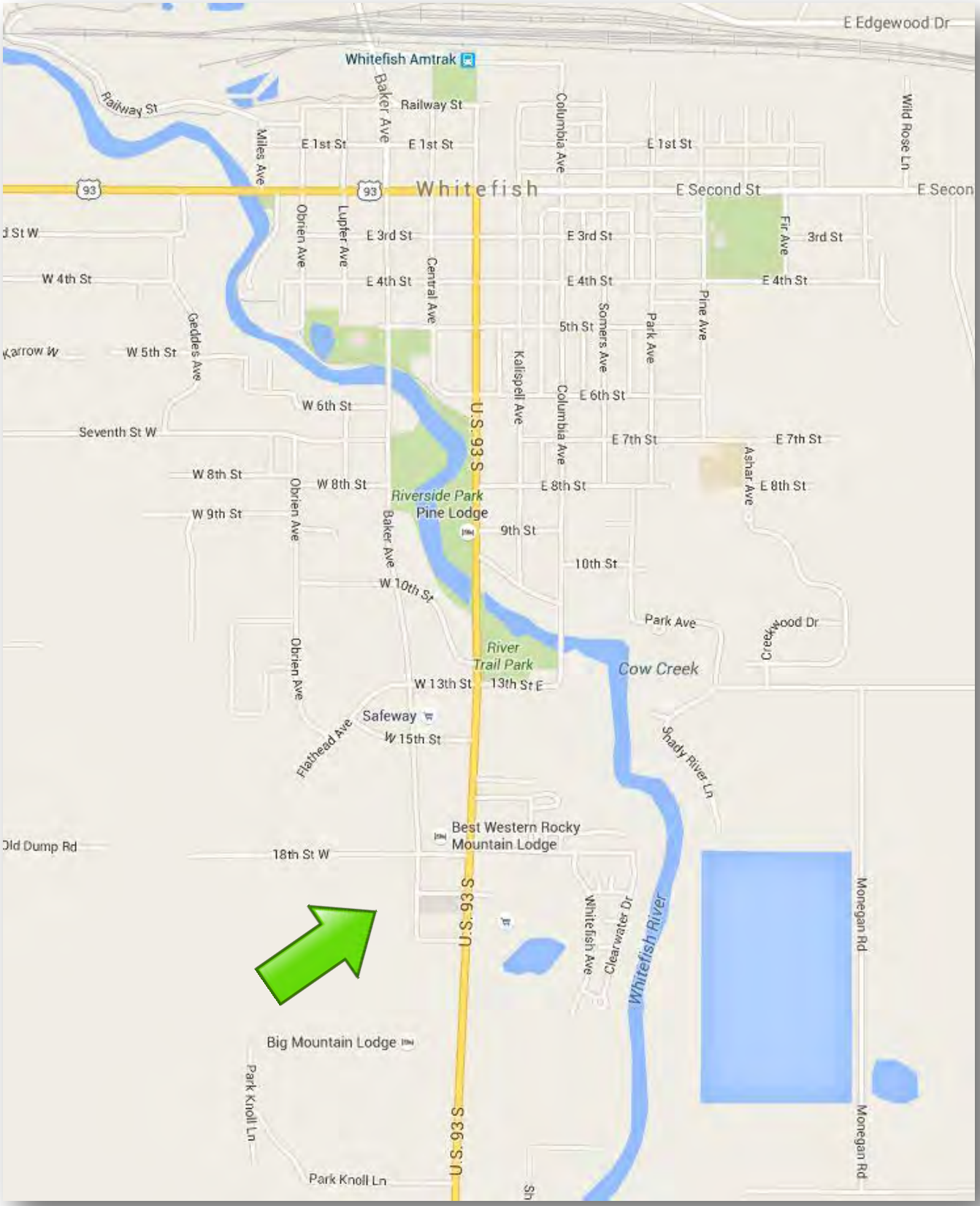


EXHIBIT 5 - EXISTING SYSTEM PHOTOS

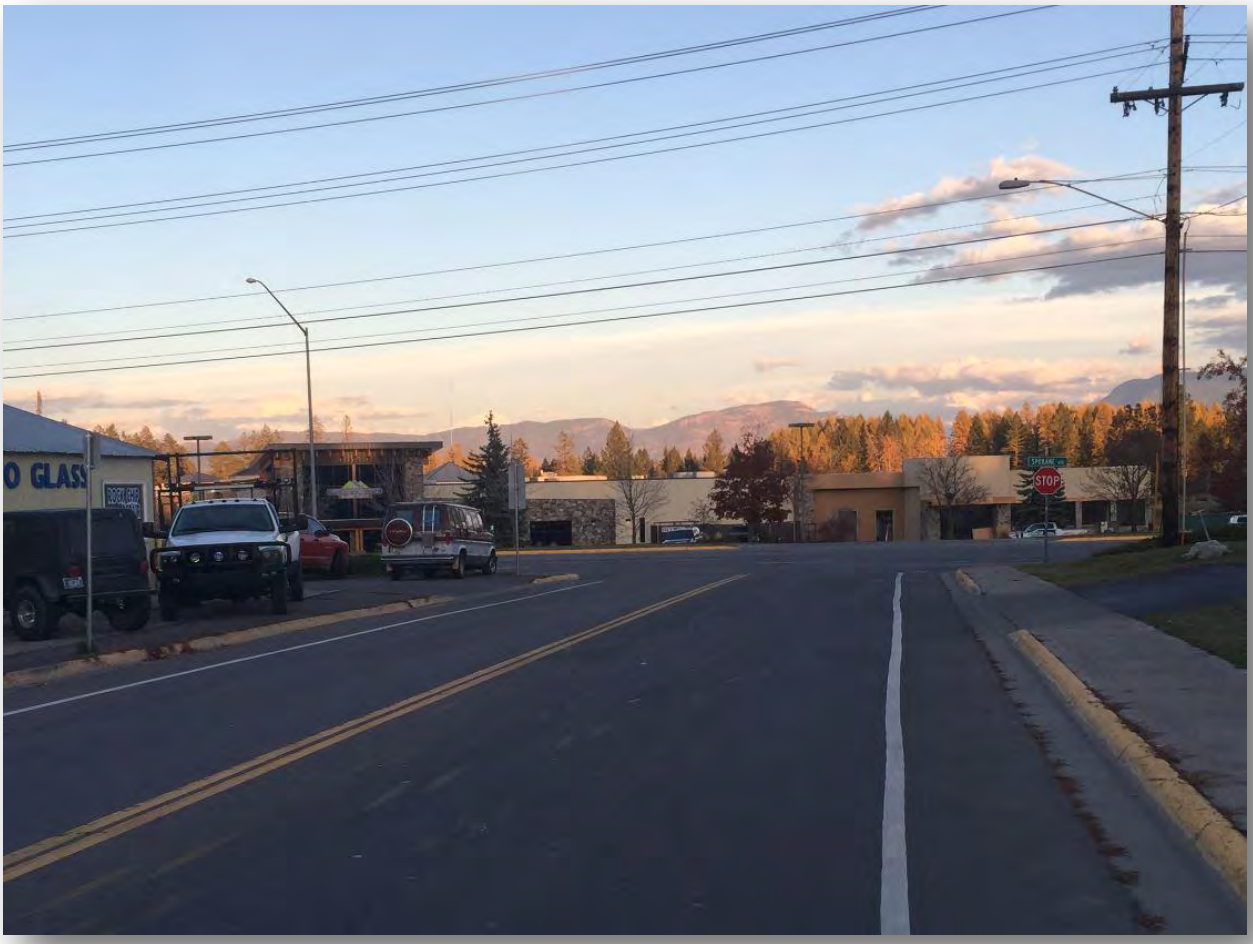
Baker Avenue at The MIX, looking North

Baker Avenue at The MIX, looking South

EXHIBIT 5 - EXISTING SYSTEM PHOTOS

Commerce Street at Mid-block, looking West

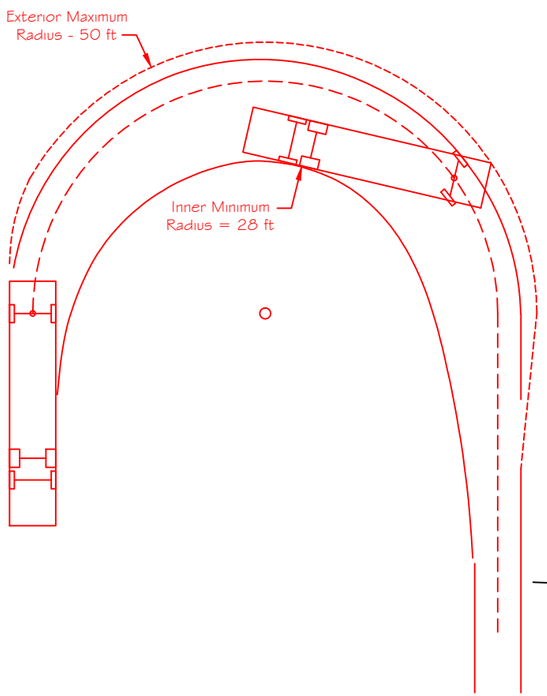
Commerce Street at Mid-block, looking East

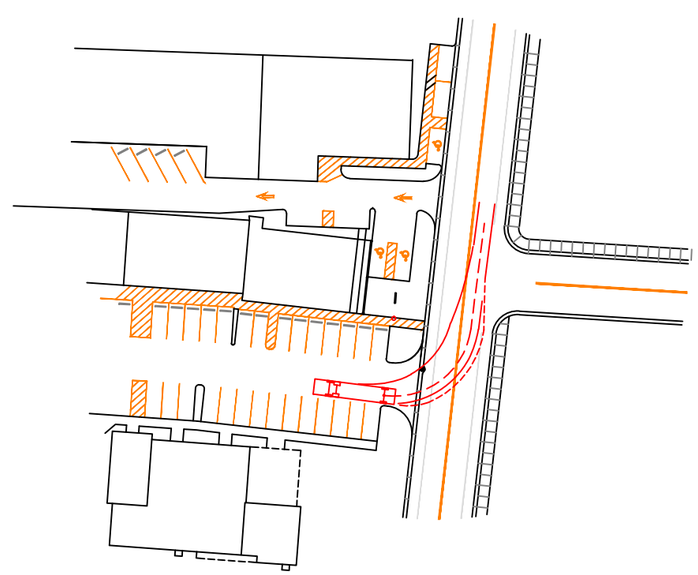


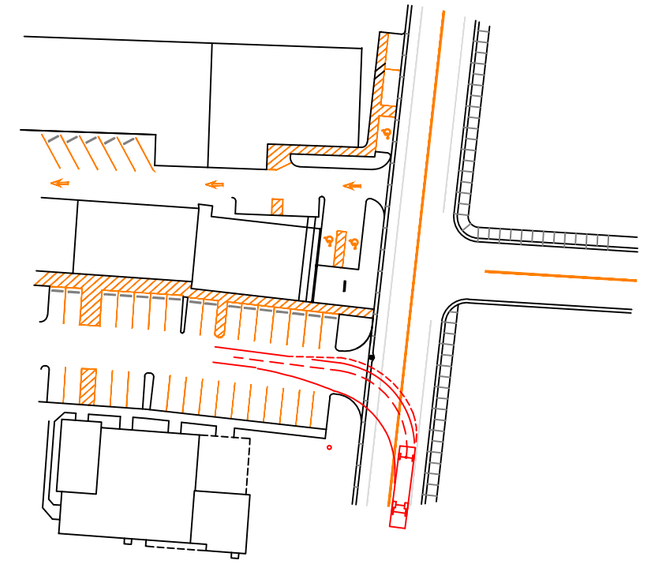
West 19th Street at Mid-block, looking East

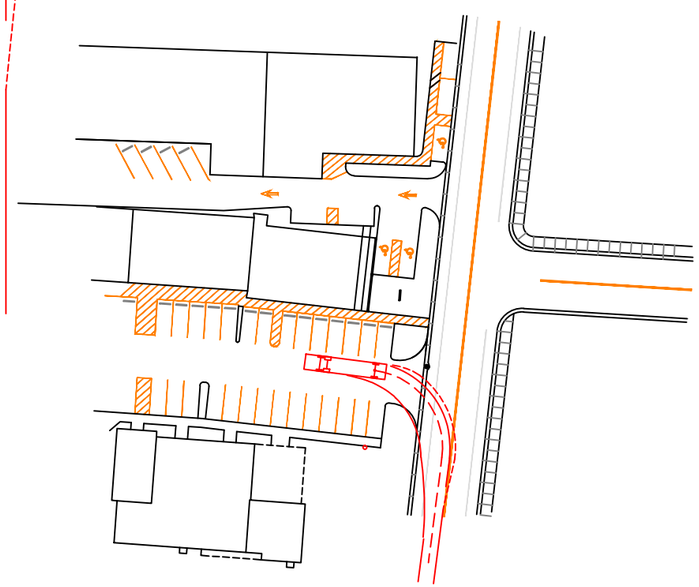
Exhibit 6 - The MIX at Whitefish - Trip Generation Calculations

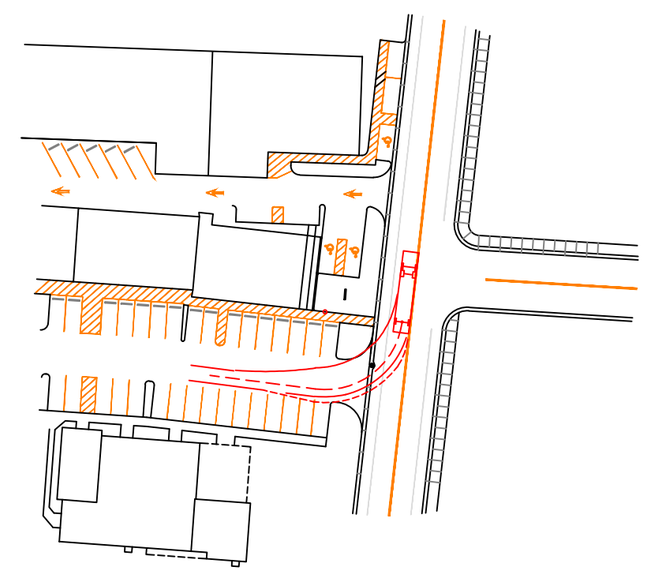
Building	ITE Use Description	Code #	Page #	Floor Area	Time	Rate	Total	% Entering	# Entering	% Exiting	# Exiting
Existing 1820	Business Park	770	1346	10714	Weekday	12.76	137	50%	68	50%	68
			1347		AM Pk Hr	1.43	0	84%	0	16%	0
			1348		PM Pk Hr	1.29	0	23%	0	77%	0
Existing 1840	Business Park	770	1346	8076	Weekday	12.76	103	50%	52	50%	52
			1347	8076	AM Pk Hr	1.43	12	84%	10	16%	2
			1348	8076	PM Pk Hr	1.29	10	23%	2	77%	8
Existing Buildings' Traffic Generation					Weekday		240		120		120
					AM Pk Hr		12		10		2
					PM Pk Hr		10		2		8
New Bldg A	Business Park	770	1346	7262	Weekday	12.76	93	50%	46	50%	46
			1347	7262	AM Pk Hr	1.43	10	84%	9	16%	2
			1348	7262	PM Pk Hr	1.29	9	23%	2	77%	7
New Bldg B	Business Park	770	1346	7787	Weekday	12.76	99	50%	50	50%	50
			1347	7787	AM Pk Hr	1.43	11	84%	9	16%	2
			1348	7787	PM Pk Hr	1.29	10	23%	2	77%	8
New Bldg C	Business Park	770	1346	5416	Weekday	12.76	69	50%	35	50%	35
			1347	5416	AM Pk Hr	1.43	8	84%	7	16%	1
			1348	5416	PM Pk Hr	1.29	7	23%	2	77%	5
New Bldg D	Motel	320	630	11 rooms	Weekday	5.63	62	50%	31	50%	31
			631	11 rooms	AM Pk Hr	0.45	5	84%	4	16%	1
			632	11 rooms	PM Pk Hr	0.47	5	23%	1	77%	4
New Buildings' Traffic Generation					Weekday		323		162		162
					AM Pk Hr		34		29		5
					PM Pk Hr		32		7		24
Total Traffic Generation					Time		Total		# Entering		# Exiting
					Weekday		563		281		281
					AM Pk Hr		46		38		7
					PM Pk Hr		42		10		32











Revisions:

Drwn by: R Smith
Chkd by: R Smith

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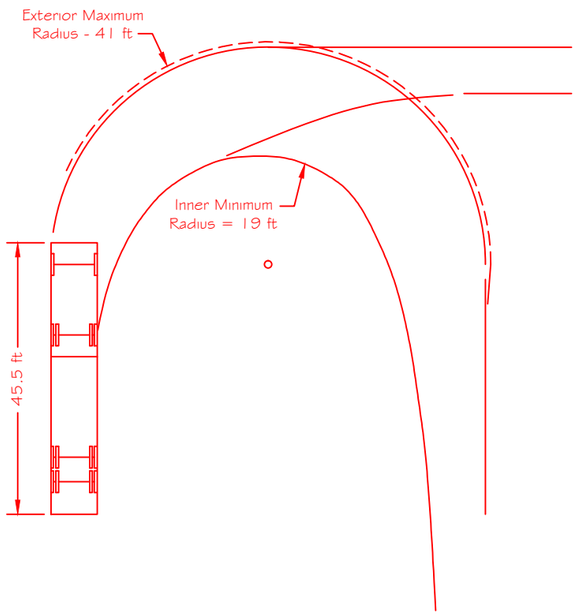
Kalispell, Montana

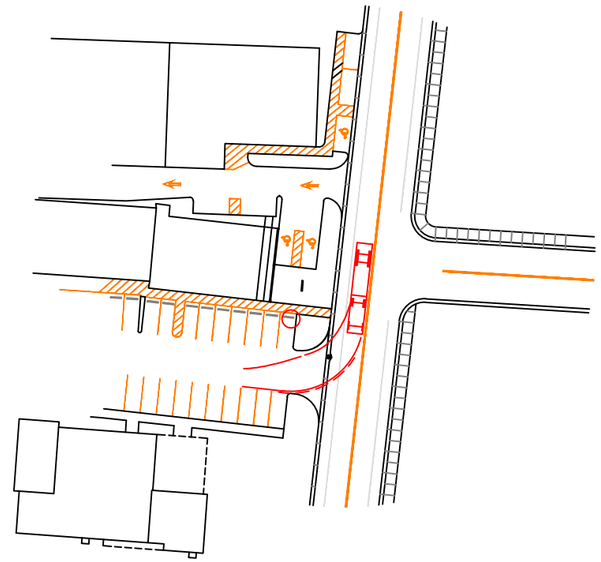
138 E. Center Street, Ste A
Kalispell, MT 59901
Phone (406) 755-7888
A2Z-Engineering.com

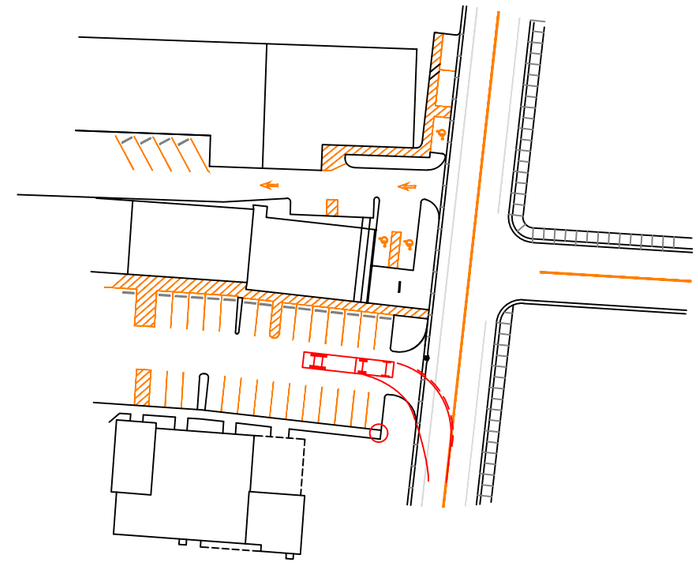
The MIX
Entrance Width for Fire Truck Access
Whitefish, Montana

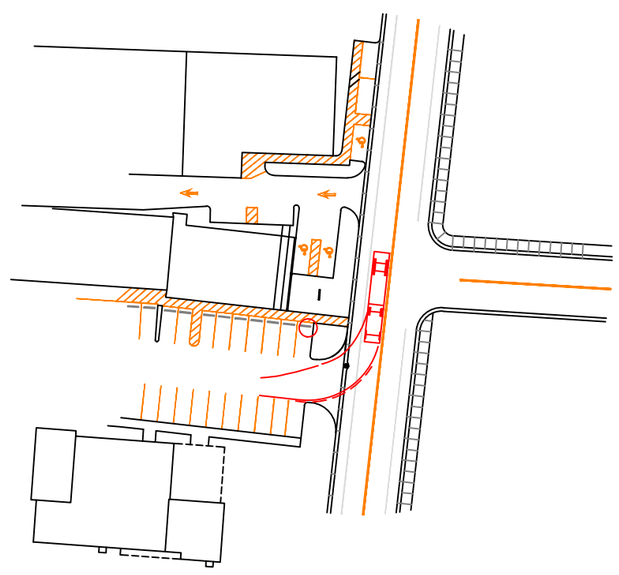
Plan Sheet Number:

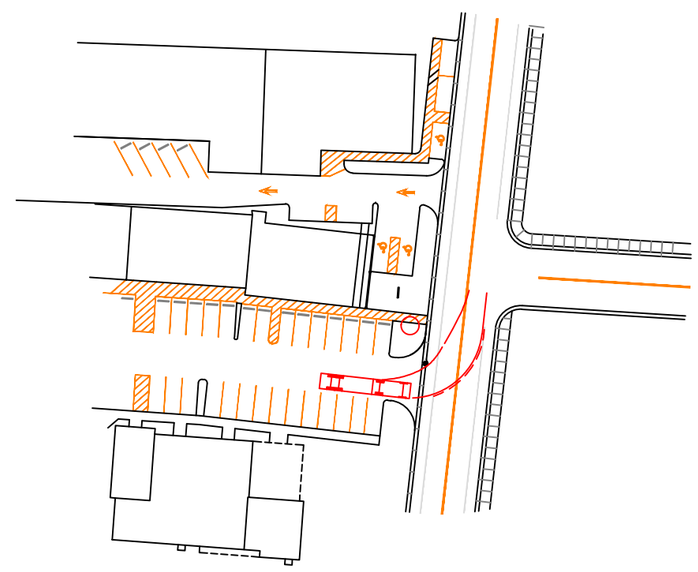
Exhibit
7











Revisions:

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Chkd by: R Smith

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Kalispell, Montana

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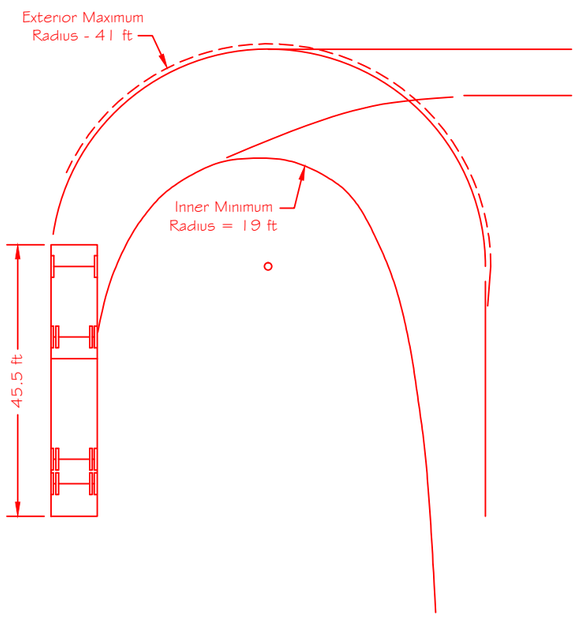
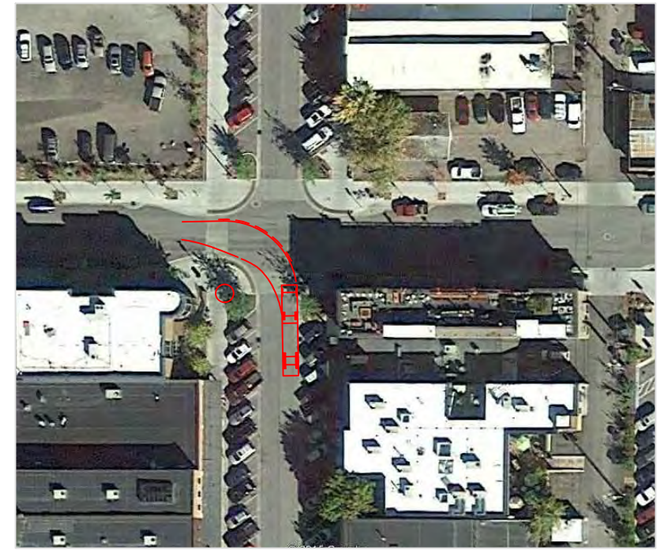
Kalispell, MT 59901
Phone (406) 755-7888
A2Z-Engineenng.com

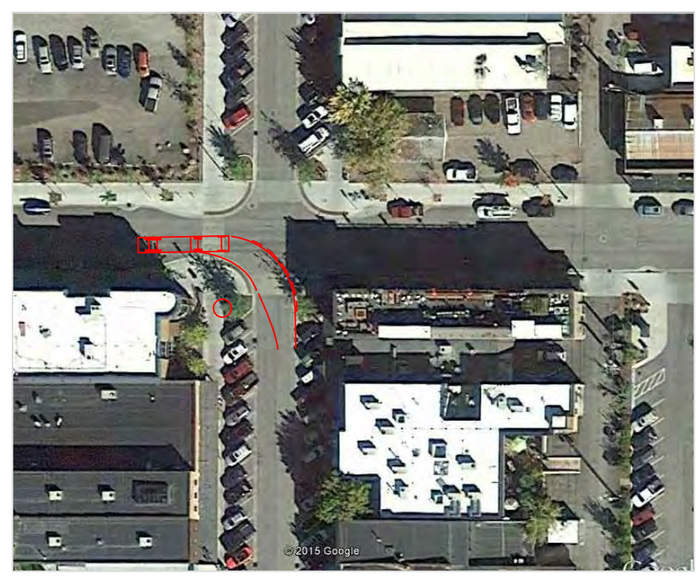
The MIX
Entrance Width for WB40
Intermediate Semi-trailer
Whitefish, Montana

Plan Sheet Number:

Exhibit
8







Revisions:

Drwn by: R Smith
Chkd by: R Smith

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Kalispell, Montana

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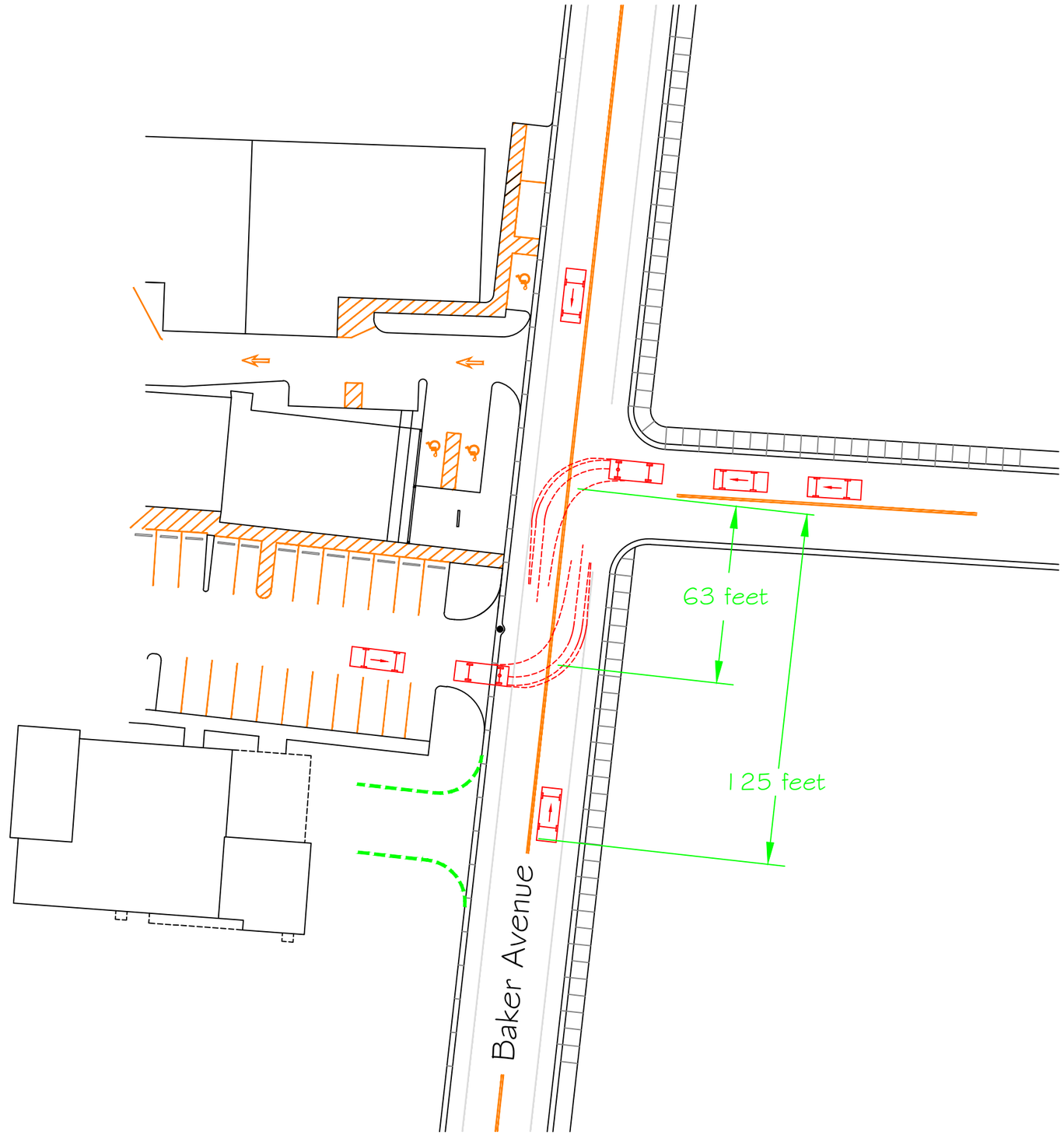
Kalispell, MT 59901
Phone (406) 755-7888
A2Z-Engineering.com

The MIX
Entrance Comparison for WB40 Truck
Downtown @ Central Ave & E 1st Street
Whitefish, Montana

Plan Sheet Number:

Exhibit
9



Revisions:

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Chkd by: R Smith

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Kalispell, Montana

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Kalispell, MT 59901
Phone (406) 755-7888
A2Z-Engineering.com

The MIX
Intersection / Entrance Offset
Whitefish, Montana

Plan Sheet Number:

Exhibit 10

Wendy Compton-Ring

From: Angela Jacobs <ajacobs@cityofwhitefish.org>
Sent: Tuesday, November 17, 2015 9:32 AM
To: 'Dave Taylor'; 'Wendy Compton-Ring'
Subject: FW: 1840 Baker CUP

FYI

Angela Jacobs, City Attorney
City of Whitefish
1005 Baker Avenue
PO Box 158
Whitefish, MT 59937-0158
863-2444
863-2419 (Fax)
ajacobs@cityofwhitefish.org

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From: Eric H. Mulcahy [mailto:eric@sandssurveying.com]
Sent: Tuesday, November 17, 2015 9:19 AM
To: ajacobs@cityofwhitefish.org
Cc: 4usbiz@gmail.com; Keni L. Hopkins <khopkins@cityofwhitefish.org>
Subject: 1840 Baker CUP

Angela,
On behalf of my client, 1840 Baker LLC, et al, and Elaine Edwards, we grant the City of Whitefish an extension of time beyond the 90 day review period to consider the CUP for The Mix at Whitefish. The extension will allow the City to consider and make a decision on the request at the regular meeting of December 7th, 2015. Please let me know if you need additional information.

Eric H. Mulcahy, AICP
Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901
Ph. (406) 755-6481
Fax (406) 755-6488

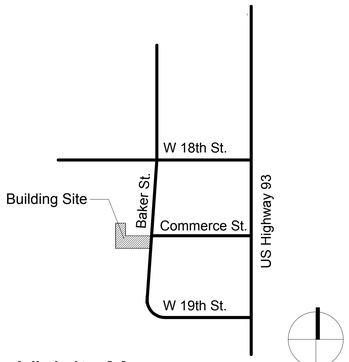
Proposed Mixed Use Development:

The Mix @ Whitefish

1840/1842/1864/1846 Baker Avenue,Whitefish, Montana

Color Key

- Concrete Sidewalks See Notes on Plan
- Landscaping/Planter Areas
- Openings In Asphalt No Curbs-Mulch
- Yellow Striped Asphalt Areas
- Proposed Building Footprint



Vicinity Map

Parking Calculations:

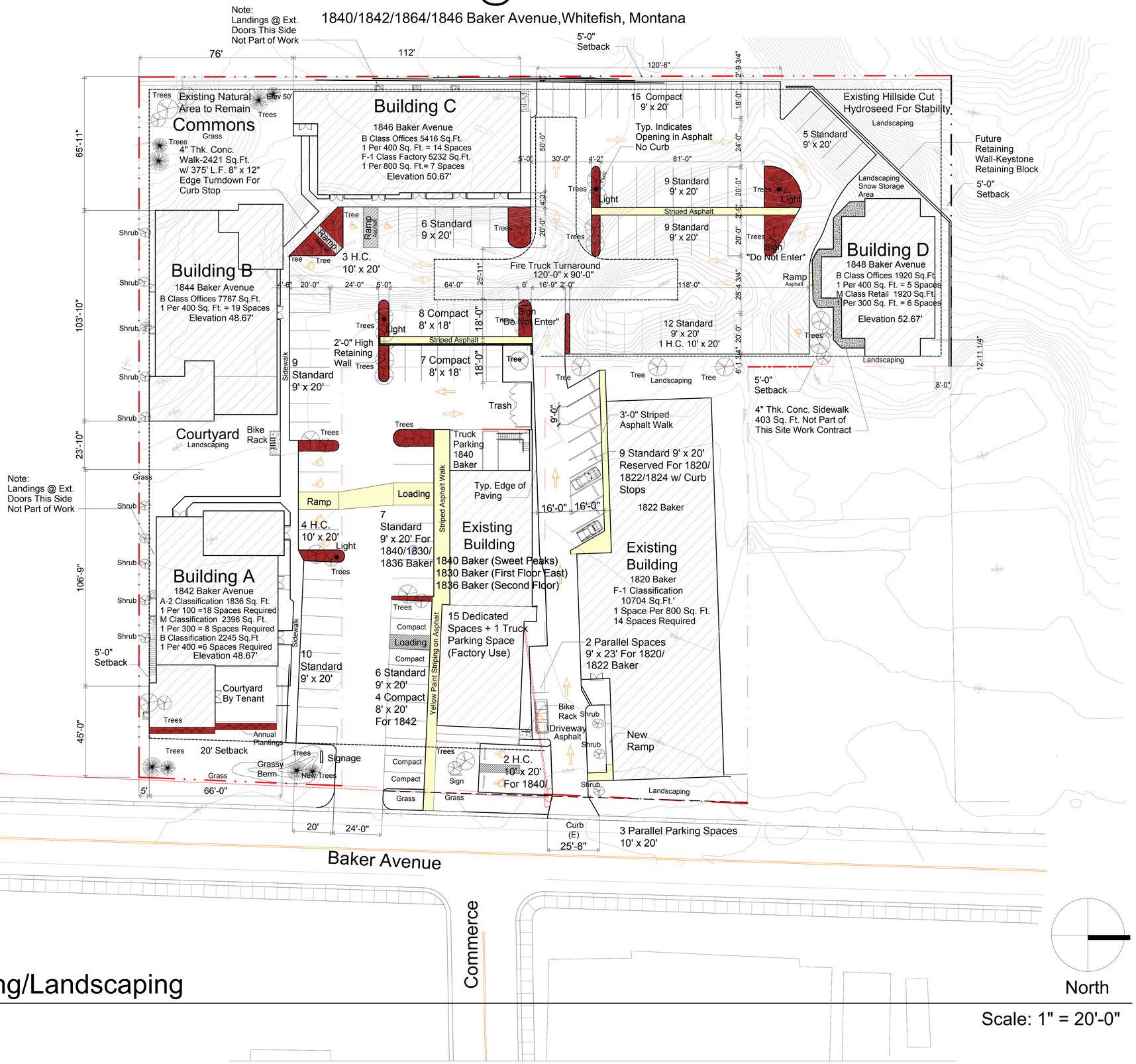
Proposed Use: Mixed F1/A-2/B/M

Parking Required:
Building A 32 Spaces
Building B 19 Spaces
Building C 21 Spaces
Building D 11 Spaces
1840/1836 15 Spaces
1820/1822 14 Spaces

Total 112 Spaces Required

Parking Provided:
84 Standard Spaces 9' x 20'
34 Compact Spaces 8' x 16'
8 HC Spaces 10 x 20
1 Truck Space

129 Spaces Total



Site Plan/ Parking/Landscaping

HUTSON & PARTNERS
ARCHITECTURE
305 NORTH COAST HIGHWAY, SUITE L
LAGUNA BEACH
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1840 Baker Avenue
The Mix @ Whitefish
Whitefish, Montana

All craftsman & trades shall verify all levels, datums, and dimensions prior to commencement of the work. All errors and omissions must be reported immediately to the CONTRACTOR for clarification prior to proceeding with the work.

Do Not Scale these Drawings

This drawing must not be used for construction unless it is marked ISSUED FOR CONSTRUCTION.

Site Plan

- ● Issued For Pricing
- ○ Issued For Construction
- ● Date Printed 11/30/15

Drawing Info	
Drawn	11/22/15
Date	11/30/15
Scale	1/4"
Job	MT00614
Sheet	ARB1
	1 Of 5

ELAINE EDWARDS
1840 BAKER LLC
PO BOX 5270
WHITEFISH, MT 59937

201300013666
Page: 1 of 6
Fees: $52.00
6/6/2013 11:17 AM
Paula Robinson, Flathead County MT by JL

00131131 04057765

ORDINANCE NO. 13-04

An Ordinance of the City Council of the City of Whitefish, Montana, approving a zone change for property identified as 1830 Baker Avenue and 1840 Baker Avenue.

WHEREAS, Elaine Edwards and 1840 Baker, LLC applied to the Whitefish Planning and Building Department for a zone change for their properties identified as 1830 and 1840 Baker Avenue, which properties include the former site of Master Plumbing; and

WHEREAS, the applicants requested a change from the existing WI (Industrial and Warehousing) to WI/WB-2-SC (Industrial and Warehousing/Secondary Business) with a proposed offer of restrictive conditions; and

WHEREAS, in response to such application, the Whitefish Planning and Building Department prepared Zone Change Report WZC-13-02, dated April 18, 2013, which analyzed the proposed zone change and recommended in favor of it; and

WHEREAS, at a lawfully noticed public hearing on April 18, 2013, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed Zone Change Report WZC-13-02 and the proposed offer of restrictive conditions, invited public comment, and thereafter voted to recommend in favor of the proposed zone change; and

WHEREAS, at a lawfully noticed public hearing on May 6, 2013, the Whitefish City Council received an oral report from Planning Staff, reviewed Zone Change Report WZC-13-02 and the proposed offer of restrictive conditions, and took public comment, and thereafter voted to approve the zone change with the amended restrictive conditions, attached as Exhibit "A"; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the zone change with the amended restrictive conditions; and

WHEREAS, the proposed zone change will meet the criteria contained in § 11-7-11(D) of the Whitefish City Code.

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

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

Section 2: Zone Change Report WZC-13-02, together with a letter of transmittal dated May 6, 2013, from the City Planning and Building Department to the Whitefish City Council, are hereby adopted as Findings of Fact

Section 3: The properties identified as 1830 and 1840 Baker Avenue, and legally described as Assessors Tracts 6BGA and 6BK, Section 1, Township 30 North, Range 22

West, Whitefish, Flathead County, Montana, which were previously zoned WI (Industrial and Warehousing), are hereby rezoned to WI/WB-2-SC (Industrial and Warehousing/Secondary Business), subject to the restrictive conditions, Exhibit "A". The City Attorney is authorized and directed to prepare the Statement of Conditions according to § 11-7-12(D)(5) of the Whitefish City Code, and in an appropriate contractual form for recording with the Flathead County Clerk and Recorder.

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

Section 5: 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 6: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS 20TH DAY OF MAY, 2013.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

EXHIBIT A

CONDITIONAL ZONING STATEMENT OF CONDITIONS

Ordinance No. 13-04

We, Elaine Edwards and 1840 Baker, LLC, owners of parcels of land described in Exhibit A-1 and located in S1-T30N-R22W, also known as 1840 Baker Avenue and 1830 Baker Avenue, Whitefish, Flathead County, Montana, hereby voluntarily consent to the following Statement of Conditions as part of rezoning our property to Industrial and Warehouse/Secondary Business District (WI/WB-2/SC):

1. The subject parcels shall be subject to the development requirements of the WI Zone for yard setbacks, height limitations, minimum lot width, and minimum lot size, with the exception of the following:
   Minimum Yard Spaces:

Front:	20'
Side:	5'
Rear:	5'

2. In addition to the following uses and conditional uses as amended in the WI zone, the subject parcels may be developed for the following principal uses from the WB-2:

   WI Amended
   Permitted Uses
   - Automobile sales and service
   - ~~Boat and recreation vehicle storage~~
   - ~~Building supply outlets~~
   - ~~Contractors' yards~~
   - ~~Heavy equipment service~~
   - Janitorial Services
   - Light industrial manufacturing, fabricating, processing, repairing, packing, or storage facilities.
   - ~~Nurseries and landscaping materials: retail and wholesale~~
   - Office space (Less than 10,000 square feet)
   - Parcel delivery service
   - Petroleum products: retail
   - ~~Public Utility facilities and storage yards~~
   - ~~Publicly owned or operated buildings, uses or recreational facilities~~
   - ~~Railroad Yards~~
   - Research laboratories and institutions
   - Tire sales

   Conditionally Permitted Uses
   - ~~Automobile and boat sales~~
   - ~~Automobile wrecking yards~~
   - ~~Heavy equipment sales and rentals~~
   - ~~Heavy industrial manufacturing, fabricating and processing~~
   - Microbreweries
   - ~~Outdoor amusements~~
   - ~~Petroleum products, wholesale~~

- ~~Sexually oriented businesses, as defined in section 11-9-2 of this title~~
- ~~Tire retreading and recapping~~

WB-2 Added

Permitted Uses

- Antique stores and auction barns
- Automobile and boat sales, parts, repair and service
- Furniture and floor covering stores
- Grocery stores
- Laundry and dry cleaning
- Machinery and equipment sales, rental and repair
- Medical Clinic
- Restaurant

Conditionally Permitted Uses

- Buildings greater than 15,000 square feet

3. Sign's shall be approved under the regulations for the Highway District.

4. The site shall be subject parking and landscaping regulations of the Whitefish Zoning Ordinance

The aforementioned conditions are part of rezoning the property and apply to the land, including all successors in title, interest, and assignees. We understand that if any agreed to conditions are transgressed, it becomes a violation of the City of Whitefish Zoning Ordinance.

DATED this 6th day of June, 2013.

1840 BAKER, LLC

By: Elaine Edwards
Printed Name: ELAINE EDWARDS
Its: MANAGER

1840 BAKER LLC
Elaine Edwards
Elaine Edwards

STATE OF MONTANA)
: ss
County of Flathead)

On this 6th day of June, 2013, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared ELAINE EDWARDS known to me to be the MANAGER of 1840 BAKER, LLC, that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of 1840 BAKER, LLC, for the uses and purposes therein mentoned, and on oath stated that he / she was authorized to execute said instrument on behalf of 1840 BAKER, LLC.

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

Victoria L Gallo
Notary Public for the State of Montana

(SEAL)

VICTORIA L GALLO
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
March 22, 2015

[print or type name of Notary]
Residing in _____
My Commission expires: _____

STATE OF MONTANA)
: ss
County of Flathead)

On this 6th day of June, 2013, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared ELAINE EDWARDS, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same.

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

Victoria L Gallo
Notary Public for the State of Montana

(SEAL)

VICTORIA L GALLO
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
March 22, 2015

[print or type name of Notary]
Residing in _____
My Commission expires: _____

EXHIBIT A-1

Legal Description of Property Rezoned

Tract 1:
A Tract of land in the Southwest Quarter of the Northwest Quarter of Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana, Described as follows:
Commencing at the northeast corner of the southwest quarter of the northwest quarter of Said Section 1; thence
South 00°10'west and along the easterly boundary line of said southwest quarter of the northwest quarter, a distance of 382.5 feet to a point; thence
North 89°50' west and parallel to the northerly boundary line of said southwest quarter of the northwest quarter, a distance of 393.6 feet to a true point of beginning of the tract of land herein being described; thence
North 89°50' west, a distance of 206.4 feet to a point; thence
North 02°36' east, a distance of 100.00 feet to a point; thence
South 89°50' east, a distance of 206.4 feet to a point; thence
South 02°36' west, a distance of 100.00 feet to a point of beginning.
Tract 2:
That portion of the southwest quarter northeast quarter of Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana, Known as:
Parcel B of Certificate of Survey No. 18334.

PO Box 771 ● 35 4th Street West
citizens@flatheadcitizens.org

CITIZENS FOR A BETTER FLATHEAD
www.flatheadcitizens.org

Kalispell, Montana 59903
T: 406.756.8993 ● F: 406.756.8991

To: Whitefish City Council for your December 7th public hearing.

Re: A request by Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC & 1820 Baker LLC, for a Conditional Use Permit pursuant to §11-2-3B(12) in order to develop a project with multiple principle structures. The property is zoned WI/WB-2–SC (Industrial/Secondary Business Districts with Special Conditions), located at 1842, 1844, 1846 and 1848 Baker Avenue and can be legally described as Tract 6BGA in S1 R30N R22W, P.M.M., Flathead County.

Date: November 30th, 2015

We are writing prior to your publication of your agenda for your meeting on December 7th. We assume and support that at the December 7th meeting you will adopt final findings of fact to support your denial of the following zone change request at your November 16th council meeting:

A request by Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC, and 1820 Baker LLC to amend the Whitefish zoning jurisdiction map to add the Commerce Street Condos at 1820/1822 Baker to the adjacent WI-SC (Industrial and Warehousing with a Statement of Conditions) zoning district, and amend the Statement of Conditions to add three additional uses for the district – trade schools, music schools, and hotels. The new district will be comprised of 2.71 acres of property addressed as 1820, 1822, 1824, 1830, 1840, 1842, 1844, and 1848 Baker. These properties can legally be described as Tracts 6BGA and 6BK and Units 1 and 2 of Commerce Street Condominiums, S01, T30N, R22W, P.M.M., Flathead County, Montana.

Given this denial of the requested zone change, we would also find that it would be appropriate and required by your own regulations that you now also deny the requested conditional use permit to allow multiple principle structures under the existing zoning for the following reasons:

1. Conditional zoning is not only restrictive in the uses and conditions agreed to, it is time limited under 11-7-12[1] of the Whitefish Zoning Regulations. As the prior conditional zoning granted on this

[1] 11-7-12 **10. Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within eighteen (18) months after the rezoning took effect and thereafter proceed diligently to completion.** This time limitation may upon written request be extended by the city council for an additional twelve (12) months if it is demonstrated to the city council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and the city council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

property has not met this time limit and its associated conditions, the existing zoning must now revert to the prior Industrial Zoning for the following reasons:

- In this case, despite approximately three years having passed since the first conditional zoning was approved for this property, the required permits have not been obtained and the approved development has not commenced within the required 18-months.

- No other time period for development was specified in the ordinance approving the original rezoning of this property---and none was approved.

- No request was made to the City Council to extend this permit for 12 months within or near this 18-month deadline---and none was made.

- And finally, 11-7-12 10. Further specifies that no time extension should be granted if the city council finds that there is a "change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy."

2. Given the owner's failure to meet the 18-month deadline, the City Council is required to follow its own regulations found at 11-7-12, #11 and request that the planning board proceed with rezoning of this property to its former Industrial Zoning.

   11-7-12
   11. If approved development and/or use of the rezoned land do not occur within the time frame specified under subsection D10 of this section, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the city council requesting that the planning board proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

3. It is premature for the applicant to request a CUP for multiple primary uses, as the applicants failure to comply with the prior conditions of the conditional zoning on this property means it must revert to the original Industrial Zoning first to reestablish what future principle uses are allowed or now desired. Additionally, given the 90-day deadline under which the city is operating to make this CUP decision, and despite the developer's willingness to extend that deadline, it would be prudent for the city to deny this CUP until legally compliant zoning is approved for this development.

4. Finally, after taking the above steps, it allows the applicant to now come forward with a new and legally compliant zoning proposal that can be appropriately addressed within the legal bounds of the City's zoning regulations.

SANDS SURVEYING, INC.
2 Village Loop Road
Kalispell, MT 59901
406-755-6481
Fax 406-755-6488

November 30, 2015

Mayor of Whitefish and Whitefish City Council
c/o Chuck Sterns, City Manager, City of Whitefish
P.O. Box 158
Whitefish, MT 59937

RE: Conditional Use Permit for the Mix at 1842, 1844, 1846, and 1848 Baker Avenue.

Dear Mayor and City Council:

I have a previously schedule meeting with the Columbia Falls City Council and will not be able to attend the Whitefish City Council meeting of December 7th so I am writing to request your vote of approval for the Conditional Use Permit for the Mix at Whitefish.

The property in question has been in a state of blight along the Baker Avenue corridor for a number of years. Portions of this property were used as a gravel pit and other industrial uses which ceased operation a number of years ago. The applicants are requesting this conditional use permit to invest and redevelop a portion of this south Baker neighborhood into four buildings. These four buildings were designed to have flexible interiors to adapt to different tenants or buyers. This is similar to the building currently occupied by the temporary City Hall, which in the past was home to a home furnishing store, the Whitefish Credit Union service office, numerous Contractors' Offices, and the old Planning and Building Office. The City is full of buildings that were developed for no specific use but instead a list of uses that are provided for in the City's Zoning Ordinance.

The Mix at Whitefish is no different than the many building in town that creates a space for a future and, many times, an unknown occupant. The proposed CUP provides more parking than is required for various uses proposed in the application. The bulk, height, and circulation pattern of the project is not impacted by the future use of the buildings.

The Council has received two letters from Citizens for a Better Flathead regarding the Conditional Zoning Request and the Conditional Use Permit. I am not certain why Citizens is fighting these applications so strenuously as I would think a group that say it champions sound land use policy would encourage light industrial/commercial uses in the City of Whitefish where the uses front on a City collector street, have access to city sewer and water infrastructure, and are within walking or biking distance to neighborhoods in the City. This is opposed to the current trend of seeing light industrial development move to the Highway 40 and Highway 2 corridors where there is no zoning or services to support the development in those locations.

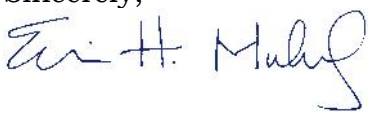
Regarding the latest letter from Citizens for a Better Flathead, they request that the City void the Conditional Zoning because they believe nothing has been completed on site. My response to Citizens claim is that after the City recorded Ordinance #13-04 for the Conditional Zoning on June 6, 2013 that applicant has completed the following:

- Submitted application for a two lot subdivision of the Mix at Whitefish on 12/20/13
- Received waiver of Preliminary Plat approval from the City on 2/4/14
- Received approval of Stormwater Management Plans from Public Works on 6/17/14
- Received MDEQ COSA on 7/16/14
- Submitted for and received building permits for the remodel of the Montana Shirt Company. (Remodel Complete)
- Submitted for Architectural Review in 5/14 and approved; amended the plan and resubmitted in 8/15 the application was tabled pending annexation of a portion of the property and decision on zone change.
- Submitted annexation request for portion of the Mix on 9/15 (Came to light after the Supreme Court decision in 2014 and the start of 2015 zone change application)
- Submitted the application for the Conditional Use Permit on 9/1/15.

Chapter 11-7-12(D)(10) of the Whitefish Zoning Code states: "Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within eighteen months after the rezoning took effect and thereafter proceed diligently to completion." The timeline above clearly shows that the applicant began working on perfecting the land use permits within six months of the initial zoning approval and has continued to secure approvals and permits in order to "proceed diligently to completion". Nothing in the code indicates that the site has to be completely built-out within 18 months of the Conditional Zone Change and that would be an unreasonable interpretation.

Thank you for your consideration in this matter and my clients and I would appreciate your approval of the Conditional Use Permit.

Sincerely,



Eric H. Mulcahy, AICP
Sands Surveying Inc.

Attach: Ordinance #13-04
Waiver of Preliminary Plat Approval (2/4/14)
Whitefish Public Works Letter (6/17/14)
MDEQ Letter (7/16/14)

ELAINE EDWARDS
1840 BAKER LLC
PO BOX 5270
WHITEFISH, MT 59937

Paula Robinson, Flathead County MT by JL
201300013666
Page: 1 of 6
Fees: $52.00
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ORDINANCE NO. 13-04

An Ordinance of the City Council of the City of Whitefish, Montana, approving a zone change for property identified as 1830 Baker Avenue and 1840 Baker Avenue.

WHEREAS, Elaine Edwards and 1840 Baker, LLC applied to the Whitefish Planning and Building Department for a zone change for their properties identified as 1830 and 1840 Baker Avenue, which properties include the former site of Master Plumbing; and

WHEREAS, the applicants requested a change from the existing WI (Industrial and Warehousing) to WI/WB-2-SC (Industrial and Warehousing/Secondary Business) with a proposed offer of restrictive conditions; and

WHEREAS, in response to such application, the Whitefish Planning and Building Department prepared Zone Change Report WZC-13-02, dated April 18, 2013, which analyzed the proposed zone change and recommended in favor of it; and

WHEREAS, at a lawfully noticed public hearing on April 18, 2013, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed Zone Change Report WZC-13-02 and the proposed offer of restrictive conditions, invited public comment, and thereafter voted to recommend in favor of the proposed zone change; and

WHEREAS, at a lawfully noticed public hearing on May 6, 2013, the Whitefish City Council received an oral report from Planning Staff, reviewed Zone Change Report WZC-13-02 and the proposed offer of restrictive conditions, and took public comment, and thereafter voted to approve the zone change with the amended restrictive conditions, attached as Exhibit "A"; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the zone change with the amended restrictive conditions; and

WHEREAS, the proposed zone change will meet the criteria contained in § 11-7-11(D) of the Whitefish City Code.

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

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

Section 2: Zone Change Report WZC-13-02, together with a letter of transmittal dated May 6, 2013, from the City Planning and Building Department to the Whitefish City Council, are hereby adopted as Findings of Fact

Section 3: The properties identified as 1830 and 1840 Baker Avenue, and legally described as Assessors Tracts 6BGA and 6BK, Section 1, Township 30 North, Range 22

West, Whitefish, Flathead County, Montana, which were previously zoned WI (Industrial and Warehousing), are hereby rezoned to WI/WB-2-SC (Industrial and Warehousing/Secondary Business), subject to the restrictive conditions, Exhibit "A". The City Attorney is authorized and directed to prepare the Statement of Conditions according to § 11-7-12(D)(5) of the Whitefish City Code, and in an appropriate contractual form for recording with the Flathead County Clerk and Recorder.

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

Section 5: 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 6: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS 20TH DAY OF MAY 2013.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

EXHIBIT A

CONDITIONAL ZONING STATEMENT OF CONDITIONS

Ordinance No. 13-04

We, Elaine Edwards and 1840 Baker, LLC, owners of parcels of land described in Exhibit A-1 and located in S1-T30N-R22W, also known as 1840 Baker Avenue and 1830 Baker Avenue, Whitefish, Flathead County, Montana, hereby voluntarily consent to the following Statement of Conditions as part of rezoning our property to Industrial and Warehouse/Secondary Business District (WI/WB-2/SC):

1. The subject parcels shall be subject to the development requirements of the WI Zone for yard setbacks, height limitations, minimum lot width, and minimum lot size, with the exception of the following:
   Minimum Yard Spaces:

Front:	20'
Side:	5'
Rear:	5'

2. In addition to the following uses and conditional uses as amended in the WI zone, the subject parcels may be developed for the following principal uses from the WB-2:

   WI Amended
   Permitted Uses
   - Automobile sales and service
   - ~~Boat and recreation vehicle storage~~
   - ~~Building supply outlets~~
   - ~~Contractors' yards~~
   - ~~Heavy equipment service~~
   - Janitorial Services
   - Light industrial manufacturing, fabricating, processing, repairing, packing, or storage facilities.
   - ~~Nurseries and landscaping materials: retail and wholesale~~
   - Office space (Less than 10,000 square feet)
   - Parcel delivery service
   - Petroleum products: retail
   - ~~Public Utility facilities and storage yards~~
   - ~~Publicly owned or operated buildings, uses or recreational facilities~~
   - ~~Railroad Yards~~
   - Research laboratories and institutions
   - Tire sales

   Conditionally Permitted Uses
   - ~~Automobile and boat sales~~
   - ~~Automobile wrecking yards~~
   - ~~Heavy equipment sales and rentals~~
   - ~~Heavy industrial manufacturing, fabricating and processing~~
   - Microbreweries
   - ~~Outdoor amusements~~
   - ~~Petroleum products, wholesale~~

- ~~Sexually oriented businesses, as defined in section 11-9-2 of this title~~
- ~~Tire retreading and recapping~~

WB-2 Added
Permitted Uses

- Antique stores and auction barns
- Automobile and boat sales, parts, repair and service
- Furniture and floor covering stores
- Grocery stores
- Laundry and dry cleaning
- Machinery and equipment sales, rental and repair
- Medical Clinic
- Restaurant

Conditionally Permitted Uses

- Buildings greater than 15,000 square feet

3. Sign's shall be approved under the regulations for the Highway District.

4. The site shall be subject parking and landscaping regulations of the Whitefish Zoning Ordinance

The aforementioned conditions are part of rezoning the property and apply to the land, including all successors in title, interest, and assignees. We understand that if any agreed to conditions are transgressed, it becomes a violation of the City of Whitefish Zoning Ordinance.

DATED this 6th day of June, 2013.

1840 BAKER, LLC

By: Elaine Edwards
Printed Name: ELAINE EDWARDS
Its: MANAGER

1840 BAKER LLC
Elaine Edwards
Elaine Edwards

STATE OF MONTANA)
: ss
County of Flathead)

On this 6th day of June, 2013, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared ELAINE EDWARDS known to me to be the MANAGER of 1840 BAKER, LLC, that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of 1840 BAKER, LLC, for the uses and purposes therein mentoned, and on oath stated that he / she was authorized to execute said instrument on behalf of 1840 BAKER, LLC.

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

(SEAL)

Notary Public for the State of Montana

VICTORIA L GALLO
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
March 22, 2015

[print or type name of Notary]
Residing in _____
My Commission expires: _____

STATE OF MONTANA)
: ss
County of Flathead)

On this 6th day of June, 2013, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared ELAINE EDWARDS, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same.

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

Notary Public for the State of Montana

VICTORIA L GALLO
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
March 22, 2015

[print or type name of Notary]
Residing in _____
My Commission expires: _____

EXHIBIT A-1

Legal Description of Property Rezoned

Tract 1:
A Tract of land in the Southwest Quarter of the North~~west~~ EAST Quarter of Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana, Described as follows:
Commencing at the northeast corner of the southwest quarter of the northwest quarter of Said Section 1; thence
South 00°10'west and along the easterly boundary line of said southwest quarter of the northwest quarter, a distance of 382.5 feet to a point; thence
North 89°50' west and parallel to the northerly boundary line of said southwest quarter of the northwest quarter, a distance of 393.6 feet to a true point of beginning of the tract of land herein being described; thence
North 89°50' west, a distance of 206.4 feet to a point; thence
North 02°36' east, a distance of 100.00 feet to a point; thence
South 89°50' east, a distance of 206.4 feet to a point; thence
South 02°36' west, a distance of 100.00 feet to a point of beginning.
Tract 2:
That portion of the southwest quarter northeast quarter of Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana, Known as:
Parcel B of Certificate of Survey No. 18334.

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

February 4, 2014

1840 Baker llc
attn: Elaine Edwards
PO Box 5270
Whitefish, MT 59937

RE: 1840 Baker Avenue (Tract 6BGA in S1 T30N R22W); The Mix at Whitefish – Waiver of Preliminary Plat; WWP 14-02

Dear Ms. Edwards:

This is in response to your application for a preliminary plat waiver for a commercial subdivision at the above described property. The request would create two lots. Lot 2 is proposed to be 0.553 acres with one building and Lot 1 is proposed to be 1.190 acres with two buildings. Both lots will front on Baker Avenue. The properties are zoned WI-SC (Industrial District – Statement of Conditions). There are no minimum lot size or lot width requirements in this zoning district (§11-2R-4).

Our office finds that the proposed subdivision substantially meets the preliminary plat waiver criteria outlined in §12-3-7 of the Whitefish Subdivision Regulations which includes the following:

- The plat contains three (3) or fewer lots;
- There is no public dedication of streets or other public infrastructure;
- All lots have legal and physical access conforming to these Regulations;
- Each lot has a suitable building site and there are no environmental hazards present;
- Municipal sewer, water and other utilities are adequate and in place;
- The subdivision complies with these Regulations and current zoning regulations; and
- No significant effects are anticipated on agriculture and agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat and the public health and safety.

Due to the relatively minor impacts that this subdivision poses, this office grants preliminary plat waiver approval subject to the following conditions:

1. The Subdivision shall comply with Chapter 12-4 of the Whitefish Subdivision Regulations.

2. Lot 1 shall be addressed as 1846 and 1848 Baker Avenue and Lot 2 shall be addressed as 1844 Baker Avenue. Please place these addresses on the face of the plat.

3. The Montana Department of Environmental Quality and Whitefish Public Works Department shall approve the water and sewer facilities. A separate water & sewer service shall be provided to each lot in accordance with the City of Whitefish's policies and design standards.

4. A fee in lieu of installing sidewalks shall be paid prior to final plat. The fee shall be based on a 5-foot wide sidewalk for the Baker Avenue frontage at $6.00 per square foot.

5. A stormwater plan shall be submitted to the Public Works Department for review and approval.

6. Identify a snow removal area on the plat.

7. Identify refuse disposal areas on the plat. These locations shall be reviewed and approved by the Public Works Department and North Valley Refuse.

8. The emergency access and hydrants shall be installed and approved by the Fire Marshal prior to final plat. The required emergency access, including the 't' turn around, shall be identified on the plat, signed for 'no parking' and kept clear at all times.

9. The following notes shall be placed on the face of the plat:

    a. Building numbers shall be located in a clearly visible location

10. The preliminary plat approval is valid for three years and shall expire on July 19, 2016.

Please note that, for final plat approval, all requirements must be met per §12-3-11 (Final Plat) of the Whitefish Subdivision Regulations.

Sincerely,

Wendy Compton-Ring, AICP
Senior Planner

C: Public Works, City of Whitefish
Fire Department, City of Whitefish
Eric Mulcahy, Sands Surveying, 2 Village Loop Kalispell, MT 59901

P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

City of Whitefish

June 17, 2014

Rob Smith
A to Z Engineering
138 East Center Street, Suite A
Kalispell, MT 59901

Re: The Mix (1840 Baker Avenue) Stormwater Management and Erosion Control Plans

Dear Rob:

This letter is in regard to the Stormwater Management Plan and Report and Erosion Control Plan for the Mix, 1840 Baker Avenue. The Public Works Department has reviewed and the approved the plans. The contractor should be careful during construction to prevent sediment from clogging the sections of the stormwater system that allow for infiltration A note needs to be added to the erosion control plans requiring that sediment inserts are placed in the catch basins during construction.

The erosion control Best Management Practices must be inspected on a regular basis and adequately maintained so that sediment is retained within the boundaries of the site and is prevented from being tracked onto City streets. A copy of the Erosion and Sediment Control Plan must be kept on site by the contractor.

We will require any contractor working in the City right-of-way to fill out a right-of-way permit with the associated insurance and bonding requirement. Please contact the Public Works Department for a site inspection after the erosion control measures have been installed and prior to the start of construction. Please give me a call at 863-2450 if you have any questions.

Sincerely,

Karin Hilding, P.E.
Senior Project Engineer

cc: Wendy Compton-Ring, Senior Planner

Montana Department of
ENVIRONMENTAL QUALITY

Steve Bullock, Governor
Tracy Stone-Manning, Director

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

July 16, 2014

Robert Smith PE
A2Z Engineering PLLC
138 East Center Street Suite A
Kalispell MT 59901

RE: The Mix at Whitefish
Municipal Facilities Exclusion
EQ#15-1040
City of Whitefish
Flathead County

Dear Mr Smith;

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

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

Sincerely,

Janet Skaarland

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

cc: City Engineer
County Sanitarian
file

1840 BAKER AVE LLC

POBOX 5270 WHITEFISH, MT 59937

November 30, 2015

Dear Mayor and City Council:

We don't understand how after years of due diligence and over tens of thousands of dollars spent working toward creating The Mix @ Whitefish, in a 30 minute period one evening November 16th 2015 it can be thrown in the trash. Well, we are going to recycle it out of the trash and we are not going to give up on a project that was created to greatly benefit this community.

It seemed as though when the project was put before the City Council, a few people said that it had flown under the radar. Well, we can tell you that we've been in dozens of meetings with City Officials, ranging from people in the Building Department, Public Works, the Fire Department and more. We've spent hours at Architectural Review Board meetings, Planning Board meetings, and the like. We have paid tens of thousands of dollars to well-known design firms, surveyors, engineers, as well as to the city for fees. This project has in no way been flying under the radar.

We have businesses that want to populate The Mix @ Whitefish and make their headquarters here. When you sell a house, maybe you would prefer an old retired couple would buy it. But your agent finds a buyer and they are a young couple with a baby. Are you going to say, "No, we want to wait for an old retired couple to buy our house." No, that would be ridiculous. You would just sell your house. In the same way, why would Whitefish want to wait for just a 100% industrial factory to put a business on that land, when several factory uses and a different use business wants to move in yesterday!!? Does Whitefish want that part of Baker Ave to look like the bad part of town for many more years? Just

waiting and hoping the right business eventually wants to buy it, build, and move in... one day down the road? No, that would be ridiculous. Wouldn't it? Especially when a developer wants to make it look desirable NOW and desirable businesses want to move in NOW.

The gentle lady that got up and spoke against the project, Mayre Flowers? She said she had spent 10 hours of research on her findings. 10 hours? Why didn't she pick up the phone and call us to find out more details? We've done 3 years (hundreds of hours) of research and due diligence, hired experts who have spent countless hours researching, we've spent tens of thousands of dollars, and are ready to spend millions more on the building of the project. Does she or the Council think for one minute we haven't done OUR homework? Ms. Flowers did not bother to ask us any questions, she never cited any sources, and no one questioned her statements. Unfortunately, she was very wrong on many points, factually wrong. Why didn't she do the research to find our phone number and call us? It is public record with the city. Because she didn't want to. She wanted her findings to reflect what is in the best interest for her, not this community. She is the one flying under the radar with her motives and we are going to shine a light on them by fighting for our project and the benefits that it will bring to Whitefish, its' wonderful residents, and its' valued tourists.

Our Project Manager, immediately the day after the City Council meeting, went over to the offices of Citizens for a Better Flathead to understand why Ms Flowers has not been in contact with us and why she is so upset about our project, he was told she will be back within an hour. An hour later he went back again with no luck. The next day he went again and he was informed that she has a cold and would not come in, all along there is an e mail to her with our contact information that she is avoiding to answer. Finally, after many calls to her, she calls and our Project Manager asked for a face to face meeting and explained to her what was in the body of the e mail that he had sent, she claimed she had not received it, and she replied that she needs some time to prepare for a meeting with us and after the Thanksgiving weekend it will be best. We never heard back from her so we asked our project manager to send her an e mail Saturday afternoon confirming a meeting on Monday. Ms. Mayre Flowers replied at midnight on Sunday that she is not available on Monday and ***not to call her*** (see attached the various e mails to Ms Mayre Flowers). It is very clear that "off the record" most

everyone in the Flathead Valley feels that she has been holding this and other towns hostage. She has been successful in terrorizing the various city agencies with her threats of a law suit and the various agencies have had no choice but to go along with her as no one has really challenged her or her organization. This is definitely a form of bullying. In other parts of the country they call it "MAFIA" style business techniques. There is no reason why this item could not have been tabled and asked further questions from the applicant. The city council does not have a clear picture of why this request was requested, it was very clear that Ms Mayre Flowers confused the city council. Ms Mayre Flowers also gave her opinion letter to the City Attorney only 30 minutes before the hearing while she was in another meeting, therefore, this was a planned move by Ms. Mayre Flowers to catch the City Attorney, staff and others off guard. Ms Mayre Flowers is no dummy and she knows how to play dirty. The applicant was and is willing to give up a few uses to add other uses within the zoning such as music school, cooking school (all these uses were a request by local residents, as they needed space and we were trying to accommodate the need of the citizens of this town). We were assured by hundreds of residents of this town and its' businesses that we were doing the right thing and we would be commended for it, but instead we got penalized and punished the night of the City Council meeting. This process should be a "give and take" and not a one way quick decision, even Ms Mayre Flowers asked for tabling as she knew very well what she was asking was ridiculous and far reaching. The city council does not realize that its hasty decision has affected many many businesses and lives in a negative manner. The city staff and Planning Board recognized that this is an important project for the city and the community, that is why it had and has their approval.

There are three businesses that were coming into the 1820/1822/1824 spaces, two being both industrial and manufacturing uses and the third is a restaurant in the middle of both of them to support the manufacturing businesses, as well as neighboring businesses. With 1830-1840 Baker, both existing businesses are industrial/manufacturing. More than 50% of our planned uses are industrial/manufacturing which is what Mayre Flowers and her organization wanted and we have it so why is she fighting us? Unless she has a different agenda helping fellow business owners that do not want new business on this side of town.

This is very clear to us that Ms Mayre Flowers and her closely held organization that refused over and over to meet with us does not have clean hands in this matter and therefore this is one additional reason why the City Council should reconsider and reopen this request. The applicant is willing to have this request be tabled for an additional 30, 60 or 90 days until Ms Mayre Flowers and her organization are willing to meet with us and we can do further investigation to get to the root of this negative position by Citizens For A Better Flathead. We also would like to have a slide presentation and invite the businesses that are interested in moving this project forward to be present and they can individually explain why it is important this project come to fruition for them and the community.

Every one of you is a respectable citizen of this community and we trust you will make the right decision by allowing this case to reopen as you personally have nothing to lose, but many other fine citizens of this Town and Valley can and will lose their jobs and opportunities to make a better life for themselves, their families, and their employees.

It just takes one of your votes to send our request back for "Re-Consideration" and it can be back on a future agenda for further discussion.

Sincerely,

Elaine I Edwards

1840 Baker LLC
Elaine I Edwards

EMAIL #1

4usbiz

From: 4usbiz [4usbiz@gmail.com]
Sent: Tuesday, November 17, 2015 3:34 PM
To: 'mayre@flatheadcitizens.org'
Subject: Introduction/meeting

Good Afternoon Mayre,

I came by your office twice today and left my information, I wanted to meet you in person and your staff as we did not have the chance to meet yesterday at the City Council meeting in Whitefish.
I was personally disturbed because at no time is it our agenda to offend our community or its members. We always like to hear all concerns from our community members and find a solution that works for all parties, it is unfortunate that Citizens For A Better Flathead did not contact us before last night so that Citizens For A Better Flathead could fully understand our project and intention as we were proposing exactly what you said we are not doing. I know you were accidentally misled or you misinterpreted the information that was provided to you and the organization. As I reside in Flathead County with my wife, 3 children , my mother that I look after and 2 of my sisters we all consider ourselves also "Citizens of Flathead County" therefore we have the same interest at heart, but lack of communication or in this case, no communication with each other, made your organization take a negative stance against our project. I am always under the belief that something good always comes out of everything even if you don't like the outcome, like it did for us last night, therefore that is the reason I am reaching out to you to set a time tomorrow to meet with you ladies.

Please let me know what time works and I can come to your offices.

Thank you,
Vik
949-441-9177

EMAIL #2

4usbiz

From: 4usbiz [4usbiz@gmail.com]
Sent: Wednesday, November 18, 2015 7:52 PM
To: 'mayre@flatheadcitizens.org'
Subject: FW: Introduction/meeting

Good evening,

I called your office this afternoon and I was told you were out sick and will hopefully be back tomorrow.
I can be at your office at 9AM if that works for you please let me know.

Thanks,
Vik

From: 4usbiz [mailto:4usbiz@gmail.com]
Sent: Tuesday, November 17, 2015 3:34 PM
To: 'mayre@flatheadcitizens.org'
Subject: Introduction/meeting

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Please let me know what time works and I can come to your offices.

Thank you,

EMAIL #3

4usbiz

From: 4usbiz [4usbiz@gmail.com]
Sent: Monday, November 23, 2015 11:55 AM
To: 'mayre@flatheadcitizens.org'
Subject: RE: Introduction/meeting

Hi Mayre,

Thanks for the call last Thursday afternoon. I like to know what time next Monday November 30th works for you for me to come by.

Thanks,
Vik

From: 4usbiz [mailto:4usbiz@gmail.com]
Sent: Tuesday, November 17, 2015 2:34 PM
To: 'mayre@flatheadcitizens.org'
Subject: Introduction/meeting

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Please let me know what time works and I can come to your offices.

Thank you,
Vik
949-441-9177

EMAIL #4

4usbiz

From: 4usbiz [4usbiz@gmail.com]
Sent: Saturday, November 28, 2015 4:24 PM
To: 'mayre@flatheadcitizens.org'
Subject: RE: Introduction/meeting

Hi Mayre,

I have not heard back from you, Monday after lunch works for me as I already made other appointments let me know what time.

Thanks,
Vik

From: 4usbiz [mailto:4usbiz@gmail.com]
Sent: Monday, November 23, 2015 11:55 AM
To: 'mayre@flatheadcitizens.org'
Subject: RE: Introduction/meeting

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Vik

From: 4usbiz [mailto:4usbiz@gmail.com]
Sent: Tuesday, November 17, 2015 2:34 PM
To: 'mayre@flatheadcitizens.org'
Subject: Introduction/meeting

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EMAIL #5

4usbiz

From: Mayre Flowers [Mayre@flatheadcitizens.org]
Sent: Sunday, November 29, 2015 11:39 PM
To: 4usbiz
Cc: Citizens for a Better Flathead
Subject: Re: Introduction/meeting

Vik—I will not be in the office tomorrow. Email me your phone number and a good time to call and I might be able to give you a call. Sorry for the inconvenience. Please do not call me.

Mayre Flowers, Executive Director
Citizens for a Better Flathead
PO Box 771, Kalispell, MT 59903
406-756-8993 (W), 406-253-0872 (Cell) 406-756-8991 (Fax) 406-755-4521(H)
Mayre@flatheadcitizens.org www.flatheadcitizens.org

On Nov 28, 2015, at 4:24 PM, 4usbiz <4usbiz@gmail.com> wrote:

> Hi Mayre,
>
> I have not heard back from you, Monday after lunch works for me as I already made other appointments let me know what time.
>
> Thanks,
> Vik
>
> From: 4usbiz [mailto:4usbiz@gmail.com]
> Sent: Monday, November 23, 2015 11:55 AM
> To: 'mayre@flatheadcitizens.org'
> Subject: RE: Introduction/meeting
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> From: 4usbiz [mailto:4usbiz@gmail.com]
> Sent: Tuesday, November 17, 2015 2:34 PM
> To: 'mayre@flatheadcitizens.org'
> Subject: Introduction/meeting
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> I was personally disturbed because at no time is it our agenda to offend our community or its members. We always like to hear all concerns from our community members and find a

EMAIL #6

4usbiz

From: 4usbiz [4usbiz@gmail.com]
Sent: Monday, November 30, 2015 12:15 AM
To: 'Mayre Flowers'
Subject: RE: Introduction/meeting

Good Evening Mayre,

I am available on Tuesday since Monday is not good for you. We already spoke on the phone on the 19th and I requested a meeting face to face and you said you had to research more and that we should meet after thanksgiving and I like to do that. I have traveled half way around the word to have one hour face to face meeting, I am 15 minutes away from your office and I think I deserve a meeting in person and not over the phone.

Waiting for your confirmation by e mail so there is no confusion.

Thank you,
Vik
949-441-9177

-----Original Message-----
From: Mayre Flowers [mailto:Mayre@flatheadcitizens.org]
Sent: Sunday, November 29, 2015 11:39 PM
To: 4usbiz
Cc: Citizens for a Better Flathead
Subject: Re: Introduction/meeting

Vik—I will not be in the office tomorrow. Email me your phone number and a good time to call and I might be able to give you a call. Sorry for the inconvenience. Please do not call me.

Mayre Flowers, Executive Director
Citizens for a Better Flathead
PO Box 771, Kalispell, MT 59903
406-756-8993 (W), 406-253-0872 (Cell) 406-756-8991 (Fax) 406-755-4521(H)
Mayre@flatheadcitizens.org www.flatheadcitizens.org

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> Thanks,
> Vik
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> From: 4usbiz [mailto:4usbiz@gmail.com]
> Sent: Monday, November 23, 2015 11:55 AM
> To: 'mayre@flatheadcitizens.org'
> Subject: RE: Introduction/meeting
>

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ORDINANCE NO. 15-__

An Ordinance of the City Council of the City of Whitefish, Montana, amending Subdivision Regulations in Whitefish City Code Title 12 to amend parkland dedication requirements.

WHEREAS, in response to a request from the City Council, the Whitefish Planning & Building Department initiated text amendments to the Subdivision Regulations in Title 12 of the Whitefish City Code to amend parkland dedication requirements; and

WHEREAS, at lawfully noticed public meetings on March 10, April 14, May 12, and June 9, 2015, the Whitefish Park Board discussed the current subdivision requirements for parkland dedication and possible amendments to these requirements, and thereafter made a recommendation to the Whitefish Planning Board and City Council to make parkland dedication more equitable for infill subdivisions, provide options for small parkland dedications and clarify the method for land valuation for those projects providing cash in lieu of land dedication; and

WHEREAS, in response to the proposal to amend Title 12 in the Whitefish City Code, the Whitefish Planning & Building Department prepared Staff Report WSUB 15-01, dated June 11, 2015, which analyzed the proposed text amendments and recommended in favor of their approval; and

WHEREAS, at a lawfully noticed public hearing on June 18, 2015, the Whitefish Planning Board reviewed Staff Report WSUB 15-01, received an oral report from Planning staff, invited public comment, and thereafter voted to table the matter for further review; and

WHEREAS, at a lawfully noticed worksession on October 19, 2015, the City Council discussed the current subdivision requirements for parkland dedication, possible amendments to these requirements, invited public comment; and

WHEREAS, in response to the proposal to amend Title 12 in the Whitefish City Code, the Whitefish Planning & Building Department prepared Staff Report WSUB 15-01, dated November 12, 2015, which analyzed the proposed text amendments and recommended in favor of their approval; and

WHEREAS, at a lawfully noticed public hearing on November 19, 2015, the Whitefish Planning Board reviewed Staff Report WSUB 15-01, received an oral report from Planning staff, invited public comment, and thereafter voted unanimously to recommend in favor of the proposed text amendments, attached as Exhibit "A;" and

WHEREAS, at a lawfully noticed public hearing on December 7, 2015, the Whitefish City Council reviewed Staff Report WSUB 15-01 and letter of transmittal, received an oral report from Planning staff, and invited public comment;

WHEREAS, using the 11% formula for parkland dedication is more equitable to small infill subdivisions; and

WHEREAS, it will be in the best interests of the City of Whitefish and its inhabitants to adopt the proposed text amendments.

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 WSUB 15-01 dated November 19, 2015, together with the December 1, 2015 letter of transmittal from the Whitefish Planning & Building Department, are hereby adopted as Findings of Fact.

Section 3: The text amendments to Whitefish City Code Title 12, Subdivision Regulations, as provided in the attached Exhibit "A," shown in red, with insertions shown underlined and deletions shown with strikethrough, are hereby adopted.

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

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

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS _____ DAY OF _____, 2015.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

EXHIBIT 'A'

Whitefish City Code Title 12 – SUBDIVISION REGULATIONS
Chapter 4 – Design Standards

1. 12-4-11A: PARK LAND AND OPEN SPACE REQUIREMENTS:

Park and open space requirements shall comply with the requirements of the Montana subdivision and platting act, further the goals and policies of the Whitefish city-county growth policy and the park board.

A. Formula To Determine Park Dedication Requirements: Park dedication requirements shall be based on the net acreage of the subdivision. The area provided for the park requirement shall be land either dedicated to the city of Whitefish as a park or open space area for public use; retained as a common area, homeowners' park or open space area privately owned and maintained; or land designated as a conservation easement managed by a qualified entity. Privately owned parks, open space or common areas may not have a change in use without the approval of the property owners within the subdivision and city council. Except as provided in this chapter, a subdivider shall be subject to the following park land or cash equivalent according to the following formula:

~~1. In subdivisions that have an average lot size of ten thousand (10,000) square feet or less, the subdivider shall provide a cash or land dedication equal to 0.03 acres per lot;~~

~~2~~1. Eleven percent (11%) of the net acreage of the subdivision to be divided into lots one-half ($^1/_2$) acre and smaller;

~~3~~2. Seven and a half percent (7.5%) of the net acreage of the subdivision to be divided into lots larger than one-half ($^1/_2$) acre and not larger than one acre in size;

~~4~~3. Five percent (5%) of the combined area of the net acreage of the subdivision into lots larger than one acre and not larger than three (3) acres in size;

~~5~~4. Two and a half percent (2.5%) of the net acreage of the subdivision to be divided into lots larger than three (3) acres and not larger than five (5) acres in size.

2. 12-4-11C: PARK LAND AND OPEN SPACE REQUIREMENTS:

C. Exemptions: Park dedication shall not be required for:

1. Subdivisions with lots that have an average density of five (5) acres or more in size;

2. A first minor subdivision from a tract of record outside the city limits;

3. Nonresidential lots or subdivisions;

4. Planned unit developments or other developments which propose lands permanently set aside for park and recreation purposes to meet the needs of the persons who ultimately reside in the development and equals or exceeds the dedication requirements of subsection A of this section;

5. A subdivision where only one additional lot is created;

~~6. A subdivision in which lots are not created, except when the subdivision provides permanent spaces for mobile homes, recreational vehicles or condominiums;~~

~~7~~6. Where a subdivision provides for long term protection of an area identified as a water quality protection area under section 11-3-29, "Water Quality Protection", of this code, important wildlife habitat; significant cultural, historical or natural resources; agricultural interests or aesthetic values and the land area equals or exceeds the dedication requirements of subsection A of this section;

~~8~~7. The subdivider proposes land outside of the subdivision to be set aside for park and recreation purposes adequate to provide a significant recreational amenity to the public and will meet or exceed the park requirements outlined in subsection A of this section;

~~9~~8. Open space is provided through the cluster development standards in section 12-4-32 of this chapter.

3. 12-4-11D: PARK LAND AND OPEN SPACE REQUIREMENTS:

D. Park And Open Space Design Standards:

1. Land proposed for park development, whether public or private, shall strive to provide recreational opportunities and serve the public or residents of the subdivision in a meaningful way. The land shall be of appropriate shape, size and location and shall have convenient access and parking to meet the needs of the public or residents of the subdivision.

2. If the park is proposed to be dedicated to the city for public use, the park area shall not be less than one acre in size unless the land is immediately adjacent to an existing or planned future park area in order to allow the city to maintain the park in an efficient and cost effective way.

3. If a park is proposed to be privately owned and maintained, it shall be a minimum of ten thousand (10,000) square feet and shall be developed with recreational

opportunities such as play areas, picnic tables, gazebos, walking trails or other acceptable improvements which fulfill the intent of this section. It may also be developed as a micropark as described in §12-4-11D(5)

4. If the required park land dedication is less than ten thousand (10,000) square feet, unless the land is immediately adjacent to an existing or planned future park area or is developed as a micropark, it shall be considered an inappropriate size and the city shall request cash in lieu of park land dedication pursuant to subsection E of this section.

5. A micropark shall be pre-approved by the Parks and Recreation Department and Park Board and shall meet the following:

   a. It shall be open to the public, enhance an existing public facility and be consistent with the Park Board long-term plans for the facility. It may be located adjacent to an existing sidewalk, bike trail or other public facility and may provide a focal point for a neighborhood.

   b. The long-term maintenance of the facility shall be carefully weighed by the city and the Park Board when considering the location and amenities of a micropark.

   c. A micropark will be distinctive, unique and usable. As such, it will be constructed with unique materials and could include amenities such as: street furniture (a bench, a landscaping wall for seating, a drinking fountain or a bike rack), a work of art, an information kiosk, a share library, or a S.N.O.W. bus shelter, if in a location identified as a stop or future stop.

   d. A micropark and its improvements may either be dedicated to the city or have an easement for long-term public use.

   ~~a.~~e. The city shall not require improvements to a micropark to exceed that which would be required through a cash in lieu of land dedication. This also includes the value of the land.

~~5~~6. If the park or open space area is to be developed and used for property owners or residents within a subdivision or development, it shall be owned and maintained by the property owners of the subdivision through a common area maintenance agreement that outlines a pro rata share of the cost of maintenance. At the time of final plat submittal, a five (5) year maintenance bond for ten percent (10%) of the improvements shall be provided to ensure the long term maintenance of the park or open space area.

~~6~~7. Although not specifically required, nonresidential subdivisions are encouraged to incorporate open space, common area or a park within the development. This may be in the form of pedestrian connections, a central park

area, a plaza or any other form of open space designed to meet the needs of the users of the development.

~~7~~8. Subdivisions located adjacent to rivers, streams, lakes and publicly accessed lands are strongly encouraged to be designed to provide reasonable public access to these areas.

~~8~~9. Existing trees and significant vegetation shall be maintained in open space areas unless an alternate landscaping plan for such areas is submitted and approved or unless planned active recreational activities would conflict with existing vegetation. In case of conflicts with planned activities, the design should maintain a balance, as determined by the city, where it maximizes active recreation opportunities while trying to maintain the most important elements of native vegetation.

~~9~~10. Land proposed to be developed as a park and/or for recreational opportunities should be designed with the following standards as a guideline:

a. Park areas shall be placed in consideration of existing and potential parks and open space areas on adjacent parcels to provide consolidation or opportunities for future consolidation of parks or open space areas;
b. Parks or open space shall be located within the subdivision or neighborhood where it can be easily expanded and accessed by streets, bikeways or pedestrian paths;
c. The park area shall be landscaped, irrigated and developed in such a way to provide a recreational amenity to the public or the residents of the subdivision;
d. The preservation of important natural elements such as a meadow, a grove of trees, a wildlife corridor, a stream or other water body, a hillside or steep slope, an area of riparian resource or some other natural feature;
e. Stormwater management facilities in park and open space areas may be acceptable provided they are incorporated as a natural feature within the park area and do not exceed one-third ($^1/_3$) of the area dedicated as a park or open space;
f. A site for active recreation on slopes which average three percent (3%) or less. Grade standards will vary depending on the use proposed;
g. Where appropriate, open spaces intended for recreational or public use shall be easily accessible to pedestrians and meets the special needs of people with disabilities, children and the elderly;
h. When open space or a general common area is being used to meet park dedication requirements, the open space shall remain in a substantially natural state when it has been dedicated for preservation or conservation purposes. Bike or pedestrian trail connections using open space designations, as appropriate and practical, are encouraged;
i. Linear parks that serve as pedestrian paths or trail systems within the subdivision or that will provide a connection to adjacent properties for the future continuation of the path or trail. A linear park should be a minimum of thirty feet (30') wide that incorporates a bike/pedestrian path, landscaping, a

slope of less than six percent (6%) and affords easy access by the residents of the subdivision or the public, and should provide for the extension of an existing or future trail;

j. Parking areas and rights of way located within the open space area shall count toward the required open space/park requirements if they are provided for access and utilization of the open space or common area;

k. In general, it is anticipated public and private parks will require four (4) parking spaces per acre of usable park area in order to provide reasonable access;

l. Other parks, open space, or common area designs which meet the intent of this section and meet the goals adopted for neighborhood parks and open space, and area plans.

4. 12-4-11E: PARK LAND AND OPEN SPACE REQUIREMENTS:

E. Cash In Lieu Of Park Land:

1. Where, because of size, topography, shape, location, or other circumstances, the dedication of land for parks and playgrounds is undesirable, the city may make an order to be endorsed and certified on the plat accepting a cash donation in lieu of the dedication of land that would have been dedicated. For the purpose of this chapter, the fair market value is the value of undivided, unimproved land at the time of final plat submittal.

2. It shall be the responsibility of the subdivider to provide satisfactory evidence of the fair market value ~~at the time of final plat submittal~~. The fair market value is the appraised land value as determined by the state of Montana department of revenue for the most current tax year at the time of final plat submittal. For property being appraised by the state of Montana as agricultural or forest land, the applicant shall submit an appraisal no more than 60 days old with the final plat application for the purpose of determining fair market value. ~~When the subdivider and the city are unable to agree upon the fair market value, the city may require that the fair market value be established by an appraisal done by a qualified real estate appraiser of its choosing. The appraisal fee shall be the responsibility of the subdivider.~~

3. The city will use the dedicated money to acquire, develop or maintain within its jurisdiction parks or recreational areas or for the purchase of public open space or conservation easements only if:
   a. The park, recreational area, open space or conservation easement is within a reasonably close proximity to the proposed subdivision, as may be further defined in an adopted city policy;
   b. A park plan has been formally adopted that establishes the needs and procedures for the use of the money.

4. The city may not use more than fifty percent (50%) of the dedicated money for park maintenance, as defined in an adopted city policy.

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

December 1, 2015

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

Re: Subdivision Text Amendment: WSUB 15-01

Honorable Mayor and Council:

Summary of Requested Action: This application is a request by the city of Whitefish to amend the subdivision regulations related to parkland dedication.

Planning & Building Department Recommendation: Staff recommended approval of the text amendment attached to the staff report.

Public Hearing: At the public hearing, no one from the public spoke on the proposed amended draft ordinance. The draft minutes of the Planning Board hearing are included.

Planning Board Recommendation: The Whitefish Planning Board held a public hearing on November 19, 2015. Following this hearing, the Planning Board unanimously recommended approval of the amendments and adopted the supporting findings of fact in the staff report.

The Board had a discussion concerning §12-4-11E(2) of the amendments and the subsection detailing the requirement for an appraisal if the land is being appraised as agriculture, but converting to an urban use. The Board wondered if that the section may also need to include lands being appraised as forest lands. As a result, staff did some research and we agree that 'forest lands' should also be included requiring an appraisal if it is being converted to urban lands. As such we would recommend the following amendment:

> For property being appraised by the state of Montana as agricultural or forest lands, the applicant shall submit an appraisal no more than 60 days old with the final plat application for the purpose of determining fair market value.

Proposed Motion:

- I move to approve WSUB15-01 along with the Findings of Fact in the staff report, as recommended by the Whitefish Planning Board and adding the appraisal requirement for 'forest lands' in §12-4-11E(2).

This item has been placed on the agenda for your regularly scheduled meeting on December 7, 2015. Should Council have questions or need further information on this matter, please contact the Whitefish Planning Board or the Planning & Building Department.

Respectfully,

Wendy Compton-Ring, AICP
Senior Planner

Att: Exhibit A, Planning Board recommendation, 11-19-15
Draft minutes of the 11-19-15 Planning Board meeting

Exhibits from 11-19-15 Staff Packet to Planning Board

1. Staff Report – WSTA 15-01, 11-12-15
2. Memo, City Council, 10-13-15
3. Memo, Park Board, 4-14-15
4. Options for Parkland Dedication, 4-14-15
5. Minutes, Whitefish Planning Board, 6-18-15
6. Minutes, City Council, 2-17-15
7. Advisory Agency Notice, 5-29-15
8. Comparison of Existing and Proposed Regulations, 12-01-15

c: w/att Necile Lorang, City Clerk

DRAFT

WHITEFISH PLANNING BOARD
MINUTES OF MEETING
NOVEMBER 19, 2015

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 Chairman Ken Meckel, Jim Laidlaw, Rebecca Norton, and Councilor Richard Hildner. John Ellis, Melissa Picoli and Ken Stein were absent. Planning Director David Taylor, Senior Planner Wendy Compton-Ring and Planner II Bailey Minnich represented the Whitefish Planning and Building Department.

There were approximately 50 people in the audience.

APPROVAL OF MINUTES

Rebecca moved and Chairman Meckel seconded to approve the November 5, 2015 minutes with corrections, with Richard abstaining as he was not present at the November 5 meeting. The motion passed unanimously.

COMMUNICATIONS FROM THE PUBLIC (ITEMS NOT ON THE AGENDA)

None.

OLD BUSINESS: AMENDMENT OF WHITEFISH CITY CODE TITLE 12, SUBDIVISION REGULATIONS
Audio 6:05 pm (and 9:00 pm)

A request by the City of Whitefish for an amendment to §12-4-11, Park Land and Open Space Requirements, of the Subdivision Regulations. (Continued from June 18, 2015 Planning Board Meeting.)

There being no objection, Chairman Meckel moved this item to end of Planning Board agenda since there was no one in the audience to address this item.

PUBLIC HEARING 1: POTTER'S FIELD MINISTRIES CONDITIONAL USE PERMIT
Audio 6:05 pm

A request by Potter's Field Ministries for a Conditional Use Permit for a 'parish house' at 943 East 2nd Street to house up to eight ministry staff and interns. The property can legally be described as Lot 1A of AMD Lot 5, 6, Block 1 McKeens Addition, S31 T31N R21W.

STAFF REPORT WCUP 15-15 (Taylor)

Director Taylor reviewed his staff report and findings. Since the original application was submitted, the Applicant has reduced the number of student interns and/or ministry staff from eight to six. No building modifications are proposed. Seven public comments were received and were handed out prior to the meeting. The Applicants meet the parking requirements, but will need to pave driveway.

The DEQ determined the levels of contamination are so low the only concern would be if you were using the water under the building directly for drinking water, which will not be done.

Chairman Meckel called for the question and there was no opposition.

VOTE

The motion passed unanimously. The matter is scheduled to go before the Council on December 7, 2015.

PUBLIC HEARING 6: CITY OF WHITEFISH REZONE REQUEST
Audio 8:50 pm

A request by the City of Whitefish for a Zone Change on parcels recently annexed into City limits. The properties are developed with residential uses. The subject properties are located at 2422 and 2424 Carver Bay Road and can be legally described as Lots 9 and 10 of Whitefish Lake Summer Homes subdivision in S10 T31N R22W.

STAFF REPORT WZC 15-04 (Minnich)

Planner II Minnich reviewed her staff report and findings.

Staff recommended adoption of the findings of fact within staff report WZC 15-04 and for **approval** to the Whitefish City Council.

BOARD QUESTIONS OF STAFF

None.

APPLICANT / AGENCIES

None.

PUBLIC COMMENT

None.

MOTION / BOARD DISCUSSION

Richard moved and Jim seconded to adopt the findings of fact within staff report WZC 15-04.

VOTE

The motion passed unanimously. The matter is scheduled to go before the Council on January 4, 2016.

OLD BUSINESS: AMENDMENT OF WHITEFISH CITY CODE TITLE 12, SUBDIVISION REGULATIONS
Audio 9:00 pm

A request by the City of Whitefish for an amendment to §12-4-11, Park Land and Open Space Requirements, of the Subdivision Regulations. (Continued from June 18, 2015 Planning Board Meeting.)

STAFF REPORT WSUB 15-01 (Compton-Ring)

Senior Planner Compton-Ring reviewed her staff report and findings, along with examples of parkland dedication (current standards versus proposed).

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

BOARD QUESTIONS OF STAFF

Chairman Meckel asked why condominium projects do not pay and Compton-Ring said condominiums are exempt from subdivision requirements of State law.

Chairman Meckel said another issue was how to determine value, and Compton-Ring said the state of Montana does a valuation every two years now except in a case of agricultural land. Compton-Ring asked if they should include "forest timber land" along with "agricultural land" and she will look into that. Rebecca amended her motion to have "forest timber land" considered, and all were in favor of the amendment.

One of the other issues was percentages, but as broken down on Exhibit A, those concerns have been covered. Jim asked if the Park Board was in favor and Rebecca asked about lost money to Park Board if this happens. The Park Board seems to be okay with it. Compton-Ring said it will be reappraised every two years and could go up or down based on the economy. Rebecca thinks we should reduce fees if they are not fair. Richard thinks less cost to maintain small parks will help balance the loss of revenues. Chairman Meckel asked how often this type of small lot with a large cost per acre occurs and Compton-Ring said the closer you get to downtown or the closer you get to the Lake, the more expensive it gets.

Chairman Meckel said there is an option to provide an amenity to the parks and he thought Compton-Ring covered it in her report. Rebecca thought it was an exciting idea, and thanked Wendy for her diligence in preparing the examples.

Chairman Meckel called for the question and there was no opposition.

APPLICANT / AGENCIES

None.

PUBLIC COMMENT

None.

MOTION / BOARD DISCUSSION

Rebecca moved and Chairman Meckel seconded to adopt the findings of fact within staff report WSUB 15-01.

VOTE

The motion passed unanimously. The matter is scheduled to go

PROPOSED CODE AMENDMENTS
TITLE 12 SUBDIVISION REGULATIONS
STAFF REPORT WSUB 15-01
November 12, 2015

This is a staff report to the Whitefish Planning Board and Whitefish City Council regarding code amendments related to parkland dedication. The Planning Board public hearing is scheduled for **November 19, 2015** and a subsequent hearing is scheduled before the City Council on **December 7, 2015**. Draft regulations are attached as Exhibit A for review and recommendation.

UPDATE

At the June 18, 2015 Planning Board meeting, the Board passed a motion to table action on this request in order for staff to continue working on the text amendment. (Minutes are attached) There were concerns about equity between projects with similar density, but different ownership patterns (i.e., condominiums or rental units). The goal of infill was also pointed out as a priority for the City. In October, staff met with the City Council in a worksession on the parkland dedication amendments. At that meeting, Council had general support for the amendments, but directed staff to do research on how other multi-family projects that are not being subdivided could also provide open space. One other item that arose at the meeting was the use of state of Montana appraised value for the parkland dedication for property being converted from agriculture lands to urban residential uses. These lands are being taxed at a different rate and we will recommend an appraisal to determine the residential urban value in the event cash in lieu of parkland dedication is planned. Staff will propose an amendment in §12-4-11E(2) of Exhibit A to address this issue.

BACKGROUND

The City did a significant update to the Subdivision Regulations in 2009. Since that time, the City has adopted a variety of other amendments to the regulations, including legislative changes.

On February 17, 2015, the Whitefish City Council gave Planning Director Taylor direction to review how parkland dedication is handled for small urban infill projects. The reason staff was directed to review this standard stems from one subdivider proposing a three lot subdivision on a small urban lot. The lot is 0.23 acres. At 0.03 acres per dwelling unit, the required dedication amount would be: 0.09 acres or 39% of the overall subdivision. That far exceeds the percentages that are typical for a parkland dedication, which was the primary concern of the City Council.

Planning staff met with the Park Board in March 2015 to give a brief update on the project and the direction from the Council regarding parkland dedication and the current City requirements. Staff then met with the Park Board in April 2015 to go over the current requirements, the concern, some possible options and answer questions. At the

May 2015 Park Board meeting, staff reviewed the options in more detail and the Park Board gave staff their recommendations to pursue further.

Park Board Recommended:

1. The City continue to require parkland dedication for Minor Subdivisions;
2. Using 11% as the parkland dedication standard and do away with the 0.03 acres per dwelling unit;
3. Use the state of Montana Department of Revenue as the way to calculate land value for cash in lieu of parkland dedication;
4. Not offer discounts for urban infill subdivisions; and
5. Pursue options for parkland dedication to the city for smaller project when consistent with City parkland plans.

Staff conducted a worksession with the Planning Board in May 2015 to go over the Park Board recommendations. Planning Board concurred with the recommendations and directed staff to bring back amendments to the subdivision regulations.

Staff met on June 9, 2015 with the Park Board to review the proposed text amendments. At the Park Board meeting, they agreed that all their concerned had been addressed and unanimously recommended the Planning Board adopt the changes. The Board also discussed the difference between a subdivision, a condominium project and a regular multi-family project and its relationship to parkland dedication requirements.

At the June Planning Board, as described above, this matter was tabled for further review.

At the October City Council worksession, as described above, there was general support for the proposed amendments provided an appraisal requirement was included for agricultural lands being converted to urban lands, as the state reappraisals would take a couple of years to catch up. In addition, staff was to report back to the Council how other multi-family projects could provide parkland/open space.

PROPOSED AMENDMENTS

- Eliminate the 0.03 standard for calculating parkland dedication for small urban lots and simply use the 11% standard for all lots 0.5 acre or less.

- Delete references to condominiums requiring parkland dedication, as condos are no longer required to go through subdivision review.

- Add an option for a micropark along with design standards.

- Define ‘fair market value’ as the most recent appraised value as determined by the state of Montana, but require an appraisal for lands being appraised as agricultural.

RECOMMENDATION

Staff recommends that several code sections of Title 12-4-11 be amended. See exhibit A.

FINDINGS OF FACT

1. Whereas, a legal public notice according to the Whitefish City Code was published in the *Whitefish Pilot* on June 3, 2015;

2. Whereas, staff sent a notice May 29, 2015 to twenty-three (23) reviewing agencies, departments and other service providers regarding the subdivision regulation update;

3. Whereas, a legal public notice according to the Whitefish City Code was published in the *Whitefish Pilot* on November 4, 2015;

4. Whereas, staff sent a notice on October 30, 2015 to twenty-three (23) reviewing agencies, departments and other service providers regarding the subdivision regulation update;

5. Whereas, our local subdivision regulations need to be consistent with the M.C.A.; and

6. Whereas, the Whitefish City-County Growth Policy promotes infill development and this amendment furthers that goal.

We find it is in the best interest of the City of Whitefish to amend Title 12: Subdivision Regulations.

OVERALL RECOMMENDATION:

Staff recommends the Planning Board ***approve*** the recommendations set forth in Exhibit A to amend Title 12 of the Zoning Regulations and adopt the findings of fact and transmit the same to the Whitefish City Council for further action.

EXHIBIT 'A'
WSUB 15-01
STAFF RECOMMENDATION
NOVEMBER 12, 2015

1. 12-4-11A: PARK LAND AND OPEN SPACE REQUIREMENTS:

Park and open space requirements shall comply with the requirements of the Montana subdivision and platting act, further the goals and policies of the Whitefish city-county growth policy and the park board.

A. Formula To Determine Park Dedication Requirements: Park dedication requirements shall be based on the net acreage of the subdivision. The area provided for the park requirement shall be land either dedicated to the city of Whitefish as a park or open space area for public use; retained as a common area, homeowners' park or open space area privately owned and maintained; or land designated as a conservation easement managed by a qualified entity. Privately owned parks, open space or common areas may not have a change in use without the approval of the property owners within the subdivision and city council. Except as provided in this chapter, a subdivider shall be subject to the following park land or cash equivalent according to the following formula:

~~1. In subdivisions that have an average lot size of ten thousand (10,000) square feet or less, the subdivider shall provide a cash or land dedication equal to 0.03 acres per lot;~~

~~2~~1. Eleven percent (11%) of the net acreage of the subdivision to be divided into lots one-half ($^1/_2$) acre and smaller;

~~3~~2. Seven and a half percent (7.5%) of the net acreage of the subdivision to be divided into lots larger than one-half ($^1/_2$) acre and not larger than one acre in size;

~~4~~3. Five percent (5%) of the combined area of the net acreage of the subdivision into lots larger than one acre and not larger than three (3) acres in size;

~~5~~4. Two and a half percent (2.5%) of the net acreage of the subdivision to be divided into lots larger than three (3) acres and not larger than five (5) acres in size.

2. 12-4-11C: PARK LAND AND OPEN SPACE REQUIREMENTS:

C. Exemptions: Park dedication shall not be required for:

1. Subdivisions with lots that have an average density of five (5) acres or more in size;

2. A first minor subdivision from a tract of record outside the city limits;

3. Nonresidential lots or subdivisions;

4. Planned unit developments or other developments which propose lands permanently set aside for park and recreation purposes to meet the needs of the persons who ultimately reside in the development and equals or exceeds the dedication requirements of subsection A of this section;

5. A subdivision where only one additional lot is created;

~~6. A subdivision in which lots are not created, except when the subdivision provides permanent spaces for mobile homes, recreational vehicles or condominiums;~~

~~7~~6. Where a subdivision provides for long term protection of an area identified as a water quality protection area under section 11-3-29, "Water Quality Protection", of this code, important wildlife habitat; significant cultural, historical or natural resources; agricultural interests or aesthetic values and the land area equals or exceeds the dedication requirements of subsection A of this section;

~~8~~7. The subdivider proposes land outside of the subdivision to be set aside for park and recreation purposes adequate to provide a significant recreational amenity to the public and will meet or exceed the park requirements outlined in subsection A of this section;

~~9~~8. Open space is provided through the cluster development standards in section 12-4-32 of this chapter.

3. 12-4-11D: PARK LAND AND OPEN SPACE REQUIREMENTS:

D. Park And Open Space Design Standards:

1. Land proposed for park development, whether public or private, shall strive to provide recreational opportunities and serve the public or residents of the subdivision in a meaningful way. The land shall be of appropriate shape, size and location and shall have convenient access and parking to meet the needs of the public or residents of the subdivision.

2. If the park is proposed to be dedicated to the city for public use, the park area shall not be less than one acre in size unless the land is immediately

adjacent to an existing or planned future park area in order to allow the city to maintain the park in an efficient and cost effective way.

3. If a park is proposed to be privately owned and maintained, it shall be a minimum of ten thousand (10,000) square feet and shall be developed with recreational opportunities such as play areas, picnic tables, gazebos, walking trails or other acceptable improvements which fulfill the intent of this section. It may also be developed as a micropark as described in §12-4-11D(5)

4. If the required park land dedication is less than ten thousand (10,000) square feet, unless the land is immediately adjacent to an existing or planned future park area or is developed as a micropark, it shall be considered an inappropriate size and the city shall request cash in lieu of park land dedication pursuant to subsection E of this section.

5. A micropark shall be pre-approved by the Parks and Recreation Department and Park Board and shall meet the following:

   a. It shall be open to the public, enhance an existing public facility and be consistent with the Park Board long-term plans for the facility. It may be located adjacent to an existing sidewalk, bike trail or other public facility and may provide a focal point for a neighborhood.

   b. The long-term maintenance of the facility shall be carefully weighed by the city and the Park Board when considering the location and amenities of a micropark.

   c. A micropark will be distinctive, unique and usable. As such, it will be constructed with unique materials and could include amenities such as: street furniture (a bench, a landscaping wall for seating, a drinking fountain or a bike rack), a work of art, an information kiosk, a share library, or a S.N.O.W. bus shelter, if in a location identified as a stop or future stop.

   d. A micropark and its improvements may either be dedicated to the city or have an easement for long-term public use.

   ~~a.~~e. The city shall not require improvements to a micropark to exceed that which would be required through a cash in lieu of land dedication. This also includes the value of the land.

~~5~~6. If the park or open space area is to be developed and used for property owners or residents within a subdivision or development, it shall be owned and maintained by the property owners of the subdivision through a common area maintenance agreement that outlines a pro rata

share of the cost of maintenance. At the time of final plat submittal, a five (5) year maintenance bond for ten percent (10%) of the improvements shall be provided to ensure the long term maintenance of the park or open space area.

~~6~~7. Although not specifically required, nonresidential subdivisions are encouraged to incorporate open space, common area or a park within the development. This may be in the form of pedestrian connections, a central park area, a plaza or any other form of open space designed to meet the needs of the users of the development.

~~7~~8. Subdivisions located adjacent to rivers, streams, lakes and publicly accessed lands are strongly encouraged to be designed to provide reasonable public access to these areas.

~~8~~9. Existing trees and significant vegetation shall be maintained in open space areas unless an alternate landscaping plan for such areas is submitted and approved or unless planned active recreational activities would conflict with existing vegetation. In case of conflicts with planned activities, the design should maintain a balance, as determined by the city, where it maximizes active recreation opportunities while trying to maintain the most important elements of native vegetation.

~~9~~10. Land proposed to be developed as a park and/or for recreational opportunities should be designed with the following standards as a guideline:

a. Park areas shall be placed in consideration of existing and potential parks and open space areas on adjacent parcels to provide consolidation or opportunities for future consolidation of parks or open space areas;
b. Parks or open space shall be located within the subdivision or neighborhood where it can be easily expanded and accessed by streets, bikeways or pedestrian paths;
c. The park area shall be landscaped, irrigated and developed in such a way to provide a recreational amenity to the public or the residents of the subdivision;
d. The preservation of important natural elements such as a meadow, a grove of trees, a wildlife corridor, a stream or other water body, a hillside or steep slope, an area of riparian resource or some other natural feature;
e. Stormwater management facilities in park and open space areas may be acceptable provided they are incorporated as a natural feature within the park area and do not exceed one-third ($^1/_3$) of the area dedicated as a park or open space;
f. A site for active recreation on slopes which average three percent (3%) or less. Grade standards will vary depending on the use proposed;

g. Where appropriate, open spaces intended for recreational or public use shall be easily accessible to pedestrians and meets the special needs of people with disabilities, children and the elderly;
h. When open space or a general common area is being used to meet park dedication requirements, the open space shall remain in a substantially natural state when it has been dedicated for preservation or conservation purposes. Bike or pedestrian trail connections using open space designations, as appropriate and practical, are encouraged;
i. Linear parks that serve as pedestrian paths or trail systems within the subdivision or that will provide a connection to adjacent properties for the future continuation of the path or trail. A linear park should be a minimum of thirty feet (30') wide that incorporates a bike/pedestrian path, landscaping, a slope of less than six percent (6%) and affords easy access by the residents of the subdivision or the public, and should provide for the extension of an existing or future trail;
j. Parking areas and rights of way located within the open space area shall count toward the required open space/park requirements if they are provided for access and utilization of the open space or common area;
k. In general, it is anticipated public and private parks will require four (4) parking spaces per acre of usable park area in order to provide reasonable access;
l. Other parks, open space, or common area designs which meet the intent of this section and meet the goals adopted for neighborhood parks and open space, and area plans.

4. 12-4-11E: PARK LAND AND OPEN SPACE REQUIREMENTS:

E. Cash In Lieu Of Park Land:

1. Where, because of size, topography, shape, location, or other circumstances, the dedication of land for parks and playgrounds is undesirable, the city may make an order to be endorsed and certified on the plat accepting a cash donation in lieu of the dedication of land that would have been dedicated. For the purpose of this chapter, the fair market value is the value of undivided, unimproved land at the time of final plat submittal.

2. It shall be the responsibility of the subdivider to provide satisfactory evidence of the fair market value ~~at the time of final plat submittal~~. The fair market value is the appraised land value as determined by the state of Montana department of revenue for the most current tax year at the time of final plat submittal. For property being appraised by the state of Montana as agricultural, the applicant shall submit an appraisal no more than 60 days old with the final plat application for the purpose of

determining fair market value.~~When the subdivider and the city are unable to agree upon the fair market value, the city may require that the fair market value be established by an appraisal done by a qualified real estate appraiser of its choosing. The appraisal fee shall be the responsibility of the subdivider.~~

3. The city will use the dedicated money to acquire, develop or maintain within its jurisdiction parks or recreational areas or for the purchase of public open space or conservation easements only if:
   a. The park, recreational area, open space or conservation easement is within a reasonably close proximity to the proposed subdivision, as may be further defined in an adopted city policy;
   b. A park plan has been formally adopted that establishes the needs and procedures for the use of the money.

4. The city may not use more than fifty percent (50%) of the dedicated money for park maintenance, as defined in an adopted city policy.

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

Date: October 13, 2015

To: Honorable Mayor and City Councilors

From: Wendy Compton-Ring, AICP, Senior Planner

Subject: Parkland Dedication

COUNCIL DIRECTION ON PARKLAND DEDICATION

After review of the current subdivision regulations, proposed options and other issues, provide staff with direction on amendments.

BACKGROUND

On February 17, 2015, the Whitefish City Council gave Planning Director Taylor direction to review how parkland dedication is handled for small urban infill subdivisions. This was prompted from one subdivider proposing a three lot subdivision on a small urban lot, approximately 0.23 acres. At the current standard of 0.03 acres per dwelling unit, the required dedication amount would be: 0.09 acres or 39% of the overall subdivision. That far exceeds the percentages that are typical for a parkland dedication, which was the primary concern of the City Council.

PARK BOARD WORKSESSIONS & RECOMMENDATION

Planning staff initially met with the Park Board in March 2015 to give a brief update on the direction from the Council regarding parkland dedication. Staff then met with the Park Board in April 2015 to go over the current requirements, concerns and options. At the May 2015 Park Board meeting, staff reviewed the options in further detail and the Park Board gave staff their recommendations to pursue.

Park Board Recommended:

1. The City continue to require parkland dedication for Minor Subdivisions;
2. Using 11% as the parkland dedication standard and do away with the 0.03 acres per dwelling unit;
3. Use the state of Montana Department of Revenue as the way to calculate land value for cash in lieu of parkland dedication;
4. Not offer discounts for urban infill subdivisions; and
5. Pursue options for parkland dedication to the city for smaller project when consistent with City parkland plans.

Staff conducted a worksession with the Planning Board in May 2015 to go over the Park Board recommendations. Planning Board concurred with the recommendations and directed staff to bring back amendments to the subdivision regulations.

Staff met on June 9, 2015 with the Park Board to review the proposed text amendments. At the Park Board meeting, they agreed that all their concerns had been addressed and unanimously recommended the Planning Board adopt the changes. The Board also discussed the difference between a subdivision, a condominium project and a regular multi-family project and its relationship to parkland dedication requirements.

PARK BOARD RECOMMENDATION TO PLANNING BOARD

- Eliminate the 0.03 standard for calculating parkland dedication for small urban lots and simply use the 11% standard for all lots 0.5 acre or less.

- Delete references to condominiums requiring parkland dedication, as condos are no longer required to go through subdivision review.

- Add an option for a micropark along with design standards.

- Define 'fair market value' as the most recent appraised value as determined by the state of Montana.

PLANNING BOARD HEARING JUNE 2015

At the June 2015 Planning Board hearing, the Board did not recommend approval of the proposed amendments as they did not believe the amendments addressed the concerns from the Council.

Attachments:

Parkland Dedication Memo to Park Board, 4-14-15
Options for Parkland Dedication, 4-14-15
Staff Recommendation to Planning Board, 6-11-15
Whitefish Planning Board minutes, 6-18-15
Whitefish City Council minutes, 2-17-15

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

Date: April 14, 2015

To: Whitefish Park Board

From: Wendy Compton-Ring, AICP, Senior Planner

Subject: Parkland Dedication – worksession

Council Direction

On February 17, 2015, the Whitefish City Council gave Planning Director Taylor direction to review how parkland dedication is handled for small urban infill projects.

Background

Planning staff provided the Park Board a brief update at the March meeting concerning the direction from the Council regarding parkland dedication and the current City requirements. As promised, staff has returned to provide a more detailed update to further describe the issue and some possible solutions.

Whitefish Subdivision Regulations.
The Whitefish Subdivision regulations, reflecting the requirements in state law, require parkland dedication for residential subdivisions in either land or cash in lieu of land based on the required dedication amount (unless exempt). There is some flexibility in what local governments can require.

During the 2009 Subdivision Regulation update, the staff had extensive discussions with the Park Board concerning:

1. the type of parkland desired; and
2. calculations for parkland dedication.

The Park Board determined at that time they only wanted land if the dedication exceeded one (1) acre. If parkland dedication was between one (1) acre and 10,000 square feet (approximately ¼ acre) it would be a homeowners' park and less than 10,000 square feet would be cash in lieu of land dedication. The City and Park Board recognized the difficulty with maintaining small areas of 'parkland' that were generally unusable and tended toward weed patches. Cash in lieu of land dedication goes toward parkland acquisition or improvements in the three (3) districts (north of the train tracks, south of the train tracks – east of

Spokane Ave and west of Spokane Ave). Pursuant to state law, only 50% of cash dedication can go toward facility maintenance.

The Park Board also agreed, and it was adopted by Council, to increase the amount of parkland dedication for urban-sized lots to 0.03 acres per dwelling unit for subdivision with lot sizes less than 10,000 square feet since the City of Whitefish has adopted urban densities, a Growth Policy and a Park Plan. The previous parkland dedication standard was at 11% for lots ½ acre or less.

The following describes the amount of parkland dedication based on the type of subdivision:

City Parkland Dedication Requirements:

Lots less than 10,000 s.f. ……	0.03 acres per dwelling unit
Lots less than ½ acre……	11% of the area of the land proposed to be subdivided
Lots 1 acre to ½ acre……	7.5% of the area of the land proposed to be subdivided
Lots 3 acre to 1 acre……	5% of the area of the land proposed to be subdivided
Lots 5 acre to 3 acre……	3% of the area of the land proposed to be subdivided

Flexibility Permitted by State Law:

State law allows local governments the option to require parkland dedications for:

1. A subsequent Minor subdivision
2. A first Minor from a tract of record for projects developing with multifamily projects

State law also allows local governments the option to require no more than 0.03 acres per lot for urban-sized lots when the subdivision is within an area with adopted urban densities and an adopted growth policy. This is the maximum permitted under state law.

Fair Market Value of the Undivided Unimproved Land:

The other aspect of the parkland dedication staff believes needs to be cleared up (which goes hand in hand with the parkland dedication requirements) is how the actual land value is determined. The state law indicates that local governments are to require the 'fair market value of the undivided unimproved land' for cash in lieu of land dedication. In the past, staff has relied on applicants to provide us with the fair market value; however, numbers have varied widely and we believe

this is an area that could be tightened up for more predictability for the city and the applicant.

Case Study

The reason staff was directed to review this standards stems from one subdivider proposing a three lot subdivision on a small urban lot. The lot is 0.23 acres. At 0.03 acres per dwelling unit, the required dedication amount would be: 0.09 acres or 39% of the overall subdivision. That far exceeds the percentages that is typical for a parkland dedication, which was the primary concern of the City Council.

Issues:
The challenge comes in the overall size of this particular subdivision (in this case less than ¼ acre), small subdivisions in general where the entire lot will be developed into sublots (no roads or other infrastructure is required – such as stormwater facilities) and maximizing the density permitted through the zoning.

The case study project is building at the maximum density allowed by the zoning, which is common for infill projects. Projects that require the construction of roads and other infrastructure typically do not realize the maximum density permitted by the zoning. This is significant in four ways:

1. When calculating parkland requirements for subdivisions using the percentage standards, only the actual property within the lots is used, not the gross acreage of the subdivision. This means that a smaller percentage of the overall subdivision is used to calculate the parkland dedication requirement.

2. When calculating parkland requirements for subdivisions that do not have any roads to dedicate or other open spaces area within the subdivision, the entire property is used to calculate the parkland dedication requirements. So a greater percentage of the project is included in parkland dedication.

3. The other aspect is projects that are maximizing the density have very little private open space areas and may have the greatest need for public parkland. For example, in the WR-3 zoning district, the minimum lot size for attached one-family dwellings is 2,400 square feet (0.056 acres) – once a dwelling is constructed, there is very little space remaining for private open space. Whereas, as project zoned WR-1 has a minimum lot size of 10,000 square feet (0.23 acres) and a 35% lot coverage.

4. When calculating the 'fair market value of the undivided unimproved land', both subdivisions will use the gross area of the project to calculate the value of the property. A larger property on the fringe of the urbanizing area will have a lower market value because of the lack of infrastructure (water, sewer,

road) than a smaller lot located within the city that has all infrastructure constructed to the lot.

Because this is a fairly difficult and complex topic, staff has attached some possible options the Park Board could consider. In addition, attached are several sample projects to further describe the issues surrounding this topic. Each of the sample projects has a summary of the impact of the attached options on parkland dedication.

Other Thoughts:

The follow two items don't neatly fit into this discussion, but may play a role as this process evolves:

1. What is a 'small infill project'? This may warrant some thought and consideration. The City-County Growth Policy, which is our overall land use policy for our community identifies infill as a priority. Infill is development within the city limits where public services and facilities are readily available. Communities look to infill development versus expanding urban boundaries, as it is most cost effective for the public compared to sending roads and utility lines to the outer reaches of the city. However, infill land can be more expensive, since all the roads and utilities are available and far more controversial because neighbors are sensitive to change within their neighborhoods versus out on the fringes. There are a lot of challenges with infill, but the financial benefit to the public is huge! Some characteristics to consider – currently within city limits, served by public utilities, zoned WR-4, WR-3, WR-2 or WB-3.

2. Staff received a suggestion from a local surveyor in regards to the smaller parkland dedication requirements. As described previously in this report, if the dedication is less than 10,000 square feet, the City will request cash in lieu of land dedication. However, he wondered about those projects that front a city trail or path (or some other public land); perhaps there is an opportunity to add to the trail and provide some community benefit. For example, what if a subdivider proposed to add 10-feet along their frontage adjacent to a public trail and install a bench or some other approved (easy to maintain) amenity. It seems like there could be some options, if someone was willing to provide some enhancement to an already popular public facility instead of the cash in lieu of parkland dedication. This is a bit outside the scope of the immediate direction, but it is certainly related.

Parkland Dedication:

OPTIONS:	PROS:	CONS:
1. Don't require parkland dedication for Minor Subdivisions. NOTE: In 2007 (or '09) the state of MT legislature gave local governments the option of requiring parkland dedication for Minor subdivisions. Up to this point Minor subdivisions were expressly exempt from parkland dedication requirements. During the 2009 Subdivision Regulation Update, the city opted to require parkland dedication for Minor Subdivisions. In previous legislative sessions, the definition of a Minor Subdivision also changed so there are less Minor Subdivision than before, but it is still fairly common for infill projects in older areas of town to still qualify for a Minor.	This would no longer be an issue for many of the smaller infill projects, if they qualify for a Minor Subdivision.	Because many of the infill projects are high density, the residents of these projects are most likely to use public parkland facilities and are probably have the least amount of private open space. The citizen of Whitefish will get less public benefit from granting subdivisions approval for smaller project for parkland purposes.
2. Reduce the amount of parkland dedication requirement to some other amount – sliding scale based on the gross acreage of the project or density or zoning district of the project? NOTE: As described in the attached report, 0.03 acres per dwelling unit is the maximum permitted under state law; however, the city could come up with some sort of sliding scale based on some sort of criteria (gross area of the subdivision, is it infill, location in town?)	Perhaps by creating a sliding scale based on the gross acreage, the parkland dedication will better represent the amount parkland need for the residents in the subdivision.	Would reduce the amount of land and/or cash to buy parkland, develop public lands and maintain public facilities. Could be complicated, complications cause difficulties for staff to implement and the public to understand. Coming up with the appropriate parkland amount could be challenging and difficult to justify The State of MT already has standards that are accepted (and used across the state), it is best to use the state standards
3. Eliminate the 0.03 acre per dwelling unit standard and go to the 11% standard for all lots less than ½ acre. This was the standard used prior to 2009. (Missoula standard) NOTE: The City of Missoula only does the percentage based approach to parkland dedication. This would keep parkland dedication the same across the city which has some merit.	This would keep the parkland simple and everyone across the city would be treated the same. ½ acre or less lot size subdivision is the most common subdivision in the city. It would be simple for the public and the applicant to understand and simple for the City to implement.	Would reduce the amount of land and/or cash to buy parkland, develop public lands and maintain public facilities.
4. No change; leave the standards as they are	Maximize the amount of parkland for the more urban-sized lots. The standard is designated as a maximum for subdivisions within communities with a density, growth policy and park plan – such as Whitefish. Gives the citizens of Whitefish the most land and/or cash to buy parkland, develop public lands and maintain public facilities.	May cause infill projects to not subdivide. May negatively (or unfairly) impact the smaller very high density projects that want to subdivide. May negatively impact any possibility of projects having an affordable housing component depending on the cash in lieu requirement.

Fair Market Value:

OPTIONS:	PROS:	CONS:
1. Use the Billings model and provide three options for calculating 'fair market value': 1) Comparative Market Analysis by a licensed realtor that meet the 3 criteria: per acre sales of at least three comparable parcels of land within the last year within 2 miles of the subdivision; 2) raw land appraisal from a licensed appraiser; or 3) sale price of property if purchased within 1 year of date of subdivision final plat application NOTE: Staff visited with a local appraiser and they found these options were most likely to get the City (and the applicant) the most accurate information.	Provides the subdivider with some options from no cost to cost See Option #2 with the various additional criteria to consider with Option #1	There is less flexibility in negotiating a value (staff see this as a 'pro')
2. Consider some additional criteria: a) Value must include the property once it's annexed and has an urban zoning designation (Bozeman Standard) b) With or without entitlements (This would mean the value at the time of preliminary plat or the value at the time of final plat) c) With or without utilities (Similar to above, for many subdivisions this would be at the time of preliminary plat or at the time of final plat. For an infill project with utilities in the street, a discount of some standard might apply.)	2.a) makes some sense to us since the projects are all going to be annexed into the city and given an urban designation 2.b) with or without entitlements could change the value depending on the market By doing it without entitlements, we could get all the information upfront at the time of preliminary plat and identify a dollar amount in the conditions of approval so there are no questions later in the process.	2.c) could be difficult to determine a discount for infill projects that have utilities available; however, since one of the big goals of the Growth Policy is to encourage infill, we could consider a % discount. Staff could do more research on this topic.
3. Use the State of Montana Department of Revenue land value	It is an established number that, unless being appealed by the property owner, can be agreed to and is easily accessible.	Depending on when an actual appraisal is done, the number may not be very accurate – it's a snapshot in time and is accurate at the moment it is done. Right now subdividers may be happy to use it because it would be quite low as to the actual value of the land, but a number of years ago, it would have been very high.

OPTIONS:	PROS:	CONS:
4. Establish a set fee either per lot rate or per acre rate for Minor Subdivisions (or infill subdivisions).	It would be very simple to identify the amount required for dedication Easy for the public and applicants to understand The 'per acre rate' might be more scalable for the actual subdivision and more relatable to the MCA	Could be very difficult (and complex) to determine a defensible fee – many factors to consider including the Capital Improvement Plan for the Parks Department, impact to park facilities. etc. The per lot fee may not equate to the true parkland impact and would cap out based on the number of lots in a Minor (never more than 5 lots) A per acre rate would vary depending on the size of the subdivision, but may not be a true reflection of the value of the land
5. No change; leave the standards as they are – negotiate with each applicant	Allows the subdivider to negotiate with city staff on a case by case basis.	City staff is not an expert in this field; the city may not be getting all the value due toward public parkland. There is considerable lack of predictability in this process – both for the city and the subdivider.

there? Mr. Stearns said the City is just about to get to that point. We have retained a new Realtor, Chap Godsey, and they have had some cursory discussions. Crandall Arambula suggested we try to determine the tenants early and Mr. Stearns will try to get started on that process. It will have to be some sort of competitive or open process, so they will probably put out requests for proposals. There is 3,000 square feet, so there will probably be two retailers and it will be designed with venting for food service. One problem with building the new City Hall in this location is that it is confined and at some point the retail space may need to be used for City offices, but that is way in the future. The City Council would need to decide whether to take over the retail space or build a third floor. Melissa said it is a beautiful project.

PUBLIC COMMENT

None.

MOTION / BOARD DISCUSSION

Rebecca moved and Frank seconded to adopt the findings of fact within staff report WCUP 15-09, with the 11 Conditions of Approval.

VOTE

The motion passed unanimously. The matter is scheduled to go before the Council on July 6, 2015.

PUBLIC HEARING 3: AMENDMENT OF WHITEFISH CITY CODE TITLE 12, SUBDIVISION REGULATIONS

A request by the City of Whitefish for an amendment to §12-4-11, Park Land and Open Space Requirements, of the Subdivision Regulations.

STAFF REPORT WSUB 15-01 (Compton-Ring)

Senior Planner Compton-Ring has met with the Park Board four times and there was a work session on this topic at the May Planning Board meeting. Wendy presented the draft regulations at the June Park Board meeting and the Park Board unanimously recommended that the Planning Board also make a recommendation for approval of the changes. The changes were to 1) eliminate the 0.03 acre standard for calculating parkland dedication and simply use the 11% standards for all lots that are one-half acre or less; 2) delete the reference to condominiums because that state law changed for municipalities with zoning; 3) add an option for "microparks" (or pocket parks) along with design standards; 4) define the "fair market value" as those most recent appraised value as determined by the state of Montana.

After meeting with the Park Board, Dave and Wendy talked further and thought about maybe adding another option

that is not in Exhibit A of the Staff Report. It could be included to give someone the option if they had purchased their property within one year, that purchase price could be determined to be the fair market value and could be used in lieu of using the State of Montana Department of Revenue figure for the most current tax year.

Wendy reviewed her staff report and findings.

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

BOARD QUESTIONS OF STAFF

Rebecca asked if an appraisal could be added to the fourth proposed amendment. Wendy replied that could certainly be added but they were trying to keep it as easy and reasonable as possible. Wendy said they learned that reappraisals are going to happen every two years so they will be more current.

John suggested if the "sale price" is going to be included in the fourth amendment, there be some language added about whichever is higher and Wendy thought that was a good suggestion.

Jim said in Montana we do not have to divulge purchase prices for property, which would make it difficult to find out what was paid within the past year as it is not a matter of public record.

Melissa asked to go through some concerns including confusion over Section 12-4-11A. Wendy said examples were included in the packet and that language comes straight out of State law. Melissa suggested "demonstration park" be added to Section 12-4-11D(3), and Wendy thought that was a good idea. Melissa also thought the term "long-term" was vague in Section 12-4-11D(5)(d). Does that mean perpetual?

Dave made a point of clarification that the public hearing had not yet occurred, so specific changes should be held until after that.

APPLICANT/AGENCIES

None.

PUBLIC COMMENT

Mark Van Everen, 4 Pine Avenue, Whitefish, spoke as he is in the process on building three townhomes on Highway 93 W at the intersection of Murray Avenue on the north side of the road. Several months ago he submitted his final plat application and learned about the confusion regarding the

cash-in-lieu of parkland donation fee and how vastly different the current rules could be interpreted. He wrote a letter to the City Council, and City Council directed City Staff to review this policy. The City Council wanted the policy revised so it did not discourage infill development. Director Taylor had looked back seven years and found only one example of an infill project where this fee had been paid; the applicant was developing approximately one acre into four lots and his parkland fee was $6,500. Mr. Van Everen's project is one-quarter acre creating three lots, and using the new proposed formula he will pay over $15,000. He suggested 1) providing an exemption for minor subdivisions; or 2) instead of paying 11% for lots being developed that are less than one-half acre in size, drop the percentage to 2.5, which is the amount assessed for developments of three acres or more. Current policy allows condos not to be subject to the parkland fee. In terms of impact on parks there is no difference between town homes and condos; however, the advantage of town homes from an owner perspective boils down to financing, as townhomes are easier to finance. He felt these changes would encourage builders to build condominiums and the parks would get nothing. He urged the Planning Board not to adopt these changes and instead assist in the development of a more equitable policy that is congruent with the Master Plan.

MOTION / BOARD DISCUSSION

Frank moved to deny the request to the City Council for an amendment to Section 12-4-11 as he does not believe the issue the Council was concerned about, the equitability of the way the City manages infill projects, has been addressed with this particular amendment, or at least what he was concerned about, by simply a change in ownership and not a change in density for a particular infill project. He has a hard time understanding how creating an 11% sized park actually adds to the benefits of the open spaces for the City and charging somebody that much makes no sense because we are not adding to the parkland in the area through those payments. The Park Board approved this and sent it on because it met their requirements for obtaining and providing parkland. Frank voiced his concern at the time, as he did not think this particular approach addressed the concerns the City Council had and the inequities this particular toll would provide, based simply not on density, but based simply on a form of ownership.

Jim seconded Frank's motion.

John asked Dave and Wendy why not just make them all

2.5%, and Wendy replied that is how State law is written and parkland is only a requirement if someone asks for a subdivision. We could not be less restrictive than State law. If someone is developing a subdivision, they are asking for the benefit of subdividing. It has been decided that parkland is important in the State of Montana and everyone in Montana is doing this.

John asked if we are simply adopting State law with these percentages and Dave said the old amount of 0.03 is what the State law maximum and under that percentage, with Mark's situation that would equal $28,000 or $29,000, but Wendy said it would actually be $45,000 and Dave agreed. Wendy said the only other option is the City currently requires parkland dedication for minor subdivisions, and we could opt not to, but back in 2009 when the subdivision regulations were updated, the Park Board and City Council agreed that minor subdivisions should contribute to parkland, as they are generating an impact to the parks. Dave said those are less than five lots (since 1973 when the State law was adopted).

Wendy said this was discussed at the Park Board meeting and we could exempt the minor subdivisions, but we cannot be out of compliance with State law.

John asked what would happen if we approve the motion by Frank and Wendy replied it would go to Council as a denial. Dave said it could also be remanded back to Staff to keep working on it and come back with further revisions or direction from the Park Board.

Rebecca said she thought we should keep working on it because we do want affordable building in Whitefish.

Ken asked whether exempting minor subdivisions would be one option to improve it and Wendy said yes, but it could not go down to 2.5% as that would be out of compliance with State law. Ken does not see a lot of discretion available.

Rebecca asked if legally, per State law, we have to go to 11%, or can it be reduced, if that provision for minor subdivisions is kept in. Wendy said that is correct. Rebecca asked if we as a City could supersede that and make our own regulations. Dave said we could reduce the 0.03 standard in the first amendment to something else.

Frank said the City decided a long time ago that infill is important to us and should be encouraged. Dave said

minor subdivisions could be exempt from parkland dedication, and Missoula does that, and he would not have a problem with it. Wendy pointed out that sometime in the future there will be no minor subdivisions. Wendy said it is kind of like an impact fee, and you cannot treat one class of people in the City differently from other classes of people. Frank said we do treat people differently depending on what the zoning is for those areas and what they can and cannot do with their property, so we do not treat everybody the same based on the piece of property they have. It seems to him that there would be some logic with respect to this particular "impact fee", which he thinks is probably a fair way to look at it and maybe we ought to address it that way. That is what the cash-in-lieu is all about – it is basically an impact fee. Dave said the City should be encouraging the type of development they want to see, as long as it complies with State law.

Jim asked how much the three units on Second Street with the log home (Mindful Designs) would have paid and Dave replied it is a condo so would be exempt.

Rebecca wanted to summarize and said she thought Dave's idea was a good one. We think the 11% is damaging to smaller builders and smaller projects, but it is State law for lots one-half acre or smaller, so we either stick to our existing standards and State law or we eliminate them within the City limits. Dave said you would keep the standards for the ones down to one-half acre or smaller and then put in a statement that subdivisions that qualify for a minor subdivision are exempt from parkland dedication. Rebecca asked what the impact might be on parkland monies and Dave and Wendy said more research would need to be done. Wendy said there has been more than one in the last seven years, but it would take more time to do that research. Dave thought maybe $10,000 or $15,000 a year, but that was just a guess, as we have not had that many. He said a lot of builders research it, find out how much they would have to pay, and then go around it by building condos. That is just one of the reasons builders decide to build condos, and there are other reasons.

Rebecca asked if the Planning Board did that, could they modify what was given back to it with what Dave just said.

Ken pointed out there was a motion before the Board to deny it right now.

Dave suggested they send it back and Staff could come

back at the next meeting after looking at what it would mean to exempt minor subdivisions, what other communities do and have some language in the Staff Report based on that direction rather than "band-aiding" it right now and not be able to fully vet it.

Frank withdrew his motion and moved to table the matter to the next Planning Board meeting and have another set of suggestions or recommendations based on the discussion tonight and Jim seconded his motion.

Melissa reiterated the points she had made earlier regarding demonstration and perpetuity and added that she felt Section 12-4-11D(8) should be changed to read, "Subdivisions located adjacent to rivers, streams, lakes and publicly accessed lands are *required* to be designed to provide reasonable public access to these areas", rather than *strongly encouraged*.

VOTE

The motion to table based on the discussion passed unanimously. The matter was scheduled to go before the Council on July 20, 2015, but will be rescheduled.

NEW BUSINESS

1. Appoint Planning Board member to City Lakeshore Protection Committee. Jim volunteered and Ken nominated Jim to serve as the Planning Board member on the City Lakeshore Protection Committee. Rebecca seconded the motion, and it passed unanimously.

GOOD AND WELFARE

1. Matters from Board. None.

2. Matters from Staff. None.

3. Poll of Board members available for the next meeting on July 16, 2015: All indicated they thought they would be available.

ADJOURNMENT

Frank made a motion to adjourn the meeting and move into the work session at approximately 7:40 p.m. and Rebecca seconded. The motion passed unanimously.

The next regular meeting of the Whitefish Planning Board will be held on July 16, 2015, at 6:00 p.m.

/s/ Ken Meckel
Ken Meckel, Chair of the Board

/s/ Keni Hopkins
Keni Hopkins, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 7-16-15

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

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

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

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

The motion passed unanimously.

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

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

8) COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

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

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

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

Date: May 29, 2015

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, June 18, 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 Monday, July 6, 2015 for items 1 and 2 and a public hearing on Monday, July 20, 2015 for item 3. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

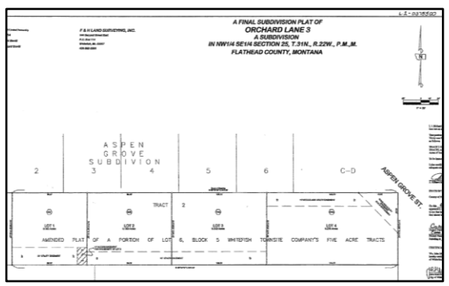
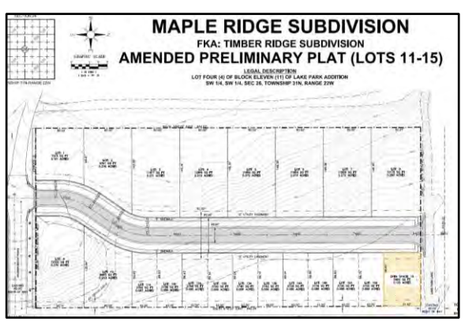
1. A request by Danette Sefcak of Whitefish Handcrafted Spirits for a Conditional Use Permit in order to operate a micro-distillery. The property is located at 204 Wisconsin Avenue and can be legally described as Lot 2 of Kellam Subdivision; Tracts 1B and 1 BA of Block 9 of Whitefish Townsite Company's Five Acre Tracts in S25 T31N R22W. WCUP 15-08 (Compton-Ring)

2. A request by the City of Whitefish for a Conditional Use Permit in order to construct a city hall and parking structure with a building footprint that exceeds 7,500 square feet. The property is located at 418 E 2nd Street and can be described as Lots 13-24 and abandoned alley, Block 36 in Whitefish Original Townsite in S36 T31N R22W. WCUP 15-09 (Compton-Ring)

3. A request by the City of Whitefish for an amendment to §12-4-11, Park Land and Open Space Requirements, of the Subdivision Regulations. WSUB 15-01 (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*. For questions or further information regarding these proposals, phone 406-863-2410.

Parkland Dedication Examples
(current standards versus proposed)

	Subdivision Layout	*Narrative of the Project*	*Photos*	*Current Standards*	*Proposed Standards*
Murray Townhomes		Minor 3-lot subdivision off W 2nd Street – preliminary plat approved 2014. The overall lot is 0.23 acres and the lot sizes range from 4,108 to 2,400 square feet. The zoning is WR-3. Lots are designed to be a tri-plex. Density of the project is developed at 13 dwelling units per acre.		**Amount of Parkland Dedication:** 3 x 0.03 = 0.09 acres (39% of Lot) **2015 state of MT Land Value:** $65,088 *(converted below to acreage for ease of comparison)* **Cash in Lieu Fee:** 0.09 acres x $280,551/acre = $25,250	**Amount of Parkland Dedication:** 0.232 (acres in lots) x 11% = 0.02552 acres **Cash in Lieu Fee:** 0.02552 acres x $280,551/acre = $7,160
Orchard Lane III		Minor 4-lot subdivision off Colorado Avenue – final plat approved 2014. The overall lot originally was 0.821 acres and the lots ranged in size from 12,153 to 6,970 square feet. The zoning is WR-2 and lots are sized to be either two-family or single family. Density of the project is developed at 4.87 dwelling units per acre.		**Amount of Parkland Dedication:** 4 x 0.03 = 0.12 acres (14.6% of lot) **2015 state of MT Land Value:** $94,190 *(Since this project was subdivided in 2014, there isn't a value of the unsubdivided land; therefore staff used the value of the lot to the south which is a bit larger, but not yet subdivided.)* **Cash in Lieu Fee:** 0.12 acres x $79,822/acre = $9,578.00	**Amount of Parkland Dedication:** 0.821 (acres in lots) x 11% = 0.09 acres **Cash in Lieu Fee:** 0.09031 acres x $79,822/acre = $7,209
Maple Ridge		Major 20-lot subdivision located off Haugen Heights Road – preliminary plat approved 2014. The overall lot is 4.39 acres and the lot sizes range from 12,178 to 3,725 square feet. The zoning is WR-2. Lots are sized to accommodate two-family dwellings or single-family. Five lots are intended to be townhouses. Density of the project is developed at 4.56 dwelling units per acre.		**Amount of Parkland Dedication:** 20 x 0.03 = 0.6 acres (13.7% of lot) **2015 state of MT Land Value:** $127,895 **Cash in Lieu Fee:** 0.6 acres x $30,000/acre = $18,000	**Amount of Parkland Dedication:** 3.357 (acres in lots) x 11% = 0.36927 acres **Cash in Lieu Fee:** 0.36927 acres x $30,000/acre = $11,078

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

December 1, 2015

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

RE: 2nd Street Lofts; (WCUP 15-17)

Honorable Mayor and Council:

Summary of Requested Action: Mark Panissidi of 2nd Street Lofts, llc, is requesting a Conditional Use Permit in order to construct a mixed-use multi-family project. The applicant is proposing a three story building with office/retail space and two live-work units on the first floor. The 2nd and 3rd floors have thirteen (13) residential units. A Conditional Use Permit is required for this project because the building will have more than four (4) dwelling units (§11-2L-3) and the footprint of the building exceeds 7,500 square feet in the Old Town – Railway District (§11-2L-4; bulk and scale). The property is undeveloped and is zoned WB-3 (General Commercial District). The Whitefish Growth Policy designates this property as 'Core Commercial'.

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

Public Hearing: The applicant's representatives and two members of the public spoke at the public hearing on November 19, 2015. The neighboring property owner was concerned about parking and congestion within the alley. The draft minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on November 19, 2015 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with eleven (11) conditions as contained in the staff report and adopted the staff report as findings of fact. The Planning Board requested a copy of the Phase I Environmental Site Assessment be provided to the Council, as there were some questions regarding ground contamination. The report, completed by Applied Water Consulting on April 20, 2015, found the property to be within the Whitefish Solvent facility. The report included construction recommendations, but no additional investigation was warranted. This is attached for your review.

Proposed Motion:

- I move to approve WCUP 15-17 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 December 7, 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 11-19-15 Planning Board Meeting

Exhibits from 11-19-15 Staff Packet to Planning Board:

1. Staff Report – WCUP 15-17, 11-12-15
2. Adjacent Landowner Notice, 10-30-15
3. Advisory Agency Notice, 10-30-15
4. Application for Conditional Use Permit, 10-8-15

Exhibits Submitted After the Planning Board Meeting:

5. Phase I Environmental Site Assessment, Applied Water Consulting, 4-20-15

c: w/att Necile Lorang, City Clerk
Mark Panissidi, 2nd Street Lofts, llc, PO Box 1087 Columbia Falls, MT 59912
Bruce Boody, Bruce Boody Landscape Architect, Inc., 301 E 2nd St, suite 1B Whitefish, MT 59937
Ken Huff, Solus Architecture, 1032 Klondike Loop Somers, MT 59932

Exhibit A
2nd Street Lofts
WCUP 15-17
Whitefish Planning Board
Recommended Conditions of Approval
November 19, 2015

1. The project shall be in compliance with the site plan submitted on October 8, 2015, except as amended by these conditions. Minor deviations from the plans shall require review pursuant to §11-7-8E(8) and major deviations from the plans shall require review pursuant to §11-7-8. The applicant shall maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.

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

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

4. The Fire Department requires the applicant to comply with all fire codes for this classification of occupancy. (IFC)

5. All on-site lighting shall be dark sky compliant. (§11-3-25, WCC)

6. Approval from the Architectural Review Committee shall be obtained prior to submitting an application for a building permit. (§11-3-3B, WCC)

7. Coordinate with Public Works Department regarding required Construction Encroachment Permit, which is issued independently from this Conditional Use Permit. (§7-2-1, WCC)

8. The refuse location shall be reviewed and approved by the Public Works Department and North Valley Refuse. (§4-2, WCC)

9. All exterior mechanical equipment shall be screened visually and acoustically. (4.6.1., Arch Review Standards)

10. A landscaping plan shall be submitted for review and approval. (11-4-5C, WCC; Finding of Fact #4)

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)

zoning designation that allows both single-family and duplex/townhouse.

Rebecca asked if they went through the public process correctly and Compton-Ring said yes and the Council approved it.

Richard asked Compton-Ring earlier about parking issues and she asked City Engineer Karin Hilding, who said neither she nor Public Works Director Craig Workman felt "no parking" signs were needed as it's only a 20' (alley sized) road. Richard asked if that was because it is self-evident and Compton-Ring replied it could be brought up at a Council level with Craig. Richard request that be done.

Rebecca asked if Public Works would work with them if there is a complaint of water issues or water trespassing and Compton-Ring replied yes.

APPLICANT / AGENCIES

Monte Gilman, 605 Iowa, said the Applicant could not be here tonight and he is here to answer any questions.

PUBLIC COMMENT

None.

MOTION / BOARD DISCUSSION

Rebeca moved to approve an amendment to preliminary plat WPP 14-04A and Jim seconded to adopt the findings of fact within staff report WPP 14-04A, with the 18 Conditions of Approval as proposed by City Staff.

Rebecca said it seems like everything has been done legally and even though there seems to be some reluctance from the neighbors, she does not see how the Board can hold up the project.

Jim called for the question and there was no opposition.

VOTE

The motion passed unanimously. The matter is scheduled to go before the Council on December 7, 2015.

PUBLIC HEARING 5: 2ND STREET LOFTS CONDITIONAL USE PERMIT
Audio 8:15 pm

A request by 2nd Street Lofts, LLC, for a Conditional Use Permit in order to develop a mixed-use multi-family project with fifteen dwelling units and a footprint greater 7,500 square feet. The property is located at 214 E. 2nd Street and can be legally described as Lots 15, 16, 17, 18 and south 1/2 of Lot 20 in Block 36 Whitefish Original Townsite in S36 T31N R22W.

STAFF REPORT

Senior Planner Compton-Ring reviewed her staff report and

WCUP 15-17 (Compton-Ring)

findings.

Staff recommended adoption of the findings of fact within staff report WCUP 15-17 and for **approval** to the Whitefish City Council.

BOARD QUESTIONS OF STAFF

Rebecca said when the Episcopal Church was moved, there was contamination at that site from the dry cleaners and they were doing testing at the River. Compton-Ring did not know. Rebecca also asked what is the rationale for 45' height in the middle of the building and Wendy replied she thought it originated with the Fire Department so their ladders can access roofs. Rebecca thought 35' was the standard downtown, but Wendy said it is 45'.

Richard asked whether these units are zoned for overnight and temporary rentals and Compton-Ring said yes.

APPLICANT / AGENCIES

Bruce Boody, Landscape Architect, 301 E Second Street, is here to answer site related questions, and Ken Huff is here to address the architectural part. Bruce pointed out one minor correction on Page 2 of the staff report, that Lot 19 should be included in the project. Bruce said to answer Rebecca's question about contamination in area, there was some contamination found in the Phase 1 evaluation performed by Applied Water Consulting, and it was not of any level considered a concern to the DEQ. They will make the report available to the City Council if this project is approved by the Planning Board. They will be able to make all the landscaping requirements without any deviations, but the plan is not quite done. Robert Peccia Associates will be working on the stormwater drainage and that will be done by the time it goes to Council. The finished streetscape that will be needed on O'Brien will be to the Downtown project standards. Richard asked if a sidewalk is included and Bruce replied it did, along with new curb and gutter, drainage reworked and new sidewalks, and also, street trees and street lighting.

Kenneth Huff, 1032 Klondike Loop, Somers, answered Rebecca's height question and said it is because of an angle issue for Fire Department ladders. The project is zoned for overnight rentals but that is not their intention, and all the units will be sold individually. Along O'Brien Avenue, these will be people's businesses and residences.

Richard asked if they envision foot traffic out the front door on E 2nd Street, and Mr. Huff replied yes.

Rebecca asked how many entrances there are to the building, and Mr. Huff replied there are two primary entrances for residences and in commercial part, maybe three or four. Each of the live-work units on the O'Brien side will have their own entrance, so maybe eight total.

Jim asked the size of the property and Bruce replied 0.36 acres. Rebecca asked for the square footage and Mr. Huff replied 9,300 footprint of the main and second floors, and quite a bit less on the third floor.

Richard asked if they envision any of these being affordable units and Mr. Huff replied there is a lot of different sizes, from 670 to 1,500 square feet. They might be considered affordable for downtown Whitefish, but not for him. Richard also asked about the price range and Mr. Huff replied that was still up in air, depending on appraisals. Richard said he is interested in recycling and would like an area that could be exclusive for their residents, and he may make that a Condition of Approval when it comes before the Council. Mr. Huff said the garbage area in the back will be large enough to include recycling.

Rebecca asked Mr. Huff for a picture of the parking structure and he said he would not have one until next Tuesday when the project goes before the Architectural Review Committee, but that only the side you drive in will be open, the other three sides will be enclosed.

PUBLIC COMMENT

David Turner, PO Box 969, Whitefish, is the owner of 220 E 2nd Street East, which is currently being rented by Flathead Computers. Although he and his wife Colleen think the proposed building is nice-looking, their concern is primarily with parking and traffic. They have seen the congestion grow astronomically. This is the Railroad District and they would like to see it increase in value, but they are very concerned with parking. There is less parking on the street as driveways have been widening. 220 E 2nd Street relies primarily on parking in front of the building. They have two to three spaces, and their current tenant does not need more than that, but a future occupant might. They have Lots 13 and 14, east of this property. The driveway is not useful because there is only room for maybe one employee vehicle, and parking on the street is tight. Since the Church has been removed, many people have parked in the lot, maybe up to 10-15 vehicles at a time. Trucks block the alley all the time to unload goods to take to various restaurants in that block, and adding 17 parking spots will really add to the unauthorized parking that already takes

place. There is heavy traffic in the alley and snow compounds the problem in the winter. They are not opposed to this, but there are some issues with parking and traffic that have not been addressed. They would also like to know how close this project will be to their property.

Colleen Turner added if there was ever a fire, fire trucks would not be able to get through the alley most times of the day. The parking is horrendous and she hopes they will consider it.

Mr. Turner said they are not unalterably opposed to the project but they are concerned with parking, traffic, and the state of disrepair of the alley. He wondered if there is any plan to resurface the alley, as the condition of the asphalt of that alley will not allow for more traffic.

Chairman Meckel said there are always conundrums, and asked Mr. Turner if he had any suggestions? Mr. Turner said he is not a planner, but he supposes lower density would help somewhat. They do not want an empty lot there, but would suggest something with a lower density. As the businesses in the area have grown, more and more employee parking is required. Chairman Meckel said he has sympathy with them as he knows this is a real issue.

Richard said we are building a parking structure with 212 spots, many of which will be open for lease, and he hopes employers will consider leasing them for their employees.

MOTION / BOARD DISCUSSION

Rebecca moved and Richard seconded to adopt the findings of fact within staff report WCUP 15-17, with the 11 Conditions of Approval as proposed by City Staff.

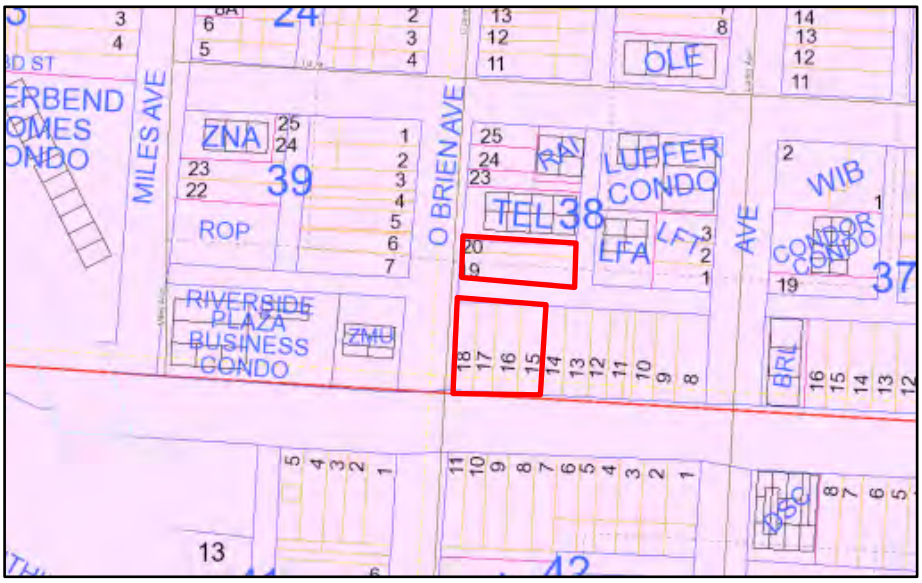
Rebecca said it is unfortunate in the downtown area they are not required to have any parking and feels we need to address this as a City. She thinks we need to look at alleys and will bring it up with the City Council. She would like to amend finding No. 3 due to previous contamination of the ground by an adjacent business. She made a motion to add an additional condition that the applicant submit the evaluation performed by Applied Water Consulting to the City and it remain in the public record. Richard said he thinks Applied Water's report will include the extent of the contamination and remediation, and following discussion, Rebecca withdrew her amendment to the findings. Bruce said they will provide the whole Applied Water Consulting report. The DEQ determined the levels of contamination are so low the

	only concern would be if you were using the water under the building directly for drinking water, which will not be done. Chairman Meckel called for the question and there was no opposition.
VOTE	The motion passed unanimously. The matter is scheduled to go before the Council on December 7, 2015.
PUBLIC HEARING 6: CITY OF WHITEFISH REZONE REQUEST Audio 8:50 pm	A request by the City of Whitefish for a Zone Change on parcels recently annexed into City limits. The properties are developed with residential uses. The subject properties are located at 2422 and 2424 Carver Bay Road and can be legally described as Lots 9 and 10 of Whitefish Lake Summer Homes subdivision in S10 T31N R22W.
STAFF REPORT WZC 15-04 (Minnich)	Planner II Minnich reviewed her staff report and findings. Staff recommended adoption of the findings of fact within staff report WZC 15-04 and for **approval** to the Whitefish City Council.
BOARD QUESTIONS OF STAFF	None.
APPLICANT / AGENCIES	None.
PUBLIC COMMENT	None.
MOTION / BOARD DISCUSSION	Richard moved and Jim seconded to adopt the findings of fact within staff report WZC 15-04.
VOTE	The motion passed unanimously. The matter is scheduled to go before the Council on January 4, 2016.
OLD BUSINESS: AMENDMENT OF WHITEFISH CITY CODE TITLE 12, SUBDIVISION REGULATIONS Audio 9:00 pm	A request by the City of Whitefish for an amendment to §12-4-11, Park Land and Open Space Requirements, of the Subdivision Regulations. (Continued from June 18, 2015 Planning Board Meeting.)
STAFF REPORT WSUB 15-01 (Compton-Ring)	Senior Planner Compton-Ring reviewed her staff report and findings, along with examples of parkland dedication (current standards versus proposed).

2nd STREET LOFTS
CONDITIONAL USE PERMIT
WCUP 15-17
November 12, 2015

This is a report to the Whitefish Planning Board and the Whitefish City Council regarding a request for a conditional use permit to construct a three-story mixed-use multi-family project with 15 dwelling units, 17 parking spaces and a building footprint greater than 7,500 square feet. This application has been scheduled before the Whitefish Planning Board for a public hearing on Thursday, **November 19, 2015**. A recommendation will be forwarded to the City Council for a subsequent public hearing and final action on Monday, **December 7, 2015**.

PROJECT SCOPE



Mark Panissidi of 2nd Street Lofts, llc, is requesting a Conditional Use Permit in order to construct a mixed-use multi-family project. The applicant is proposing a three story building with office/retail space on the first floor fronting E 2nd Street and two live-work units fronting O'Brien Avenue. The 2nd and 3rd floors have thirteen (13) residential units. They are providing seventeen (17) parking spaces – four are single garage spaces in the main building and 13 carport spaces (three are compact-size) with storage to the north of the project across the east-west alley. Access to the parking will be off O'Brien Avenue. The E 2nd Street frontage was improved with curb, gutter sidewalk, street lights and street trees with the Highway 93 W project several years ago. The applicant will update the O'Brien Avenue frontage along their project with curb, gutter, sidewalk and street trees.

A Conditional Use Permit is required for this project because the building will have more than four (4) dwelling units (§11-2L-3) and the footprint of the building exceeds 7,500 square feet in the Old Town – Railway District (§11-2L-4; bulk and scale).

A.

OWNER:
2nd Street Lofts, llc
Mark Panissidi
PO Box 1087
Columbia Falls, MT 59912

APPLICANT:
Bruce Boody Landscape Architect Inc
Bruce Boody
301 E 2nd St, suite 1B
Whitefish, MT 59937

TECHNICAL/PROFESSIONAL:
Solus Architecture
Ken Huff
1032 Klondike Loop
Somers, MT 59932

B. SIZE AND LOCATION OF PROPERTY:

The project is located at 214 E 2nd Street. The project can be legally described as Lots 15, 16, 17, 18, 19 and south ½ of Lot 20 in Block 36 Whitefish Original Townsite in S36 T31N R22W, P.M.M., Flathead County, Montana.

C. EXISTING LAND USE:

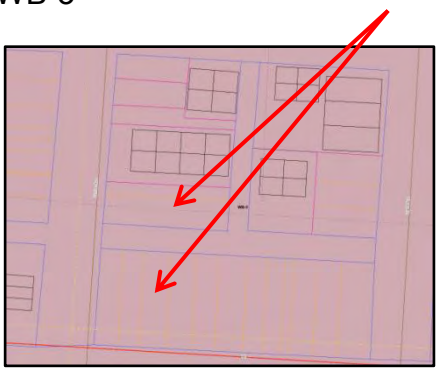
The subject property is currently undeveloped.

D. ADJACENT LAND USES AND ZONING:

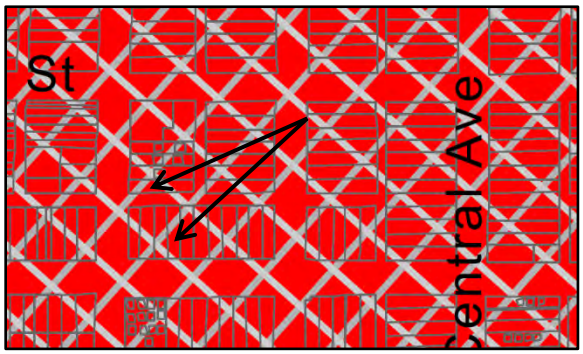
North:	Residential	WB-3
West:	Commercial Use	WB-3
South:	Commercial Use	WB-3
East:	Commercial Use	WB-3

E. ZONING DISTRICT:

The property is zoned WB-3 (General Business District). The purpose of the WB- 3 District is 'broad commercial district intended to accommodate financial, retail, governmental, professional, institutional and cultural activities.'



F. WHITEFISH CITY-COUNTY GROWTH POLICY DESIGNATION:



The Growth Policy designation is Core Commercial which corresponds to the WB-3 zoning district.

> "This designation describes the downtown area of Whitefish as well as surrounding transitional and mixed use areas. The major uses are retail commercial, professional and government offices, financial institutions, restaurants and taverns, hotels, and art galleries and studios. The Commercial Core is also characterized by mixed and multi-use developments such as residential above retail, mixed residential and office, and "artist lofts" which may have residential, studio, and gallery components.
>
> Urban forms in the Core are dense and usually multi-level. Street connectivity is high, with minimal or zero setbacks, and accessible, human scale storefronts. Character is decidedly pedestrian. On-street parking is provided for ease of accessibility, but parking serving employees and residents is generally located in parking structures or in small lot accessed from alleys. Streets in the Core are active, and streetscapes are attractive with street trees, planters, and street furniture. Architecture is of very high quality and contributes to the established local theme."

G. UTILITIES:

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

H. PUBLIC COMMENTS:

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on October 30, 2015. A notice was emailed to advisory agencies on October 30, 2015. A notice of the public hearing was published in the *Whitefish Pilot* on November 4, 2015. As of the writing of this report, no letters have been received.

REVIEW AND FINDINGS OF FACT

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

1. **Growth Policy Compliance:** The Growth Policy designates this area as Core Commercial which is consistent with the WB-3 zoning district. The 2015 Downtown Master Plan identified this lot as a possible parking lot. No further analysis was provided and staff suspects this lot was identified as future parking simply because it has been vacant for so long. This plan is not regulatory but simply identified a possible opportunity for parking. The property continues to be zoned WB-3 with all the permitted and conditionally permitted uses.

   Finding 1: The proposed use complies with Growth Policy Designation of Core Commercial because it is zoned WB-3 (General Business District), the proposed use is consistent with the WB-3 zone.

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

   The property is zoned WB-3, General Business District. The purpose of this district is "intended to accommodate financial, retail, governmental, professional, institutional and cultural activities. The WB-3 district also encompasses two (2) unique commercial areas which require special considerations: the Old Town central district (Central Avenue between 4th Street and Depot Street, the west side of Spokane Avenue between 4th Street and 3rd Street, both sides of Spokane Avenue from 3rd Street to Railway Street, the east side of Baker Avenue between 4th Street and 3rd Street, and both sides of Baker Avenue between 3rd Street and Railway Street), and the Old Town railway district (Railway Street to 3rd Street, and the east side of Miles Avenue to both sides of Lupfer Avenue)." This building is located within the Old Town – Railway District. The development proposal is consistent with the purpose and intent of the applicable regulations.

   Setbacks:
   The WB-3 zoning setbacks are: 15-foot front on E 2nd Street and 'prevailing' on O'Brien Avenue, 0-foot on sides and rear. For corner lots, the shorter of the two is the front, according to the zoning definitions. In this instance, E 2nd Street is the front for the main building and O'Brien Avenue is the front for the carport. Otherwise, all other setbacks are 0-feet. The setbacks are being met with this proposal.

   Residential Density:
   There is not a residential density standard in the WB-3 zoning district. Parking generally becomes the limiting factor in determining maximum residential density in the WB-3.

Parking:
§11-6-3-3, requires off-street parking at a rate of one (1) space per residential units located entirely on upper floors; this equals thirteen (13) spaces for the thirteen (13) units. For the two units on the main floor we have consider this to fall under the duplex parking standard of two (2) spaces per unit; this equals four (4) spaces. Therefore, a total of seventeen (17) parking spaces are required and are being provided. Four (4) in the main building and thirteen (13) in a carport to the north of the main building.

Height:
The zoning permits a maximum building height of 45-feet, no greater than 3-stories subject to the special provisions standards. These standards limit buildings to no more than 2 stories or 35-feet within 20-feet of the property line. In addition, any area extending above 35-feet shall have a maximum diagonal measurement of 120-feet. This standard appears to be met and will be confirmed at the time of building permit.

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 adequate to serve the proposed use.

Access that meets the standards set forth in these regulations, including emergency access: All access requirements are being met. In addition, emergency access is being met with the surrounding rights-of-way.

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 and there are no other environmental constraints on-site. This property is located within the potential high groundwater area. This will need to be confirmed as the project progresses. If it is a high groundwater area, high groundwater construction measures will need to be considered and implemented.

Finding 3: Project is suitable for the site because there is adequate usable land area, the existing access meets emergency standards and there are no environmental constraints.

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

Parking locations and layout: As described above, the parking is located either within a carport or within a garage. The parking is located off-site and design standards are being met.

Traffic Circulation: The traffic will circulate off O'Brien Avenue, a paved public street, onto a paved east-west alley.

Open space: Open space is not applicable in the WB-3 zone, as it is the city's most dense urban zoning designation and is intended to be built lot line to lot line.

Fencing/Screening: Fencing or screening is neither required nor proposed.

Landscaping: Buildings within the WB-3 zoning district are exempt from landscaping requirements when building to the zero lot line (§11-4-5C); however, this project is employing setbacks, as required in the zoning regulations. As such, the applicant will be required to meet the site landscaping requirements. For this project, the requirement will be 10% of the site. This is being met through landscaping along O'Brien Avenue and other landscaping on-site. The final plan will be reviewed and approved at the time of building permit.

Signage: Staff has not seen any proposed signage. All new signage is required to obtain a permit from the Planning & Building office.

Undergrounding of new and existing utilities: New utilities will be underground, if possible.

Finding 4: The quality and functionality of the proposed development has effectively dealt with the site design issues because there is adequate parking for the use, traffic circulation has been evaluated and landscaping will be installed.

5. Availability and Adequacy of Public Services and Facilities.

Sewer: Sewer is in place and adequate to service the project.

Water: Water services are currently available on site.

Storm Water Drainage: An engineered stormwater plan meeting the City's engineering standards will be required, as the project is creating more than 5,000 square feet of impervious surface.

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

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

Streets: The project is surrounded by E 2nd Street, O'Brien Avenue and a public alley. No street improvements are proposed along E 2nd Street, as they were completed with the Highway 93 W project. The applicant will improve their frontage along O'Brien Avenue. Staff did not receive any comments from Montana Department of Transportation regarding this project.

Finding 5: Municipal water and sewer are available. Stormwater will be handled on-site. Response times for police and fire are not anticipated to be affected due to the proposed development. The property has adequate access to surrounding rights-of-way.

6. Neighborhood/Community Impact:

Traffic Generation: A professional traffic engineer provided information indicating that the total daily trips would be around 150; therefore, not requiring a Traffic Impact Study. The current roads should be able to handle the additional traffic.

Noise or Vibration: No impacts are anticipated beyond what would be expected from a typical commercial use.

Dust, Smoke, Glare, or Heat: No impact is anticipated beyond what would be expected from a typical mixed-use.

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

Hours of Operation: The hours of operation will be typical residential and commercial hours.

Finding 6: The proposed development is not anticipated to have a negative neighborhood impact. Negative impacts on noise, dust, smoke, odor or other environmental nuisances are not expected. All outdoor lighting is required to meet city standards.

7. Neighborhood/Community Compatibility:

The downtown is the core commercial area for Whitefish. It is a variety of commercial, residential and retail uses. The proposed uses are compatible with the downtown and help to implement the Downtown Master Plan. The building will be required to obtain Architectural Review approval prior to submitting building permit applications. The Architectural Review Committee will also ensure neighborhood and community compatibility.

Finding 7: The project is compatible with the existing uses in the neighborhood because the zoning and Downtown Master Plan anticipated commercial and residential uses being located in the downtown core. The project will be reviewed by the Architectural Review Committee to ensure it fits within the context of the neighborhood and community character.

RECOMMENDATION

It is recommended that the Whitefish Planning Board adopt the findings of fact within staff report WCUP 15-17 and that this conditional use permit be recommended for **approval** to the Whitefish City Council subject to the following conditions:

1. The project shall be in compliance with the site plan submitted on October 8, 2015, except as amended by these conditions. Minor deviations from the plans shall require review pursuant to §11-7-8E(8) and major deviations from the plans shall require review pursuant to §11-7-8. The applicant shall maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.

2. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the City of Whitefish Planning Department. The plan shall include, but may not necessarily be limited to, the following:
   - Dust abatement and control of fugitive dust.
   - Hours of construction activity.
   - Noise abatement.
   - Control of erosion and siltation.

- Routing for heavy equipment, hauling, and employees, including signage to direct equipment and workers.
- Construction office siting, staging areas for material and vehicles, and employee parking.
- Measures to prevent soil and construction debris from being tracked onto public road, including procedures remove soil and construction debris from road as necessary.
- Detours of vehicular, pedestrian, and bicycle traffic as necessary.
- Notation of any street closures or need to work in public right-of-way. (Engineering Standards, Appendix K)

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

4. The Fire Department requires the applicant to comply with all fire codes for this classification of occupancy. (IFC)

5. All on-site lighting shall be dark sky compliant. (§11-3-25, WCC)

6. Approval from the Architectural Review Committee shall be obtained prior to submitting an application for a building permit. (§11-3-3B, WCC)

7. Coordinate with Public Works Department regarding required Construction Encroachment Permit, which is issued independently from this Conditional Use Permit. (§7-2-1, WCC)

8. The refuse location shall be reviewed and approved by the Public Works Department and North Valley Refuse. (§4-2, WCC)

9. All exterior mechanical equipment shall be screened visually and acoustically. (4.6.1., Arch Review Standards)

10. A landscaping plan shall be submitted for review and approval. (11-4-5C, WCC; Finding of Fact #4)

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)

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

Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that 2nd Street Lofts llc for a Conditional Use Permit in order to develop a mixed-use multi-family project with fifteen (15) dwelling units and a building footprint greater 7,500 square feet. The property is undeveloped and is zoned WB-3 (General Business District). The property is located at 214 E 2nd Street and can be legally described as Lots 15, 16, 17, 18 and south ½ of Lot 20 in Block 36 Whitefish Original Townsite in S36 T31N R22W.

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

Thursday, November 19, 2015
6:00 p.m.
Whitefish City Council Chambers, City Hall
1005 Baker Avenue, 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, December 7, 2015** at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, November 9, 2015, will be included in the packets to the Planning Board members. Comments received after the deadline will be summarized to the Planning Board members at the public hearing.

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

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

Date: October 30, 2015

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, November 19, 2015 at 6:00 pm in the Whitefish City Council Chambers at **1005 Baker Avenue**. During the meeting, the Board will hold a public hearing on the items listed below. Upon receipt of the recommendation by the Planning Board, the Whitefish City Council will also hold subsequent public hearing for items 1-4 on Monday, December 7, 2015 and items 5-7 on Monday, January 4, 2016. City Council meetings start at 7:10 pm at **1005 Baker Avenue** in the Whitefish City Council Chambers.

1. A request by Whitefish West Ltd Partnership for an amended Preliminary Plat in order to develop five (5) duplex lots into ten (10) townhouse lots. The property is located at 265 Haugen Heights Road and can be legally described as Lot 4, Block 11 of Lake Park Addition in S26 T31N R22W. WPP 14-04A (Compton-Ring)

2. A request by 2nd Street Lofts llc for a Conditional Use Permit in order to develop a mixed-use multi-family project with fifteen dwelling units and a footprint greater 7,500 square feet. The property is located at 214 E 2nd Street and can be legally described as Lots 15, 16, 17, 18 and south ½ of Lot 20 in Block 36 Whitefish Original Townsite in S36 T31N R22W. WCUP 15-17 (Compton-Ring)

3. Sparrows Nest NW Montana for a Conditional Use Permit for a Type I Community Residential Facility to house five unaccompanied homeless teenagers. The property is located at 200 Colorado Avenue and can be legally described as Lot B, Wisconsin Tracts in S25 T31N R22W. WCUP 15-18 (Compton-Ring)

4. A request by the City of Whitefish for an amendment to §12-4-11, Park Land and Open Space Requirements, of the Subdivision Regulations. WSUB 15-01 (Compton-Ring)

5. A request by Potter's Field Ministries for a Conditional Use Permit for a 'parish house' at 943 East 2nd Street to house up to eight ministry staff and interns. The property can legally be described as Lot 1A of AMD Lot 5, 6, Block 1 McKeens Addition, S31 T31N R21W. WCUP 15-15 (Taylor)

6. A request by Potter's Field Ministries for a Conditional Use Permit for a 'parish house' at 224 Somers Avenue to house up to eight ministry staff and interns. The property can legally be described as Lots 12 and 13 (N2), Block 48, S36 T31N R22W. WCUP 15-16 (Taylor)

7. A request by the City of Whitefish for a Zone Change on parcels recently annexed into City limits. The properties are developed with residential uses. The subject properties are located at 2422 and 2424 Carver Bay Road and can be legally described as lots 9 and 10 of Whitefish Lake Summer Homes subdivision in Section 10, Township 31N, Range 22W. WZC 15-04 (Minnich)

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

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

File #: _____
Date: _____
Intake Staff: _____
Date Complete: _____

CONDITIONAL USE PERMIT

WCUP 15.17

FEE ATTACHED $ 2,955.00
(See current fee schedule)

INSTRUCTIONS:

- ☐ A Site Review Meeting with city staff is required. Date of Site Review Meeting: _____
- ☐ Submit the application fee, completed application and appropriate attachments to the Whitefish Planning & Building Department a minimum of **forty five (45) days prior** to the Planning Board meeting at which this application will be heard.
- ☐ The regularly scheduled meeting of the Whitefish City Planning Board is the third Thursday of each month at 6:00PM in the Council Chambers at 402 E 2nd Street.
- ☐ After the Planning Board hearing, the application is forwarded with the Board's recommendation to the next available City Council meeting for hearing and final action.

A. PROJECT INFORMATION:

Project Name: 2nd Street Lofts LLC, Mark Panissidi

Project Address: 214 E. Second St

Assessor's Tract No.(s) 0011645 Lot No(s) 15,16,17,18 & S2 LOT 20
Block # 38 Subdivision Name Whitefish Original
Section 36 Township 31N Range 22W

I hereby certify that the information contained or accompanied in this application is true and correct to the best of my knowledge. The signing of this application signifies approval for the Whitefish staff to be present on the property for routine monitoring and inspection during the approval and development process.

Owner's Signature[1] — Date: 10-8-15

Mark Panissidi
Print Name

Bruce Boody ASLA
Applicant's Signature — Date: 10/05/15

Bruce Boody
Print Name

Representative's Signature — Date

Print Name

OCT 0 8 2015

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

APPLICATION CONTENTS:

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

- [x] Conditional Use Permit Application – **11 copies**
- [x] Written description how the project meets the criteria in Section D – **11 copies** SEE ATTACHED "FINDINGS"
- [x] Site Plan – **11 copies** The site plan, drawn to scale, which shows in detail your proposed use, your property lines, existing and proposed buildings, traffic circulation, driveways, parking, landscaping, fencing, signage, and any unusual topographic features such as slopes, drainage, ridges, etc.
- [x] Reduced copy of the site plan not to exceed 11" x 17" – **1 copy**
- [x] Where new buildings or additions are proposed, building sketches and elevations shall be submitted.
- [x] Electronic version of entire application such as .pdf
- [x] Certified adjacent owners list for properties within 150-feet of subject site – **1 copy**
- [ ] Any other additional information requested during the pre-application process

When all application materials are submitted to the Planning & Building Department, the application will be scheduled for public hearing before the Planning Board and City Council.

B. OWNER(S) OF RECORD:

Name: 2nd Street Lofts LLC, Mark Panissidi Phone: 619-990-5988

Mailing Address: P.O. Box 1087

City, State, Zip: Columbia Falls, MT 59912

Email: markp@delmarpacificgroup.com

APPLICANT (if different than above):

Name: Bruce Boody Landscape Architect Inc Phone: 406-890-9342

Mailing Address: 301 Second St., Suite 1B

City, State, Zip: Whitefish, MT 59937

Email: boodyla@bruceboody.com

TECHNICAL/PROFESSIONAL:

Name: Solus Architecture, Ken Huff Phone: 406-862-4755

Mailing Address: 1032 Klondike Loop

City, State, Zip: Somers, MT 59932

Email: khuff@solus-mt.com

C. DESCRIBE PROPOSED USE:

Proposed multi-family, live-work and commercial mixed-use building and required parking.

ZONING DISTRICT: WB-3

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

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

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

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

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

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

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

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

7. What are the proposed hours of operation?

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

2ND STREET LOFTS
ATTACHEMENT TO CUP APPLICATION

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

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

The subject property is designated on the city Growth Policy's Future Land Use Map for "Commercial Core" development and use. According to the Growth Policy, "*The Future Land Use Map is a graphic and general representation of the type, density, and spatial extent of future growth in the Whitefish area"* and the Commercial Core designation is described as "*the downtown area of Whitefish as well as surrounding transitional and mixed use areas. The major uses are retail commercial, professional and government offices, financial institutions, restaurants and taverns, hotels, and art galleries and studios. The Commercial Core is also characterized by mixed and multi-use developments such as residential above retail, mixed residential and office, and "artist lofts" which may have residential, studio, and gallery components."*

The Growth Policy further states that "*urban forms in the Core are dense and usually multi-level. Street connectivity is high, with minimal or zero setbacks, and accessible, human scale storefronts. Character is decidedly pedestrian. On-street parking is provided for ease of accessibility, but parking serving employees and residents is generally located in parking structures or in small lot accessed from alleys. Streets in the Core are active, and streetscapes are attractive with street trees, planters, and street furniture. Architecture is of very high quality and contributes to the established local theme. Zoning is mostly WB-3, but the Commercial Core can also be implemented through WR-4."*

The proposed development is consistent with the type and scale of development anticipated and encouraged by the Growth Policy. A multi-level mixed-use building is proposed with all (covered) parking accessed from the alley. An attractive streetscape is proposed, with patios and landscaping at street level adjacent to 2nd Street. The bulk, scale, height and architecture of the building are in character with existing development in the immediate area.

The Primary Land Use Framework Map of the Whitefish Downtown Business District Master Plan identifies the site as being appropriate for "Public Parking." However, with the construction of a new city hall and public parking structure underway two blocks to the east, the need for additional public parking at this location is no longer critical. The Downtown Master Plan identifies all properties surrounding the subject property as appropriate for commercial uses such as that proposed.

The proposal also meets or helps implement the following goals and policies of the city's Growth Policy (the below-cited goals and policies are numbered as they appear in the Growth Policy):

Future Land Use Goals:
3. Strengthen the role of Downtown Whitefish as the commercial, financial, and administrative center of the community.

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

Future Land Use Policies:
2. It shall be the policy of the City of Whitefish to require concurrency of all urban services, including but not limited to:

Water and sewer
Drainage Streets
Public safety and emergency services
Pedestrian, bikeway, and trail facilities
Parks
Schools

4. For new development, redevelopment, and infill projects in downtown Whitefish, building height and massing shall be consistent with the scale of existing structures.

8. As a matter of policy, development shall be required to "pay its way" in terms of costs for services and facilities needed to serve it.

CHAPTER 5: HOUSING ELEMENT

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

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

The subject property is zoned WB-3, General Business District. The WB-3 district is described as "a broad commercial district intended to accommodate financial, retail, governmental, professional, institutional and cultural activities." In the WB-3 district multi-family residential developments in excess of four dwelling units require a Conditional Use Permit (Section 11-2L-3: CONDITIONAL USES). The site also lies within the "Old Town Central District" of Whitefish, and

because the proposed development has a footprint in excess of 7,500 square feet, a Conditional Use Permit is required for the size of the structure.

The proposed uses – residential, commercial and live-work units - are all permitted or conditionally permitted in the WB-3 district and the type and scale of development proposed is anticipated by the Growth Policy. Furthermore, all development standards of the WB-3 district are met, including bulk and scale standards, setback and landscape requirements, height restrictions and off-street parking requirements (for the residential and live-work component).

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?

As stated in response to (1), above, the Growth Policy designates this property for Commercial Core uses and densities. From the Growth Policy:

> "*The Commercial Core is characterized by mixed and multi-use developments such as residential above retail, mixed residential and office, and "artist lofts" which may have residential, studio, and gallery components."*
>
> "(*u)rban forms in the Core are dense and usually multi-level. Street connectivity is high, with minimal or zero setbacks, and accessible, human scale storefronts. Character is decidedly pedestrian. On-street parking is provided for ease of accessibility, but parking serving employees and residents is generally located in parking structures or in small lot accessed from alleys. Streets in the Core are active, and streetscapes are attractive with street trees, planters, and street furniture. Architecture is of very high quality and contributes to the established local theme. Zoning is mostly WB-3*

The property is accessed on two sides by city streets, Second Street and O'Brien, and a city alley. There are no environmentally sensitive areas on or adjacent to the site.

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

a. Parking locations and layout:
Conforming to WB-2 and off-street parking standards.
b. Traffic circulation
On adjacent city streets and alley
c. Open Space
WB-3 Setbacks
d. Fencing/screening
There will be decorative metal fencing on the south terrace area. Covered parking is screened from O' Brien Ave. and from the property to the north by the proposed structure.

e. Landscaping
There will be new street trees along O'Brien Ave. There will also be some urban landscape features on the terrace and also in the setback area on the west end of the parking structure.
f. Signage
Signage will be on the structure: "**2ND STREET LOFTS**" will be placed above the main south entry door. There will also be individual business signs for the two commercial spaces. All signs will conform to City Code.
g. Undergrounding of new utilities
All new utilities will be underground.
h. Undergrounding of existing utilities
Existing aboveground utilities in the alley ROW will remain.

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

a. Sewer
Available and adequate
b. Water
Available and adequate
c. Stormwater
Available and adequate
d. Fire Protection
Available and adequate
e. Police Protection
Available and adequate
f. Street (public or private)
Adjacent public streets and alley
g. Parks (residential only)
Riverside Park is 2 blocks south and City Beach is ¼ mile north, connected by the bike/pedestrian trail.
h. Sidewalks
The site has and existing walk at 2nd Street and will have an additional sidewalk on the west side of the building. Walks will connect to the adjacent neighboring tracts and downtown walks.
i. Bike/pedestrian ways – including connectivity to existing and proposed developments
The main city bike/pedestrian trail is between one and two blocks away, both to the south and north.

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 project should have minimal impact on traffic. The proposed mixed-use development, located on a major arterial and served by a public alley, will generate traffic volume that is

anticipated by the site's zoning and growth policy designations. On-site parking is provided for the residential component of the project, and the site is within two blocks of the parking structure under construction on Baker Avenue.

b. Noise, vibration, dust, glare, heat, smoke, fumes, odors
The proposed project is primarily residential in nature, with ground floor retail space. The types and intensities of land uses proposed, and those permitted in the WB-3 zoning district, will not produce these types of impacts.

7. What are the proposed hours of operation?
Typical of other residential and commercial units.

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

As stated in response to (1), above, the Growth Policy designates this property for Commercial Core uses and densities. From the Growth Policy:

> "*The Commercial Core is characterized by mixed and multi-use developments such as residential above retail, mixed residential and office, and "artist lofts" which may have residential, studio, and gallery components."*
>
> "(*u)rban forms in the Core are dense and usually multi-level. Street connectivity is high, with minimal or zero setbacks, and accessible, human scale storefronts. Character is decidedly pedestrian. On-street parking is provided for ease of accessibility, but parking serving employees and residents is generally located in parking structures or in small lot accessed from alleys. Streets in the Core are active, and streetscapes are attractive with street trees, planters, and street furniture. Architecture is of very high quality and contributes to the established local theme. Zoning is mostly WB-3*

The scale, structural bulk, massing and density of the proposed development reflect the vision of the Growth Policy and complement the character of this area of Whitefish. A survey of existing structures and uses in the immediate vicinity (and throughout the downtown and Old Town districts) indicates a mix of commercial, office and residential uses in single-, two- and three-story structures. Sheet 1 (Site Plan) of the submittal drawings includes an aerial photograph of the neighborhood and illustrates the diversity of structures in the neighborhood. Per the vision of the Growth Policy the proposed mixed-use structure is pedestrian friendly and parking is located behind the building and not directly accessed from 2nd Street.

October 29, 2015

Wendy Compton-Ring
City of Whitefish
1005 Baker Avenue
Whitefish, MT 59937

Dear Wendy,

Bruce Boody has requested a preliminary assessment of the potential trip generation from the 2nd Street Lofts project in Whitefish to determine if the project will require a traffic impact study. The City of Whitefish currently requires a traffic impact study on all development projects which create more than 200 vehicle trips per day. The proposed 2nd Street Lofts project currently includes 15 apartment units (13 residential and 2 live/work units) and up 2,500 S.F. of commercial space. The anticipated trip generation for the project is shown below. This analysis is based on trip generation rates contained in *Trip Generation* (Institute of Transportation Engineers, Ninth Edition) and assumes the highest possible land uses for the project.

Residential Apartments (#220) = 15 Units x 6.65 trips/unit = 100 trips

Specialty Retail (#826) = 2,500 S.F. x 44.32 trips/1,000 S.F. = 111 trips

Total = 211 trips

This analysis assumes that all of the commercial space is used for specialty retail. If the commercial space were used for professional offices the trip generation would decrease as follows.

Residential Apartments (#220) = 15 Units x 6.65 trips/unit = 100 trips

Office Park (#750) = 2,500 S.F. x 11.42 trips/1,000 S.F. = 29 trips

Total = 129 trips

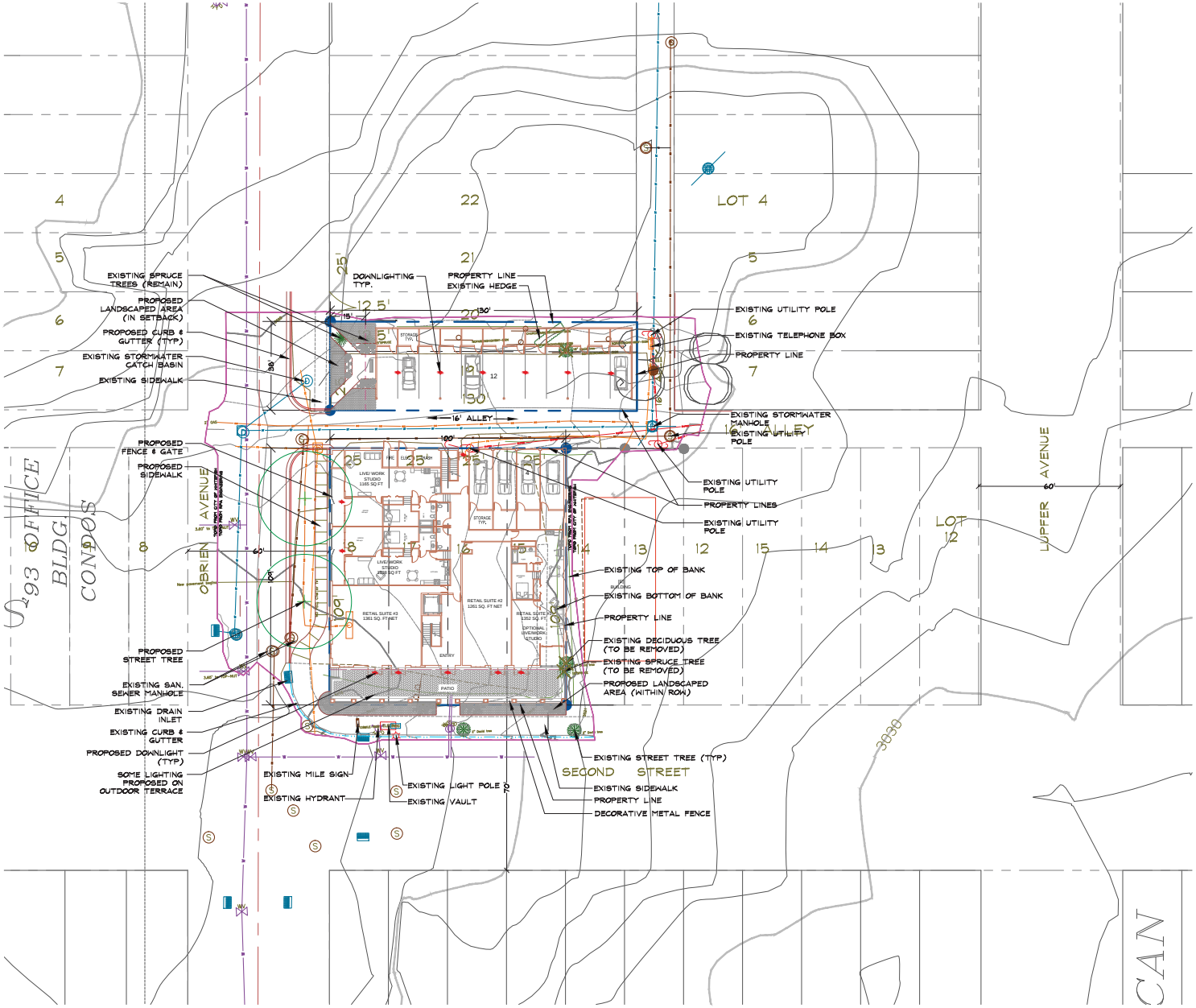
It should also be noted that the project is being proposed as a "mixed-use live/work" building with at least two of the residents living and working in the same building. It is likely that other residents would work within walking distance to other downtown businesses. If two of the residents of the 2nd Street Lofts worked in the building or nearby, the total daily vehicle trip generation would likely decrease by 8 daily trips [2 people walking to and from work (2+2=4 trips) plus 2 people arriving to work by foot and leaving work to return to the lofts. (2+2=4 trips)]. It is also likely that the six proposed loft-style studio apartments will have fewer total residents than a typical apartment. Single-resident apartments produce vehicle trips at a rate of only 3.31 trips per resident compared to 6.65 trips per unit for a typical apartment. If just four of the studio apartments had single residents, the total trip generation for the project would drop by 13 daily trips.

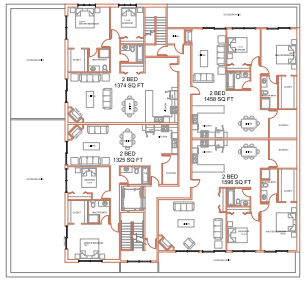
130 South Howie Street
Helena, Montana 59601

Overall, this analysis indicates that using the most basic and highest use scenario, the 2nd Street Lofts would create more than 200 daily trips. However, the more likely scenario for the project would be a reduction in the total trip generation due to land-use mix (retail and office), a decrease for the 'live/work' nature of the project, and a decrease for this type of loft-style apartment. The more likely scenario is a total trip generation around 150 trips per day. We believe that with these reasonable reductions, the 2nd Street Lofts project will produce less than 200 vehicle trips per day. Additionally, we do not a feel that a traffic impact study prepared for this project would indicate any significant traffic impacts or provide any new information to the City. Please let us know if you agree with this analysis and agree that a traffic impact study is not necessary for this project. If you have any questions please contact me at 459-1443.

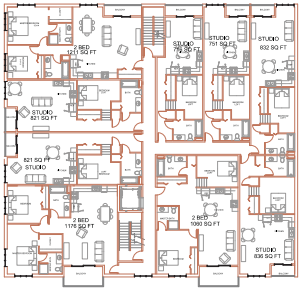
Sincerely,

Bob Abelin, P.E. PTOE
Abelin Traffic Services, Inc.





LEVEL 3 PLAN



LEVEL 2 PLAN

LEGEND

- DOWNLIGHT (TYP)

NOTES

- SEE BUILDING ELEVATIONS FOR SIGN LOCATIONS
- ALL EXTERIOR LIGHTING TO CONFORM TO THE CITY'S DARK SKY REQUIREMENTS

BRUCE BOODY Landscape Architect Inc.
301 Second Street
P.O. Box 1
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59937
phone 406 862-4755
fax 406 862-4755
bboody@bigskyonline.com

Survey By:
Robert Peccia & Assoc
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Suite 300
Kalispell, Mt 59901
Ph: 406-752-5025

ARCHITECT:
Solus Architecture
Ken Huff
1032 Kolndyke Loop
Somers, MT 59932
P: 406-890-9342

Revisions:

EAST 2ND ST LOFTS
214 W. SECOND ST.
WHITEFISH, MT
LOTS 15-19 & S2 LOT 20
SEC 36, T31N, R22W

NORTH

SCALE: 1" = 20'

DATE: 10-08-15

JOB #: 15-21

CONDITIONAL USE PERMIT APPLICATION

SITE PLAN

SHEET 1 OF 1

SOUTH ELEVATION

WEST ELEVATION

PRELIMINARY NOT FOR CONSTRUCTION

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Email: KHuff@Solus-mt.com
1032 Klondyke Loop Somers, MT 59932

REVISION:	DATE:
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East 2nd St Lofts
NEW MIXED USE DEVELOPMENT
WHITEFISH, MT

JOB NO: 15-012

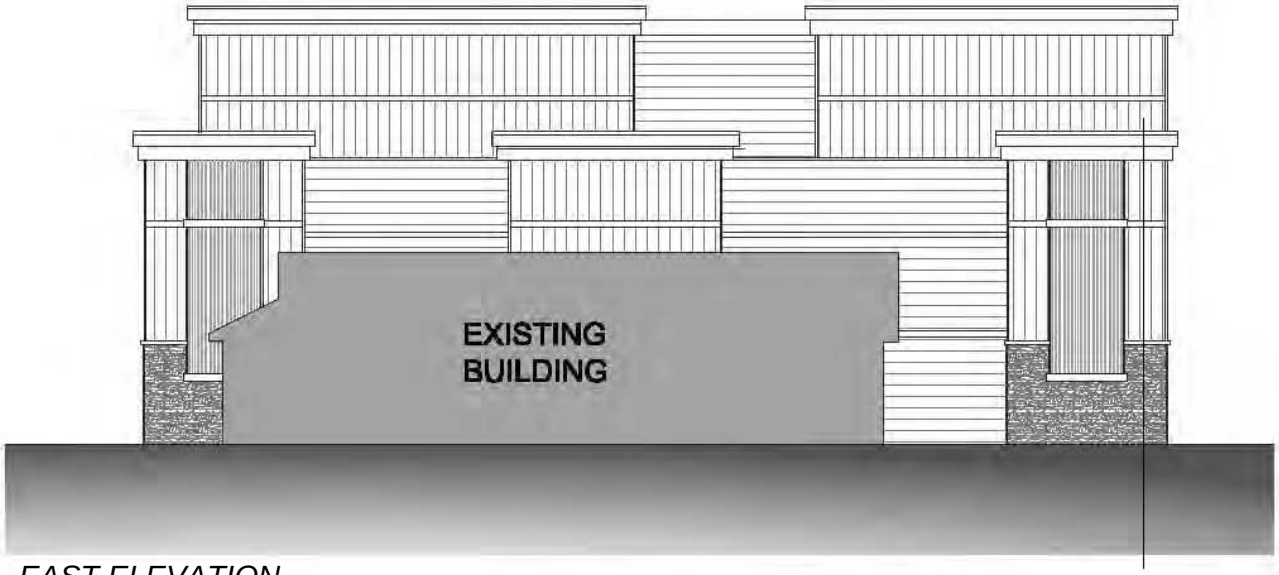
DATE: 10-6-15

EXTERIOR ELEVATION

SCALE 1/8" = 1'-0"

A4.0

NORTH ELEVATION



EAST ELEVATION

PRELIMINARY NOT FOR CONSTRUCTION

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REVISION:	DATE:
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East 2nd St Lofts
NEW MIXED USE DEVELOPMENT
WHITEFISH, MT

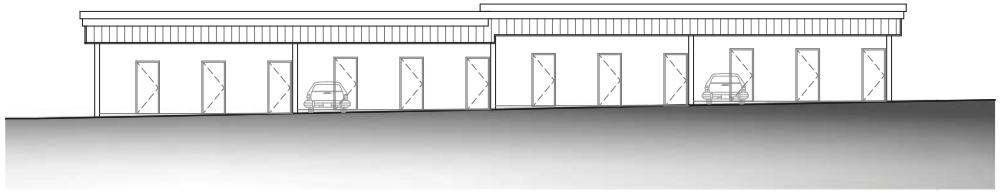
JOB NO: 15-012

DATE: 10-6-15

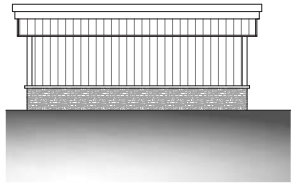
EXTERIOR
ELEVATION

SCALE
1/8" = 1'-0"

A4.1



SOUTH ELEVATION



WEST ELEVATION

PRELIMINARY NOT FOR CONSTRUCTION

Solus Architecture

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REVISION:	DATE:
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East 2nd St Lofts
NEW MIXED USE DEVELOPMENT
WHITEFISH, MT

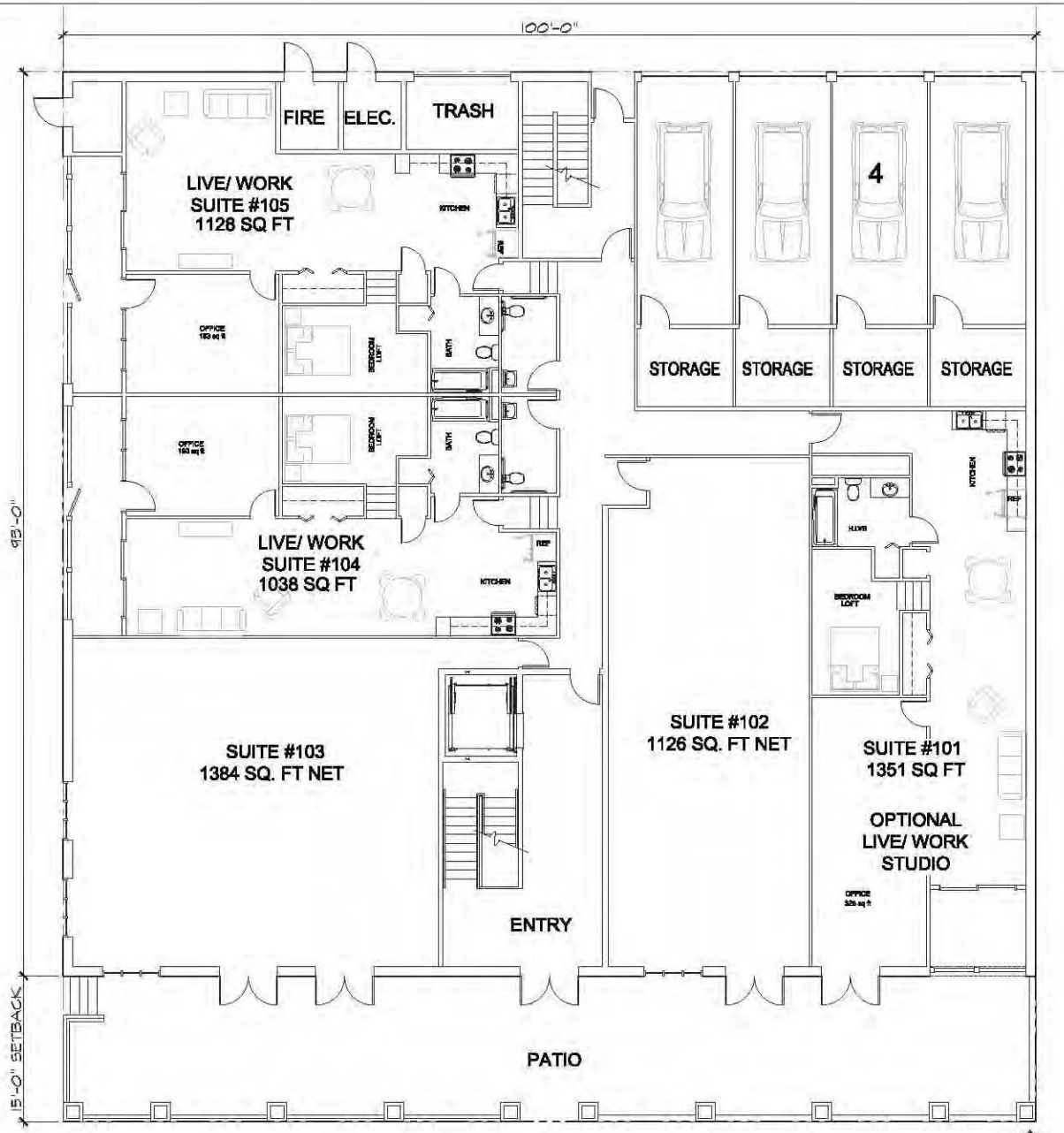
JOB NO: 15-012

DATE: 10-6-15

EXTERIOR ELEVATION PARKING SHELTER

SCALE 1/8" = 1'-0"

A4.2



1 FIRST FLOOR
SCALE 1/8" = 1'-0"

PRELIMINARY NOT FOR CONSTRUCTION

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REVISION:	DATE:
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East 2nd St Lofts
NEW MIXED USE DEVELOPMENT
WHITEFISH, MT

JOB NO: 15-012

DATE: 10-6-15

LEVEL 1 PLAN
PLAN

SCALE
1/8" = 1'-0"

A1.1

1 SECOND FLOOR
SCALE 1/8" = 1'-0"

PRELIMINARY NOT FOR CONSTRUCTION

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REVISION:	DATE:
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East 2nd St Lofts
NEW MIXED USE DEVELOPMENT
WHITEFISH, MT

JOB NO: 15-012

DATE: 10-6-15

LEVEL 2 PLAN
PLAN

SCALE
1/8" = 1'-0"

A1.2

1 THIRD FLOOR
SCALE 1/8" = 1'-0"

NORTH

PRELIMINARY NOT FOR CONSTRUCTION

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-	-

East 2nd St Lofts
NEW MIXED USE DEVELOPMENT
WHITEFISH, MT

JOB NO: 15-012

DATE: 10-6-15

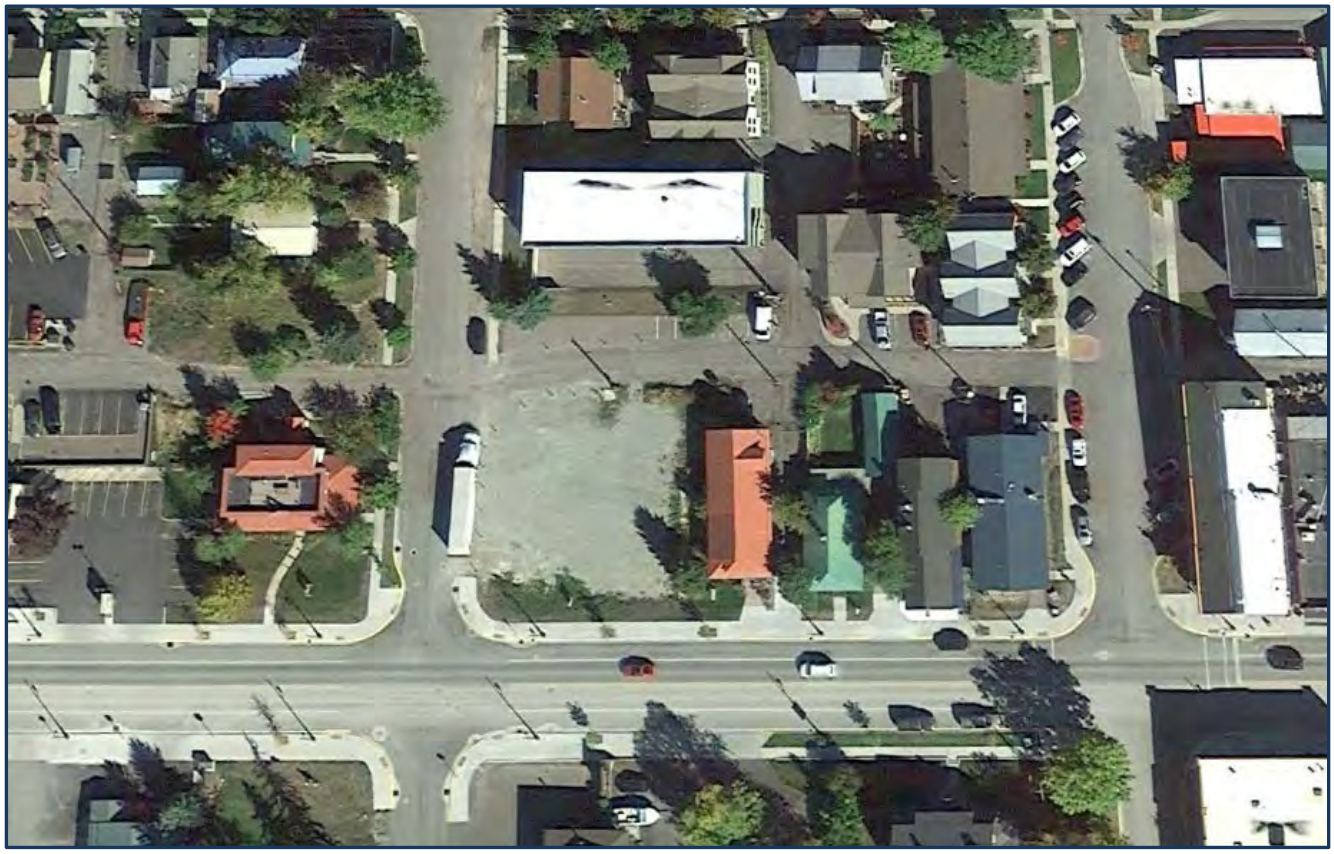
LEVEL 3 PLAN
PLAN

SCALE
1/8" = 1'-0"

A1.3

Phase I Environmental Site Assessment
for
All Saints Episcopal Church

212 East 2nd Street
Whitefish, Montana



April 20, 2015

AWC Project No. 749.15

Prepared for:

Del Mar Pacific Group
4918 North Harbor Drive
San Diego, CA 92106

Prepared by:

Applied Water Consulting
P.O. Box 7667
Kalispell, MT 59922

EXECUTIVE SUMMARY

This report presents the findings of a Phase I Environmental Site Assessment (ESA) that was conducted for Lots 15, 16, 17, and 18 of Block 38 of the Original Township of Whitefish, Montana. The subject property is located at 212 East 2nd Street in a commercial/residential area in downtown Whitefish. This parcel is hereafter referred to as the "Site". Applied Water Consulting (AWC) performed the ESA on behalf of the prospective purchaser, Del Mar Pacific Group. The potential purchaser requested that a Phase I ESA be performed to comply with due diligence requirements. AWC reviewed historical documents, photographs, maps, and government records; interviewed the property owner; reviewed associated governmental agency files; and conducted a site inspection of the property on April 9, 2015.

The Site is a rectangular parcel comprised of four city lots that encompasses 0.248 acres. The Site is owned by the All Saints Episcopal Church. The property is a relatively flat gravel-surfaced parcel with no structures.

The only documented historical use of the Site has been as a church. Our review of aerial photography and Sanborn® Maps indicates that the original church building existed as early as 1922 and remained on the Site until circa 2004. The Site is listed on one environmental regulatory database, which is the CERCLIS database. The Site is part of the Whitefish Solvent facility. The Whitefish Solvent facility is not listed on the National Priorities List (NPL).

As previously mentioned, the Site is part of the Whitefish Solvent facility because of groundwater contamination from chlorinated solvents. The Whitefish Solvent facility extends from O'Brien Avenue to Baker Avenue along 2nd Street East (U. S. Highway 93). The contamination originated from two former dry cleaning facilities that utilized perchloroethene (PCE) also known as tetrachloroethene. Laboratory results for groundwater samples collected from monitoring well WSMW-4, which is located on the eastern margin of the Site, detected concentrations of PCE, tetrachloroethene, trichloroethene (TCE), and cis-1, 2-dichloroethane (DCE) above drinking water standards. However, a soil sample collected from monitoring well WSMW-4 did not report any exceedances of contaminants above the EPA regional screening levels (RSLs) for residential soil. The contaminated groundwater in the vicinity of the Site is considered a Recognized Environmental Condition (REC) associated with the property. During the site inspection, it was noted that monitoring well WSMW-4 had been destroyed.

The groundwater contamination underlying the property did not originate from any activity that historically occurred on the property. As such, in accordance with MCA 75-10-715 (7) (b), an owner has an exclusion and is not liable for the pollution if the person owns or operates real property where hazardous or deleterious substances have come to be located solely as a result of subsurface migration in an aquifer from a source or sources outside the person's property. In addition, we discussed this condition with DEQ personnel and they indicated there would be no land use restrictions except to not utilize the groundwater. Based on the aforementioned findings, the solvent contamination that is present beneath the property is consistent with contamination via a groundwater pathway from an upgradient and offsite source.

Research of the USDA web soil survey, surficial geological maps of the area, and published values for intrinsic permeability indicate that the glaciolacustrine soils at the Site are relatively impermeable. However, because of the contaminated shallow groundwater in the vicinity of the Site, vapor encroachment maybe a concern for the property. Therefore, AWC recommends that new construction should be limited to slab-on-grade or buildings with shallow footers and include a vapor barrier and a soil vapor mitigation system to protect the indoor air quality for the building(s) to be constructed.

In summary, AWC personnel identified one REC, which is the PCE solvent contaminated shallow groundwater at the Site associated with the Whitefish Solvent facility. No CRECs, HRECs, or de minimis conditions were identified within the scope of the Phase I ESA. Based upon the results of this Phase I ESA, no additional investigation is warranted at this time.

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Figure 1 Site Vicinity Map
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ACRONYMS USED

AAI	All Appropriate Inquiry
ACBM	Asbestos Containing Building Material
AHERA	Asbestos Hazardous Emergency Response Act
AMSL	Above Mean Sea Level
AST	Above Ground Storage Tank
ASTM	American Society for Testing and Materials
AULs	Activity and Use Limitations
BGS	Below Ground Surface
CECRA	Comprehensive Environmental Cleanup and Responsibility Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CERCLIS	Comprehensive Environmental Response, Compensation and Liability Information System
CESQG	Conditionally Exempt Small Quantity Generators
CREC	Controlled Recognized Environmental Condition
CFR	Code of Federal Regulations
COS	Certificate of Survey
DEQ	Montana Department of Environmental Quality
DOR	Department of Revenue
EPA	United States Environmental Protection Agency
EPCRA	Emergency Planning and Community Right to Know Act
EPH	Extractable Petroleum Hydrocarbons
ERNS	Emergency Response Notification System
ESA	Environmental Site Assessment
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
FRDS	Federal Reporting Data System
GWIC	Ground Water Information Center
HREC	Historical Recognized Environmental Condition
HVAC	Heating Ventilation and Air Conditioning
LBP	Lead Based Paint
LLPs	Landowner Liability Protections
LQG	Large Quantity Generator
LUST	Leaking Underground Storage Tank
MBMG	Montana Bureau of Mines and Geology
MSDS	Material Safety Data Sheet
NFCA	No Further Corrective Action
NPL	National Priorities List (federal Superfund Facilities)
PAH	Polycyclic Aromatic Hydrocarbon
PCS	Petroleum Contaminated Soil
PCBs	Polychlorinated Biphenyls
RACM	Friable Asbestos Containing Material
RCRA	Resource Conservation and Recovery Act
REC	Recognized Environmental Condition
SRP	Site Remediation Program
SQG	Small Quantity Generator
SWF/LF	Solid Waste Facilities/Landfill
TSD	Treatment, Storage, Disposal (facilities for hazardous wastes)
USCS	Unified Soil Classification System
USDA	United States Department of Agriculture
UST	Underground Storage Tank
VI	Vapor Intrusion
VPH	Volatile Petroleum Hydrocarbons

1.0 INTRODUCTION

This report presents the findings of a Phase I ESA that was performed on Lots 15, 16, 17, and 18 of Block 38 of the Original Townsite of Whitefish, hereafter referenced as the "Site". The property is located at 212 East 2nd Street within a commercial area of Whitefish, Montana. The Site has been utilized as a church for the documented history of the Site.

Applied Water Consulting (AWC) conducted the ESA on behalf of the prospective purchaser, Del Mar Pacific Group. The purpose of the Phase I ESA is to evaluate the Site with respect to industry standards for commercial property transfers.

1.1 Purpose

The purpose of the ESA was to compile and review available information about the Site and within the vicinity to identify *recognized environmental conditions* (RECs) to the extent feasible pursuant to ASTM Standard E1527-13. According to the ASTM Standard, a REC is defined as:

"*The presence or likely presence of any hazardous substances or petroleum products in, on, or at a property due to release to the environment; under conditions indicative of a release to the environment or under conditions that pose a material threat of future release. De minimis conditions are not recognized environmental conditions."*

1.2 Reason for Performing the ESA

Del Mar Pacific Group requested that an ESA be conducted as part of the due diligence process prior to acquiring the property. The ESA also fulfills one of the requirements to qualify a purchaser for the innocent landowner, contiguous property owner, or bona fide prospective purchaser limitations pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) liability (referred to as the landowner liability protections or LLPs). This ESA has been prepared using the ASTM Standard E1527-13 and constitutes "all appropriate inquiry" into previous ownership and uses of the property consistent with good commercial or customary practice" as defined by 42 United States Code (U.S.C.)§9601(35)(B).

1.3 Detailed Scope of Services

The components of the ESA consisted of:

1. Interviews with present and past owners, operators, and occupants if available;
2. A site inspection of the property to observe and document current conditions;
3. Historical records review of reasonably available aerial photographs and topographic maps for the Site and vicinity;

4. Identify Site land uses going back to the first time the Site had structures or was used for residential, agricultural, commercial, industrial, or governmental purposes;
5. Review the chain-of-title to identify previous tenants and Site history;
6. Review selected agency files identified in the regulatory database search to determine the current status of environmental assessments and/or remediation;
7. Evaluate the data and identifying data gaps, open issues, and uncertainties;
8. Evaluate the potential for environmental liens and activity and use limitations;
9. Evaluate the potential for vapor intrusion into the building;
10. Prepare a report which documents any findings, identified RECs, and includes opinions on the significance of the data gaps insofar as they impact the ability to identify possible contamination.

The assessment followed procedures recommended by the American Society for Testing and Materials (ASTM) in "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process E1527-13" (ASTM, 2013) as adopted by the U.S. Environmental Protection Agency (EPA) on August 15, 2013 and EPA rules for All Appropriate Inquiry (AAI) as defined in 40 CFR §312.21 and effective November 1, 2013.

1.4 Significant Assumptions

It is assumed that the information provided by the State and federal environmental databases queried for this assessment are current and accurately represent existing conditions.

1.5 Limitations and Exceptions

This Phase I ESA does not address whether requirements in addition to "all appropriate inquiry" have been met in order to qualify for the Landowner Liability Protections (LLPs) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERLA) of 1980. Nor does it address requirements of any state or local laws, or of any federal laws other than the "all appropriate inquiry" provisions of the LLPs.

There may be other local, state, and/or federal laws which impose environmental assessment obligations that are beyond the scope of the ASTM Method E1527-13 for a Phase I ESA. There may also be other legal obligations regarding hazardous substances or petroleum products that are not addressed in the ASTM Method and that may pose risk of civil and/or criminal sanctions for non-compliance.
There may be environmental conditions or issues at the Site which are not covered under the scope of the Phase I ESA. Some substances may be present in quantities and under conditions that may lead to contamination of the Site property, or of nearby

properties, but are not included in CERCLA's definition of "hazardous substances" or do not otherwise present potential CERCLA liability. In any case, they are beyond the scope of this Phase I ESA. Assessment of such non-scope considerations is not required for the "all appropriate inquiry" defined in ASTM Method E1527-13. Examples of non-scope considerations which may be assessed in addition to the scope of the Phase I ESA include (in no particular order of importance): asbestos-containing materials, biological agents, cultural and historic resources, ecological resources, endangered species, health and safety, indoor air quality, industrial hygiene, lead-based paint, lead in drinking water, mold, radon, regulatory compliance, wetlands, or other non-scope considerations.

No ESA can wholly eliminate uncertainty regarding the potential for recognized environmental conditions in connection with a property. Completion of this ESA was intended to reduce, but not eliminate, uncertainty regarding this potential within the limits of reasonable time and cost.

While this Phase I ESA was completed in accordance with the "all appropriate inquiries" requirements of the ASTM Method, some data gaps may exist despite the good faith efforts of AWC to gather pertinent, reasonably ascertainable information. This ESA did not include collection or chemical analysis of soil or water samples or an evaluation of seismic characteristics. In addition, the ESA was limited to the specifically defined area of the property.

1.6 Special Terms and Conditions

No special terms or conditions were imposed upon this Phase I ESA.

1.7 User Reliance

This ESA report is prepared for the express use of Del Mar Pacific Group. This ESA report is not intended for use by other parties without the written consent of Applied Water Consulting and Del Mar Pacific Group. Although Applied Water Consulting and Del Mar Pacific Group may release this report to third parties, such third party in using this report agrees that it shall have no legal recourse against Applied Water Consulting or Del Mar Pacific Group.

2.0 SITE DESCRIPTION

This section provides information relative to the location, land-use activities, and general physical characteristics of the Site.

2.1 Location and Legal Description

The Site is located at 212 East 2nd Street in Whitefish, Montana. A site vicinity map showing the Site location and surrounding features is presented as **Figure 1**. The legal description of the Site is Lots 15, 16, 17, and 18 of Block 38 of the original Townsite of Whitefish, Montana located in the SW¼, NW¼, NE¼ of Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana. The geographic coordinates are latitude 48.410869 and longitude -114.340725. There is one assessment code associated with the property listed on Montana Cadastral which is 0000011645. The geocode numbers are listed as 07-4292-36-1-17-15-0000. A copy of the Montana Department of Revenue (DOR) property records, certificate of survey and plat map are provided in **Appendix A**.

2.2 Site and Vicinity General Characteristics

The Site consists of a 0.248 acre parcel located in a commercial/residential area of Whitefish, Montana (see **Figure 2**). The area is zoned WB-3, as general business. The majority of properties in the vicinity of the Site are utilized for business and retail purposes. The property is located at 212 East 2nd Street. The topography of the area gently slopes from the east to west. The elevation of the Site is approximately 3020 feet above mean sea level (amsl).

2.3 Current Use of the Site

The Site is currently vacant; there are no structures on the property. The land is surfaced with gravel.

2.3.1 Description of Improvements

There are no Site improvements.

2.3.2 Current Use of Adjoining Properties

AWC observed adjoining properties from the Site and public right-of-ways. Current uses of adjoining properties are provided on **Table 1**. The general area surrounding the Site is a mixture of professional spaces, housing, and businesses.

Table 1
Current Uses of Adjoining Properties

Location Relative to Subject Property	Current Use
North	Telemark Condos
West	Professional Offices
South	North Valley Eye Care
East	Flathead Computers and Technology

3.0 INFORMATION PROVIDED BY USER

The Site is currently owned by All Saints Episcopal Church. AWC was not provided with any additional information by the user.

3.1 Title Records

Formal title records were not provided, therefore, AWC reviewed ownership records available at the Flathead County Plat Room. These chronologies are used to determine past owners of the Site and the potential for commercial or industrial uses. The chain-of-ownership records extended to 1903.

Table 2 below provides the ownership summary for Lots 15, 16, 17, and 18. The lots were originally platted in Block 38 of the Whitefish original Townsite located in Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana. The lots have shared the same chain of ownership since they were platted.

Table 2
Chain of Ownership for Lots 15, 16, 17, and 18

Date	Owner	Comments
1/11/2010	All Saints Episcopal Church	QCD from Holy Nativity & St. Mathew's Episcopal Church
6/13/2006	Holy Nativity & St Mathew's Episcopal Church	QCD from Episcopal Diocese of Montana
4/6/1931	The Diocese of Montana	
4/8/1915	Trustees of Diocese of Montana	
8/4/1903	Whitefish Townsite Company	
6/25/1903	Fred Grinnell	

As shown above, the primary owners of the Site have been religious organizations including the Diocese of Montana and the Episcopal Church. None of the property owners by name alone would indicate that an environmental condition would be associated with the property.

3.2 Environmental Liens or Activity and Use Limitations

The Site was listed one of the environmental databases searched, the CERCLIS list. The Site is located within a portion of the Whitefish Solvent facility, which extends between O'Brien Avenue and Baker Avenue on 2nd Street East. The Whitefish Solvent facility is not on the NPL. There are no known environmental liens against the property, nor are there any known activity use limitations. AWC recommends that a vapor mitigation system be installed in during new construction as an institutional control.

3.3 Specialized Knowledge

AWC utilized previous investigations that have occurred at the Site and neighboring properties during the completion of this Phase I ESA including: the *Phase II Environmental Site Assessment Report for the Former Holy Nativity Episcopal Church Site* (AWC, 2010), the *Whitefish Solvent Preliminary Assessment Report* (Montana DEQ, 2011), and the *Sampling and Analytical Results Report for a CERCLA Site Investigation of the Whitefish Solvent Site* (Resource Technologies, 2013).

3.4 Reasonably Ascertainable Information

AWC evaluated the standard databases and sources of reasonably ascertainable information in preparation of this Phase I ESA.

3.5 Valuation Reduction for Environmental Issues

Based on our understanding, no price diminutions or property value reductions were allotted for environmental considerations.

3.6 Owner, Property Manager, and Occupant Information

The Site is owned by All Saints Episcopal Church. It is currently a vacant lot that is unoccupied.

3.7 Other

No other information was utilized over the course of this investigation.

4.0 RECORDS REVIEW

The records reviewed for this ESA included standard environmental databases and readily available historical information.

AWC utilized NETROnline, an environmental research firm, to search federal, state, and tribal environmental regulatory databases. In addition, AWC searched other standard environmental record sources for information on properties within the minimum search distances as defined by ASTM. A copy of the search results and associated maps are provided in **Appendix B**. ASTM search radii have been drawn to scale on the maps. Where possible, the maps provide plotted locations for the information within the applicable database. However, other information is included in the report for sites which are not capable of being plotted by search engines or manual plotting techniques; AWC has also examined the listings for these sites.

The information was used to evaluate the Site and also determine whether the surrounding properties could potentially affect soil or groundwater beneath the Site. A description of the information gleaned from State and federal databases follows.

4.1 Federal Database Records Sources

The list of federal database records and respective minimum search distances required by the ASTM Method are contained in **Appendix B**.

4.1.1 RCRA Generators

A search of the Resource Conservation and Recovery Act (RCRA) generator database did not identify any RCRA generator facilities within a one-half mile radius of the Site.

4.1.2 CERCLIS Database

A search of the CERCLIS database returned one result within a one-mile search radius of the Site, that being the Whitefish Solvent facility. The Whitefish Solvent facility is not on the NPL. The facility is identified as Information System ID No. MTN000802810 and the site investigation is ongoing. Contamination was discovered at the Site during a Phase II ESA conducted because of the proximity to the BNSF rail-yard. The investigation determined that groundwater in the vicinity of the Site was contaminated above Montana DEQ Circular 7 Water Quality Standards for VOC constituents including: trichloroethene (TCE), tetrachloroethene, and cis- 1,2-dichlorethene (DCE). Tetrachloroethene is also known as perchloroethene (PCE) and is a common solvent used in the dry cleaning industry. This compound breaks down into lower molecular weight compounds; the common degradation products are TCE and DCE. A network of monitoring wells was installed in the vicinity of the site with one monitoring well completed on the eastern edge of the property identified as WSMW-4 (Resource Technologies, 2013). Two groundwater monitoring events were conducted on the monitoring well network.

Table 3 provides a summary of the concentrations of contaminants that were reported above the Montana DEQ Circular 7 Water Quality Standards in groundwater samples collected from the onsite monitoring well.

Table 3
Summary of Groundwater Analytical Exceedances for Monitoring Well WSMW-4

Sample Date	VOC Analysis (µg/L)		
	Tetrachloroethene (PCE)	Trichloroethene (TCE)	cis 1,2-Dichloroethene (DCE)
10/8/2011	1,100	180	240
3/2/2012	1,100	210	240
DEQ MCLs	5	5	70

As shown, PCE concentrations significantly exceed the maximum contaminant level (MCL) of 5 µg/L in both of the sampling events, with reported values of 1,100 µg/L reported in both sampling events. TCE was also reported above the MCL of 5 µg/L, during both events with values of 180 µg/L and 240 µg/L reported in the October 2011 and March 2012 events respectively. DCE reported exceedances of the 70 µg/L MCL with concentrations of 240 µg/L reported during both the October 2011 and March 2012 events. All of these exceedances are significantly above the regulatory limits for contamination in groundwater. The soil analytical results for the sample collected from monitoring well WSMW-4 were below the EPA RSLs for residential soil.

4.2 State Database Records Sources

DEQ records were utilized to identify potential RECs associated with the property. The information was used to evaluate the Site and also determine whether the surrounding properties could potentially affect soil or groundwater beneath the Site.

4.2.1 Montana DEQ LUST List

A search of the DEQ Leaking Underground Storage Tank (LUST) database identified 18 facilities within a one-half mile radius of the Site. There are two sites within a 400 foot radius of the site which include: the Westside Exxon identified as Facility ID No. 1500112 Release No. 3031 and the Duncan Sampson Building identified as Facility ID No. 1513709, Release No. 2862. Both releases are listed as inactive and as such do not pose an environmental threat to the Site. Other LUST sites are located a sufficient distance from the Site that they do not pose an environmental threat to the Site.

4.2.2 Montana DEQ UST List

A search of the DEQ records identified 18 UST sites within the prescribed one-half mile radius of the Site. These facilities are not an environmental concern for the Site because they are regulated by the Montana Underground Storage Tank Program Leak Protection Program which requires that UST systems are properly constructed and designed using recognized industry standards, and ensures that active USTs are properly operated and monitored for releases.

4.2.3 Montana Opencut Permits

A search of the Montana DEQ records of Opencut Mining Permits revealed that the there are no one opencut mining facility within a one half mile radius of the Site.

4.3 Tribal Database Records Sources

The Site is not on any tribal databases. There were no surrounding properties identified in tribal databases within the minimum search distances of the Site. Based on these findings, there are no RECs, HRECs, or de minimis conditions at the Site relating to tribal database records.

4.4 Other Ascertainable Records

AWC searched other ascertainable records from several other sources as described below.

4.4.1 RCRA Non-Generator/NLR

There are no RCRA Non-Generator/NLR facilities listed on, or adjacent to the Site.

4.4.2 United States NPDES

The United States National Pollutant Discharge Elimination System (U.S. NPDES) and the compliance information system (CIS) tracks surface water permits issued under the Clean Water Act. Under U.S. NPDES, all facilities that discharge pollutants from any point source into waters of the United States are required to obtain a permit. The permit will likely contain limits on what can be discharged, imposed monitoring and reporting requirements, and include provisions to ensure that the discharge does not adversely affect water quality.

A search of the U.S. NPDES database indicated that there are 12 permits within one-half mile of the Site. These facilities do not constitute a REC with respect to the Site.

4.4.3 Emergency Response Notification System (ERNS)

Three ERNS records were found within a one-half mile search radius of the Site. The ERNS sites were located a sufficient distance (800+ feet) from the Site that they do not pose an environmental threat to the Site.

4.4.4 U.S. Air Facility System (AIRS/AFS)

No U.S. Air Facility System facilities were identified in the record search.

4.5 Physical Setting Sources

The following section presents a description of the physical setting of the Site.

4.5.1 Local Setting

The Site consists of a 0.248 acre parcel located in downtown Whitefish, Montana. Properties in this area are generally used for retail and commercial purposes. The area is zoned WB-3 for general business purposes.

4.5.2 Topography

The Site is located at an elevation of approximately 3,020 feet amsl. The Site slopes slightly from east to west. The general topography of the area slopes west towards the Whitefish River.

4.5.3 Soils

According to the United States Department of Agriculture (USDA) Natural Resources Conversation Service (NRCS) web soil survey, the soils at the Site consist of Half-Noon Silt Loam. This soil type is associated with glaciolacustrine terraces and lake plains. The glaciolacustrine sediments are fine-grained silts, clays, and sands, and are relatively impermeable. These sediments generally have relatively low hydraulic conductivity ranging from 2.83×10^{-6} to 0.283 feet/day. These soils also have relatively low intrinsic permeability with values ranging from 10^{-6} to 10^{-1} darcys (Fetter, 2001). The records review indicated that there is chlorinated solvent contamination in the shallow groundwater at the Site, and as such vapor encroachment is a concern for the Site. However, as the Site is currently a vacant lot, the risks of vapor encroachment can be addressed upon development of the property with the installation of a vapor mitigation system in any building(s) constructed at the Site to protect the indoor air quality.

4.5.4 Groundwater

The area in the vicinity of the Site is geologically mapped as Quaternary glacial outwash deposits (Smith, 2004). The depth to the water table is documented to be 4 to 8 feet below ground surface (AWC, 2010). The glaciolacustrine sediments do not produce water in sufficient quantities to be a source of domestic or irrigation supply.

The groundwater flow direction in the vicinity of the Site is to the southwest towards the Whitefish River at a gradient of approximately 0.01 to 0.02 (Resource Technologies, January 2013; AWC, 2010). The City of Whitefish obtains its municipal water supply from Second and Third Haskill Creeks and Whitefish Lake, which are all upgradient of the Site.

4.6 Standard Historical Use Information

The following sources of information, if available, were used to research the historical use(s) of the Site: aerial photographs, local street directories, property tax records, recorded land title records, Sanborn® fire insurance maps, and United States Geologic Survey (USGS) topographic maps. Where reasonably feasible, AWC attempted to obtain historical information regarding the Site dating to its initial development.

4.6.1 Aerial Photographs

AWC reviewed aerial photographs from 1961, 1968, 1990, 2004, and 2014. A summary of our observations based on a review of the historic aerial photographs is provided on **Table 4**. All photographs show the entire Site. Aerial photographs are contained in **Appendix C**.

Table 4
Summary of Aerial Photography Review

Year: 1961	**Source:** MDT		
The resolution on this photograph is rather poor. The entire property is visible in this photograph. Whitefish lake is visible in the Northwest corner of the photograph and the Whitefish River is visible west of the Site. The second street bridge is visible crossing the Whitefish River just west of the Site. The railroad yard is visible north of the Site. There is one building on the Site at this time. There are various buildings in the vicinity of downtown Whitefish at this time.			
Year: 1968	**Source:** MDT		
The resolution of this photograph is improved compared to that of the prior photograph. There are three buildings on the Site at this time, the Episcopal Church and associated buildings. The Whitefish River is visible to the West of the Site. The land use in the area continues to be for residential, commercial, and city use. There do not appear to have been significant changes in the vicinity since the time of the 1961 photograph.			
Year: 1990	**Source:** USGS		
The resolution of this photograph is similar to that of the previous photograph. The Episcopal Church buildings remain on the Site. The Whitefish River is visible west of the Site. No significant changes have occurred at the Site or surrounding properties.			
Year: 2004	**Source:** Google™ Earth		
This photograph is a high resolution color photograph. The Episcopal Church buildings remain on the property and the general layout of the surrounding area remains the same with the exception of the property directly west of the Site, which is no longer an empty lot. The neighboring property has a new building on it, the Professional Offices suite. The ponds located in the rail-yard are visible northwest of the Site and the Whitefish River is visible west of the Site. No significant changes have occurred at the Site.			
Year: 2014	**Source:** Google™ Earth		
This photograph is a high resolution color photograph. This photograph displays the current conditions of the Site. The Episcopal Church buildings are no longer located on the Site. The Site appears to be a gravel covered lot at this time. No significant changes have occurred on the surrounding properties at this time.			

The historic aerial photographs did not display any conditions that would indicate the Site was previously associated with industrial operations or sale or storage of petroleum products, mining purposes, or manufacturing.

4.6.2 Local Street Directories

Polk indices (a.k.a. City Directories) were researched for the Site and are summarized in **Table 5** below. As shown the only known historic use of the property has been as a church.

Table 5
Polk Indices Review

Date	Owner
1955-1999	Holy Nativity Episcopal Church
1943-1955	Trinity Episcopal Church

This land use is not associated with the storage or distribution of petroleum products or hazardous materials and as such does not indicate an environmental issue associated with the property. However, a review of properties in the immediate vicinity of the Site indicated that there were three dry cleaners in the area that pose an environmental concern to the property. The businesses include:

1. Lincoln's/Anderson Cleaners located at 325 East 2nd Street from 1940's to 1969 and on 306 East 2nd Street from 1970-1999
2. Martins' Cleaners located on 239 Baker Avenue from the late 1950's to 1999
3. T&J's Dry Cleaner located on 100 Baker Avenue from 1974 to 1977

Dry cleaners commonly utilize solvents such as PCE, which was reported in exceedance of regulatory limits in the groundwater samples collected from the Site as were the common PCE degradation products including TCE and DCE. Groundwater analytical data those found in the laboratory analysis of groundwater samples collected from the Site previously summarized in Section 4.1.2.

4.6.3 Property Tax Records

Property tax records were not available for the Site.

4.6.4 Recorded Land Title Records

A title report was not provided.

4.6.5 Sanborn® Fire Insurance Maps

AWC reviewed Sanborn® Fire Insurance maps for the Site from 1905, 1910, 1922 and 1932. The 1905 and 1910 maps show no structures on the Site lots. The 1922 and 1932 Sanborn® maps show the Trinity Episcopal Church on the Site. None of the Sanborn® maps depict any AST's or UST's on the Site or adjacent properties.

4.6.6 USGS Historic Topographic Maps

Three U.S. Geological Survey (USGS) topographic maps were reviewed for this Site (1962, 1982, and 1994). All three maps depict the Site within the city limits of Whitefish. The three topographic maps all show that a church is located on the Site.

4.6.7 Environmental Liens

There are no known environmental liens against the property.

5.0 SITE INSPECTION

The Site was inspected by Roger Noble, Senior Hydrogeologist, on April 9, 2015. The reconnaissance consisted of visually inspecting the Site and viewing surrounding properties from the Site and public right-of-ways. The purpose of the inspection was to view the Site for signs of the presence of underground storage tanks, hazardous waste activity, non-hazardous waste activity (dumping), and any other indications of potential environmental liabilities. Observations made from the review of the above stated records are summarized in this section.

5.1 Methodology and Limiting Conditions

AWC's site reconnaissance was completed in accordance with the requirements stipulated in the ASTM Method, including observation of specific features of the Site and surrounding properties as summarized in Sections 5.2 through 5.4 below.

5.2 General Site Setting

The property is located in a commercial/residential area in downtown Whitefish, Montana (see **Figure 1**). The Site encompasses 0.248 acres. There are no structures on the Site. The nearest body of water is the Whitefish River located approximately 450 feet west of the Site. The topography in the vicinity of the Site slopes from east to west, towards the Whitefish River.

5.3 Observations

The following narrative provides a summary of AWC's observations made during our reconnaissance. The Site was observed by walking through the accessible areas of the Site and viewing the Site from adjacent properties.

There are no structures on the Site and it consists of a gravel lot that slopes slightly to the west. The lot is unused and there is a short (less than three feet high) wood post and rope fence around the property. The Site has frontage on 2nd Street East (U.S. Highway 93) and O'Brien Avenue.

5.3.1 Site Improvements

There were no improvements at the time of the site inspection. The Site consisted of a vacant gravel lot.

5.3.2 Pits, Ponds, and Lagoons

No pits, ponds or lagoons were observed during the site inspection.

5.3.3 Surface Stains and Stressed Vegetation

No surface stains or stressed vegetation were observed during the site inspection.

5.3.4 On-Site Solid Waste Disposal

There was no evidence of on-site solid waste disposal observed during the site inspection.

5.3.5 On-Site Liquid Discharges

There was no other visual evidence of discharge of waste water or other waste liquids into drains, ditches, streams, or injection wells observed during the site inspection.

5.3.6 On-Site Wells

One monitoring well, WSMW-4, was known to be on the Site (Resource Technologies, January 2013). During the site inspection AWC personnel located the well; however the monitoring well had been damaged beyond repair upon inspection. The monitoring well has not been sampled since 2012 and the well is not listed on the Ground Water Information Center (GWIC) database. A summary of the historical groundwater sample results for monitoring well WSMW-4 were previously provided in Section 4.1.2.

5.3.7 On-Site Septic Systems or Cesspools

There is no-site septic system at the Site. The Site has connections to the City of Whitefish Sewer system.

5.3.8 Current Usage of Adjoining Properties

The Site is bordered on the west by O'Brien Street. The property across O'Brien Street is a two-story Professional Office Suite.

The property to the north is Telemark Condos. It is a two-story building with 20 individual condo units and off street parking.

The property to the east is the Flathead Computers and Technology. It is a single-story wood-sided building that operates as a computer repair business.

To the south, the Site is bordered by 2nd Street East (U.S. Highway 93). The property to across 2nd Street is the North Valley Eye Care office.

5.3.9 Past Usage of Adjoining Properties

The past usage of the adjoining properties has primarily been for commercial and residential purposes.

5.3.10 Past Site Usage

The Site has historically been utilized as a church. No other site usages were documented in the records search.

5.3.11 Storage Tanks

No ASTs were observed during the site inspection. There was no evidence of UST's (i.e. access covers, fill ports, or vent pipes) on the Site.

5.3.12 Odors

No unusual odors or fumes were observed during the site inspection.

5.3.13 Standing Pools or Sumps of Water

There were no standing pools of water observed during the site inspection.

5.3.14 Drums

No drums were observed on the Site during the inspection.

5.3.15 Hazardous Substances and Petroleum Products

No hazardous substances or petroleum products were observed during the site inspection.

5.3.16 PCBs

There are no transformers located at the Site.

5.3.17 Sanitary Sewer Disposal

The Site does not have sanitary sewer disposal. There are connections at the Site for the Whitefish sanitary sewer system.

5.3.18 Public Water Supply

There is no public water supply to the Site. The Site has connections to the City of Whitefish Municipal Water Supply System.

5.4 Non-Scope Considerations

No non-scope considerations were evaluated over the course of this Phase I ESA.

6.0 INTERVIEWS

Michael Trombetta, DEQ Remediation Division Administrator, was previously contacted on August 21, 2014, regarding this Site. According to Mr. Trombetta, DEQ conducted a preliminary assessment of the Whitefish Solvent facility, but it is not listed as either a CECRA or CERCLA site (i.e. state or federal superfund) and therefore, DEQ has no regulatory control. The property is not the source of the underlying groundwater contamination and therefore, there are no land use restrictions with the exception of using the water as a drinking water supply. Mr. Trombetta recommended that a vapor barrier and soil vapor mitigation system be installed during building. There is no need to contact DEQ of building plans.

No owner occupant questionnaire was submitted because of the limited timeframe of this phase I ESA, AWC's plethora of Site specific knowledge, and the availability of previous environmental investigation reports.

7.0 FINDINGS

Based on a review of the available information as described herein, AWC presents the following summary of RECs, HRECs, CRECs and/or de minimis conditions for the Site property:

7.1 Recognized Environmental Conditions

One REC was identified for the Site, that being the groundwater contaminated above Montana DEQ Circular 7 Water Quality Standards for PCE, TCE and DCE that is associated with the contamination from Whitefish Solvent facility. This REC indicates that vapor encroachment may be a concern. As such, AWC recommends that should any development occur at the Site, a vapor mitigation system be installed.

7.2 Historic Recognized Environmental Conditions

No HRECs were identified to be associated with the Site.

7.3 Controlled Recognized Environmental Conditions

No CRECs were identified for the Site.

7.4 De Minimis Conditions

AWC did not identify any de minimis conditions associated with the Site.

7.5 Non-Scope Considerations

No non-scope considerations were evaluated with respect to the Site.

8.0 OPINIONS

AWC offers the following opinions and recommendations relating to the Site, with consideration given to the findings of this Phase I ESA.

Based on the information obtained during this ESA, it is the opinion of AWC that a historical data failure as defined in the ASTM guidelines has occurred in attempting to document the history of the Site back to 1940 or the first use of the Site in five year increments. However, based on the information obtained, the lack of documentation is not deemed critical and did not affect AWC's ability to identify potential REC(s) associated with the Site.

The findings of this ESA determined that there is PCE solvent contaminated groundwater in the vicinity of the property. AWC recommends that should new construction occur at the Site, a vapor mitigation system should be installed in any new building(s) to protect indoor air quality and human health and safety.

8.1 Considerations Within the Scope of the Phase I ESA

AWC has concluded that further investigation is not warranted at this time based upon the findings of this Phase I ESA.

9.0 CONCLUSIONS

AWC has performed a Phase I ESA in conformance with the scope and limitations of ASTM Practice E 1527-13 for lots 15, 16, 17 and 18 of block 38 of the original Whitefish Townsite. This Phase I ESA was completed in accordance with the ASTM standards. One REC was identified to be associated with the Site, that being the PCE solvent contaminated groundwater in the vicinity of the Site associated with the Whitefish Solvent facility. New construction at the Site should be limited to slab-on-grade or shallow footers and include a vapor barrier and a soil vapor mitigation system to protect the indoor air quality of the building(s) which may be constructed. This assessment did not reveal the presence of any HRECs, CRECs or de minimis conditions associated with the Site.

10.0 DEVIATIONS

AWC did not deviate from the practices and procedures stipulated in ASTM Method 1527-13 during completion of the Phase I ESA completed on behalf Del Mar Pacific Group for Lots 15, 16, 17, and 18 of Whitefish Original Townsite in Whitefish, Montana.

11.0 REFERENCES

American Society for Testing & Materials (ASTM), 2013. *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, E1527-13.*

Applied Water Consulting, LLC., May 10, 2010. *Phase II Environmental Site Assessment Report for the Former Holy Nativity Episcopal Church Site*. Whitefish, Montana

Applied Water Consulting, LLC., January 19, 2012. Phase I Environmental Site Assessment Report Whitefish Liquor Store. Whitefish, Montana.

Fetter, C. W. *Applied Hydrogeology*. Fourth Edition. Prentice Hall Inc., 2001. Page 85.

Montana DEQ, March 2, 2011. *Whitefish Solvent Preliminary Assessment Report*. Whitefish, Montana.

Resource Technologies, Inc. January 11, 2013. *Sampling and Analytical Results Report for a CERCLA Site Investigation of the Whitefish Solvent Site.* Whitefish, Montana

Smith, Larry N., 2004, *Surficial Geologic Map of the Upper Flathead Valley of Northwestern Montana*; Montana Bureau of Mines and Geology Groundwater Assessment Atlas No. 2, Part B, Map No. 6.

U.S. Environmental Protection, 40 CFR Part 312 Standards and Practices for All Appropriate Inquiries and Notice of Public Meeting to Discuss Standards and Practices for All Appropriate Inquiries; Proposed Rules Federal Register / Vol. 69, No. 165 / Thursday, August 26, 2004

12.0 ADDITIONAL SERVICES

Del Mar Pacific Group did not request any additional services beyond those included in the Phase I ESA as documented in this report.

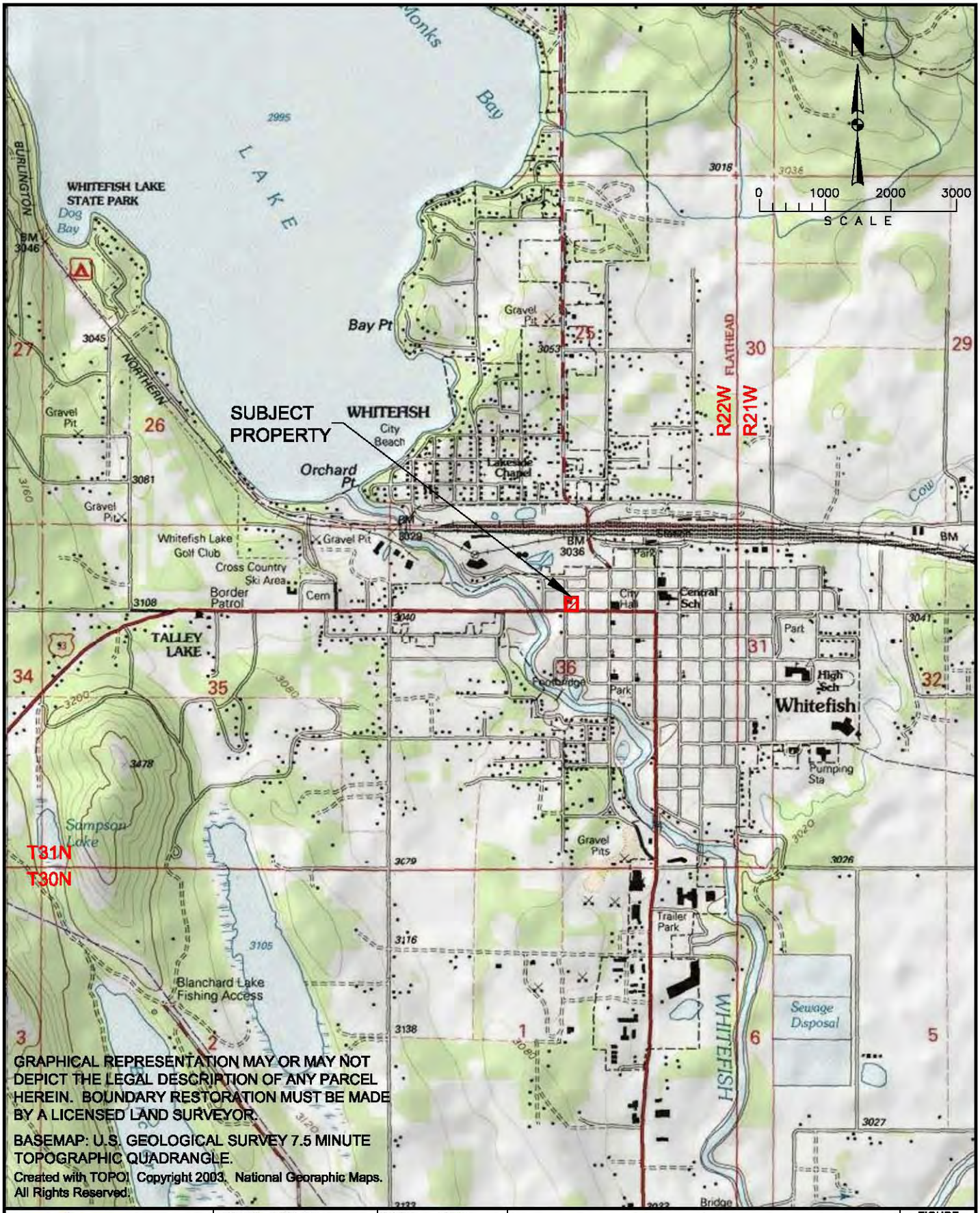
13.0 SIGNATURE OF ENVIRONMENTAL PROFESSIONALS

I declare that, to the best of my professional knowledge and belief, meet the definition of an Environmental Professional as defined in section 312.10 of 40 Code of Federal Regulations (CFR) 312. I have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the subject property. I have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312.

Prepared By:
Jamie Graham
Staff Hydrogeologist
Applied Water Consulting

Reviewed By:
Roger Noble, P.G.
Sr. Hydrogeologist
Applied Water Consulting

FIGURES



GRAPHICAL REPRESENTATION MAY OR MAY NOT DEPICT THE LEGAL DESCRIPTION OF ANY PARCEL HEREIN. BOUNDARY RESTORATION MUST BE MADE BY A LICENSED LAND SURVEYOR.

BASEMAP: U.S. GEOLOGICAL SURVEY 7.5 MINUTE TOPOGRAPHIC QUADRANGLE.

Created with TOPO! Copyright 2003. National Geographic Maps. All Rights Reserved.

Applied Water CONSULTING LLC

PROJ NO: 749-15	DRAWN: RLH	ALL SAINTS EPISCOPAL CHURCH PHASE I ESA	FIGURE 1
LOCATION: WHITEFISH, MT	PROJ MGR: R.NOBLE		
SCALE: 1"=2000'	CHECKED: APPVD:	VICINITY MAP	REV -
FILE NAME: AllSaints.dwg	DATE: Apr/10/2015		

Applied Water CONSULTING LLC	PROJ NO: 749-15	DRAWN: JEG	ALL SAINTS EPISCOPAL CHURCH PHASE I ESA	FIGURE 2
	LOCATION: KALISPELL, MT	PROJ MGR: R. NOBLE		
	SCALE: 1"=80'	CHECKED: APPVD:	SITE MAP	REV -
	FILE NAME: [illegible]	DATE: [illegible]		

Appendix A

PROPERTY OWNERSHIP RECORDS

Phase I Environmental Site Assessment Report
All Saints Episcopal Church – Lots 15, 16, 17, and 18
Whitefish, Montana

L.15,16,17&18 = E026150

Owner: DIOCESE OF MONTANA By: F&H Land Surveying Co.
144 Second Street East
P.O. Box 114
Whitefish, MT 59937
406-862-2386

Date: 11-1-00
Job #: BU00-147

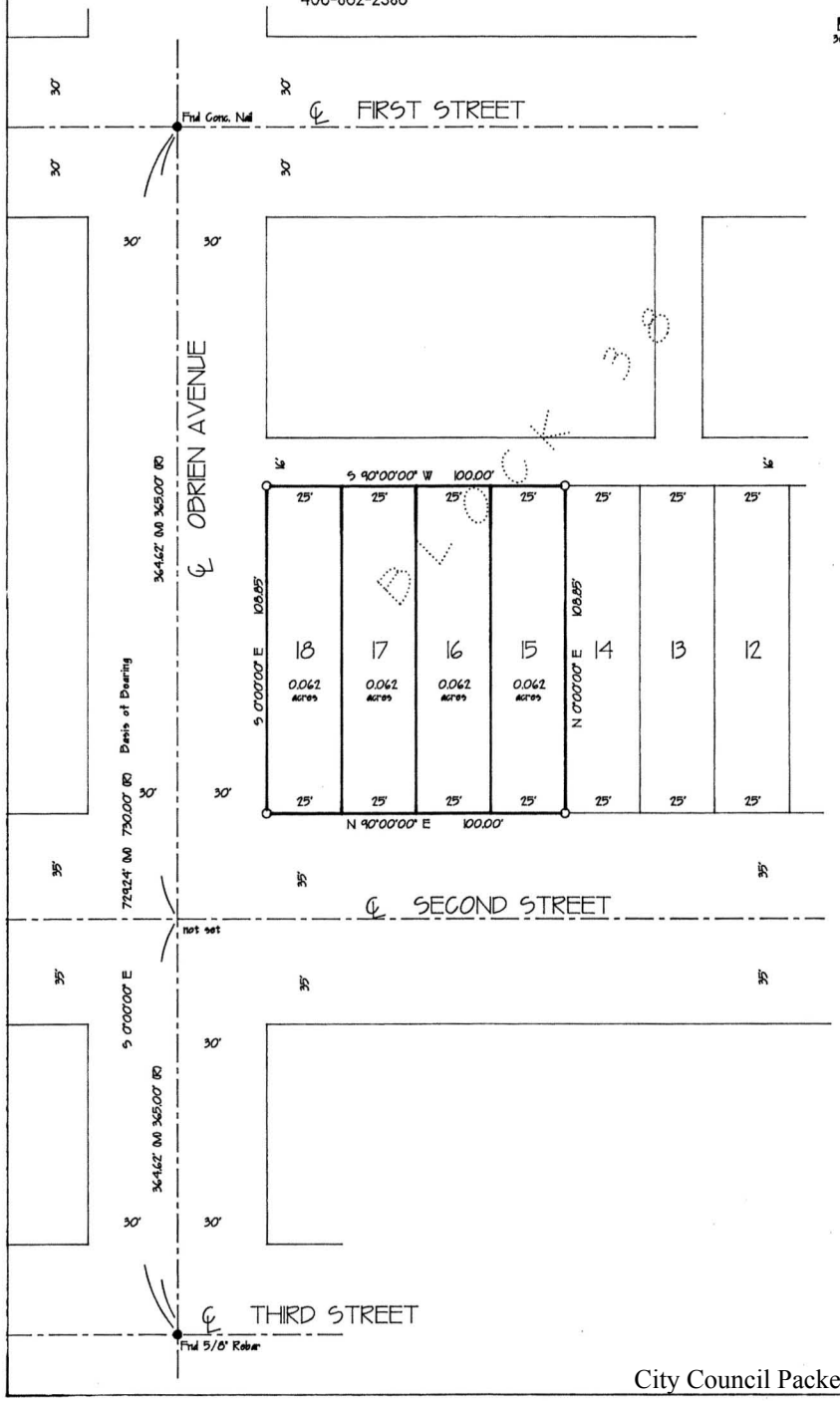
CERTIFICATE OF SURVEY

NW1/4 NE1/4 Section 36, T. 31 N., R. 22 W., P.M.M. Flathead Co.

Scale 1" = 30'

30 15 0 30 60

LEGEND
- Section corner (as noted)
- 1/4 corner (as noted)
- Center 1/4 corner (as noted)
- 1/16 corner (as noted)
- Set Conc Nail and Brass Disc marked HANGER 9344S
- Found as noted



PURPOSE OF SURVEY: RETRACEMENT

That portion of the Northwest one-quarter of the Northeast one-quarter (NW1/4 NE1/4) of Section Thirty-six (36) of Township Thirty-one North (T. 31 N.), Range Twenty-two West (R. 22 W.), Principle Meridian, Montana, Flathead County, Montana, described as follows:

Lots Fifteen (15), Sixteen (16), Seventeen (17), and Eighteen, (18) of Block Thirty-eight (38) of the Original Townsite of Whitefish, Montana, and containing 0.248 acres of land according to the map or plat which is on file at the Clerk and Recorders office in Flathead County, Montana. All as shown hereon.

CERTIFICATE OF SURVEYOR

Robert H. Hanger
Registration No. 9344S
APPROVED: 11/29 2000
Examining Land Surveyor Reg. No. 5428S

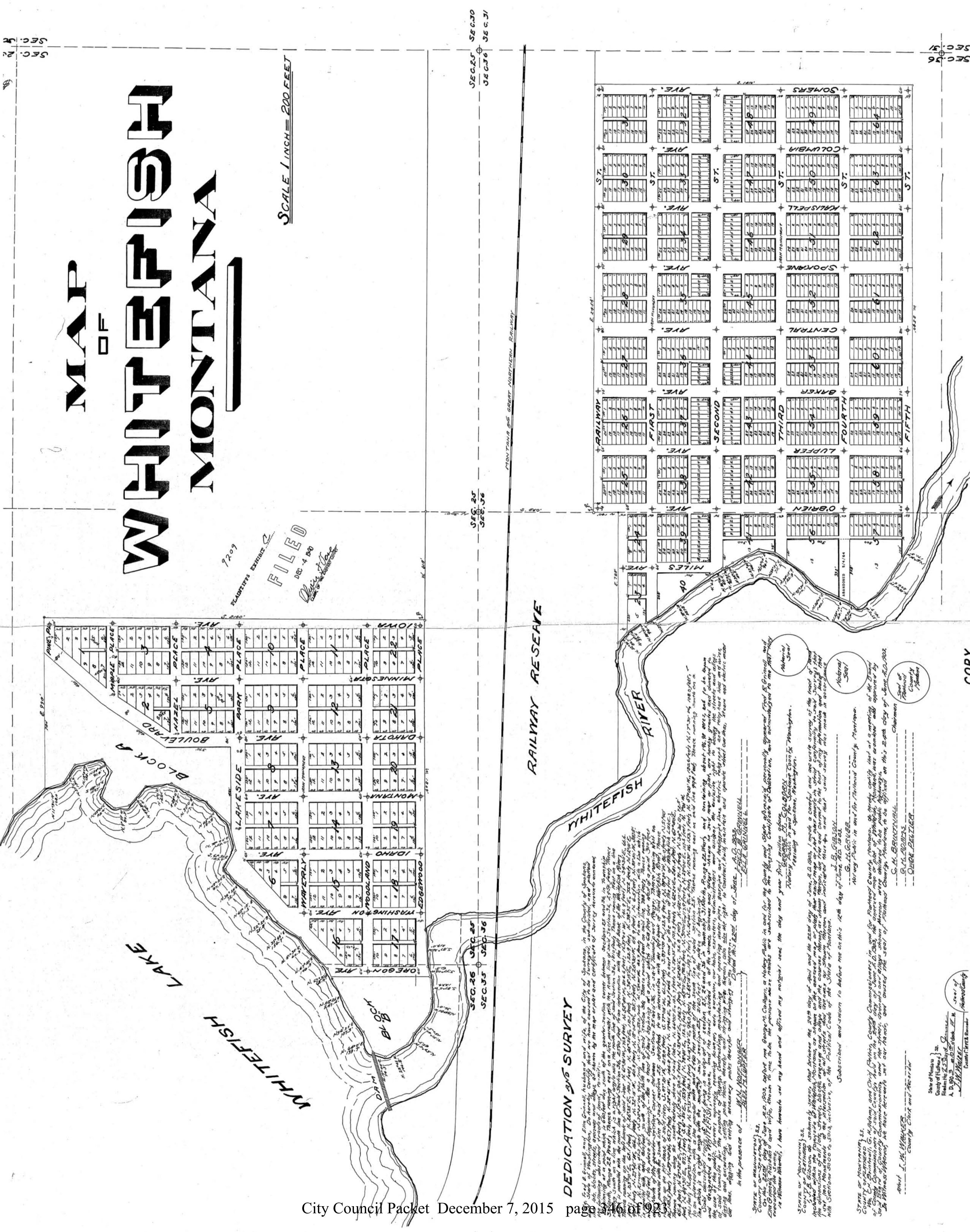
STATE OF MONTANA
County of Flathead SS
Filed on the 1 day of Dec
A.D. 2000 at 2:00 o'clock P M.
Clerk and Recorder
BY: Deputy
INSTRUMENT REC. NO.: 2000336 14000

$7.00

SHEET 1 OF 1 SHEETS

CERTIFICATE OF SURVEY NO. 14487

DIOCESE
14487


MAP OF WHITEFISH MONTANA
SCALE 1 INCH = 200 FEET
PLAINTIFFS EXHIBIT C
FILED
RAILWAY RESERVE
WHITEFISH RIVER
WHITEFISH LAKE
BLOCK A
BLOCK B
DAM
DEDICATION AND SURVEY
SOMERS AVE.
COLUMBIA AVE.
KALISPELL AVE.
SPOKANE AVE.
CENTRAL AVE.
BAKER AVE.
LUPFER AVE.
O'BRIEN AVE.
MILES AVE.
RAILWAY ST.
FIRST ST.
SECOND ST.
THIRD ST.
FOURTH ST.
FIFTH ST.
IOWA AVE.
MINNESOTA AVE.
DAKOTA AVE.
MONTANA AVE.
IDAHO AVE.
WASHINGTON AVE.
OREGON AVE.
MAPLE PLACE
HAZEL PLACE
PARK PLACE
LAKESIDE BOULEVARD
WAVERLY PLACE
WOODLAND PLACE
EDGEWOOD PLACE
SEC. 25
SEC. 36
SEC. 35
SEC. 30
SEC. 31

Property Record Card

Summary

Primary Information

Property Category: RP
Subcategory: Real Property
Geocode: 07-4292-36-1-17-15-0000
Assessment Code: 0000011645
Primary Owner:
ALL SAINTS EPISCOPAL CHURCH
AD% BRADLEY WIRTH
WHITEFISH, MT 59937-1923
NOTE: See the Owner tab for all owner information
PropertyAddress: 212 E 2ND ST
WHITEFISH, MT 59937
COS Parcel:
Certificate of Survey:
Subdivision: WFSH
Legal Description:
WFSH, S36, T31 N, R22 W, BLOCK 038, Lot 015, 14487 WFSH LOT 15 THRU 18 BLK 38 WFSH LOT 19 & S2 LOT 20 BLK 38
Last Modified: 4/4/2015 5:58:57 PM

General Property Information

Neighborhood: 246.C
Property Type: CU - Commercial Urban
Living Units: 0
Levy District: 07-0334-74 - MAIN
Zoning:
Ownership %: 100
Linked Property:
No linked properties exist for this property
Exemptions:
No exemptions exist for this property
Condo Ownership:
General: 0
Limited: 0

Property Factors

Topography: 1
Fronting: 1 - Major Strip or Central Business District
Utilities: 1
Parking Type: 1 - Off Street
Access: 1
Parking Quantity: 2 - Adequate
Location: 2 - Perimeter Central Business District
Parking Proximity: 3 - On Site

Land Summary

Land Type	Acres	Value
Grazing	0.000	00.00
Fallow	0.000	00.00
Irrigated	0.000	00.00
Continuous Crop	0.000	00.00
Wild Hay	0.000	00.00
Farmsite	0.000	00.00
ROW	0.000	00.00
NonQual Land	0.000	00.00
Total Ag Land	0.000	00.00

Total Forest Land	0.000	00.00
Total Market Land	0.362	00.00

Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
1/11/2010			1/11/2010	201000000665	Quit Claim Deed

Owners

Party #1

Default Information: ALL SAINTS EPISCOPAL CHURCH
AD% BRADLEY WIRTH

Ownership %: 100

Primary Owner: "Yes"

Interest Type: Conversion

Last Modified: 10/26/2010 8:10:04 AM

Other Names

Name	Type

Other Addresses

Appraisals

Appraisal History

Tax Year	Land Value	Building Value	Total Value	Method
2014	326236	4200	330436	COST
2013	326236	4200	330436	COST

Market Land

Market Land Item #1

Method: Sqft
Type: V1 - View Category 1
Width:
Depth:
Square Feet: 15,775
Acres:

Valuation

Class Code: 2207
Value:

Dwellings

Existing Dwellings

No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvement #1

Type: Commercial
Description: CPA1 - Paving, asphalt
Quantity: 1
Year Built: 2006
Grade:
Condition:
Functional: 3-Normal
Class Code: 3507

Dimensions

Width/Diameter:
Length:
Size/Area: 2000
Height:
Bushels:
Circumference:

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land

No ag/forest land exists for this parcel

Appendix B

ENVIRONMENTAL RECORDS SEARCH

Phase I Environmental Site Assessment Report
All Saints Episcopal Church – Lots 15, 16, 17, and 18
Whitefish, Montana

Episcopal Church
48.410861, -114.340747
Prepared for: Applied Water Consulting
Ref: 749.15

Wednesday, April 08, 2015

Environmental Radius Report

2055 E. Rio Salado Pkwy
Tempe, AZ 85381
480-967-6752

Summary

Aerial Views 2013, 2011, 2005, 2003, 1990

Flood Zones Hazard Map Federal Emergency Management Agency (FEMA)

	< 1/4	1/4 - 1/2	1/2 - 1
National Priorities List (NPL)			
CERCLIS List	1		
CERCLIS NFRAP			
RCRA CORRACTS Facilities			
RCRA non-CORRACTS TSD Facilities			
Federal Institutional Control / Engineering Control Registry			
Emergency Response Notification System (ERNS)	2	1	
US Toxic Release Inventory			
US RCRA Generators (CESQG, SQG, LQG)		2	1
US ACRES (Brownfields)			
US NPDES	6	6	7
US Air Facility System (AIRS / AFS)			
MT Underground Storage Tanks	9	9	5
MT Leaking Underground Storage Tanks	9	9	5
MT Landfills			

Aerial Views

2013

2011

2005

2003

Aerial Views

1990

Flood Hazard Zones Map

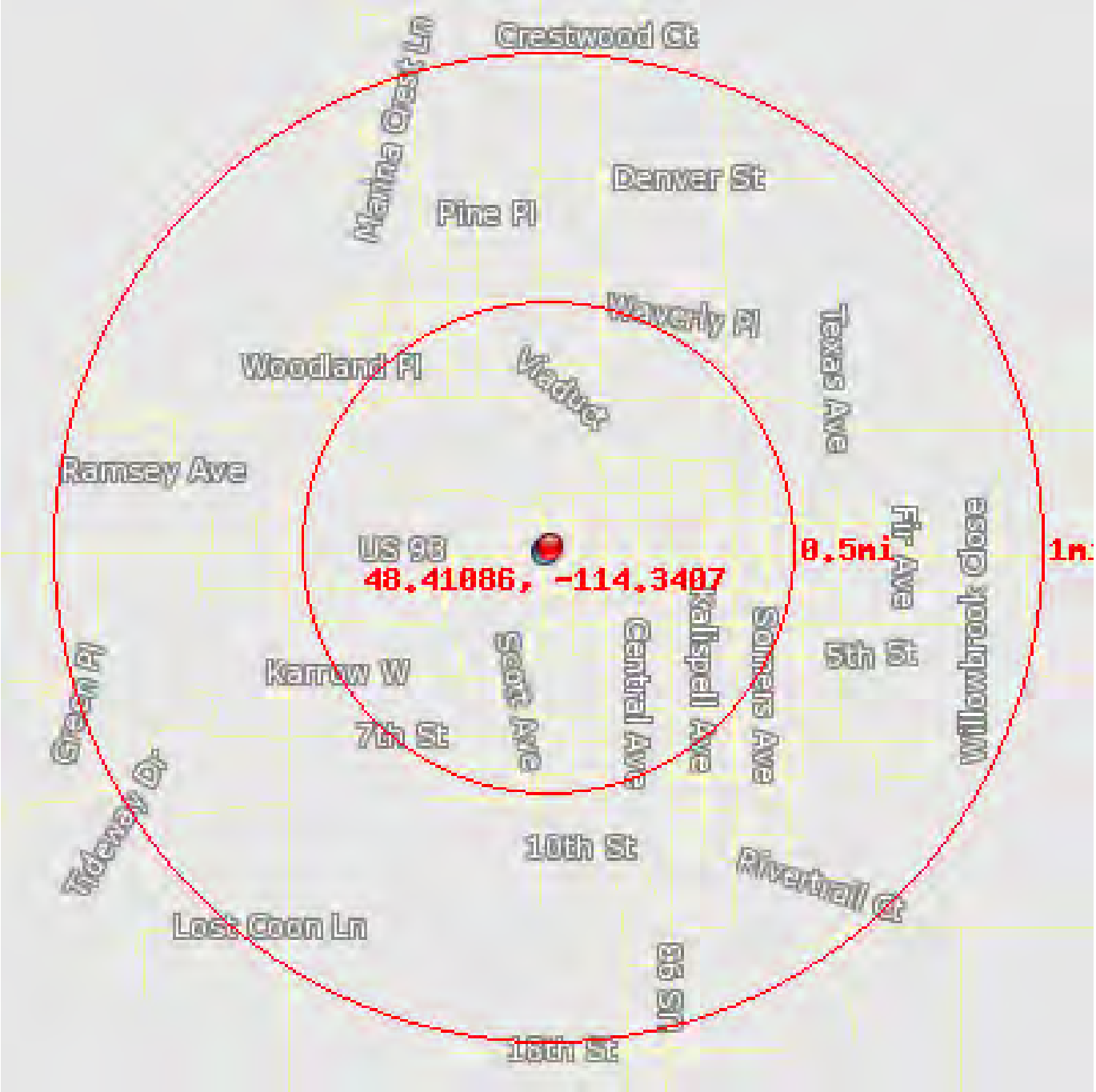
- Area of Undetermined Flood Hazard
- 0.2% Annual Chance Flood Hazard
- Future Conditions 1% Annual Chance Flood Hazard
- 1% Annual Chance Flood Hazard
- Regulatory Floodway
- Special Floodway
- Area with Reduced Risk Due to Levee

National Priorities List (NPL)

This database returned no results for your area.

The Superfund Program, administered under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) is an EPA Program to locate, investigate, and clean up the worst hazardous waste sites throughout the United States. The NPL (National Priorities List) is the list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States and its territories. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation. The boundaries of an NPL site are not tied to the boundaries of the property on which a facility is located. The release may be contained with a single property's boundaries or may extend across property boundaries onto other properties. The boundaries can, and often do change as further information on the extent and degree of contamination is obtained.

CERCLIS List



This database returned 1 results for your area.

The United States Environmental Protection Agency (EPA) investigates known or suspected uncontrolled or abandoned hazardous substance facilities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA maintains a comprehensive list of these facilities in a database known as the Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS). These sites have either been investigated or are currently under investigation by the EPA for release or threatened release of hazardous substances. Once a site is placed in CERCLIS, it may be subjected to several levels of review and evaluation and ultimately placed on the National Priority List (NPL).

CERCLIS sites designated as "No Further Remedial Action Planned" (NFRAP) have been removed from CERCLIS. NFRAP sites may be sites where, following an intitial investigation, no contamination was found, contamination was removed quickly without the need for the site to be placed on the NPL, or the contamination was not serious enough to require Federal Superfund Action or NPL consideration.

CERCLIS List

Location	48.41061, -114.3408
Distance to site	92 ft / 0.02 mi S
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110041937125*
EPA Identifier	110041937125
Primary Name	WHITEFISH SOLVENT
Address	214 E. 2ND STREET
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937-3005
Programs	CERCLIS
Program Interests	SUPERFUND (NON-NPL)
Recorded On	01-SEP-10

CERCLIS NFRAP

This database returned no results for your area.

As of February 1995, CERCLIS sites designated "No Further Remedial Action Planned" NFRAP have been removed from CERCLIS. NFRAP sites may be sites where, following an initial investigation, no contamination was found, contamination was removed quickly without the site being placed on the NPL, or the contamination was not serious enough to require Federal Superfund action or NPL consideration.
EPA has removed these NFRAP sites from CERCLIS to lift unintended barriers to the redevelopment of these properties. This policy change is part of EPA"s Brownfields Redevelopment Program to help cities, states, private investors and affected citizens promote economic redevelopment of unproductive urban sites.

RCRA CORRACTS Facilities

This database returned no results for your area.

The United States Environmental Protection Agency (EPA) regulates hazardous waste under the Resource Conservation and Recovery Act (RCRA). The EPA maintains the Corrective Action Report (CORRACTS) database of Resource Conservation and Recovery Act (RCRA) facilities that are undergoing "corrective action." A "corrective action order" is issued pursuant to RCRA Section 3008(h) when there has been a release of hazardous waste or constituents into the environment from a RCRA facility. Corrective actions may be required beyond the facility"s boundary and can be required regardless of when the release occurred, even if it predated RCRA.

RCRA non-CORRACTS TSD Facilities

This database returned no results for your area.

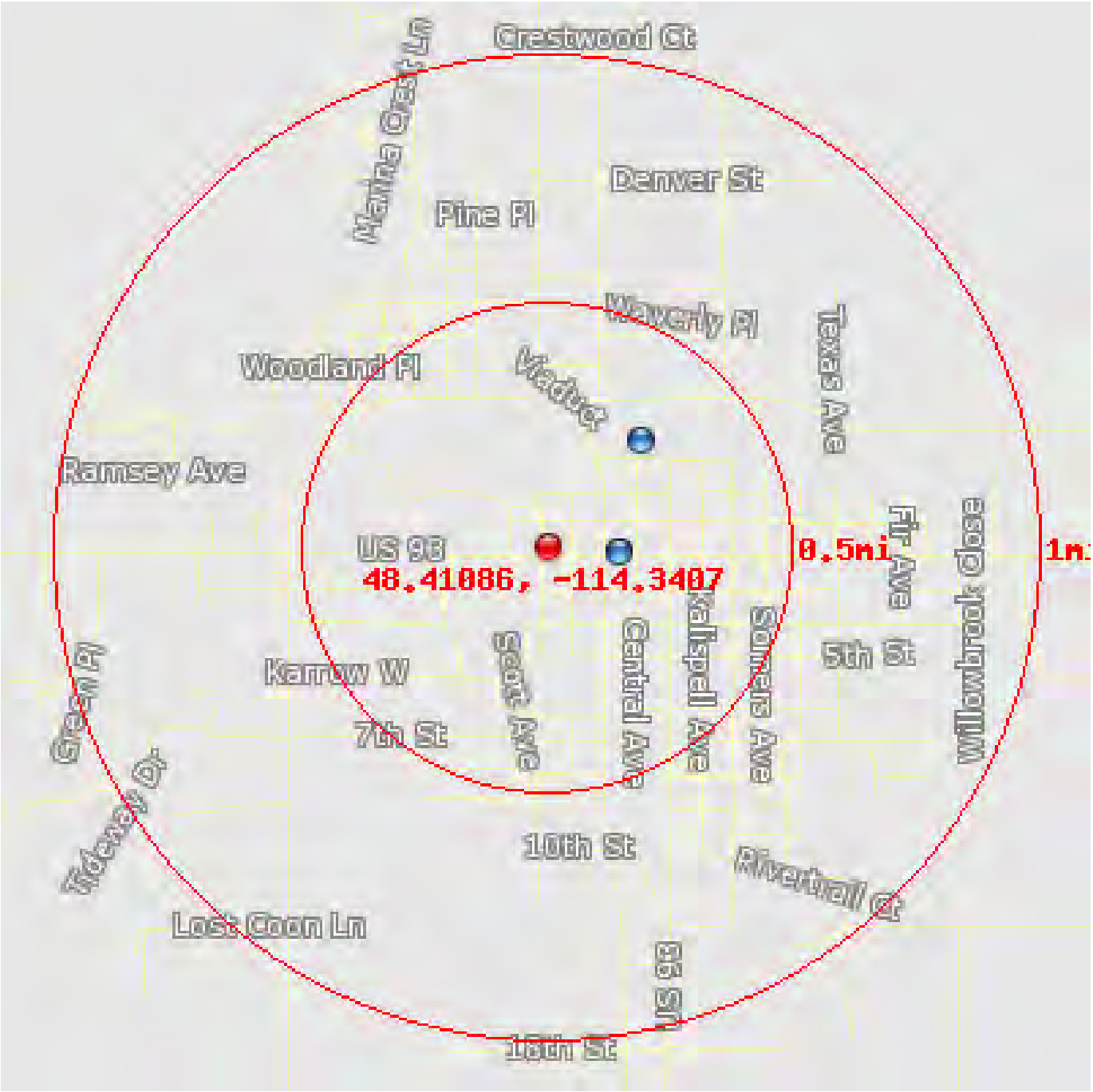
The United States Environmental Protection Agency (EPA) regulates hazardous waste under the Resource Conservation and Recovery Act (RCRA). The EPA"s RCRA Program identifies and tracks hazardous waste from the point of generation to the point of disposal. The RCRA Facilites database is a compilation by the EPA of facilities that report generation, storage, transportation, treatment, or disposal of hazardous waste. RCRA Permitted Treatment, Storage, Disposal Facilities (RCRA-TSD) are facilities which treat, store and/or dispose of hazardous waste.

Federal Institutional Control / Engineering Control Registry

This database returned no results for your area.

Federal Institutional Control / Engineering Control Registry

Emergency Response Notification System (ERNS)



This database returned 3 results for your area.

The Emergency Response Notification System (ERNS) is a national computer database used to store information on unauthorized releases of oil and hazardous substances. The program is a cooperative effort of the Environmental Protection Agency, the Department of Transportation Research and Special Program Administration"s John Volpe National Transportation System Center and the National Response Center. There are primarily five Federal statutes that require release reporting: the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) section 103; the Superfund Amendments and Reauthorization Act(SARA) Title III Section 304; the Clean Water Act of 1972(CWA) section 311(b)(3); and the Hazardous Material Transportation Act of 1974(HMTA section 1808(b).

Emergency Response Notification System (ERNS)

Location	48.41061, -114.3375
Distance to site	798 ft / 0.15 mi E
Incident	CALLER REPORTED THAT A TRAIN WAS STRUCK BY A ROCKSLIDE DERAILING 16 CARS. 15 OF THE CARS WERE EMPTY AND ONE CONTAINED FROZEN POULTRY.
Incident Date	6/23/2010 10:50
Incident location	KOOTENAI RIVER 1291.1
Year Reported	2010
City	WHITEFISH
State	MT
County	LINCOLN

Location	48.41061, -114.3375
Distance to site	798 ft / 0.15 mi E
Incident	CALLER IS REPORTING A GRADE CROSSING INCIDENT INVOLVING A FREIGHT TRAIN AND A TRACTOR TRAILER RIG. NO INJURIES/FATALITIES. INCIDENT OCCURRED ON A PRIVATE ACCESS ROAD.
Incident Date	1/29/2009 7:35
Incident location	MP 1205.66
Year Reported	2009
City	WHITEFISH
State	MT
County	FLATHEAD

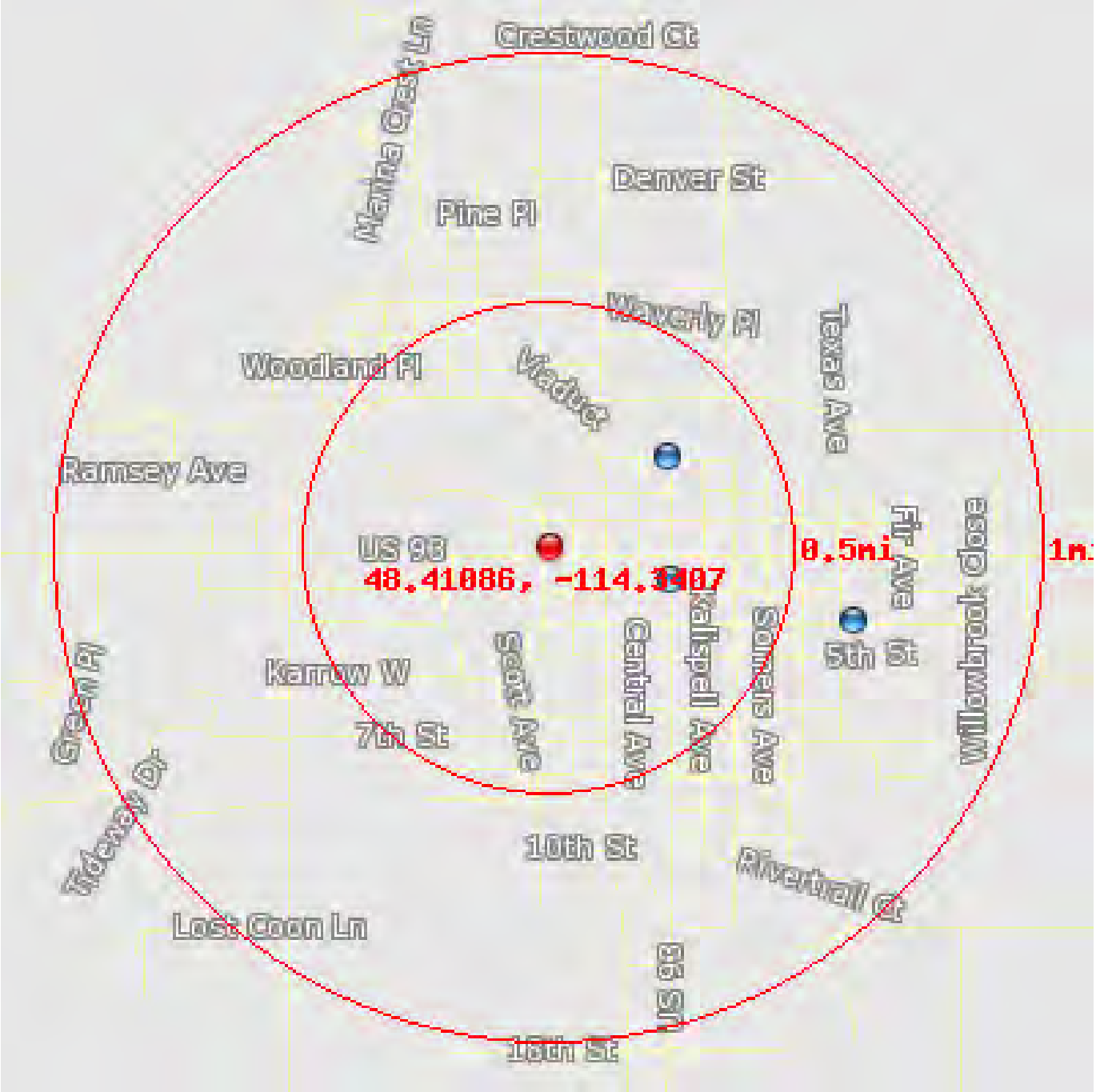
Location	48.41387, -114.3365
Distance to site	1502 ft / 0.28 mi NE
Incident	CALLER IS REPORTING THAT THERE WAS A UNCONTROLLED RELEASE FROM THE TREATMENT POND FOR A DREDGING OPERATION OF PRODUCED WATER BACK INTO THE WHITEFISH RIVER. CALLER STATED THAT THE BERM FAILED DO TO RAIN FALL.
Incident Date	6/5/2012 19:30
Year Reported	2012
Address	500 DEPOT ST.
City	WHITEFISH
State	MT
County	FLATHEAD
Zip Code	59937

US Toxic Release Inventory

This database returned no results for your area.

The Toxics Release Inventory (TRI) is a publicly available EPA database that contains information on toxic chemical releases and other waste management activities reported annually by certain covered industry groups as well as federal facilities. TRI reporters for all reporting years are provided in the file.

US RCRA Generators (CESQG, SQG, LQG)



This database returned 3 results for your area.

The United States Environmental Protection Agency (EPA) regulates hazardous waste under the Resource Conservation and Recovery Act (RCRA). EPA maintains a database of facilities, which generate hazardous waste or treat, store, and/or dispose of hazardous wastes.

Conditionally Exempt Small Quantity Generators (CESQG) generate 100 kilograms or less per month of hazardous waste, or 1 kilogram or less per month of acutely hazardous waste.

Small Quantity Generators (SQG) generate more than 100 kilograms, but less than 1,000 kilograms, of hazardous waste per month.

Large Quantity Generators (LQG) generate 1,000 kilograms per month or more of hazardous waste, or more than 1 kilogram per month of acutely hazardous waste.

US RCRA Generators (CESQG, SQG, LQG)

Location	48.40986, -114.3353
Distance to site	1371 ft / 0.26 mi E
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110020279928*
EPA Identifier	110020279928
Primary Name	STACEY OIL CO
Address	243 SPOKANE AVE
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
Programs	MT-CEDARS, RCRAINFO
Program Interests	CESQG, STATE MASTER
Updated On	29-MAR-14
Recorded On	03-JAN-05
Program ID	MTR000203984

Location	48.41339, -114.3354
Distance to site	1586 ft / 0.3 mi NE
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110044942122*
EPA Identifier	110044942122
Primary Name	BNSF RAILWAY CO
Address	500 DEPOT ST 2ND FLOOR
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
NAICS Codes	482110
Programs	MT-CEDARS, RCRAINFO
Program Interests	CESQG, STATE MASTER
Updated On	29-MAR-14
Recorded On	08-MAR-12
Program ID	MTR000203992

US RCRA Generators (CESQG, SQG, LQG)

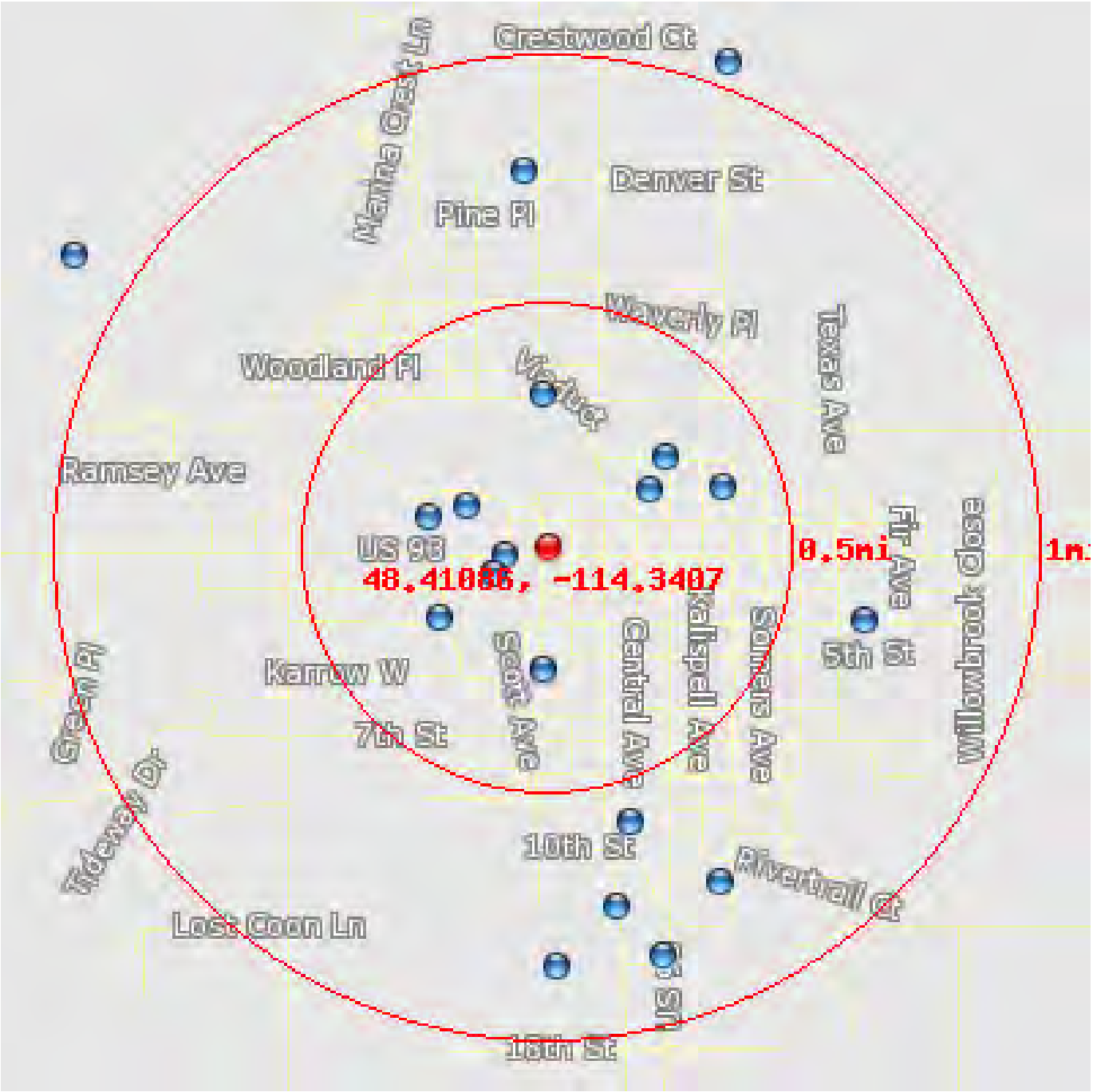
Location	48.40865, -114.3273
Distance to site	3359 ft / 0.64 mi E
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110022044027*
EPA Identifier	110022044027
Primary Name	WHITEFISH HIGH SCHOOL
Address	1143 EAST 4TH
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937-2676
NAICS Codes	611110
Programs	MT-CEDARS, RCRAINFO
Program Interests	CESQG, STATE MASTER
Updated On	19-JAN-11
Recorded On	21-MAY-05
NAICS Descriptions	ELEMENTARY AND SECONDARY SCHOOLS.
Program ID	MTR000201871

US ACRES (Brownfields)

This database returned no results for your area.

Brownfields are real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Cleaning up and reinvesting in these properties protects the environment, reduces blight, and takes development pressures off greenspaces and working lands. The Assessment, Cleanup and Redevelopment Exchange System (ACRES) is an online database for Brownfields Grantees to electronically submit data directly to The United States Environmental Protection Agency (EPA)

US NPDES



This database returned 19 results for your area.

The NPDES module of the Compliance Information System (ICIS) tracks surface water permits issued under the Clean Water Act. Under NPDES, all facilities that discharge pollutants from any point source into waters of the United States are required to obtain a permit. The permit will likely contain limits on what can be discharged, impose monitoring and reporting requirements, and include other provisions to ensure that the discharge does not adversely affect water quality.

US NPDES

Location	48.41056, -114.3425
Distance to site	439 ft / 0.08 mi W
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110055196327*
EPA Identifier	110055196327
Primary Name	NORTHWESTERN ENERGY WHITEFISH RIVER NGL PIPELINE 318
Address	175 W OF 100 E 2ND STREET
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1623
SIC Descriptions	WATER, SEWER, PIPELINE, AND COMMUNICATIONS AND POWER LINE CONSTRUCTION
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Recorded On	05-APR-13
Program ID	MTB010113

Location	48.41, -114.343
Distance to site	631 ft / 0.12 mi W
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110054107685*
EPA Identifier	110054107685
Primary Name	BNSF WHITEFISH RIVER BACKFILL 318
Address	WHITEFISH LAKE TO JP ROAD BRIDGE
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1629
SIC Descriptions	HEAVY CONSTRUCTION, NOT ELSEWHERE CLASSIFIED
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	30-OCT-12
Program ID	MTB002613

US NPDES

Location	48.41, -114.343
Distance to site	631 ft / 0.12 mi W
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110054107667*
EPA Identifier	110054107667
Primary Name	US EPA - BNSF WHITEFISH RIVER 318
Address	WHITEFISH LAKE TO JP ROAD BRIDGE
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1629
SIC Descriptions	HEAVY CONSTRUCTION, NOT ELSEWHERE CLASSIFIED
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	30-OCT-12
Program ID	MTB002413

Location	48.41195, -114.3442
Distance to site	919 ft / 0.17 mi W
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110009860524*
EPA Identifier	110009860524
Primary Name	BN WHITEFISH FACILITY
Address	500 DEPOT STREET
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	4011
SIC Descriptions	RAILROADS, LINE-HAUL OPERATING
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	02-MAY-14
Recorded On	01-MAR-00
Program ID	MT0000019

US NPDES

Location	48.41246, -114.3361
Distance to site	1264 ft / 0.24 mi E
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110030485507*
EPA Identifier	110030485507
Primary Name	SCHELLINGER CONSTRUCTION CO INC - WHITEFISH PARKS & REC. BUILDING
Address	510 RAILWAY AVENUE
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1542
SIC Descriptions	GENERAL CONTRACTORS-NONRESIDENTIAL BUILDINGS, OTHER THAN INDUSTRIAL BUILDINGS AND WAREHOUSES
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	05-JUN-07
Program ID	MTR102544

Location	48.41169, -114.3459
Distance to site	1277 ft / 0.24 mi W
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110024881500*
EPA Identifier	110024881500
Primary Name	BNSF LOOP TRAIL PROJECT
Address	T31N R22W S36 NW
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1611
SIC Descriptions	HIGHWAY AND STREET CONSTRUCTION, EXCEPT ELEVATED HIGHWAYS
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	23-JUN-06
Program ID	MTR101798

US NPDES

Location	48.40722, -114.3408
Distance to site	1328 ft / 0.25 mi S
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110038446660*
EPA Identifier	110038446660
Primary Name	CITY OF WHITEFISH - WHITEFISH PARKING LOT
Address	SPOKANE & EAST 2ND ST
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1611
SIC Descriptions	HIGHWAY AND STREET CONSTRUCTION, EXCEPT ELEVATED HIGHWAYS
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	27-MAY-09
Program ID	MTR103309

Location	48.40868, -114.3454
Distance to site	1371 ft / 0.26 mi SW
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110055369195*
EPA Identifier	110055369195
Primary Name	LHC INC - 6TH & GEDDES ROADWAY RECONSTR PROJ PH II
Address	W 4TH ST AND GEDDES AVE
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1611, 1623
SIC Descriptions	HIGHWAY AND STREET CONSTRUCTION, EXCEPT ELEVATED HIGHWAYS, WATER, SEWER, PIPELINE, AND COMMUNICATIONS AND POWER LINE CONSTRUCTION
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Recorded On	09-JUL-13
Program ID	MTR105092

US NPDES

Location	48.40708, -114.3408
Distance to site	1380 ft / 0.26 mi S
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110044250583*
EPA Identifier	110044250583
Primary Name	CITY OF WHITEFISH - US HWY 93 2ND STREET IMPROVEMENTS
Address	SPOKANE AVE TO LUPFER AVENUE
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1611
SIC Descriptions	HIGHWAY AND STREET CONSTRUCTION, EXCEPT ELEVATED HIGHWAYS
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	28-NOV-11
Program ID	MTR104272

Location	48.41339, -114.3354
Distance to site	1586 ft / 0.3 mi NE
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110024431131*
EPA Identifier	110024431131
Primary Name	SANDRY CONSTRUCTION - BNSF WHITEFISH
Address	500 DEPOT ST
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	599372571
SIC Codes	1629
SIC Descriptions	HEAVY CONSTRUCTION, NOT ELSEWHERE CLASSIFIED
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	23-FEB-06
Program ID	MTR104309

US NPDES

Location	48.41522, -114.3408
Distance to site	1591 ft / 0.3 mi N
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110035856366*
EPA Identifier	110035856366
Primary Name	SANDRY CONSTRUCTION - BIKE/PED PATH WHITEFISH
Address	VARIOUS MUNICIPAL LOCATIONS
City	KALISPELL
County	FLATHEAD
State	MT
Zipcode	59901
SIC Codes	1623, 1629
SIC Descriptions	HEAVY CONSTRUCTION, NOT ELSEWHERE CLASSIFIED, WATER, SEWER, PIPELINE, AND COMMUNICATIONS AND POWER LINE CONSTRUCTION
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	20-MAY-08
Program ID	MTR102881

Location	48.41253, -114.3329
Distance to site	1984 ft / 0.38 mi E
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110024820746*
EPA Identifier	110024820746
Primary Name	TOM THOMAS - POINTE OF VIEW RANCH PROJECT
Address	T31N R22W S3 SW
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1521, 1629, 1794
SIC Descriptions	EXCAVATION WORK, GENERAL CONTRACTORS-SINGLE-FAMILY HOUSES, HEAVY CONSTRUCTION, NOT ELSEWHERE CLASSIFIED
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	01-JUN-06
Program ID	MTR101264

US NPDES

Location	48.40278, -114.3369
Distance to site	3090 ft / 0.59 mi SE
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110028115448*
EPA Identifier	110028115448
Primary Name	BAKER COMMONS DEVELOPMENT LLC - BAKER COMMONS SUBDIVISION PHASE II
Address	BAKER AVENUE
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1611, 1623, 1629
SIC Descriptions	HEAVY CONSTRUCTION, NOT ELSEWHERE CLASSIFIED, HIGHWAY AND STREET CONSTRUCTION, EXCEPT ELEVATED HIGHWAYS, WATER, SEWER, PIPELINE, AND COMMUNICATIONS AND POWER LINE CONSTRUCTION
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	16-FEB-07
Program ID	MTR102397

Location	48.40865, -114.3267
Distance to site	3497 ft / 0.66 mi E
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110055251285*
EPA Identifier	110055251285
Primary Name	KNIFE RIVER KALISPELL - WHITEFISH HIGH SCHOOL SITE WORK
Address	1143 EAST 4TH STREET
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1611
SIC Descriptions	HIGHWAY AND STREET CONSTRUCTION, EXCEPT ELEVATED HIGHWAYS
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Recorded On	13-JUN-13
Program ID	MTR104977

US NPDES

Location	48.40025, -114.3376
Distance to site	3948 ft / 0.75 mi S
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110024571364*
EPA Identifier	110024571364
Primary Name	WHITEFISH COMMUNITY CENTER
Address	1250 BAKER AVE
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1542
SIC Descriptions	GENERAL CONTRACTORS-NONRESIDENTIAL BUILDINGS, OTHER THAN INDUSTRIAL BUILDINGS AND WAREHOUSES
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	29-APR-06
Program ID	MTR101396

Location	48.42175, -114.3416
Distance to site	3978 ft / 0.75 mi N
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110040648243*
EPA Identifier	110040648243
Primary Name	CITY OF WHITEFISH
Address	WHITEFISH WWTF
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1794
SIC Descriptions	EXCAVATION WORK
Programs	MT-CEDARS, NPDES
Program Interests	ICIS-NPDES NON-MAJOR, STATE MASTER
Updated On	05-MAR-13
Recorded On	31-MAR-10
Program ID	MTB015206

US NPDES

Location	48.401, -114.333
Distance to site	4058 ft / 0.77 mi SE
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110037097726*
EPA Identifier	110037097726
Primary Name	KRAMER ENTERPRISES - WHITEFISH WALGREENS
Address	W 10TH & SPOKANE
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1542, 1623, 1794
SIC Descriptions	EXCAVATION WORK, GENERAL CONTRACTORS-NONRESIDENTIAL BUILDINGS, OTHER THAN INDUSTRIAL BUILDINGS AND WAREHOUSES, WATER, SEWER, PIPELINE, AND COMMUNICATIONS AND POWER LINE CONSTRUCTION
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	22-AUG-08
Program ID	MTR103048

Location	48.39854, -114.3402
Distance to site	4499 ft / 0.85 mi S
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110039183255*
EPA Identifier	110039183255
Primary Name	SWANK ENTERPRISES - WHITEFISH EMERGENCY SERVICES CENTER
Address	275 FLATHEAD AVENUE
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937
SIC Codes	1542
SIC Descriptions	GENERAL CONTRACTORS-NONRESIDENTIAL BUILDINGS, OTHER THAN INDUSTRIAL BUILDINGS AND WAREHOUSES
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	24-AUG-09
Program ID	MTR103384

US NPDES

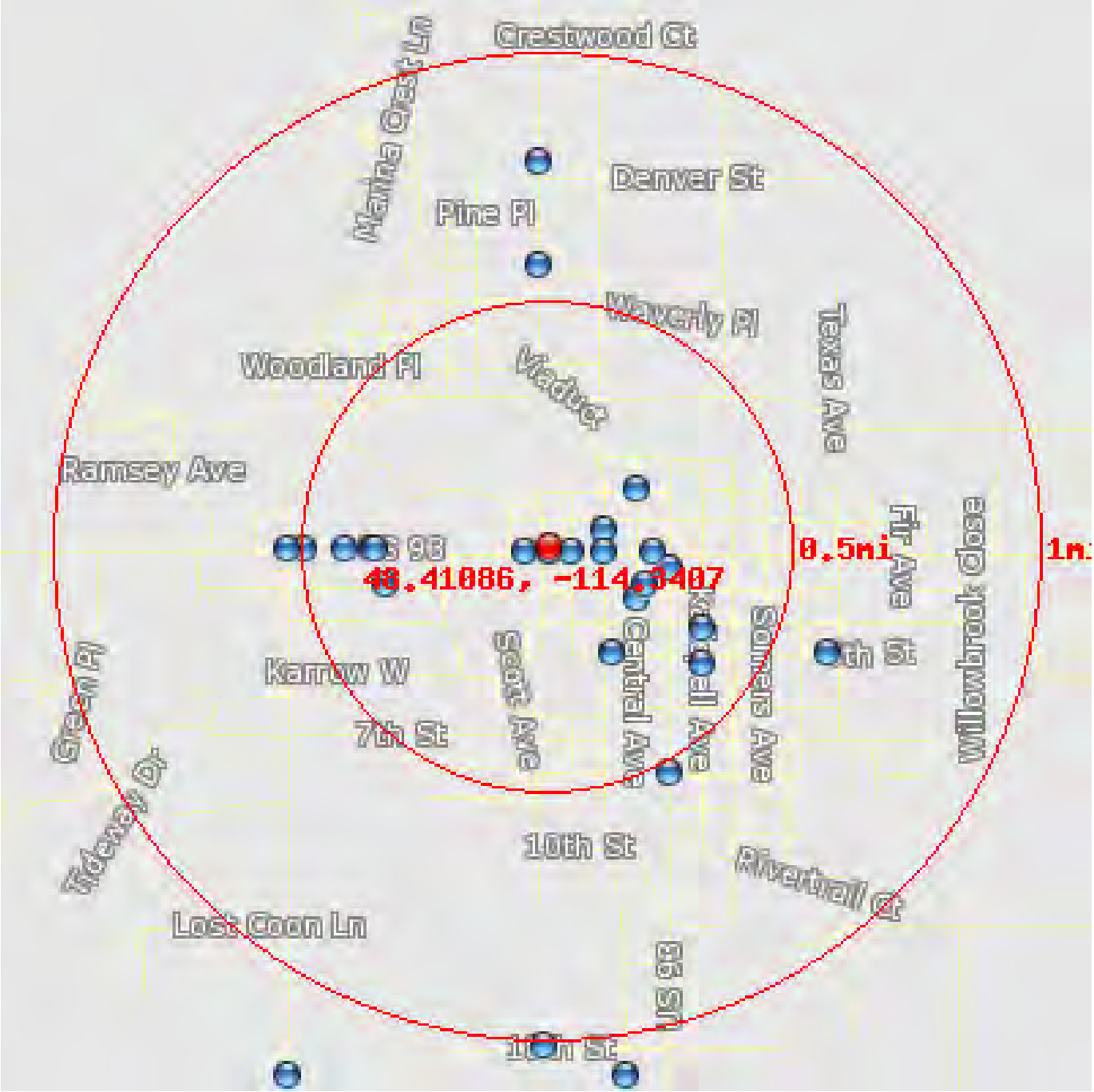
Location	48.39886, -114.3355
Distance to site	4558 ft / 0.86 mi SE
Info URL	*http://iaspub.epa.gov/enviro/fii_query_detail.disp_program_facility?p_registry_id=110038440425*
EPA Identifier	110038440425
Primary Name	SAFEWAY STORES - SAFEWAY WHITEFISH
Address	6580 HIGHWAY 93 SOUTH
City	WHITEFISH
County	FLATHEAD
State	MT
Zipcode	59937-2959
SIC Codes	1542
SIC Descriptions	GENERAL CONTRACTORS-NONRESIDENTIAL BUILDINGS, OTHER THAN INDUSTRIAL BUILDINGS AND WAREHOUSES
Programs	NPDES
Program Interests	ICIS-NPDES NON-MAJOR
Updated On	05-MAR-13
Recorded On	27-MAY-09
Program ID	MTR103336

US Air Facility System (AIRS / AFS)

This database returned no results for your area.

The Air Facility System (AIRS / AFS) contains compliance and permit data for stationary sources of air pollution (such as electric power plants, steel mills, factories, and universities) regulated by EPA, state and local air pollution agencies. The information in AFS is used by the states to prepare State Implementation Plans (SIPs) and to track the compliance status of point sources with various regulatory programs under Clean Air Act.

MT Underground Storage Tanks



This database returned 23 results for your area.

Underground Storage Tanks (UST) containing hazardous or petroleum substances are regulated under Subtitle I of the Resource Conservation and Recovery Act (RCRA). This dataset is maintained and updated by the Montana Department of Environmental Quality, Permitting and Compliance Division - Waste and Underground Tank Management Bureau in their "UST-Access" database.

MT Underground Storage Tanks

Location	48.41064, -114.3405
Distance to site	94 ft / 0.02 mi SE
Facility ID	1512591
Name	TERRY N TRIEWEILER
Address	233 2ND ST E
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

Location	48.41064, -114.3416
Distance to site	225 ft / 0.04 mi W
Facility ID	1500112
Name	WESTSIDE EXXON
Address	145 2ND ST W
City	WHITEFISH
County	FLATHEAD
Number of Tanks	2
Inactive Tanks	2

Location	48.41064, -114.3396
Distance to site	281 ft / 0.05 mi E
Facility ID	1513709
Name	DUNCAN SAMPSON BUILDING
Address	301 2ND ST E
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

Location	48.41066, -114.3381
Distance to site	635 ft / 0.12 mi E
Facility ID	1501676
Name	FRANKS CONOCO
Address	403 2ND ST E
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	4

MT Underground Storage Tanks

Location	48.41124, -114.3382
Distance to site	638 ft / 0.12 mi E
Facility ID	5614074
Name	AMERICAN BANK WHITEFISH
Address	140 BAKER AVE
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

Location	48.41241, -114.3368
Distance to site	1119 ft / 0.21 mi E
Facility ID	1501948
Name	DON K CHEVROLET
Address	9 CENTRAL AVE
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

Location	48.40923, -114.3368
Distance to site	1132 ft / 0.21 mi E
Facility ID	1512814
Name	FRANK LLOYD WRIGHT CENTER
Address	341 CENTRAL AVE
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

Location	48.41065, -114.336
Distance to site	1145 ft / 0.22 mi E
Facility ID	1508723
Name	TOWN PUMP INC WHITEFISH
Address	541 2ND ST E
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	2

Location	48.40965, -114.3363
Distance to site	1158 ft / 0.22 mi E
Facility ID	1513594
Name	ROBERT THOMAS SECURITIES
Address	525 3RD ST W
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

MT Underground Storage Tanks

Location	48.40768, -114.3379
Distance to site	1355 ft / 0.26 mi SE
Facility ID	1503474
Name	WHITEFISH ASSEMBLY OF GOD
Address	420 5TH ST
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

Location	48.41013, -114.3353
Distance to site	1355 ft / 0.26 mi E
Facility ID	1504428
Name	STACEY OIL CO
Address	243 SPOKANE AVE
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	15

Location	48.40966, -114.3478
Distance to site	1756 ft / 0.33 mi W
Facility ID	1512499
Name	WESTERN WAY
Address	304 3RD ST E
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	2

Location	48.41067, -114.3482
Distance to site	1809 ft / 0.34 mi W
Facility ID	1513576
Name	WHITEFISH FURNITURE INC
Address	326 2ND ST E
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	2

Location	48.41068, -114.3484
Distance to site	1859 ft / 0.35 mi W
Facility ID	1504804
Name	SINCLAIR STATION
Address	340 2ND ST E
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	3

MT Underground Storage Tanks

Location	48.40837, -114.3339
Distance to site	1898 ft / 0.36 mi E
Facility ID	1511915
Name	JOSEPHINE SPENCE & RUSSELL WIRTH
Address	426 KALISPELL AVE
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

Location	48.40737, -114.3339
Distance to site	2099 ft / 0.4 mi SE
Facility ID	1510740
Name	LUCIA HARPER
Address	521 KALISPELL AVE
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

Location	48.41068, -114.3496
Distance to site	2137 ft / 0.4 mi W
Facility ID	1511662
Name	WHITEFISH CREDIT UNION
Address	418 2ND ST E
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

Location	48.41069, -114.3514
Distance to site	2573 ft / 0.49 mi W
Facility ID	1511030
Name	BIG MOUNTAIN TIRE FMR BOBS TIRE
Address	540 2ND ST E
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	4

Location	48.41069, -114.352
Distance to site	2738 ft / 0.52 mi W
Facility ID	5614145
Name	WHITEFISH SCHOOL DIST CENTRAL SCHOOL
Address	600 2ND ST E
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

MT Underground Storage Tanks

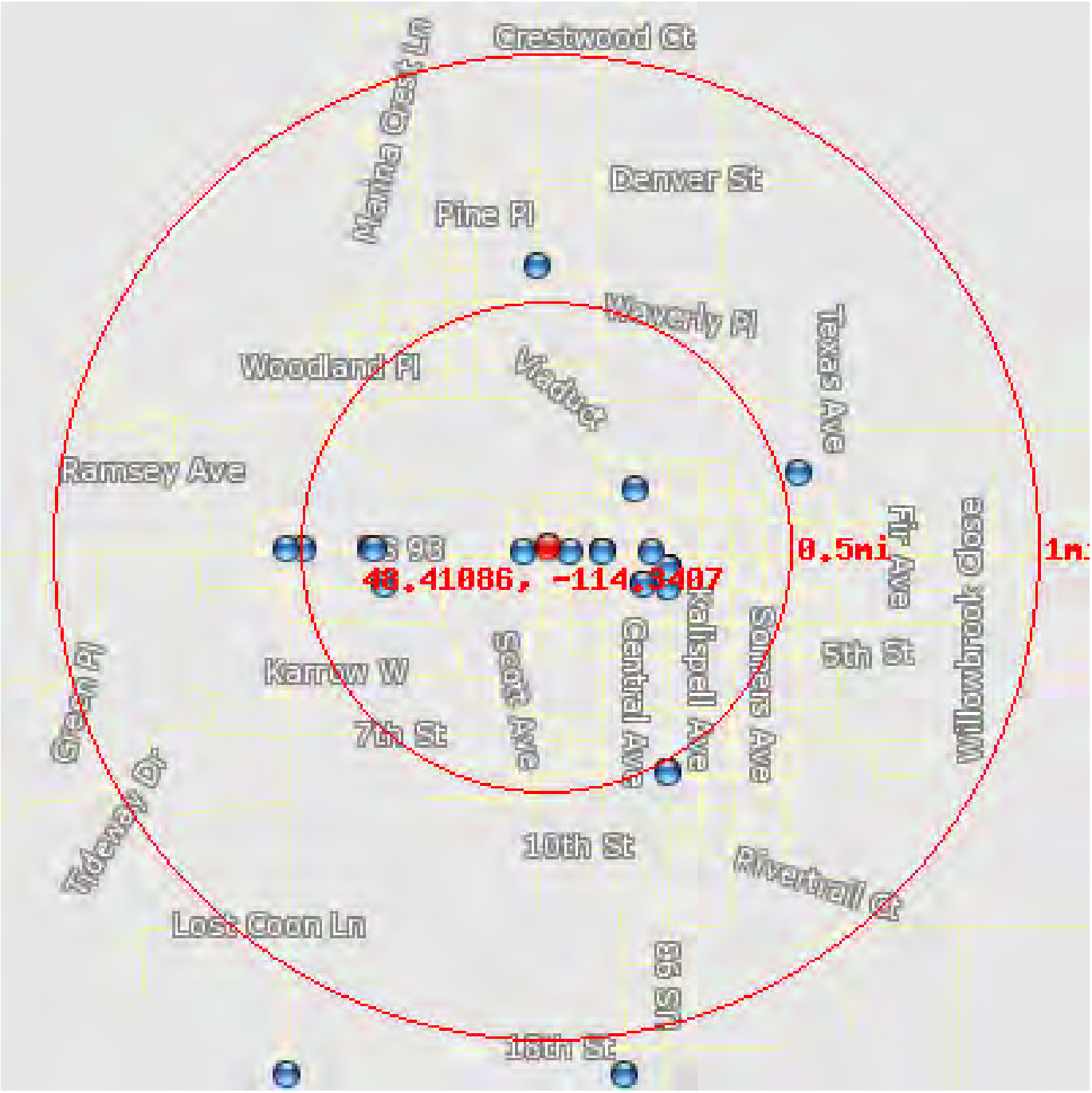
Location	48.40419, -114.3353
Distance to site	2775 ft / 0.53 mi SE
Facility ID	1503916
Name	MINI MART 720
Address	803 SPOKANE AVE
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	3

Location	48.41899, -114.3411
Distance to site	2966 ft / 0.56 mi N
Facility ID	1513407
Name	THEODORE F LUND
Address	549 WISCONSIN AVE
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

Location	48.40766, -114.3284
Distance to site	3211 ft / 0.61 mi E
Facility ID	1506809
Name	DAVE & JENNIFER SIPE
Address	1105 5TH ST
City	WHITEFISH
County	FLATHEAD
Inactive Tanks	1

Location	48.42202, -114.3411
Distance to site	4073 ft / 0.77 mi N
Facility ID	1510944
Name	ALPINE VILLAGE MARKET
Address	721 WISCONSIN AVE
City	WHITEFISH
County	FLATHEAD
Number of Tanks	3

MT Leaking Underground Storage Tanks



This database returned 23 results for your area.

The Montana Department of Environmental Quality, Remediation Division, - Hazardous Waste Site Cleanup Bureau, Petroleum Release Section maintains and updates a database of leaking underground storage tanks.

MT Leaking Underground Storage Tanks

Location	48.41064, -114.3416
Distance to site	225 ft / 0.04 mi W
County	FLATHEAD
City	WHITEFISH
Name	WESTSIDE EXXON #3031
Address	145 2ND ST W
Facility ID	1500112
Release ID	3031
Release Date	1996-10-16
Active	No

Location	48.41064, -114.3396
Distance to site	281 ft / 0.05 mi E
County	FLATHEAD
City	WHITEFISH
Name	DUNCAN SAMPSON BUILDING #2862
Address	301 2ND ST E
Facility ID	1513709
Release ID	2862
Release Date	1995-12-06
Active	No

Location	48.41066, -114.3381
Distance to site	635 ft / 0.12 mi E
County	FLATHEAD
City	WHITEFISH
Name	STUMPS PUMPS #816
Address	403 2ND ST E PO BOX 1
Facility ID	1501676
Release ID	816
Release Date	1989-09-09
Active	No

Location	48.41066, -114.3381
Distance to site	635 ft / 0.12 mi E
County	FLATHEAD
City	WHITEFISH
Name	STUMPS PUMPS #3875
Address	403 2ND ST E PO BOX 1
Facility ID	1501676
Release ID	3875
Release Date	1999-11-03
Priority	2.0 - Medium Priority Characterization
Active	Yes

MT Leaking Underground Storage Tanks

Location	48.41066, -114.3381
Distance to site	635 ft / 0.12 mi E
County	FLATHEAD
City	WHITEFISH
Name	FRANKS CONOCO #4315
Address	403 2ND ST E PO BOX 1
Facility ID	1501676
Release ID	4315
Release Date	2003-10-28
Priority	1.4 - High Priority Characterization
Active	Yes

Location	48.41241, -114.3368
Distance to site	1119 ft / 0.21 mi E
County	FLATHEAD
City	WHITEFISH
Name	DON K CHEVROLET #1513
Address	9 CENTRAL AVE
Facility ID	1501948
Release ID	1513
Release Date	1992-12-16
Active	No

Location	48.41065, -114.336
Distance to site	1145 ft / 0.22 mi E
County	FLATHEAD
City	WHITEFISH
Name	TOWN PUMP INC WHITEFISH #611
Address	541 2ND ST E
Facility ID	1508723
Release ID	611
Release Date	2007-06-28
Priority	1.4 - High Priority Characterization
Active	No

Location	48.40965, -114.3363
Distance to site	1158 ft / 0.22 mi E
County	FLATHEAD
City	WHITEFISH
Name	ROBERT THOMAS SECURITIES #2516
Address	525 3RD ST W
Facility ID	1513594
Release ID	2516
Release Date	1995-01-31
Active	No

MT Leaking Underground Storage Tanks

Location	48.40965, -114.3363
Distance to site	1158 ft / 0.22 mi E
County	FLATHEAD
City	WHITEFISH
Name	ROBERT THOMAS SECURITIES #2756
Address	525 3RD ST W
Facility ID	1513594
Release ID	2756
Release Date	1995-09-13
Active	No

Location	48.41013, -114.3353
Distance to site	1355 ft / 0.26 mi E
County	FLATHEAD
City	WHITEFISH
Name	STACEY OIL #1034
Address	243 SPOKANE AVE
Facility ID	1504428
Release ID	1034
Release Date	1991-09-13
Priority	1.4 - High Priority Characterization
Active	Yes

Location	48.41013, -114.3353
Distance to site	1355 ft / 0.26 mi E
County	FLATHEAD
City	WHITEFISH
Name	STACEY OIL #448
Address	243 SPOKANE AVE
Facility ID	1504428
Release ID	448
Release Date	1990-10-24
Active	No

Location	48.41013, -114.3353
Distance to site	1355 ft / 0.26 mi E
County	FLATHEAD
City	WHITEFISH
Name	STACEY OIL #3192
Address	243 SPOKANE AVE
Facility ID	1504428
Release ID	3192
Release Date	1997-06-26
Active	No

MT Leaking Underground Storage Tanks

Location	48.41012, -114.3353
Distance to site	1356 ft / 0.26 mi E
County	FLATHEAD
City	WHITEFISH
Name	3RD STREET MARKET #4092
Address	244 SPOKANE AVE
Facility ID	5614060
Release ID	4092
Release Date	2002-03-26
Priority	1.4 - High Priority Characterization
Active	Yes

Location	48.40957, -114.3353
Distance to site	1411 ft / 0.27 mi E
County	FLATHEAD
City	Whitefish
Name	PPL FEC FORMER GAS STATION #4159
Address	307 Spokane Ave
Facility ID	1504960
Release ID	4159
Release Date	2003-03-07
Priority	5.0 - Pending Closure
Active	Yes

Location	48.40966, -114.3478
Distance to site	1756 ft / 0.33 mi W
County	FLATHEAD
City	WHITEFISH
Name	WESTERN WAY #1081
Address	304 3RD ST E
Facility ID	1512499
Release ID	1081
Release Date	1992-02-05
Priority	1.4 - High Priority Characterization
Active	Yes

MT Leaking Underground Storage Tanks

Location	48.41067, -114.3482
Distance to site	1809 ft / 0.34 mi W
County	FLATHEAD
City	WHITEFISH
Name	WHITEFISH FURNITURE INC #2491
Address	326 2ND ST E
Facility ID	1513576
Release ID	2491
Release Date	1994-12-21
Active	No

Location	48.41068, -114.3484
Distance to site	1859 ft / 0.35 mi W
County	FLATHEAD
City	WHITEFISH
Name	SINCLAIR STATION ONE STOP #2854
Address	340 2ND ST E
Facility ID	1504804
Release ID	2854
Release Date	1995-12-18
Priority	2 - High Priority Remediation
Active	Yes

Location	48.41069, -114.3514
Distance to site	2573 ft / 0.49 mi W
County	FLATHEAD
City	WHITEFISH
Name	BIG MOUNTAIN TIRE FORMERLY BOBS TIRE #4179
Address	540 2ND ST E
Facility ID	1511030
Release ID	4179
Release Date	2002-12-30
Priority	2.0 - Medium Priority Characterization
Active	Yes

MT Leaking Underground Storage Tanks

Location	48.41069, -114.352
Distance to site	2738 ft / 0.52 mi W
County	FLATHEAD
City	WHITEFISH
Name	CENTRAL SCHOOL #4359
Address	600 2ND ST E
Facility ID	5614145
Release ID	4359
Release Date	2004-07-21
Priority	5.0 - Pending Closure
Active	No

Location	48.40419, -114.3353
Distance to site	2775 ft / 0.53 mi SE
County	FLATHEAD
City	WHITEFISH
Name	MINI MART 720 #2775
Address	803 SPOKANE AVE
Facility ID	1503916
Release ID	2775
Release Date	1995-10-06
Priority	2.0 - Medium Priority Characterization
Active	Yes

Location	48.40419, -114.3353
Distance to site	2775 ft / 0.53 mi SE
County	FLATHEAD
City	WHITEFISH
Name	MINI MART 720 #367
Address	803 SPOKANE AVE
Facility ID	1503916
Release ID	367
Release Date	1990-06-19
Active	No

MT Leaking Underground Storage Tanks

Location	48.4129, -114.3295
Distance to site	2817 ft / 0.53 mi E
County	FLATHEAD
City	Whitefish
Name	P & R DISTRIBUTING #1904
Address	1 Park Ave
Facility ID	1508838
Release ID	1904
Release Date	1993-10-04
Priority	1.4 - High Priority Characterization
Active	Yes

Location	48.41899, -114.3411
Distance to site	2966 ft / 0.56 mi N
County	FLATHEAD
City	WHITEFISH
Name	THEODORE F LUND #2223
Address	549 WISCONSIN AVE
Facility ID	1513407
Release ID	2223
Release Date	1994-05-24
Active	No

MT Landfills

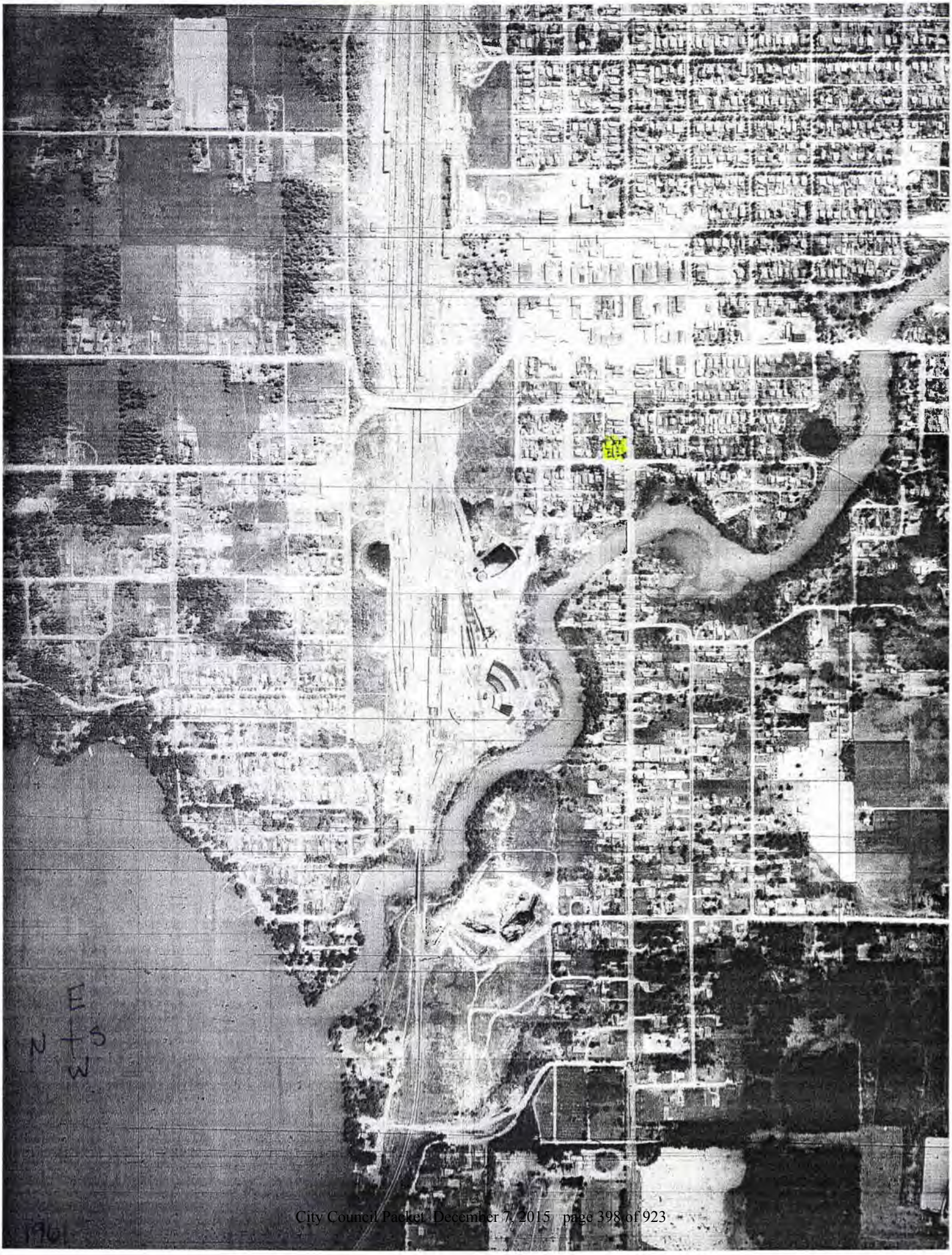
This database returned no results for your area.

Active and retired landfills in Montana, listed in the Montana Department of Environmental Quality - Solid Waste Management Program archives. Attributes associated with the point data describe landfill status, regulatory class, and location.

Appendix C

AERIAL PHOTOGRAPHS

Phase I Environmental Site Assessment Report
All Saints Episcopal Church – Lots 15, 16, 17, and 18
Whitefish, Montana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PLANNING & BUILDING DEPARTMENT
510 Railway Street, PO Box 158 Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409

December 1, 2015

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

RE: Maple Ridge (fka Timber Ridge) Amended Preliminary Plat: WPP 14-04A

Honorable Mayor and Council:

Summary of Requested Action: This is a request by Whitefish West Limited Partnership to amend their previously approved preliminary plat to convert five (5) duplex lots into ten (10) townhouse lots. The property is located at 265 Haugen Heights Road and the entire subdivision is 4.39 acres.

Planning & Building Department Recommendation: Staff recommended approval of the above referenced amended preliminary plat.

Public Hearing: The applicant's representative was available for questions and no one spoke at the public hearing.

Planning Board Action: The Whitefish Planning Board met on November 19, 2015 and considered the requested preliminary plat. Following the public hearing, the Planning Board unanimously recommended approval subject to the eighteen (18) conditions of approval and the findings of fact. (Ellis, Stein and Picoli were absent).

Proposed Motion:

- I move to approve WPP14-04A along with the Findings of Fact in the staff report and the eighteen (18) conditions of approval, as recommended by the Whitefish Planning Board.

This item has been placed on the agenda for your regularly scheduled meeting on December 7, 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, 11-19-15
Draft Minutes of 11-19-15 Planning Board Meeting

Exhibits from 11-19-15 Staff Packet

1. Staff Report – WPP 14-04A, 11-12-15
2. Element Review, 9-28-15
3. Sufficiency Review, 10-19-15
4. Adjacent Landowner Notice, 10-30-15
5. Advisory Agency Notice, 10-30-15
6. Application for Preliminary Plat, 9-21-15

Public Comments Submitted After the Planning Board Packets Were Mailed

7. Letter, Basford, 11-15-15

c: w/att Necile Lorang, City Clerk

c: w/o att Brett Walcheck, 48 North Engineering, 151 Business Center Loop, suite A Kalispell, MT 59901
Shawn Hess, Whitefish West Ltd Partnership, 109 Sierra Vista Ct Lethbridge, AB T1J 4P4

Exhibit A
Maple Ridge
WPP 14-04A
Whitefish Planning Board
Recommended Conditions of Approval
November 19, 2015

1. The subdivision shall comply with Title 12 (Subdivision Regulations) and Title 11 (Zoning Regulations) and all other applicable requirements of the Whitefish City Code, except as amended by these conditions.

2. Except as amended by these conditions, the development of the subdivision shall be in substantial conformance with the approved preliminary plat that govern the general location of lots, roadways, parking, landscaping and improvements and labeled as "approved plans" by the City Council.

3. Prior to any pre-construction meeting, construction, excavation, grading or other terrain disturbance, plans for all on and off site infrastructure shall be submitted to and approved by the Whitefish Public Works Department. The improvements (water, sewer, roads, street lights, trails, driveways, etc.) within the development shall be designed and constructed by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works Director shall approve the design prior to construction. Plans for grading, drainage, utilities, streets, sidewalks and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works. (City Engineering Standards, 2009)

4. Approval of the preliminary plat is subject to approval of detailed design of all on and off site improvements, including drainage. Through review of detailed road and drainage plans, applicant is advised that the number, density and/or location of building lots, as well as the location and width of the road right-of-way, and widths of rights-of-way shown on the preliminary plat may change depending upon constructability of roads, pedestrian walkways, and necessary retaining walls within the right-of-way, on-site retention needs, drainage easements or other drainage facilities or appurtenances needed to serve the subject property and/or upstream properties as applicable. This plan shall include a strategy for long-term maintenance. Fill on-site shall be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion. (City Engineering Standards, 2009)

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

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

(City Engineering Standards, 2009)

6. All roads within the subdivision shall be built to City of Whitefish Public Works Standards and the Whitefish Subdivision Regulations unless otherwise approved by the Public Works Director. (City Engineering Standards, 2009)

7. A 10-foot right-of-way along the northern property line shall be dedicated to the City at the time of final plat. (Finding 4)

8. Street and other on-site lighting shall be dark sky compliant and meet the requirements of the City's Outdoor Lighting ordinance. (Zoning Regulations §11-3-25)

9. The Fire Marshal shall approve the placement and design of all fire hydrants prior to their installation and fire access. (UFC; Subdivision Regulations §12-4-19; Engineering Standards, 2009)

10. A map of fire protection feature shall be submitted to the fire chief for review and approval prior to final plat. This map will show access roads, hydrants, water supply point and any other pertinent items. The approved map will become a component of the CC&Rs. (§12-4-6I)

11. A Certificate of Subdivision Approval be obtained from the Department of Environmental Quality and written approval by the Whitefish Public Works Department approving the storm drainage, water and sewage facilities for the subdivision. (Subdivision Regulations, Appendix C)

12. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. All noxious weeds, as described by Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner or homeowners' association. (Subdivision Regulations §12-4-30)

13. Cash in lieu of parkland dedication for a total of $18,000.00 shall be paid at the time of final plat. (Subdivision Regulations §12-4-11E)

14. A tree retention plan shall be submitted to the Planning Department for review and approval. Appropriate trees outside building envelopes, driveways and roads shall be preserved. Any additional tree removal shall be approved by the Planning Department (§12-4-5)

15. The following notes shall be placed on the face of the plat:
    - House numbers shall be located in a clearly visible location.

    (Subdivision Regulations §12-4-29, §12-4-6; City Engineering Standards, 2009)

16. A common off-street mail facility shall be provided by the developer and approved by the local post office. (Subdivision Regulations §12-4-24)

17. Prior to approval of the final plat, the applicant shall produce a copy of the proposed Covenants, Conditions and Restrictions (CC&Rs) for Maple Ridge Subdivision Homeowners' Association (HOA) providing for:
    - Long-term weed management plan. The weed management plan shall be submitted to the Planning Department for review and approval prior to final plat; and
    - Long-term maintenance plan for drainage and storm water management facilities.

    (Subdivision Regulations §12-4-29; City Engineering Standards, 2009)

18. The Maple Ridge preliminary plat is approved for three years from Council action. (Subdivision Regulations, §12-3-8)

surrounding other cities. They have met several people who have experienced helping these homeless high school aged kids and people will not tell you about it unless you ask them. They are proud to have done it and would do it again. This is a big problem in our Valley and folks do not know about it. This is Whitefish's opportunity to set the standard and say we will no longer allow our kids to be homeless.

MOTION / BOARD DISCUSSION

Richard moved and Rebecca seconded to adopt the findings of fact within staff report WCUP 15-18, subject to the six (6) Conditions of Approval as proposed by City Staff. Richard addressed his motion. Some of the questions brought up by Mr. Berney and Ms. Quinn were outside of the purview of the CUP, but he wants to convey to Sparrow's Nest that it's important to do more outreach one-on-one with the neighbors and alleviate their concerns and fears. The homeless kids deserve a chance and he will vote for it.

Rebecca agreed with Richard but if this works and if the kids get the people here tonight as neighbors, they are going to be very lucky. She urged them to reach out to the children because they would be great in their lives. She was a foster child. Her Mom died when she was 17 and she and her two younger sisters entered the foster system. If she had not been taken in by a family at that time she does not know what might have happened in her life. We should not assume all the kids would be in trouble, some just need stability. She was highly motivated and has done well.

Chairman Meckel has empathy for how conditional uses affect neighbors, but the Board looks at the criteria within the Zoning Code and they do their best to lessen impacts. Oftentimes it is a judgment call but under a Conditional Use Permit if they can mitigate it down to be compatible with other permitted uses in the neighborhood, then they move forward.

He called for the question and there was no opposition.

VOTE

The motion passed unanimously. The matter is scheduled to go before the Council on December 7, 2015.

BREAK

Richard requested a five-minute break and the recording were turned off.

PUBLIC HEARING 4: WHITEFISH WEST LIMITED

A request by Whitefish West Ltd Partnership for an amended Preliminary Plat in order to develop five (5) duplex lots into ten (10) townhouse lots. The property is located at 265 Haugen

PARTNERSHIP PRELIMINARY PLAT AMENDMENT
Audio 7:55 pm

Heights Road and can be legally described as Lot 4, Block 11 of Lake Park Addition in S26 T31N R22W.

STAFF REPORT WPP 14-04A (Compton-Ring)

Senior Planner Compton-Ring reviewed her staff report and findings. Formerly known as Timber Ridge Subdivision when e City Council approved it in 2014, now known as Maple Ridge. After the packet went out, they received a letter from a neighbor concerned about the changing character of the neighborhood, and that was distributed to the Board. The parkland dedication is changing and they will be doing a cash-in-lieu.

Staff recommended adoption of the findings of fact within staff report WPP 14-04A and for **approval** to the Whitefish City Council.

BOARD QUESTIONS OF STAFF

Rebecca asked why townhome and duplex controversy and Compton-Ring explained the developers are Canadian and townhomes and duplexes have a different meaning there.

Rebecca asked for five minutes to read the comments received tonight and Chairman Meckel allowed it.

Richard wanted to know how the $18,000 parkland determination was arrived at, was it the fair value appraisal or just put together by the landowner? Compton-Ring said both and the numbers were nearly the same. Richard asked whether it is prior to any improvements and Compton-Ring said yes.

Chairman Meckel asked for clarification that the duplexes were on larger lots originally and Compton-Ring said yes. Compton-Ring said duplexes are under one ownership with two families in one building. The building and land are owned by one person. A duplex has to be sold as one two-family building. A townhouse is owned by two families, with the ownership line down the connecting wall, and they can be conveyed separately.

Jim asked if they are required to pave Lake Park Lane and Compton-Ring said yes and they are working on it right now.

Rebecca said the comments said this was originally a single-family approval. Compton-Ring replied way back before they received Council approval, their application said it would be only a single family although the zoning is WR-2 and if you have a large enough lot you can have a duplex or a townhouse. It's in a

zoning designation that allows both single-family and duplex/townhouse.

Rebecca asked if they went through the public process correctly and Compton-Ring said yes and the Council approved it.

Richard asked Compton-Ring earlier about parking issues and she asked City Engineer Karin Hilding, who said neither she nor Public Works Director Craig Workman felt "no parking" signs were needed as it's only a 20' (alley sized) road. Richard asked if that was because it is self-evident and Compton-Ring replied it could be brought up at a Council level with Craig. Richard request that be done.

Rebecca asked if Public Works would work with them if there is a complaint of water issues or water trespassing and Compton-Ring replied yes.

APPLICANT / AGENCIES

Monte Gilman, 605 Iowa, said the Applicant could not be here tonight and he is here to answer any questions.

PUBLIC COMMENT

None.

MOTION / BOARD DISCUSSION

Rebeca moved to approve an amendment to preliminary plat WPP 14-04A and Jim seconded to adopt the findings of fact within staff report WPP 14-04A, with the 18 Conditions of Approval as proposed by City Staff.

Rebecca said it seems like everything has been done legally and even though there seems to be some reluctance from the neighbors, she does not see how the Board can hold up the project.

Jim called for the question and there was no opposition.

VOTE

The motion passed unanimously. The matter is scheduled to go before the Council on December 7, 2015.

PUBLIC HEARING 5: 2ND STREET LOFTS CONDITIONAL USE PERMIT
Audio 8:15 pm

A request by 2nd Street Lofts, LLC, for a Conditional Use Permit in order to develop a mixed-use multi-family project with fifteen dwelling units and a footprint greater 7,500 square feet. The property is located at 214 E. 2nd Street and can be legally described as Lots 15, 16, 17, 18 and south 1/2 of Lot 20 in Block 36 Whitefish Original Townsite in S36 T31N R22W.

STAFF REPORT

Senior Planner Compton-Ring reviewed her staff report and

MAPLE RIDGE (fka TIMBER RIDGE)
STAFF REPORT
PRELIMINARY PLAT
WPP 14-04A
November 12, 2015

A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by Whitefish West Limited Partnership for an amended Preliminary Plat to change five (5) lots designed for duplexes to ten (10) lots for townhouses. The remaining lots will remain the same. A public hearing is scheduled before the Whitefish Planning Board on November 19, 2015 and a subsequent hearing is set before the City Council on December 7, 2015.

BACKGROUND

On August 4, 2014, the Whitefish City Council granted Whitefish West Limited Partnership preliminary plat approval, which included twenty (20) conditions of approval. The application provided for 15 lots with lots sized to accommodate single family detached, duplexes or townhouses according to the zoning. The applicant intended to build single family lots on the west side of the road and leave the possibility of duplexes or townhouses on the east side of the road; however, the lots on the east side of the road were not divided into townhouse lots. The entire development encompasses 4.39 acres with a gross density of 5.01 to 3.42 units per acre.

> *(STAFF NOTE: As the City Council adopted the staff report and the findings of fact in 2014, staff has simply updated the report and put new information, based on the proposed amendment, in italics.)*

I. PROJECT SCOPE

The applicant is proposing *to amend the previously approved preliminary plat in order to develop five (5) townhouses on Lots 11-15. This request will not change the density of the project. The access, street and stormwater within the subdivision will remain the same.* All lots *will continue to* front on the public right-of-way that will connect Haugen Heights Road to Lake Park Lane. Lake Park Lane is *being* currently *being* improved to a 20-foot wide paved surface. The internal public

street *is* designed to meet city standards with curb, gutter, sidewalks, landscape boulevard, street trees and city lighting. *Work on this road is nearly complete.*

In lieu of dedicating parkland, the applicant is proposing to provide cash that is equivalent to *0.6 acres*. The Park Board is *continuing to* recommend the Council accept the cash in lieu of the land dedication.

A. Petitioner:

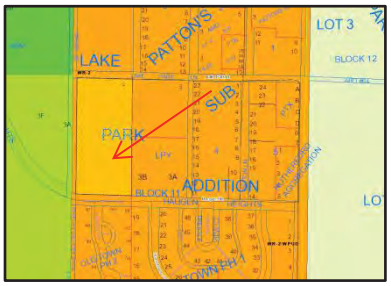
Whitefish West Limited Partnership
Shawn Hass
109 Sierra Vista Ct
Lethbridge, AB T1J 4P4

Technical Assistance:

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

B. Location:

The subject property is located at 265 Haugen Heights Road to the north of the Old Town neighborhood. It is described as Lot 4, Block 11 in Section 26, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.



C. Existing Land Use and Zoning:

The property is undeveloped and the current zoning is WR-2 (Two-Family Residential District).

D. Adjacent Land Uses and Zoning:

North:	residential	WR-2
West:	residential	WCR
South:	urban single family lots	WR-/PUD
East:	residential	WR-2

E. Utilities:

Sewer:	City of Whitefish
Water:	City of Whitefish
Solid Waste:	North Valley Refuse
Gas:	Northwestern Energy
Electric:	Flathead Electric Co-op

Phone:	CenturyLink
Police:	City of Whitefish
Fire:	Whitefish Fire Department
Schools:	Whitefish School District #44

F. Public Notice:

A notice was mailed to adjacent land owners within 300-feet of the subject parcel on October 30, 2015. A sign was posted on the property on October 29, 2015. Advisory agencies were noticed on October 30, 2015. A notice was published in the Whitefish Pilot on November 4, 2015. As of the writing of this report, no comments have been received.

II. REVIEW AND FINDINGS OF FACT

This request is reviewed in accordance with statutory criteria and the Whitefish Zoning and Subdivision Regulations.

A. Effects of Health and Safety:

Fire: The Whitefish Fire Marshal reviewed and will approve the placement and design of all fire hydrants prior to their installation and emergency access for the proposed private streets. The Fire Department is satisfied with road layout.

Wildland Urban Interface: The property is at the base of Lion Mountain and a portion of the property, near Haugen Heights, has been thinned in recent years. There are a number of standards within the Subdivision Regulations that address the Wildland Urban Interface in order to protect the residents of the proposed neighborhood and the adjoining neighborhoods. Staff will recommend these as conditions of approval.

Flooding: Pursuant to the FEMA flood insurance rate map, community panel 30029C1090G, the property is outside the 100-year floodplain.

Access: The subdivision is proposed to access off Haugen Heights Road and Lake Park Lane, both public streets. The applicant is proposing to improve Haugen Heights Road by installing a sidewalk. There are some existing street trees that were installed at the time of the Old Town subdivision; hopefully these can be located within the planter strip, if not street trees will need to be installed the length of the Haugen Heights Road frontage. Lake Park Lane will be improved to a paved 20-foot wide surface. No other improvements will be made to this road, as it will function similar to an alley.

Traffic Impacts: The project will generate a range of 144 to 158 total daily trips; therefore, no Traffic Impact Study is required, as it is less than 200 trips. The streets affected by the proposal are operating at a Level ‘A’ and will continue to do so after build-out of the development.

Finding 1: The proposed subdivision will not have a negative effect on public health and safety because the Fire Department has reviewed the proposal for conformance with the fire code; the property is not locate within a mapped floodplain; access is off

existing public streets; each lot will have physical access from a public street; and the amount of traffic generated will not have an adverse effect on the local streets.

B. Effects on Wildlife and Wildlife Habitat: The area is not mapped by the Montana Department of Fish, Wildlife and Parks as important winter range for big game. Nor is the area mapped by the Montana Natural Heritage Program as an area containing plant or animal species of concern. However, it is likely that deer and other animals use the site.

Finding 2: The subdivision should not have a negative effect on wildlife and wildlife habitat because it is not mapped by Montana Department of Fish, Wildlife and Parks as critical habitat.

C. Effects on the Natural Environment:

Surface and groundwater: The developer will extend municipal water and sewer to the subdivision thereby minimizing any potential impacts to the groundwater.

Slopes: The site is sloping from the west to the northeast.

Drainage: The applicant is proposing stormwater to sheet flow across lots to the street where it will be captured in the gutter and collected by curb inlets. The flow will then be conveyed via pipe to the central stormwater management system in the northeast corner of the project. This plan will be reviewed by the city and will be required to meet all current stormwater standards.

Finding 3: The subdivision should not have a negative impact on the natural environment because municipal water and sewer will be extended to the development, the topography of the property will be retained to the greatest extent practical and city staff will review the stormwater plan with the final engineering plans.

D. Effects on Local Services:

Water: The project proposes to utilize the City water system. The extensions from the main will be designed and constructed to City specifications to ensure minimum domestic and fire flow capability.

Sewer: The project proposes to utilize the City sewer system. The sewer facilities will be designed and constructed to City specifications.

Streets: The main street will be privately constructed, but owned and maintained by the city. The internal street will be designed to meet the city standards including curb, gutter, sidewalk, planter strip, street trees and street lighting. The new street will connect Haugen Heights Road to Lake Park Lane. Lake Park Lane is a platted unimproved city street. The city is requesting Lake Park Lane be improved to a 20-foot wide paved surface from the western property line of the subject property to the intersection with State Park Road. In addition, the city is requesting an additional 10-foot of right-of-way be dedicated to the city along their frontage at the time of final plat in

order to add to the substandard right-of-way of 40-feet. At the time development on the north side of Lake Park Lane occurs the city would also request 10-feet in order to create the full 60-foot right-of-way.

Schools: The site is within the Whitefish School District #44. At completion, using 2011 census information for Flathead County student generation rate of 0.31 students per single family unit, this subdivision could generate a range of approximately 5 to 7 school-age children.

Parks and Open Space: According to the Subdivision Regulations §12-4-11, the parkland dedication requirement is *0.6 acres*. Instead of dedicating land, the applicant is proposing pay cash in lieu of the land dedication. *The land is valued at $30,000 per acre; therefore, this will equal a payment of $18,000.00 at the time of final plat.* The Parks Board reviewed the proposal at their regular meeting on May 13, 2014 and is recommending to the Council to accept the cash instead of the land. In making their determination, the Park Board found the location would be undesirable for a public park. The cash will be paid at the time of final plat and will be used within the district of the subdivision to acquire or develop parkland. According to state and local law, no more than 50% of the money can be used for park maintenance.

Police: The project is in the City of Whitefish and will be served by the City Police Department. The proposed development will have some impact on the Whitefish Police Department; however, this subdivision is not anticipated to impact current levels of service.

Fire Protection: The Whitefish Fire Department serves the property. The proposed development will have some impact on the Whitefish Fire Department; however, this subdivision is not anticipated to impact current levels of service.

Solid Waste: North Valley Refuse is under contract with the City of Whitefish to handle solid waste for the city. Solid waste is taken to the Flathead County Landfill. There is sufficient capacity within the landfill to accommodate the additional solid waste generated from this subdivision.

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

Finding 4: The proposed subdivision does not pose any negative effects on local services because city staff has reviewed the preliminary plans for streets, water, sewer and stormwater, road improvements will be made that meet city standards, the fire department has reviewed the proposal for conformance with the fire code and additional services, such as police and schools, are not anticipated to be affected.

E. Effects on Agriculture and Agricultural Water User Facilities:

This property has not been used for any agricultural purpose in the recent past. The property in question is *within* the city limits.

Finding 5: The proposed subdivision does not pose any negative effects on agriculture or agricultural water users because there are no adjacent agricultural uses and the project will be connected to municipal water.

F. Compliance with Growth Policy:
The Whitefish Growth Policy designates this area as Urban which generally corresponds to WLR, WR-1 and WR-2. The existing WR-2 complies with the Growth Policy.

Finding 6: The project complies with the Growth Policy because the WR-2 zoning complies with the Urban designation.

G. Compliance with Zoning:
The subdivision is zoned WR-2. The proposed lots meet all standards including the minimum lot size, the setbacks and lot coverage. *The minimum sub-lot size for townhouses is 3,600 square feet with a minimum lot width of 25-feet. The applicant is proposing lots that range from 3,725 square feet to 3,790 square feet with a lot width of 42-feet.*

Finding 7: The project complies with the Zoning regulations because all zoning standards are being met.

H. Compliance with Whitefish Subdivision Regulations:
With the imposition of conditions, the subdivision complies with the Whitefish Subdivision Regulations.

Finding 8: The proposed subdivision complies with the Whitefish Subdivision Regulations because it meets all the standards contained within Title 12 of the Whitefish City Code.

I. Compliance with the Montana Subdivision and Planning Act:
Staff has reviewed the proposal for compliance with the Montana Subdivision and Platting Act and found that the requirements have been met.

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

RECOMMENDATION
It is recommended that the Whitefish Planning Board adopt the findings of fact within staff report WPP 14-04A and recommend to the Whitefish City Council the preliminary plat for the Maple Ridge be **approved**, as submitted by the applicant, subject to the following conditions:

1. The subdivision shall comply with Title 12 (Subdivision Regulations) and Title 11 (Zoning Regulations) and all other applicable requirements of the Whitefish City Code, except as amended by these conditions.

2. Except as amended by these conditions, the development of the subdivision shall be in substantial conformance with the approved preliminary plat that govern the general location of lots, roadways, parking, landscaping and improvements and labeled as "approved plans" by the City Council.

3. Prior to any pre-construction meeting, construction, excavation, grading or other terrain disturbance, plans for all on and off site infrastructure shall be submitted to and approved by the Whitefish Public Works Department. The improvements (water, sewer, roads, street lights, trails, driveways, etc.) within the development shall be designed and constructed by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works Director shall approve the design prior to construction. Plans for grading, drainage, utilities, streets, sidewalks and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works. (City Engineering Standards, 2009)

4. Approval of the preliminary plat is subject to approval of detailed design of all on and off site improvements, including drainage. Through review of detailed road and drainage plans, applicant is advised that the number, density and/or location of building lots, as well as the location and width of the road right-of-way, and widths of rights-of-way shown on the preliminary plat may change depending upon constructability of roads, pedestrian walkways, and necessary retaining walls within the right-of-way, on-site retention needs, drainage easements or other drainage facilities or appurtenances needed to serve the subject property and/or upstream properties as applicable. This plan shall include a strategy for long-term maintenance. Fill on-site shall be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion. (City Engineering Standards, 2009)

5. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the Public Works and Planning/Building Department. The plan shall include, but may not necessarily be limited to, the following:
   - Dust abatement and control of fugitive dust.
   - Hours of construction activity.
   - Noise abatement.
   - Control of erosion and siltation.
   - Routing for heavy equipment, hauling, and employees.
   - Construction office siting, staging areas for material and vehicles, and employee parking.
   - Measures to prevent soil and construction debris from being tracked onto public roadways, including procedures to remove soil and construction debris from roadways as necessary.

- Detours of vehicular, pedestrian, and bicycle traffic as necessary.
- Notation of any street closures or need to work in public right-of-way.

(City Engineering Standards, 2009)

6. All roads within the subdivision shall be built to City of Whitefish Public Works Standards and the Whitefish Subdivision Regulations unless otherwise approved by the Public Works Director. (City Engineering Standards, 2009)

7. A 10-foot right-of-way along the northern property line shall be dedicated to the City at the time of final plat. (Finding 4)

8. Street and other on-site lighting shall be dark sky compliant and meet the requirements of the City's Outdoor Lighting ordinance. (Zoning Regulations §11-3-25)

9. The Fire Marshal shall approve the placement and design of all fire hydrants prior to their installation and fire access. (UFC; Subdivision Regulations §12-4-19; Engineering Standards, 2009)

10. A map of fire protection feature shall be submitted to the fire chief for review and approval prior to final plat. This map will show access roads, hydrants, water supply point and any other pertinent items. The approved map will become a component of the CC&Rs. (§12-4-6I)

11. A Certificate of Subdivision Approval be obtained from the Department of Environmental Quality and written approval by the Whitefish Public Works Department approving the storm drainage, water and sewage facilities for the subdivision. (Subdivision Regulations, Appendix C)

12. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. All noxious weeds, as described by Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner or homeowners' association. (Subdivision Regulations §12-4-30)

13. Cash in lieu of parkland dedication *for a total of $18,000.00* shall be paid at the time of final plat. (Subdivision Regulations §12-4-11E)

14. A tree retention plan shall be submitted to the Planning Department for review and approval. Appropriate trees outside building envelopes, driveways and roads shall be preserved. Any additional tree removal shall be approved by the Planning Department (§12-4-5)

15. The following notes shall be placed on the face of the plat:
    - House numbers shall be located in a clearly visible location.

    (Subdivision Regulations §12-4-29, §12-4-6; City Engineering Standards, 2009)

16. A common off-street mail facility shall be provided by the developer and approved by the local post office. (Subdivision Regulations §12-4-24)

17. Prior to approval of the final plat, the applicant shall produce a copy of the proposed Covenants, Conditions and Restrictions (CC&Rs) for Maple Ridge Subdivision Homeowners' Association (HOA) providing for:
    - Long-term weed management plan. The weed management plan shall be submitted to the Planning Department for review and approval prior to final plat; and
    - Long-term maintenance plan for drainage and storm water management facilities.

    (Subdivision Regulations §12-4-29; City Engineering Standards, 2009)

18. The Maple Ridge preliminary plat is approved for three years from Council action. (Subdivision Regulations, §12-3-8)

Element Review
Preliminary Plat Application

RE: Element Review for: Amended Plat of Maple Ridge

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

- [x] Contains all the required Elements to begin a Sufficiency Review
- [ ] Is missing the following Elements:

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

Staff Signature

9-28-15

Date

P:\Files\Admin\Forms\Element Review_letter to applicant.docx

Sufficiency Review
Preliminary Plat Application

RE: Sufficiency Review for: Maple Ridge

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

☑ Contains sufficient detail to commence review of the application. Your application will be scheduled for Planning Board on November 19, 2015 and City Council on December 7, 2015.

☐ Is lacking required detail in the following Elements:

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

Staff Signature

10-19-15

Date

P:\Files\Admin\Forms\Sufficiency Letter_preliminary plats.docx

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

Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that Whitefish West Limited Partnership is proposing to amend their previously approved preliminary plat for Maple Ridge (formerly known as Timber Ridge) in order to convert five (5) duplex lots into ten (10) townhouse lots. The property is undeveloped and is zoned WR-2 (Two-Family Residential District). The property is located at 265 Haugen Heights Road and can be legally described as Lot 4, Block 11 of Lake Park Addition in S26 T31N R22W.

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

Thursday, November 19, 2015
6:00 p.m.
Whitefish City Council Chambers, City Hall
1005 Baker Avenue, 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, December 7, 2015** at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, November 9, 2015, will be included in the packets to the Planning Board members. Comments received after the deadline will be summarized to the Planning Board members at the public hearing.

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

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

Date: October 30, 2015

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, November 19, 2015 at 6:00 pm in the Whitefish City Council Chambers at **1005 Baker Avenue**. During the meeting, the Board will hold a public hearing on the items listed below. Upon receipt of the recommendation by the Planning Board, the Whitefish City Council will also hold subsequent public hearing for items 1-4 on Monday, December 7, 2015 and items 5-7 on Monday, January 4, 2016. City Council meetings start at 7:10 pm at **1005 Baker Avenue** in the Whitefish City Council Chambers.

1. A request by Whitefish West Ltd Partnership for an amended Preliminary Plat in order to develop five (5) duplex lots into ten (10) townhouse lots. The property is located at 265 Haugen Heights Road and can be legally described as Lot 4, Block 11 of Lake Park Addition in S26 T31N R22W. WPP 14-04A (Compton-Ring)

2. A request by 2nd Street Lofts llc for a Conditional Use Permit in order to develop a mixed-use multi-family project with fifteen dwelling units and a footprint greater 7,500 square feet. The property is located at 214 E 2nd Street and can be legally described as Lots 15, 16, 17, 18 and south ½ of Lot 20 in Block 36 Whitefish Original Townsite in S36 T31N R22W. WCUP 15-17 (Compton-Ring)

3. Sparrows Nest NW Montana for a Conditional Use Permit for a Type I Community Residential Facility to house five unaccompanied homeless teenagers. The property is located at 200 Colorado Avenue and can be legally described as Lot B, Wisconsin Tracts in S25 T31N R22W. WCUP 15-18 (Compton-Ring)

4. A request by the City of Whitefish for an amendment to §12-4-11, Park Land and Open Space Requirements, of the Subdivision Regulations. WSUB 15-01 (Compton-Ring)

5. A request by Potter's Field Ministries for a Conditional Use Permit for a 'parish house' at 943 East 2nd Street to house up to eight ministry staff and interns. The property can legally be described as Lot 1A of AMD Lot 5, 6, Block 1 McKeens Addition, S31 T31N R21W. WCUP 15-15 (Taylor)

6. A request by Potter's Field Ministries for a Conditional Use Permit for a 'parish house' at 224 Somers Avenue to house up to eight ministry staff and interns. The property can legally be described as Lots 12 and 13 (N2), Block 48, S36 T31N R22W. WCUP 15-16 (Taylor)

7. A request by the City of Whitefish for a Zone Change on parcels recently annexed into City limits. The properties are developed with residential uses. The subject properties are located at 2422 and 2424 Carver Bay Road and can be legally described as lots 9 and 10 of Whitefish Lake Summer Homes subdivision in Section 10, Township 31N, Range 22W. WZC 15-04 (Minnich)

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

AMENDED PRELIMINARY PLAT APPLICATION

FOR

MAPLE RIDGE SUBDIVISION
AMENDED PRELIMINARY PLAT (LOTS 11-15)
(FKA: TIMBER RIDGE SUBDIVISION)

OWNER:
WHITEFISH WEST LIMITED PARTNERSHIP
109 SIERRA VISTA CT
LETHBRIDGE, ALBERTA
TIJ 4P4

September 2015

PREPARED BY:
48-NORTH P.C.
151 BUSINESS CENTER LOOP, STE A
KALISPELL, MONTANA 59901

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PART A:
MAJOR PRELIMINARY PLAT APPLICATION

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

Date: _____
Intake Staff: _____
Element Review: _____
Sufficiency Review: _____

MAJOR PRELIMINARY PLAT APPLICATION

FEE ATTACHED$ 2,977.50
(See current fee schedule)

INSTRUCTIONS:

- ☐ A Site Review Meeting with city staff is required. Date of Site Review Meeting: 8/13/2015
- ☐ Submit the application fee, completed application and appropriate attachments to the Whitefish Planning & Building Department. The City recommends complete applications be submitted a minimum of **sixty (60) days prior** to the Planning Board meeting at which this application will be heard.
- ☐ Schedule a Date and Time with City Staff to Submit the Application: 9/21/2015 (Date/Time)
- ☐ The regularly scheduled meeting of the City-County Planning Board is the third Thursday of each month at 6:00PM in the Council Chambers at 402 E 2nd Street.
- ☐ After the Planning Board hearing, the application is forwarded with the Board's recommendation to the next available City Council meeting for hearing and final action.

A. PROJECT INFORMATION:

Project /Subdivision Name: Maple Ridge Subdivision - Amended Preliminary Plat - Lots 11-15 (FKA:Timber Ridge)
Street Address 265 Haugen Heights, Whitefish, MT. 59937

Assessor's Tract No.(s) 0854001 Lot No(s) Lot 4
Block # 11 Subdivision Name Lake Park Addition
1/4 Sec SW Section 26 Township 31 N Range 22 W

I hereby certify that the information contained or accompanied in this application is true and correct to the best of my knowledge. The signing of this application signifies approval for the Whitefish staff to be present on the property for routine monitoring and inspection during the approval and development process.

Owner's Signature[1] — Date: Sep 18th/2015

Whitefish West Limited Partnership (Shawn Hass)
Print Name

Applicant's Signature — Date

Print Name

Representative's Signature — Date

48 North, P.C. (Brett Walcheck, P.E.)
Print Name

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

APPLICATION CONTENTS:

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

Attached

X Preliminary Plat Application

X 11 copies of the preliminary plat

X One reduced copy of the preliminary plat not to exceed 11" x 17"

X Electronic version of plat such as .pdf

X One reproducible set of supplemental information.

X Certified adjacent owners list for properties within 300-feet of subject site

X Deed and Encumbrance Report (aka 'title report') no more than 90 days old

NA Environmental Assessment

NA Applicable items from Appendix B of the Whitefish Subdivision Regulations (can be found *at: www.cityofwhitefish.org*)

NA Any additional information requested during the pre-application process

NA Fair Market Appraised Value

NA Recommendation from the Parks Board – unless exempt 12-4-10(C)

X $100.00 deposit for sign to be posted on-site during the duration of the public process (submit a separate check, which will be returned to you after you return the sign to the Planning Office)

When all application materials are submitted to the Planning & Building Department and it is found complete, the staff will schedule the subdivision for a public hearing pursuant to §12-3-5(D). The Council must act within 60 working days or 80 working days if the subdivision has 50 or more lots.

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

Applicant _____ Date Sept 18th/2015

B. OWNER(S) OF RECORD:

Name: Whitefish West Limited Partnership (Shawn Hass) Phone: 403-393-6215

Mailing Address: 109 Sierra Vista Ct

City, State, Zip: Lethbridge, Alberta, Canada, T1J 4P4

Email: hasser35@gmail.com

APPLICANT (if different than above):

Name: _____ Phone: _____

Mailing Address: _____

City, State, Zip: _____

Email: _____

TECHNICAL/PROFESSIONAL:

Name: 48 North, P.C. (Brett Walcheck, P.E.) Phone: 406-756-4848

Mailing Address: 151 Business Center Loop, Ste A

City, State, Zip: Kalispell, MT. 59901

Email: Brett@48-N.com

Name: _____ Phone: _____

Mailing Address: _____

City, State, Zip: _____

Email: _____

C. GENERAL DESCRIPTION OF SUBDIVISION

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

ZONING DESIGNATION: WR2

If proposing to change the underlying zoning, proposed zoning: _____

LOTS AND ACREAGE:

Total Acreage in Subdivision: 4.39 ac Number of Lots or Rental Spaces: 20

Maximum Size of Lots or Spaces: 0.28 ac Minimum Size of Lots or Spaces: 0.086ac

Total Acreage in Lots: 3.34 ac Total Acreage in Streets or Roads: 0.91 ac

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

Single Family: 10 Townhouse: 10 Mobile Home Park: _____ Duplex: ___ Apartment: _____

Recreational Vehicle Park: _____ Commercial: _____ Industrial: _____

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

CRITICAL AREAS ON-SITE OR NEARBY:

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

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

- Date of Parks Board Meeting (prior to submitting an application): N/A (Cash in Lieu)
- Market Value before Improvements: $30,000/acre
- Total Acreage in Parks, Open Spaces and/or Common Areas: According to 12-4-11 part A.1 & D.1, the subdivision shall be cash in lieu based off of 0.03 acres per lot. The subdivision consists of 20 lots multiplied by 0.03, equals contribution amount of 0.60 acres

IMPROVEMENTS TO BE PROVIDED:

Roads: ☐ Gravel ▣ Paved ▣ Curb ▣ Gutter ▣ Sidewalks ☐ Alleys ☐ Other (explain): _____

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

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

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

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

Mail Delivery: ▣ Central ☐ Individual

Fire Protection: ▣ Hydrants ☐ Tanker Recharge

Drainage System: Stormwater will sheet flow from the lots to the proposed public road where it will become concentrated within the curb and gutters and collected by the curb inlets. The flow will then be conveyed via pipe to a central stormwater management system.

D. VARIANCES:

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

VARIANCE REQUEST

Completely address each of the following items, if requesting a variance to the Subdivision Regulations. The Council will use the information provided to evaluate the variance request – all criteria need to be met or found not applicable in order for the Council to grant the variance.

SECTION OF REGULATION CREATING HARDSHIP: _____

EXPLAIN THE UNDUE HARDSHIP CREATED WITH STRICT COMPLIANCE OF THESE REGULATIONS:

PROPOSED ALTERNATIVE(S) TO STRICT COMPLIANCES WITH ABOVE REGULATIONS:

PLEASE ANSWER THE FOLLOWING QUESTIONS IN THE SPACES PROVIDED BELOW:

1. Will the granting of the variance be detrimental to the public health, safety or general welfare or injurious to other adjoining properties? Explain.

2. How is the physical surrounding, shape or topographical conditions of the property limiting the ability to fully comply with the Regulations?

3. Is the hardship solely a financial hardship or a hardship that has been self-imposed? Explain.

4. Will the variance cause a substantial increase in public costs? Explain.

5. Will the variance cause the subdivision to be in nonconformance with any adopted zoning regulations, growth policy or adopted policies or regulations? Explain.

PART B:
PROJECT FEE SCHEDULE & ADJACENT LANDOWNERS

B1:
PROJECT FEE SCHEDULE

CITY OF WHITEFISH: PROJECT FEE SCHEDULE
Effective November 19, 2013

PLAT REVIEW

Major Subdivision (6 or more lots)	$2,970 + $200/lot
Minor Subdivision (5 or fewer lots	$990 + $200/lot
Minor Subdivision (Waiver)	$250
Minor (Waiver – referred to Council)	$740
Subdivision Exemption (Boundary Line Adjustment/Family Transfer)	$50
Amended Preliminary Plat	75% of fee calculated above
Subdivision Variance	$396/variance
Request to Council to Delete a Required Condition	$500
Request to Council to Extend Preliminary Plat: standard timeframe	$50
Request to Council to Extend Preliminary Plat: longer than standard timeframe	$750
Mobile Home Parks & Campgrounds	
(6 or more spaces)	$2,970 + $200/space
(5 or fewer spaces)	$990 + $200/space

FINAL PLAT REVIEW

Minor subdivision with approved preliminary plat	$1,056 + $200/lot
Major subdivision with approved preliminary plat	$2,574 + $200/lot
Subdivision with waiver of preliminary plat	$1,980 + $200/lot
Subdivision Improvements Agreement	$330
Request to Extend Subdivision Improvement Agreement	$50
Request to Vacate a Plat	$500

GROWTH POLICY

Amendment to Plan	$5,940 + $40/acre
Text Amendment	$3,300

ZONING

Zone Change (map amendment): Base Fee	$2,310
For first 80 acres of area of the request add	$66/acre
For next 81+acres add	$40/acre
Zoning Text Amendment	$1,980
PUD Zoning Review	(Deduct $200 from fee if preliminary plat application submitted concurrently)
Residential	$2,970 + $100/acre
Commercial	$3,300 + $200/acre
Mixed Use (including short term rental)	$3,300 + $130/acre
Administrative Amendment	$660
Amendment (Major)	
Residential	$660
Commercial/Mixed Use	$1,980

B2:
ADJACENT LANDOWNERS LIST

Flathead County

Flathead County
ATTN: GIS Department
800 South Main Street
Kalispell, MT 59901

(406)758-5540

Sales Receipt

Date	Sale #
09/11/2015	4036

Sold To
Brett Walcheck 48 North P.C. Civil Engineering Services PO Box 651 Whitefish, MT 59937

Pmt Method	Employee Name
Check	Nate

Description	Amount
• Certified Ownership List Property Owner: Whitefish West Limited Partnership AssrNo: 0854001 Legal: Lake Park Add, S26-T31-R22, Block 11, Lot 4 Buffer: 300' Contact: Brett Walcheck @ 756-4848, 1 @ $75.00	75.00

RECEIVED
SEP 17 2015
BY:_____

Please make checks out to "Flathead County"

Thank you for your prompt payment.

Total	$75.00
Amount Received	$75.00
Balance Due	$0.00

Ownership Lists:
Neither Flathead County, nor any of its employees, makes any warranty or guarantee to any of the data provided and assumes no legal responsibility for the information provided herein. Information is derived from multiple sources, subject to constant change, and may be of questionable accuracy, currency and completeness. Primary information sources should be consulted for verification of the information contained herein. Data is provided for informational purposes only. Deriving conclusions from this data is done at the user's risk. Please contact the GIS staff regarding any known discrepancies.

Additionally, lists of parcels that fall within the Flood Plain should be used with extreme caution as the FEMA Flood Plain data used is the best data available, but may be outdated and/or inaccurate. Also, population estimates are based on census block boundaries, which do not coincide with other boundaries such as Fire Districts, Precincts, School Districts, etc.

Data from this list may be used as a mailing list only by governmental agencies, but not by private individuals or organizations, as per Section 2-6-109(1), Montana Code Annotated.

LAKE PARK ADDITION L4 B 11 IN S26 T31N R22W PMM

300 FOOT OWNERSHIP

FLATHEAD COUNTY GIS

Date: 9/11/2015
Project: 150 Foot Buffer

The areas depicted on this map are for illustrative purposes only and do not necessarily meet mapping, surveying, or engineering standards. Deriving conclusions from this map is done at the user's risk.

LAKE PARK ADDITION L4 B 11 IN S26 T31N R22W PMM

150 FOOT OWNERSHIP LIST

ASSRNO	Name	Address	TRACT_ID	Rec_Code
0003740				
	GLACIER PEAKS LAND INVESTMENTS LLC			
		121 IOWA AVE # 3A WHITEFISH MT 59937		
			3122X26-PTT-10-BLK3	1M
			3122X26-PTT-11-BLK3	1M
			3122X26-PTT-12-BLK3	1M
			3122X26-PTT-13-BLK3	1M
			3122X26-PTT-14-BLK3	1M
			3122X26-PTT-15-BLK3	1M
			3122X26-PTT-16-BLK3	1M
			3122X26-PTT-17-BLK3	1M
			3122X26-PTT-18-BLK3	1M
			3122X26-PTT-19-BLK3	1M
			3122X26-PTT-20-BLK3	1M
			3122X26-PTT-8-BLK3	1M
			3122X26-PTT-9-BLK3	1M
0013929				
	BENNETTS, QUINCY			
		400 ICE HOUSE TER WHITEFISH MT 59937		

ASSRNO	Name	Address	TRACT_ID	Rec_Code
			3122X26-OT2-47-WPT	21
	SHEHAN, JOEL			
		400 ICE HOUSE TER WHITEFISH MT 59937		
			3122X26-OT2-47-WPT	1M
0013930				
	SLOVACK, RYAN & ABIGAIL			
		410 COULEESPRINGS RD S LETHBRIDGE AB T1K 5P2 CANADA		
			3122X26-OT2-48-WPT	1M
0013931				
	KALLAL, DAVE & KIRSTIN			
		1117 SARATOGA GROVER BEACH CA 93433		
			3122X26-OT2-49-WPT	1M
0013932				
	SANDER, LUKE & DAPHNE			
		27 HERITAGE PT W LETHBRIDGE AB T1K 7B7 CANADA		
			3122X26-OT2-50-WPT	1M
0169650				
	SCHEFFER, DANIEL			
		818 BOULDER LN WHITEFISH MT 59937		
			3122X26-LPW-3-N2-BLK11	1M
	WATTS, MELODY			
		818 BOULDER LN WHITEFISH MT 59937		

ASSRNO	Name	Address	TRACT_ID	Rec_Code
			3122X26-LPW-3-N2-BLK11	21
0172350				
	HAUGEN HEIGHTS LLC			
		3080 E LAKESHORE DR WHITEFISH MT 59937		
			3122X27-XXX-3	1M
			3122X27-XXX-3-200	1M
0183600				
	SCHEFFER, DANIEL M			
		4899 US HIGHWAY 93 S WHITEFISH MT 59937		
			3122X26-LPY-3A	1M
	WATTS, MELODY			
		4899 US HIGHWAY 93 S WHITEFISH MT 59937		
			3122X26-LPY-3A	21
0431100				
	SENIN, JOHN A & ANNABELLE C			
		420 HAUGEN HEIGHTS WHITEFISH MT 59937		
			3122X27-XXX-3DA	1M
			3122X27-XXX-3DA-100	1M
0502908				
	WILSON, KAY D			
		4413 ADDINGTON MISSOULA MT 59808		
			3122X26-OT1-16	1M

ASSRNO	Name	Address	TRACT_ID	Rec_Code
0502909				
	SCHNEIDER, RUSSELL W & KIMBERLY A			
		1326 4TH ST E WHITEFISH MT 59937		
			3122X26-OT1-17	1M
0502912				
	KELLEY, J SCOTT & SALLY			
		211 EAGLE VIEW TRL WHITEFISH MT 59937		
			3122X26-OT1-18	1M
0502913				
	LAKE, MICHAEL P & MARY A			
		PO BOX 7497 AUBURN CA 95604		
			3122X26-OT1-19	1M
0502914				
	POLUMBUS, NICK & KIM			
		303 STUMPTOWN LOOP WHITEFISH MT 59937		
			3122X26-OT1-20	1M
0502915				
	STEPANEK, MADONNA T & JON			
		810 RIMROCK RD BILLINGS MT 59102		
			3122X26-OT1-21	1M
0502916				

ASSRNO	Name	Address	TRACT_ID	Rec_Code
	STEPANEK, MADONNA T & JON	810 RIMROCK RD BILLINGS MT 59102	3122X26-OT1-22	1M
0502917				
	DAILEY, MICHAEL E & ROBIN T	331 STUMPTOWN LOOP WHITEFISH MT 59937	3122X26-OT1-23	1M
0502918				
	SCHATZ, GREG P & DEBORAH A	4720 TRUMBLE CREEK RD COLUMBIA FALLS MT 59912	3122X26-OT1-24	1M
0502939				
	NORMILE, REBECCA L	210 TRESTLE VIEW CT WHITEFISH MT 59937	3122X26-OT1-45	1M
0502940				
	WASHINGTON FAMILY TRUST	8 BLUE RIVER IRVINE CA 92604	3122X26-OT1-46	1M
0505361				
	SLOVACK, RYAN & ABIGAIL	410 COULEESPRINGS RD S LETHBRIDGE AB T1K 5P2 CANADA		

ASSRNO	Name	Address	TRACT_ID	Rec_Code
			3122X26-OT2-48	1M
0505362				
	KALLAL, DAVE & KIRSTIN			
		1117 SARATOGA GROVER BEACH CA 93433		
			3122X26-OT2-49	1M
0505363				
	SANDER, LUKE & DAPHNE			
		27 HERITAGE PT W LETHBRIDGE AB T1K 7B7 CANADA		
			3122X26-OT2-50	1M
0505367				
	BLAKE FAMILY TRUST			
		1735 CARRIAGE DR WALNUT CREEK CA 94598		
			3122X26-OT2-55	1M
0505368				
	BUCK, GERRY C & RYAN J			
		5802 51ST STREET TABER AB T1G 1K6 CANADA		
			3122X26-OT2-56	1M
0505369				
	SHAFFER, W DWIGHT & MARCI LEE			
		417 ICEHOUSE TER WHITEFISH MT 59937		
			3122X26-OT2-57	1M

ASSRNO	Name	Address	TRACT_ID	Rec_Code
0505370				
	KARL, ALAN			
		BOX 427 FOREMOST AB T0K 0X0 CANADA		
			3122X26-OT2-58	22
	KARL, MELVIN & CHARMAINE ROTH			
		BOX 427 FOREMOST AB T0K 0X0 CANADA		
			3122X26-OT2-58	1M
	KARL, TIMOTHY & SANDRA			
		BOX 427 FOREMOST AB T0K 0X0 CANADA		
			3122X26-OT2-58	21
0505371				
	HANSEN, TYLER B			
		36 HUCKLEBERRY CRES TABER AB T1G 0A7 CANADA		
			3122X26-OT2-59	1M
0689480				
	BENNETTS, QUINCY			
		400 ICEHOUSE TER WHITEFISH MT 59937		
			3122X26-OT2-47	21
	SHEHAN, JOEL			
		400 ICEHOUSE TER WHITEFISH MT 59937		
			3122X26-OT2-47	1M
0854001				

ASSRNO	Name	Address	TRACT_ID	Rec_Code
	WHITEFISH WEST LIMITED PARTNERSHIP			
		109 SIERRA VISTA CT LETHBRIDGE AB T1J 4P4 CANADA		
			3122X26-LPW-4-BLK11	1M
0854002				
	RAY, DANIEL E & KATHERINE HARDING			
		295 LAKE PARK LN WHITEFISH MT 59937		
			3122X26-LPW-5-EX-N100-BLK10	1M
0976559				
	SCHULTZ, JOHN A			
		243 HAUGEN HEIGHTS RD WHITEFISH MT 59937		
			3122X26-LPY-3B	1M
0979161				
	ELSEN, D HENRY			
		901 STUART ST HELENA MT 59601		
			3122X27-XXX-3F	21
			3122X27-XXX-3F-100	21
	LAROSE, ANDREE'			
		901 STUART ST HELENA MT 59601		
			3122X27-XXX-3F	1M
			3122X27-XXX-3F-100	1M
E001143				
	CITY OF WHITEFISH			

ASSRNO	Name	Address	TRACT_ID	Rec_Code
		PO BOX 158 WHITEFISH MT 59937		
			3122X26-OT1-ALLEY	1M
			3122X26-OT1-HAUGENHTS	1M
			3122X26-OT1-STUMPTOWNLOOP	1M
E001222				
	CITY OF WHITEFISH			
		PO BOX 158 WHITEFISH MT 59937		
			3122X26-OT2-HAUGENHEIGHTSRD	1M
			3122X26-OT2-ICEHOUSETER	1M
			3122X26-OT2-PARK-100	1M

Flathead Co. Plat Room
800 S. Main Room 105
Kalispell, Mt. 59901

APPROVED 9/16/15

PART C:
PRELIMINARY PLAT AND EXHIBITS

C1:
PRELIMINARY PLAT (24X36)

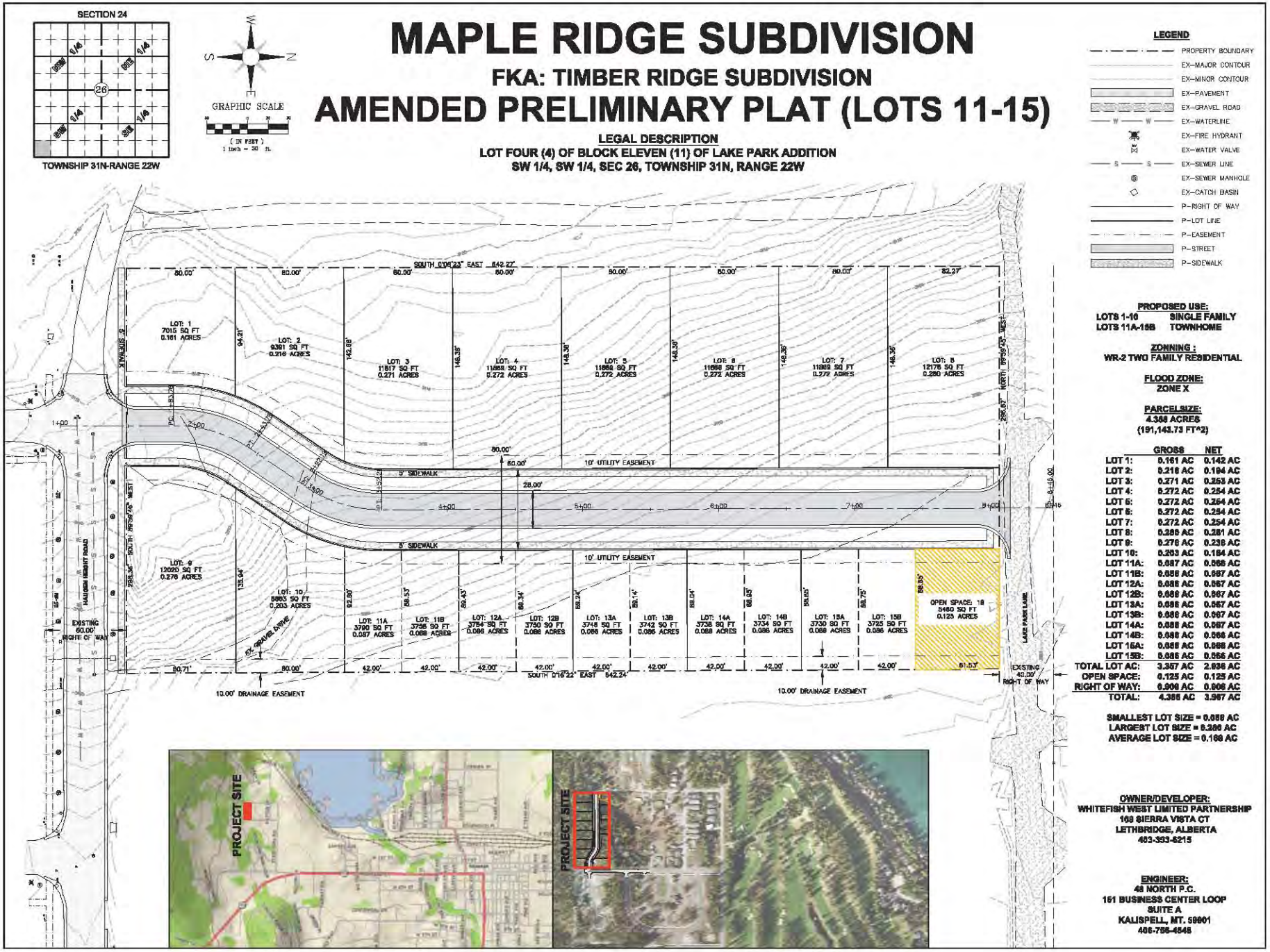
MAPLE RIDGE SUBDIVISION

FKA: TIMBER RIDGE SUBDIVISION

AMENDED PRELIMINARY PLAT (LOTS 11-15)

LEGAL DESCRIPTION

LOT FOUR (4) OF BLOCK ELEVEN (11) OF LAKE PARK ADDITION
SW 1/4, SW 1/4, SEC 26, TOWNSHIP 31N, RANGE 22W



LEGEND

- PROPERTY BOUNDARY
- EX–MAJOR CONTOUR
- EX–MINOR CONTOUR
- EX–PAVEMENT
- EX–GRAVEL ROAD
- EX–WATERLINE
- EX–FIRE HYDRANT
- EX–WATER VALVE
- EX–SEWER LINE
- EX–SEWER MANHOLE
- EX–CATCH BASIN
- P–RIGHT OF WAY
- P–LOT LINE
- P–EASEMENT
- P–STREET
- P–SIDEWALK

PROPOSED USE:
LOTS 1-10 SINGLE FAMILY
LOTS 11A-15B TOWNHOME

ZONNING :
WR-2 TWO FAMILY RESIDENTIAL

FLOOD ZONE:
ZONE X

PARCELSIZE:
4.388 ACRES
(191,143.73 FT^2)

	GROSS	NET
LOT 1:	0.161 AC	0.142 AC
LOT 2:	0.216 AC	0.194 AC
LOT 3:	0.271 AC	0.253 AC
LOT 4:	0.272 AC	0.254 AC
LOT 5:	0.272 AC	0.254 AC
LOT 6:	0.272 AC	0.254 AC
LOT 7:	0.272 AC	0.254 AC
LOT 8:	0.280 AC	0.261 AC
LOT 9:	0.276 AC	0.238 AC
LOT 10:	0.203 AC	0.184 AC
LOT 11A:	0.087 AC	0.066 AC
LOT 11B:	0.086 AC	0.067 AC
LOT 12A:	0.086 AC	0.067 AC
LOT 12B:	0.086 AC	0.067 AC
LOT 13A:	0.086 AC	0.067 AC
LOT 13B:	0.086 AC	0.067 AC
LOT 14A:	0.086 AC	0.067 AC
LOT 14B:	0.086 AC	0.066 AC
LOT 15A:	0.086 AC	0.066 AC
LOT 15B:	0.086 AC	0.066 AC
TOTAL LOT AC:	3.367 AC	2.936 AC
OPEN SPACE:	0.125 AC	0.125 AC
RIGHT OF WAY:	0.906 AC	0.906 AC
TOTAL:	4.388 AC	3.967 AC

SMALLEST LOT SIZE = 0.066 AC
LARGEST LOT SIZE = 0.280 AC
AVERAGE LOT SIZE = 0.168 AC

OWNER/DEVELOPER:
WHITEFISH WEST LIMITED PARTNERSHIP
168 SIERRA VISTA CT
LETHBRIDGE, ALBERTA
403-393-6215

ENGINEER:
48 NORTH P.C.
161 BUSINESS CENTER LOOP
SUITE A
KALISPELL, MT. 59901
406-756-4548

48 NORTH P.C.
Civil Engineering Services
161 BUSINESS CENTER LOOP, SUITE A
KALISPELL, MT 59901 (406) 756-4548

SEAL

SUBCONSULTANT

MAPLE RIDGE SUBDIVISION
AMENDED P-PLAT (LOTS 11-15)
WHITEFISH, MONTANA

DRAWING SET DATE
ISSUES/REVISIONS 1 = ISSUE △ = REVISION

No.	Date	Purpose	By	Check
APPLICATION:	3/17/2014			
AMENDED:	9/21/2015			

PROJECT NUMBER
SHEET TITLE
BOOK PAGE
DRAWN BY:

SHEET No. 1 OF 1

C2:

PRELIMINARY PLAT (11X17-NOT TO SCALE)

Maple Ridge Subdivision (fka: Timber Ridge)
Amended Preliminary Plat (Lots 11-15)
City of Whitefish

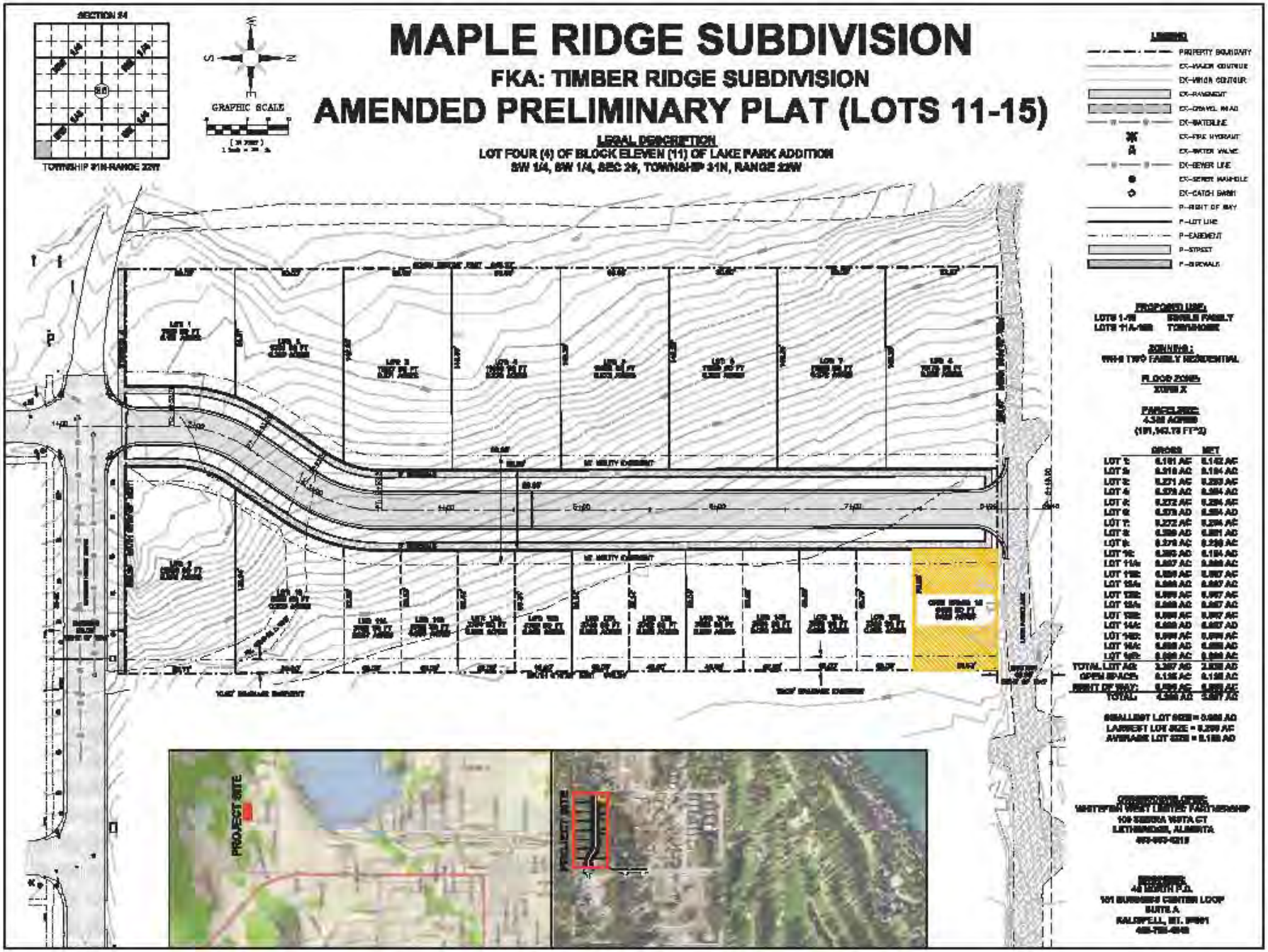
MAPLE RIDGE SUBDIVISION

FKA: TIMBER RIDGE SUBDIVISION

AMENDED PRELIMINARY PLAT (LOTS 11-15)

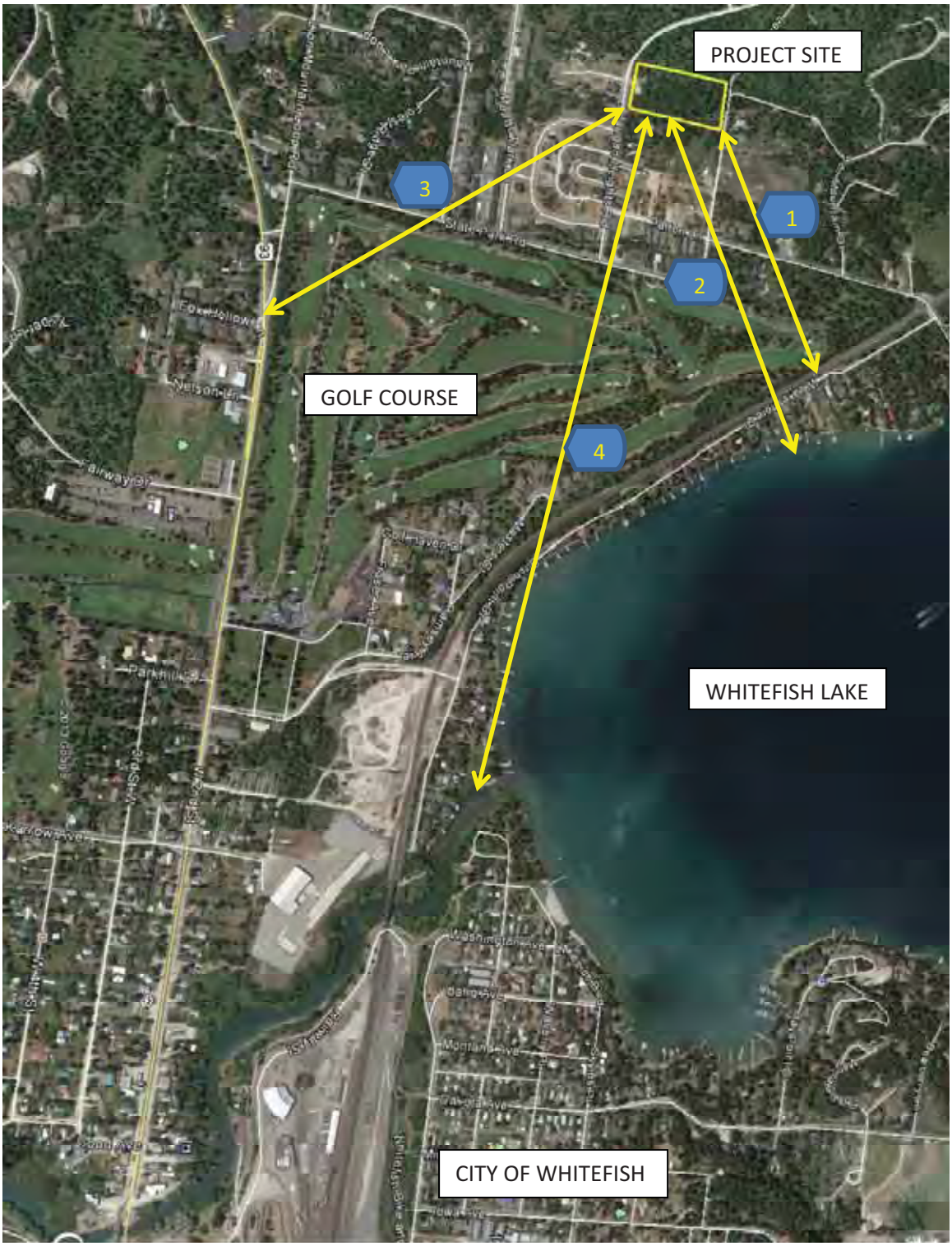
LEGAL DESCRIPTION

LOT FOUR (4) OF BLOCK ELEVEN (11) OF LAKE PARK ADDITION
SW 1/4, SW 1/4, SEC 26, TOWNSHIP 31N, RANGE 22W



C3:
VICINITY MAP

C.3 – OVERALL VICINITY MAP



1) APPROXIMATELY 1647 FEET TO BNSF RAILROAD
2) APPROXIMATELY 2200 FEET TO WHITEFISH LAKE
3) APPROXIMATELY 2688 FEET TO HWY 93
4) APPROXIMATELY 4389 FEET TO WHITEFISH RIVER

PART D:
TITLE REPORT

First American Title Company
704 South Main/P.O. Box 1310
Kalispell, MT 59901
Phone: (406)752-5388 / Fax: (406)752-9617

PR: AFFGRP **Ofc:** 0066 (5254)

Final Invoice

To: Whitefish West Limited Partnership
109 Sierra Vista Ct
Lethbridge, AB T1J 4P4

Invoice No.: 5254 - 66110727
Date: 09/18/2015

Our File No.: 563659-CT
Title Officer: Stephanie Evans
Escrow Officer:

Customer ID: 573733

Attention: Shawn Hass

Your Reference No.:

RE: **Property:**
265 Haugen Hts, Whitefish, MT 59937

Liability Amounts
Owners:
Lenders:

Buyers: Whitefish West Limited Partnership
Sellers:

Description of Charge	Invoice Amount
Guarantee-Subdivision Guarantee	$150.00

INVOICE TOTAL **$150.00**

Comments:

Thank you for your business!

To assure proper credit, please send a copy of this Invoice and Payment to:
Attention: Accounts Receivable Department

Printed On: 9/18/2015, 2:22 PM **Requester:** ske **Page:** 1

GUARANTEE

Issued by

First American Title Company
704 South Main/P.O. Box 1310, Kalispell, MT 59901
Title Officer: Stephanie Evans
Phone: (406)752-5388
FAX: (406)752-9617

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First American Title Guarantee	Guarantee Face Page ISSUED BY First American Title Insurance Company GUARANTEE NUMBER 5010500-563659-CT

First American Title Insurance Company

Dennis J. Gilmore
President

Jeffrey S. Robinson
Secretary

SCHEDULE OF EXCLUSIONS FROM COVERAGE OF THIS GUARANTEE

1. Except to the extent that specific assurances are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:
   (a) Defects, liens, encumbrances, adverse claims or other matters against the title, whether or not shown by the public records.
   (b) (1) Taxes or assessments of any taxing authority that levies taxes or assessments on real property; or, (2) Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not the matters excluded under (1) or (2) are shown by the records of the taxing authority or by the public records.
   (c) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water, whether or not the matters excluded under (1), (2) or (3) are shown by the public records.
2. Notwithstanding any specific assurances which are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:
   (a) Defects, liens, encumbrances, adverse claims or other matters affecting the title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A), (C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways to which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any structure or improvements; or any rights or easements therein, unless such property, rights or easements are expressly and specifically set forth in said description.
   (b) Defects, liens, encumbrances, adverse claims or other matters, whether or not shown by the public records; (1) which are created, suffered, assumed or agreed to by one or more of the Assureds; (2) which result in no loss to the Assured; or (3) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of the assurances provided.
   (c) The identity of any party shown or referred to in Schedule A.
   (d) The validity, legal effect or priority of any matter shown or referred to in this Guarantee

GUARANTEE CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS.
   The following terms when used in the Guarantee mean:
   (a) the "Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.
   (b) "land": the land described or referred to in Schedule (A)(C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A)(C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
   (c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
   (d) "public records": records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
   (e) "date": the effective date.
2. NOTICE OF CLAIM TO BE GIVEN BY ASSURED CLAIMANT.
   An Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice
3. NO DUTY TO DEFEND OR PROSECUTE.
   The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.
4. COMPANY'S OPTION TO DEFEND OR PROSECUTE ACTIONS; DUTY OF ASSURED CLAIMANT TO COOPERATE.
   Even though the Company has no duty to defend or prosecute as set forth in Paragraph 3 above:
   (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
   (b) If the Company elects to exercise its options as stated in Paragraph 4(a) the Company shall have the right to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
   (c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of

this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.

(d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, an Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.

5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 2 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within ninety (90) days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company's obligation to such Assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS: TERMINATION OF LIABILITY.

In case of a claim under this Guarantee, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase.

Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price.

Upon the exercise by the Company of the option provided for in Paragraph (a) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4, and the Guarantee shall be surrendered to the Company for cancellation.

(b) To Pay or Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.

To pay or otherwise settle with other parties for or in the name of an Assured claimant any claim assured against under this Guarantee, together with any costs, attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosection of any litigation for which the Company has exercised its options under Paragraph 4.

7. DETERMINATION AND EXTENT OF LIABILITY.

This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the

Exclusions From Coverage of This Guarantee.
The liability of the Company under this Guarantee to the Assured shall not exceed the least of:
(a) the amount of liability stated in Schedule A or in Part 2;
(b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 6 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage assured against by this Guarantee occurs, together with interest thereon; or
(c) the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to any defect, lien or encumbrance assured against by this Guarantee.

8. LIMITATION OF LIABILITY.
(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures any other matter assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.
(b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.
(c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

9. REDUCTION OF LIABILITY OR TERMINATION OF LIABILITY.
All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 4 shall reduce the amount of liability pro tanto.

10. PAYMENT OF LOSS.
(a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.
(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

11. SUBROGATION UPON PAYMENT OR SETTLEMENT.
Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.
The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies.
If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

12. ARBITRATION.
Unless prohibited by applicable law, either the Company or the Assured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision or other obligation. All arbitrable matters when the Amount of Liability is $1,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of $1,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. The Rules in effect at Date of Guarantee shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permits a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.
The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.
A copy of the Rules may be obtained from the Company upon request.

13. LIABILITY LIMITED TO THIS GUARANTEE; GUARANTEE ENTIRE CONTRACT.
(a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.
(b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.
(c) No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

14. NOTICES, WHERE SENT.
All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at First American Title Insurance Company, Attn: Claims National Intake Center, 1 First American Way, Santa Ana, California 92707. Phone: 888-632-1642.

First American Title Guarantee	Subdivision Guarantee ISSUED BY First American Title Insurance Company GUARANTEE NUMBER 5010500-563659-CT

Subdivision or Proposed Subdivision: Timber Ridge

Order No.: 563659-CT

Reference No.: Fee: $150.00

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY, AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE, FIRST AMERICAN TITLE INSURANCE COMPANY, A CORPORATION HEREIN CALLED THE COMPANY GUARANTEES:

Whitefish West Limited Partnership

FOR THE PURPOSES OF AIDING ITS COMPLIANCE WITH FLATHEAD COUNTY SUBDIVISION REGULATIONS,

in a sum not exceeding $5,000.00.

THAT according to those public records which, under the recording laws of the State of Montana, impart constructive notice of matters affecting the title to the lands described on the attached legal description:

LOT 4 OF BLOCK 11 OF LAKE PARK ADDITION TO WHITEFISH, MONTANA, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE CLERK AND RECORDER OF FLATHEAD COUNTY, MONTANA.

TO BE KNOWN AS: TIMBER RIDGE

(A) Parties having record title interest in said lands whose signatures are necessary under the requirements of Flathead County Subdivision Regulations on the certificates consenting to the recordation of Plats and offering for dedication any streets, roads, avenues, and other easements offered for dedication by said Plat are:

(B) Parties holding liens or encumbrances on the title to said lands are:

1. 2015 taxes and special assessments are a lien; amounts not yet determined or payable. The first one-half becomes delinquent after November 30th of the current year, the second one-half becomes delinquent after May 31st of the following year.

   General taxes as set forth below. Any amounts not paid when due will accrue penalties and interest in addition to the amount stated herein:

Year	1st Half	2nd Half	Parcel Number
2014	$736.85 Paid	$736.82 Paid	74-0854001

2. Deed of Trust, to secure an original indebtedness of $525,000.00, dated August 7, 2015 and any other amounts and/or obligations secured thereby
Recorded: September 14, 2015, as Instrument No. 2015-00021452
Grantor: Whitefish West Limited Partnership
Trustee: First American Title Company
Beneficiary: First Interstate Bank

(C) Easements, claims of easements and restriction agreements of record are:

3. County road rights-of-way not recorded and indexed as a conveyance of record in the office of the Clerk and Recorder pursuant to Title 70, Chapter 21, M.C.A., including, but not limited to any right of the Public and the County of Flathead to use and occupy those certain roads and trails as depicted on County Surveyor's maps on file in the office of the County Surveyor of Flathead County.

4. All matters, covenants, conditions, restrictions, easements and any rights, interest or claims which may exist by reason thereof, disclosed by Certificate of Survey(s) No. 12188, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restriction violate 42 USC 3604 (c).

5. All matters, covenants, conditions, restrictions, easements and any rights, interest or claims which may exist by reason thereof, disclosed on the recorded plat of said subdivision, LAKE PARK ADDITION TO WHITEFISH, MONTANA, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).

6. Resolution No. 14-25 by the City of Whitefish to Annex a tract of land known as 265 Haugen Heights Road, recorded August 21, 2014 as Instrument No. 2014-00016193.

7. Easements, reservations, restrictions, notes and/or dedications as shown on the preliminary plat of Timber Ridge.

8. Terms and provisions of the State of Montana, Department of Environmental Equality, Certificate of Subdivision Plat Approval to be recorded with Timber Ridge.

Date of Guarantee: August 31, 2015 at 7:30 A.M.

First American Title Company

By:
Authorized Countersignature

Privacy Information

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Information Obtained Through Our Web Site

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet. In general, you can visit First American or its affiliates Web sites on the World Wide Web without telling us who you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site.

There are times, however, when we may need information from you, such as your name and email address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

Business Relationships

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

Cookies

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive.

FirstAm.com uses stored cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

Fair Information Values

Fairness We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.

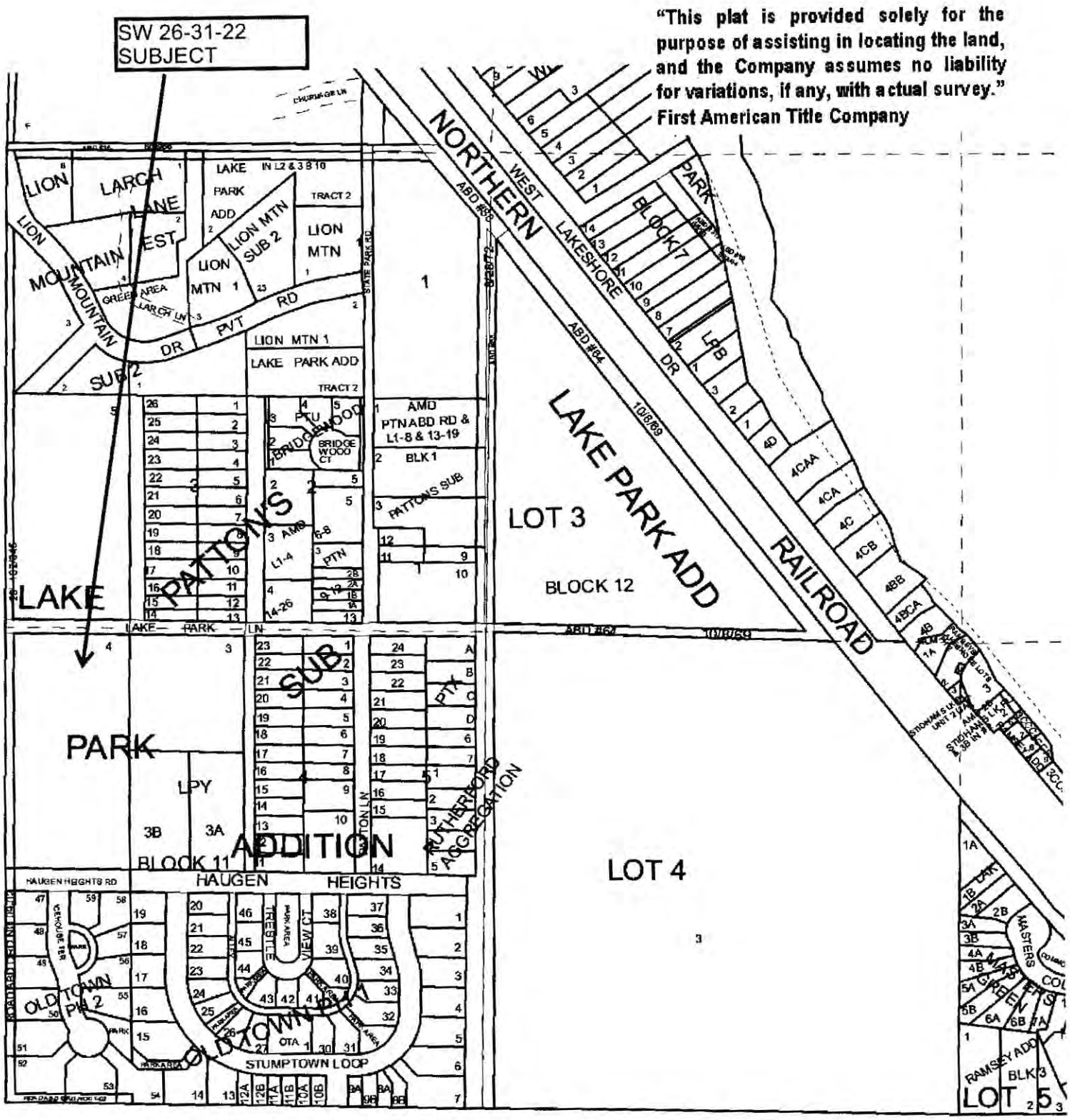
Public Record We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our economy.

Use We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.

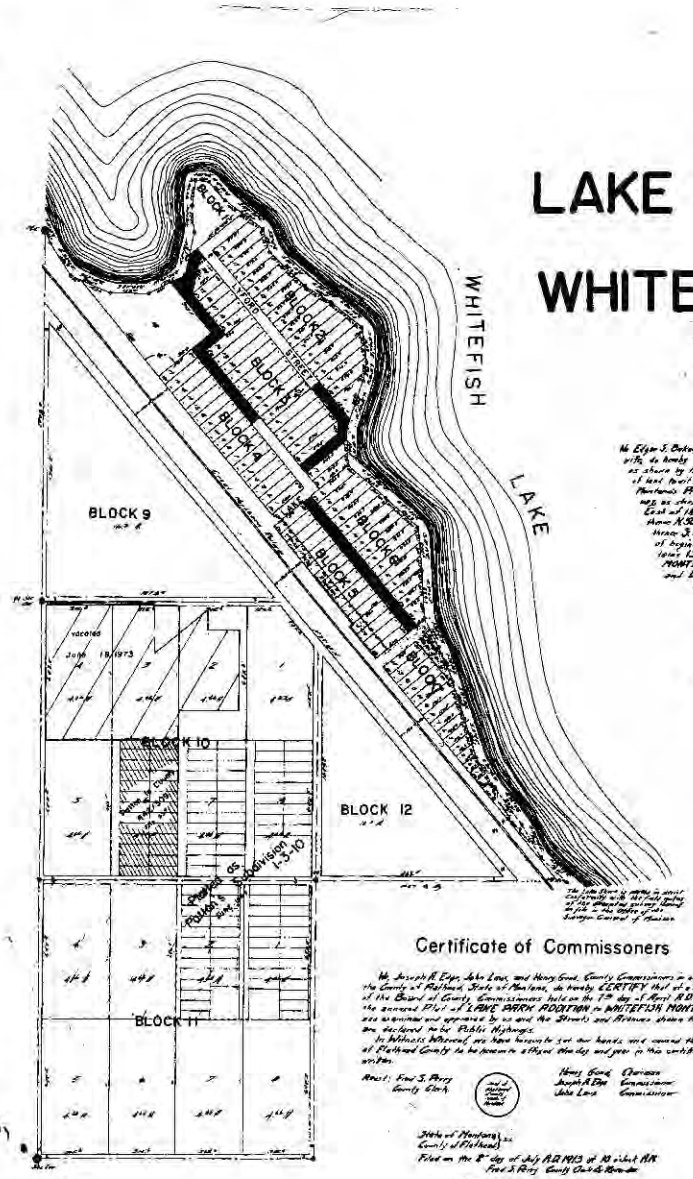
Accuracy We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.

Education We endeavor to educate the users of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.

Security We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.


SW 26-31-22
SUBJECT
"This plat is provided solely for the purpose of assisting in locating the land, and the Company assumes no liability for variations, if any, with actual survey."
First American Title Company
NORTHERN
WEST
LAKESHORE
RAILROAD
LAKE PARK ADD
LOT 3
BLOCK 12
LOT 4
LOT 5
BLOCK 7
PARK
LAB
LION MOUNTAIN
LARCH LANE
LION MTN SUB 2
LION MTN
LAKE PARK ADD
PATTONS SUB
BRIDGEWOOD
LAKE PARK LN
PARK ADDITION
BLOCK 11
HAUGEN HEIGHTS
OLD TOWN
STUMPTOWN LOOP
RUTHERFORD AGGREGATION
MASTERS
RAMSEY ADD

43-10



Map of

LAKE PARK ADDITION

to

WHITEFISH, MONTANA.

Certificate of Dedication

We Elgen S. Baker and Flora E. Baker his wife, Adolph P. Sunard and Gale Sunard, his wife, Arthur G. Shepard and Clara Shepard his wife, do hereby Certify That we have caused to be surveyed subdivided and platted into Lots Blocks Streets, Avenues and Alleys as shown by the Map or Plat and the Certificate of Survey annexed hereto, the following described Tract, Piece or Parcel of land, to-wit: Lots 1, 2 & 3 and the West ½ of the Southwest ¼ of Sec 19, Township 31 North Range 22 West of Montana Principal Meridian, and accepting a certain portion held as Right of Way by the Great Northern Railway as shown by the surveyed map, and being a portion of Desoto Homestead, to-wit: Beginning at a point which is 1213.8 feet East of the North West corner of the Southwest ¼ of the Southwest ¼ of said Section, thence N. 39°05'W. 620 feet, thence N.50°15'E. 553 feet thence along the meander line of Whitefish Lake S. 38°30'E. 629 feet, thence S. 36°00'E. 223.1 feet, thence S. 38°35'E. 196 feet thence S.45°50'E. 148.1 feet, thence leaving said meander line West 2651 feet to point of beginning. This tract, piece or parcel of land, intended to be herein described for the purpose of platting contains 13.04 Acres more or less and is to be known and designated as LAKE PARK ADDITION to WHITEFISH, MONTANA, and the lands included within all the Streets, Avenues and Alleys on said Plat are hereby Granted and Dedicated to the Public forever.

In Witness Whereof we have hereunto set our hands this 21st Day of February A.D. 1913.

Elgen S. Baker
Flora E. Baker
Adolph P. Sunard
Gale Sunard
Arthur G. Shepard
Clara Shepard

State of Montana
County of Flathead } ss.

On this 24th day of February A.D. 1913 before me, Mark C. Greene, a Notary Public for the State of Montana, personally appeared Elgen S. Baker, and Flora E. Baker, his wife, and Arthur G. Shepard and Clara Shepard, his wife, known to me to be the persons who executed the foregoing Certificate of Dedication and acknowledged to me that they executed the same for the uses and purposes therein mentioned.

Mark C. Greene
A Notary Public for Montana, residing at Whitefish, Montana.
My Commission expires August 13 1913

State of North Dakota
County of Mercer } ss.

On this 21st day of February A.D. 1913, before me, R.E. Edwardson a Notary Public for the State aforesaid, personally appeared Adolph P. Sunard and Gale Sunard, his wife, known to me to be the persons who executed the foregoing Certificate of Dedication and acknowledged to me that they executed the same for the uses and purposes therein mentioned.

R.E. Edwardson
A Notary Public for the State of North Dakota residing at White Earth, N. Dak.
My commission expires Sept 17th 1913

Certificate of Commissoners

We, Joseph R. Erp, John Lane, and Henry Good, County Commissioners in and for the County of Flathead, State of Montana, do hereby CERTIFY that at a meeting of the Board of County Commissioners held on the 1st day of April A.D. 1913 the annexed Plat of LAKE PARK ADDITION to WHITEFISH, MONTANA was examined and approved by us and the Streets and Avenues shown thereon are declared to be Public Highways.

In Witness Whereof, we have hereunto set our hands and caused the Seal of Flathead County to be affixed this day and year in the certificate written.

Attest: Fred S. Perry
County Clerk

Henry Good
Joseph R. Erp
John Lane
Chairman
Commissioner
Commissioner

State of Montana
County of Flathead } ss.

Filed on the 8th day of July A.D. 1913 at 10 o'clock AM
Fred S. Perry County Clerk & Recorder

Certificate of Survey

I, Henry P. Walters a Civil Engineer and Surveyor do hereby certify that on the 15th to 21st day of September 1912 I made a careful and accurate Survey of the tract of land embraced within LAKE PARK ADDITION to WHITEFISH, MONTANA as shown by the annexed map and the courses and distances as shown thereon are true and correct to the best of my knowledge and belief and that said survey was made in conformity with Sections 5000 to 5015 of the Revised Code of the State of Montana.

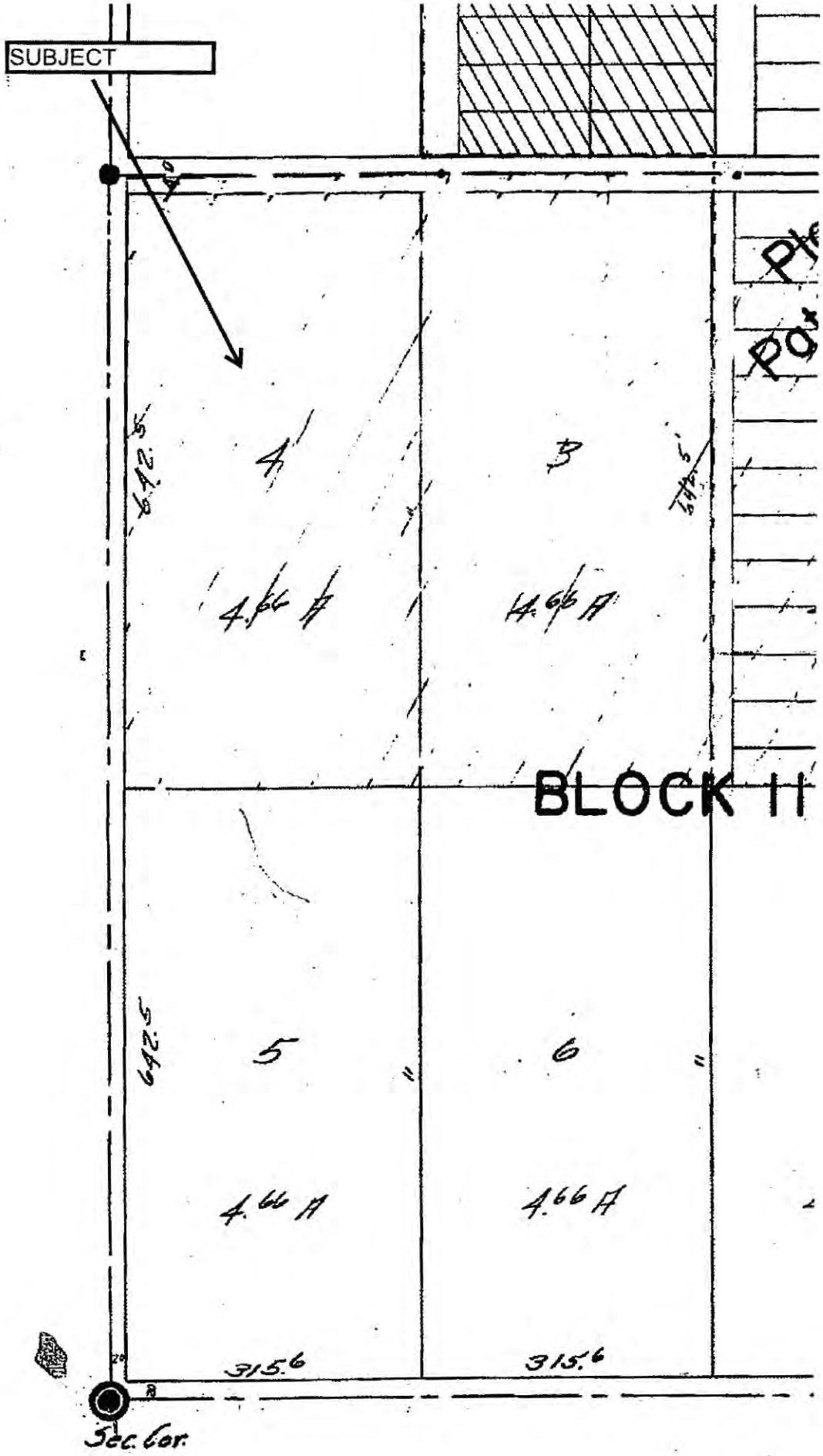
Henry P. Walters
Civil Engineer and Surveyor

State of Montana
County of Flathead } ss.

On this _ day of January A.D. 1913, before me, A.W. Simon, a Notary Public for the State aforesaid, personally appeared H.P. Walters, known to me to be the person who signed the above Certificate of Survey and acknowledged to me that the statements therein contained are true and correct to the best of his knowledge and belief.

A.W. Simon
A Notary Public for Montana, residing at Whitefish, Mt.
My commission expires July 30th 1913

4-3-10 COPY


SUBJECT
4
3
642.5
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BLOCK 11
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315.6
315.6
Sec. Cor.

PART I:
PARK LAND DEDICATION CALCULATIONS

I.1 – PARK LAND DEDICATION CALCULATIONS

According to 12-4-11 (Park Land and Open Space Requirements), part A.1: In subdivisions that have an average lot size of ten thousand (10,000) square feet or less, the subdivider shall provide a cash or land dedication equal to 0.03 acres per lot. It goes on to identify in part D.1: that If the required park land dedication is less than ten thousand (10,000) square feet, unless the land is immediately adjacent to an existing or planned future park area, it shall be considered an inappropriate size and the city shall request cash in lieu of park land dedication pursuant to subsection E of this section.

The proposed subdivision consists of 20 lots with an approximate average lot size of 7,318 ft^2 (0.168 acres). The subdivision does have approximately 4,573.50 ft^2 of available open space, however this area is to be utilized for stormwater management purposes.

Calculations:

Using the dedication amount of 0.03 acres per lot multiplied by 20 lots, equals a land dedication amount of 0.60 acres.

The Cash in lieu contribution amount will equal 0.60 acres multiplied by the fair market value of the undivided, unimproved land at the time of the final plat submittal.

Dr. Melissa L.N. Basford
235 Lake Park Lane
Whitefish, MT 59937
406-871-2762

November 14, 2015

Planning and Building Department
PO Box 158
510 Railway Street
Whitefish, MT 59937

Dear Whitefish City Council and Whitefish Planning Department:

We appreciate receiving the Public Notice of Proposed Land Use Action in anticipation of the Whitefish Planning Board public hearing on Thursday, November 19, 2015 6:00pm at the Whitefish City Council Chambers, City Hall, 1005 Baker Avenue, Whitefish MT. The notice is in regard to the "Whitefish West Limited Partnership" request to "amend their previously approved preliminary plat for Maple Ridge (formerly known as Timber Ridge) in order to convert five (5) duplex lots into ten (10) townhouse lots. The property is zoned WR-2 and is located at 265 Haugen Heights Road (legally described as Lot 4, Block 11 of Lake Park Addition in S26 T31N R22W). This newest and latest request involves Lots 11-15, or most of the east side of the central road of the subdivision. These facts on paper you already know, and initially, the proposed amendment seems to be a small change.

However, we find this 2015 proposed Plat amendment to be significantly objectionable. I believe this opposition view is consistent with the persistent view of most home-owning neighbors living in the adjacent areas. For the homeowners currently living on Lake Park Lane (the north side of the subdivision), this issue rises to level of 10 out of 10 importance. Here are some of the reasons of impassioned objection from our community:

Most simply said, this proposal further distances the Plat from the original (and strongly preferable) Timber Ridge/ Maple Ridge subdivision Plat plan presented to both the public community and also to governmental planning officials. In fact, the proposed amended subdivision Plat currently set before the Whitefish City Council has been fundamentally changed from the original preliminary subdivision Plat, which had entailed only Single-family house lots, which would be by far more consistent with the neighborhood.

We would have gladly supported the original officially-approved Plat concept of Single-family lots, acknowledging the right of land-owners to develop and profit monetarily from

their investment, yet appreciative that this “Whitefish West Limited Partnership” may have displayed at least some aestheticism and community awareness, harmonizing their new subdivision design with the the immediate neighborhood flavor. In our area, other fully built subdivisions have either opted to build with less density than the limit of WR-2 zoning might allow or have stricter regulations. Single-family dwellings by far predominate in our area. This Maple Ridge subdivision has no less reason to follow suit. It is easy to recognize the selling appeal of one-family lots tucked up against the forested mountains at the end-of-the-road of a peaceful, historically spacious, semi-rural, independently-minded yet family-friendly, city-county interface area within sight of the admired Lion Mountain Subdivision.

Therefore, it is curious that yet again... for a second time... the subdivision developer Whitefish West Limited Partnership has pursued ever increasing building density. This is a continuation and amplification of the previous major alteration in 2014 that came about after the developer’s hearing presentation was noted to be discordant with the single-family housing represented in their original preliminary application paperwork. More than a year has passed since the last density change in the summer of 2014 when the same land-owning entity managed to transform these eastern lots from exclusively Single-family homes (in their application given to the Planning Department) to Duplex lots through the process that followed. Although this was a major density change for the subdivision Plat in 2014, we assume that at least future lot buyers could choose to build Single-family homes or two-family Duplex buildings on the Duplex lots. Pushing it even further, the 2015 proposal for Townhouses with split lots instead of the larger Duplex lots effectively mandates increases building density, removing even the option of Single-family homes on those eastern Duplex lots.

If this level of density was Whitefish West Limited Partnership of Alberta, Canada ‘s preference, WHY was it not set out clearly from the BEGINNING rather than slice and dice the lots later? After dramatic land preparation has already progressed throughout the summer and fall of 2015, forest vegetation was stripped, massive amount of dirt moved, utilities dug at least 14 feet into the dirt beneath our street, streets approach paving time, the subdivision basics appear near to completion to an onlooker, and even some lots are already listed for sale for exorbitant prices, WHY change the subdivision Plat NOW for a nonessential reason? Is this Whitefish West Limited Partnership of Alberta, Canada so fickle, short-sighted, and indecisive? Or are the serial Plat modification requests intentional because it is calculated as “easier” to gradually change previously accepted Plats than establish such density on a Plat from the very start?

I’m sure you have heard of the adage about “the frog can be boiled without it jumping out of the pot if the water temperature is turned up slowly enough.”

I think one of the deep-seated sources of neighborly outrage is the seemingly underhanded “technique” of going through the “backdoor” to get this approval even if has a veneer of respectability. Essentially the Canadian land investors want to double the density of some areas of land (ie. increase profit with increased lot numbers) by changing the original subdivision application’s Single-family lots to Duplex lots and then

changing those Duplex lots into Townhouse lots, ultimately enforcing density. Call it clever or cowardly, but this insidious “creeping” toward these amendments over time is required by these investors/developers because the neighbors (and hopefully insightful council-members or conscientious city planners) might have otherwise objected more vehemently from the beginning. The lot density amendments and proposals that continue to accumulate compared to the original application Plat represented to the public and to city planners are not trivial in scope nor are they critical to overcome engineering complications, but rather the opposite. This lot and building multiplication fundamentally alters the character of the subdivision, defies neighborhood character, and critically, sets an unwanted precedent for the area’s future land development.

To further review into the background, you may recall from year ago that there already has been an “alteration” to the original preliminary Plat that was pushed through in the summer of 2014, and I have copied and pasted the pertinent excerpts from the Whitefish Council meeting minutes below for your reference. The ORIGINAL Plat submitted in the application included ONLY single-family houses on each lot for entire subdivision. There was a rather prolonged discussion about the previous Plat discrepancies in summer of 2014. Kathleen Harding, the most immediate northern neighbor, implored the city council about numerous problems with the subdivision, which would severely infringe on her home’s environment. Moreover, there were 11 petitions to preserve the single-family housing plan and to NOT increase the density in 2014 (which is actually must be a high-majority number of people for this relatively low population area). Despite the unified protest, the voices of public comment were apparently ignored. The June 2014 meeting minutes mention that the Whitefish planning department essentially could not make a recommendation. Eventually the City Council did approve the “altered” Plat. The Canadian investor entity’s graduated approach paid off.

What appears to be passive accommodation in the City Council for this land investment entity, despite the inconsistent application process, translates into action against the local community. For example:

a) Dismissal of the unified public voice and the weight of neighborhood homeowners’ long-term investment in deference to short-sighted nonlocal interests .
b) Unwarranted leniency on Plat misrepresentation.
c) Sacrifice of the character of the area needlessly, despite vested values of the local community, comprised mainly of single-family dwellings located in a quiet, spacious forest-bordering environment.
d) Indifference to a potentially precedent-setting decision, given the large tracts of undeveloped land in the area.
e) The appearance of impotence in leadership, vision, advocacy for local community evidenced by the favor and even the facilitation of a foreign business interests’ use of the local system to “take the cake.” This is at the expense of the interests of local citizens who intimately and enduringly care about their “habitat” in both the short-term and the long-term. They share the vision of many in Whitefish that community is something intangibly greater than the mere sum of its parts. It is the locals who are

invested in the land and neighborhood in more ways than just a one-time quick buck, and they pay the long term costs that cannot be assessed solely in turn-key dollars (or disinterested Canadian dollars).

But it is WR-2 zoning, one might argue.....Yes, that zoning designation for this area seems ill-fitting, but it is true. Much of our neighborhood was included in a sweeping WR-2 zoning designation, but somewhat arbitrarily one could conclude, incongruent with the aforementioned predominance of single-family dwellings in our area mixed with the paucity development on large sections of land. The difficult task of changing zoning designation of our area is a possibly a separate argument. The side point here is that the zoning of WR-2 should be questioned and not necessarily taken as immutable or even as historically representative of land usage. The other issues include early Plat misrepresentation of intent and continued misuse of the system. You have been empowered to make judgement calls for the public good, protection, and community vision.

Allow me to elaborate about reality on the ground (of the subdivision land and the surrounding area) to enrich your understanding beyond what is photocopied on paper alone.

The terrain: Until the land was recently stripped, the 4.39 acres of future subdivision was a beautiful forested on county land at the base of highland terrain, not far from the admired Lion Mountain Subdivision. The Timber Ridge/Maple Ridge subdivision, of course, was annexed by the City of Whitefish since water and sewer services were needed. However, please understand that much of the surrounding area (especially north, toward our direction) still has a quiet, spacious, rural county feel at the city-county interface. We know some urban change is inevitable. But for now, one can still see the stars clearly, without streetlights in most of this area, one of many immeasurable benefits of living here. Even before the 2015 drought pressured the animals, there was often bear scat on our forested land. The birds and wildlife are abundant. You can look at Google earth satellite images and see what actually exists on the block around us and the subdivision, which is relatively few structures . You hold the power to alter our neighborhood environment drastically and permanently. There are few buildings now, but we fear more buildings and less green in the future than there should be or could be.

Car traffic: Up until now, traffic has consisted of only a few cars per day on Lake Park Lane, which essentially dead ends at the foot of a mountain slope. Neighbor kids play on the dirt roads without a care, until recently. According to the subdivision Plat, it's access road divides the subdivision nearly in half, with the north entrance/exit on Lake Park Lane -- which is our road. There are only two landowners on the road of Lake Park Lane who have built (are still slowly building by mostly our own sweat) their "dream houses for life," humble though they may be. To clarify we, are essentially the ONLY current and heavily-affected Lake Park Lane neighbors in that we are full-time, year-round, fully-land-owning "neighbors" on narrow dirt Lake Park Lane, which will serve as a main access road off of State Park Road for this new subdivision. This point matters

since you may not be impressed by the shear numbers of people with input, but we hope to impress you with percentage of families with input, as well as with deep-rooted passion and lasting commitment.

This new development was most devastating for Cody, Kathleen, and their children at the formerly-secluded end of Lake Park Lane since the Harding's house windows will be awash in car headlights from this new subdivision. For my husband and I, already this development's impact has encompassed us more than we had expected despite our relative distance. While we have taken great pains to restore and improve one of Whitefish's historic 110+ year-old homes, nestled in natural forest land, and are even rehabilitating our septic system's earth disturbance with native vegetation, our formerly sleepy "dead end" dirt road of Lake Park Lane was impressively disrupted. We were told that the subdivision's sewer pipe was going to go toward Haugen Heights to the south, but apparently it had to be diverted north and east down Lake Park Lane with the sewer pipe instead. Just this past month the narrow dirt road was entirely dug up at least 14 feet deep -- bank to bank -- for the utilities for those 16 subdivision lots a block away. Along our stretch of road, some informal stone walls for retainment against erosion of road banks were smothered in dirt, despite the contractor's acrobatics to try to accomplish the excavation task without bothering us neighbors excessively. If we understood correctly from brief information provided in response to our worried inquiry, that surface water of the entire block-worth of Lake Park Lane west of us, from the subdivision's north side to our property, was going to be diverted into the low spot, a ravine on the westside of our property that we mostly own; it is a small but dearly valued forested green space just outside the front door of our walk-in basement and by our septic system. Fortunately, the hired civil engineering company has seemed attentive to our concerns, and it sounds like most of the water flow is adjusted in the engineering plans to not pour onto our doorstep. Feasibly we misunderstood the situation since we are not privy to all the details, but it felt like a close call to us. Soon asphalt will come to Lake Park Lane, and streetlights, though we would rather do without. Still street paving and utility disruption entail small and excusable imposition compared to what is coming....that is an artificial building density which is unheard of for our street, Lake Park Lane. And even more importantly, it will be precedent-setting. We fearfully remember that directly next to our land and our water well, there are an alleged 26 lots scratched onto another owner's Plat.

To focus back on the Maple Ridge subdivision development, we now realize that any presumed goals of development consistency and single-family housing with elbow room were likely nonsense all along, despite their original preliminary subdivision application. The disarmingly named "Whitefish West Limited Partnership" identifies its location address in Alberta, Canada. This is not about neighborhood character and esoteric "community", not about building up Whitefish's concept and vision, not about pride of ownership or design accomplishment, not about affordable housing, and not about citizen wellbeing in Montana, USA. This is about the business of bean counting, the bottom line, working the system, squeezing every last cent out of land before getting out, and converting American dollars to Canadian dollars. The development entity identifies with a foreign country and yet makes use of our local government office

resources, utilizes the time of City Council meetings (repeatedly), and all at the expense of local residents. Meanwhile, the Whitefish City Council have been rather accommodating about tardy Plat changes, to the discontent of their own constituents. Maybe to a money-only-focused person, the developer's shrewd maneuvers and resultant plans sound perfectly reasonable. It is not reasonable to most of us who have broader richer values than pennies alone. I hope this time the Whitefish City Council will exercise their foresight, vision, and resolve to make decisions for our community and to resist manipulation by interests which are disconnected to our values.

Thank you for your time and patience,

Melissa Lee Nelson Basford, M.D.

For your reference, past Whitefish City Council meeting excerpts:

WHITEFISH CITY COUNCIL MINUTES JULY 7, 2014

(CD (2) 14:50)

e). Consideration of an application from Bret Walcheck of 48 North Engineering on behalf of Whitefish West LimitedPartnership for a 15-lot preliminary plat subdivision call Timber Ridge-the property is located at 265 Haugen Heights Road and is 4.39 acres (p. 265)

Planner Compton-Ring said this is a request for a 15-lot preliminary plat called Timber Ridge and is located at 265 Haugen Heights Road and is 4.39 acres. The applicant had indicated on their application that it would only be single family houses, but at the hearing said they were interested in having single family houses on the west side and duplexes on the east side of the development. The staff report and portions of the preliminary plat application indicated that the development would only be single family. Planner Compton-Ring has redone the staff report with the changes in case they choose to do attached townhouses. The applicant has updated their information so there is an updated staff report along with a letter from the applicant that there could possibly be attached single family homes.

Planner Compton-Ring said the eight (8) lots on the west side will be single family and the seven (7) lots on the east side could be detached single family or duplexes. All lots

will front on a public right- of-way that will connect Haugen Heights Road to Lake Park Lane. Lake Park Lane is a narrow dirt road that will be improved to a 20 foot paved surface. In-lieu of parkland dedication the applicant will be doing a cash-in-lieu and the Park Board is recommending that the Council accept the cash-in-lieu. Landowners were notified within 300 feet and also the public agencies. They did receive one letter from the neighbor to the north where the road will T into their property and they are concerned car lights shining into her home, the loss of trees and questions regarding the improvements to and maintenance of Lake Park Lane.

Planner Compton-Ring said the developer will extend municipal water and sewer to the subdivision and for drainage the applicant is proposing stormwater to sheet flow across lots to the street where it will be captured in gutters and collected in curb inlets and conveyed by a pipe into a central stormwater management area in the north east corner of the project. The street will be built by the contractor, but owned and maintained by the City and will be designed to meet all City standards. The city is requested a 10 foot right-of-way along their property line at the time of final plat to add to the substandard right-of-way of 40 feet.

Planner Compton-Ring said this application complies with the Growth Policy and zoning which is WR-2 which allows for single family and two family. It also complies with the City zoning and subdivision rules. The Planning Board was unable to come to a decision for either approval or denial. One reason for this was that the staff report did not match what they were asking for as the staff was going by their original application.

Planner Compton-Ring said staff is recommending approval, because the Planning Board was not able to come to any sort of recommendation, she did include her staff conditions of approval. Some conditions they are recommending is a 10 foot right-of-way dedicated along the north property line to

(page 12, continued WHITEFISH CITY COUNCIL MINUTES JULY 7, 2014)

the City at the time of final plat, cash-in-lieu be paid at the time of final plat and that the property would be annexed prior to final plat.

City Manager Stearns is concerned about the paved 20 foot road as a requirement but does not see it on any of the conditions. Planner Compton-Ring said it is a Public Works requirement and it is an oversight and it would be good to add it to condition #7.

Mayor Muhlfeld opens the public hearing.

Kathleen Harding, 295 Lake Park Lane, would like to point out that although the staff report has been updated to include the townhouses the public was not properly notified.

The areas surrounding this property are either single family or undeveloped at this time. She would like the Council to just allow single family homes. Kathleen would like to see the zoning changed according to the developer's application which request 8 single family 7 duplexes so in the future more duplexes could not be built. She hopes the Council will recognize the character of the neighborhood, with just single family homes allowed. Kathleen said the proposed road T's right into her property and she would like to have this looked at some more. The drainage and runoff of the stormwater is a major concern as her property is lower than the subdivision. She would like to see the subdivision have a cul-de-sac then they would not have to worry about the power lines, drainage and also the T right into her property. If a cul-de-sac cannot be put in could they curve the road to meet the easement on the side of her property? Kathleen would also like to see the parkland instead of cash-in-lieu. Please do not approve this application.

Bret Walcheck, 48 North Engineering, is here with one of the owners Shaun Hass for any question that they may have.

No further public comment, Mayor Muhlfeld closed the public hearing.

Councilor Frandsen asked Planner Compton-Ring how the new condition would be worded.

Compton-Ring said "Lake Park Lane shall be improved to a 20 foot paved width from the western edge of the property line to State Park Road and compliance with City standards".

Councilor asked questions from staff and the developers a motion was made.

Councilor Anderson offered a motion, seconded by Frandsen, to table the preliminary plat at Timber Ridge and to be re-advertised in compliance with what the developer is requesting and to notify the neighbors as before. The motion passed on a 5 to 1 vote with Councilor Hildner voting in opposition.

(CD (2) 57:48)

In attendence 7/7/2015: Mayor Muhlfeld. Councilors present were Barberis, Frandsen, Anderson, Feury, Hildner and Sweeney, City Staff present were City Manager Stearns, Assistant City Clerk Woodbeck, City Attorney VanBuskirk, Planning and Building Director Taylor, Senior Planner Compton-Ring, Parks and Recreation Director Butts, Fire Chief Kennelly and Police Chief Dial. Approximately 35 people were in the audience

http://www.cityofwhitefish.org/cms-assets/documents/176166-861890.signed-min-2014-07-07.pdf

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

a) Consideration of an application from Bret Walcheck of 48 North Engineering on behalf of Whitefish West Limited Partnership for a 15-lot preliminary plat subdivision called Timber Ridge - the property is located at 265 Haugen Heights Road and is 4.39 acres (WPP 14-4) (p. 57) (CD 5:45)

Senior Planner Compton-Ring reported to the Council that thi☐ item was before the Council at their July 7, 20 14 City Council meeting; and the Council tabled action on the preliminary plat application because the public notice indicated the development would consist of 15 single family lots, but the applicant request is to build the subdivision according to the underlying WR-2 zoning by leaving the possibility of townhouse/duplex lots or single family detached lots on the east side of the road and limiting the lots on the west side of the road to only single family. At the direction of Council, staff re- noticed the neighbors on July 16, 2014, placed updated flyers on the property and had a new legal published in the Whitefish Pilot on July 16, 20 14. Eleven (1 1) petitions were received requesting the development only consist of single family lots and that parkland be dedicated instead of the proposed cash in lieu of parkland.

Staff recommends approval of the preliminary plat. The City-County Planning Board met and held a public hearing at their regular meeting on June 19, 2014; but following that public hearing they did not approve any motions to forward to the Council. At the July 7, 20 14 Council meeting, the City Manager pointed out the lack of a condition of approval concerning the improvements to Lake Park Lane. Both the applicant and the City have discussed making these improvements and they are shown

on the preliminary plat map, but no condition was developed. As such, staff recommends the Council add the following condition:

20. Lake Park Lane shall be improved to a 20-foot wide paved surface. The final details and design shall be approved by the Public Works Director. (Finding 1, Finding 4, City Engineering Standards, 2009)

Mayor Muhlfeld opened the public hearing.

Brett Walcheck, P.E. President of 48 North, is the project engineer and spoke on the project.

Kathy Harding, 295 Lake Park Lane, told the Council she knocked on her neighbors' doors and circulated the petitions that are included in the packet tonight starting on page 292, in addition she had two more to submit which she handed to the Mayor. Those petitions are in support of parkland actually being dedicated instead of the developer's proposal for cash in lieu. She said she is the house north of the subdivision that will be impacted by car lights traveling north out of the subdivision and appreciates any efforts to lessen that impact.

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

Councilor Feury made a motion, second by Councilor Frandsen, to approve the application from Bret Walcheck of 48 North Engineering on behalf of Whitefish West Limited Partnership for a 15-lot preliminary plat subdivision called Timber Ridge - the property is located at 265 Haugen Heights Road and is 4.39 acres, subject to twenty (20) Conditions of Approval as recommended by staff. The motion passed unanimously.

7) COMMUNICATIONS FROM CITY MANAGER (CD 30:50)

a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 304)-

None.

Mayor Muhlfeld welcomed Dana Smith, the city's new Finance Director.

b) Other items arising between July 30th and August 4th

Manager Steams also welcomed new Finance Director Dana Smith and reported on the public meeting held last Tuesday; a meeting with the city's architectural firm for the new city hall and parking structure, Mosaic Architecture P.C. for the purpose of gathering public input on concepts for the new construction. They will be back later in August for another public meeting, after

which they will give a presentation to the Council to continue the process into the next phase. Manager Steams thanked the community for attending these public meetings.

http://www.cityofwhitefish.org/cms-assets/documents/177695-824490.signed-min-2014-08-04.pdf

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

December 1, 2015

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

RE: Sparrow's Nest; (WCUP 15-18)

Honorable Mayor and Council:

Summary of Requested Action: Sparrow's Nest is requesting a Conditional Use Permit for a Type I Community Residential Facility to house five unaccompanied homeless high school students. A Conditional Use Permit is required for a Type I Community Residential Facility. The property is developed with a single family home and is zoned WR-4 (High Density Multi-Family Residential District). The Whitefish Growth Policy designates this property as 'High Density Residential'.

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

Public Hearing: Members of the Sparrow's Nest Board and six members of the public spoke at the public hearing on November 19, 2015. Three members were in support of the project and three members had concerns. The draft minutes for this item are attached as part of this packet.

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

Proposed Motion:

- I move to approve WCUP 15-18 along with the Findings of Fact in the staff report and the six (6) conditions of approval, as recommended by the Whitefish Planning Board.

This item has been placed on the agenda for your regularly scheduled meeting on December 7, 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 11-19-15 Planning Board Meeting

Exhibits from 11-19-15 Staff Packet to Planning Board:

1. Staff Report – WCUP 15-18, 11-12-15
2. Adjacent Landowner Notice, 10-30-15
3. Advisory Agency Notice, 10-30-15
4. Email, Bruce, 11-8-15
5. Email, Higgins Bruce, 11-8-15
6. Letter, Dominick, 11-2-15
7. Email, Daniels, 11-10-15
8. Application for Conditional Use Permit, 10-9-15

Exhibits Received After Planning Board Packets Were Mailed:

9. Email, Flannery, 11-16-15
10. Email, Retz, 11-16-15
11. Email, Sandman, 11-16-15
12. Email, L Wells, 11-16-15
13. Email, R Wells, 11-16-15
14. Email, Wilder, 11-16-15
15. Email, Brown, 11-17-15
16. Email, Barnes, 11-18-15
17. Email, Harrison, 11-18-15
18. Email Howke, 11-19-15

Exhibits Received After Planning Board Hearing:

19. Letter, Linne, 11-27-15

c: w/att Necile Lorang, City Clerk
Sparrow's Nest, 12 Willowbrook Close Whitefish, MT 59937

Exhibit A
Sparrow's Nest
WCUP 15-18
Whitefish Planning Board
Recommended Conditions of Approval
November 19, 2015

1. The project shall be in compliance with the site plan and application submitted on October 9, 2015, except as amended by these conditions. Minor deviations from the plans shall require review pursuant to §11-7-8E(8) and major deviations from the plans shall require review pursuant to §11-7-8. The applicant shall maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.

2. The Fire Department requires the applicant to comply with all fire codes for this classification of occupancy including annual Fire Department inspections. (IFC)

3. All on-site lighting shall be dark sky compliant. (§11-3-25, WCC)

4. The exterior of the existing single family home shall retain its residential character. (Finding of Fact #7)

5. The five off-street parking spaces shall be maintained. The garage is part of the required parking and it shall maintain space for two vehicles. (§11-6-2(A))

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

Rebecca said she understands the neighbors' concerns but thinks impact will be minimal with only six people in the house, and she is in favor of it.

Richard asked with a Conditional Use Permit for this particular lot, if it is conditioned as a "parish house" without a definition in the Code, what is permitted now on this property? Director Taylor said that was a good point and that a Condition could be added to define that it be used solely for residential purposes and limited to six occupants if the Board wanted to.

Richard made a friendly amendment with a second by Chairman Meckel to amend Condition No. 5 to read, *"The house shall only be used for residential purposes and shall not exceed six occupants."*

Jim called for the question.

VOTE

The motion as amended passed unanimously. The matter is scheduled to go before the Council on January 4, 2016.

PUBLIC HEARING 2: POTTER'S FIELD MINISTRIES CONDITIONAL USE PERMIT
Audio 6:40 pm

A request by Potter's Field Ministries for a Conditional Use Permit for a 'parish house' at 224 Somers Avenue to house up to eight ministry staff and interns. The property can legally be described as Lots 12 and 13 (N2), Block 48, S36 T31N R22W.

STAFF REPORT WCUP 15-16 (Taylor)

The applicant withdrew this application prior to the meeting.

PUBLIC HEARING 3: SPARROW'S NEST OF NW MONTANA CONDITIONAL USE PERMIT
Audio 6:45 pm

Sparrow's Nest NW Montana for a Conditional Use Permit for a Type I Community Residential Facility to house five unaccompanied homeless high school students. The property is located at 200 Colorado Avenue and can be legally described as Lot B, Wisconsin Tracts in S25 T31N R22W.

STAFF REPORT WCUP 15-18 (Compton-Ring)

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

Staff recommended adoption of the findings of fact within staff report WCUP 15-18 and for **approval** to the Whitefish City Council.

BOARD QUESTIONS OF STAFF

Richard said Compton-Ring's staff report stated it was unlikely that any of the housed students would have cars and asked how she arrived at that conclusion. Compton-Ring replied that is what the application said. Richard asked what recourse was available to the neighbors if violations to the CUP occurred. Compton-Ring replied if the Zoning Administrator finds that the Conditions of Approval are not being met, he would notify the applicant and schedule a public hearing before the City Council, which could revoke the CUP.

APPLICANT / AGENCIES

Laura Kochis, 12 Willowbrook Close, said she moved to Whitefish in 1978, and her family has been in their current home for 23 years. She clarified that the staff report says they are requesting a Conditional Use Permit for a residential facility "to house five unaccompanied homeless teenagers," and she wanted to point out the teenagers have to be in high school as a requirement of their organization (Sparrow's Nest). She explained the history of the organization, which goes back three years. She reiterated that there will be an on-site resident manager, and that there will be enforced house rules, curfews and strict requirements for remaining in the house.

Richard asked what happens to the students in the summer and Ms. Kochis replied they would remain in the home with adult supervision. Their goal is to make sure the students get a diploma, and they will try to help them prepare a resume and get jobs. Richard asked who will track the young adults through school and Ms. Kochis replied the executive director, who will probably also be resident manager, will monitor them. Richard said he thinks this is an awesome idea and it has his unyielding support.

Rebecca asked how many homeless children are in the area. Ms. Kochis said it is hard to give an exact number and Linda Kaps could speak to that question. She said they have done needs assessments and asked the area high schools for input.

Jim asked how many of the occupants would be attending Whitefish High School and Ms. Kochis said they do not know at the moment. They also have a residence, donated in Kalispell, but it needs major renovations. There may be some students from other high schools, but transportation will need to be worked out. They do not intend this house will be limited to only Whitefish students.

Linda Kaps, 258 El Rancho Road in Kalispell, said it is very

difficult to determine the number of homeless students in Flathead Valley, but Columbia Falls has 30 to 35 as defined by the McKinney-Vento Act, which includes students who live in cars or campers, couch surf, live with non-legal guardians, do not have running water or electricity, etc. Whitefish has not participated in the needs assessment, so their numbers are uncertain at this point. They have been reluctant to participate.

Michael Flannery, Pastor of St. Peter Lutheran Church on Wisconsin Avenue, 1181 Old Stone Road on Star Meadows, Whitefish said he and his wife do not live in the parsonage as they moved here with goats and horses. They formed a committee to look for a use for the parsonage, seeking a ministry or community thing that would be a great use for the Flathead Valley, especially the north end of the Valley. They talked to hospitals, hospice, etc., but wanted something that would not impact the neighborhood. They contacted United Way and Sparrow's Nest came in and they had several talks and interview with them. The house is already paid for and since they are a non-profit, they could not rent it since that would look like profit. They wanted low impact on their neighbors and something where their congregation could have an impact. Adults have let these young people down and they did not want to let them down. They could make quilts for them, give them personal space, help them, tutor them, love on them at Christmas and on their birthdays and give that affirmation of love to them during that process, basically to share the love of Christ with them and try to make a difference. That is their goal.

Sherry Stevens, Executive Director of Northwest Montana United Way, 40 East Nevada, Kalispell, spoke to endorse the movement of the Sparrow's Nest. She knows there are neighbors who are concerned, but there are other youth shelters and other facilities with 24-hour supervision who try to be part of the neighborhood, try to give back and are good neighbors. United Way is serving as the fiscal agent for Sparrow's Nest and offering whatever support they can administratively and fiscally for the startup of this project and they wholeheartedly endorse this and back them. They will provide insurance, etc., to make the project a reality. In working in the greater Valley with social services, there is a huge, unmet need. Homelessness is one of largest issues throughout the County. These teens need our love and care, and she loves that the Church is coming alongside, which will be a big benefit to this particular project. The United Way publically endorses the Sparrow's Nest.

PUBLIC COMMENT

Marguerite Amstadt, 695 Waverly Place, is excited and enormously happy to see this in our community and especially across the street from her. If there is perceived concerns about loss of value, and as a property owner she thinks it is wonderful to bring heart to our community. She thanked Sparrow's Nest, etc., for all they do.

Harriett Quinn, has been a resident of Whitefish for 53 years, and owns 684 Copperwood Court, but does not live there, her daughter does. The side yard looks directly at this house and their back yard. She and her daughter have concerns about parking. They only want students from Whitefish in the house as they are concerned that students from Columbia Falls or Kalispell would need a car and she does not feel there is adequate parking. They felt the wording in the letter from Sparrow's Nest was extremely vague and did not explain who is the governing board and who to report problems to, including names and phone numbers. They want to know how often grades are checked and how often drug testing is done, and how they can check on those. They have very narrow back yards and students they do not know could come over the fence to retrieve a basketball, etc. If there is a problem, who does she call?

Marcia Bunke, 55 West Brier Court, Kalispell, Chairperson of Sparrow's Nest Northwest Montana, spoke to address concerns. Looking at the kids that will be at the house and they cannot guarantee they will be Whitefish students. They have met with the Flathead County School Superintendent and their board and have discussed with the different school principals in the area. Until the home in Kalispell is renovated, this is the only home in Flathead Valley for unaccompanied homeless high school students. The only other home in the state of Montana is in Billings. They are interested in the Whitefish population but cannot guarantee they will only be Whitefish kids. When the Kalispell home is ready, it will also be for any Flathead County student, not just Kalispell. They recognize that Whitefish has kids at a smaller number compared to the rest of the population but with the help of their executive director they will determine who they will house based on who needs the home the most. There is parking to the west of the home as well, so not just in the driveway and/or garage, they can use the overflow parking from Church.

Rebecca asked if they have ongoing relationships with the neighbors, as there seems to be a lot of concern about the progress of the kids. Ms. Kaps said the students have the right of privacy

and as a counselor she cannot reveal grades to anyone who asks. These kids cannot afford gas, insurance, etc. Parking is a very minor issue and there is a lot of room for cars. Staff will monitor students' progress and their success is going to be determined by their potential. Not every student will get As. They get to choose who is allowed to live there and they will have a strict screening process. They are being very careful to keep everyone safe.

Jim asked Ms. Kaps if a student lives in Whitefish, can they choose where they will go to school and she replied most students want to stay in their current school. The Columbia Falls School District would have to provide transportation to Columbia Falls High School even if a student lived in Whitefish. It can be very complicated, but with cooperation it can be done.

Mark Berney, 692 Copperwood Court, lives in the townhouse directly on the corner of Copperwood Court and Colorado Avenue, and does not have the luxury of a 6-foot fence; he has a small white picket fence. He is entirely in support of helping anyone in need. He was a volunteer firefighter for a number of years in Whitefish and has helped raise funds for the local food bank, school musical instruments, etc., and is truly for helping those in need. He is opposed to this CUP as he feels questions have not been addressed. He feels if they had contacted him personally, perhaps he would not need to be here and that they did not have his best interests at heart. He is the closest tenant to this home and the parking around the corner. He believes there needs to be further discussion on the requirements, as they do not have their funding in place. They have a property in Kalispell, which they acquired in 2014 but have not opened yet. They are trying to obtain a program director but not have one in place at this time. What are the requirements for this position? The *Whitefish Pilot* says the person must be "professionally trained." One person cannot be there nonstop, so who will fill it. Have the teens been screened? Do they have histories of violent behavior? What has led them to their homeless state? They say they have adequate parking, but who will enforce this? He asked the CUP be denied until funding is secured and secured to operate the facility. He is not against helping people, but feels there are too many unanswered questions in regard to this facility to grant the CUP.

Ms. Bunke said since they did not have phone numbers or emails for the neighbors, at Compton-Ring's suggestion, they sent out 49 letters three weeks in advance to try to contact all the affected people, and included their contact information. They could have obtained a copy of the CUP from the Planning Department. They

received only one phone call and a few emails from folks against the project and they responded to those. Parking will not be an issue as the kids do not have vehicles. If you come through the Church's parking lot off Wisconsin there is a maintained gravel road that can be used for parking. People can park against the fence and come right through a gate and the area is even plowed in the winter. That parking will really end up being for extra staff and people coming to the home to tutor and/or help kids. There will be a resident manager onsite and extra staff. These students will have set guidelines and more supervision than most high school students with two working parents. It is true they do not have full funding. This house is ready to be occupied and has five bedrooms, one of which is large enough it could be shared by two siblings, and it has three bathrooms and a large back yard.

Rebecca said one of Mr. Rozell's questions was how they screen for emotional behavior, and she assumes that goes along with the screening process and privacy issue. Ms. Kaps said they use Tumbleweed in Billings as a guideline for their application, and it is a stringent several step screening process of paperwork, interview by a social worker or someone skilled in health care, and a final screening. Kids are scared of this type of facility as they do not want to be "in the system."

Ms. Quinn asked why the facility could not be limited to Whitefish students if we have five Whitefish students. Why can't we take care of our own first?

Ron Brandt, 205 Colorado Avenue, right across the street, has concerns that no executive director has been selected yet, and not even people to stay in it yet. How do we know people going to school in Kalispell will be willing to live in Whitefish? Won't they want to stay where their peers live? Can they have friends over? Is there a cap on the number of people? He thinks it is a good thing they are trying to do, but has concerns.

Tina Barnes, 300 Armory Road, Whitefish. Wanted to address why are we not only housing Whitefish students? St. Peter Lutheran Church Council does not care where the kids come from, they just want to help every child who needs help. She is a member of the St. Peter Lutheran Church and she and her husband were just accepted to the Advisory Board for Sparrows Nest. She and her husband have been going out to businesses in Whitefish for two to three weeks to ask them if they will put donation bottles in their business, and so far 70 in Whitefish have, and 50 in the surrounding other cities. They have met several people who have

experienced helping these homeless high school aged kids and people will not tell you about it unless you ask them. They are proud to have done it and would do it again. This is a big problem in our Valley and folks do not know about it. This is Whitefish's opportunity to set the standard and say we will no longer allow our kids to be homeless.

MOTION / BOARD DISCUSSION

Richard moved and Rebecca seconded to adopt the findings of fact within staff report WCUP 15-18, subject to the six (6) Conditions of Approval as proposed by City Staff. Richard addressed his motion. Some of the questions brought up by Mr. Berney and Ms. Quinn were outside of the purview of the CUP, but he wants to convey to Sparrow's Nest that it's important to do more outreach one-on-one with the neighbors and alleviate their concerns and fears. The homeless kids deserve a chance and he will vote for it.

Rebecca agreed with Richard but if this works and if the kids get the people here tonight as neighbors, they are going to be very lucky. She urged them to reach out to the children because they would be great in their lives. She was a foster child. Her Mom died when she was 17 and she and her two younger sisters entered the foster system. If she had not been taken in by a family at that time she does not know what might have happened in her life. We should not assume all the kids would be in trouble, some just need stability. She was highly motivated and has done well.

Chairman Meckel has empathy for how conditional uses affect neighbors, but the Board looks at the criteria within the Zoning Code and they do their best to lessen impacts. Oftentimes it is a judgment call but under a Conditional Use Permit if they can mitigate it down to be compatible with other permitted uses in the neighborhood, then they move forward.

He called for the question and there was no opposition.

VOTE

The motion passed unanimously. The matter is scheduled to go before the Council on December 7, 2015.

BREAK

Richard requested a five-minute break and the recording were turned off.

PUBLIC HEARING 4: WHITEFISH WEST LIMITED PARTNERSHIP

A request by Whitefish West Ltd Partnership for an amended Preliminary Plat in order to develop five (5) duplex lots into ten (10) townhouse lots. The property is located at 265 Haugen Heights Road and can be legally described as Lot 4, Block 11 of

SPARROW'S NEST OF NW MONTANA
CONDITIONAL USE PERMIT
WCUP 15-18
NOVEMBER 12, 2015

This is a report to the Whitefish Planning Board and the Whitefish City Council regarding a request for a conditional use permit for a Type I Community Residential Facility to house five unaccompanied homeless high school students. This application has been scheduled before the Whitefish Planning Board for a public hearing on Thursday, **November 19, 2015**. A recommendation will be forwarded to the City Council for a subsequent public hearing and final action on Monday, **December 7, 2015**.

PROJECT SCOPE

Sparrow's Nest of NW Montana, a nonprofit organization dedicated to ensuring safe, supportive housing for homeless high school students in Flathead County, is requesting a Conditional Use Permit for a Type I Community Residential Facility to provide a home for five unaccompanied high school students with an on-site resident manager at 200 Colorado Avenue. The proposal will be located within an existing single family residential home. No exterior modifications are proposed to the home or the property.

The property is zoned WR-4 (High Density Multi-Family Residential District) which requires a Conditional Use Permit for a Type I Community Residential Facility.

A.

OWNER:
St. Peter Lutheran Church
201 Wisconsin Avenue
Whitefish, MT 59937

APPLICANT:
Sparrow's Nest of NW Montana
12 Willowbrook Close
Whitefish, MT 59937

B. SIZE AND LOCATION OF PROPERTY:

The project is located at 200 Colorado Avenue. The project can be legally described as Lot B, Wisconsin Tracts in S25 T31N R22W, P.M.M., Flathead County, Montana.

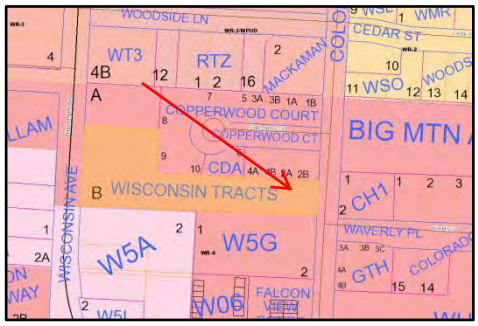
C. EXISTING LAND USE:

The subject property is currently developed with a single family home on the east side of the property fronting Colorado Avenue and a church on the west side of the property fronting Wisconsin Avenue.

D. ADJACENT LAND USES AND ZONING:

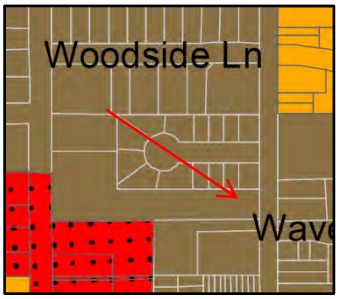
North:	Residential	WR-4
West:	Residential	WR-4
South:	Residential	WR-4
East:	Residential	WR-4

E. ZONING DISTRICT:



The property is zoned WR-4 (High Density Residential District). The purpose of the WR-4 District is 'intended for higher density residential purposes and for limited nonresidential uses that are compatible with such residential setting connected to municipal utilities and services.'

F. WHITEFISH CITY-COUNTY GROWTH POLICY DESIGNATION:



The Growth Policy designation is High Density Residential which corresponds to the WR-4 zoning district.

> "Multi-family residential, mostly in the form of apartments, condominiums, and townhomes, are accounted for by this designation. Areas designated for High Density Residential development are mostly near the downtown and along major transportation routes. All multi-family structures are now subject to architectural review, and the City will be looking for a higher quality of site planning, architecture, and overall development high density projects have exhibited in the past. The applicable zones are WR-3 and WR-4, but WR-2 with a PUD option also allows for high densities."

G. UTILITIES:

Sewer: City of Whitefish
Water: City of Whitefish

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

H. PUBLIC COMMENTS:

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on October 30, 2015. A notice was emailed to advisory agencies on October 30, 2015. A notice of the public hearing was published in the *Whitefish Pilot* on November 4, 2015. As of the writing of this report, we received one letter of support and three letters citing concerns with the proposal. Concerns included diminished home value, request to review the permit to ensure the standards of conduct will be maintained, concern that the standards of conduct will slip over time, questions about the type of person that will be the on-site adult and the screening process for the children.

In addition, the Sparrow's Nest sent out a letter neighbors introducing themselves and describing their proposal.

REVIEW AND FINDINGS OF FACT

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

1. **Growth Policy Compliance:** The Growth Policy designates this area as High Density Residential which is consistent with the WR-4 zoning district.

   Chapter 4, Community Facilities, Human Infrastructure, has a goal and policy to support a comprehensive and viable system of social services.

   Finding 1: The proposed use complies with Growth Policy Designation of High Density Residential because it is zoned WR-4 (High Density Multi-Family Residential District) and it supports the human infrastructure goal and policy.

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

   A Community Facility is a facility that may or may not be licensed by the state and provides 24 hour care. There are a variety of types of facilities and this ones falls under "B. A youth care facility in which substitute care is provided to youth including youth foster homes, kinship foster homes, youth group homes, youth shelter care facilities and transitional living programs, but excluding youth assessment centers." This is the type of facility Sparrow's Nest is proposing.

A Type I Facility provides services to eight (8) or fewer individuals and they are proposing five (5).

A single family home requires two off-street parking spaces and two parking spaces are being provided in the two-car garage. Additional parking is available on the church side of the property, if needed.

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 adequate to serve the proposed use.

Access that meets the standards set forth in these regulations, including emergency access: All access requirements are being met.

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 and there are no other environmental constraints on-site.

Finding 3: Project is suitable for the site because there is adequate usable land area, the existing access meets emergency standards and there are no environmental constraints.

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

Parking locations and layout: The home has an existing two car garage and a driveway. No parking is permitted on Colorado Avenue in this location. The application indicates that the on-site adult will have a car, but it is unlikely that all the children will have a vehicle. The parking with the home will likely be adequate to serve this use;

however, in the event the parking is not adequate, the church does have existing overflow parking behind the home that is available for use.

Section 11-6-2(A) of the Whitefish Zoning Regulations requires 2 spaces per 3 individuals, plus 1 additional space for each additional individual exceeding 3 for 'dwelling units occupied by 4 or more individuals unrelated by blood, marriage, or adoption'. Therefore five off-street parking spaces are required for six individuals. A condition will require five off-street parking spaces to be maintained. There are two spaces in the garage and room for at least three more in front of the garage.

Traffic Circulation: The traffic circulation will be unchanged with this proposal. Vehicles will likely exit the property onto Colorado Avenue at a rate no greater than a typical single family residence.

Open space: Open space is adequate to serve the proposed use.

Fencing/Screening: Fencing or screening is neither required nor proposed.

Landscaping: The property is currently well landscaped for a residential setting. In addition, single family homes are exempt from the landscaping requirements.

Signage: No signage is proposed.

Undergrounding of new and existing utilities: No new utilities are anticipated.

Finding 4: The quality and functionality of the proposed development has effectively dealt with the site design issues because there is adequate parking for the use and traffic circulation is unchanged.

5. Availability and Adequacy of Public Services and Facilities.

Sewer: Sewer is in place and adequate to service the project.

Water: Water services are currently available on site.

Storm Water Drainage: No new impervious area is being added to this existing single family home; therefore, this does not apply.

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

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

Streets: The project fronts on Colorado Avenue and has adequate access to the street.

Finding 5: Municipal water and sewer are available. Response times for police and fire are not anticipated to be affected due to the proposed development. The property has adequate access to surrounding rights-of-way.

6. Neighborhood/Community Impact:

Traffic Generation: The existing streets should be able to handle the traffic.

Noise or Vibration: No impacts are anticipated beyond what would be expected from a typical single family home.

Dust, Smoke, Glare, or Heat: No impact is anticipated beyond what would be expected from a typical single family home.

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

Hours of Operation: The hours of operation will be a standard single family home of 24 hours a day, seven days a week.

Finding 6: The proposed development is not anticipated to have a negative neighborhood impact. Negative impacts on noise, dust, smoke, odor or other environmental nuisances are not expected. Any proposed outdoor lighting is required to meet city standards.

7. Neighborhood/Community Compatibility:

The neighborhood has a high density residential zoning. The neighborhood has developed out with a variety of single family detach and attached, apartments and condominiums.

The proposed use is intended to function as a single family home; therefore, should be compatible with the surrounding neighborhood. The applicant is not proposing to make any exterior modifications to the building that would render it incompatible with the existing neighborhood. Staff will also make this a condition of approval.

Finding 7: The project is compatible with the existing uses in the neighborhood because it will function as a single family home and no exterior modifications are being made to the home that would make it incompatible with the neighborhood.

RECOMMENDATION

It is recommended that the Whitefish Planning Board adopt the findings of fact within staff report WCUP 15-18 and that this conditional use permit be recommended for **approval** to the Whitefish City Council subject to the following conditions:

1. The project shall be in compliance with the site plan and application submitted on October 9, 2015, except as amended by these conditions. Minor deviations from the plans shall require review pursuant to §11-7-8E(8) and major deviations from the plans shall require review pursuant to §11-7-8. The applicant shall maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.

2. The Fire Department requires the applicant to comply with all fire codes for this classification of occupancy including annual Fire Department inspections. (IFC)

3. All on-site lighting shall be dark sky compliant. (§11-3-25, WCC)

4. The exterior of the existing single family home shall retain its residential character. (Finding of Fact #7)

5. The five off-street parking spaces shall be maintained. The garage is part of the required parking and it shall maintain space for two vehicles. (§11-6-2(A))

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

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

Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that Sparrow's Nest NW Montana is requesting a Conditional Use Permit for a Type I Community Residential Facility to house five unaccompanied homeless teenagers in Flathead County. The property is developed as a single family home and is zoned WR-4 (High Density Residential District). The property is located at 200 Colorado Avenue and can be legally described as Lot B, Wisconsin Tracts in S25 T31N R22W.

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

Thursday, November 19, 2015
6:00 p.m.
Whitefish City Council Chambers, City Hall
1005 Baker Avenue, 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, December 7, 2015** at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, November 9, 2015, will be included in the packets to the Planning Board members. Comments received after the deadline will be summarized to the Planning Board members at the public hearing.

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

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

Date: October 30, 2015

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, November 19, 2015 at 6:00 pm in the Whitefish City Council Chambers at **1005 Baker Avenue**. During the meeting, the Board will hold a public hearing on the items listed below. Upon receipt of the recommendation by the Planning Board, the Whitefish City Council will also hold subsequent public hearing for items 1-4 on Monday, December 7, 2015 and items 5-7 on Monday, January 4, 2016. City Council meetings start at 7:10 pm at **1005 Baker Avenue** in the Whitefish City Council Chambers.

1. A request by Whitefish West Ltd Partnership for an amended Preliminary Plat in order to develop five (5) duplex lots into ten (10) townhouse lots. The property is located at 265 Haugen Heights Road and can be legally described as Lot 4, Block 11 of Lake Park Addition in S26 T31N R22W. WPP 14-04A (Compton-Ring)

2. A request by 2nd Street Lofts llc for a Conditional Use Permit in order to develop a mixed-use multi-family project with fifteen dwelling units and a footprint greater 7,500 square feet. The property is located at 214 E 2nd Street and can be legally described as Lots 15, 16, 17, 18 and south ½ of Lot 20 in Block 36 Whitefish Original Townsite in S36 T31N R22W. WCUP 15-17 (Compton-Ring)

3. Sparrows Nest NW Montana for a Conditional Use Permit for a Type I Community Residential Facility to house five unaccompanied homeless teenagers. The property is located at 200 Colorado Avenue and can be legally described as Lot B, Wisconsin Tracts in S25 T31N R22W. WCUP 15-18 (Compton-Ring)

4. A request by the City of Whitefish for an amendment to §12-4-11, Park Land and Open Space Requirements, of the Subdivision Regulations. WSUB 15-01 (Compton-Ring)

5. A request by Potter's Field Ministries for a Conditional Use Permit for a 'parish house' at 943 East 2nd Street to house up to eight ministry staff and interns. The property can legally be described as Lot 1A of AMD Lot 5, 6, Block 1 McKeens Addition, S31 T31N R21W. WCUP 15-15 (Taylor)

6. A request by Potter's Field Ministries for a Conditional Use Permit for a 'parish house' at 224 Somers Avenue to house up to eight ministry staff and interns. The property can legally be described as Lots 12 and 13 (N2), Block 48, S36 T31N R22W. WCUP 15-16 (Taylor)

7. A request by the City of Whitefish for a Zone Change on parcels recently annexed into City limits. The properties are developed with residential uses. The subject properties are located at 2422 and 2424 Carver Bay Road and can be legally described as lots 9 and 10 of Whitefish Lake Summer Homes subdivision in Section 10, Township 31N, Range 22W. WZC 15-04 (Minnich)

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

Wendy Compton-Ring

From: Marti Bruce <mynameismarilyn@gmail.com>
Sent: Sunday, November 08, 2015 10:04 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Sparrow's Nest Community Residence Facility

Dear Whitefish Planning Board,

I am writing to express my concerns regarding the proposed Sparrow's Nest Community Residential Facility at 200 Colorado Avenue. I own the property located at 205 Colorado Ave, directly across from the proposed facility.

A community residence for homeless teens will diminish the value of the surrounding homes to some degree. Colorado Avenue is one of the densest neighborhood in Whitefish, with many apartments and homes nearby. Having the Community Residential Facility in this neighborhood will affect a great number of renters and homeowners, both in terms of their home value and in terms of any behavioral problems that--we hope won't but that may--arise with the students residing at the facility.

Has Sparrow's Nest researched using a property that isn't directly in town, a property with no immediate neighbors to be affected by the Community Residence? I received a letter from Sparrow's Nest, indicating that most of the students will have vehicles and could drive to and from school, or carpool, so the teens could drive to and from a more secluded location.

The letter I received from Sparrow's Nest also assured me that the following are true: the students will be randomly drug and alcohol tested; the students must be enrolled and active in high school; the students will receive 24-hour adult supervision; students must adhere to the rules of the house, including the curfew; the students will participate in chores to maintain the value of their residence. In addition, this letter assured me that there will not be any additions or changes to the exterior of the house and no signage on the property.

The Conditional Use Permit for Sparrow's Nest must contain verbiage that guarantees these standards will be met. In addition, the permit is conditional. As a neighbor to the facility--and someone who is likely to be affected by the behavior of the teens residing in the facility--I would like to have some form of recourse if these standards aren't being met.

I'm sure that many, if not all, of these students are hardworking individuals who deserve a chance to finish high school, while living in a safe, supportive environments. However, every four years, at least, the facility will house a new group of students, students from circumstances that often produce delinquent behavior. Thus the Permit should be subject to review every one or two years. I fear that neighbors of the facility will have to go through a lengthly, costly process to request that the permit be revoked if issues arise.

Ultimately, I support the idea of having a residence for homeless Whitefish teens. However, I believe that placing the residence in such a high density neighborhood comes with risks to many neighbors. Please give us a straightforward form of recourse if the Sparrow's Nest facility is adversely affecting our neighborhood and the opportunity to review the facility's permit on a regular, timely basis.

Thank you.

Sincerely,

Marilyn (Marti) Bruce

Wendy Compton-Ring

From: Larry Bruce <tubbies@cyberport.net>
Sent: Sunday, November 08, 2015 7:26 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Sparrow's Nest Community Residence Facility

Dear Whitefish Planning Board and City Council Members,
Thank you for the informative letter regarding the Conditional Use Permit for the Sparrow's Nest project on Colorado Ave in Whitefish. My daughter, Marilyn (Marti) Bruce and I co-own the property directly to the east across Colorado Ave. Our home at 205 Colorado Ave. will be directly impacted by the development of the proposed residence facility. I am concerned about the additional pressure this denser housing will place on the neighborhood. I am also concerned that the promises for standards of behavior may slip with time. If the Sparrow's Nest project is allowed to proceed I definitely want scheduled, routine review of these standards.
Thank you for your careful consideration of this project.
Yours truly,
Molly Higgins Bruce

Hunter & Co.
interior design

200 Wisconsin Avenue
Whitefish MT. 59937

Phone: 406 862 1402
Fax: 406 863 2936

www.hunterinterior.com

November 2, 2015

Whitefish Planning Department

PO Box 158

Whitefish MT 59937

To Whom It May Concern,

I am writing in regards to your Public Notice Proposed Land Use Action for the Sparrow's Nest on Colorado Ave. for homeless teenagers.

I would like it noted that I fully support a safe and supportive environment for homeless high school students and therefore urge the planning department to approve the proposed land use action.

Thank You

Hunter N Dominick

Owner, Hunter and Co.

Wendy Compton-Ring

From: Scott Daniels <csdanielsfm@yahoo.com>
Sent: Tuesday, November 10, 2015 8:05 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Sparrow's Nest

Wendy - per our conversation yesterday, we are sending you our questions/concerns about the proposed conditional use permit for the property located at 200 Colorado Ave.
Questions: What is the definition of adult & what are their qualifications.
Is supervision there 24/7?
What are the qualifications & screening of students at the home?
If problems occur for our neighborhood, will it be addressed by Sparrow's Nest & will it be easy for permits to be cancelled?
Thank you,
Scott & Karen Daniels
691 Copperwood Ct
Whitefish, MT 59937

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

File #: _____
Date: _____
Intake Staff: _____
Date Complete: _____

CONDITIONAL USE PERMIT

FEE ATTACHED $ 990.00
(See current fee schedule)

INSTRUCTIONS:

- ☐ A Site Review Meeting with city staff is required. Date of Site Review Meeting: _____
- ☐ Submit the application fee, completed application and appropriate attachments to the Whitefish Planning & Building Department a minimum of **forty five (45) days prior** to the Planning Board meeting at which this application will be heard.
- ☐ The regularly scheduled meeting of the Whitefish City Planning Board is the third Thursday of each month at 6:00PM in the Council Chambers at 1005 Baker Avenue.
- ☐ After the Planning Board hearing, the application is forwarded with the Board's recommendation to the next available City Council meeting for hearing and final action.

A. PROJECT INFORMATION:

Project Name: Sparrow's Nest NW MT – Home for Homeless Unaccompanied High School Students

Project Address: 200 Colorado Ave.

Assessor's Tract No.(s) 000E027425 Lot No(s) B
Block # 10 Subdivision Name Wisconsin Tracts
Section 25 Township 31 Range 22

I hereby certify that the information contained or accompanied in this application is true and correct to the best of my knowledge. The signing of this application signifies approval for the Whitefish staff to be present on the property for routine monitoring and inspection during the approval and development process.

Owner's Signature[1] — Date: 10-6-15

St. Peter Lutheran Church
Print Name

Marcia Bumke
Applicant's Signature — Date: 10-7-15

Sparrow's Nest NW MT
Print Name

Representative's Signature — Date: 10-6-2015

Sherry Stevens, United Way Fiscal Agent
Print Name

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

APPLICATION CONTENTS:

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

X Conditional Use Permit Application – **8 copies**

X Written description how the project meets the criteria in Section D – **8 copies**

X Site Plan – **8 copies** The site plan, drawn to scale, which shows in detail your proposed use, your property lines, existing and proposed buildings, traffic circulation, driveways, parking, landscaping, fencing, signage, and any unusual topographic features such as slopes, drainage, ridges, etc.

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

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

X Electronic version of entire application such as .pdf

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

___ Any other additional information requested during the pre-application process

When all application materials are submitted to the Planning & Building Department, the application will be scheduled for public hearing before the Planning Board and City Council.

B. OWNER(S) OF RECORD:

Name: St. Peter Lutheran Church Phone: 406-862-3008

Mailing Address: 201 Wisconsin Ave.

City, State, Zip: Whitefish, Montana 59937

Email: dbtl1101@gmail.com

APPLICANT (if different than above):

Name: Sparrow's Nest of NW MT Phone: 406-309-5196

Mailing Address: 12 Willowbrook Close

City, State, Zip: Whitefish, Montana 59937

Email: sparrowsnestnwmt@gmail.com

TECHNICAL/PROFESSIONAL:

Name: N/A Phone: ___

Mailing Address: ___

City, State, Zip: ___

Email: ___

C. DESCRIBE PROPOSED USE:

Sparrow's Nest of NW MT is proposing that the existing single-family home on Block 10, Lot #B be used as a home for homeless unaccompanied high school students in Flathead County.

The existing single-family home will provide housing for five (5) homeless unaccompanied high school students in Flathead County and one resident manager. There will be no more than six (6) individuals residing in the single-family home.

ZONING DISTRICT: WR-4

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

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

   The Proposal conforms to the applicable goals and policies of the Whitefish City-County Growth Policy in Chapters three and four of the policies.

   Chapter three refers to maintaining the character and "Small town feel" of Whitefish. The Sparrow's Nest Home will continue to provide Whitefish with that "small town feel" because the home will be used residentially with no more than six (6) individuals living there.

   Chapter four references human infrastructure and social services stating: "any community's most important resource is its people... and people have basic needs." (Pg.99). Providing homeless unaccompanied high school students with a home would fulfill the goal to, "support and maintain a comprehensive and viable system of social services to meet the needs of a growing Whitefish Community." The Project follows directly to the City's Policy: "It shall be the policy of the city of Whitefish to promote and welcome needed social and community services, and to safeguard against unnecessary regulatory and/ or administrative barriers to their operation." (Pg.100)

   This home has been an existing house for 23 years and no additions or exterior structural changes will be made to the house.

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

   The regulations for Zone WR-4, the High Density Multi-Family Residential District state that it is, "intended for higher density residential purposes and for limited nonresidential uses."

   The Sparrow's Nest Home for homeless unaccompanied high school students falls into the category of single-family residential use. The high school students and resident manager will be a "family unit", they will eat meals together, work on homework, and the resident manager will provide daily support. The students will also be required to share the daily chores of cleaning, cooking, laundry, and yard work.

   This home has been an existing house for 23 years and no additions or exterior structural changes will be made to the house. There will be no use outside of residential.

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

The Location is suitable for the proposed use because Sparrow's Nest will be using the property for a residential home, the same use as the multi-family homes that border two sides of the property. The location is within walking distance of many other resources including the Whitefish High School; the Whitefish Library and downtown area (for possible employments). This access to local resources will greatly benefit the high school students and resident manager living in the home, allowing them to participate in community activities.

The property has adequate usable land between the house and the church building; there is a large field with a driveway which runs between the two structures.

The access does meet current standards.

4. How are the following design issues addressed on the site plan?
   a. Parking locations and layout
   b. Traffic circulation
   c. Open space
   d. Fencing/screening
   e. Landscaping
   f. Signage
   g. Undergrounding of new utilities
   h. Undergrounding of existing utilities

a. Only a few of homeless unaccompanied high school students possess vehicles. The garage and driveway will be sufficient for the home's daily parking needs. There is also a driveway between the Church and the house that can be accessed from Wisconsin Avenue. This driveway is plowed and maintained during the winter months and does allow for additional parking if the need arises. There is a gate which does allow for entry into the backyard of the house.

b. Traffic circulation will not be affected as only six individuals will reside in the home and only a few will possess a vehicle. And there is the extra parking area between the church and house which would eliminate congestion.

c. There is a large open space between the church and the house that allows for recreational activities.

d. There is already a fence encircling both the front and back of the house.

e. The house currently has landscaping and landscaping with continue to be provided by volunteers and the high school students living in the home.

f. There will be no Sparrow's Nest signage on the property.

g. There is no need for the undergrounding of new utilities.

h. There are no issues with the undergrounding of existing utilities.

5. Are all necessary public services and facilities available and adequate? If not, how will public services and facilities be upgraded?
   a. Sewer
   b. Water
   c. Stormwater
   d. Fire Protection
   e. Police Protection
   f. Street (public or private)

g. Parks (residential only)
h. Sidewalks
i. Bike/pedestrian ways – including connectivity to existing and proposed developments

All utilities and public services currently exist and are operational. There will not be a need to add or upgrade any facilities or public services.

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

   a. There will be no excessive traffic generated as the home will continue to be used residentially and only a few of the six residents will possess vehicles.

   b. No vibrations, dust, glare, heat, smoke, fumes, or odors will be present as a result of the Sparrow's Nest program to provide homeless unaccompanied high school students with a home. As there will be only five high school students and one resident manager residing in the home, there will be no more noise than the multi-family homes that border two sides of the property.

7. What are the proposed hours of operation?

   As the proposed project is a home for homeless unaccompanied high school students, the operation hours will be 24/7.

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

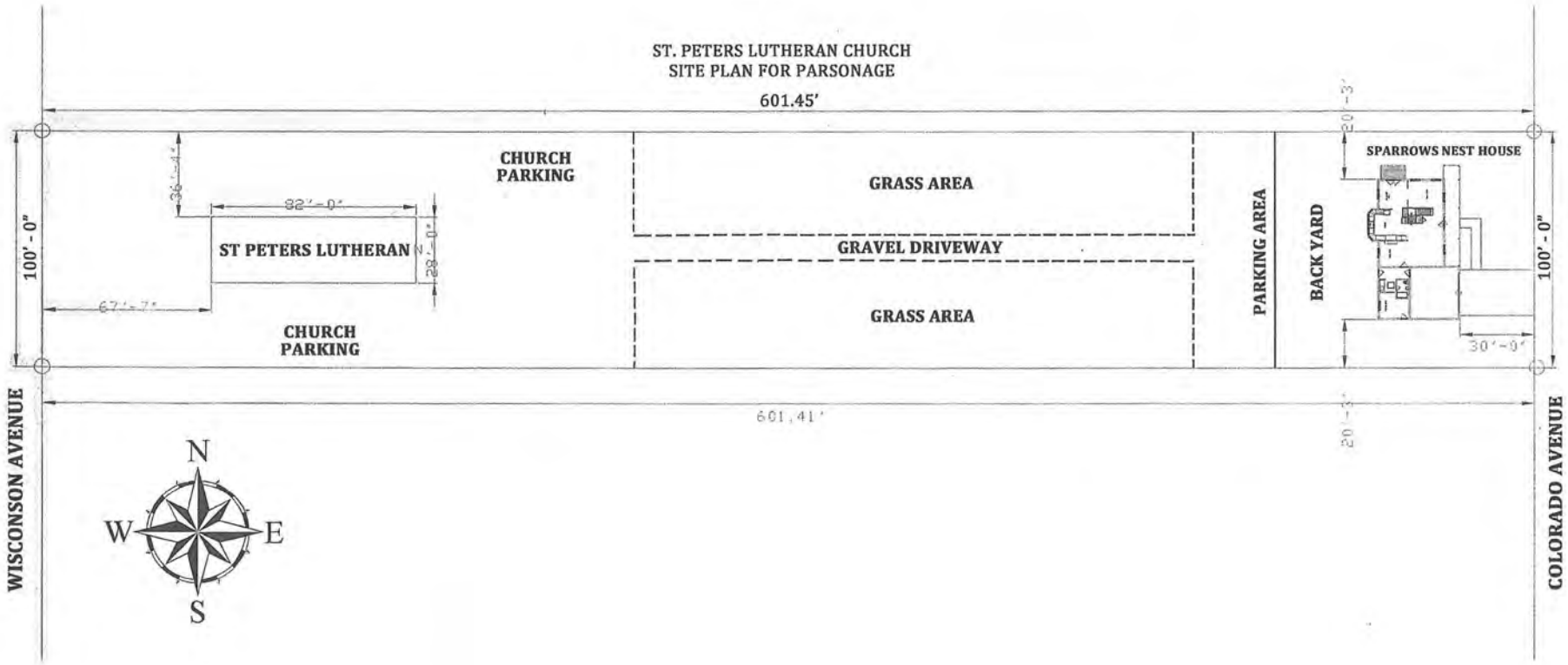
   a. The single-family home structure is already present on the property along with landscaping and fencing. No additions or exterior structural changes will be made to the house.

   b. The scale of the already present single-family home structure is equivalent to that of the multi-family homes bordering two sides of the property.

   c. The single-family home structure, yard, and style of the property are equivalent to that of the already existing neighborhood.

   d. WR-4 is zoned, as High Density Multi-Family Residential District and the structure will house six (6) individuals.

   e. The character of the Whitefish community will be bolstered by their support of these homeless unaccompanied high school students, providing a caring community that supports their need for a home.


ST. PETERS LUTHERAN CHURCH
SITE PLAN FOR PARSONAGE
601.45'
CHURCH PARKING
GRASS AREA
GRAVEL DRIVEWAY
GRASS AREA
PARKING AREA
BACK YARD
SPARROWS NEST HOUSE
ST PETERS LUTHERAN
82'-0"
36'-4"
28'-0"
67'-7"
30'-0"
20'-3"
100'-0"
CHURCH PARKING
601.41'
WISCONSON AVENUE
COLORADO AVENUE
N
W
E
S

St. Peter Lutheran Church
201 Wisconsin Ave, P.O. Box 883, Whitefish, MT 59937
Church Office: 406-862-3008, www.stpeterwhitefish.org

City Of Whitefish

Planning Board

To Whom It May Concern:

St. Peter Lutheran Church gives Sparrows Nest of Northwest Montana permission to apply for a Conditional Use Permit for 200 Colorado Ave. Whitefish MT.

Dale Barnes

Tina L. B

Dale & Tina Barnes

Trustees of St. Peter Lutheran Church

Whitefish, MT

Proclaiming the Gospel of Jesus Christ!

"Lord to whom shall we go? You have the words of eternal life." - John 6:68

Sparrow's Nest of Northwest Montana

Dedicated to ensuring safe and supportive housing for homeless high school students in Flathead County

RE: Question from Whitefish

1. The Sparrow's Nest of NW MT has a very thorough hiring process and will complete background searches on potential employees. We prefer applicants have a degree and experience but having experience in the field will be required. Every employee position with Sparrow's Nest of NW MT will call for different requirements and we will look to best practices to guide us during the hiring process.

2. Sparrow's Nest of NW MT will be serving unaccompanied homeless high school students that are focused on high school graduation. We have the option of completing background checks and screening our applicants at the highest level for mental health issues, drug and alcohol abuse, job references, school counselors, and teachers. It is our hope that our applicants will be chosen on their ability to be successful in our type of setting. Due to our level of screening the homeless unaccompanied high school students that are accepted into the program will be empowered to graduate from high school and become productive, contributing members of the community, as well as great neighbors in the City of Whitefish.

3. When housing over six unaccompanied homeless high school students the law requires that a home be licensed. In our Whitefish home Sparrow's Nest of NW MT will be housing no more then five unaccompanied homeless high school students and therefore by law no licensing in required.

If you have any future questions, comments our concerns please contact Sparrow's Nest of NW MT at sparrowsnestnwmt@gmail.com or call at 406-309-5196.

Donations may be sent to "Sparrow's Nest of Northwest Montana"
P.O. Box 8384 Kalispell, MT 59904

Sparrow's Nest of Northwest Montana

Dedicated to ensuring safe and supportive housing for homeless high school students in Flathead County

The Runaway and Homeless Youth Act has been, "giving homeless youth a voice since 1974". The act provides information on why youth are homeless:

- **Economic hardship due to the depressed economic climate forces some youth from their homes.**
- **Severe family conflict, including abuse and abandonment.**
- **42-74% experienced physical or sexual abuse and many young people are exploited after becoming homeless.**
- **Up to one-third "age out" of foster care with nowhere else to go.**
- **Families force them to leave due to pregnancy, substance abuse, or non-acceptance of sexual orientation.**
- **Nearly 100,000 exit the juvenile justice system yearly with little to no financial and housing resources.**

As of 1974, RHYA is the sole federal law targeted at unaccompanied youth, ensuring the basic level of support regardless of their state, origin or residence. Very few states have funding exclusive to this population.

RHYA programs use federal funds to leverage community resources and succeed due to partnerships created among families, schools, community-based organizations, faith communities, law enforcement, businesses and volunteers.

Donations may be sent to "Sparrow's Nest of Northwest Montana"
P.O. Box 8384 Kalispell, MT 59904

Wendy Compton-Ring

From: Michael Flannery <michael.darlene.flannery@gmail.com>
Sent: Saturday, November 14, 2015 4:24 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Sparrow's Nest

To: Whitefish City Council

From: Rev. Michael L. Flannery
Pastor of St. Peter Lutheran Church
Whitefish, MT

Dear Members of Whitefish City Council,

First of all thank you for considering the use permit for the property at 200 Colorado Ave, in Whitefish. That property is owned by St. Peter Lutheran Church at 201 Wisconsin Ave. For many years the house has been used by the pastors' families as their residence.

When my wife and I decided to come to St. Peter in mid-summer of 2013 we informed the congregation that we would like to our own property since we had three goats and a horse. So, days before that Thanksgiving we moved to the Star Meadows area. Since that time the congregation has sought a way in which the parsonage could be used in a positive fashion.

The following criteria were established to guide us in the process:

1. The parsonage was to be used for the good of the community. (It has to be community focused).

2. It would not be disruptive to the neighborhood.

3. It would provide a way for the church to do a caring ministry.

4. The use of the parsonage could not affect our non-profit status.

A committee was put in place to explore options under the agreed upon criteria.
The committee contacted the United Fund of Flathead County to get any input or suggestions. A meeting with them was held in the parsonage. They were surprised about the size and condition of the house. They were also enthused about how the parsonage could be used for the good of the community.

It was their recommendation that the committee Contact Sparrows Nest. We initially had a walk through with the Board of Directors Chairperson and others. Then our committee and representatives of our Church Council and their entire Broad met. Sparrow Nest's goals and objectives meet our all of our criteria.

We as a congregation feel this is a worthwhile and important endeavor in our area. The rate of teenage homeless is growing in our community. They need a safe place to sleep and live with healthy supervision. Our committee and congregation also are impressed with the process that Sparrow's Nest has in place to screen those who qualify for residency.

As Pastor of St. Peter Lutheran Church I heartily believe that housing homeless teens in our community can send a positive message to the teens but also to many others as well. The message is that we can give hope, encouragement and care to teenagers who so desperately need it!

Sincerely,

Pastor Michael L. Flannery
St. Peter Lutheran Church
Whitefish, Montana

Wendy Compton-Ring

From: Jennifer Retz <jenniferaretz@gmail.com>
Sent: Monday, November 16, 2015 2:29 PM
To: wcompton-ring@cityofwhitefish.org; sparrowsnestnwmt@gmail.com
Subject: Re: Sparrow's Nest of NW Montana - Whitefish Teen Home public comment

To Whom it May Concern:

I am writing to voice my opinion in regard to the Sparrow's Nest as proposed to be located on Colorado Ave.. My family and I live on Woodside Lane which is around the corner from where this home is located. With two small children, I do support this home but at the same time that support is guarded. It breaks my heart that we have homeless teens in our community and I applaud the efforts of this small group of community members and St. Peter's Lutheran Church for their efforts to meet this need.
That being said, I have an interest in following the progress of these kids, as well as feel the need to have a greater understanding of the criteria that these students are required to meet in order to 1.) get in the home; and 2.) be able to stay in the home. I'd like to know in greater detail what the "house rules" are and what disciplinary action this "program" would be able to take should the students fail to meet these requirements once they are already living in the home. Lastly, would the program be legally responsible for these teens and further for their actions? And, finally, if the conditional use permit is granted and this turns out to be a poor fit for the neighborhood, do we as community members and neighbors have any recourse?

Sincerely,
Jennifer Retz

November 16, 2015

Whitefish City Council
RE: Sparrow's Nest Conditional Use Permit Application

Dear Council Members,

We fully supports Sparrow's Nest's Conditional Use Permit Application for using the St. Peter Lutheran Church Parsonage to house homeless high school students This will provide a great service to a portion of our population that greatly needs our help. The St. Peter Lutheran Church Parsonage will be an excellent facility for this need. All of the housed youth will be fully supervised while being provided with a safe place to live while they continue their education.

Please give full consideration to this worthy Application.

Robert & Paula Sandman
134 Sandy River Way
Columbia Falls, MT 59912
(406) 862-3149

Wendy Compton-Ring

From: Linda and Rusty <rlwells@centurylink.net>
Sent: Monday, November 16, 2015 5:44 PM
To: wcompton-ring@cityofwhitefish.org
Subject: sparrows nest

To whom it may concern,

I'm writing this email in support of letting Sparrow's Nest of Northwest Montana use the St. Peter Lutheran parsonage.Since our parsonage is sitting empty, I feel that letting Sparrow's Nest utilize it as a safe place for homeless High School students in the Flathead would be a benefit to the community.The thoght that there are approximately 70 teenage kids living on the street or their car is heartbreaking. Please let our parsonage be a safe haven for some of these teens.

Sincerely,
Linda Wells
251 Haskill Basin Rd.
Whitefish,MT

This email has been checked for viruses by Avast antivirus software.
https://www.avast.com/antivirus

Wendy Compton-Ring

From: Linda and Rusty <rlwells@centurylink.net>
Sent: Monday, November 16, 2015 5:37 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Sparrows nest

I am writing in support of Sparrows Nest of Northwest Montana. I am in strong favor of their use of the Parsonage at St. Peter Lutheran. It would be a plus for our community to have this available for the homeless Whitefish students. Everything I have heard about the program is positive and would only benefit our community. Please lend your support and votes to this proposal.
Sincerely,
Rusty Wells
251 Haskill Basin Rd
Whitefish, MT

This email has been checked for viruses by Avast antivirus software.
https://www.avast.com/antivirus

Wendy Compton-Ring

From: Cheryl Wilder <4cwilder@gmail.com>
Sent: Monday, November 16, 2015 6:52 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Sparrow's Nest, Whitefish

I am writing in support of "Sparrows Nest" located on Colorado Ave. Whitefish.
There is a serious need for a safe, loving structured home for our teens.
I work for Whitefish School District.
I live across the street from the proposed location-

Cheryl Wilder

Sent from my iPad

Wendy Compton-Ring

From: Larry and Bette Brown <lbbrown@cyberport.net>
Sent: Tuesday, November 17, 2015 11:52 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Sparrow's Nest

I am writing in regard to the Sparrow's Nest of N.W. Mt. project for "Homeless children and youth". My wife & I are members of St. Peter Lutheran church and definitely give our full support to this much needed project. We feel Sparrow's Nest has a safe and well developed plan with 24 hr. supervision. We hope for the Planning Board's approval.

Sincerely,
Larry & Bette Brown

Wendy Compton-Ring

From: Dale Barnes <dbtl1101@gmail.com>
Sent: Wednesday, November 18, 2015 8:29 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Sparrow's Nest

Whitefish City Council,

We would like to tell the City Council that we feel that the home at 200 Colorado fits the neighborhood with multiple low income and multi-family dwellings. There are a lot of kids in the neighborhood and it is within walking distance to the high school. Please approve this conditional use permit as soon as possible, to get kids off the street. There is such a great need in this Valley and we need to start somewhere.

Thank You
Dale & Tina Barnes
406-261-4427

Wendy Compton-Ring

From: Ruth Harrison <snowstar@montanasky.us>
Sent: Wednesday, November 18, 2015 3:24 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Sparrow's Nest Project

Dear Wendy-
Please consider this letter in support of the Sparrow's Nest project in Whitefish. Thank you! Ruth

November 17, 2015

To the Whitefish City Council:

Please add my voice in support of the Sparrow's Nest project, and the opportunity to use the parsonage at St. Peter Lutheran Church. First, from my perspective as a District 44 trustee, I have been acutely aware of the plight of our homeless youth in the Flathead. While our Independent High School works hard to accommodate students from special circumstances, and our PTA and food services strive to meet kids' nutritional needs, we cannot actually offer a safe, warm place to sleep at night. Sparrow's Nest proposes to meet that need.

Second, in my role as a member of St. Peter Lutheran Congregation, I know the big heart of that church community. We are constantly looking for ways to make a meaningful contribution to the wellbeing of others, in spite of our aging, modest membership. Happily, the availability of our parsonage provides a perfect solution to serve some of the needs of our less fortunate and distressed youth population. It gives us all a sense of connection and purpose.

Third, because I foster a deep sense of pride in the thread of compassion that runs through the Whitefish community, I regard this joint effort as a perfect example of what makes ours a special place to live. I'd submit that this sort of nurturing and impactful contribution in support of children in need, immeasurably adds to our value as an outstanding place for families to put down roots!

Please keep up the efforts on behalf of our youth! Thanks for all you do!

Yours,

Ruth Harrison, Community member and Trustee SD #44

862-2657

Wendy Compton-Ring

From: Michelle Howke <mhowke@cityofwhitefish.org>
Sent: Thursday, November 19, 2015 3:53 PM
To: 'Wendy Compton-Ring'
Cc: 'Bailey Minnich'
Subject: Sparrows Nest

Whitefish Planning Board,

My plan was to attend the Planning Board meeting tonight, but I am not able to. I live at 697 Waverly Place which is kitty corner to the proposed Sparrows Nest location. Myself and my boyfriend are in support of the Sparrows Nest only if there is a resident manager at all times.

We feel this is a great opportunity for students who have no place else to turn.

MICHELLE HOWKE
City of Whitefish
Customer Service Clerk/Ambulance Billing Clerk
PO Box 158
Whitefish, MT 59937
406-863-2403

November 23, 2015

106 Murray Avenue
Whitefish, Montana 59937

Dear Mayor Muhlfield and City Council members,

Re.: Sparrow's Nest of Northwest Montana

The Sparrrow's Nest has been given a home in Whitefish which is dedicated to housing homeless high school students. This home will help ensure our town's homeless youth have safe local housing.

When you leave Council tonight you do not have to think of couch surfing, doubling up with relatives or friends, living in a car or truck, staying at a motel or campground, fleeing from an abusive home, escaping familial breakdown, or mitigating financial hardship. There are youth in our own community, however, who face these situations each day, and lack a regular nighttime residence.

Each person in Whitefish deserves adequate housing. Our youth are our future, and each one's safety is our responsibility. I urge you to vote to allow a Condition Use Permit for a Sparrow's Nest home in Whitefish.

Thank you.

Sincerely,

Gail Shay Linne

Sparrow's Nest of Northwest Montana

Dedicated to ensuring safe and supportive housing for homeless high school students in Flathead County

October 28th, 2015

Dear Neighbor:

We are writing to tell you about the situation with some of our high school students in Whitefish and the Flathead Valley. There are a number of homeless unaccompanied high school students at the five high schools in the area. These students do not have a responsible parent, adult or guardian in their lives and are homeless on their own. Becoming more aware of their situation, a group of concerned parents, teachers and counselors organized a group to help these students and this group is called "Sparrow's Nest Northwest Montana". Registered 501(c)(3).

The Mission of Sparrow's Nest is dedicated to ensuring safe, supportive housing for high school students facing homelessness in Flathead County. Our goal is to enable our teens to graduate from high school and become productive, contributing members of our community.

St. Peter's Lutheran Church of Whitefish has offered Sparrow's Nest the use of their house located at 200 Colorado Avenue. This is a 5 bedroom home and we have filed the Conditional Use Permit with the Whitefish City Planning Department to occupy the house with a maximum of 6 people (5 high school students and an adult resident manager). You will be receiving a letter from the Planning Department in the next several days.

We want to introduce Sparrow's Nest to you on a more personal level and assure you that this program will hold these homeless unaccompanied high school students to a strict standard. All of these young people must meet certain requirements in order to live at the house. They must be alcohol and drug free (tested on a random basis), be enrolled and active in high school and adhere to the rules of the house (curfews and 24 hour adult supervision). The students will be required to share the daily chores of cleaning, cooking, laundry and yard work.

The logistics of parking are addressed in the Conditional Use Permit and the house has a 2 car garage and large driveway. There is also a driveway between the Church and the house that can be accessed from Wisconsin Avenue. That driveway is plowed and maintained during the winter months and does allow for additional parking if the need arises. There will not be any additions or changes to the exterior of the house and no signage on the property either.

This home will be a family unit for these high school students and will give them the needed stability in their lives as they pursue their high school diploma. We invite you to learn more about Sparrow's Nest on our website at www.sparrowsnestnwmt.org or to call us at (406) 309-5196. Please ask for Marcia Bumke or Laura Kochis and we would be more than happy to talk with you.

Sincerely,

Marcia Bumke – Chair
Linda Kaps – Vice Chair
Chuck Jensen – Treasurer/Secretary

Stacey Schultz
Rod Stell
Laura Kochis

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ORDINANCE NO. 15-18

ORDINANCE REAFFIRMING THE PRIOR APPROVAL OF THE CITY HALL PROJECT AND PARKING STRUCTURE PROJECT, DESIGNATING THE PROJECTS AS URBAN RENEWAL PROJECTS AND APPROVING THE FINANCING THEREOF

BE IT ORDAINED by the City Council (the "Council") of the City of Whitefish, Montana (the "City"), as follows:

Section 1. Recitals.

1.01. The City, by Ordinance No. 87-3, passed and approved on May 4, 1987 (the "Original Ordinance"), created an urban renewal district (the "District") and adopted the City of Whitefish Urban Renewal Plan (the "Original Plan") for the District pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"), which Original Plan contained a provision for tax increment financing. The Original Ordinance, as amended from time to time by ordinances of the Council, is referred to herein as the "Ordinance." The Original Plan, as amended from time to time in accordance with the Act and pursuant to the Ordinance, is referred to herein as the "Plan."

1.02. Pursuant to the Act and the procedures contained in the Ordinance, by Resolution No. 15-48, adopted November 2, 2015 (the "Resolution of Intention"), the City set forth its intention to use tax increment in an amount sufficient to finance all or a portion of certain urban renewal projects and has undertaken to reaffirm its prior approval of the following (the "Projects") and to designate the Projects as urban renewal projects:

(a) The City Hall Project. The City Hall Project consists of designing and constructing a new City Hall facility of approximately 24,200 square feet, including basement space, to be located on the corner of Baker Avenue and 2nd Street.

(b) The Parking Structure Project. The Parking Structure Project consists of designing and constructing a new parking structure of approximately 81,400 square feet, including approximately 3,000 square feet of retail space and approximately 212 parking spaces, to be constructed on Baker Avenue adjacent to the City Hall Project.

1.03. The total construction cost of the Projects is estimated to be $14,952,637. To pay for a portion of the costs of the Projects and associated financing costs, the City proposes to issue tax increment revenue bonds in the estimated amount of $9,800,000 (the "Bonds"). Costs of the Projects in excess of the proceeds of the Bonds will be paid from tax increment funds on hand, amounts on hand in the City Hall/Parking Structure Construction Reserve Fund and, with respect to the Parking Structure Project, proceeds of special improvement district bonds expected to be issued in the estimated amount of $880,000. The Bonds proposed to be issued would be payable from the tax increment revenue generated in the District.

1.04. Pursuant to the Resolution of Intention, a public hearing was duly noticed and held on December 7, 2015, at which all persons wishing to speak were given the opportunity to address the Council with respect to designation of the Projects as urban renewal projects and the financing thereof with tax increment revenues.

Section 2. Findings. The Council hereby finds, with respect to each of the Projects, as follows:

(a) a workable and feasible plan exists for making available adequate housing for any persons who may be displaced by the Projects;

(b) the Plan and the Projects conform to the comprehensive plan or parts thereof for the City has a whole;

(c) the Plan and the Projects will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise;

(d) based on the findings and recommendations of Springsted, Inc., the City's financial advisor, using estimated annual tax increment receipts of $5,378,436 per year, the City can issue and pay annual debt service on approximately $9,800,000 of Bonds. The proceeds of the Bonds and the other funds identified in Section 1.03 hereof will be adequate to cover the costs of the Projects. Thus, there is a sound and adequate financial program for the Projects, based on construction estimates as of the date of this Ordinance; and

(e) each of the Projects constitutes an urban renewal project within the meaning of the Act and the Plan.

Section 3. Approval of Projects and Financing.

3.01. The City Hall Project has previously been approved by the Original Plan, Ordinance No. 08-19, Resolution No. 12-31 and Resolution No. 15-07, as more particularly described in the Resolution of Intention. The City Hall Project is hereby approved and designated as an urban renewal project.

3.02. The Parking Structure Project has previously been approved by the Original Plan, Ordinance No. 08-19, Resolution No. 12-31 and Resolution No. 15-07, as more particularly described in the Resolution of Intention. The Parking Structure Project is hereby approved and designated as an urban renewal project.

3.03. The Council approves the use of tax increment revenues to finance a portion of the Projects and sets forth its intention to issue Bonds in the estimated principal amount of $9,800,000.

Section 4. Effect. This Ordinance shall take effect from and after 30 days of its passage by the City Council and approval by the Mayor.

PASSED, ADOPTED and APPROVED on first reading this 2nd day of November, 2015.

Mayor

Attest: _____
City Clerk

PASSED, ADOPTED and APPROVED on second reading this 7th day of December, 2015.

_____
Mayor

Attest: _____
City Clerk

CERTIFICATE AS TO ORDINANCE AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Whitefish, Montana (the "City"), hereby certify that the attached ordinance is a true copy of an ordinance entitled: "ORDINANCE REAFFIRMING THE PRIOR APPROVAL OF THE CITY HALL PROJECT AND PARKING STRUCTURE PROJECT, DESIGNATING THE PROJECTS AS URBAN RENEWAL PROJECTS AND APPROVING THE FINANCING THEREOF" (the "Ordinance"), on file in the original records of the City in my legal custody; that the Ordinance was duly presented for first reading by the City Council of the City at a regular meeting on November 2, 2015, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

WITNESS my hand and seal officially this 3rd day of November, 2015.

(SEAL)

CITY OF WHITEFISH CORPORATE SEAL MONTANA

Necile Lorang

City Clerk

I further certify that the Ordinance was duly adopted on second reading by the City Council of the City at a meeting on December 7, 2015, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Ordinance at said meeting, the following Council members voted in favor thereof: _____ _____; voted against the same: _____; abstained from voting thereon: _____; or were absent: _____ _____.

WITNESS my hand and seal officially this ____ day of December, 2015.

(SEAL)

_____

City Clerk

MEMORANDUM
#2015-036

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report –A Resolution and An Ordinance reaffirming prior approvals of the City Hall and Parking Structure projects; Designating them as Urban Renewal Projects, and approving the financing of the Projects using Tax Increment Bonds

Date: October 13, 2015

Introduction/History

In working with our Bond Counsel, Dorsey and Whitney of Missoula, on our upcoming Tax Increment Bond issue for the City Hall and Parking Structure project, they reviewed our Urban Renewal Plan (attached to this report) and our prior approvals of the City Hall and Parking Structure project (see summary memo attached to this report). While the City Hall project was contemplated in the Urban Renewal Plan as far back as 1987, it was in a different location as described in the Urban Renewal Plan. Also, while parking problems were generally described as a condition limiting the economic development of the City, the mention of a parking structure at the proposed location was not specifically identified in the Urban Renewal Plan. Therefore, despite the prior City Council approvals of the project, the Bond Counsel would like us to adopt a Resolution of Intention and an Ordinance to reaffirm our prior approvals of the City Hall and Parking Structure project, designate them as specific Urban Renewal projects, and approve the financing of the projects with a $9,800,000 Tax Increment Bond.

Current Report

The proposed sources and uses of funds for the upcoming $9,800,000 Tax Increment Bond issue are attached to this report. In addition to the bond issue, we would use current funds earmarked and accumulated since 2003 (Resolution 03-63), TIF funds budgeted in 2015, proceeds from the Special Improvement District #167 bond issue, and City Hall impact fees.

The proposed Resolution of Intention and Ordinance are contained in the packet. The Resolution and Ordinance (First Reading) contemplate a public hearing on December 7th

followed by a second reading of the Ordinance. The remaining schedule for the issuance of the Tax Increment Bond for the City Hall and Parking Structure is shown below:

November 2, 2015—adopt resolution of intention (containing findings and calling public hearing) and first reading of ordinance

December 7, 2015—public hearing; second reading of ordinance

January 6, 2016—ordinance is effective (30 days after 2nd reading)

February 1, 2016—adopt parameters resolution for TIF bond sale

February 8, 2016—execute Bond Purchase Agreement with First Interstate Bank and Glacier Bank – sets the pricing of the bond issue

February 16, 2016—adopt bond resolution (February 15 is President's Day)

March 1, 2016—close on bond issue; receive funds

Financial Requirement

Dana Smith and I have worked with our Financial Advisor, David MacGillvray of Springsted, Inc. of Minneapolis on various aspects of the upcoming Tax Increment Bond for the City Hall and Parking Structure. As you can see in the attached sources and uses of funds for the bond issue, funds on hand and accumulated, along with Impact Fees, and $750,000 from the Parking Structure SID #167 would result in a bond size of $9,800,000.

It is desirable to keep the total of all of our tax-exempt bond issues in 2016 under $10,000,000 because, if we issue less than $10,000,000 for all tax-exempt bond issues in 2016, the bonds can be deemed "bank qualified" which enables a lower interest rate. (See attached document describing "bank qualified" bonds). Pursuant to our term sheet from First Interstate Bank and Glacier Bank, having "bank qualified" bonds would save us 15 basis points or an interest rate differential of 0.15%. Over the five year life of the bond, the "bank qualified" designation would save us approximately $46,000.

We also have to be sure that our future bond issue is not deemed a "private activity" bond, where no more than 10% of the proceeds of a bond issue can be used to benefit private enterprise or private activities. Our leases of the retail space and the parking spaces are considered "private activities" because they benefit private, not public interests. However, with over $5,000,000 of funds spent to date, saved up from Tax Increment funds over the years, and budgeted in FY16, we should be able to designate those funds, rather than the funds from the bond issue as applying toward the construction costs of the retail lease space and the parking spaces. We and bond counsel are still doing those calculations.

If the bond were to exceed the 10% threshold, we could issue the bonds as taxable bonds. However, if you look at the term sheet attached to this memo from First Interstate Bank and Glacier Bank, the interest rate premium for a taxable bond is 130 basis points or a 1.3% premium

on our bond issue. That interest rate premium over five years would cost us approximately $400,000 more in interest cost than if we can issue tax exempt bonds.

The issuance of $9,800,000 of bonds is based on the current City Council approval limit for City Hall/Parking Structure construction and ancillary costs of $14,952,636 (see attached allocation breakdown of June 15, 2015). If there are higher costs that we have to incur (remember there will likely be some significant savings of $300,000 to $400,000 for the ancillary costs (column T of the attachment for our interim City Hall lease, moving costs, Owner's Representative contract, parking structure equipment, etc.), we will have some flexibility in future year TIF revenues (see attached pro-forma spreadsheet) or we can always delay other TIF projects such as Depot Park Master Plan. Therefore, as described above, it is good to leave the sizing of our bond issue at $9,800,000.

As the Sources and Uses sheet, the Debt Service schedule, and the TIF pro-forma scheduled through 2020 attached to this report show, we can finance this $9,800,000 bond issue and the City Hall/Parking Structure project within our current revenues and adopted City Council budget for the project. We can also finance some additional costs if the City Council wanted to consider additional costs once we get all of the cost estimates in.

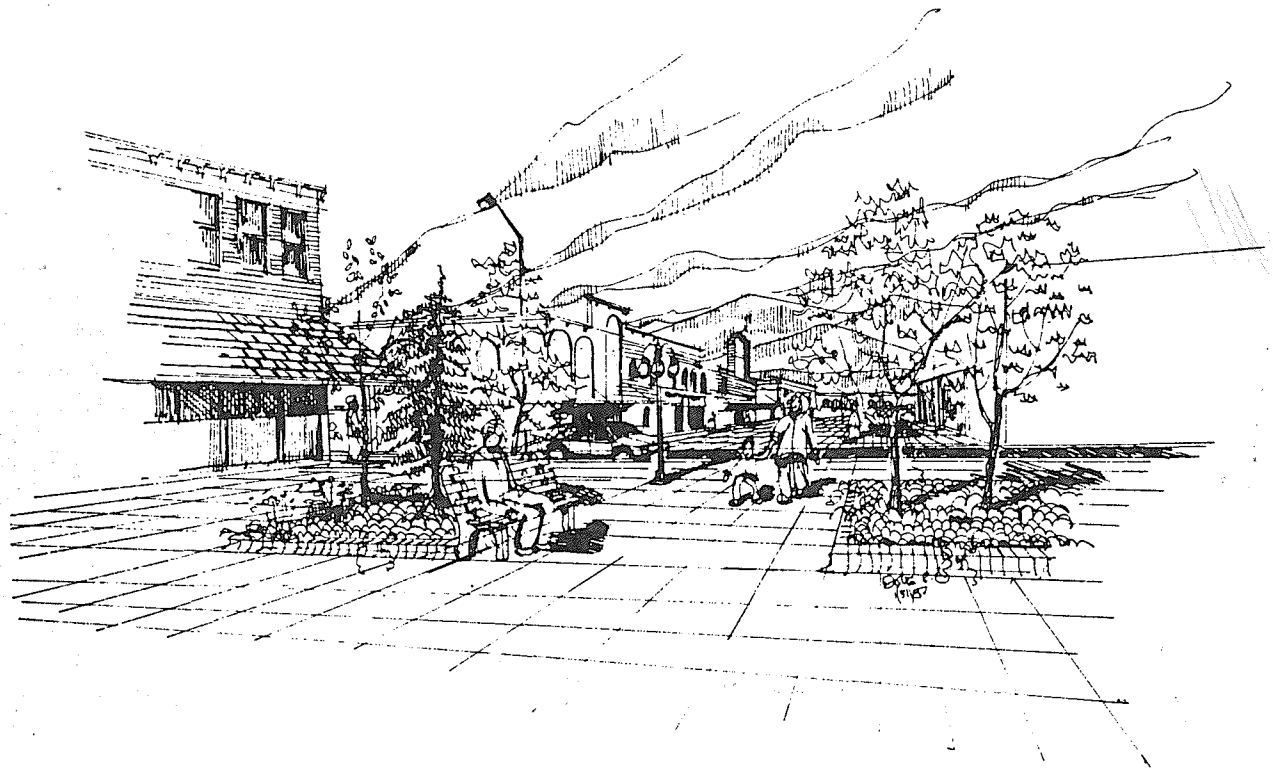
Recommendation

Staff respectfully recommends the City Council adopt A Resolution of Intention to adopt an Ordinance Reaffirming the Prior Approval of the City Hall Project and Parking Structure Project, Designating the Projects as Urban Renewal Projects, and approving the use of Tax Increment Revenues to finance the projects; and calling a public hearing thereon.

Staff respectfully recommends the City Council adopt Ordinance No. 15-18 at First Reading; An Ordinance reaffirming the prior approval of the City Hall Project and Parking Structure Project, Designating the projects as Urban Renewal Projects and approving the financing thereof (First Reading)

FILE COPY

THE CITY OF WHITEFISH URBAN RENEWAL PLAN



MARCH 1987

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Prepared by Ralph Freedman
Whitefish City Manager
March 1987

INTRODUCTION

The City of Whitefish is a community that must confront many complex issues during the next several years. The direction of Whitefish will be determined in large part by how successful these issues are addressed. From a city that incorporated in 1905 until today, the reasons for its growth were predominantly dependent on its location and the recreational resources of the area.

In the early years of its existence, Whitefish could be best described as a railroad town. It had the highest ratio of railroad employees to population of any city on the Great Northern System. In 1925, the railroad payroll in Whitefish exceeded $1.6 million. The lumbering industry and to a smaller degree, dairying, were also somewhat important to the city's economy. Technological changes in locomotives led to the movement of the Division point from Whitefish to Spokane after 1950. Despite maintaining its importance as a major terminal point, Whitefish saw railroad manpower and investments diminish when it was no longer the Division point.

Fortunately, the tourism industry began its important contribution to the Whitefish economy in 1947 with the opening of the Big Mountain Ski Resort. That opening marked the start of Whitefish's dependence on tourism as its major industry. Tourism gradually increased over the years and now has a much greater economic impact on Whitefish than does the railroad industry.

The problems of being a tourism community are different than the problems that confront most other communities in this state. The need to supply a higher level of services and infrastructure are critical because Whitefish must continue to provide an environment that attracts tourists to this community. This Urban Renewal Plan will address many of the improvements that Whitefish must undertake in order to continue their economic well-being. The outward appearance and the economic stability of Whitefish will be important reasons why tourists will continue to be attracted to this community. This plan will outline some of the needed improvements in order to provide city leaders with a framework for future growth, redevelopment and revitalization, and how this community can finance these improvements.

The median age of the Whitefish Population has increased from 30.5 in 1970 to 31.1 in 1980. This figure may be somewhat misleading because it tends to distort possible trends that may be happening in Whitefish. The retirement of many former railroad workers in Whitefish has had a significant impact on the median age of this community. The lessening impact of the railroad on Whitefish should cause the median age of Whitefish residents to stabilize and perhaps decrease in the next several decades.

It is interesting to note that 21.4% of the Whitefish population was between 20 and 39 in 1970 and 34.8% of the Whitefish population was in this category in 1980. This may be a trend to watch during the next ten years. Once again, the ability of the Whitefish community's success in addressing a framework for future growth, redevelopment, revitalization and job creation could indirectly affect many demographic trends in the future. By providing a community that is progressing forward in several areas, the creation of job opportunities will attract young people to Whitefish.

AGE GROUPS
WHITEFISH
1970 & 1980

	1980				1970			
Age	Male	Female	T	%	Male	Female	T	%
0-4	143	105	248	6.7	147	141	288	8.6
5-9	134	138	272	7.3	175	136	311	9.3
10-14	108	107	215	5.8	166	189	355	10.6
15-19	145	114	259	7.0	180	157	337	10.1
20-24	174	180	354	9.6	71	115	186	5.6
25-29	168	179	347	9.4	101	80	181	5.4
30-34	196	171	367	9.9	86	92	178	5.3
35-39	110	107	217	5.9	71	98	169	5.1
40-44	86	81	167	4.5	93	96	189	5.6
45-49	65	92	157	4.2	108	86	194	5.8
50-54	95	84	179	4.8	105	119	224	6.7
55-59	103	96	199	5.4	78	80	158	4.7
60-64	92	114	206	5.6	66	85	151	4.5
65-69	64	81	145	3.9	48	67	115	3.4
70-74	49	74	123	3.3	48	66	114	3.4
75-79	35	67	101	2.7	45	50	95	2.8
80-84	28	48	77	2.1	30	30	60	1.8
85+	15	55	70	1.9	25	19	44	1.3
TOTAL	1,810	1,893	3,703	100.0%	1,643	1,706	3,349	100.0%

Source: U.S. Census

DEFINITIONS

The following terms used in this document shall have the following meanings unless a different meaning is clearly indicated by the context:

1. "AGENCY" or "URBAN RENEWAL AGENCY" shall mean a public agency created by the local governing body as allowed by 7-15-4232.

2. "BLIGHTED AREA" shall mean an area which is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime; substantially impairs or arrests the sound growth of the city or its environs; retards the provisions of housing accommodations; or constitutes an economic or social liability and/or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use.

3. "BONDS" shall mean any bonds, notes, or debentures (including refunding obligations) herein authorized to be issued.

4. "CLERK" shall mean the clerk or other official of the municipality who is the custodian of the official records of such municipality.

5. "FEDERAL GOVERNMENT" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

6. "LOCAL GOVERNING BODY" shall mean the council or other legislative body charged with governing the municipality of the City of Whitefish.

7. "MAYOR" shall mean the chief executive of the city.

8. "MUNICIPALITY" shall mean the City of Whitefish.

9. "OBLIGEE" shall include any bondholder or agent or trustee for any bondholder or lessor demising to the municipality property used in connection with an urban renewal project or any assignee or assignees of such lessor's interest or any part thereof and the federal government when it is a party to any contract with the municipality.

10. "REDEVELOPMENT" may include:

    a. acquisition of a blighted area or portion thereof;

    b. demolition and removal of buildings and improvements;

THE PEOPLE

An analysis of Whitefish or any other community must include some discussion of the demographics of the community. By analyzing the population and other population trends, one can better understand the direction of the community.

Whitefish cannot be viewed only from an incorporated city perspective. More people reside in the Whitefish Rural Planning Jurisdiction than reside within the city limits of Whitefish. Why even mention the population in the rural area outside of the city limits? These people have a tremendous economic impact upon the businesses within the City and these people play an important role in determining how the City will develop in future years. One must also assume based upon current City policy, these rural areas will be annexed into the City in order to receive water and/or sewer services. Both the water and sewer system of the City of Whitefish have been and will be constructed to serve a population much greater than currently resides within the city limits.

The 1980 U.S. Census indicated that 3,703 people resided in the City and 4,410 people resided in the Whitefish Rural Planning Jurisdiction. The growth rate in Whitefish during the last two decades has been 13% and 10% per decade respectively. The growth rate during the balance of the 1980's will be based in large part on how successful Whitefish is in resolving the problems that both restrict our ability to appeal and to service the tourists on a year-round basis.

WHITEFISH POPULATION

YEAR	POPULATION
1910	1479
1920	2867
1930	2803
1940	2602
1950	3268
1960	2965
1970	3349
1980	3703

Source: U.S. Census 1910 - 1980

The resort community character of Whitefish has led to a noticeable change in whether residents of Whitefish are coming from Montana or from other states. In 1970, only 51% (1,727) of the residents of Whitefish were born in Montana. By 1980, this figure had dropped to 48% (1,782). During the decade of the 1970's, only 55 of the 354 new residents in Whitefish were native Montanans.

c. installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this part in accordance with the urban renewal plan: and

d. making the land available for development or redevelopment by private enterprise or public agencies (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with the urban renewal plan.

11. "REHABILITATION" may include the restoration and renewal of a blighted area or portion thereof in accordance with an urban renewal plan by:

a. carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;

b. acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthy, unsanitary, or unsafe conditions; lessen density; reduce traffic hazards; eliminate obsolete or other uses detrimental to the public welfare; to otherwise remove or prevent the spread of blight or deterioration; or to provide land for needed public facilities;

c. installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this part; and

d. the disposition of any property acquired in such urban renewal area (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with such urban renewal plan.

12. "URBAN RENEWAL AREA" means a blighted area which the local governing body designates as appropriate for an urban renewal project or projects.

13. "URBAN RENEWAL PLAN" means a plan, as it exists from time to time, for one or more urban renewal areas or for an urban renewal project, which plan:

a. shall conform to the comprehensive plan or parts thereof for the municipality as a whole; and

b. shall be sufficiently complete to indicate, on a yearly basis or otherwise:

i. such land acquisition, demolition, and removal of structures; redevelopment; improvements; and rehabilitation as may be proposed to be carried out in the urban renewal area;

ii. zoning and planning changes, if any;

iii. land uses, maximum densities, building requirements; and

iv. the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

14. "URBAN RENEWAL PROJECT" may include undertakings or activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of blight and may involve redevelopment in an urban renewal area, rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan.

THE URBAN RENEWAL LAW

The City of Whitefish under the Urban Renewal Law of the State of Montana has the ability to address the need for redevelopment and rehabilitation of blighted areas. Section 7-15-4202, MCA presents a statement of policy on the existence of blighted areas and the resulting problems as follows:

(1) That blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state, exist in municipalities of the state;

(2) That the existence of such areas:

(a) contributes substantially and increasingly to the spread of disease and crime and depreciation of property values;

(b) constitutes an economic and social liability;

(c) substantially impairs or arrests the sound growth of municipalities;

(d) retards the provision of housing accommodations;

(e) aggravates traffic problems; and

(f) substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and

(3) That the prevention and elimination of such areas is a matter of state policy and state concern in order that the state and its municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, are conducive to fires, are difficult to police and to provide police protection for, and, while contributing little to the tax income of the state and its municipalities, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization, and other forms of public protection, services, and facilities.

Any urban renewal program to be successful must be a combination of public and private resources. The Urban Renewal Law encourages the use of private enterprise in a community's workable urban renewal program. A workable program may include but not be limited to the following:

1. The prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards;

2. The rehabilitation of blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements; by encouraging voluntary rehabilitation; and by compelling the repair and the rehabilitation of deteriorated or deteriorating structures; and

3. The clearance and redevelopment of blighted areas or portions thereof. (7-15-4209, MCA).

In order for a municipality to exercise any of the powers provided to it under the Urban Renewal Law, the local government must adopt a resolution finding that:

(1) One or more blighted areas exist in such municipality; and

(2) The rehabilitation, redevelopment, or a combination thereof of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of such municipality (7-15-4210, MCA). The Whitefish City Council at a regular meeting on September 8, 1986 unanimously passed Resolution 86-36, that found that the above two conditions do exist throughout the entire City of Whitefish. With the passage of this resolution, the City Council has opened the way for this community to utilize the powers contained in the Urban Renewal Law.

RESOLUTION NO. 86-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ADOPTED PURSUANT TO 7-15-4210, MCA FINDING THAT ONE OR MORE BLIGHTED AREAS AS DEFINED IN THE LAW EXIST WITHIN THE CITY, AND THE REHABILITATION, REDEVELOPMENT, OR A COMBINATION THEREOF OF SUCH AREA OR AREAS IS NECESSARY IN THE INTEREST OF PUBLIC HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF THE CITY; AND AUTHORIZING THE PREPARATION OF AN URBAN RENEWAL PLAN.

WHEREAS, the City Council of the City of Whitefish, Montana, finds that one or more blighted areas exist within the City, which blighted area or areas is such that there is substantially impaired or arrested the sound growth of the City or its environs, and constitutes an economic or social liability and/or is detrimental or constitutes a menace to the public health, safety, and welfare in its present condition and use by reason of particularly, but not limited to, the substantial physical dilapidation, deterioration, defective construction, material, and arrangement and/or age obsolescence of buildings and improvements; by reason of defective or inadequate street layout; unsanitary or unsafe conditions; the existence of conditions which endanger life or property by fire or other causes; or any combination of such factors; and

WHEREAS, the City Council of the City of Whitefish, Montana, finds that the rehabilitation of such area or areas is necessary to the interest of public health, safety, and welfare of the residents of the City, such rehabilitation to include the restoration and renewal of blighted area or areas in accordance with an urban renewal plan by including, but not limited to, the acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary, or unsafe conditions; lessen density; reduce traffic hazards; eliminate obsolete or other uses detrimental to the public welfare; to otherwise remove or prevent the spread of blight or deterioration; to provide land for needed public facilities; to install, construct, or reconstruct streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area rehabilitation; and

WHEREAS, the City Council of the City of Whitefish, Montana, finds that redevelopment of such blighted area or areas is necessary in the interest of the public health, safety, and welfare of the residents of the City which may include, but not be limited to, the installation, construction, or reconstruction of streets, utilities, parks, playgrounds, or other improvements necessary for carrying out in the area an urban renewal plan; and

WHEREAS, State Law provides that a Municipality, such as the City of Whitefish may formulate a workable program for utilizing appropriate private and public resources to eliminate and prevent the development or spread of blighted areas, to encourage needed urban rehabilitation, to provide for the redevelopment of such areas, and/or to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program;

NOW, THEREFORE, it is resolved by the City of Whitefish, Montana, that pursuant to 7-15-4210, MCA the City finds that one or more blighted areas exist in the City of Whitefish; and that the rehabilitation, redevelopment, or combination thereof of such blighted area or areas is necessary in the interest of public health, safety, and welfare of the residents of the City.

Also, having found such to exist as hereinabove set forth, declares that necessary and appropriate steps shall be taken to prepare and establish an urban renewal plan for presentation before the City Council at a public hearing after appropriate notice thereof having been given, to determine whether such urban renewal plan and project shall be approved.

PASSED AND ADOPTED by the City Council of the City of Whitefish, Montana, this 8th day of September, 1986, and approved by the Mayor thereof on the same date.

/s/ CARROLL AMASS
Carroll Amass - Mayor

ATTEST:

/s/ Helen M. Doyle
Acting City Clerk

THE COMPREHENSIVE PLAN

Recently the Whitefish City Council approved a new Whitefish City-County Comprehensive Plan. In the near future, it is anticipated that the Flathead County Board of County Commissioners will approve this new Comprehensive Plan. The Comprehensive Plan states in the introduction the following: "It is a policy plan intended to guide decisions concerning the physical, social, economic and environmental development of the Planning Jurisdiction. The essential characteristics of the plan are that it is comprehensive, general and long-range." The Plan's six major elements are as follows: Agriculture, Transportation, Housing, Public Facilities and Parks and Recreation. The Comprehensive Plan should serve as a framework for guiding the actions of this community as they affect the above mentioned elements.

This Urban Renewal Plan in conjunction with the Comprehensive Plan will provide Whitefish with a framework for future growth and development. Many of the ideas and projects in the Urban Renewal Plan are embodied in the many common themes that are contained in the Comprehensive Plan. These two documents should be utilized together in order to provide the user with a better understanding of the direction that Whitefish is seeking.

THE URBAN RENEWAL AREA

This Urban Renewal Plan will focus on many redevelopment objectives and specific improvements that are needed in the City of Whitefish. These needs are not localized in any area or areas. The areas that need redevelopment and rehabilitation are numerous and some areas have more severe problems than others.

The urban renewal area as it applies to all provisions within this plan will encompass all lands within the City of Whitefish City Limits excepting therefrom the following described lands.

1. Birch Hill Homes Subdivision
2. Assessor Tract Numbers 7R, 7RA,7W, 7WA, 7WB, 7WC, 7Y, 7X, 7YA, 7XA, 7U, 7V, 7VA in the north half of Gov't Lot 1 of 25-31-22;
3. Glenwood Estates #1 and #2 and Resubdivisions and Amemdments thereof;
4. Glenwood Park Subdivision
5. Assessor Tract Numbers 5G, 5B, 5I, 5F, 6, 6A in Gov Lot 2 of 25-31-22;
6. Assessor Tract Numbers 7HA, 7HAC, 7HAB, 7HB, 7HBF, 7HBE, 7HBB, 7HBA, 7HBC, 7HAA all in the west half of Gov't Lot 3 of 25-31-22;

7. Bay Point Estate Condominiums and common area tracts including Assessor Tract Numbers 7HCJ, 7HCK, 7HC, 7HCL, 7MC, 7H, 7QAB, 7HD in Gov't Lot 3 of 25-31-22;
8. Birch Point Subdivision, Amendments and Resubdivisions thereof; Birch Point Condominium;
9. Moe Addition and Four Seasons Condominium;
10. Assessor Tract Numbers 3CCB, 3CCC, 3CCF, 3CCH, 3CCJ, 3CCE, 3CCD all being in Gov't Lot 5 of 26-31-22, north of BNRR; and Oliver-Rector Condominium;
11. Ramsey Addition Block 4 and Amendments thereof;
12. Stidhams Lake Place and Stidhams Lake Place 2;
13. Assessor Tract Numbers 4B, 4BCA, 4BC, 4BB, 4BBA, 4CB, 4C, 4CA, 4CAA, 4D all in Gov't Lot 3 in 26-31-22, north of BNRR;
14. Lake Park Addition to Whitefish, Block 7, Lots 1 through 6, and Block 5, Lots 2,3,4 and Block 6, Lots N1/2 of 1, all of 2 and 3;
15. Whitefish Lake Golf Course and Whitefish Cemetery;
16. Fox Farm Addition;
17. Orchard View Subdivision, Amendments and Resubdivisions thereof;

18. The area South of East 2nd Street, East of Kalispell Avenue, North of East 8th Street and West of Pine Avenue including:
    Whitefish Original Blocks 47,48,49,50,63,64;
    Whitefish Land Company's First Addition to Whitefish Blocks 3,4,5,6,7,8;
    Riverside Addition to Whitefish Blocks 7,8,9,10,13;
    McKeen's Subdivision - All Blocks (1 through 4);
    McKeen's Addition to Whitefish Blocks 1,2,3,4,5,6,7
    Park Manor Condominium and Park Manor Subdivision;
    Assessor Tract Number 1GA in Gov't Lot 3 of 31-31-32;
    Maas Monte Vista - All Blocks (1 and 2);
    Park Addition - Blocks 1,2,3,4,6,7,8,9;

19. Assessor Tract Number 5D in the west half of 32-31-21;
20. Assessor Tract Numbers 5E, 5, 6A, 6E in the west half of the west half of 32-31-21;
21. Brant and Lenon Subdivision;
22. Tubbs Addition;
23. Shareview Addition.

All of the above descriptions are of record in the Office of the Flathead County Clerk and Recorder as of 4th day of May, 1987.

This plan allows for redevelopment and rehabilitation to occur in Whitefish based upon the powers granted to the municipality under the Urban Renewal Law or the delegation of such powers as allowed in 7-15-4232, MCA.

REDEVELOPMENT OBJECTIVES

The redevelopment and revitalization effort by the City of Whitefish must be organized in a manner which does all of the following:

1. The redevelopment and rehabilitation of blighted areas;
2. The development of new infrastructure that eliminates congestion, provides recreational improvements and provides new infrastructure that is necessary to protect public health and safety;
3. The development of new housing which will replace the substandard and deteriorating housing stock;
4. The development of industrial parks that will allow for the diversification in the economic base in Whitefish;
5. The development of off-street parking in the downtown area and the development of a stronger downtown business community so that it can more effectively compete in the market place in Flathead County.
6. The construction of new public facilities are needed in order to anchor the downtown business district;
7. The redevelopment and increased use of the Burlington Northern depot.
8. The expansion and redevelopment of the City Parks in an effort to improve the recreational resources of the city that attract tourists and attract permanent residents to Whitefish;
9. The redevelopment and revitalization of the downtown area in order to attract new businesses to Whitefish and to stimulate the upgrading of the existing businesses in the downtown area.
10. The construction of new city streets, a storm sewer system, water and sewer mains under the framework of a city wide Special Improvement District;
11. The development of tourism facilities which will provide the community with a means to attract tourist and convention business to Whitefish;
12. The construction of a Water Treatment Plant to ensure ample and safe drinking water for this community; and
13. The creation of an urban renewal agency or the assignment of the urban renewal powers to a municipal department.

SPECIFIC PROJECTS

It is essential to develop a master plan of projects to ensure that the City of Whitefish properly addresses the infrastructure needs that are related to this Urban Renewal Plan. The needs of this community are enormous due in large part to many years of inactivity by the City Council in addressing these needs. The following summary identifies a few of the urban renewal projects that have been identified for this community. The map of Whitefish at the end of this plan indicates these specific projects. In some instances, there are sketches of some of the proposed projects following this section. The projects are as follows:

1. A good portion of the area that is located north of Hwy. 93 W, west of Baker Avenue and south of the railroad tracks, contains many housing units that are substandard and deteriorating. Some new multifamily housing units have been developed along the eastern edge of this area. The development of additional new units to replace additional substandard and deteriorating houses in this area may be accelerated by leveraging private investment through the use of municipal powers as follows: the exercise of its zoning powers; the enforcement of other laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements; the disposition of any property acquired; and the provision of necessary public improvements. (7-15-4208, MCA). This area could also be looked at as a potential site for the Flathead Valley Community College. A number of the vacant housing units in the Whitefish area will be utilized in order to make adequate housing available for those persons displaced by this project.

2. Millions of dollars of water and sewer needs have been identified in newly developed capital improvement plans. The quality of the city's water is substandard during spring runoff which will necessitate the construction of a water treatment plant that will cost in excess of $5 million. The need to replace water and sewer lines throughout the entire community is indicated quite clearly in the following table of needed improvements:

FY YEAR		WATER LINES*	SEWER LINES*
1987-1988		$116,752	$714,950
1988-1989		131,099	11,400
1989-1990		146,289	40,400
1990-1991		189,691	55,900
1991-1992		359,419	25,800
	TOTALS	$943,250	$848,450

* Includes engineering, materials and labor for distribution lines only.

3. The provision of recreational facilities is a critical component of any urban renewal plan. The recent development of Riverside Park along with the continuing development of Mountain Trails Park are good examples of the city's direction with regards to recreational opportunities. The Master Plan for the expansion and the development of City Beach reflects the desire of the community to provide a facility that will serve the Whitefish community and at the same time attract tourists to Whitefish. See Sketch A - CITY BEACH MASTER PLAN and Sketch B - CITY BEACH PARK. The cost for this project's three phases totals $1,684,697 as estimated by the landscape architect. Also identified as a recreational need is the construction of pedestrian walkways that would link Riverside Park to Mountain Trails Park to the City Beach Park.

4. The diversification of the City's economic base is a goal that must receive high consideration because of the impact that it has on many aspects of urban renewal and redevelopment. The creation of an industrial park on city owned property could lead to the attraction of new businesses to Whitefish and would allow Whitefish to become less dependent on the tourism industry. This would require the relocation of the Department of Public Works facilities to a location adjacent to the railroad tracks in close proximity to the new site for the proposed City Hall facility. All communities should diversify their economies so that the economic ups and downs are minor in nature. New businesses in Whitefish will lead to new jobs, new housing and new investments by private individuals and companies. The end result is a stronger economy for both government and for private businesses.

5. The redevelopment and the rehabilitation of the downtown business area is an important aspect of the overall Urban Renewal Plan. Parking problems have and will exist in the downtown area. The angle parking on Central Avenue lends itself to traffic congestion and it is at time hazardous to both pedestrian and vehicular traffic.

   The aging of the downtown buildings requires that some type of economic revitalization plan be implemented. A proposed pedestrian mall on Central Avenue from Railway Street to Fourth Street would bring new life to the downtown business area. This would attract new shoppers to the area which in turn would ultimately lead to stronger sales and then to the investment of money to rehabilitate and revitalize the buildings in the downtown. Some buildings would receive face lifts and

other buildings may be removed in favor of new buildings. See Sketch C - PEDESTRIAN MALL and Sketch D - LANDSCAPED WALKWAY BETWEEN PEDESTRIAN MALL AND OFF-STREET PARKING LOT.

The pedestrian mall proposal would eliminate all vehicular traffic on Central Avenue from Railway to Fourth Street. Vehicular traffic would still continue on the east-west streets of First, Second and Third. Along with the pedestrian mall would come the acquisition of several properties that would serve as parking lots for downtown shoppers. These parking lots would be linked to the pedestrian mall by landscaped walkways. See Sketch E - OVERALL DOWNTOWN IMPROVEMENTS.

6. The current City Hall occupies an important position in downtown Whitefish. It is important that the City of Whitefish be able to offer city services in an effective and efficient manner. The age and the floor plan of the current facility hinder the efficiency of the services that the City provides to the public. Part of the overall downtown redevelopment plan would be the construction of a new City Hall facility on Burlington Northern property that is east of the viaduct, north of Railway Street and west of Central Avenue. This facility would house the general administration offices of the City, the Police Department, the Library and the Fire Department. See Sketch F - CITY HALL COMPLEX AND THE VACATED SECTION OF CENTRAL AVENUE NORTH OF RAILWAY STREET.

7. The development of a Performing Arts Center and a Historical Museum adjacent to the proposed City Hall facility is also an important aspect of the downtown redevelopment effort. The renovation of the depot building would preserve an important building in downtown Whitefish and at the same time could house historical items from Whitefish's past. Both the City Hall facility and the Performing Arts Center/Historical Museum Complex would anchor the downtown business area and bring people to the downtown area. See Sketch G - RENOVATED DEPOT HOUSING HISTORICAL MUSEUM AND AMTRAK STATION.

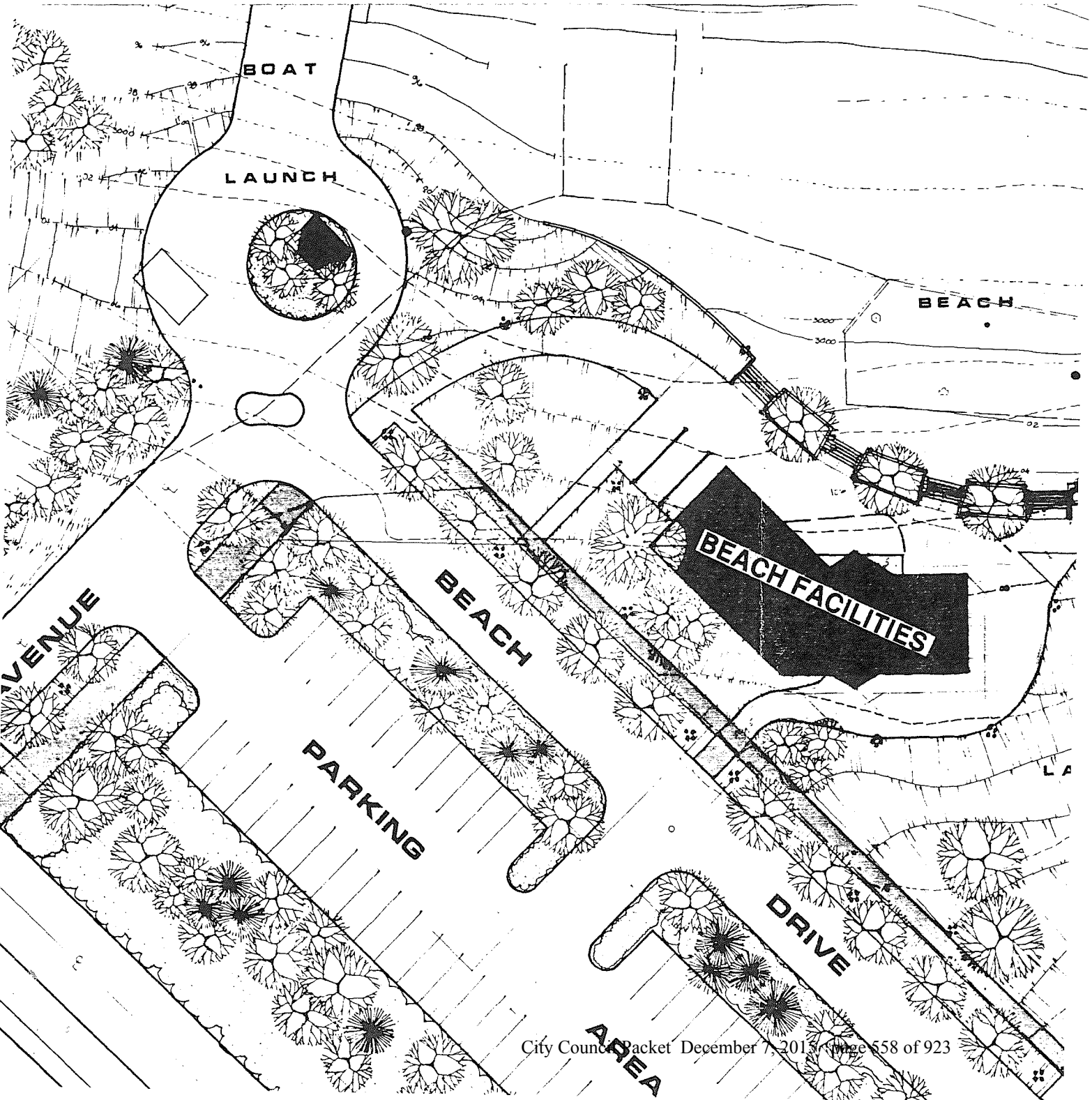
8. The condition of the city streets and the construction of an integrated storm sewer system has impaired the development of this community for quite some time. During 1986 and 1987, the City of Whitefish has contracted with an engineering firm to study the streets within the City of Whitefish. The study focused on street reconstruction, development of street sections, sidewalks, assessment methods and storm sewer needs.

See City Wide Map at the end of the Urban Renewal Plan. This study estimated the cost of replacement of streets and sidewalks for approximately fifteen (15) miles of streets at over $8 million. The estimate is as follows:

PRELIMINARY ESTIMATE
WHITEFISH STREET PROJECT
CONSTRUCTION

1.	Excavation: 150,000 c.y. @ $4.50/c.y.	$ 675,000
2.	Pit Run Gravel: 15,000 c.y. @ $5.50/c.y.	82,500
3.	Gravel Base: 69,500 c.y. @ $7.00/c.y.	486,500
4.	Fabric: 320,000 s.y. @ $0.80/s.y.	256,000
5.	3" Asphalt/3" Gravel: 145,500 s.y. @ $6.25/s.y.	909,375
6.	2" Asphalt/4" Gravel: 145,000 s.y. @ $5.00/s.y.	725,000
7.	Curb & Gutter: 145,500 l.f. @ $6.25/l.f.	909,375
8.	Topsoil: 7,500 c.y. @ $10.00/c.y.	75,000
9.	Adjustment of Structures: 300 @ $150.00 each	45,000
10.	Sidewalk Removal (4 1/2 ft. wide): 140,00 l.f. @ $1.25/l.f.	175,000
11.	Sidewalk: 140,000 l.f. @ $6.00/l.f.	840,000
12.	36" Diameter RCP: 700 l.f. @ $45.00/l.f.	31,500
13.	30" Diameter RCP: 2600 l.f. @ $40.00/l.f.	104,000
14.	24" Diameter RCP: 3200 l.f. @ $35.00/l.f.	112,000
15.	18" Diameter RCP: 3200 l.f. @ $30.00/l.f.	96,000
16.	15" Diameter RCP: 3400 l.f. @ $25.00/l.f.	85,000
17.	12" Diameter RCP: 34,000 l.f. @ $20.00/l.f.	680,000
18.	Storm Drain Intakes: 400 l.f. @ $500.00/l.f.	200,000
19.	Storm Drain Manholes: 125 @ $1,000.00 each	125,000
20.	Existing Inlet Removal: 350 l.f. @ $50.00/l.f.	17,500
21.	Settling Ponds (No Land): 5 @ $15,000 each	75,000
Subtotal		$6,704,750
Contingency @ 10%		670,450
Subtotal		$7,375,200
Engineering		725,000
TOTAL		$8,100,200

9. The creation of jobs, the investment by private investors and the increase in the City's taxable valuation would all occur with the construction of a major hotel/convention center complex. The City of Whitefish should try to leverage private investment in projects like this and others by utilizing public monies. The end result to the community could be increased economic stability and strength.


BOAT
LAUNCH
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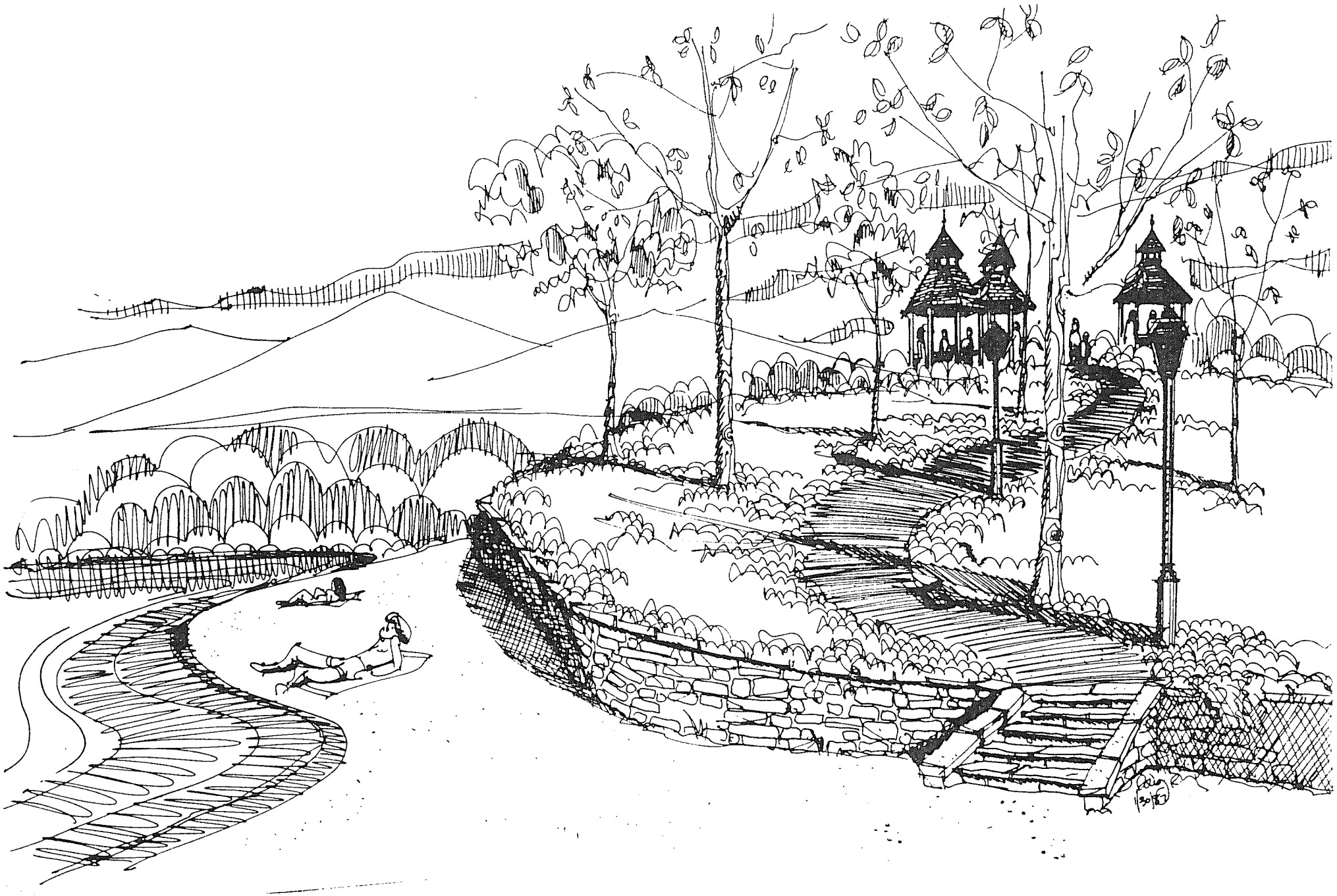
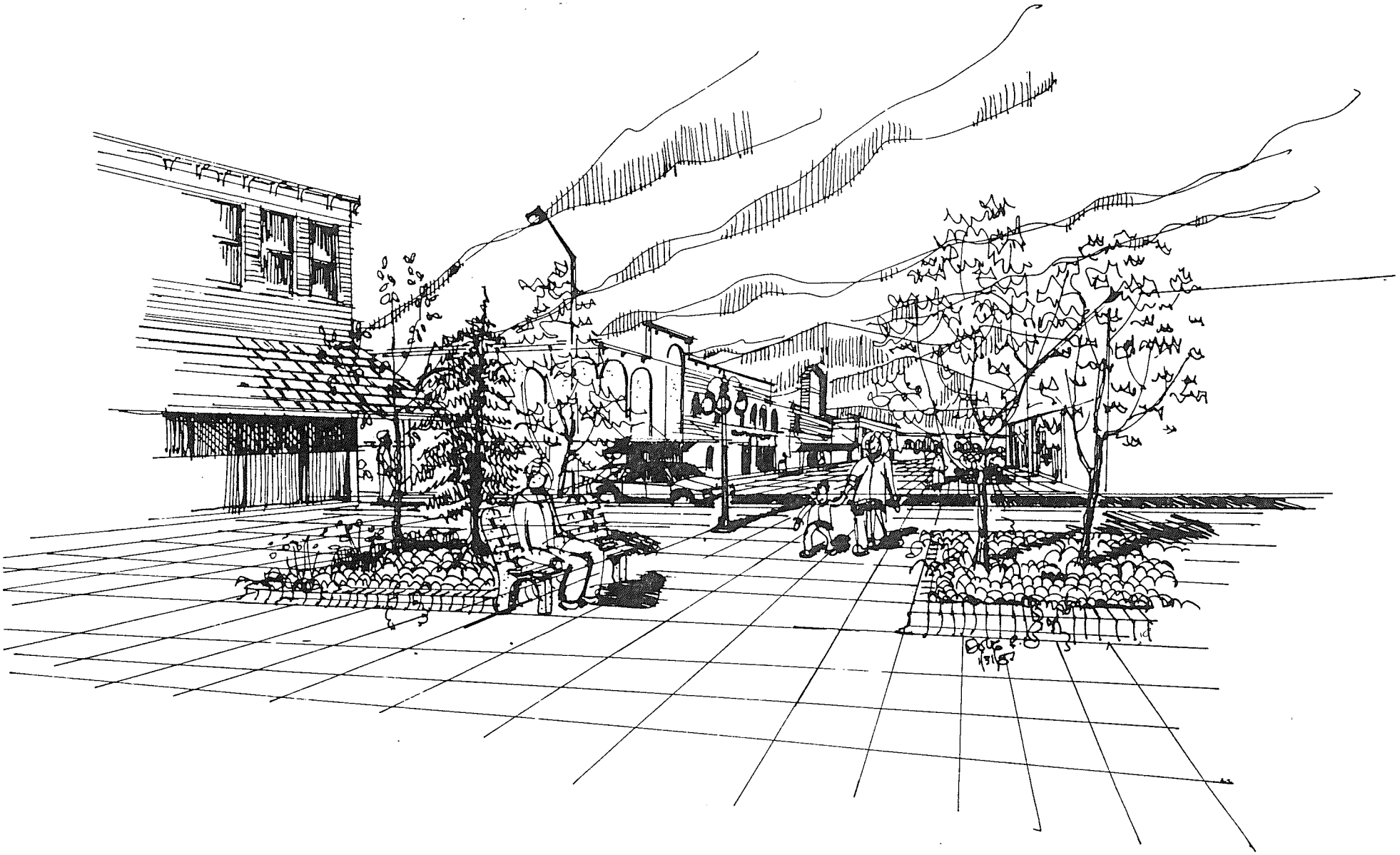
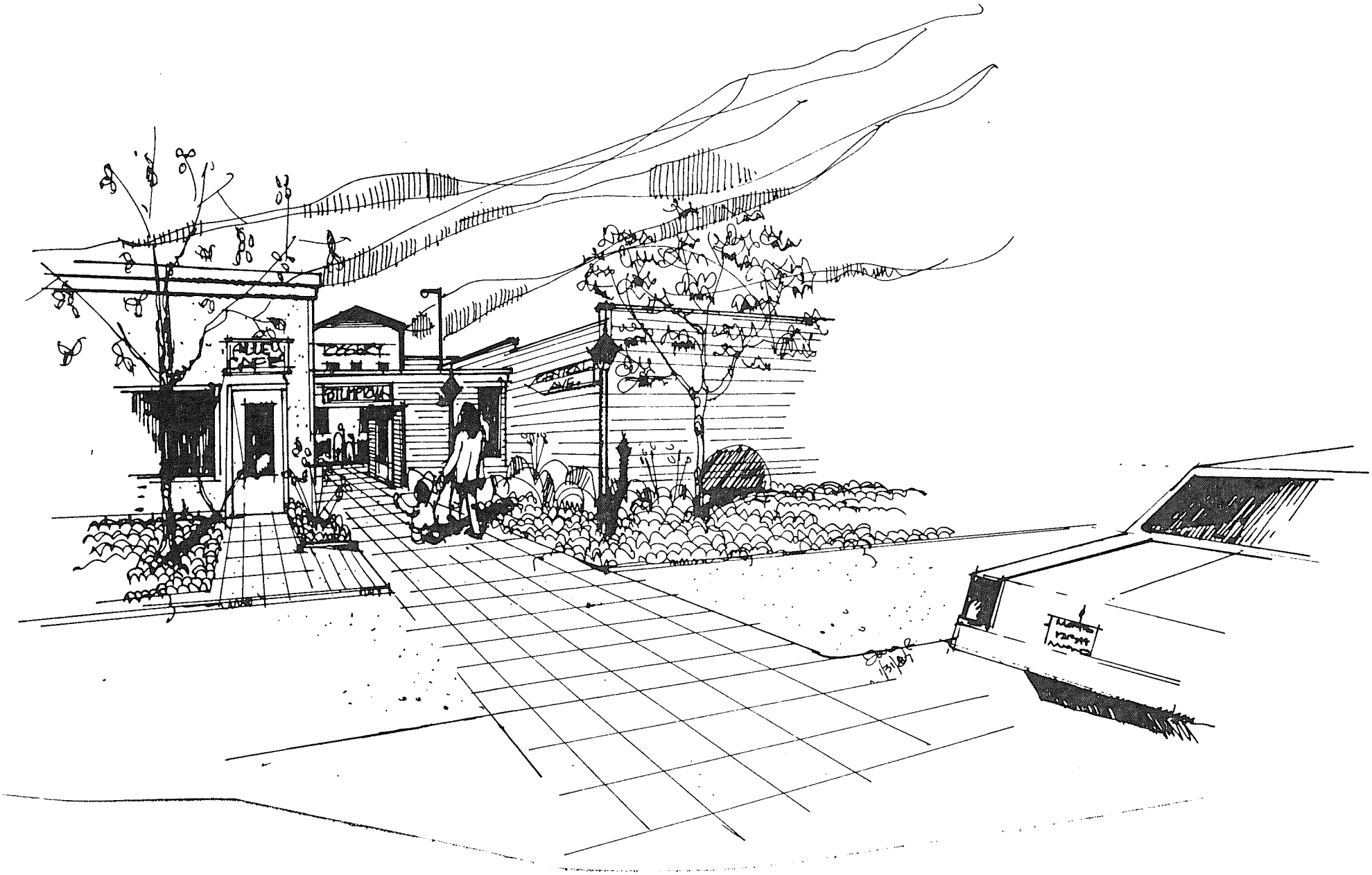


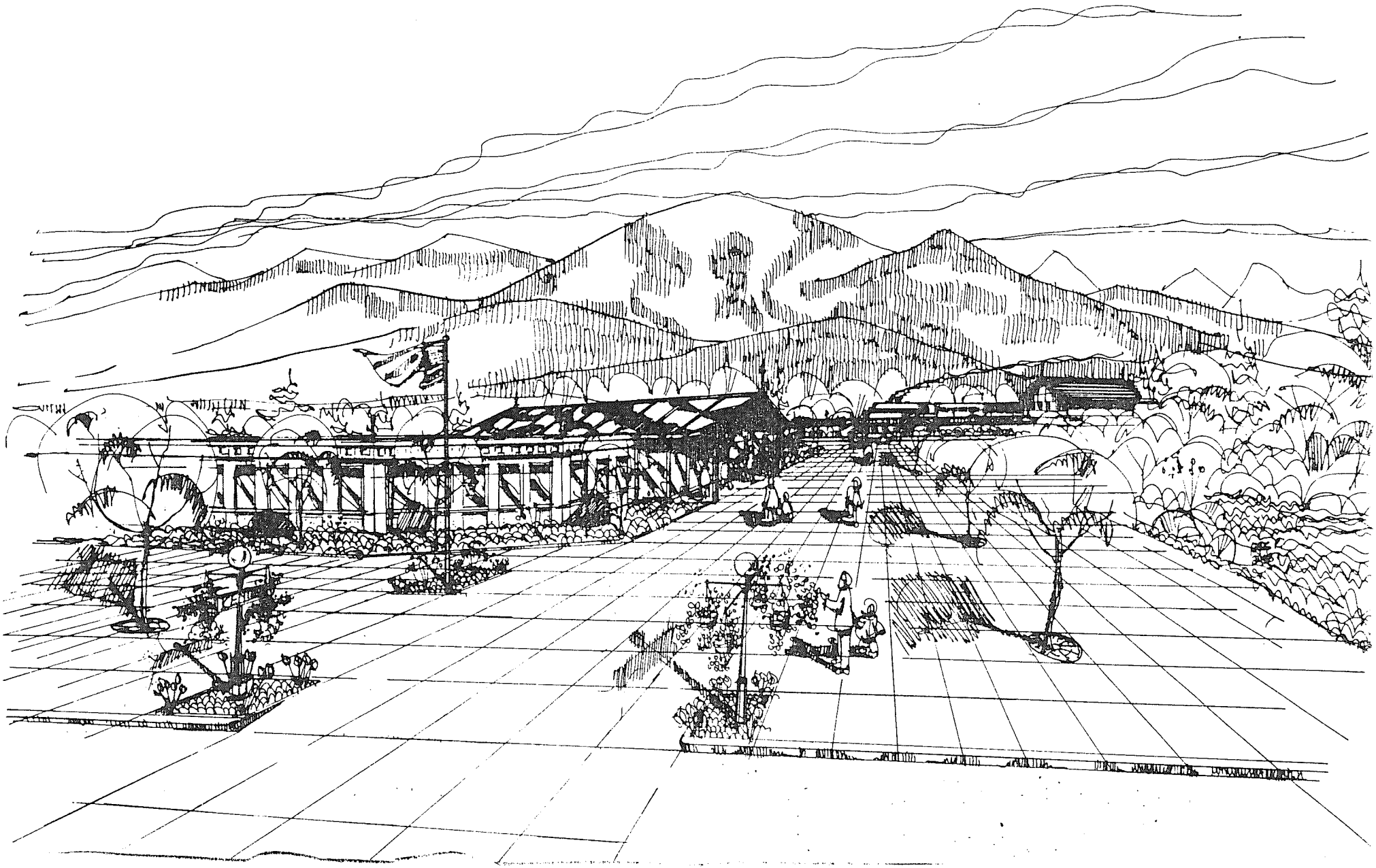
SKETCH B — CITY BEACH PARK



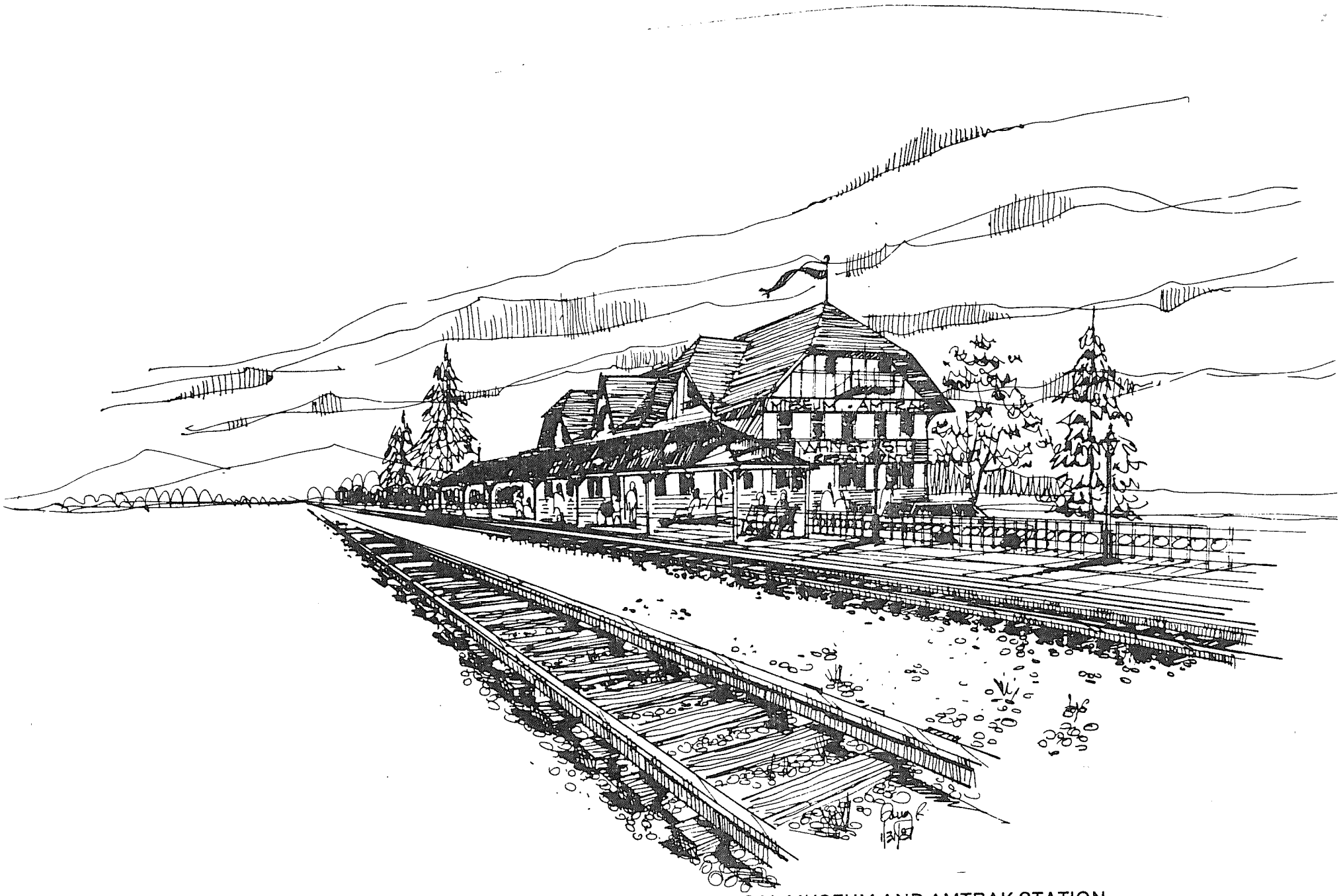
SKETCH C — PEDESTRIAN MALL LOOKING NORTH FROM JUST SOUTH OF SECOND STREET



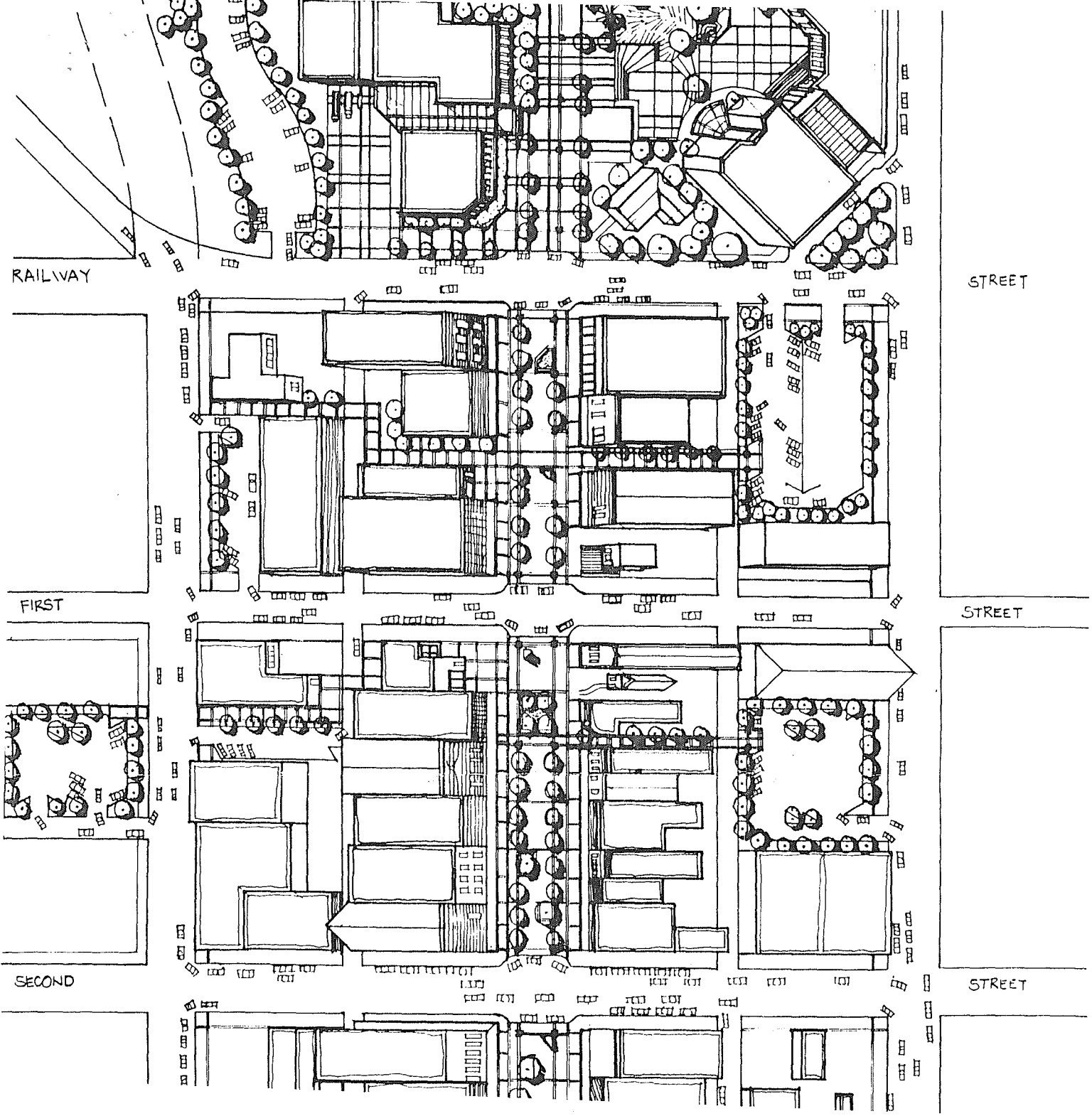
SKETCH D — LANDSCAPED WALKWAY BETWEEN PEDESTRIAN MALL AND OFF-STREET PARKING LOT



SKETCH F — CITY HALL COMPLEX AND THE VACATED SECTION OF CENTRAL AVENUE NORTH OF RAILWAY STREET



SKETCH G — RENOVATED DEPOT HOUSING HISTORICAL MUSEUM AND AMTRAK STATION


RAILWAY
STREET
FIRST
STREET
SECOND
STREET

POWERS OF THE MUNICIPALITY

The powers of the municipality under the Urban Renewal Law focus on the redevelopment and the rehabilitation of blighted areas. The following is a summary of some of these powers:

1. The authority to prevent and eliminate urban blight by various means and the authority to apply for, accept and the utilization of funds from the federal government for such purpose;

2. The power to prepare plans for the relocation of families displaced from an urban renewal area and to make relocation payments and to coordinate public and private agencies in such relocation, including requesting such assistance for this purpose as is available from other private and governmental agencies, both for the municipality and other parties;

3. The authority to prepare or to have others prepare comprehensive plans, urban renewal plans, plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements, plans for the enforcement of state and local laws, codes and regulations relating to land use and building codes and plans to undertake any urban renewal projects. This authority includes the power to adopt or approve, modify and amend any of the above cited plans;

4. The authority to contract for services relating to urban renewal which include but are not limited to the installation, construction, reconstruction of streets, utilities, parks, playgrounds and other public improvements;

5. The authority to enter private property to make surveys and appraisals of any property in the urban renewal area and the authority to obtain an order from a court of competent jurisdiction in the event entry is denied or resisted;

6. The power to acquire, dispose of, improve, clear any real and personal property that the municipality needs or does not need for the administration of the Urban Renewal Law;

7. The power of eminent domain relating to real property that is necessary for an urban renewal project;

8. The exemption from taxation of any property owned by the municipality held for urban renewal purposes; and

9. The authority to dispose of municipal property as allowed for in 7-15-4262 and 7-15-4263.

ASSIGNMENT OF POWER BY THE GOVERNING BODY

7-15-4232, MCA allows the governing body of the city to either assign the urban renewal powers to a department or other officers of the municipality, to any existing public body corporate or to create an urban renewal agency. The officers, the department or the agency created to oversee the urban renewal efforts will have the following powers:

1. To formulate and coordinate a workable program as specified in 7-15-4209;

2. To prepare urban renewal plans;

3. To prepare recommended modifications to an urban renewal project plan;

4. To undertake and carry our urban renewal projects as required by the local governing body;

5. To make and execute contracts as specified in 7-15-4251, 7-15-4254 and 7-15-4281, with the exception of contracts for the purchase or sale of real or personal property;

6. To disseminate blight clearance and urban renewal information;

7. To exercise the powers prescribed by 7-15-4255, except the power to agree to conditions for federal financial assistance and imposed pursuant to federal law relating to salaries and wages shall be reserved to the local governing body;

8. To enter any building or property in any urban renewal area in order to make surveys and appraisals in the manner specified in 7-15-4257;

9. To improve, clear, or prepare for redevelopment any real or personal property in an urban renewal area;

10. To insure real or personal property as provided in 7-15-4258;

11. To effectuate the plans provided for in 7-15-4254;

12. To prepare plans for the relocation of families displaced from an urban renewal area and to coordinate public and private agencies in such relocation;

13. To prepare plans for carrying out a program of voluntary or compulsory repair and repair and rehabilitation of buildings and improvements;

14. To conduct appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects;

15. To negotiate for the acquisition of land;

16. To study the closing, vacating, planning, or replanning of streets, roads, sidewalks, ways, or other places and to make recommendations with respect thereto;

17. To organize, coordinate, and direct the administration of the provisions of Parts 42 and 43 of the Urban Renewal Law; and

18. To perform such duties as the local governing body may direct so as to make the necessary arrangements for the exercise of powers and performance of the duties and responsibilities entrusted to the local governing body.

URBAN RENEWAL AGENCY

If an urban renewal agency has been delegated the urban renewal powers cited above, the mayor with the advise and consent of the local governing body shall appoint a board of commissioners of the urban renewal agency. This board shall consist of five commissioners. The following shall apply to these commissioners.

1. Initially, one commissioner will be appointed for one (1) year, one for two (2) years, one for three (3) years and two for four (4) years. Each appointment thereafter will be for four (4) years;

2. Each commissioner shall hold office until his or her successor has been appointed and has qualified to hold that office;

3. No compensation for services will be given to a commissioner, but necessary expenses, which include travel expenses, incurred in the discharge of his or her duties will be reimbursed;

4. A commissioner may only be appointed if he or she resides within the municipality; and

5. A commissioner may be removed for inefficiency, neglect of duty, or misconduct in office.

An urban renewal agency authorized to transact business and exercise the powers under Parts 42 and 43 of the Urban Renewal Law must file an annual report of its activities for the preceding calendar year with the local governing body on or before March 31 of each year. This report must include the following: a complete financial statement setting forth its assets, liabilities, income and operating expenses as of the end of such calendar year. The urban renewal agency must publish in a newspaper of general circulation in the community a notice that the annual report is available for inspection during business hours in the office of the City Clerk and in the office of the agency.

FINANCING OF URBAN RENEWAL IMPROVEMENTS

The Urban Renewal Law provides each municipality with certain financial powers in order that various urban renewal projects can be undertaken. They are as follows:

1. The City or the agency that it creates may borrow money and also apply for and accept advances, loans, grants, contributions from any sources public or private, financial assistance from other public entities and enter into and carry out contracts in connection therewith;

2. To appropriate and expend funds to carry out urban renewal and to levy taxes and assessments for urban renewal in accordance with state law;

3. To invest urban renewal funds that are not required for immediate disbursement in financial institutions and instruments as allowed by state statutes;

4. To prepare and adopt annual budgets for the operation of an urban renewal agency, department or office vested with urban renewal powers under 7-15-4231;

5. To utilize property tax increments as provided for in 7-15-4282 through 7-15-4292 for financing urban renewal projects allowed for under the Urban Renewal Law;

6. To develop and utilize financing from Special Improvement Districts, interest income, bonds or other sources to finance the improvements identified in this plan or other improvements that may be identified at a later date; and

7. The use of loans and grants from the City of Whitefish and other assistance from the City to carry out identified urban renewal projects.

Tax Increment Financing is a method for financing urban renewal projects that has been used successfully in many other cities in Montana. The City of Whitefish will utilize Tax Increment Financing by segregating and applying the tax increments for urban renewal projects as provided for in 7-15-4282 through 7-15-4292, MCA, as amended. The following definitions will apply unless otherwise provided or indicated by the context:

(1) "ACTUAL TAXABLE VALUE" means the taxable value of taxable property at any time, as calculated from the assessment roll last equalized.

(2) "BASE TAXABLE VALUE" means the actual taxable value of all taxable property within an urban renewal area prior to the effective date of a tax increment financing provision. This value may be adjusted as provided in 7-14-4287 or 7-15-4293.

(3) "INCREMENTAL TAXABLE VALUE" means the amount, if any, by which the actual taxable value at any time exceeds the base taxable value of all property within an urban renewal area subject to taxation.

(4) "TAX INCREMENT" means the collections realized from extending the tax levies, expressed in mills, of all taxing bodies in which the urban renewal area or a part thereof is located against the incremental taxable value.

(5) "TAX INCREMENT PROVISION" means a provision for the segregation and application of tax increments as authorized by 7-15-4282 through 7-15-4292.

(6) "TAXES" means all taxes levied by a taxing body against property on an ad valorem basis.

(7) "TAXING BODY" means any city, town, county, school district, or other political subdivision or governmental unit of the state, including the state, which levies taxes against property within the urban renewal area.

TAX INCREMENT FINANCING

The intent of the City of Whitefish to use tax increment financing as a means to finance urban renewal projects has previously been stated in this plan. The costs that may be paid by tax increment financing are as follows:

1. Land acquisition;
2. Demolition and removal of structures;
3. Relocation of occupants;

4. The acquisition, construction, and improvement of streets, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and off-street parking facilities, sewers, waterlines, waterways, public buildings, and other public improvements authorized by Parts 41 through 45 of Chapter 12, Parts 42 and 43 of Chapter 13, and Part 47 of Chapter 14 and items of personal property to be used in connection with improvements for which the foregoing costs may be incurred; and

5. Costs incurred in connection with the redevelopment activities allowed under 7-15-4233.

In order to utilize the tax increment provisions of this urban renewal plan, the City Clerk of Whitefish will file a certified copy of each urban renewal plan or amendment thereto containing a tax increment provision with the state, county, or city officers responsible for assessing and determining the taxable value of taxable property within the urban renewal area or part thereof. A certified copy of the plan or amendments must also be filed with the clerk or other appropriate officer of each of the affected taxing bodies (7-15-4284, MCA).

Flathead County officials are responsible for assessing and determining the taxable value of the taxable property located within the urban renewal area, which in this case is the entire City of Whitefish. This determination of the taxable value will occur each year after the City sends the tax increment provision to the appropriate Flathead County officials. Flathead County will then calculate and report to the City of Whitefish and the other affected taxing entities the base, actual and incremental taxable values of such property.

The distribution of the tax increment will be handled in the following manner:

(1) Mill rates of taxing bodies for taxes levied after the effective date of the tax increment provision shall be calculated on the basis of the sum of the taxable value, as shown by the last equalized assessment roll, of all taxable property located outside the urban renewal area and the base taxable value of all taxable property located within the urban renewal area. The mill rate so determined shall be levied against the sum of the actual taxable value of all taxable property located within as well as outside the urban renewal area.

(2) (a) The tax increment, if any, received in each year from the levy of the combined mill rates of all the affected taxing bodies against the incremental taxable value within the urban renewal area shall be paid into a special fund held by the treasurer of the municipality and used as provided in 7-15-4282 through 7-15-4292.

(b) The balance of taxes collected in each year shall be paid to each of the taxing bodies as otherwise provided by law.

The municipality may release a portion of the tax increment from the incremental taxable value if the following occur:

(a) all principal and interest then due on bonds for which the tax increment has been pledged has been fully paid; and

(b) the tax increment resulting from the smaller incremental value is determined by the governing body to be sufficient to pay all principal and interest due later on the bonds.

(2) The adjusted base value determined under subsection (1) shall be reported by the clerk to the officers and taxing bodies to which the increment provision is reported.

(3) Thereafter, the adjusted base value is used in determining the mill rates of affected taxing bodies unless the tax increment resulting from the adjustment is determined to be insufficient for this purpose. In this case, the governing body must reduce the base value to the amount originally determined or to a higher amount necessary to provide tax increments sufficient to pay all principal and interest due on the bonds.

Tax increments may also be pledged for the payment of revenue bonds, issued for urban renewal projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs (7-15-4290, MCA). All of the above-mentioned bonds are tax exempt, i.e. the interest earned by the bond buyer cannot be taxed as income. Therefore, a lower than market rate of interest is paid by the seller (the municipality).

The municipality may remit unused portions of the tax increments to the other taxing bodies if the annual tax increments are not needed for the costs incurred in an urban renewal project or if not pledged for the payment of the principal of premiums and interest on bonds. If there are unused portions of tax increments, the City of Whitefish may enter into agreements with the affected entities.

7-15-4292, MCA specifically addresses the termination of tax increment financing in any municipality that utilizes it as follows:

(1) The tax increment provision shall terminate upon the later of:

(a) the 10th year following its adoption or, if the tax increment provision was adopted prior to January 1, 1980, upon the 12th year following adoption; or

(b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has been pledged and the interest thereon.

(2) Any amounts remaining in the special fund or any reserve fund after termination of the tax increment provision shall be distributed among the various taxing bodies in proportion to their property tax revenues from the district.

(3) After termination of the tax increment provision, all taxes shall be levied upon the actual taxable value of the taxable property in the urban renewal area and shall be paid into the funds of the respective taxing bodies.

(4) No bonds with tax increment provisions for the repayment thereof may be issued subsequent to the 10th anniversary of tax increment provisions adopted after January 1, 1980, and the 12th anniversary of tax increment provisions adopted prior to January 1, 1980.

BONDS FOR URBAN RENEWAL

Urban Renewal Bonds

Part 43 of the Urban Renewal Law provides the legal authority for a municipality to issue various types of bonds connected with urban renewal projects. 7-15-4310, MCA gives a municipality the power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall not pledge the general credit of the municipality and shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects under this part and Part 42, including the tax increment received and pledged by the municipality pursuant to 7-15-4282 through 7-15-4292. Payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source in aid of any urban renewal projects of the municipality under this part and Part 42 or by a mortgage on all or part of any such projects. Urban renewal bonds issued pursuant to the above terms can be authorized by resolution or ordinance of the local governing authority.

Nature of Urban Renewal Bonds

Urban Renewal Bonds issued under 7-15-4301, MCA shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and shall be subject only to the provisions of the Uniform Commercial Code and the limitations of Part 42 and Part 43 of the Urban Renewal Law.

Details Relating to Urban Renewal Bonds

(1) Bonds issued under 7-15-4301 may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates not exceeding the limitation of 17-5-102, be in such denomination or denominations, be in such form (either coupon or registered), carry such conversion or registration privileges, have such rank or priority, be executed in such manner, and have such other characteristics as may be provided by the resolution, ordinance, or trust indenture or mortgage authorized pursuant thereto.
(2) (a) The bonds may be sold at not less than 98% of par at public or private sale or may be exchanged for other bonds on the basis of par.
(b) The bonds may be sold to the federal government at private sale at not less than par, and if less than all of the authorized principal amount of the bonds is sold to the federal government, the balance may be sold at public or private sale at not less than 98% of par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds sold to the federal government.

Redemption of Urban Renewal Bonds

Every municipality shall have power to redeem such bonds as have been issued pursuant to 7-15-4301 at the redemption price established therein or to purchase such bonds at less than redemption price. All such bonds so redeemed or purchased shall be canceled.

Special Bond Provisions When Tax Increment Financing is Involved

(1) Bonds issued under this part for which a tax increment is pledged pursuant to 7-15-4282 through 7-15-4292 shall be designed to mature not later than 25 years from their date of issue and shall mature in such years and amounts that the principal and interest due on the bonds in each year shall not exceed the estimated tax increment and other estimated revenues, including proceeds of the bonds available for payment of interest thereon, pledged to their payment to be received in such year.
(2) The governing body, in the resolution or ordinance authorizing the bonds, shall determine the estimated tax increment and other revenues, it any, for each year the bonds are to be outstanding. In calculating the costs under 7-15-4288 for which the bonds are issued, the municipality may include an amount sufficient to pay interest on the bonds prior to receipt of tax increments pledged and sufficient for the payment thereof and to fund any reserve

fund in respect of the bonds.

GENERAL OBLIGATION BONDS

A municipality may also issue and sell general obligation bonds for the purpose of aiding in the planning, undertaking, or carrying out urban renewal projects. These bonds must be issued in accordance with the applicable laws of the State of Montana. The proceeds of bonds authorized for an urban renewal project may be used to finance the exercise of any and all powers of a municipality under the Montana Urban Renewal Law.

NEGOTIABILITY OF BONDS

Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to Parts 42 and 43 of the Urban Renewal Law shall be fully negotiable.

Regularity of Bond Issuance

In any suit, action, or proceeding involving the validity or enforceability of any bond issued under Parts 42 and 43 of the Urban Renewal Law or the security therefor, any such bond reciting in substance that it has been issued by the municipality in connection with an urban renewal project as herein defined shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with the provisions of Parts 42 and 43 of the Urban Renewal Law.

Signatures on Bonds

In case any of the public officials of the municipality whose signatures appear on any bonds or coupons issued under Parts 42 and 43 of the Urban Renewal Law shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes the same as if such officials had remained in office until such delivery.

Bonds as Legal Investments

(1) All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries may legally invest any sinking funds, money, or other funds belonging to them or within their control in any bonds or other obligations issued by a municipality pursuant to Parts 42 and 43 of the Urban Renewal Law, provided that such bonds

and other obligations shall be secured by an agreement between the issuer and the federal government in which the issuer agrees to borrow from the federal government and the federal government agrees to lend to the issuer, prior to the maturity of such bonds or other obligations, money in an amount which (together with any other money irrevocably committed to the payment of interest on such bonds or other obligations) will suffice to pay the principal of such bonds of other obligations with interest to maturity thereon, which money under the terms of said agreement is required to be used for the purpose of paying the principal of and the interest on such bonds or other obligations at their maturity.

(2) Such bonds and other obligations shall be authorized security for any public deposits. It is the purpose of this section to authorize any person or political subdivisions, and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations.

(3) Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

Tax Exemption for Bonds

Bonds issued under the provisions of Parts 42 and 43 of the Urban Renewal Law are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.

MODIFICATION OF PLAN

A local governing body may modify an urban renewal plan at any time with the following provisions:

1. If modified after the leases or sale by the municipality of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser or his successors in interest may be entitled to assert;

2. An urban renewal plan may be modified by ordinance; and

3. If the plan or any subsequent modification thereof involves financing by the issuance of general obligation bonds of the municipality as authorized in 7-15-4302(1) or the financing of water or sewer improvements by the issuance of revenue bonds under the provisions of Part 44 of Chapter 7 or of Part 43 of Chapter 13, the question of approving the plan and issuing such bonds shall be submitted to a vote of the qualified electors of such municipality, in accordance with the provisions governing

municipal general obligation bonds under Chapter 7, Part 42, at the same election and shall be approved by a majority of those qualified electors voting on such question.

SUMMARY

The Urban Renewal Plan for the City of Whitefish is similar in many respects to the plans prepared for other cities in Montana. Why? The Montana Urban Renewal Law gives a broad range of powers to any community that chooses to utilize it, no matter what the size of the community. In that respect, the powers of Urban Renewal are different than the annexation powers in Montana, for example, that vary depending upon the size of the community.

Whitefish can join other cities in Montana such as Billings, Butte, Missoula, Great Falls and Kalispell as cities that utilize the Montana Urban Renewal Law. These cities are excellent examples of how different cities with varying redevelopment needs and goals, varying staff sizes and capabilities and varying budgets utilize the powers of Urban Renewal. All were in need of stimulating new development and redevelopment to create jobs, to stabilize their economies and to diversify their economies in this age of shrinking state and federal grant assistance.

Each of these cities in Montana realized that the Tax Increment Financing provisions of the Montana Urban Renewal Law provided a mechanism to finance urban renewal <u>without</u> having to rely on outside grant assistance. The tax increments generated in each city have varied with the amount of the urban renewal activity in each respective urban renewal area.

Whitefish has the opportunity to utilize the many powers of the Urban Renewal Law including the powers of Tax Increment Financing. This community has enormous potential, much of which has been wasted because of lack of action or inappropriate timing. If Whitefish is to progress forward in bettering this community, it must first adopt this Urban Renewal Plan with the powers given to it under state statutes. These powers will allow Whitefish to leverage positive change and be the catalyst for new investments by private enterprise.

Urban renewal will work successfully in Whitefish when both public and private sectors work together for the betterment of this community. Some city officials in other communities contend that urban renewal and development will occur without the stimulus of investment by the public sector. Whitefish must not be conservative on urban renewal; it must make public investments in order to encourage economic development and urban renewal in Whitefish. The success of urban renewal and development in cities in Montana that have utilized it, indicate that the potential is great.

The powers granted to the local governing body under the Urban Renewal Law are many in number. The Whitefish City Council must carefully consider the needs of this community and how they can best be addressed with the financing mechanisms outlined in this Urban Renewal Plan. Initially, the City Council should consider the development of a Department of Community Development to oversee urban renewal and development for the City of Whitefish. At a later date, an urban renewal agency should be considered.

The City of Whitefish must utilize all of the powers granted to it by state statutes in this period of budget shortfalls, declining revenues and public opposition to tax increases. Tax Increment Financing is an important financing mechanism for urban renewal that will affect other taxing entities such as the School District in Whitefish and Flathead County. Their opposition to this financing mechanism today is understandable. Ultimately however, there will be an economically stronger and healthier City of Whitefish, School District #74 and Flathead County.

ORDINANCE NO. 87-3

AN ORDINANCE OF THE CITY OF WHITEFISH, MONTANA, ADOPTED PURSUANT TO 7-15-427 M.C.A. APPROVING THE CITY OF WHITEFISH URBAN RENEWAL PLAN PREPARED BY THE WHITEFISH CITY ADMINISTRATOR DATED MARCH, 1987, WHICH RELATES TO BOTH GENERAL AND SPECIFIC URBAN RENEWAL PROJECTS FOR THE CITY OF WHITEFISH AND THE FINANCING THEREOF.

WHEREAS, the City Council of the City of Whitefish on the 8th day of September, 1986, passed and adopted Resolution No. 86-36 finding blighted areas as defined in the law existing within the City and that the rehabilitation, redevelopment, or a combination thereof is necessary in the interest of public health, safety, and welfare and authorized the preparation of an Urban Renewal Plan; and

WHEREAS, a document entitled The City of Whitefish Urban Renewal Plan prepared by the Whitefish City Administrator and dated March, 1987, has been prepared setting forth both generally and specifically Urban Renewal projects and the financing thereof; and

WHEREAS, notice as required by 7-15-4215 M.C.A. has been duly given and public hearing had on said Urban Renewal Plan; and

WHEREAS, the City Council has considered the various requirements as set forth in 7-15-4217 M.C.A. prior to enacting this Ordinance; and

WHEREAS, the City Council finds that a workable and feasible plan exists for making available adequate housing for any persons who may be displaced by the project, such being several vacant housing units in the Whitefish area which will be utilized in order to make adequate housing available for those person who might be displaced by any project; and

WHEREAS, the Whitefish City County Planning Board has reviewed the Urban Renewal Plan and has found in its recommendation that such is in conformity with the Master/Comprehensive Plan for the Whitefish Planning Area, and the City Council also finds that to be the case; and

WHEREAS, the City Council finds that the Urban Renewal Plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise with the public and private sectors working together for the betterment of the community; and

WHEREAS, a sound and adequate financial program exists for the financing of both general and specific projects to include, but not be limited to, provisions for the segregation and application of Tax Increment Financing as provided in 7-15-4282 through 7-15-4292 M.C.A., all as are set forth in said plan;

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA:

SECTION 1: That the Urban Renewal Plan as set forth in that document entitled the City of Whitefish Urban Renewal Plan as prepared by the Whitefish City Administrator and dated March, 1987 relating to general and special Urban Renewal Projects as set forth therein and the methods and modes of financing such as set forth therein to include, but not to be limited to the segregation and application of tax increments as provided in 7-15-4282 through 7-15-4292 M.C.A. is hereby approved.

SECTION 2: This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from its passage by the City Council of the City of Whitefish, Montana, and approval by the Mayor thereof.

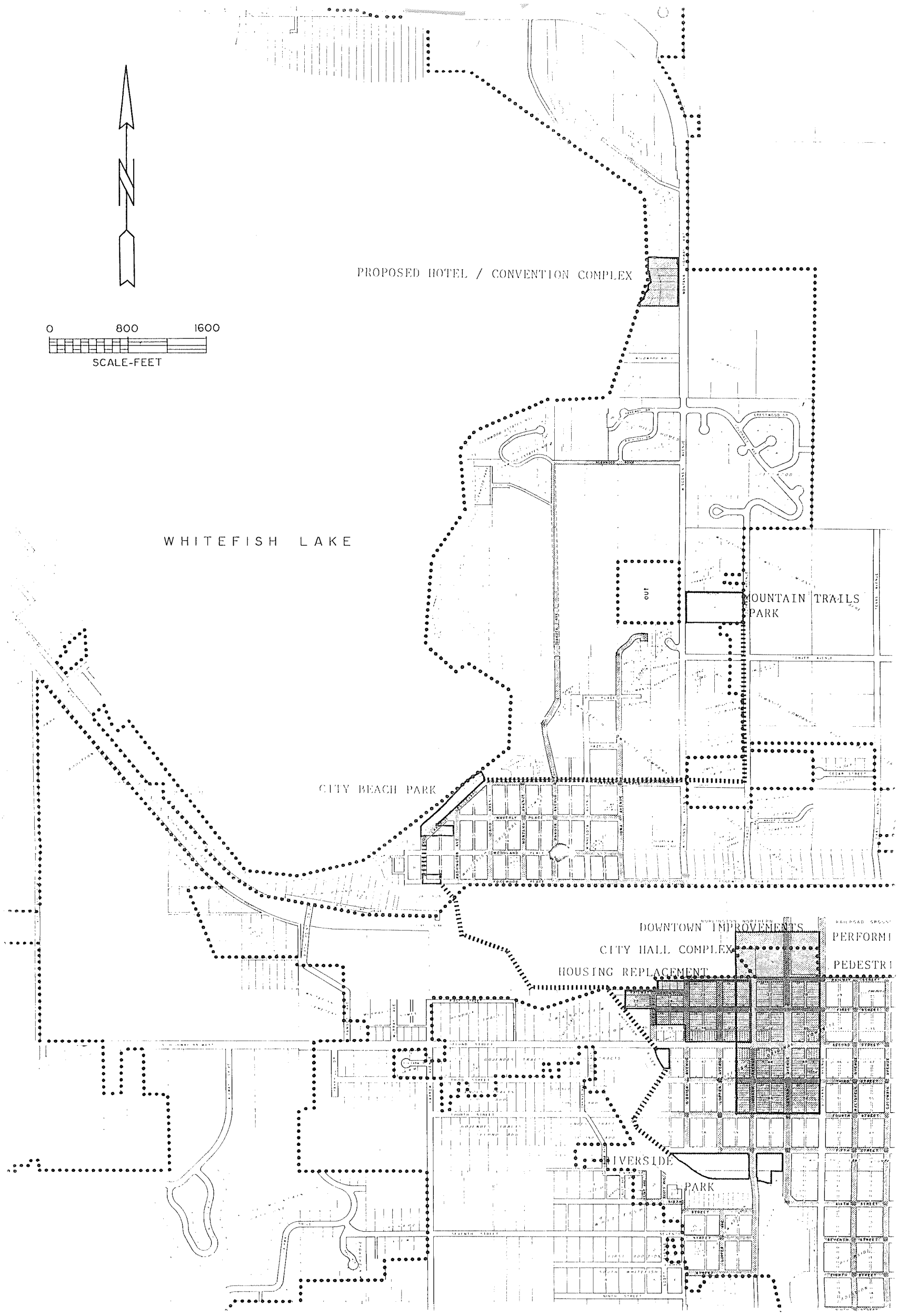
FINALLY, PASSED AND ADOPTED by the City Council of the City of Whitefish, Montana, this 4th day of May, 1987 and approved by the Mayor thereof on the same day.

CITY OF WHITEFISH

By: /s/ Carroll E. Amass
Mayor

ATTEST:

/s/ Kay Beller
City Clerk


0
800
1600
SCALE-FEET
PROPOSED HOTEL / CONVENTION COMPLEX
WHITEFISH LAKE
MOUNTAIN TRAILS
PARK
CITY BEACH PARK
DOWNTOWN IMPROVEMENTS
CITY HALL COMPLEX
HOUSING REPLACEMENT
RIVERSIDE
PARK

Amendment No. 1
Include Idaho Timber

8919808460

ORDINANCE 89-3

AN ORDINANCE OF THE CITY OF WHITEFISH, MONTANA, AMENDING THE URBAN RENEWAL PLAN AND THE TAX INCREMENT DISTRICT TO INCLUDE A CERTAIN CONTIGUOUS TRACT OR PARCEL OF LAND.

WHEREAS, in the judgment of the City Council of the City of Whitefish, Montana, it will be in the best interests of said City that the tax increment district boundaries of said City of Whitefish shall be extended so as to include the Idaho Timber property, Exhibit "A" attached.

WHEREAS, said property was annexed into the City of Whitefish on April 17, 1989, and

WHEREAS, the City of Whitefish wishes to help Idaho Timber stay in their current location and the primary focus of the Urban Renewal Plan is to provide for special funding mechanisms available under the Urban Renewal Law that will allow the City to address "blight" through the construction or reconstruction of utilities; and

WHEREAS, the City of Whitefish is desirous of extending the sewer utility for the new facility to be constructed by Idaho Timber and implement the tax increment funds for the extension of said sewer utility; and

WHEREAS, the City-County Planning Board has reviewed this amendment and has found in its recommendation that such is in conformity with the Master/Comprehensive Plan for the Whitefish Planning Area and have given unanimous approval to include said tract or parcel of land in the tax increment district; and

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA:

1. That the City Council of the City of Whitefish, Montana, does include the following described tract or parcel of land into the Tax Increment District and the Urban Renewal Plan Map will be amended to reflect this inclusion, to-wit:

See Exhibit "A" attached hereto and by this reference incorporated herein

That the above described tract be and it is hereby included into the Tax Increment District of the City of Whitefish, Montana.

Section 2. This Ordinance shall take effect and the land described shall become a part of the Increment District on the 15th day of June, 1989.

89198 08460

FINALLY PASSED AND ADOPTED by the City Council of the City of Whitefish, Montana this 15th day of May, 1989.

Mayor

ATTEST:

City Clerk

89198 0846 0

EXHIBIT "A"

That portion of the Northeast one-quarter of the Northeast one-quarter (N.E.1/4 N.E.1/4) of Section Thirty-five (35) and the Northwest one-quarter of the Northwest one-quarter (N.W.1/4 N.W.1/4) of Section Thirty-six (36), Township Thirty-one North (T.31 N.), Range Twenty-two West (R.22 W.), Principal Meridian, Montana, Flathead County, Montana, described as follows: Commencing at the northeast corner of said Section 35; thence S 00°14'05" E and along the easterly boundary of said Section 35 a distance of 190.90 feet to the TRUE POINT OF BEGINNING of the tract of land herein described; thence N 88°19'30" W and along the southerly boundary of the Burlington Northern R.R. R/W a distance of 274.82 feet; thence SOUTH a distance of 127.87 feet; thence EAST a distance of 96.74 feet; thence SOUTH a distance of 566.60 feet; thence S 89°37'05" E a distance of 187.93 feet; thence S 89°23'54" E a distance of 870.24 feet more or less to a point on the westerly bank of the Whitefish River; thence along the westerly bank of the Whitefish River the following six courses: N 07°30'00"E a distance of 242.43 feet; N 40°15'51" W a distance of 269.05 feet; N 58°26"49" W a distance of 169.19 feet; S 87°22'27" W a distance of 172.55 feet; N 57°07'27" W a distance of 163.37 feet; N 02°01'27" W a distance of 45.87 feet; thence N 88°19'30" W and leaving the westerly bank of the Whitefish River a distance of 181.88 feet to the point of beginning. ALSO KNOWN AS THE IDAHO TIMBER PROPERTY. CS #9540, filed 7-10-1989.

35-48

4A
4C
4B
4F
36

STATE OF MONTANA,
County of Flathead } ss

Recorded at the request of City of Whitefish

this 17 day of July 1989 at 8:46 o'clock a M and recorded in the records of Flathead County, State of Montana.

Fee $ N/C Pd.

Susan A. Haverfield
Flathead County Clerk and Recorder

RECEPTION NO. 89198 0846 0

Ginger Kauffman

93125 14200

Amendment No. 2
Woods Property - Proposed
Buttries Grocery Store

ORDINANCE 93-2

AN ORDINANCE OF THE CITY OF WHITEFISH, MONTANA, AMENDING THE URBAN RENEWAL PLAN AND THE TAX INCREMENT DISTRICT TO INCLUDE A CERTAIN CONTIGUOUS TRACT OR PARCEL OF LAND.

WHEREAS, in the judgment of the City Council of the City of Whitefish, Montana, it will be in the best interests of said City that the tax increment district boundaries of said City of Whitefish shall be extended so as to include the property in Exhibit "A" attached.

WHEREAS, said property was annexed into the City of Whitefish on March 1, 1993, and

WHEREAS, the City of Whitefish wishes to include the property in the Tax Increment District to address the "blight" in the area; and

WHEREAS, the amendment has been found to be in conformity with the Master/Comprehensive Plan for the Whitefish Planning Area and the Whitefish City Council wishes to include said tract or parcel of land in the tax increment district; and

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA:

1. That the City Council of the City of Whitefish, Montana, does include the following described tract or parcel of land into the Tax Increment District and the Urban Renewal Plan Map will be amended to reflect this inclusion, to-wit:

See Exhibit "A" attached hereto and by this reference incorporated herein

That the above described tract be and it is hereby included into the Tax Increment District of the City of Whitefish, Montana.

Section 2. This Ordinance shall take effect and the land described shall become a part of the Increment District on the 19th day of May 1993.

FINALLY PASSED AND ADOPTED by the City Council of the City of Whitefish, Montana this 19th day of April, 1993.

Gary Bohsick
Mayor

ATTEST:

Mary Bellew
City Clerk

CITY OF WHITEFISH CORPORATE SEAL

9312514200

EXHIBIT "A"

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

Commencing at the northwest corner of the Northeast Quarter of the Southeast Quarter of Section 1, Township 30 North, Range 22 West, P.M.,M., Flathead County, Montana; Thence S89°36'20"E and along the north boundary of said NE1/4SE1/4 a distance of 87.40 feet to a found iron pin on the easterly R/W of U.S. Highway 93 and the **TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED:** Thence continuing S89°36'20"E 758.14 feet to a found iron pin; Thence S89°35'29"E 41.86 feet to a set iron pin; Thence leaving said north boundary S02°15'36"W 331.44 feet; Thence N89°30'47"W 800.00 feet to a set iron pin on the said east R/W of U.S. Highway NO. 93; Thence along said R/W N02°16'00"E 330.16 feet to the point of beginning and containing 6.072 ACRES.

ZONED AS: WB-2 (West 400 Feet)
WR-1 (East 400 Feet)

STATE OF MONTANA, }
County of Flathead }
Recorded at the request of City Wish this 5 day of MAY 1993 at 2:20 o'clock P.M. and recorded in the records of Flathead County, State of Montana.
Fee $ 10.00 Pd. 9312514200
RECEPTION NO.
RETURN TO
SUSAN W. HANSFIELD
Flathead County Clerk and Recorder
Deputy

City Wish
P.O. Box 158
Wish, MT 59937-0158

200

Amendment No. 3 - Modify procedure to modify plan.

ORDINANCE NO. 95-6

AN ORDINANCE OF THE CITY OF WHITEFISH, MONTANA, AMENDING THE CITY OF WHITEFISH URBAN RENEWAL PLAN (ORIGINALLY ADOPTED BY ORDINANCE NO. 87-3), SPECIFICALLY, THAT PORTION OF THE PLAN ENTITLED "MODIFICATION OF PLAN", BY ADOPTING A PROCEDURE FOR NOTICE TO THE PUBLIC WHEN FUTURE MODIFICATIONS TO THE URBAN RENEWAL PLAN ARE ADOPTED, AND REPEALING ALL OTHER ORDINANCES, PARTS OF ORDINANCES, OR CODE SECTIONS IN CONFLICT HEREWITH.

BE IT ORDAINED by the City Council of the City of Whitefish, Montana:

Section 1. Recitals: The City of Whitefish, by Ordinance No. 87-3, adopted the City of Whitefish Urban Renewal Plan (the "Plan"), pursuant to Section 7-15-4201, MCA, et seq. Section 7-15-4221, MCA, provides that an urban renewal plan may be modified pursuant to the procedure contained in state law, or pursuant to the procedure set forth in the urban renewal plan. To provide for a procedure for modification of the Plan, it is deemed appropriate to modify the Plan in accordance with this Ordinance.

Section 2. The Plan is hereby modified by amending that portion of the Plan entitled "MODIFICATION OF PLAN," in its entirety, to read as follows:

MODIFICATION OF PLAN

A local governing body may modify an urban renewal plan at any time with the following provisions:

1. The municipality may modify and amend an urban renewal plan, including modifications and amendments to designate and approve urban renewal projects to be undertaken pursuant thereto, by enacting an ordinance providing for and setting forth the modification and amendment. No such ordinance shall be adopted until after a public hearing has been conducted thereon and notice of said hearing has been given in the official newspaper once each week for two (2) consecutive weeks preceding the hearing. If the modification involves the addition or deletion of land from the Urban Renewal District, mailed notice shall be given to all persons owning property to be added or

deleted, **and to all taxing agencies that could be affected,** at the time and manner provided by Section 7-15-4215(1), MCA. All notices shall provide the information regarding the modification required by Section 7-15-4215(2), MCA. Nothing herein shall limit or affect the authority of the municipality to undertake and carry out renewal activities on a yearly basis as provided by Section 7-15-4220, MCA.

2. If modified after the leases or sale by the municipality of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser or his successors in interest may be entitled to assert.

3. If the plan or any subsequent modification thereof involves financing by the issuance of general obligations bonds of the municipality as authorized in 7-15-4302(1) or the financing under the provisions of Part 44 of Chapter 7 or of Part 43 of Chapter 13, the question approving the plan and issuing such bonds shall be submitted to a vote of the qualified electors of such municipality, in accordance with the provisions governing municipal general obligation bonds under Chapter 7, Part 42, at the same election and shall be approved by a majority of those qualified electors voting on such question.

Section 3. All other Ordinances and parts of Ordinances and/or Code Sections in conflict herewith are hereby repealed.

Section 4. That this Ordinance shall be in full force and effect from and after thirty (30) days of its passage by the City Council of the City of Whitefish, Montana, and approval by the Mayor thereof.

PASSED AND ADOPTED by the City Council of the City of Whitefish, Montana, on this [illegible] day of May, 1995.

James E. Welsh

Mayor

Amendment No. 4 - Include land for Baker Avenue extension

ORDINANCE NO. 95-10

AN ORDINANCE OF THE CITY OF WHITEFISH, MONTANA, AMENDING THE CITY OF WHITEFISH URBAN RENEWAL PLAN BY MODIFYING THE BOUNDARIES OF THE URBAN RENEWAL DISTRICT TO INCLUDE ADDITIONAL LAND TO BE USED FOR THE BAKER AVENUE EXTENSION PROJECT.

WHEREAS, by Resolution No. 95-32, adopted by the City Council of the City of Whitefish on August 7, 1995, the City indicated its intent to amend the City of Whitefish Urban Renewal District; and

WHEREAS, the appropriate notices of such intention and of the public hearing to consider the amendment have been published; and

WHEREAS, the proper and duly required Public Hearing has been held by the Whitefish City Council to consider the proposed amendment;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Whitefish, Montana;

Section 1. The City of Whitefish Urban Renewal District is hereby amended to include the additional land described below, which additional land is to be used for the Baker Avenue Extension Project:

Parcel A: Baker Avenue as accepted for right-of-way purposes per an amended plat of portions of Lots 7, 8, 9, 10 & 11 of Riverside Improvement Company's Acreage, in Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

Parcel B: Lot 1 of an amended plat of a portion of Lots 10, 11, & 12 of Riverside Improvement Company's Acreage, in the SW1/4 of the SE1/4 of Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

Parcel C: That property designated as an Easement for Highway Purposes as described on Certificate of Survey 11201, in the NW1/4 of the NE1/4 of Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

Parcel D: Tract 1 of Certificate of Survey 12028, in Government Lot 2, Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

Parcel E: Tract 2 of Certificate of Survey 12284, in Government Lot 2, Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

Section 2. That the official map of the City of Whitefish Urban Renewal District be amended to include the property described above.

Section 3. That this Ordinance shall be in full force and effect from and after 30 days of its passage by the City Council of the City of Whitefish, Montana, and approval by the Mayor thereof.

PASSED AND ADOPTED by the City Council of the City of Whitefish, Montana, on this 5th day of September, 1995.

James E. Walsh
Mayor

ATTEST:

Kay Bellew
City Clerk

Amendment No. 5 - Adding Hwy 93 South Right-of-way to district

199635509310

L

ORDINANCE NO. 96-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ADDING LAND (CONSISTING OF THE HIGHWAY 93 SOUTH RIGHT-OF-WAY) TO THE CITY OF WHITEFISH URBAN RENEWAL DISTRICT.

WHEREAS, pursuant to Resolution No. 95-10, the City of Whitefish annexed certain contiguous government lands, consisting of the Highway 93 South Right-of-Way, to the City of Whitefish; and

WHEREAS, in the judgment of the City Council of the City of Whitefish, Montana, it will be in the best interests of the City of Whitefish and the inhabitants thereof if the annexed land referred to above is included within the City of Whitefish Urban Renewal District; and

WHEREAS, after proper and legal notice was given, a public hearing was held on December 2, 1996, before the City Council of the City of Whitefish, and public comment was received and considered;

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA:

Section 1: That the City Council of the City of Whitefish, Montana, does hereby include within the City of Whitefish Urban Renewal District all lands which were annexed to the City of Whitefish pursuant to Resolution No. 95-10, which lands are more particularly described as follows:

The U.S. Highway 93 right-of-way extended from the southerly limits of the City of Whitefish to the intersection of U.S. Highway 40 which is more fully described in the right-of-way plans for Project 270(6) between Stations 662 and 774, a copy of which plans are on file with the Clerk and Recorder of Flathead County.

Section 2: That the City Council of the City of Whitefish hereby finds that the property added to the City of Whitefish Urban Renewal District, as described above, is a "blighted area" as that term is defined in Section 7-5-4206(2), MCA, and in the City of Whitefish Urban Renewal Plan, for the following reasons:

a. Such property is contiguous to many residential and commercial lots, and vacant lots, which currently lack adequate water and sewer, and such property is the natural conduit through which new water and sewer lines would be installed and maintained.

b. Such property is the corridor through which traffic approaches the City of Whitefish from the south, and in its current condition such property lacks aesthetic appeal, landscaping, and other improvements that would

make such property an attractive and convenient corridor and entrance to the City of Whitefish.

c. Such property lacks adequate curbs, sidewalks, storm sewers, and parking.

Section 3: This Ordinance shall be in full force and effect from and after thirty (30) days of its passage by the City Council of the City of Whitefish, Montana, and approval by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA ON THE 16th DAY OF DECEMBER, 1996.

Mayor

Kay Beller, City Clerk

STATE OF MONTANA, } ss
County of Flathead

Recorded at the request of City Wfsh
this 20 day of Dec, 19 96 at 9:31 o'clock A M and recorded in the records of Flathead County, State of Montana.

Fee $ 12— Pd.

(Flathead County Clerk and Recorder)

RECEPTION NO. 1996355 09310

(Deputy)

RETURN TO City Wfsh
P.O. Box 158 Wfsh MT 59937-0158

Trippet's Printing

Clerk&R-RecS

Amendment No. 6 - Add MDT site (Lots 5 & 5E) now Baker Commons and Flathead County Property (Now WAVE lots)

ORDINANCE 99-4

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ADDING LAND CURRENTLY OWNED BY THE MONTANA DEPARTMENT OF TRANSPORTATION AND FLATHEAD COUNTY TO THE CITY OF WHITEFISH URBAN RENEWAL DISTRICT.

WHEREAS, the City of Whitefish is in the process of acquiring, from the Montana Department of Transportation, certain real estate identified as Assessor's Tracts 5 and 5E in Section 1, Township 30 North, Range 22 West, M.P.M., Flathead County, Montana, which property the City intends to use in connection with an urban renewal project; and

WHEREAS, Flathead County owns property immediately adjacent to the City's proposed Urban Renewal Project, and the City is desirous of having Flathead County's property including within the City's Tax Increment District; and

WHEREAS, the property owned by Flathead County is legally described as Lots 2 and 3 of the Amended Plat of a portion of Lots 10, 11, and 12 of Riverside Improvement Company's Acreage, located in the southwest quarter of the southeast quarter (SW1/4SE1/4) of Section 36, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana; and

WHEREAS, pursuant to that portion of the City's Urban Renewal Plan entitled "MODIFICATION OF PLAN," the City scheduied and conducted a public hearing on May 17, 1999, which public hearing was preceded by the published notice required by the City's Urban Renewal Plan; and

WHEREAS, both the Montana Department of Transportation and Flathead County have given their written consent to inclusion of their property, as legally described above, in the City's Urban Renewal District; and

WHEREAS, having received public comment regarding the proposed addition of land to the City's Urban Renewal District, the City Council of the City of Whitefish determines that it would be in the best interests of the City, and its inhabitants, to include such land within its Urban Renewal District; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA:

Section 1: That the City Council of the Whitefish, Montana, does hereby include within the City of Whitefish Urban Renewal District those lands which are more particularly described as follows:

Assessor's Tracts 5 and 5E in Section 1, Township 30 North, Range 22 West, M.P.M., Flathead County, Montana; and

Lots 2 and 3 of the Amended Plat of a portion of Lots 10, 11, and 12 of Riverside Improvement Company's Acreage, located in the southwest quarter of the southeast quarter (SW1/4SE1/4) of Section 36, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana.

Section 2: That the City Council of the City of Whitefish hereby finds that the property added to the City of Whitefish Urban Renewal District, as described above, is a "blighted area" as that term is defined in Section 7-15-4206(2), MCA, and as that term is defined in the City of Whitefish Urban Renewal Plan, for the following reasons:

(a) Such property in its current state consists of a gravel pit which is located near the heart of the City and which substantially impairs or arrests the sound growth of the City and its environs.

(b) Such property is physically dilapidated and deteriorated, due to the extensive use of such property as a gravel pit.

(c) Such property is a large parcel (over 15 acres) for which there are no roads, convenient access, or utility infrastructure of any kind.

(d) Such property is located along Baker Avenue, a major traffic corridor through the City, and in its current condition such property lacks aesthetic appeal, landscaping, and other improvements that would make such property an attractive and convenient traffic corridor.

(e) Such property lacks curbs, gutters, sidewalks, storm sewers, parking, and other government infrastructure.

Section 3: That this Ordinance shall be in full force and effect from and after thirty (30) days of its passage by the City Council of the City of Whitefish, Montana, and approval by the Mayor thereof.

PASSED AND ADOPTED by the City Council of the City of Whitefish, Montana, on the 21st day of JUNE, 1999.

Mayor

ATTEST:

City Clerk

Amendment No. 7 - Delete Grouse Mountain area and Iron Horse areas.

ORDINANCE NO. 99-15

ORDINANCE RELATING TO THE MODIFICATION OF THE WHITEFISH, MONTANA URBAN RENEWAL PLAN (THE URBAN RENEWAL PLAN) TO MODIFY THE BOUNDARIES OF THE URBAN RENEWAL DISTRICT AND TO APPROVE CERTAIN PROJECTS AS URBAN RENEWAL PROJECTS

BE IT ORDAINED by the City Council (the "Council") of the City of Whitefish, Montana (the "City"), as follows:

Section 1. Recitals. The City by Ordinance No. 87-3, passed and approved on May 4, 1987, created an urban renewal district (the "District") and adopted the City of Whitefish Urban Renewal Plan (the "Plan") for the District pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"), which Plan contained a provision for tax increment financing. Pursuant to the Act and the procedures contained in the Plan, and Resolution No. 99-56, adopted December 6, 1999, the City has set forth its intention to modify the boundaries of the District by removing certain properties from the district and to issue and sell tax increment urban renewal bonds in an amount sufficient, but not to exceed $12,800,000 (the "Bonds") to finance all or a portion of certain urban renewal projects and has undertaken to designate and approve the following urban renewal projects (the "Projects"), and modify the Plan accordingly, has given notice and conducted public hearings with respect thereto:

a. Street Reconstruction Project. This project consists of street reconstruction, related utility improvements, bicycle and pedestrian facilities and associated landscape improvements for the following: Second Street (Spokane Avenue to Larch Avenue); Dakota Avenue (Skyles Place to Marina Crest Lane); Edgewood Place and Washington Avenue (Viaduct to City Beach); Columbia Avenue (Railway Street to Second Street); Greenwood Drive; First Street (Baker Avenue to Miles Avenue); Fourth Street (Baker Avenue to Mountain View Manor); Park Avenue (South of Seventh Street); Lupfer Avenue (Railway Street to Fifth Street); Seventh Street (Spokane to Kalispell - New Construction); and Seventh Street (Pine Avenue to Cow Creek), and such other streets in the District approved by the Council. The project is estimated to cost $8,440,000, which will be financed from the proceeds of the Bonds.

b. Pavement Overlay Project. This project consists of pavement overlay of the following: Barkley Lane; Lacy Lane; Colorado Avenue (Edgewood Place to North Boundary of Tax Increment District); Texas Avenue (Edgewood Place to North Boundary of Tax Increment District); Dakota Avenue/Glenwood Road (Marina Crest Lane to Wisconsin Avenue); Woodland Place/Oregon Avenue (City Beach Area); Woodland Place (Iowa to Alley West of Dakota Avenue); Montana Avenue (North and South End Sections); Idaho Avenue (Edgewood Place to Waverly Place); and Cedar Street. The project is estimated to cost $236,000, which will be financed from the proceeds of the Bonds.

c. Business/Industrial Park Redevelopment Project. This project consists of designing, constructing and installing new public infrastructure, including water, sewer, storm drainage, roadway and pedestrian improvements necessary for the redevelopment of a 21 acre gravel pit on Baker Avenue between 13th Street and 18th Street. The project is expected to cost $1,500,000, which will be financed from the proceeds of the Bonds.

d. Downtown Redevelopment Project. This project consists of several components all designed to revitalize and enhance economic development opportunities, enhance the tax base and upgrade public improvements to enhance the District's downtown public areas and facilities. The Project envisions the purchase of existing vacant properties and structures, demolition of blighted structure and the offering for redevelopment of such properties in accordance with all statutory requirements; the construciton of a convention and/or visitors' center, the reconstruction of Central Avenue between First Street and Fifth Street, including roadway and pedestrian improvements and associated utilities; and the completion of the downtown Community Center Project through construction of a community aquatics center on adjacent vacant city land. This comprehensive project is expected to cost in excess of $2,624,000, of which approximately $2,624,000 will be financed from the proceeds of the Bonds.

Section 2. Findings. The Council hereby finds, with respect to each of the Projects described in Section 1 hereof, as follows:

a. a workable and feasible plan exists for making available adequate housing for any persons who may be displaced by the Projects;

b. the Plan, as modified to include the Projects, conforms to the comprehensive plan or parts thereof of the City;

c. the Plan, as modified to include the Projects, will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the District by private enterprise;

d. a sound and adequate financial program exists for the financing of each of the Projects, which program includes the sale and issuance by the City of its urban renewal tax increment bonds in an amount not to exceed the costs of the Projects and other Projects heretofore or hereafter approved by this Council, including administration costs and costs of issuance of the bonds, and for the application of available funds in the Development Account in the Tax Increment Fund of the City, in proportions yet to be determined, for the purpose of financing all or a portion of the costs of the Projects as set forth above; and

e. each of the Projects constitutes an urban renewal project within the meaning of the Act and the Plan.

Section 3. Modification of Projects. The Urban Renewal Projects herein designated and approved may be modified by the City Council of the City of Whitefish if the Council determines by Resolution that an adjustment to a Project or Projects is required in the best interest of the City of Whitefish.

Section 4. Modification of Boundaries. This Council hereby deletes the parcels of land set forth on Exhibit A hereto from the boundaries of the District.

Section 5. Effect. This Ordinance shall take effect from and after 30 days of its passage by the City Council and approval by the Mayor.

PASSED, ADOPTED and APPROVED on first reading this 20th day of December, 1999.

PASSED, ADOPTED and APPROVED on second reading this 3rd day of January, 2000.

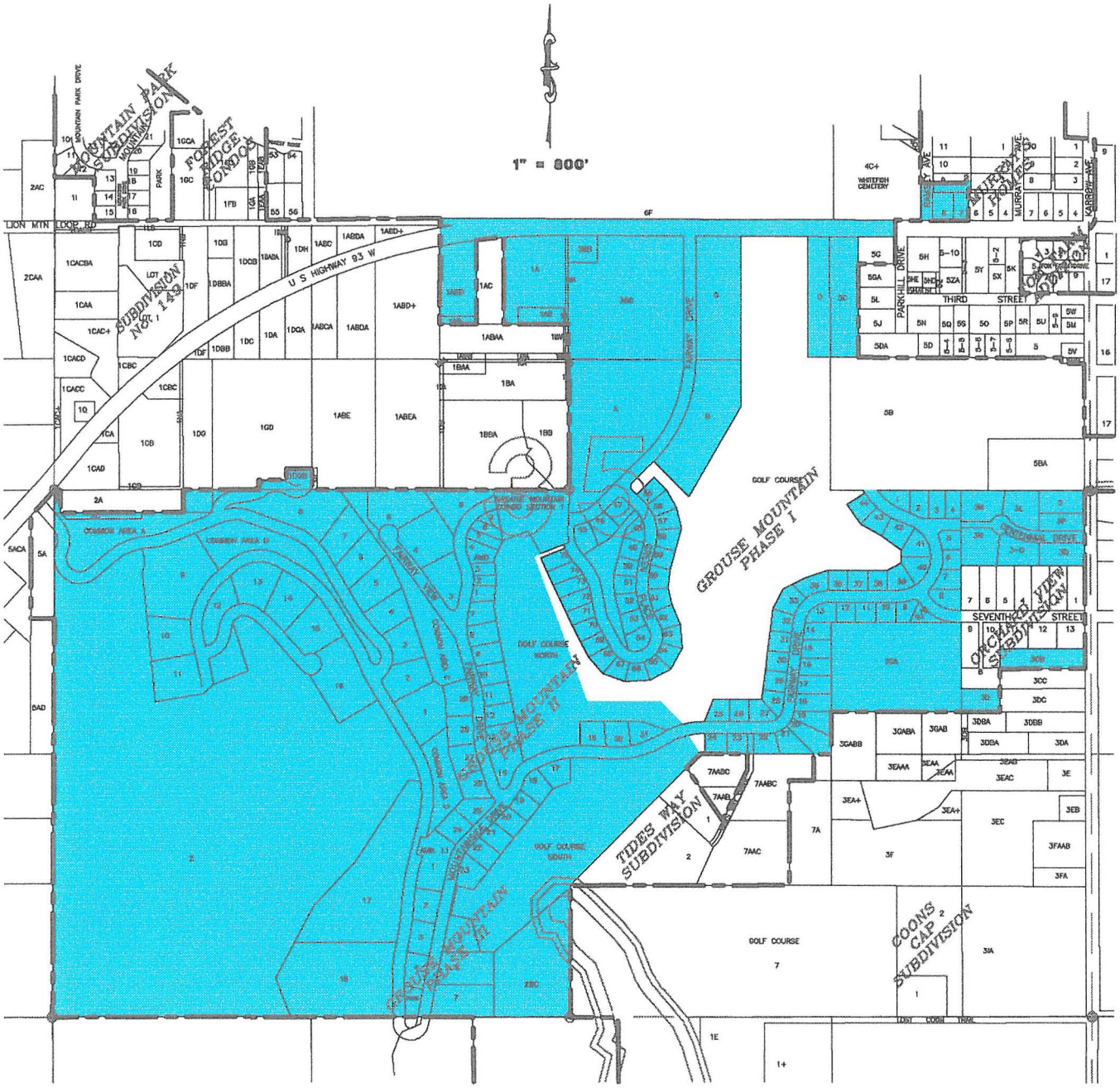
Mayor

Attest:

City Clerk-Treasurer

EXHIBIT A

DECEMBER, 1999

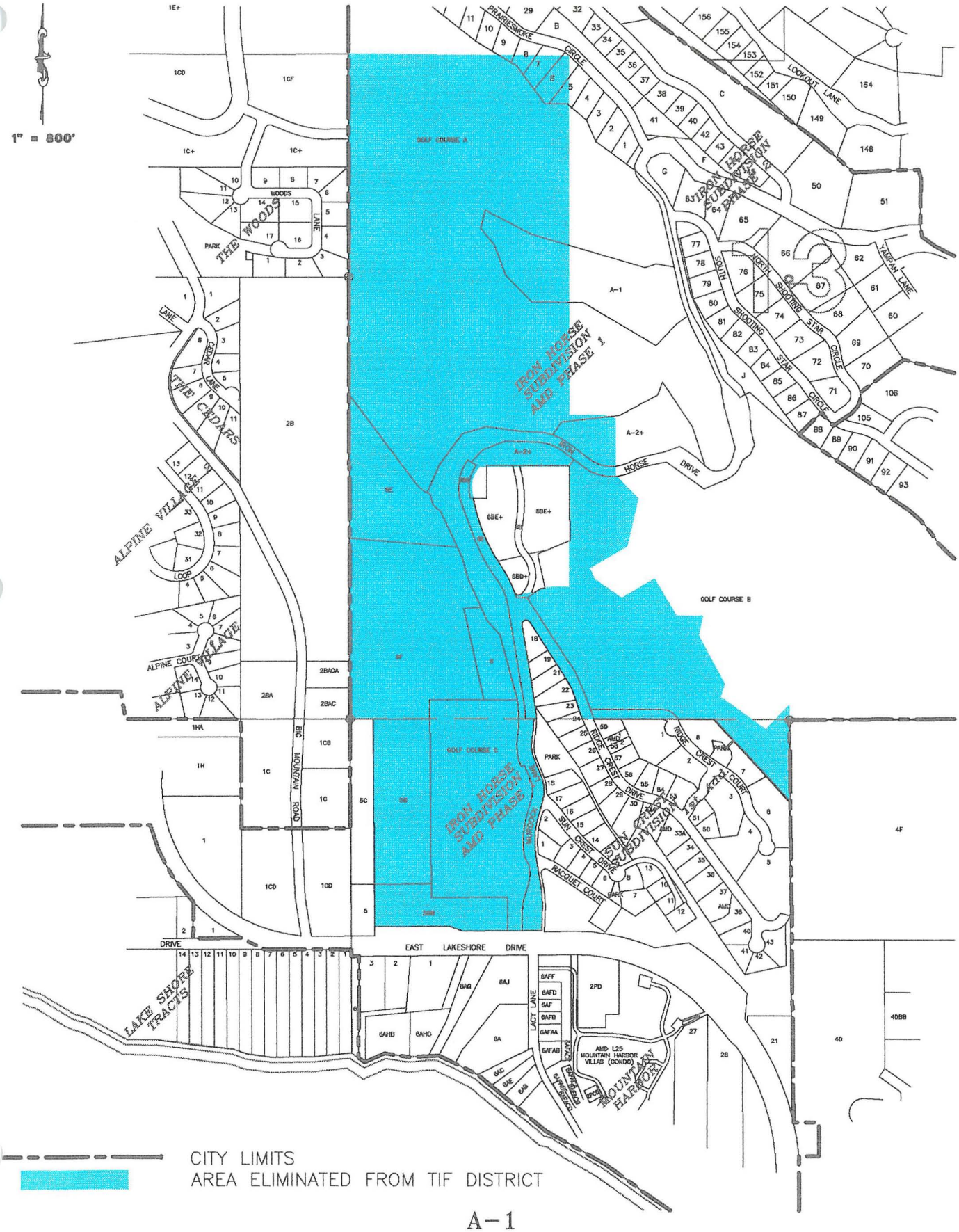


CITY LIMITS

AREA ELIMINATED FROM TIF DISTRICT

EXHIBIT A

DECEMBER, 1999



A-1

Box 158, Whitefish, Montana 59937 (406) 863-2400

City of Whitefish

February 9, 2000

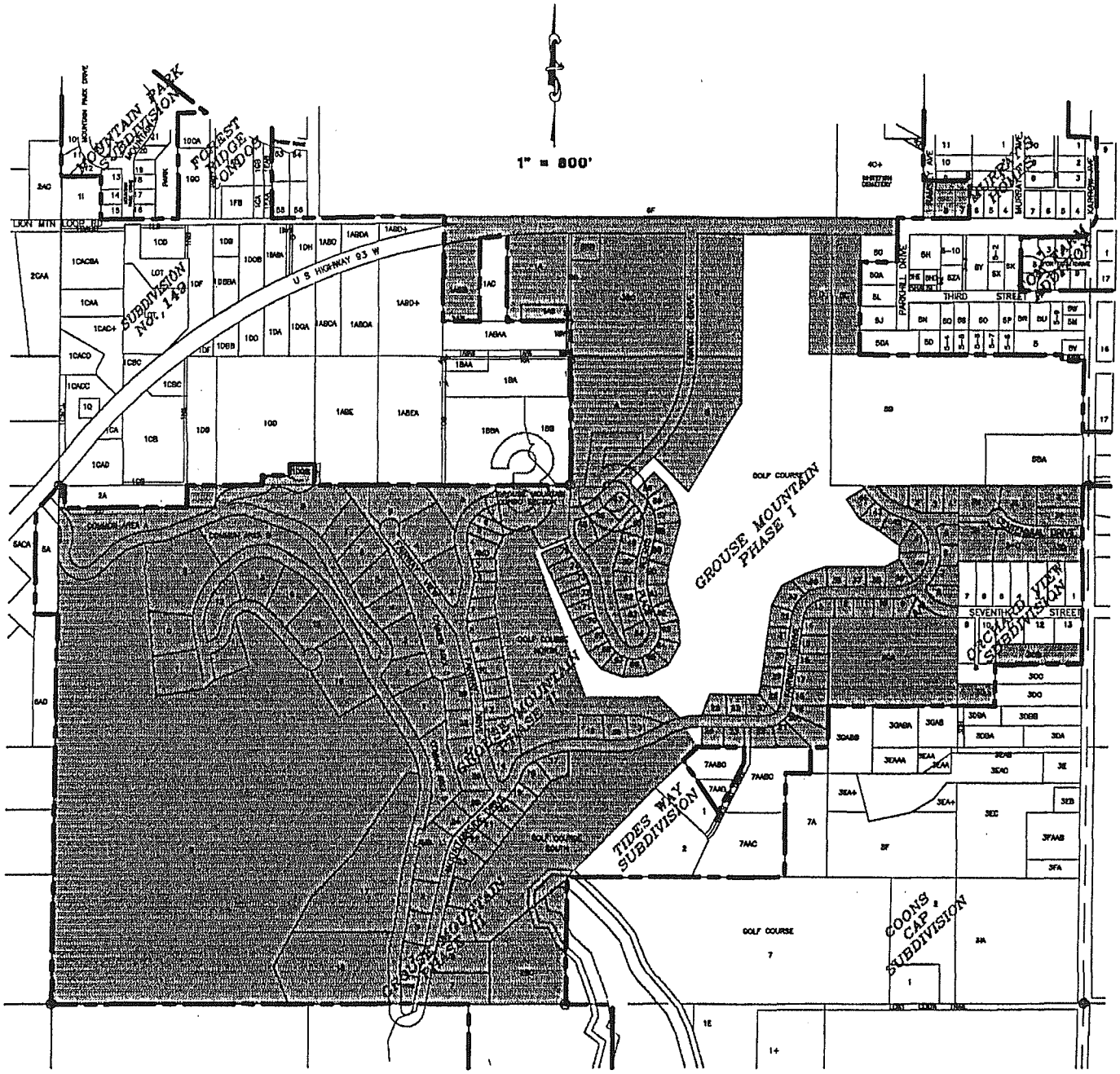
Monty Long, County Assessor
800 S. Main
Kalispell, MT 59901

Assessor Numbers to be deleted from the Tax Increment District: Ordinance 99-15

0000978	0967742	0967772	0967802	0979823
0000979	0967743	0967773	0970237	0979824
0000984	0967744	0967774	0972516	0979825
0225452	0967745	0967775	0972973	0979826
0238850	0967746	0967776	0972974	0979827
0311026	0967747	0967777	0972975	0979828
0311029	0967748	0967778	0972976	0979829
0314500	0967749	0967779	0972977	0979830
0474600	0967750	0967780	0972978	0979831
0578232	0967751	0967781	0972979	0979832
0636734	0967752	0967782	0974444	0979833
0967722	0967753	0967783	0977428	0979834
0967723	0967754	0967784	0977429	0979835
0967724	0967756	0967785	0977430	0979836
0967725	0967757	0967786	0977431	0979837
0967726	0967758	0967787	0977432	0979838
0967727	0967759	0967788	0977521	0979839
0967728	0967760	0967789	0977846	0979840
0967729	0967761	0967790	0978947	0979841
0967730	0967762	0967791	0979358	
0967731	0967763	0967792	0979814	
0967732	0967764	0967793	0979815	
0967733	0967765	0967794	0979816	
0967734	0967766	0967795	0979817	
0967735	0967767	0967796	0979818	
0967736	0967768	0967797	0979819	
0967737	0967769	0967799	0979820	
0967740	0967770	0967800	0979821	
0967741	0967771	0967801	0979822	

EXHIBIT A

DECEMBER, 1999

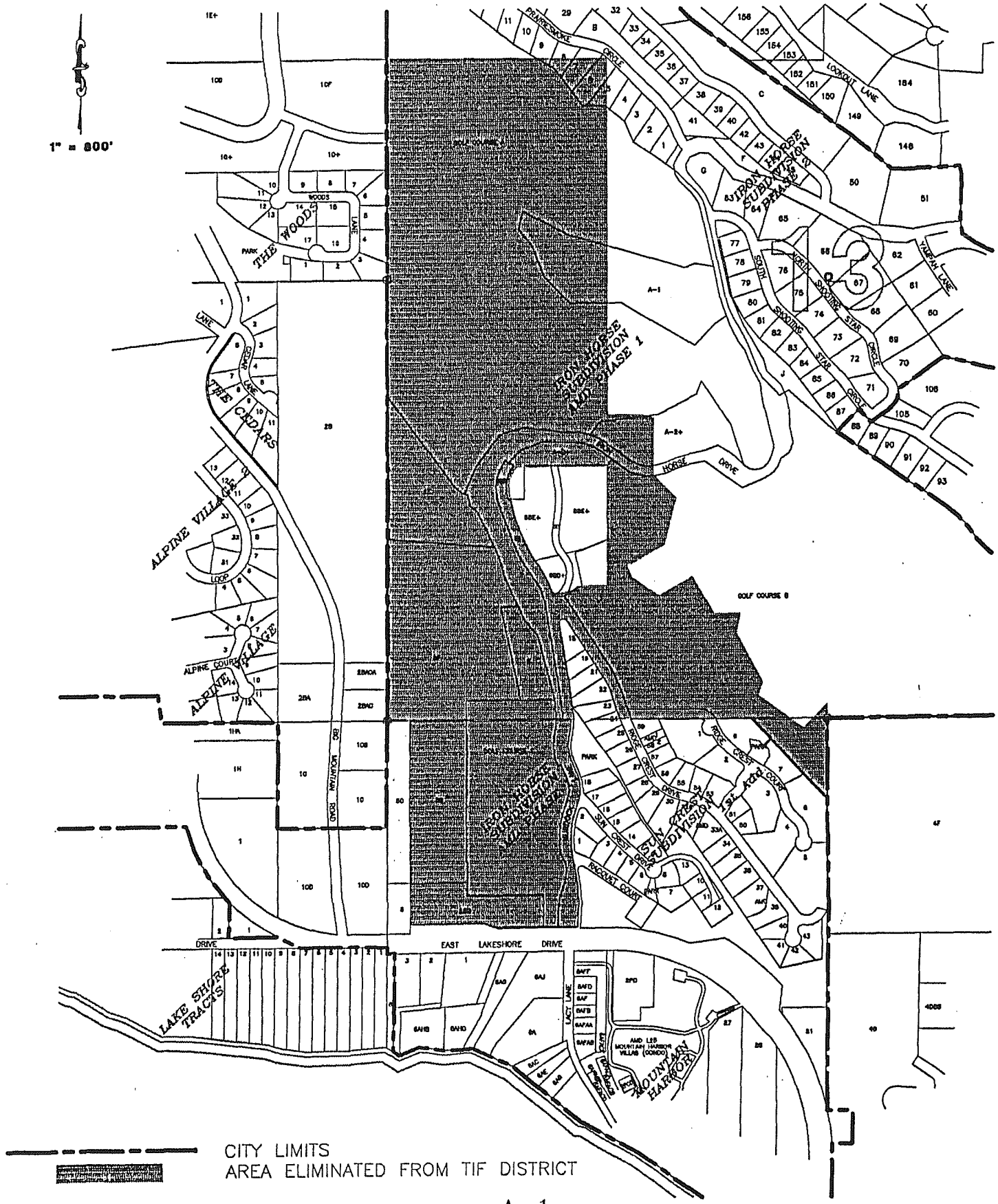


CITY LIMITS

AREA ELIMINATED FROM TIF DISTRICT

EXHIBIT A

DECEMBER, 1999



A-1

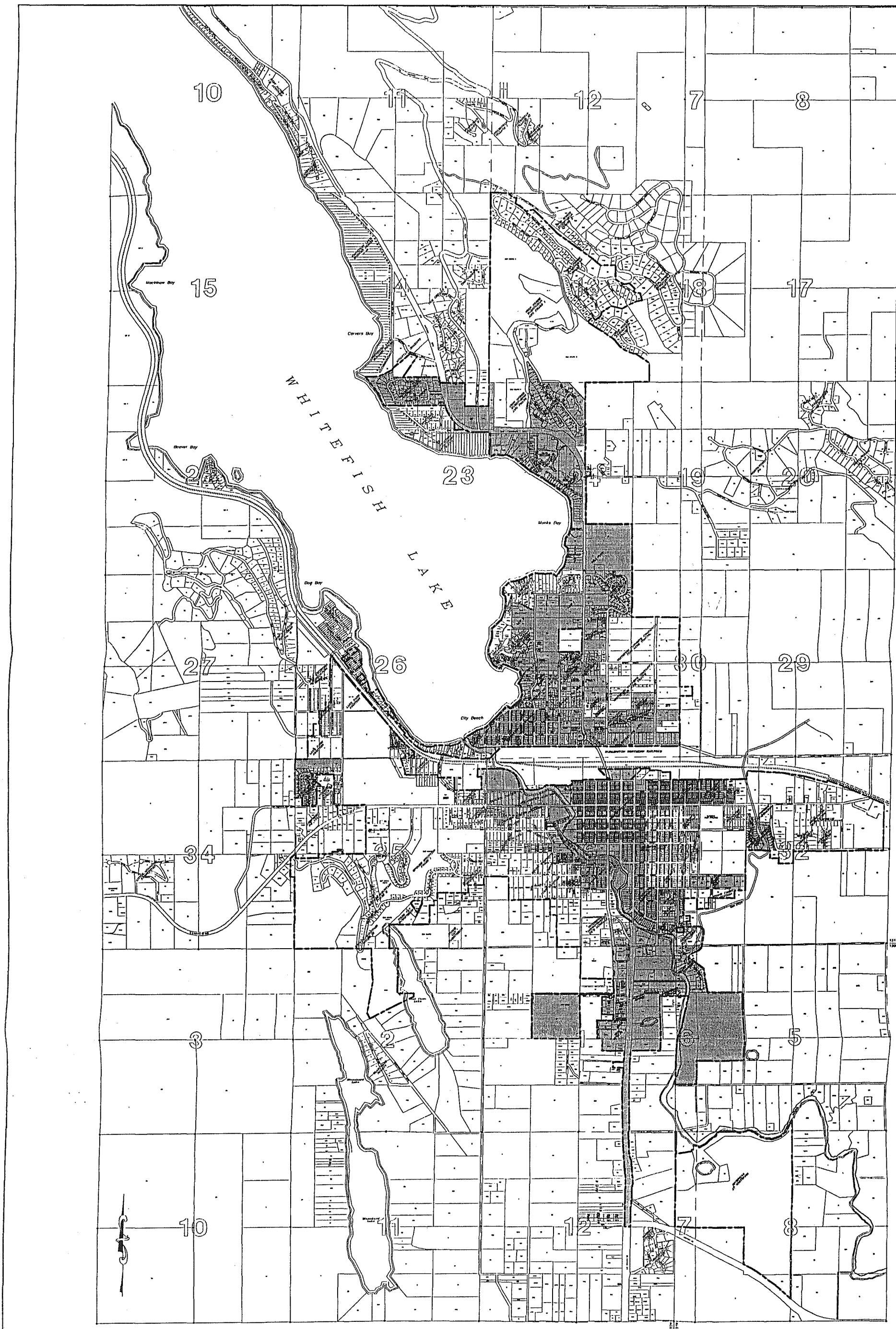


EXHIBIT B – TAX INCREMENT FUND DISTRICT
DECEMBER, 1999
CITY OF WHITEFISH

Box 158, Whitefish, Montana 59937 (406) 863-2400

City of Whitefish

February 25, 2000

Mae Nan Ellingson
Dorsey & Whitney LLP
127 East Front Street – Suite 310
Missoula, MT 59802

Re: Whitefish Tax Increment Boundary Adjustments

Dear Mae Nan:

Attached please find legal descriptions for those properties recently excluded from the Whitefish Tax Increment District. These are provided in a draft format, as we assume you have your own specific formatting requirements. Please let me know if this is not what you expected, or if we can help by resubmitting this information in a different format.

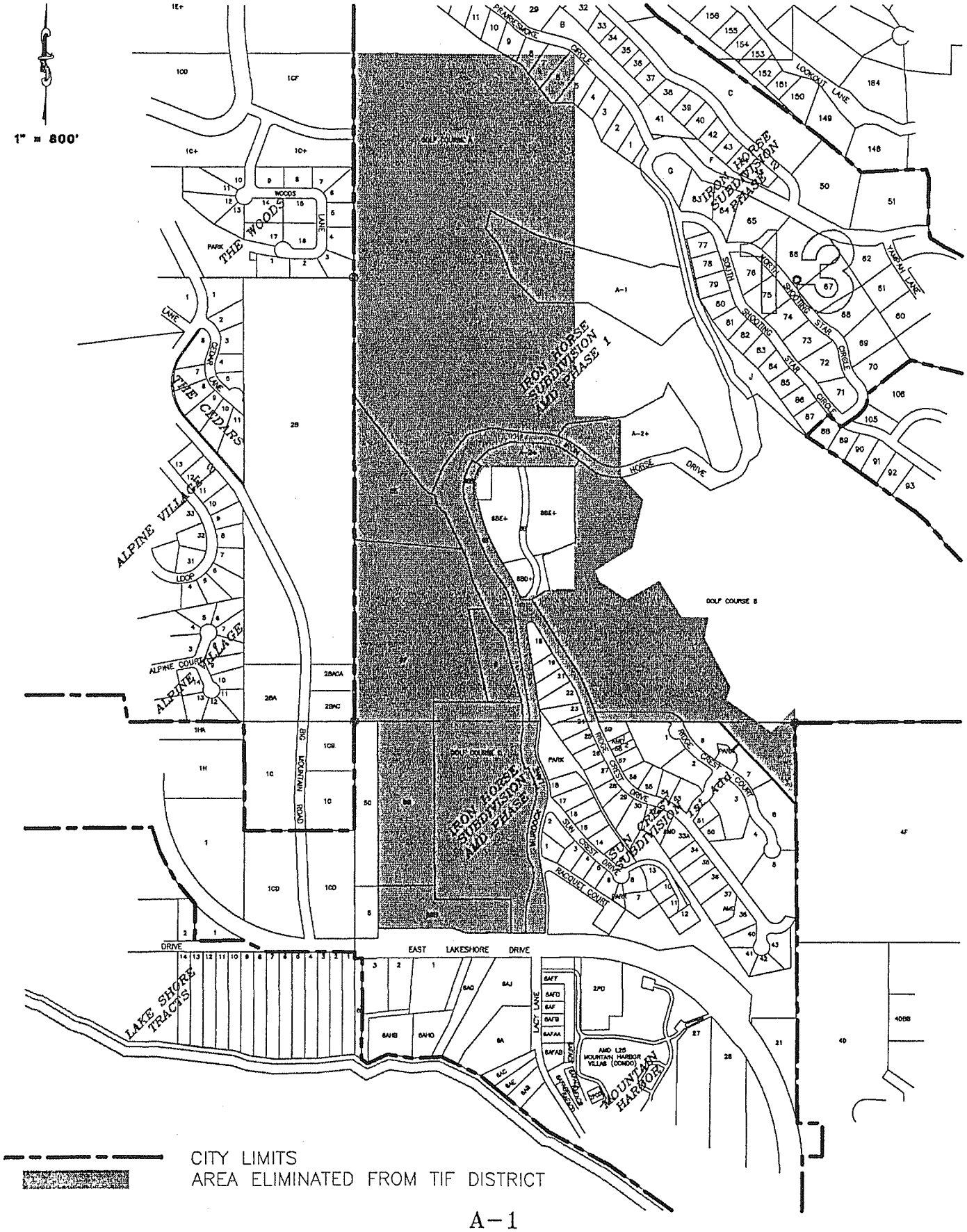
We will look to you for other direction as may be necessary, such as updating the final resolution or distributing this legal description information to others.

Sincerely,

John C. Wilson
Public Works Director

EXHIBIT A

DECEMBER, 1999



A-1

Area to be excluded from the Whitefish Tax Increment District:

A Portion of Iron Horse Subdivision Amended Phase I

Tracts 6E, 6F, 6, 6B, & 6BB

All in Section 13, T31N, R22W

Plus:

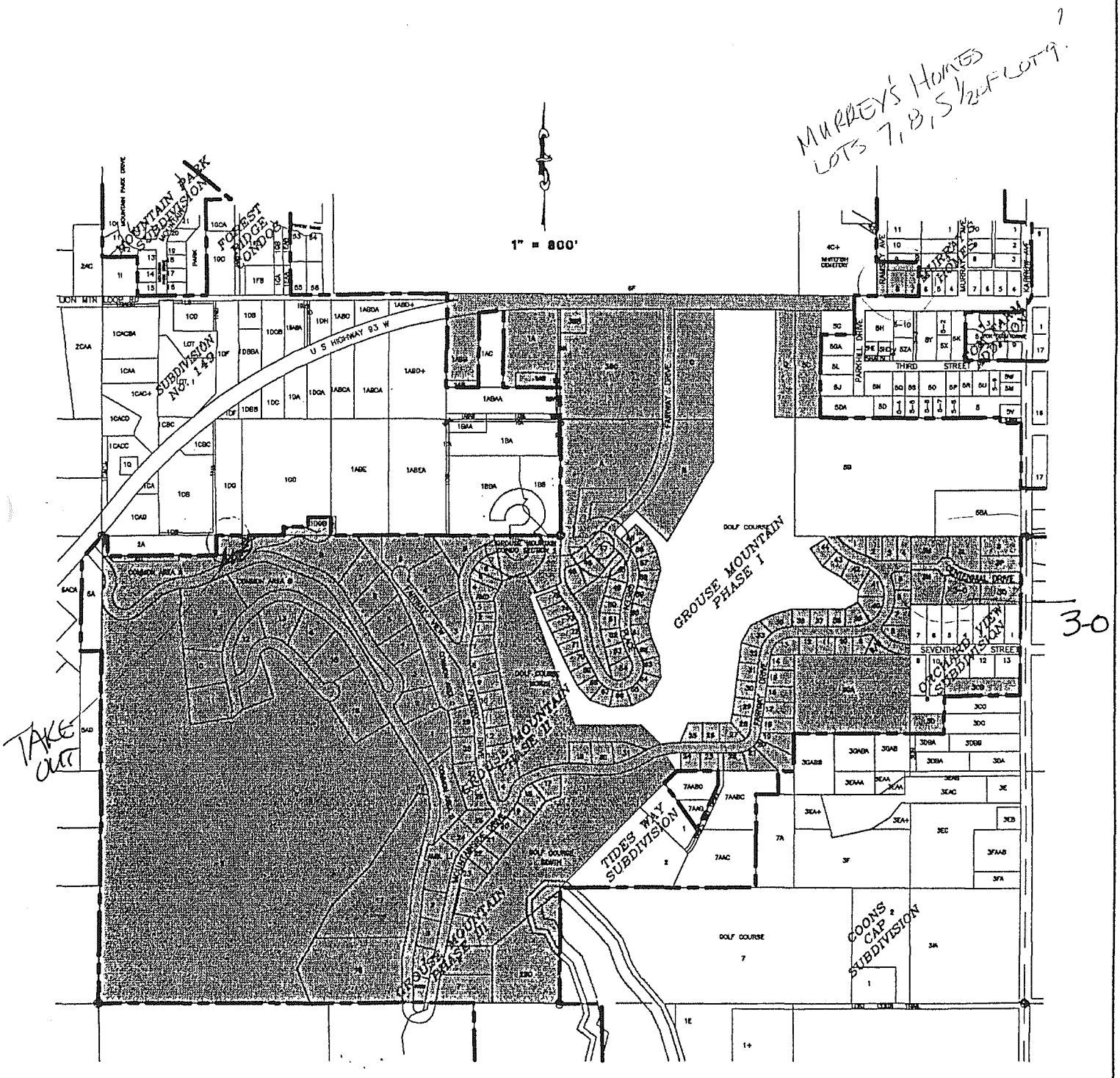
A Portion of Iron Horse Subdivision Amended Phase I

Tracts 5B & 5BB

All in Section 24, T31N, R22W

EXHIBIT A

DECEMBER, 1999



CITY LIMITS

AREA ELIMINATED FROM TIF DISTRICT

Area to be excluded from the Whitefish Tax Increment District:

Grouse Mountain Subdivision Phases I, II, and III

Grouse Mountain Condo Section I

Grouse Mountain Estates Phase I

Murray's Homes, Block 2, Lots 7,8, & South ½ of 9

Tracts 2AA, 2C, 1DGB, 1AB, 1ABB, 1A, 1AD, 1M, 1MA, 3BB, 3BC, 5C, 3, 3L, 3M, 3N, 3-O, 3P, 3Q, 3CB, 3D, 3GA, 2BC, 2, & 2B

All in Section 35, T31N, R22W

Amendment No. 8 - Modify plan to include proposed Depot Square as an Urban Renewal Project

ORDINANCE NO. 01-16

ORDINANCE RELATING TO THE MODIFICATION OF THE WHITEFISH, MONTANA URBAN RENEWAL PLAN (THE URBAN RENEWAL PLAN) TO APPROVE A CERTAIN PROJECT AS AN URBAN RENEWAL PROJECT

BE IT ORDAINED by the City Council (the "Council") of the City of Whitefish, Montana (the "City"), as follows:

Section 1. Recitals. The City by Ordinance No. 87-3, passed and approved on May 4, 1987, created an urban renewal district (the "District") and adopted the City of Whitefish Urban Renewal Plan (the "Plan") for the District pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"), which Plan contained a provision for tax increment financing. Pursuant to the Act and the procedures contained in the Plan, and Resolution No. 01-39, adopted October 1, 2001, the City has set forth its intention to issue and sell tax increment urban renewal bonds in an amount sufficient, but not to exceed $1,487,525 (the "Bonds") to finance all or a portion of a certain urban renewal project and has undertaken to designate and approve the following urban renewal project (the "Project"), and modify the Plan accordingly, has given notice and conducted public hearings with respect thereto:

Depot Square Project. The Project consists of a mixed use retail, commercial and housing project, which will include off-street and on-street public parking and dedicated parking for the residents of the Project. The Project will comprise the 12 lots in Block 28, Whitefish Original Addition and will result in 20,590 square feet of ground floor retail and commercial space, principally bordering on Central Avenue; 33 two and three bedroom residential units on the second and third floors; 65 underground public parking spaces; 35 semi-enclosed ground level private parking spaces; 11 additional on-street parking spaces with related landscaping and site improvement, and redevelopment of 18 existing on-street parking spaces. The project is estimated to cost $16,188,895, which will be financed from the proceeds of the Bonds and will require a private investment of $14,701,370. The Project is being undertaken by Whitefish Development LLC (the "Developer").

Section 2. Conditions for Bonds and Use of Proceeds. With respect to the Project, the issuance of the Bonds and the use of proceeds thereof to pay a portion of the costs of acquiring land for construction of the Project is subject to the following conditions:

1. The Bonds will be issued to pay all or a portion of the costs of acquisition of land for and the construction of a Public Parking Facility, to demolish existing structures thereon, develop 11 new and 18 redeveloped spaces of on-street parking and to fund the cost of public utility, street, sidewalk and landscaping improvements (the "Public Improvements").

2. The principal amount of the Bonds to be issued will be calculated to insure that the Tax Increment to be generated by the Project will provide 125% coverage of

annual debt service of the Bonds and provide additional tax increment of $15,000 annually.

3. The Underground Public Parking Facility will be owned by the City and available for public parking. It is contemplated that the ownership of the Parking Facility will be structured as a condominium.

4. The Improvements to be financed from the proceeds of the Bonds will be constructed by contractors and approved by the City and Developer in compliance with applicable competitive bid requirements.

5. The proceeds of the Bonds will be disbursed as required to pay for eligible Project costs as incurred.

6. The City and the Developer will enter into a Development Agreement, which will be subject to approval of the City Council. It will:

   a) obligate the Developer to construct the Project within a specified period of time and provide assurance that the Developer has adequate resources and committed financing available to undertake and complete the Project;

   b) obligate the Developer to complete the Public Improvements in the event that the proceeds of the Bonds are insufficient therefore;

   c) obligate the Developer to pay its real and personal property taxes as due, and to the extent that amount of Tax Increment paid with respect to the Project is not adequate to pay the principal of and interest on the Bonds as due, it will obligate the Developer to make a "deficiency tax payment";

   d) set forth the additional collateral and security required by the City and the Underwriter of the bonds to guarantee a "deficiency tax payment";

   e) specify remedies for the City in the event that the Developer defaults on its obligations.

Section 3. Findings. The Council hereby finds, with respect the Project described in Section 1 hereof and the satisfaction of the conditions set forth in Section 2, as follows:

a. a workable and feasible plan exists for making available adequate housing for any persons who may be displaced by the Project;

b. the Plan, as modified to include the Project, conforms to the comprehensive plan or parts thereof of the City;

c. the Plan, as modified to include the Project, will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the District by private enterprise;

d. a sound and adequate financial program exists for financing the Project, which program includes the sale and issuance by the City of its urban renewal tax increment bonds in an amount not to exceed the costs of the Project, including administration costs and costs of issuance of the Bonds, and available funds in the Development Account in the Tax Increment Fund of the City, in proportions yet to be determined, for the purpose of financing all or a portion of the costs of the Project as set forth above; and

e. the Project constitutes an urban renewal project within the meaning of the Act and the Plan.

Section 3. Modification of Project. The Urban Renewal Project herein designated and approved may be modified by the City Council of the City of Whitefish if the Council determines by Resolution that an adjustment to a Project is required in the best interest of the City of Whitefish.

Section 4. Preparation of Documents; Submission to Council for Final Approval. The City Manager, Finance Director and the special committee of the Council formed to review the Project are hereby authorized and directed to work with the Developer, Bond Counsel and City Attorney, as may be required, to prepare and review the documents described in Section 2 and any other documents as may be necessary to satisfy the conditions set forth herein and effectuate the Project and the financing thereof and submit such documents to this Council for approval.

Section 5. Effect. This Ordinance shall take effect from and after 30 days of its passage by the City Council on second reading and approval by the Mayor.

PASSED, ADOPTED and APPROVED on first reading this 5th day of November, 2001.

Mayor

Attest: Nancie Loang
City Clerk

PASSED, ADOPTED and APPROVED on second reading this 19th day of November, 2001.

Mayor

Attest: Nancie Loang
City Clerk

CERTIFICATE AS TO ORDINANCE AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Whitefish, Montana (the "City"), hereby certify that the attached ordinance is a true copy of a Ordinance entitled: "ORDINANCE RELATING TO THE MODIFICATION OF THE WHITEFISH, MONTANA URBAN RENEWAL PLAN (THE URBAN RENEWAL PLAN) TO APPROVE A CERTAIN PROJECT AS AN URBAN RENEWAL PROJECT" (the "Ordinance"), on file in the original records of the City in my legal custody; that the Ordinance was duly adopted on first reading by the City Council of the City at a regular meeting on November 5, 2001, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Ordinance at said meeting, the following Council members voted in favor thereof: Mike Gwiazdon, Kim Fleming Sarah Fitzgerald, Chet Hope, Turner Askew, Shirley Jacobson;
voted against the same: None;
abstained from voting thereon: None;
or were absent: None.

WITNESS my hand and seal officially this 5th day of November, 2001.

(SEAL)

Necie Loring
City Clerk

I further certify that the Ordinance was duly adopted on second reading by the City Council of the City at a special meeting on November 19, 2001, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Ordinance at said meeting, the following Council members voted in favor thereof: Mike Gwiazdon, Kim Fleming Sarah Fitzgerald, Chet Hope, Shirley Jacobson;
voted against the same: None;
abstained from voting thereon: None;
or were absent: Turner Askew.

WITNESS my hand and seal officially this 19th day of November, 2001.

(SEAL)

Necie Loring
City Clerk

Amendment No. 9 - amending the boundaries to include area where WAVE is.

ORDINANCE NO. 03-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, AMENDING THE BOUNDARIES OF THE WHITEFISH URBAN RENEWAL DISTRICT.

WHEREAS, the City of Whitefish is in the process of acquiring, from the Whitefish Community Aquatics and Health Center, property which will be combined with other properties and upon which will be constructed the new Community Aquatics and Health Center; and

WHEREAS, pursuant to that portion of the City's Urban Renewal Plan entitled "MODIFICATION OF PLAN," the City scheduled and conducted a public hearing on September 2, 2003, which public hearing was preceded by the notice required by the City's Urban Renewal Plan; and

WHEREAS, having received public comment regarding the proposed addition of land to the City's Urban Renewal District, the City Council of the City of Whitefish determined that it will be in the best interests of the City, and its inhabitants, to include such land within its Urban Renewal District;

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

Section 1: That the City Council of the City of Whitefish, Montana, does hereby include within the City of Whitefish Urban Renewal Plans those lands which are more particularly described on Exhibit "A," attached hereto and incorporated herein by reference.

Section 2: That the City Council of the City of Whitefish, Montana, hereby finds that the property added to the City of Whitefish Urban Renewal District, as described above, is a "blighted area" as that term is defined in § 7-15-4206(2), MCA, and as that term is defined in the City of Whitefish Urban Renewal Plan, for the following reasons:

a) Such property in its current state is located in close proximity to a former gravel pit which is located near the heart of the City and which substantially impairs or arrests the sound growth of the City and its environments.

b) Such property is physically unimproved.

c) Such property is a parcel over which there are no roads, convenient access, or utility infrastructure of any kind.

d) Such property is located near Baker Avenue, a major traffic corridor through the City, and in its current condition such property lacks aesthetic appeal, landscaping, and other improvements that would make such property an attractive and convenient traffic corridor.

e) Such property lacks curbs, gutters, sidewalks, storm sewers, parking, and other government infrastructure.

Section 3: This Ordinance shall be in full force and effect from and after thirty (30) days after its passage by the City Council of the City of Whitefish, Montana, and approval by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS 15TH DAY OF SEPTEMBER, 2003.

ANDY FEURY, MAYOR

ATTEST:

Necile Lorang, City Clerk

Those portions of Lots 11 and 12, Riverside Improvement Company's Acreage described as follows:

Commencing at the Southwest corner of the Southeast 1/4, Section 36, Township 31 North, Range 22 West; thence along the South line of the Southeast 1/4
East 247.61 feet to the Point of Beginning; thence continuing along the South Line
East 300.49 feet; thence
North 245.10 feet; thence
South 89°57'36" West 299.82 feet; thence
South 0°09'28" West 244.89 feet to the Point of Beginning.

Parcel A of Certificate of Survey No. 11825.

EXHIBIT "A"

Amendment No. 10 - Amend plan to include Bicycle and Pedestrian Plan as an urban renewal project.

ORDINANCE NO. 03-34

ORDINANCE RELATING TO THE MODIFICATION OF THE WHITEFISH URBAN RENEWAL PLAN TO APPROVE A PROJECT AS AN URBAN RENEWAL PROJECT

BE IT ORDAINED by the City Council (the "Council") of the City of Whitefish, Montana (the "City"), as follows:

Section 1. Recitals.

1.01. The City by Ordinance No. 87-3, passed and approved on May 4, 1987, created an urban renewal district (the "District") and adopted the City of Whitefish Urban Renewal Plan (the "Plan") for the District pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"), which Plan contained a provision for tax increment financing. The Plan was amended by Ordinance No. 95-6, approved by the City Council on May 15, 1995, to set forth a procedure for approving urban renewal projects. Pursuant to the Act and the procedures contained in the Plan, and Resolution No. 03-64, adopted November 17, 2003, the City set forth it intention to designate and approve the Whitefish Bicycle and Pedestrian Plan, as approved by the Council on October 4, 1999 (the "Bicycle and Pedestrian Plan"), as an urban renewal project (the "Project"), and modify the Plan accordingly, and has given notice and conducted a public hearing with respect thereto. This Project will consist of construction of pedestrian and bicycle trails and walkways as described within the Bicycle and Pedestrian Plan, including those necessary to link the recently redeveloped Riverside Park to Mountain Trails Park and to the redeveloped City Beach Park, and along the Whitefish River and Wisconsin Avenue.

Section 2. Findings. The Council hereby finds, with respect to the Project described in Section 1 hereof, as follows:

a. no persons will be displaced from their housing by the Project;

b. the Plan, as modified to include the Project, conforms to the comprehensive plan or parts thereof of the City;

c. the Plan, as modified to include the Project, will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the District by private enterprise;

d. the issuance of $1,775,000 of tax increment urban renewal revenue bonds for the Project, along with other available funds of the City, will enable the City to implement a substantial part of the Plan. The Plan can not be fully implemented with the available funds, but the City believes it will obtain grants and other private funds over time to complete the Project; and

e. the Project constitutes an urban renewal project within the meaning of the Act and the Plan.

Section 3. Modification of Project. The Urban Renewal Project herein designated and approved may be modified by the City Council of the City of Whitefish if the Council determines by Resolution that an adjustment to the Project is required and in the best interest of the City of Whitefish.

Section 4. Effect. This Ordinance shall take effect from and after 30 days of its passage by the City Council and approval by the Mayor.

PASSED, ADOPTED and APPROVED on second reading this 1st day of December, 2003.

Mayor

Attest: Asst. City Clerk

CERTIFICATE AS TO ORDINANCE AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Whitefish, Montana (the "City"), hereby certify that the attached ordinance is a true copy of a Ordinance entitled: "ORDINANCE RELATING TO THE MODIFICATION OF THE WHITEFISH URBAN RENEWAL PLAN TO APPROVE A PROJECT AS AN URBAN RENEWAL PROJECT" (the "Ordinance"), on file in the original records of the City in my legal custody; that the Ordinance was duly presented for first reading by the City Council of the City at a regular meeting on November 17, 2003, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

WITNESS my hand and seal officially this 17 day of November, 2003.

(SEAL)

Janice Weelborg
City Clerk ASSISTANT

I further certify that the Ordinance was duly adopted on second reading by the City Council of the City at a special meeting on December 1, 2003, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Ordinance at said meeting, the following Council members voted in favor thereof: KIM FLEMING, DOUG ADAMS, MARK WAGNER AND TURNER ASKEW; voted against the same: ERIK GARBERG; abstained from voting thereon: NONE; or were absent: SARAH FITZGERALD.

WITNESS my hand and seal officially this 1 day of December, 2003.

(SEAL)

Janice Weelborg
City Clerk ASSISTANT

ORDINANCE NO. 03-34

ORDINANCE RELATING TO THE MODIFICATION OF THE WHITEFISH URBAN RENEWAL PLAN TO APPROVE A PROJECT AS AN URBAN RENEWAL PROJECT

BE IT ORDAINED by the City Council (the "Council") of the City of Whitefish, Montana (the "City"), as follows:

Section 1. Recitals.

1.01. The City by Ordinance No. 87-3, passed and approved on May 4, 1987, created an urban renewal district (the "District") and adopted the City of Whitefish Urban Renewal Plan (the "Plan") for the District pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"), which Plan contained a provision for tax increment financing. The Plan was amended by Ordinance No. 95-6, approved by the City Council on May 15, 1995, to set forth a procedure for approving urban renewal projects. Pursuant to the Act and the procedures contained in the Plan, and Resolution No. 03-64, adopted November 17, 2003, the City set forth it intention to designate and approve the Whitefish Bicycle and Pedestrian Plan, as approved by the Council on October 4, 1999 (the "Bicycle and Pedestrian Plan"), as an urban renewal project (the "Project"), and modify the Plan accordingly, and has given notice and conducted a public hearing with respect thereto. This Project will consist of construction of pedestrian and bicycle trails and walkways as described within the Bicycle and Pedestrian Plan, including those necessary to link the recently redeveloped Riverside Park to Mountain Trails Park and to the redeveloped City Beach Park, and along the Whitefish River and Wisconsin Avenue.

Section 2. Findings. The Council hereby finds, with respect to the Project described in Section 1 hereof, as follows:

a. no persons will be displaced from their housing by the Project;

b. the Plan, as modified to include the Project, conforms to the comprehensive plan or parts thereof of the City;

c. the Plan, as modified to include the Project, will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the District by private enterprise;

d. the issuance of $1,775,000 of tax increment urban renewal revenue bonds for the Project, along with other available funds of the City, will enable the City to implement a substantial part of the Plan. The Plan can not be fully implemented with the available funds, but the City believes it will obtain grants and other private funds over time to complete the Project; and

e. the Project constitutes an urban renewal project within the meaning of the Act and the Plan.

Section 3. Modification of Project. The Urban Renewal Project herein designated and approved may be modified by the City Council of the City of Whitefish if the Council determines by Resolution that an adjustment to the Project is required and in the best interest of the City of Whitefish.

Section 4. Effect. This Ordinance shall take effect from and after 30 days of its passage by the City Council and approval by the Mayor.

PASSED, ADOPTED and APPROVED on second reading this 1st day of December, 2003.

Mayor

Attest: Dania Hirschman
City Clerk, Assistant

Amendment No. 11 - Amend boundaries to include the Armory.

ORDINANCE NO. 04-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, AMENDING THE BOUNDARIES OF THE WHITEFISH URBAN RENEWAL DISTRICT TO INCLUDE THE WHITEFISH ARMORY PROPERTY.

WHEREAS, the City of Whitefish has purchased the property known as the Whitefish Armory from the State of Montana; and

WHEREAS, pursuant to that portion of the City's Urban Renewal Plan entitled "MODIFICATION OF PLAN," the City scheduled and conducted a public hearing on April 19, 2004, which public hearing was preceded by the notice required by the City's Urban Renewal Plan; and

WHEREAS, having received public comment regarding the proposed addition of land to the City's Urban Renewal District, the City Council of the City of Whitefish determined that it will be in the best interests of the City, and its inhabitants, to include such land within its Urban Renewal District;

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

Section 1: That the City Council of the City of Whitefish, Montana, does hereby include within the City of Whitefish Urban Renewal District those lands which are more particularly described on Exhibit "A," attached hereto and incorporated herein by reference.

Section 2: That the City Council of the City of Whitefish, Montana, hereby finds that the property added to the City of Whitefish Urban Renewal District, as described above, is a "blighted area" as that term is defined in § 7-15-4206(2), MCA, and as that term is defined in the City of Whitefish Urban Renewal Plan, for the following reasons:

a) The building located on the Whitefish Armory property has been used only as a National Guard Armory, and is currently in a state of disrepair. Significant and extensive repairs and remodeling will be necessary in order to make the building comfortable and safe for use of the public.

b) The building located on the Armory property lacks fire sprinkling, and as a result is in need of substantial and extensive work in order to install fire sprinkling to make the building as safe as is possible for use by members of the public.

c) Only a small portion of the five-acre parcel is developed. Parking lots are unpaved or in a state of substantial disrepair, and most of the parcel lacks landscaping or other improvements.

d) Since constructed as a National Guard Armory many years ago, the building lacks women's restrooms and could not be used by the public in general without extensive modification and construction of women's restrooms.

e) In order to be effectively used by the City and several of its departments, the Armory building would need substantial remodeling to accommodate the various departments and their needs.

f) In its current condition such property lacks aesthetic appeal, landscaping, and other improvements that would make such property attractive and convenient for use by the public.

g) Such property lacks curbs, gutters, sufficient sidewalks, storm sewers, parking, and other government infrastructure.

Section 3: That this Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS 3rd DAY OF May, 2004.

ANDY FEURY, MAYOR

ATTEST:

Necile Lorang, City Clerk

EXHIBIT "A"

That portion of the Southeast Quarter of the Northeast Quarter of Section 32, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana, described as follows:

Commencing at the Southwest corner of the Southeast Quarter of the Northeast Quarter of said Section 32; thence

North 00°08'57" East and along the Westerly boundary of said Southeast Quarter of the Northeast Quarter, a distance of 30.00 feet to the Northerly right of way of Armory Road (a 60 foot county road) and being the True Point of Beginning of the tract of land herein described; thence

North 00°08'57" East and along said Westerly boundary and being the centerline of Dodger Lane (a 60 foot declared road), a distance of 630.00 feet; thence

South 89°51'03" East, a distance of 350.00 feet; thence

South 00°08'57" West, a distance of 629.58 feet to the Northerly right of way of Armory Road; thence

North 89°55'34" West along said Northerly right of way, a distance of 350.00 feet to the Point of Beginning.

Tract 1 of Certificate of Survey No. 13145.

Amendment No. 12 - Approve construction of Parks Maintenance Building as an urban renewal project.

ORDINANCE NO. 08-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, RELATING TO THE MODIFICATION OF THE WHITEFISH, MONTANA, URBAN RENEWAL PLAN WITH RESPECT TO THE PARKS MAINTENANCE BUILDING.

WHEREAS, the City of Whitefish, by Ordinance No. 87-3, passed and approved on May 4, 1987, created an Urban Renewal District (the "District") and adopted the City of Whitefish Urban Renewal Plan (the "Plan") for the District pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"); and

WHEREAS, thereafter, pursuant to City Ordinance No. 95-6, the City Council amended the Plan by adopting a procedure for notice to the public when future modifications to the Plan are adopted; and

WHEREAS, the original Plan identified as an Urban Renewal Project the provision of recreation facilities and development of new parks-related infrastructure; and

WHEREAS, for many years the City of Whitefish Parks Department has utilized a parcel of land located on Burlington Northern Santa Fe (BNSF) Railroad land and beside the railroad tracks, directly west of downtown, for a Parks Maintenance Facility; and

WHEREAS, the Parks Maintenance Facility on BNSF land consists of a dilapidated building that lacks modern conveniences, including restrooms, running water, insulation, and adequate storage, and that is wholly inadequate for use as a Parks Maintenance Facility; and

WHEREAS, the City identified land currently owned by the City on which the City Wastewater Treatment Plant is located, which land was available for construction of a new Parks Maintenance Building; and

WHEREAS, the new location of the Park Maintenance Building is 202 Monegan Road; and

WHEREAS, the City of Whitefish desires to amend the Plan to include the construction of the new Parks Maintenance Building as an Urban Renewal Project; and

WHEREAS, in furtherance of such amendment, after proper and legal notice was given, a public hearing was held by the Whitefish City Council on January 22, 2008, and public comment was invited; and

WHEREAS, all lawful notice required to be given has been given, and the Whitefish City Council properly considered the approval of the construction of the Parks Maintenance Building as an Urban Renewal Project;

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: The Council hereby finds, with respect to the Urban Renewal Project described above, as follows:

a. A workable and feasible plan exists for making available adequate housing for any persons who might be displaced by the Project;

b. The Plan, as modified to include the Project, conforms to the comprehensive Plan or parts thereof of the City;

c. The Plan, as modified to include the Project, will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the District by private enterprise;

d. A sound and adequate financial program exists for the financing of such Project; and

e. The Project constitutes an Urban Renewal Project within the meaning of the Act and the Plan.

Section 3: The City Council hereby approves the construction of the Parks Maintenance Building as an Urban Renewal Project, and ratifies any and all action taken with respect to the construction of the Parks Maintenance Building.

Section 4: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS 4TH DAY OF FEBRUARY, 2008.

MICHAEL JENSON, MAYOR

ATTEST:

Necile Lorang, City Clerk

Amendment No. 13 - Approve ESC as an urban renewal project

ORDINANCE NO. 08-19

ORDINANCE RELATING TO THE MODIFICATION OF THE WHITEFISH URBAN RENEWAL PLAN TO INCORPORATE THE WHITEFISH DOWNTOWN BUSINESS DISTRICT MASTER PLAN; APPROVING THE EMERGENCY SERVICES FACILITY AS AN URBAN RENEWAL PROJECT AND THE FINANCING THEREOF; AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT REGULATIONS OF THE UNITED STATES TREASURY

BE IT ORDAINED by the City Council (the "Council") of the City of Whitefish, Montana (the "City"), as follows:

Section 1. Recitals.

1.01. The City, by Ordinance No. 87-3, passed and approved on May 4, 1987, (the "Original Ordinance") created an urban renewal district (the "District") and adopted the City of Whitefish Urban Renewal Plan (the "Plan") for the District pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"), which Plan contained a provision for tax increment financing. The Plan was amended by Ordinance Nos. 95-6 and 03-34, approved by the City Council on May 15, 1995 and December 1, 2003, to set forth a procedure for approving urban renewal projects. The Original Ordinance , as amended from time to time by ordinances of the Council, shall constitute the "Ordinance". Pursuant to the Act and the procedures contained in the Plan, and Resolution No. 08-25, adopted June 16, 2008 (the "Resolution of Intention"), the City set forth its intention to amend the Plan to incorporate the Whitefish Downtown Business District Master Plan, as approved by the Council on April 3, 2006 (the "Downtown Plan"), and to move the location of the existing emergency services facility out of the downtown and construct a new emergency services facility of approximately 30,233 square feet that will include a fire station, police department, City court and related facilities located in the Bakers Common subdivision at 13th Avenue and Baker Street in the District (the "Emergency Services Facility") as an urban renewal project (the "Project"), and modify the Plan accordingly, made certain findings with respect to the Project and set forth its intention to finance the Emergency Services Facility through the use of a lease purchase.

1.02. Pursuant to the Resolution of Intention, the City duly noticed and held a public hearing on July 7, 2008 on the amendment of the Plan to incorporate therein the Downtown Plan and to approve the Emergency Services Facility as an Urban Renewal Project.

Section 2. Amendment of Plan, Approval of Project and Financing.

2.01. Approval of Downtown Plan. The Plan is hereby amended to include the Downtown Plan as part of the Plan. In the event of any inconsistencies between the Downtown Plan and the Plan, the Downtown Plan will control.

2.02. Approval of Project. The Emergency Services Facility is hereby approved as an Urban Renewal Project.

2.03. The Council hereby confirms the findings with respect to the Project set forth in the Resolution of Intention. The City anticipates that it will need financing in the principal amount of $9,070,000 to finance the Project, fund a debt service reserve fund and pay other costs associated with Project financing (the "Bonds"), and authorizes the City staff to proceed with the financing thereof in accordance with the Resolution of Intention.

Section 3. Reimbursement Expenditures.

3.01. Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

3.02. Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures constituting preliminary expenditures within the meaning of Section 1.1 50-2(f)(2) of the Regulations, or (iii) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Project have been paid by the City before the date 60 days before the date of adoption of this ordinance.

3.03. Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Project out of the proceeds of Bonds in an estimated maximum aggregate principal amount of $9,070,000 after the date of payment of all or a portion of the costs of the Project. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.1 50-2(d)(3) of the Regulations.

3.04. Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

3.05. Reimbursement Allocations. The City's Finance Officer shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Project. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds or the Project and shall specifically identify the actual original expenditure being reimbursed.

Section 6. Effect. This Ordinance shall take effect from and after 30 days of its passage by the City Council and approval by the Mayor.

PASSED, ADOPTED and APPROVED on second reading this 21st day of July, 2008.

Mayor

Attest: Neile Lorang
City Clerk

CERTIFICATE AS TO ORDINANCE AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Whitefish, Montana (the "City"), hereby certify that the attached ordinance is a true copy of an ordinance entitled: "ORDINANCE RELATING TO THE MODIFICATION OF THE WHITEFISH URBAN RENEWAL PLAN TO INCORPORATE THE WHITEFISH DOWNTOWN BUSINESS DISTRICT MASTER PLAN; APPROVING THE EMERGENCY SERVICES FACILITY AS AN URBAN RENEWAL PROJECT AND THE FINANCING THEREOF; AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT REGULATIONS OF THE UNITED STATES TREASURY" (the "Ordinance"), on file in the original records of the City in my legal custody; that the Ordinance was duly presented for first reading by the City Council of the City at a regular meeting on July 7, 2008, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

WITNESS my hand and seal officially this 23rd day of July, 2008.

(SEAL)

Nicole Lorang
City Clerk

I further certify that the Ordinance was duly adopted on second reading by the City Council of the City at a regular meeting on July 21, 2008, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Ordinance at said meeting, the following Council members voted in favor thereof: Councilors Jacobson, Palmer, Woodruff and Askew; voted against the same: none; abstained from voting thereon: none; or were absent: Councilors Friel and Muhlfeld.

WITNESS my hand and seal officially this 23rd day of July, 2008.

(SEAL)

Nicole Lorang
City Clerk

Amendment No. 14 - Add high school to Urban Renewal area and declare as urban renewal project.

ORDINANCE NO. 12-05

An Ordinance of the City Council of the City of Whitefish, Montana, relating to the modification of the Whitefish Urban Renewal Plan to modify the boundaries of the Urban Renewal District; approving the Whitefish School District High School Project as an Urban Renewal Project and the financing thereof.

BE IT ORDAINED by the City Council (the "Council") of the City of Whitefish, Montana (the "City"), as follows:

Section 1. Recitals.

1.01 The City, by Ordinance No. 87-3, passed and approved on May 4, 1987 (the "Original Ordinance") created an urban renewal district (the "District") and adopted the City of Whitefish Urban Renewal Plan (the "Plan") for the District pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"), which Plan contained a provision for tax increment financing. The Plan was amended by Ordinance Nos. 95-6 and 03-23, approved by the City Council on May 15, 1995, and December 1, 2003, to set forth a procedure for approving urban renewal projects. The Original Ordinance, as amended from time to time by ordinances of the Council, shall constitute the "Ordinance." Pursuant to the Act and the procedures contained in the Plan, and Resolution No. 08-25, adopted June 16, 2008 (the "Resolution of Intention"), the City set forth its intention to amend the Plan to incorporate the Whitefish Downtown Business District Master Plan, as approved by the Council on April 3, 2006 (the "Downtown Plan"), and by Ordinance No. 08-19, passed and approved on July 21, 2008, the Emergency Services Facility as an Urban Renewal Project.

1.02 Pursuant to the Act and procedure for approving urban renewal projects, the City duly noticed and held a public hearing on February 6, 2012, on the amendment of the Plan to incorporate therein and to approve the Whitefish School District High School Project as an Urban Renewal Project.

Section 2. Amendment of Plan, Approval of Project and Financing.

2.01 Approval of modification of the Whitefish Urban Renewal Plan. The Plan is hereby amended to include the Whitefish School District High School property, as part of the Plan as shown in Exhibit A.

2.02 Approval of Project. The Whitefish School District High School Project is hereby approved as an Urban Renewal Project.

2.03 The Council hereby approves the findings with respect to the Project set forth below. The City authorizes the City staff to proceed with the financing thereof in accordance with the Resolution of Intention.

Section 3. Findings. The Council hereby finds, with respect to the Project as follows:

a. no persons will be displaced from their housing by the Project;

b. the Original Plan, as amended to include the Whitefish School District High School Project, conforms to the comprehensive plan or parts thereof of the City and the City's Growth Policy;

c. the Original Plan, as amended to include the Whitefish School District High School Project, will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the District, by private enterprise;

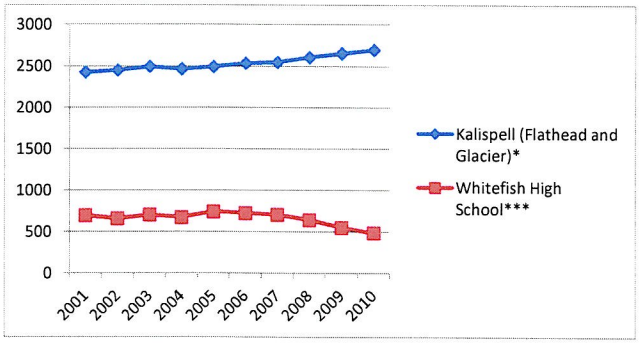
d. a sound and adequate financial program exists for the financing of the Project; and

e. the Project constitutes an urban renewal project within the meaning of the Act and the Original Plan; and

f. the Project has the following public benefits:

1. The Whitefish School District has a policy as shown in Exhibit B of open public use of its facilities including, but not limited to the current and future high school facility. Their policy includes: "School facilities are available to the community for education, civic, cultural, and uses consistent with the public interest, when such use does not interfere with the school program or school-sponsored activities". Moreover, as shown in a letter from the Whitefish School Superintendent in Exhibit B, the School District is very interested in using its future high school facility in a number of public and private partnerships in the community and the District.

2. The project will help reverse a trend of declining enrollment in the Whitefish High School as shown below. Such a trend can inhibit residential and commercial growth in the District (see the next finding) and can lead to disinvestment in and deterioration of the District. Therefore, aiding in the investment of a new and refurbished high school can help eliminate and avoid blighted conditions within the District.



* Provided by Flathead Superintendent's Office of Public Instruction
*** Provided by Whitefish School District

3. As shown in Exhibit C, there is extensive literature related to the correlation of investment in public schools (education and facilities) to both residential and commercial development. Therefore, the City Council finds that this correlation is valid and approving the Project will help stimulate demand for and values of residential and

commercial development projects and therefore eliminating existing or avoiding future blighted conditions.

4. As shown in Exhibit D, the current high school has a number of blighted conditions and the City's investment of tax increment funds will help alleviate those blighted conditions for a project within the Tax Increment District boundaries.

5. There will be a public benefit of the newly refurbished and rebuilt high school in that the current plan moves student parking from the south side of the high school to the north side of the high school. This parking will then be more available and more convenient for public parking for other area events such as events at the City's Memorial Field and Memorial Park which is immediately north of the proposed student parking lot.

6. The plan for the refurbished and rebuilt high school as shown in Exhibit E is a sound financial plan and construction program which will help alleviate and avoid future blighted conditions at the high school and throughout the district.

7. Other public benefit aspects as it relates to TIF criteria, avoidance of blight, and enhancing private commercial development. Publicly owned buildings may be financed with tax increment proceeds pursuant to Section 7-15-4288(4), MCA.

Section 4. Budgetary Matters. Prior to the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing of the expenditures related to the Project. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof. As of the passage of this Ordinance, the City hereby pledges to appropriate in FY13 an immediate contribution of existing Tax Increment Funds of $1,000,000.00 and further commits to a pledge of future Tax Increment funds of $1,500,000.00 to be paid over a two year period in FY14 and FY15. Staff is requested to prepare future budgets consistent with these allocations and pledges of Tax Increment funds to the Project.

Section 5. Effect. This Ordinance shall take effect from and after 30 days of its passage by the City Council and approval of the Mayor.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS 21ST DAY OF FEBRUARY, 2012.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

EXHIBIT A
Page 1 of 2

Legal Description for Parcels to be included in Tax Increment Fund District

Tracts 5E and 6A, Section 32, Township 31 North, Range 21 West

Geocode: 07-4293-32-3-01-15-0000

Whitefish School District

COMMUNITY RELATIONS 4330P

Community Use of School Facilities

School facilities are available to the community for education, civic, cultural, and uses consistent with the public interest, when such use does not interfere with the school program or school-sponsored activities. Use of school facilities for school purposes has precedence over all other uses. Persons on school premises must abide by the District's conduct rules at all times.

Student and school-related organizations shall be granted the use of school facilities at no cost. Other organizations granted the use of the facility shall pay fees and costs. All scheduled fees and costs will be paid to the District Business Office. The District Business Office will bill all charges above and beyond the scheduled fees and costs incurred by the renting party.

The building administrator shall approve and schedule the various uses of the school facilities. No Building Use Request will extend past three months. Users may reapply for an extension if need arises. The principal(s) reserve the authority to deny use of the buildings to any group for good cause.

Use of School Plant and Equipment

Application for public use of any school accommodations shall be made to the principal well in advance of the desired date of use. Any and all require fees shall be paid in advance to the District's Business Office and a responsible, local citizen must agree by signing a form provided for this purpose to be personally responsible for any damage(s) to school property and for the strict observance of all rules.

Use of school facilities will be prioritized using the following guidelines:

- School activities
- Whitefish-based youth activities
- Whitefish-based adult activities
- Activities based other than in Whitefish School District

Other than the Performing Arts Center, group identification/definition for fee schedule:

Group I:	Organizations whose activity is solely for District #44 students.
Group II:	Any youth group for recreational or other approved uses.
Group III:	Any adult group for recreational or other approved uses.
Group IV:	Local non-profit organizations sponsoring any activities for their own benefit or profit.
Group V:	Organizations sponsoring activities for their benefit or profit.

The following Rental and Custodial fees shall apply per session:

	Group I	Group II	Group III	Group IV	Group V
Gymnasium	None	$10.00	$10.00	$20.00	$50.00 Minimum
Home Ec.	None	$10.00	$10.00	$10.00	$15.00
Classroom	None	$10.00	$3.00	$3.00	$10.00
Multipurpose & Lecture Room	None	$10.00	$10.00	$10.00	$20.00
Main Kitchen	**(At the discretion of the Superintendent)**				
Fields	None	None	$10.00	$20.00	$20.00 Minimum

The following custodial fees will apply:

A. $50.00 fee…. when the custodian is required to open and close the building but is not required to supervise activities.

B. $50.00 fee…. when custodial staff is required to clean after Group use when facility was previously cleaned or needs to be cleaned for instructional use.

C. Overtime rate on an hourly basis (depending upon the custodian's wages) will be charged when the custodian is required to supervise or clean areas.

Note: Whenever a custodian is paid for extra duty of this nature, he/she shall be present throughout the meeting and arrive at least one-half hour prior to the time the meeting is to start. He/she shall supervise the lighting, heating, and ventilating the part of the building being used and assist in preserving order and preventing damage to school property. His/her final duty for the evening shall be to secure the building properly.

Building Use Request

The Building Use Request form is the official form for all building sites. Forms are to be available in all building sites via the principal's office. All persons desiring to use building sites in the Whitefish School District are required to complete a Building Use Request form. The form is to be completed and approved by the building principal, appropriate fees collected and final approval given by the District's superintendent prior to building's use. A copy of the Building Use Request form will be provided to the person or group requesting District facility, a copy will be on file with the building principal, and a final copy must be on file with the District's Business Office.

Performing Arts Center

Whitefish Middle School's auditorium usage will be governed by the fees charged as the Performing Arts Center. The Performing Arts Center (PAC) fees will be determined by the one of three categories:

Category 1- No rental fees charged
Category I refers to organizations whose activity is solely for the benefit of the school age children of the Whitefish School District including:

- Users who are considered to be part of the regular school curriculum.
- Users who are participants in school-sponsored student activities, such as music and athletic groups, student clubs and plays, student council activities or social events.
- Whitefish School District affiliated groups such as parent-teacher organizations, school-related parent and community groups, or employee groups of an educational, recreational, social or professional nature as approved by the PAC Coordinator and/or superintendent.
- Governmental entities using facilities as polling place.
- Precinct caucuses.

Category 2 - A nominal non-refundable fee charged
Category 2 will be charged a nominal non-refundable fee to the following groups for each building use permit. No additional rental charges will be made if their activities take place when normal supervisory or custodial personnel are present. Fees for custodial personnel overtime will apply if these services are required.

- Non-profit groups such as those defined in Category 1 who reside or are based outside of the Whitefish School District boundaries.
- Community sponsored groups that do not charge a fee and whose main purpose is to hold an informative meeting that is open to the public (such as League of Women Voters, political parties, and local neighborhood organizations).
- Community-sponsored youth and senior citizen activities when:
    - Instructors or supervisors receive no payment for their involvement in that activity.
    - Fees for the activity, if any, provide only for direct non-personnel costs.

Fee Schedule: An individual or group using the PAC will be charged for each session up to three (3) hours in length, that the facility is used. Each additional hour of usage shall be charged at one-third (1/3) the session rate. Basic users fees are charged per session:

Lobby area:	$100
Rehearsal Rooms:	$ 20
Auditorium:	$200
Rehearsal	$100
Light/Sound	$100 per booth
PAC Coordinator	$ 20 per hour/per performance
Custodial Fee	$100 per Session

Category 3 – PAC fees will be charged
Commercial, private, church and non-profit groups that do not meet the criteria in Category 2 and for profit groups and individuals may rent the PAC facilities when their use is not incompatible with Board policy.

- Theatre/Dance/Concert/Musical	$500 – Basic Use – Per Show
-	$600 – Full Tech Use - Per Show
- Lobby:	$300 – Per Day
- Film:	$200 – Per Show
- Rehearsal (days)	$250 – Basic Use – Per Day
-	$300 – Full Tech Use – Per Day
- Orchestra Pit	$150 – Per Removal
- Rehearsal Rooms:	$ 50 – Per Day
- PAC Coordinator:	$ 20 – Per Hour/Per Performance
- Custodial Fee	$100 – Per Show
- Box Office Ticketing	3% of gross Ticket Sales

Note: Building Overtime applies when the facility is scheduled or used by or for Tenant before 8:00 am and/or after 10:00 pm. The appropriate hourly rate will be charged for any portion of an hour used. All custodial time is based upon a two (2) hour minimum charge.

Policy History:
Adopted on: 5/11/99
Revised on: 1/8/08

EXHIBIT C

Public Schools and Economic Development

What the Research Shows

By Jonathan D. Weiss

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There is a clear consensus among researchers that **education enhances productivity.**

Research indicates that quality public schools can help make states and localities **more economically competitive.**

Public schools **indisputably influence residential property values.**

Emerging evidence suggests that the quality, size, and shape of school facilities themselves **affect economic development.**

Public Schools and Economic Development

What the Research Shows

By Jonathan D. Weiss

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I. Introduction

"[Education] is the best investment we can make – one that pays off in countless dividends, for us, for our children, and for our society . . . If we hope to maintain or improve the quality of life in our communities, attract new industries, and continue to prosper as a nation, top-notch schools are essential." ***(American Association of School Administrators 1999)***

It has often been asserted, particularly by education advocates and public leaders, that high-quality public schools have a positive impact on economic development. This argument has been increasingly made at all levels. Among the many governors known for their interest in education, Arkansas Governor Mike Huckabee (2002) states matter-of-factly, "Looking for salvation for the [Mid-South] Delta? Look no farther than the public schools. If we improve them, economic development will follow."

With respect to local officials, the U.S. Conference of Mayors (1999) asserts, ". . .the economic vitality of a city is linked to the performance of its schools . . ." According to the National League of Cities' survey of its members in 2000, "it is clear . . . that city officials view the quality of public education and local schools as the cornerstone of their cities' success."

As for the general public, in a recent public opinion survey the assertion that public schools "improve the local economy and attract business" was identified as the second most important benefit which schools bring to communities (Education Week and Public Education Network 2002). The only benefit of public schools ranked above local economic improvement was the "benefit [to] families." Below economic improvement, survey respondents ranked other benefits such as lowering crime rates, creating community pride, and instilling civic values.

Education has also been a field of growing interest for economists. Since 1970, the percentage of academic studies within the economic field that address the topic of education has grown by more than fourfold (Krueger 2000). However, this literature, while very strong in particular areas, is often compartmentalized, rather than brought together as a whole. Furthermore, for even the most talented and ambitious researchers, the complexity of the education/economic relationship at all levels causes measurement difficulties that belie easy answers. Given how often the theme is mentioned in public debate, it is stunning that few studies or compilations describe how public schools can or cannot benefit the economy at both the national and local level.

Meanwhile, advocacy groups with an interest in this subject, mainly education organizations and local development associations, have rarely combined their efforts. When these advocates—or the general public—do make the economic case for public schools, the facts behind their assertions are rarely mentioned. If public schools can impact economic development, how so?

This subject seems particularly important given today's economic climate and the demands of

increased global economic competition. While public opinion continues to value education highly, all levels of government face increasing pressure to reduce spending or to spend more efficiently. Also, given the recent rise in interest in how to better link public schools with their surrounding communities, the economic nature of those linkages is beginning to receive more attention. Smaller, more neighborhood-based schools, some suggest, can benefit student learning as well as community and economic revitalization efforts (National Association of Realtors 2002, Chung 2002, Lawrence, et al 2002).

The purpose of this paper is to provide an overall review of the literature that addresses the linkage between public schools and economic development. It attempts to provide as complete a picture as possible in an accessible style. While emphasis is placed on academic research, organizational reports and coverage from more popular media are also included. An extensive list of sources used (both referenced in the text and additional material) is included at the end of this report.

The review will explore the literature related to four key potential economic impacts of public schools: 1) national economic growth and competitiveness; 2) state and local economic growth and business attraction; 3) residential real estate values; and 4) the impact of public school facilities themselves. Each of these four areas represents arguments made in asserting the connection between public schools and economic development. The review found:

- Strong research detailing the impact of education on national economic growth and competitiveness: investing in the skill level of a nation's population increases national productivity, and education leads to higher wages.

- Emerging research on how public schools influence state and local economic growth and attract new business: schools educate the local labor force and can also increase an area's quality of life in order to attract skilled workers to it.

- Strong research on the impact of public schools on the real estate values of their surrounding communities: homes in high-performing school districts sell for more than homes in low-performing school districts.

- Emerging research, with anecdotal evidence, on how public school facilities themselves impact economic development, particularly in distressed areas: school facilities that are small, local, and community-oriented can particularly affect local development.

While the existing research is uneven and needs to be more fully developed in certain areas, it is clear that public schools can indeed have a beneficial impact on economic development.

II. The Link Between Education and National Economic Growth

With more than 86 percent of students in the U.S. attending public schools (Annie E. Casey Foundation 2003), public schools markedly influence educational quality in our country.

The critical relationship between education and national economic growth has been well explored by academic research. This section divides that research into two themes:

- How so-called "human capital," the investment in the skill level of a nation's population, can influence national productivity (Haveman, Bershadker and Schwabish 2003, Koh and Leung 2003, Sianesi and Van Reenen 2003, Hanushek 2002, World Education Indicators 2002, Barro 2000, Hanushek and Kimko 2000, Barro and Lee 1996, Pritchett 1996); and

- How education can lead to higher wages, increased employment stability, and social equality (Carnevale and Desrochers 2002, Day and Newburger/U.S. Census Bureau 2002, Gradstein and Justman 2002, McGranahan and Teixera 2001, Topel 1997, Card and Krueger 1996a).

Taking the research as a whole—including studies focused on both domestic and international data, as well as various theories discussed—the findings strongly indicate that a nation's educational system helps determine the quality of its labor force and therefore the health of its economy.

A) Education as an Investment in Human Capital

Impact on National Productivity and Competitiveness

There is a clear consensus among researchers that education enhances productivity. In a review of a number of studies, "The Returns to Education: A Review of the Empirical Macro-Economic Literature" published in the *Journal of Economic Surveys* (2003), Barbara Sianesi and John Van Reenen find "compelling evidence that human capital increases productivity"—that "education really is productivity-enhancing." The studies they review relied on a variety of data from the U.S. and abroad.

There is a clear consensus among researchers that education enhances productivity.

A number of new studies (not discussed by Sianesi and Van Reenen) confirm their conclusion. A recent study of note is "Financing Education—Investments and Returns" (2002), conducted by the World Education Indicators program (WEI), an organization run by several international agencies. The report focuses on a number of developed and developing countries outside the U.S. It measures

educational attainment (in years of schooling completed) and economic growth rates in these countries, and finds that each additional year of schooling increases a nation's long-term growth rate by 3.7 percent. The results also show that educational attainment reduces the unemployment rate and increases wages.

The study discusses the "virtuous cycle" that results from educational investment—that investment in education improves society's level of knowledge as a whole. Defining the benefits of education in economic terms, the report states that "with effective investment, this key economic resource can become a renewable one, because, in theory, human knowledge and its applications are, unlike many natural resources, infinite."

...each additional year of schooling increases a nation's long-term growth rate by 3.7 percent.

Eric A. Hanushek and Dennis D. Kimko's study of "Schooling, Labor-Force Quality, and the Growth of Nations" in *The American Economic Review* (2000) also concludes that labor-force quality, upon which education is the strongest proven influence, has a "consistent, stable, and strong relationship with economic growth." By analyzing international achievement test scores in multiple countries, including the U.S., and Gross Domestic Product (GDP) in each country, they find "clear evidence" of the causal relationship between school quality and national productivity.

Hanushek follows up on this conclusion in his chapter "The Importance of School Quality" in *Our Schools and Our Future: Are We Still at Risk?* (2002). Drawing on data from the earlier study with Kimko, he argues that both *quality* (educational achievement, usually measured by standardized test scores) and *quantity* (educational attainment, measured by years of schooling) are essential to increasing human capital and maintaining national competitiveness. In the U.S., he notes, the quantity of schooling has substantially increased over the past century as the nation has made secondary education available to the majority of its citizens.

Hanushek finds that quality, however, has suffered because the U.S. educational system has provided more schooling but "with less learning each year." Though this approach has paid off for the U.S. in terms of global economic success, Hanushek argues it may not continue to do so as other countries "catch up" to the U.S. in quantity of schooling. Thus, he suggests that the more difficult but more important long-term goal of the U.S. should be to improve educational quality, or achievement at each grade level.

In "The Missing Middle: Aligning Education and the Knowledge Economy" prepared for the U.S. Department of Education (2002), Anthony P. Carnevale and Donna M. Desrochers agree that investment in both educational quality and quantity is essential to maintaining U.S. economic competitiveness. Based on a review of previous empirical studies linking education to growth, they argue that as other nations acquire financial capital and technology, "the quality of human capital will become the decisive competitive edge in global competition." The consequences of not investing in education will be a decline in U.S. productivity and a shift in jobs away from America. Carnevale and Desrochers estimate that if U.S. education improved to the level of education in Sweden (one of the most literate nations in the world), the U.S. GDP could increase by as much as $463 billion.

Debate Concerning the Education/Economic Link

Although a number of analyses have demonstrated a link between education and economic growth, not all researchers agree. For example, in "Educational Attainment, Economic Progress, and the Goals of Education in Rural Communities" in the *Journal of Research in Rural Education* (1999), Robert B. Pittman, Dixie McGinty, and Cindy I. Gerstl-Pepin, argue that the relationship between education and economic improvement has been assumed but that little empirical proof exists, with the exception of a few biased studies. They note that schools are successful at reducing unemployment, for example, only if there are already "enough jobs to go around." They also suggest that the pervasive focus on how schools improve the economy detracts from alternative theories such as how education improves individual contributions to the community.

Lant Pritchett contends that human capital actually has a *negative* effect on economic growth in "Where Has All the Education Gone?" prepared for The World Bank Research Department (1996). Pritchett's approach is similar to that of other human capital researchers (World Education Indicators 2002, Barro 2000, Hanushek and Kimko 2000, Barro and Lee 1996) in that he compares economic growth rates to educational attainment levels across several countries, but his results are quite different. Pritchett, concluding that additional education reduces productivity, attempts to explain his results with three possible theories: (1) that schooling does not create human capital; (2) that some countries' low demand for educated workers reduces educational returns; or (3) that some countries have inefficient, bureaucratic economies wherein most human capital actually reduces productivity.

The impact of education on productivity may be even more significant in a technology-based economy...

Sebastien Dessus, in "Human Capital and Growth: the Recovered Role of Educational Systems" in a World Bank Tool (1999), argues that Pritchett relies too heavily on educational attainment (quantity) as a predictor, ignoring the potential differences in school quality from one economy to the next. Dessus also emphasizes the importance of equal distribution of education. He argues that increased education that is concentrated in a small portion of the population, rather than equally distributed, may partially explain the negative correlation that Pritchett finds. Dessus' argument is more plausible than that of Pritchett, since it recognizes in a more comprehensive way the multitude of factors that may impact economic effects of education positively or negatively.

Impact of Education on Technology-Based Economies

The impact of education on productivity may be even more significant in a technology-based economy such as the U.S. than in non-technology-based countries (Koh and Leung 2003, Carnevale and Desrochers 2002, McGranahan 2001). In "Education, Technological Progress and Economic Growth" (2003), a working paper for the Singapore Management University, Winston T. H. Koh and Hing-Man Leung find that education not only increases the skill level of the work force, but also improves adaptability to new ideas and new technologies. Like the authors of the

WEI study, Koh and Leung develop an empirical model comparing education and productivity among countries. Their results reflect another version of the "virtuous cycle" but in this case, the mechanism is for education and technology to benefit each other. The returns to education are highest when technology is improving, and education in turn heightens technological development by expanding the technological "frontier."

Psychologists and sociologists have clarified how this "virtuous cycle" functions by discussing how the complex environment of a technology-based society improves intellectual functioning. A daily life that requires the use of technology increases individual knowledge and reasoning ability—individuals essentially learn by doing. A more educated work force is thus more able to increase productivity by adapting to technology and by applying reasoning skills to the workplace (Carnevale and Desrochers 2002, Greenfield 1998, Schooler 1998).

In contrast, insufficient education can inhibit economies from reaching their full technological potential, argue Ruy Teixeira and David A. McGranahan in "Rural Employer Demand and Worker Skills," in *Rural Education and Training in the New Economy: The Myth of the Rural Skills Gap* (2001). Teixeira and McGranahan draw on the results of the 1996 Rural Manufacturing Survey (RMS), which was conducted by the Economic Research Service of the Department of Agriculture. The authors suggest that a lack of educational infrastructure in parts of the southern U.S. in particular may be limiting the ability of businesses in that region to successfully apply new technology. In the survey, most rural manufacturers cited "quality of available labor" as their most pressing problem, and those manufacturers employing technology to a high degree were more likely to encounter the problem. Specifically, these technology-oriented manufacturers identified a lack of problem-solving and technical (non-computer) skills as an obstacle to productivity. Many of these firms have also seen an increased demand for computer and interpersonal skills in recent years.

In contrast, insufficient education can inhibit economies from reaching their full technological potential...

The skilled labor shortage appears to vary with the educational level in each region. For example, the RMS data shows that in counties where less than 75 percent of the population has a high school education, more than 40 percent of the technology-based manufacturers identify a shortage of problem-solving skilled labor, but in counties where 90 percent of the population is high school educated, only 30 percent of technology-oriented firms report the problem. Such an emphasis on obtaining new skills can put greater emphasis on adult education. According to the RMS data cited by the authors, 82 percent of rural firms adopting technology have increased training in recent years.

B) Education's Impact on Worker Wages and Social Stability

Education and Worker Wages

In addition to the general impact of education on productivity addressed above, education leads to higher wages and increased employment stability for individuals (U.S. Department of Labor 2004, Carnevale and Desrochers 2002, Day and Newburger/U.S. Census Bureau 2002,

Hanushek 2002, U.S. Department of Education 1997, Krueger and Card 1996a). Krueger and Card's literature review, "Labor Market Effects of School Quality: Theory and Evidence," published in *Does Money Matter? The Link Between Schools, Student Achievement and Adult Success* (1996), summarizes the research through 1996, with a focus on U.S. studies. Krueger and Card find evidence throughout the literature that additional schooling, higher quality schooling, and increased school spending each directly results in increased wages later in life. They find that a ten percent increase in school spending can result in two percent greater earnings later in life.

Hanushek (2002) draws a similar conclusion based on the research in this area (citing some of the same studies as Krueger and Card and more recent work). Much of the more recent work cited by Hanushek focuses on achievement test scores as a predictor of economic success. In short, these recent studies show that higher achievement test scores predict higher earnings. A study prepared by the U.S. Department of Education National Center for Education Statistics (1997) indicates that both additional schooling and higher test scores increase employment stability and lead to higher wages within the U.S. work force. Other data from the Center (1995) show that high school dropouts are three times more likely to receive public assistance than high school graduates not attending college.

J.C. Day and E. C. Newburger of the U.S. Census Bureau illustrate the same conclusion in "The Big Payoff: Educational Attainment and Synthetic Estimates of Work-Life Earnings" (2002). By surveying annual and lifetime earnings for adults age 25-64, they find that earnings increase significantly with educational level. Annual wages for high school dropouts average $18,900, increase to $25,900 for individuals with a high school diploma, and increase to $45,400 for individuals with a college degree. Lifetime earnings show the same pattern. A high school diploma increases average lifetime earnings by $200,000, and a bachelor's degree increases such earnings by an additional $600,000. (Further, the College Board in its report *Trends in College Pricing 2002* (2002) estimates that a bachelor's degree (or higher) increases earnings by more than $1,000,000.)

Both additional schooling and higher test scores increase employment stability and lead to higher wages within the U.S. work force.

Thus, a college education may increase earnings potential even more than secondary education. Moreover, adult training programs, as shown by the National Center for Education Statistics (1997), can also raise the educational and skill level of the U.S. workforce, and workers who have participated in training at their current job are able to earn up to $140 per week more than those who have not.

Carnevale and Desrochers (2002) recognize the increased earnings potential from a college education and specifically address the role that quality primary and secondary education plays in preparing students for college. By comparing data from the 1974 and 2001 Current Population Surveys, the authors note that an increasing number of U.S. jobs require some college education, and they speculate that the U.S. may face a shortage of college-educated workers over the next twenty years as the "baby boomers" retire. They argue that improved primary and secondary

education, including both applied learning (such as vocational training) and general academic programs, is essential to overcoming this shortage.

Education and Social Impact

Education can also make the U.S. more economically competitive by helping to close the gap between socio-economic classes. Carnevale and Richard Fry argue in *Crossing the Great Divide* for the Educational Testing Service (2000) that "if Hispanics and African-Americans had the same education and commensurate earnings as whites, the national wealth of African-Americans and Hispanics could increase annually by $113 billion and $118 billion." They suggest that higher educational attainment would allow these individuals to fill high-paying jobs that are currently going to foreign workers and help close the gap between socio-economic classes.

Education can also promote "social capital." Mark Gradstein and Moshe Justman in "Education, Social Cohesion, and Economic Growth," in the *American Economic Review* (2002) describe social capital as the "economic benefits of education as a socializing force" that result by minimizing the "social distance" between groups. They note the "common socialization" that public education provides—the social norms it teaches, the interaction among cultural groups that it facilitates, and the national identity that it helps to establish. (The term "social capital" was popularized by Robert D. Putnam's book *Bowling Alone* (2000), in which he defines "social capital" as the value of social networks because "social contacts affect the productivity of individuals and groups.")

If Hispanics and African-Americans had the same education and commensurate earnings as whites, the national wealth of African-Americans and Hispanics could increase annually by $113 billion and $118 billion.

Gradstein and Justman develop an empirical model showing that economic growth is hampered when cultural groups are segregated within a school district. They conclude that more cross-cultural socialization, in the form of more integrated schooling, would reduce the "social distance" among classes, thus allowing for more efficient economic transactions among these classes and ultimately a more productive economy.

Robert H. Topel presents a more complicated analysis of education and the wage gap in "Factor Proportions and Relative Wages: The Supply-Side Determinants of Wage Inequality" in *The Journal of Economic Perspectives* (1997). Comparing wages and educational attainment in multiple countries, including the U.S., Topel's empirical results cast doubt on whether education is narrowing the wage gap. Nonetheless, he draws positive conclusions regarding the impact of education on equal opportunity. "Human capital investment can reduce overall inequality even in the absence of wage adjustments," Topel writes. He further suggests that "equalization of opportunity" through improving the skill level of the least advantaged citizens may be even more important than equalization of wages.

III. The General Impact of Public Schools and School Spending on State and Local Economic Growth and Business Attraction

A) The Impact on State and Local Economic Growth

The Overall Impact of Public Schools on State and Local Economies

Studies exploring the link between public schools and the economy recognize in general terms that public schools impact state and local economies in many ways (National Education Association 2003, ECONorthwest 2002, Gottlieb and Fogarty 1999, Adler 1997, Kerchner 1997, Picus and Bryan 1997, Sederberg 1987, Brisson 1986). In addition to raising national productivity as seen in the last section, research indicates that quality public schools can help make states and localities more economically competitive.

Paul Gottlieb and Michael Fogarty, in a report for the Case Western Reserve Center for Regional Economic Issues (1999) on the education levels of the nation's largest metropolitan areas, confirm that a highly educated workforce improves the economic performance of metropolitan regions. The authors suggest that employers draw workers from both outside their region and inside their region, and that regions should not only make themselves more attractive in order to draw skilled workers from outside their area, but also invest in human capital, stress high school preparation and increase matriculation rates locally.

Research indicates that quality public schools can help make states and localities more economically competitive.

Similarly, E. Glaser and J. Shapiro, in "City Growth and the 2000 Census: Which Places Grew, and Why" (2001), published by the Brookings Institution, compare 2000 census data with 1990 census data. They find that "high human capital cities" grew faster, meaning that growth rates varied directly with the average educational level of each city. Several researchers conclude that a better educated local workforce can produce a better paid workforce, adding to wealth in a region (Gottlieb and Fogarty 1999, Burtless 1996, Card and Krueger 1996a, 1996b).

Community-oriented high schools (discussed in Section V) that offer adult and vocational training programs can enhance the local skilled labor force, help develop entrepreneurial skills and business startups, and transition new workers into the local market (Bailey, Hughes, and Mechur 2001, Lynch 2000, Thuermer 2000, Grubb 1995, Ramsey 1995, Brisson 1986). For "school-to-work graduates," some studies show that once these graduates choose to enter the labor market, they are more likely to gain employment and earn higher wages than comparable groups (Institute on the Economy and Education 2001).

It is not completely clear, however, what percentage of locally educated students remain in a given region for their careers. Thus, it is important to remember that regions need more than good public

schools to promote economic development. As Joseph Cortright points out in his study for the Economic Development Administration, *New Growth Theory: Some Thoughts and Implications for Economic Development* (2001), "…regions with great educational systems (and little else) may end up exporting their best and brightest…" Public schools are an important economic tool, and can be integrated with other aspects of economic development, such as developing other social capital and improving quality of life. As discussed above, Gradstein and Justman explore how public schools can foster social capital. According to the authors, public schools help connect socioeconomic groups, enhancing the opportunity for economic transactions and thus improving the local economy. Future research should expand upon and test this thesis.

Finally, as a basic local industry, public schools are major local employers, with payrolls extending from teachers and administrators to construction workers. Schools are also major consumers of professional services, with expenditures for supplies ranging from instructional materials to items for repair or maintenance (National Education Association 2003, ECONorthwest 2002, Adler 1997, Kerchner 1997, Picus and Bryan 1997, Sederberg 1987, Brisson 1986). By their location, public schools can arguably help draw retail establishments to nearby locations (Wachter 2003). Schools are also potential credit investors, and by placing their accounts in local banks they give banks more money to loan to local businesses and entrepreneurs (Adler 1997, Kerchner 1997, Sederberg 1987).

The Impact of Education Spending on State and Local Economies

Several economists address the effect of state and local education spending on economic growth, but this effect is very difficult to measure accurately. In a review of these studies, Roger Fisher in "The Effects of Local Public Services on Economic Development" in the *New England Review* (1997) found that of 19 studies that address the effects of education spending on economic development, 12 show a positive relationship and 6 show a "significant positive relationship." Overall, however, he finds the empirical evidence "quite cloudy" and attributes this in large part to measurement problems, particularly the difficulty of using school spending as a measure and finding accurate connections between spending and economic development.

Efficient public school spending can increase student achievement.

One of the studies finding the strongest correlation between spending and economic development is by Teresa Garcia-Mila and Therese McGuire, "The Contribution of Publicly Provided Inputs to States' Economics," in *Regional Science and Urban Economics* (1992). This study considers data over a fourteen-year period for the 48 contiguous states. It uses both education spending and median years of schooling as measures and finds that both are statistically significant and positively impact gross state product.

While there is some dispute about the precise impact of public school spending on student performance, most researchers conclude that efficient public school spending (an "input") can increase student achievement (an "output") (Wenglinksky 1997, Hanushek 1996, Hedges and

Greenwald 1996, Ferguson 1991). Because of the uncertainty in this area and the difficulty of adequately measuring so-called "inputs" and "outputs," researchers are developing alternative methods to explore whether additional public school spending increases student performance and economic development.

The Impact of Education Spending on Real Estate Values

Studies are beginning to look particularly at the relationship between school spending and housing values. As will be discussed in detail in section IV, the strongest research undertaken on the link between education and local economic growth focuses on how schools in general can promote local real estate values. The studies that focus specifically on *spending* and housing values are addressed here. These studies conclude that the real estate market implicitly recognizes school spending's economic impact by observing the property value increase in neighborhoods containing higher-spending schools (Barrow and Rouse 2002, Black 1999, Bogart and Cromwell 1997).

Thomas E. Dee's "The Capitalization of Economic Finance Reforms" in the *Journal of Law and Economics* (2000) finds that new educational expenditures (in this case, court-imposed) substantially increase median housing values and residential rates. Similarly, in their National Bureau of Economic Research study, "Using Market Valuation to Assess Public School Spending" (2002), Lisa Barrow and Cecilia Elena Rouse find that real estate values increase by $20 for every additional dollar in state educational funding. Additionally, Sandra Black finds that in Massachusetts, a $500 increase in per-pupil expenditures increases average home prices by 2.2 percent in "Do Better Schools Matter? Parental Valuation of Elementary Education" in *The Quarterly Journal of Economics* (1999).

William T. Bogart and Brian A. Cromwell, in their study "How Much More Is a Good School District Worth?" in the *National Tax Journal* (1997), find that home buyers are willing to pay higher taxes for better schools because the resulting increase in real estate value is even higher than the additional taxes. This theme (and several other studies) will be discussed further in the section on the impact of public schools on local real estate value.

Statewide Study Regarding the Economic Impact of Education Spending

Recent studies carried out by advocacy groups help to shed light on the short-term stimulus impacts of public school investment. ECONorthwest conducted an in-depth report for the Oregon Education Association, the Oregon School Boards Association, and the Confederation of Oregon School Administrators entitled "K-12 Spending and the Oregon Economy" (2002). Arguably the most extensive research published on the impact of

school spending in a particular state, this report links statewide school spending on employee salaries and purchases of goods during the 2000-2001 academic year with the Oregon economy.

The study clearly points out that it does not take into account the potentially depressing economic impact that taxes for public schools might have on the economy. With this caveat, the research reports the direct and indirect economic impacts of "school funding [that] finances salaries for teachers and classified staff, building construction, materials, and school supplies" as well as the economic results when "school employees take their salaries and make mortgage or rent payments, buy groceries, purchase a host of other goods and services, and pay taxes."

The report describes public education as Oregon's largest local government employer, with a payroll consisting of 56,000 employees in 2000-2001. Beyond those directly employed by public education, public schools in Oregon also support 51,000 additional jobs through contracting and spending in the service, finance, real estate, and construction industries. This illustrates the "multiplier effect," in which spending in one sector (education) adds jobs and incomes in other sectors of the economy. Altogether, public education supports 6.8 percent of Oregon's employees, and pays 7.6 percent of the state's total personal income. The study finds that 47 percent of school spending funds direct instructional activities, while 33 percent funds support services such as safety, counseling, health, psychological services, and staff development programs. The remainder is spent on services and supplies such as books, utilities, communication services, building repair and maintenance, and professional services.

The combined spending is substantial. Oregon's public schools spend $3.3 billion annually in the state. They also produce $351 million in tax revenues through income taxes, corporate property taxes, and other indirect taxes. According to the study, public schools make up a larger percentage of the local economy in rural areas, but since urban school districts and their employees in urban areas can find goods and services nearby, the impact of this spending is magnified in urban regions.

Nationwide Study Regarding the Economic Impact of Education Spending

Meanwhile, the National Education Association is expected to publish by early 2004 a national, future-oriented report on "Schools, Funding, Taxes, and Job Growth" (2004) that simulates the potential economic impact of a hypothetical nationwide two percent increase in educational spending and a corresponding consumer tax increase. The pre-publication draft of the report provides hypothetical data for all fifty states from 2004 through 2020. According to the model used in the study, although the additional tax would decrease consumer spending power in the short-term, the increase in school spending in purchasing supplies and paying salaries would raise overall spending power in the long-term.

The study draft concludes that "the economic expansion from increased education spending overcomes contraction from the increase in taxes and has significant positive impacts in both the

near- and long-term for the economies of each of the fifty states." This impact is largely due to the "ripple effect" resulting from hiring more employees who then use their salaries in the local economy.

B) The Role of Public Schools in Business and Worker Location Decisions

A much-discussed topic in the state and local economic development field is how best to attract businesses to certain areas. It is often argued, as described in the Introduction, that quality public schools can play a role in business attraction and worker recruitment efforts. However, there have been few studies investigating this connection, as researchers find it challenging to measure how such location decisions are made. Still, there is an emerging literature in this area, including some surveys, anecdotal evidence, and expert opinion, showing that public schools can influence both business and worker location decisions.

Public Schools and the Importance of Quality of Life

The available evidence suggests that businesses seek an existing educated workforce—or, increasingly, the ability to draw such a workforce to their chosen location (Wolkowitz 2003, Deal 2002, Burnson 2000, Venable 2000, Karakaya and Canel 1998, Segedy 1997, Gottlieb 1995). Schools may play a part in both finding and attracting qualified workers. The need for businesses to draw from an *existing* educated workforce often presumes the need for quality local public schools. In drawing *new* workers to an area, however, public schools are also important as a consideration in assessing the quality of life in the area.

Recent research emphasizes the increasing importance of locating businesses in places with a high quality of life that will attract future workers, and the quality of public schools has increasingly begun to fit in under the rubric of a community's general quality of life (Salvesen and Renski 2003, Florida 2002, Urban Land Institute 2002, McGranahan 2000 and 2002, Florida 2000, Burger 1999, Love and Crompton 1999, Segedy 1997).

In their article "The Role of Quality of Life in Business (Re)Location Decisions" in the *Journal of Business Research* (1999), Lisa Love and John Crompton discuss the results of a survey of 174 businesses that had started, relocated, or expanded in Colorado within the previous five years. They find quality of life considerations to be most important to certain types of companies: those that are small, not fixed to a set location, highly professional, or moving from out of state, especially if the company's top decision-maker relocated with the company. In his chapter "How Important is Quality of Life in Location Decisions and Local Economic Development?" in *Dilemmas of Urban Economic Development* (1997), James Segedy states that "[r]eaders of Site Selection magazine [the leading magazine of the business site selection industry] have recognized quality of

The quality of education is often a factor in determining a community's quality of life.

life as the most influential location decision-making factor since 1988."

What constitutes quality of life differs from study to study, but, according to research, the quality of education is often a factor in determining a community's quality of life (Salvesen and Renski 2003, The World Economic Development Alliance 2002, Meredith Corporation 2002, Segedy 1997). Segedy reports that, from the perspective of the site selection and economic development industries, public education was ranked fourth in importance among ten quality-of-life factors. The top three factors in order of importance were cost of living, higher education, and "nature-oriented" outdoor options.

A survey undertaken by Segedy and others (1994) of fifty Indiana communities found that when quality of life does become an important location factor—as it often does with technology-related companies—"economic development professionals consistently rate education at or near the top of the list." Love and Crompton's survey found that 10 percent of businesses held primary and secondary education to be extremely important, 29 percent to be very important, 21 percent to be somewhat important, 17 percent to be slightly important, and 24 percent to be unimportant.

The Greater Miami Chamber of Commerce named public education as "the region's biggest barrier to economic development."

Some business-related surveys of cities include public education in ranking the community's quality of life (The World Economic Development Alliance 2002, Meredith Corporation 2002), while others do not (American Electronics Association 2002, Development Counsellors International 2002, Harris Interactive 2002). Surveys ranking cities' business climates generally do not consider education (Area Development 2002, Forbes 2002, U.S. Chamber of Commerce 2002, Penton Media 2002). However, in certain places such as Miami, public education is such an important quality of life issue that it affects business climate. In "Jobs Will Follow Better Schools, Say Miami-Dade Leaders" in *Education Week* (1997), the Greater Miami Chamber of Commerce named public education as "the region's biggest barrier to economic development."

Location Decisions of Lower-skill Industries

There is general agreement that public education does play some role in the site location of lower-skill industries (Bucciarelli 2003, McCandless 2003, Warden 1986). These businesses depend highly on the state and local school system to produce competent workers with adequate interpersonal skills (McCandless 2003), and value high school training and apprentice programs (Bucciarelli 2003).

Supporting this view are case studies, like the study by Matthew Murray, Paula Dowell, and David Myers (1999) for the Tennessee Department of Economic Development, on the location decisions of automotive suppliers in Tennessee. The researchers, based on a mail survey of automotive suppliers considering locating in Tennessee, find an "increasing concern regarding the skill level and availability of workers, with poor public education being a frequently cited

shortcoming of the state." This work echoes the conclusions of McGranhan in studying the rural South, discussed in Section II.

Location Decisions of Higher-skill Industries

In contrast to the viewpoint on lower-skill industries, debate exists about the extent to which knowledge-dependent companies pay attention (and the extent to which local areas wishing to attract such companies should pay attention) to the quality of public schools. For example, Mary Ellen McCandless, in her article "The State of Education" in *Business Facilities* (2003), argues that the quality of the public school system is not a major factor for businesses seeking skilled employees. These businesses, according to McCandless, do not depend as much on local public schools for an educated workforce because they only recruit employees that have completed post-secondary education.

However, quality of life does seem to be an increasingly important consideration when higher-skilled employees consider where they want to live. Richard Florida, in his influential book *The Rise of the Creative Class* (2002), concludes that educated, skilled workers—a group he calls the "creative class"—consider quality of life extremely important in where they settle. In his argument, because the "creative class" will likely choose to live in communities with a high quality of life, these areas will have a higher population of skilled workers and may influence business location decisions. However, he does not consider local public schools to be a strong part of quality of life and instead notes factors such as universities, diversity, nightlife, and recreation, among others.

Quality of life does seem to be an increasingly important consideration when higher-skilled employees consider where they want to live.

Although Florida himself pays scant attention to public schools, interestingly, the business community in Austin, Texas, one of the cities Florida considers high in "talent" and "creativity," is increasingly recognizing the importance of investing in public education. The *Austin American-Statesman* (2002) reports that Austin economic development efforts clearly emphasize education as part of their agenda to improve the economy and attract the creative class. According to an official with the Greater Austin Chamber of Commerce quoted by the newspaper, "Without a good school system, you're not going to have industry."

IV. The Relationship Between Public Schools and the Real Estate Value of Communities

While the influence of public schools on state and local development may be difficult to precisely gauge, one aspect of local development is clear—a host of academic studies argue that school quality has a direct and positive influence on residential property values. Research shows that, holding all else constant, homes in high-performing school districts sell for higher prices than homes in low-performing school districts (Kane, Staiger and Samms 2003, Barrow and Rouse 2002, Hilber and Mayer 2002, Downes and Zabel 2002, Figlio and Lucas 2001, Bogart and Cromwell 2000, Clark and Herrin 2000, Black 1999, Brasington 1999, Hayes and Taylor 1996). The impact can measure in the thousands of dollars and increase home values as much as fourteen percent (Figlio and Lucas 2001, Bogart and Cromwell 2000, Black 1999). In addition, as indicated earlier, increased school spending has been linked to significant increases in real estate values (Barrow and Rouse, 2002, Dee 2000, Black 1999), and several studies have shown that people are more willing to live in a neighborhood with good schools even if it means paying higher taxes (Bogart and Cromwell 2000, Hayes and Taylor 1996).

School quality has a direct and positive influence on residential property values.

The studies consider a variety of factors in analyzing school quality and its impact on property values, ranging from school spending and student/teacher ratio to achievement test scores and individual improvement over time. The researchers differ on which exact factors contribute to a "quality" school, and therefore which school characteristics increase property values. Nevertheless, the link between public schools and property values has been demonstrated in neighborhoods of high and low income ranges, in urban and suburban areas, and for homebuyers with and without children.

Key Studies Relating Public Schools and Real Estate Value

Sandra Black's well-cited article "Do Better Schools Matter? Parental Valuation of Elementary Education" (1999) examines schools in the Boston suburbs. By comparing achievement test scores to house values, Black finds that a five percent increase in test scores leads to a willingness to pay 2.1 percent more for houses in areas associated with the scores. Based on this, she infers that if Massachusetts test scores increased by one point statewide, the state's real estate market could gain almost $70 million in value. As mentioned in the previous section, Black also notes that an increase in per-pupil expenditures also increases property values.

...an increase in per-pupil expenditures also increases property values.

Like Black, Thomas A. Downes and Jeffrey E. Zabel, in their study "The Impact of School Characteristics on House Prices: Chicago 1987-1991" for the *Journal of Urban Economics* (2002), also find that achievement test scores have an impact on property values. Their results indicate that home buyers are willing to pay more for a home close to a higher-scoring school. They acknowledge there may be an assumption of "access to information" underlying these results; in other words, the availability and distribution of test scores might impact the relative weight home buyers place on them.

Studying another indicator of school achievement, David N. Figlio and Maurice E. Lucas find a strong correlation between Gainesville, Florida's real estate values and the state's "report card" school ratings system in their study "What's in a Grade: School Report Cards and House Prices" (2001) for the National Bureau of Economic Research. Controlling for other factors such as student test scores, Figlio and Lucas gauge the impact of a so-called "A"-scoring school versus a "B"-scoring school. They conclude that for median-size homes, an "A" school increases property values by more than seven percent over a "B" school. For larger homes and more expensive neighborhoods, the difference can be as much as fourteen percent. In Gainesville, they note, the scores are "readily available" to parents as they make their housing choices.

Some researchers interpret other test scores for measuring school quality and its correlation to property values. In their analysis of schools in northern and southern Dallas, "Neighborhood School Characteristics: What Signals Quality to Homebuyers?" for the *Economic Review* (1996), Kathy J. Hayes and Lori L. Taylor find that buyers are willing to pay more in sales price and in taxes for a particular school's "marginal effect on students." They define this "marginal effect" as the improvement in math achievement test scores that can be attributed to the individual school (as opposed to improvement observed at all schools in the district). The overall implication is again that home buyers are willing to pay a premium for school quality.

David M. Brasington uses a slightly different approach to analyze school quality in Ohio metropolitan areas in "Which Measures of School Quality Does the Housing Market Value?" for the *Journal of Real Estate Research* (1999). He focuses on test scores and other factors of school quality at the district level, and concludes that the "housing market consistently rewards" high-proficiency test passage rates as well as high expenditures per pupil and low pupil-teacher ratio (or class size).

David E. Clark and William E. Herrin's study on "The Impact of Public School Attributes on Home Sale Prices in California" in *Growth and Change* (2000), finds that average class size within a school district is the strongest educational factor, and one of the most significant factors generally, in determining property values in Fresno County, California. In general, the smaller the class size, the bigger the increase in property values. In addition, the authors note that larger districts adversely affect property values, perhaps due to a perception of inefficiency, but that larger individual school size has a positive effect on values, perhaps due to a perception of increased course offerings. Finally, Clark and Herrin find that the greater the number of students taking the SAT and Advanced

Placement examinations (an approximation for the number of college-bound pupils within a district), the greater the property values within that district.

While the authors above have attempted to correlate individual measurements of school quality to property values, William T. Bogart and Brian A. Cromwell take a more comparative approach in their study "How Much More Is a Good School District Worth?" in the *National Tax Journal* (1997). For each of three Cleveland-area neighborhoods, they compare homes located on the border of two different school districts within a single municipality. They theorize that because the bordering homes are in the same municipality, the school district is the only difference. Thus, any difference in real estate value, they conclude, must be due to school quality.

Their results indicate that, in each case, the school district that is perceived as "better" provides an increase in property values. They note that the homes in school districts with higher taxes are in fact worth more. For example, the Buckeye-Shaker neighborhood of Cleveland is divided between two different school districts, Cleveland and Shaker Heights, the latter having been nationally recognized for educational excellence. If a house in the Cleveland school district moved to the Shaker Heights school district, the house would gain approximately $5,000 to $12,000 in value, despite an additional $350 to $900 per year in taxes. The study finds similar relationships for rental rates, with a home in the Shaker Heights district renting for about $36 per month more than its equivalent in the Cleveland school district.

In their article "School Quality and Massachusetts Enrollment Shifts in the Context of Tax Limitations," published in the *New England Economic Review* (1998), Katharine L. Bradbury, Karl E. Case, and Christopher J. Mayer take advantage of a unique opportunity to study the effects of school funding policy on the real estate market. The study addresses the impact of Massachusetts' Proposition 2½, passed in the early 1990s, which limits the amount of taxes that may be levied by individual Massachusetts school districts. The authors find that since Proposition 2½ was enacted, school quality has been a significant factor driving relocation of Massachusetts residents. Although they do not quantify the monetary impact on the real estate values for each district, they imply that demand for real estate has increased in those districts not constrained by the tax limits. In other words, they find more demand for housing in those districts that had not reached the tax limit and therefore could support additional enrollment without sacrificing quality.

Surveys and Anecdotal Evidence

Recent public opinion surveys confirm the importance of public schools to home buyers. In a survey conducted by the National Association of Realtors (2002), the quality of public schools, along with the safety of the neighborhoods, were ranked as the two most important factors considered in where people choose to live. This finding is also reflected in one of the group's mottos: "Realtors don't just sell houses and buildings. We sell neighborhoods."

Anecdotal evidence also indicates that school quality is a significant factor in home buying decisions. In her 2002 article "Buying Homes, Buying Schools: School Choice and the Social Construction of School Quality," Jennifer Jellison Holme interviews parents and real estate agents about how perceptions of school quality affect home buyers' choice of location. Holme focuses on four case studies (two school districts and two individual schools) in southern California. In "good" school districts such as Rancho Vista, real estate advertisements regularly boast about the school district as a selling point to high-income buyers. A real estate agent in the Bayview district, interviewed by Holme, states that "'[L]iterally 100% of the people that come from out of the [immediate area], if they have children, are coming here for the schools.' "

"Realtors don't just sell houses and buildings. We sell neighborhoods."

Conversely, according to Holme, fewer higher-income families have moved into less-admired school districts. Cloverdale Charter school, as described by Holme, illustrates both examples through its "turnaround" story. Nestled in a high income enclave of a poorer school district and municipality, Cloverdale did not become a charter school until 1993, and prior to that date many neighborhood children attended private schools rather than Cloverdale, which was then a non-charter public school. Since 1993, however, more local children have enrolled at the school, and real estate agents indicate that prices have "taken off."

Despite the evidence of a relationship between school quality and property values, Holme argues that such relationships are based on misperceptions. While acknowledging higher property values in the communities perceived to have better schools, she argues that the perception of school quality is not based upon concrete data but upon "status ideologies" communicated from one parent to another. Specifically, she argues that "high-status" parents perpetuate myths about which schools are better, while parents' real decisions are based upon racial and cultural stereotypes, particularly regarding the level of peer achievement, discipline, and violence in predominantly minority schools.

Viewpoints such as Holme's appear to assume that parents have no basis for their perceptions of quality, when in fact information such as test scores and spending per student may be readily available. Anecdotal evidence in some communities indicates that parents do have access to "concrete" information and that they use this information when making housing decisions. In a *Planning* magazine (2000) interview, relocation consultant Sheryl Theo describes home-buyer

parents in Madison, Wisconsin as well informed, arriving at her office with "test scores in hand" and asking only to see homes in the best performing school districts.

In fact, the *Planning* magazine article indicates that Madison is a good example of how an older district may overcome misperceptions about urban schools by educating prospective home buyers about school quality. In addition to providing data such as test scores, Madison is keeping up the appearances of its facilities by investing in the maintenance of older, historic school buildings. The Bradbury study, discussed above, highlights a similar approach in Brookline, Massachusetts, an older neighborhood that began renovating its older schools and constructing a new school in 1990. The authors indicate that housing prices have increased more in Brookline than in nearby Arlington, despite Brookline's larger minority, lower-income population.

City governments also often view increasing school spending and developing innovative educational programs as a way to attract more higher-value residential development. David P. Varady and Jeffrey A. Raffel recognize this phenomenon in *Selling Cities: Attracting Homebuyers through Schools and Housing Programs* (1995). Varady and Raffel argue that improving school quality is key to attracting middle-income buyers to central cities as a prerequisite to urban revitalization. They cite the success of Cincinnati's magnet school program as a tool for attracting middle class families back into the city.

...even households without children will benefit from increased school expenditures (and ultimately improved school quality) in the form of increased property values.

Finally, while almost all of these studies focus on parental roles in school selection, Christian A. L. Hilber and Christopher J. Mayer conclude that even households without children will benefit from increased school expenditures (and ultimately improved school quality) in the form of increased property values. In "Why Do Households Without Children Support Local Public Schools?," a Federal Reserve Bank of Philadelphia working paper (2002), the authors advocate increased school expenditures in highly populated areas where less land is available and thus property values are more sensitive to determinants such as school quality. Analyzing data from all fifty states, they confirm that school spending is highly supported by elderly homeowners. They theorize that these elderly citizens recognize the value of good schools to the future buyers of their homes, supported by the fact that many home buyers do have children.

V. The Link Between Public School Facilities and Economic Development

The physical structures of public school facilities have their own particular impact on economic development, ranging from their construction and renovation to their locations, sizes and uses. Available research—still emerging and often reinforced by persuasive anecdotal evidence—can be divided into four key areas:

- The impact of the school construction industry itself, which is large but hard to quantify;
- The relationship between school facilities and the revitalization of distressed neighborhoods;
- The impact of small, local, community-oriented schools on economic development; and
- The impact of school facilities on student performance, and, as a result, on the economy.

A) The Impact of School Construction and Renovation

The size and impact of the K-12 construction industry are vast, but have not been well studied. According to recent estimates, the size of this industry is more than $20 billion annually, a figure that includes the construction of new schools, additions, alterations, and modernizations (Dodge 2003, Agron 2003, Abramson 2002). Currently there are no official estimates of the jobs created by school construction, but the number is certainly large. According to projections, the industry is expected to remain strong through at least 2006 (Agron 2003).

Investments in school facilities can make a difference in economic outcomes.

While there is some research discussing the impact of the economy on the school construction industry, there is a dearth of data on the extent to which the industry impacts the U.S. economy (Agron 2003, Rubin, Rosta, Gonchar and Ilia 2002).

Studies are beginning to provide projections of the purported economic impact of school construction. For instance, the Economics Center for Education and Research of the University of Cincinnati (2003) released an economic impact study on Cincinnati's planned 10-year, $985 million school construction program. The study estimates that the construction program will have a total economic impact of over $2.35 billion on Cincinnati's economy, including the creation of more than 2,330 jobs. The study also projects that the economic impact would occur in three main ways: the purchase of goods from local suppliers during construction; these suppliers' purchases of other goods in order to make the products needed for the construction; and the spending of incomes earned by employees of both the construction firms and the suppliers. Making such projections represents an advance in the research, but, because the actual construction program is in the early stages, it will be years before these economic impact projections can be confirmed.

New Jersey's 10-year school construction plan, created in 2000 by the state's Educational Facilities Construction and Financing Act, has received much attention in both the media and education communities. With a cost of $12.3 billion, it is the largest in the state's history and "the most ambitious school-building initiative in the nation" (Bird 2000). The program includes the so-called "Abbott districts"—those districts falling below the required level of educational infrastructure improvements as established in the state Supreme Court case of Abbott v. Burke — and non-Abbott districts. According to the New Jersey State Labor Commissioner, as quoted in *The Bergen County Record* (2002), the state's investment in school construction "will help spur economic growth through construction and spillover jobs and the ripple effect of worker spending in our communities." Because the program is only in its initial stages, its final economic impact is still far from being determined. Furthermore, unlike in Cincinnati, precise quantitative estimates have not been undertaken of the program's projected economic impact.

A particular topic related to school construction that is receiving increasing attention in the non-academic literature is the connection between the location of new school facilities and what is viewed as costly urban sprawl (Michigan Land institute 2004, Gurwitt 2004, U.S. Environmental Protection Agency 2003). In its report, "Hard Lessons: Causes and Consequences of Michigan's School Construction Boom," the Michigan Land Institute argues that new school construction in Michigan's outer-suburban areas has fueled harmful sprawl, and contributed to increased property taxes for homeowners and businesses and worsening schools and economic conditions for the state's older communities. Much more research is certainly needed on the long-term economic impacts of school construction across regions and states.

B) The Relationship Between School Facilities and the Revitalization of Distressed Areas

There has been particular research focusing on the impact that public school facilities can have on the economic development of their surrounding neighborhoods, particularly in distressed areas. This literature builds on and is consistent with the strong research already discussed linking perceived school quality with residential real estate values. The evidence suggests that poorly maintained, overcrowded facilities contribute to neighborhood decline, while new or well-maintained facilities help revitalize a neighborhood (Spector 2003, National Association of Realtors 2002, Byron, Exter and Mediratta 2001, Bird 2000, Mooney 2000, Veenendaal and van Wijk 1991). In Alice Veenendaal and Teun van Wijk's study "The Role of Educational Building in Urban Renewal" conducted for the Organisation for Economic Cooperation and Development (1991), the authors look at schools in several developed nations outside the U.S. They find that a "lack of good [secondary] schools [defined as new or well-maintained] can lead to decline and stigmatization, inevitably resulting in migration out of the neighbourhood."

...new or well-maintained facilities help revitalize a neighborhood

The National Association of Realtors (NAR) explicitly recognizes public school facilities' key role in community economic revitalization in its study (prepared with the Local Government Commission), "New Schools for Older Neighborhoods" (2002). This report is especially significant given realtors' direct involvement with, and financial interest in, local economic development. It concludes, "More and more community leaders are recognizing the power of schools to attract and keep residents in a neighborhood. Leaders in many urban communities are building or renovating schools as part of broader strategies for revitalizing blighted areas." The study does not offer economic analysis but highlights particularly successful newly constructed or renovated schools that have helped the development of their neighborhoods. For example:

- In Pomona, California, a primary school and a high school were located in an old strip mall to "help jump-start other neighborhood revitalization efforts." As a result, what was once a dying neighborhood now boasts a new transit center, performing arts center, housing, new commercial properties, investment in new infrastructure, and a general decrease in crime.

- In Philadelphia, the University of Pennsylvania entered into a partnership with the city in 1998 to help fund the Penn-Assisted School, serving grades pre-K to 8 and designed for about 700 students. The NAR study quotes the *Philadelphia Daily News* as reporting that it created a "mad scramble for homes in the surrounding neighborhood." However, despite the media attention the school has received, there have not yet been any academic studies on the school's impact on the neighborhood.

- In Chattanooga, Tennessee, the Hamilton County School District, working with local partners, built two downtown K-5 magnet schools as part of the city's efforts to revitalize the neighborhood and encourage people to live in the city's center. Though the schools are available to students from other neighborhoods, priority is given to downtown residents. Since the publication of the NAR study, the schools were opened in August 2002. Although no formal studies have been conducted, it seems clear that the schools have already made a positive economic impact on the downtown.

New Jersey's construction plan, already noted, includes school construction in the Abbott districts, whose schools are in many of the state's most economically depressed neighborhoods. The goal of the program is to revitalize these neighborhoods, and "leverag[e] economic development in areas that have been left behind." (Bird 2000). The "school renaissance zones" designating the neighborhoods slated for new school construction will "use the schools to attract housing and community uses into the mostly abandoned neighborhood[s]," reports John Mooney in the *Newark Star-Ledger* (2003). One such place is Trenton, where the state is planning to construct

three schools at a former factory site to help revitalize the surrounding area.

Articles in planning magazines have noted other successful projects. In Oklahoma City, the renovation and reopening of Cleveland Elementary School led to a 30 to 100 percent increase in property values, according to Karen Finucan in "Location, Location, Location" in *Planning* magazine (2000). A new high school, replacing two worn-down high schools in a downtrodden area of Niagara Falls, New York, helped "breathe new life into the community," notes Thomas Dolan in "School as the Heart of the Community" in School Planning & Management (2001). Private financing helped fund the project, reflecting the private sector's growing recognition that new facilities can help spur economic development.

C) The Impact of Small, Local, Community-Oriented Schools

The size, shape and form of school facilities, along with their physical connection to the surrounding community, is an area of increasing interest for researchers. There is some evidence that small, local schools can contribute toward the academic achievement of students, particularly in low-income areas (Toch 2003, Lyson 2002, Reynolds 2002, Dunn 2001, Pearson 2001, Bickel and Howley 2000, Boethel 2000, Drabenstott 2000, Annenberg Rural Challenge 2000, Collins 1999, Southwest Education Development Laboratory 1999, Salant and Waller 1998). In turn, as discussed in Section II, academic achievement translates into increased earning power and economic growth. There is also evidence that small, local schools, especially in rural areas, can contribute directly to local economic development (Lyson 2002, Salant and Waller 1998, et al). A particular way that schools can make an economic contribution is through sharing or co-locating their facilities with the community (Pearson 2001, et al).

Small, Local Schools

Much of the literature discussing the importance of small, local schools is in the context of rural areas (Wolfshohl 2003, Lyson 2002, Reynolds 2002, Dunn 2001, Pearson 2001, Boethel 2000, Drabenstott 2000, Annenberg Rural Challenge 2000, Collins 1999, Southwest Education Development Laboratory 1999, Salant and Waller 1998). This work developed in part as a response to the threat of consolidating rural schools and districts.

Priscilla Salant and Anita Waller capture the beginnings of this trend in their 1998 literature review, "What Difference Do Local Schools Make?" prepared for The Rural School and Community Trust. They find three studies (Sederberg 1987, Petkovich and Ching 1977, and Dreier 1982) investigating the link between local schools and economic development in rural communities—with two of the three demonstrating such a linkage. Sederberg describes the local school as a major employer, constituting 4 to 9 percent of the county payroll and 1 to 5 percent of

Rural towns with local public schools are often more economically advanced.

all employed people in the county. He also finds that salaries earned by school employees accounted for 5 to 10 percent of retail sales. Petkovitch and Ching determine that high school students also impacted economic development by their employment in local after-school jobs and spending in local stores. Dreier claims there is no economic impact on a community when a school closes, though Slant and Waller challenge Dreier's "small sample size and questionable methodology."

More recently, Thomas Lyson's study in the *Journal of Research in Rural Education*, "What Does a School Mean to a Community?" (2002) concludes that rural towns with local public schools are often more economically advanced, with more people employed in professional, managerial, and executive occupations. However, at times consolidation can be unavoidable due, for instance, to a lack of funding for rural schools. Karl Wolfshohl notes this situation in his article "A Rural School That Works" in *Progressive Farmer* (2003), highlighting the Boone County, Nebraska school district as successfully mitigating the negative local economic impact of consolidation. When that district was formed by consolidating the school districts of two small towns, the new district left elementary schools in each town. It then placed the middle school in one of the towns and the high school in the other, ensuring that neither town lost all of its local schools. Because each town retained a local school, the positive economic impact of local schools was preserved.

Smaller schools also narrow the "achievement gap" between students from affluent communities and those from poorer communities.

Though school size is still generally increasing, current research indicates that smaller schools can provide students with a better education than larger schools, particularly for poorer students (Lawrence, et al 2002, Bickel and Howley 2000, Bickel 1999a, Bickel 1999b, Howley 1999a, Howley 1999b, Howley 1996, Huang and Howley 1993, Friedkin and Necochea 1988). Small schools generally outperform large schools, with higher graduation rates and more students continuing their education post-graduation (Lawrence, et al 2002, Stiefel, Berne, Iatarola, and Fruchter 2000, Khattari, Mik, and Flynn 1996).

Craig Howley and Robert Bickel's study of 13,600 schools in 2,290 districts, "The Influence of Scale on School Performance" for The Rural School and Community Trust (2000), concludes that small schools, in a range of environments, reduce the impact of poverty on educational achievement and that the performance of low-income students declines in larger schools. Smaller schools also narrow the "achievement gap" between students from affluent communities and those from poorer communities. Howley and Bickel note, however, that in affluent communities student performance can actually increase in larger schools.

Urban school facilities have received particular attention in California. The California-based New Schools Better Neighborhoods (NSBN) civic advocacy organization sets forth its vision for the state's urban school districts in its publication "What If?" (1999). The report notes the importance of small, local schools for the economic well-being of communities. The National Neighborhood Coalition in its report "Smart Growth, Better Neighborhoods: Communities Leading the Way"

(2000) discusses these concerns in the context of Los Angeles, a city experiencing a drastic school shortage. The district was bussing many children for over an hour to distant schools, "limiting the ability of parents to meet with teachers and students to participate in school activities, adversely affecting the quality of the education they receive." The Coalition reports that, with neighborhood-based schools, students would be more likely to participate in extra-curricular activities, and notes further that students involved in school activities are more likely to be high performers.

In response to such concerns, the Los Angeles Unified School District is currently undertaking a multi-billion dollar construction program. The construction program is expected to build 79 new schools and expand 80 others in the next several years (Los Angeles Unified School District 2003). A report by NSBN, "A New Strategy for Building Better Neighborhoods," (2002) makes the case that, with communities as part of the process, this program can be a "linchpin to greater economic development and a tremendous redevelopment opportunity . . ." Quantitative projections of the potential economic impact have not yet been undertaken.

Sharing Facilities with Communities

Along with the movement for smaller schools has been a movement to encourage schools to share their facilities with the community, providing the community with more resources and space for its programs (Coalition for Community Schools 2003, Rittner-Heir 2003, Dolan 2001, Pearson 2001, Bird 2000, Veendendaal and van Wijk 1991). The Coalition for Community Schools offers the following definition for a community school, "Using public schools as a hub, community schools bring together many partners to offer a range of supports and opportunities to children, youth, families, and communities – before, during, and after school, seven days a week."

In an *Architectural Record* article entitled "Educators and Architects are Rethinking Large, Generic Schools that are Separated from Their Community" (2001), Clifford Pearson highlights a few schools that have positively impacted their surrounding community through sharing or co-locating school facilities. In Pomona, California, the previously mentioned school located in a shopping center, shares the premises with a Kinko's copy shop and a drug store. At the San Francisco Tenderloin District's elementary school, the school's facilities house medical and dental clinics, a family counseling center, adult education programs, a community garden, a community kitchen, and a preschool. As discussed, using facilities for adult education in particular can benefit the economy when people take this training into the workforce.

D) The Impact of Well-Maintained Schools on Student Performance

Just as studies indicate that small schools often inspire higher student performance, recent research similarly supports the idea that well-maintained school facilities boost student performance (Schneider 2002a and 2002b, Anderson 1999, Earthman and Lemasters 1998, Philips 1997). As we have seen, a rise in student performance has a positive impact on surrounding residential real estate values. New, renovated, and well-maintained schools can serve as an investment in the human capital of students, which also enhances economic growth.

Well-maintained school facilities boost student performance.

Mark Schneider's report for the National Clearinghouse for Educational Facilities asks in its title "Do School Facilities Affect Academic Outcomes?" (2002a). Answering in the affirmative, Schneider reviews the existing literature on the topic and finds that, while measurement difficulties exist, there is an emerging consensus among researchers that the condition of school facilities affects academic achievement, as indicated by higher student scores on standardized tests. In exploring the characteristics of a school's physical structure that potentially impact student performance, he considers such factors as indoor air quality, ventilation, and thermal comfort, lighting, acoustics, and building age and quality.

Citing past studies and anecdotal evidence, he finds that poor indoor air quality and ventilation can cause a variety of illnesses, increasing student absenteeism (Environmental Protection Agency 2000, Rosen and Richardson 1999, General Accounting Office 1995), and that poor ventilation, thermal discomfort, poor acoustics, and artificial lighting can also be obstacles to a student's concentration (Lackney 1999, Harner 1974, Wyon, Andersen and Lundqvist 1979). A building's quality also projects an image of the school's value, and a poorly maintained school can discourage students from striving for high performance (Byron, Exeter and Mediratta 2001, Finucan 2000). Schneider finds that a building's "age itself should not be used as an indicator of a facility's impact on student performance," as older buildings can be modernized. His review of the literature leads Schneider to note that much more research is needed regarding which "specific facility attributes affect academic outcomes the most."

In another study of school facilities, "Public School Facilities and Teaching: Washington, D.C. and Chicago" carried out for the Neighborhood Capital Budget Group (2002b), Schneider reports the results of interviews with 688 teachers in Chicago, and of a survey sent to all teachers in Washington D.C. and returned by 25 percent. He finds that over 40 percent of Washington teachers and over 20 percent of Chicago teachers believe that their school facilities are inadequate. Comparing the data on facilities with test scores and using a simple model that controlled statistically for other factors (such as demographics and income), he concludes that better facilities can improve the percentage of students performing at or above grade level by 3 to 4 percent and that "improving facilities may be just as helpful as reducing class size." Such findings certainly suggest that well-maintained facilities can improve academic performance and can lead to economic development.

VI. Conclusion

The literature reveals a number of ways that public schools impact economic development, though much more research needs to be done in order to clarify and quantify this impact. On the national level, there is convincing research showing that public schools have a profound effect on national economic growth, by influencing the quantity and quality of education. "Human capital" theory documents that investment in the skill level of a nation's population translates into increased national productivity. Education also leads to higher wages and greater social opportunity.

While the research is emerging and difficult to measure, many studies have shown that public schools and school spending also impact state and local economies and can play a role in attracting business. By educating the future workforce, public schools help make states and localities more economically competitive. In addition, as a basic industry, schools are major employers that have a short-term stimulus impact on state and local economies. Evidence suggests that the quality of public schools can also influence business site selection and labor location decisions.

In one aspect of local development, there is clear-cut, undisputed evidence: the quality of public schools directly influences residential property values. Homes in higher-performing school districts sell for higher prices than homes in lower-performing school districts. Studies only differ on which exact factors contribute to measuring school quality. The conclusion that schools affect real estate value is also strongly supported by anecdotal evidence.

Finally, there is some emerging evidence that the quality, size, and shape of the school facilities themselves, along with the construction and renovation of those facilities, impact economic development. Facilities that are small, local, and community-oriented can have a particularly positive effect on local development, especially in economically distressed areas. Research also indicates that well-maintained facilities enhance academic performance which, based on the evidence above, enhances economic growth.

Going From Here

The overall subject of the impact of public schools on economic development, as well as the various subtopics, offers a rich area for researchers to mine. More research, especially quantitative but also qualitative, is needed, along with an emphasis on integrating various topics and approaches.

On the national level, while research on the impacts of education is quite robust, additional inquiry into the overall impact of public schools as an industry is important. Such work could include estimates of the number of people employed by public schools, both directly and indirectly through industries such as school construction.

Assessing the state and local level economic impacts of public education presents more difficult challenges to researchers, and much more comprehensive research, such as state-by-state economic impact studies, is needed. States and localities undertaking school construction and renovation programs should conduct economic impact studies, as was done in Cincinnati. These studies ought to become more refined over time as more experience is gained. One topic deserving of careful study is how school construction in newly developing areas on the urban fringe may impact the economy of older areas. A truly comprehensive national study on how public education influences business and worker location decisions also needs to be conducted.

While the research strongly shows how quality schools raise real estate values, more research is needed to link to broader issues, such as urban revitalization in general. Also, how good schools help maintain neighborhood stability over the long-term should be explored. At the present time, there is much anecdotal evidence on the role that school facilities play in urban revitalization efforts. One compelling question is how renovated schools have actually raised real estate values and contributed to the economic well-being of longtime residents.

Of course, as noted in the paper, many other questions abound. As advocates increasingly tout the economic benefits of public schools, it is critical that researchers address such issues further. Deeper and broader analysis focusing on the interconnectedness of the economic benefits of education will provide a firm, factual foundation for meaningful public policy discussion and community decision-making. Education is too important to deserve anything less.

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Jonathan D. Weiss is Senior Counsel at SRS Technologies, a national consulting company. Based in the company's Washington D.C. office, his work focuses particularly on community sustainability. Weiss is also an Adjunct Professor of Law at George Washington University.

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Weiss is a graduate of the University of Virginia Law School and holds an M.A. and B.A. from the University of Michigan, where he graduated Phi Beta Kappa. He has authored numerous studies and reports (most recently, America's Best Cities and States (2004)), and has published widely in treatises, journals, magazines, and newspapers.

Weiss has spoken in dozens of major cities throughout the world and has been a longtime adviser to the U.S. State Department, for whom he has traveled to Brazil, Central Asia, Turkey, and several other countries.

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SCHOOL

The foundation of every state is the education of its youth.

— Diogenes Laertius

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EXHIBIT D
Page 1 of 2

Why Fixing the High School is Necessary

The high school suffers from deterioration as well as health and safety issues resulting from its age; much of the existing building was built in 1954 - now 57 years old - while the "new" wing is now more than 30 years old.

Life, Health, Safety Issues & Code Violations

While the District's maintenance department does a quality job of keeping the current facility clean and functional, it is challenged with a wide range of problems. The District is also at-risk that it could be forced to update the facility because it does not meet current code requirements for either safety or accessibility. A handful of illustrative examples include:

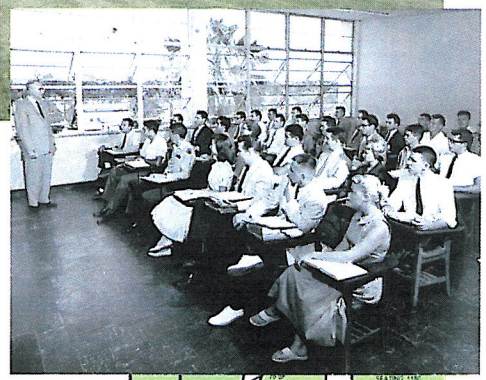
- substantial overheating in certain rooms while other areas are under heated,
- inadequate dining facilities to serve the student population,
- windowless classrooms,
- no accessible bathrooms or locker rooms for students with disabilities,
- outdated structural systems not designed to withstand earthquakes,
- no ventilation system in much of the building, and
- lack of infrastructure to support the integration of current technology,
- leaking roofs, and
- no emergency lighting in large portions of the building.

Outdated Facilities from A Different Era

Teaching in the 1950's was based on Henry Ford's factory model; groups of students moved like cars on an assembly line from classroom to classroom in which teachers lectured and students recorded information and ideas. For some, this model of education was successful. Modern educators, however, now understand that students learn in different ways; students with learning "styles" not well suited to historic teaching methods were often wrongfully identified as having lower intelligence and were discouraged from reaching their potential.

Current Building Limits Delivery of Contemporary Education

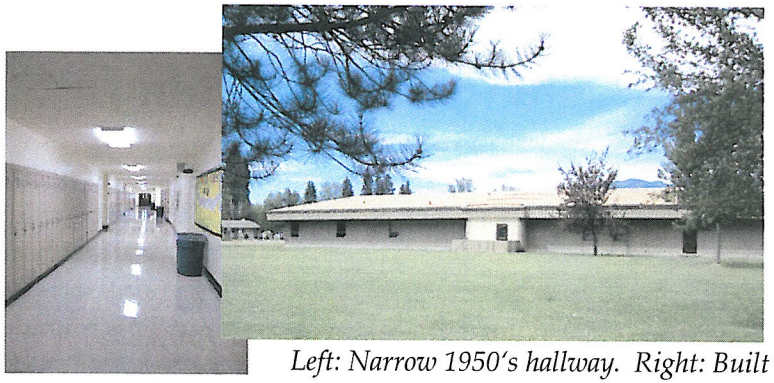
The District administration including new Superintendent Kate Orozco has determined that the facility's limitations literally impairs the District's ability to deliver quality teaching and learning using contemporary methods and technology.



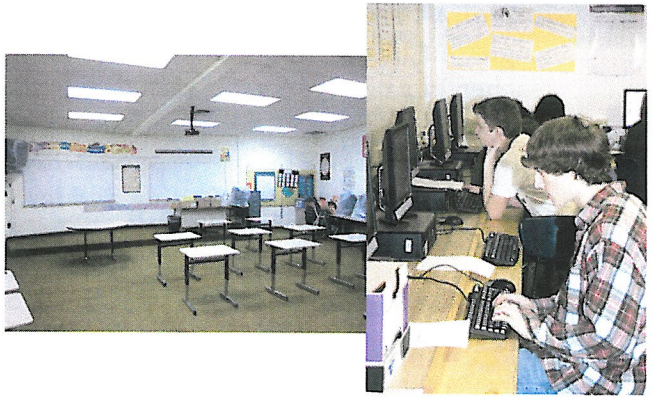
Above: WHS "C-Wing" built in 1954. Middle: a typical classroom of the 1950's with the teacher lecturing to assembled students. Below: a portion of the current WHS floor plan based on the factory model of schools, repetitive, same-sized classrooms double-loaded on narrow hallways.

School Current Conditions

Jackola Engineering & Architecture, part of the design consultant team, provided a thorough assessment of the current high school facilities. The matrix below summarizes their findings regarding current conditions of the building. Not surprisingly, the assessment reveals that conditions in the older portions of the building are more challenging, including the absence of major systems such as ventilation and cooling, emergency power and fire sprinklers. In general, the entire facility presents challenges for re-modeling as the majority of the walls are constructed of load bearing masonry that is difficult and expensive to relocate or modify.



Left: Narrow 1950's hallway. Right: Built during the energy crisis of the 70's, the south side of "A-Wing" was designed with limited windows.



Left: Windowless classroom retrofitted with "Smart Board" technology. Right: WHS has an excellent student computer ration of 2:1, unfortunately the extra electrical load causes overheating in much of the building.

The Boys locker room for both varsity sports and gym class.

Whitefish High School
Facility Analysis

Matrix Key
- Non-Existent
- Poor
- Fair
- Serviceable
- Not Applicable

	Architecture							Structure				Mechanical					Electrical			
	Interior Finish Condition/Longevity	Insulation	Windows	Roofing	Daylight	Handicap Accessibility	Fire Suppression	Foundation	Wall Structure	Roof Structure	Flexibility / Ease of Remodel	Heating Equipment	Ventilation	Energy Efficiency	Occupant Thermal Comfort	Plumbing Piping	Electrical Distribution	Emergency Power	Devices	Lighting
1954 Building																				
Classroom Spaces	Fair	Poor	Poor	Poor	Serviceable	Poor	Non-Existent	Serviceable	Poor	Poor	Poor	Fair	Poor	Poor	Poor	Serviceable	Poor	Non-Existent	Poor	Fair
Library / Multimedia / Computer	Fair	Poor	Poor	Poor	Serviceable	Poor	Non-Existent	Serviceable	Poor	Poor	Poor	Fair	Poor	Poor	Poor	Serviceable	Poor	Non-Existent	Poor	Fair
Bathrooms	Fair	Poor	Poor	Poor	Not Applicable	Non-Existent	Non-Existent	Serviceable	Poor	Poor	Poor	Fair	Non-Existent	Poor	Poor	Serviceable	Poor	Non-Existent	Poor	Fair
Physical Plant	Fair	Poor	Not Applicable	Poor	Serviceable	Not Applicable	Non-Existent	Serviceable	Serviceable	Poor	Poor	Serviceable	Not Applicable	Fair	Not Applicable	Serviceable	Serviceable	Non-Existent	Fair	Fair
1979 Building																				
Gymnasium and Lockers	Serviceable	Poor	Fair	Serviceable	Poor	Non-Existent	Serviceable	Serviceable	Serviceable	Serviceable	Fair	Fair	Poor	Poor	Fair	Serviceable	Fair	Poor	Fair	Fair
Classroom Spaces	Serviceable	Poor	Fair	Fair	Poor	Poor	Serviceable	Serviceable	Serviceable	Serviceable	Poor	Fair	Poor	Poor	Fair	Serviceable	Fair	Poor	Fair	Fair
Bathrooms	Serviceable	Poor	Not Applicable	Fair	Not Applicable	Non-Existent	Serviceable	Serviceable	Serviceable	Serviceable	Poor	Fair	Poor	Poor	Fair	Serviceable	Fair	Poor	Fair	Fair
Foyer / Administration	Serviceable	Poor	Fair	Fair	Poor	Fair	Serviceable	Serviceable	Serviceable	Serviceable	Fair	Fair	Poor	Poor	Fair	Serviceable	Fair	Poor	Fair	Fair
Performance / Shop Areas	Serviceable	Poor	Fair	Fair	Poor	Fair	Serviceable	Serviceable	Serviceable	Serviceable	Fair	Fair	Poor	Poor	Fair	Serviceable	Fair	Poor	Fair	Fair

MEMORANDUM
#2015-024

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: City Hall and Parking Structure Chronology

Date: July 14, 2015

Given the recent public and media interest in the City Hall and Parking Structure projects, I thought it might help to compile a brief chronology of the history of the projects. I may have missed some meetings and work sessions on the projects, especially once we got into designing the City Hall and Parking Structure, but below are some of the major chronological milestones and important decision points of the projects.

1. April 6, 1987 – City Council holds a **Public Hearing** and adopts first reading of Ordinance 87-3 which adopts the Urban Renewal Plan. Second reading is approved May 4, 1987. The Urban Renewal Plan initiates the plans for a new City Hall as shown in the text below from the Urban Renewal Plan:

> The current City Hall occupies an important position in downtown Whitefish. It is important that the City of Whitefish be able to offer city services in an effective and efficient manner. The age and the floor plan of the current facility hinder the efficiency of the services that the City provides to the public. Part of the overall downtown redevelopment plan would be the construction of a new City Hall facility on Burlington Northern property that is east of the viaduct, north of Railway Street and west of Central Avenue. This facility would house the general administration offices of the City, the Police Department, the Library and the Fire Department. See Sketch F

2. November 17, 2003 – City Council passes Resolution No. 03-63 setting up a City Hall Construction Reserve Fund with annual contributions from Tax Increment Funds. As of July 1, 2015, this fund has $2,369,909 of funds remaining and available for construction of City Hall and the Parking Structure. As of June 30, 2015, we have spent $629,592 on design and planning for a new City Hall and Parking Structure from this fund (this cost does not include the initial study costs of parking structure options by Kimley-Horn and Associates – that cost of $114,027.02 was paid from TIF funds separately).

3. March 20, 2006 – **Public Hearing** on adopting Downtown Master Plan. Downtown Master Plan provides a new City Hall as a catalyst project for downtown redevelopment. Proposed site is the parking lot north of City Library. Resolution No. 06-21 approving the Downtown Master Plan was adopted on April 3, 2006.

4. July 7, 2008 – City Council holds a public hearing and adopts Ordinance No. 08-19 to amend the Downtown Master Plan and Growth Policy to approve the Emergency Services Center (ESC) as an Urban Renewal Project setting the stage not to do a parking structure at 2nd and Spokane and to move the Police, Fire, and Municipal Courts to the ESC.

5. February 1, 2010 – Recently elected City Council holds a work session on the future City Hall – location, planning, and financing. It is decided at that work session to consider alternative locations for City Hall rather than the parking lot north of the Library.

6. December 6, 2010 - A real estate committee comprised of Mayor Jenson, Turner Askew, Rich Knapp, and Chuck Stearns was appointed by the City Council to work on alternative City Hall locations and other real estate issues.

7. August 1, 2011 – City Council approves Resolution No. 11-31 approving a buy-sell agreement to purchase the former Coldwell-Banker building on the north end of the City Hall site on Block 36 so as to own the entire half block for future possibilities.

8. August 15, 2011 – City Council holds a work session on alternative City Hall locations and cost estimates. Information on five different location options was presented. The packet for that meeting can be viewed at https://dl.dropboxusercontent.com/u/87183368/Memo.2011-046.Council.staff%20report.City%20Hall%20location%20work%20session.pdf.

9. September 6, 2011 - **Public Hearing** on location options for future City Hall. The City Council decides to hold a public meeting on October 19th as well.

10. October 19, 2011 – **Public Meeting** on locations and options for future City Hall at the O'Shaughnessy Center. The PowerPoint slide show for that meeting can be viewed at https://dl.dropboxusercontent.com/u/87183368/City%20Hall%20Meeting.2011-10-19.final.pptx and the results of the polling of that meeting can be viewed at https://dl.dropboxusercontent.com/u/87183368/City%20Hall%20Meeting.Results%20of%20questions.pdf .

11. November 7, 2011 – Mayor suggests and City Council agrees to appoint a Future City Hall Steering Committee. Resolution No. 11-57 is approved on November 21, 2011.

12. June 7, 2012 – Future City Hall Steering Committee narrows down possible City Hall sites to four sites after eliminating the site north of the Library and the former Mountain West Bank Building and adding the parking lot at 2nd and Spokane as a location alternative.

13. July 16, 2012 – After doing a Request for Proposals and interviewing three engineering firms, Kimley-Horn and Associates is awarded a contract for a Parking Structure Feasibility Study – the study will evaluate at least four options for locations of a parking structure.

14. August 23, 2012 – Future City Hall Location Steering Committee votes 9-1 to recommend the current City Hall location as the location for a future City Hall.

15. September 4, 2012 – **Public Hearing** on Resolution No. 12-31 designating the current site on Block 36, Lots 13-24 as the site for the future City Hall and Parking Structure. The Resolution was approved 4-3 with Mayor Muhlfeld breaking a tie.

16. April 15, 2013 – City Council holds a work session on parking options and parking structure options. They decide to hold a public hearing on parking options and City Hall on May 20th.

17. May 20, 2013 – **Public Hearing** – The title of the public hearing held on this date was: "Consideration of proceeding with design for a new City Hall with an attached parking structure versus a new City Hall with surface parking, other parking structures in downtown Whitefish, and other parking options such as surface parking lots." Motion approving the Resolution passed 4-3 with Mayor Muhlfeld breaking a tie. The motion was: "Mayor Muhlfeld said there is a motion on the floor to approve structured parking with a city hall, and in parallel staff will research and bring back whether the feasibility for a BID by the September 3, Council Meeting. Staff has indicated it wouldn't be a completed BID at that time but they would bring back a proposal with parameters for the creation of a BID. City Attorney Van Buskirk has suggested continuing the public hearing to that time; and that is where we pick up."

18. May 5, 2014 – After a design competition held on December 11, 2013 and a recommendation from the City Hall Steering Committee, the City Council awards an architectural contract to Mosaic Architecture from Helena.

19. 2014 – Mosaic Architecture holds a series of public meetings and a design charrette to engage the community in helping to design a new City Hall and Parking Structure on the current location on Block 36.

20. October 6, 2014 – **Public Hearing** – Work session and public hearing on: Consideration of approving the recommended conceptual scheme for the future City Hall and Parking Structure, providing direction on the cost limitations of the future City Hall and Parking Structure and the timing of construction, and authorizing the City Manager to enter into an agreement for the next phase of Architectural Design with Mosaic Architecture

21. March 16, 2015 – **Public Hearing** on Downtown Master Plan update. At the April 6, 2015 City Council meeting, the City Council approves Resolution No. 15-07 adopting the Downtown Master Plan update. The Downtown Master Plan update identifies a City Hall and Parking Structure at the current location as a priority project.

22. June 15, 2015 – **Public Hearing** on design and cost issues for the City Hall/Parking Structure project

Thus there were five public hearings on a City Hall at the current location and one public meeting. There were also three more general public hearings on a new City Hall downtown in the Urban Renewal Plan, Downtown Master Plan, and Downtown Master Plan update.

$9,800,000

City of Whitefish, Montana

Tax Increment Urban Renewal Revenue Bonds, Series 2016A

Sources & Uses

Dated 02/01/2016 | Delivered 02/01/2016

Sources Of Funds	
Par Amount of Bonds	$9,800,000.00
TIF Collections on hand	2,504,215.00
City Hall/Parking Structure Cash on hand	2,296,884.00
SID Net Proceeds	750,000.00
Project Costs Spent to Date	631,483.00
Impact Fees	90,055.00
Total Sources	**$16,072,637.00**
Uses Of Funds	
Deposit to Project Construction Fund	14,952,637.00
Deposit to Debt Service Reserve Fund (DSRF)	980,000.00
Costs of Issuance	140,000.00
Total Uses	**$16,072,637.00**

$9,800,000

City of Whitefish, Montana

Tax Increment Urban Renewal Revenue Bonds, Series 2016A

NET DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	DSR	Existing D/S	Net New D/S	Revenue	Surpls(Deficit)
07/15/2016	60,000.00	2.890%	129,022.44	189,022.44	(4,463.45)	1,432,097.30	1,616,656.29	2,564,785.50	948,129.21
07/15/2017	1,685,000.00	2.890%	269,420.25	1,954,420.25	(9,800.00)	1,548,995.20	3,493,615.45	5,386,049.00	1,892,433.55
07/15/2018	2,005,000.00	2.890%	218,411.75	2,223,411.75	(9,800.00)	1,551,922.20	3,765,533.95	5,655,352.00	1,889,818.05
07/15/2019	2,350,000.00	2.890%	158,010.75	2,508,010.75	(9,800.00)	1,546,853.60	4,045,064.35	5,938,119.00	1,893,054.65
07/15/2020	3,700,000.00	2.890%	87,422.50	3,787,422.50	(989,800.00)	1,546,868.00	4,344,490.50	6,235,025.00	1,890,534.50
Total	$9,800,000.00	-	$862,287.69	$10,662,287.69	(1,023,663.45)	$7,626,736.30	$17,265,360.54	$25,779,330.50	$8,513,969.96

SIGNIFICANT DATES

Dated	2/01/2016
Delivery Date	2/01/2016
First Coupon Date	7/15/2016

Yield Statistics

Bond Year Dollars	$29,836.94
Average Life	3.045 Years
Average Coupon	2.8900000%
Net Interest Cost (NIC)	2.8900000%
True Interest Cost (TIC)	2.8902887%
Bond Yield for Arbitrage Purposes	2.8902887%
All Inclusive Cost (AIC)	3.3918713%
Net Interest Cost in Dollars	862,287.69
Weighted Average Maturity	3.045 Years

$9,800,000

City of Whitefish, Montana

Tax Increment Urban Renewal Revenue Bonds, Series 2016A

NET DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I	DSR	Existing D/S	Net New D/S	Revenue	Surpls(Deficit)
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01/15/2017	835,000.00	2.890%	140,743.00	975,743.00	(4,900.00)	774,569.50	1,745,412.50	2,693,024.50	947,612.00
07/15/2017	850,000.00	2.890%	128,677.25	978,677.25	(4,900.00)	774,425.70	1,748,202.95	2,693,024.50	944,821.55
01/15/2018	995,000.00	2.890%	116,394.75	1,111,394.75	(4,900.00)	776,164.00	1,882,658.75	2,827,676.00	945,017.25
07/15/2018	1,010,000.00	2.890%	102,017.00	1,112,017.00	(4,900.00)	775,758.20	1,882,875.20	2,827,676.00	944,800.80
01/15/2019	1,165,000.00	2.890%	87,422.50	1,252,422.50	(4,900.00)	773,234.50	2,020,757.00	2,969,059.50	948,302.50
07/15/2019	1,185,000.00	2.890%	70,588.25	1,255,588.25	(4,900.00)	773,619.10	2,024,307.35	2,969,059.50	944,752.15
01/15/2020	1,350,000.00	2.890%	53,465.00	1,403,465.00	(4,900.00)	773,872.70	2,172,437.70	3,117,512.50	945,074.80
07/15/2020	2,350,000.00	2.890%	33,957.50	2,383,957.50	(984,900.00)	772,995.30	2,172,052.80	3,117,512.50	945,459.70
Total	$9,800,000.00	-	$862,287.69	$10,662,287.69	(1,023,663.45)	$7,626,736.30	$17,265,360.54	$25,779,330.50	$8,513,969.96

SIGNIFICANT DATES

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Weighted Average Maturity	3.045 Years

$9,800,000

City of Whitefish, Montana

Tax Increment Urban Renewal Revenue Bonds, Series 2016A

Coverage Ratio

Date	Total Revenues	Total D/S	Coverage
07/15/2016	2,569,248.95	1,621,119.74	1.5848607x
07/15/2017	5,395,849.00	3,503,415.45	1.5401682x
07/15/2018	5,665,152.00	3,775,333.95	1.5005698x
07/15/2019	5,947,919.00	4,054,864.35	1.4668602x
07/15/2020	7,224,825.00	5,334,290.50	1.3544116x
Total	$26,802,993.95	$18,289,023.99	-

$9,800,000

City of Whitefish, Montana

Tax Increment Urban Renewal Revenue Bonds, Series 2016A

Coverage Ratio

Date	Total Revenues	Total D/S	Coverage
07/15/2016	2,569,248.95	1,621,119.74	1.5848607x
01/15/2017	2,697,924.50	1,750,312.50	1.5413959x
07/15/2017	2,697,924.50	1,753,102.95	1.5389424x
01/15/2018	2,832,576.00	1,887,558.75	1.5006558x
07/15/2018	2,832,576.00	1,887,775.20	1.5004837x
01/15/2019	2,973,959.50	2,025,657.00	1.4681456x
07/15/2019	2,973,959.50	2,029,207.35	1.4655769x
01/15/2020	3,122,412.50	2,177,337.70	1.4340506x
07/15/2020	4,102,412.50	3,156,952.80	1.2994849x
Total	$26,802,993.95	$18,289,023.99	-

Bank Qualified Bonds

Description of Bank Qualified Bonds

Banks, like other investors, purchase municipal bonds in order to obtain the benefit of earning interest that is exempt from Federal income taxation. Historically, commercial banks were the major purchasers of tax-exempt bonds. Banks' demand for municipal bonds changed in 1986 with the passage of the Tax Reform Act of 1986 (the "Act"), now under section 265(b) of the Internal Revenue Code of 1986, as amended (the "Code").

Under the Code, banks may not deduct the carrying cost (the interest expense incurred to purchase or carry an inventory of securities) of tax-exempt municipal bonds. For banks, this provision has the effect of eliminating the tax-exempt benefit of municipal bonds. An exception is included in the Code that allows banks to deduct 80% of the carrying cost of a "qualified tax-exempt obligation." In order for bonds to be qualified tax-exempt obligations the bonds must be (i) issued by a "qualified small issuer," (ii) issued for public purposes, and (iii) designated as qualified tax-exempt obligations. A "qualified small issuer" is (with respect to bonds issued during any calendar year) an issuer that issues no more than $10 million of tax-exempt bonds during the calendar year.[(1)] Qualified tax-exempt obligations are commonly referred to as "bank qualified bonds."

Effectively two types of municipal bonds were created under the Act; bank qualified (sometimes referred to as "BQ") and non-bank qualified. Although banks may purchase non-bank qualified bonds they seldom do so. The rate they would require in order for the investment to be profitable would approach the rate of taxable bonds. As a result, issuers obtain lower rates by selling bonds to investors that realize the tax-exempt benefit. In contrast, banks have a strong appetite for bank qualified bonds that are in limited supply. As a result, bank qualified bonds carry a lower rate than non-bank qualified bonds.

Interest Rate Differential

Any rate differential between bank qualified and non-bank qualified bonds only impacts the maturities purchased by banks. Few studies have analyzed the rate difference between bank qualified and non-bank qualified bonds. Based on bond purchase proposals and bids received, WM Financial Strategies believes that prior to 2008 the rate differential was generally between 10-25 basis points (.10% to .25%) on maturities purchased by banks. Generally banks purchased shorter maturities of bonds (maturing in ten or fewer years). With the credit crisis of 2008, the rate differential increased to as much as 50 basis points and applied to maturities as long as twenty years. With the passage of the American Recovery and Reinvestment Act of 2009 the rate differential substantially declined and was often undetectable. [(1)] With the expiration of these provisions, we are predicting that in 2011 the benefit on general obligation bonds and utility revenue bonds (the type of bonds generally purchased by banks), that mature in ten years or less, will be at least 25 basis points (.25%).

Issuing Bank Qualified Bonds

Any issuer that is planning to issue less than $10 million of tax-exempt securities in a calendar year should consider designating the issue as bank qualified in order to obtain the associated interest cost savings. Issuers requiring more than $10,000,000 may be able to take advantage of bank qualification by issuing two series of bonds. For example, for a $20,000,000 financing, a $10,000,000 issue could be sold this year and one could be sold next year to obtain 2 bank qualified issues. Similarly, for a $25,000,000 financing, $10,000,000 could be sold as bank qualified bonds this year and a non-bank qualified $15,000,000 issue could be sold next year.

A detailed cost analysis should be made prior to splitting an issue. First, a determination should be made as to whether the interest cost savings from bank qualification will offset the added costs of issuance associated with two bond issues. Second, in today's volatile market, a small deferral of a bond sale can result in dramatically higher interest rates that more than offset the rate reduction from bank qualification. For example, from

October 7, 2010 to December 6, 2010 interest rates rose by approximately 130 basis points (1.30%). Accordingly, even a short-term deferral of a bond sale could be extremely costly.

_____

(1) Under the American Recovery and Reinvestment Act of 2009 (the "2009 Act"), the $10 million bank qualified bond limit was changed to $30 million. In addition, borrowers that participated in a pool or borrowed through a conduit issuer issuing more than $30 million in a calendar year were entitled to bank qualification as long as the borrower's total tax-exempt financings were under $30 million in the calendar year.

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Phone (314) 423-2122
Fax (314) 432-2393
JHoward@munibondadvisor.com

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First Interstate Bank
306 Spokane Avenue
Whitefish, MT 59937

GLACIER BANK
319 2nd St
Whitefish, MT 59937-0100

March 30, 2015

City of Whitefish
PO Box 158
Whitefish, MT 59937

Re: Bond Proposals

Dear Chuck:

First Interstate Bank and Glacier Bank have reviewed your request to Refund the 2009 City of Whitefish Bond Issue as well as purchase additional Bonds to fund construction of the new Whitefish City Hall and Parking Garage. The Banks are pleased to provide you with the proposal outlined below which is subject to final underwriting and approval by each bank.

Refunding:

Amount: $7,200,000.00

Term: Four or five years.

Rate: 2.38% for four years or 2.57% for five years. Rates represent the net interest cost, inclusive of fees, and are subject to change up until the closing date. Rate to be spread off the four or five year Federal Home Loan Bank of Seattle or Des Moines (5/31/15 merger) Amortizing Index + 110bp.

Rate quote is dependent on the issuance being designated as a qualified tax exempt obligation (bank qualified) by the issuer. Failure to designate the issue as bank qualified would result in the rate quote increasing by 15 bp.

Rate quote is dependent on the issuance being tax exempt. Failure for the issue to be tax exempt would result in the rate quotes increasing to 3.59% for four years and 3.88% for five years. The spread will increase to the four or five year Federal Home Loan Bank of Seattle or Des Moines Amortizing Index + 240 bp.

Fee: Bond counsel, document preparation and other issuance costs will be paid by the City of Whitefish.

New Bond Issue:

Amount: $11,240,000.00

Term: Four or five years

Advance: Issue can be drawn upon for 18 months after issuance.

Fully Advanced At Issuance:

Rate: 2.38% for four years or 2.57% for five years. Rates are subject to change up until the closing date. Rate to be spread off the four or five year Federal Home Loan Bank of Seattle or Des Moines (5/31/15 merger) Amortizing Index + 110bp.

Rate quote is dependent on the issuance being designated as a qualified tax exempt obligation (bank qualified) by the issuer. Failure to designate the issue as bank qualified would result in the rate quote increasing by 15 bp.

Rate quote is dependent on the issuance being tax exempt. Failure for the issue to be tax exempt would result in the rate quotes increasing to 3.59% for four years and 3.88% for five years. The spread will increase to the four or five year Federal Home Loan Bank of Seattle or Des Moines Amortizing Index + 240 bp.

Fee: Bond counsel, document preparation and other issuance costs will be paid by the City of Whitefish. Issuance fee will be waived if funds are fully advanced at issuance.

Multiple Advances:

Rate: 2.38% for four years or 2.57% for five years in addition to an $80,000 issuance fee. Rates are subject to change up until the closing date. Rate to be spread off the four or five year Federal Home Loan Bank of Seattle or Des Moines (5/31/15 merger) Amortizing Index + 110bp.

one time

Rate quote is dependent on the issuance being designated as a qualified tax exempt obligation (bank qualified) by the issuer.

Draws at max - 1 per month
or a minimum $ amount

Failure to designate the issue as bank qualified would result in the rate quote increasing by 15 bp.

Rate quote is dependent on the issuance being tax exempt. Failure for the issue to be tax exempt would result in the rate quotes increasing to 3.59% for four years and 3.88% for five years. The spread will increase to the four or five year Federal Home Loan Bank of Seattle or Des Moines Amortizing Index + 240 bp.

Fee: $80,000.00 issuance fee, Bond counsel, document preparation and other issuance costs will be paid by the City of Whitefish. Issuance fee will be waived if funds are fully advanced at issuance.

Refunding and New Bond Issue Requirements:

Payments:
Principal and interest payments due semi-annually.

Security:
Special Limited Obligations of the Whitefish Tax Increment Urban Renewal District secured by a senior lien on all tax increment revenue generated by the district and amounts held in all accounts established in relation to this issuance, including but not limited to the Debt Service Reserve Account.

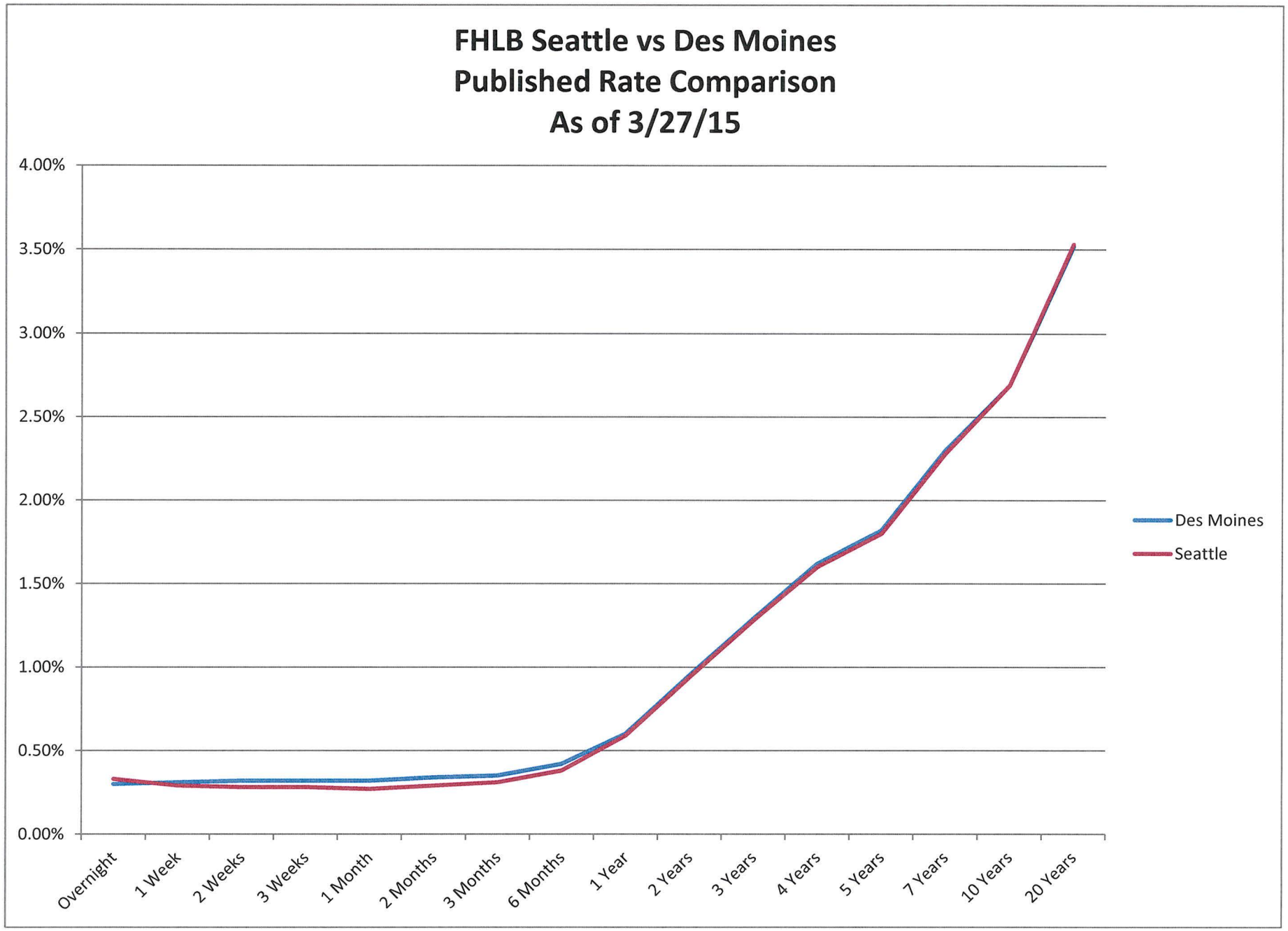
Financial Covenants and Financial Reporting Requirements:
Commensurate with outstanding 2009 issue. No Cusip, no registrar

Legal Matters:
Issuer's bond counsel is to provide a legal opinion on the tax status of the issuance. If tax exempt, the issuer must designate the bonds as a qualified tax-exempt obligations (BQ). Should the tax exempt status of the issue be compromised at or after issuance, the interest rate to be paid on the debt shall revert to the equivalent taxable rate to the bank as of the issuance date.

Sincerely,

David Dittman
President, First Interstate Bank

Dennis Beams
Chief Credit Officer, Glacier Bank


FHLB Seattle vs Des Moines
Published Rate Comparison
As of 3/27/15
4.00%
3.50%
3.00%
2.50%
2.00%
1.50%
1.00%
0.50%
0.00%
Overnight
1 Week
2 Weeks
3 Weeks
1 Month
2 Months
3 Months
6 Months
1 Year
2 Years
3 Years
4 Years
5 Years
7 Years
10 Years
20 Years
Des Moines
Seattle

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V
1																						
2								Allocation of Costs - City Hall and Parking Structure														
3								Date:		10/26/2015												
4																						
5																						
6																						
7			Cost estimate on			Allocation		Allocation		Allocation		Allocation of		Revised		Allocation		June 15, 2015		Allocation		Allocation
8			6/15/15 from			of Site Prep		of Development		of Direct Cost		other Cost		Provisional		of		Allocated		of Interim/		of all
9			Mosaic and Martel	%		Costs		Costs/Fees		Reductions		Reductions		Cost Estimate		Contingency		Construction Cost		Ancillary Costs		costs
10	City Hall		$5,417,702	42.89%		$299,276		$620,346		-$190,000		-$218,783		$5,928,542		$264,659		$6,193,201		$428,919		$6,622,120
11	Parking Structure		$7,213,364	57.11%		$398,470		$825,956		-$739,436		-$291,297		$7,407,056		$352,379		$7,759,435		$571,081		$8,330,516
12																						
13	Total		$12,631,066	100.00%		$697,746		$1,446,302		-$929,436		-$510,080		$13,335,598		$617,038		$13,952,636		$1,000,000		$14,952,636
14										Not done		Done								This figure will likely		
15										proportionately		Proportionaely								decrease.		
16																						

	A	B	H	I	J	K	L	M	N	O
37	TIF Financial Plan July 2015 through July 2020									
38			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021		Total
39	**Beginning Cash Balance**		$ 2,577,989	$ 317,856	$ 404,193	$ 1,033,966	$ 1,583,049	$ 4,282,782		
40	**Revenues**									
41	Property Taxes [1]		$ 5,129,571	$ 5,386,049	$ 5,655,352	$ 5,938,119	$ 6,235,025			28,344,116
42	State Entitlement Payment		248,865	248,865	248,865	248,865	248,865			1,244,325
43	Miscellaneous (Depot Park Grant)		10,000							10,000
44	Transfer from Impact Fees (ESC repayment) [4]		213,084							213,084
45	Total Revenues		$ 5,601,520	$ 5,634,914	$ 5,904,217	$ 6,186,984	$ 6,483,890	$ -		29,811,525
46	**Expenditures**									
47	Proposed Additional TIF Bond Debt Service - City Hall/Parking Structure[5]			$ 1,139,982	$ 2,075,939	$ 2,370,668	$ 2,679,993	$ 1,419,174		9,685,756
48	Current TIF Bond Debt Service - Refunding 2015A & 2015B[5]		112,394	2,206,667	1,550,590	1,548,993	1,547,492	54,695		7,020,830
49	Funding of Bond (Current Debt Service) Account[6]		3,129,120	322,344	340,889	361,360	(2,679,843)	(1,473,870)		0
50	Semi-annual School Payment [1]		680,000	714,000	749,700	787,185	826,544			3,757,429
51	Transfer to City Hall/Parking Structure Fund[2]		2,250,080							2,250,080
52	Salaries and O&M [3]		388,657	400,317	412,326	424,696	437,437			2,063,433
53	Business Rehab Loan		30,000	30,000	30,000	30,000	30,000			150,000
54	Land Purchase									-
55	Urban Renewal Projects:									-
56	Misc Urban Renewal Projects		100,000	15,000	15,000	15,000	15,000			160,000
57	Buy Local Campaign		50,000							50,000
58	High School TIF project									-
59	Depot Park ($2 million - phase 1-4)		480,802	620,267			827,534			1,928,603
60	Ice Den Roof Renovations and E-Ceiling		8,000							8,000
61	Ped-Bike bridge to Skye Park (Total ~$829k)		61,600							61,600
62	Develop additional downtown parking ($6.5M now in Debt Service)									-
63	Assist Private Developer - Boutique Hotel		150,000							150,000
64	Assist Private Developer - Idaho Timber									-
65	Assist Private Developer - N. Valley Hospital									-
66	Assist Private Developer - Other Redevelopment									-
67	Downtown/O'Shaugnessy Restrooms									-
68	Stairway at Stumptown Inn		21,000							21,000
69	Other Real Estate Committee Land Purchase		300,000							300,000
70	Housing Authority									-
71	Chamber ($96k)	$96,000								-
72	Depot Park Snow Lot (phase 5 of depot park)	$550,000								-
73	Install/refurbish water & sewer lines throughout district									-
74	Contingency		100,000	100,000	100,000	100,000	100,000			500,000
75	Total Approximate Non-Committed	$646,000								-
76	Total Expenditures		$ 7,861,653	$ 5,548,577	$ 5,274,444	$ 5,637,901	$ 3,784,157	$ (0)		28,106,731
77	Revenues less Expenditures		$ (2,260,133)	$ 86,337	$ 629,773	$ 549,083	$ 2,699,733	$ 0		$ 1,704,793
78	**Ending Cash Balance**		$ 317,856	$ 404,193	$ 1,033,966	$ 1,583,049	$ 4,282,782	$ 4,282,782		
79										

80 1 Assumes 5% growth per year. Since FY2000 the average growth has been 9.62%.
81 2 Final transfer from the TIF fund to the City Hall/Parking Structure Fund in FY16.
82 3 FY2017 through FY2020 assume a 3% growth per year based on the budgeted FY2016 figures.
83 4 Impact Fees transferred to TIF Fund to payoff TIF Bond issued for the ESC construction.
84 5 For each bond the last year debt service payments use reserves on-hand of $980,000 (City Hall/Parking Structure Bonds @ 2.89% - debt service schedule prepared 9/30/2015) and $718,300 (Current Bonds at 2.62%)
85 6 To ensure the debt service account is fully funded (12 months principal/6months interest in next 12 months) a yearly transfer from TIF to the TIF Debt Service Fund has been added. The total amount per year needed
86 in the debt service account is as follows: FY16 $3,129,120; FY17 $3,451,464; FY18 $3,792,353; FY19 $4,153,713; FY20 $1,473,870 (use difference from PY to pay debt service during the year); FY21 $0 debt service
87 (difference is used to make final payment with the reserve funds as well).

Prepared: 10/16/15

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RESOLUTION NO. 15-___

A Resolution of the City Council of the City of Whitefish, Montana, establishing rates charged to purchase the space for a nameplate on a Memory Wall in the Whitefish Cemetery.

WHEREAS, Section 7-1-4123(7), MCA, empowers municipalities to impose a fee for provision of services; and

WHEREAS, in 1917, the City of Whitefish established the Whitefish Cemetery and from time to time established fees for the costs of cemetery services; and

WHEREAS, the City recently installed a Memory Wall at the cemetery to hold nameplates with name and dates of loved ones; and

WHEREAS, staff has recommended that fees to purchase the space for a nameplate and for related services be established; and

WHEREAS, as required by Section 7-6-4013, MCA, public notice on the City's proposed fees for the purchase of a space for a nameplate and related services was published on November 25 and December 2, 2015; and

WHEREAS, at a lawfully noticed public hearing on December 7, 2015, after receiving public comment and reviewing a staff report recommending establishing fees, and having considered the cost of a Memory Wall and related services, the Whitefish City Council reviewed the recommended fees for space for a nameplate and related services and found them to be reasonable.

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

Section 1: Fees for the purchase of a space for a nameplate on a Memory Wall and related services are established as follows:

Memory Wall Nameplate Space	**Fees**
One space for One Name and Dates (without engraving)	$60.00
Engraving and installation of nameplate is established by independent vendor at the time requested.	

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

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

November 30, 2015

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and City Councilors

Recommendation to Approve Resolution establishing rates charged to purchase the space for a nameplate on the Cemetery Memory Wall

Introduction/History

As reported to the Mayor and Council in the Ad Hoc Cemetery Committee (Committee) Report last May, a new Memory Wall was installed in the Whitefish Cemetery in February 2015. During the surveys conducted by the Committee a few years ago, as well as various public comments received by the City regarding ideas of expansion of services available to the public at the Cemetery, the idea of a Memory Wall was suggested by several. A Memory Wall is an alternative for families and friends to have a written memorial for their loved ones who may have ashes scattered elsewhere or placed at an alternative location. The current bronze Memory Wall, which has spaces for 102 more bronze nameplates, was privately donated and installed by the City. A picture of the Wall is on the next page of this report.

Current Report

In calculating the fee to be charged for a space for a nameplate, staff has considered the purchase and installation cost for an additional Memory Wall in the future when the first one is filled and a second one is needed. By that time the City envisions a second Columbarium will be in place, and the Memory Walls are installed on the Columbarium. As of February, 2015, the company that sold and installed the current Memory Wall to the City estimated replacement costs at $6,000. By the time the City is ready to order a second wall, the price will be greater; but at the rate currently being proposed, 102 spaces at $60.00 will yield $6,120 towards the purchase price of the next wall. There is an additional price to the customer for the engraved nameplate and installation, but that is a pass-through fee that the City will collect for the vendor, and since that rate is subject to change according to that company's costs, that fee is noted but not included in this resolution. The current cost for the purchase and installation of an engraved nameplate is $290.00

Financial Requirement

No additional City costs at this time. The City's expenditure for installation was incurred in FY15, and collection of fees will be set aside for the future addition of a second wall.

Recommendation

City staff respectfully recommends the City Council, following receiving public testimony at the public hearing, adopt the proposed resolution establishing fees charged to purchase a space for a nameplate on the Cemetery Memory Wall at $60.00 per space.

Sincerely,

Necile Lorang

Necile Lorang
City Clerk

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MANAGER REPORT

December 2, 2015

NEW STAIRWAYS TO RIVERFRONT TRAIL

Two new stairways to the Riverfront Trail system, as approved in the past, were completed recently and are open. Final painting will occur next spring when the weather permits. The two stairways and associated pictures are described below.

This stairway is by the Veteran's Memorial Bridge on East 2nd Street by Miles Avenue. It provides a safe access from the street to the Riverfront Trail which currently proceeds to the south. It also provides a way to get from the south side of the highway (East 2nd Street) to the north side and vice versa. When the riverfront trail continues to the north in the future (between the river and the condos there), it will also provide an important access to the full Riverfront Trail.

This second stairway goes down to the Riverfront Trail by the Stumptown Inn on Hwy. 93 South. We obtained an easement for this stairway and to connect the stairway to the sidewalk on Hwy. 93 South through the Stumptown Inn property. When the trail is completed further to the south in the near future (was postponed from this summer for Skye Park Bridge), the Riverfront Trail will connect all the way to 13th Street.

SNOW REMOVAL AND ICE CONTROL PLAN

As requested by Council Member Jen Frandsen at the last City Council meeting, Public Works Director Craig Workman gave me a memo to include with this report on the Snow Removal and Ice Control Plan and on preparations for this winter. His memo is attached and in the memo is a link to our web page which further describes the snow removal plan and which has a link to the full Snow Removal and Ice Control Manual.

MEETINGS

Whitefish Fire Service Area Board Meeting (11/18) – Fire Chief Joe Page and I met with the Whitefish Fire Service Area Board to continue negotiations on a new Interlocal Agreement. The current Interlocal Agreement expires on December 31st and there is a full staff report and recommendation on this issue on both the work session agenda and the regular agenda for December 7th, so more information can be found in that staff report.

City Hall Steering Committee Sub-committee (11/19) – The sub-committee met on November 19th and evaluated recommendations to reduce some costs through value engineering and design changes. There is a full description of the issue and the votes of the committee at that meeting in a memo in the packet for the agenda item on the City Hall/Parking Structure budget.

UPCOMING SPECIAL EVENTS

Christmas Stroll – Friday, December 11th – 3:00 p.m. to ??? on Central Avenue

REMINDERS

Friday, December 25th – City Hall closed for Christmas holiday
Friday, January 1, 2016 – City Hall closed for New Year's Day holiday

Chuck

Respectfully submitted,
Chuck Stearns, City Manager

P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

Memo

TO: Chuck Stearns, City Manager

FROM: Craig Workman, Director of Public Works

DATE: 12/1/2015

SUBJECT: Winter Street Maintenance

Chuck,

In response to City Councilor Jen Frandsen's request, I have reviewed the existing procedures and policies of the City of Whitefish regarding winter roadway maintenance, and while I believe there is always opportunity for improvement, I think the City is well prepared to deal with the road conditions that winter will soon bring. I have drafted this memo to review the highlights of the City's winter road maintenance plan, update you, the elected officials, and the public on the preparations the Public Works Department has made for the upcoming snow season, and discuss some of my thoughts on snow removal strategies.

Although I will discuss some of the highlights of our plan, anyone interested in reviewing the entire Snow Removal and Ice Control Manual can find the document at the following location: www.cityofwhitefish.org/public-works/snow-tree-leaf-removal.php

General Policy Statement

During snowstorms, the City's primary goal is to provide for the safe and orderly movement of emergency equipment and the traveling public. This includes safe and efficient management of snow and ice from City streets, alleys, parking facilities, sidewalks and all other Public Right of Way. Although the City has not adopted a "bare pavement" policy, all reasonable attempts will be made to keep roads as ice and snow-free as practical. The Public Works Department will continuously monitor street conditions to determine the timing and manpower necessary to achieve this objective.

To accomplish this goal effectively and efficiently, community cooperation is required. Residents are asked to stay informed and plan accordingly for forecasted winter storm events and possible parking restrictions.

Seasonal Preparations

Each year the Construction and Maintenance Division reviews the Snow Removal and Ice Control Manual and prepares revised maps depicting the routes for all snow removal equipment. These routes are then followed in accordance with a prearranged plan to remove snow and ice in a safe and efficient manner. This meeting was conducted on 11/4/2015 and included Jay Barranger, Chuck Freeman, Tim Johnson, and myself. Several changes were made to the route maps and some of the existing equipment allocations were revised. These changes were noted on the City's GIS system and updated maps were printed for each of the vehicles.

All operators have also completed several "dry runs" of their particular snow removal route, looking for hazards such as pot holes, over-hanging tree branches, encroaching landscaping, newly installed utility pedestals, and other obstacles. New roads have also been driven in order to familiarize the operator with the additions to their route.

In preparation for the upcoming winter maintenance season all snow and ice removal equipment has also been tested, inspected, and repaired as necessary. Each operator is responsible for routine maintenance of their primary equipment and Brad Hader, the Public Works Mechanic, has also ensured there is an adequate inventory of equipment such as cutting edges, shear pins, plow shoes, springs, deicer system components, windshield wipers, hoses, belts, etc.

One final piece of preparation involved a meeting between Public Works and Parks to review snow removal operations carried out by each department, and discuss possible efficiencies that could be realized by reallocating some of these responsibilities.

Initiation of Services

Historically, snow accumulation of four (4) inches or more has been used as a trigger to initiate City snow plowing activities. This tradition appears to be based on section 6-2-2 of the City Code, which is intended to impose certain parking restrictions. Although parking restrictions are an important element of an effective snow removal program, I do not believe the initiation of snow removal operations should be dictated by the same criteria. The decision to dispatch maintenance personnel should be based on a combination of factors used to determine the overall safety of the transportation network. These factor include the timing, duration, amount, rate and type of predicted

snowfall, as well as air and pavement temperatures, and wind conditions. Ultimately, it will be the responsibility of the Construction/Maintenance supervisor and Public Works Director to assess these factors and determine the appropriate snow removal and ice control measures to be implemented. The Police Department will also be consulted to assist Public Works by providing timely information on local conditions, particularly after normal work hours.

Order of Operations

The established emergency route streets and avenues will be plowed first when deemed necessary by the Public Works Department. This will be completed in a timely manner, whenever adverse conditions warrant action.

The second priority for snow and ice control operations will be Collector and Commercial Streets, followed by Residential Streets. Typically, residential streets running east-west will be plowed prior to 12:00 noon and avenues running north-south will be plowed after 12:00 noon.

Snow will be removed from residential alleys when all other routes have been completed. Alleys will be monitored during winter months and cleared as necessary to allow safe access by emergency vehicles, sanitation and freight trucks, and the general public. Clearing of alleys is typically completed by berming, blowing, and hauling of the snow, however circumstances may warrant plowing to the sides.

Central Business District Snow Removal

Snow removal from the streets, alleys, and City maintained parking lots and sidewalks in the designated commercial business area will typically commence the night following a snowfall of four (4) inches or more. Wet snow or slush under four (4) inches will be removed as necessary to provide safe and convenient passage.

Due to the lack of boulevards or on-site storage sites, this district requires the removal of any snow accumulation. Daytime parking and high traffic flows do not allow snow removal during normal business hours. Therefore, windrowing and berming of snow will begin around 11:00 p.m. on streets, which are vacant of parked vehicles, with the snow blowing and hauling to begin directly thereafter. Snow removal activities on streets signed “No Parking 2:30 a.m. to 6:00 a.m.” will not commence until after 2:30 a.m., unless the road is clear of parked vehicles. All attempts will be made to complete this operation before 8:00 a.m.

After-Hours & Weekend Staffing

It is the responsibility of the Public Works Department to provide 24 hour staffing to attend to adverse winter road conditions. Although the existing union contract does allow for alterations to employee work week under mutual agreement, I have not found this option to be beneficial for winter maintenance activities in other municipalities similar to Whitefish. While this practice may reduce the immediate response time for certain winter storm events, the overall effectiveness of this type of response will be greatly limited by size of the Whitefish Public Works staff and the majority of events will require additional on call staff to complete the operations in a timely manner. I have found that seasonal changes in shift schedules has also lead to an overall decrease in efficiency in other areas due to lack of available staff, lighting conditions, and other factors.

The existing contract also allows for the city to hire up to 2 seasonal employees for the winter road maintenance season, as well as the ability to contract out certain services, so long as these activities do not result in the layoff of any present employees. These are options that will be considered as I evaluate the City's snow removal operations this season.

Ultimately, the existing union contract requires Public Works employees to be on-call to respond to weather related problems and other public works emergencies. If the employee on-call encounters adverse conditions that require additional manpower or equipment they shall call in extra personnel to assist.

In summary, I would like to reiterate that the goal of our winter maintenance procedures are to keep the City's transportation network operational during and after periods of snow or ice accumulation at a reasonable cost. Although these procedures are intended maximize efficiency and cost effectiveness, they should not serve to limit the discretion and judgment of officials and employees charged with responding to inclement weather conditions.

I hope this memo provides an adequate response to Councilor Frandsen's request. I look forward to discussing this topic at an upcoming City Council meeting, if there are questions or comments.

Sincerely,

Craig C. Workman, P.E.
Director of Public Works

RESOLUTION NO. 15-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, APPROVING AN INTERLOCAL AGREEMENT FOR FIRE PROTECTION SERVICES WITH THE WHITEFISH FIRE SERVICE AREA.

WHEREAS, for the purpose of aiding and cooperating in the provision of fire protection services to the Whitefish Fire Service Area and within the City of Whitefish, the City and the Whitefish Fire Service Area have a long-standing history of working together. The City and Whitefish Fire Service Area wish to continue their working relationship under the terms and conditions of the Interlocal Agreement, attached as Exhibit "A," and incorporated herein by reference.

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

Section 1: The Interlocal Agreement between the City of Whitefish and the Whitefish Fire Service Area, a copy of which is attached as Exhibit "A," is hereby approved.

Section 2: The Whitefish City Manager is authorized to execute the attached Agreement on behalf of the City of Whitefish, and is directed to fulfill all of the City's obligations under such Agreement.

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

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

_____
JOHN M. MUHLFELD, DEPUTY MAYOR

ATTEST:

_____
Necile Lorang, City Clerk

INTERLOCAL AGREEMENT

(Five and One-Half Year Term/Automatic One-Year Extensions)

THIS AGREEMENT is entered into as of the _____ day of _____, 2015, by and between the City of Whitefish, a municipal corporation ("Whitefish"), and the Whitefish Fire Service Area, a fire service area created by the Flathead County Board of Commissioners pursuant to Section 7-33-2401, et seq., MCA ("WFSA"), with respect to the following facts:

A. Whitefish has an established Fire Department, consisting of trained firefighting personnel who operate firefighting trucks, ladders, accessories and other equipment.

B. Whitefish, through its Fire Department has the capability of fighting fires in structures not exceeding 35 feet in height from any one side.

C. There is considerable expense involved to Whitefish and its taxpayers thereof for the purchase, maintenance and operation of such fire equipment, and the hiring and retention of firefighting personnel.

D. The WFSA desires to avail itself of such firefighting personnel and equipment when the need arises and is willing to pay a reasonable consideration for the use of such personnel and equipment.

E. Whitefish is willing that such firefighting personnel and equipment be used for such purposes.

NOW THEREFORE, it is mutually agreed between the Parties as follows:

1. Interlocal Agreement. This Agreement is established pursuant to the Interlocal Cooperation Act, Section 7-11-101, et seq., MCA. The purpose of this Agreement is to establish a relationship in which the Whitefish Fire Department responds to any and all fire and rescue calls, including but not limited to structure fires, property fires, hazmat material response, Wildland Fire initial attack, structure protection, rescues, vehicle accidents, and pedestrian accidents, within the Whitefish Fire Service Area, and the WFSA fairly and adequately compensates Whitefish for such services.

2. Term. The term of this Agreement shall be for a period of five and one-half (5 ½) years, beginning on the 1st day of January, 2016, and terminating on the 30th day of June, 2021. In the event that either Party does not desire to renew this Agreement for an additional period, a written notice of the intent to terminate this Agreement shall be delivered, to the appropriate representatives of the other Party, at least twelve (12) calendar months before the expiration of this Agreement. If such notice of intent is not delivered within the time period set forth above, then this Agreement shall automatically be extended for an additional one (1) year term, and such extensions shall automatically continue until such notice is given.

3. Annual Compensation. The WFSA shall pay to Whitefish compensation for this service, in the amounts shown below, to be used as deemed necessary by Whitefish for, but not limited to, fire equipment, training, salaries, supplies, etc. The Parties agree that semi-annual payments for each calendar year shall be made to Whitefish by the 15th of January and the 15th of July:

Calendar Year	Total Amount	January Payment	July Payment
2016	$277,700	$138,850	$138,850
2017	$282,934	$141,467	$141,467
2018	$288,272	$144,136	$144,136
2019	$293,718	$146,859	$146,859
2020	$299,272	$149,636	$149,636
2021	$152,469	$152,469	(next contract)

4. Whitefish Sole Control. Whitefish shall act solely under its own best judgment in responding to any fire or rescue calls, and shall be free of the control of any entity including the WFSA, in the methods and procedures used for any such fire or incident it is called upon to control. WFSA shall have no authority to direct Whitefish or its personnel in their response to fire or rescue calls, or regarding any operational matters. Whitefish shall be responsible for the employment, compensation, and all employer contributions for all personnel, both volunteer and full-time firefighters.

5. Subrogation. WFSA grants to Whitefish a right of subrogation against any third parties suspected of or alleged to be (or found to be) liable or responsible for the setting or starting of any fire or incident, whether by negligence or other theory of liability, and in response to which Whitefish is required to expend resources by this Agreement.

6. WFSA's Fire Stations. The Parties acknowledge and agree that any fire stations owned by the WFSA shall be made available for use by Whitefish as it deems necessary and appropriate, without payment of any rent or other compensation by Whitefish. The WFSA shall be responsible for and shall pay all maintenance, insurance, upkeep and utilities associated with fire stations that it owns.

7. Ambulance Service. WFSA agrees that it shall not contest Whitefish's exclusive right to provide first responder ambulance service within the WFSA. Whitefish agrees to exercise its best efforts to provide ambulance service to businesses, residences and individuals within the WFSA. The WFSA shall not be required to pay any additional compensation with respect to such ambulance service. None of the compensation to be paid by WFSA under this Agreement is considered by the parties to be compensation for ambulance service. Whitefish shall be free to charge persons who use such ambulance service, and shall be entitled to retain any and all revenues derived from such ambulance service.

8. Whitefish Insurance. Whitefish agrees to carry insurance protecting itself against damage by reason of personal injuries which may be sustained by its firemen while on duty, and for property damage which may be caused through negligent operation of this equipment by its agents or servants, but not otherwise.

9. Indemnification. Whitefish agrees to indemnify, defend and hold WFSA harmless from any and all claims, liabilities, demands or causes of action arising from Whitefish's duties, obligations and performance under the terms of this Agreement. WFSA agrees to indemnify, defend and hold Whitefish harmless from any and all claims, liabilities, demands or causes of action arising from WFSA's duties, obligations and performance under the terms of this Agreement.

10. No Restriction on Whitefish. Nothing in this Agreement shall be interpreted to prohibit or restrict Whitefish from contracting to provide firefighting or ambulance services to other individuals or entities.

11. Coordination Meetings – Annual Report. Subject to Paragraph 4, WFSA Board and Chief of Whitefish Fire Department shall meet at least once per year for the purpose of cooperation/coordination, problem identification and contract performance review. In January, the Fire Department shall present an annual report to the Board detailing the services that were provided within WFSA in the past year including, but not limited to: number of structure fires, average response times for structure fires, number of structure fires where other fire departments participated, false alarms, vehicle accidents where fire trucks/apparatus attended, ambulance calls and trend data associated with each category.

12. WFSA Boundaries. No changes or extensions of the WFSA boundaries will be made without approval of the Whitefish City Council; with only those requests being approved going on to the WFSA Board for approval or disapproval; with final approval or disapproval being given by the Flathead County Commissioners.

13. Other Acts of Cooperation.

a. WHITEFISH agrees to help WFSA plan for a future transition to its hiring of volunteer firefighters when Whitefish can no longer employ volunteers or transition to its own Fire District or a merger or consolidation with other Fire Districts or other alternatives. Both Parties recognize that Whitefish may not be able to employ volunteers once Whitefish is a first class city above 10,000 population.

14. Acts of God. It is understood that acts of God, such as inclement weather, impassable roads, or forces beyond the control of Whitefish, shall excuse performance on its part; it being fully understood that circumstances might exist whereby the equipment, manpower and other resources of the Whitefish Fire Department might be over-taxed to the extent that service might be impaired. Such contingency is mitigated by the execution of mutual aid agreements, herein mentioned.

15. Notice of Default. Should either Party conclude that the other is in default with regard to any terms or conditions of this Agreement, written notice shall be provided to the other Party detailing the claim of default. Each of the Parties agrees to respond promptly to such written notice with the view that any such default be resolved within a period of forty-five (45) days so as

to avoid risk of loss to the public. In the event that such disagreement cannot be resolved by the Parties, then arbitration shall take place, one arbitrator shall be chosen by each of the Parties; those two arbitrators shall pick a third arbitrator, mutually acceptable. The three arbitrators shall take evidence by hearing, written exhibits, consideration of contractual provisions or any other expedient method and shall, by majority vote of two out of three, resolve the issue; this arbitration to be binding upon both Parties.

16. Venue. It is understood that venue for enforcement of this Agreement shall be in Flathead County, should any legal action be commenced or required.

17. Attorneys' Fees. In the event of any litigation or arbitration to enforce or interpret the provisions of this Agreement, or to remedy a breach thereof, the prevailing Party shall be entitled to reasonable attorneys' fees as fixed by the court or arbitrator.

18. Mutual Aid. WFSA agrees that it will not object to any Mutual Aid agreements that have been signed by Whitefish and that affect WFSA boundaries.

19. Invalidity. Should any term or provision of this Agreement be held invalid or unenforceable by any court, for any reason, the remaining terms and conditions shall be in full force and effect, and unaffected by the illegality or invalidity of any other term or condition.

20. Approval by Commissioners. The Parties understand and agree that the funding and fees schedules upon which this Agreement is predicated must be approved by the Flathead County Commissioners; should such funding and fee schedules be disapproved by the Flathead County Commissioners, then either Party may declare this Agreement null and void, after first providing thirty (30) days prior written notice to the other Party.

21. Necessary Acts. Each Party to this Agreement agrees to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

22. Time of Essence. Time is of the essence in the performance of all obligations under this Agreement.

23. Entire Agreement. This Agreement contains the entire agreement of the Parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between the Parties hereto relating to the subject matter contained in this Agreement which are not fully expressed herein. The provisions of this Agreement may be waived, altered, amended or repealed in whole or in part only upon the written consent of all Parties to this Agreement.

24. No New Entity. No separate legal entity is created pursuant to the terms of this Agreement.

25. No Jointly-Owned Property. The Parties shall not jointly acquire or own any

property; nor shall the Parties be required to contribute funds or bear any expenses other than those identified herein.

26. No Wavier. The waiver by one Party of the performance of any covenant, conditions or promise shall not invalidate this Agreement, nor shall it be considered as a waiver by such Party of any other covenant, condition or promise. The delay in pursuing any remedy or in insisting upon full performance for any breach or failure of any covenant, condition or promise shall not prevent a Party from later pursuing remedies or insisting upon full performance for the same or any similar breach or failure.

IN WITNESS WHEREOF, the Parties hereto have hereunto set their hands through their respective representatives this _____ day of _____, 2015.

CITY OF WHITEFISH,
a municipal corporation

By: _____
Charles C. Stearns, City Manager

WHITEFISH FIRE DEPARTMENT

By: _____
Joseph Page, Fire Chief

WHITEFISH FIRE SERVICE AREA

_____
Bertram May, Chairman

_____
Douglas Loy, Treasurer

_____
Bill LaBrie, Secretary

_____
Mark Carlson, Board Member

_____
Ed Lieser, Board Member

MEMORANDUM
#2015-039

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – Proposed Whitefish Fire Service Area Interlocal Agreement

Date: November 23, 2015

Introduction/History

On September 20, 2010, the City Council approved an amendment to an Interlocal Agreement with the Whitefish Fire Service Area (WFSA) to extend our fire service agreement to the rural WFSA for five years, ending December 31, 2015. That agreement provided for annual payments of $225,603 (with no inflationary increase) and a one-time $300,000 payment that the City could use as it wanted, either for annual operations and maintenance costs or capital equipment costs. (We used it primarily to help purchase new equipment) A copy of that amendment is attached to this memo.

Fire Chief Joe Page and I have had negotiation sessions with the WFSA Board since earlier this summer. A copy of the WFSA Board membership is attached to this memo.

Current Report

The WFSA Board and city negotiators are ready to present a proposed, new Interlocal Agreement to the Mayor and City Council for review at a work session and for possible consideration. A draft, redline version of the revised Interlocal Agreement is attached to this memo along with a spreadsheet which shows the derivation of the financial calculations which are a basis of this proposed Interlocal Agreement.

As shown in the spreadsheet, city negotiators proposed that the WFSA Board increase their annual financial contributions to the City in a significant manner. First and foremost, we wanted the WFSA to increase the annual contribution so that the cost to a house in the WFSA would equal the amount of property taxes that a median value house in the City of Whitefish pays for fire service or $102.59 per year. Even though this figure would represent a 13.99% increase in

the WFSA annual contribution for FY16, the WFSA Board agreed to this increase after they were able to increase their annual assessment on a WFSA house from $90 to $144.

The Flathead Board of County Commissioners approved this WFSA fee increase earlier this fall, however, the Commissioners had some reservations for such a fee increase and admonished the WFSA Board to start planning for a transition to another type of fire service as future fee increases might not be granted. Moreover, on this topic, once the City of Whitefish attains first class city status (10,000 census population) it is widely held that we can no longer employ volunteer firefighters and, at a minimum, the WFSA will need to employ the volunteers after that point.

I initially proposed that the WFSA also increase their annual contribution by an inflationary increase of 4% per year (see attached spreadsheet) and pay for ½ of the annual debt service costs for our new Water Tender and Fire Pumper equipment costs. We took out Intercap loans to help pay for the costs of the Water Tender and the Fire Pumper. Former Fire Chief Tom Kennelly told the City Council in prior memos that the WFSA Board had agreed to pay ½ of the cost of the loans' debt service costs, but the WFSA Board disputes that they ever agreed to pay those costs. (See attached memos from Tom Kennelly). Also, the WFSA Board says that state law and direction from the Flathead Board of County Commissioners do not allow them to buy equipment for the City of Whitefish to own.

However, the WFSA has agreed to increase their annual contribution with a 2% annual increase to the base fee calculation and add another $16,000 to that contribution for the equivalent of the cost of ½ of the debt service of the Water Tender (see attached spreadsheet and loan debt service schedule). The WFSA Board argued that the CPI which the City uses was only 1.3% in recent years (which is correct) and that Social Security had a 0% CPI this year and only 1% in the past (some of the WFSA Board members are on Social Security). I countered with a 3% inflation proposal because City wage increases in recent years have been 2.3% to 3.8%, but the WFSA Board resisted that inflationary figure.

While the monetary difference over five years between our first proposal (4% inflation and ½ of debt service for both pieces of equipment) and the WFSA proposal (2% inflation and equivalent of ½ of debt service only for Water Tender) is $186,070, the five year difference between my 3% proposal and their 2% proposal is only $32,451. So we are very close on negotiations. I also think there are some reasons for accepting their proposal as shown below:

- The WFSA did get an increase in their annual residential assessment from $90 to $144 which solidifies their financial ability to increase payments to the City.
- The WFSA Board agreed to increase their residential assessment to the equivalent of the City's property tax cost on a median house to $102.59 for FY16 which is the first time in history that they will pay equivalent of the same cost that the City's residential property owners pay for fire service. Such equity has long been a basis of the City's negotiations.
- For the first time in history, the WFSA Board agreed to an annual inflationary increase, rather than the fixed annual payments for five years as in past agreements.

- The WFSA Board agreed to meet us part way and pay an increase for the equivalent of the Water Tender equipment because the Water Tender is primarily a benefit for rural fire service where fire hydrants don't exist.

A correspondence from the WFSA Board may also be attached to this report in the packet.

Financial Requirement/Revenue Increases

If the Mayor and City Council accept the WFSA proposal, we would receive a total of $1,594,365 over a five and one-half year period – the WFSA Board wanted to extend the contract by an additional ½ year so that the agreement expires at the end of both of our fiscal years (June 30th) rather than on December 31st so that they have more time to consider assessment increases or other options before their assessments are set by the County Commissioners.

Recommendation

Staff respectfully recommends the City Council consider the WFSA proposal for a five and one-half year Interlocal Agreement and approve the agreement if the City Council believes it is fair. While I would like 4% inflation and ½ the cost for the debt service for both pieces of equipment, the WFSA proposal reaches many of our prior requests (equity for city taxpayers and an inflationary increase) and we should recognize their willingness to meet us part way on our requests. Such negotiations often result in a compromise and the WFSA proposal represents compromises of both parties.

AMENDMENT NO. 3 TO INTERLOCAL AGREEMENT

THIS AGREEMENT is entered into as of the 4th day of October, 2010, by and between the City of Whitefish, a municipal corporation ("Whitefish"), and the Whitefish Fire Service Area, a fire service area created by the Flathead County Board of Commissioners pursuant to Section 7-33-2401, et seq., MCA ("WFSA"), with respect to the following facts:

A. The parties entered into an Interlocal Agreement dated December 31, 2006, pursuant to which Whitefish agreed to provide fire and other emergency service to the WFSA, for a term of three years, ending on December 31, 2009 ("the Agreement").

B. The Interlocal Agreement provided that it would be automatically extended for additional one-year terms unless either party provided written notice of the intent to terminate the Agreement at least twelve (12) months before the expiration of the current term.

C. Whitefish delivered to the WFSA a notice of its intent to terminate the Agreement on December 30, 2008, one year before the termination of its original three-year term.

D. The parties wish to execute this amendment as a Memorandum of Understanding to continue services and payments provided in the agreement and as modified herein.

THEREFORE, the parties agree as follows:

1. The Agreement is a Restatement and Amendment to the Interlocal Agreement dated December 31, 2006 and amendments which shall be titled and referred to as an Agreement for Services (hereinafter Agreement) where the Whitefish Fire Department performs as an independent contractor to WFSA.

2. The term of the Agreement is hereby extended through December 31, 2015. The Agreement will terminate at the end of the day on December 31, 2015, unless further extended in writing by the parties.

3. Section 3, Annual Compensation, of the original agreement shall be modified as follows:

   a. WFSA agrees to provide $225,603 per fiscal year for City Fire and Rescue operations funding in FY 11 – FY15 (Tax Year 2010 – 2015) as increased or decreased by the full amount of the increase or decrease in the WFSA Tax Roll due to growth/annexation as provided in Section 4 of the Agreement. Such payments shall be payable in half during the first week of July and first week of January each fiscal year.
   b. WFSA agrees to provide a one time cash reserve payment of $300,000 during August – October, 2010 from accumulated reserves to Whitefish and Whitefish agrees to use said reserve funds only for Fire and Rescue costs.

Such costs include, but are not limited to personnel, operations and maintenance costs, repair costs for equipment, and purchase of new or used Fire and Rescue equipment, vehicles, or apparatus.

c. WFSA agrees to maintain a continuing capital account ("WFD/WFSA Capital Account") of approximately $33,537 each year during the five year term of this amendment to be called the WFD/WFSA reserve. The use of these funds shall be by joint agreement between the WFSA and Whitefish. Such agreement shall be in writing and signed by the WFSA Chairman, the Whitefish Fire Chief, and the Whitefish City Manager.

4. Whitefish agrees to continue to provide 24/7/365 Fire and Rescue services as outlined in the Agreement through the term of this agreement.

5. WFSA agrees to pursue obtaining the legal ability to have tiered assessment rates for their assessments on property within the WFSA as provided by law. Whitefish agrees to work with WFSA in this endeavor and support the WFSA efforts. The tiered assessments will be based primarily on ISO improvements and distance from fire station(s).

6. WFSA and Whitefish agree to establish a basis for calculating WFSA owner assessments to result in a fair and equitable fee for service agreement.

7. WFSA agrees to request Flathead County Commissioners' approval for the county to assess and collect fees for undeveloped land according to §7-33-2404 MCA. WFSA will ask the County to request that the Montana Legislature increase the fees to account for inflation of wildfire response and containment since the time that Fire Service Areas were authorized. Any monies collected will be added to the account specified by Whitefish.

8. Except as amended herein, the Interlocal Agreement shall remain in full force and effect through December 31, 2015.

CITY OF WHITEFISH,
a municipal corporation

By: Charles C. Stearns
Charles C. Stearns, City Manager

WHITEFISH FIRE SERVICE AREA

William Beck
William Beck, WFSA Chairman

WHITEFISH FIRE DEPARTMENT

By: J. Thomas Kennelly
J. Thomas Kennelly, Fire Chief

M. D. Mahler
M. D. Mahler, Treasurer

William J. LaBrie, Secretary

Steve Carlson, Board Member

Ed Lieser, Board Member

Whitefish Fire Service Area

Board/Committee Members	Term Exp.
BERTRAM MAY	05/01/2018
DOUG LOY	05/01/2016
ED LIESER	05/01/2017
MARK CARLSON	05/01/2016
WILLIAM J LA BRIE	05/01/2018

INTERLOCAL AGREEMENT

(~~Three~~ Five and One-Half Year Term/Automatic One-Year Extensions)

THIS AGREEMENT is entered into as of the _____ day of _____, 2015~~06~~, by and between the City of Whitefish, a municipal corporation ("Whitefish"), and the Whitefish Fire Service Area, a fire service area created by the Flathead County Board of Commissioners pursuant to Section 7-33-2401, et seq., MCA ("WFSA"), with respect to the following facts:

A. Whitefish has an established Fire Department, consisting of trained firefighting personnel who operate firefighting trucks, ladders, accessories and other equipment.

B. Whitefish, through its Fire Department has the capability of fighting fires in structures not exceeding 35 feet in height from any one side.

C. There is considerable expense involved to Whitefish and its taxpayers thereof for the purchase, maintenance and operation of such fire equipment, and the hiring and retention of firefighting personnel.

D. The WFSA desires to avail itself of such firefighting personnel and equipment when the need arises and is willing to pay a reasonable consideration for the use of such personnel and equipment.

E. Whitefish is willing that such firefighting personnel and equipment be used for such purposes.

NOW THEREFORE, it is mutually agreed between the Parties as follows:

1. Interlocal Agreement. This Agreement is established pursuant to the Interlocal Cooperation Act, Section 7-11-101, et seq., MCA. The purpose of this Agreement is to establish a relationship in which the Whitefish Fire Department responds to any and all fire and rescue calls, including but not limited to structure fires, property fires, hazmat material response, Wildland Fire initial attack, structure protection, rescues, vehicle accidents, and pedestrian accidents, within the Whitefish Fire Service Area, and the WFSA fairly and adequately compensates Whitefish for such services.

2. Term. The term of this Agreement shall be for a period of ~~three (3)~~ five and one-half (5 ½) years, beginning on the 1st day of January, 2016~~07~~, and terminating on the 3~~1~~0the~~st~~ day of ~~December~~June, 2021~~09~~. In the event that either Party does not desire to renew this Agreement for an additional period, a written notice of the intent to terminate this Agreement shall

be delivered, to the appropriate representatives of the other Party, at least twelve (12) calendar months before the expiration of this Agreement. If such notice of intent is not delivered within the time period set forth above, then this Agreement shall automatically be extended for an additional one (1) year term, and such extensions shall automatically continue until such notice is given.

3. Annual Compensation. The WFSA shall pay to Whitefish compensation for this service, in the amounts ~~of $156,117.00 in calendar year 2007~~shown below, to be used as deemed necessary by Whitefish for, but not limited to, fire equipment, training, salaries, supplies, etc. The Parties agree that semi-annual payments for each calendar year ~~2007~~ shall be made to Whitefish ~~on the following dates and in the following amounts~~by the 15th of January and the 15th of July:

~~Date~~	~~Amount~~	~~Date~~	~~Amount~~
~~01-01-2007~~	~~$55,000.00~~	~~07-01-2007~~	~~$101,117.00~~

Calendar Year	Total Amount	January Payment	July Payment
2016	$277,700	$138,850	$138,850
2017	$282,934	$141,467	$141,467
2018	$288,272	$144,136	$144,136
2019	$293,718	$146,859	$146,859
2020	$299,272	$149,636	$149,636
2021	$152,469	$152,469	(next contract)

~~For calendar year 2008, WFSA shall pay Whitefish a base amount of $220,616.00, paid as follows: $100,000.00 on January 1, 2008; $120,616.00 on July 1, 2008. Payments commencing on calendar year 2009 and subsequent years shall be adjusted as set forth in Paragraph 4. Fifty percent (50%) of the contract amount determined per Paragraph 4 shall be paid on January 1 and fifty percent (50%) shall be paid on July 1.~~

~~4. Payments for Subsequent Years – Increase or Decrease in Compensation. Beginning in calendar year 2009 the annual fee to be paid by WFSA shall be increased or decreased by the full amount of the increase or decrease in Tax Roll due to growth/annexation. For example, the Tax Roll used to determine revenue available for contract payment in calendar year 2009 is available in October 2008. The difference in the Tax Roll available in October 2008 and the Tax Roll of 2007 would be the amount the calendar year 2009 contract would be increased over the 2008 contract. WFSA shall provide the Flathead County published data for the next year Tax Roll, as well as the calculated contract amount effective on January 1 of the following year no later than October 31. If Whitefish disagrees for any reason with the calculated contract amount, the parties shall meet and confer to resolve such disagreement.~~

~~5.~~4. Whitefish Sole Control. Whitefish shall act solely under its own best judgment in responding to any fire or rescue calls, and shall be free of the control of any entity including the WFSA, in the methods and procedures used for any such fire or incident it is called upon to control. WFSA shall have no authority to direct Whitefish or its personnel in their response to fire or rescue

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calls, or regarding any operational matters. Whitefish shall be responsible for the employment, compensation, and all employer contributions for all personnel, both volunteer and full-time firefighters.

~~6.~~5. Subrogation. WFSA grants to Whitefish a right of subrogation against any third parties suspected of or alleged to be (or found to be) liable or responsible for the setting or starting of any fire or incident, whether by negligence or other theory of liability, and in response to which Whitefish is required to expend resources by this Agreement.

~~7.~~6. WFSA's Fire Stations. The Parties acknowledge and agree that any fire stations owned by the WFSA shall be made available for use by Whitefish as it deems necessary and appropriate, without payment of any rent or other compensation by Whitefish. The WFSA shall be responsible for and shall pay all maintenance, insurance, upkeep and utilities associated with fire stations that it owns.

~~8. New Fire Stations. Additional stations (satellites) shall be added as needed funds, manpower and equipment become available and are deemed necessary by a majority vote of both the Whitefish City Council and the Board of Trustees of the WFSA. Whitefish shall be responsible to provide equipment, supplies, manpower and training for the new stations. The WFSA shall be responsible for the acquisition of land, construction of the building, property taxes, insurance, utilities, and other property and building considerations.~~

~~9.~~7. Ambulance Service. WFSA agrees that it shall not contest Whitefish's exclusive right to provide first responder ambulance service within the WFSA. Whitefish agrees to exercise its best efforts to provide ambulance service to businesses, residences and individuals within the WFSA. The WFSA shall not be required to pay any additional compensation with respect to such ambulance service. None of the compensation to be paid by WFSA under this Agreement is considered by the parties to be compensation for ambulance service. Whitefish shall be free to charge persons who use such ambulance service, and shall be entitled to retain any and all revenues derived from such ambulance service.

~~10.~~8. Whitefish Insurance. Whitefish agrees to carry insurance protecting itself against damage by reason of personal injuries which may be sustained by its firemen while on duty, and for property damage which may be caused through negligent operation of this equipment by its agents or servants, but not otherwise.

~~11.~~9. Indemnification. Whitefish agrees to indemnify, defend and hold WFSA harmless from any and all claims, liabilities, demands or causes of action arising from Whitefish's duties, obligations and performance under the terms of this Agreement. WFSA agrees to indemnify, defend and hold Whitefish harmless from any and all claims, liabilities, demands or causes of action arising from WFSA's duties, obligations and performance under the terms of this Agreement.

~~12.~~10. No Restriction on Whitefish. Nothing in this Agreement shall be interpreted to prohibit or restrict Whitefish from contracting to provide firefighting or ambulance services to other individuals or entities.

~~13.~~11. Coordination Meetings – Annual Report. Subject to Paragraph 4~~5~~, WFSA Board and Chief of Whitefish Fire Department shall meet at least once per year for the purpose of cooperation/coordination, problem identification and contract performance review. ~~in December and July of each year.~~ In ~~December~~January, the Fire Department shall present an annual report to the Board detailing the services that were provided within WFSA in the past year including, but not limited to: number of structure fires, average response times for structure fires, number of structure fires where other fire departments participated, false alarms, vehicle accidents where fire trucks/apparatus attended, ambulance calls and trend data associated with each category.

~~14.~~12. WFSA Boundaries. No changes or extensions of the WFSA boundaries will be made without approval of the Whitefish City Council; with only those requests being approved going on to the WFSA Board for approval or disapproval; with final approval or disapproval being given by the Flathead County Commissioners.

~~15.~~13. Other Acts of Cooperation.

~~a.~~

~~b.~~a. WHITEFISH agrees to help WFSA plan for a future transition to its hiring of volunteer firefighters when Whitefish can no longer employ volunteers or transition to its own Fire District or a merger or consolidation with other Fire Districts or other alternatives. Both Parties recognize that Whitefish may not be able to employ volunteers once Whitefish is a first class city above 10,000 population.

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~~16.~~14. Acts of God. It is understood that acts of God, such as inclement weather, impassable roads, or forces beyond the control of Whitefish, shall excuse performance on its part; it being fully understood that circumstances might exist whereby the equipment, manpower and other resources of the Whitefish Fire Department might be over-taxed to the extent that service might be impaired. Such contingency is mitigated by the execution of mutual aid agreements, herein mentioned.

~~17.~~15. Notice of Default. Should either Party conclude that the other is in default with regard to any terms or conditions of this Agreement, written notice shall be provided to the other Party detailing the claim of default. Each of the Parties agrees to respond promptly to such written notice with the view that any such default be resolved within a period of forty-five (45) days so as to avoid risk of loss to the public. In the event that such disagreement cannot be resolved by the Parties, then arbitration shall take place, one arbitrator shall be chosen by each of the Parties; those two arbitrators shall pick a third arbitrator, mutually acceptable. The three arbitrators shall take evidence by hearing, written exhibits, consideration of contractual provisions or any other expedient method and shall, by majority vote of two out of three, resolve the issue; this arbitration to be binding upon both Parties.

~~18.~~16. Venue. It is understood that venue for enforcement of this Agreement shall be in Flathead County, should any legal action be commenced or required.

~~19.~~17. Attorneys' Fees. In the event of any litigation or arbitration to enforce or interpret the provisions of this Agreement, or to remedy a breach thereof, the prevailing Party shall be entitled to reasonable attorneys' fees as fixed by the court or arbitrator.

~~20.~~18. Mutual Aid. WFSA agrees that it will not object to any Mutual Aid agreements that have been signed by Whitefish and that affect WFSA boundaries.

~~21.~~19. Invalidity. Should any term or provision of this Agreement be held invalid or unenforceable by any court, for any reason, the remaining terms and conditions shall be in full force and effect, and unaffected by the illegality or invalidity of any other term or condition.

~~22.~~20. Approval by Commissioners. The Parties understand and agree that the funding and fees schedules upon which this Agreement is predicated must be approved by the Flathead County Commissioners; should such funding and fee schedules be disapproved by the Flathead County Commissioners, then either Party may declare this Agreement null and void, after first providing thirty (30) days prior written notice to the other Party.

~~23.~~21. Necessary Acts. Each Party to this Agreement agrees to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

~~24.~~22. Time of Essence. Time is of the essence in the performance of all obligations under this Agreement.

~~25.~~23. Entire Agreement. This Agreement contains the entire agreement of the Parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between the Parties hereto relating to the subject matter contained in this Agreement which are not fully expressed herein. The provisions of this Agreement may be waived, altered, amended or repealed in whole or in part only upon the written consent of all Parties to this Agreement.

~~26.~~24. No New Entity. No separate legal entity is created pursuant to the terms of this Agreement.

~~27.~~25. No Jointly-Owned Property. The Parties shall not jointly acquire or own any property; nor shall the Parties be required to contribute funds or bear any expenses other than those identified herein.

~~28.~~26. No Wavier. The waiver by one Party of the performance of any covenant, conditions or promise shall not invalidate this Agreement, nor shall it be considered as a waiver by such Party of any other covenant, condition or promise. The delay in pursuing any remedy or in insisting upon full performance for any breach or failure of any covenant, condition or promise

shall not prevent a Party from later pursuing remedies or insisting upon full performance for the same or any similar breach or failure.

IN WITNESS WHEREOF, the Parties hereto have hereunto set their hands through their respective representatives this _____ day of _____, 2015~~06~~.

CITY OF WHITEFISH,
a municipal corporation

By: _____
Charles C. Stearns, City Manager

WHITEFISH FIRE DEPARTMENT

By: _____
Joseph Page, Fire Chief

WHITEFISH FIRE SERVICE AREA

_____
Bertram May, Chairman

_____
Douglas Loy, Treasurer

_____
Bill LaBrie, Secretary

_____
Mark Carlson, Board Member

_____
Ed Lieser, Board Member

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S
1																			
2					Comparison of Fire Property Taxes paid by same house in Whitefish vs. WFSA														
3							Prepared:	11/23/2015											
4																			
5																			
6																			
7			Fire Taxes Paid							Fire taxes									
8			by a $307,000							paid by a $307,000									
9			house in Whitefish							house in WFSA									
10																			
11	Market Valuation - Median house per Jim Kelley (WF Pilot 7/15/15)		$307,000.00																
12	State Appraised Value		$307,000.00																
13	2015 Tax Multiplier		0.0135																
14	2015 Assessed Value		$4,144.50																
15	Mills attributed to Fire Department - FY16 Budget for Fire only (39.21% of budget)		24.75																
16	Property Taxes paid for Fire by $307,000 house		$102.59							$90.00									
17																			
18																			
19																			
20	Proposed Funding Schedule																		
21									Per House									WFSA Counter-proposal	
22				Addition for	Addition for		Base Fee		WFSA	Per House Assessment									Base Fee
23				1/2 debt payment	1/2 debt payment	Total	Percentage		Assessmen	Percentage								Total	Percentage
24			Base Fee	Water Tender	Fire Pumper	Payment	Change		(for City)	Change								Payment	Change
25	Calendar 2015 funding - actual		$229,585.00						$90.00		FY 15 Total WFSA assessment was $283,237								
26	Calendar 2016 proposed		$261,701.39	$15,952.04	$26,111.12	$303,764.55	13.99%		$102.59	13.99%	FY16 Total WFSA projected assessment would be $440,575							$277,700	20.96%
27	Calendar 2017 proposed		$272,169.45	$16,000.00	$26,111.12	$314,280.57	4.00%		$106.69	4.00%								$282,934	2.00%
28	Calendar 2018 proposed		$283,056.22	$16,000.00	$26,111.12	$325,167.34	4.00%		$110.96	4.00%								$288,272	2.00%
29	Calendar 2019 proposed		$294,378.47	$16,000.00	$26,111.12	$336,489.59	4.00%		$115.40	4.00%								$293,718	2.00%
30	Calendar 2020 proposed		$306,153.61	$16,000.00	$26,111.12	$348,264.73	4.00%		$120.02	4.00%								$299,272	2.00%
31																	CY 2021	$152,469	
32	Totals		$1,417,459.15	$79,952.04	$130,555.60	$1,627,966.78											Totals	$1,594,365	
33															totals	without CY 2021		$1,441,896	
34																			
35																			

May 20, 2013

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors:

Recommendation to Authorize the Purchase of a Type 1, 1,500 gpm Fire Pumper

Introduction/History

The Fire Department currently operates two (2) Type 1 pumpers. These units were purchased in 1994 and 1997 by the Whitefish Rural Fire Service Area and donated to the City. As discussed in the FY13 Capital Project Budget workshop on Fire/Ambulance vehicle replacement both of these units exceed NFPA Standard 1901 with regards to maximum service life expectancy for front line fire apparatus of 10 to 12 years. The approved FY13 budget included a financial provision to replace one of these units during FY 13.

The process of the researching and preparation of vehicle's proposed specifications was not completed until March of this year. At that time, the Fire Department advertised for bids for manufacture of a Type 1 1,500 gpm pumper. In addition to advertising, the bid specifications were mailed to the 8 major manufacturers of fire apparatus (Exhibit A). Only one manufacturer, Rosenbauer, chose to submit a proposal and price quote. The $495,112 bid was $29,888 below our projected cost of $525,000.

Current Report

Rosenbauer's submittal was carefully compared with the published pumper specifications and found to be compliant in all aspects. Rosenbauer is the World's largest producer of firefighting vehicles and is an integrated single source manufacturer that provides the engineering, design, manufacturing process, installation, finish, and service for the complete fire apparatus. Highlights of the proposed apparatus include:

- State of the art safety systems for crew protection.
- 4 wheel drive.
- Cummins ISL9-400 diesel engine.
- Idle reduction system, a "green" solution for fire apparatus.
- 1,500 gallon per minute pump with CAFS (compressed air foam system).
- 750 gallon water tank.
- Ability to carry over 2,500 feet of fire hose.

Financial Requirement

Funds for this purchase were allocated in the FY13 budget and carried over into the FY 14 proposed budget. We are proposing the use of $70,000 cash towards the purchase with the remaining $425,112 to be financed over 15 years with a Montana Intercap Loan. The current Intercap Loan interest rate is fixed at 1% through February 15, 2014. As a point of information, the Montana Intercap Loan Program lists an average annual interest rate from 1987 to current of 4.411%. For planning purposes we have utilized a 2% interest rate which calculates to an annual payment of $33,542.27. With an agreement between the City and the Whitefish Rural Fire Service Area board to split the cost, the resulting City annual payment will be $16,542.27 with the Whitefish Rural Fire Service Area contributing another $16,542.27. Total interest paid over the life of the loan will be approximately $127,533.60 or $8,502.24 per year.

Recommendation

Staff recommends authorizing of entering into a contract with General Fire Apparatus of Spokane, WA to purchase one Type 1 1,500 gpm Rosenbauer, LLC fire apparatus for up to $495,112.

Tom Kennelly
Fire Chief

November 4, 2013

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors:

Recommendation to Authorize the Purchase of a 3,000 Gallon Tender

Introduction/History

The Fire Department currently operates one (1) 2,500 gallon water tender. This unit was purchased in 1982 by the Whitefish Rural Fire Service Area and donated to the City. As discussed in the FY13 Capital Project Budget workshop on Fire/Ambulance vehicle replacement this tender exceeds the NFPA Standard 1901 recommendation that a tender only be in front-line service for 12-15 years and in a reserve status for another 10 years. This vehicle has had been in front line service for 31 years.

In March of this year, the Fire Department advertised for bids for the manufacture of a 3,000 gallon tender. In addition to advertising, the bid specifications were mailed to the 8 major manufacturers of fire apparatus (Exhibit A). At that time only one manufacturer, Rosenbauer, chose to submit a proposal and price quote. The $344,603 price quote was $69,603 above our projected cost of $275,000. At the May 20, 2013, City Council meeting the Council rejected this bid and authorized staff to revise the specifications and re-bid the tender.

The approved FY14 budget includes a financial provision of $275,000 to replace this unit during FY 14.

Current Report

During late September and early October, the Fire Department advertised for bids for manufacture of a 3,000 gallon tender based on the revised specifications compiled by staff. In addition to advertising, the bid specifications were again mailed to the 8 major manufacturers of fire apparatus (Exhibit A). Two manufacturers, Danko Emergency Equipment Co. and Rosenbauer, chose to submit proposals and price quotes of $294,571 and $280,855, respectively.

Both proposals were carefully compared with the published tender specifications. Rosenbauer's proposal was found to be compliant in all aspects with the published specifications. Danko's proposal has some deviations from the specifications, specifically, with the Peterbilt chassis. In addition to the chassis differences, Danko's proposal excludes significant pieces of loose equipment called for in the specifications. These items will have to be purchased prior to placing the vehicle in-service; adding approximately $5,000 to the cost of Danko's bid.

Highlights of the proposed apparatus include:

- Increased water storage capacity and mechanical reliability.
- State of the art safety systems for crew protection.
- Peterbilt Model 382 Chassis.
- PACCAR 450 HP diesel engine.
- Allison 3000 automatic transmission.
- 3,000 gallon water tank.
- 750 gpm Waterous pump.
- Ability to carry over 2,000 feet of fire hose.

Financial Requirement

Funds for this purchase were allocated in the FY13 budget and carried over into the FY 14 proposed budget. We are proposing the use of $70,000 cash towards the purchase with the remaining $210,885 to be financed over 7 years with a Montana Intercap Loan. Utilizing the average annual Intercap Loan interest rate from 1987 to current of 4.411%, the annual payment will be $35,665.95. With an agreement between the City and the Whitefish Rural Fire Service Area board to split the cost, the resulting City annual payment will be $17,832.97 with the Whitefish Rural Fire Service Area contributing another $17,832.98. Total interest paid over the life of the loan will be approximately $65,114.96 or $ 9,302.14 per year.

Recommendation

As Rosenbauer, LLC meets the published specifications and is low bidder, staff recommends authorizing of entering into a contract to purchase one 3,000 gallon fire tender apparatus from Rosenbauer, LLC for $280,855.00.

MONTANA BOARD OF INVESTMENTS
ANNUAL ADJUSTABLE RATE TENDER OPTION
MUNICIPAL FINANCE CONSOLIDATION ACT BONDS
(INTERCAP REVOLVING PROGRAM)

Municipality:	**City of Whitefish**	Final Payment:	February 15, 2022
Total Commitment:	**$211,000.00**	Total # of Payments:	14
Total Draws to Date:	**$0.00**	Draw Number:	**2581 1**
This Draw Down:	**$211,000.00**	Date of this Draw:	January 30, 2015
Remaining Commitment:	**$0.00**	Date of Loan Agreement:	January 30, 2015
Project:	Water Tender Fire Apparatus	Series:	**2000**

Payment Due	Interest Rate	# Days Due	Interest Payment	Principal Payment	O/S Loan Balance	Total Amount of Payment
			Beginning Balance		211,000.00	***please see comments**
02/15/15	1.000%	16	92.49	0.00	211,000.00	0.00
08/15/15		181		14,688.88	196,311.12	
02/15/16		184		14,653.09	181,658.03	
08/15/16		182		14,739.39	166,918.64	
02/15/17		184		14,803.56	152,115.08	
08/15/17		181		14,888.39	137,226.69	
02/15/18		184		14,950.94	122,275.75	
08/15/18		181		15,036.36	107,239.39	
02/15/19		184		15,102.11	92,137.28	
08/15/19		181		15,185.81	76,951.47	
02/15/20		184		15,254.79	61,696.67	
08/15/20		182		15,335.92	46,360.76	
02/15/21		184		15,409.64	30,951.11	
08/15/21		181		15,489.23	15,461.88	
02/15/22		184		15,461.88	0.00	
				211,000.00		

COMMENTS:

Interest payment shown is not due. Your first payment will be on August 15, 2015. Interest payments shown from February 16, 2014 to February 15, 2015 are computed at 1.00%. After February 15, 2015 interest rates will be adjusted to reflect the adjusted interest rate applied on the outstanding principal balance. We will send a revised amortization schedule combining the February 15, 2015 interest at 1.00% and the August 15, 2015 principal & interest at the new adjusted rate.

IMPORTANT: If payment is made by check, please send the enclosed amortization schedule(s) with check for proper credit. ***Please make sure that SpA Lockbox CM9695 is on both the check and envelope.***

Please mail a **copy of the amortization schedule** with a check made payable to:

U.S. Bank Trust-SpA Lockbox CM9695
ATTN: Operations Center
1200 Energy Park Drive
St. Paul, MN 55108

OR

Please wire funds to:

U.S. Bank N.A. (Minneapolis)
ABA 091000022
FFC: U.S. Bank Trust N.A.
Account # 180121167365
Wire Clearing Account # 47300023
ATTN: 50364256/996103DKO
INTERCAP: City of Whitefish

PROJECT REVIEW

DATE: 01 December, 2015

NEW CITY HALL and PARKING STRUCTURE
CITY OF WHITEFISH
REPORT TO CITY COUNCIL and STAFF

ACTIVITIES COMPLETED – THIS PERIOD

- Installation of sheet piling is approximately 70% complete – includes sheeting placed along 2nd Street and about 120' along the alley.
- Demolition of former City Hall Basement.
- Demolition of asphalt and selected areas of sidewalk.
- Mobilization of Rammed Aggregate Pier equipment.
- Abandonment of 18 existing sewer main from the alley to Baker Ave.
- Survey and layout for first phase of the RAP placement effort.

ACTIVITIES IN PROGRESS

- Installation of remaining areas of sheet piling (alley).
- Start of RAP installation – beginning in the New City Hall area.
- Demobilization of sheet piling equipment. (Remob will happen when sheet piles are ready for removal)
- Excavation, site preparation and installation of underground utilities.

ACTIVITIES PLANNED (3 WEEK LOOK AHEAD)

- Continuation of site backfill and grading activities
- Installation of RAP's.
- Mobilization of concrete formwork, materials and equipment.
- Start foundation work.

CONTRACT ACTIVITES

- Continuing study of value engineering items and project alternatives.
- Received bids for Bid Package No. 7 (Finish Work). (Bid explanation deferred to Martel)
- Amendment No. 3 submitted for approval at the Dec. 07 Council meeting. (Further discussion deferred to Martel).
- Execution of various Bid Package No. 5 & 6 subcontracts pending Council approval of Amendment No.3.

OTHER PROJECT RELATED ACTIVITIES

- Carver Engineering has been retained to perform foundation monitoring. The initial baseline survey and report has been done. Ongoing site visits and observations are being performed as site activities dictate.

FUTURE SCHEDULED ACTIVITIES

- Continue with Site Excavation and Backfill work.
- Continue with Rammed Aggregate Pier Installation
- Continue with Foundation work for the City Hall offices.

COMMUNICATIONS TO THE PUBLIC

- A press release was published in the Nov. 18th Pilot addressing the sheet piling work.
- The Owner's Rep and a Carver field engineer visited the adjacent businesses and explained the upcoming sheet piling, RAP and backfill work.
- A press release was placed in the Dec. 02 Pilot addressing the start of RAP installation work.
- Relations with the local business owners and the public appear to be good. Dialogue remains positive.

AREAS OF CONCERN

- Work in close proximity to the 6 in. gas main in the alley is under constant review and discussion among all parties. Northwestern Energy has stringent requirements in place in order to avoid any incidents. At this time there are some clearance concerns that are being resolved.
  -A meeting was held on Tuesday, Dec. 01 to discuss construction and clearance issues.
  - Although there is very little probability of a gas leak, an emergency response plan has been developed by City, Martel and NWE staff and is in place.

Mike Cronquist
Owners Representative

MEMORANDUM

#2015-040

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – Consideration of changes to the budget level for the City Hall/Parking Structure project

Date: November 30, 2015

Introduction/History

On June 15, 2015, the City Council unanimously approved the following motion establishing a budget of $14,952,637 for the new City Hall/Parking Structure project.

> **Councilor Feury made a motion, second by Councilor Fitzgerald, to agree with the Building Committee's recommendation for the new City Hall/Parking Structure project construction cost of $13,335,599 and contingency costs of $617,038; also including $1M for other costs including an interim city hall relocation, for a total of $14,952,637.**

A breakdown of the allocation of the costs of the $14,952,637 project between the City Hall and Parking Structure project is attached to this report.

Current Report

Despite efforts by the City Hall Steering Committee sub-committee to reduce construction costs with value engineering options and project cutbacks, the sub-committee wants to recommend the City Council consider increasing the $14,952,637 budget.

One method to consider is to capitalize three years of the projected lease revenue payments from the approximately 3,000 square foot retail space by borrowing $162,000 from the Tax Increment Fund (TIF) and repaying that amount over three years from the lease revenues to the Tax Increment Fund. Our Realtor Chap Godsey believes that we can rent the approximate 3,000 square foot retail space at the NW corner of the parking structure for $18.00 per square foot per year ($1.50 per square foot per month) which would result in $162,000 of revenue over three

years. The sub-committee would like to borrow that amount from the TIF and repay it over the three years leading up to the end of the TIF on June 30, 2020.

Also, the sub-committee has recommended some reductions to the City Hall/Project costs that are significant changes to the design which the City Council approved on June 15, 2015. As the final decision on design and budget rests with the City Council, it is important for the City Council to consider each of these proposed design changes and cost savings and either ratify/adopt those changes or agree to increase the budget to accommodate those design issues. Those changes are shown below along with the vote tally of the sub-committee at their last meeting on November 19, 2015.

1. Cut finishing the basement storage area and locker/bathrooms -	$ 28,013	(5-2 vote)
2. Cut skylight in City Council Chambers -	$ 19,000	(5-2)
3. Cut some canopies on Baker Avenue – from retail space to City Hall	$ 53,000	(5-2)
4. Cut detail design on roof cornice	$ 32,030	(7-0)
5. Cut oversize brick on east side of building (alley side) and replace with painted block	$ 7,085	(7-0)
6. Cut SW Elevator (leave shaft for future elevator)	$ 90,000	(5-2)
Sub-total	$229,128	

A copy of the draft minutes from the November 19, 2015 sub-committee meeting is attached to this report for more information on the changes recommended above.

Also attached is a value engineering spreadsheet from our architect Ben Tintinger of Mosaic Architecture and Martel Construction, Inc., our General Contractor/Construction Manager. That sheet shows value engineering savings from doing things differently without affecting greatly the quality of the project would result in another $181,194 of savings ($174,203 plus $6,991). In addition, there are still some other value engineering items in the list which Ben Tintinger and Mosaic Construction are researching and verifying.

Also, within the $1,000,000 of ancillary costs that we have budgeted for the City Hall/Parking Structure for the Owner's Representative, interim City Hall lease costs, moving costs, audio-visual system costs, building security costs, and parking system equipment costs, there is probably at least $200,000 that will not be used from that budget and can be allocated to the design costs.

Thus, to summarize the current situation, the City Council needs to consider the following items:

1. Adding $162,000 to the budget for City Hall/Parking Structure by capitalizing three years of lease payments from the retail space and borrowing that money from the TIF.
2. Cutting $229,128 as shown above from the project.
3. Approving the value engineering changes of $181,194
4. Allocate $200,000 left over from the ancillary costs budget to the building design

As these three figures equal $772,322, there is still $227,687 of costs either to reduce from the project or add to the cost of the project. This difference can come from additional value engineering savings, other design cost reductions, an increase of the budget and increase contribution from TIF, a use of the 5% contingency, or private fundraising. The City Council should give us further direction on these options.

I am attaching a copy of the current TIF pro-forma schedule of revenues and expenditures between now and the end of the TIF in 2020 to help the City Council consider the options. While there are additional funds available in the TIF, the Mayor and City Council members of the sub-committee have generally recommended that no more money come from TIF and that we either cut additional costs (or maybe do private fundraising).

It is fair to say that the cost increases in the City Hall/Parking Structure project over the past months are caused by the Parking Structure portion of the project and the City Hall portion of the project is still in line with historic cost projections. The exterior of the Parking Structure, a third elevator, and increasing construction costs for steel, concrete, and labor seem to be driving the cost increases.

Financial Requirements

Most of the financial issues are discussed above. If the City Council chooses to add money to the budget, those funds would most likely come from the Tax Increment Fund. There are some members of the community who feel that we should revise the Resort Tax list of priority projects and pay for the sidewalk and streetscape costs of the project from the Resort Tax, but that concept has not had support of the elected officials on the sub-committee nor City staff.

All costs of the City Hall/Parking Structure are paid from the accumulated savings of TIF, current year TIF appropriation, a future Tax Increment Bond, and $750,000 from the approved $880,000 Special Improvement District #167.

Recommendation

Staff respectfully recommends the City Council review the above information and decide on increases to the budget of the City Hall/Parking Structure project and/or cost reductions and set a revised budget for the project.

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V
1																						
2								Allocation of Costs - City Hall and Parking Structure														
3								Date:		10/26/2015												
4																						
5																						
6																						
7			Cost estimate on			Allocation		Allocation		Allocation		Allocation of		Revised		Allocation		June 15, 2015		Allocation		Allocation
8			6/15/15 from			of Site Prep		of Development		of Direct Cost		other Cost		Provisional		of		Allocated		of Interim/		of all
9			Mosaic and Martel	%		Costs		Costs/Fees		Reductions		Reductions		Cost Estimate		Contingency		Construction Cost		Ancillary Costs		costs
10	City Hall		$5,417,702	42.89%		$299,276		$620,346		-$190,000		-$218,783		$5,928,542		$264,659		$6,193,201		$428,919		$6,622,120
11	Parking Structure		$7,213,364	57.11%		$398,470		$825,956		-$739,436		-$291,297		$7,407,056		$352,379		$7,759,435		$571,081		$8,330,516
12																						
13	Total		$12,631,066	100.00%		$697,746		$1,446,302		-$929,436		-$510,080		$13,335,598		$617,038		$13,952,636		$1,000,000		$14,952,636
14										Not done		Done								This figure will likely		
15										proportionately		Proportionaely								decrease.		
16																						

WHITEFISH FUTURE CITY HALL STEERING
SUB-COMMITTEE
NOVEMBER 19, 2015

CALL TO ORDER
Sherri called the meeting to order. Members present were Ian Collins, Wendy Compton-Ring, Jen Frandsen, Richard Hildner, Rhonda Fitzgerald and City Manager Chuck Stearns. Steve Conway, Ryan Dunn and Larry Palmer from Martel Construction, Mike Cronquest , Owners Representative and Ben Tintinger from Mosaic Architecture. In the audience were John Repke and Heidi from the Pilot.

REVIEW OF MINUTES FROM NOVEMBER 2, 2015
Chuck made a motion, seconded by Ian, to approve the November 2, 2015 minutes as submitted. The motion passed unanimously.

PUBLIC COMMENT
John Repke said he has been coming to the meetings and is interested on how things progress.

DISCUSSION
Review Interiors-Mosaic Architecture: Ben said he would like to go over the alternates to make recommendations to the Council for the final decision. Ben gave an update on the project saying that the demo is done the shoring is underway and they will start drilling for the pilings on December 1, 2015. Ben said that the mechanical, plumbing and electrical under slab are on budget and will be going to the December 7th Council meeting along with concrete and structural steel.

Ben said that he understood that the committee would like to keep the skylights over the stairway but to eliminate the ones in the Council Chambers.

Rhonda made a motion, seconded by Ian, to recommend deleting the Council Chambers skylights with a savings of approximately $19,000 and to keep the staircase skylights. The motion passed with a 6 to 1 voting with Sherri voting in opposition.

Chuck said John Muhlfeld said he wanted to eliminate some of the canopies on Baker Avenue, remove the southwest elevator but leave the shaft.

Richard made a motion, seconded by Rhonda, to eliminate the basement finish. The motion passed with a 5 to 2 vote with Chuck and Sherri voting in opposition.

The committee talked about how much of the canopies they were willing to cut and what the cost saving would be. Jen said that John had said he wanted to keep the canopies at the entrances.

Richard made a motion, seconded by Jen, to eliminate the canopies along Baker Avenue between the southwest entrance to the retail space which is about 150 square feet, with the ability to install at a later date, which results in a saving of approximately $53,000.

Rhonda and Ian were concerned that it would make the parking garage ugly if the canopies were removed.
The motion passed with a vote of 5 to 2 with Rhonda and Ian voting in opposition.

DRAFT

Ian said that the cornice detail could be added at later date.

Rhonda made a motion, seconded by Ian, to delete the cornice detail with a saving of $32,030. The motion passed unanimously.

Richard made a motion, seconded by Jen, to change to blocks in lieu of brick veneer on the east wall on the alley side of City Hall with a savings of $7,085. Rhonda made an amendment to the motion to have the block painted to match/same color as the brick exterior. The motion passed unanimously.

Chuck made a motion, seconded by Ian, to keep the public restrooms. The motion passed unanimously.

The committee talked about removing the southwest elevator and keeping the northeast one as it would be closer to the downtown area. Ben said they would make the inside elevator bigger so a medical cot could fit into the elevator for emergencies. In making the inside elevator bigger they will have to take some office space.

Wendy made a motion, seconded by Sherri, to eliminate the southwest elevator but keep the shaft with a savings of $90,000. The motion passed with a 5 to 2 vote with Jen and Rhonda voting in opposition.

Chuck made a motion, seconded by Jen, not to cut the upper levels window frames in the parking garage. The motion passed unanimously.

Ben went over some deductions (savings) in VE items:

Concrete forming (mix, rebar changes):	$65,000 to $95,000
Elevator finishing	$24,868
Electrical items (wiring, panels, inverter, etc.)	$72,500
Kawneer window changes (color, profile)	$24,500
Masonry changes (coping, precast base, etc.)	$18,400
Controls subcontractor (Honeywell controls)	$80,000
Mechanical/plumbing changes (return air, drinking)	$114,700

The list also included utility line changes, drain line changes (PVC vs. Iron), interior door wood species and lighting approvals (for equals) which Ben did not have cost savings on as of this meeting.

Ian thought that having the window on the inside green like the outside would be too much so if they could make them bronze color instead, which might make it a little less cost. Ben said they have talked about having wood around the doors into the conference rooms and the entryway on the first floor which would be cheaper. They will keep the doors the same on the second floor aluminum.

Rhonda made a motion, seconded by Ian, to keep the masonry as is now. Keeping the coping, precast base, etc. without the savings of $18,400. The motion passed with a 5 to 2 vote with Richard and Jen voting in opposition.

NEXT MEETING

The next meeting was scheduled for December 11, 2015 at 9:30 a.m.

DRAFT

Rhonda made a motion, seconded by Wendy, to adjourn the meeting. The motion passed unanimously.
Meeting adjourned at 5:00 p.m.

DRAFT

Key
= More Discussion Required
= Modify Specification to Accept VE
=Keep as Originally Specified

MARTEL CONSTRUCTION INC.

POST BID ANALYSIS

Whitefish City Hall and Parking Structure

Item	Description		VE Potential	VE Actual	ASI # Issued	Remarks
Value Engineering						
	Concrete Mix Design	Concrete	$ 25,000			
	Concrete Form Work	Concrete	$ 50,000	$ 50,000		
	Concrete Rebar	Concrete	$ 20,000			
	P-lam Panels in Lieu of Andematt Panels at Elevator	Elevator	$ 24,000	$ 16,001		
	Baked Enamel Finish at Elevator doors vs. SS.	Elevator	$ 4,000			
	Provide SCO2 Luminous ceiling in lieu of SS	Elevator	$ 2,550	$ 1,700		
	Delete Battery Lowering System	Elevator	$ 3,750			
	Provide side opening for CH and PG in lieu of Center Opening	Elevator	$ 3,000	$ 2,000		
	Egress Lighting System - Removal of Inverters - use of Bug Eyes	Electrical	$ 40,000			
	Lighting Package	Electrical	$ 25,000			
	Aluminum Feeders instead of Copper (elevator & mech equip not included)	Electrical	$ 5,000	$ 5,000		
	Upsize Panel MDPG and Eliminate Panel GH1 and feeders	Electrical	$ 2,500	$ 2,500		
	Storefront Color Change to Standard Color	Storefront	$ 7,049	$ 8,000		
	Eliminate Pyrostop Fire Rated Glazing	Storefront	$ 5,116			
	Eliminate Firelite Rated Glazing	Storefront	$ 538			Allowance of $500 for new doors added
	Eliminate break metal that devides exterior windows into small units	Storefront	$ 6,084	$ 6,000		Assumes VE Color Change (VE #13)
	Center Glazed Framing instead of Front Set	Storefront	$ 6,677	$ 6,700		
	Reduced 1st Floor interior storefront	Storefront				PR #1
	Review species of interior doors	Doors/HW	No change			
	Elevator Shaft - Change of Glazing Material	Storefront				
	Change from Precast Concrete Masonry Back-up to Site Cast Panels	Masonry/Concrete	N/A			More Expensive as sitecast
	Change from Precast parapet coping to metal parapet cap	Masonry/Roofing	$ 5,400			(12,000) precast + 4,000 for cap +2600 for PT
	Change PreCast on Baker to Ground Faced CMU	Masonry	$ 13,000			Estimated
	Use Existing Sewer Line for Parking Structure Restroom - 2 locations	Civil	$ 12,000			Lines too old per city
	Use Exising 8" storm connection for City Hall Roof Drains	Civil	$ 3,000			Lines too old per city
	Delete Surface Drain Man Hole & Storm Drain Tie-in @ North End of Alley	Civil	$ 4,000			Review Grading with or without
	Change Cast-Iron Storm Above Grade to PVC @ City Hall	Plumbing	$ 7,404			
	Change Cast-Iron Storm Above Grade to PVC @ Parking	Plumbing	$ 2,083	$ 2,083		
	Change Cast-Iron Sanitary Above Grade to PVC @ Parking	Plumbing	$ 1,950	$ 1,950		
	Change EWC-1 to Elkay LZSTL8	Plumbing	$ 4,040	$ 4,040		
	Change SH-1 to Aquatic Delta Package	Plumbing	$ 1,200	$ 1,200		
	Change UR-1 to Sloan Royal Manual Flush Valve	Plumbing	$ 601			
	Change WC-1&2 to Sloan Manual Dual Flush Valve	Plumbing	$ 1,495			
	Use FICO Temperature Controls vs specified ATS Controls	HVAC	$ 80,000	$ 60,000		
	Eliminate PH-1 and add ductwork with sidewall louver	HVAC	$ 1,350			
	Change Blue Duct to PVC Coated Spiral @ Underground	HVAC	$ 3,529	$ 3,529		
	Reduce Return Ducting - Add z-pattern transfer ducts. Create Plenum space	Numerous				
	Condensing Unit CU-3 to as many stages as possible	HVAC				
	FC-1 - Remove Humidifier and reverse osmosis system	HVAC	$ 1,500	$ 1,500		
	Remove VAV-OC complete and add 2 electric King heaters	HVAC / Electric	$ 2,000			
	Remove all in-floor radiant heat	HVAC	$ 3,100			
	Remove the interior airflow measuring stations - retain exterior systems	HVAC	.			
	Modify all domestic piping to pex and aquatherm	Plumbing	$ 2,000			requires insulation change
	Modify toilets to "tank" style - including piping size reduction	Plumbing	$ 500			piping and labor
	Modify Sand-oil seperator from polypropylene to precast concrete	Plumbing	$ 2,000	$ 2,000		
	Combine Retail Space & Parking Structure Restroom Sewer	Plumbing				

Whitefish City Hall and Parking Structure

Item	Description		VE Potential	VE Actual	ASI # Issued	Remarks
Value Engineering						
	Membrane Roofing - Ideas	Roofing				
	Subtotal		***$ 382,416***	***$ 174,203***		
Bid Adjustments						
1.0	Fire Sprinkler - Utilize 100% import of materials	Fire Sprinkler	$ 3,235	$ 3,235		Voluntary Deduct
2.0	Doors, Frames, & Hardware - Complete Bid including perf metal	Doors, Frms, HW	$ 9,922	$ 9,922		Kalmont
3.0	Revised Steel Price - Complete Scope	Cornice Inc.	$ (6,166)	$ (6,166)		Advanced Welding
	Subtotal		***$ 6,991***	**$ 6,991**		
Project Alternates						
	City Hall					
1.0	Skylights (keep stair skylight, delete chambers skylight)		$ 37,432	$ 19,000		Delete Council, keep stair
3.0	Basement Finish		$ 28,013	$ 28,013		
4.0	Building Canopies		$ 212,614	$ 53,000		Reduce Baker Side
5.0	Cornice Detail		$ 32,030	$ 32,030		
6.0	Oversized Brick Veneer		$ 7,085	$ 7,085		
	Subtotal		***$ 317,174***			
	Parking Garage					
1.0	Delete Southwest Elevator (keep shaft for future elevator)		$ 114,061	$ 90,000		
	will require ramp at level 1.5 rather than stair, enlarge CH elevator for emergency response					
3.0	Delete Public Bathroom Finish (put cost in resort tax with street scape improve)		$ 6,154			
6.0	Painting of Garage Ceiling					
7.0	Painting of Garage East Wall, Columns, & Beams					
8.0	Upper Floor Window Frames		$ 4,923			
	Subtotal		***$ 125,138***	$ 229,128		
	Subtotal		**$ 831,719**	**$ 410,322**		
	VE Goal		**$ 1,000,000**			
	Variance to Goal		**$ 168,281**			

	A	B	H	I	J	K	L	M	N	O
37	TIF Financial Plan July 2015 through July 2020									
38			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021		Total
39	**Beginning Cash Balance**		$ 2,577,989	$ 317,856	$ 404,193	$ 1,033,966	$ 1,583,049	$ 4,282,782		
40	**Revenues**									
41	Property Taxes [1]		$ 5,129,571	$ 5,386,049	$ 5,655,352	$ 5,938,119	$ 6,235,025			28,344,116
42	State Entitlement Payment		248,865	248,865	248,865	248,865	248,865			1,244,325
43	Miscellaneous (Depot Park Grant)		10,000							10,000
44	Transfer from Impact Fees (ESC repayment) [4]		213,084							213,084
45	Total Revenues		$ 5,601,520	$ 5,634,914	$ 5,904,217	$ 6,186,984	$ 6,483,890	$ -		29,811,525
46	**Expenditures**									
47	Proposed Additional TIF Bond Debt Service - City Hall/Parking Structure[5]			$ 1,139,982	$ 2,075,939	$ 2,370,668	$ 2,679,993	$ 1,419,174		9,685,756
48	Current TIF Bond Debt Service - Refunding 2015A & 2015B[5]		112,394	2,206,667	1,550,590	1,548,993	1,547,492	54,695		7,020,830
49	Funding of Bond (Current Debt Service) Account[6]		3,129,120	322,344	340,889	361,360	(2,679,843)	(1,473,870)		0
50	Semi-annual School Payment [1]		680,000	714,000	749,700	787,185	826,544			3,757,429
51	Transfer to City Hall/Parking Structure Fund[2]		2,250,080							2,250,080
52	Salaries and O&M [3]		388,657	400,317	412,326	424,696	437,437			2,063,433
53	Business Rehab Loan		30,000	30,000	30,000	30,000	30,000			150,000
54	Land Purchase									-
55	Urban Renewal Projects:									-
56	Misc Urban Renewal Projects		100,000	15,000	15,000	15,000	15,000			160,000
57	Buy Local Campaign		50,000							50,000
58	High School TIF project									-
59	Depot Park ($2 million - phase 1-4)		480,802	620,267			827,534			1,928,603
60	Ice Den Roof Renovations and E-Ceiling		8,000							8,000
61	Ped-Bike bridge to Skye Park (Total ~$829k)		61,600							61,600
62	Develop additional downtown parking ($6.5M now in Debt Service)									-
63	Assist Private Developer - Boutique Hotel		150,000							150,000
64	Assist Private Developer - Idaho Timber									-
65	Assist Private Developer - N. Valley Hospital									-
66	Assist Private Developer - Other Redevelopment									-
67	Downtown/O'Shaugnessy Restrooms									-
68	Stairway at Stumptown Inn		21,000							21,000
69	Other Real Estate Committee Land Purchase		300,000							300,000
70	Housing Authority									-
71	Chamber ($96k)	$96,000								-
72	Depot Park Snow Lot (phase 5 of depot park)	$550,000								-
73	Install/refurbish water & sewer lines throughout district									-
74	Contingency		100,000	100,000	100,000	100,000	100,000			500,000
75	Total Approximate Non-Committed	$646,000								-
76	Total Expenditures		$ 7,861,653	$ 5,548,577	$ 5,274,444	$ 5,637,901	$ 3,784,157	$ (0)		28,106,731
77	Revenues less Expenditures		$ (2,260,133)	$ 86,337	$ 629,773	$ 549,083	$ 2,699,733	$ 0		$ 1,704,793
78	**Ending Cash Balance**		$ 317,856	$ 404,193	$ 1,033,966	$ 1,583,049	$ 4,282,782	$ 4,282,782		
79										

80 1 Assumes 5% growth per year. Since FY2000 the average growth has been 9.62%.
81 2 Final transfer from the TIF fund to the City Hall/Parking Structure Fund in FY16.
82 3 FY2017 through FY2020 assume a 3% growth per year based on the budgeted FY2016 figures.
83 4 Impact Fees transferred to TIF Fund to payoff TIF Bond issued for the ESC construction.
84 5 For each bond the last year debt service payments use reserves on-hand of $980,000 (City Hall/Parking Structure Bonds @ 2.89% - debt service schedule prepared 9/30/2015) and $718,300 (Current Bonds at 2.62%)
85 6 To ensure the debt service account is fully funded (12 months principal/6months interest in next 12 months) a yearly transfer from TIF to the TIF Debt Service Fund has been added. The total amount per year needed
86 in the debt service account is as follows: FY16 $3,129,120; FY17 $3,451,464; FY18 $3,792,353; FY19 $4,153,713; FY20 $1,473,870 (use difference from PY to pay debt service during the year); FY21 $0 debt service
87 (difference is used to make final payment with the reserve funds as well).

Prepared: 10/16/15

MEMORANDUM
#2015-041

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – Future City Hall – Recommendation for Amendment #3 to contract with Martel Construction for General Contractor/Construction Manager (GC/CM) for the City Hall and Parking Structure project

Date: December 2, 2015

Introduction/History

On November 3, 2014, the City Council approved using the Construction Manager At Risk method of bidding for the construction of the future City Hall and Parking Structure.

On January 20, 2015, the City Council approved the selection of Martel Construction as the City's General Contractor/Construction Manager (GC/CM). The motion was:

> *Councilor Hildner made a motion, second by Councilor Sweeney, to select Martel Construction as the city's General Contractor/Construction Manager for the new City Hall & Parking Structure, and to authorize Manager Stearns to enter into negotiations with Martel Construction for a contract to be presented for future City Council Approval. The motion passed unanimously.*

On August 17, 2015 the City Council approved a GC/CM contract with Martel Construction. That contract anticipates a number of amendments along the way, including an amendment for a Guaranteed Maximum Price contract once the construction drawings are completed.

Also on August 17, 2015, the City Council approved Amendment #1 to the Martel GC/CM contract for asbestos abatement, demolition, and Martel's General Conditions of construction. Amendment #2 to the Martel GC/CM contract for excavation and shoring was approved on November 2, 2015.

Current Report

In order to continue construction, it is necessary to order steel as the steel requires time for fabricating and delivery. Also, rebar is needed for the concrete work and concrete is scheduled to begin before the City Council's January 4th meeting. Therefore, Amendment #3 to the Martel GC/CM Construction Contract, as attached to this report in the packet, is for most of the rest of the City Hall/Parking Structure project costs other than interior finishes, furniture, and final determination of cost savings from Value Engineering and design changes. Thus Amendment #3 for construction packages equals $10,049,792.

In addition to those costs, Martel Construction is entitled to indirect costs for insurance and the 1% Gross Receipts Tax in addition to their 4.5% construction fee which was part of their proposal submitted in response to our RFP, and contingency (which will not be spent or paid unless needed). Our architect Ben Tintinger and has reviewed this amendment and found that it is proper. With Martel's contractual add-on costs and an estimated reduction for Value Engineering and design reductions of $409,432, that would bring Amendment #3 to a total of $10,294,553.76.

*** Please note, in Amendment #3, one of the successful low bidding sub-contractors is listed as Stearns Masonry. I don't know who Stearns Masonry is and I am not related to the owner of Stearns Masonry and I have no affiliation with Stearns Masonry.

With Amendment #3, because we will now contractually exceed the amount of money that we have on hand and because we are not scheduled to close on the Tax Increment Bonds and receive the bond funds until March 1, 2016, we added a Financing Contingency to the Amendment. This Financing Contingency was prepared by our Bond Counsel, Dorsey and Whitney, and was reviewed by Tony Martel of Martel Construction.

Financial Requirement

The City Hall and Parking Structure Construction Fund will pay these costs. Most of that fund comes from Tax Increment Funds either set aside historically or from the upcoming TIF revenue bond which First Interstate Bank and Glacier Bank have agreed to underwrite. SID #167 for the Parking Structure will also provide $750,000 towards the cost of the Parking Structure. The sources and uses of the entire financing package are elsewhere in this packet with the Tax Increment project Ordinance.

Recommendation

Staff respectfully recommends the City Council approve Amendment #3 for $10,294,553.76 to the construction contract with Martel Construction as the General Contractor/Construction Manager for the future City Hall/Parking Structure project and authorize the City Manager to sign the Amendment.

AMENDMENT NO. 3 TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER

Pursuant to Article 3.9 of the Agreement dated August 17, 2015, between the Owner and Construction Manager, and this Amendment this 7th day of December, between The City of Whitefish ("Owner") and Martel Construction, Inc. ("Construction Manager") for the New City Hall and Parking Structure, the Owner and Construction Manager hereby establish a Guaranteed Maximum Price and Contract Time for this portion of the Project as set forth below, subject to the attached Amendment No. 3 Financing Contingency language, and generally defined as:

BID PACKAGE 5 with Post Bid Revisions

GUARANTEED MAXIMUM PRICE

The Construction Manager's Guaranteed Maximum Price (GMP) for the Work, including the Cost of the Work and Indirect Costs per attached cost summary and subcontractor & supplier quotations is:

$ ____10,294,553.76_____ TOTAL GUARANTEED MAXIMUM PRICE

CONTRACT TIME

The date of Substantial Completion for the Work underlying the contracts identified in Article 3.11 is found in contract **Appendix A.**

This Amendment No. 3 is entered into on this _____7th_____ day of _____December_____, 2015.

OWNER:
The City of Whitefish
2nd and Baker Ave
Whitefish, MT

CONSTRUCTION MANAGER:
Martel Construction, Inc.
1203 S. Church
Bozeman, MT 59715

OWNER

_____
(signature)

_____
(printed name and title)

_____
DATE

_____
ATTEST

CONSTRUCTION MANAGER

_____
(signature)

RYAN DUNN
(printed name and title)

12·2·15
DATE

Kari L. Fillner
ATTEST

AMENDMENT NO. 3 TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER

Pursuant to Article 3.9 of the Agreement dated August 17, 2015, between the City of Whitefish (the "Owner") and Martel Construction, Inc. (the "Construction Manager"), as amended by Amendment No. 1, dated August 17, 2015, by Amendment No. 2, dated November 4, 2015, and by this Amendment No. 3, dated December 7th, 2015 (as so amended, the "Agreement"), the Owner and the Construction Manager hereby agree as follows:

FINANCING CONTINGENCY

Notwithstanding any other provision in the Agreement, until the date on which the Owner notifies the Construction Manager that the Owner has completed its sale of bonds to finance a portion of the costs of the New City Hall and Parking Structure, which bonds may include but are not limited to tax increment revenue bonds and/or special improvement district bonds, the Construction Manager shall not be entitled to payment under this Agreement in excess of funds the Owner has on hand and set aside to pay a portion of construction costs of the New City Hall and Parking Structure and no claims for payment by the Construction Manager shall arise under this Agreement in excess of funds the Owner has on hand and set aside to pay a portion of construction costs of the New City Hall and Parking Structure. The total dollar amount that the Owner has on hand and set aside to pay a portion of construction costs of the New City Hall and Parking Structure is $3,911,850.10 (as of November 17, 2015).

In the event the Owner is unable to sell and deliver bonds to finance a portion of the costs of the New City Hall and Parking Structure by April 1, 2015, the Owner reserves the right to terminate this Agreement upon written notice to the Construction Manager.

If and when the Owner is able to sell and deliver bonds or is otherwise able to obtain financing for a portion of the costs of the New City Hall and Parking Structure, this Agreement may be resumed by agreement of the Owner and the Construction Manager, with such changes to the Guaranteed Maximum Price and/or to the date of Substantial Completion for the Work as may be agreed by the Owner and the Construction Manager.

[Remainder of page intentionally left blank]

This Amendment No. 3 is entered into on this 7th day of December, 2015.

OWNER:	CONSTRUCTION MANAGER:
The City of Whitefish	Martel Construction, Inc.
2nd and Baker Avenue	1203 S. Church
Whitefish, Montana	Bozeman, Montana 59715

OWNER	CONSTRUCTION MANAGER
(signature)	(signature)
	RYAN DUNN, Proj. Mgr
(printed name and title)	(printed name and title)
	12.2.15
Date	Date
	Kari L. Fille
Attest	Attest

Whitefish City Hall & Parking Structure
Amendment No. 3 Summary
Martel Construction, Inc.

12.2.15

	Proposal Packages	Bid Package Proposal Price	SUBCONTRACTOR SUMMARY
	Division 3		
5.3	**Structural Concrete**	$ 4,220,400.00	Martel
	Division 4		
5.4	**Masonry**	$ 966,968.00	Steams Masonry
	Division 5		
5.5A	**Structural & Misc Steel Supply**	$ 619,884.00	Advanced Welding & Steel
5.5B	**Structural & Misc Steel Install**	$ 460,000.00	Dawson Enterprises
	Division 6		
5.6	**Rough Carpentry**	$ 62,636.00	Martel
	Division 7		
5.7C	**Membrane Roofing**	$ 114,500.00	Advanced
	Division 8		
5.8A	**Doors, Frames, & Hardware - Supply**	$ 95,716.00	Kalmont
5.8B	**Doors, Frames, & Hardware - Install**	$ 39,530.00	Martel
5.8C	**Access Panels**	$ 3,140.00	Martel
5.8D	**Aluminum Storefront**	$ 275,971.00	Valley Glass
	Division 9		
5.9A	**Cold Formed Metal Framing**	$ 268,627.00	RDJ Brothers
5.9B	**Gypsum Board Assemblies**	$ 135,245.00	RDJ Brothers
	Division 14		
5.14	**Elevators**	$ 300,000.00	Schindler
	Division 21		
5.21	**Fire Sprinkler System**	$ 107,337.00	IT&M
	Division 22		
5.22	**Plumbing**	$ 311,091.00	Diamond Plumbing & Heating
	Division 23		
5.23	**HVAC**	$ 944,076.00	Diamond Plumbing & Heating
	Division 26		
5.26	**Electrical**	$ 848,700.00	Monster Electric
	Subtotal of Proposal Packages	$ 10,049,792.00	
	SUMMARY		
	Total Adjusted Direct Costs of Bid Packages	**$ 10,049,792.00**	
	Proposed Post Bid Revisions (see attached) - Amendment #3	**$ (409,432.00)**	** Assumed Pricing*
	Construction Indirect Costs		
	General Liability Insurance	$ 81,943.06	0.85%
	Builders Risk Insurance	$ 28,000.00	.2% of $14M
	Building Permits	Owner	
	Impact Fees	Owner	
	Construction Fee per RFP	$ 438,763.64	4.5%
	Gross Receipts Tax (1% of the Indirect Totals for the Amendment)	$ 5,487.07	1.0%
	Contingency	$ 100,000.00	Lump Sum
	Subtotal Indirect Costs	**$ 654,193.76**	
	Total of Costs - Amendment #3	**$ 10,294,553.76**	
	AMENDMENT NO. 1 TOTAL	**$ 1,401,565.00**	
	AMENDMENT NO. 2 TOTAL	**$ 880,348.00**	
	AMENDMENT NO. 3 TOTAL	**$ 10,294,553.76**	
	Total Amount to Date -	**$ 12,576,466.76**	

MARTEL CONSTRUCTION INC

Whitefish City Hall and Parking Structure - Post Bid Revisions

Item	Description		Assumed Amount	Remarks
Value Engineering				
1.0	Concrete Form Work	Concrete	$ 50,000	
2.0	Storefront Color Change to Standard Color	Storefront	$ 7,049	
3.0	Eliminate break metal that devides exterior windows into small units	Storefront	$ 6,084	Assumes VE Color Change
4.0	Center Glazed Framing instead of Front Set	Storefront	$ 6,677	
5.0	P-lam Panels in Lieu of Andematt Panels at Elevator	Elevator	$ 16,001	
6.0	Provide SCO2 Luminous ceiling in lieu of SS	Elevator	$ 1,700	
7.0	Provide side opening for CH and PG in lieu of Center Opening	Elevator	$ 2,000	
8.0	Change Cast-Iron Storm Above Grade to PVC @ Parking	Plumbing	$ 2,083	
9.0	Change Cast-Iron Sanitary Above Grade to PVC @ Parking	Plumbing	$ 1,950	
10.0	Change EWC-1 to Elkay LZSTL8	Plumbing	$ 4,040	
11.0	Change SH-1 to Aquatic Delta Package	Plumbing	$ 1,200	
12.0	Modify Sand-oil seperator from polypropylene to precast concrete	Plumbing	$ 2,000	
13.0	Use FICO Temperature Controls vs specified ATS Controls	HVAC	$ 60,000	
14.0	Change Blue Duct to PVC Coated Spiral @ Underground	HVAC	$ 3,529	
15.0	FC-1 - Remove Humidifier and reverse osmosis system	HVAC	$ 1,500	
16.0	Aluminum Feeders instead of Copper (elevator & mech equip not included)	Electrical	$ 5,000	
17.0	Upsize Panel MDPG and Eliminate Panel GH1 and feeders	Electrical	$ 2,500	
	Subtotal		***$ 173,313***	
Bid Adjustments				
1.0	Fire Sprinkler - Utilize 100% import of materials	Fire Sprinkler	$ 3,235	Voluntary Deduct
2.0	Doors, Frames, & Hardware - Complete Bid including perf metal	Doors, Frms, HW	$ 9,922	Kalmont
3.0	Revised Steel Price - Complete Scope	Includes Cornice	$ (6,166)	Advanced Welding
	Subtotal		**$ 6,991**	
Project Alternates				
	City Hall			
1.0	Skylights (keep stair skylight, delete chambers skylight)		$ 19,000	Budget - Delete Council, keep stair
3.0	Basement Finish		$ 28,013	
4.0	Building Canopies		$ 53,000	Budget - Reduce Baker Side
5.0	Cornice Detail		$ 32,030	
6.0	Oversized Brick Veneer		$ 7,085	
	Subtotal		***$ 139,128***	
	Parking Garage			
1.0	Delete Southwest Elevator (keep shaft for future elevator)		$ 90,000	
	will require ramp at level 1.5 rather than stair, enlarge CH elevator for emergency response			
	Subtotal		***$ 90,000***	
	Subtotal		**$ 409,432**	

Whitefish City Hall & Parking Garage
Thursday, October 22, 2015
Martel Conference Room
Bid Tabulations - Bid Package #5 - for Amendment #3

Bid Package 5.3A - Structural Concrete

Bidder	Amount	
Martel Construction	$	4,420,400

Bid Package 5.4 - Masonry

Bidder	Amount	
Anderson Masonry	$	1,545,924
Stearns	$	905,529

Bid Package 5.5A - Structural Steel Supply

Bidder	Amount	
Steel West Inc.	$	720,900
Advanced Welding & Steel	$	626,050
ADF International	$	1,307,750
American Steel	$	644,800
TrueNorth Steel	$	952,700

Bid Package 5.5B - Structural Steel Erection/Install

Bidder	Amount		
American Ironworks	$	315,864	* Only the City Hall
Sowles	$	525,280	
Dawson	$	460,000	
Apex Steel	$	368,541	* Only the City Hall

Bid Package 5.6A - Rough Carpentry

Bidder	Amount	
Martel Construction	$	62,636

Bid Package 5.7B - Membrane Roofing

Bidder	Amount	
Advanced Roofing	$	114,500
Summit Roofing	$	152,902

Bid Package 5.8A - Supply Doors, Frames, HW

Bidder	Amount		
Kalmont	$	84,846	
Arch Doors & Hardware	$	94,768	* Includes window frames but not perforated panels
BMC	$	116,620	* Includes window frames but not perforated panels
MT Doorways Plus	$	107,701	* Includes window frames but not perforated panels

Bid Package 5.8B - Install Doors, Frames, HW			
Bidder	**Amount**		
Martel Construction	$	39,530	

Bid Package 5.8C - Access Panels			
Bidder	**Amount**		
Martel Construction	$	3,140	

Bid Package 5.8D - Aluminum Storefront Windows & Doors			
Bidder	**Amount**		
Valley Glass	$	275,971	
Big Mountain Glass	$	316,140	

Bid Package 5.9A - Cold Formed Metal Framing			
Bidder	**Amount**		
RDJ Brothers	$	268,627	
Morse Drywall	$	314,185	

Bid Package 5.9B - Gypsum Board Assemblies			
Bidder	**Amount**		
RDJ Brothers	$	135,245	
Morse Drywall	$	179,005	

Bid Package 5.14 - Hydraulic Elevators			
Bidder	**Amount**		
Schindler Elevator	$	300,000	
Kone Elevator	$	241,000	Only 2 elevators quoted
ThyssenKrupp	$	307,522	

Bid Package 5.21 - Fire Sprinkler System			
Bidder	**Amount**		
IT&M Division	$	107,247	
Western States Fire	$	117,255	
Fire Control	$	180,085	
MT Fire Sprinkler	$	182,500	

Bid Package 5.22 - Plumbing			
Bidder	**Amount**		
Diamond Plumbing	$	311,091	
Touris Plumbing	$	494,100	

Bid Package 5.23 - HVAC			
Bidder	**Amount**		
Diamond Plumbing	$	944,076	
Ace Heating & Air	$	968,012	
Van Dort	$	1,009,412	

Touris Plumbing	$	984,690

Bid Package 5.26 - Electrical

Bidder	**Amount**	
Monster	$	848,700
American Electric	$	981,500
DJ's Electric	$	958,060
ESI	$	940,767
Rob Giles	$	1,085,907

BID FORM

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway 83
Bigfork, MT 59911

BID FROM: Martel Construction, Inc.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** _____ , and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.3 A
Bid Package Description: Structural Concrete

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: October 22, 2015

By: Martel Construction, Inc.
Contractor

Ryan Dunn
Signature

Project Manager
Title

rdunn@martelconstruction.com
Email Address:

305 Hwy 83, Bigfork, MT 59911
Business Address

2124
Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ 490,900)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 4,200)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($_____)

BASEMENT FINISH - Deduct to Base Bid:

($ _____)

BUILDING CANOPIES - Deduct to Base Bid:

($ _____)

CORNICE DETAIL - Deduct to Base Bid:

($ _____)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($ _____)

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ 3,929,500)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 33,500)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($ _____)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ _____)

BUILDING CANOPIES - Deduct to Base Bid:

($ 13,950)

CORNICE DETAIL - Deduct to Base Bid:

($ _____)

PAINTING OF GARAGE CEILING - Deduct to Base Bid:

($ _____)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($ _____)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($ _____)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: Stearns Masonry, Inc.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** _____, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.4

Bid Package Description: Masonry

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: 10/22/2015

By: Stearns Masonry, Inc

Contractor

Signature

Owner

Title

3260 Summer Cutoff Rd.

Business Address

Email Address:

160734

Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ 383,037.45)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 11,491.11)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($)

BASEMENT FINISH - Deduct to Base Bid:

($)

BUILDING CANOPIES - Deduct to Base Bid:

($)

CORNICE DETAIL - Deduct to Base Bid:

($)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($ -6,709.25)

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ 583,930.75)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 17,517.90)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($)

BUILDING CANOPIES - Deduct to Base Bid:

($)

CORNICE DETAIL - Deduct to Base Bid:

($)

PAINTING OF GARAGE CIELING - Deduct to Base Bid:

($)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: Advanced Welding and Steel, Inc.

257 Hwy 95 North, Grangeville, ID 83530

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1-4, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.5A

Bid Package Description: Structural and Miscellaneous Steel - Supply

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: 10/22/15

By:

Advanced Welding and Steel, Inc.
Contractor

Signature

Adam Forsmann, Project Manager
Title

adam@advancedweldingandsteel.com
Email Address:

257 Hwy 95 North Grangeville ID 83530
Business Address

Montana Public Contractor's License No.

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ 190,633.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 2,736.00)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($ N/A)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ N/A)

BUILDING CANOPIES - Deduct to Base Bid:

($ 57,899.00)

CORNICE DETAIL - Deduct to Base Bid:

($ 3,174.00)

PAINTING OF GARAGE CIELING - Deduct to Base Bid:

($ N/A)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($ N/A)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($ N/A)

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ 435,417.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 6,517.00)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($ N/A)

BASEMENT FINISH - Deduct to Base Bid:

($ N/A)

BUILDING CANOPIES - Deduct to Base Bid:

($ 37,300.00)

CORNICE DETAIL - Deduct to Base Bid:

($ 9,158.00)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($ N/A)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: Dawson Enterprises, Inc.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** _____, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.5 B

Bid Package Description: Structural + Misc. Steel Installation

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: 10/22/2015

By: Dawson Enterprises, Inc
Contractor

Signature

President
Title

jeude1999@hotmail.com
Email Address:

P.O. Box 425 Kila Mt 59920
Business Address

21276
Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID: $ 235,000.00

($ Two hundred thirty five thousand dollars)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid: 5% - $11,750.00

($ Eleven thousand seven hundred fifty dollars

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($ Ø)

BASEMENT FINISH - Deduct to Base Bid:

($ Ø)

BUILDING CANOPIES - Deduct to Base Bid: $6000.00

($ Six thousand dollars)

CORNICE DETAIL - Deduct to Base Bid: $3000.00

($ Three thousand dollars)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($ Ø)

Crane and Equipment to be stored on site
Steel has to be stored on site
Stairs are bid to be set with a crane

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID: $225,000.00

($ two hundred twenty five thousand)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid: 5% - 11,250.00

($ Eleven thousand two hundred fifty)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($ Ø)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ Ø)

BUILDING CANOPIES - Deduct to Base Bid: $27,000.00

($ twenty seven thousand dollars)

CORNICE DETAIL - Deduct to Base Bid: $15,000.00

($ fifteen thousand dollars)

PAINTING OF GARAGE CIELING - Deduct to Base Bid:

($ Ø)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($ Ø)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($ Ø)

BID FORM

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway 83
Bigfork, MT 59911

BID FROM: Martel Construction, Inc.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1-4, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.6
Bid Package Description: ROUGH CARPENTRY

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: October 22, 2015

By: Martel Construction, Inc.
Contractor

Steve Conway
Signature

Vice President
Title

sconway@martelconstruction.com
Email Address:

305 Hwy 83, Bigfork, MT 59911
Business Address

2124
Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ 45,115)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ .075%)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($ -$200)

BASEMENT FINISH - Deduct to Base Bid:

($ -$200)

BUILDING CANOPIES - Deduct to Base Bid:

($ _____)

CORNICE DETAIL - Deduct to Base Bid:

($ _____)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($ _____)

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ $17,521)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ .075%)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($ _____)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ _____)

BUILDING CANOPIES - Deduct to Base Bid:

($ _____)

CORNICE DETAIL - Deduct to Base Bid:

($ _____)

PAINTING OF GARAGE CEILING - Deduct to Base Bid:

($ _____)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($ _____)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($ _____)

ADVANCED ROOFING

P.O. BOX 3314 KALISPELL MT 59903

Proposal

Proposal Submitted To: Date: 10/22/15

Martel Cons.

Job name: Whitefish City Hall and Parking Structure

We Hereby Submit Estimates based on architectural specifications

Supply and install :

- 1/4" secure rock substrate board over pan decking only.
- 6 mil. vapor barrier.
- Tapered and base layer poly iso insulation totaling an AVERAGE R30.
- ¼" prime dens deck cover board mechanically attached.
- 60 mil. White TPO membrane fully adhered. (weather window may not permit this system)
- Detail and seal all rooftop penetrations only shown on roof plan A203&A204.
- Cap metal flashings (standard colors only).
- Provide 20 year manufactures warranty.

Total Cost of Proposal : **$85,600**

Exclusions:

Parapet wall sheeting vertical or canted.
Roof penetrations not shown on roof plan A203 or A204.
Custom color cap metal flashings.

Optional Canopies:

- Install tapered insulation, TPO membrane, custom metal gutter and composite 2' x 2' pavers.

Total option: $28,900

$114,500

This proposal is only good for 30 days

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: KALMONT DISTRIBUTORS, INC
2549 HIGHWAY TWO EAST KALISPELL, MT 59901

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 2, 3, 4, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5

Bid Package Description: DOORS, FRAMES, HARDWARE, FRAMES W/ PERFORATED SCREENS

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: 10/22/15

By:

KALMONT
Contractor

Signature

GENERAL MANAGER
Title

MIKEC@MONTANASKY.BIZ
Email Address:

Business Address

Montana Public Contractor's License No.

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ $26,778.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($_____)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($_____)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($_____)

BUILDING CANOPIES - Deduct to Base Bid:

($_____)

CORNICE DETAIL - Deduct to Base Bid:

($_____)

PAINTING OF GARAGE CIELING - Deduct to Base Bid:

($_____)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($_____)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($_____)

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ $58,068.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($_____)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($_____)

BASEMENT FINISH - Deduct to Base Bid:

($_____)

BUILDING CANOPIES - Deduct to Base Bid:

($_____)

CORNICE DETAIL - Deduct to Base Bid:

($_____)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($_____)

BID FORM

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway 83
Bigfork, MT 59911

BID FROM: Martel Construction, Inc.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1-4, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.8B
Bid Package Description: INSTALL DOORS, FRAMES, HARDWARE

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: October 22, 2015

By: Martel Construction, Inc.
Contractor

Steve Conway
Signature

Vice President
Title

sconway@martelconstruction.com
Email Address:

305 Hwy 83, Bigfork, MT 59911
Business Address

2124
Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ $25,300)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ .075%)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($ ~~[illegible]~~ SC.)

BASEMENT FINISH - Deduct to Base Bid:

($ -$1,010)

BUILDING CANOPIES - Deduct to Base Bid:

($)

CORNICE DETAIL - Deduct to Base Bid:

($)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($)

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ $14,230)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ .075%)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($ _____)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ _____)

BUILDING CANOPIES - Deduct to Base Bid:

($ _____)

CORNICE DETAIL - Deduct to Base Bid:

($ _____)

PAINTING OF GARAGE CEILING - Deduct to Base Bid:

($ _____)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($ _____)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($ _____)

BID FORM

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway 83
Bigfork, MT 59911

BID FROM: Martel Construction, Inc.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1-4, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.8C
Bid Package Description: INSTALL ACCESS DOORS

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: October 22, 2015

By: Martel Construction, Inc.
Contractor

Steve Conway
Signature

Vice President
Title

sconway@martelconstruction.com
Email Address:

305 Hwy 83, Bigfork, MT 59911
Business Address

2124
Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ $1,570)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ .075%)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($)

BASEMENT FINISH - Deduct to Base Bid:

($)

BUILDING CANOPIES - Deduct to Base Bid:

($)

CORNICE DETAIL - Deduct to Base Bid:

($)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($)

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ $1,570)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ .075%)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($ _____)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ _____)

BUILDING CANOPIES - Deduct to Base Bid:

($ _____)

CORNICE DETAIL - Deduct to Base Bid:

($ _____)

PAINTING OF GARAGE CEILING - Deduct to Base Bid:

($ _____)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($ _____)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($ _____)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: VALLEY GLASS, INC.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1,2,3,4, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.8D

Bid Package Description: ALUMINUM STOREFRONT & GLAZING

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: 10-22-2015

By: VALLEY GLASS, INC.

Contractor

Signature MATTHEW HARTLEY

SECRETARY

Title

MHARTLEY@VALLEYGLASSMT.COM

Email Address:

1903 THIRD AVE.EAST KALISPELL, MT

Business Address

#7680

Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID: ONE HUNDRED & NINETY-SEVEN THOUSAND, FIVE HUNDRED & FORTY-THREE DOLLARS & 00/100

($ 197543.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid: FIVE THOUSAND DOLLARS & 00/100

($ 5000.00)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid: DEDUCT THIRTY-ONE THOUSAND, THREE HUNDRED & FORTY DOLLARS & 00/100

($ 31340.00 DEDUCT)

BASEMENT FINISH - Deduct to Base Bid:

($ N/A)

BUILDING CANOPIES - Deduct to Base Bid:

($ N/A)

CORNICE DETAIL - Deduct to Base Bid:

($ N/A)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($ N/A)

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID: SEVENTY-EIGHT THOUSAND, FOUR HUNDRED & TWENTY-EIGHT DOLLARS & 00/100

($ 78428.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid: TWO THOUSAND DOLLARS & 00/100

($ 2000.00)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($ N/A)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ N/A)

BUILDING CANOPIES - Deduct to Base Bid:

($ N/A)

CORNICE DETAIL - Deduct to Base Bid:

($ N/A)

PAINTING OF GARAGE CIELING - Deduct to Base Bid:

($ N/A)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($ N/A)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid: DEDUCT FOUR THOUSAND, SIX HUNDRED & SIXTY-TWO DOLLARS & 00/100

($ 4662.00 DEDUCT)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: R.D.J. Brothers, Inc.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1,2,3, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.9A

Bid Package Description: Whitefish Parking Garage

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: Oct. 21, 2015

By: R.D.J. Brothers, Inc.
Contractor

Eric D. Martin
Signature

Estimator / Eric Martin
Title

eric@rdjbrothers.com
Email Address:

6460 Hwy. 35 Bigfork Mt. 59911
Business Address

73847
Montana Public Contractor's License No.

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ 37,760.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 755.00)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($ N/A)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ 127.00)

BUILDING CANOPIES - Deduct to Base Bid:

($ N/A)

CORNICE DETAIL - Deduct to Base Bid:

($ N/A)

PAINTING OF GARAGE CIELING - Deduct to Base Bid:

($ N/A)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($ N/A)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($ N/A)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: R.D. J. Brothers, Inc.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1,2,3, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.9 A

Bid Package Description: Whitefish City Hall

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: Oct. 21, 2015

By:

R.D.J. Brothers, Inc.
Contractor

Eric D. Martin
Signature

Estimator / Eric Martin
Title

eric@rdjbrothers.com
Email Address:

6460 Hwy 35, Bigfork, Mt. 59911
Business Address

735247
Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ 230,867.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 4,617)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($ 2,883.00)

BASEMENT FINISH - Deduct to Base Bid:

($ 3,468.60)

BUILDING CANOPIES - Deduct to Base Bid:

($ N/A)

CORNICE DETAIL - Deduct to Base Bid:

($ N/A)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($ N/A)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: R.D.J. Brothers, Inc.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1,2,3, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.9B

Bid Package Description: Whitefish City Hall

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: Oct. 21, 2015

By: R.D.J. Brothers, Inc.
Contractor

Eric D. Martin
Signature

Estimator | Eric Martin
Title

eric@rdjbrothers.com
Email Address:

64160 Hwy. 35 Bigfork, MT. 59911
Business Address

738247
Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ 126,784.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 2,535.00)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($ 1,024.00)

BASEMENT FINISH - Deduct to Base Bid:

($ 3,925.00)

BUILDING CANOPIES - Deduct to Base Bid:

($ N/A)

CORNICE DETAIL - Deduct to Base Bid:

($ N/A)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($ N/A)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: R.D.J. Brothers, Inc.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1, 2, 3, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.9 B

Bid Package Description: Whitefish Parking Garage

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: Oct. 21, 2015

By: R.D.J. Brothers, Inc.
Contractor

Signature

Estimator | Eric Martin
Title

eric@rdjbrothers.com
Email Address:

64160 Hwy. 35
Business Address

738247
Montana Public Contractor's License No.

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ 8,461.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 169.00)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($ N/A)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ 112.00)

BUILDING CANOPIES - Deduct to Base Bid:

($ N/A)

CORNICE DETAIL - Deduct to Base Bid:

($ N/A)

PAINTING OF GARAGE CIELING - Deduct to Base Bid:

($ N/A)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($ N/A)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($ N/A)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: Schindler Elevator Corp.
743 McGregor Court Suite 140 Boise ID 83705

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received Addenda Nos. 1-4, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.14

Bid Package Description: Hydraulic Elevators

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: 10/22/15

By: Schindler Elevator
Contractor

Signature

Estimator
Title

pete.skowous.schindler.com
Email Address:

743 McGregor Court Suite 140 Boise ID 83705
Business Address

29733
Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ 112,000)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 620.00)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($ Ø)

BASEMENT FINISH - Deduct to Base Bid:

($ Ø)

BUILDING CANOPIES - Deduct to Base Bid:

($ Ø)

CORNICE DETAIL - Deduct to Base Bid:

($ Ø)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($ Ø)

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ 188,000)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 1,039)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($ 101,000)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ Ø)

BUILDING CANOPIES - Deduct to Base Bid:

($ Ø)

CORNICE DETAIL - Deduct to Base Bid:

($ Ø)

PAINTING OF GARAGE CIELING - Deduct to Base Bid:

($ Ø)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($ Ø)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($ Ø)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: IT&M DIVISION INC

P.O. BOX 5868 HELENA, MT 59604

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1,2,3,4, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5-21

Bid Package Description: FIRE SUPPRESSION

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: 10/21/2015

By: IT&M DIVISIONS INC
Contractor

Signature

PRESIDENT
Title

KEVIN@ITMDIVISION.COM
Email Address:

P.O. BOX 5868 HELENA, MT 59604
Business Address

FPL-BEL-000167
Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ 89,017.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 1,336.00)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($ N/A)

BASEMENT FINISH - Deduct to Base Bid:

($ N/A)

BUILDING CANOPIES - Deduct to Base Bid:

($ N/A)

CORNICE DETAIL - Deduct to Base Bid:

($ N/A)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($ N/A)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: IT&M DIVISION INC

P.O. BOX 5868 HELENA, MT 59604

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1,2,3,4, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5-21

Bid Package Description: FIRE SUPPRESSION

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: 10/21/2015

By: IT&M DIVISIONS INC
Contractor

Signature

PRESIDENT
Title

KEVIN@ITMDIVISION.COM
Email Address:

P.O. BOX 5868 HELENA, MT 59604
Business Address

FPL-BEL-000167
Montana Public Contractor's License No.

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ 18,320.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 275.00)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($ N/A)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ N/A)

BUILDING CANOPIES - Deduct to Base Bid:

($ N/A)

CORNICE DETAIL - Deduct to Base Bid:

($ N/A)

PAINTING OF GARAGE CIELING - Deduct to Base Bid:

($ N/A)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($ N/A)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($ N/A)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: Diamond Plumbing and Heating, Inc.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1,2,3,4, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.22

Bid Package Description: Plumbing

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: 10-22-15

By: Brian Higgins - Diamond Plumbing & Heating, Inc.
Contractor

Signature

Project Manager
Title

Brian@DiamondPlumbingInc.com
Email Address:

PO Box 5348 Kalispell, MT 59903
Business Address

9931
Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ 192,282.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 3,166.00)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($ N/A)

BASEMENT FINISH - Deduct to Base Bid:

($ 8,200.00)

BUILDING CANOPIES - Deduct to Base Bid:

($ N/A)

CORNICE DETAIL - Deduct to Base Bid:

($ N/A)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($ N/A)

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ 118,809.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 1,944.00)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($ 500.00)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ 2,735.00)

BUILDING CANOPIES - Deduct to Base Bid:

($ N/A)

CORNICE DETAIL - Deduct to Base Bid:

($ N/A)

PAINTING OF GARAGE CIELING - Deduct to Base Bid:

($ N/A)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($ N/A)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($ N/A)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: Diamond Plumbing and Heating, Inc.

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1,2,3,4, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 5.23

Bid Package Description: Heating, Ventillating and Air Conditioning

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: 10-22-15

By: Brian Higgins - Diamond Plumbing and Heating, Inc.
Contractor

Signature

Project Manager
Title

Brian@DiamondPlumbingInc.com
Email Address:

PO Box 5348 Kalispell, MT 59903
Business Address

9931
Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ 915,350.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($ 13,656.00)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($ N/A)

BASEMENT FINISH - Deduct to Base Bid:

($ 1,157.00)

BUILDING CANOPIES - Deduct to Base Bid:

($ N/A)

CORNICE DETAIL - Deduct to Base Bid:

($ N/A)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($ N/A)

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($28,726.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($473.00)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($6,513.00)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($2,284.00)

BUILDING CANOPIES - Deduct to Base Bid:

($N/A)

CORNICE DETAIL - Deduct to Base Bid:

($N/A)

PAINTING OF GARAGE CIELING - Deduct to Base Bid:

($N/A)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($N/A)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($N/A)

PROJECT: Whitefish City Hall & Parking Garage

TO: Martel Construction, Inc.
305 Highway #83
Bigfork, MT 59911

BID FROM: MONSTER ELECTRIC INC

I have received and fully reviewed the Contract Documents for the Whitefish City Hall and Parking Garage. I have also received **Addenda Nos.** 1,2,3,4, and have included their provisions in my Bid. I have examined the documents and submit the following Bid for:

Bid Package #: 26,000

Bid Package Description: ELECTRICAL

In submitting this Bid, I agree:

1. To hold my bid open sixty (60) consecutive calendar days.
2. To enter into and execute a Contract, if awarded on the basis of this Bid and to furnish all bonds if required, and insurance required by the bidding documents.
3. To accomplish the work in accordance with the Contract Documents.

Bidder will perform Work as detailed in the Contract Documents and described in the Project Manual, for the lump sum price of:

This bid must be submitted to Martel Construction at 305 Highway #83, Bigfork, MT 59911 before the noted date and time in the invitation to bid. Please see the "Instruction to Bidders", "Invitation to bid" and "Bid Package Descriptions" in the specification manual for all the specific requirements of submitting this bid.

Respectfully Submitted:

Date: 10/22/2015

By: MONSTER ELECTRIC INC.
Contractor

Christopher Smith
Signature

PRESIDENT
Title

monster_ele@yahoo.com
Email Address:

P.O. Box 8056 KALISPELL MT 59904
Business Address

2008
Montana Public Contractor's License No.

Whitefish City Hall Cost

CITY HALL - BASE BID:

($ 558,650.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($_____)

BID ALTERNATES:

SKYLIGHTS - Deduct to Base Bid:

($_____)

BASEMENT FINISH - Deduct to Base Bid:

($ 2,740.00)

BUILDING CANOPIES - Deduct to Base Bid:

($ 7,740.00)

CORNICE DETAIL - Deduct to Base Bid:

($_____)

OVERSIZED BRIK VENEER - Deduct to Base Bid:

($_____)

Whitefish City Parking Garage Cost

PARKING GARAGE BASE BID:

($ 290,050.00)

Bidder will furnish Performance and Labor & Material Payment Bonds for 100% of the total Base Bid price for the lump sum price of:

Add to Base Bid:

($_____)

BID ALTERNATES:

SOUTH WEST ELEVATOR - Deduct to Base Bid:

($_____)

PUBLIC BATHROOM FINISH - Deduct to Base Bid:

($ 570.00)

BUILDING CANOPIES - Deduct to Base Bid:

($ 21,600.00)

CORNICE DETAIL - Deduct to Base Bid:

($_____)

PAINTING OF GARAGE CIELING - Deduct to Base Bid:

($_____)

PAINTING OF GARAGE EAST WALL, COLUMNS, & BEAMS - Deduct to Base Bid:

($_____)

UPPER FLOOR WINDOW FRAMES - Deduct to Base Bid:

($_____)

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Whitefish, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 15-50 entitled: "RESOLUTION RELATING TO $120,000 WATER SYSTEM REVENUE BOND (DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAM), SERIES 2015; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on December 7, 2015, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Council Members voted in favor thereof: _____ _____; voted against the same: _____ _____; abstained from voting thereon: _____; or were absent: _____.

WITNESS my hand officially this 7th day of December, 2015.

_____
Necile Lorang, City Clerk

SUPPLEMENTAL RESOLUTION

Relating to

$120,000
WATER SYSTEM REVENUE BOND
(DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAM)
SERIES 2015

CITY OF WHITEFISH, MONTANA

Adopted: December 7, 2015

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(For convenience only, not a part of this Supplemental Resolution)

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RESOLUTION NO. 15-50

RESOLUTION RELATING TO $120,000 WATER SYSTEM REVENUE BOND (DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAM), SERIES 2015 BOND; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF

WHEREAS, pursuant to the Drinking Water State Revolving Fund Act, Montana Code Annotated, Title 75, Chapter 6, Part 2, as amended (the "State Act"), the State of Montana (the "State") has established a revolving loan program (the "Program") to be administered by the Department of Natural Resources and Conservation of the State of Montana, an agency of the State (the "DNRC"), and by the Department of Environmental Quality of the State of Montana, an agency of the State (the "DEQ"), and has provided that a drinking water state revolving fund (the "Revolving Fund") be created within the state treasury and all federal, state and other funds for use in the Program be deposited into the Revolving Fund, including, but not limited to, all federal grants for capitalization of a state drinking water revolving fund under the federal Safe Drinking Water Act (the "Safe Drinking Water Act"), all repayments of assistance awarded from the Revolving Fund, interest on investments made on money in the Revolving Fund and payments of principal of and interest on loans made from the Revolving Fund; and

WHEREAS, the State Act provides that funds from the Program shall be disbursed and administered for the purposes set forth in the Safe Drinking Water Act and according to rules adopted by the DEQ and the DNRC; and

WHEREAS, the City of Whitefish, Flathead County, Montana (the "Borrower") has applied to the DNRC for the 2015 Loan (as hereinafter defined) from the Revolving Fund to enable the Borrower to finance, refinance or reimburse itself for the costs of the 2015 Project (as hereinafter defined) which will carry out the purposes of the Safe Drinking Water Act; and

WHEREAS, the Borrower is authorized under applicable laws, ordinances and regulations to adopt this Resolution and to issue the Series 2015 Bond (as hereinafter defined) to evidence the 2015 Loan for the purposes set forth herein; and

WHEREAS, the DNRC will fund the Loan from Recycled Money (as hereinafter defined).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, AS FOLLOWS:

ARTICLE I

DEFINITIONS, RULES OF CONSTRUCTION AND APPENDICES

Section 1.1 Definitions. Unless a different meaning clearly appears from the context, terms used with initial capital letters but undefined in this Supplemental Resolution shall have the meanings given them in the Original Resolution, the Indenture, or as follows:

"Accountant" or "Accountants" means an independent certified public accountant or a firm of independent certified public accountants satisfactory to the DNRC.

"Act" means Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as heretofore and hereafter amended or supplemented.

"Additional Bonds" means any Bonds issued pursuant to Section 6.01 of the Original Resolution.

"Administrative Expense Surcharge" means a surcharge on the 2015 Loan charged by the DNRC to the Borrower equal to twenty-five hundredths of one percent (0.25%) per annum on the outstanding principal amount of the 2015 Loan, payable by the Borrower on the same dates that payments of interest on the 2015 Loan are due.

"Authorized DNRC Officer" means the Director of the DNRC or his or her designee.

"Bond Counsel" means any Counsel nationally recognized as experienced in matters relating to the issuance by states or political subdivisions of tax-exempt obligations selected by the Borrower and acceptable to the DNRC.

"Bonds" means the Series 1998 Bond, Series 1999 Bond, Series 2006 Bond, Series 2007 Bond, Series 2009B Bond, Series 2015 Bond, and any Additional Bonds.

"Business Day" means any day which is not a Saturday or Sunday, a legal holiday in the State or a day on which banks in Montana are authorized or required by law to close.

"Borrower" means the City of Whitefish, Montana and its permitted successors or assigns hereunder.

"Closing" means the date of delivery of the Series 2015 Bond to the DNRC.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collateral Documents" means any security agreement, guaranty or other document or agreement delivered to the DNRC securing the obligations of the Borrower under this Supplemental Resolution and the Series 2015 Bond. If no Collateral Documents secure such obligations, any reference to Collateral Documents in this Supplemental Resolution shall be without effect.

"Committed Amount" means the amount of the 2015 Loan committed to be lent by the DNRC to the Borrower pursuant to Section 4.1 of this Supplemental Resolution, as such amount may be reduced pursuant to Sections 3.2 and 3.4 of this Supplemental Resolution.

"Construction Account" means the account created in the Water System Fund pursuant to Section 7.02 of Original Resolution, as amended.

"Consultant" means a nationally recognized consultant or firm of consultants, or an independent engineer or firm of independent engineers, or an Accountant, which in any case is

qualified and has skill and experience in the preparation of financial feasibility studies or projections for facilities similar to the System or the 2015 Project, selected by the Borrower and satisfactory to the DNRC.

"Council" means the City Council of the City of Whitefish, Montana.

"Counsel" means an attorney duly admitted to practice law before the highest court of any state and satisfactory to the DNRC.

"Debt" means, without duplication, (1) indebtedness of the Borrower for borrowed money or for the deferred purchase price of property or services; (2) the obligation of the Borrower as lessee under leases which should be recorded as capital leases under generally accepted accounting principles; and (3) obligations of the Borrower under direct or indirect guarantees in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in clause (1) or (2) above.

"DEQ" means the Department of Environmental Quality of the State of Montana, an agency of the State, or any successor to its powers, duties and obligations under the State Act or the EPA Agreements.

"DNRC" means the Department of Natural Resources and Conservation of the State of Montana, an agency of the State, and any successor to its powers, duties and obligations under the State Act.

"EPA" means the Environmental Protection Agency, an agency of the United States of America, and any successor to its functions under the Safe Drinking Water Act.

"EPA Agreements" means all capitalization grant agreements and other written agreements between the DEQ, DNRC and the EPA concerning the Program.

"EPA Capitalization Grant" means a grant of funds to the State by the EPA under Section 1452 of the Safe Drinking Water Act.

"Governmental Unit" means governmental unit as such term is used in Section 145(a) of the Code.

"Indenture" means the Indenture of Trust, dated as of May 1, 1998, between the Board of Examiners of the State and the Trustee, as such may be supplemented or amended from time to time in accordance with the provisions thereof, pursuant to which, among other things, the State Bonds are to be or have been issued.

"Loan Loss Reserve Surcharge" means a fee equal to twenty-five hundredths of one percent (0.25%) per annum on the outstanding principal amount of the 2015 Loan, payable on the same dates that payments of interest on the 2015 Loan are due.

"Net Revenues" means the Revenues for a specified period less the Operating Expenses for the same period.

"Operating Account" means the account created in the Water System Fund pursuant to Section 7.03 of the Original Resolution.

"Operating Expenses" means the current expenses, paid or accrued, of operation, maintenance and minor repair of the System, excluding interest on the Bonds and depreciation, as calculated in accordance with generally accepted accounting principles, and shall include, without limitation, administrative expenses of the Borrower relating solely to the System, premiums for insurance on the properties thereof, labor and the cost of materials and supplies used for current operation and for maintenance, and charges for the accumulation of appropriate reserves for current expenses which are not recurrent regularly but may reasonably be expected to be incurred.

"Operating Reserve" means the reserve to be maintained in the Operating Account as required by Section 7.03 of the Original Resolution.

"Original Resolution" means Resolution No. 93-11 of the Borrower adopted on August 16, 1993.

"Payment Date" means, with respect to the Series 2015 Bond, each January 1 and July 1 during the term of the Series 2015 Bond on which a payment of interest or principal is due, as determined under the Resolution. The term "Payment Date" as used in this Supplemental Resolution in respect of the Series 2015 Bond has the same meaning as "Stated Maturity" in the Original Resolution.

"Program" means the Drinking Water State Revolving Fund Program established by the State Act.

"Project" means an improvement, betterment, reconstruction or extension of the System, including the 2015 Project.

"Public Entity" means a State agency, city, town, municipality, irrigation district, county water and sewer district, a soil conservation district or other public body established by State law or an Indian tribe that has a federally recognized governing body carrying out substantial governmental duties and powers over any area.

"Regulations" means the Treasury Department, Income Tax Regulations, as amended or any successor regulation thereto, promulgated under the Code or otherwise applicable to the Series 2015 Bond.

"Replacement and Depreciation Account" means the Account created in the Water System Fund pursuant to Section 7.07 of the Original Resolution.

"Reserve Account" means the account created in the Water System Fund pursuant to Section 7.05 of the Original Resolution.

"Reserved Amounts" means any undisbursed Committed Amount which will or may be required to pay any remaining costs of the 2015 Project upon completion thereof as provided in Section 3.4(a) of this Supplemental Resolution.

"Reserve Requirement," as amended by Article XI hereof, means, as of the date of calculation, an amount equal to one-half the sum of the highest cumulative amount of principal of and interest payable on all outstanding Bonds in any one future fiscal year (giving effect to mandatory sinking fund redemption, if any).

"Resolution" means the Original Resolution, as amended and supplemented by Resolution Nos. 98-34, 99-21, 06-31, 07-30, 09-38 and 12-36, adopted by the City Council of the City on July 6, 1998, August 2, 1999, May 15, 2006, August 7, 2007, September 21, 2009 and November 5, 2012, respectively, and as further amended and supplemented by this Supplemental Resolution and other supplemental resolutions.

"Revenue Bond Account" means the account created in the Water System Fund pursuant to Section 7.04 of the Original Resolution.

"Revenues" means all revenues and receipts from rates, fees, charges and rentals imposed for the availability, benefit and use of the System, and from penalties and interest thereon, and from any sales of property which is a part of the System and income received from the investment of such revenues and receipts, including interest earnings on the Reserve Account and the Operating Account, but excluding interest earnings on the Construction Account, Replacement and Depreciation Account and Surplus Account, but excluding any special assessments or taxes levied for construction of any part of the System and proceeds of any grant or loan from the State or the United States, and any investment income thereon, to the extent such exclusion is a condition to such grant or loan.

"Safe Drinking Water Act" means Title XIV of the Public Health Service Act, commonly known as the Safe Drinking Water Act, 42 U.S.C. §§300f et seq., as amended, and all regulations, rules and interpretations issued by the EPA thereunder.

"Series 1998 Bond" means the First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 1998, issued by the Borrower in the original principal amount of $155,000 pursuant to the Resolution as then in effect.

"Series 1999 Bond" means the First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 1999, issued by the Borrower in the original principal amount of $2,581,000 pursuant to the Resolution as then in effect.

"Series 2006 Bond" means the First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2006, issued by the Borrower in the original principal amount of $693,000 pursuant to the Resolution as then in effect.

"Series 2007 Bond" means the First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2007, issued by the Borrower in the original principal amount of $668,000 pursuant to the Resolution as then in effect.

"Series 2009B Bond" means the Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2009B, issued by the Borrower, in the original principal amount of $120,100 pursuant to the Resolution as then in effect.

"Series 2015 Bond" means the $120,000 Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2015, issued to the DNRC to evidence the 2015 Loan.

"State" means the State of Montana.

"State Act" means Montana Code Annotated, Title 75, Chapter 6, Part 2, as amended from time to time.

"State Bonds" means the State's General Obligation Bonds (Drinking Water State Revolving Fund Program), issued or to be issued pursuant to the Indenture.

"Supplemental Resolution" means this resolution of the Borrower adopted on December 7, 2015.

"Surplus Account" means the account created in the Water System Fund pursuant to Section 7.08 of the Original Resolution.

"Surplus Net Revenues" shall mean that portion of the Net Revenues in excess of the current requirements of the Operating Account, the Revenue Bond Account and the Reserve Account.

"System" means the water system of the Borrower and all extensions, improvements and betterments thereof heretofore or hereafter constructed and acquired.

"Trustee" means U.S. Bank National Association, in Seattle, Washington, or any successor trustee under the Indenture.

"2015 Loan" means the loan made to the Borrower by the DNRC pursuant to the Program in the maximum amount of the Committed Amount to provide funds to pay a portion of the costs of the 2015 Project and to pay costs of issuance of the Series 2015 Bond.

"2015 Project" means the designing and engineering of the facilities, improvements and activities financed, refinanced or the cost of which is being reimbursed to the Borrower with proceeds of the 2015 Loan, described in Appendix A hereto.

"Water System Fund" means the fund created by Section 7.01 of the Original Resolution.

Section 1.2 Other Rules of Construction. For all purposes of this Supplemental Resolution, except where the context clearly indicates otherwise:

(a) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted government accounting standards.

(b) Terms in the singular include the plural and vice versa.

(c) All references to time shall refer to Helena, Montana time, unless otherwise provided herein.

(d) All references to mail shall refer to first-class mail postage prepaid.

(e) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(f) "Or" is not exclusive, but is intended to permit or encompass one, more or all of the alternatives conjoined.

Section 1.3 Appendices. Attached to this Supplemental Resolution and hereby made a part hereof are the following Appendices:

Appendix A: a description of the 2015 Project;

Appendix B: the form of the Series 2015 Bond; and

Appendix C: additional agreements and representations of the Borrower.

ARTICLE II

AUTHORIZATION, FINDINGS, REPRESENTATIONS AND COVENANTS

Section 2.1 Authorization and Findings.

(a) Authorization. Under the provisions of the Act, the Borrower is authorized to issue and sell its revenue bonds payable during a term not exceeding forty years from their date of issue, to provide funds for the reconstruction, improvement, betterment and extension of the System or to refund its revenue bonds issued for such purpose; provided that the bonds and the interest thereon are to be payable solely out of the net income and revenues to be derived from rates, fees and charges for the services, facilities and commodities furnished by the undertaking, and are not to create any obligation for the payment of which taxes may be levied except to pay for services provided by the undertaking to the Borrower.

(b) The System. The Borrower, pursuant to the Act and other laws of the State has established and presently owns and operates the System.

(c) The 2015 Project. After investigation of the facts and as authorized by the Act, this Council has determined it to be necessary and desirable and in the best interests of the Borrower to undertake the 2015 Project.

(d) Outstanding Bonds. Pursuant to the Act and the Resolution, the Borrower has issued, and has outstanding, its Series 1998 Bond, Series 1999 Bond, Series 2006 Bond, Series 2007 Bond and Series 2009B Bond. The Series 1998 Bond, Series 1999 Bond, Series 2006 Bond, Series 2007 Bond and Series 2009B Bond are payable from Net Revenues of the System, and no

other bonds or indebtedness are outstanding that are payable from or secured by revenues of the System.

(e) Additional Bonds. The Borrower reserved the right under Section 6.01 of the Original Resolution, as amended by Section 11.3 of this Supplemental Resolution, to issue Additional Bonds to finance the cost or estimated cost of providing any improvement, extension or rehabilitation of the System; provided that if the Additional Bonds are issued to complete a project, a certificate is to be signed by the Mayor, City Manager and City Finance Director or any of them stating that on the date of issuance of such Additional Bonds Net Revenues of the System meet the requirements set forth in Section 6.01 of the Original Resolution, as amended by Section 11.3 of this Supplemental Resolution. Based on a certificate executed or to be executed by the Mayor, City Manager and City Finance Director, or any of them, it is hereby determined that the Borrower is authorized to issue the Series 2015 Bond in the maximum principal amount of $120,000 pursuant to Section 6.01 of the Original Resolution, as amended by Section 11.3 of this Supplemental Resolution, payable from and secured by the Net Revenues on a parity with the outstanding Series 1998 Bond, Series 1999 Bond, Series 2006 Bond, Series 2007 Bond and Series 2009B Bond.

Section 2.2 Representations. The Borrower represents as follows:

(a) Organization and Authority. The Borrower:

(1) is duly organized and validly existing as a municipal corporation of the State;

(2) has all requisite power and authority and all necessary licenses and permits required as of the date hereof to own and operate the System and to carry on its current activities with respect to the System, to adopt this Supplemental Resolution and to enter into the Collateral Documents and to issue the Series 2015 Bond and to carry out and consummate all transactions contemplated by the Supplemental Resolution, the Series 2015 Bond and the Collateral Documents;

(3) is a Governmental Unit and a Public Entity; and

(4) has taken all proper action to authorize the execution, delivery and performance of its obligations under this Supplemental Resolution, the Series 2015 Bond and the Collateral Documents and the incurrence of the Debt evidenced by the Series 2015 Bond in the maximum amount of the Committed Amount.

(b) Litigation. There is no litigation or proceeding pending, or to the knowledge of the Borrower threatened, against or affecting the Borrower in any court or before or by any governmental authority or arbitration board or tribunal that, if adversely determined, would materially and adversely affect the existence, corporate or otherwise, of the Borrower, or the ability of the Borrower to make all payments and otherwise perform its obligations under the Resolution, the Series 2015 Bond and the Collateral Documents, or the financial condition of the Borrower, or the transactions contemplated by the Resolution, the Series 2015 Bond and the Collateral Documents or the validity and enforceability of the Resolution, the Series 2015 Bond and the Collateral Documents. No referendum petition has been filed with respect to any

resolution or other action of the Borrower relating to the 2015 Project, the Series 2015 Bond or any Collateral Documents and the period for filing any such petition will have expired before issuance of the Series 2015 Bond.

(c) Borrowing Legal and Authorized. The adoption of this Supplemental Resolution, the execution and delivery of the Series 2015 Bond and the Collateral Documents and the consummation of the transactions provided for in this Supplemental Resolution, the Series 2015 Bond and the Collateral Documents and compliance by the Borrower with the provisions of the Resolution, the Series 2015 Bond and the Collateral Documents:

(1) are within the powers of the Borrower and have been duly authorized by all necessary action on the part of the Borrower; and

(2) do not and will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Borrower pursuant to any ordinance, resolution, indenture, loan agreement or other agreement or instrument (other than the Resolution and any Collateral Documents) to which the Borrower is a party or by which the Borrower or its property may be bound, nor will such action result in any violation of the provisions of any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the Borrower, its properties or operations are subject.

(d) No Defaults. No event has occurred and no condition exists that, upon execution and delivery of the Series 2015 Bond and the Collateral Documents, would constitute a default under the Resolution or the Collateral Documents. The Borrower is not in violation of any term of any agreement, bond resolution, trust indenture, charter or other instrument to which it is a party or by which it or its property may be bound which violation would materially and adversely affect the transactions contemplated hereby or the compliance by the Borrower with the terms hereof or of the Series 2015 Bond and the Collateral Documents.

(e) Governmental Consent. The Borrower has obtained or made all permits, findings and approvals required to the date of adoption of this Supplemental Resolution by any governmental body or officer for the making and performance by the Borrower of its obligations under this Supplemental Resolution, the Series 2015 Bond and the Collateral Documents (including any necessary water rate increase) or for the 2015 Project, the financing or refinancing thereof or the reimbursement of the Borrower for the costs thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental authority (other than those, if any, already obtained) is required on the part of the Borrower as a condition to adopting this Supplemental Resolution, issuing the Series 2015 Bond or entering into the Collateral Documents and the performance of the Borrower's obligations hereunder and thereunder.

(f) Binding Obligation. The Resolution, the Series 2015 Bond and any Collateral Document to which the Borrower is a party are the valid and binding special, limited obligations and agreements of the Borrower, enforceable against the Borrower in accordance with their terms, except to the extent that the enforceability thereof may be limited by laws relating to

bankruptcy, moratorium, reorganization, insolvency or similar laws affecting creditors' rights and general principles of equity.

(g) The 2015 Project. The 2015 Project consists and will consist of the facilities, improvements and activities described in Appendix A, as such Appendix A may be amended from time to time in accordance with the provision of Article III of this Supplemental Resolution. The 2015 Project comprises facilities of a type that, as determined by the EPA, will facilitate compliance with the national primary drinking water regulations applicable to the System or will otherwise significantly further the health protection objectives of the Safe Drinking Water Act.

(h) The System. The System is a "community water system" within the meaning of the State Act and the Safe Drinking Water Act in that it is a public water system, comprising collection, treatment, storage and distribution facilities for the provision to the public of water for human consumption, that serves not less than 15 service connections used by year-round residents of the area served by the System or regularly serves not less than 25 year-round residents.

(i) Full Disclosure. There is no fact that the Borrower has not specifically disclosed in writing to the DNRC that materially and adversely affects or (so far as the Borrower can now foresee), except for pending or proposed legislation or regulations that are a matter of general public information, that will materially and adversely affect the properties, operations and finances of the System, the Borrower's status as a Public Entity and Governmental Unit, its ability to own and operate the System in the manner it is currently operated or the Borrower's ability to perform its obligations under the Resolution, the Series 2015 Bond and the Collateral Documents and to pledge any revenues or other property pledged to the payment of the Series 2015 Bond.

(j) Compliance With Law. The Borrower:

(1) is in compliance with all laws, ordinances, governmental rules and regulations and court or other governmental orders, judgments and decrees to which it is subject and which are material to the properties, operations and finances of the System or its status as a Public Entity and Governmental Unit; and

(2) has obtained all licenses, permits, franchises or other governmental authorizations necessary to the ownership of the System and the operation thereof and agrees to obtain all such licenses, permits, franchises or other governmental authorizations as may be required in the future for the System and the operation thereof, which failure to obtain might materially and adversely affect the ability of the Borrower to conduct the operation of the System as presently conducted or the condition (financial or otherwise) of the System or the Borrower's ability to perform its obligations under the Resolution, the Series 2015 Bond and the Collateral Documents.

Section 2.3 Covenants.

(a) Insurance. In addition to the requirements of Sections 8.03 and 8.04 of the Original Resolution, the Borrower at all times shall keep and maintain with respect to the System property and casualty insurance and liability insurance with financially sound and reputable insurers, or self-insurance as authorized by State law, against such risks and in such amounts, and with such deductible provisions, as are customary in the State in the case of entities of the same size and type as the Borrower and similarly situated and shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for all such insurance. All such insurance policies shall name the DNRC as an additional insured to the extent permitted under the policy or program of insurance of the Borrower. Each policy must provide that it cannot be cancelled by the insurer without giving the Borrower and the DNRC 30 days' prior written notice. The Borrower shall give the DNRC prompt notice of each insurance policy it obtains or maintains to comply with this Section 2.3(a) and of each renewal, replacement, change in coverage or deductible under or amount of or cancellation of each such insurance policy and the amount and coverage and deductibles and carrier of each new or replacement policy. Such notice shall specifically note any adverse change as being an adverse change. The Borrower shall deliver to the DNRC at Closing a certificate providing the information required by this Section 2.3(a).

(b) Right of Inspection and Notice of Change of Location. The DNRC, the DEQ and the EPA and their designated agents shall have the right at all reasonable times during normal business hours and upon reasonable notice to enter into and upon the property of the Borrower for the purpose of inspecting the System or any or all books and records of the Borrower relating to the System.

(c) Further Assurance. The Borrower shall execute and deliver to the DNRC all such documents and instruments and do all such other acts and things as may be necessary or required by the DNRC to enable the DNRC to exercise and enforce its rights under the Resolution, the Series 2015 Bond and the Collateral Documents and to realize thereon, and record and file and re-record and refile all such documents and instruments, at such time or times, in such manner and at such place or places, all as may be necessary or required by the DNRC to validate, preserve and protect the position of the DNRC under the Resolution, the Series 2015 Bond and the Collateral Documents.

(d) Maintenance of Security, if Any; Recordation of Interest.

(1) The Borrower shall, at its expense, take all necessary action to maintain and preserve the lien and security interest of the Resolution and the Collateral Documents so long as any amount is owing under the Resolution or the Series 2015 Bond;

(2) The Borrower shall forthwith, after the execution and delivery of the Series 2015 Bond and thereafter from time to time, cause the Resolution and any Collateral Documents granting a security interest in revenues or real or personal property and any financing statements or other notices or documents relating thereto to be filed, registered and recorded in such manner and in such places as may be required by law in order to perfect and protect fully the lien and security interest hereof and thereof and the security interest in them granted by the Resolution and, from time to time, shall perform or cause to be performed any other act required by law, including executing or causing to be

executed any and all required continuation statements and shall execute or cause to be executed any further instruments that may be requested by the DNRC for such perfection and protection; and

(3) Except to the extent it is exempt therefrom, the Borrower shall pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of the documents described in subparagraph (2), and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Series 2015 Bond and the Collateral Documents and the documents described in subparagraph (2).

(e) Additional Agreements. The Borrower covenants to comply with all representations, covenants, conditions and agreements, if any, set forth in Appendix C hereto.

(f) Financial Information. This Section 2.3(f) supplements, and is not intended to limit, the requirements in Section 8.06 of the Original Resolution, as amended by Section 11.3 of this Supplemental Resolution. The Borrower agrees that for each fiscal year it shall furnish to the DNRC and the DEQ, promptly when available:

(1) the preliminary annual budget for the System, with items for the 2015 Project shown separately; and

(2) when adopted, the final annual budget for the System, with items for the 2015 Project shown separately.

(g) 2015 Project Accounts. The Borrower shall maintain 2015 Project accounts in accordance with generally accepted government accounting standards.

(h) Records. After reasonable notice from the EPA or the DNRC, the Borrower shall make available to the EPA or the DNRC such records as the EPA or the DNRC reasonably requires to review and determine compliance with the Safe Drinking Water Act, as provided in Section 75-6-224(1)(h) of the State Act.

(i) Compliance with Safe Drinking Water Act. The Borrower has complied and shall comply with all conditions and requirements of the Safe Drinking Water Act pertaining to the 2015 Loan and the 2015 Project.

(j) Compliance with DEQ Requirements. The Borrower shall comply with plan, specification and other requirements for public water systems established by the DEQ, as required by Section 75-6-224(1)(h) of the State Act.

Section 2.4 Covenants Relating to the Tax-Exempt Status of the State Bonds.

(a) The Borrower covenants and agrees that it will not use or permit to be used any of the proceeds of the Series 2015 Bond or any other funds of the Borrower in respect of the 2015 Project or the Series 2015 Bond, directly or indirectly, in a manner that would cause, or take any

other action that would cause, any State Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code or would otherwise cause the interest on the State Bonds to be included in gross income for purposes of federal income taxation.

(b) The Borrower agrees that it will not enter into, or allow any "related person" (as defined in Section 147(a)(2) of the Code) to enter into, any arrangement, formal or informal, for the purchase of the State Bonds or any other obligations of the DNRC in an amount related to the amount of the Loan or the portion of the Loan derived directly or indirectly from proceeds of the State Bonds or that would otherwise cause any State Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code.

(c) The Borrower shall not use or permit the use of the 2015 Project directly or indirectly in any trade or business carried on by any Person who is not a Governmental Unit. For the purpose of this subparagraph, use as a member of the general public (within the meaning of the Regulations) shall not be taken into account and any activity carried on by a Person other than a natural person shall be treated as a trade or business.

(d) Any portion of the 2015 Project being refinanced or the cost of which is being reimbursed was acquired by and is now and shall, during the term of the Loan, be owned by the Borrower and not by any other Person. Any portion of the 2015 Project being financed shall be acquired by and shall, during the term of the Loan, be owned by the Borrower and not by any other Person. Notwithstanding the previous two sentences, the Borrower may transfer the 2015 Project or a portion thereof to another Governmental Unit which is also a Public Entity if such transfer is otherwise permitted under the Resolution and if such organization agrees with the DNRC to comply with Section 2.3(h), Section 2.3(i) and Section 2.4 of this Supplemental Resolution and if the DNRC receives an Opinion of Bond Counsel that such transfer will not violate the State Act or the Safe Drinking Water Act or adversely affect the exclusion of interest on the State Bonds from gross income or purposes of federal income taxation. In addition, except as otherwise provided in the Resolution or in any Collateral Documents, the Borrower may sell or otherwise dispose of any portion of the 2015 Project which has become obsolete or outmoded or is being replaced or for other reasons is not needed by the Borrower or beneficial to the general public or necessary to carry out the purposes of the Safe Drinking Water Act.

(e) At the Closing of the 2015 Loan, the DNRC will, if necessary to obtain the Opinion of Bond Counsel described in Section 7.05(a) of the Indenture, deliver to the Borrower instructions concerning compliance by the Borrower with the arbitrage rebate requirements of Section 148 of the Code (the "Arbitrage Rebate Instructions"). The Borrower shall comply with the Arbitrage Rebate Instructions, if any, delivered to it by the DNRC at Closing, as such Instructions may be amended or replaced by the DNRC from time to time. The Arbitrage Rebate Instructions may be amended or replaced by new Arbitrage Rebate Instructions delivered by the DNRC and accompanied by an Opinion of Bond Counsel to the effect that the use of said amended or new Arbitrage Rebate Instructions will not adversely affect the excludability of interest on the State Bonds or any Additional State Bonds (except State Bonds the interest on which the State did not intend to be excluded from gross income for federal income tax purposes) from gross income of the recipients thereof for federal income tax purposes.

(f) The Borrower agrees that during the term of the 2015 Loan it will not contract with or permit any Private Person to manage the 2015 Project or any portion thereof except according to a written management contract and upon delivery to the DNRC of an opinion of Bond Counsel to the effect that the execution and delivery of such management contract will not violate the State Act or the Safe Drinking Water Act or adversely affect the exclusion of interest on State Bonds from gross income or purposes of federal income taxation.

(g) The Borrower may not lease the 2015 Project or any portion thereof to any Person other than a Nonexempt Person which agrees in writing with the Borrower and the State not to cause any default to occur under the Resolution; provided the Borrower may lease all or any portion of the 2015 Project to a Nonexempt Person pursuant to a lease which in the Opinion of Bond Counsel delivered to the DNRC will not cause the interest on the State Bonds to be included in gross income for purposes of federal income taxation.

(h) The Borrower shall not change the use or nature of the 2015 Project if (i) such change will violate the Safe Drinking Water Act, or (ii) so long as the State Bonds are outstanding unless, in the Opinion of Bond Counsel delivered to the DNRC, such change will not result in the inclusion in gross income of interest on the State Bonds for federal income tax purposes.

Section 2.5 Maintenance of System; Liens. The Borrower shall maintain the System, including the 2015 Project, in good condition and make all necessary renewals, replacements, additions, betterments and improvements thereto. The Borrower shall not grant or permit to exist any lien on the 2015 Project or any other property making up part of the System, other than liens securing Debt where a parity or senior lien secures the Series 2015 Bond; provided that this Section 2.5 shall not be deemed to be violated if a mechanic's or contractor's lien is filed against any such property so long as the Borrower uses its best efforts to obtain the discharge of such lien and promptly reports to the DNRC the filing of such lien and the steps it plans to take and does take to discharge of such lien.

Section 2.6 Maintenance of Existence; Merger, Consolidation, Etc.; Disposition of Assets. The Borrower shall maintain its corporate existence, except that it may consolidate with or merge into another Governmental Unit or permit one or more Governmental Units to consolidate with or merge into it or may transfer all or substantially all of its assets to another Governmental Unit and then dissolve if the surviving, resulting or transferee entity (if other than the Borrower) (i) is a Public Entity and (ii) assumes in writing all of the obligations of the Borrower under the Resolution, the Series 2015 Bond and the Collateral Documents, and (a) such action does not result in any default in the performance or observance of any of the terms, covenants or agreements of the Borrower under the Resolution, the Series 2015 Bond and the Collateral Documents, (b) such action does not violate the State Act or the Safe Drinking Water Act and does not adversely affect the exclusion of interest on the Series 2015 Bond or the State Bonds from gross income for federal income tax purposes and (c) the Borrower delivers to the DNRC on the date of such action an Opinion of Bond Counsel that such action complies with this Section 2.6.

Other than pursuant to the preceding paragraph, the Borrower shall not transfer the System or any portion thereof to any other Person, except for property which is obsolete, outmoded, worn out, is being replaced or otherwise is not needed for the operation of the

System, unless the provisions of (a) and (b) of the preceding paragraph are satisfied and the Borrower delivers to the DNRC an Opinion of Bond Counsel to that effect and, in addition, the DNRC consents to such transfer.

ARTICLE III

USE OF PROCEEDS; THE 2015 PROJECT

Section 3.1 Use of Proceeds. The Borrower shall apply the proceeds of the 2015 Loan from the DNRC solely as follows:

(a) The Borrower shall apply the proceeds of the 2015 Loan solely to the financing, refinancing or reimbursement of the costs of the 2015 Project as set forth in Appendix A hereto and this Section 3.1. The 2015 Loan will be disbursed in accordance with ARTICLE IV hereof and Article VII of the Indenture. If the 2015 Project has not been completed prior to Closing, the Borrower shall, as quickly as reasonably possible, complete the 2015 Project and expend proceeds of the 2015 Loan to pay the costs of completing the 2015 Project.

(b) No portion of the proceeds of the 2015 Loan shall be used to reimburse the Borrower for costs paid prior to the date of adoption of this Supplemental Resolution of a Project the construction or acquisition of which occurred or began earlier than June 1, 1993. In addition, if any proceeds of the Loan are to be used to reimburse the Borrower for 2015 Project costs paid prior to the date of adoption of this Supplemental Resolution, the Borrower shall have complied with Section 1.150-2 of the Regulations in respect of such costs.

(c) Any Debt to be refinanced with proceeds of the Loan was incurred after June 1, 1993 for a Project the construction or acquisition of which began after June 1, 1993. No proceeds of the Loan shall be used for the purpose of refinancing an obligation the interest on which is exempt from federal income tax or excludable from gross income for purposes of federal income taxation unless the DNRC has received an Opinion of Bond Counsel, satisfactory to it, to the effect that such refinancing will not adversely affect the exclusion of interest on the State Bonds from gross income for purposes of federal income taxation.

Section 3.2 The 2015 Project. Set forth in Appendix A to this Supplemental Resolution is a description of the 2015 Project, which describes the property which has been or is to be acquired, installed, constructed or improved and the other activities, if any to be funded from the Loan (the 2015 Project may consist of more than one facility or activity), and an estimated budget relating to the 2015 Project The 2015 Project may be changed and the description thereof in Appendix A may be amended from time to time by the Borrower but only after delivery to the DNRC of the following:

(a) A certificate of the Borrower setting forth the amendment to Appendix A and stating the reason therefor, including statements whether the amendment would cause an increase or decrease in the cost of the 2015 Project, an increase or decrease in the amount of Loan proceeds which will be required to complete the 2015 Project and whether the change will materially accelerate or delay the construction schedule for the 2015 Project;

(b) A written consent to such change in the 2015 Project by an Authorized DNRC Officer;

(c) An Opinion or Opinions of Bond Counsel stating that the 2015 Project, as constituted after such amendment, is, and was at the time the State Bonds were issued, eligible for financing under the State Act and is, and was at the time the Series 2015 Bond was issued, eligible for financing under the Act, such amendment will not violate the State Act or the Act and such amendment will not adversely affect the exclusion of interest on the State Bonds or the Series 2015 Bond from gross income for purposes of federal income taxation. Such an Opinion of Bond Counsel shall not be required for amendments which do not affect the type of facility to be constructed or activity to be financed; and

The Borrower acknowledges and agrees that an increase in the principal amount of the 2015 Loan may be made only upon an application to the DEQ, the DNRC and the Trustee, in such form as the DEQ shall specify, which is approved by the DEQ and the DNRC, in their sole and absolute discretion, and adoption by the governing body of the Borrower of a resolution amendatory of or supplementary to the Resolution authorizing the additional loan and delivery of written certifications by officers of the Borrower to the DEQ, the DNRC and the Trustee to the effect that all representations and covenants contained in the resolution as it may be so amended or supplemented are true as of the date of closing of the additional loan and compliance with applicable tests for the incurrence of such Debt. No assurance can be given that any additional loan funds will be available under the Program at the time of any such application or thereafter. The Borrower acknowledges and agrees that neither the DEQ, the DNRC, the Trustee nor any of their agents, employees or representatives shall have any liability to the Borrower and have made no representations to the Borrower as to the sufficiency of the 2015 Loan to pay costs of the 2015 Project or as to the availability of additional funds under the Program to increase the principal amount of the Loan.

Section 3.3 <u>2015 Project Representations and Covenants</u>. The Borrower hereby represents to and covenants with the DNRC that:

(a) all construction of the 2015 Project has complied and will comply with all federal and state standards, including, without limitation, EPA regulations and standards;

(b) all future construction of the 2015 Project will be done only pursuant to fixed price construction contracts. The Borrower shall obtain a performance and payment bond from the contractor for each construction contract in the amount of 100% of the construction price and ensure that such bond is maintained until construction is completed to the Borrower's, the DNRC's and the DEQ's satisfaction;

(c) all future construction of the 2015 Project will be done in accordance with plans and specifications on file with the DNRC and the DEQ, provided that changes may be made in such plans and specifications with the written consent of an Authorized DNRC Officer and the DEQ;

(d) all laborers and mechanics employed by contractors and subcontractors on the 2015 Project have been and will be paid wages at rates not less than those prevailing on projects of a

character similar in the locality as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code;

(e) the iron and steel products used in the 2015 Project comply with the "American Iron and Steel" requirements of Section 436 of the Consolidated Appropriations Act of 2014 (P.L. 113-76), as those requirements are further interpreted by applicable EPA guidance;

(f) the 2015 Project is a project of the type permitted to be financed under the Act, the State Act and the Program and Section 1452 of the Safe Drinking Water Act; and

(g) the Borrower has undertaken or will undertake the 2015 Project promptly after the Closing date and will cause the 2015 Project to be completed as promptly as practicable with all reasonable dispatch, except only as completion may be delayed by a cause or event not reasonably within the control of the Borrower; it is estimated by the Borrower that the 2015 Project will be substantially completed by December 31, 2015.

Section 3.4 Completion or Cancellation or Reduction of Costs of the 2015 Project.

(a) Upon completion of the 2015 Project, the Borrower shall deliver to the DNRC a certificate stating that the 2015 Project is complete, stating the amount, if any, of the Reserved Amounts, and releasing the remaining amount, if any, of the Committed Amount. If any Reserved Amount is not later needed, the Borrower shall so inform the DNRC and release such amount. If Appendix A describes two or more separate projects as making up the 2015 Project, a separate completion certificate shall be delivered for each.

(b) If all or any portion of the 2015 Project is cancelled or cut back or its costs are reduced or for any other reason the Borrower will not require the full Committed Amount, the Borrower shall promptly notify the DNRC in writing of such fact and release the portion of the Committed Amount which will not be needed.

ARTICLE IV

THE LOAN

Section 4.1 The Loan; Disbursement of Loan. The DNRC has agreed to lend to the Borrower, from time to time as the requirements of this Section 4.1 are met, an amount up to $120,000 (the "Committed Amount") for the purposes of financing, refinancing or reimbursing the Borrower for the costs of the 2015 Project; provided the DNRC shall not be required to loan any proceeds of the State Bonds to the Borrower after March 2016. The Committed Amount may be reduced as provided in Sections 3.2(a) and 3.4 of this Supplemental Resolution. The 2015 Loan shall be disbursed as provided in this Section 4.1. The DNRC intends to disburse the 2015 Loan through the Trustee.

(a) In consideration of the issuance of the Series 2015 Bond by the Borrower, the DNRC shall make, or cause the Trustee to make, a disbursement of all or a portion of the 2015 Loan upon receipt of the following documents:

(1) an Opinion of Bond Counsel as to the validity and enforceability of the Series 2015 Bond and the security therefor and stating in effect that interest on the Series 2015 Bond is not includable in gross income of the owner thereof for purposes of federal income taxation, in form and substance satisfactory to the DNRC;

(2) the Series 2015 Bond, fully executed and authenticated;

(3) a certified copy of the Resolution and this Supplemental Resolution;

(4) any other security instruments or documents required by the DNRC or DEQ as a condition to their approval of the 2015 Loan;

(5) if all or part of a Loan is being made to refinance a Project or reimburse the Borrower for the costs of a Project paid prior to the Closing, evidence, satisfactory to the DNRC and the Bond Counsel referred to in (1) above, (A) that the acquisition or construction of the Project was begun no earlier than June 1, 1993 or the debt was incurred no earlier than June 1, 1993, (B) of the Borrower's title to the Project, (C) of the costs of such Project and that such costs have been paid by the Borrower and (D) if such costs were paid before adoption of this Supplemental Resolution that the Borrower has complied with Section 1.150-2 of the Regulations;

(6) the items required by the Indenture for the portion of the 2015 Loan to be disbursed at Closing; and

(7) such other certificates, documents and other information as the DNRC, the DEQ or the Bond Counsel giving the opinion referred to in subparagraph (1) may require (including any necessary arbitrage rebate instructions).

(b) In order to obtain a disbursement of a portion of the 2015 Loan to pay costs of the 2015 Project, the Borrower shall submit to the DNRC and the Trustee a signed request for disbursement on the form prescribed by the DNRC, with all attachments required by such form. The Borrower may obtain disbursements only for costs which have been legally incurred and are due and payable. All Loan disbursements will be made to the Borrower only upon proof that cost was incurred.

(c) For refinancings, a disbursement schedule complying with the requirements of the Safe Drinking Water Act shall be established by the DNRC and the Borrower at Closing. The Trustee shall disburse 2015 Loan amounts directly to the holder of the debt being refinanced according to such schedule. If the Borrower should repay all or a portion of the debt to be refinanced from other sources or should otherwise not need any portion of the 2015 Loan which was to have been used to refinance such debt, it shall inform the DNRC and the Trustee of such fact pursuant to Section 3.4(b) and a new disbursement schedule shall be drawn up by the DNRC. The DNRC shall obtain a receipt from the holder of the debt being refinanced for each disbursement made to pay or prepay a portion of such debt.

(d) If all or a portion of a Loan is made to reimburse a Borrower for Project costs paid by it prior to Closing, the Borrower shall present at Closing the items required by Section 4.1(b)

relating to such costs. The Trustee shall disburse such amounts to the Borrower pursuant to a disbursement schedule complying with the requirements of the Safe Drinking Water Act established by the DNRC and the Borrower at the Closing.

(e) Notwithstanding anything else provided herein, the Trustee shall not be obligated to disburse the Loan any faster or to any greater extent than it has available EPA Capitalization Grants, Bond proceeds and other amounts available therefor in the Revolving Fund. The DNRC shall not be required to do "overmatching" pursuant to Section 5.04(b) of the Indenture, but may do so in its discretion. The Borrower acknowledges that if Project costs are incurred faster than the Borrower projected at Closing, there may be delays in making Loan disbursements for such costs because of the schedule under which EPA makes EPA Capitalization Grant money available to the DNRC. The DNRC will use its best efforts to obtain an acceleration of such schedule if necessary.

(f) Upon making each 2015 Loan disbursement, the Trustee shall note such disbursement on Schedule A to the Series 2015 Bond.

(g) The Borrower agrees that it will deposit in the Reserve Account upon receipt thereof, on the date of the first advance under the 2015 Loans and any subsequent disbursement dates, any proceeds of the 2015 Loans borrowed for the purpose of increasing the balance in the Reserve Account in an amount then required to satisfy the Reserve Requirement. The Borrower further acknowledges and agrees that any portion of the 2015 Loan representing capitalized interest shall be advanced only on Payment Dates and shall be transferred by the Trustee on the Payment Date directly to the Revenue Bond Account. The amount of any such transfer shall be a credit against the interest payments due on the Series 2015 Bond and interest thereon shall accrue only from the date of transfer.

(h) Compliance by the Borrower with its representations, covenants and agreements contained in the Resolution, this Supplemental Resolution and the Collateral Documents shall be a further condition precedent to the disbursement of the Loan in whole or in part. The DNRC and the Trustee, in their sole and absolute discretion, may make one or more disbursements, in whole or in part, notwithstanding such noncompliance, and without liability to make any subsequent disbursement of the Loan.

Section 4.2 Commencement of Loan Term. The Borrower's obligations under this Supplemental Resolution and the Collateral Documents shall commence on the date hereof unless otherwise provided in this Supplemental Resolution. However, the obligation to make payments under ARTICLE V hereof shall commence only upon the first disbursement by the Trustee of the 2015 Loan proceeds.

Section 4.3 Termination of Loan Term. The Borrower's obligations under the Resolution and the Collateral Documents in respect of the Series 2015 Bond shall terminate upon payment in full of all amounts due under the Series 2015 Bond and the Resolution in respect thereof; provided, however, that the covenants and obligations provided in ARTICLE VI and Section 10.4 of this Supplemental Resolution shall survive the termination of the Resolution.

Section 4.4 Loan Closing Submissions. On or prior to the Closing, the Borrower will have delivered to the DNRC and the Trustee the closing submissions required by Section 7.05 of the Indenture.

ARTICLE V

REPAYMENT OF 2015 LOAN

Section 5.1 Repayment of 2015 Loan. The Borrower shall repay the amounts lent to it pursuant to Section 4.1 hereof, plus interest on the unpaid amounts lent at the rate of two percent (2.00%) per annum, in semiannual Loan Repayments. In addition, the Borrower shall pay an Administrative Expense Surcharge and a Loan Loss Reserve Surcharge, each at the rate of twenty-five hundredths of one percent (0.25%) per annum on the outstanding principal amount of the 2015 Loan. For purposes of this Supplemental Resolution and the Program, the term "Interest on the Loan" or "Interest on the 2015 Loan" shall include the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge. The Borrower shall pay all Loan Repayments and Administrative Expense Surcharge and Loan Loss Reserve Surcharge in lawful money of the United States of America to the DNRC. Interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall be calculated on the basis of a year of 360 days comprising 12 months of 30 days each.

The Loan Repayments required by this Section 5.1, and the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge, shall be due on each January 1 and July 1 (the "Payment Dates"), as follows:

(a) interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the outstanding principal balance of the 2015 Loan shall be payable on each January 1 and July 1, beginning on July 1, 2016 and concluding on January 1, 2036; and

(b) the principal of the 2015 Loan shall be repayable on each Payment Date, beginning on July 1, 2016 and concluding on January 1, 2036, and the amount of each principal payment shall be calculated on the basis of an interest rate of 2.50% per annum; provided that principal of the 2015 Loan is payable only in amounts that are multiples of $1,000.

The payments of principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the 2015 Loan shall be due on the dates and in the amounts shown in Schedule B to the Series 2015 Bond, as such Schedule B shall be modified from time to time as provided below. The portion of each such Loan Repayment consisting of principal and the portion consisting of interest and the amount of each Administrative Expense Surcharge and the amount of each Loan Loss Reserve Surcharge shall be set forth in Schedule B to the Series 2015 Bond. Upon each disbursement of 2015 Loan amounts to the Borrower pursuant to Section 4.1 hereof, the Trustee shall enter or cause to be entered the amount advanced on Schedule A to the Series 2015 Bond under "Advances" and the total amount advanced under Section 4.1, including such disbursement, under "Total Amount Advanced."

If the advance was made to pay costs of the 2015 Project pursuant to Section 4.1(b), interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on such advance shall accrue from the date the advance is made and shall be payable on each Payment Date thereafter. Once the completion certificate for the 2015 Project has been delivered to the DNRC, the Trustee shall revise Schedule B to the Series 2015 Bond in accordance with this Section 5.1 and the Trustee shall send a copy of such Schedule B to the Borrower within one month after delivery of the completion certificate.

Past-due payments of principal and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall bear interest at the rate of ten percent (10.00%) per annum, until paid.

Any payment of principal, interest or Administrative Expense Surcharge and Loan Loss Reserve Surcharge under this Section 5.1 shall also be credited against the same payment obligation under the Series 2015 Bond.

Section 5.2 Additional Payments. The Borrower shall also pay, within 30 days after receipt of a bill therefor, from any legally available funds therefor, including proceeds of the 2015 Loan, if the Borrower so chooses, all reasonable expenses of the DNRC and the Trustee in connection with the Loan, the Collateral Documents and the Series 2015 Bond, including, but not limited to:

(a) the cost of reproducing this Supplemental Resolution, the Collateral Documents and the Series 2015 Bond;

(b) the fees and disbursements of Bond Counsel and other Counsel utilized by the DNRC and the Trustee in connection with the Loan, the Resolution, the Collateral Documents and the Series 2015 Bond and the enforcement thereof; and

(c) all taxes and other governmental charges in connection with the execution and delivery of the Collateral Documents or the Series 2015 Bond, whether or not the Series 2015 Bond is then outstanding, including all recording and filing fees relating to the Collateral Documents and the pledge of the State's right, title and interest in and to the Series 2015 Bond, the Collateral Documents and the Resolution under the Resolution (and with the exceptions noted therein) and all expenses, including attorneys' fees, relating to any amendments, waivers, consents or collection or enforcement proceedings pursuant to the provisions hereof or thereof.

Section 5.3 Prepayments. The Borrower may not prepay all or any part of the outstanding principal amount of the Series 2015 Bond, unless (i) it obtains the prior written consent of the DNRC thereto, and (ii) no Loan Repayment or Administrative Expense Surcharge or Loan Loss Reserve Surcharge is then delinquent. Any prepayment permitted by the DNRC must be accompanied by payment of accrued interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge to the date of prepayment on the amount of principal prepaid. If the Series 2015 Bond is prepaid in part pursuant to this Section 5.3, such prepayments shall be applied to principal payments in inverse order of maturity.

Section 5.4 Obligations of Borrower Unconditional. The obligations of the Borrower to make the payments required by the Resolution and the Series 2015 Bond and to perform its other agreements contained in the Resolution, the Series 2015 Bond and Collateral Documents shall be absolute and unconditional, except as otherwise provided herein or in such documents. The Borrower (a) shall not suspend or discontinue any payments provided for in the Resolution and the Series 2015 Bond, (b) shall perform all its other agreements in the Resolution, the Series 2015 Bond and the Collateral Documents and (c) shall not terminate the Resolution, the Series 2015 Bond or the Collateral Documents for any cause, including any acts or circumstances that may constitute failure of consideration, destruction of or damage to the 2015 Project or the System, commercial frustration of purpose, any dispute with the DNRC or the EPA, any change in the laws of the United States or of the State or any political subdivision of either or any failure of the DNRC to perform any of its agreements, whether express or implied, or any duty, liability or obligation arising from or connected with the Resolution.

Section 5.5 Limited Liability. All payments of principal of and interest on the 2015 Loan and other payment obligations of the Borrower hereunder and under the Series 2015 Bond shall be special, limited obligations of the Borrower payable solely out of the Net Revenues and shall not, except at the option of the Borrower and as permitted by law, be payable out of any other revenues of the Borrower. The obligations of the Borrower under the Resolution and the Series 2015 Bond shall never constitute an indebtedness of the Borrower within the meaning of any state constitutional provision or statutory or charter limitation and shall never constitute or give rise to a pecuniary liability of the Borrower or a charge against its general credit or taxing power. The taxing powers of the Borrower may not be used to pay principal of or interest on the Series 2015 Bond, and no funds or property of the Borrower other than the Net Revenues may be required to be used to pay principal of or interest on the Series 2015 Bond.

ARTICLE VI

INDEMNIFICATION OF DNRC AND DEQ

The Borrower shall, to the full extent permitted by law, indemnify and save harmless the DNRC and the DEQ and their officers, employees and agents (each an "Indemnified Party" or, collectively, the "Indemnified Parties") against and from any and all claims, damages, demands, expenses, liabilities and losses of every kind asserted by or on behalf of any Person arising out of the acts or omissions of the Borrower or its employees, officers, agents, contractors, subcontractors, or consultants in connection with or with regard or in any way relating to the condition, use, possession, conduct, management, planning, design, acquisition, construction, installation or financing of the 2015 Project. The Borrower shall also, to the full extent permitted by law, indemnify and save harmless the Indemnified Parties against and from all costs, reasonable attorneys' fees, expenses and liabilities incurred in any action or proceeding brought by reason of any such claim or demand. If any proceeding is brought against an Indemnified Party by reason of such claim or demand, the Borrower shall, upon notice from an Indemnified Party, defend such proceeding on behalf of the Indemnified Party.

ARTICLE VII

ASSIGNMENT

Section 7.1 Assignment by Borrower. The Borrower may not assign its rights and obligations under the Resolution or the Series 2015 Bond.

Section 7.2 Assignment by DNRC. The DNRC will pledge its rights under and interest in the Resolution, the Series 2015 Bond and the Collateral Documents (except to the extent otherwise provided in the Indenture) as security for the payment of the State Bonds and may further assign such interests to the extent permitted by the Indenture, without the consent of the Borrower.

Section 7.3 State Refunding Bonds. In the event the State Bonds and Additional State Bonds are refunded by bonds which are not Additional State Bonds, all references in the Resolution to State Bonds and Additional State Bonds shall be deemed to refer to the refunding bonds and any bonds of the State on a parity with such refunding bonds (together, the "Refunding Bonds") or, in the case of a crossover refunding, to the State Bonds and Additional State Bonds and the Refunding Bonds. In the event the State Bonds are refunded by an issue of Additional State Bonds, all references in the Resolution to the State Bonds shall be deemed to refer to such Additional State Bonds or, in the case of a crossover refunding, both the State Bonds and such Additional State Bonds.

ARTICLE VIII

THE SERIES 2015 BOND

Section 8.1 Net Revenues Available. The Borrower is authorized to charge just and equitable rates, charges and rentals for all services directly or indirectly furnished by the System, and to pledge and appropriate to the Series 1998 Bond, Series 1999 Bond, Series 2006 Bond, Series 2007 Bond, Series 2009B Bond, and the Series 2015 Bond the Net Revenues to be derived from the operation of the System, including improvements, betterments or extensions thereof hereafter constructed or acquired. The Net Revenues to be produced by such rates, charges and rentals during the term of the Series 2015 Bond are expected to be more than sufficient to pay the principal and interest when due on the Series 1998 Bond, Series 1999 Bond, Series 2006 Bond, Series 2007 Bond, Series 2009B Bond, and the Series 2015 Bond, and to create and maintain reasonable reserves therefor and to provide an adequate allowance for replacement and depreciation, as prescribed herein.

Section 8.2 Issuance and Sale of the Series 2015 Bond. The Council has investigated the facts necessary and hereby finds, determines and declares it to be necessary and desirable for the Borrower to issue the Series 2015 Bond to evidence the 2015 Loan. The Series 2015 Bond is issued to the DNRC without public sale pursuant to Montana Code Annotated, Section 7-7-4433.

Section 8.3 Terms. The Series 2015 Bond shall be in the maximum principal amount equal to the Committed Amount, shall be issued as a single, fully registered bond numbered R-1, shall be dated as of the date of delivery to the DNRC, and shall bear interest at the rate charged

by the DNRC on the 2015 Loan. The principal of and interest on the Series 2015 Bond shall be payable on the same dates and in the same amounts on which principal and interest of the Loan Repayments are payable. Advances of principal of the Series 2015 Bond shall be deemed made when advances of the 2015 Loan are made under Section 4.1, and such advances shall be payable in accordance with Schedule B to the Series 2015 Bond, as it may be revised by the DNRC from time to time in accordance with Section 5.1.

The Borrower may prepay the Series 2015 Bond, in whole or in part, only upon the terms and conditions under which it can prepay the 2015 Loan under Section 5.3.

Section 8.4 Negotiability, Transfer and Registration. The Series 2015 Bond shall be fully registered as to both principal and interest, and shall be initially registered in the name of and payable to the DNRC. While so registered, principal of and interest on the Series 2015 Bond shall be payable to the DNRC at the Office of the Department of Natural Resources and Conservation, 1625 Eleventh Avenue, Helena, Montana 59620-1601 or such other place as may be designated by the DNRC in writing and delivered to the Borrower. The Series 2015 Bond shall be negotiable, subject to the provisions for registration and transfer contained in this Section. No transfer of the Series 2015 Bond shall be valid unless and until (1) the holder, or his duly authorized attorney or legal representative, has executed the form of assignment appearing on the Series 2015 Bond, and (2) the City Finance Director of the Borrower (or successors, the "Registrar"), as Bond Registrar, has duly noted the transfer on the Series 2015 Bond and recorded the transfer on the registration books of the Registrar. The Registrar may, prior to noting and recording the transfer, require appropriate proof of the transferor's authority and the genuineness of the transferor's signature. The Borrower shall be entitled to deem and treat the Person in whose name the Series 2015 Bond is registered as the absolute owner of the Series 2015 Bond for all purposes, notwithstanding any notice to the contrary, and all payments to the registered holder shall be valid and effectual to satisfy and discharge the Borrower's liability upon such Bond to the extent of the sum or sums so paid.

Section 8.5 Execution and Delivery. The Series 2015 Bond shall be executed on behalf of the Borrower by the manual signatures of the Mayor, City Finance Director, and City Clerk. Any or all of such signatures may be affixed at or prior to the date of delivery of the Series 2015 Bond. The Series 2015 Bond shall be sealed with the corporate seal of the Borrower. In the event that any of the officers who shall have signed the Series 2015 Bond shall cease to be officers of the Borrower before the Series 2015 Bond is issued or delivered, their signatures shall remain binding upon the Borrower. Conversely, the Series 2015 Bond may be signed by an authorized official who did not hold such office on the date of adoption of this Supplemental Resolution. The Series 2015 Bond shall be delivered to the DNRC, or its attorney or legal representative.

Section 8.6 Form. The Series 2015 Bond shall be prepared in substantially the form attached as Appendix B.

Section 8.7 2015 Acquisition and Construction Account. The 2015 Acquisition and Construction Account (the "2015 Acquisition and Construction Account") is hereby created as a separate account within the Water System Fund and shall be used only to pay as incurred and allowed, costs which under accepted accounting practice are capital costs of the 2015 Project and

of such future reconstructions, improvements, betterments or extensions of the System as may be authorized in accordance with law, including but not limited to payments due for work and materials performed and delivered under construction contracts, architectural, engineering, inspection, supervision, fiscal and legal expenses, the cost of lands and easements, reimbursement of any advances made from other Borrower funds, and all other expenses incurred in connection with the acquisition, construction and financing of any such undertaking and the issuance of the Series 2015 Bond. To the 2015 Acquisition and Construction Account shall be credited as received the portion of the proceeds of Series 2015 Bond for costs of the 2015 Project and for costs of issuance of the Series 2015 Bond and any other funds appropriated by the Borrower to the 2015 Acquisition and Construction Account for improvements to the System, and all income received from the investment of the 2015 Acquisition and Construction Account.

ARTICLE IX

SECURITY FOR THE SERIES 2015 BOND

The Series 2015 Bond is issued as an Additional Bond under Section 6.01 of the Original Resolution, as amended by this Supplemental Resolution, and shall, with the Series 1998 Bond, Series 1999 Bond, Series 2006 Bond, Series 2007 Bond, Series 2009B Bond, and any other Additional Bonds issued under the provisions of Section 6.01 of the Original Resolution, as amended by this Supplemental Resolution, be equally and ratably secured by the provisions of the Resolution and payable out of the Net Revenues appropriated to the Revenue Bond Account of the Water System Fund, without preference or priority, all as provided in the Resolution, and secured by the Reserve Account, as further provided in Section 7.05 of the Original Resolution. Upon advancement of principal of the Series 2015 Bond, the City Finance Director shall transfer from available funds of the System such amount or amounts to the Reserve Account to cause the balance therein to equal the Reserve Requirement in respect of the Series 1998 Bond, Series 1999 Bond, the Series 2006 Bond, the Series 2007 Bond, the Series 2009B Bond and the Series 2015 Bond, treating all of the principal amount of the Series 2015 Bond as advanced at Closing. In the event the amount in the Reserve Account exceeds the Reserve Requirement as of the date of the final disbursement of proceeds of the Series 2015 Bond, the Borrower shall reduce the amount then in the Reserve Account to equal the Reserve Requirement, recognizing that none of the amounts in the Reserve Account shall be from proceeds of the Series 2015 Bond. Thereafter, upon each monthly apportionment, from the Net Revenues remaining after the apportionment to the Revenue Bond Account, the Borrower shall credit to the Reserve Account such additional Net Revenues as may be required to establish and thereafter maintain the balance in an amount equal, as of the date of calculation, to the Reserve Requirement. The Borrower shall keep, perform and observe each and every one of its covenants and undertakings set forth in the Resolution for the benefit of the registered owners from time to time of the Series 2015 Bond.

ARTICLE X

TAX MATTERS

Section 10.1 Use of 2015 Project. The 2015 Project will be owned and operated by the Borrower and available for use by members of the general public on a substantially equal basis.

The Borrower shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the 2015 Project or the System or security for the payment of the Series 2015 Bond which might cause the Series 2015 Bond to be considered a "private activity bond" or "private loan bond" within the meaning of Section 141 of the Code.

Section 10.2 General Covenant. The Borrower covenants and agrees with the owners from time to time of the Series 2015 Bond that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Series 2015 Bond to become includable in gross income for federal income tax purposes under the Code and the Regulations, and covenants to take any and all actions within its powers to ensure that the interest on the Series 2015 Bond will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

Section 10.3 Arbitrage Certification. The Mayor, City Finance Director, and City Clerk, being the officers of the Borrower charged with the responsibility for issuing the Series 2015 Bond pursuant to the Resolution, are authorized and directed to execute and deliver to the DNRC a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Series 2015 Bond, it is reasonably expected that the proceeds of the Series 2015 Bond will be used in a manner that would not cause the Series 2015 Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code and the Regulations.

Section 10.4 Arbitrage Rebate Exemption.

(a) The Borrower hereby represents that the Series 2015 Bond qualifies for the exception for small governmental units to the arbitrage rebate provisions contained in Section 148(f) of the Code. Specifically, the Borrower represents:

(1) Substantially all (not less than 95%) of the proceeds of the Series 2015 Bond (except for amounts to be applied to the payment of costs of issuance) will be used for local governmental activities of the Borrower.

(2) The aggregate face amount of all "tax-exempt bonds" (including warrants, contracts, leases and other indebtedness, but excluding private activity bonds and excluding certain refunding bonds) issued by or on behalf of the Borrower and all subordinate entities thereof during 2015 is reasonably expected not to exceed $5,000,000. To date in 2015, the Borrower has not issued any tax-exempt bonds other than its $960,000 Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015 (the "Series 2015 Sewer Bond"), being issued simultaneously herewith, and its $7,183,000 Tax Increment Urban Renewal Revenue Refunding Bonds (the "Tax Increment Bonds"). Because the Tax Increment Bonds were issued to refund on a current refunding basis certain outstanding bonds and the amount of the Tax Increment Bonds does not exceed the outstanding amount of the bonds refunded, pursuant to Section 148(f)(4)(D)(iii) of the Code, the Tax Increment Bonds are hereby not taken into account in determining the Borrower's status as a small governmental

unit under Section 148(f)(4)(D) of the Code. In the calendar years 2010 through 2014, the Borrower issued no tax-exempt bonds, except for its $452,300 Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2014, $300,000 Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2014A, $328,000 First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2011B, $350,000 First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2011C, and $61,300 Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2010B.

(b) If notwithstanding the provisions of paragraph (a) of this Section 10.4, the arbitrage rebate provisions of Section 148(f) of the Code apply to the Series 2015 Bond, the Borrower hereby covenants and agrees to make the determinations, retain records and rebate to the United States the amounts at the times and in the manner required by said Section 148(f).

Section 10.5 Information Reporting. The Borrower shall file with the Secretary of the Treasury, not later than February 15, 2016, a statement concerning the Series 2015 Bond containing the information required by Section 149(e) of the Code.

Section 10.6 "Qualified Tax-Exempt Obligations."

Pursuant to Section 265(b)(3)(B)(ii) of the Code, the Borrower hereby designates the Series 2015 Bond as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. The Borrower has not designated any obligations in 2015 under Section 265(b)(3) other than the Series 2015 Sewer Bond, the Tax Increment Bonds and the Series 2015 Bond. Because the Tax Increment Bonds were issued to refund on a current refunding basis certain outstanding bonds and the amount of the Tax Increment Bonds does not exceed the outstanding amount of the bonds refunded, pursuant to Section 265(b)(3)(C)(ii)(III) of the Code, the Tax Increment Bonds are hereby not taken into account in determining the Borrower's status as a qualified small issuer under Section 265(b)(3) of the Code. In addition, the Tax Increment Bonds were "deemed designated" under Section 265(b)(3)(D)(ii) of the Code. The Borrower hereby represents that it does not anticipate that obligations bearing interest not includable in gross income for purposes of federal income taxation under Section 103 of the Code (including refunding obligations as provided in Section 265(b)(3) of the Code and including "qualified 501(c)(3) bonds" but excluding other "private activity bonds," as defined in Sections 141(a) and 145(a) of the Code) will be issued by or on behalf of the Borrower and all "subordinate entities" of the Borrower in 2015 in an amount greater than $10,000,000.

ARTICLE XI

AMENDMENTS

Section 11.1 Authorization. Pursuant to Section 9.02 of the Original Resolution, the Borrower reserved the right to amend the Resolution with the written consent of the DNRC.

Section 11.2 Consent of the DNRC. The DNRC has consented in writing to the amendments of the provisions of the Original Resolution set forth herein.

Section 11.3 Amendments.

(a) Definitions. Section 1.01 of the Original Resolution is hereby amended to amend the following definition, in its entirety, as follows:

> "'Reserve Requirement' means, as of the date of calculation, an amount equal to one-half the sum of the highest cumulative amount of principal of and interest payable on all outstanding Bonds in any one future fiscal year (giving effect to mandatory sinking fund redemption, if any)."

(b) Section 8.09 Section 8.09 of the Original Resolution is hereby amended to read, in its entirety, as follows:

> "8.09. Rates and charges. While any Bonds are Outstanding and unpaid, the rates, charges and rentals for all services and facilities furnished and made available by the System to the City and its inhabitants, and to all customers within or without the boundaries of the City, shall be reasonable and just, taking into consideration the cost and value of the System and the cost of maintaining and operating them, and the amounts necessary for the payment of all Bonds and the interest accruing thereon, and the proper and necessary allowances for the depreciation of the System, and no free service shall be provided to any person or corporation. It is covenanted and agreed that the rates, charges and rentals to be charged to all recipients of water services shall be maintained and shall be revised whenever and as often as may be necessary, according to schedules such that the Revenues for each fiscal year will be at least sufficient to pay the current Operating Expenses, to maintain the Operating Reserve, to produce Net Revenues during each fiscal year not less than 110% of the maximum annual principal and interest payable on any outstanding Bonds in the current or any future fiscal year, to maintain the amount in the Reserve Account at the Reserve Requirement, and to pay the principal of and interest on any Subordinate Obligations and to establish necessary reserves for the repair or replacement of the System.
>
> If at the close of any fiscal year the Net Revenues actually received during such year have been less than required hereby, the City will forthwith prepare a schedule of altered rates, charges and rentals which are just and equitable and sufficient to produce Net Revenues and Surplus Net Revenues in such amount, and will do all things necessary to the end that such schedule will be placed in operation at the earliest possible date.
>
> The establishment of the above ratio of Net Revenues available for the Revenue Bond Account is deemed necessary for the issuance of the Bonds upon terms most advantageous to the City. The excess of the Net Revenues over the Principal and Interest Requirements of the Bonds and the Reserve Requirement may be used as authorized in Section 7 of the Original Resolution. In the estimation of the Council, any excess of Net Revenues over principal and interest payments actually due and the balance required to be maintained in the Reserve Account will be needed to pay or to provide reserves for

payment of replacements, renewals and improvement costs to provide adequate service for the present population and the increase thereof reasonably to be expected."

(c) Section 6.01(D). Section 6.01(D) of the Original Resolution is hereby amended to read, in its entirety, as follows:

"D. The City reserves the right to issue Additional Bonds payable from the Revenue Bond Account of the Water System Fund, on a parity as to both principal and interest with the then Outstanding Bonds, if the Net Revenues of the System for the last complete fiscal year preceding the date of issuance of such Additional Bonds have equaled at least 110% of the maximum Principal and Interest Requirements in any subsequent fiscal year during the term of the Outstanding Bonds, on all Bonds then Outstanding and on the Additional Bonds proposed to be issued. For the purpose of the foregoing computation, the Net Revenues for the fiscal year preceding the issuance of Additional Bonds shall be those shown by the financial reports caused to be prepared by the City pursuant to Section 8.06, except that if the rates and charges for services provided by the System have been changed since the beginning of such preceding fiscal year, then the rates and charges in effect at the time of issuance of the Additional Bonds or finally authorized to go into effect within 60 days thereafter shall be applied to the quantities of service actually rendered and made available during such preceding fiscal year to ascertain the gross revenues, from which there shall be deducted to determine the Net Revenues, the actual Operating Expenses plus any additional annual Operating Expenses which the Accountant or engineer estimates will be incurred because of the improvement or extension of the System to be constructed from the proceeds of the Additional Bonds proposed to be issued. In no event shall any Additional Bonds be issued and made payable from the Revenue Bond Account if the City is then in default in any payment of principal of or interest on any Outstanding Bonds payable therefrom or if there then exists any deficiency in the balances required by this Resolution to be maintained in any of the accounts of the Water System Fund, which will not be cured or restored upon the issuance of the Additional Bonds. In connection with the issuance of a series of Additional Bonds, the City shall cause the balance in the Reserve Account to be increased, from the proceeds of the Additional Bonds or from surplus Net Revenues, to an amount equal to the Reserve Requirement."

Section 11.4 Effect of Amendments. The Original Resolution, as amended and supplemented to the date hereof, shall be further amended and supplemented by the above provisions of Section 11.3 as of the date of this Supplemental Resolution, and shall continue in full force and effect as so amended and supplemented.

ARTICLE XII

CONTINUING DISCLOSURE

The Borrower understands and acknowledges that the DNRC is acquiring the Series 2015 Bond under the Program pursuant to which the State issues from time to time State Bonds to provide funds therefor. The Borrower covenants and agrees that, upon written request of the DNRC from time to time, the Borrower will promptly provide to the DNRC all information that

the DNRC reasonably determines to be necessary or appropriate to offer and sell State Bonds or to provide continuing disclosure in respect of State Bonds, whether under Rule 15c2-12 (17 C.F.R. § 240.15c2-12) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, or otherwise. Such information shall include, among other things and if so requested, financial statements of the Borrower prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under Montana law, as in effect from time to time (such financial statements to relate to a fiscal year or any period therein for which they are customarily prepared by the Borrower, and, if for a fiscal year and so requested by the DNRC, subject to an audit report and opinion of an accountant or government auditor, as permitted or required by the laws of the State). The Borrower will also provide, with any information so furnished to the DNRC, a certificate of the City Finance Director of the Borrower to the effect that, to the best of their knowledge, such information does not include any untrue statement of a material fact or omit to state any material fact required to be stated therein to make the statements made, in light of the circumstances under which they are made, not misleading.

ARTICLE XIII

MISCELLANEOUS

Section 13.1 Notices. All notices or other communications hereunder shall be sufficiently sent or given and shall be deemed sent or given when delivered or mailed by certified mail, postage prepaid, to the parties at the following addresses:

DNRC: Department of Natural Resources and Conservation
1625 Eleventh Avenue
P. O. Box 201601
Helena, Montana 59620-1601
Attn: Conservation and Resource
Development Division

Trustee: U.S. Bank National Association
c/o Corporate Trust Services
1420 Fifth Avenue, 7th Floor
Seattle, Washington 98101

Borrower: City of Whitefish
P.O. Box 158
Whitefish, Montana 59937
Attn: City Finance Director

Any of the above parties may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices or other communications shall be sent.

Section 13.2 Binding Effect. This Supplemental Resolution shall inure to the benefit of and shall be binding upon the DNRC, the Borrower and their respective successors and assigns.

Section 13.3 Severability. If any provision of this Supplemental Resolution shall be determined to be unenforceable at any time, it shall not affect any other provision of the Resolution or the enforceability of that provision at any other time.

Section 13.4 Amendments. This Supplemental Resolution may not be effectively amended without the written consent of the DNRC.

Section 13.5 Applicable Law. This Supplemental Resolution shall be governed by and construed in accordance with the internal laws of the State.

Section 13.6 Captions; References to Sections. The captions in this Supplemental Resolution are for convenience only and do not define or limit the scope or intent of any provisions or Sections of this Supplemental Resolution.

Section 13.7 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Supplemental Resolution shall be had against any director, officer or employee, as such, past, present or future, of the DNRC, the DEQ or the Trustee, either directly or through the DNRC, the DEQ or the Trustee, or against any officer, or member of the governing body or employee of the Borrower, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer or member of the governing body or employee of the DNRC, the Trustee or the Borrower is hereby expressly waived and released by the Borrower and by the DNRC as a condition of and in consideration for the adoption of this Supplemental Resolution and the making of the Loan.

Section 13.8 Payments Due on Holidays. If the date for making any payment or the last date for performance of any act or the exercise of any right, as provided in this Supplemental Resolution or the Series 2015 Bond, shall not be Business Day, such payments may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Supplemental Resolution or the Series 2015 Bond.

Section 13.9 Right of Others To Perform Borrower's Covenants. In the event the Borrower shall fail to make any payment or perform any act required to be performed hereunder, then and in each such case the DNRC or the provider of any Collateral Document may (but shall not be obligated to) remedy such default for the account of the Borrower and make advances for that purpose. No such performance or advance shall operate to release the Borrower from any such default and any sums so advanced by the DNRC or the provider of any Collateral Document shall be paid immediately to the party making such advance and shall bear interest at the rate of ten percent (10.00%) per annum from the date of the advance until repaid. The DNRC and the provider of any Collateral Document shall have the right to enter the 2015 Project or the facility or facilities of which the 2015 Project is a part or any other facility which is a part of the System in order to effectuate the purposes of this Section.

Section 13.10 Authentication of Transcript. The officers of the Borrower are hereby authorized and directed to furnish to the DNRC and to Bond Counsel certified copies of all proceedings relating to the issuance of the Series 2015 Bond and such other certificates and affidavits as may be required to show the right, power and authority of the Borrower to issue the Series 2015 Bond, and all statements contained in and shown by such instruments, including any heretofore furnished, shall constitute representations of the Borrower as to the truth of the statements of fact purported to be shown thereby.

Section 13.11 Effective Date. This Supplemental Resolution shall take effect immediately.

Adopted by the City Council of the City of Whitefish, Montana, on this 7th day of December, 2015.

_____
John M. Muhlfeld, Mayor

Attest: _____
Necile Lorang, City Clerk

(SEAL)

APPENDIX A

Description of the 2015 Project

The 2015 Project consists of replacing water main and related improvements in conjunction with the State of Montana's Whitefish West U.S. 93 Highway Reconstruction Project. The 2015 Project includes the installation of approximately 2,100 feet of 12-inch watermain in HWY 93 between Murray Avenue and Fairway Drive. Approximately 1,250 feet of 8-inch water main will also be installed in HWY 93, near Mountainside Drive in order to facilitate interconnection between the Lower Grouse Mountain and Mountain Park zones. Connections will be made to all intersecting water mains and new water service lines will be installed from the water main to the property line. In addition, service stubs will be provided to existing properties that are not currently connected to City water.

Estimated Budget for Application of Proceeds of Series 2015 Bond

Costs	**Series 2015 Bond**	**Impact Fees**	**City Funds**	**Total:**
MDT Indirect Cost	$9,708	$16,700	$21,307	47,715
MDT Indirect CE Costs	1,017	1,392	2,232	4,641
Loan Reserves			3,438	3,438
Bond Counsel and related costs			5,000	5,000
Construction Engineering Services	10,352	17,809	22,722	50,883
Construction	98,923	163,901	206,014	468,838
TOTAL PROJECT COSTS	$120,000	$199,802	$260,713	$580,515

APPENDIX B

[Form of the Series 2015 Bond]

UNITED STATES OF AMERICA
STATE OF MONTANA
COUNTY OF FLATHEAD

CITY OF WHITEFISH

WATER SYSTEM REVENUE BOND
(DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAM)
SERIES 2015

R-1 $120,000.00

FOR VALUE RECEIVED, the City of Whitefish, Montana (the "Borrower"), a duly organized municipal corporation and political subdivision of the State of Montana, acknowledges itself to be specially indebted and, for value received, hereby promises to pay to the Department of Natural Resources and Conservation of the State of Montana (the "DNRC"), or its registered assigns, solely from the Revenue Bond Account of its Water System Fund, the principal sum equal to the sum of the amounts entered on Schedule A attached hereto under "Total Amount Advanced," with interest on each such amount from the date such amount is advanced hereunder at the rate of two percent (2.00%) per annum on the unpaid balance until paid. In addition, the Borrower shall pay an Administrative Expense Surcharge and a Loan Loss Reserve Surcharge on the outstanding principal amount of this Bond, each at the rate of twenty-five hundredths of one percent (0.25%) per annum. Interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall be payable in semiannual installments payable on each January 1 and July 1 (each a "Loan Repayment Date") commencing July 1, 2016. Principal shall be payable on the dates set forth in Schedule B hereto. Each installment shall be in the amount set forth opposite its due date in Schedule B hereto under "Total Loan Payment." The portion of each such payment consisting of principal, the portion consisting of interest and the portion consisting of Administrative Expense Surcharge and the portion consisting of Loan Loss Reserve Surcharge shall be as set forth in Schedule B hereto. Upon each disbursement of 2015 Loan amounts to the Borrower pursuant to the Resolution described below, the DNRC shall enter (or cause to be entered) the amount advanced on Schedule A under "Advances" and the total amount advanced under the Resolution (as hereinafter defined), including such disbursement, under "Total Amount Advanced." The DNRC shall prepare Schedule B and revised Schedules B, or cause Schedule B and revised Schedules B to be prepared, as provided in Section 5.1 of the Resolution. Schedule B shall be calculated and recalculated on a level debt service basis assuming an interest rate of two and one-half percent (2.50%) per annum. Past-due payments of principal and interest, Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall bear interest at the rate of ten percent (10.00%) per annum, until paid. Interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall be calculated on the basis of a 360-day year comprising 12 months of 30 days each. All payments under this Bond shall be made to the registered holder

of this Bond, at its address as it appears on the Bond register, in lawful money of the United States of America.

This Bond is one of an issue of Water System Revenue Bonds of the Borrower authorized to be issued in one or more series from time to time, and constitutes a series in the maximum authorized principal amount of $120,000 (the "Series 2015 Bond"). The Series 2015 Bond is issued to finance a portion of the costs of the construction of certain improvements to the water system of the Borrower (the "System"). The Series 2015 Bond is issued pursuant to and in full conformity with the Constitution and laws of the State of Montana thereunto enabling, including Montana Code Annotated, Title 7, Chapter 7, Part 44, as amended, and ordinances and resolutions duly adopted by the governing body of the Borrower, including Resolution 93-11, adopted by the City Council on August 16, 1993, as amended and supplemented by Resolution Nos. 98-34, 99-21, 06-31, 07-30, 09-38, 12-36 and 15-50, adopted by the City Council of the City on July 6, 1998, August 2, 1999, May 15, 2006, August 7, 2007, September 21, 2009, November 5, 2012 and December 7, 2015, respectively (as so amended and supplemented, the "Resolution"). The Series 2015 Bond is issuable only as a single, fully registered bond. The Series 2015 Bond is issued on a parity with the Borrower's outstanding First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 1998 (the "Series 1998 Bond"), First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 1999 (the "Series 1999 Bond"), First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2006 (the "Series 2006 Bond"), First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2007 (the "Series 2007 Bond") and Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2009B (the "Series 2009B Bond"). Terms used with initial capital letters but not defined herein have the meanings given them in the Resolution.

Reference is made to the Resolution for a more complete statement of the terms and conditions upon which the Series 2015 Bond has been issued, the Net Revenues of the System pledged and appropriated for the payment and security thereof, the conditions upon which Additional Bonds may be issued under the Resolution and made payable from such Net Revenues on a parity with the Series 1998 Bond, the Series 1999 Bond, the Series 2006 Bond, the Series 2007 Bond, the Series 2009B Bond and the Series 2015 Bond (collectively, the "Bonds") or otherwise, the conditions upon which the Resolution may be amended, the rights, duties and obligations of the Borrower, and the rights of the owners of the Series 2015 Bond.

The Borrower may prepay the principal of the Series 2015 Bond only if (i) it obtains the prior written consent of the DNRC thereto, and (ii) no Loan Repayment or Administrative Expense Surcharge or Loan Loss Reserve Surcharge is then delinquent. Any prepayment permitted by the DNRC must be accompanied by payment of accrued interest, and Administrative Expense Surcharge and Loan Loss Reserve Surcharge to the date of prepayment on the amount of principal prepaid. If the Series 2015 Bond is prepaid in part, such prepayments shall be applied to principal payments in inverse order of maturity.

The Series 2015 Bond, including interest and any premium for the redemption thereof, are payable solely from the Net Revenues pledged for the payment thereof and do not

constitute a debt of the Borrower within the meaning of any constitutional or statutory limitation or provision.

The Borrower may deem and treat the person in whose name this Series 2015 Bond is registered as the absolute owner hereof, whether this Series 2015 Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and the Borrower shall not be affected by any notice to the contrary. The Series 2015 Bond may be transferred as hereinafter provided.

The Series 2015 Bond has been designated by the Borrower as a "qualified tax-exempt obligation" pursuant to Section 265(b) of the Internal Revenue Code of 1986, as amended.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the Borrower will forthwith construct and complete the improvements to the System hereinabove described; that it will prescribe and collect reasonable rates and charges for all services and facilities afforded by the System, including all additions thereto and replacements and improvements thereof, and has created a special Water System Fund into which the gross revenues of the System will be paid, and a separate and special Revenue Bond Account in that Fund, into which will be paid each month, from and as a first and prior lien on the Net Revenues of the System then on hand, an amount equal to not less than the sum of one-sixth of the interest to become due within the next six months and one-twelfth of the principal to become due within the next twelve months with respect to all Bonds payable semiannually from that Account; that the Borrower has created a Reserve Account in such fund into which shall be paid additional Net Revenues, after required credits to the Revenue Bond Account sufficient to maintain a reserve therein equal to the Reserve Requirement; that the Revenue Bond Account will be used only to pay the principal of, premium, if any, and interest on the Bonds and any other additional Bonds issued pursuant to the Resolution on a parity therewith; that the rates and charges for the System will from time to time be made and kept sufficient, to provide gross income and revenues adequate to pay promptly the reasonable and current expenses of operating and maintaining the System and to produce in each fiscal year Net Revenues in excess of such current expenses, equal to 110% of the maximum amount of principal and interest payable from the Revenue Bond Account in any subsequent fiscal year; that additional Bonds and refunding Bonds may be issued and made payable from the Revenue Bond Account on a parity with the Series 1998 Bond, the Series 1999 Bond, the Series 2006 Bond, the Series 2007 Bond, the Series 2009B Bond, the Series 2015 Bond, and other parity Bonds, upon certain conditions set forth in the Resolution, but no obligation will be otherwise incurred and made payable from the Net Revenues of the System, unless the lien thereof shall be expressly made subordinate to the lien of the Series 1998 Bond, the Series 1999 Bond, the Series 2006 Bond, the Series 2007 Bond, the Series 2009B Bond, the Series 2015 Bond, and additional parity Bonds on such Net Revenues; that all provisions for the security of the holder of this Series 2015 Bond set forth in the Resolution will be punctually and faithfully performed as therein stipulated; that all acts, conditions and things required by the Constitution and laws of the State of Montana and the ordinances and resolutions of the Borrower to be done, to exist, to happen and to be performed in order to make this Series 2015 Bond a valid and binding special obligation of the Borrower according to its terms have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; and that this Series 2015 Bond and the interest hereon are payable solely from the Net Revenues of the System pledged and appropriated to the Revenue Bond Account and do not constitute a debt of the Borrower within the meaning of

any constitutional or statutory limitation or provision and the issuance of the Series 2015 Bond does not cause either the general or the special indebtedness of the Borrower to exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City of Whitefish, Montana, by its governing body, has caused this Bond to be executed by the signatures of its Mayor, the City Finance Director, and City Clerk, and has caused the official seal of the Borrower to be affixed hereto, and has caused this Bond to be dated as of the 17th day of December, 2015.

_____
John M. Mulhfeld, Mayor

_____
Dana M. Smith, City Finance Director

(SEAL)

_____
Necile Lorang, City Clerk

REGISTRATION AND TRANSFER

This Bond shall be fully registered as to both principal and interest. No transfer of this Bond shall be valid unless and until (1) the registered holder of the Bond, or his duly authorized attorney or legal representative, executes the form of assignment appearing on this Bond, and (2) the City Finance Director as bond registrar (the "Registrar"), has duly noted the transfer on the Bond and recorded the transfer on the Registrar's registration books. The Borrower shall be entitled to deem and treat the person in whose name this Bond is registered as absolute owner thereof for all purposes, notwithstanding any notice to the contrary. Payments on account of the Bond shall be made only to the order of the registered holder thereof, and all such payments shall be valid and effectual to satisfy and discharge the Borrower's liability upon the Bond to the extent of the sum or sums so paid.

REGISTER

The ownership of the unpaid Principal Balance of this Bond and the interest accruing thereon is registered on the books of the City of Whitefish, Montana in the name of the registered holder appearing on the first page hereof or as last noted below:

Date of Registration	Name and Address of Registered Holder	Signature of City Finance Director
December 17, 2015	Department of Natural Resources and Conservation 1625 Eleventh Avenue Helena, MT 59620	_____

THE FOLLOWING ENTRIES ARE TO BE MADE ONLY BY THE BOND REGISTRAR UPON REGISTRATION OF EACH TRANSFER

The City Finance Director of the City of Whitefish, Montana, acting as Bond Registrar, has transferred, on the books of the Borrower, on the date last noted below, ownership of the principal amount of and the accrued interest on this Bond to the new registered holder noted next to such date, except for amounts of principal and interest theretofore paid.

Date of Transfer	Name of New Registered Holder	Signature of Bond Registrar
_____	_____	_____
_____	_____	_____
_____	_____	_____

FORM OF ASSIGNMENT

For value received, this Bond is hereby transferred and assigned by the undersigned holder, without recourse,
to _____ on this _____ day
of _____, _____.

By:_____
(Authorized Signature)

For:_____
(Holder)

SCHEDULE A

SCHEDULE OF AMOUNTS ADVANCED

Date	Advances	Total Amount Advanced	Notation Made By

SCHEDULE B

Date	Principal	Interest	Administrative Expense Surcharge	Loan Loss Reserve Surcharge	Total Loan Payment

APPENDIX C

ADDITIONAL REPRESENTATIONS AND COVENANTS

None

Staff Report

To: Mayor John Muhlfeld and City Councilors

From: Dana Smith, Finance Director Dana Smith

Date: November 30, 2015

Re: Resolution relating to $120,000 Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2015; Authorizing The Issuance And Fixing The Terms And Conditions Thereof

Introduction/History

In 2014, the Montana Department of Transportation (MDT) continued reconstruction of Highway 93 North from Karrow Avenue west to Mountainside Drive, often referred to as Phase II of the Whitefish West Project. The City knew that during Phase II of the reconstruction project it was necessary to continue to replace and increase the capacity of the water lines under the Highway 93 North while the road was under construction. Phase II, from Karrow Avenue to Mountainside Drive, is now substantially complete.

When MDT does a project, they typically require any City contributions for the costs of construction to be paid up front. However, similar to the process in Phase I, MDT allowed the City to pay only a portion of the City's contribution to the construction costs upfront for Phase II. In July 2014, the City paid $199,802 to MDT from water impact fees with the remaining construction costs estimated at $472,000 (including bond issuance costs) to be financed through the State's Revolving Fund (SRF) Loan Program and paid to MDT at the end of the project.

Current Report

The current costs owed to MDT for the water improvements is $372,275. Due to the reserve requirements changing from one-year's debt service to one half of one-year's debt service for the SRF Loan Program, the City will be able to use approximately $268,846 in cash that is currently restricted for reserves to pay for the next debt service payment due in January. As a result, cash from the current year's operating activity that was anticipated to be used for those debt service payments will now be used to reduce the loan amount to $120,000. Loan reserves of $3,438, bond counsel costs of $5,000, and construction costs of $252,275 will therefore be paid with cash on hand. The remaining amount due to MDT will be paid through proceeds from the $120,000 revenue bond from the SRF Loan Program.

The packet contains the standard bond resolution prepared by the Bond Counsel Dorsey & Whitney in Missoula. City Manager Chuck Stearns and I have reviewed and revised the Bond Resolution with the City's bond counsel, Dorsey and Whitney.

Financial Requirement

The total loan amount of the water revenue bond will be $120,000. The total interest rate on the bond/loan will be 2.5% and payable over 20 years. Net Revenues (annual operating revenues minus annual operating costs) currently meet the 110% coverage requirement so no water rate increase is needed to pay for this bond. The coverage calculations by the DNRC and the amortization schedule for the loan is included in the packet.

The total costs due to MDT are within the budgeted amounts included in the FY16 Adopted Budget.

Recommendation

Staff respectfully requests the City Council approve a Resolution related to the $120,000 Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2015; Authorizing The Issuance And Fixing The Terms And Conditions Thereof

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

STEVE BULLOCK, GOVERNOR
1625 ELEVENTH AVENUE
STATE OF MONTANA
DIRECTOR'S OFFICE: (406) 444-2074
FAX: (406) 444-2684
PO BOX 201601
HELENA, MONTANA 59620-1601

MEMORANDUM

To: Chuck Stearns
City of Whitefish

From: Anna Miller
Department of Natural Resources and Conservation

Subject: Whitefish Drinking Water WRF Loan $120,000 Coverage Calculation

Date: November 6, 2015

I have reviewed the FY 2016 budget information of the City's Drinking Water system. The drinking water fees will be pledged to the debt of the water system. I have estimated closing dates just to see if coverage is made. Currently there are five loans outstanding. The City is looking at borrowing funds for a total of $120,000.

Coverage Calculation

The average highest year's debt service is $550,960 in fiscal year 2018.
Coverage is $550,960 x 110% = $606,056.

Calculation using 2016 Budgeted Revenue and Expenses

Water System Budgeted Revenue FY 2016	$ 2,875,000
Water System Budgeted Expenses FY 2016	$<1,766,818>
Total Net Revenues	$ 1,108,182

Net Revenues	$ 1,108,182
Coverage Needed	$< 606,056>
Coverage **is** made by	$ 502,126

The coverage for the loan is in place. I have attached the 2016 budgeted revenue and expenses for Whitefish. There is a copy of the estimated payment schedules. I will adjust the dates on the payment schedules once we know the closing date.

Please call if you have questions. My number is 406-444-6689.

cc: Terry Campbell – DEQ w/
Janice Yearry – DNRC w/
Courtney Ellis – Dorsey & Whitney w/
Whitefish V $120,000 WRF file w/

AM:jy

Whitefish Water System Loans

	1998A WRF I $400,000	1998B WRF II $5,839,000	2006 WRF III $895,835	2007 WRF IV $900,000	2009B WRF ARRA $120,100	2015 WRF V $120,000	Total
2017	27,210	396,870	57,869	53,576	6,596	7,092	549,213
2018	27,690	397,390	57,834	54,620	6,551	6,875	550,960
2019	14,140	397,750	57,765	53,630	6,507	6,775	536,567
2020	-	197,960	57,685	54,629	6,462	7,675	324,411
2021	-	-	57,571	53,594	6,416	8,538	126,119
2022	-	-	58,435	54,547	6,372	8,387	127,741
2023	-	-	57,265	54,468	6,326	8,238	126,297
2024	-	-	58,084	54,354	6,281	8,087	126,806
2025	-	-	57,869	54,229	6,236	7,937	126,271
2026	-	-	58,620	54,070	6,191	7,787	126,668
2027	-	-	29,326	53,900	6,147	7,638	97,011
2028	-	-	-		6,102	7,488	13,590
2029					6,056	7,337	13,393
2030					3,011	7,188	10,199
2031						7,037	7,037
2032						6,888	6,888
2033						7,737	7,737
2034						8,550	8,550
2035						8,350	8,350
2036						8,150	8,150
Total	69,040	1,389,970	608,323	595,617	85,254	153,754	2,901,958

Reserve needed is half a years debt service: $6,875 divided by two =3,438.

Preliminary Schedule

STATE OF MONTANA
GENERAL OBLIGATION BONDS
DRINKING WATER
(REVOLVING FUND PROGRAM)

BORROWER: Whitefish V
PROJECT NAME: WRF-
LOAN COMMITMENT: $120,000
LOAN AMOUNT: 120,000
INTEREST RATE: 2.50%

FINAL LOAN PAYMENT: 1/1/2036
OF LOAN PAYMENTS: 40
PROJECT NUMBER:
DATE OF FUNDING: 12/17/2015

	PAYMENT DUE	LOAN LOSS RESERVE	ADM EXPENSE SURCHARGE	INTEREST PAYMENT	PRINCIPAL PAYMENT	O/S LOAN BALANCE	TOTAL AMOUNT OF PAYMENT	
1	7/1/2016	161.67	161.67	1,293.33	2,000.00	118,000.00	$3,616.67	
2	1/1/2017	147.50	147.50	1,180.00	2,000.00	116,000.00	$3,475.00	$ 7,091.67
3	7/1/2017	145.00	145.00	1,160.00	2,000.00	114,000.00	$3,450.00	
4	1/1/2018	142.50	142.50	1,140.00	2,000.00	112,000.00	$3,425.00	$ 6,875.00
5	7/1/2018	140.00	140.00	1,120.00	2,000.00	110,000.00	$3,400.00	
6	1/1/2019	137.50	137.50	1,100.00	2,000.00	108,000.00	$3,375.00	$ 6,775.00
7	7/1/2019	135.00	135.00	1,080.00	2,000.00	106,000.00	$3,350.00	
8	1/1/2020	132.50	132.50	1,060.00	3,000.00	103,000.00	$4,325.00	$ 7,675.00
9	7/1/2020	128.75	128.75	1,030.00	3,000.00	100,000.00	$4,287.50	
10	1/1/2021	125.00	125.00	1,000.00	3,000.00	97,000.00	$4,250.00	$ 8,537.50
11	7/1/2021	121.25	121.25	970.00	3,000.00	94,000.00	$4,212.50	
12	1/1/2022	117.50	117.50	940.00	3,000.00	91,000.00	$4,175.00	$ 8,387.50
13	7/1/2022	113.75	113.75	910.00	3,000.00	88,000.00	$4,137.50	
14	1/1/2023	110.00	110.00	880.00	3,000.00	85,000.00	$4,100.00	$ 8,237.50
15	7/1/2023	106.25	106.25	850.00	3,000.00	82,000.00	$4,062.50	
16	1/1/2024	102.50	102.50	820.00	3,000.00	79,000.00	$4,025.00	$ 8,087.50
17	7/1/2024	98.75	98.75	790.00	3,000.00	76,000.00	$3,987.50	
18	1/1/2025	95.00	95.00	760.00	3,000.00	73,000.00	$3,950.00	$ 7,937.50
19	7/1/2025	91.25	91.25	730.00	3,000.00	70,000.00	$3,912.50	
20	1/1/2026	87.50	87.50	700.00	3,000.00	67,000.00	$3,875.00	$ 7,787.50
21	7/1/2026	83.75	83.75	670.00	3,000.00	64,000.00	$3,837.50	
22	1/1/2027	80.00	80.00	640.00	3,000.00	61,000.00	$3,800.00	$ 7,637.50
23	7/1/2027	76.25	76.25	610.00	3,000.00	58,000.00	$3,762.50	
24	1/1/2028	72.50	72.50	580.00	3,000.00	55,000.00	$3,725.00	$ 7,487.50
25	7/1/2028	68.75	68.75	550.00	3,000.00	52,000.00	$3,687.50	
26	1/1/2029	65.00	65.00	520.00	3,000.00	49,000.00	$3,650.00	$ 7,337.50
27	7/1/2029	61.25	61.25	490.00	3,000.00	46,000.00	$3,612.50	
28	1/1/2030	57.50	57.50	460.00	3,000.00	43,000.00	$3,575.00	$ 7,187.50
29	7/1/2030	53.75	53.75	430.00	3,000.00	40,000.00	$3,537.50	
30	1/1/2031	50.00	50.00	400.00	3,000.00	37,000.00	$3,500.00	$ 7,037.50
31	7/1/2031	46.25	46.25	370.00	3,000.00	34,000.00	$3,462.50	
32	1/1/2032	42.50	42.50	340.00	3,000.00	31,000.00	$3,425.00	$ 6,887.50
33	7/1/2032	38.75	38.75	310.00	3,000.00	28,000.00	$3,387.50	
34	1/1/2033	35.00	35.00	280.00	4,000.00	24,000.00	$4,350.00	$ 7,737.50
35	7/1/2033	30.00	30.00	240.00	4,000.00	20,000.00	$4,300.00	
36	1/1/2034	25.00	25.00	200.00	4,000.00	16,000.00	$4,250.00	$ 8,550.00
37	7/1/2034	20.00	20.00	160.00	4,000.00	12,000.00	$4,200.00	
38	1/1/2035	15.00	15.00	120.00	4,000.00	8,000.00	$4,150.00	$ 8,350.00
39	7/1/2035	10.00	10.00	80.00	4,000.00	4,000.00	$4,100.00	
40	1/1/2036	5.00	5.00	40.00	4,000.00	0.00	$4,050.00	$ 8,150.00
		3,375.42	3,375.42	27,003.33	120,000.00		153,754.17	

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Whitefish, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO $960,000 SEWER SYSTEM REVENUE BOND (DNRC WATER POLLUTION CONTROL STATE REVOLVING LOAN PROGRAM), SERIES 2015; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on December 7, 2015 and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Council Members voted in favor thereof: _____ _____; voted against the same: _____; abstained from voting thereon: _____ _____; or were absent: _____.

WITNESS my hand officially this 7th day of December, 2015.

_____
Necile Lorang, City Clerk

SUPPLEMENTAL RESOLUTION

Relating to

$960,000
SEWER SYSTEM REVENUE BOND
(DNRC WATER POLLUTION CONTROL STATE REVOLVING LOAN PROGRAM),
SERIES 2015

CITY OF WHITEFISH, MONTANA

Adopted: December 7, 2015

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(For convenience only, not a part of this Supplemental Resolution)

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RESOLUTION NO. 15-51

RESOLUTION RELATING TO $960,000 SEWER SYSTEM REVENUE BOND (DNRC WATER POLLUTION CONTROL STATE REVOLVING LOAN PROGRAM), SERIES 2015; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF

WHEREAS, pursuant to the Water Pollution Control State Revolving Fund Act, Montana Code Annotated, Title 75, Chapter 5, Part 11, as amended (the "State Act"), the State of Montana (the "State") has established a revolving loan program (the "Program") to be administered by the Department of Natural Resources and Conservation of the State of Montana, an agency of the State (the "DNRC"), and by the Department of Environmental Quality of the State of Montana, an agency of the State (the "DEQ"), and has provided that a water pollution control state revolving fund (the "Revolving Fund") be created within the state treasury and all federal, state and other funds for use in the Program be deposited into the Revolving Fund, including, but not limited to, all federal grants for capitalization of a state water pollution control revolving fund under the Federal Water Pollution Control Act (the "Clean Water Act"), all repayments of assistance awarded from the Revolving Fund, interest on investments made on money in the Revolving Fund and payments of principal of and interest on loans made from the Revolving Fund; and

WHEREAS, the State Act provides that funds from the Program shall be disbursed and administered for the purposes set forth in the Clean Water Act and according to rules adopted by the DEQ and the DNRC; and

WHEREAS, the City of Whitefish, Montana (the "Borrower") has applied to the DNRC for the 2015 Loan (as hereinafter defined) from the Revolving Fund to enable the Borrower to finance, refinance or reimburse itself, in part, for a portion of the costs of the 2015 Project (as hereinafter defined) which will carry out the purposes of the Clean Water Act; and

WHEREAS, the Borrower is authorized under applicable laws, ordinances and regulations to adopt this Supplemental Resolution and to issue the Series 2015 Bond (as hereinafter defined) to evidence the 2015 Loan (as hereinafter defined) for the purposes set forth herein; and

WHEREAS, the DNRC will fund the 2015 Loan with Recycled Money (as hereinafter defined).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, AS FOLLOWS:

ARTICLE I

DEFINITIONS, RULES OF CONSTRUCTION AND APPENDICES

Section 1.1 Definitions. Unless a different meaning clearly appears from the context, terms used with initial capital letters but undefined in this Supplemental Resolution shall have the meanings given them in the Original Resolution, the Indenture, or as follows:

"Accountant" or "Accountants" means an independent certified public accountant or a firm of independent certified public accountants satisfactory to the DNRC.

"Acquisition and Construction Account" means the account created in the Sewer System Fund pursuant to Section 11.2 of the Original Resolution.

"Act" means Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as heretofore and hereafter amended or supplemented.

"Administrative Expense Surcharge" means a surcharge equal to twenty-five hundredths of one percent (0.25%) per annum on the outstanding principal amount of the 2015 Loan from the date of each advance thereof, payable by the Borrower on a Payment Date.

"Authorized DNRC Officer" means the Director of the DNRC or his or her designee.

"Bond Counsel" means any Counsel nationally recognized as experienced in matters relating to the issuance by states or political subdivisions of tax-exempt obligations selected by the Borrower and acceptable to the DNRC.

"Bonds" means the Series 2002 Bond, the Series 2008A Bond, the Series 2008B Bond, the Series 2010B Bond, the Series 2011B Bond, the Series 2011C Bond, the Series 2014 Bond, the Series 2014A Bond, the Series 2015 Bond, and any additional Bonds issued pursuant to Article X of the Original Resolution, excluding Section 10.4 thereof.

"Borrower" means the City.

"Business Day" means any day which is not a Saturday or Sunday, a legal holiday in the State or a day on which banks in Montana are authorized or required by law to close.

"City" means the City of Whitefish, Montana and its permitted successors or assigns hereunder.

"Clean Water Act" means the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1387, as amended, and all regulations, rules and interpretations issued by the EPA thereunder.

"Closing" means the date of delivery of the Series 2015 Bond to the DNRC.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collateral Documents" means any security agreement, guaranty or other document or agreement delivered to the DNRC securing the obligations of the Borrower under this Supplemental Resolution and the Series 2015 Bond. If no Collateral Documents secure such obligations, any reference to Collateral Documents in this Supplemental Resolution shall be without effect.

"Committed Amount" means the amount of the Loan committed to be lent by the DNRC to the Borrower pursuant to Section 4.1 of this Supplemental Resolution, as such amount may be reduced pursuant to Sections 3.2, and 3.4 of this Supplemental Resolution.

"Consultant" means a nationally recognized consultant or firm of consultants, or an independent engineer or firm of independent engineers, or an Accountant, which in any case is qualified and has skill and experience in the preparation of financial feasibility studies or projections for facilities similar to the System or the 2015 Project, selected by the Borrower and satisfactory to the DNRC.

"Council" means the City Council of the City of Whitefish, Montana.

"Counsel" means an attorney duly admitted to practice law before the highest court of any state and satisfactory to the DNRC.

"Debt" means, without duplication, (1) indebtedness of the Borrower for borrowed money or for the deferred purchase price of property or services; (2) the obligation of the Borrower as lessee under leases which should be recorded as capital leases under generally accepted accounting principles; and (3) obligations of the Borrower under direct or indirect guarantees in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in clause (1) or (2) above.

"DEQ" means the Department of Environmental Quality of the State of Montana, an agency of the State, or any successor to its powers, duties and obligations under the State Act or the EPA Agreements.

"DNRC" means the Department of Natural Resources and Conservation of the State of Montana, an agency of the State, and any successor to its powers, duties and obligations under the State Act.

"EPA" means the Environmental Protection Agency, an agency of the United States of America, and any successor to its functions under the Clean Water Act.

"EPA Agreements" means all capitalization grant agreements and other written agreements between the DEQ, DNRC and the EPA concerning the Program.

"EPA Capitalization Grant" means a grant of funds to the State by the EPA under Title VI of the Clean Water Act and any grant made available by the EPA for deposit in the Revolving Fund pursuant to Section 205(m) of the Clean Water Act.

"Fund" means the Sewer System Fund established pursuant to Section 11.1 of the Original Resolution.

"Governmental Unit" means governmental unit as such term is used in Section 145(a) of the Code.

"Indenture" means the Indenture of Trust, dated as of June 1, 1991, between the Board of Examiners of the State and the Trustee, as such has been or may be supplemented or amended from time to time in accordance with the provisions thereof, pursuant to which, among other things, the State Bonds are to be or have been issued.

"Loan Loss Reserve Surcharge" means a surcharge equal to twenty-five hundredths of one percent (0.25%) per annum on the outstanding principal amount of the 2015 Loan from the date of each advance thereof, payable by the Borrower on a Payment Date.

"Net Revenues" means the entire amount of the gross revenues of the System (as described in Section 11.1 of the Original Resolution) remaining upon each such monthly apportionment, after crediting to the Operating Account the amount required by the Resolution, including sums required to maintain the Operating Reserve in the minimum amount as stated in Section 11.3 of the Original Resolution.

"Operating Account" means the account created in the Sewer System Fund pursuant to Sections 11.1 and 11.3 of the Original Resolution.

"Original Resolution" means Resolution No. 02-52, adopted by the City Council on October 7, 2002.

"Program" means the Water Pollution Control State Revolving Loan Program established by the State Act.

"Project" means an improvement, betterment, reconstruction or extension of the System, including the 2015 Project.

"Public Entity" means a State agency, city, town, municipality, irrigation district, county water and sewer district, a soil conservation district or other public body established by State law or an Indian tribe that has a federally recognized governing body carrying out substantial governmental duties and powers over any area.

"Recycled Money" means payments and prepayments of principal of loans made under the Program, and any other amounts transferred to the Principal Subaccount in the Revenue Subaccount in the State Allocation Account (as such terms are defined in the Indenture).

"Regulations" means the Treasury Department, Income Tax Regulations, as amended or any successor regulation thereto, promulgated under the Code or otherwise applicable to the Series 2015 Bond.

"Replacement and Depreciation Account" means the account created in the Sewer System Fund pursuant to Section 11.6 of the Original Resolution.

"Reserve Account" means the account created in the Sewer System Fund pursuant to Sections 11.1 and 11.5 of the Original Resolution.

"Reserve Requirement" means, as of the date of calculation, an amount equal to one-half of the sum of the highest cumulative amount of principal of and interest payable on all outstanding Bonds in any one future fiscal year (giving effect to mandatory sinking fund redemption, if any).

"Resolution" means the Original Resolution, as amended and supplemented by Resolution Nos. 08-59, 10-01, 11-20, 12-37, 14-04, and 14-53, adopted by the City Council on December 1, 2008, January 4, 2010, April 4, 2011, November 5, 2012, February 18, 2014, and November 3, 2014, respectively, and by this Supplemental Resolution.

"Revenue Bond Account" means the account created in the Sewer System Fund pursuant to Sections 11.1 and 11.4 of the Original Resolution.

"Series 2002 Bond" means the First Amended and Restated Sewer System Revenue Bond (DNRC Revolving Loan Program), Series 2002, issued by the Borrower, in the maximum authorized principal amount of $107,000 pursuant to the Original Resolution as then in effect.

"Series 2008A Bond" means the First Amended and Restated Sewer System Revenue Bond (DNRC Revolving Loan Program), Series 2008A, issued by the Borrower, in the maximum authorized principal amount to $372,000 pursuant to the Resolution as then in effect.

"Series 2008B Bond" means the First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2008B, issued by the Borrower, in the maximum authorized principal amount of $1,262,000 pursuant to the Resolution as then in effect.

"Series 2010B Bond" means the Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2010B, issued by the Borrower, in the maximum authorized principal amount of $61,300 pursuant to the Resolution as then in effect.

"Series 2011B Bond" means the First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2011B, issued by the Borrower, in the maximum authorized principal amount of $328,000 pursuant to the Resolution as then in effect.

"Series 2011C Bond" means the First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2011C, issued by the Borrower, in the maximum authorized principal amount of $350,000 pursuant to the Resolution as then in effect.

"Series 2014 Bond" means the Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2014, issued by the Borrower, in the maximum authorized principal amount of $452,300 pursuant to the Resolution as then in effect.

"Series 2014A Bond" means the Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2014A, issued by the Borrower, in the maximum authorized amount of up to $300,000 pursuant to the Resolution as then in effect.

"Series 2015 Bond" means the Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015, issued by the Borrower, in the maximum authorized amount of up to $960,000 pursuant to the Resolution and issued to the DNRC to evidence the 2015 Loan.

"Sewer Revenues" means revenues (gross or net) received by the Borrower from or in connection with the operation of the System.

"Sewer System Fund" means the fund created by Section 11.1 of the Original Resolution.

"State" means the State of Montana.

"State Act" means Montana Code Annotated, Title 75, Chapter 5, Part 11, as amended from time to time.

"State Bonds" means the State's General Obligation Bonds (Water Pollution Control State Revolving Fund Program), issued or to be issued pursuant to the Indenture.

"Subordinate Obligations" means any subordinate obligations issued under Section 10.4 of the Original Resolution.

"Supplemental Resolution" means this Resolution No. ____ of the Borrower adopted on December 7, 2015.

"Surplus Account" means the account created in the Sewer System Fund pursuant to Sections 11.1 and 11.7 of the Original Resolution.

"Surplus Net Revenues" shall mean that portion of the Net Revenues in excess of the current requirements of the Operating Account, the Revenue Bond Account and the Reserve Account.

"System" means the existing sewer system of the Borrower and all extensions, improvements and betterments thereof hereafter constructed and acquired, including, without limitation, the 2015 Project.

"Trustee" means U.S. Bank National Association, in Seattle, Washington, or any successor trustee under the Indenture.

"2015 Committed Amount" means the amount of the 2015 Loan committed to be lent by the DNRC to the Borrower pursuant to Section 4.1 of this Supplemental Resolution, as such amount may be reduced pursuant to Sections 3.2 and 3.4 of this Supplemental Resolution.

"2015 Loan" or "Loan" means the 2015 Loan made to the Borrower by the DNRC pursuant to the Program in the maximum amount of the 2015 Committed Amount to provide

funds to pay all or a portion of the costs of the 2015 Project, to fund a deposit to the Reserve Account and to pay costs associated with the sale and issuance of the Series 2015 Bond.

"2015 Project" means the designing, engineering, and construction of the facilities, improvements and activities financed, refinanced or the cost of which is being financed by or reimbursed to the Borrower with proceeds of the 2015 Loan, described in Appendix A hereto.

"Undisbursed Committed Amount" means any undisbursed Committed Amount which is not required to pay costs of the 2015 Project upon completion thereof as provided in Section 3.4 of this Supplemental Resolution.

Section 1.2 Other Rules of Construction. For all purposes of this Supplemental Resolution, except where the context clearly indicates otherwise:

(a) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted government accounting standards.

(b) Terms in the singular include the plural and vice versa.

(c) All references to time shall refer to Helena, Montana time, unless otherwise provided herein.

(d) All references to mail shall refer to first-class mail postage prepaid.

(e) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(f) "Or" is not exclusive, but is intended to permit or encompass one, more or all of the alternatives conjoined.

Section 1.3 Appendices. Attached to this Supplemental Resolution and hereby made a part hereof are the following Appendices:

Appendix A: a description of the 2015 Project;

Appendix B: the form of the Series 2015 Bond; and

Appendix C: additional agreements and representations of the Borrower.

ARTICLE II

AUTHORIZATION, FINDINGS, REPRESENTATIONS AND COVENANTS

Section 2.1 Authorization and Findings.

(a) Authorization. Under the provisions of the Act, the Borrower is authorized to issue and sell its revenue bonds payable during a term not exceeding forty years from their date of issue, to provide funds for the reconstruction, improvement, betterment and extension of the

System or to refund its revenue bonds issued for such purpose; provided that the bonds and the interest thereon are to be payable solely out of the net income and revenues to be derived from rates, fees and charges for the services, facilities and commodities furnished by the undertaking, and are not to create any obligation for the payment of which taxes may be levied except to pay for services provided by the undertaking to the Borrower.

(b) The System. The Borrower, pursuant to the Act and other laws of the State, has established and presently owns and operates the System.

(c) The 2015 Project. After investigation of the facts and as authorized by the Act, this Council has determined it to be necessary and desirable and in the best interests of the Borrower to acquire and construct the 2015 Project.

(d) Outstanding Bonds. Pursuant to the Act and the Original Resolution, the Borrower has issued, and has outstanding, its Series 2002 Bond, Series 2008A Bond, Series 2008B Bond, Series 2010B Bond, Series 2011B Bond, Series 2011C Bond, Series 2014 Bond, and Series 2014A Bond. The Series 2002 Bond, the Series 2008A Bond, the Series 2008B Bond, the Series 2010B Bond, the Series 2011B Bond, the Series 2011C Bond, the Series 2014 Bond, and the Series 2014A Bond are payable from Net Revenues of the System. No other bonds or indebtedness are outstanding that are payable from or secured by revenues of the System.

(e) Additional Parity Bonds. The Borrower reserved the right under Section 10.3 of the Original Resolution, as amended, to issue additional Bonds payable from the Revenue Bond Account of the Fund on a parity as to both principal and interest with the outstanding Bonds, if the Net Revenues of the System for the last complete fiscal year preceding the date of issuance of such additional Bonds have equaled at least 110% of the maximum amount of principal and interest payable from the Revenue Bond Account in any subsequent fiscal year during the term of the outstanding Bonds, on all Bonds then outstanding and on the additional Bonds proposed to be issued. For the purpose of the foregoing computation, the Net Revenues for the fiscal year preceding the issuance of the additional Bonds shall be those shown by the financial reports caused to be prepared by the Borrower pursuant to the Original Resolution, except that if the rates and charges for services provided by the System or finally authorized to go into effect within 60 days after the issuance of the additional Bonds have been changed since the beginning of such preceding fiscal year, then the rates and charges in effect at the time of issuance of the additional Bonds shall be applied to the quantities of service actually rendered and made available during such preceding fiscal year to ascertain the gross revenues, from which there shall be deducted to determine the Net Revenues, the actual operation and maintenance cost plus any additional annual costs of operation and maintenance the Consultant estimates will be incurred because of the improvement or extension of the System to be constructed from the proceeds of the additional Bonds proposed to be issued. In no event shall any additional Bonds be issued and made payable from the Revenue Bond Account if the Borrower is then in default in any payment of principal of or interest on any outstanding Bonds payable therefrom, or if there then exists any deficiency in the balances required by the Original Resolution to be maintained in any of the accounts of the Fund, which will not be cured or restored upon the issuance of the additional Bonds. Based on a certificate executed or to be executed by the Mayor, the City Finance Director, and the City Clerk, or any of them, it is hereby determined that the Borrower is authorized to issue additional Bonds in the maximum principal amount up to

$960,000 pursuant to Section 10.3 of the Original Resolution payable from and secured by the Net Revenues on a parity with the outstanding Series 2002 Bond, Series 2008A Bond, Series 2008B Bond, Series 2010B Bond, Series 2011B Bond, Series 2011C Bond, Series 2014 Bond, and Series 2014A Bond.

Section 2.2 Representations. The Borrower represents as follows:

(a) Organization and Authority. The Borrower:

(1) is duly organized and validly existing as a municipal corporation of the State;

(2) has all requisite power and authority and all necessary licenses and permits required as of the date hereof to own and operate the System and to carry on its current activities with respect to the System, to adopt this Supplemental Resolution and to enter into the Collateral Documents and to issue the Series 2015 Bond and to carry out and consummate all transactions contemplated by the Supplemental Resolution, the Series 2015 Bond and the Collateral Documents;

(3) is a Governmental Unit and a Public Entity; and

(4) has taken all proper action to authorize the execution, delivery and performance of its obligations under this Supplemental Resolution, the Series 2015 Bond and the Collateral Documents and the incurrence of the Debt evidenced by the Series 2015 Bond in the maximum amount of the Committed Amount.

(b) Litigation. There is no litigation or proceeding pending, or to the knowledge of the Borrower threatened, against or affecting the Borrower in any court or before or by any governmental authority or arbitration board or tribunal that, if adversely determined, would materially and adversely affect the existence, corporate or otherwise, of the Borrower, or the ability of the Borrower to make all payments and otherwise perform its obligations under the Resolution, the Series 2015 Bond and the Collateral Documents, or the financial condition of the Borrower, or the transactions contemplated by the Resolution, the Series 2015 Bond and the Collateral Documents or the validity and enforceability of the Resolution, the Series 2015 Bond and the Collateral Documents. No referendum petition has been filed with respect to any resolution or other action of the Borrower relating to the 2015 Project, the Series 2015 Bond or any Collateral Documents and the period for filing any such petition will have expired before issuance of the Series 2015 Bond.

(c) Borrowing Legal and Authorized. The adoption of this Supplemental Resolution, the execution and delivery of the Series 2015 Bond and the Collateral Documents and the consummation of the transactions provided for in this Supplemental Resolution, the Series 2015 Bond and the Collateral Documents and compliance by the Borrower with the provisions of the Resolution, the Series 2015 Bond and the Collateral Documents:

(1) are within the powers of the Borrower and have been duly authorized by all necessary action on the part of the Borrower; and

(2) do not and will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Borrower pursuant to any ordinance, resolution, indenture, loan agreement or other agreement or instrument (other than the Resolution and any Collateral Documents) to which the Borrower is a party or by which the Borrower or its property may be bound, nor will such action result in any violation of the provisions of any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the Borrower, its properties or operations are subject.

(d) No Defaults. No event has occurred and no condition exists that, upon execution and delivery of the Series 2015 Bond and the Collateral Documents, would constitute a default under the Resolution or the Collateral Documents. The Borrower is not in violation of any term of any agreement, bond resolution, trust indenture, charter or other instrument to which it is a party or by which it or its property may be bound which violation would materially and adversely affect the transactions contemplated hereby or the compliance by the Borrower with the terms hereof or of the Series 2015 Bond and the Collateral Documents.

(e) Governmental Consent. The Borrower has obtained or made all permits, findings and approvals required to the date of adoption of this Supplemental Resolution by any governmental body or officer for the making and performance by the Borrower of its obligations under this Supplemental Resolution, the Series 2015 Bond and the Collateral Documents (including any necessary sewer rate increase) or for the 2015 Project, the financing or refinancing thereof or the reimbursement of the Borrower for the costs thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental authority (other than those, if any, already obtained) is required on the part of the Borrower as a condition to adopting this Supplemental Resolution, issuing the Series 2015 Bond or entering into the Collateral Documents and the performance of the Borrower's obligations hereunder and thereunder. If a utility board or commission manages or controls the System, such board or commission has agreed with the DNRC to abide by the terms of the Resolution and the Collateral Documents, including approving any necessary sewer rate increases.

(f) Binding Obligation. The Resolution, the Series 2015 Bond and any Collateral Document to which the Borrower is a party are the valid and binding special, limited obligations and agreements of the Borrower, enforceable against the Borrower in accordance with their terms, except to the extent that the enforceability thereof may be limited by laws relating to bankruptcy, moratorium, reorganization, insolvency or similar laws affecting creditors' rights and general principles of equity.

(g) The 2015 Project. The 2015 Project consists and will consist of the facilities, improvements and activities described in Appendix A, as such Appendix A may be amended

from time to time in accordance with the provisions of Article III of this Supplemental Resolution.

(h) Full Disclosure. There is no fact that the Borrower has not specifically disclosed in writing to the DNRC that materially and adversely affects or (so far as the Borrower can now foresee), except for pending or proposed legislation or regulations that are a matter of general public information, that will materially and adversely affect the properties, operations and finances of the System, the Borrower's status as a Public Entity and Governmental Unit, its ability to own and operate the System in the manner it is currently operated or the Borrower's ability to perform its obligations under the Resolution, the Series 2015 Bond and the Collateral Documents and to pledge any revenues or other property pledged to the payment of the Series 2015 Bond.

(i) Compliance With Law. The Borrower:

(1) is in compliance with all laws, ordinances, governmental rules and regulations and court or other governmental orders, judgments and decrees to which it is subject and which are material to the properties, operations and finances of the System or its status as a Public Entity and Governmental Unit; and

(2) has obtained all licenses, permits, franchises or other governmental authorizations necessary to the ownership of the System and the operation thereof and agrees to obtain all such licenses, permits, franchises or other governmental authorizations as may be required in the future for the System and the operation thereof, which failure to obtain might materially and adversely affect the ability of the Borrower to conduct the operation of the System as presently conducted or the condition (financial or otherwise) of the System or the Borrower's ability to perform its obligations under the Resolution, the Series 2015 Bond and the Collateral Documents.

Section 2.3 Covenants.

(a) Insurance. In addition to the requirements of Section 2.2 of the Original Resolution, the Borrower at all times shall keep and maintain with respect to the System property and casualty insurance and liability insurance with financially sound and reputable insurers, or self-insurance as authorized by State law, against such risks and in such amounts, and with such deductible provisions, as are customary in the State in the case of entities of the same size and type as the Borrower and similarly situated and shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for all such insurance. All such insurance policies shall name the DNRC as an additional insured to the extent permitted under the policy or program of insurance of the Borrower. Each policy must provide that it cannot be cancelled by the insurer without giving the Borrower and the DNRC 30 days' prior written notice. The Borrower shall give the DNRC prompt notice of each insurance policy it obtains or maintains to comply with this Section 2.3(a) and of each renewal, replacement, change in coverage or deductible under or amount of or cancellation of each such insurance policy and the

amount and coverage and deductibles and carrier of each new or replacement policy. Such notice shall specifically note any adverse change as being an adverse change. The Borrower shall deliver to the DNRC at Closing a certificate providing the information required by this Section 2.3(a).

(b) Right of Inspection and Notice of Change of Location. The DNRC, the DEQ and the EPA and their designated agents shall have the right at all reasonable times during normal business hours and upon reasonable notice to enter into and upon the property of the Borrower for the purpose of inspecting the System or any or all books and records of the Borrower relating to the System.

(c) Further Assurance. The Borrower shall execute and deliver to the DNRC all such documents and instruments and do all such other acts and things as may be necessary or required by the DNRC to enable the DNRC to exercise and enforce its rights under the Resolution, the Series 2015 Bond and the Collateral Documents and to realize thereon, and record and file and re-record and refile all such documents and instruments, at such time or times, in such manner and at such place or places, all as may be necessary or required by the DNRC to validate, preserve and protect the position of the DNRC under the Resolution, the Series 2015 Bond and the Collateral Documents.

(d) Maintenance of Security, if Any; Recordation of Interest.

(1) The Borrower shall, at its expense, take all necessary action to maintain and preserve the lien and security interest of the Resolution and the Collateral Documents so long as any amount is owing under the Resolution or the Series 2015 Bond;

(2) The Borrower shall forthwith, after the execution and delivery of the Series 2015 Bond and thereafter from time to time, cause the Resolution and any Collateral Documents granting a security interest in revenues or real or personal property and any financing statements or other notices or documents relating thereto to be filed, registered and recorded in such manner and in such places as may be required by law in order to perfect and protect fully the lien and security interest hereof and thereof and the security interest in them granted by the Resolution and, from time to time, shall perform or cause to be performed any other act required by law, including executing or causing to be executed any and all required continuation statements and shall execute or cause to be executed any further instruments that may be requested by the DNRC for such perfection and protection; and

(3) Except to the extent it is exempt therefrom, the Borrower shall pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of the documents described in subparagraph (2), and all federal or state

fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Series 2015 Bond and the Collateral Documents and the documents described in subparagraph (2).

(e) Additional Agreements. The Borrower covenants to comply with all representations, covenants, conditions and agreements, if any, set forth in Appendix C hereto.

(f) Financial Information. This Section 2.3(f) supplements, and is not intended to limit, the requirements in Section 2.2(f) of the Original Resolution, as amended. The Borrower agrees that for each fiscal year it shall furnish to the DNRC and the DEQ, promptly when available, in addition to those matters specified in Section 2.2(f) of the Original Resolution:

(1) the preliminary budget for the System, with items for the 2015 Project shown separately; and

(2) when adopted, the final budget for the System, with items for the 2015 Project shown separately.

(g) 2015 Project Accounts. The Borrower shall maintain 2015 Project accounts in accordance with generally accepted government accounting standards, and as separate accounts, as required by Section 602(b)(9) of the Clean Water Act.

(h) Records. After reasonable notice from the EPA or the DNRC, the Borrower shall make available to the EPA or the DNRC such records as the EPA or the DNRC reasonably requires to review and determine compliance with the Clean Water Act, as provided in Section 606(e) of the Clean Water Act.

(i) Compliance with Clean Water Act. The Borrower has complied and shall comply with all conditions and requirements of the Clean Water Act pertaining to the 2015 Loan and the 2015 Project.

(j) Program Covenant. The Borrower agrees that neither it nor any "related person" to the Borrower (within the meaning of Section 147(a)(2) of the Code) shall, whether pursuant to a formal or informal arrangement, acquire bonds issued by the State under the Indenture in an amount related to the amount of the Series 2015 Bond.

Section 2.4 Covenants Relating to the Tax-Exempt Status of the State Bonds.

(a) The Borrower covenants and agrees that it will not use or permit to be used any of the proceeds of the Series 2015 Bond or any other funds of the Borrower in respect of the 2015 Project or the Series 2015 Bond, directly or indirectly, in a manner that would cause, or take any other action that would cause, any State Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code or would otherwise cause the interest on the State Bonds to be included in gross income for purposes of federal income taxation.

(b) The Borrower agrees that it will not enter into, or allow any "related person" (as defined in Section 147(a)(2) of the Code) to enter into, any arrangement, formal or informal, for the purchase of the State Bonds or any other obligations of the DNRC in an amount related to the amount of the Loan or the portion of the Loan derived directly or indirectly from proceeds of the State Bonds or that would otherwise cause any State Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code.

(c) The Borrower shall not use or permit the use of the 2015 Project directly or indirectly in any trade or business carried on by any Person who is not a Governmental Unit. For the purpose of this subparagraph, use as a member of the general public (within the meaning of the Regulations) shall not be taken into account and any activity carried on by a Person other than a natural person shall be treated as a trade or business.

(d) Any portion of the 2015 Project being refinanced or the cost of which is being reimbursed was acquired by and is now and shall, during the term of the 2015 Loan, be owned by the Borrower and not by any other Person. Any portion of the 2015 Project being financed shall be acquired by and shall, during the term of the Loan, be owned by the Borrower and not by any other Person. Notwithstanding the previous two sentences, the Borrower may transfer the 2015 Project or a portion thereof to another Governmental Unit which is also a Public Entity if such transfer is otherwise permitted under the Resolution and if such organization agrees with the DNRC to comply with Section 2.3(h), Section 2.3(i) and Section 2.4 of this Supplemental Resolution and if the DNRC receives an Opinion of Bond Counsel that such transfer will not violate the State Act or the Clean Water Act or adversely affect the exclusion of interest on the State Bonds from gross income or purposes of federal income taxation. In addition, except as otherwise provided in the Resolution or in any Collateral Documents, the Borrower may sell or otherwise dispose of any portion of the 2015 Project which has become obsolete or outmoded or is being replaced or for other reasons is not needed by the Borrower or beneficial to the general public or necessary to carry out the purposes of the Clean Water Act.

(e) At the Closing of the 2015 Loan, the DNRC will, if necessary to obtain the Opinion of Bond Counsel described in Section 7.05(a) of the Indenture, deliver to the Borrower instructions concerning compliance by the Borrower with the arbitrage rebate requirements of Section 148 of the Code (the "Arbitrage Rebate Instructions"). The Borrower shall comply with the Arbitrage Rebate Instructions, if any, delivered to it by the DNRC at Closing, as such Instructions may be amended or replaced by the DNRC from time to time. The Arbitrage Rebate Instructions may be amended or replaced by new Arbitrage Rebate Instructions delivered by the DNRC and accompanied by an Opinion of Bond Counsel to the effect that the use of said amended or new Arbitrage Rebate Instructions will not adversely affect the excludability of interest on the State Bonds or any Additional State Bonds (except State Bonds the interest on which the State did not intend to be excluded from gross income for federal income tax purposes) from gross income of the recipients thereof for federal income tax purposes.

(f) The Borrower agrees that during the term of the 2015 Loan it will not contract with or permit any Private Person to manage the 2015 Project or any portion thereof except according to a written management contract and upon delivery to the DNRC of an Opinion of Bond Counsel to the effect that the execution and delivery of such management contract will not violate the

State Act or the Clean Water Act or adversely affect the exclusion of interest on State Bonds from gross income or purposes of federal income taxation.

(g) The Borrower may not lease the 2015 Project or any portion thereof to any Person other than a Nonexempt Person which agrees in writing with the Borrower and the State not to cause any default to occur under the Resolution; provided the Borrower may lease all or any portion of the 2015 Project to a Nonexempt Person pursuant to a lease which in the Opinion of Bond Counsel delivered to the DNRC will not cause the interest on the State Bonds to be included in gross income for purposes of federal income taxation.

(h) The Borrower shall not change the use or nature of the 2015 Project if (i) such change will violate the Clean Water Act, or (ii) so long as the State Bonds are outstanding unless, in the Opinion of Bond Counsel delivered to the DNRC, such change will not result in the inclusion in gross income of interest on the State Bonds for federal income tax purposes.

Section 2.5 Maintenance of System; Liens. The Borrower shall maintain the System, including the 2015 Project, in good condition and make all necessary renewals, replacements, additions, betterments and improvements thereto. The Borrower shall not grant or permit to exist any lien on the 2015 Project or any other property making up part of the System, other than liens securing Debt where a parity or senior lien secures the Series 2015 Bond; provided that this Section 2.5 shall not be deemed to be violated if a mechanic's or contractor's lien is filed against any such property so long as the Borrower uses its best efforts to obtain the discharge of such lien and promptly reports to the DNRC the filing of such lien and the steps it plans to take and does take to discharge of such lien.

Section 2.6 Maintenance of Existence; Merger, Consolidation, Etc.; Disposition of Assets. The Borrower shall maintain its corporate existence, except that it may consolidate with or merge into another Governmental Unit or permit one or more Governmental Units to consolidate with or merge into it or may transfer all or substantially all of its assets to another Governmental Unit and then dissolve if the surviving, resulting or transferee entity (if other than the Borrower) (i) is a Public Entity and (ii) assumes in writing all of the obligations of the Borrower under the Resolution, the Series 2015 Bond and the Collateral Documents, and (a) such action does not result in any default in the performance or observance of any of the terms, covenants or agreements of the Borrower under the Resolution, the Series 2015 Bond and the Collateral Documents, (b) such action does not violate the State Act or the Clean Water Act and does not adversely affect the exclusion of interest on the Series 2015 Bond or the State Bonds from gross income for federal income tax purposes and (c) the Borrower delivers to the DNRC on the date of such action an Opinion of Bond Counsel that such action complies with this Section 2.6.

Other than pursuant to the preceding paragraph, the Borrower shall not transfer the System or any portion thereof to any other Person, except for property which is obsolete, outmoded, worn out, is being replaced or otherwise is not needed for the operation of the System, unless the provisions of (a) and (b) of the preceding paragraph are satisfied and the Borrower delivers to the DNRC an Opinion of Bond Counsel to that effect and, in addition, the DNRC consents to such transfer.

ARTICLE III

USE OF PROCEEDS; THE 2015 PROJECT

Section 3.1 Use of Proceeds. The Borrower shall apply the proceeds of the 2015 Loan from the DNRC solely as follows:

(a) The Borrower shall apply the proceeds of the 2015 Loan solely to the financing, refinancing or reimbursement of the costs of the 2015 Project, to fund a deposit to the Reserve Account and to pay costs of issuance of the Series 2015 Bond as set forth in Appendix A hereto and this Section 3.1. The 2015 Loan will be disbursed in accordance with Article IV hereof and Article VII of the Indenture. If the 2015 Project has not been completed prior to Closing, the Borrower shall, as quickly as reasonably possible, complete the 2015 Project and expend proceeds of the 2015 Loan to pay the costs of completing the 2015 Project.

(b) No portion of the proceeds of the 2015 Loan shall be used to reimburse the Borrower for costs paid prior to the date of adoption of this Supplemental Resolution of a Project the construction or acquisition of which occurred or began earlier than March 7, 1985. In addition, if any proceeds of the 2015 Loan are to be used to reimburse the Borrower for 2015 Project costs paid prior to the date of adoption of this Supplemental Resolution, the Borrower shall have complied with Section 1.150-2 of the Regulations in respect of such costs.

(c) Any Debt to be refinanced with proceeds of the 2015 Loan was incurred after March 7, 1985 for a Project the construction or acquisition of which began after March 7, 1985. No proceeds of the 2015 Loan shall be used for the purpose of refinancing an obligation the interest on which is exempt from federal income tax or excludable from gross income for purposes of federal income taxation unless the DNRC has received an Opinion of Bond Counsel, satisfactory to it, to the effect that such refinancing will not adversely affect the exclusion of interest on the State Bonds from gross income for purposes of federal income taxation.

Section 3.2 The 2015 Project. Set forth in Appendix A to this Supplemental Resolution is a description of the 2015 Project, which describes the property which has been or is to be acquired, installed, constructed or improved and the other activities, if any to be funded from the 2015 Loan (the 2015 Project may consist of more than one facility or activity), and an estimated budget relating to the 2015 Project. The 2015 Project may be changed and the description thereof in Appendix A may be amended from time to time by the Borrower but only after delivery to the DNRC of the following:

(a) A certificate of the Borrower setting forth the amendment to Appendix A and stating the reason therefor, including statements whether the amendment would cause an increase or decrease in the cost of the 2015 Project, an increase or decrease in the amount of Loan proceeds which will be required to complete the 2015 Project and whether the change will materially accelerate or delay the construction schedule for the 2015 Project;

(b) A written consent to such change in the 2015 Project by an Authorized DNRC Officer;

(c) An Opinion or Opinions of Bond Counsel stating that the 2015 Project, as constituted after such amendment, is, and was at the time the State Bonds were issued, eligible for financing under the State Act and is, and was at the time the Series 2015 Bond was issued, eligible for financing under the Act, such amendment will not violate the State Act or the Act and such amendment will not adversely affect the exclusion of interest on the State Bonds or the Series 2015 Bond from gross income for purposes of federal income taxation. Such an Opinion of Bond Counsel shall not be required for amendments which do not affect the type of facility to be constructed or activity to be financed.

The Borrower acknowledges and agrees that an increase in the principal amount of the Loan may be made only upon an application to the DEQ, the DNRC and the Trustee, in such form as the DEQ shall specify, which is approved by the DEQ and the DNRC, in their sole and absolute discretion, and adoption by the governing body of the Borrower of a resolution amendatory of or supplementary to the Resolution authorizing the additional loan and delivery of written certifications by officers of the Borrower to the DEQ, the DNRC and the Trustee to the effect that all representations and covenants contained in the resolution as it may be so amended or supplemented are true as of the date of closing of the additional loan and compliance with applicable tests for the incurrence of such Debt. No assurance can be given that any additional loan funds will be available under the Program at the time of any such application or thereafter. The Borrower acknowledges and agrees that neither the DEQ, the DNRC, the Trustee nor any of their agents, employees or representatives shall have any liability to the Borrower and have made no representations to the Borrower as to the sufficiency of the 2015 Loan to pay costs of the 2015 Project or as to the availability of additional funds under the Program to increase the principal amount of the 2015 Loan.

Section 3.3 2015 Project Representations and Covenants. The Borrower hereby represents to and covenants with the DNRC that:

(a) all construction of the 2015 Project has complied and will comply with all federal and state standards, including, without limitation, EPA regulations and standards;

(b) all future construction of the 2015 Project will be done only pursuant to fixed price construction contracts. The Borrower shall obtain or cause to be obtained a performance and payment bond from the contractor for each construction contract in the amount of 100% of the construction price and ensure that such bond is maintained until construction is completed to the Borrower's, the DNRC's and the DEQ's satisfaction;

(c) all future construction of the 2015 Project will be done in accordance with plans and specifications on file with the DNRC and the DEQ, provided that changes may be made in such plans and specifications with the written consent of an Authorized DNRC Officer and the DEQ;

(d) the 2015 Project is a project of the type permitted to be financed under the Act, the State Act and the Program and Title VI of the Clean Water Act;

(e) the iron and steel products used in the 2015 Project comply with the "American Iron and Steel" requirements of Section 436 of the Consolidated Appropriations Act of 2014 (P.L. 113-76), as those requirements are further interpreted by applicable EPA guidance;

(f) the Borrower has undertaken or caused to be undertaken the 2015 Project and will cause the 2015 Project to be completed as promptly as practicable with all reasonable dispatch, except only as completion may be delayed by a cause or event not reasonably within the control of the Borrower; it is estimated by the Borrower that the 2015 Project will be substantially completed by December 31, 2015; and

(g) all laborers and mechanics employed by contractors and subcontractors on the 2015 Project have been and will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Section 3.4 Completion or Cancellation or Reduction of Costs of the 2015 Project.

(a) Upon completion of the 2015 Project, the Borrower shall deliver to the DNRC a certificate stating that the 2015 Project is complete and stating the amount, if any, of the Undisbursed Committed Amount. If Appendix A describes two or more separate projects as making up the 2015 Project, a separate completion certificate shall be delivered for each.

(b) If all or any portion of the 2015 Project is cancelled or cut back or its costs are reduced or for any other reason the Borrower will not require the full Committed Amount, the Borrower shall promptly notify the DNRC in writing of such fact and the amount of the Undisbursed Committed Amount.

ARTICLE IV

THE 2015 LOAN

Section 4.1 The 2015 Loan; Disbursement of 2015 Loan.

(a) The DNRC has agreed to lend to the Borrower, from time to time as the requirements of this Section 4.1 are met, an amount up to $960,000 (the "2015 Committed Amount") for the purposes of financing, refinancing or reimbursing the Borrower for all or a portion of the costs of the 2015 Project, funding a deposit to the Reserve Account and paying costs of issuance of the Series 2015 Bond; provided the DNRC shall not be required to loan any proceeds of the State Bonds to the Borrower after March 31, 2016. The Committed Amount may be reduced as provided in Section 3.2 and Section 3.4 of this Supplemental Resolution.

(b) The DNRC intends to disburse the 2015 Loan through the Trustee. In consideration of the issuance of the Series 2015 Bond by the Borrower, the DNRC shall make, or cause the Trustee to make, a disbursement of all or a portion of the Loan upon receipt of the following documents:

(1) an Opinion of Bond Counsel as to the validity and enforceability of the Series 2015 Bond and the security therefor and stating in effect that interest on the Series 2015 Bond is not includable in gross income of the owner thereof for purposes of federal income taxation, in form and substance satisfactory to the DNRC;

(2) the Series 2015 Bond, fully executed and authenticated;

(3) a certified copy of the Original Resolution and this Supplemental Resolution;

(4) any other security instruments or documents required by the DNRC or DEQ as a condition to their approval of the 2015 Loan;

(5) if all or part of a 2015 Loan is being made to refinance a Project or reimburse the Borrower for the costs of a Project paid prior to the Closing, evidence, satisfactory to the DNRC and the Bond Counsel referred to in (1) above, (A) that the acquisition or construction of the Project was begun no earlier than March 7, 1985 or the debt was incurred no earlier than March 7, 1985, (B) of the Borrower's title to the Project, (C) of the costs of such Project and that such costs have been paid by the Borrower and (D) if such costs were paid before adoption of this Supplemental Resolution that the Borrower has complied with Section 1.150-2 of the Regulations;

(6) the items required by the Indenture for the portion of the 2015 Loan to be disbursed at Closing; and

(7) such other certificates, documents and other information as the DNRC, the DEQ or the Bond Counsel giving the opinion referred to in subparagraph (1) may require (including any necessary arbitrage rebate instructions).

(c) In order to obtain a disbursement of a portion of the Series 2015 Bond to pay costs of the 2015 Project, the Borrower shall submit to the DNRC and the Trustee a signed request for disbursement on the form prescribed by the DNRC, with all attachments required by such form. The Borrower may obtain disbursements only for costs which have been legally incurred and are due and payable. All Loan disbursements will be made to the Borrower only upon proof that cost was incurred.

(d) For refinancings, a disbursement schedule complying with the requirements of the Clean Water Act shall be established by the DNRC and the Borrower at Closing.

(e) If all or a portion of the 2015 Loan is made to reimburse a Borrower for Project costs paid by it prior to Closing, the Borrower shall present at Closing the items required by Section 4.1(b) relating to such costs. The Trustee shall disburse such amounts to the Borrower pursuant to a disbursement schedule complying with the requirements of the Clean Water Act established by the DNRC and the Borrower at the Closing.

(f) Notwithstanding anything else provided herein, the Trustee shall not be obligated to disburse the 2015 Loan any faster or to any greater extent than it has available EPA Capitalization Grants, Bond proceeds and other amounts available therefor in the Revolving Fund. The DNRC shall not be required to do "overmatching" pursuant to Section 5.04(b) of the

Indenture, but may do so in its discretion. The Borrower acknowledges that if 2015 Project costs are incurred faster than the Borrower projected at Closing, there may be delays in making disbursements of the 2015 Loan for such costs because of the schedule under which EPA makes EPA Capitalization Grant money available to the DNRC. The DNRC will use its reasonable best efforts to obtain an acceleration of such schedule if necessary.

(g) Upon making each 2015 Loan disbursement, the Trustee shall note such disbursement on Schedule A to the Series 2015 Bond.

(h) The Borrower agrees that it will deposit in the Reserve Account upon receipt thereof, on the Closing Date of the 2015 Loan and upon any disbursement date, any proceeds of the 2015 Loan borrowed for the purpose of increasing the balance in the Reserve Account to the Reserve Requirement. The Borrower further acknowledges and agrees that any portion of the 2015 Loan representing capitalized interest shall be advanced only on Payment Dates and shall be transferred by the Trustee on the Payment Date directly to the Revenue Bond Account. The amount of any such transfer shall, as appropriate, be a credit against the interest payments due on the 2015 Loan, and interest thereon shall accrue only from the date of transfer.

(i) Compliance by the Borrower with its representations, covenants and agreements contained in the Original Resolution, this Supplemental Resolution and the Collateral Documents shall be a further condition precedent to the disbursement of the Loan in whole or in part. The DNRC and the Trustee, in their sole and absolute discretion, may make one or more disbursements, in whole or in part, notwithstanding such noncompliance, and without liability to make any subsequent disbursement of the Loan.

Section 4.2 Commencement of Loan Term. The Borrower's obligations under this Supplemental Resolution and the Collateral Documents shall commence on the date hereof unless otherwise provided in this Supplemental Resolution. However, the obligation to make payments under Article V hereof shall commence only upon the first disbursement by the Trustee of the proceeds of the 2015 Loan.

Section 4.3 Termination of Loan Term. The Borrower's obligations under the Resolution and the Collateral Documents in respect of the Series 2015 Bond shall terminate upon payment in full of all amounts due under the Series 2015 Bond and the Resolution in respect thereof; provided, however, that the covenants and obligations provided in Article VI and X of this Supplemental Resolution shall survive the termination of the Resolution.

Section 4.4 Loan Closing Submissions. On or prior to the Closing, the Borrower will have delivered to the DNRC and the Trustee the closing submissions required by Section 7.05 of the Indenture.

ARTICLE V

REPAYMENT OF 2015 LOAN

Section 5.1 Repayment of 2015 Loan. The Borrower shall repay the amounts lent to it pursuant to Section 4.1 hereof in accordance with this Section 5.1. The 2015 Loan shall bear

interest at the rate of two percent (2.00%) per annum and the Borrower shall pay the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge on the outstanding principal amount of the 2015 Loan, each at the rate of twenty-five hundredths of one percent (0.25%) per annum. For purposes of this Supplemental Resolution and the Program, with respect to the 2015 Loan, the term "interest on the 2015 Loan" when not used in conjunction with a reference to any surcharges, shall include the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge. The Borrower shall pay all Loan Repayments, the Administrative Expense Surcharge, and the Loan Loss Reserve Surcharge in lawful money of the United States of America to the DNRC. Interest, Administrative Expense Surcharge, and Loan Loss Reserve Surcharge shall be calculated on the basis of a year of 360 days comprising 12 months of 30 days each.

The Loan Repayments required by this Section 5.1, and the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge, shall be due on each January 1 and July 1 (the "Payment Dates"), as follows:

(a) Interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the outstanding principal balance of the 2015 Loan shall be payable on each January 1 and July 1, beginning on July 1, 2016;

(b) the principal of the 2015 Loan shall be repayable on each Payment Date, beginning on July 1, 2016 and concluding on January 1, 2036, and the amount of each principal payment shall be calculated on the basis of substantially level debt service at an interest rate of 2.50% per annum.

The payments of principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the 2015 Loan shall be due on the dates and in the amounts shown in Schedule B to the Series 2015 Bond, as such Schedule B shall be modified from time to time as provided below. The portion of each such Loan Repayment consisting of principal and the portion consisting of interest and the amount of each Administrative Expense Surcharge and the Loan Loss Reserve Surcharge, shall be set forth in Schedule B to the Series 2015 Bond. Upon each disbursement of amounts of the 2015 Loan to the Borrower pursuant to Section 4.1 hereof, the Trustee shall enter or cause to be entered the amount advanced on Schedule A to the Series 2015 Bond, under "Advances" and the total amount advanced under Section 4.1, including such disbursement, under "Total Amount Advanced."

If the advance was made to pay costs of the 2015 Project pursuant to Section 4.1(c), interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on such advance shall accrue from the date the advance is made and shall be payable on each Payment Date thereafter. Once the completion certificate for the 2015 Project has been delivered to the DNRC, the Trustee shall revise Schedule B to the Series 2015 Bond in accordance with this Section 5.1 and the Trustee shall send a copy of such Schedule B to the Borrower within one month after delivery of the completion certificate.

Past-due payments of principal and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall bear interest at the rate of ten percent (10.00%) per annum, until paid.

Any payment of principal, interest or Administrative Expense Surcharge and Loan Loss Reserve Surcharge under this Section 5.1 shall also be credited against the same payment obligation under the Series 2015 Bond.

Section 5.2 Additional Payments. The Borrower shall also pay, within 30 days after receipt of a bill therefor, from any legally available funds therefor, including proceeds of the 2015 Loan, if the Borrower so chooses, all reasonable expenses of the DNRC and the Trustee in connection with the 2015 Loan, the Collateral Documents and the Series 2015 Bond, including, but not limited to:

(a) the cost of reproducing this Supplemental Resolution, the Collateral Documents and the Series 2015 Bond;

(b) the fees and disbursements of bond counsel and other Counsel utilized by the DNRC and the Trustee in connection with the Loan, the Resolution, the Collateral Documents and the Series 2015 Bond and the enforcement thereof; and

(c) all taxes and other governmental charges in connection with the execution and delivery of the Collateral Documents or the Series 2015 Bond, whether or not the Series 2015 Bond are then outstanding, including all recording and filing fees relating to the Collateral Documents and the pledge of the State's right, title and interest in and to the Series 2015 Bond, the Collateral Documents and the Resolution (and with the exceptions noted therein) and all expenses, including attorneys' fees, relating to any amendments, waivers, consents or collection or enforcement proceedings pursuant to the provisions hereof or thereof.

Section 5.3 Prepayments. The Borrower may not prepay all or any part of the outstanding principal amount of the Series 2015 Bond unless (i) it obtains the prior written consent of the DNRC thereto, and (ii) no Loan Repayment or Administrative Expense Surcharge or Loan Loss Reserve Surcharge is then delinquent. Any prepayment permitted by the DNRC must be accompanied by payment of accrued interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge to the date of prepayment on the amount of principal prepaid. If the Series 2015 Bond are prepaid in part pursuant to this Section 5.3, such prepayments shall be applied to principal payments in inverse order of maturity.

Section 5.4 Obligations of Borrower Unconditional. The obligations of the Borrower to make the payments required by this Supplemental Resolution and the Series 2015 Bond and to perform its other agreements contained in the Resolution, the Series 2015 Bond and Collateral Documents shall be absolute and unconditional, except as otherwise provided herein or in such documents. The Borrower (a) shall not suspend or discontinue any payments provided for in the Resolution and the Series 2015 Bond, (b) shall perform all its other agreements in the Resolution, the Series 2015 Bond and the Collateral Documents and (c) shall not terminate the Resolution, the Series 2015 Bond or the Collateral Documents for any cause, including any acts or circumstances that may constitute failure of consideration, destruction of or damage to the 2015 Project or the System, commercial frustration of purpose, any dispute with the DNRC or the EPA, any change in the laws of the United States or of the State or any political subdivision of either or any failure of the DNRC to perform any of its agreements, whether express or implied, or any duty, liability or obligation arising from or connected with the Resolution.

Section 5.5 Limited Liability. All payments of principal of and interest on the 2015 Loan and other payment obligations of the Borrower hereunder and under the Series 2015 Bond shall be special, limited obligations of the Borrower payable solely out of the Net Revenues, and shall not, except at the option of the Borrower and as permitted by law, be payable out of any other revenues of the Borrower. The obligations of the Borrower under the Resolution and the Series 2015 Bond shall never constitute an indebtedness of the Borrower within the meaning of any state constitutional provision or statutory or charter limitation and shall never constitute or give rise to a pecuniary liability of the Borrower or a charge against its general credit or taxing power. The taxing powers of the Borrower may not be used to pay principal of or interest on the Series 2015 Bond, and no funds or property of the Borrower other than the Net Revenues may be required to be used to pay principal of or interest on the Series 2015 Bond.

ARTICLE VI

INDEMNIFICATION OF DNRC AND DEQ

The Borrower shall, to the extent permitted by law, indemnify and save harmless the DNRC and the DEQ and their officers, employees and agents (each an "Indemnified Party" or, collectively, the "Indemnified Parties") against and from any and all claims, damages, demands, expenses, liabilities and losses of every kind asserted by or on behalf of any Person arising out of the acts or omissions of the Borrower or its employees, officers, agents, contractors, subcontractors, or consultants in connection with or with regard or in any way relating to the condition, use, possession, conduct, management, planning, design, acquisition, construction, installation or financing of the 2015 Project. The Borrower shall also, to the extent permitted by law, indemnify and save harmless the Indemnified Parties against and from all costs, reasonable attorneys' fees, expenses and liabilities incurred in any action or proceeding brought by reason of any such claim or demand. If any proceeding is brought against an Indemnified Party by reason of such claim or demand, the Borrower shall, upon notice from an Indemnified Party, defend such proceeding on behalf of the Indemnified Party.

ARTICLE VII

ASSIGNMENT

Section 7.1 Assignment by Borrower. The Borrower may not assign its rights and obligations under the Resolution or the Series 2015 Bond.

Section 7.2 Assignment by DNRC. The DNRC will pledge its rights under and interest in the Resolution, the Series 2015 Bond and the Collateral Documents (except to the extent otherwise provided in the Indenture) as security for the payment of the State Bonds and may further assign such interests to the extent permitted by the Indenture, without the consent of the Borrower.

Section 7.3 State Refunding Bonds. In the event the State Bonds and Additional State Bonds are refunded by bonds which are not Additional State Bonds, all references in the Resolution to State Bonds and Additional State Bonds shall be deemed to refer to the refunding bonds and any bonds of the State on a parity with such refunding bonds (together, the

"Refunding Bonds") or, in the case of a crossover refunding, to the State Bonds and Additional State Bonds and the Refunding Bonds. In the event the State Bonds are refunded by an issue of Additional State Bonds, all references in the Resolution to the State Bonds shall be deemed to refer to such Additional State Bonds or, in the case of a crossover refunding, both the State Bonds and such Additional State Bonds.

ARTICLE VIII

THE SERIES 2015 BOND

Section 8.1 Net Revenues Available. The Borrower is authorized to charge just and equitable rates, charges and rentals for all services directly or indirectly furnished by the System, and to pledge and appropriate to the Series 2002 Bond, the Series 2008A Bond, the Series 2008B Bond, the Series 2010B Bond, the Series 2011B Bond, the Series 2011C Bond, the Series 2014 Bond, the Series 2014A Bond, and the Series 2015 Bond, the Net Revenues to be derived from the operation of the System, including improvements, betterments or extensions thereof hereafter constructed or acquired. The Net Revenues to be produced by such rates, charges and rentals during the term of the Series 2002 Bond, the Series 2008A Bond, the Series 2008B Bond, the Series 2010B Bond, the Series 2011B Bond, the Series 2011C Bond , the Series 2014 Bond, the Series 2014A Bond, and the Series 2015 Bond are expected to be more than sufficient to pay the principal and interest when due on such Bonds, and to create and maintain reasonable reserves therefor and to provide an adequate allowance for replacement and depreciation, as prescribed herein.

Section 8.2 Issuance and Sale of the Series 2015 Bond. The Council has investigated the facts necessary and hereby finds, determines and declares it to be necessary and desirable for the Borrower to issue the Series 2015 Bond to evidence the 2015 Loan. The Series 2015 Bond is issued to the DNRC without public sale pursuant to Montana Code Annotated, Section 7-7-4433(1).

Section 8.3 Terms. The Series 2015 Bond shall be issued in the maximum principal amount equal to the original 2015 Committed Amount, shall be issued as a single, fully registered bond numbered R-1, shall be dated as of the date of delivery to the DNRC, and shall bear interest at the rate charged by the DNRC on the 2015 Loan. The principal of and interest on the Series 2015 Bond shall be payable on the same dates and in the same amounts on which principal and interest of the Loan Repayments are payable. Advances of principal of the Series 2015 Bond shall be deemed made when advances of the 2015 Loan are made under Section 4.1, and such advances shall be payable in accordance with Schedule B to the Series 2015 Bond as it may be revised by the DNRC from time to time in accordance with Section 5.1.

The Borrower may prepay the Series 2015 Bond, in whole or in part, only upon the terms and conditions under which it can prepay the 2015 Loan under Section 5.3.

Section 8.4 Negotiability, Transfer and Registration. The Series 2015 Bond shall be fully registered as to both principal and interest, and shall be initially registered in the name of and payable to the DNRC. While so registered, principal of and interest on the Series 2015 Bond shall be payable to the DNRC at the Office of the Department of Natural Resources and

Conservation, 1625 Eleventh Avenue, Helena, Montana 59620-1601 or such other place as may be designated by the DNRC in writing and delivered to the Borrower. The Series 2015 Bond shall be negotiable, subject to the provisions for registration and transfer contained in this Section. No transfer of the Series 2015 Bond shall be valid unless and until (1) the holder, or his duly authorized attorney or legal representative, has executed the form of assignment appearing on the Series 2015 Bond, and (2) the City Finance Director of the Borrower (or successors, the "Registrar"), as Bond Registrar, has duly noted the transfer on the Series 2015 Bond and recorded the transfer on the registration books of the Registrar. The Registrar may, prior to noting and recording the transfer, require appropriate proof of the transferor's authority and the genuineness of the transferor's signature. The Borrower shall be entitled to deem and treat the Person in whose name the Series 2015 Bond is registered as the absolute owner of the Series 2015 Bond for all purposes, notwithstanding any notice to the contrary, and all payments to the registered holder shall be valid and effectual to satisfy and discharge the Borrower's liability upon such Bond to the extent of the sum or sums so paid.

Section 8.5 Execution and Delivery. The Series 2015 Bond shall be executed on behalf of the Borrower by the manual signatures of the Mayor, the City Finance Director, and the City Clerk. Any or all of such signatures may be affixed at or prior to the date of delivery of the Series 2015 Bond. The Series 2015 Bond shall be sealed with the corporate seal of the Borrower. In the event that any of the officers who shall have signed the Series 2015 Bond shall cease to be officers of the Borrower before the Series 2015 Bond is issued or delivered, their signatures shall remain binding upon the Borrower. Conversely, the Series 2015 Bond may be signed by an authorized official who did not hold such office on the date of adoption of this Supplemental Resolution. The Series 2015 Bond shall be delivered to the DNRC, or its attorney or legal representative.

Section 8.6 Form. The Series 2015 Bond shall be prepared in substantially the form attached as Appendix B.

ARTICLE IX

SECURITY FOR THE SERIES 2015 BOND

The Series 2015 Bond is issued as an additional Bond under Article X of the Original Resolution and under this Supplemental Resolution and shall, with the Series 2002 Bond, the Series 2008A Bond, the Series 2008B Bond, the Series 2010B Bond, the Series 2011B Bond, the Series 2011C Bond, the Series 2014 Bond, the Series 2014A Bond, and any other additional Bonds issued under the provisions of Article X of the Original Resolution but excluding Section 10.4 thereof, be equally and ratably secured by the provisions of the Resolution and payable out of the Net Revenues appropriated to the Revenue Bond Account of the Sewer System Fund, without preference or priority, all as provided in the Resolution, and secured by the Reserve Account, as further provided in Section 11.5 of the Original Resolution and in the following sentence. Upon each advancement of principal of the Series 2015 Bond, the City Finance Director shall transfer from proceeds of the Series 2015 Bond such amount to the Reserve Account to cause the balance therein to equal the Reserve Requirement, treating such principal amount as outstanding. Upon the first advance of proceeds of the Series 2015 Bond, the deposit to the Reserve Account shall be sufficient to cause the balance in the Reserve Account to equal

the Reserve Requirement in respect of the Series 2015 Bond and the principal of the Series 2015 Bond so advanced. The Borrower shall keep, perform and observe each and every one of its covenants and undertakings set forth in the Resolution for the benefit of the registered owners from time to time of the Series 2002 Bond, the Series 2008A Bond, the Series 2008B Bond, the Series 2010B Bond, the Series 2011B Bond, the Series 2011C Bond, the Series 2014 Bond, the Series 2014A Bond and the Series 2015 Bond.

ARTICLE X

TAX MATTERS

Section 10.1 Use of 2015 Project. The 2015 Project will be owned and operated by the Borrower and available for use by members of the general public on a substantially equal basis. The Borrower shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the 2015 Project or the System or security for the payment of the Series 2015 Bond which might cause the Series 2015 Bond to be considered a "private activity bond" or "private loan bond" within the meaning of Section 141 of the Code.

Section 10.2 General Covenant. The Borrower covenants and agrees with the owners from time to time of the Series 2015 Bond that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Series 2015 Bond to become includable in gross income for federal income tax purposes under the Code and the Regulations, and covenants to take any and all actions within its powers to ensure that the interest on the Series 2015 Bond will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

Section 10.3 Arbitrage Certification. The Mayor, the City Finance Director, and the City Clerk, being the officers of the Borrower charged with the responsibility for issuing the Series 2015 Bond pursuant to this Supplemental Resolution, are authorized and directed to execute and deliver to the DNRC a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Series 2015 Bond, it is reasonably expected that the proceeds of the Series 2015 Bond will be used in a manner that would not cause the Series 2015 Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code and the Regulations.

Section 10.4 Arbitrage Rebate Exemption.

(a) The Borrower hereby represents that the Series 2015 Bond qualifies for the exception for small governmental units to the arbitrage rebate provisions contained in Section 148(f) of the Code. Specifically, the Borrower represents:

(1) Substantially all (not less than 95%) of the proceeds of the Series 2015 Bond (except for amounts to be applied to the payment of costs of issuance) will be used for local governmental activities of the Borrower.

(2) The aggregate face amount of all "tax-exempt bonds" (including warrants, contracts, leases and other indebtedness, but excluding private activity bonds and excluding certain refunding bonds) issued by or on behalf of the Borrower and all subordinate entities thereof during 2015 is reasonably expected not to exceed $5,000,000. To date in 2015, the Borrower has not issued any tax-exempt bonds other than its $120,000 Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2015 (the "Series 2015 Water Bond"), being issued simultaneously herewith, and its $7,183,000 Tax Increment Urban Renewal Revenue Refunding Bonds (the "Tax Increment Bonds"). Because the Tax Increment Bonds were issued to refund on a current refunding basis certain outstanding bonds and the amount of the Tax Increment Bonds does not exceed the outstanding amount of the bonds refunded, pursuant to Section 148(f)(4)(D)(iii) of the Code, the Tax Increment Bonds are hereby not taken into account in determining the Borrower's status as a small governmental unit under Section 148(f)(4)(D) of the Code. In the calendar years 2010 through 2014, the Borrower issued no tax-exempt bonds, except for the Series 2014 Bond, Series 2014A Bond, the Series 2011B Bond, the Series 2011C Bond, and the Series 2010B Bond.

(b) If notwithstanding the provisions of paragraph (a) of this Section 10.4, the arbitrage rebate provisions of Section 148(f) of the Code apply to the Series 2015 Bond, the Borrower hereby covenants and agrees to make the determinations, retain records and rebate to the United States the amounts at the times and in the manner required by said Section 148(f).

Section 10.5 Information Reporting. The Borrower shall file with the Secretary of the Treasury, not later than February 15, 2016, a statement concerning the Series 2015 Bond containing the information required by Section 149(e) of the Code.

Section 10.6 "Qualified Tax-Exempt Obligations." Pursuant to Section 265(b)(3)(B)(ii) of the Code, the Borrower hereby designates the Series 2015 Bond as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. The Borrower has not designated any obligations in 2015 under Section 265(b)(3) other than the Series 2015 Water Bond, the Tax Increment Bonds and the Series 2015 Bond. Because the Tax Increment Bonds were issued to refund on a current refunding basis certain outstanding bonds and the amount of the Tax Increment Bonds does not exceed the outstanding amount of the bonds refunded, pursuant to Section 265(b)(3)(C)(ii)(III) of the Code, the Tax Increment Bonds are hereby not taken into account in determining the Borrower's status as a qualified small issuer under Section 265(b)(3) of the Code. Moreover, the Tax Increment Bonds were "deemed designated" under Section 265(b)(3)(D)(ii) of the Code. In addition, the Tax Increment Bonds were "deemed designated" under Section 265(b)(3)(D)(ii) of the Code. The Borrower hereby represents that it does not anticipate that obligations bearing interest not includable in gross income for purposes of federal income taxation under Section 103 of the Code (including refunding obligations as provided in Section 265(b)(3) of the Code and including "qualified 501(c)(3) bonds" but excluding other "private activity bonds," as defined in Sections 141(a) and 145(a) of the Code) will be issued by

or on behalf of the Borrower and all "subordinate entities" of the Borrower in 2015 in an amount greater than $10,000,000.

ARTICLE XI

CONTINUING DISCLOSURE

The Borrower understands and acknowledges that the DNRC is acquiring the Series 2015 Bond under the Program pursuant to which the State issues from time to time State Bonds to provide funds therefor. The Borrower covenants and agrees that, upon written request of the DNRC from time to time, the Borrower will promptly provide to the DNRC all information that the DNRC reasonably determines to be necessary or appropriate to offer and sell State Bonds or to provide continuing disclosure in respect of State Bonds, whether under Rule 15c2-12 (17 C.F.R. § 240.15c2-12) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, or otherwise. Such information shall include, among other things and if so requested, financial statements of the Borrower prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under Montana law, as in effect from time to time (such financial statements to relate to a fiscal year or any period therein for which they are customarily prepared by the Borrower, and, if for a fiscal year and so requested by the DNRC, subject to an audit report and opinion of an accountant or government auditor, as permitted or required by the laws of the State). The Borrower will also provide, with any information so furnished to the DNRC, a certificate of the Mayor and the City Finance Director to the effect that, to the best of their knowledge, such information does not include any untrue statement of a material fact or omit to state any material fact required to be stated therein to make the statements made, in light of the circumstances under which they are made, not misleading.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Notices. All notices or other communications hereunder shall be sufficiently sent or given and shall be deemed sent or given when delivered or mailed by certified mail, postage prepaid, to the parties at the following addresses:

DNRC: Department of Natural Resources and Conservation
1625 Eleventh Avenue
P. O. Box 201601
Helena, Montana 59620-1601
Attn: Conservation and Resource
Development Division

Trustee: U.S. Bank National Association
c/o Corporate Trust Services

1420 Fifth Avenue, 7th Floor
Seattle, Washington 98101

Borrower: City of Whitefish
P.O. Box 158
Whitefish, Montana 59937
Attn: City Finance Director

Any of the above parties may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices or other communications shall be sent.

Section 12.2 Binding Effect. This Supplemental Resolution shall inure to the benefit of and shall be binding upon the DNRC, the Borrower and their respective successors and assigns.

Section 12.3 Severability. If any provision of this Supplemental Resolution shall be determined to be unenforceable at any time, it shall not affect any other provision of the Resolution or the enforceability of that provision at any other time.

Section 12.4 Amendments. This Supplemental Resolution may not be effectively amended without the written consent of the DNRC.

Section 12.5 Applicable Law. This Supplemental Resolution shall be governed by and construed in accordance with the internal laws of the State.

Section 12.6 Captions; References to Sections. The captions in this Supplemental Resolution are for convenience only and do not define or limit the scope or intent of any provisions or Sections of this Supplemental Resolution.

Section 12.7 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Supplemental Resolution shall be had against any director, officer or employee, as such, past, present or future, of the DNRC, the DEQ or the Trustee, either directly or through the DNRC, the DEQ or the Trustee, or against any officer, or member of the governing body or employee of the Borrower, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer or member of the governing body or employee of the DNRC, the Trustee or the Borrower is hereby expressly waived and released by the Borrower and by the DNRC as a condition of and in consideration for the adoption of this Supplemental Resolution and the making of the Loan.

Section 12.8 Payments Due on Holidays. If the date for making any payment or the last date for performance of any act or the exercise of any right, as provided in this Supplemental Resolution or the Series 2015 Bond, shall not be Business Day, such payments may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Supplemental Resolution or the Series 2015 Bond.

Section 12.9 Right of Others To Perform Borrower's Covenants. In the event the Borrower shall fail to make any payment or perform any act required to be performed hereunder, then and in each such case the DNRC or the provider of any Collateral Document may (but shall not be obligated to) remedy such default for the account of the Borrower and make advances for that purpose. No such performance or advance shall operate to release the Borrower from any such default and any sums so advanced by the DNRC or the provider of any Collateral Document shall be paid immediately to the party making such advance and shall bear interest at the rate of ten percent (10.00%) per annum from the date of the advance until repaid. The DNRC and the provider of any Collateral Document shall have the right to enter the 2015 Project or the facility or facilities of which the 2015 Project is a part or any other facility which is a part of the System in order to effectuate the purposes of this Section.

Section 12.10 Authentication of Transcript. The officers of the Borrower are hereby authorized and directed to furnish to the DNRC and to Bond Counsel certified copies of all proceedings relating to the issuance of the Series 2015 Bond and such other certificates and affidavits as may be required to show the right, power and authority of the Borrower to issue the Series 2015 Bond, and all statements contained in and shown by such instruments, including any heretofore furnished, shall constitute representations of the Borrower as to the truth of the statements of fact purported to be shown thereby.

Section 12.11 Effective Date. This Supplemental Resolution shall take effect immediately.

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Adopted by the City Council of the City of Whitefish, Montana, on this 7th day of December, 2015.

_____
John M. Muhlfeld, Mayor

Attest: _____
Necile Lorang, City Clerk

(SEAL)

APPENDIX A

Description of the 2015 Project

The 2015 Project includes the installation of approximately 7,500 feet of 6-inch, 8-inch, and 12-inch PVC gravity sewer mains and related improvements in conjunction with the State of Montana's Whitefish West U.S. 93 Highway Reconstruction Project. In addition, new sewer services will be installed from the sewer main to the property line along the length of the project. Gravity sewer service will be extended from State Park Road to Mountainside Drive to provide sewer service availability to areas currently using onsite wastewater treatment and disposal.

Estimated Budget for Application of Proceeds of Series 2015 Bond

Costs	**Series 2015 Bond**	**Impact Fees**	**Total:**
MDT Indirect Cost	$ 64,541	$ 48,490	$ 113,031
MDT Indirect CE Costs	6,392	2,740	9,132
Loan Reserves	30,919		30,919
Bond Counsel and related costs	8,000		8,000
Construction Engineering Services	70,092	30,040	100,132
Construction	747,683	366,780	1,114,463
Contingency	32,373		32,373
TOTAL PROJECT COSTS	$ 960,000	$ 448,050	$1,408,050

APPENDIX B

[Form of the Series 2015 Bond]

UNITED STATES OF AMERICA
STATE OF MONTANA
FLATHEAD COUNTY

CITY OF WHITEFISH

SEWER SYSTEM REVENUE BOND
(DNRC WATER POLLUTION CONTROL STATE REVOLVING LOAN PROGRAM),
SERIES 2015

No. R-1 $960,000

FOR VALUE RECEIVED, the City of Whitefish, Montana (the "City"), a duly organized municipal corporation and political subdivision of the State of Montana, acknowledges itself to be specially indebted and, for value received, hereby promises to pay to the Department of Natural Resources and Conservation of the State of Montana (the "DNRC"), or its registered assigns, solely from the Revenue Bond Account of its Sewer System Fund, the principal sum equal to the sum of the amounts entered on Schedule A attached hereto under "Total Amount Advanced," with interest on each such amount from the date such amount is advanced hereunder at the rate of 2.00% per annum on the unpaid balance until paid. In addition, the City shall pay, solely from the Revenue Bond Account, an Administrative Expense Surcharge and a Loan Loss Reserve Surcharge on the outstanding principal amount of this Bond, each at the rate of twenty-five hundredths of one percent (0.25%) per annum. Principal, interest, Administrative Expense Surcharge, and Loan Loss Reserve Surcharge shall be payable in semiannual installments payable on each January 1 and July 1 (each a "Loan Repayment Date") commencing on the date first set forth in the column headed "Date" on Schedule B attached hereto. Principal shall be payable on the dates set forth in Schedule B hereto. Each installment shall be in the amount set forth opposite its due date in Schedule B attached hereto under "Total Loan Payment." The portion of each such payment consisting of principal, the portion consisting of interest, the portion consisting of Administrative Expense Surcharge, and the portion consisting of Loan Loss Reserve Surcharge shall be as set forth in Schedule B hereto. Upon each disbursement of 2015 Loan amounts to the City pursuant to the Resolution described below, the DNRC shall enter (or cause to be entered) the amount advanced on Schedule A under "Advances" and the total amount advanced under the Resolution (as hereinafter defined), including such disbursement, under "Total Amount Advanced." The DNRC shall prepare Schedule B and any revised Schedule B, or cause Schedule B and any revised Schedule B to be prepared, as provided in Section 5.1 of the Resolution. Schedule B shall be calculated and recalculated on a substantially level debt service basis assuming an interest rate of 2.50 % per annum. Past-due payments of principal and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall bear interest at the rate of ten percent (10.00%) per annum, until paid. Interest, Administrative Expense Surcharge, and Loan Loss Reserve Surcharge shall be calculated on the basis of a 360-day year comprising 12 months of 30 days each. All payments under this Bond shall be made to the registered holder of

this Bond, at its address as it appears on the Bond register, in lawful money of the United States of America.

This Bond is one of an issue of Sewer System Revenue Bonds of the City authorized to be issued in one or more series from time to time, and constitutes a series in the maximum authorized principal amount of $960,000 (the "Series 2015 Bond"). This Series 2015 Bond is issued to finance a portion of the costs of the construction of certain improvements to the sewer system of City (the "System"), to fund a deposit to the Reserve Account for the Series 2015 Bond, and to pay costs of issuance. The Series 2015 Bond is issued pursuant to and in full conformity with the Constitution and laws of the State of Montana thereunto enabling, including Montana Code Annotated, Title 7, Chapter 7, Part 44, as amended, and ordinances and resolutions duly adopted by the governing body of the City, including Resolution No. 02-52, passed and adopted by the City Council of the City on October 7, 2002 (the "Original Resolution") as amended and supplemented by Resolution Nos. 08-59, 10-01, 11-20, 12-37, 14-04, 14-53, and 15-51 adopted by the City Council on December 1, 2008, January 4, 2010, April 4, 2011, November 5, 2012, February 18, 2014, November 3, 2014, and December 7, 2015, respectively (the Original Resolution, as so amended and supplemented, the "Resolution"). Terms used with initial capital letters but not defined herein shall have the meanings given such terms in the Resolution. The Series 2015 Bond is issuable only as a single, fully registered bond. The Series 2015 Bond is issued on a parity and is equally and ratably secured by the Net Revenues of the System with the City's outstanding First Amended and Restated Sewer System Revenue Bond (DNRC Revolving Loan Program), Series 2002 (the "Series 2002 Bond"), First Amended and Restated Sewer System Revenue Bond (DNRC Revolving Loan Program), Series 2008A (the "Series 2008A Bond"), First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2008B (the "Series 2008B Bond"), Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2010B (the "Series 2010B Bond"), First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2011B (the "Series 2011B Bond"), First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2011C (the "Series 2011C Bond"), Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2014 (the "Series 2014 Bond"), and Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2014A (the "Series 2014A Bond").

Reference is made to the Resolution for a more complete statement of the terms and conditions upon which the Series 2015 Bond has been issued, the Net Revenues of the System pledged and appropriated for the payment and security thereof, the conditions upon which additional Bonds may be issued under the Resolution and made payable from such Net Revenues on a parity with the Series 2002 Bond, the Series 2008A Bond, the Series 2008B Bond, the Series 2010B Bond, the Series 2011B Bond, the Series 2011C Bond, the Series 2014 Bond, the Series 2014A Bond, and the Series 2015 Bond (collectively, the "Bonds") or otherwise, the conditions upon which the Resolution may be amended, the rights, duties and obligations of the City, and the rights of the owners of the Series 2015 Bond.

The City may prepay the principal of the Series 2015 Bond only if (i) it obtains the prior written consent of the DNRC thereto, and (ii) no Loan Repayment or Administrative Expense

Surcharge or Loan Loss Reserve Surcharge is then delinquent. Any prepayment permitted by the DNRC must be accompanied by payment of accrued interest and Administrative Expense Surcharge and the Loan Loss Reserve Surcharge to the date of prepayment on the amount of principal prepaid. If the Series 2015 Bond is prepaid in part, such prepayments shall be applied to principal payments in inverse order of maturity.

The Bonds, including interest and any premium for the redemption thereof, are payable solely from the net revenues pledged for the payment thereof and do not constitute a debt of the City within the meaning of any constitutional or statutory limitation or provision.

The City may deem and treat the person in whose name this Series 2015 Bond is registered as the absolute owner hereof, whether this Series 2015 Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and the City shall not be affected by any notice to the contrary. The Series 2015 Bond may be transferred as hereinafter provided.

This Series 2015 Bond has been designated by the Borrower as a "qualified tax-exempt obligation" pursuant to Section 265(b) of the Internal Revenue Code of 1986, as amended.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the City has duly authorized and will forthwith undertake the improvements to the System hereinabove described, has fixed and established and will collect reasonable rates and charges for the services and facilities afforded by the System, and has created a special Sewer System Fund into which the revenues of the System as described in Section 11.1 of the Original Resolution, including all additions thereto and replacements and improvements thereof, will be paid, and a separate and special Revenue Bond Account in that fund, into which will be paid each month, Net Revenues of the System then on hand (the gross revenues remaining after the payment of operating expenses of the System and providing for operating reserves), an amount equal to not less than the sum of one-sixth of the interest due within the next six months and one-twelfth of the principal due within the next twelve months with respect to all outstanding Bonds payable semi-annually from that account, and a Reserve Account in that fund into which shall be paid additional Net Revenues sufficient to establish and maintain a reserve therein equal to, as of the date of calculation, an amount equal to the Reserve Requirement (giving effect to any mandatory sinking fund redemption); that the Revenue Bond Account and the Reserve Account will be used only to pay the principal of, premium, if any, and interest on the Bonds issued pursuant to the authority herein recited; that the rates and charges for the System will from time to time be made and kept sufficient to provide Net Revenues for each fiscal year at least equal to 110% of the principal and interest payable from the Revenue Bond Account in any subsequent fiscal year, to maintain the balance in the Reserve Account at the Reserve Requirement, to pay promptly the reasonable and current expenses of operating and maintaining the System and fund an operating reserve, to pay the principal of and interest on any subordinate obligations and to provide reserves for the replacement and depreciation of the System; that additional Bonds may be issued and made payable from the Revenue Bond Account on a parity with the Series 2002 Bond, the Series 2008A Bond, the Series 2008B Bond, the Series 2010B Bond, the Series 2011B Bond, the Series 2011C Bond, the Series 2014 Bond, the Series 2014A Bond, and the Series 2015 Bond upon certain conditions set forth in the Resolution, but no obligation will be otherwise incurred and made payable from the Net Revenues, unless the lien thereof shall be expressly made subordinate to the lien of the Series 2002 Bond, the Series 2008A Bond, the Series 2008B Bond, the Series 2010B Bond, the Series 2011B

Bond, the Series 2011C Bond, the Series 2014 Bond, the Series 2014A Bond, the Series 2015 Bond and other additional Bonds on such Net Revenues; that all provisions for the security of this Series 2015 Bond set forth in the Resolution will be punctually and faithfully performed as therein stipulated; that all acts, conditions and things required by the Constitution and laws of the State of Montana and the ordinances and resolutions of the City to be done, to exist, to happen and to be performed in order to make this Series 2015 Bond a valid and binding special obligation of the City according to its terms have been done, do exist, have happened and have been performed as so required; and that this Series 2015 Bond and the premium, if any, and interest hereon are payable solely from the Net Revenues of the System pledged and appropriated to the Revenue Bond Account and do not constitute a debt of the City within the meaning of any constitutional, statutory or charter limitation or provision and the issuance of the Series 2015 Bond does not cause either the general or the special indebtedness of the City to exceed any constitutional, statutory or charter limitation.

IN WITNESS WHEREOF, the City of Whitefish, Montana, by its governing body, has caused this Bond to be executed by the signatures of the acting Mayor, City Finance Director, and the City Clerk, and has caused the official seal of the City to be affixed hereto, and has caused this Bond to be dated as of the 17th day of December, 2015.

_____
John M. Muhlfeld, Mayor

(SEAL)

_____
Dana M. Smith, City Finance Director

_____
Necile Lorang, City Clerk

REGISTRATION AND TRANSFER

This Bond shall be fully registered as to both principal and interest. No transfer of this Bond shall be valid unless and until (1) the registered holder of the Bond, or his duly authorized attorney or legal representative, executes the form of assignment appearing on this Bond, and (2) the City Finance Director as bond registrar (the "Registrar"), has duly noted the transfer on the Bond and recorded the transfer on the Registrar's registration books. The City shall be entitled to deem and treat the person in whose name this Bond is registered as absolute owner thereof for all purposes, notwithstanding any notice to the contrary. Payments on account of the Bond shall be made only to the order of the registered holder thereof, and all such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond to the extent of the sum or sums so paid.

REGISTER

The ownership of the unpaid Principal Balance of this Bond and the interest accruing thereon is registered on the books of the City of Whitefish, Montana in the name of the registered holder appearing on the first page hereof or as last noted below:

Date of Registration	Name and Address of Registered Holder	Signature of City Finance Director
December 17, 2015	Department of Natural Resources and Conservation 1625 Eleventh Ave. Helena, MT 59620	

THE FOLLOWING ENTRIES ARE TO BE MADE ONLY BY THE BOND REGISTRAR UPON REGISTRATION OF EACH TRANSFER

The City Finance Director of the City of Whitefish, Montana, acting as Bond Registrar, has transferred, on the books of the City, on the date last noted below, ownership of the principal amount of and the accrued interest on this Bond to the new registered holder noted next to such date, except for amounts of principal and interest theretofore paid.

Date of Transfer	Name of New Registered Holder	Signature of Bond Registrar

FORM OF ASSIGNMENT

For value received, this Bond is hereby transferred and assigned by the undersigned holder, without recourse, to _____ on this _____ day of _____, _____.

By:_____
(Authorized Signature)

For: _____
(Holder)

SCHEDULE A

SCHEDULE OF AMOUNTS ADVANCED

Date	Advances	Total Amount Advanced	Notation Made By

SCHEDULE B

Date	Principal	Interest	Administrative Expense Surcharge	Loan Loss Reserve Surcharge	Total Loan Payment

APPENDIX C

ADDITIONAL REPRESENTATIONS AND COVENANTS

None

Staff Report

To: Mayor John Muhlfeld and City Councilors

From: Dana Smith, Finance Director Dana Smith

Date: November 30, 2015

Re: Resolution relating to $960,000 Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015; Authorizing The Issuance And Fixing The Terms And Conditions Thereof

Introduction/History

In 2014, the Montana Department of Transportation (MDT) continued reconstruction of Highway 93 North from Karrow Avenue west to Mountainside Drive, often referred to as Phase II of the Whitefish West Project. The City knew that during Phase II of the reconstruction project it was necessary to continue to replace and increase the capacity of sewer lines under the Highway 93 North while the road was under construction. Phase II, from Karrow Avenue to Mountainside Drive, is now substantially complete.

When MDT does a project, they typically require any City contributions for the costs of construction to be paid up front. However, similar to the process in Phase I, MDT allowed the City to pay only a portion of the City's contribution to the construction costs upfront for Phase II. In July 2014, the City paid $398,050 to MDT from water impact fees with the remaining construction costs estimated at $996,527 (including bond issuance costs) to be financed through the State's Revolving Fund (SRF) Loan Program and paid to MDT at the end of the project.

Current Report

The current estimated costs owed to MDT for the sewer improvements is $967,873, which includes an estimated change-order for the cost to remove the very large and unanticipated boulders while expanding the services of the sewer system. Loan reserves of $30,919, bond counsel costs of $8,000, and construction related costs of $921,081 will be paid for from proceeds of the $960,000 revenue bond from the SRF Loan Program. The remaining portion of the construction costs will be paid with additional Impact Fees (estimated at $50,000) due to the unexpected additional costs of expanding services. Also, since these are estimated costs, any additional costs incurred and billed are expected to be paid using cash on-hand in the Sewer Fund.

The packet contains the standard bond resolution prepared by the Bond Counsel Dorsey & Whitney in Missoula. City Manager Chuck Stearns and I have reviewed and revised the Bond Resolution with the City's bond counsel, Dorsey and Whitney.

Financial Requirement

The total loan amount of the sewer revenue bond will be $960,000. The total interest rate on the bond/loan will be 2.5% and payable over 20 years. Net Revenues (annual operating revenues minus annual operating costs) currently meet the 110% coverage requirement so no water rate increase is needed to pay for this bond. The coverage calculations by the DNRC and the amortization schedule for the loan is included in the packet.

Recommendation

Staff respectfully requests the City Council approve a Resolution related to the $960,000 Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015; Authorizing The Issuance And Fixing The Terms And Conditions Thereof.

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

STEVE BULLOCK, GOVERNOR
1625 ELEVENTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE: (406) 444-2074
FAX: (406) 444-2684
PO BOX 201601
HELENA, MONTANA 59620-1601

MEMORANDUM

To: Chuck Stearns
City of Whitefish

From: Anna Miller
Department of Natural Resources and Conservation

Subject: Whitefish Wastewater SRF Loan $960,000 Coverage Calculation

Date: November 6, 2015

I have reviewed the FY 2016 budgeted financial information of the City's wastewater system. The wastewater fees will be pledged to the debt of the wastewater system. I have estimated closing dates just to see if coverage is made. Currently there are eight loans outstanding. The City is looking at borrowing funds for a total of $960,000.

Coverage Calculation

The average highest year's debt service is $306,581 in fiscal year 2021.
Coverage is $306,581 x 110% = $337,239

Calculation using 2016 Budgeted Revenue and Expenses

Wastewater System Budgeted Revenue FY 2016	$ 2,400,000
Wastewater System Budgeted Expenses FY 2016	$<1,887,877>
Total Net Revenues	$ 512,123

Net Revenues	$ 512,123
Coverage Needed	$<337,239>
Coverage **is** made by	$ 174,884

The coverage for the loan is in place. I have attached the 2016 budgeted revenue and expenses for Whitefish. There is a copy of the estimated payment schedules. I will adjust the dates on the payment schedules once we know the closing date.

Please call if you have questions. My number is 406-444-6689.

cc: Terry Campbell – DEQ w/
Diana Hoy – DNRC w/
Courtney Ellis – Dorsey & Whitney w/
Whitefish $960,000 SRF file w/

AM:jy

Whitefish Combined Wastewater Loans

	2002 SRF-03098 $200,000	2008A SRF-09177 $500,000	2008B SRF-09178 $1,711,000	2009B SRF-10248 ARRA-B $48,211	2011B SRF-12288 $328,000	2011C SRF-12295 $386,000 Recycled	2014 SRF-14348 $452,300	2014B SRF-15363 $300,000	2015 SRF- $960,000	Total
2017	11,390	30,457	102,915	2,274	22,295	24,880	30,375	19,125	62,696	306,407
2018	11,190	29,917	102,081	2,259	22,875	24,400	29,835	18,825	60,812	302,194
2019	10,990	30,377	102,225	2,244	23,410	23,920	30,295	18,525	61,850	303,836
2020	12,780	30,804	102,324	2,229	22,930	23,440	30,710	19,225	60,850	305,292
2021	12,540	30,219	102,377	2,214	22,450	24,945	30,110	19,888	61,838	306,581
2022	12,300	29,634	102,386	2,199	21,970	24,405	29,510	19,537	60,787	302,728
2023	6,060	31,038	102,350	2,184	23,475	23,865	30,895	19,188	61,725	300,780
2024		30,408	102,269	2,169	22,935	24,325	30,235	18,837	60,625	291,803
2025		29,778	102,143	2,154	22,395	24,740	29,575	18,488	61,513	290,786
2026		29,148	102,971	3,140	22,855	24,140	30,900	19,137	61,362	293,653
2027		30,506	103,721	4,113	23,270	23,540	30,180	19,750	61,175	296,255
2028				4,083	22,670	24,925	29,460	19,350	61,963	162,451
2029				4,053	22,070	24,265	30,725	18,950	60,712	160,775
2030				4,023	22,470	23,605	29,945	18,550	61,450	160,043
2031					22,825	24,930	30,165	19,150	61,150	158,220
2032					11,165	13,195	30,340	19,712	60,813	135,225
2033							29,500	19,263	61,450	110,213
2034							29,660	18,812	61,050	109,522
2035								19,363	61,613	80,976
2036									61,125	61,125
Total	77,250	332,286	1,127,762	39,334	352,060	377,520	542,415	363,675	1,226,559	4,438,861

SRF-

STATE OF MONTANA
GENERAL OBLIGATION BONDS
WASTEWATER
(REVOLVING FUND PROGRAM)

BORROWER:	Whitefish		
PROJECT NAME:		FINAL LOAN PAYMENT:	1/1/2036
LOAN COMMITMENT:	$960,000	# OF LOAN PAYMENTS:	40
LOAN AMOUNT:	960,000	PROJECT NUMBER:	
INTEREST RATE:	2.50%	DATE OF FUNDING:	12/17/2015

	PAYMENT DUE	LOAN LOSS RESERVE	ADM EXPENSE SURCHARGE	INTEREST PAYMENT	PRINCIPAL PAYMENT	O/S LOAN BALANCE	TOTAL AMOUNT OF PAYMENT	
1	7/1/2016	1,293.33	1,293.33	10,346.67	19,000.00	941,000.00	$31,933.33	
2	1/1/2017	1,176.25	1,176.25	9,410.00	19,000.00	922,000.00	$30,762.50	$ 62,695.83
3	7/1/2017	1,152.50	1,152.50	9,220.00	19,000.00	903,000.00	$30,525.00	
4	1/1/2018	1,128.75	1,128.75	9,030.00	19,000.00	884,000.00	$30,287.50	$ 60,812.50
5	7/1/2018	1,105.00	1,105.00	8,840.00	20,000.00	864,000.00	$31,050.00	
6	1/1/2019	1,080.00	1,080.00	8,640.00	20,000.00	844,000.00	$30,800.00	$ 61,850.00
7	7/1/2019	1,055.00	1,055.00	8,440.00	20,000.00	824,000.00	$30,550.00	
8	1/1/2020	1,030.00	1,030.00	8,240.00	20,000.00	804,000.00	$30,300.00	$ 60,850.00
9	7/1/2020	1,005.00	1,005.00	8,040.00	21,000.00	783,000.00	$31,050.00	
10	1/1/2021	978.75	978.75	7,830.00	21,000.00	762,000.00	$30,787.50	$ 61,837.50
11	7/1/2021	952.50	952.50	7,620.00	21,000.00	741,000.00	$30,525.00	
12	1/1/2022	926.25	926.25	7,410.00	21,000.00	720,000.00	$30,262.50	$ 60,787.50
13	7/1/2022	900.00	900.00	7,200.00	22,000.00	698,000.00	$31,000.00	
14	1/1/2023	872.50	872.50	6,980.00	22,000.00	676,000.00	$30,725.00	$ 61,725.00
15	7/1/2023	845.00	845.00	6,760.00	22,000.00	654,000.00	$30,450.00	
16	1/1/2024	817.50	817.50	6,540.00	22,000.00	632,000.00	$30,175.00	$ 60,625.00
17	7/1/2024	790.00	790.00	6,320.00	23,000.00	609,000.00	$30,900.00	
18	1/1/2025	761.25	761.25	6,090.00	23,000.00	586,000.00	$30,612.50	$ 61,512.50
19	7/1/2025	732.50	732.50	5,860.00	23,000.00	563,000.00	$30,325.00	
20	1/1/2026	703.75	703.75	5,630.00	24,000.00	539,000.00	$31,037.50	$ 61,362.50
21	7/1/2026	673.75	673.75	5,390.00	24,000.00	515,000.00	$30,737.50	
22	1/1/2027	643.75	643.75	5,150.00	24,000.00	491,000.00	$30,437.50	$ 61,175.00
23	7/1/2027	613.75	613.75	4,910.00	25,000.00	466,000.00	$31,137.50	
24	1/1/2028	582.50	582.50	4,660.00	25,000.00	441,000.00	$30,825.00	$ 61,962.50
25	7/1/2028	551.25	551.25	4,410.00	25,000.00	416,000.00	$30,512.50	
26	1/1/2029	520.00	520.00	4,160.00	25,000.00	391,000.00	$30,200.00	$ 60,712.50
27	7/1/2029	488.75	488.75	3,910.00	26,000.00	365,000.00	$30,887.50	
28	1/1/2030	456.25	456.25	3,650.00	26,000.00	339,000.00	$30,562.50	$ 61,450.00
29	7/1/2030	423.75	423.75	3,390.00	26,000.00	313,000.00	$30,237.50	
30	1/1/2031	391.25	391.25	3,130.00	27,000.00	286,000.00	$30,912.50	$ 61,150.00
31	7/1/2031	357.50	357.50	2,860.00	27,000.00	259,000.00	$30,575.00	
32	1/1/2032	323.75	323.75	2,590.00	27,000.00	232,000.00	$30,237.50	$ 60,812.50
33	7/1/2032	290.00	290.00	2,320.00	28,000.00	204,000.00	$30,900.00	
34	1/1/2033	255.00	255.00	2,040.00	28,000.00	176,000.00	$30,550.00	$ 61,450.00
35	7/1/2033	220.00	220.00	1,760.00	28,000.00	148,000.00	$30,200.00	
36	1/1/2034	185.00	185.00	1,480.00	29,000.00	119,000.00	$30,850.00	$ 61,050.00
37	7/1/2034	148.75	148.75	1,190.00	29,000.00	90,000.00	$30,487.50	
38	1/1/2035	112.50	112.50	900.00	30,000.00	60,000.00	$31,125.00	$ 61,612.50
39	7/1/2035	75.00	75.00	600.00	30,000.00	30,000.00	$30,750.00	
40	1/1/2036	37.50	37.50	300.00	30,000.00	0.00	$30,375.00	$ 61,125.00
		26,655.83	26,655.83	213,246.67	960,000.00		1,226,558.33	$ 1,226,558.33

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Chuck Stearns

From: Necile Lorang <nlorang@cityofwhitefish.org>
Sent: Thursday, November 19, 2015 10:52 AM
To: cstearns@cityofwhitefish.org
Subject: Fwd: Message to City Council Regarding the Haskill Basin Conservation Easement

-------- Forwarded Message --------
Subject: Message to City Council Regarding the Haskill Basin Conservation Easement
Date: Thu, 19 Nov 2015 10:22:56 -0700
From: Marti Bruce <mynameismarilyn@gmail.com>
To: nlorang@cityofwhitefish.org

Dear Whitefish City Council,

I am writing to express my concern regarding the proposed Haskill Basin Conservation Easement, specifically the lack of protection in the easement document for the existing Haskill Basin trails.

The Haskill Basin trails are some of the most popular hiking and mountain biking trails in Whitefish. Growing up in Whitefish, I remember biking these trails with my mom and dad. Losing this trail network would be a great loss to recreation in Whitefish, as well as a great loss to Whitefish's history.

By agreeing to increase the resort tax in Whitefish, I thought that--among other goals--we were ensuring the Haskill Basin area would be open to recreational opportunities. While I appreciate that a future loop for the Whitefish Trail has been guaranteed by the proposed conservation easement, I believe that allowing recreation in Haskill Basin means providing more than a single trail.

Stoltze Land and Lumber has been willing to keep the current Haskill Basin trails open to hikers and bikers, but without verbiage in the easement acknowledging the current trails exist and ensuring their continued existence, if Stoltze were to sell the land, a future buyer may shut down this trail network. If Stoltze decides they no longer want bikers and hikers on the existing trails, they too can shut down the trails.

To ensure this doesn't happen, the easement document must acknowledge that the current single track trails exist and must guarantee the protection of these trails.

As someone who works for a local Whitefish business, I know the importance of tourism to our local economy. Recreational opportunities bring tourists. And tourists who visit Whitefish want a variety of options for hiking and biking. In recent years, I've seen an increase in tourism during the "swing seasons," and I believe that hiking and biking trails help bring tourists, not only in the summer, but during the months when the park and the ski hill are closed.

Please help guarantee that some of the most popular trails in our town won't be shut down.

Thank you.

Best,
Marti Bruce

received
11/19/15

This letter was written to the CEO and Chief Operating Officer at North Valley Hospital. I wanted to share this with you because I have been paying attention to the concern of city council about the housing crisis here in the valley. Thank you for your consideration.

Sincerely, Dziko Zuckert RN

received
11/19/15

To Whom It May Concern:

I have had the privilege of living in one of the most beautiful places here in Flathead County. I have been able to finish my nursing degree and work in both KRMC and NVH. I have found a special home here in North Valley Hospital. My manager's concern for her employees' well fare and the strength of compassion and talent here in the OB department has made my experience here wonderful! I love it here, but now having said this, unfortunately I have to leave it behind. Between balancing family expenditures, student loan payments and now an ever increasing cost of living I can no longer afford to be an employee. I have had to take a travel position in order to get paid enough money to balance my life and pay a rent. I was asked to write this letter to you and also city council by, concerned friends, supervisors, neighbors and even potential landlords, all who are concerned about this alarming trend. The cost of living increases and our wages in all sectors of service do not reflect what's really going on in our environment. These concerns are magnified by factors such as single parenting while trying to balance financial responsibilities. I am not alone. City council has been dealing with this trend. People who serve this valley are getting to the point where they cannot even afford to live in it. This may seem to some to be an independent concern but if you take a look around the evidence is glaring and threatens the fabric of this community. This letter is just another voice in the din that is our financial decline in this country for the middle class. My hope is that these real concerns are not ignored to the detriment of this community.

Sincerely, Dziko Zuckert RN

Dziko Zuckert

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

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

- We, the undersigned, support the build-out of 4 separate buildings on one lot consisting of a portion of The Mix @ Whitefish (addresses 1842/1844/1846/1848 Baker Ave). We ask the Whitefish City Council to approve this request.
- We, the undersigned, support the use of a Hotel on the property known as 1848 Baker Ave. (part of The Mix @ Whitefish) and ask the Whitefish City Council to approve this use.
- We, the undersigned, support the use of a Restaurant on the property known as 1822 Baker Ave. (part of The Mix @ Whitefish) and ask the Whitefish City Council to approve this use.

PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Katie DeGrote	23 Iowa Ave	406 261 5875	KDeGrote	12/5/15
Marci Baker	543 Parkway Dr	406 257 3000	M Baker	12/5/15
William Todd Jackson	Columbia Falls 639 Hwy 2 east	406-250-4799	Wm Todd Jackson	12-5-2015
Alicia Gordon	182 Hogue DR. Bigfork, MT 59911	406 212 4684	Alicia Gordon	12/5/15
Bruce Henson	2015 Rock DR Hungry Horse	406 334-3331	Bruce Henson	12/5/15
Tom Gordon Jr.	182 Hogue DR. Bigfork, MT 59911	406 212 3693	[illegible]	12/5/15
Lynn Morlock	469 Forest Edge Trail Kalispell, MT	406-270-4111	Lynn Morlock	12/5/15
Lori Weisz	12246 Moccasin Ct Missoula, MT 59808	(406) 253-7485	Lori A. Weisz	12/5/15
Holly Rundle	6700 Hwy 2 West Ulla, MT 59920	406-249-6961	Holly Rundle	12/5/15
David Yablonskiy	3155 Sweetgrass Lane Kalispell MT	406-896-4269	[illegible]	12/5/15

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Anatoliy Khodyrev	156 Toftum Ln / C-Falls	406 270-7703		12/5/15
Ruslan Kolosov	1055 N. Meridian Rd. Apt 305 Kalispell	406-260-1742		12/5/15
Bene Pashkovskiy	12731 RP Dw C.S. Edmonds, WA	509-398-6433		12/5/15
Vitaliy Morozov	280 Lore Lake Drive Kalispell, MT 59901	406-314-2092		12/5/15
BILL NEFFIER	395 LAKE BLAINE RD KALISPELL, MT.	406-261-7423		12/5/15
Josh Baugl	530 Mountainview Dr.	406 871 4165		12/5/15
Trent Walls	Po Box 675	(406) 221-0842		12/5/15
Ilya Salo	430 2nd E Columbia Falls MT 59912	(406)-260-3943		12/5/15
Denis Johnson	2085 Helena Flats Rd Kalispell, MT	406-485-2292		12/5/15
Ryan Hum	856 East Washington Street	406-862-0289		12/5/15

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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Phillip Nye	103 Ranchview Kalispell 59901	702 461 3636		12/5/15
Gary Shaffer	6219 Hwy 93 South Whitefish MT 59937	261-5512		12/5/15
Brandon Lockhart	216 Fairview dr. Kalispell 59901	260-5940		12/5/15
Kevin Blake	132 Empire loop Kalispell	300-2805		12/5/15
Aaron Morris	1310 cameron lane whitefish 59937	(406) 890-5178		12/5/15
Jerry Caldwell	5200 Hwy 93 W. Whitefish, MT	406-862-0702		12/5/15
Willy Palin	66 Wayne way Kalispell MT	406 314-0004		12-5-15
Zach Watson	525 Sayles Place C.Falls 59937	406-314-0077		12-5-15
Travis Cannon	2700 middle Rd C. Falls MT	406-890-3204		12-5-15
MIKE GENDREAU	354 BESMARK ST	406-257-9655		12/5/15

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ALEKSANDR YABLONSKIY	3155 Sweet Cross Ln Kalispell, MT	(406) 257-4151	[illegible]	12-05-2015
LEAH YABLONSKIY	301 S MOUNTAIN VIEW DR. KALISPELL MT 59901	(406) 471-2306	[illegible]	12-05-15
Alex Popkov	14 Honeysuckle Ln Kalispell, MT 59901	(406) 270-9361	[illegible]	12-5-15
Steve Kolosov	170 LINCOLN LN KALISPELL MT 59901	(406) 471-5749	[illegible]	12-5-2015
Peter Kiziyak	286 Soaring Pines	(406) 253-8142	[illegible]	12-5-15
[illegible]	286 Soaring Pines	(406) 253-81-42	[illegible]	12-5-15
Natasha Popkov	14 Honeysuckle Lane	(406) 871-0960	[illegible]	12-05-2015
Svetlana Kolosov	170 Lincoln Ln 59901 KALISPELL MT	206 349 5202	[illegible]	12-5-15
Dustin Clutter	550 Hwy 15	(406-471-4831	[illegible]	12-5-15
Inna Vinogradov	1815 14th Ave Columbia Falls MT	212-0159	[illegible]	12/6/15

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Alex Vinogradov	1615 11th Ave W Columbia Falls MT	(406) 34-5295	[illegible]	12/6/15
Vlad Khmelev	1829 Stag Ln Kalispell MT	406-334-5564	Vladimir	12-6-15
Ruslan Khmelev	1829 Stag Ln Kalispell MT	406-334-5564	Ruslan Khmelev	12/6/15
Andriy Molchanets	1975 Greatview Dr Kalispell MT 59901	(509) 989-0484	[illegible]	12/6/15
Irina Molchanets	1975 Greatview Dr. Kalispell MT 59901	(509) 398-5556	Andriy Molchanets	12/6/15
Paul Sushchik	545 Liberty St [illegible]	(406) 211-4088	[illegible]	12/6/15
Filipp Ilin	1489 Mackenzie Loop Somers, MT 59932	406/471-5667	[illegible]	12/6/15
Brianna Lundgren	15470 Belmar #2 Kalispell MT	406 291 9304	[illegible]	12-6-15
Ramina Kolosov	1632 Larkin Lane Kalispell, MT 59901	206 375 8183	[illegible]	12-6-15
Valeriy Kolosov	1632 Larkin Lane Kalispell, MT 59901	206 229 6027	[illegible]	12-6-15

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Kat Abram	4870 Hwy 93 S. Whitefish	406-253-6409		12-1-15
Glenn Phillips	115 Colorado Ave Whitefish	406-863-9349		12/1/15
Tim Hudok	601 Park Whitefish, Mt	614-203-4316		12/1/15
Teresa Johnson	3 Dakota Ave W			12/3/15
LUCIA LEONARD	215 CENTRAL	862-3175		DEC 3 2015
JONATHAN COLE	130 CENTRAL	862-0027		12/3/15
SHAN MICHAEL	728 KALISPELL AVE APARTMENT A	407-1883		12-3-15
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
THADDEUS TYSON	144 Empire Loop Kalispell, MT			12-3-15
Rowdy Fee	700 Springcreek Rd Somers	406-212-2999		12/4/15

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GREG PRYOR	107 TAMARACK LN	206-314-3957	Greg Pryor	12/1/15
MATT CHRISTIANSEN	128 RIVERVIEW DR	206 948 9652	[illegible]	12/1/15
DAN KING	1610 TAMARACK LN	307 413 4784	[illegible]	12/1/15
CONOR O'NEIL	1210 4TH AVE W	406.407.1357	[illegible]	12-1/15
JALONE MARTINEZ	3261 Big Fork Winter Hawk	406 407-4645	[illegible]	12/
Jacqueline Crain	645 Woodland place Whitefish	406 730-8576	[illegible]	12-1
[illegible]	434 Texas Ave W.F	[illegible]		12-1
Scott Smith	841 Baker Ave	425-691-0465	[illegible]	12-1
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Jake Hemm	[illegible]	862-2693	[illegible]	12-1
Megan Hargrave	1650 Helena Flats Rd Kalispell MT	407-6731	Megan Hargrave	12-4

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
John Goldberg	Whitefish, MT	885-3120		12-1
MICHAEL C. PREZEAU	320 DAKOTA AVE WHITEFISH	862-4339		12/1/15
Cynthia Hale	217 [illegible] Central ave Whitefish	862-5779	Cynthia Hale	12/1/15
Zane Levangood	645 Woodland Place 9 Whitefish, MT 59937	253-2042		12-1-15
SARAH HANSEN	P.O. BOX 4630 Which, MT. 59937	253 6770202		
Troy Rice	850 Lupfer Road Whitefish 59937	862-0889		12/1/15
David Blair	328 3rd St. W	818-679-8643		12/1
Zak Ward	328 3rd St. W.	406-249-3574		12/1
MICHAEL WARD	328 3rd ST W.	406-249-3574		12/1
Selina Goble	812 Minnesota Ave. Whitefish MT	406.749.7609		12/1

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Molly Lauterbach	Kalispell	406/249/5743	Molly Lauterbach	12-4-15
Tischel Dagnoli	Columbia Falls	406-781-6708	Tischel Dagnoli	12-4-15
Micah Hobus	Kalispell	406-885-0455	Micah Hobus	12-4-15
Melanie Hobus	Kalispell	406 871 3518	Melanie Hobus	12.4.15
Katie Elletson	Columbia Falls	406-270-7757	Katie Elliot	12-4-15
Tyler Symington	Kalispell	406.253.2797	Tyler Symington	12-4-15
Stephanie DiAddezio	Kalispell	406-871-0197	Stephanie DiAddezio	12-4-15
Vincent Swimley	Kalispell	406-407-1139	[illegible]	12-4-15
Jessica Fee	700 Springcreek rd Somers	406-270-4225	[illegible]	12/4/15
Chuck Hargrave	117 Gunsight Loop Kalispell	406-407-6731	Chuck Hargrave	12/4/15

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Danielle Waller	Kalispell	253-5891	Waller	12/4/15
[illegible]	Kalispell	407-607-8901	Bennett J Camillo	12/4/15
Jennifer Bailey	Kalispell	(406)471-0537	Jennifer Bailey	12/4/15
Dawn Manders	Bigfork	837-3247	[illegible]	12/4/15
Molly Filipek	Kalispell	406-212-3698	[illegible]	12/4/15
Ruby Pollard	Columbia Falls	406-407-1959	Ruby Pollard	12/4/15
Mike Filipek	DAYTON	406-862-2234	[illegible]	12/4/15
Lee Kizer	Columbia Falls	406-250-7654	[illegible]	12/4/15
Nikki Nadeau	Kalispell, MT	406 314 5117	Nicole Nadeau	12/4/15
Katie Purdy	Kalispell, MT	406 261-2984	Katie Purdy	12/4/15
Sarah Rashoodi	Kalispell, MT	701 2049377	Sarah Rashoodi	12/4

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Jody Walter	Somers	(406) 249-0077		12/4/15
Hunter Thorson	Kalispell	406-253-9202		12-4-15
Chuck Brandstrup	Bigfork	720 951 4667		12/4/15
Brandon Johnson	Kalispell	406-212-9232		12/4/15
Ralph O'Neil	Kalispell	406-261-3769		12-4-15
Amber Connell	Kalispell	406-885-8989		12/4/15
Kaneisha Witherspoon	Kalispell	4062495018		12/4/15
Trey Weeks	Kalispell	406 249 1941		12/4/15
CQ Parrott	Kalispell	406 249 9988		12/4/15
	Kalispell	931-220-5118		4 Dec 2015

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Justin Stanford	Somers MT	406-261-4151	Justin Stanford	12/3/15
John Shumate	Kalispell	406-752-2112	John Shumate	12-4-15
Cody Flora	Kalispell	406-314-0727		12/4/15
Andy Wilson	Kalispell	752 2112		12/4/15
Ben Prewitt				
Kyle Rushing	Kalispell	406 212 6061	Kyle Rushing	12/4/15
Brian Dasenbrock	Kalispell	406-261-4949		12/4/15
Joshua D. Borgardt	Kalispell	406 314 5302		12/5/15
Mikala Walter	59 Ashley Creek Ln	(254) 317-8602	Mikala Walter	12/3/15
Michelle Johnson	2232 Merganser Dr. Kalispell	406 261 0838	Michelle Johnson	12/4/15

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Laura Hargrave	Kalispell	212 1193	Laura Hargrave	12/2/15
Michael Milutinovic	Kalispell	890 3114		12/3/15
Justin Turner	Kalispell	471-3999		12/3/15
Nick Bredin	Kalispell	858 0581		12/3/2015
SHAUN CHRISTENSEN	KALISPELL	253 6465		12/3/15
Kiersta Ellingson	Kalispell	253-6305		12/3/15
Andy Duram	Kalispell	546-0490		12/4/15
Deb Gaddess	Dayton	509-939-7161	Deb Gaddess	12/3/15
Joshua Pla	Lake Side	406-704-3147		12/3/15
Jeri Featherly	Kalispell	(406)274-6254	Jeri Featherly	12/3/15

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Blake C. Featherly	1100 Glenwood Dr Kalispell	406-546-3614		12/3/15
Jessica Harris	Bigfork	406-270-234[illegible]		12/3/15
JR Moore	Kali[illegible]	406-212-9406		12/3/15
Dan Olson	Kalispell	406 755-7625		12/3/15
Jesse Moses	KALISPELL	871 7118		12/3/15
Adan Bedal	Kali MT	406-309-1842		12/3/15
Joe [illegible]	Kali, MT	406-309-1176		12/3/15
MR RYAN LAMB	512 7TH AVE WEST	N/A		
Kim Role	Kalispell Mt	406-790-0017		
Mark Gee	Kalispell	253-5399		12/3/15

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Dustin Hartong	Kalispell	760-408-8238	[illegible]	12/4/15
tami Filipek	DAYTON	406-862-2234	tami filip	12/4/15
LeeAnn Giardina	Kalispell	406-250-9572	[illegible]	12/4/15
Tim Giardina	Kalispell	406-471-0258	[illegible]	12/4/15
MICHAEL KUNDA	KALISPELL	406-210-2526	[illegible]	12/4/15
Jami Thompson	Kalispell	755-0237	[illegible]	12/5/15
Shaunelle Hunter	Kalispell	471-4947	[illegible]	12-5-15
[illegible]	Columbia Falls	892-0846	[illegible]	12-5-15
Star Schultz	Whitefish	858-0156	[illegible]	12.4.15
[illegible]	Kalispell	253-8090	Kris R Wol	12-4-15

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Tanner Woodland	475 6th Ave West North Kalispell	406-871-3677		12/4/15
Travis Woodland	905 Ashley Drive	406-871-0317		12/4/15
Amanda Fenger	18 Mountainview Dr	406-8905591		12/4/15
Danielle Hughes	Kalispell	406-890-9174		12/4/15
Elvis Hillaro	Kal	406-752-2127		12-4-15
Angela Hardin	1629 4th Ave W. #1 Falls	406-260-3488		12-4-15
Arthur Howell	130 10th St E Kalispell, MT 59901	406-212-8703		12-4-15
Coty Howell	same ↑	406-885-2302	Coty Howell	12/4
Johnny Fee	715 Spring Creek Somers	630-245-0008		12/4
Larry Hoerner	Hungry Horse	406-892-5938		12/4

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Jake Slaybaugh	Whitefish	406-270-8757	Jake Slaybaugh	12/4/15
Greg Rieke	Bigfork	406-260-5652	Greg Rieke	12-4-15
Fry Baby	Kal	2507515	[illegible]	12/4/15
[illegible]	Kal	[illegible]	[illegible]	12/4/15
Bob Reino	West Linn OR	406 249 0224	[illegible]	12/4/15
[illegible]	120 Kal	212-1719	[illegible]	12/4/15
Justin Yeager	Hamilton	406 381 5372	[illegible]	12/4/15
Blair Miller	Kalispell	406-890-0425	[illegible]	12/4/15
Tim Reynolds	Kalispell	406-249-0814	[illegible]	12-4-15
Trent Kamstamanos	White Fish	406-260-7965	[illegible]	12-4-15

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Juan Rodriguez	Kalispell	406-270-1480	Juan Rodriguez	12-4-15
Leann Rodriguez	Kalispell	406-270-1480	Leann Rodriguez	12-4-15
Chris Olstedter	Kalispell	406 270 9834		12/4/15
Tyler Griswold	Kalispell	406-212-1463		12/4/15
* Amy Williams	Kalispell	610-657-6723		12/4/15
Joe Sidon	Kalispell	406 755 0030	Joe Sidon	12-4-15
Jeff Haven	Kalispell	406 314 3462	Jeff Haven	12/4/15
Mike Hagel	Kalispell	406 885-9561	Mike Hagel	12-4-15
J. Stephens	Kalispell	406 212-6349	Jennifer Stephens	12-4-15
Bryan Stephens	Kalispell	406 212 7295	Bryan Stephens	12-4-15

BRYAN STEPHENS

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Ryan Hargrave	1650 Helena Flats RD	406-309-0405		12-1
Joe Page	PO 4631 W/F MT	406-261-0365		12-1
Elisabeth Abram	4870 Hwy 93 S #21 Whitefish MT 59937	406-890-4894		12-1
Michele Calabretta	157 Duff Lane Whitefish MT	406-871-6421		12-1
Brent Jameson	1009 8th street	406-314-3861		12-1
Devin Kelley	90 Wagon wheel rd	480-612-5166		12-1
Dylan Parr	342 Lupdar Loop RD	406-314-3488		12-1
Sean Malone	435 Iowa Ave.	(406) 314-0311		12/1
David Lewis	564 Park Av	406 250 6770		12/1
Jim Jewell	1845 Fourwheel DR Whitefish, MT 59937	270-5609		12/1

Anatoliy Khodyrev

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Zoe Haggstrom	112 B Poplar Dr	509-607-2677	Zoe Haggstrom	12/5/15
David Khodyrev	156 Toftum LN Col. Falls	406-892-8856	David Khodyrev	12/5/15
Jessica Bacon	303 Harmony Rd Kalispell MT 59901	406 260-1726	[illegible]	12/5/15
Kim Mahoney	1208 4th Ave W Kalispell, MT	406-407-6486	[illegible]	12/5/15
Sonya Regan Graham	511 11th St. W. Col. Falls, MT 59912	406 250-5413	Sonya Regan Graham	12/5/15
[illegible]	434 Catherine Ln Whitefish 59937	406 407 6164	[illegible]	12/5/15
Wesley Pratt	24 1st Ave W Kalispell, MT 59901	406 261 0139	[illegible]	12/5/15
Irina Khodyreva	156 Toftum Ln / Col. Falls	406-892 8856	[illegible]	12/5/15
Doug Grimes	260 Blacktail rd Lakeside MT	270-2992	[illegible]	12/5/15
Shianne Sweder	179 Glenwood Dr	406 3091918	[illegible]	12-5

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
ALAN MCCREA	249 RESERVE PLACE KALISPELL MT 59901	406-407-2260	Alan McCrea	12/5/15
Rebecca Martin	65 Rocky Trails Court Kalispell MT 59901	406 334 0334	Rebecca A Martin	12/5/15
Anna Mangialardo	16 Appleway Dr #7 Kalispell, MT 59901	406-250-4637	Anna Mangialardo	12/5/15
Kelcie Christenson	130 Harrison Court Columbia Falls MT	406-261-8178	Kelcie Christenson	12/5/15
Lexie Strouse	3569 Middle Road Columbia Falls, MT	406-253-6362	Lexie Strouse	12/5/15
Barb Strouse	3569 Middle Road Columbia Falls MT	406 892 2304	B Strouse	12/5/2015
Mathew Dr[illegible]	1000 Kienas Road Kalispell MT	406 253 1567	[illegible]	12-5-15
Sarah LaBreche	1884 N Belmar Dr Kalispell MT	406 260 6206	Sarah LaBreche	12-5-15
Zach Kunsman	PO Box 1065	406-212-7130	[illegible]	12-5-15
Sarah Usikosky	1884 OLD RESERVE DR	406-249-8860	[illegible]	12-5-15

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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Mitchell Brown	1090 Kill Ranch Rd Whitefish MT	261-4538	[illegible]	12-5-15
JOEL PEMBERTON	340 SAWTOOTH DR, LITTLE FISH, MT	890-8954	[illegible]	12-5-2015
[illegible]	431 WITH ST. Whitefish, MT	485-1050	[illegible]	12/5/15
Katrina Coronado	1583 Condor Dr Kalispell MT 59901	260-2945	Katrina Coronado	12/5/15
Lynne Moe	PO Box 7873 Kalispell MT	249-1823	Lynne Moe	12-5-15
Morgan Knutson	P.O. Box 1618 Kalispell, MT 59903	471-7903	Morgan Knutson	12/5/15
Kelli Cutler	74 3rd Ave WS Kalispell MT	406 871 5975	Kelli Cutler	12/5/15
Roger Gillory	421 Parkway dr. Kalispell MT	406 309-1237	Roger Gillory	12/5/15
Anthony Rekus	43 Carnegie Dr Kalispell, MT	267-554-2941	Anthony Rekus	5 Dec 2015
Anthony Ramirez	226 Willow Glen Drive	400-471-9087	Anthony Ramirez	12/5/15

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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Taylor ~~[illegible]~~ Hargett	821 Elk Park Rd Columbia Falls	471-2531	[illegible]	12-5-15
Martin Hargett	221 Elkpark Rd CFalls	406-260-6325	[illegible]	12-5-15
Brad Heine	2000 Lower Valley Road	406-253-6347	Brad Heine	12/5/15
Angela Preston	311 Kelly Rd #12 Kal.	406-890-1548	Angela Preston	12/5/15
Morgan Corkish	254 Buttercup Loop	406-~~[illegible]~~212-8122	Morgan Corkish	12-05-15
Gerald Friesen	1005 2nd Ave E Kalispell, MT	406 750-1855	[illegible]	12/5/15
Micah Friesen	1005 2nd Ave East Kalispell, MT	406 871 9953	[illegible]	12/5/15
Rebecca Friesen	1005 2nd Ave E Kalispell	406-752-4522	[illegible]	12/5/15
Kevin Peterson	505 S. F. Drive Hungry Horse, MT 59919	406-270-0218	Kevin Peterson	12/5/15
Stephany Peterson	505 S. F. Drive Hungry Horse, MT 59919	406-210-9216	[illegible]	12/5/15

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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Taras Shostak	203 Cap Rd	406-314-669	[illegible]	12-5-15
Elona Shostak	155 Vonderweide Ln	406-314-1957	Elona Shostak	12/5/15
Edward Fendich	82 Suzy lane	406-756-8576	Edward Fendich	12/6/15
Andrey Fendich	82 Suzy lane	406-756-3576	Andrey Fendich	12/6/15
Vadim Dikst	111 Aurich Ave	406-257-4080	Vadim Dikst	12-6-15
Vasily Pasechnik	1210 Rhodes draw	208-946-5214	[illegible]	12-6-15
Olga Dikst	111 Aurich Ave	406 257-4080	Olga Dikst	12/6/15
Oksana Nakonechny	4124 Mt HWY 40W	260-7049	[illegible]	12/6/15
Victoria Zoyzelsky	130 Jensen Road	471-0221	Victoria Zoyzelsky	12/6/15
Nadeam Kiskyuk	Kalispell	(406) 752-332[illegible]	[illegible]	12/6/15

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Anastasia Fendich	82 Suzy Ln. Kalispell	MT 260-0327		12/6/15
Anton Kigilyuk	283 SOARING PINES TR	253-8142		12/6/15
Rae Jokdosal	1055 N Meridian	(406) 890-1351		12/6/15
Sam Khmeler	1824 Stagline Kal.	406,334-5564	Sam Khmeler	10/6/15
Dan Pa[illegible]	200 Rhodes WR	406 2602102		10/6/15
Jonathon Cunningham	719 3rd Ave West Kalispell MT 59901	(406) 897-4035		12/6/15
Devon Decker	P.O. Box 11167 Kalispell, MT 59904	(406) 210-2942		12/6/15
Lyndsey Dunkin	448 Church Dr Kal MT 59901	406-261-0370		12.6.15
Shelby Lucht	692 Lore Lake Rd Kal, MT 59901	406-471-0276		12-6-15
Robert Ellingburg	153 Bernard Rd Kalispell, MT 59901	406-249-2261	Robert Ellingburg	12-6-15

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Patrick Clark	2 Dugan Way	212 0388		12-3-15
Janet Dudey	101 W. 2nd St	250-5521	Janet Dudey	12/3/15
Randy Becker	13 Great Bear Ln	261-4125	Randy Becker	12/3/15
Kyle Becker	531 Conrad Dr	890-4710		12/3/15
Dominic Cerulli	1 Woodlands Place Unit D	(703)926-3314		12/3/15
Serge Morozov	280 Lore Lake Dr	212-5432		12/3/15
Olga Morozov	280 Lore Lake Dr	314-2181		12/3/15
CHLOE GOLDBERG	3977 Star Meadows Rd			
BRIDGET G	3977 S.M.R			
Chelsea Goldberg	3977 Star Meadows Rd.	890-3492		12/3/15

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Paul Yablonsky	301 S Mountain View Dr	471-9434		12-4-15
SHERRI KISH	1515 SLOAN Wy - WF	730-2296	Sherri Kish	12-4-15
PEGGIE BROUSSEAU	750 W. 2nd Street Suite E WF	862-6822	Peggie D. Brousseau	12-4-15
VIK KEUYLIAN	P.O. BOX 5270 WHITEFISH MT	949441-9177		12-4-15
HARRY WELLMAN	1286 MOUNTAIN MEADOW RD KALISPELL 59901	212 1646	Harry Wellman	12-4-15
JODY ENGNAHAM	1181 FRONTAGE RD LF 59912	892-8126		12-4-15
Chad Heimerl	209 Northridge Dr. Kalispell MT 59901	406-407-3556		12-5-15
GREG LINDEN	746 LORELK RD KAL MT 59901	406 253 5026		12-5-15
Tim Dontater	P.O. Box 1254 Whitefish MT 59937	862-0505		12/5/15
Ron Fellers	KALispell, MT. 59901 4790 Southside Dr #10	871-0523		12/5/15

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Vern Fox	Bigfork MT	406-837-5509	Fox	12-5-15
Justin Stoller	Whitefish MT	406-283-1623		12-5-15
Auston Stoller	Whitefish MT	406-283-1623		12-5
[illegible]	Whitefish MT	406-334-1033		12-5
Robert Keesee	Evergreen MT	406-730-1364		12-5-15
Ross Willard	C Falls MT	8974538		12/5/15
Rick Morin	Whitefish MT	8624556	R.T. Morin	12-5-15
Sam Burt	Whitefish MT	862-4523	Samuel T. Burt	12-5-15
Manuel Melendez	Whitefish, MT	871-7047		15-5-15
Kaleb Veneman	Whitefish MT	717-623-0638	Kaleb Veneman	12-5-15

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Terry Starr	P.O. Box 4035/Whitefish	406-863-2961	Terry J Starr	12/5/15
Joseph Salo	1310 3rd Ave W/C FALLS	406-309-4557	[illegible]	12/5/15
Thomas Richards	96 aspen bluff Dr.	406-212-5587	[illegible]	12/5/15
Zachary Beckham	233 Harmony Rd	530-957-4724	[illegible]	12/5/15
Paul [illegible]	460 1st Kila	406-369-1155	[illegible]	12-5-15
Tom West	350 Lone Ck Rd, Kal.	406-261-2686	[illegible]	12-5-15
Bob Hamilton	PO Box 5260	406 212 561	[illegible]	12/5/15
Travis Warner	1136 2nd Ave	253-1351	[illegible]	12/5/15
Micah Macalister	C-Falls	595-2080	[illegible]	12/5/15
Troy Magill	Trego	871-7266	[illegible]	12-5-15

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Judi Yeats	22 Iowa Whfish	406 309 4386	Judi K Yeats	12/5/15
Armindo Montes	colorado whitefish	(406) 830-0745	[illegible]	12.5.15
Marsha Wood	Kalispell	406 270 6247	Marsha Wood	12/5/15
Keith Deets	Kalispell	(406) 890-8475	[illegible]	12/5/15
Jerry Ingraham	whitefish	406-862-4895	Jerry Ingraham	12/5/15
Chris Cunnell	Kalispell	208-908-2975	Chris Cunnell	12/5/15
Geri Dopkoter	whitefish	862 2555	Geri Dopkoter	12.5.15
[illegible]	whitefish	862 2555	[illegible]	12.5.15
Justin Boylan	Kalispell	250-3661	Justin Boylan	12-5-15
John J. Jay	Whitefish	249-0748	John J. Jimpson	12/5/15

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Rod Kuntz	611 3rd Ave W Kalispell	261-0893		12-5-15
Dirk Erickson	213 Dawn Dr. C.Falls	253-1196		12-5-15
Andrew Sagen	35 Olney Loop Rd Olney mt	260-0521		12-5-15
Brady Sundberg	13 Prosperity lane/Kalispell	360-248-5908		12-5-15
Kyle Munsch	W.F. MT	862 2571		12/5/15
Ryan Calabrese	Columbia Falls	897-2516		12/5/15
will h Williams	Columbia Falls			12/5/15
Jacob Jeffery	Kalispell	406 212-7732		12/5/15
Gabrielle Crose	Kalispell	406-407-5263		12-5-15
Charles Bennett	Whitefish	406-407-6544		12-5-15

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Mark Beck	5760 US Hwy 93 Whitefish MT	406-261-6602		12/5/15
Goodwyn Goodwyne Bob	C/F 59912 439 Lynnewood Dr.	(406)871-6861		12/5/15
Brad Nielsen	235 Sandy Hill Lane	406-471-5935		12/05/15
Mike McEnniel	27 Park Ave.	406-260-8103		12-5-15
Troy Sheill	24 Muskrat Drive	719 749 8221		12-5-15
Travis Sanders	6219 Hwy 93 S	406-862-2571		12/5/15
Leonard Devine	POB 3167 CFALLS	406-862-2571		12/5/15
Josh Gale	6219 Hwy 93 S WF	406-862-2571		12/5/15
Erik Kulseimoff	6219 Hwy 93 S	(406)862-2571		12/5/15
Aaron Farris	525 Skyles Place	916-607-8701		12/5/15

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Anthony Armstrong	132 Rocky lane Columbia Falls	702-217-6354		12-5-15
JEFF ALLEN	1441 2nd STREET	Hungry Horse		12-5-15
Stephanie Teren	505 Park Ave WF	862-2571		12/5/15
	1950 Cutler Lydr.	406 407-2427	celbren Treece	12/5/15
Tyler Seger	445 5th Ave W	406 260 1737		12/5/15
Tamar Kruckenberg	243 vondertheide Ln Kal.	406-253-5775		12/5/15
STEVE MEIER Steve Meier	1340 willow Glen Kal.	no phone		12/5/15
Seth Frysall	110 hawthorn Ave. Kal.	871-9159		12/5/15
Jessica McCallum	400 Liberty St. #509 Kalispell	871-2364		12/5/15
Kelly Skere	PO Box 1803 Columbia Falls	892-3480		12/5/15

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Justin Anderson	P.O. Box 1155 Columbia Falls, Mt. 59912	406 253-5121	Justin Anderson	12/5/15
DAN WALKER	5044 Tumblehome Dr	406-890-5735	Dan Walker	12-5-15
Steve Ramsay	106 Harbor Way Big Fork MT	801-870-1445	[illegible]	12-5-15
Matt Eisinger	132 Pheasant Run Kalispell MT 59901	406-270-4718	[illegible]	12-5-15
Jim Spence	183 Commonsway Kalispell MT 59901	(406)885-7414	[illegible]	12-5-15
Randy Burtosky	405 CAYUSE LN KALISPELL MT	(406)885-6544	[illegible]	12-5-15
Larry Symmes	2545 Hwy 93 N	406-755-7414	[illegible]	12-5/15
Jase Dean	140 Denver Ave Kalispell MT	308-279-0429	[illegible]	12-5-15
Sam Holsapple	213 Spruce Rd Kalispell MT	(406)314-1105	[illegible]	12-5-15
Rick Berland	1119 5th Street W Kalispell	406 261-8140	[illegible]	12-6-15

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Edward Pepyna	P.O. Box 1732	406 270-4722	Edward Pepyna	12/5/15
[illegible]	155 Swan Brook Ln	470-1556	[illegible]	12/5
Eric P. Mainard	148 Stagecoach Lane	450 7126	Eric P. Mainard	12-5-15
Erica Ellingson	2565 Hwy 93 N	755 5555	[illegible]	12/5/15
MICHAEL ULBRICHT	P.O. BOX 7551	755-5555 ext 116	Michael S. Ulbricht	12/5/15
Brian Harris	148 Arbour Dr	471-1669	[illegible]	12/5/15
Scott Giffin	262 Fairview Dr	623-0880	[illegible]	12/5/15
Stan Lee	30 Silverleaf Dr	250-9750	[illegible]	12/5/15
Dan Gaiber	130 Aurich	212-3767	[illegible]	12/5/15
Julie Spears	PO. Box 10578	257-5603	Julie Spears	12/5/15

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Brayden Roberts	684 Shadowlane/Kalispell	406-253-5429		12-5-15
Tyler Nakamura	684 Shadowlane/Kalispell	406-533-8672		12-5/15
	1694 WHALEBONE DR. KALISPELL	406-871-0015	DAN CIARAMITARO	12-5-15
Kristin McAlee	1125 Lake East #2	406-890-5981		12-5-15
Aaron Holliday	WHITEFISH, MT 59937 19 WASHINGTON AVE	(916) 420-6626		12/5/15
John VanOsdel/Kelsey	PO Box 10935	406-249-3478		12-5-15
Mark Shea	820 Eck Avenue Columbia Falls 59912	4064471-1643		12/5/15
Andee Green	P.O. Box 1264	406-250-4827		12/5/15
Kathie Shale	PO Box 2434 CF	(406) 250-6848		12/5/15
Terry Tyler	P.O Box 3003 6	(480) 828-1465		12/5/15

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Indigo Montgomery	Kalispell	(406) 300-2519		12/05/15
Anthony Juliano	Kalispell	(406) 461-3994		12/5/15
Matt Winchel	Columbia Falls	406 261 5979		12/5/15
John Mahalek	whitefish, MT	(262) 227-4434		12/5/15
[illegible]	Columbia Falls	406 24-5543		12/5/5
Alyssa Juenke	Columbia Falls	406-249-3865		12/5/15
Troy Pearey	Columbia Falls	212 1556		12/5/15
Spencer Ivers	Columbia Falls	871-1013		12/5/15
Derrick Owens	Columbia Falls	253 1215		12/5/15
Elisa Bravo	Columbia Falls	471 1376		12/5/15

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Zandel Wilder	384 Braigred Col. Falls MT 59904	208-277-4617		12/5/15
[illegible]	[illegible]	8907667		12/7/15
Jeremy Grilley	PO Box 632	314-2918		12/4/15
David Ramsey	22 Martha RD #2	(406) 407-6321		12/5/15
Jeanetta Wilson	PO Box 632	406 253 8139		12/5/15
Brian Schlos	1321 5th Ave E	406 2502912		12/5/15
[illegible]	1321 5 thave e.	406 4719419		12/5/15
[illegible]	C Falls	406 314 8514		12/5/15
Matt Simonson	205 Lodgepole Rd Whitefish	425 327 4880		12/6/15
James V. Stupack	695 Lake Lake Kalispell	406-257-7141		12/6/15

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Jennie Stupack	695 Lore Lk Rd.	406-257-7141	Jennie Stupack	12/6/15
Lucas Cummings	724 Lore Lk Rd	406-280-6502	[illegible]	12/6/15
Shelbi Cummings	724 Lore Lk Rd	406-478-9392	[illegible]	12/6/15
Murray Swan	675 Lore Lake Rd.	406 257-6156	Murray Swan	12-6-15
Joe Dexoteny	4350 Farm to Market Rd	406 249 0323	Joe Dexoteny	12-6-15
Evelina Morozova	280 Lore Lake Dr	406-407-6389	Evelina Moro	12-6-15
Morozov Vladimir	280 Lore Lake Dr	406-756-3063	Vladimir Morozov	12/6/15
Vera Morozova	280 Lore Dr	406-260 2758	V. Morozova	12/6/15
Tim Boles	1835 Farm to Market	261-3510	T. Boles	12/6/15
Deanna Boles	1835 Farm to Mkt	406-261-1697	Deanna Boles	12-6-15

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
GARY BARONE	770 LOST CREEK DR	257-8531	[illegible]	12/6/15
Andrey Kurchmar	31 Aspen ct./Kalispell	509-842-2026	[illegible]	12/6/15
Pavel Kokaniyets	2[illegible] Grotto Cu Dr	1406-309-1908	[illegible]	12-6-15
Elijah Shestak	36 Sandy Hill Terrace	1406 890 4692	[illegible]	12-6-15
DENIS GAYVORONSKIY	71 SNEEBEE LN	406-890-3422	[illegible]	12-6-15
Abel Shestak	65 Sandy hill terr	406-212-3513	[illegible]	[illegible]
ERNIE LONG	283 LORE LAKE Dr	406-755-2836	Ernie Long	12-6-15
Cynthia Long	283 Lore Lake Dr	406-755-2836	Cynthia L Long	12-6-15
Brent Burke	225 Haugen Heights	406-253-3042	[illegible]	12/7/15
STEVE SHAW	228 GIL BERT LAKE	406-210-0336	[illegible]	[illegible]

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Jenny Kolosov	1055 N Meridian Rd. Apt. 305	406-260-1745		12-6-15
Nick Kolosov	1632 LARKIN LANE Kalispell MT	406-571-5006		12-6-15
Nadia Kolosov	Kalispell, MT. 1632 Larkin Lane	406-471-0996		12/06/15
Mark Kolosov	170 Lincoln Ln 59901 Kalispell MT	206-349-5208		12-6-5
Pavel Abramovich	80 Sandy Mill Terrace Columbia fall MT 59912	406 3140877		12-7-15

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Lindsey Hanson	124 Antelope TR, WF	406 212 2816	Lindsey Hanson	12/5/15
Felicia Cook	2002 5th Ave E.	406-250-1045	Felicia Cook	12/5/15
Kateri Cook	297 Lost Creek Dr. W.F	(406) 309-4032	Kateri Cook	12/5/15
Ed Benz	167 Wilderness Ln	406 260-6904	Ed Benz	12-5-15

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Ben Derov	142 South Hilltop	406-309-4684	[illegible]	12-6-15
Daniel Shostak	88 sandy hill Terrace	406 4071032	[illegible]	12-6-15
[illegible]	142 S hilltop	406 4073221	[illegible]	12-6-15

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Svetlana Yablonskaya	3155 Sweet Grass Lane Kalispell MT 59901	257-4151	[illegible]	12-7-15

THE MIX @ WHITEFISH *PETITION* FOR 12/07/2015 CITY COUNCIL MEETING

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Julie Constenius	2300 Houston Point Dr Whitefish	250-8023	Julie Constenius	12/06/15
LOGAN CONSTENIUS	1042A Mtn Park Dr.	250-8911	[illegible]	12/06/15
Jean A Loercher	4979 US Hwy 93 N Whitefish	862-4332	Jean A Loercher	12/6/2015
RODGER YOKOTA	836 EDGEWOOD PL W.F.	862-9818	[illegible]	12/7/15
Edwin Fields	511 LAKEWOOD CT. WF	862-7269	[illegible]	12/7/15
Monika Grinberg	40 Wagon Wheel Rd WF	250-8276	[illegible]	12/7/15

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Jesse Hill	850 Patton Lane	406-270-4042		12/6/15
R Ian Castellucci	Po Box 501, Whitefish	207-272-0596		12/6/15
Kelly Wiczorek	173 ARIELLE WAY	312-315-2735		12/6/15
Kent Gilkerson	Po Box 4671	406 212-7217		12/6/15
Strohm Fouty	401 Waverly Pl.	406 270-5037		12/6/15
PAUL ABU-TALEB	104 COLORADO	708 228 2657		12/6/15
Paul Cioffi	173 Arielle Way	702-286-5759		12/7/15

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Jeanne Stanek	121 N. Pines Rd. Whitefish	755-1682	[illegible]	12/2/15
Mike Veontas	345 Shady River Ln	862-1232	[illegible]	12/7/15

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PRINT NAME	ADDRESS / CITY	PHONE	SIGNATURE	DATE
Joy Kenyrian	P.O. Box 5270 Whitefish	406-359-1139	Joy Kenyrian	12/1/15
DAVID MASTERS	P.O. BOX 4688 WHITEFISH, MT.	406-730-1771	David Masters	12/1/15
Alexis Guier	44 10th Ave W Kalispell, MT	406-871-2867	[illegible]	12/1/15
Heidi Denison	1868 Bluestone Dr Kalispell, MT	406-212-2312	[illegible]	12/1/15
Jamie Caltabiano	2075 Lion Mtn Loop Whitefish	406 730 2051	J Caltabiano	12/1/15
Mitchell McKinley	233 Baker Ave Whitefish MT	406-314-8321	[illegible]	12/1/15
Mike Hoeffling	Whitefish	406-890-5302	[illegible]	12/1/15
Catherine Owens	329 Shady River Lane Whitefish	512.921.1480	[illegible]	12/1/15
Breanna Hiebert	620 8TH STREET WHITEFISH, MT	406-871-1660	Breanna Hiebert	12/1/15
Jean Darling	100 4th St Apt 227 Whitefish	406-890-4712	Jean Darling	12/1/15

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Meghan Holder	427 Lupfer Ave. WF	(406)546-9734	Meltolder	12/1/15
Michelle Scott	121 Idaho Ave WF	406-250-7936	[illegible]	12/1/15
Ashley Smith	1040 Greekview Dr	406 270-5806	Ashley Smith	12-1-15
Dana Grove	1540 Hodgson Rd	(406) 862-4748	Dana R. Grove	12/1/15
Nikki KEMM	160 Armory Rd WF	406-261.6358	[illegible]	12/1/15
Brigetta Schwaiger	704 Columbia Ave	406 403.3228	[illegible]	12/1/15
Cynthia Gollund	6 Olde Christian Drive	406-260-5167	[illegible]	12/1/15
CATE CATINA	677 Haskill Basin Rd	7033078044	[illegible]	12/1/15
Ashley Turdy	567 Central	406-250-3130	[illegible]	12/1/15
Rita Turdy	370 [illegible]	406-270-7210	[illegible]	12/1/15

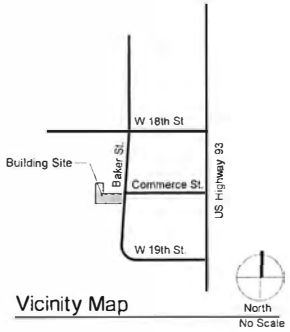
Proposed Mixed Use Development:

The Mix @ Whitefish

1820/1822/1824 Baker Avenue
1830/1836/1840 Baker Avenue
1842/1844/1846/1848 Baker Avenue
Whitefish, Montana

Color Key

- Concrete Sidewalks See Notes on Plan
- Landscaping/Planter Areas
- Openings In Asphalt No Curbs-Mulch
- Yellow Striped Asphalt Areas
- Proposed Building Footprint



Vicinity Map

Note
Landings @ Ext Doors This Side Not Part of Work

Note
Landings @ Ext Doors This Side Not Part of Work

Parking Calculations:

Proposed Use: Mixed F1/A-2/B/M

Parking Required:

Building A	27 Spaces
Building B	19 Spaces
Building C	21 Spaces
Building D	15 Spaces
1840/1836	15 Spaces
1820/1822/1824	27 Spaces

Total 124 Spaces Required

Parking Provided:

81 Standard Spaces 9' x 20'
31 Compact Spaces 8' x 16'
11 HC Spaces 10 x 20
1 Truck Space

124 Spaces Provided

Site Plan/ Parking /Site Work Plan

HUTSON & PARTNERS ARCHITECTURE
305 NORTH COAST HIGHWAY, SUITE L
LAGUNA BEACH
CALIFORNIA 92651
TEL (949) 715-4062

Architect Stamp

Lyndon L. Steinmetz
Design Studio, LLC
Kalispell, Montana (406) 257-5463

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1840 Baker Avenue
The Mix @ Whitefish
Whitefish, Montana

All contractors & trades shall verify all levels, datums and dimensions prior to commencement of the work. All errors and omissions must be reported immediately to the CONTRACTOR for clarification prior to proceeding with the work.

Do Not Scale these Drawings

This drawing must not be used for construction unless it is marked ISSUE FOR CONSTRUCTION

Site Plan
- Issued For Pricing
- Issued For Construction
- Date Printed

Drawing Info	
Drawn	
Date	
Scale	1/4"
Job	
Sheet	A1

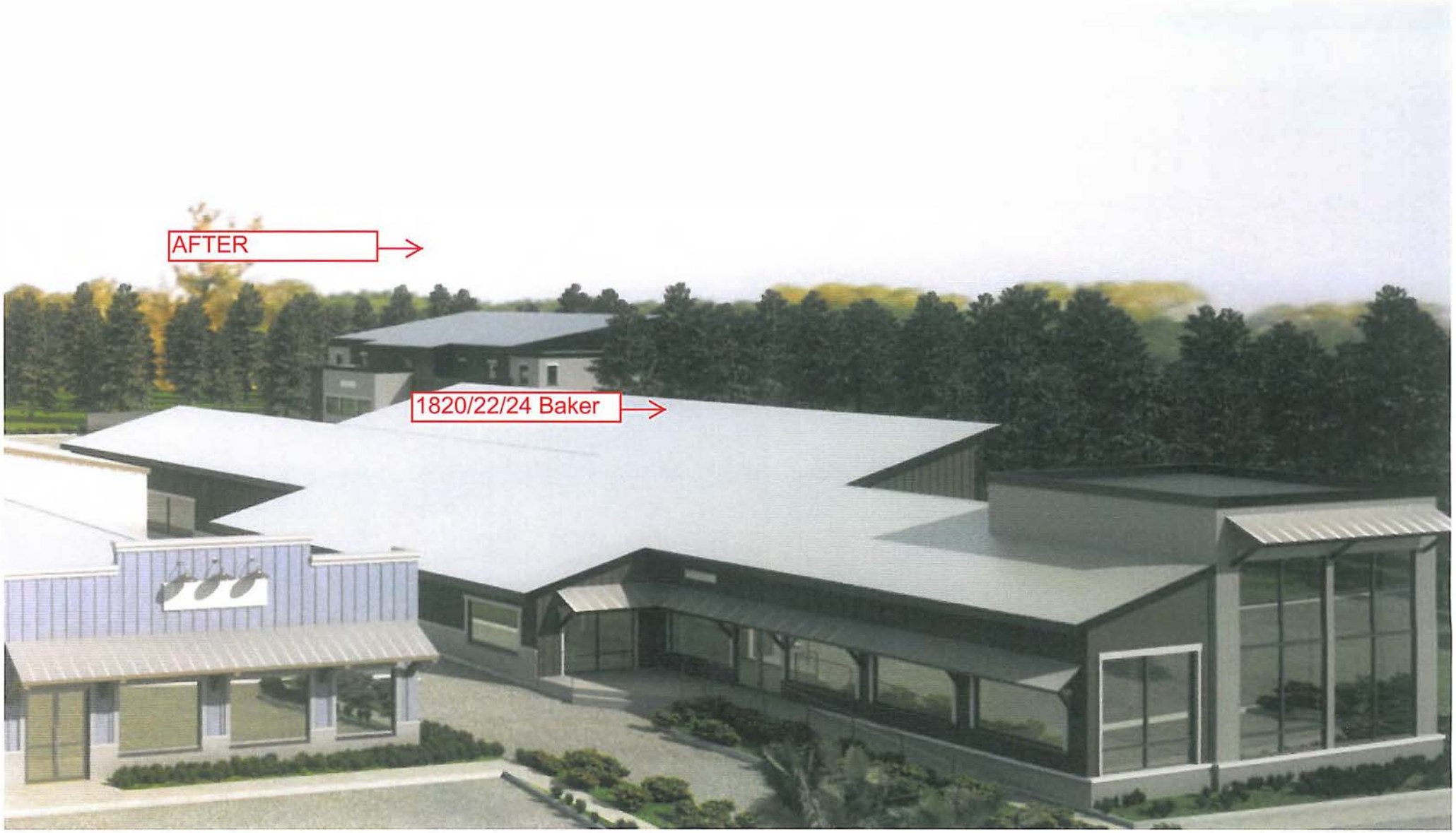
1 of 8

AS PROPOSED
THE MIX AT
WHITEFISH
1846 Baker
1848 Baker/Hotel
1845 Baker
1842 Baker
1820 Baker

1846 Baker
1848 Baker
1820/1822/1824
Baker
1846 Baker
1842 Baker

NOW
1842 Baker
© 2015 Google

BEFORE
1820/22/24 Baker
MOORE
© 2015 Google


AFTER
1820/22/24 Baker

The Board of Commissioners of Flathead County, Montana, hereby gives notice, pursuant to Section 76-2-205(1), M.C.A., that it will hold a public **hearing to consider changes proposed by the Flathead County Planning Board to amend the text of the Flathead County Zoning Regulations to add new use districts to Sections 3.45, 3.46, 3.47, 3.48 and 3.49 to the Flathead County Zoning Regulations** and also include cross referencing in other sections of the Flathead County Zoning Regulations including; amending Sections 3.01.020, 3.03.020(10), 4.04, 4.04.010(2), 4.06, 4.08.040, 5.05.010, 5.05.020, 5.11.040(3), 5.11.040(4) and 6.13.

The public hearing will be held on the **17th day of December, 2015, at 10:30 o'clock - a.m.,** in the Office of the Board of Commissioners of Flathead County, Third Floor, Old Courthouse, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed change to the text of the Flathead County Zoning Regulations.

Written comments are encouraged and will be reviewed by the Commissioners prior to the hearing if received by the Flathead County Commissioners' Office at least three business days prior to the hearing.

DATED this 19th day of October, 2015.

Publish on December 5 and 12, 2015.

The Board of Commissioners of Flathead County, Montana, hereby gives notice, pursuant to Section 76-2-205(1), M.C.A., that it will hold **a public hearing to consider changes the creation of a new zoning district to be known as the Rural Whitefish Zoning District.**

The public hearing will be held on the **17th day of December, 2015, at 11:00 o'clock a.m.,** in the Office of the Board of Commissioners of Flathead County, Third Floor, Old Courthouse, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed change to the text of the Flathead County Zoning Regulations.

Written comments are encouraged and will be reviewed by the Commissioners prior to the hearing if received by the Flathead County Commissioners' Office at least three business days prior to the hearing.

DATED this 19th day of October, 2015.

Publish on December 5 and 12, 2015.

***The last public comment was at the County Planning Board on September 10, 2015. On September 23, 2015 the planning board made some changes to the regulations and forwarded them to the county commissioners for these hearings on December 17, 2015. That will be the final opportunity for public comment.**

Previous Whitefish Zoning

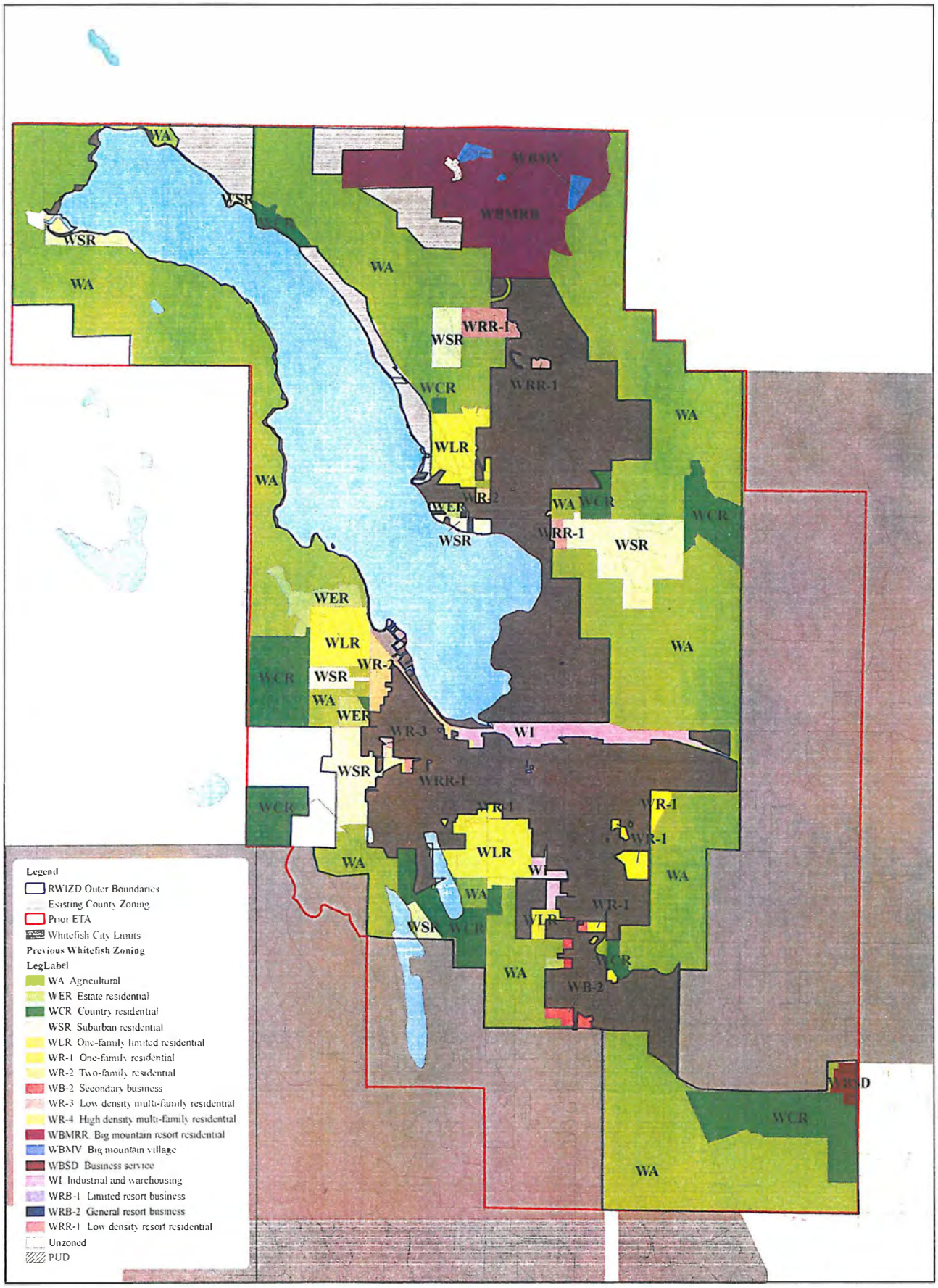
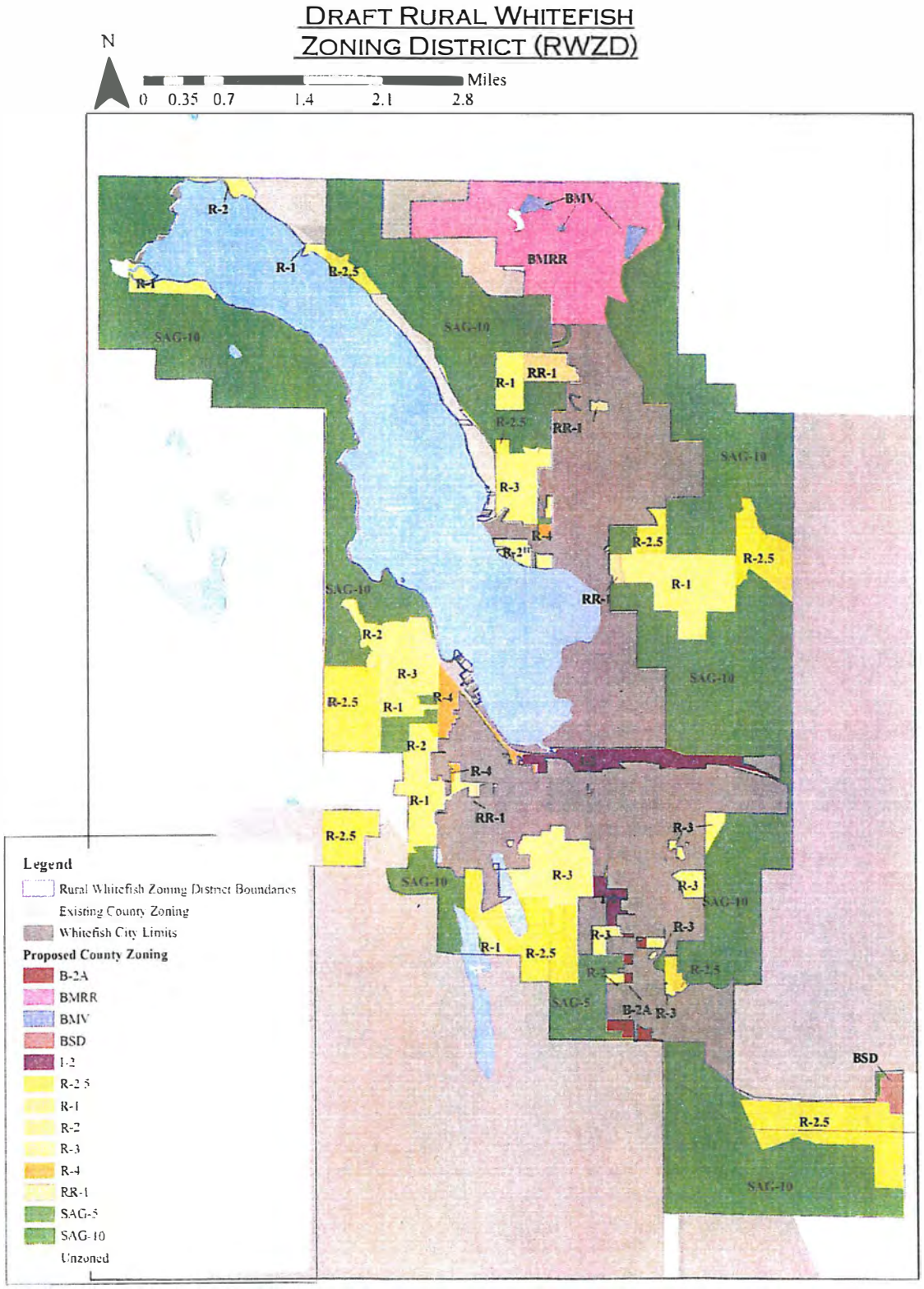
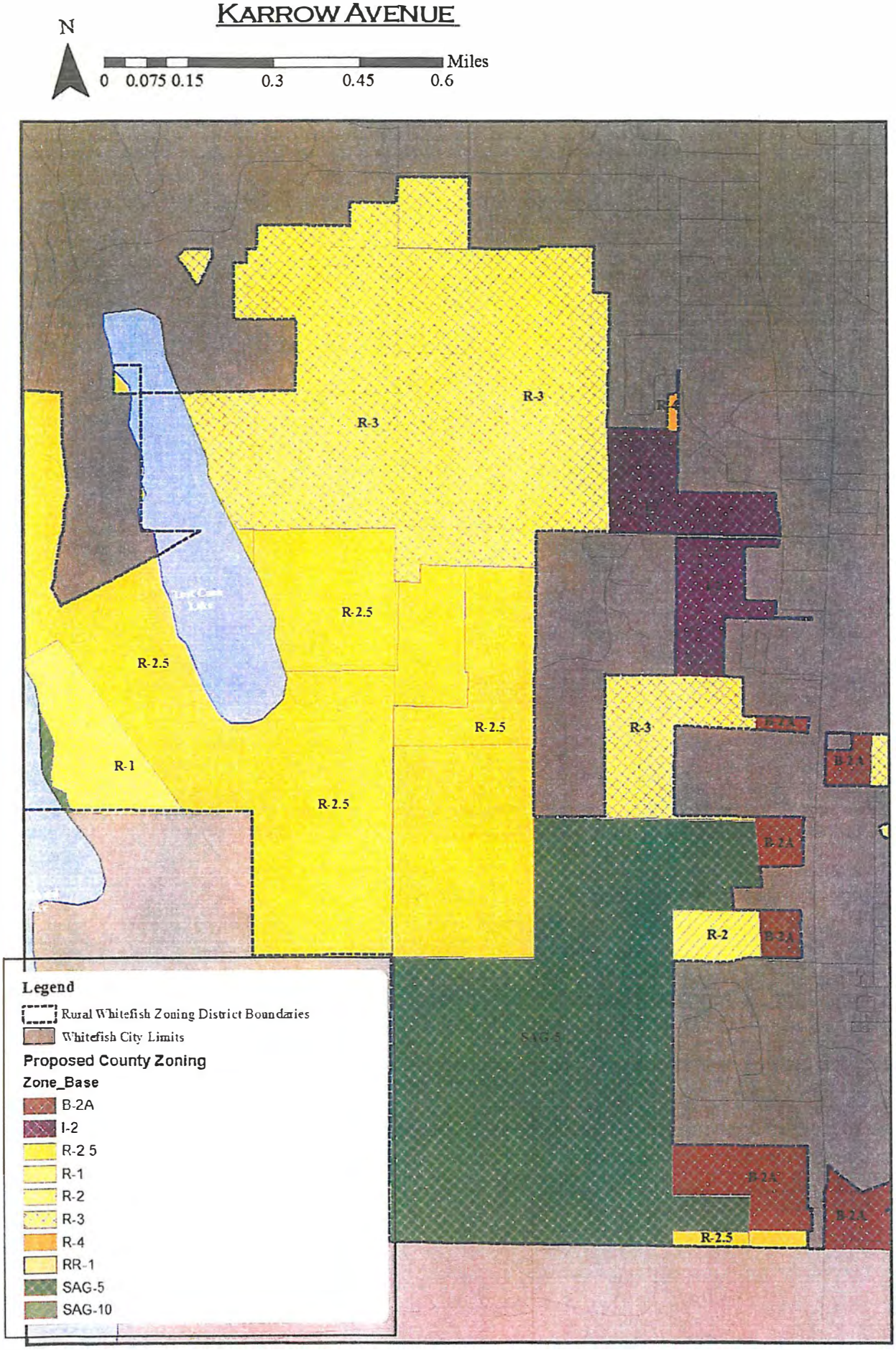


Figure 1: Location and proposed zoning for the Rural Whitefish Zoning District



Draft Rural Whitefish Zoning District (RWZD)
Karrow Avenue



Whitefish City Zoning		Flathead County Zoning				
Whitefish Designation	**Minimum Lot Size**	**Previously Proposed 2011 Interim Zoning**	**Minimum Lot Size**	**Currently Proposed 2014 Interim Zoning**	**Minimum Lot Size**	**Approximate Acres (2014)**
WA	15 acres	SAG-10	10 acres	SAG-10	10 acres	7683
WCR	2.5 acres	R 2.5	2.5 acres	R 2.5	2.5 acres	1305
WSR	1 acre	R-1	1 acre	R-1	1 acre	748
WER	20,000 square ft.	R-2	20,000 square ft.	R-2	20,000 square ft.	186
WLR	15,000 square ft.	R-2	20,000 square ft.	R-3	10,000 square ft.	588
WR-1	10,00 square ft.	R-2	20,000 square ft.	R-3	10,000 square ft.	91
WR-2	6,000 /7,200 /3600 square ft.	R-2	20,000 square ft.	R-4	6,000 /7,500 square ft.	96
WR-3	6,000/3,000/ 2,400 square ft.	R-2	20,000 square ft.	R-4	6,000 /7,500 square ft.	9
WB-2	No minimum	B-2	7,500 square ft.	B-2	7,500 square ft.	42
WI	No minimum	I-2	7,500 square ft.	I-2	7,500 square ft.	211
WRR-1	No minimum	R-2	20,000 square ft.	RR-1(Interim)	No minimum	103
WBMRR	PUD	BR-4	PUD	BR-4	PUD	1020
WBMV	PUD	BR-4	PUD	BR-4	PUD	42
WCR/WPUD	PUD	R-2.5	2.5 acres	R-2.5	2.5 acres	51
WR-1/WPUD	PUD	R-2	20,000 square ft.	Annexed	--	--
WRR-1 WA PUD	PUD	R-2	20,000 square ft.	Annexed	--	--
WBSD	1 Acre	I-1H	1 acre	BSD (Interim)	1 acre	41

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING TEXT AMENDMENT REPORT (#FZTA-15-01)
AUGUST 24, 2015

A report to the Flathead County Planning Board and Board of County Commissioners for a text amendment to the Flathead County Zoning Regulations. The proposed amendment would add new use districts to Sections 3.45, 3.46, 3.47, 3.48 and 3.49 to the FCZR. The proposal would also include cross referencing in other sections of the FCZR including; amending Sections 3.01.020, 3.03.020(10), 4.04, 4.04.010(2), 4.06, 4.08.040, 5.05.010, 5.05.020, 5.11.040(3), 5.11.040(4) and 6.13 FCZR.

The Flathead County Planning Board will conduct a public hearing on the proposed zoning text amendment on September 10, 2014 in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 First Avenue West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning text amendment.

Documents pertaining to the zoning text amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning text amendments will also be available for public inspection in the Flathead County Clerk and Recorders Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Planning Board

Update September 24, 2015

On September 9, 2015 the Flathead County Planning Board held a public meeting on the proposal and the Board voted 9-0 to postpone board discussion and their recommendation until September 23, 2015 to adequately consider public comment, after the public comment period was closed.

On September 23, 2015 the Flathead County Planning Board continue the meeting on the proposal and the Board voted 9-0 adopt the staff report as Findings of Fact. The Planning Board voted 9-0 to forward a recommendation for approval to the Board of County Commissioners after modifying the list of permitted uses in the proposed B-2A zone. Details of the Board's actions and the recommended Findings of Fact are included on the attached Planning Board Addendum to this report.

B. Commission

This space will contain an update regarding the review of the proposal by the Flathead County Board of Commissioners.

II. GENERAL INFORMATION

A. Applicant/Petitioner

Flathead County Planning Board

B. Sections Proposed for Amendment

The amendment is addressed as follows:

i. A summary of the general character of and reason for the proposed amendment;

ii. Listing of the specific section being amended and the actual language of the proposed amendment. Under "Proposed amendment" the language is shown as it appears in the current regulations, with proposed additions *italicized* and shaded gray and proposed deletions ~~stricken~~ and shaded gray.

C. Criteria Used for Evaluation of Proposed Amendment:

Amendments to the text of the Flathead County Zoning Regulations are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

D. Compliance With Public Notice Requirements:

Legal notice of the Planning Board public hearing on this application was published in the August 23, 2015 edition of the Daily Interlake. Public notice of the Board of County Commissioners public hearing regarding the zoning text amendment will be physically posted within the County according to statutory requirements found in Section 76-2-205 [M.C.A]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the date, time and location of the public hearing before the Flathead County Commissioners on the requested zoning text amendment.

E. Agency Referrals

Referrals were sent to the following agencies on July 9, 2015:

- Bonneville Power Administration
- Department of Natural Resources and Conservation
- Whitefish Rural Fire District
- Flathead City-County Health Department; Environmental Health Services
- Flathead County Road and Bridge Department
- Flathead County Sheriff
- Flathead County Solid Waste
- Flathead County Weeds and Parks Department
- Whitefish High School District
- Whitefish School District
- City of Whitefish Planning Department
- Montana Department of Transportation
- Montana Fish Wildlife and Parks

III. COMMENTS RECEIVED

A. Public Comments

As of the date of the completion of this staff report four written comments and several phone inquiries have been received regarding the zoning text amendment. Comments previously received, prior to the creation of the FZTA-15-01 file, have been reviewed by the Planning Board. Comments addressing the zoning text amendment discuss concerns with traffic at the intersection of Highway 40 and Whitefish Stage and how a precedent has been set with commercial on the property to the south of Highway 40. Additional comments discuss being stuck in limbo and they would like to see commercial development south of Highway 40. Comments also indicate concern with the proposed

setbacks and height restrictions for the BMRR and BMV zoning use districts. And one comment asks about the change in zoning on Houston Drive from R-1 to R-2.

It is anticipated any member of the public wishing to provide comment on the proposed text amendment will do so at the Planning Board public hearing scheduled for September 9, 2015. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Flathead County Road & Bridge Department
  - Comment: "At this point the County Road Department does not have any comments on this request." Letter dated July 13, 2015.
- Montana Fish, Wildlife and Parks
  - Comment: "Fish Wildlife and Parks recommends the following design standards for vegetated buffers and building setbacks: Apply the following vegetated buffers and building setbacks:
    • Rivers: A minimum of 250 feet of vegetated buffer, plus 50 additional feet of building setback. Total building setback equals at least 300 feet from each side of a river.
    • Perennial Streams: A minimum of 150 feet of vegetated buffer, plus 50 additional feet of building setback. Total building setback equals at least 200 feet from each side of a perennial stream.
    • Other Water Bodies: A minimum of 100 feet of vegetated buffer, plus 30 additional feet of building setback. Total building setback equals at least 130 feet from the boundary of a wetland or pond, or the ordinary high-water mark of an intermittent stream, lake, or reservoir.
    These recommendations are very different from the standards recommended in the proposed zoning districts. There is not a "one size fits all" setback or vegetated buffer; however, there are few instances where a 20-ft setback is sufficient to protect water quality and aquatic resources." Letter dated July 30, 2015.
- City of Whitefish Planning Department
  - Comment: "These comments relate to the new Whitefish Rural Zoning District and associated new zones that are proposed to be created by Flathead County. We commend the county's efforts to mirror as closely as possible the former Whitefish zoning districts, and we support the creation of all five new zoning districts as proposed. We believe this will make for a smooth transition, and create the least amount of uncertainty for future development. It will also provide the least amount of disruption if any of the properties so zoned opts to annex into the city at some point. It is also very important for the Big Mountain/Whitefish Mountain Resort area, who's master development plan is tied in with the former Whitefish districts you are replacing.

"As far as the specifics of the new Rural Whitefish Zoning District and where the zoning is applied, we also commend the county for applying county zones that most closely mirror the former Whitefish zoning districts over the zones they are replacing. The only concern we have is the application of 2.5 acre and 5 acre zoning to areas around Lost Coon Lake and Karrow Avenue that previously had 15 acre zoning. Density smaller than 10 acres/dwelling unit on the east side of Karrow from just south of Lund Lane to where Karrow would intersect with Highway 40 if Highway 40 were extended due west from its intersection with Highway 93 is contrary to Whitefish's 2007 City County Growth Policy Future Land Use Map, which calls for a Rural Future Land Use with a 10 acre minimum. The City strongly objects to any changes in zoning inconsistent with our Growth Policy. That is a significant density change, and we hope that the county reconsiders that. If the Planning Board chooses to proceed, we hope you properly vet the proposed changes with the neighborhood affected. Several years back we had a very large turnout (Wendy said 50+ people) in opposition of a proposed change for an island of lots on Lost Coon Lake from 15 acre to 2.5, and it was denied by Council. Both the property owners whose zoning is being changed and neighbors within 300' of the change areas should all be notified by mail, told specifically of what the change will be, and told the dates of the public hearings. I also recommend that you hold a work shop on the change in the Whitefish area as a courtesy to those affected prior to the public hearing, perhaps at the nearby Montana Coffee Traders Grange Hall. Email dated July 14, 2015.

IV. EVALUATION OF PROPOSED AMENDMENT

A. General Character of and Reason for Amendment

The proposal would create five new zoning districts within the Flathead County Zoning Regulations (FCZR). The new districts are intended to replace Whitefish zones that were in place during the Interlocal agreement. The five districts would be added to Chapter 3 and would include;

- 3.45 B-2A Secondary Business,
- 3.46 BMRR Big Mountain Resort Residential,
- 3.47 BMV Big Mountain Village,
- 3.48 BSD Business Service District, and
- 3.49 RR-1 Low Density Resort Residential.

The proposal would also include cross referencing in other sections of the FCZR, amending Sections 3.01.020, 3.03.020(10), 4.04, 4.04.010(2), 4.06, 4.08.040, 5.05.010, 5.05.020, 5.11.040(3), 5.11.040(4) and 6.13 FCZR.

B. Proposed Amendment

The proposed amendment would add new use districts to Sections 3.45, 3.46, 3.47, 3.48 and 3.49 to the FCZR:

SECTION 3.45 B-2A SECONDARY BUSINESS

3.45.010 *Definition:*

The B-2A district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. This district depends on proximity to the City of Whitefish, highways or arterial streets and may be located in business corridors or islands.

3.45.020 *Permitted Uses (B-2A):*

1. *Antique, gift and card retail sales.*
2. *Automobile (new and used) and accessory sales.*
3. *Automobile repair shop.*
4. *Automobile service station.*
5. *Beauty Salon and Barbershop.*
6. *Bed and breakfast establishment.*
7. *Boat and RV sales, new and used.*
8. *Boat and RV repair shop*
9. *Bowling alley.*
10. *Bus depot.*
11. *Churches and other places of worship.*
12. *Clinic, medical and dental.*
13. *Commercial caretaker's facility in a detached accessory building in conjunction with a business.*
14. *Convenience store.*
15. *Daycare centers (13 or more individuals).*
16. *Dwelling, single family.*
17. *Feed, seed and farm supply.*
18. *Financial institution.*
19. *Food store, supermarket, and delicatessen.*
20. *Frozen food lockers, not including slaughtering.*
21. *Funeral Home and crematorium.*
22. *Heavy equipment sales, rental and service.*
23. *Hospitals, and associated related nursing homes, retirement homes, congregate housing and personal care facilities in a campus setting.*
24. *Hotel and motel (including restaurants, lounges or bars integral to the facilities).*
25. *Household appliance and electronics store.*
26. *Laundromat or dry cleaner.*
27. *Lumber yard, building supply.*
28. *Military surplus store.*

29. *Pack-n-ship.*
30. *Professional offices.*
31. *Public building.*
32. *Recreational facility, high impact.*
33. *Recreational facility, low impact.*
34. *Restaurant.*
35. *Small animal veterinarian clinic (no outside activity).*
36. *Theater.*
37. *Vendor.*
38. *Wholesale trade and warehousing.*

3.45.030 *Conditional Uses (B-2A):*

1. *Accessory Apartment.*
2. *Amusement park or zoo.*
3. *Animal hospital.*
4. *Any new building greater than 15,000 square feet, existing buildings where an addition would cause the total footprint to be 15,000 square feet or greater, and additions to buildings where the footprint already is 15,000 square feet or greater.*
5. *Bar, lounge and tavern.*
6. *College, business school, trade school, music conservatory, dance school.*
7. *Community residential facility (See Chapter V- Performance Standards and Chapter VII- Definitions).***
8. *Light assembly and manufacturing.*
9. *Manufactured home park.*
10. *Microbrewery.*
11. *Mini-storage, RV storage.*
12. *Recreational vehicle park.*
13. *Truck stop.*

*** Administrative Conditional Use Permit, 8 or fewer.*

3.45.040 *Bulk and Dimensional Requirements (B-2A):*

1. *Minimum Lot Area:* *Not Applicable.*

2. *Minimum Lot Width:* *Not Applicable.*

3. *Setbacks:*
   A. *Minimum Yard Requirements for Structures:*

Front:	*20 feet.*
*Side:**	*0 feet each.*
Side Corner:	*20 feet.*
*Rear:**	*0 feet.*

* *20 foot setback when abutting a residential district.*

B. *A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.*

C. *Increase yard requirements as follows when property fronts:*
*MDT Maintained/County collector road:** *10 feet.*

4. *Maximum Height:* *35 feet.*
5. *Permitted Lot Coverage:* *Not Applicable.*

6. *Maximum Fence Height:*
   Front: *4 feet.*
   Side: *6 feet.*
   Rear: *6 feet.*

7. *Off-Street Parking:* *See Chapter VI-Parking and Loading.*

SECTION 3.46 BMRR BIG MOUNTAIN RESORT RESIDENTIAL

3.46.010 Definition:

The BMRR district is intended to provide for lower urban densities with little or no commercial activity. Uses within the resort residential will include nightly rentals, timesharing, interval ownerships, vacation clubs, or other multiple ownership residential uses.

3.46.020 Permitted Uses (BMRR):

1. *Bed and breakfast establishment.*
2. *Home occupation (See Chapter V – Performance Standards and Chapter VII - Definitions).*
3. *Dwelling, single family.*
4. *Dwelling, duplex.*
5. *Dwelling, multi-family.*
6. *Dwelling, resort: including resort and recreational condominiums, townhouses, time sharing and interval ownership residences or vacation units and other multiple ownership arrangement residential uses, allowing overnight accommodations and ancillary uses for the use of occupants and guests.*
7. *Public building.*
8. *Park and publicly owned recreational facility.*
9. *Recreational facility, high impact.*
10. *Recreational facility, low impact.*
11. *Ski area and support facilities.*

3.46.030 *Conditional Uses (BMRR):*

1. *Bar, lounge and tavern.*
2. *Churches and other places of worship.*
3. *Emergency medical clinic.*
4. *Information/reception center.*
5. *Lodge and fraternal and social organization, provided that any such establishments shall not be conducted primarily for gain.*
6. *Public utility service installation.*
7. *Resort area equipment maintenance facilities.*
8. *Restaurant.*
9. *School, primary and secondary.*

3.46.040 *Bulk and Dimensional Requirements (BMRR):*

1. *Minimum Designation Size:* *As prescribed by the Big Mountain Neighborhood Plan Land Use Plan.*

2. *Minimum Lot Area:* *As prescribed by the Big Mountain Neighborhood Plan Land Use Plan.*

3. *Minimum Lot Width:* *Not Applicable.*

4. *Setbacks:*

   A. *Minimum Yard Requirements for Structures:*

Front:	*20 feet.*
Side:	*10 feet each.*
Side Corner:	*10 feet.*
Rear:	*20 feet.*

   B. *Minimum Yard Requirements for Townhouses:*

Side:	*5 feet each.*
Side Corner:	*5 feet.*
Rear:	*15 feet.*

   C. *A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.*

   D. *Increase yard requirements as follows when property*

fronts:
*MDT Maintained/County collector road:** *10 feet.*

5. *Maximum Height:*
   One through Fourplex: *28 feet (to eave).*
   Fiveplex or Greater: *35 feet (to eave).*

6. *Permitted Lot Coverage:* *40%.*

7. *Off-Street Parking:* *See Chapter VI-Parking and Loading.*

SECTION 3.47 BMV BIG MOUNTAIN VILLAGE

3.47.010 Definition:

The BMV district is intended to provide a regulatory framework for primary resort residential land uses at mixed densities, and year round resort uses including hotels, resort condominiums and similar uses oriented towards tourism and resort businesses. Specific uses provided for include convention facilities, bars, lounges, restaurants, and limited resort oriented retail and commercial uses intended primarily for the convenience of guests of the Big Mountain Resort. The Big Mountain village is a densely compact resort core area characterized mainly by mixed and multiple use buildings and complexes. Retail, commercial services, and dining and drinking establishments will generally be located at street level, with hotel/residential uses above, and parking typically below street level.

3.47.020 Permitted Uses (BMV):

1. *Bar, lounge and tavern.*
2. *Conference facilities.*
3. *Dwelling, single family.*
4. *Dwelling, duplex.*
5. *Dwelling, multi-family.*
6. *Dwelling, resort: including resort and recreational condominiums, townhouses, time sharing and interval ownership residences or vacation units and other multiple ownership arrangement residential uses, allowing overnight accommodations and ancillary uses for the use of occupants and guests.*
7. *Emergency medical clinic.*
8. *Financial institution.*
9. *Health studio and spa.*
10. *Hotel, motel.*
11. *Professional offices.*
12. *Public building.*

13. *Park and publicly owned recreational facility.*
14. *Recreational facility, high impact.*
15. *Recreational facility, low impact.*
16. *Restaurant.*
17. *Retail sales and service.*
18. *Ski area and support facilities.*
19. *Theater.*

3.47.030 Conditional Uses (BMV):

1. *Churches and other places of worship.*
2. *Public utility service installation.*
3. *Resort area equipment maintenance facilities.*
4. *School, primary and secondary.*

3.47.040 Bulk and Dimensional Requirements (BMV):

1. *Minimum Lot Area:* *As prescribed by the Big Mountain Neighborhood Plan Land Use Plan.*

2. *Minimum Lot Width:* *Not Applicable.*

3. *Setbacks:*
   A. *Minimum Yard Requirements for Structures:*
   Front: *0 feet.*
   *Side:** *0 feet each.*
   Side Corner: *0 feet.*
   *Rear:** *0 feet.*
   * *15 foot setback when abutting a residential district.*

   B. *A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.*

   C. *Increase yard requirements as follows when property fronts:*
   *MDT Maintained/County collector road:** *10 feet.*

4. *Maximum Height:* *39 feet (to eave).*

5. *Permitted Lot Coverage:* *Not Applicable.*

6. *Off-Street Parking:* *See Chapter VI-Parking and Loading.*

SECTION 3.48 BSD BUSINESS SERVICE DISTRICT

3.48.010 *Definition:*

The business service district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to create defined areas that are appropriate for nonretail limited commercial services and light industrial uses in proximity to the City of Whitefish. Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to develop as an island rather than as a strip. Landscaping will be extensive with good quality and effective screening and buffering.

3.48.015 *Acceptance of an application for BSD zoning will be contingent upon a site plan, vicinity map and building concepts for the area requested being submitted for review. The site plan, vicinity map and building concepts will address each of the following:*

1. *The site plan shall include all buildings, structures, parking, driveways, sidewalks, utilities, drainage, landscaping and signage.*

2. *The site plan shall demonstrate conformance with the zoning regulations and other applicable county regulations. All projects constructed in accordance with an approved site plan shall be permanently maintained as approved.*

3. *The vicinity map shall include surrounding parcels, buildings, structures, circulation systems and major physical features.*

4. *Shared driveway access or frontage roads (whether public or private) are required where possible to provide a cohesive internal circulation pattern and to limit access onto arterials and collectors when development contains multiple commercial uses.*

3.48.017 *Implementation of Site Plan and Vicinity Map:*

1. *Once the site plan and vicinity map have been adopted, they shall be considered zoning and shall serve as the guidelines for the development.*

2. *Prior to any site development, a detailed site plan shall be submitted to the zoning administrator to demonstrate compliance with the approved site plan and vicinity map. Any desired subsequent changes shall be submitted for approval as an amendment to the site plan.*

3. *Minor deviations to the site plan shall be allowed which do not involve more than ten percent (10%) of the building site for a single building. This would include, but is not limited to, the location and/or expansion of the building, parking lot location, signage, number of parking spaces and landscaping. Minor deviations to the site plan shall be reviewed and approved by the zoning administrator.*

4. *Substantial modifications to the site plan will be required to be reviewed and approved by the County Commissioners. Substantial changes would include, but not be limited to, an increase in the number of buildings, major changes in access or circulation, an increase in building size by more than ten percent (10%), major changes to signage and major changes to landscaping design and location.*

3.48.020 Permitted (BSD):

1. *Agricultural/horticultural/silvicultural use.*
2. *Ancillary retail or showrooms, less than fifty (50%) percent of the gross floor area of each individual lease space or tenant*
3. *Animal hospital, veterinary clinic.*
4. *Contractors' storage yard and building supply outlet.*
5. *Dance, drama, and music school.*
6. *Dwelling, single family.*
7. *Farm equipment sales.*
8. *Feed, seed and farm supply, including grain elevators.*
9. *Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).*
10. *Homeowners park.*
11. *Light assembly and manufacturing, fabrication, including light food manufacturing and processing, repairing, packing or storage facilities in enclosed buildings, provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive, hazardous or toxic.*
12. *Livestock.*
13. *Nursery, landscaping materials.*
14. *Parcel delivery service.*
15. *Park and publicly owned recreational facility.*
16. *Personal services with incidental retail sales.*
17. *Print and copy shop.*
18. *Produce stand.*
19. *Professional offices.*
20. *Public utility service installation (A minimum of five feet of landscaped area shall surround such building or structure).*

21. *Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, furniture, and small engines. (no outdoor storage permitted).*
22. *Riding academy, rodeo arena.*
23. *Small equipment sales, rental and repair conducted indoors, (no outdoor storage permitted).*
24. *Stable, public and private.*
25. *Wholesale trade and warehousing, including offices and showrooms.*

3.48.030 *Conditional Uses (BSD):*

1. *Accessory apartments.*
2. *Ancillary retail or showrooms, more than fifty (50%) percent of the gross floor area of each individual lease space or tenant.*
3. *Churches and other place of worship.*
4. *College, business school, trade school.*
5. *Commercial caretaker's facility in a detached accessory building in conjunction with a business.**
6. *Convention hall facility.*
7. *Day care center.*
8. *Kennel.*
9. *Mini-storage.*
10. *Research laboratory and institution.*
11. *When not shown on the initial site plan required for zoning or rezoning properties, all new structures with a gross floor area of ten thousand (10,000) square feet or greater, existing structures where an addition causes the total floor area to be ten thousand (10,000) square feet or greater, and additions to structures where the total floor area already is ten thousand (10,000) square feet or greater.*

**Administrative Conditional Use Permit (See Section 2.06.045)*

3.48.040 *Bulk and Dimensional Requirements (BSD):*

1. *Minimum District Area:* *5 acre.*

2. *Minimum Lot Area:* *1 acre.*

3. *Minimum Lot Width:* *125 feet.*

4. *Setbacks:*

   A. *Minimum Yard Requirements for Structures:*

Front: *30 feet.*
Side: *10 feet each.*
Side Corner: *30 feet.*
Rear: *15 feet.*

B. When a property abuts the following features, the abutting setback shall be increased to the following:
Agricultural – use or zone: *30 feet.*
Residential – use or zone: *30 feet.*
Stream – high water mark: *20 feet.*

5. Maximum Height:
Principal Structures: *35 feet.*
Accessory Structures: *24 feet.*

6. Permitted Lot Coverage: *40%.*

7. Maximum Fence Height:
Front: *4 feet.*
Side: *6 feet.*
Rear: *6 feet.*

8. Off-Street Parking: *See Chapter VI – Parking and Loading.*

3.48.050 Additional Design Standards (BSD):

1. One commercial use permitted per gross acre. Multiple commercial uses should cluster development to include both shared parking areas and internal road access. Buildings shall be grouped into localized areas and shall not be developed in a linear fashion.

2. Clustering:

A. Clustering of uses includes incorporation of common shared areas such as courtyards to create central nodes of business/development as opposed to linear development.

B. Clustering should include shared access, parking, landscaping, with the overall development designed to protect surrounding properties from adverse impacts.

C. For the purpose of clustering, the site will be developed as one lot. Property setbacks for commercial uses shall not apply except for separation from residential uses. This allows for cohesive development on multiple properties

developed in conjunction with an overall development theme or business park plan.

3. *Landscaping:*

   A. *Landscape design shall be in accordance with the concept of a business park. A combination of landscape materials should be arranged in a harmonious manner as an integral part of the project design to enhance building design, public view and interior spaces and provide buffers and transitions, as appropriate.*

   B. *Landscaping shall comply with Section 5.05 and parking lot landscaping shall comply with Section 6.13.010(2).*

   C. *Exposed utilities, storage areas, machinery, installations, service and loading areas and similar accessory areas and structures shall be set back to the primary structure requirements or screened to minimize the loss of views, privacy and the general aesthetic value of surroundings.*

4. *Signage:*

   A combination of natural materials and colors should be arranged in a harmonious manner that complements the overall design of the site and does not create visual clutter, distractions for passing motorists or the obstruction of important architectural or landscaping features.

SECTION 3.49 RR-1 LOW DENSITY RESORT RESIDENTIAL

3.49.010 Definition:

The RR-1 district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide a low density setting for secondary residential resorts in proximity to the City of Whitefish.

3.49.020 Permitted Uses (RR-1):

1. *Bed and breakfast establishment.*
2. *Class A manufactured home.*
3. *Day care home.*
4. *Duplex.*
5. *Dwelling, multi-family (4 or fewer units).*
6. *Dwelling, single family.*
7. *Home occupation (See Chapter V – Performance Standards and*

Chapter VII – Definitions).

8. *Park and publicly owned recreational facility.*
9. *Public utility service installation (a minimum of five feet of landscaped area shall surround each building or structure).*
10. *Tourist accommodation units (4 or fewer units).*

3.49.030 Conditional Uses (RR-1):

1. *Accessory apartments.*
2. *Boarding house.*
3. *Boat launching ramp and dock (commercial).*
4. *Caretaker's facility.**
5. *Churches and other place of worship.*
6. *Community residential facilities, Class I.*
7. *Convention hall facility.*
8. *Day care center.*
9. *Dwellings, cluster development (See Chapter IV – Conditional Use Standards).*
10. *Dwelling, multi-family (5 or more units).*
11. *Golf course.*
12. *Guest house.*
13. *Health club.*
14. *Manufactured home park (5 acre minimum size).*
15. *Marina (commercial).*
16. *Professional offices.*
17. *School, primary and secondary.*
18. *Tourist accommodation units (5 or more units).*

**Administrative Conditional Use Permit (See Section 2.06.045)*

3.49.040 Bulk and Dimensional Requirements (RR-1):

7. *Minimum District Area:* *1 acre.*

8. *Minimum Lot Area:* *Not Applicable.*

9. *Minimum Lot Width:* *Not Applicable.*

10. *Maximum Density:* *10 dwelling units per acre.*

11. *Setbacks:*
    A. *Minimum Yard Requirements for Principal Structures:*

Front:	*15 feet.*
Side:	*10 feet each.*
Side Corner:	*15 feet.*
Rear:	*20 feet.*

B. Detached Accessory Structures:

Front:	*15 feet.*
Side:	*6 feet.*
Side Corner:	*6 feet each.*
Rear:	*6 feet.*

C. A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.

D. Increase yard requirements as follows when property fronts:
*MDT Maintained/County collector road:** *25 feet.*

12. Maximum Height:

Principal Structures:	*35 feet.*
Accessory Structures:	*24 feet.*

13. Permitted Lot Coverage: *35%.*

14. Maximum Fence Height:

Front:	*4 feet.*
Side:	*6 feet.*
Rear:	*6 feet.*

7. Off-Street Parking: *See Chapter VI-Parking and Loading.*

The proposal would also include cross referencing in other sections of the FCZR, amending Sections 3.01.020, 3.03.020(10), 4.04, 4.04.010(2), 4.06, 4.08.040, 5.05.010, 5.05.020, 5.11.040(3), 5.11.040(4) and 6.13 FCZR as follows:

3.01.020 For the purpose of applying these regulations to the zoned areas of Flathead County, said areas are hereby divided into the following use districts:

District	Title	Minimum Lot Size
AG-80	Agricultural	80 acres
AG-40	Agricultural	40 acres
AG-20	Agricultural	20 acres
SAG-10	Suburban Agricultural	10 acres
SAG-5	Suburban Agricultural	5 acres
R-2.5	Rural Residential	2.5 acres
R-1	Suburban Residential	1 acre
R-2	One-Family Limited Residential	20,000 sq. ft.
R-3	One-Family Residential	10,000 sq. ft.
R-4	Two-Family Residential:	
	Single-family	6,000 sq. ft.
	Duplex	7,500 sq. ft.

R-5	Two-Family Residential	5,400 sq. ft.
RC-1	Residential Cluster	Max. Density 1 du/acre
	Detached Dwelling Unit	4,500 sq. ft.
	Attached Dwelling Unit	2,500 sq. ft.
RA-1	Residential Apartment	7,500 sq. ft.
RR-1	*Low Density Resort Residential*	*District,* *Min. 1 acre*
B-1	Neighborhood Business	7,500 sq. ft.
B-2	General Business	7,500 sq. ft.
B-2A	*Secondary Business*	*Not applicable*
B-2HG	General Business Highway Greenbelt	See Section 3.44
B-3	Community Business	District, Min. 10 acres
BR-2	Resort Business	District, Min. 20 acres
BR-4	Resort Business	District, Min. 10 acres
B-5	Tourist Retail	District, Min. 5 acres
B-6	Resort Business	15,000 sq. ft.
B-7	Rural Area Commercial	District, Max. 240,000 sq. ft.
BMRR	*Big Mountain Resort Residential*	*District,* *As prescribe by the Big Mountain Plan Land Use Plan*
BMV	*Big Mountain Village*	*District,* *As prescribe by the Big Mountain Plan Land Use Plan*
BSD	*Business Service District*	*1 acre*
CCC-1	Commercial Country Corner – 1	District, Max. 240,000 sq. ft.
CCC-2	Commercial Country Corner – 2	District, Max. 400,000 sq. ft.
CVR	Commercial Village Resort	2,500 sq. ft.
I-1	Light Industrial	7,500 sq. ft.
I-1H	Light Industrial – Highway	1 acre
I-2	Heavy Industrial	7,500 sq. ft.
P	Public	Not applicable
PUD	Planned Unit Development	See Section 3.31
SC	Scenic Corridor	See Section 3

3.03.020 10. In R-2.5 (Rural Residential), R-1 (Suburban Residential), R-2 (One Family Limited Residential), R-3 (One Family Residential), R-4 (Two Family Residential), R-5 (Two Family Residential), RC-1 (Residential Cluster), ~~and~~ RA-1 (Residential Apartment) *and RR-1 (Low Density Resort Residential)* zoning or use districts, sand and gravel extraction and asphalt and concrete batch plant uses are prohibited. In other residential districts, as defined herein,_sand and gravel extraction and asphalt and concrete batch plant uses

shall be conditioned under the provisions of Sections 2.06 and 4.10, provided however, that if the negative impacts (including those listed in Section 2.06.080.1.D) on the surrounding area cannot be reasonably mitigated, all sand and gravel extraction and associated operations, or processing of sand and gravel, or asphalt and/or concrete batch plant uses, may be prohibited.

SECTION 4.04 CARETAKER'S FACILITY IN AG, SAG, ~~*AND*~~ R-1, *AND RR-1* DISTRICTS

4.04.010 A caretaker's facility is a dwelling, which is constructed and designed to provide living quarters for caretakers or servants, and is clearly subordinate to the principal use with regard to size and location. Caretaker's facilities are allowed as a conditional use in the AG-80, AG-40, AG-20, SAG-10, SAG-5, R-2.5, ~~*and*~~ R-1 *and RR-1* districts subject to the following conditions:

4.04.010 2. In SAG-5, R-2.5, ~~and~~ R-1 *and RR-1* districts the parcel on which the caretaker's facility is located shall be double the size of the underlying district minimum lot size.

SECTION 4.06 COMMERCIAL CARETAKER'S FACILITY IN B-2, B-2HG, B-3, *BSD,* I-1, I-1H AND I-2 DISTRICTS

4.08.040 In all residential (AG, SAG, R, and RA) and resort (RC, *RR,* BR, B-5, and B-6) districts:

5.05.010 All sites in a commercial ("B" and "BR" designations) district having a common boundary with a residential district ("R", "RA", ~~or~~ "RC", or *"RR"* designation) shall erect and maintain a view-obscuring fence or dense coniferous hedge along such common boundary. Fences shall be six (6) feet high. Hedges shall obtain a height of at least six (6) feet within three (3) years. Where the wall of a building is on such common boundary, no separate wall, fence, or hedge is required along the portion of the common boundary occupied by the building.

5.05.020 All sites in an industrial district ("I" designation) having a common boundary with a residential district ("R", "RA", ~~or~~ "RC", or *"RR"* designation) shall have planted and maintained along such common boundary a view-obscuring coniferous greenbelt of shrubs and trees at least eight (8) feet in height at maturity and at least ten (10) feet in width for screening purposes and controlling access.

5.11.040 3. Permitted signs in *BMRR*, RC-1, RA-1, *RR-1,* CVR, and P districts shall be as follows:

4. Permitted signs in B-1, B-2, *B-2A,* B-2HG, BR-2, B-3, BR-4, B-5, B-6, ~~*and*~~ B-7, *BMV, and BSD* districts shall be as follows (see additional requirements for B-2HG in Section 3.44):

SECTION 6.13B, *BMV, BMRR,* BR, *BSD,* CVR, CCC, I, ~~AND~~ P, *AND RR* PARKING REQUIREMENTS SPECIAL CONDITIONS

C. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

i. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

The Growth Policy does not provide specific guidance related to accessory dwelling units.

- ***G.6*** *– Adequate commercial land that is safely accessible and efficiently serviceable.*
  - ***P.7.1*** *– Determine commercial development features that support the seven elements of the Flathead County Vision detailed in Chapter 1: The Character of Flathead County.*
    - Response: The proposed amendment would add new commercial zoning use districts to the zoning regulations. The new commercial zones would allow for different mixes of commercial and industrial uses which has the potential to promote a diverse economy.
- ***G.8*** *– Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and general welfare of neighbors and efficiently provide local services.*
- ***G.16*** *– Safe housing that is available, accessible, and affordable for all sectors of the population.*
  - Response: The proposed new zoning districts would allow for new residential districts and could potentially protect the rights of landowners.
- ***G.36*** *– Protect water quality in lakes, rivers, aquifers and streams from existing and potential pollution sources.*
- ***G.39*** *– Preserve and protect wetlands and riparian areas to prevent degradation of natural resources, including but not limited to water quality and critical wildlife habitat.*
- ***G.41*** *– Promote the preservation of critical fish and wildlife habitat and preserve the area's unique outdoor amenities and quality of life.*
  - ***P.41.3*** *– Encourage maintaining and managing riparian areas in accordance with Montana state and federal laws.*
    - Response: Comments received from Montana Fish, Wildlife & Parks indicate that the proposed setbacks from streams, rivers and other bodies of water are inadequate to protect wildlife and riparian areas. Flathead County has other regulations in addition to zoning that would serve to protect wildlife habitat, riparian boundaries and lakes. Lake and lakeshore protection regulations would require permitting for any construction within 20 feet of a lake, floodplain regulations would require permitting for any development in the floodplain and subdivision regulations could require no build zones in riparian boundaries.
- ***G.49*** *– Growth and development around Whitefish that respects the cultural, geographic and historic heritage of the city while providing essential facilities and services that protect and preserve the health, safety, and welfare of the natural and human environment.*

- ***P.49.2*** *– Request comments from the City of Whitefish agencies on subdivision, zoning and other land use issues within 2 miles of city limits and give consideration to those comments during the county review process.*
  - Response: An agency referral was sent to the City of Whitefish regarding this proposal and the City provided comment. Discussion on the City of Whitefish comment can be found in Sections iii.3 and iv below.
- ***P.49.3*** *– Protect and preserve the many unique opportunities present in the natural and human environment.*
  - Response: Comments received from Montana Fish, Wildlife & Parks indicate that the proposed setbacks from streams, rivers and other bodies of water are inadequate to protect the natural environment.

Finding #1: The proposed amendment appears to generally comply with the Goals and Policies of the Flathead County Growth Policy because the proposal would add new commercial and residential use districts, other County regulations would serve to protect lakes, streams, wildlife habitat and riparian boundaries, the new commercial zones would allow for different mixes of commercial and industrial uses and comment was sought from the City of Whitefish.

ii. Whether the proposed text amendment is designed to:

1. Secure safety from fire and other dangers;

The proposed text amendment to add new zoning use districts does not appear to have a negative impact on safety from fire and other dangers because the new districts would include bulk and dimension requirements. The bulk and dimensional requirements within the zoning designations are generally established to secure safety from fire and other dangers.

The use districts are intended to be used in areas within the vicinity of Whitefish and on Big Mountain. Therefore, they will likely be applied to properties within the Whitefish Rural Fire District and the Big Mountain Fire District. The Whitefish Rural Fire Department and Big Mountain Fire District currently respond and would continue to respond in the event of a fire or medical emergency.

Amendments for cross referencing to the sections containing use districts, commercial caretaker's facility, day care centers, signs, parking and greenbelts will likely not impact safety from fire and other dangers. Requiring double the size of the underlying district for caretaker's facility in RR-1 districts has the potential to secure safety from fire and other dangers because allowing a caretaker's facility on smaller lots has the potential to double the density of the RR-1 zone. The proposed amendment to add RR-1 to the list of zones in which sand and gravel extraction and asphalt and concrete batch plants are prohibited would likely help secure future RR-1 zones from other dangers. Gravel pits can be a hazardous place if people are

not alert because of traffic, the possibility of uneven surfaces or debris. The proposed text amendment will likely secure safety from fire and other dangers.

Finding #2: The proposed text amendment appears to not have a negative impact on safety from fire and other dangers because the use districts are intended for areas adjacent to Whitefish in areas which are located within the Whitefish and Big Mountain Fire Districts, the fire districts would provide services in the event of a fire, not allowing a caretaker's facility on smaller lots than double the minimum lot size within RR-1 zone would eliminate the potential for doubling the density of the RR-1 zone and prohibited gravel pits would likely help secure future RR-1 zones from other dangers.

2. **Promote public health, public safety, and general welfare;**

Public health and general welfare are promoted through the imposition of zoning due to the creation of minimum lot sizes, setbacks, height restrictions, and lot coverage requirements. As previously stated, most of the district will likely be applied to areas within the Whitefish Rural Fire District and the Big Mountain Fire District. The Whitefish Rural Fire Department and Big Mountain Fire Department currently respond and would continue to respond in the event of a fire or medical emergency.

The proposed zones would require a greater setback from collector and MDT maintained roads. BSD, BMV and B-2A zones would require greater setbacks from residential uses, the greater setbacks could help promote general welfare in residential zones, as commercial and industrial uses will not be located right on a property line when adjacent to a dwelling. The proposed districts will likely be placed in areas which are located within the Whitefish and Big Mountain Fire Districts. Conditional use permit (CUP) review criteria includes impacts of a proposed use based on the attributes of the land and area in which it is proposed. This review ensures mitigation of potential negative impacts and may result in denial if a property is not appropriate based on the criteria for review or if the applicant is unable to adequately demonstrate compliance with the review criteria.

Adding the BMV, BMRR, RR-1 and BSD zones to Section 6.13 and requiring special parking conditions would serve to lessen the impact those zones would have on public safety. Section 6.13.010(1) states, *"Adequate drainage so that injuries will not be caused to adjacent properties nor will water drain across a public walk."* If snow melt drains on to a sidewalk in winter and refreezes it has the potential to impact public safety.

Amendments for cross referencing to the sections regarding use districts, commercial caretaker's facility, day care center, signs and greenbelts would likely not impact public health, public safety, and general welfare. The proposed amendment to add RR-1 to the list of zones in which sand and gravel extraction and asphalt and concrete batch plants are prohibited would likely promote public health. As previously stated, gravel pits can be a hazardous place if people are not alert because of traffic, the possibility of

uneven surfaces or debris. Requiring double the size of the underlying district for caretaker's facility in RR-1 districts has the potential to improve general welfare because allowing a caretaker's facility on smaller lots has the potential to double the density of the RR-1 zone.

Finding #3: The proposed amendment to the Flathead County Zoning Regulations was found to have minimal impact on public health, public safety and general welfare because the zoning use districts are intended to be located near the City of Whitefish in areas which are located within the Whitefish and Big Mountain Fire Districts, many of the zoning use districts would require greater setbacks from county collectors and MDT maintained roads, a greater setback would be required from residential uses and a CUP would be required for uses that could be deleterious to the public health or safety.

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

As previously stated, the new zoning use district are intended for areas around the City of Whitefish. The Whitefish area has a comprehensive road network that includes State and Federal Highways and County Collectors these include; Highway 93, Highway 40, Karrow Ave, Edgewood Dr., Big Mountain Rd, E. Lakeshore Dr, Blanchard Lake Rd, Monegan Rd, Dillon Rd, Voerman Rd, and Northwoods Dr. No comments were received from MDT and comments received from the Flathead County Road and Bridge Department indicate no concern with the proposal. It is anticipated that the proposed zoning use districts would not hinder the facilitation of adequate transportation.

According to the Flathead County 2014 Statistical Report of Schools, Whitefish Elementary Schools have seen a decrease of 9% in student enrollment over the last ten years. Whitefish High School has seen a decrease of 31% in student enrollment over the last ten years. Additionally, no comments were received from the Whitefish School District or the Whitefish High School District. Any development as a result of the implementation of these zoning use districts would likely not impact Whitefish area schools.

The proposed zones have similar uses and densities to that which was previously allowed under the City of Whitefish zoning. Because the densities and uses would be similar to what previously existed in Rural Whitefish it is anticipated that the proposal could facilitate adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Amendments for cross referencing to the sections regarding use districts, commercial caretaker's facility, day care center, parking, zones in which gravel pits are not permitted, signs and greenbelts would likely not impact transportation, water, sewerage, schools, parks, and other public requirements. Requiring double the size of the underlying district for caretaker's facility in RR-1 districts has the potential to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements

because allowing a caretaker's facility on smaller lots has the potential to double the density of the RR-1 zone.

Finding #4: The proposed amendment was found to have minimal impact on transportation, water, sewerage, schools, parks and other public requirements because the Flathead County Road and Bridge Department had no concerns with the proposal, no comment was received from MDT, similar uses and densities to what was previously allowed under Whitefish zoning would be allowed and there has been a decrease in school enrollment for Whitefish schools.

iii. In evaluating the proposed text amendment(s), consideration shall be given to:

1. The reasonable provision of adequate light and air;

The proposed B-2A would require setbacks of 20 feet for front and side corner and 0 feet for side and rear property lines on all structures, 20 feet when abutting a residential district and 20 feet from streams, rivers and unprotected lakes. The B-2A zone also requires an additional 10 foot setback from collectors or MDT maintained road and has 35 feet maximum building height.

The proposed BMRR would require setbacks of 20 feet for front and rear property lines and 10 feet from the side and side corner on most structures. The setbacks for townhomes would be 6 feet from side, side corners and rear property lines. The BMRR would require a 20 foot setback from streams, rivers and unprotected lakes and an additional setback of 10 feet when property fronts a county collector or MDT maintained road. The BMRR would also require a 28 feet maximum building height for a one through fourplex and 35 feet for a fiveplex or greater.

The proposed BMV would require a 20 foot setback when abutting a residential district from front and side yards and 20 feet from streams, rivers and unprotected lakes. The BMV zone also requires a setback of 10 feet from collectors or MDT maintained road and 39 feet maximum building height.

The proposed BSD zone would require setbacks of 30 feet for front and side corner property lines, 10 feet from the side and 15 feet from the rear for all structures. The district would require a 30 foot setback when abutting a residential or agricultural district and 20 foot setback from streams. The district would also require a 35 foot maximum building height for principal structures and 24 feet for accessory structures.

The proposed RR-1 zone would require setbacks of 15 feet for front and side corner property lines on principal structures 10 feet from the side and 20 feet from the rear. The setbacks for detached structures would be 15 feet from the front and 6 feet from side, side corners and rear property lines. The RR-1 would require a 20 foot setback from streams, rivers and unprotected lakes and a setback of an additional 25 feet when property fronts a county collector or MDT maintained road. The district would also require a 35 foot maximum building height for principal structures and 24 feet for accessory structures.

Amendments for cross referencing to the sections regarding use districts, commercial caretaker's facility, day care center, greenbelts, zones in which gravel pits are not permitted, signs and parking would likely not impact the reasonable provision of light and air. Requiring double the size of the underlying district for caretaker's facility in RR-1 districts will likely allow for the adequate provision of light and air.

Bulk and dimensional requirements are in place to provide for the adequate provision of light and air. The proposal to add five new zoning use districts and cross referencing has given consideration to the provisions of light and air.

Finding #5: The proposed amendment was found to have minimal impact on the provision of light and air because bulk and dimensional requirements for the proposed zoning use districts would be applicable, additional setbacks are required for business zones adjacent to residential and sometimes agricultural zones and cross referencing will not impact the adequate provision of light and air.

2. **The effect on motorized and non-motorized transportation systems;**

As stated above, the Whitefish area has a comprehensive road network that includes State and Federal Highways and County Collectors these include; Highway 93, Highway 40, Karrow Ave, Edgewood Dr., Big Mountain Rd, E. Lakeshore Dr, Blanchard Lake Rd, Monegan Rd, Dillon Rd, Voerman Rd, and Northwoods Dr. The Flathead County Road and Bridge Department indicated no concerns with the proposal and MDT did not provide comments. It is anticipated that the proposed zoning use districts would not impact motorized transportation systems.

The Flathead County Trails Plan Map shows a proposed comprehensive network of trails that will include; Highway 93, Highway 40, Karrow Ave, Edgewood Dr., Big Mountain Rd, E. Lakeshore Dr, Dillon Rd, and Northwoods Dr. Many of these trails are not yet constructed. It is unlikely that the non-motorized transportation system would not be impacted by the proposed district.

Adding the BMV, BMRR, RR-1 and BSD zones to Section 6.13 and requiring special parking conditions would serve to lessen the impact those zones would have on non-motorized transportation. Section 6.13.010(1) states, *"Adequate drainage so that injuries will not be caused to adjacent properties nor will water drain across a public walk."*

Amendments for cross referencing to the sections regarding use districts, commercial caretaker's facility, day care center, zones in which gravel pits are not permitted, greenbelts and signs would likely not impact motorized and non-motorized transportation systems. As previously stated, requiring double the size of the underlying district for caretaker's facility in RR-1 districts has the potential minimize effects on motorized and non-motorized transportation system because allowing a caretaker's facility on smaller lots has the potential to double the density of the RR-1 zone.

Finding #6: The proposed text amendment is not anticipated to have a negative effect on motorized and non-motorized transportation because the Road and Bridge department does not have any concerns regarding this proposal, MDT did not provide comments and there is an already established road network.

3. **Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);**

   The five zoning use district being proposed are intended to mimic the previous City of Whitefish zoning use districts that are being replaced. Therefore comment was sought from the Whitefish Planning Department regarding this proposal. Comment received from the City of Whitefish states, "We commend the county's efforts to mirror as closely as possible the former Whitefish zoning districts, and we support the creation of all five new zoning districts as proposed. We believe this will make for a smooth transition, and create the least amount of uncertainty for future development. It will also provide the least amount of disruption if any of the properties so zoned opts to annex into the city at some point. It is also very important for the Big Mountain/Whitefish Mountain Resort area, who's master development plan is tied in with the former Whitefish districts you are replacing." It appears based on the City of Whitefish's comments that the proposed text amendment would be compatible with urban growth in the vicinity of Whitefish.

   Finding #7: This proposed text amendment would be compatible with the urban growth in the vicinity of the City of Whitefish because comment from Whitefish indicate support for the creation of all five new zoning districts as proposed, Whitefish believes this will make for a smooth transition and create the least amount of uncertainty for future development.

4. **The character of the district(s) and its peculiar suitability for particular uses;**

   The proposed use districts are designed to replicate as nearly as possible previous Whitefish zoning. The permitted and conditional uses are nearly identical with the only difference being the change in terminology from the previous Whitefish zones to the proposed County zones. These zones are anticipated being utilized in locations previously zoned by Whitefish and it is therefore unlikely that the proposed zoning use districts would alter the character of the district and its peculiar suitability for particular uses.

   Amendments for cross referencing to the sections regarding use districts, commercial caretaker's facility, day care center, signs and parking would likely not alter the character of the district(s) and its peculiar suitability for particular uses. The proposed amendment to add RR-1 to the list of zones in which sand and gravel extraction and asphalt and concrete batch plants are prohibited would likely preserve the character of the RR-1 district. Requiring double the size of the underlying district for caretaker's facility in RR-1 districts will likely not alter the character of the district in which the RR-1 zone is applied.

Requiring greenbelts when commercial or industrial zones are adjacent to RR-1 zones in addition to other R, RC and RA zones would likely help to preserve the character of the RR-1 district when adjacent to commercial or industrial uses because it would require that a view obscuring fence or dense coniferous hedge be constructed along a common boundary.

Finding #8: The proposed amendment to the Flathead County Zoning Regulations was found to preserve the character of the district and its peculiar suitability for a particular use because the proposed zoning use districts would replicate, as nearly as possible previous Whitefish zoning and would likely be implemented on the same properties as the previous Whitefish zoning, by not permitting sand and gravel extraction in RR-1 zones and requiring greenbelts when commercial or industrial uses abut an RR-1 zone.

5. **Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**

The proposed districts are designed to replicate as nearly as possible previous Whitefish zoning. The permitted and conditional uses are nearly identical with the only difference being the change in terminology from the previous Whitefish zones to the proposed County zones. The areas previously zoned WBMRR and WBMV under Whitefish on Big Mountain primarily contain resort residential and resort business uses. The proposed County BMRR and BMV zones would allow for uses such as multi-family dwelling, resort dwellings, hotels, motels, ski areas, bars, lounges, taverns, etc. All of these uses currently exist on Big Mountain where BMRR and BMV zones are most likely to be implemented.

The proposed B-2A zone would allow for uses such as automobile sales, bowling alleys, churches, supermarkets, hospitals, professional offices, etc. Many of these uses already exist within the vicinity of Whitefish where this zoning use district would likely be implemented.

The proposed BSD zoning use district would allow for uses such as professional offices, mini storage, etc. These uses already occur in areas that were previously zoned WBSD and will likely be zoned BSD. Adjacent to areas previously zoned WBSD is agricultural and single family dwellings both of which would be allowed within the proposed BSD use district.

The proposed RR-1 zoning use district would allow for uses such as single family dwellings, multi-family dwellings and tourist accommodation units which already occur in areas that were previously zoned WRR-1 and will likely be zoned RR-1. Adjacent to areas previously zoned RR-1 is agricultural and single family dwellings both of which would be allowed within the proposed RR-1 use district.

The proposed amendment to add RR-1 to the list of zones in which sand and gravel extraction and asphalt and concrete batch plants are prohibited could help conserve the value of buildings and encouraging the most appropriate use of land throughout the future RR-1 district and neighboring districts. Requiring double the size of the underlying district for caretaker's facility in

RR-1 districts will likely not impact the value of buildings and the most appropriate use of land throughout the jurisdictional are in which the RR-1 zone is applied.

Amendments for cross referencing to the sections regarding use districts, commercial caretaker's facility, day care center, sign and parking would likely not impact the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area. The proposed text amendment would likely conserve the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Requiring greenbelts when commercial or industrial zones are adjacent to RR-1 zones in addition to other R, RC and RA zones could conserve the value of residential buildings when adjacent to commercial or industrial uses because it would require that a view obscuring fence or dense coniferous hedge be constructed along a common boundary.

Finding #9: The proposed amendment to add new use districts and cross referencing to the Flathead County Zoning Regulations was found to encourage the most appropriate use of land throughout the area because the proposed zoning use districts would replicate, as nearly as possible previous Whitefish zoning and would likely be implemented on the same properties as the previous Whitefish zoning, by not permitting sand and gravel extraction in RR-1 zones and requiring greenbelts when commercial or industrial uses abut an RR-1 zone.

iv. Whether the proposed text amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The five zones being created are intended to mimic the previous City of Whitefish zoning use districts that are being replaced. Comment was sought from the Whitefish Planning Department regarding this proposal. Comment received from the City of Whitefish states, "We commend the county's efforts to mirror as closely as possible the former Whitefish zoning districts, and we support the creation of all five new zoning districts as proposed. We believe this will make for a smooth transition, and create the least amount of uncertainty for future development. It will also provide the least amount of disruption if any of the properties so zoned opts to annex into the city at some point. It is also very important for the Big Mountain/Whitefish Mountain Resort area, who's master development plan is tied in with the former Whitefish districts you are replacing."

The BMV zone would mirror the Whitefish WBMV zone, BMRR would mirror WBMRR, B-2A would mirror WB-2, RR-1 would mirror WRR-1 and BSD would mirror WBSD. The definitions for each of the five zoning districts are almost identical to the definitions under Whitefish zoning. The permitted and conditional uses are the same only using slightly different terminology in an effort to match terminology already used in the FCZR. Additionally the bulk and dimensional requirements would be the same. The proposed text amendment

would make the zoning regulations, as nearly as possible, compatible with the zoning ordinance of Whitefish.

Finding #10: This proposed text amendment would be, as nearly as possible, compatible with the zoning ordinances of the City of Whitefish because comment from Whitefish indicate support for the creation of all five new zoning districts as proposed, Whitefish believes this will make for a smooth transition and create the least amount of uncertainty for future development.

V. SUMMARY OF FINDINGS

1. The proposed amendment appears to generally comply with the Goals and Policies of the Flathead County Growth Policy because the proposal would add new commercial and residential use districts, other County regulations would serve to protect lakes, streams, wildlife habitat and riparian boundaries, the new commercial zones would allow for different mixes of commercial and industrial uses and comment was sought from the City of Whitefish.

2. The proposed text amendment appears to not have a negative impact on safety from fire and other dangers because the use districts are intended for areas adjacent to Whitefish, in areas which are located within the Whitefish and Big Mountain Fire Districts, the fire districts would provide services in the event of a fire, not allowing a caretaker's facility on smaller lots than double the minimum lot size within RR-1 zone would eliminate the potential for doubling the density of the RR-1 zone and prohibited gravel pits would likely help secure future RR-1 zones from other dangers.

3. The proposed amendment to the Flathead County Zoning Regulations was found to have minimal impact on public health, public safety and general welfare because the zoning use districts are intended to be located near the City of Whitefish in areas which are located within the Whitefish and Big Mountain Fire Districts, many of the zoning use districts would require greater setbacks from county collectors and MDT maintained roads, a greater setback would be required from residential uses and a CUP would be required for uses that could be deleterious to the public health or safety.

4. The proposed amendment was found to have minimal impact on transportation, water, sewerage, schools, parks and other public requirements because the Flathead County Road and Bridge Department had no concerns with the proposal, no comment was received from MDT, similar uses and densities to what was previously allowed under Whitefish zoning would be allowed and there has been a decrease in school enrollment for Whitefish schools.

5. The proposed amendment was found to have minimal impact on the provision of light and air because bulk and dimensional requirements for the proposed zoning use districts would be applicable, additional setbacks are required for business zones adjacent to residential and sometimes agricultural zones and cross referencing will not impact the adequate provision of light and air.

6. The proposed text amendment is not anticipated to have a negative effect on motorized and non-motorized transportation because the Road and Bridge department does not have any concerns regarding this proposal, MDT did not provide comments and there is an already established road network.

7. This proposed text amendment would be compatible with the urban growth in the vicinity of the City of Whitefish because comment from Whitefish indicate support for the creation of all five new zoning districts as proposed, Whitefish believes this will make for a smooth transition and create the least amount of uncertainty for future development.

8. The proposed amendment to the Flathead County Zoning Regulations was found to preserve the character of the district and its peculiar suitability for a particular use because the proposed zoning use districts would replicate, as nearly as possible previous Whitefish zoning and would likely be implemented on the same properties as the previous Whitefish zoning, by not permitting sand and gravel extraction in RR-1 zones and requiring greenbelts when commercial or industrial uses abut an RR-1 zone.

9. The proposed amendment to add new use districts and cross referencing to the Flathead County Zoning Regulations was found to encourage the most appropriate use of land throughout the area because the proposed zoning use districts would replicate, as nearly as possible previous Whitefish zoning and would likely be implemented on the same properties as the previous Whitefish zoning, by not permitting sand and gravel extraction in RR-1 zones and requiring greenbelts when commercial or industrial uses abut an RR-1 zone.

10. This proposed text amendment would be, as nearly as possible, compatible with the zoning ordinances of the City of Whitefish because comment from Whitefish indicate support for the creation of all five new zoning districts as proposed, Whitefish believes this will make for a smooth transition and create the least amount of uncertainty for future development.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations, a review and evaluation by the staff of the Planning Board comparing the proposed zoning text amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with most of the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: EKM

FLATHEAD COUNTY PLANNING AND ZONING
ADDENDUM TO
ZONING TEXT AMENDMENT REPORT #FZTA-15-01
FLATHEAD COUNTY PLANNING BOARD
SEPTEMBER 24, 2015

On September 9, 2015 the Flathead County Planning Board held a public hearing to consider the requested text amendments to the Flathead County Zoning Regulations. After Public comment was closed the Planning Board decided to postpone board discussion and their recommendation until September 23, 2015 to adequately consider public comment.

Nine Planning Board members were present for the both the public hearing on September 9, 2015 and the meeting on September 23, 2015: Tim Calaway, Jim Heim, Marie Hickey-AuClaire, Mike Horn, Kevin Lake, Jeff Larsen, Ron Schlegel, Dean Sirucek, and Greg Stevens.

Staff presented the staff report to the Planning Board, including its Finding of Facts.

APPLICANT PRESENTATION:

- There was no applicant for the proposed text amendment.

At this time the Board opened it up to public comment.

COMMENTS:
Public agency:

- Dave Taylor (City of Whitefish) – Wanted to make note of the comment received about gift and card sales and convenience store, also noted that vendors are allowed use in Whitefish but only allows mobile food vendors not trinkets, Elvis blankets, etc. Furniture and floor covering store are not listed in the proposed B-2A. Wondered why County wasn't creating a 15 acre agriculture zone. City would like to see an increased setback on streams on Big Mountain. 20 Ft. would not suffice to protect public water supply, he also mentioned signage. City has issue with Karrow Ave smaller zoning as it is not consistent with the City's Growth Policy also concerned with Houston tracts.
    - The Planning Board followed up his comment with questions and a discussion about the possible setbacks from streams on Big Mountain.

Public comment period: (Public comments were limited to 3 minutes).

- Rebecca Norton - 530 Scott Ave Whitefish – Stated she appreciate how much the board kept similar. Asked board to please use their microphones. Her main concern is about the water protection. Mentioned the Whitefish Pilot watershed drainage article. She was also concerned with anything that could impact the lake and drinking water for City. She was also against the proposed density on Karrow, called it spot zoning.
- Don K - 230 JP Road Whitefish - Property across highway from his car dealership. Reiterated his email that he sent prior to the hearing.
- Marye Flowers – 35 4th St West - Summarized written comments she submitted on behalf of Citizens for a Better Flathead. Stated it was difficult to separate the comments (referencing both this file and FZD-15-01). She appreciated attempting to adopt similar zoning to Whitefish zoning and asked to make the

uses the same as in the City of Whitefish (B-2A Antiques, and convenience store). Continues to read through letter she submitted at the Planning Board hearing. Talked about water quality issue Whitefish went for 2 years to guide water quality regulations and urged the Board to consider in adoption.

- Ed Boot - has lived on Karrow Ave for 52 years – 15 acres only pertains to about four of the lots (reference to previous WA zoning under Whitefish). If he wants to sell anything it has to be 15 acres. Why do we have to listen to Whitefish out there for what we wanted to do? Stated we are sick of it.

The Planning Board closed Public Comments.

After close of public comment Larsen asked the Board if they could take a week or more to look over public comments. Stevens stated he would like to look at slopes and setbacks, Hickey - AuClaire wanted to be fair to public and not rush over comments.

- Larsen made a motion to continue the file until September 23rd. The motion was seconded by Schlegel.

  ✓ **On a roll call vote the motion passed 9-0.**

BOARD DISCUSSSION (September 23, 2015):

- Schlegel called for a role call vote and was seconded by Horn to determine if everyone had ample time to review public comments.

  ✓ **On a roll call vote the Board voted 9-0.**

BOARD ACTION:

- A motion was made by Larsen and seconded by Stevens to accept staff report FZTA-15-01 as findings of fact.
  - Stevens had procedural question about what topics to discuss under text amendment. Larsen stated they were only talking about the text amendment stuff now, we can amend it if see something that isn't right.
  - The Planning Board had a discussion on comments regarding the B-2A list of permitted uses, including what to do about vendor, furniture/flooring, convenience store, auction barn, etc. The board discussed vendor, adding definition or deleting vendor and possible CUP for vendor.
    - There was a discussion on how the County attempted to make the zoning regulations compatible as nearly as possible with Whitefish zoning.
    - The Planning Board decided to submit revised text to the Commissioners.
  - The Board then had a discussion regarding sign regulations. Stevens said messing with sign regulations would impact a lot of people. Sirucek agreed saying it would be like opening Pandora's Box. Board seemed to be in agreement regarding signage.

- Larsen felt that the County is meeting the City halfway with 5 new zoning districts, maybe more than half way. Noted for the record that a lot of the comments are cut and pasted comments and identical to Whitefish comments.
- Board held a discussion on how the proposed SAG-10 and R-2.5 is very compatible with WA zone. And discussed how the first criteria in M.C.A. is to be in accordance with Growth Policy (accordance with Flathead County Growth Policy not City of Whitefish).
- Larsen summarized that the Board received forty comments on both these items (FZTA-15-01 and FZD-15-01). Received comment from 1.4% of the people sent notice. Feel pretty good about what was done so far.
- The Board held a long discussion on setbacks on Big Mountain (proposed BMRR and BMV zones) after Sirucek stated he had a problem with the riparian setbacks and felt that Big Mountain is a different animal (did not believe that 20 feet was sufficient to be a buffer in the soils).
  - The Board discussed setbacks from First, Second and Third Creek, why First Creek was not use as a water supply, and state logging regulation setbacks.
  - Many members did not like a one size fits all setback and were nervous about a 150 to 200 foot setback as requested by FWP.
  - Discussion on how subdivision requirements would have a buffer zone, riparian boundary.

✓ **On a roll call vote the motion passed 9-0.**

- A primary motion was made by Larsen to forward a recommendation of approval to the County Commissioners for the zoning text amendment and was seconded by Stevens.
  - A secondary motion was made by Stevens and seconded by Larsen to add Auction barn to #1 on the list of permitted uses within B-2A.

    ✓ **On a roll call vote the motion passed 8-1.**

  - A secondary motion was made by Stevens and seconded by Larsen to eliminate Vendor from the list of B-2A permitted uses.

    ✓ **On a roll call vote the motion passed 9-0.**

  - A secondary motion was made by Stevens and seconded by Larsen and Sirucek to add Furniture and floor covering store to the list of B-2A permitted uses.

    ✓ **On a roll call vote the motion passed 9-0.**

✓ **On a roll call vote the primary motion passed 9-0.**

SUMMARY OF FINDINGS:

Changes made by the Planning Board are highlighted. New language is shown in *italics*. Removed language is shown with a ~~strikethrough~~.

1. The proposed amendment appears to generally comply with the Goals and Policies of the Flathead County Growth Policy because the proposal would add new commercial and residential use districts, other County regulations would serve to protect lakes, streams, wildlife habitat and riparian boundaries, the new commercial zones would allow for different mixes of commercial and industrial uses and comment was sought from the City of Whitefish.

2. The proposed text amendment appears to not have a negative impact on safety from fire and other dangers because the use districts are intended for areas adjacent to Whitefish, in areas which are located within the Whitefish and Big Mountain Fire Districts, the fire districts would provide services in the event of a fire, not allowing a caretaker's facility on smaller lots than double the minimum lot size within RR-1 zone would eliminate the potential for doubling the density of the RR-1 zone and prohibited gravel pits would likely help secure future RR-1 zones from other dangers.

3. The proposed amendment to the Flathead County Zoning Regulations was found to have minimal impact on public health, public safety and general welfare because the zoning use districts are intended to be located near the City of Whitefish in areas which are located within the Whitefish and Big Mountain Fire Districts, many of the zoning use districts would require greater setbacks from county collectors and MDT maintained roads, a greater setback would be required from residential uses and a CUP would be required for uses that could be deleterious to the public health or safety.

4. The proposed amendment was found to have minimal impact on transportation, water, sewerage, schools, parks and other public requirements because the Flathead County Road and Bridge Department had no concerns with the proposal, no comment was received from MDT, similar uses and densities to what was previously allowed under Whitefish zoning would be allowed and there has been a decrease in school enrollment for Whitefish schools.

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7. This proposed text amendment would be compatible with the urban growth in the vicinity of the City of Whitefish because comment from Whitefish indicate support for the creation of all five new zoning districts as proposed, Whitefish believes this will make for a smooth transition and create the least amount of uncertainty for future development.

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9. The proposed amendment to add new use districts and cross referencing to the Flathead County Zoning Regulations was found to encourage the most appropriate use of land throughout the area because the proposed zoning use districts would replicate, as nearly as possible previous Whitefish zoning and would likely be implemented on the same properties as the previous Whitefish zoning, by not permitting sand and gravel extraction in RR-1 zones and requiring greenbelts when commercial or industrial uses abut an RR-1 zone.

10. This proposed text amendment would be, as nearly as possible, compatible with the zoning ordinances of the City of Whitefish because comment from Whitefish indicate support for the creation of all five new zoning districts as proposed, Whitefish believes this will make for a smooth transition and create the least amount of uncertainty for future development.

PROPOSED AMENDMENT (as approved by the Planning Board):

Changes made by the Planning Board are highlighted. Changed language is shown in *italics*. Removed language is shown with a ~~strikethrough~~.

SECTION 3.45 B-2A SECONDARY BUSINESS

3.45.010 Definition:

The B-2A district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. This district depends on proximity to the City of Whitefish, highways or arterial streets and may be located in business corridors or islands.

3.45.020 Permitted Uses (B-2A):

1. Antique, gift and card retail sales *and auction barn*.
2. Automobile (new and used) and accessory sales.
3. Automobile repair shop.
4. Automobile service station.
5. Beauty Salon and Barbershop.
6. Bed and breakfast establishment.

7. Boat and RV sales, new and used.
8. Boat and RV repair shop
9. Bowling alley.
10. Bus depot.
11. Churches and other places of worship.
12. Clinic, medical and dental.
13. Commercial caretaker's facility in a detached accessory building in conjunction with a business.
14. Convenience store.
15. Daycare centers (13 or more individuals).
16. Dwelling, single family.
17. Feed, seed and farm supply.
18. Financial institution.
19. Food store, supermarket, and delicatessen.
20. Frozen food lockers, not including slaughtering.
21. Funeral Home and crematorium.
22. *Furniture and floor covering store.*
23. Heavy equipment sales, rental and service.
24. Hospitals, and associated related nursing homes, retirement homes, congregate housing and personal care facilities in a campus setting.
25. Hotel and motel (including restaurants, lounges or bars integral to the facilities).
26. Household appliance and electronics store.
27. Laundromat or dry cleaner.
28. Lumber yard, building supply.
29. Military surplus store.
30. Pack-n-ship.
31. Professional offices.
32. Public building.
33. Recreational facility, high impact.
34. Recreational facility, low impact.
35. Restaurant.
36. Small animal veterinarian clinic (no outside activity).
37. Theater.
38. ~~Vendor.~~
39. Wholesale trade and warehousing.

3.45.030 Conditional Uses (B-2A):

1. Accessory Apartment.
2. Amusement park or zoo.
3. Animal hospital.
4. Any new building greater than 15,000 square feet, existing buildings where an addition would cause the total footprint to be 15,000 square feet or greater, and additions to

buildings where the footprint already is 15,000 square feet or greater.

5. Bar, lounge and tavern.
6. College, business school, trade school, music conservatory, dance school.
7. Community residential facility (See Chapter V- Performance Standards and Chapter VII- Definitions).**
8. Light assembly and manufacturing.
9. Manufactured home park.
10. Microbrewery.
11. Mini-storage, RV storage.
12. Recreational vehicle park.
13. Truck stop.

** Administrative Conditional Use Permit, 8 or fewer.

3.45.040 Bulk and Dimensional Requirements (B-2A):

1. Minimum Lot Area: Not Applicable.

2. Minimum Lot Width: Not Applicable.

3. Setbacks:

A. Minimum Yard Requirements for Structures:

Front:	20 feet.
Side:*	0 feet each.
Side Corner:	20 feet.
Rear:*	0 feet.

* 20 foot setback when abutting a residential district.

B. A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.

C. Increase yard requirements as follows when property fronts:
MDT Maintained/County collector road:*
10 feet.

4. Maximum Height: 35 feet.
5. Permitted Lot Coverage: Not Applicable.

6. Maximum Fence Height:

Front:	4 feet.
Side:	6 feet.

Rear: 6 feet.

7. Off-Street Parking: See Chapter VI-Parking and Loading.

SECTION 3.46 BMRR BIG MOUNTAIN RESORT RESIDENTIAL

3.46.010 Definition:

The BMRR district is intended to provide for lower urban densities with little or no commercial activity. Uses within the resort residential will include nightly rentals, timesharing, interval ownerships, vacation clubs, or other multiple ownership residential uses.

3.46.020 Permitted Uses (BMRR):

1. Bed and breakfast establishment.
2. Home occupation (See Chapter V – Performance Standards and Chapter VII - Definitions).
3. Dwelling, single family.
4. Dwelling, duplex.
5. Dwelling, multi-family.
6. Dwelling, resort: including resort and recreational condominiums, townhouses, time sharing and interval ownership residences or vacation units and other multiple ownership arrangement residential uses, allowing overnight accommodations and ancillary uses for the use of occupants and guests.
7. Public building.
8. Park and publicly owned recreational facility.
9. Recreational facility, high impact.
10. Recreational facility, low impact.
11. Ski area and support facilities.

3.46.030 Conditional Uses (BMRR):

1. Bar, lounge and tavern.
2. Churches and other places of worship.
3. Emergency medical clinic.
4. Information/reception center.
5. Lodge and fraternal and social organization, provided that any such establishments shall not be conducted primarily for gain.
6. Public utility service installation.
7. Resort area equipment maintenance facilities.
8. Restaurant.
9. School, primary and secondary.

3.46.040 Bulk and Dimensional Requirements (BMRR):

1. Minimum Designation Size: As prescribed by the Big Mountain Neighborhood Plan Land Use Plan.

2. Minimum Lot Area: As prescribed by the Big Mountain Neighborhood Plan Land Use Plan.

3. Minimum Lot Width: Not Applicable.

4. Setbacks:

   A. Minimum Yard Requirements for Structures:

Front:	20 feet.
Side:	10 feet each.
Side Corner:	10 feet.
Rear:	20 feet.

   B. Minimum Yard Requirements for Townhouses:

Side:	5 feet each.
Side Corner:	5 feet.
Rear:	15 feet.

   C. A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.

   D. Increase yard requirements as follows when property fronts:
   MDT Maintained/County collector road:* 10 feet.

5. Maximum Height:

One through Fourplex:	28 feet (to eave).
Fiveplex or Greater:	35 feet (to eave).

6. Permitted Lot Coverage: 40%.

7. Off-Street Parking: See Chapter VI-Parking and Loading.

SECTION 3.47 BMV BIG MOUNTAIN VILLAGE

3.47.010 Definition:

The BMV district is intended to provide a regulatory framework for primary resort residential land uses at mixed densities, and year round resort uses including hotels, resort condominiums and similar uses oriented towards tourism and resort businesses. Specific uses provided for include convention facilities, bars, lounges, restaurants, and limited resort oriented retail and commercial uses intended primarily for the convenience of guests of the Big Mountain Resort. The Big Mountain village is a densely compact resort core area characterized mainly by mixed and multiple use buildings and complexes. Retail, commercial services, and dining and drinking establishments will generally be located at street level, with hotel/residential uses above, and parking typically below street level.

3.47.020 Permitted Uses (BMV):

1. Bar, lounge and tavern.
2. Conference facilities.
3. Dwelling, single family.
4. Dwelling, duplex.
5. Dwelling, multi-family.
6. Dwelling, resort: including resort and recreational condominiums, townhouses, time sharing and interval ownership residences or vacation units and other multiple ownership arrangement residential uses, allowing overnight accommodations and ancillary uses for the use of occupants and guests.
7. Emergency medical clinic.
8. Financial institution.
9. Health studio and spa.
10. Hotel, motel.
11. Professional offices.
12. Public building.
13. Park and publicly owned recreational facility.
14. Recreational facility, high impact.
15. Recreational facility, low impact.
16. Restaurant.
17. Retail sales and service.
18. Ski area and support facilities.
19. Theater.

3.47.030 Conditional Uses (BMV):

1. Churches and other places of worship.
2. Public utility service installation.
3. Resort area equipment maintenance facilities.
4. School, primary and secondary.

3.47.040 Bulk and Dimensional Requirements (BMV):

1. Minimum Lot Area: As prescribed by the Big Mountain Neighborhood Plan Land Use Plan.

2. Minimum Lot Width: Not Applicable.

3. Setbacks:
   A. Minimum Yard Requirements for Structures:
      Front: 0 feet.
      Side:* 0 feet each.
      Side Corner: 0 feet.
      Rear:* 0 feet.
      * 15 foot setback when abutting a residential district.

   B. A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.

   C. Increase yard requirements as follows when property fronts:
      MDT Maintained/County collector road:*
      10 feet.

4. Maximum Height: 39 feet (to eave).

5. Permitted Lot Coverage: Not Applicable.

6. Off-Street Parking: See Chapter VI-Parking and Loading.

SECTION 3.48 BSD BUSINESS SERVICE DISTRICT

3.48.010 Definition:

The business service district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to create defined areas that are appropriate for nonretail limited commercial services and light industrial uses in

proximity to the City of Whitefish. Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to develop as an island rather than as a strip. Landscaping will be extensive with good quality and effective screening and buffering.

3.48.015 Acceptance of an application for BSD zoning will be contingent upon a site plan, vicinity map and building concepts for the area requested being submitted for review. The site plan, vicinity map and building concepts will address each of the following:

1. The site plan shall include all buildings, structures, parking, driveways, sidewalks, utilities, drainage, landscaping and signage.

2. The site plan shall demonstrate conformance with the zoning regulations and other applicable county regulations. All projects constructed in accordance with an approved site plan shall be permanently maintained as approved.

3. The vicinity map shall include surrounding parcels, buildings, structures, circulation systems and major physical features.

4. Shared driveway access or frontage roads (whether public or private) are required where possible to provide a cohesive internal circulation pattern and to limit access onto arterials and collectors when development contains multiple commercial uses.

3.48.017 Implementation of Site Plan and Vicinity Map:

1. Once the site plan and vicinity map have been adopted, they shall be considered zoning and shall serve as the guidelines for the development.

2. Prior to any site development, a detailed site plan shall be submitted to the zoning administrator to demonstrate compliance with the approved site plan and vicinity map. Any desired subsequent changes shall be submitted for approval as an amendment to the site plan.

3. Minor deviations to the site plan shall be allowed which do not involve more than ten percent (10%) of the building site for a single building. This would include, but is not limited to, the location and/or expansion of the building, parking lot location, signage, number of parking spaces and landscaping. Minor deviations to the site plan shall be reviewed and approved by the zoning administrator.

4. Substantial modifications to the site plan will be required to be reviewed and approved by the County Commissioners. Substantial changes would include, but not be limited to, an increase in the number of buildings, major changes in access or circulation, an increase in building size by more than ten percent (10%), major changes to signage and major changes to landscaping design and location.

3.48.020 Permitted (BSD):

1. Agricultural/horticultural/silvicultural use.
2. Ancillary retail or showrooms, less than fifty (50%) percent of the gross floor area of each individual lease space or tenant
3. Animal hospital, veterinary clinic.
4. Contractors' storage yard and building supply outlet.
5. Dance, drama, and music school.
6. Dwelling, single family.
7. Farm equipment sales.

8. Feed, seed and farm supply, including grain elevators.
9. Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).
10. Homeowners park.
11. Light assembly and manufacturing, fabrication, including light food manufacturing and processing, repairing, packing or storage facilities in enclosed buildings, provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive, hazardous or toxic.
12. Livestock.
13. Nursery, landscaping materials.
14. Parcel delivery service.
15. Park and publicly owned recreational facility.
16. Personal services with incidental retail sales.
17. Print and copy shop.
18. Produce stand.
19. Professional offices.
20. Public utility service installation (A minimum of five feet of landscaped area shall surround such building or structure).
21. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, furniture, and small engines, (no outdoor storage permitted).
22. Riding academy, rodeo arena.
23. Small equipment sales, rental and repair conducted indoors, (no outdoor storage permitted).
24. Stable, public and private.
25. Wholesale trade and warehousing, including offices and showrooms.

3.48.030 Conditional Uses (BSD):

1. Accessory apartments.
2. Ancillary retail or showrooms, more than fifty (50%) percent of the gross floor area of each individual lease space or tenant.
3. Churches and other place of worship.
4. College, business school, trade school.
5. Commercial caretaker's facility in a detached accessory building in conjunction with a business.*
6. Convention hall facility.
7. Day care center.
8. Kennel.
9. Mini-storage.

10. Research laboratory and institution.
11. When not shown on the initial site plan required for zoning or rezoning properties, all new structures with a gross floor area of ten thousand (10,000) square feet or greater, existing structures where an addition causes the total floor area to be ten thousand (10,000) square feet or greater, and additions to structures where the total floor area already is ten thousand (10,000) square feet or greater.

*Administrative Conditional Use Permit (See Section 2.06.045)

3.48.040 Bulk and Dimensional Requirements (BSD):

1. Minimum District Area: 5 acre.

2. Minimum Lot Area: 1 acre.

3. Minimum Lot Width: 125 feet.

4. Setbacks:

   A. Minimum Yard Requirements for Structures:
   Front: 30 feet.
   Side: 10 feet each.
   Side Corner: 30 feet.
   Rear: 15 feet.

   B. When a property abuts the following features, the abutting setback shall be increased to the following:
   Agricultural – use or zone: 30 feet.
   Residential – use or zone: 30 feet.
   Stream – high water mark: 20 feet.

5. Maximum Height:
   Principal Structures: 35 feet.
   Accessory Structures: 24 feet.

6. Permitted Lot Coverage: 40%.

7. Maximum Fence Height:
   Front: 4 feet.
   Side: 6 feet.
   Rear: 6 feet.

8. Off-Street Parking: See Chapter VI – Parking and Loading.

3.48.050 Additional Design Standards (BSD):

1. One commercial use permitted per gross acre. Multiple commercial uses should cluster development to include both shared parking areas and internal road access. Buildings shall be grouped into localized areas and shall not be developed in a linear fashion.

2. Clustering:

   A. Clustering of uses includes incorporation of common shared areas such as courtyards to create central nodes of business/development as opposed to linear development.

   B. Clustering should include shared access, parking, landscaping, with the overall development designed to protect surrounding properties from adverse impacts.

   C. For the purpose of clustering, the site will be developed as one lot. Property setbacks for commercial uses shall not apply except for separation from residential uses. This allows for cohesive development on multiple properties developed in conjunction with an overall development theme or business park plan.

3. Landscaping:

   A. Landscape design shall be in accordance with the concept of a business park. A combination of landscape materials should be arranged in a harmonious manner as an integral part of the project design to enhance building design, public view and interior spaces and provide buffers and transitions, as appropriate.

   B. Landscaping shall comply with Section 5.05 and parking lot landscaping shall comply with Section 6.13.010(2).

   C. Exposed utilities, storage areas, machinery, installations, service and loading areas and similar accessory areas and structures shall be set back to the primary structure requirements or screened to

minimize the loss of views, privacy and the general aesthetic value of surroundings.

4. Signage:

A combination of natural materials and colors should be arranged in a harmonious manner that complements the overall design of the site and does not create visual clutter, distractions for passing motorists or the obstruction of important architectural or landscaping features.

SECTION 3.49 RR-1 LOW DENSITY RESORT RESIDENTIAL

3.49.010 Definition:

The RR-1 district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide a low density setting for secondary residential resorts in proximity to the City of Whitefish.

3.49.020 Permitted Uses (RR-1):

1. Bed and breakfast establishment.
2. Class A manufactured home.
3. Day care home.
4. Duplex.
5. Dwelling, multi-family (4 or fewer units).
6. Dwelling, single family.
7. Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).
8. Park and publicly owned recreational facility.
9. Public utility service installation (a minimum of five feet of landscaped area shall surround each building or structure).
10. Tourist accommodation units (4 or fewer units).

3.49.030 Conditional Uses (RR-1):

1. Accessory apartments.
2. Boarding house.
3. Boat launching ramp and dock (commercial).
4. Caretaker's facility.*
5. Churches and other place of worship.
6. Community residential facilities, Class I.
7. Convention hall facility.
8. Day care center.
9. Dwellings, cluster development (See Chapter IV – Conditional Use Standards).

10. Dwelling, multi-family (5 or more units).
11. Golf course.
12. Guest house.
13. Health club.
14. Manufactured home park (5 acre minimum size).
15. Marina (commercial).
16. Professional offices.
17. School, primary and secondary.
18. Tourist accommodation units (5 or more units).

*Administrative Conditional Use Permit (See Section 2.06.045)

3.49.040 Bulk and Dimensional Requirements (RR-1):

7. Minimum District Area: 1 acre.

8. Minimum Lot Area: Not Applicable.

9. Minimum Lot Width: Not Applicable.

10. Maximum Density: 10 dwelling units per acre.

11. Setbacks:

A. Minimum Yard Requirements for Principal Structures:

Front:	15 feet.
Side:	10 feet each.
Side Corner:	15 feet.
Rear:	20 feet.

B. Detached Accessory Structures:

Front:	15 feet.
Side:	6 feet.
Side Corner:	6 feet each.
Rear:	6 feet.

C. A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.

D. Increase yard requirements as follows when property fronts:
MDT Maintained/County collector road:*
25 feet.

12.	Maximum Height:	
	Principal Structures:	35 feet.
	Accessory Structures:	24 feet.
13.	Permitted Lot Coverage:	35%.
14.	Maximum Fence Height:	
	Front:	4 feet.
	Side:	6 feet.
	Rear:	6 feet.
7.	Off-Street Parking:	See Chapter VI-Parking and Loading.

The proposal would also include cross referencing in other sections of the FCZR, amending Sections 3.01.020, 3.03.020(10), 4.04, 4.04.010(2), 4.06, 4.08.040, 5.05.010, 5.05.020, 5.11.040(3), 5.11.040(4) and 6.13 FCZR as follows:

3.01.020 For the purpose of applying these regulations to the zoned areas of Flathead County, said areas are hereby divided into the following use districts:

District	Title	Minimum Lot Size
AG-80	Agricultural	80 acres
AG-40	Agricultural	40 acres
AG-20	Agricultural	20 acres
SAG-10	Suburban Agricultural	10 acres
SAG-5	Suburban Agricultural	5 acres
R-2.5	Rural Residential	2.5 acres
R-1	Suburban Residential	1 acre
R-2	One-Family Limited Residential	20,000 sq. ft.
R-3	One-Family Residential	10,000 sq. ft.
R-4	Two-Family Residential:	
	Single-family	6,000 sq. ft.
	Duplex	7,500 sq. ft.
R-5	Two-Family Residential	5,400 sq. ft.
RC-1	Residential Cluster	Max. Density 1 du/acre
	Detached Dwelling Unit	4,500 sq. ft.
	Attached Dwelling Unit	2,500 sq. ft.
RA-1	Residential Apartment	7,500 sq. ft.
RR-1	Low Density Resort Residential	District, Min. 1 acre
B-1	Neighborhood Business	7,500 sq. ft.
B-2	General Business	7,500 sq. ft.
B-2A	Secondary Business	Not applicable
B-2HG	General Business Highway Greenbelt	See Section 3.44
B-3	Community Business	District,

BR-2	Resort Business	Min. 10 acres District,
BR-4	Resort Business	Min. 20 acres District,
B-5	Tourist Retail	Min. 10 acres District,
B-6	Resort Business	Min. 5 acres 15,000 sq. ft.
B-7	Rural Area Commercial	District, Max. 240,000 sq. ft.
BMRR	Big Mountain Resort Residential	District, As prescribe by the Big Mountain Plan Land Use Plan
BMV	Big Mountain Village	District, As prescribe by the Big Mountain Plan Land Use Plan
BSD	Business Service District	1 acre
CCC-1	Commercial Country Corner – 1	District, Max. 240,000 sq. ft.
CCC-2	Commercial Country Corner – 2	District, Max. 400,000 sq. ft.
CVR	Commercial Village Resort	2,500 sq. ft.
I-1	Light Industrial	7,500 sq. ft.
I-1H	Light Industrial – Highway	1 acre
I-2	Heavy Industrial	7,500 sq. ft.
P	Public	Not applicable
PUD	Planned Unit Development	See Section 3.31
SC	Scenic Corridor	See Section 3

3.03.020 10. In R-2.5 (Rural Residential), R-1 (Suburban Residential), R-2 (One Family Limited Residential), R-3 (One Family Residential), R-4 (Two Family Residential), R-5 (Two Family Residential), RC-1 (Residential Cluster), ~~and~~ RA-1 (Residential Apartment) and RR-1 (Low Density Resort Residential) zoning or use districts, sand and gravel extraction and asphalt and concrete batch plant uses are prohibited. In other residential districts, as defined herein, sand and gravel extraction and asphalt and concrete batch plant uses shall be conditioned under the provisions of Sections 2.06 and 4.10, provided however, that if the negative impacts (including those listed in Section 2.06.080.1.D) on the surrounding area cannot be reasonably mitigated, all sand and gravel extraction and associated operations,

or processing of sand and gravel, or asphalt and/or concrete batch plant uses, may be prohibited.

SECTION 4.04 CARETAKER'S FACILITY IN AG, SAG, ~~AND~~ R-1, AND RR-1 DISTRICTS

4.04.010 A caretaker's facility is a dwelling, which is constructed and designed to provide living quarters for caretakers or servants, and is clearly subordinate to the principal use with regard to size and location. Caretaker's facilities are allowed as a conditional use in the AG-80, AG-40, AG-20, SAG-10, SAG-5, R-2.5~~, and~~ R-1 and RR-1 districts subject to the following conditions:

4.04.010 2. In SAG-5, R-2.5, ~~and~~ R-1 and RR-1 districts the parcel on which the caretaker's facility is located shall be double the size of the underlying district minimum lot size.

SECTION 4.06 COMMERCIAL CARETAKER'S FACILITY IN B-2, B-2HG, B-3, BSD, I-1, I-1H AND I-2 DISTRICTS

4.08.040 In all residential (AG, SAG, R, and RA) and resort (RC, RR, BR, B-5, and B-6) districts:

5.05.010 All sites in a commercial ("B" and "BR" designations) district having a common boundary with a residential district ("R", "RA", ~~or~~ "RC", or "RR" designation) shall erect and maintain a view-obscuring fence or dense coniferous hedge along such common boundary. Fences shall be six (6) feet high. Hedges shall obtain a height of at least six (6) feet within three (3) years. Where the wall of a building is on such common boundary, no separate wall, fence, or hedge is required along the portion of the common boundary occupied by the building.

5.05.020 All sites in an industrial district ("I" designation) having a common boundary with a residential district ("R", "RA", ~~or~~ "RC", or "RR" designation) shall have planted and maintained along such common boundary a view-obscuring coniferous greenbelt of shrubs and trees at least eight (8) feet in height at maturity and at least ten (10) feet in width for screening purposes and controlling access.

5.11.040 3. Permitted signs in BMRR, RC-1, RA-1, RR-1, CVR, and P districts shall be as follows:

4. Permitted signs in B-1, B-2, B-2A, B-2HG, BR-2, B-3, BR-4, B-5, B-6, ~~and~~ B-7, BMV, and BSD districts shall be as follows (see additional requirements for B-2HG in Section 3.44):

SECTION 6.13B, BMV, BMRR, BR, BSD, CVR, CCC, I, ~~AND~~ P, AND RR PARKING REQUIREMENTS SPECIAL CONDITIONS

Planner: EKM

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
RURAL WHITEFISH ZONING DISTRICT REPORT FZD-15-01
AUGUST 26, 2015

A report to the Flathead County Planning Board and Board of Commissioners regarding a new zoning district to be called the Rural Whitefish Zoning District. The proposed district would be generally located around the City of Whitefish and formerly within the Extraterritorial Area (ETA) of the Interlocal Agreement between Flathead County and the City of Whitefish. The proposed zoning district would zone the area B-2A Secondary Business, BMRR Big Mountain Resort Residential, BMV Big Mountain Village, BSD Business Service District, I-2 Heavy Industrial, R-2.5 Rural Residential, R-1 Suburban Residential, R-2 One Family Limited Residential, R-3 One Family Residential, R-4 Two-Family Residential, RR-1 Low Density Resort Residential, SAG-10 Suburban Agricultural and SAG-5 Suburban Agricultural.

The Flathead County Planning Board will conduct a public hearing on the proposed zoning district on September 9, 2015 in the 2nd Floor Conference Room, 1035 1st Ave West, Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will also hold a public hearing on the proposed zoning district at a date and time yet to be determined.

Documents pertaining to the zoning district are available for public inspection in the Flathead County Planning and Zoning Office, Earl Bennett Building, 1035 First Avenue West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning district will also be available for public inspection in the Flathead County Clerk and Recorders Office, 800 South Main Street, in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed land use is not located within the jurisdiction of a Land Use Advisory Committee.

B. Planning Board

Update September 25, 2015

On September 9, 2015 the Flathead County Planning Board held a public meeting on the proposal and the Board voted 9-0 to postpone board discussion and their recommendation until September 23, 2015 to adequately consider public comment, after the public comment period was closed.

On September 23, 2015 the Flathead County Planning Board continued the meeting on the proposal and the Board voted 9-0 adopt the staff report as Findings of Fact. The Planning Board voted 9-0 to forward a recommendation for approval to the Board of County Commissioners after modifying the proposed zoning district map. Details of the Board's actions and the recommended Findings of Fact are included on the attached Planning Board Addendum to this report.

C. Commission

This space will contain an update regarding the Flathead County Commissioners review of the proposal.

I. GENERAL INFORMATION

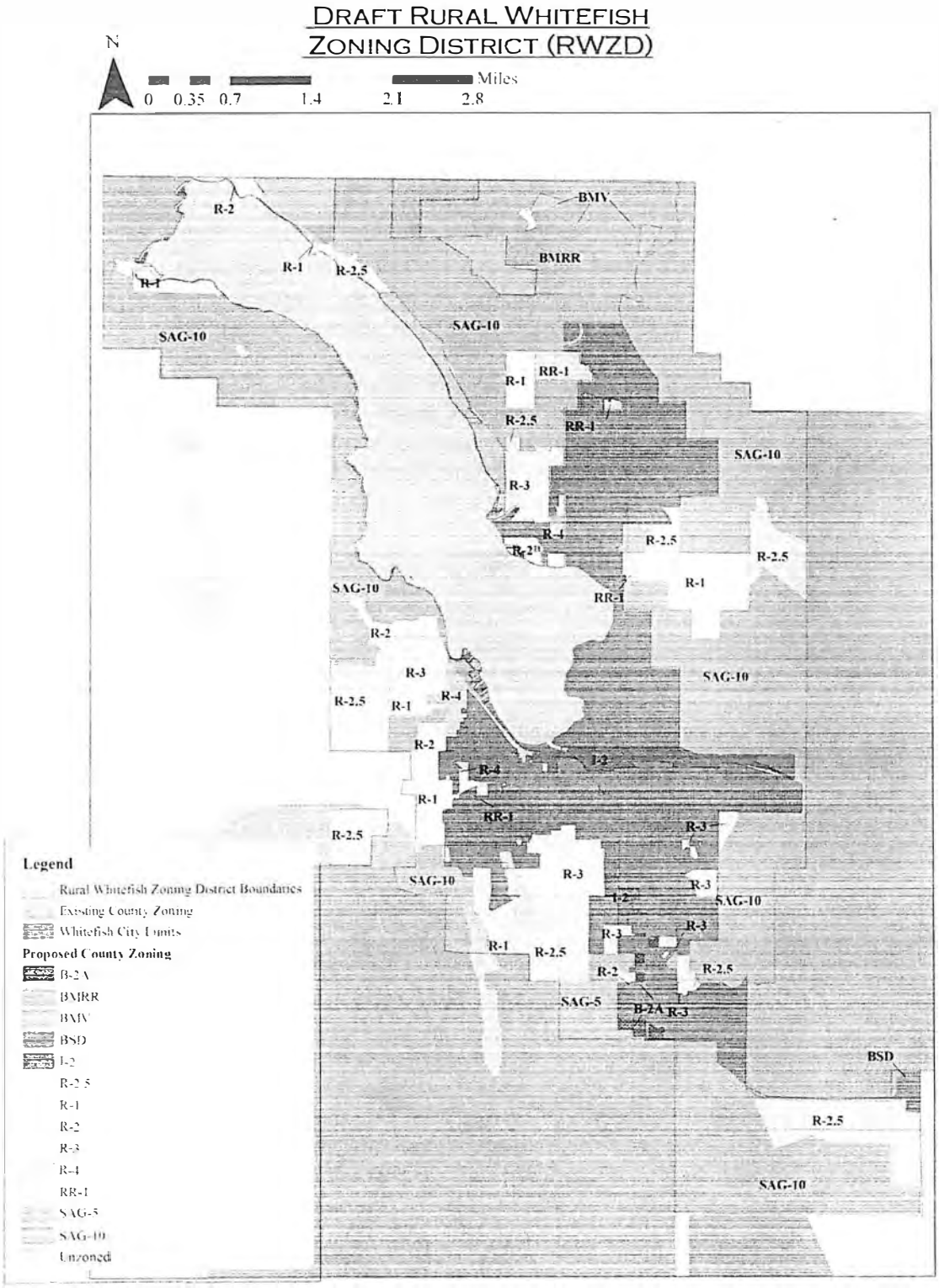
A. Applicant/Petitioner

Flathead County Planning Board

B. Proposed Zoning District

The publicly initiated application is a proposal from the Flathead County Planning Board for the creation of a new zoning district called Rural Whitefish. The area is currently zoned under the Rural Whitefish Interim Zoning District. The proposed district would permanently zone approximately 12,740 acres with County zoning and would encompass the area outside of Whitefish, formerly within the Interlocal Agreement Extraterritorial Area.

Figure 1: Location and proposed zoning for the Rural Whitefish Zoning District



C. District Boundaries and General Character of Proposed Zoning

The boundaries of the proposed district could be described as Section 1, Section 2 (excepting portions within the Big Mountain West Zoning District and Lot 18 Block 1 of the Sun Rise Ridge Subdivision Lot 44 of the Sun Rise Ridge Phase III Subdivision, The Big Mountain View Subdivision, Tract 1B and 1E and Chamonix Subdivision), Section 3 (excepting portions within the City of Whitefish and the Big Mountain West Zoning District), Section 4, 5, 9, 12, 13, 15, 22, 23, 24, 25, 27, 35 and 36 (excepting portions within the City of Whitefish), the North ½ of Section 8 and the North ½ of the Southeast ¼ of Section 8, Sections 10, 11 and 14 (excepting portions within the City of Whitefish and the East Whitefish Lake Zoning District), Section 26 (excepting portions within the City of Whitefish and the Lake Park Addition Zoning District), the Southwest ¼ of Section 34 (excepting the East ½ of the Southeast ¼ of the Southwest ¼), The East ½ of the Southeast ¼ Section 34 (excepting portions within the City of Whitefish) and the Northeast ¼ of Section 34 (excepting portions within the City of Whitefish and Tract 2C) of Township 31 North, Range 22 West, Sections 6, 19, 20, 29 and 30, the West ½ of the Southwest ¼ of Section 8 and the Southeast ¼ of the Southwest ¼ of Section 8 and Sections 7, 17, 18, 31 and 32 (excepting portions within the City of Whitefish) of Township 31 North, Range 21 West, Section 1 (excepting portions within the City of Whitefish), Section 2 (excepting portions within the City of Whitefish and the Blanchard Lake Zoning District), the North ½ of the Northeast ¼ of Section 3 (excepting portions within the Blanchard Lake Zoning District) and the North ½ of Section 12 (excepting portions within the City of Whitefish) of Township 30 North, Range 22 West, and the West ½ of the East ½ of Section 5 and the West ½ of Section 5 (excepting portions within the City of Whitefish), Section 6 and 7 (excepting portions within the City of Whitefish), Section 8 (excepting portions within the City of Whitefish and the Southeast Rural Whitefish Zoning District) and Sections 16, 17, 18 of Township 30 North, Range 21 West, P.M.M. in Flathead County, Montana (See Figure 1 above).

This proposal is to zone the areas within the County that were previously zoned by the City of Whitefish, to comparable County zoning allowing the county to administer the codes (it is important to note because the County does not administer City of Whitefish codes and interim zoning is not permanent, this is not a re-zoning, but a creation of a new County zoning district). The proposed zoning use classifications are described as follows:

- *"B-2A Secondary Business – The B-2A district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. This district depends on proximity to the City of Whitefish, highways or arterial streets and may be located in business corridors or islands."*

- *"BMRR Big Mountain Resort Residential – The BMRR district is intended to provide for lower urban densities with little or no commercial activity. Uses*

within the resort residential will include nightly rentals, timesharing, interval ownerships, vacation clubs, or other multiple ownership residential uses."

- *"BMV Big Mountain Village – The BMV district is intended to provide a regulatory framework for primary resort residential land uses at mixed densities, and year round resort uses including hotels, resort condominiums and similar uses oriented towards tourism and resort businesses. Specific uses provided for include convention facilities, bars, lounges, restaurants, and limited resort oriented retail and commercial uses intended primarily for the convenience of guests of the Big Mountain Resort. The Big Mountain village is a densely compact resort core area characterized mainly by mixed and multiple use buildings and complexes. Retail, commercial services, and dining and drinking establishments will generally be located at street level, with hotel/residential uses above, and parking typically below street level."*

- *"BSD Business Service District – The business service district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to create defined areas that are appropriate for nonretail limited commercial services and light industrial uses in proximity to the City of Whitefish. Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to develop as an island rather than as a strip. Landscaping will be extensive with good quality and effective screening and buffering."*

- *"I-2 Heavy Industrial – A district to provide for industrial uses to accommodate heavy manufacturing, processing, fabrication, and assembly of parts or materials. It is also intended that the encroachment of non-industrial or unspecified commercial uses within the district be prevented"*

- *"R-2.5 Rural Residential – A district intended for rural, primarily residential areas where larger, estate-type lot sizes are appropriate and agricultural/silvicultural/horticultural operations are a decreasingly viable land use. The use of this district is appropriate in transition areas adjacent to and between higher-density Residential (R) and lower-density Suburban Agriculture (SAG) zones. This district is not appropriate in areas primarily surrounded by lower-density SAG and AG zones and/or areas adjacent to significant ongoing agricultural/silvicultural/horticultural and/or extractive industry operations. Furthermore, public facilities should be appropriately developed to accommodate the density and land uses of this designation. This includes paved roads. It is intended that no uses be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing therein."*

- *"R-1 Suburban Residential – A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density*

development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions)."

- *"R-2 One Family Limited Residential – A district to provide for large-tract residential development. These areas will typically be found in suburban areas, generally served by either sewer or water lines."*
- *"R-3 One Family Residential – A district to provide adequate lot size for urban residential development; should have good thoroughfare access, and be in proximity to community and neighborhood facilities, i.e., schools, parks, shopping areas. This district will normally require all public utilities."*
- *"R-4 Two-Family Residential – A district to provide lot areas for urban residential development. Development within the district will require all public utilities and all community facilities. A duplex is allowed in this district."*
- *"RR-1 Low Density Resort Residential – The RR-1 district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide a low density setting for secondary residential resorts in proximity to the City of Whitefish."*
- *"SAG-10 Suburban Agricultural – A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development."*
- *"SAG-5 Suburban Agricultural – A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development."*

D. Existing Zoning

The area is currently zoned under the Rural Whitefish Interim Zoning District. Current zoning includes "SAG-10 Suburban Agricultural," "R-2.5 Rural Residential," "R-1 Suburban Residential," "R-2 One Family Limited Residential," "R-3 One Family Residential," "R-4 Two-Family Residential," "RR-1 Low Density Resort Residential," "I-2 Heavy Industrial," "B-2 General Business," "BSD Business Service District" and "BR-4 Resort Business."

E. General Character of the Area

North: To the north, the area is comprised of United States Forest Service (USFS), State School Trust Lands, corporate timber holdings, and private lands. The area is unzoned.

South: To the south, property is almost entirely privately owned, with some school trust lands. There are three zoning districts: Blanchard Lake, South East Rural Whitefish, and Hodgson Road Zoning District. The rest of the area is unzoned.

East: To the east, the area is comprised of private lands. There are three zoning districts, Haskill Basin East, Haskill Basin Estates, and South East Rural Whitefish Zoning District.

West: To the west, property is checker boarded between state, USFS, and private holdings. The area is zoned within the Blanchard Lake Zoning District, or unzoned.

F. Plan(s) Being Implemented

The proposed zoning district would be an implementation of the Flathead County Growth Policy. For discussion on the proposal's consistency with the applicable plans, please see Section III.B.i of this report.

G. Public Services and Facilities

Sewer:	Whitefish Sewer and Water and Big Mountain Sewer
Water:	Whitefish Sewer and Water
Electricity:	Flathead Electric Cooperative
Telephone:	CenturyTel
Schools:	Whitefish
Fire:	Rural Whitefish and Big Mountain
Police:	Flathead County Sheriff's Office

H. Criteria Used for Evaluation of Proposed Zoning District

The adoption of new zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing new zoning districts are found in 76-2-201 to 76-2-205, inclusive, M.C.A.

I. Compliance With Public Notice Requirements

Legal notice of the Planning Board public hearing on this application was published in the August 23, 2015 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning district will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed change, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning district.

J. Agency Referrals

Referrals for comment on the proposed creation of the Rural Whitefish Zoning District were sent to the following agencies on July 9, 2015:

- Bonneville Power Administration
- Department of Natural Resources and Conservation
- Whitefish Rural Fire District
- Flathead City-County Health Department; Environmental Health Services
- Flathead County Road and Bridge Department
- Flathead County Sheriff
- Flathead County Solid Waste

- Flathead County Weeds and Parks Department
- Whitefish High School District
- Whitefish School District
- City of Whitefish Planning Department
- Montana Department of Transportation
- Montana Fish Wildlife and Parks

II. COMMENTS RECEIVED

A. Public Comments

As of the date of the completion of this staff report four written comments and several phone inquiries have been received regarding the zoning district. Comments previously received, prior to the creation of the FZD-15-01 file have been reviewed by the Planning Board. Comments addressing the zoning district discuss concerns with traffic at the intersection of Highway 40 and Whitefish Stage and that a precedent has been set with commercial on the property to the south of Highway 40. Additional comments discuss being stuck in limbo and how they would like to see commercial development south of Highway 40. And one comment asks about the change in zoning on Houston Drive from R-1 to R-2.

It is anticipated any member of the public wishing to provide comment on the proposed Rural Whitefish Zoning District will do so at the Planning Board public hearing scheduled for September 9, 2015. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Montana Fish, Wildlife and Parks
  - Comment: "We would encourage Flathead County to reference our Subdivision Recommendations for Subdivision Development in Montana at http://fwp.mt.gov/fishAndWildlife/livingWithWildlife/buildingWithWildlife/subdivisionRecommendations/ when proposing and implementing development plans for the New Rural Whitefish Zoning District." Letter dated July 30, 2015.
- City of Whitefish Planning Department
  - Comment: "These comments relate to the new Whitefish Rural Zoning District and associated new zones that are proposed to be created by Flathead County. We commend the county's efforts to mirror as closely as possible the former Whitefish zoning districts, and we support the creation of all five new zoning districts as proposed. We believe this will make for a smooth transition, and create the least amount of uncertainty for future development. It will also provide the least amount of disruption if any of the properties so zoned opts to annex into the city at some point. It is also very important for the Big Mountain/Whitefish Mountain Resort area, who's master development plan is tied in with the former Whitefish districts you are replacing.

"As far as the specifics of the new Rural Whitefish Zoning District and where the zoning is applied, we also commend the county for applying county zones that most closely mirror the former Whitefish zoning districts over the zones they are replacing. The only concern we have is the application of 2.5 acre and 5 acre zoning to areas around Lost Coon Lake and Karrow Avenue that previously had 15 acre zoning. Density smaller than 10 acres/dwelling unit on the east side of Karrow from just south of Lund Lane to where Karrow would intersect with Highway 40 if Highway 40 were extended due west from its intersection with Highway 93 is contrary to Whitefish's 2007 City County Growth Policy Future Land Use Map, which calls for a Rural Future Land Use with a 10 acre minimum. The City strongly objects to any changes in zoning inconsistent with our Growth Policy. That is a significant density change, and we hope that the county reconsiders that. If the Planning Board chooses to proceed, we hope you properly vet the proposed changes with the neighborhood affected. Several years back we had a very large turnout (Wendy said 50+ people) in opposition of a proposed change for an island of lots on Lost Coon Lake from 15 acre to 2.5, and it was denied by Council. Both the property owners whose zoning is being changed and neighbors within 300' of the change areas should all be notified by mail, told specifically of what the change will be, and told the dates of the public hearings. I also recommend that you hold a work shop on the change in the Whitefish area as a courtesy to those affected prior to the public hearing, perhaps at the nearby Montana Coffee Traders Grange Hall. Email dated July 14, 2015.

- Flathead County Road & Bridge Department
  - Comment: "At this point the County Road Department does not have any comments either of this request." Letter dated July 13, 2015.

III. EVALUATION OF PROPOSED DISTRICT

A. Build Out Analysis

Once a specific zoning designation is applied in a certain area certain land uses are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning district to the future of the community to allow for the best possible review.

The area is currently zoned under the Rural Whitefish Interim Zoning District. Most of the proposed zoning will remain the same as the current zoning within the interim zoning district. The properties currently zoned 'SAG-10 Suburban Agricultural,' 'R-

2.5 Rural Residential,' 'R-1 Suburban Residential,' 'R-2 One Family Limited Residential,' 'R-3 One Family Residential,' 'R-4 Two-Family Residential,' 'RR-1 Low Density Resort Residential,' 'I-2 Heavy Industrial' and 'BSD Business Service District' will remain similarly zoned under the proposed new zoning district. Some areas zoned SAG-10 will change to SAG-5 and R-2.5, some R-1 zoning will change to R-2, B-2 zoning will be changed to B-2A and BR-4 will be changed to BMRR and BMV in an effort to better replicate the previous zoning from when the area was under the City of Whitefish's jurisdiction.

i. 'SAG-10 Suburban Agricultural'

'SAG-10 Suburban Agricultural' is defined as, "*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development*" in Section 3.07.010. The following is a list of permitted uses in a SAG-10 zone:

1. *Agricultural/horticultural/silvicultural use.*
2. *Cellular tower.*
3. *Class A and Class B manufactured home (See Chapter VII – Definitions).*
4. *Cluster housing (See Chapter V – Performance Standards).*
5. *Dairy products processing, bottling, and distribution.*
6. *Day care home.*
7. *Dwelling, single-family.*
8. *Dwelling unit, accessory (ADU).*
9. *Guest house.*
10. *Home occupation.*
11. *Homeowners park and beaches.*
12. *Livestock*
13. *Nursery, landscaping materials.*
14. *Park and publicly owned recreational facility.*
15. *Produce stand.*
16. *Public transportation shelter station.*
17. *Public utility service installation.*
18. *Ranch employee housing.*
19. *Riding academy, rodeo arena.*
20. *Stable, public and private*

The following uses are listed as conditional uses in a 'B-2' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Airfield.*
2. *Aircraft hangars when in association with properties within or adjoining an airport/landing field.**
3. *Animal hospital, veterinary clinic.*
4. *Bed and breakfast establishment.*
5. *Camp and retreat center.*
6. *Caretaker's facility.**
7. *Cemetery, mausoleum, columbarium, crematorium.*
8. *Church and other place of worship.*

9. *Community center building operated by a non-profit agency.*
10. *Community residential facility.***
11. *Contractor's storage yard.**
12. *Dwelling, family hardship.**
13. *Electrical distribution station.*
14. *Extractive industry.*
15. *Golf course.*

The bulk and dimensional standards for SAG-10 zoning requires a setback for principal structures of 20 feet from the boundary line or right-of-way for the front, rear, side and side-corner. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet for the rear and side. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The proposed SAG-10 zoning requires a minimum lot area of 10 acres.

ii. 'SAG-5 Suburban Agricultural'

'SAG-5 is defined in Section 3.08.010 FCZR as, "*A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*" The following is a list of permitted uses in an SAG-5 zone (Section 3.08.020 FCZR):

1. *Agricultural/horticultural/silvicultural use.*
2. *Class A and Class B manufactured home (See Chapter VII – Definitions).*
3. *Cluster housing (See Chapter V – Performance Standards).*
4. *Day care home.*
5. *Dwelling, single-family.*
6. *Dwelling unit, accessory (ADU).*
7. *Guest house.*
8. *Home occupation.*
9. *Homeowners park and beaches.*
10. *Livestock*
11. *Nursery, landscaping materials.*
12. *Park and publicly owned recreational facility.*
13. *Produce stand.*
14. *Public transportation shelter station.*
15. *Public utility service installation.*
16. *Stable, private.*

The following uses are listed as conditional uses in an 'SAG-5' zone (Section 3.08.030 FCZR). An asterisk designates conditional uses that may be reviewed administratively and two asterisks designate conditional uses that may be reviewed administratively for eight or fewer units:

1. *Airfield.*

2. *Aircraft hangars when in association with properties within or adjoining an airport/landing field.* *
3. *Animal hospital, veterinary clinic.*
4. *Bed and breakfast establishment.*
5. *Camp and retreat center.*
6. *Caretaker's facility.* *
7. *Cellular tower.* *
8. *Cemetery, mausoleum, columbarium, crematorium.*
9. *Church and other place of worship.*
10. *Community center building operated by a non-profit agency.*
11. *Community residential facility.* **
12. *Contractor's storage yard (See Chapter IV – Conditional Use Standards).* *
13. *Dwelling, family hardship.* *
14. *Electrical distribution station.*
15. *Extractive industry.*
16. *Golf course.*
17. *Golf driving range.*
18. *Kennel, commercial.*
19. *Manufactured home park.*
20. *Recreational facility, high-impact.*
21. *Recreational facility, low-impact.*
22. *Recreational vehicle park.*
23. *Riding academy and rodeo arena.*
24. *School, primary and secondary.*
25. *Stable, public.*
26. *Temporary building or structure.* *
27. *Water and sewage treatment plant.*
28. *Water storage facility.*

The bulk and dimensional standards under SAG-5 zoning requires a setback for principal structures of 20 feet from the boundary line or right-of-way for the front, rear, side and side-corner. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet for the rear and side. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The SAG-5 zoning requires a minimum lot area of 5 acres.

iii. 'R-2.5 Rural Residential'

'R-2.5 Rural Residential' is defined as, "*A district intended for rural, primarily residential areas where larger, estate-type lot sizes are appropriate and agricultural/silvicultural/horticultural operations are a decreasingly viable land use. The use of this district is appropriate in transition areas adjacent to and between higher-density Residential (R) and lower-density Suburban Agriculture (SAG) zones. This district is not appropriate in areas primarily surrounded by lower-density SAG and AG zones and/or areas adjacent to significant ongoing*

agricultural/silvicultural/horticultural and/or extractive industry operations. Furthermore, public facilities should be appropriately developed to accommodate the density and land uses of this designation. This includes paved roads. It is intended that no uses be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing therein." in Section 3.45.010. The following is a list of permitted uses in an R-2.5 zone (Section 3.43.020 FCZR):

1. *Agricultural/horticultural/silvicultural use.*
2. *Class A manufactured home.*
3. *Day care home.*
4. *Dwelling, single-family.*
5. *Dwelling unit, accessory (ADU).*
6. *Guest house.*
7. *Home occupation (See Chapter V- Performance Standards and Chapter VII- Definitions).*
8. *Homeowners park and/or beach.*
9. *Livestock (See Chapter V- Performance Standards).*
10. *Nursery, landscaping material.*
11. *Park and/or publicly owned recreation facility.*
12. *Produce stand.*
13. *Public transportation shelter station.*
14. *Public utility service installation (a minimum of five feet of landscaped area shall surround such building or structure).*
15. *Stable, private.*

The following uses are listed as conditional uses in an 'R-2.5' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Airfield.*
2. *Aircraft hangar when in association with properties within or adjoining an airport/landing field.**
3. *Bed and breakfast establishment.*
4. *Camp and retreat center.*
5. *Caretaker's facility.**
6. *Cellular antenna and monopole.*
7. *Cemetery, mausoleum, columbarium, crematorium.*
8. *Church.*
9. *Community center building operated by a non-profit agency.*
10. *Community residential facility.*
11. *Dwellings, cluster.*
12. *Dwelling, family hardship.**
13. *Electrical distribution station.*
14. *Golf course.*
15. *Golf driving range.*
16. *Manufactured home park.*
17. *Radio and television broadcast station.*
18. *School, primary and secondary.*
19. *Stable, public.*

20. *Temporary building or structure.**
21. *Water and sewage treatment plant.*
22. *Water storage facility.*

The bulk and dimensional standards for R-2.5 zoning requires a setback for principal structures of 20 feet from the boundary line or right-of-way for the front, rear, side and side-corner. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet for the rear and side. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector and arterials. The R-2.5 zoning requires a minimum lot area of 2.5 acre.

iv. 'R-1 Suburban Residential'

'R-1 Suburban Residential' is defined as, "*A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions)*" in Section 3.09.010. The following is a list of permitted uses in an R-1 zone (Section 3.09.020 FCZR):

1. *Agricultural/horticultural/silvicultural use.*
2. *Class A manufactured home.*
3. *Day care home.*
4. *Dwelling, single-family.*
5. *Dwelling unit, accessory (ADU).*
6. *Guest house.*
7. *Home occupation (See Chapter V- Performance Standards and Chapter VII –Definitions).*
8. *Homeowners park and beaches.*
9. *Livestock (See Chapter V – Performance Standards).*
10. *Nursery, landscaping material.*
11. *Park and publicly owned recreational facility.*
12. *Produce stand.*
13. *Public transportation shelter station.*
14. *Public utility service installation. (A minimum of five feet of landscaped area shall surround such building or structure.)*
15. *Stable, private.*

The following uses are listed as conditional uses in an 'R-1' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Airfield.*
2. *Aircraft hangars when in association with properties within or adjoining and airport/landing field.**
3. *Bed and breakfast establishment.*
4. *Camp and retreat center (See Chapter IV – Conditional Use Standards an Chapter VII – Definitions).*
5. *Caretaker's facility.**

6. *Cellular antenna & monopole.*
7. *Cemetery, mausoleum, columbarium, crematorium.*
8. *Church and other place of worship.*
9. *Community center building operated by a non-profit agency.*
10. *Community residential facility.***
11. *Dwellings, cluster development (See Chapter IV – Conditional Use Standards).*
12. *Dwelling, family hardship.**
13. *Electrical distribution station.*
14. *Golf course.*
15. *Golf driving range.*
16. *Manufactured home park.*
17. *Radio and television broadcast station.*
18. *School, primary and secondary.*
19. *Stable, public.*
20. *Temporary building or structure.**
21. *Water and sewage treatment plant.*
22. *Water storage facility.*

The bulk and dimensional standards for R-1 zoning requires a setback for principal structures of 20 feet from the boundary line or right-of-way for the front, rear, side and side-corner. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet for the rear and side. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The R-1 zoning requires a minimum lot area of 1 acre.

v. **'R-2 One Family Limited Residential'**

'R-2 One Family Limited Residential' is defined as, *"A district to provide for large-tract residential development. These areas will typically be found in suburban areas, generally served by either sewer or water lines."* in Section 3.10.010. The following is a list of permitted uses in an R-2 zone (Section 3.10.020 FCZR):

1. *Class A manufactured home.*
2. *Day care home.*
3. *Dwelling, single-family.*
4. *Guest house.*
5. *Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).*
6. *Homeowners park and beaches.*
7. *Park and publicly owned recreational facility.*
8. *Public transportation shelter station.*
9. *Public utility service installation.*

The following uses are listed as conditional uses in an 'R-2' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Bed and breakfast establishment.*
2. *Cellular antenna & monopole.*
3. *Cemetery, mausoleum, columbarium, crematorium.*
4. *Church and other place of worship.*
5. *Community center building operated by a non-profit agency.*
6. *Community residential facility.*
7. *Dwellings, cluster development.*
8. *Dwelling, family hardship.**
9. *Dwelling unit, accessory (ADU).**
10. *Electrical distribution station.*
11. *Golf course.*
12. *Golf driving range.*
13. *Manufactured home park.*
14. *School, primary and secondary.*
15. *Temporary building or structure.**
16. *Water and sewage treatment plant.*
17. *Water storage facility.*

The bulk and dimensional standards for R-2 zoning requires a setback for principal structures of 20 feet from the boundary line or right-of-way for the front, rear, and side-corner and 10 feet from the side. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet for the rear and side. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The R-2 zoning requires a minimum lot area of 20,000 square feet.

vi. 'R-3 One Family Residential'

'R-3 One Family Residential' is defined as, *"A district to provide adequate lot size for urban residential development; should have good thoroughfare access, and be in proximity to community and neighborhood facilities, i.e., schools, parks, shopping areas. This district will normally require all public utilities."* in Section 3.11.010. The following is a list of permitted uses in an R-3 zone (Section 3.11.020 FCZR):

1. *Class A manufactured home.*
2. *Day care home.*
3. *Dwelling, single-family.*
4. *Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).*
5. *Homeowners park and beaches.*
6. *Park and publicly owned recreational facility.*
7. *Public transportation shelter station.*
8. *Public utility service installation.*

The following uses are listed as conditional uses in an 'R-3' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Bed and breakfast establishment.*
2. *Cellular antenna & monopole.*
3. *Church and other place of worship.*
4. *Community center building operated by a non-profit agency.*
5. *Community residential facility.*
6. *Day care center.*
7. *Dwellings, cluster development.*
8. *Dwelling unit, accessory (ADU).**
9. *Electrical distribution station.*
10. *Family hardship dwelling.**
11. *Golf course.*
12. *Golf driving range.*
13. *Manufactured home park.*
14. *School, primary and secondary.*
15. *Temporary building or structure.**
16. *Water storage facility.*

The bulk and dimensional standards for R-3 zoning requires a setback for principal structures of 20 feet from the boundary line or right-of-way for the front, rear, and side-corner and 10 feet from the side. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet for the rear and side. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The R-3 zoning requires a minimum lot area of 10,000 square feet.

vii. 'R-4 Two-Family Residential'

'R-4 Two-Family Residential' is defined as, "A district to provide lot areas for urban residential development. Development within the district will require all public utilities and all community facilities. A duplex is allowed in this district." in Section 3.12.010. The following is a list of permitted uses in an R-4 zone (Section 3.12.020 FCZR):

1. *Class A and Class B manufactured homes.*
2. *Day care home.*
3. *Dwelling, single-family.*
4. *Duplex.*
5. *Home occupation.*
6. *Homeowners park and beaches.*
7. *Park and publicly owned recreational facility.*
8. *Public transportation shelter station.*
9. *Public utility service installation.*

The following uses are listed as conditional uses in an 'R-4' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Beauty Salon and Barbershop.*
2. *Bed and breakfast establishment.*
3. *Cellular antenna & monopole.*
4. *Church and other place of worship.*

5. *Community center building operated by a non-profit agency.*
6. *Community residential facility.*
7. *Day care center.*
8. *Dwellings, cluster development.*
9. *Dwelling unit, accessory (ADU).**
10. *Electrical distribution station.*
11. *Golf course.*
12. *Manufactured home park.*
13. *Mini-storage, RV storage.*
14. *School, primary and secondary.*
15. *Temporary building or structure.**
16. *Water storage facility.*

The bulk and dimensional standards for R-4 zoning requires a setback for principal structures of 20 feet from the boundary line or right-of-way for the front, rear, and side-corner and 5 feet from the side. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet for the rear and side. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The R-4 zoning requires a minimum lot area of 7,500 square feet for duplexes and other uses and 6,000 square feet for single-family dwellings.

viii. 'RR-1 One Family Limited Residential'

'RR-1 Two-Family Residential' is defined as, *"The RR-1 district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide a low density setting for secondary residential resorts in proximity to the City of Whitefish."* The following is a list of permitted uses in an RR-1 zone:

1. *Bed and breakfast establishment.*
2. *Class A manufactured home.*
3. *Day care home.*
4. *Duplex.*
5. *Dwelling, multi-family (4 or fewer units).*
6. *Dwelling, single family.*
7. *Home occupation.*
8. *Park and publicly owned recreational facility.*
9. *Public utility service installation.*
10. *Tourist accommodation units (4 or fewer units).*

The following uses are listed as conditional uses in an 'RR-1' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Accessory apartments.*
2. *Boarding house.*
3. *Boat launching ramp and dock (commercial).*
4. *Caretaker's facility.**
5. *Churches and other place of worship.*
6. *Community residential facilities, Class I.*

7. *Convention hall facility.*
8. *Day care center.*
9. *Dwellings, cluster development (See Chapter IV – Conditional Use Standards).*
10. *Dwelling, multi-family (5 or more units).*
11. *Golf course.*
12. *Guest house.*
13. *Health club.*
14. *Manufactured home park (5 acre minimum size).*
15. *Marina (commercial).*
16. *Professional offices.*
17. *School, primary and secondary.*
18. *Tourist accommodation units (5 or more units).*

The bulk and dimensional standards for RR-1 zoning requires a setback for principal structures of 15 feet from the boundary line or right-of-way for the front, and side-corner, 20 feet from the rear and 10 feet from the side. The minimum setback requirement for accessory structures is 15 feet for the front and 6 feet for the rear, side and side-corner. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 25 foot setback is required from County collector and MDT maintained roads.

ix. 'B-2A Secondary Business'

'B-2A Secondary Business' is defined as a, *'District intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. This district depends on proximity to the City of Whitefish, highways or arterial streets and may be located in business corridors or islands.'* The following is a list of permitted uses in a B-2A zone:

1. *Antique, gift and card retail sales.*
2. *Automobile (new and used) and accessory sales.*
3. *Automobile repair shop.*
4. *Automobile service station.*
5. *Beauty Salon and Barbershop.*
6. *Bed and breakfast establishment.*
7. *Boat and RV sales, new and used.*
8. *Boat and RV repair shop*
9. *Bowling alley.*
10. *Bus depot.*
11. *Churches and other places of worship.*
12. *Clinic, medical and dental.*
13. *Commercial caretaker's facility in a detached accessory building in conjunction with a business.*
14. *Convenience store.*
15. *Daycare centers (13 or more individuals).*

16. *Dwelling, single family.*
17. *Feed, seed and farm supply.*
18. *Financial institution.*
19. *Food store, supermarket, and delicatessen.*
20. *Frozen food lockers, not including slaughtering.*
21. *Funeral Home and crematorium.*
22. *Heavy equipment sales, rental and service.*
23. *Hospitals, and associated related nursing homes, retirement homes, congregate housing and personal care facilities in a campus setting.*
24. *Hotel and motel (including restaurants, lounges or bars integral to the facilities).*
25. *Household appliance and electronics store.*
26. *Laundromat or dry cleaner.*
27. *Lumber yard, building supply.*
28. *Military surplus store.*
29. *Pack-n-ship.*
30. *Professional offices.*
31. *Public building.*
32. *Recreational facility, high impact.*
33. *Recreational facility, low impact.*
34. *Restaurant.*
35. *Small animal veterinarian clinic (no outside activity).*
36. *Theater.*
37. *Vendor.*
38. *Wholesale trade and warehousing.*

The following uses are listed as conditional uses in a 'B-2A' zone.

1. *Accessory Apartment.*
2. *Amusement park or zoo.*
3. *Animal hospital.*
4. *Any new building greater than 15,000 square feet, existing buildings where an addition would cause the total footprint to be 15,000 square feet or greater, and additions to buildings where the footprint already is 15,000 square feet or greater.*
5. *Bar, lounge and tavern.*
6. *College, business school, trade school, music conservatory, dance school.*
7. *Community residential facility (See Chapter V- Performance Standards and Chapter VII- Definitions).*
8. *Light assembly and manufacturing.*
9. *Manufactured home park.*
10. *Microbrewery.*
11. *Mini-storage, RV storage.*
12. *Recreational vehicle park.*
13. *Truck stop.*

The bulk and dimensional standards under B-2A zoning requires a setback from the boundary line of 20 feet for the front and rear and 0 feet for the side and side

corner for any structure, except when adjacent to a residential district the setback from the side and side corner would be 20 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 10 foot setback is required from County collector and MDT maintained roads. The B-2A zone has no permitted lot coverage and a maximum height of 35 feet. The B-2A zoning requires a no minimum lot area or minimum lot width.

x. 'BMRR Big Mountain Resort Residential'

'BMRR Big Mountain Resort Residential' is defined as a, *'District intended to provide for lower urban densities with little or no commercial activity. Uses within the resort residential will include nightly rentals, timesharing, interval ownerships, vacation clubs, or other multiple ownership residential uses.'* The following is a list of permitted uses in a BMRR zone:

1. *Bed and breakfast establishment.*
2. *Home occupation (See Chapter V – Performance Standards and Chapter VII -*
3. *Definitions).*
4. *Dwelling, single family.*
5. *Dwelling, duplex.*
6. *Dwelling, multi-family.*
7. *Dwelling, resort: including resort and recreational condominiums, townhouses,*
8. *time sharing and interval ownership residences or vacation units and other*
9. *multiple ownership arrangement residential uses, allowing overnight*
10. *accommodations and ancillary uses for the use of occupants and guests.*
11. *Public building.*
12. *Park and publicly owned recreational facility.*
13. *Recreational facility, high impact.*
14. *Recreational facility, low impact.*
15. *Ski area and support facilities.*

The following uses are listed as conditional uses in a 'BMRR' zone.

1. *Bar, lounge and tavern.*
2. *Churches and other places of worship.*
3. *Emergency medical clinic.*
4. *Information/reception center.*
5. *Lodge and fraternal and social organization, provided that any such establishments shall not be conducted primarily for gain.*
6. *Public utility service installation.*
7. *Resort area equipment maintenance facilities.*
8. *Restaurant.*
9. *School, primary and secondary.*

The bulk and dimensional standards under BMRR zoning requires a setback from the boundary line of 20 feet for the front and rear and 10 feet for the side-corner and side for structures. Townhouses require a setback of 6 feet from a side and

side corner and 16 feet from the rear property line. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 10 foot setback is required from County collector and MDT maintained roads.

xi. **'BMV Big Mountain Village'**

'BMV Big Mountain Village' is defined as a, *'District intended to provide a regulatory framework for primary resort residential land uses at mixed densities, and year round resort uses including hotels, resort condominiums and similar uses oriented towards tourism and resort businesses. Specific uses provided for include convention facilities, bars, lounges, restaurants, and limited resort oriented retail and commercial uses intended primarily for the convenience of guests of the Big Mountain Resort. The Big Mountain village is a densely compact resort core area characterized mainly by mixed and multiple use buildings and complexes. Retail, commercial services, and dining and drinking establishments will generally be located at street level, with hotel/residential uses above, and parking typically below street level.'* The following is a list of permitted uses in a BMV zone:

1. *Bar, lounge and tavern.*
2. *Conference facilities.*
3. *Dwelling, single family.*
4. *Dwelling, duplex.*
5. *Dwelling, multi-family.*
6. *Dwelling, resort: including resort and recreational condominiums, townhouses, time sharing and interval ownership residences or vacation units and other multiple ownership arrangement residential uses, allowing overnight accommodations and ancillary uses for the use of occupants and guests.*
7. *Emergency medical clinic.*
8. *Financial institution.*
9. *Health studio and spa.*
10. *Hotel, motel.*
11. *Professional offices.*
12. *Public building.*
13. *Park and publicly owned recreational facility.*
14. *Recreational facility, high impact.*
15. *Recreational facility, low impact.*
16. *Restaurant.*
17. *Retail sales and service.*
18. *Ski area and support facilities.*
19. *Theater.*

The following uses are listed as conditional uses in a 'BMV' zone.

1. *Churches and other places of worship.*
2. *Public utility service installation.*
3. *Resort area equipment maintenance facilities.*
4. *School, primary and secondary.*

The bulk and dimensional standards under BMV zoning requires no setback from the boundary line of for the front, rear, side and side-corner for any structure except when adjacent to a residential district the setback from the side and rear would be 15 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and 10 foot setback is required from County collector and MDT maintained roads. The BMV zone has no permitted lot coverage or minimum lot width and a maximum height of 39 feet.

xii. 'BSD Business Service District'

'BSD Business Service District' is defined as, "*The business service district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to create defined areas that are appropriate for nonretail limited commercial services and light industrial uses in proximity to the City of Whitefish. Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to develop as an island rather than as a strip. Landscaping will be extensive with good quality and effective screening and buffering.*" The following is a list of permitted uses in a BSD zone:

1. *Agricultural/horticultural/silvicultural use.*
2. *Ancillary retail or showrooms, less than fifty (50%) percent of the gross floor area of each individual lease space or tenant*
3. *Animal hospital, veterinary clinic.*
4. *Contractors' storage yard and building supply outlet.*
5. *Dance, drama, and music school.*
6. *Dwelling, single family.*
7. *Farm equipment sales.*
8. *Feed, seed and farm supply, including grain elevators.*
9. *Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).*
10. *Homeowners park.*
11. *Light assembly and manufacturing, fabrication, including light food manufacturing and processing, repairing, packing or storage facilities in enclosed buildings, provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive, hazardous or toxic.*
12. *Livestock.*
13. *Nursery, landscaping materials.*
14. *Parcel delivery service.*
15. *Park and publicly owned recreational facility.*
16. *Personal services with incidental retail sales.*
17. *Print and copy shop.*
18. *Produce stand.*
19. *Professional offices.*
20. *Public utility service installation (A minimum of five feet of landscaped area shall surround such building or structure).*

21. *Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, furniture, and small engines, (no outdoor storage permitted).*
22. *Riding academy, rodeo arena.*
23. *Small equipment sales, rental and repair conducted indoors, (no outdoor storage permitted).*
24. *Stable, public and private.*
25. *Wholesale trade and warehousing, including offices and showrooms.*

The following uses are listed as conditional uses in a 'BSD' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Accessory apartments.*
2. *Ancillary retail or showrooms, more than fifty (50%) percent of the gross floor area of each individual lease space or tenant.*
3. *Churches and other place of worship.*
4. *College, business school, trade school.*
5. *Commercial caretaker's facility in a detached accessory building in conjunction with a business.**
6. *Convention hall facility.*
7. *Day care center.*
8. *Kennel.*
9. *Mini-storage.*
10. *Research laboratory and institution.*
11. *When not shown on the initial site plan required for zoning or rezoning properties, all new structures with a gross floor area of ten thousand (10,000) square feet or greater, existing structures where an addition causes the total floor area to be ten thousand (10,000) square feet or greater, and additions to structures where the total floor area already is ten thousand (10,000) square feet or greater.*

The bulk and dimensional standards under BSD zoning requires 30 foot setback from the boundary line of for the front and side-corner, 15 feet for the rear, and 10 feet side for any structure except when adjacent to a residential or agricultural use or zone the setback would be 30 feet. A 20 foot setback is required from streams. The BSD has a minimum lot area of 1 acre and a minimum lot width of 125 feet.

xiii. 'I-2 Heavy Industrial'

'I-2 Heavy Industrial' is defined as, "*A district to provide for industrial uses to accommodate heavy manufacturing, processing, fabrication, and assembly of parts or materials. It is also intended that the encroachment of non-industrial or unspecified commercial uses within the district be prevented.*" in Section 3.29.010. The following is a list of permitted uses in a I-2 zone:

1. *Automobile repair shop.*
2. *Cellular tower.*
3. *Contractors' yard.*
4. *Manufacturing, fabricating, processing, repairing, packing, or storage facility. Such uses may include:*
   A. Boiler work.

B. Dry kiln.
C. Fuel oil sales and storage.
D. Log storage.
E. Wood products processing (plywood mill, lumber mill, pulpwood processing, fiberboard plant, etc.).

5. *Parcel delivery services.*
6. *Park.*
7. *Petroleum products, wholesale and retail.*
8. *Railroad yard.*
9. *Recycling processing plant.*
10. *Uses permitted in I-1.*

The following uses are listed as conditional uses in an 'I-2' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Acid manufacture.*
2. *Airport, landing field.*
3. *Automobile wrecking yard, junk yard, salvage yard.*
4. *Commercial caretaker's facility in a detached accessory building in conjunction with a business.*
5. *Communication tower/mast.*
6. *Explosives manufacture.*
7. *Extractive industry and ore processing.*
8. *Heliport.*
9. *Landfill, sanitary for disposal of garbage and trash.*
10. *Pesticide manufacture.*
11. *Racetrack, motor-vehicle.*
12. *Sanitary landfill.*
13. *Sewage treatment plant.*
14. *Uses conditionally permitted in I-1.*

The bulk and dimensional standards for I-2 zoning requires a setback for all structures of 20 feet from the boundary line or right-of-way for the front, rear and side-corner and 10 feet from the side. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads. The I-2 zoning requires a minimum lot area of 7,500 square feet.

B. Review of Proposed Zoning District (76-2-203 M.C.A.)

i. Whether the proposed zoning regulations are made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning district is located in the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R).

Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, "This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood

plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map." Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories.

The Flathead County Growth Policy Designated Land Uses Map identifies the area as 'Resort Residential and Commercial Land Use,' 'Commercial Land Use,' 'Special Commercial Land Use,' 'Industrial Land Use,' 'Residential Lane Use,' and 'Suburban Agricultural Land Use' The proposed zoning district classifications would appear to comply with the current designations.

Following is a consideration of goals and policies which appear to be applicable to the proposed zone change, to determine if the proposal complies with the Growth Policy:

- ***G.4*** *– Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land uses.*
  - ***P.4.2*** *– Identify lands most suited to agriculture (appropriate soils, access to water, shape and size of parcels, etc.).*
    - The proposed zoning district will designate previously zoned SAG-10 zoning SAG-5 and R-2.5. The R-2.5 zoning would still allow for agricultural uses.
- ***G.5*** *– Adequate industrial land in areas that are close enough to goods and services to be efficient but far enough from other uses to offset objectionable impacts to the human and natural environment.*
    - The proposed district provides for industrial opportunities centrally located within Whitefish that are close to urban facilities and utilities. The industrial zone will be located along the railroad tracks, adjacent to existing Whitefish industrial zoning, near Highway 93 and in areas that were previously zoned for industrial.
  - ***P.5.1*** *– Match requirements of industrial land uses (such as human resources, adequate water supply, suitable road networks) and areas of Flathead County where those requirements can best be met.*
  - ***P.5.2*** *– Promote industrial parks and centers that take advantage of infrastructure and minimize impacts to the environment or adjacent land uses.*
    - The proposed zoning district would allow for industrial zoning in an area that has previously been zoned industrial and adjacent to

the railroads tracks in Whitefish. Additional industrial zoning is located near Highway 93.

- ***G.6*** *– Adequate commercial land that is safely accessible and efficiently serviceable.*
  - ***P.6.2*** *– Restrict commercial development in unsafe, inaccessible, remote rural areas.*
  - ***P.6.3*** *– Provide ample commercial land designation to promote affordability.*
- ***G.7*** *– Consider existing community character in commercial land development.*
  - ***P.21.1*** *– Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.*
  - ***P.21.6*** *– Support the continuation of traditional and existing industries to maintain economic diversity.*
    - The proposed zoning district would allow for the commercial zone in an area that has previously been zoned commercial along Highways 93 and 40 and adjacent to existing commercial zoning.
- ***G.32*** *– Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ***G.33*** *– Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
    - This report contains discussion on the adequacy of emergency service below.
- ***G.49*** *– Growth and development around Whitefish that respects the cultural, geographic and historic heritage of the city while providing essential facilities and services that protect and preserve the health, safety, and welfare of the natural and human environment.*
  - ***P.49.2*** *– Request comments from the City of Whitefish agencies on subdivision, zoning and other land use issues within 2 miles of city limits and give consideration to those comments during the county review process.*
    - Staff requested comments from the City of Whitefish regarding this proposal, those comment, as well as compatibility with the City of Whitefish's zoning and Growth Policy, will be addressed below.

Finding #1: The proposed zoning district generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request, the Designated Land Use Map is not a future land use map and zoning would generally match the Designated Land Use Map.

ii. Whether the proposed zoning regulations are designed to:

a. Secure safety from fire and other dangers;

Zoning offers predictability which allows public service providers an apparatus by which to plan for protection needs in a specific area. The

proposed designations are the implementation of the goals, polices and recommendations of the Growth Policy and reflect existing Whitefish zoning designations.

A majority of the proposed zoning district is located within the Wildland Urban Interface (WUI). However most of the area is located within the Whitefish Rural Fire District and the Big Mountain Fire District. The Whitefish Rural Fire Department and Big Mountain Fire Department currently respond and would continue to respond in the event of a fire or medical emergency. The nearest fire stations are located on Flathead Avenue in Whitefish, Northern Light Drive on Big Mountain and at the corner of Hodgson Road and Whitefish Stage south of Whitefish.

Many of the properties are heavily forested however in most places the density will remain the same as it was under the previous Whitefish zoning and the interim zoning district. Two notable exceptions would be Karrow Avenue and Houston Drive neighborhoods. The zoning south of Houston Drive would be changed from an R-1 under the interim zoning to R-2. The total acreage would be about 32 acres and would have the potential to double the density in some areas. A portion of lots are less than 40,000 square feet and could not be further subdivided and many of the properties are currently developed with home it is therefore unlikely that the density would actually double on Houston Drive. The properties on Houston Drive are also located within the Rural Whitefish Fire District.

Some of the zoning on Karrow Avenue would change from SAG-10 to R-2.5 and SAG-5. Approximately 131.7 acres of SAG-10 will be changed to R-2.5 and 219.2 acres will be change to SAG-5. This has the potential to increase density along Karrow Avenue. However, given the proximity to the fire station the proposed change would likely not impact safety from fire and other dangers.

Finding #2 – The proposed zoning district is designed to secure safety because most of the proposed zoning district is located within a fire district, the majority of the densities will not change from previous zoning in the area and areas were the density has the potential to change are located within the Rural Whitefish Fire District.

b. Promote public health, public safety, and general welfare;

Public health, public safety and general welfare are promoted through the imposition of zoning due to the creation of minimum lot sizes, setbacks, height restrictions, and lot coverage requirements. Because of the proximity to Whitefish and the availability of sewer and water for many of the properties, the area may be a desirable location to develop at a greater density than the existing public infrastructure and environmental conditions can support. These considerations factored into the City of Whitefish's decision when zoning the subject area. The designations proposed in this district are intended to mimic the City Zoning with a few notable changes.

As discussed in the previous section, the majority of the area is located within the Wildland Urban Interface (WUI). However most of the area to be zoned is located within the Whitefish Rural Fire District and the Big Mountain Fire District. The Whitefish Rural Fire Department and Big Mountain Fire Department currently respond and would continue to respond in the event of a fire or medical emergency. The nearest fire stations are located on Flathead Avenue in Whitefish, Northern Light Drive on Big Mountain and at the corner of Hodgson Road and Whitefish Stage south of Whitefish.

Any development to a density that may create impacts to off-site roads will trigger the requirements of the Flathead County Subdivision Regulations for off-site improvement. Any subdivision of land, through either an exemption to the Montana Subdivision and Platting Act (such as family transfer) or through review under the act would be required to undergo review for compliance with the Sanitation in Subdivision Act, ensuring protection of public health with regard to water, wastewater and storm water.

The proposed zones have similar uses to that which was previously allowed under the City of Whitefish zoning and currently allowed within the interim zoning district. Even the areas on Karrow Avenue and Houston Drive where the zoning is being change to allow for a higher density allow for similar use to what has previously existed. Most land uses with the greatest potential to impact neighbors are listed as Conditional Uses in the SAG-5 and R-2.5 zoning. Conditional use permits (CUP) are reviewed for impacts of the proposed uses based on the unique attributes of the land and area in which it is proposed. CUP review ensures mitigation of potential negative impacts and may result in the denial of a proposed use if the land is unsuitable for that use.

Finding #3 - The proposed zoning district is designed to promote public health, public safety, and general welfare because future development could require subdivision review or a CUP which could mitigate any potential impacts to public health, safety or general welfare, the majority of the district is located within a fire district and the uses allowed within the proposed zones are similar to what currently exists.

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

The purpose of zoning is to facilitate the adequate provision of transportation, schools, parks, emergency response, and other public services. Zoning also allows water and sewer service providers to anticipate demand and plan for future conveyance and treatment plant expansion.

The Whitefish area has a comprehensive road network that includes State and Federal Highways and County Collectors these include; Highway 93, Highway 40, Karrow Ave, Edgewood Dr, Big Mountain Rd, E. Lakeshore Dr, Blanchard Lake Rd, Monegan Rd, Dillon Rd, Voerman Rd, and Northwoods Dr. No comments were received from MDT and comments received from the Flathead County Road and Bridge Department indicate no concern with the

proposal. It is anticipated that the proposed zoning district would minimally impact the adequate provision of transportation.

The entire zoning district appears to be located within the Whitefish School District and Whitefish High School District. According to the Flathead County 2014 Statistical Report of Schools, Whitefish Elementary Schools have seen a decrease of 9% in student enrollment over the last ten years. Whitefish High School has seen a decrease of 31% in student enrollment over the last ten years. Additionally, no comments were received from the Whitefish School District or the Whitefish High School District. Any development as a result of this zoning district would likely not impact schools.

Because there are many parks, natural areas and recreational opportunities within a short drive or within the proposed zoning district and are therefore not likely to effect the adequate provision of parkland.

As previously stated, the proposed zones have similar uses and densities to that which was previously allowed under the City of Whitefish zoning and currently allowed within the interim zoning district. Even the areas on Karrow Avenue and Houston Drive where the zoning is being change to allow for a higher density allow for similar use to what has previously existed. Because the densities and uses would be similar to what previously existed in Rural Whitefish it is anticipated that the proposal could facilitate adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Finding #4 – The proposed zoning district is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because no comment was received from MDT, comments from the Flathead County Road and Bridge Department indicate no concern with the proposal, the school districts have seen a decrease in enrollment over the last ten years, there are many parks located within the area of the proposed district and similar uses and densities that were previously allowed will be allowed within the new zoning district.

iii. In evaluating the proposed zoning regulations, consideration shall be given to:

a. The reasonable provision of adequate light and air;

Providing light and air in rural areas is often a function of impacts created by use and density. Separation of uses to ensure compatibility is one mechanism to provide for light and air. Another is designating densities that are appropriate based on availability to an adequate transportation network. The bulk and dimensional requirements of the proposed zones facilitate the adequate provision of light and air by establishing minimum lot areas, minimum yard setbacks, maximum height requirements, and maximum lot coverage. Minimum lot areas and setbacks prevent the overcrowding of buildings. The creation of this zoning district is an implementation of this plan and provides for adequate light and air.

Finding #5 – The proposed zoning district has given consideration to the reasonable provision of adequate light and air because requirements of minimum lot area, minimum yard setbacks, maximum heights and maximum lot coverage contained in the proposed zoning are all designed to allow the flow of air and light.

b. **The effect on motorized and non-motorized transportation systems;**
As stated above, the Whitefish area has a comprehensive road network that includes State and Federal Highways and County Collectors including; Highway 93, Highway 40, Karrow Ave, Edgewood Dr., Big Mountain Rd, E. Lakeshore Dr, Blanchard Lake Rd, Monegan Rd, Dillon Rd, Voerman Rd, and Northwoods Dr. No comments were received from MDT and comments received from the Flathead County Road and Bridge Department indicate no concern with the proposal. It is anticipated that the proposed zoning district would likely not impact the motorized transportation system.

The Flathead County Trails Plan Map shows a proposed comprehensive network of trails that will include; Highway 93, Highway 40, Karrow Ave, Edgewood Dr., Big Mountain Rd, E. Lakeshore Dr, Dillon Rd, and Northwoods Dr. Many of these trails are not yet constructed. It is unlikely that the non-motorized transportation system would be impacted by the proposed district.

Finding #6 – The proposed zoning district is not anticipated to have a negative effect on motorized and non-motorized transportation because the Road and Bridge department does not have any concerns regarding this proposal, MDT did not provide comments and there is an already established road network.

c. **Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);**
The zoning district is located within the Whitefish City-County Growth Policy Future Land Use Map. The Whitefish City-County Growth Policy Future Land Use Map designated the area as *"Rural," "Rural Residential," "Suburban Residential," "Urban," "Resort Residential," "General Commercial," "Business Service Center," "Planned Industrial," "Planned Resort"* and *"Public/Semi-Public."*

The proposed zoning district borders the City of Whitefish. The City of Whitefish comments states:

> "We commend the county's efforts to mirror as closely as possible the former Whitefish zoning districts, and we support the creation of all five new zoning districts as proposed. We believe this will make for a smooth transition, and create the least amount of uncertainty for future development. It will also provide the least amount of disruption if any of the properties so zoned opts to annex into the city at some point. It is also very important for the Big Mountain/Whitefish Mountain Resort area, who's master development plan is tied in with the former Whitefish districts you are replacing."

The areas proposed to be zoned BSD as part of this zoning district are designated as *"Business Service Center,"* by the Whitefish City-County Growth Policy Future Land Use Map. The Whitefish City-County Growth Policy states *"Business Service Center," "is a non-retail service commercial and light industrial designation. Major uses would be distribution, light manufacturing and component assembly, office-warehouse-showroom types of operations, contractors, building and material suppliers, wholesale trades, mini-storage, and other commercial services of a destination nature. Suitable locations would be adjacent to arterial or collector streets or a highway. Structures would be of moderate to high architectural quality, and clearly not "industrial" in appearance. Landscaping will be extensive with good quality and effective screening and buffering."* The BSD zone would appear to generally comply with the *"Business Service Center"* designation as it allows for uses similar to what s described.

The areas of the district proposed to be zoned B-2A are located south Whitefish and north of the Highway 93 and Highway 40 intersection. The proposed B-2A is generally shown as being designated as *"General/Highway Commercial."* The proposed B-2A is similar to the Whitefish WB-2 zoning. The Whitefish Growth Policy defines *"General/Highway Commercial"* as, *"Generally applied to the Hwy 93 corridor north of the Highway 40 intersection, this designation is defined by auto-oriented commercial and service uses. Specific land uses include retail, restaurants of all types and quality ranges (including those with drive-up facilities), professional offices, auto sales and services, hotels/motels, supermarkets, shopping centers or clusters, and convenience shopping, including the dispensing of motor fuels. Primary access is by automobile with ample parking provided on site. Development sites are properly landscaped to screen parking and drive areas and to provide a high-quality visual image. Zoning is generally WB-2, but higher density residential with WR-3 zoning, and mixed use development may also be appropriate in this area."* B-2A because it was created to mimic the WB-2 Whitefish zone would generally be compatible with urban growth around Whitefish.

The Whitefish Growth Policy defines *"Planned Industrial" as, "Vital industries need to be provided for in areas where they will not compete against commercial development for land, but also where they will not impact residential neighborhoods with intense industrial activities and truck and rail traffic. Industrial uses tend to centers of employment, generate far less traffic than commercial, and do not generally depend on drive by traffic for clientele. [...]."* The areas designated *"Planned Industrial"* outside the City limits will be zoned I-2 and located adjacent to Whitefish industrial zoning along Highway and railroad tracks. The I-2 designations would general comply with the Whitefish City-County Growth Policy Future Lane Use Map.

The Whitefish City-County Growth Policy defines *"Planned Resort"* as, *"This designation is for a master planned, dense, mixed and multi-use destination resort complex. The Planned Resort center is highly walkable and*

is pedestrian and bicycle oriented. Architecture and streetscapes are of very high quality. Parking is generally in on-site structures or lots that do not interfere with trails, paths, and walkways. Land uses include accommodations of all kinds, resort retail, eating and drinking establishments, and spas and fitness centers. Residential uses are generally medium to high density and are clustered around open space and other resort amenities. Zoning is generally WPR (Whitefish Planned Resort)." The areas designated *"Planned Resort"* will be zoned BMV and BMRR which would appear to comply with the designation.

The proposed RR-1 is generally shown as being designated as *"Resort Residential"* and is similar to the Whitefish WRR-1 zoning. The Growth Policy defines *"Resort Residential"* as, *"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."* The locations of the proposed RR-1 zones would generally comply with the Whitefish Growth Policy.

The proposed R-2.5 zone is located in areas designated as *"Rural"* and *"Rural Residential,"* R-1 and R-2 zones are located in areas designated as *"Rural Residential"* and *"Suburban Residential,"* R-3 zones are located in areas designated as *" "Rural Residential"* and *"Suburban Residential,"* and R-4 zones are located in areas designated as *"Urban"* and *"Suburban Residential,"* by the Whitefish City-County Growth Policy Future Land Us Map.

According to the Whitefish City-County Growth Policy the *"Rural"* land use designation is defined as, *"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."*

The *"Rural Residential"* land use designation is defined as, *"The rural residential designation is intended primarily for areas that are already divided into lots of 2 ½ to 10 acres in size. Its intent is to preserve rural character while allowing existing large-lot residential areas to continue without becoming non-conforming as to minimum lot size. Applicable zoning districts include WCR and WA-10. Rural residential is not seen as a desirable future development option, and this Growth Policy does not advocate designating additional areas for rural residential beyond what is already depicted on the Future Land Use Map."*

The *"Suburban Residential"* land use designation is defined as, *"Lower density residential areas at the periphery of the urban service area generally fall under this designation on the Future Land Use Map. The residential product type is predominantly single-family, but cluster homes and low-*

density town homes that preserve significant open space are also appropriate. Densities range from one unit per 2 ½ acres to 2.5 units per acre, but could be higher through the PUD. Zoning districts include WCR, WER, and WSR. Cluster residential that preserves considerable open space, allows for limited agriculture, maintains wildlife habitat is encouraged."

The *"Urban"* land use designation is defined as, *"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."*

The WCR is similar to the proposed R-2.5 zoning district in that it allows for 2.5 acre lot minimums. The areas zoned R-2.5 would generally not comply with the *"Rural"* designation but would generally comply with the *"Rural Residential"* land use designation. The minimum lot size within the R-1 and R-2 zone is 1 acre and 20,000 square feet respectively. The R-1 and R-2 zones would generally comply with the densities set forth in the Whitefish Growth Policy *"Suburban Residential"* designation but not with the *"Rural Residential"* as that designation calls for one unit per 2.5 to 10 acres. The minimum lot size within the R-3 zone is 10,000 square feet. The R-3 zone would generally comply with the densities set forth in the Whitefish Growth Policy *"Urban"* designation and potentially *"Suburban Residential"* designation if infrastructure is calculated into the density but not with the *"Rural Residential"* designation. As previously discussed the minimum lot size within the R-4 zone is 6,000 square feet for single-family dwellings and 7,500 square feet for duplexes and all other uses. The R-4 zone would generally comply with the densities set forth in the Whitefish Growth Policy *"Urban"* designation but not with the *"Suburban Residential"* designation.

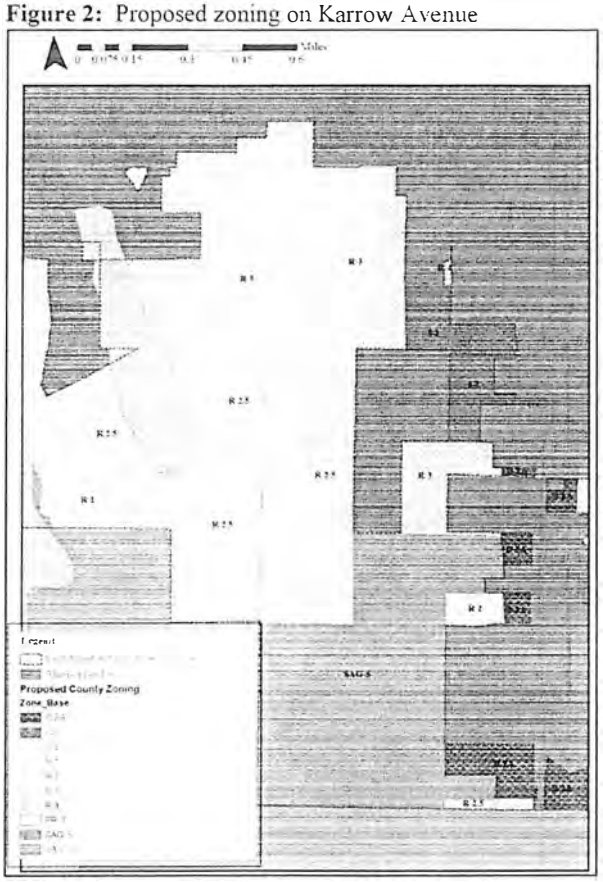
The proposed SAG-5 zone is located in areas designated as *"Rural"* and *"Suburban Residential"* and SAG-10 zones are located in areas designated as *"Rural," "Rural Residential"* and *"Suburban Residential."* The proposed SAG-5 zoning district allows for 5 acre lot minimums. The SAG-5 designation is rural as it would provide and preserve smaller farmlands, pasture lands, timber harvesting and provide a buffer between urban and unlimited agricultural uses. The proposed SAG-5 is located adjacent to existing SAG-5 zoning to the south SAG-10 to the west and higher density residential to the east and north thus providing a buffer. The SAG-5 would be a lower density than what is called for with the *"Suburban Residential"* designation. Areas zoned SAG-10 would generally comply with the *"Rural"* and *"Rural Residential"* designation and the SAG-10 would be a lower density than what is called for with the *"Suburban Residential"* designation.

The City of Whitefish comments continue:

> "[...]. The only concern we have is the application of 2.5 acre and 5 acre zoning to areas around Lost Coon Lake and Karrow Avenue that previously had 15 acre zoning. Density smaller than 10 acres/dwelling unit on the east side of Karrow from just south of Lund Lane to where Karrow would intersect with Highway 40 if Highway 40 were extended due west from its intersection with Highway 93 is contrary to Whitefish's 2007 City County Growth Policy Future Land Use Map, which calls for a Rural Future Land Use with a 10 acre minimum. The City strongly objects to any changes in zoning inconsistent with our Growth Policy. That is a significant density change, and we hope that the county reconsiders that. If the Planning Board chooses to proceed, we hope you properly vet the proposed changes with the neighborhood affected. Several years back we had a very large turnout (Wendy said 50+ people) in opposition of a proposed change for an island of lots on Lost Coon Lake from 15 acre to 2.5, and it was denied by Council. [...]."

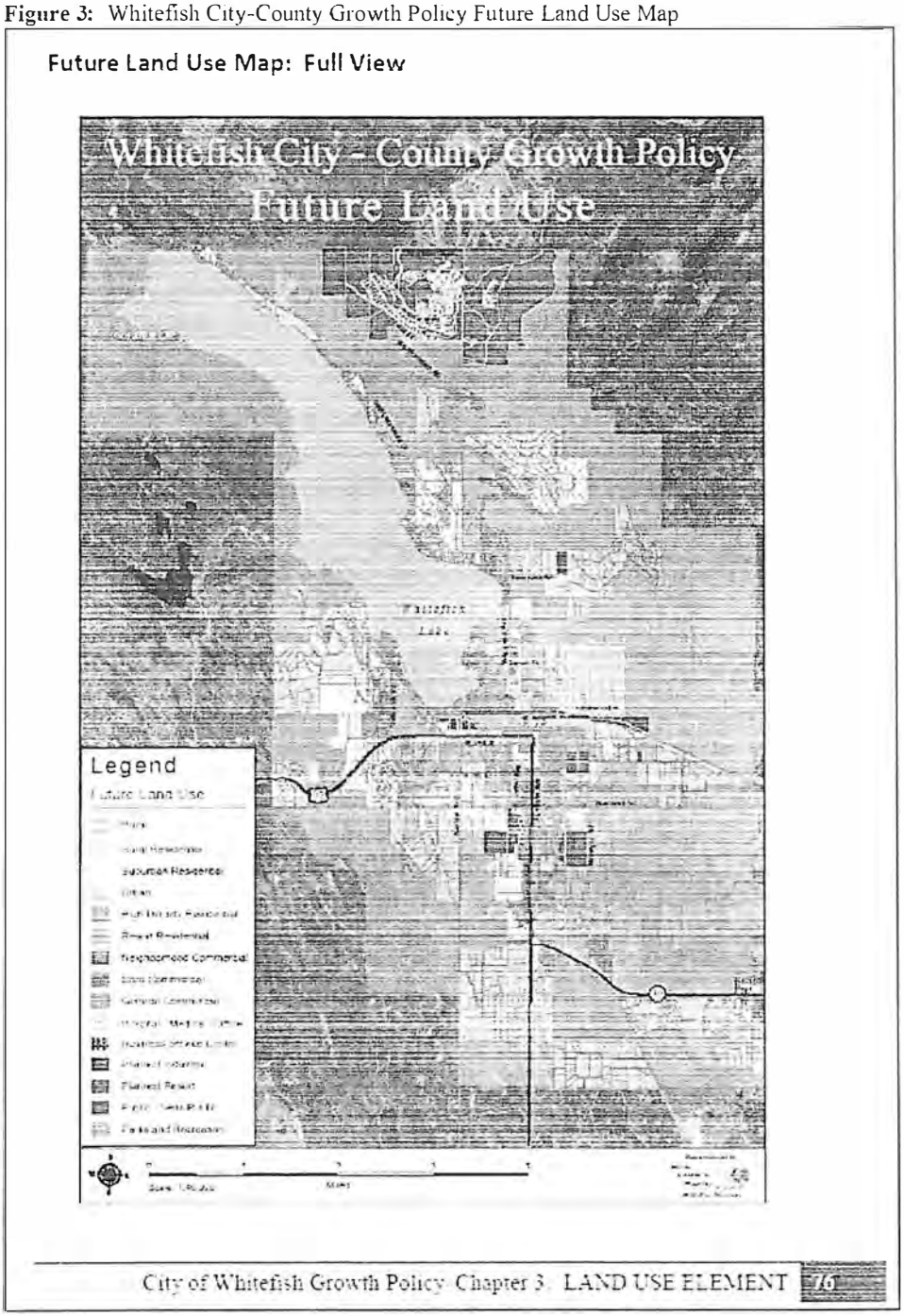
The comments from the City are in regards to the proposed SAG-5 and R-2.5 zoning on Karrow Avenue which would be a change from previous Whitefish WA zoning. A portion of the acreage to be zoned R-2.5 is designated as *"Rural Residential"* and a portion of the area proposed to be SAG-5 is designated as *"Suburban Residential"* as shown in Figures 2 and 3 below. The remaining area is designated as *"Rural"* and the R-2.5 zoning would generally not comply with the *"Rural"* designation but the SAG-5 could comply with the *"Rural"* designation. The Planning Board has held a series of workshops regarding the proposed zoning district and at those workshops and after many comments were received from residents of Karrow Avenue expressing an interest in having similar zoning on both side of the street.

Figure 2: Proposed zoning on Karrow Avenue



Finding #7 – The proposed zoning district has given consideration to compatible urban growth in the vicinity of cities and towns because many of the proposed zoning use districts are similar in density and allowed uses to the previous Whitefish zoning, the County went through the Whitefish zoning ordinance and the Flathead County Zoning Regulations to determine the most compatible zones and created five new use districts to mirror previous Whitefish zoning.

Figure 3: Whitefish City-County Growth Policy Future Land Use Map



d. The character of the district(s) and its peculiar suitability for particular uses;

The proposed zoning district is relatively large, covering much of the area around Whitefish and will include many zoning classifications and areas with unique land-use characteristics. The land uses range from rural agricultural

and silvicultural to various densities of residential uses to commercial and industrial land uses. The area is bordered by unzoned areas, agricultural, suburban agricultural, residential, business, and industrial zoning. The character of the area is a mixture of rural and urban land uses and densities in and around Whitefish. Rural land uses are generally large agricultural fields and active farming operations or large forested properties with interspersed residential land uses at varying densities. Urban residential densities occur within the city limits of Whitefish.

Based on the existing character of the district and the area around the subject property, the proposed zoning district would allow for uses that are suitable to the area. As discussed earlier in this report, many of the most potentially impactful land uses in the SAG-5 and R-2.5 on Karrow Avenue and the R-2 on Houston Drive require site specific review through the CUP process. This review process ensures that land uses are suitable at a specific location and offers a significant level of public participation to determine if a proposed use will unacceptably alter the character of a district. This process helps to ensure that uses that are generally suited for the character of the overall district are in fact also suited for a particular property at the time and in the manner that they are proposed.

Finding #8 – The proposed zoning district has given consideration to the character of the district and its suitability of particular uses because the district would allow for uses that currently exist in and around Whitefish and a CUP could mitigate any potential uses that would not serve to protect the character of the district.

e. **Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**
The value of buildings is conserved by establishing a zoning district that offers predictability and certainty to landowners. In an unzoned area, there is no assurance that an appropriate use will take place on an adjoining parcel. Where unzoned land appears to offer unlimited development potential free of minimum lot size requirements, environmental constraints and public service needs still must be evaluated. Zoning offers guidelines as to the number and type of dwellings or business that could ultimately be developed, offering a measure of security that a developer or landowner will receive a reasonable return on the investment.

The zoning district is proposed to mimic the previous City of Whitefish zoning with two exceptions. The proposed changes from a previous WA/ SAG-10 zone to R-2.5 and SAG-5, and WSR/R-1 zone to R-2 would increase density but allow for uses that already exist on those properties and in the area. Because the zoning district will replace previous Whitefish zoning with similar County zoning the uses permitted will remain similar and thus conserve the value of buildings and encourage the most appropriate use of the area.

Finding #9 – The proposed zoning district would conserve the value of buildings and encourage the most appropriate use of land because the zoning use districts are proposed to mimic the previous City of Whitefish, the zoning district will replace previous Whitefish zoning with similar County zoning the uses permitted will remain similar and density will be similar to that which currently exist.

iv. Whether the proposed zoning regulations are, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The proposed zoning district borders the City of Whitefish and was previously zoned under the City of Whitefish Zoning Ordinance. What follows is a discussion on how the proposed County zoning compares to the previous Whitefish zoning for the same area. The City of Whitefish Planning Department was sent an agency referral and provided comment about the proposed zoning district. The proposed zoning district borders the City of Whitefish. The City of Whitefish comments states:

> "We commend the county's efforts to mirror as closely as possible the former Whitefish zoning districts, and we support the creation of all five new zoning districts as proposed. We believe this will make for a smooth transition, and create the least amount of uncertainty for future development. It will also provide the least amount of disruption if any of the properties so zoned opts to annex into the city at some point. It is also very important for the Big Mountain/Whitefish Mountain Resort area, who's master development plan is tied in with the former Whitefish districts you are replacing."

Five of the proposed zoning use districts were created to replicate the City of Whitefish zoning they replaced as nearly as possible. The permitted uses and conditional uses are very similar and use slightly different terminology and the bulk and dimensional requirements are the same as what previously existed under Whitefish.

The proposed I-2 zoning is similar to the previous WI Whitefish zoning. According to Section 11-2R-1 of the Whitefish Zoning Ordinance the WI district is, *'The WI district is intended for light industrial purposes and to provide for light industrial and service uses in which a reasonable degree of control is desirable for the general well being of the community area.'* The minimum lot size of I-1 zones is 1 acre and there is no minimum lot size for the WI zone. The proposed I-2 zone allows for more permitted and conditional uses than the previous WI zoning. The I-2 zone accommodates heavy manufacturing, processing, fabrication, and assembly of parts as a permitted use and the WI zone would allow for it with the issuance of a conditional use permit. Other conditional uses within the I-2 zone not allowed within the WI including pesticide manufacturing, explosives manufacturing, etc.

The proposed R-1 zoning is similar to the previous WR-1 Whitefish zoning. The list of permitted and conditional uses are similar between the two zones. According to Section 11-2C-1 of the Whitefish Zoning Ordinance the WR-1 district is, *'The WSR district is intended for single-family homes in an estate type*

setting and is designed to maintain, protect and preserve a character of development characterized by uses of a residential purpose and with no more than one dwelling unit and customary accessory buildings on one lot.' The minimum lot size of both the WSR and R-1 zones is 1 acre.

The proposed R-2 zoning is similar to the previous WER Whitefish zoning. The list of permitted and conditional uses are similar between the proposed R-2 zones and Whitefish WER zones. According to Section 11-2D-1 of the Whitefish Zoning Ordinance the WER district is, *'A residential district to provide for single-family, large tract or estate development. These areas will typically be found in suburban areas, generally served by municipal sewer and water lines.'* The minimum lot size in WER is 20,000 square feet and the minimum lot size for the R-2 zone is 20,000 square feet.

The proposed R-3 zoning is similar to the previous WLR Whitefish zoning. The list of permitted and conditional uses are similar. According to Section 11-2E-1 of the Whitefish Zoning Ordinance the WLR district is, *'The WLR district is intended for residential purposes to provide for single-family homes in a low density setting, connected to municipal utilities and services.'* The minimum lot size in WLR is 15,000 square feet and the minimum lot size for the R-3 zone is 10,000 square feet, so the WLR would be less dense than the proposed R-3 zoning. The proposed R-3 zoning is similar to the previous WR-1 Whitefish zoning. According to Section 11-2F-1 of the Whitefish Zoning Ordinance the WR-1 district is, *'The WR-1 district is intended for residential purposes to provide for single-family dwellings in an urban setting connected to all municipal utilities and services.'* The minimum lot size in WR-1 is 10,000 square feet and the minimum lot size for the R-3 zone is 10,000 square feet. The list of permitted and conditional uses are relatively similar between the two zones.

The proposed R-4 zoning is similar to the previous WR-2 Whitefish zoning. According to Section 11-2G-1 of the Whitefish Zoning Ordinance the WR-2 district is, *'A 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.'* The minimum lot size in WR-2 is 6,000 square feet for a single family dwelling and 7,200 square feet for a two-family dwelling. As previously stated, the minimum lot size for the for the R-4 zone is 6,000 square feet for a single family dwelling and 7,500 square feet for duplexes or other uses. Additionally, the list of permitted and conditional uses are fairly similar between the two zones.

The WA zone which allows for agricultural uses has a minimum lot size of 15 acres. According to Section 11-2A-1 of the Whitefish Zoning Ordinance the WA district is, *"The 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."* The permitted and conditional uses within the City's WA zone allows for many of the uses that are permitted and conditionally permitted within the SAG-5 and SAG-10 zones. The main difference being that the proposed SAG-5 and SAG-10 zones have a minimum lot size requirement less than the minimum lot size of the WA zones at 5 to 10 acres.

The City of Whitefish does not have a zoning district with a 10 or 5 acre minimum lot size.

The proposed R-2.5 would replace WA and WCR zoning from when the area was under Whitefish control. The WCR zone is defined as, *"The WCR district is intended for detached single-family homes together with farm and/or accessory buildings situated in a setting conducive to a rural lifestyle,"* per Section 11-2B-2. The minimum lot size within the WCR is 2.5 acres which is the same as R-2.5. The minimum lot area for the WA is 15 acres much greater than the minimum lot area of the proposed R-2.5 zone.

Finding #10 – The proposed district has given consideration to the zoning ordinances of nearby municipalities because many of the proposed zoning use districts are similar in density and allowed uses to the previous Whitefish zoning, the County went through the Whitefish zoning ordinance and the Flathead County Zoning Regulations to determine the most compatible zones and created five new use district to mirror previous Whitefish zoning.

IV. SUMMARY OF FINDINGS

1. The proposed zoning district generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request, the Designated Land Use Map is not a future land use map and zoning would generally match the Designated Land Use Map.

2. The proposed zoning district is designed to secure safety because most of the proposed zoning district is located within a fire district, the majority of the densities will not change from previous zoning in the area and areas were the density has the potential to change are located within the Rural Whitefish Fire District.

3. The proposed zoning district is designed to promote public health, public safety, and general welfare because future development could require subdivision review or a CUP which could mitigate any potential impacts to public health, safety or general welfare, the majority of the district is located within a fire district and the uses allowed within the proposed zones are similar to what currently exists.

4. The proposed zoning district is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements because no comment was received from MDT, comments from the Flathead County Road and Bridge Department indicate no concern with the proposal, the school districts have seen a decrease in enrollment over the last ten years, there are many parks located within the area of the proposed district and similar uses and densities that were previously allowed will be allowed within the new zoning district.

5. The proposed zoning district has given consideration to the reasonable provision of adequate light and air because requirements of minimum lot area, minimum yard setbacks, maximum heights and maximum lot coverage contained in the proposed zoning are all designed to allow the flow of air and light.

6. The proposed zoning district is not anticipated to have a negative effect on motorized and non-motorized transportation because the Road and Bridge

department does not have any concerns regarding this proposal, MDT did not provide comments and there is an already established road network.

7. The proposed zoning district has given consideration to compatible urban growth in the vicinity of cities and towns because many of the proposed zoning use districts are similar in density and allowed uses to the previous Whitefish zoning, the County went through the Whitefish zoning ordinance and the Flathead County Zoning Regulations to determine the most compatible zones and created five new use districts to mirror previous Whitefish zoning.

8. The proposed zoning district has given consideration to the character of the district and its suitability of particular uses because the district would allow for uses that currently exist in and around Whitefish and a CUP could mitigate any potential uses that would not serve to protect the character of the district.

9. The proposed zoning district would conserve the value of buildings and encourage the most appropriate use of land because the zoning use districts are proposed to mimic the previous City of Whitefish, the zoning district will replace previous Whitefish zoning with similar County zoning the uses permitted will remain similar and density will be similar to that which currently exist.

10. The proposed district has given consideration to the zoning ordinances of nearby municipalities because many of the proposed zoning use districts are similar in density and allowed uses to the previous Whitefish zoning, the County went through the Whitefish zoning ordinance and the Flathead County Zoning Regulations to determine the most compatible zones and created five new use district to mirror previous Whitefish zoning.

V. SUMMARY

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning district amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with most of the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: EKM

FLATHEAD COUNTY PLANNING AND ZONING
ADDENDUM TO
ZONING TEXT AMENDMENT REPORT #FZD-15-01
FLATHEAD COUNTY PLANNING BOARD
SEPTEMBER 25, 2015

On September 9, 2015 the Flathead County Planning Board held a public hearing to consider the Rural Whitefish Zoning District. After Public comment was closed the Planning Board decided to postpone board discussion and their recommendation until September 23, 2015 to adequately consider public comment.

Nine Planning Board members were present for the both the public hearing on September 9, 2015 and the meeting on September 23, 2015: Tim Calaway, Jim Heim, Marie Hickey-AuClaire, Mike Horn, Kevin Lake, Jeff Larsen, Ron Schlegel, Dean Sirucek, and Greg Stevens.

Staff presented the staff report to the Planning Board, including its Finding of Facts.

APPLICANT PRESENTATION:

- There was no applicant for the proposed text amendment.

At this time the Board opened it up to public comment.

COMMENTS:

Public agency:

- Dave Taylor (City of Whitefish) – Wanted to make sure his previous comments applied to both.

Public comment period:

- Jo-Ann – Houston Drive – Stated Houston Dr. has no water or sewer, and then handed out pics. Photos show R-1 as it exists today, stated R-2 could devalue our properties. She was also unhappy with notification process and stated the R-2 has no support from majority of owners on Houston Dr.
- Don K – Would like to see R-1 not R-2 on his property across from dealership (later clarified R-3 not R-1).
- Ben Cavern – Houston Dr - Tried to tabulate all the neighbors. Got one more vote so different than previous one. Stated he was against changing to R-2, and then he went through his letter.
- Laurel – 1515 Hwy 93 W - Doesn't see zoning similar to WR -1 that allows for vacation rentals. Property is County and surrounded by the City, single family dwelling on the property.
- Travis Tipton – Stated he owns property at 5944 Hwy 93 south.
- Paul McKenzie – Stoltze Lumber – Was concerned with if going back to WA and would have comments and also concerned with blanket expansion of all buffers. Long standing issue mapping area of Stoltze land that appears to have been resolved.
- Harper Baker – 2092 Houston Dr. – Support leaving R-1 in place (Houston Drive).

- Rebecca Norton – Commented on people needing to use the microphone. She had ideas about submitting comments for water quality; City spent about $100,000 on study and wanted to know how the Planning Board could consider it after public comment closed. Stated national EPA law buffer setbacks all across the nation. Talked to DEQ in Helena. Tons of high (ground?) water around Whitefish.
- Marye Flowers – Wanted to make sure former written comments were part of this record as well. Stated the Board would need to look at infrastructure required for R-2.5 vs SAG-10 and really important to not look just at uses. Also stated this is not the place to do housekeeping as it (housekeeping) is not emergency. Encourage the Board to look at signage. Not sure how we are dealing with PUD part has not been annexed into the City. Concerned about proposed zoning for heavy industrial on Whitefish includes uses that are surrounded by residential.
- Dick – 1365 Voerman Rd. – Comment regarding water, buying hay from guy with 600 acre won't spray out hay because of residuals. Stated that the smaller lots the more concentrated chemicals become, going to have to let them on to city services.

After close of public comment board decided to postpone the file

- Larsen made a motion to continue the file until September 23rd. The motion was seconded by Calaway.
  - ✓ **On a roll call vote the motion passed 9-0.**

BOARD DISCUSSSION (September 23, 2015):

- The Planning Board voted to determine if everyone had ample time to review public comments.
  - ✓ **On a roll call vote the Board voted 9-0.**

BOARD ACTION:

- A motion was made by Schlegel and seconded by Sirucek to accept staff report FZD-15-01 as findings of fact.
  - ✓ **On a roll call vote the motion passed 9-0.**
- A motion was made by Larsen and seconded by Sirucek to forward a recommendation of approval to the County Commissioners for the zoning district.
  - Larsen went through comments and summarized them, ten written comments on Houston Dr. not in favor of changing zoning, subdivision comments has nothing to do with this, 15 comments that were very repetitive. Stated that replacement of interim with permanent compatible with nearby municipalities. Permanent zoning different than interim went along way to making the district compatible. The proposal would not allow for new commercial development along Hwy 92 and Hwy 40 as that is a separate project. He is not in favor of more zoning districts and he believes that the County sign standards are

compatible with Whitefish. Would like to see what Whitefish comes up with for industrial corridor before changing ours.

- Following Larsen's comment the board held a lengthy discussion on septic systems. Larsen read article from Interlake in 2006 septic far better than Lakeside sewer system.
- Board was in agreement that they are not dealing with commercial zoning on Hwy 40 & 93 at this time
- The Board discussed the comment from Don "K" but ultimately decide not take action on the issue as they felt he would need to annex into City to develop with 10,000 square foot lots.
- Board held a discussion on how the proposed SAG-10 and R-2.5 is very compatible with WA zone. And discussed how the first criterion in M.C.A. is to be in accordance with Growth Policy (accordance with Flathead County Growth Policy not City of Whitefish). Board seems to be in agreement.
  - Stevens paraphrase comment from public talking about maintaining the rural setting and atmosphere. Big parcels owned by Ed Luke and Nelsons own the smaller parcels. If they rural character is where they live, is 2-3 acres.
  - Schlegel stated even stuff to west is ten acre parcels.
  - Larsen stated that the R-2.5, SAG-10 & SAG-5 are very compatible, uses very compatible with each other. Perfectly happy with what Board did.
- Sirucek stated that FWP comments have to do with water quality and wildlife cover, transfer areas. Mixing apples and oranges. The Board then held a discussion regarding the FWP setback request.
- The Board held a discussion regarding the proposed I-2, BNSF land, through the City.
- Larsen asked about the sewer agreement and stated it would be too complicated to put into a zoning district. Stevens agreed.
- A secondary motion was made by Larsen and seconded by Sirucek and Calaway to zone property at 3122x14-WLH-1 and 3122x14-WLH-2 all R-1.

  ✓ **On a roll call vote the motion passed 9-0.**

- A secondary motion was made by Calaway and seconded by Larsen to leave zoning on Houston Point as is under the interim zoning with R-1 and R-2.

  ✓ **On a roll call vote the motion passed 9-0.**

✓ **On a roll call vote the primary motion passed 9-0.**

SUMMARY OF FINDINGS:

Changes made by the Planning Board are highlighted. New language is shown in *italics*. Removed language is shown with a ~~strikethrough~~.

1. The proposed zoning district generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally

support the request, the Designated Land Use Map is not a future land use map and zoning would generally match the Designated Land Use Map.

2. The proposed zoning district is designed to secure safety because most of the proposed zoning district is located within a fire district, the majority of the densities will not change from previous zoning in the area and areas were the density has the potential to change are located within the Rural Whitefish Fire District.

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are proposed to mimic the previous City of Whitefish, the zoning district will replace previous Whitefish zoning with similar County zoning the uses permitted will remain similar and density will be similar to that which currently exist.

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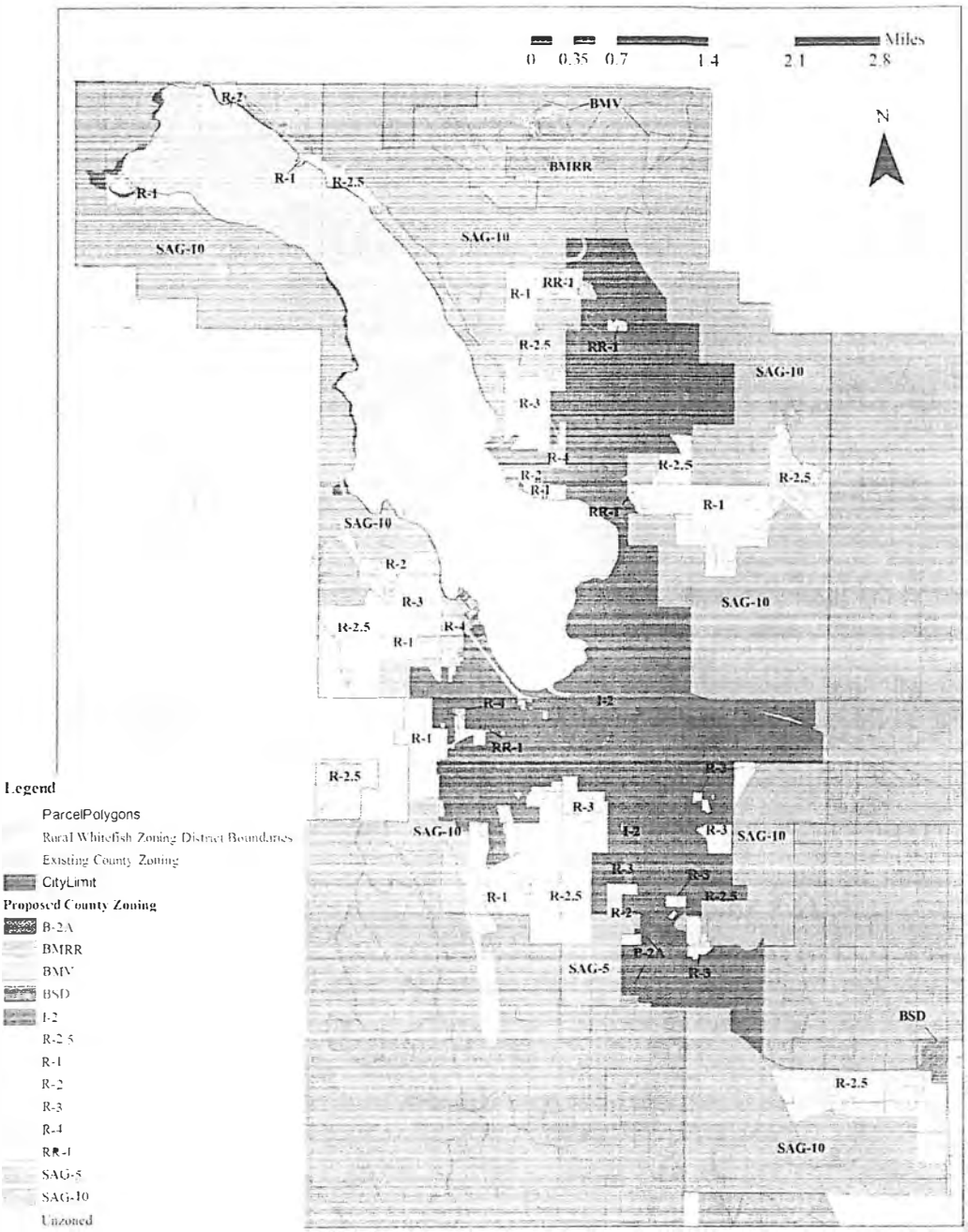
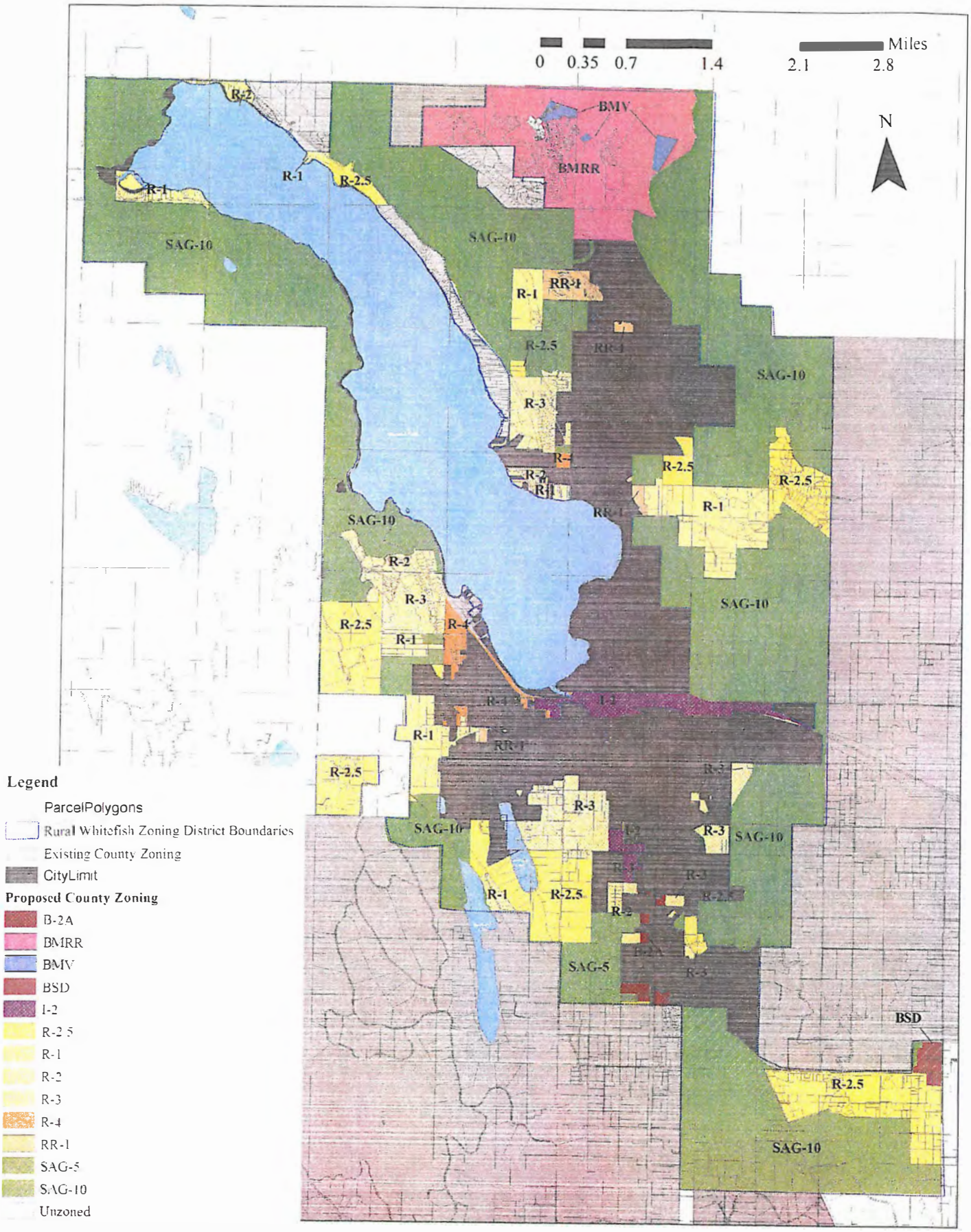
PROPOSED MAP AMENDMENT (as approved by the Planning Board):

DRAFT RURAL WHITEFISH ZONING DISTRICT (RWZD) 9.25.15

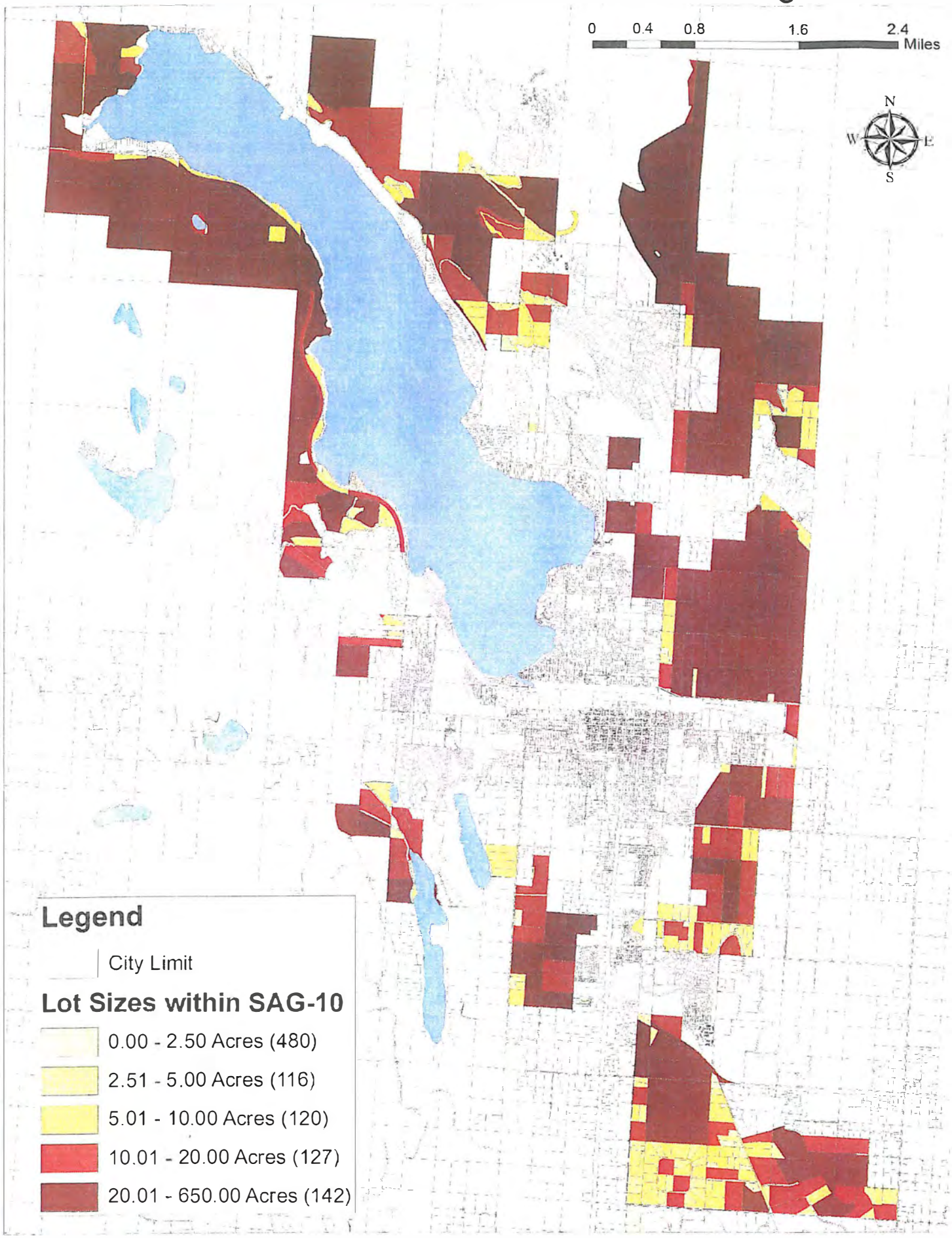


Planner: EKM

Draft Rural Whitefish Zoning District (RWZD) 9.25.15



Lot Size within the SAG-10 Interim Zoning



Bailey Minnich

From: Bailey Minnich <bminnich@cityofwhitefish.org>
Sent: Monday, December 07, 2015 2:12 PM
To: 'Richard Hildner'; 'afeury@cityofwhitefish.org'; 'fsweeney@cityofwhitefish.org'; 'jfrandsen@cityofwhitefish.org'; 'Pam Barberis'; 'jmuhlfeld@riverdesigngroup.net'
Cc: 'Angela Jacobs'; Chuck Stearns; 'Dave Taylor'
Subject: RE: Consent agenda Monday, Dec.7

Hi Richard,
Thanks for letting me know your concerns prior to tonight's meeting. I've been doing some research on your concerns and have addressed them below in red. Please let me know if you have any additional questions prior to the meeting.

Bailey

Bailey Minnich, AICP, CFM
Planner II
City of Whitefish
510 Railway Street
P.O. Box 158
Whitefish, MT 59937
(406) 863-2410

-----Original Message-----
From: Richard Hildner [mailto:rhildner@cityofwhitefish.org]
Sent: Sunday, December 06, 2015 6:34 PM
To: afeury@cityofwhitefish.org; fsweeney@cityofwhitefish.org; jfrandsen@cityofwhitefish.org; Pam Barberis <pbarberis@cityofwhitefish.org>; jmuhlfeld@riverdesigngroup.net
Cc: bminnich@cityofwhitefish.org
Subject: Consent agenda Monday, Dec.7

Mayor and fellow coucilors:
Unless I hear good arguments otherwise, I will ask that Item 6 (d) be withdrawn from the consent agenda. My reasons are as follows:
The applicant has scraped off all vegetation in the 20' between the MHW and their property. And while they have landscaped and sodded around the structure, nothing has been done to prevent soil/lakeshore degradation in the LPZ and buffer. Approximately 50% of the vegetation in the next 10' (buffer) has been removed. When the property was cleared the only thing left were some scraggly cottonwoods. Heavy equipment was used to move boulders and soil around in the Lakeshore Protection Zone. The silt fence has not been maintained as required in the Stop Work Order.

Three spruce trees have been planted on the NE corner of the property but within what appears to be within the MHW and with a spacing of 3' or less between trees. These trees were planted in August of 2014 as part of an earlier permit by a previous owner. The previous owner planted the trees as a fence is not permitted below the high water elevation, however our regulations do not limit the placement of vegetation below high water.

In requesting to remove the permit from the consent agenda I will suggest that:
Condition #1 be changed from one year to 6 months. Per §13-2-5(D) a permit is valid for 12 months unless otherwise approved by the governing body. I feel 6 months would be adequate, however, that would give the permit an expiration of June 7th, 2016. For purposes of planting vegetation, I would suggest a permit expiration

of June 30th, 2016. Condition #8 be changed from "may" to "must" or "shall." I would recommend changing the wording to 'shall.'

Add Condition #21 to require revegetation be reestablished in the 10' between their landscaping and the 20' LPZ using native plants or cultivars acceptable to the City. The lakeshore regulations only have jurisdiction over the area within the lake and within 20 horizontal feet of the mean annual high water elevation. There is no language is the code to support revegetation outside of the 20 feet Lakeshore Protection Zone.

A letter should be sent to the landowners informing them that they must immediately repair the function of the silt barrier as required in Condition #6 and was identified in the "Stop Work Order." If the permit is approved this evening, the owners would be sent a letter with the approved permit (standard procedure of an approved permit) and this item can be included.

It would appear that the property owners are also in violation of the City Water Quality Protection Ordinance when they removed vegetation from the buffer. Under §11-3-29(C)(1)(f) of the water quality regulations regarding Whitefish Lake, it states that 'the buffer and setback shall be regulated under title 13 of this code.' Title 13 is the Whitefish Lakeshore Protection Regulations. Additionally, the buffer on Whitefish Lake is 20 feet, which is the Lakeshore Protection Zone. The 10 foot additional setback is not for water quality, but is for structures only. Allowed activities within the setback include lawns and gardens. (§11-3-29(C)(6)(d))

In addition, boulders other than those shown in the packet photos have been arranged within the LPZ and the constructed patio appears to encroach in the LPZ or buffer. The lakeshore protection zone has been surveyed by the owners and ends just in front of the constructed patio. Therefore, the patio is outside of the LPZ.

Finally, they have posted a "No Trespassing" sign along the shore well below the MHW. Under §13-2-3(N) of the lakeshore regulations, signs are prohibited within the lakeshore protection zone. A condition could be added that the sign is removed and not permitted within 20 feet of the high water elevation.

Richard

Richard Hildner, Councilor
260-7725

20 foot Lakeshore
Protection Zone

30 feet from high
water elevation

High Water
Elevation stake

After Packet

Subject: FW: CBF Comments on CUP adgenda item for 12/7/15 hearing
From: "Chuck Stearns" <cstearns@cityofwhitefish.org>
Date: 12/4/2015 10:02 AM
To: "'Necile Lorang'" <nlorang@cityofwhitefish.org>

From: Mayre Flowers [mailto:Mayre@flatheadcitizens.org]
Sent: Friday, December 04, 2015 9:40 AM
To: Chuck Stearns <cstearns@cityofwhitefish.org>
Cc: Citizens for a Better Flathead <Mayre@flatheadcitizens.org>; Necile Lorang <nlorang@cityofwhitefish.org>; Pam Barberis <pbarberis@cityofwhitefish.org>; Andy Feury <afeury@cityofwhitefish.org>; Jen Frandsen <jfrandsen@cityofwhitefish.org>; Richard Hildner <rhildner@cityofwhitefish.org>; Frank Sweeney <fsweeney@cityofwhitefish.org>; Jmuhfield@cityofwhitefish.org; sfitzgerald@cityofwhitefish.org; Angela Jacobs <ajacobs@cityofwhitefish.org>; Dave Taylor <dtaylor@cityofwhitefish.org>; Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>
Subject: Re: CBF Comments on CUP adgenda item for 12/7/15 hearing

Chuck—Thanks for your email note on November 30th included below. I was a bit surprised by this. To clarify, I publicly submitted the comments you referenced in one joint email to: you, the city, and the city council members by email on November 30th. These comments were submitted as stated in the letter for the public record for the December 7th city council meeting. I trust that our comments, as part of the public record for which they are intended, are made available to anyone who requests them at any time in addition to making them part of the city council packet. I received email notice from the city shortly after sending these comments that they would be made part of the packet for the December 7th City Council Meeting and see that they have been included.

If the city has published guidelines on how to submit public comment, please provide me with a copy of this as I am sure that it will be of use to us and well as other members of the public. It would also be of value to us and the public to know the procedures in place as to how and when comments for the public record are distributed to the council between meetings and after the packet deadline has passed, particularly given concerns expressed at council meetings that the council would like public comment as early as possible for their review.

Finally, I ask that your hearing record for the December 7th City Council meeting include this email and this clarification that for your agenda item:

Consideration of a request by Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC & 1820 Baker LLC, for a Conditional Use Permit in order to develop a project with multiple principle structures.

I have not participated in any ex parte communications (which means non public discussions outside of a public hearing process, or written discussion

outside of providing written public comments for the public record) with the City Council members on this zoning issue. I have had no individual or small group contact with Council members on this zoning application.

Mayre Flowers, Executive Director
Citizens for a Better Flathead
PO Box 771, Kalispell, MT 59903
406-756-8993 (W), 406-253-0872 (Cell) 406-756-8991 (Fax) 406-755-4521(H)
Mayre@flatheadcitizens.org
www.flatheadcitizens.org

On Nov 30, 2015, at 3:07 PM, Chuck Stearns <cstearns@cityofwhitefish.org> wrote:

Mayre: (cc: Mayre's cc list)

You should realize that this item is a quasi-judicial public hearing, so you
should not participate in ex parte communications with the City Council.
The Planning Staff will add your comments to the public hearing packet.

Chuck Stearns
City Manager
City of Whitefish
P.O. Box 158
1005 Baker Avenue
Whitefish, MT 59937-0158
406-863-2406
Fax 406-863-2419

-----Original Message-----
From: Mayre Flowers [mailto:Mayre@flatheadcitizens.org]
Sent: Monday, November 30, 2015 11:08 AM
To: Necile Lorang <nlorang@cityofwhitefish.org>; Chuck Stearns <cstearns@cityofwhitefish.org>
Cc: Citizens for a Better Flathead <Mayre@flatheadcitizens.org>; pbarberis@cityofwhitefish.org; Andy Feury

<afeury@cityofwhitefish.org>; Jen
Frandsen <jfrandsen@cityofwhitefish.org>; Richard Hildner
<rhildner@cityofwhitefish.org>; Frank Sweeney
<fsweeney@cityofwhitefish.org>; Jmuhfield@cityofwhitefish.org;
sfitzgerald@cityofwhitefish.org; Angela
Jacobs <ajacobs@cityofwhitefish.org>
Subject: CBF Comments on CUP adgenda item for 12/7/15 hearing

Mayre Flowers, Executive Director
Citizens for a Better Flathead
PO Box 771, Kalispell, MT 59903
406-756-8993 (W), 406-253-0872 (Cell) 406-756-8991 (Fax)
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Mayre@flatheadcitizens.org www.flatheadcitizens.org

PO Box 771 • 35 4th Street West
citizens@flatheadcitizens.org

CITIZENS FOR A BETTER FLATHEAD

Kalispell, Montana 59903
T: 406.756.8993 • F: 406.756.8991
www.flatheadcitizens.org

Rec'd at Hg - after Packet Item 7g

To: Whitefish City Council for your December 7th public hearing---additional comments.

Re: A request by Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC & 1820 Baker LLC, for a Conditional Use Permit pursuant to §11-2-3B(12)[1] in order to develop a project with multiple principle structures. The property is zoned WI/WB-2–SC (Industrial/Secondary Business Districts with Special Conditions), located at 1842, 1844, 1846 and 1848 Baker Avenue and can be legally described as Tract 6BGA in S1 R30N R22W, P.M.M., Flathead County.

Date: December 7, 2015

We are writing to provide additional comments to those we submitted for your packet on November 30th and to make the following points:

1. We want to begin by clarifying for the hearing record that Citizens for a Better Flathead supports quality infill development, which we believe is the intent of this applicant. Our issue is that Whitefish Zoning Regulations do not support the type of zone change requested by the applicant at your November 16th meeting and makes the conditional use request before you tonight problematic as well---- for reasons in addition to those outlined in our letter on November 30th, which we will cover shortly. The concept of blended zoning as proposed for this development is not supported by city zoning regulations and we believe it is illegal as we outlined in our comments on November 16th. As proposed, blended zoning by allowing for "cherry picking" of desired land uses among two or more zones and combining them into one new zone would serve to make a farce of the city's zoning code and the fair and predictable zoning that city residents expect of the city.

2. Instead, we encourage the applicant and the city to continue to work to find legally compliant zoning tools to allow for appropriate development consistent with the city zoning regulations at this Baker Street site. I think we all agree that this site would benefit from redevelopment.

3. In further response to an email from the Whitefish City Manager on November 30th (see attached) we wish to state for your record as we did in our reply to his email (see attached) that:

   I have not participated in any ex parte communications (which means non-public discussions outside of a public hearing process, or written discussion outside of providing written public comments for the public record) with the City Council members on this zoning issue. I have had no individual or small group contact with Council members on this zoning application.

---

[1] §11-2-3B 12. Only one principal use is allowed per lot of record. Multiple principal uses may be allowed on a single lot of record upon the issuance of a conditional use permit. (Ord. 97-2, 10-20-1997; amd. Ord. 07-33, 10-15-2007) Definitions: PRINCIPAL USE: The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.

4. You have our 11/30/15 comments in your packet for this hearing, which raise the question of if this applicant has met the requirements of 11-7-12 (10)[2] of the Whitefish Zoning Regulations. The revised staff report now addresses this question and makes the assertion that suitable progress has been made. We understand that shortly after the prior zoning that the applicant sold a portion of this property that is now occupied by the Montana Shirt Company and Sweet Peaks. We are not clear who then made improvements to that property, and how this impacts compliance with 11-7-12 (10), but trust that this council will do its due diligence in establishing this.

5. Another point we wish to raise is that before you tonight is a request by the applicant for a Conditional Use Permit to have multiple principle uses per lot of record. The possible multiple principle uses under the conditional zoning put in place in 2013 that could be allowed on a lot if this CUP is approved include the following W-B2 commercial uses:

   - Antique stores and auction barns
   - Automobile and boat sales, parts, repair and service (automobile and boat service is already permitted in the WI zone)
   - Furniture and floor covering stores
   - Grocery stores
   - Laundry and dry cleaning
   - Machinery and equipment sales, rental, and repair
   - Medical clinic and related therapeutic health services
   - Restaurant

   Under Conditionally permitted uses, the following remains:
   - Buildings greater than 15,000 square feet

   Approval of multiple WB-2 uses, as opposed to just WI uses, as multiple principle uses we find to be problematic and in conflict with the following findings adopted as part of the zone change denial:

   - **Approval of these WB-2 uses would not be consistent with the resolution and findings of fact you approved earlier this evening denying the addition of WB-2 commercial zones in this development:** A Resolution of the Whitefish City Council affirming the denial of a zone change for properties identified as 1820, 1822, 1824, 1830, 1840, 1842, 1844 and 1848 Baker Avenue. These findings included:

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[2] 11-7-12 **10. Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within eighteen (18) months after the rezoning took effect and thereafter proceed diligently to completion.** This time limitation may upon written request be extended by the city council for an additional twelve (12) months if it is demonstrated to the city council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and the city council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

"i) The addition of the Commerce Street Condos located at 1820 and 1822 Baker Avenue to the WI/WB-2-SC zone and the addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone do not encourage the most appropriate use of the property which has been designated as "Planned Industrial" in the Whitefish City-County Growth Policy Future Land Use Map and which is adjacent to industrial uses;

j) The addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone do not conform with the purpose and intent of the zoning district because it would allow additional commercial uses in a district that is intended to be primarily industrial;

k) The addition of the Commerce Street Condos located at 1820 and 1822 Baker Avenue to the WI/WB-2-SC zone and the addition of the commercial uses of trade school, music school and hotel to the WI/WB-2-SC zone are not in the best interests of the City."

- As stated in the staff report for this conditional use request on page 2 of 10 "The Growth Policy designation for this area is 'Planned Industrial' which corresponds to the WB-4 and WI. "Vital industries need to be provided for in areas where they will not compete against commercial development for land, but also where they will not impact residential neighborhoods with intense industrial activities and truck and rail traffic. **Industrial uses tend to centers of employment, generate far less traffic than commercial, and do not generally depend on drive by traffic for clientele. WB-4 and WI are the applicable zoning districts." All of the WB-2 uses depend on drive by clientele and thus are not appropriate as multiple primary uses.**

- And finally, approval would be in conflict with the city's conditional zoning provisions as defined by the city code at 11-9-2 Definitions and as further set forth in the city code at 11-7-12 Conditional Zoning.

6. Another issue we find in the staff report on page 3 of 10, finding #2 includes the following unsupported statement:

   "The purpose of this district is intended to be blend of compatible commercial and industrial uses in an urban setting connected to all municipal utilities and services. The development proposal is consistent with the purpose and intent of the applicable regulations."

   This language is not part of the city code at 11-9-2 Definitions and as further set forth in the city code at 11-7-12 Conditional Zoning. As such it should be removed from this proposed finding and from other places it occurs in this staff report.

7. Finding 5 states: "Municipal water and sewer are available and will be extended to the buildings. Response times for police and fire are not anticipated to be affected due to the proposed development. The property has adequate access to Baker Avenue. **There are no frontage improvements along this portion of Baker Avenue; however, due to the pedestrian and bicycle focus of the site plan this can be mitigated by the installation of appropriate improvements, as a condition of approval."**

   Yet condition 10 fails to identify that sidewalks will be required or what other mitigation will be required "10. The applicant shall work with the Public Works Department to install appropriate Baker Avenue frontage improvements along Tracts 6BGA+, 6BK and Commerce Street

Condo. (Findings of Fact 4 & 5, Engineering Standards, Section 8)" And finding five only refers to "Frontage improvements **may** [emphasis added] include: curb, gutter, planter strip, street trees, street lights and sidewalk." The following city regulations appear to require sidewalks and this should be made clear as a condition.

12-4-17: WALKWAYS AND SIDEWALKS:

A. All developments shall have delineated walkways to allow pedestrians to safely travel from any part of the development to the boundaries of the development. Developments abutting existing or proposed roadways will be required to have walkways within the public right of way parallel to the roadways. Walkways identified within the adopted transportation plan will be required. The minimum width of a walkway shall be five feet (5') and shall be constructed according to the Whitefish engineering standards.

B. Unless approved by the city council, sidewalks are required on both sides of the street in all residential and commercial subdivisions. Residential sidewalks shall be separated from the street by a planting strip or open space with a minimum width of six feet (6') with an eight foot (8') area being the preferred width for planting strip tree planting.

8. **It appears that most of the walkways proposed within this development are merely yellow striping on the parking lot surface.** Does this meet city standards when multiple principle uses are requested?

9. Recommendation #1 states in part: **"The project shall be constructed in compliance with the plans dated September 1, 2015, except as amended by these conditions." Shouldn't this state the plans dated November 30, 2015?**

10. **Finally a question about change to the size of the property being covered under this CUP changed from the staff report presented at the 11-16-15 City Council to tonight's staff report.**
    - The zone request that was denied on 11-16-15 was said to cover **2.71 acres** and may have incorrectly included the property at 1830 owned by Dave Elliot who was not an applicant for that zone change. It did include the Commerce Street Condos which are 1820 and 1822. (This application included 1820, 1822, 1824, 1830, 1840, 1842, 1844 and 1848 Baker Avenue.)
    - The zone request change that was made in 2013 was for **1.87 acres** and included only 1830 which is the property now owned by David Elliot and 1840 which is still owned by Elaine Edwards.
    - The CUP zone request change that was reviewed on 11-16-15 on page 89 of the packet says the CUP request was for **1.30 acres** that included 1842, 1844, 1846, and 1848 (but it doesn't include 1840 and it doesn't include 1820 and 1822, which are the Commerce Street Condos).
    - The staff report for the CUP in your packet tonight shows on page 146 of the packet a change in the subject property size from "The subject parcel is 1.39 1.74 acres in size." This 12-7-15 CUP request includes 1840 which was not included in the 11-16-15 application, only 1842, 1844, 1846, 1848 Baker Avenue were included, and now there is an increase in the acres covered. What accounts for all of these changes? Are there maps that can explain this or show the acres covered by this requested CUP? Did the property owner ever complete an annexation of a small portion of the property that at one point was identified as needing to be annexed after the county assumed zoning in the area around Whitefish?

11. Finally, we hope that the city will work with the developer to come forward with a development proposal that can be appropriately addressed within the legal bounds of the City's zoning regulations so that improvements to this property can take place.

Rec'd at Meeting 12-7-2015

Applied Water CONSULTING LLC

December 4, 2015

Wendy Compton-Ring
City of Whitefish
Planning & Building Department
P.O. Box 158
Whitefish, MT 59937

Re: 2nd Street Lofts: (WCUP 15-17)
AWC Project No. 749.15

Dear Wendy:

Mark Panissidi is requesting a Conditional Use Permit (CUP) to construct a mixed-use, multi-family structure located at 212 East 2nd Street in Whitefish, Montana. This site is the former location of the All Saints Episcopal Church for which Applied Water Consulting has conducted two environmental assessments. It is my understanding the Whitefish Planning Board expressed some reservation about the proposed project because of potential environmental concerns associated with the Whitefish solvent plume that underlies this portion of town. The purpose of this letter is to provide additional insight with regard to health exposure scenarios and hopefully, address the Planning Board's concerns about the engineering controls that will be implemented during building construction.

Please be advised that the Montana Department of Environmental Quality (DEQ) has conducted an extensive investigation to characterize and delineate the extent of the groundwater solvent plumes in Whitefish (Resource Technologies, Inc., January 11, 2013). The 2nd Street Lofts project is located at the downgradient end (i.e. tail) of the solvent plume that underlies a two block area along 2nd Street East between Baker Avenue and Obrien Avenue. The primary contaminant of concern is tetrachloroethylene (PCE) that was used as a dry cleaning agent. The DEQ has not classified the Whitefish solvent plume as either a Comprehensive Environmental Cleanup and Responsibility Act (CECRA) site or a Groundwater Remediation Site.

The proposed building will be concrete slab-on-grade construction. The developer plans to implement engineering controls to mitigate the potential for vapor migration into the building by installing two types of barriers:

1. A passive ventilation system consisting of a permeable gravel base will initially be installed along the ground surface. This type of system is similar to a radon mitigation system installed in new homes; and
2. A vapor barrier consisting of a 20-mil HDPE liner will be installed between the passive ventilation layer and the overlying concrete slab.

P.O. Box 7667 • Kalispell, Montana 59904 • Tel: 406 756-2550 • Fax: 406 756-0527

Indoor air samples were collected in sixteen buildings as part of DEQ's investigation to evaluate potential health concerns because most of these buildings are older structures. The indoor air sample collected at the property immediately east of the 2nd Street Lofts site detected a low-level concentration of PCE, which was well below both the residential and commercial risk screening levels. In comparison, PCE would not be detected in a new building utilizing the proposed engineering controls.

With regard to potential contractor exposure during construction, minimal excavation is occurring when pouring the building footers. The ground slopes from east to west across the site; excavation is only extending to a depth of one foot below the ground surface (bgs) at the west end and about 2.5 feet bgs at the east end. The excavation trench will be open to the atmosphere. The depth to the water table in this area 7.5 to 8.0 feet bgs, so there is no potential for direct contact and the potential for vapor exposure is considered nominal because of the type of underlying soils, which are glacial lakebed sediments (i.e. clayey silt) that have a very low vertical permeability.

Finally, the former All Saints Church is not the source of the contamination and therefore, DEQ does not intend to invoke any land-use restrictions. In fact, the DEQ has indicated that it will not disapprove of site construction and they do not desire to review any building plans.

If you have any questions regarding the information contained in this letter, please do not hesitate to contact me at your convenience at (406) 756-2550.

Sincerely,

Roger A. Noble

Roger A. Noble, P.G.
Principal/Sr. Hydrogeologist

Dear Whitefish City Council,

The proposed residential facility brought forward by Sparrow's Nest NW MT will provide safe, supportive, supervised housing for up to five unaccompanied homeless high school students.

Currently there is no such facility in Flathead County or in NW Montana that provides this service.

We urge you to approve the conditional use permit 15-18 for a residential facility at 200 Colorado Ave Whitefish MT.

Let Whitefish be the first in NW MT to provide unaccompanied homeless high school students the opportunity to graduate from high school and to provide them with hope and a future.

We strongly support Sparrow's Nest NWMT in their endeavor to procure housing in Whitefish for unaccompanied homeless high school students.

	Name (Print)	Address	City	Signature
1.	Erri Swenson	100 2nd St E	Whitefish	[illegible]
2.	Donna L Mast	535 Reservoir Rd	Whitefish	Donna L Mast
3.	Betty Van Alstine	148 W 4th St	Whitefish	Betty Van Alstine
4	Walter Van Alstine	148 W 4th St	"	Walter Van Alstine
5.	Cheryl Winder	209 Colorado AVE.	WF	Cheryl Winder
6.	[illegible]	445 Po	WF	[illegible]
7.	LINDA BROSCHEIT	4694 TROUBLE CREK RD	CF	Linda A Broscheit

Name (Print)	Address	City	Email
Ron Blumer	4680 Krumble Cr Rd	C Falls	rnd4680@yahoo.com
Lucy Jo Blumer	"	"	"
Tony Brandt	4694 Trumble CK R	"	
Luann Basirico			
Luann Basirico	144 MT Ave	Whitefish	Luann Basirico
Joseph Basirico	" " "	"	
Carlene Hanney	1181 Old Stony	Whitefish	Carlene Hanney
Emilie Erler	2156 Ruddy Duck	Kalispell	Emilie Erler
Rusty Wells	251 Haskill Basin Rd	WHITEFISH	
Linda Kuhlmann Wells	251 Haskill Basin Rd.	Whitefish	Linda K. Wells
Heidi Ratz	1080 E Edgewood Dr	Whitefish	~~Henry~~ Heidi Ratz
Henry Ratz	1080 E Edgewood Dr	Whitefish	Henry Ratz
Bette Brown	135 Sapphire Ct	WF	Bette Brown

Name (Print)	Address	City	Email
Larry Brown	135 SAPPHIRE CT.	WHF.	lbbrown@cyberport.net
Marie Geist	4990 Wtsh Sta Rd	Wfsh	tukenpic@yahoo.com
DEANNA Ratz	415 E. Texas	whitefish	
Otto Ratz	415 E. Texas	whitefish	
Allen Wolf	115 Emerald Dr	Whitefish	Allen Wolf
Barbara Wolf	115 Emerald Dr	whitefish.	Barbara Wolf
Carol VandeKieft	1563 E. Edgewood	Whitefish	carlevon57@yahoo.c
Ruth Harrison	1585 E. Edgewood Dr.	Wfsh	snowstar@Montanasky.
Doris Field	248 Crystal Ct	Wfsh	ddfield@cyberport.n
Sandy Cain	505 Lodgepole Rd	Whitefish	sandycain1183@yahoo.com
Dick Field			
Paula Sandman	134 Sandy Lane Way		bobpaula@centur tel.
Bob Sandman	"		"

Name (Print)	Address	City	Email
Michael L. Flannery	1181 OLD STONE Rd	Whitefish, MT. 59937	Rider.Michael.L.Flannery@gmail.com
Tina L Barnes	300 Armory Rd	Whitefish	T L B
Dale E. Barnes	300 Armory Rd	Whitefish	Dale Barnes

Dear Whitefish City Council,

The proposed residential facility brought forward by Sparrow's Nest NW MT will provide safe, supportive, supervised housing for up to five unaccompanied homeless high school students.

Currently there is no such facility in Flathead County or in NW Montana that provides this service.

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We strongly support Sparrow's Nest NWMT in their endeavor to procure housing in Whitefish for unaccompanied homeless high school students.

Name (Print)	Address	City	Signature
Karin Hilding	1016 Creekview Dr.	Whitefish	
CHRISTINA LARSEN	725 Somers Ave.	Whitefish	
Jim Ramlow	316 Somers Ave	Whitefish	
Lucy Bee	157 S. Prairie Smoke	whitefish	
Denise Magstadt	4721 Minnesota	Whitefish	

Name (Print)	Address	City	~~Email~~ Signature
Laura Kochis	12 Willowbrook	Whitefish	Laura Kochis
Janet Coombs	1316 E 4th St	Whitefish	
Dennis Pierson	365 Blanchard Lake	Whitefish	
Douglas Law	449 Blanchard Lake RD	Whitefish	lawfam3@yahoo.com
PAT SAPA	180 RESERVOIR RD.	WHITEFISH	pat@patsapa.com
Erika Morck	PO Box 1611 ~~Whitefish, MT 59~~	Whitefish	Erika Morck
JOE COCO	369 SHADY RIVER LN	WHITEFISH	
Tom Schucy	715 Aspen Grove St.	Whitefish	
Stacey McGough	255 Vista Dr	Whitefish	Stacey McGough
Ginny Wilcox	200½ Wisconsin Ave	Whitefish	Ginny Wilcox
Bonnie Baker	Box 221	Whitefish	Bonnie Baker
L. Breese	432 GEDDES	whitefish	Ron Breese

Name (Print)	Address	City	Signature
Jim Peterson	260 J.P. Road Wititefish 59937	WF	
Deborah Malus	300 Pankewski WF	WF	
Michael Samdahl	12 Willowbrook	Whitefish	
Craig Fountleroy	100 Olson Road	C Falls	
LINDA MAETZOLD	535 Karrow Ave	WF	
MICHAEL HOLLE	162 FARM TO MARKET CT.	W. F.	Michael Holle
KATHLEEN HOLLE	162 FARM TO MARKET CT	WF	
Lisa Holle	230 Golf Trail	WF	
Susan Klassen	100 Tallylake Rd	WF	Susan Klassen
Ashley Dunigan	430 3rd Ave	CF	Ashley Dunigan

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Name (Print)	Address	City	~~Email~~ Signature
Sueann Geogan King	11 Highwood Drive	Whitefish	[illegible]
Sue Janik	1029 1st St E.	Whitefish	Sue Janik
Bobby McCurdy	1140 Sun Dog Trail	Whitefish	Bobby McCurdy
Beverly Martin	358 Dakota Ave	Whitefish	Beverly Martin
Steph Vandenyacht	4990 US Hwy 93 W	Whitefish	Steph Name Vandenyacht

Name (Print)	Address	City	~~Email~~ Signature
Penny Opheim	4940 Hwy 93 S.	Whitefish	Penny Opheim
Sharon Kennett	PO Box 1868	Whitefish	Sharon Kennett
THOMAS STEVENS	465 ARMORY RD	WHITEFISH	Thos Stevens
Susan D Willis	465 Armory Rd	Whitefish	Susan D Willis
Sandy Boule	731 Lupfer Ave.	Whitefish	Sandy Boule
RICH BOULE	731 Lupfer Ave	Whitefish	Richard Boule
Hallie Schelling	PO BOX 174	Olney	Hallie Schelling
Daniel Kaufman	455 Wisconsin AVE	Whitefish	[illegible]
Richard Zeiss	1345 7th St., #11	Whitefish	jivan.avrata@gmail.com Richard Zeiss
DALE VOODAK	112 Antelope Tr W Fork	"	Dale Voodak
Steve Heldstab	200 Evers Creek	Whitefish	Steve Heldstab
Rod Samdahl	12 Willowbrook	Whitefish	Rod Samdahl

Received
12-7-15

-----Original Message-----
From: tsmuri@gmail.com [mailto:tsmuri@gmail.com]
Sent: Monday, December 07, 2015 2:40 PM
To: Chuck Stearns <cstearns@cityofwhitefish.org>; John Muhlfeld <jmuhlfeld@riverdesigngroup.net>; jmuhlfeld@cityofwhitefish.org
Subject: Sparrow's Nest

I am writing in support of the Sparrow's Nest. The house in question is in my neighborhood. In fact, it basically is part of my backyard.

I would recommend that some trees be planted and that appropriate shades and curtains be installed as it is easy to see into this house in the evening from our second floor. I suspect that this is the case for other two bedroom units that are on the south side of Copperwood Court.

I would appreciate if you would insure other council members are aware of this correspondence.

Sincerely Yours

Thomas S. Muri
668 Copperwood Court
Whitefish, Mt. 59937

Received at Meeting 12-7-15

Whitefish City Hall - Parking Structure Budget Analysis

12/04/2015

			Notes	Current Esitmate/Cost	
	Current Funds Available	**$14,350,000**			**($518,769)**
Site Preparation		**$1,132,270**		**$ 1,355,040**	
	Hazardous Material Abatement of buildings	$63,560	bid	$ 69,890	
	Existing Building Demolition	$260,000	bid	$ 219,650	
	Soil Improvement System (RAP's)	$305,898	bid	$ 306,000	
costs removed from building construction below	Site Utilities, Excavation & Backfill	$402,300	bid	$ 638,000	inc. spoils removal
	Shoring		bid	$ 121,500	will have additional cos
	Dewatering	$16,565		inc. above	
	Associated CM Costs	$83,947		inc below	
City Hall	SD Phase - Martel Construction Estimate	**$5,284,343**		**$ 5,772,829**	
Assciated CM Costs	SD Phase - Martel Construction Estimate	$4,892,716.00		$ 5,426,479	
	General Liability Insurance	$46,973.21		$ 53,179	
	Performance Bond Cost	$46,973.21		$ 12,852	
	Contractor O&P	$248,790.54		$ 276,750	
	Gross Revenue Tax (GRT) 1%	$48,890.15		$ 3,568	
	Total square Ft.	25,181			
	Cost/Ft.	$210		$229	
Parking Structure		**$5,517,929**		**$ 6,604,029**	
Assciated CM Costs	SD Phase - Martel Construction Estimate	$5,125,815.00		$ 6,210,039	
	General Liability Insurance (.85%)	$47,499.55		$ 60,858	
	Performance Bond Cost (.85%)	$47,499.55		$ 12,852	
	Contractor O&P (4.5%)	$247,191.54		$ 316,712	
	Gross Revenue Tax (GRT) 1% of subtotal	$49,923.00		$ 3,568	
	# Stalls	212			
	Cost per Stall	$26,028		$31,151	
Development Costs/Fees		**$1,446,302**		**$ 1,446,302**	
	Basic Architectural/Structural/Mech/Plumb/Elect	$1,111,702.27			
	Site Survey	$7,500.00			
	Geotech Investigation	$120,000.00			
	Civil Engineering	$42,000.00			
	Traffic Study	$5,100.00			
	Building Commissioning (est)	$30,000.00			
	Construction Testing (est.)	$70,000.00			
	Reimbursable Expenses (est.)	$60,000.00			
Current VE and Alternates Credit				**($409,432.00)**	
Cost Estimate City Hall and Parking		**$13,380,844**		**$ 14,768,769**	
Project Construction Contingency - 5%		**$617,038**		**$100,000**	0.68%

*Costs do not include City Hall relocating costs, lease space etc.