



**CITY COUNCIL WORK SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
1005 BAKER AVENUE
MONDAY, JANUARY 4, 2016
6:00 TO 7:00 PM**

1. Call to Order
2. **6:00 p.m. – CLOSED EXECUTIVE SESSION –**
 - a) Pursuant to Section 2-3-203 (4) M.C.A. - Quarterly litigation update and strategy with City Attorney
3. Adjournment

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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, January 4, 2016, at **7:10 p.m.** at Interim City Hall, 1005 Baker Avenue.

Ordinance numbers start with 16-01. Resolution numbers start with 16-01.

- 1) CALL TO ORDER
- 2) PLEDGE OF ALLEGIANCE
- 3) PRESENTATIONS Update on City Hall/Parking Structure project - Mike Cronquist – Owner’s Representative (p. 20)
- 4) CONSENT AGENDA
 - a) Minutes from the December 7, 2015 Council special session (p. 31)
 - b) Minutes from the December 7, 2015 Council regular meeting (p.33)
 - c) Ordinance No. 15-19; An Ordinance amending Subdivision Regulations in Whitefish City Code Title 12 to amend parkland dedication requirements (Second Reading) (p.55)
 - d) Consideration of an application from Ian Collins for approval of the final plat of the Enna Townhouse Subdivision located at 919 Columbia Avenue, a two lot subdivision (p.63)
- 5) OATHS OF OFFICE AND SEATING OF MAYOR AND COUNCIL
 - a) Administration of ceremonial oath of office to Mayor and three (3) City Councilors – City Attorney
 - b) Election of Deputy Mayor
- 6) 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)
- 7) COMMUNICATIONS FROM VOLUNTEER BOARDS
- 8) 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. 16-____; An Ordinance rezoning approximately 1.177 acres of land located at 2722 and 2424 Carver Bay Road, in Section 14, Township 31 North, Range 22 West, Whitefish, Montana, from County R-1 (Suburban Residential) to City WSR (Suburban Residential District) and adopting findings with respect to such rezone (First Reading) (p. 96)

- b) Ordinance No. 16-____; An Ordinance rezoning approximately 1.391 acres of land located at 1750 and 1770 US Highway 93 West, in Section 35, Township 31 North, Range 22 West, Whitefish, Montana, from County R-1 (Suburban Residential) to City WSR (Suburban Residential District) and adopting findings with respect to such rezone (First Reading) (p. 128)
- c) Consideration of an application from Potter's Field Ministries for a Conditional Use Permit for a "parish house" at 943 East 2nd Street to house up to six ministry staff and interns (p. 169)

9) COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR

- a) Consideration of a request to increase Resort Tax appropriation for Parks and Recreation capital project for a full length basketball court at Memorial Park (p. 194)

10) COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 198)
- b) Other items arising between December 30th and January 4th
- c) Discussion and review of the updated budget spreadsheet for the City Hall/Parking Structure project (p. 205)

11) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Consideration of a letter from Chamber of Commerce requesting TIF Funds for funding of Workforce Housing Needs Assessment and plan (p. 216)
- b) Discussion of upcoming proposed Boundary Line Adjustment for property by Water Treatment Plant to accommodate extension of the Whitefish Trail (p. 217)
- c) Email from Ron and Linda Olson regarding the City Hall/Parking Structure project (p. 218)
- d) Appointments of City Council Members to Various Boards, Commissions, and Committees (p.219)
 - i) Planning Board – City Council Appointment – Frank Sweeney was previous appointee (p. 219)
 - ii) Park Board – Mayor or Mayor's Designee – Frank Sweeney was previous designee; (p. 222)
 - iii) Resort Tax Monitoring Committee – Mayor or Councilor – Andy Feury was previous appointee (p. 226)
 - iv) Montana West Economic Development Board – Previously was Jen Frandsen and Andy Feury was Alternate (p. 230)
 - v) Pedestrian & Bicycle Path Advisory Committee – Mayor or Councilor; previously was Richard Hildner (p. 231)
 - vi) Whitefish Tree Advisory Committee - Mayor or Councilor; previously was Pam Barberis (p. 238)
 - vii) Impact Fee Advisory Committee – City Councilor; previously was Jen Frandsen (p. 242)
 - viii) Flathead County Regional Wastewater Study Committee –previously was Sarah Fitzgerald with Chuck Stearns as staff/alternate (p. 245) (may be able to do away with this appointment)
 - ix) 9-1-1 Administration Board – Previously Chief Dial; alternate was Sarah Fitzgerald; has to be elected officials or designees (p. 246)

- x) Insurance (Medical) Committee – Two City Councilors as Ex-Officio members; previously was Andy Feury and Frank Sweeney (p. 247)
- xi) Whitefish Arts Council – previously was Jen Frandsen (p. 252)
- xii) Real Estate Advisors – Mayor and One Councilor; currently is Mayor Muhlfeld and Andy Feury; (p. 253)
- xiii) Legacy Lands Advisory Committee – Mayor and one Councilor or two Councilors; currently is Richard Hildner (Recreation/Conservation) and Frank Sweeney (Whitefish Trail Operations) (p. 254)
- xiv) City Hall Steering Ad-Hoc Committee – Mayor and One City Councilor; was Mayor Muhlfeld and Councilor Jen Frandsen with Richard Hildner as alternate (p. 255)
- xv) Whitefish Lake Institute Board – one City elected official; previously was Pam Barberis; (p. 260)
- xvi) Mountain Trails Park Master Plan Committee – two City Councilors – previously was Jen Frandsen and Richard Hildner; (p. 261)

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



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

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

Adopted by Resolution 07-09
February 20, 2007

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December 30, 2015

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

Mayor Muhlfeld and City Councilors:

Monday, January 4, 2016 City Council Agenda Report

There will be a work session at 6:00 p.m. for a closed Executive Session for the quarterly litigation update from the City Attorney. Food will be provided.

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

CONSENT AGENDA

- a) Minutes from the December 7, 2015 Council special session (p.31)
- b) Minutes from the December 7, 2015 Council regular meeting (p.33)
- c) Ordinance No. 15-19; An Ordinance amending Subdivision Regulations in Whitefish City Code Title 12 to amend parkland dedication requirements (Second Reading) (p.55)
- d) Consideration of an application from Ian Collins for approval of the final plat of the Enna Townhouse Subdivision located at 919 Columbia Avenue, a two lot subdivision (p.63)

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

Items a and b are administrative matters; item c is a legislative matter; item d is a quasi-judicial matter.

OATHS OF OFFICE AND SEATING OF MAYOR AND COUNCIL

- a) Administration of ceremonial oath of office to Mayor and three (3) City Councilors – City Attorney
- b) Election of Deputy Mayor

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)

COMMUNICATIONS FROM VOLUNTEER BOARDS

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. 16-___**; An Ordinance rezoning approximately 1.177 acres of land located at 2722 and 2424 Carver Bay Road, in Section 14, Township 31 North, Range 22 West, Whitefish, Montana, from County R-1 (Suburban Residential) to City WSR (Suburban Residential District) and adopting findings with respect to such rezone (First Reading) (p.96)

From Planner II Bailey Minnich's transmittal memo:

Summary of Requested Action: This is a request by the City of Whitefish on behalf of Charles and Teresa Grenier for a rezone of two parcels with the zoning designation of County R-1 to City WSR (Suburban Residential District). The property is located at 2422 and 2424 Carver Bay Road and totals 1.177 acres.

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

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

Planning Board Action: The Whitefish City Planning Board met on November 19, 2015 and considered the requested rezone. Following the public hearing, the Planning Board voted 4-0 (unanimously, Ellis, Picoli, and Stein were absent) and recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

There are a full staff report, minutes of the Planning Board meeting and other documents in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering the testimony at the public hearing and the recommendations from the Planning Board and staff, approve an Ordinance rezoning approximately 1.177 acres of land located at 2722 and 2424 Carver Bay Road, in Section 14, Township 31 North, Range 22 West, Whitefish, Montana, from County R-1 (Suburban Residential) to City WSR (Suburban Residential District) and adopting findings with respect to such rezone (First Reading)

This item is a quasi-judicial matter.

- b) Ordinance No. 16-___; An Ordinance rezoning approximately 1.391 acres of land located at 1750 and 1770 US Highway 93 West, in Section 35, Township 31 North, Range 22 West, Whitefish, Montana, from County R-1 (Suburban Residential) to City WSR (Suburban Residential District) and adopting findings with respect to such rezone (First Reading) (p. 128)

From Planner II Bailey Minnich's transmittal memo:

Summary of Requested Action: This is a request by the City of Whitefish on behalf of Philip & Belinda Mitchell for a rezone of two parcels with the zoning designation of County R-1 to City WSR (Suburban Residential District). The property is located at 1750 & 1770 Highway 93 West and totals 1.391 acres.

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

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

Planning Board Action: The Whitefish City Planning Board met on December 17, 2015 and considered the requested rezone. Following the public hearing, the Planning Board voted 6-0 (unanimously, Laidlaw abstained) and recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

There are a full staff report, minutes of the Planning Board meeting and other documents in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering the testimony at the public hearing and the recommendations from the Planning Board and staff, approve an Ordinance rezoning approximately 1.391 acres of land located at 1750 and 1770 US Highway 93 West, in Section 35, Township 31 North, Range 22 West, Whitefish, Montana, from County R-1 (Suburban Residential) to City WSR (Suburban Residential District) and adopting findings with respect to such rezone (First Reading)

This item is a quasi-judicial matter.

- c) Consideration of an application from Potter's Field Ministries for a Conditional Use Permit for a "parish house" at 943 East 2nd Street to house up to six ministry staff and interns (p.169)

From Planning and Building Director Dave Taylor's transmittal memo:

Summary of Requested Action: Potters Field Ministries is requesting a Conditional Use Permit for a Parish House to house six student interns and/or staff members associated with the Potters Field Ministries directly across the street. A Conditional Use Permit is required for churches, including parish houses and parsonages. The property is developed with a single family home and is zoned WR-2 (Two-Family Residential District). The Whitefish Growth Policy designates this property as ‘Urban’. They originally asked for eight people, but reduced that request to six.

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with seven (7) conditions set forth in the attached staff report. The Planning Board amended Condition 5, which we support.

Public Hearing: Mike Rozell, president of Potter’s Field Ministries, and two members of the public spoke at the public hearing on November 19, 2015. Both members of the public had concerns about the rate of turnover and traffic in the neighborhood. 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 the seven (7) conditions as contained in the staff report, with an amendment to Condition No. 5, which now reads, “The house shall only be used for residential purposes and shall not exceed six occupants”, and adopted the staff report as findings of fact.

There are a full staff report, minutes of the Planning Board meeting and other documents in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering the testimony at the public hearing and the recommendations from the Planning Board and staff, approve a Conditional Use Permit for a “parish house” at 943 East 2nd Street to house up to six ministry staff and interns, along with the 7 conditions and the staff report as findings of fact.

This item is a quasi-judicial matter.

COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR

- a) Consideration of a request to increase Resort Tax appropriation for Parks and Recreation capital project for a full length basketball court at Memorial Park (p.194)

From Parks and Recreation Director Maria Butts’ staff report:

Throughout the past year the Parks and Recreation Department has been making various improvements to Memorial Park, including a pickleball court and a new

playground. These projects have been paid for with resort tax funding. During the FY16 budget process, the Resort Tax Monitoring Committee recommended and City Council approved funding for these projects, as well as \$25,000 for resurfacing of the existing basketball courts. As improvements to Memorial Park began to take shape, the Park Board of Commissioners further discussed the overall conceptual plan for Memorial Park.

During the September Park Board meeting, the Park Board moved to form a Memorial Park Steering Committee made up of neighbors, community members, and school district representatives to establish a plan to move forward with improvements to Memorial Park. The steering committee met in October of 2015 and established a plan for the southeastern portion of the park, stating that it should remain as open greenspace with walking paths and one or two gazebos. The steering committee also recommended that the baseball field be dismantled and the basketball court be moved to the southwestern portion of the park.

In November, the Park Board of Commissioners discussed the steering committee's recommendations and approved them, recommending also that the basketball courts become full court basketball courts, as there are no other full court, outdoor basketball courts in the community. The Parks and Recreation Department received a quote of \$60,000 to complete this project, \$35,000 more than the allocated funds to resurface the existing courts. Therefore, the Park Board of Commissioners moved to direct the Parks and Recreation Department Director to request additional resort tax funding for the project.

During the November Resort Tax Monitoring Committee meeting, the Resort Monitoring Tax Committee moved and unanimously approved to recommend additional resort tax funding (cash reserves) be appropriated to complete the full court basketball court project in Memorial Park.

The resort tax fund currently has an ending cash balance of \$195,727 reserved for park improvements. As well, other resort tax projects have come in under projected costs, making available an additional \$5,000, which the department recommends utilizing as a contingency for this project.

The financial requirement to complete this project is an additional \$35,000 of resort tax funds, for a total project cost of \$60,000. The additional funds would come from the budgeted year-end cash reserves of \$195,727 for park improvements. If the additional funding is approved, a budget amendment will only be prepared at year-end if the total expenditures exceed the total appropriations in the fund.

RECOMMENDATION: Staff respectfully recommends the City Council authorize \$35,000 of additional resort tax funding to construct a full court basketball court in the southwestern portion of Memorial Park with a budget amendment to come later in the year.

This item is a legislative matter.

COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p.198)
- b) Other items arising between December 30th and January 4th
- c) Discussion and review of the updated budget spreadsheet for the City Hall/Parking Structure project (p.205)

CURRENT STATUS

As the Project Budget Summary spreadsheet from Ben Tintinger, which is attached to this memo, shows, the current funding gap is \$882,699 (including an increased contingency to \$150,000) although Ben and Martel Construction are continuing to chase down cost savings through value engineering (VE). Most of the cost savings for value engineering are already built into this spreadsheet and most of the acceptable design alternatives (savings) are also built in. The third elevator is put back in pursuant to the City Council vote on 12/7.

Of this \$882,699 gap, \$162,000 of that can come from capitalizing three years of lease revenue from the retail space, borrowing those funds from the TIF fund and repaying that amount back to TIF over three years. While this amount would reduce the gap to \$720,699, it is still a project budget increase over the heretofore approved budget limit of \$14,952,636, which was approved on June 15, 2015.

Much of the public and media has focused on the cost estimates being over budget by \$1,000,000. While that was the case at one time, continued refinement of the costs, continued value engineering, and use of the lease revenue has now reduced the gap to \$720,699. **Please bear in mind that this figure can and will continue to change and could go up or down.**

Also, please remember that this City Hall and Parking Structure is a large and complex project. I put the two percentage cost overruns into the first summary page of the attached spreadsheets. The total cost overrun from the budget is 5.90%, a figure which might not be as alarming or concerning to the media and public. If we use the lease money as new, non-Tax Increment funds, then the percentage of the gap is only 4.82%. A cost overrun of 5%-6%, while unfortunate, is not the crisis that some of the media or public have made it out to be. Also, remember that most of the cost increases are for the Parking Structure, which is an economic development project of the highest priority and it is most appropriate to use additional Tax Increment Funds for such an economic development priority project.

OPTIONS TO GO FORWARD

Some of my ideas on how to go forward are listed below, again not in any priority order. There may be other ideas out there and as I said, Ben Tintinger and Martel Construction are still working on cost savings.

1. Furniture – as difficult as this item is to let go, I think we just need to say that we will buy furniture with any leftover money at the end of the project. If there aren't any leftover funds, then we can re-use the furniture we have stored here at the interim City Hall. Departments then could always budget in future years to buy new furniture as needed (bear in mind that this practice does shift funding of furniture from TIF to the general fund, other property tax supported funds, and Public Works (enterprise funds)).

Dana also suggested that we could put the proceeds of the next surplus property auction when we move out of 1005 Baker Avenue towards the purchase of furniture. While that is possible, it would be ironic as most of the next surplus property auction was going to be furniture that we have at 1005 Baker Avenue, so we would be selling furniture to buy furniture – it is an option, but we are probably better off just retaining and re-using the existing furniture.

2. Furniture leasing – Ben Tintinger suggested we could lease-purchase furniture from a vendor for 0% interest and pay it off over time. That is an option, but again, it does shift costs from TIF to the General Fund, other property tax supported funds, and the Public Works enterprise funds. I am not generally in favor of this approach, but it is an option.
3. Commissioning – Commissioning is the process of having an independent engineer double check the HVAC (heating, ventilating, and air conditioning), mechanical systems, and electrical systems prior to occupancy to make sure they all work well and the HVAC system is balanced and working. The low quote for commissioning is \$28,861 from CTA in Kalispell. We could cut the commissioning of the system (we cut it for the ESC) and save that money, but commissioning does ensure the systems work together after a bunch of different sub-contractors have all put their separate systems in. I would like to keep this amount in the budget, but it is an area we could cut.
4. Reduce Owner's Representative's Hours – Mike Cronquist already estimates that he won't spend \$116,000 of his \$332,130 contract as he is only beginning to work more than half days at the job site. Now is really when the main focus of an Owner's Representative comes in to play – when construction has started. The Mayor and City Council wanted him to start earlier than typical and we did that last spring. When I asked Mike if we could cut him back to 4 hours per day, he did not think that would be enough time for him to oversee the project. But, with his estimated savings shown above, we are saving more than 1/3 of his contract.
5. Things already done – I had things like value engineering, using more of the \$1,000,000 ancillary budget, and cutting some of the interior finishes in a prior list of

mine, but all three of these things have been done, although there are still some value engineering items being researched and priced.

6. Rebid the concrete and rebar – Martel does not think rebidding the concrete and rebar division of work would be effective, but they are investigating whether there could be some savings in the amount of steel rebar going into the concrete. It is somewhat unfair to the bidder (Martel) to re-bid the item as other bidder know what dollar figure to shoot at and be lower.
7. Resort Tax – some members of the public (mostly Heart of Whitefish) have suggested that we redo the priorities of the Resort Tax Fund and allocate somewhere between \$80,000 and \$150,000 of Resort Tax money to the project for the sidewalks, street lights, and street furniture given that the Resort Tax fund paid those costs for the downtown Central Avenue projects. While this option may be somewhat attractive to some as it is new money from a different source, I generally don't favor this option. While it appears that you could still do West 7th Street project next summer, you would likely have to delay the next project, Somers Avenue somewhat. Also, I generally think that there is more money available in the TIF Fund than in the Resort Tax Fund – the controversy is not on the availability of funds, it is on increasing the budget. Also, to re-do the Resort Tax priorities, you would have to go through the Resort Tax Monitoring Committee, then to a public hearing, and then to a City Council vote. The City Council has the most control over the TIF Fund and we don't need to further complicate the process with adding a Resort Tax process to the mix. But, again, it is an option.
8. Impact Fees- Dana said that our current budgeting of City Hall Impact Fees for the project is only budgeting for the FY16 estimate of what we will receive for City Hall Impact Fees. Thus, we probably could also estimate and include another \$60,000 of City Hall Impact Fees toward the project for FY17. Again, this item is still a budget increase, but it does reduce the impacts on the TIF Fund.
9. Delay Depot Park – We can fund the \$720,699 shortfall with additional TIF funds, but it will probably delay most of the remaining work on Depot Park by 2-3 years at least. We could continue to do their gazebo next spring as they have a \$10,000 grant from Rotary that is contingent on construction next spring. If we delayed other aspects of Depot Park Master Plan Phase II (street, sidewalk, and corner hardscaping work), we can fund the gap needed. In my mind, this is the primary and best alternative to consider once the value engineering and other cost savings are maximized.
10. Change the Depot Park Master Plan, keep the building in the park, and lease it out for more revenue – As you know, once the Planning and Building and Parks and Recreation Departments move into the new City Hall so that all Departments other than Public Safety (Police, Fire, Court) are in one building, the Depot Park building is scheduled to be demolished so as to have a fully green space park in downtown. That was the vision of the Depot Park Master Plan committee and was approved by

the City Council. There has been continuing interest in leasing the building from the City, mostly from the Chamber of Commerce and WCVB. Personally, I always felt that we should leave the building up and make it the public restrooms and maybe some other purpose as well, but I let the committee do their work. Again, this option would take some process as the Master Plan would have to be changed (going through the Depot Park Master Plan Committee and the Park Board and then to the City Council), but it could be done. At 2,386 square feet, you might get \$35,000 to \$40,000 per year from the lease.

11. Other options - ????

I hope this memo helps you understand the background of the issues and some of the options. If you have other options that you want to discuss or have other questions, please give me a call.

There are spreadsheets and exhibits in the packet.

NO ACTION IS REQUIRED AT THIS TIME – WE WILL PROBABLY SCHEDULE AN ACTION ITEM ON THE JANUARY 19TH AGENDA.

- 9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS
- a) Consideration of a letter from Chamber of Commerce requesting TIF Funds for funding of Workforce Housing Needs Assessment and plan (p. 216)
 - b) Discussion of upcoming proposed Boundary Line Adjustment for property by Water Treatment Plant to accommodate extension of the Whitefish Trail (p. 217)
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ADJOURNMENT

Sincerely,



Chuck Stearns, City Manager

"Cheat Sheet" for Robert's Rules

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

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PROJECT REVIEW

DATE: 28 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.
- Installation of 157 of 400 rammed aggregate piers

ACTIVITIES IN PROGRESS

- Continuation of RAP work. There are approximately 250 piers remaining – completion of piers, final testing and demobilization expected by the end of January.
- Excavation and site preparation for the start of concrete work. The first foundations are planned for the City Hall area – formwork beginning the week of January 4th.

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 of foundation work.

CONTRACT ACTIVITIES

- Processing and evaluation of items that may be modified or eliminated to save costs is continuing.
- Martel is executing contracts with, and mobilizing subcontractors, for work approved by previous contract amendments.
- A contractor to perform independent construction inspections is being selected, as is a firm to perform final testing and commissioning.

FUTURE SCHEDULED ACTIVITIES

- Continue Site Excavation and Backfill work – prepare PS are for foundation work
- Complete Rammed Aggregate Pier Installation and demob equipment.
- Continue foundation work for the City Hall offices.

- Begin foundation work for the PS.

COMMUNICATIONS TO THE PUBLIC

- Foundation checks and communications with business owners is being done on a weekly basis. So far, there have been no issues.
- There were no press releases for this period.
We anticipate issuing a release at the beginning of concrete work to address increase in truck traffic and site activities.
- Relations and communications with the local business owners, and the community in general, remains positive.

AREAS OF CONCERN

- None at this time.

Mike Cronquist
Owners Representative

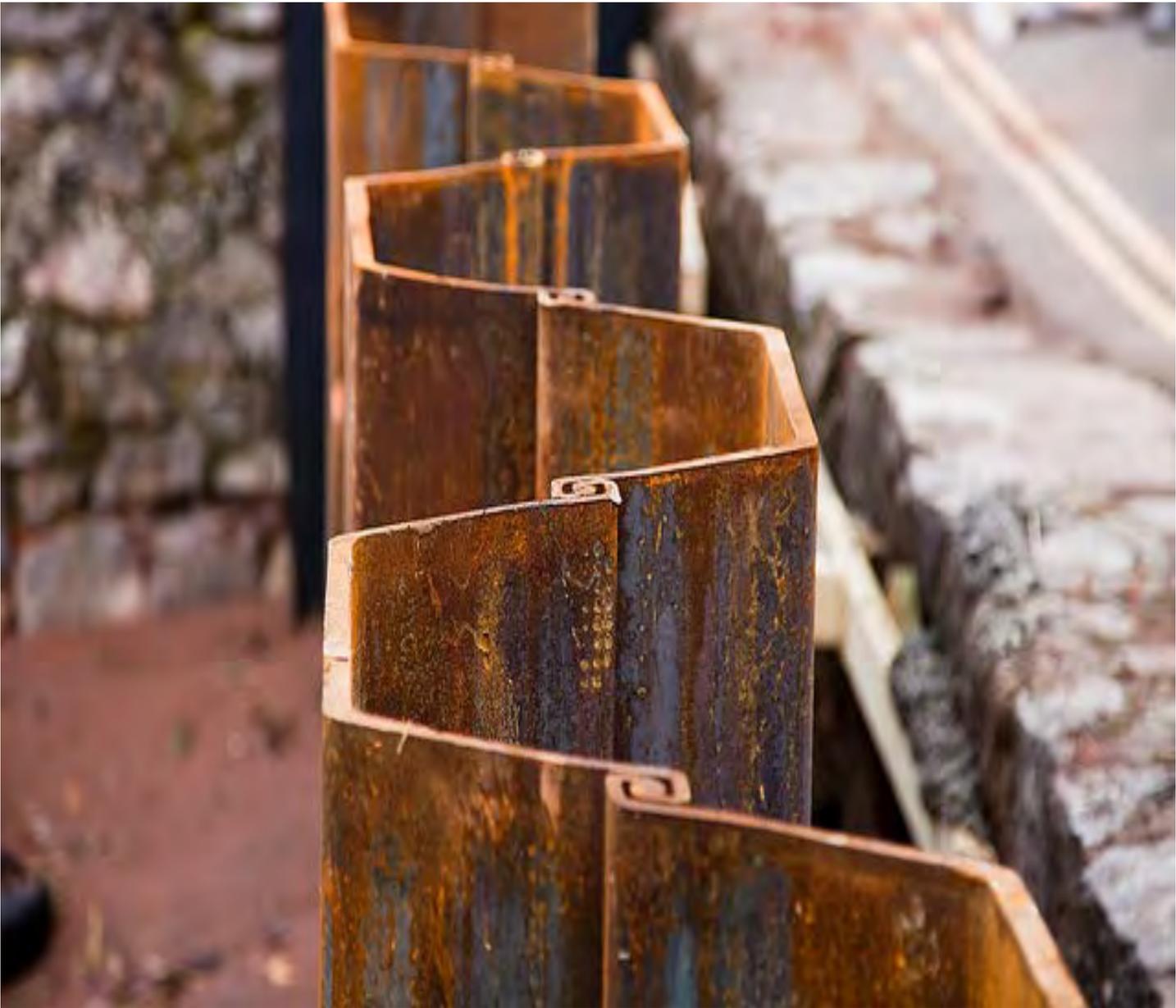
SHEET PILING AND RAMMED AGGREGATE PIER INSTALLATION WORK.

Sheet piling:

Sheet piling is used as a **temporary supportive wall** to keep soft or unstable soils from collapsing into an adjacent excavation. Once the work within the excavation is completed and the hole backfilled, the sheets are removed for reuse on other jobsites, although, the sheet piles are sometimes left in place as a permanent retaining wall.



This is the type of sheet piling used on our Project. Notice that it is interlocking.



Typical shot of sheet piling as installed



This is a Vibratory Head or *Hammer* used to install and withdraw the individual sheets. It weighs around 8000lbs. The head has jaws that grip the sheets. The weight plus the vibration drives the piles into the ground.





Sheet Piling being placed on Our Project

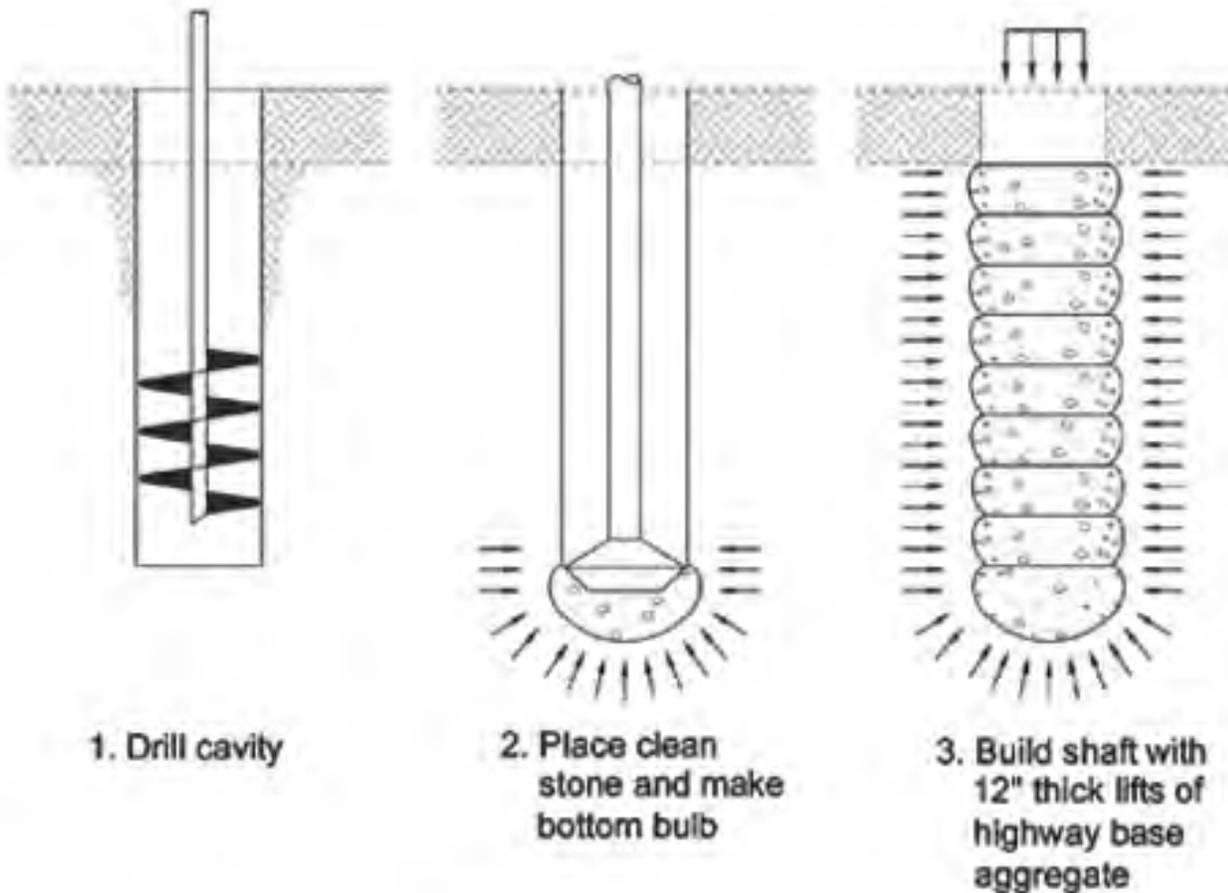
Rammed Aggregate Piers

Rammed Aggregate Piers are a proprietary ground improvement system that uses compacted gravel to create stiff pier elements.

Piers are installed by drilling 24 – 36 inch holes (in our case, 30”) into the insitu soils, and ramming thin lifts of engineered aggregates into the holes to form high density columns.

The first lift is generally open graded, and is used to form a bulb at the bottom of the hole to act as a stabilized layer for the compaction of subsequent lifts. A beveled tamper installed on an excavator compacts the fill material.

(Source: The Collin Group)





Cross – sectional view of Pier installation and typical application.



Surface view of installed Piers

Views of Pier installation on our Project





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WHITEFISH CITY COUNCIL MINUTES
DECEMBER 7, 2015
SPECIAL SESSION, 5:00 PM

1. Call to Order

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

2. Interviews

Interviews were conducted with Planning Board applicants Steve Qunell, Melissa Picoli, Mitchell Drachman, and Scott Sorensen; with Architectural Review Committee applicants Mitchell Drachman, Eleanor Gray and John Repke; with Board of Adjustment applicants Scott Sorensen and Mike Kelley; with Lake & Lakeshore Protection Committee applicant Brian Sullivan; and with Whitefish Housing Authority applicant John Middleton.

3. Public Comment

None

4. Appointments

Councilor Feury made a motion, second by Councilor Frandsen, to appoint Brian Sullivan to the Lake & Lakeshore Protection Committee for the remainder of a term ending 12-31-17. The motion passed unanimously.

Councilor Feury made a motion, second by Councilor Barberis, to appoint Mike Kelley for another term on the Board of Adjustment for a term ending 12-31-18. The motion passed unanimously.

Councilor Sweeney made a motion, second by Councilor Hildner, to appoint Steve Qunell to the Board of Adjustment for a term ending 12-31-18. The motion passed unanimously.

Councilor Sweeney made a motion, second by Councilor Feury, to appoint Scott Sorensen for another term on the Board of Adjustment for a term ending 12-31-18. The motion passed unanimously.

Councilor Sweeney made a motion, second by Councilor Hildner, to appoint John Repke to the Architectural Review Committee to fill the remainder of a term ending 5-31-17. The motion passed unanimously.

Councilor Sweeney made a motion, second by Councilor Feury, to appoint Melissa Picoli to another term on the Planning Board for a term ending 12-31-17. The motion passed unanimously.

Mayor Muhlfeld appointed John Middleton for another term on the Whitefish Housing Authority Board for a term ending 12-31-20. Councilor Sweeney made a motion, second by Councilor Frandsen, to affirm the appointment. The motion passed unanimously.

Mayor Muhlfeld appointed Ralph Ammondson for another term on the Whitefish Housing Authority Board as a resident, for a term expiring 12-31-17. Councilor Hildner made a motion, second by Councilor Frandsen, to affirm the appointment. The motion passed unanimously.

Members of the Council and the Mayor noted their appreciation to all those who applied to volunteer for Committees and Boards, and hoped those who were not appointed remain interested and would continue to look for openings where they may serve.

5. Adjournment

Mayor Muhlfeld adjourned the Special Session at 6:30 p.m.

Mayor John M. Muhlfeld

Attest:

Necile Lorang, City Clerk

WHITEFISH CITY COUNCIL
DECEMBER 7, 2015
7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Hildner, Feury, Barberis, Frandsen, and Sweeney. Councilor Fitzgerald was absent. 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, Police Chief Dial, Fire Chief Page, Fire Marshal Kennelly, Senior Planner Compton Ring, Planner II Minnich, and Assistant City Clerk Woodbeck. Approximately 60 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Chris Schustrom to lead the audience in the Pledge of Allegiance.

3) PRESENTATIONS

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

Mayor Muhlfeld read the Proclamation declaring Friday, April 29, 2016 as Arbor Day and encouraged citizens to participate in appropriate activities and to take advantage of the benefits of the parks and other natural areas in our community.

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)

Ed Lieser, 1355 Lion Mountain Drive, said he is a member of the Fire Service Area Board and he spoke in support of the Agreement that is Agenda Item 8c. The proposed 5-year Agreement follows several months of negotiations and represents benefits to both residents inside the City Limits and residents outside the City Limits in the Rural Fire Service Area. Negotiations were serious, intense, and productive to come up with an Agreement that serves and benefits all parties. He said he would stay and be available during Council's consideration of this item to answer any questions. He thanked the Council for their time.

Heidi Van Everen, 4 Pine Place, had comments regarding the Haskill Basin Conservation Easement that the Council will be considering over the next few months including a public hearing on January 19th. She thanked the City for their support and participation in conservation and recreation within the community. The Whitefish Trail and Spencer Mountain Recreation Area have been successful projects the City has partnered in; successful because of the hard work towards finding solutions through the cooperation of the City, the community, and the DNRC. The Haskill Basin Conservation Easement will need the City and its partners to again seek creative solutions. She is concerned that the Department of Fish, Wildlife and Parks (FWP) will not be the responsible agency supporting the public's right of access to these lands; which they make clear in a published notice on November 25th stating they are responsible for the fish, the wildlife, and the general conservation values of the area. She encouraged the City to support community recreation interests actively now instead of waiting for the January 19th public hearing. She said there are some

perceived conflicting issues within the community that need to be addressed before that date. She said the project is important to the community, the economy, and this wonderful place, and she thanked the Council.

Noah Bodman, 269 Hare Trail, a board member of Flathead Fat Tires (FFT), a local mountain bike advocacy group; said his comments will be toward the Haskill Basin Conservation Easement which both he personally and the FFT support. The Easement will be protection for this land next to the City. He said there are some issues in the recreation component of the Easement and he said he has spoken regarding these issues in various public forums. To clarify, their group is not asking for specific authorization of trails, nor do they condone illegal trail-building activity that previously occurred. But, moving forward, they are hoping for solutions for continued recreation on the lands. The public has enjoyed recreation on these lands in the past, and they anticipate the continued and increased use; and thanks to Stoltze for allowing the public to recreate on their land. All indications are that Stoltze will continue to be accommodating and a good neighbor. Bodman said the Easement, as now drafted, does not provide a foundation addressing that continued and increased recreational use or related management issues. He said those issues should be reviewed and addressed before the January 19th public hearing; solutions would minimize future conflicts and benefit all parties. He thanked the Council for their consideration.

Vik Keuylian, PO Box 5270 in Whitefish, said he is the project manager for The Mix in Whitefish. He requested reconsideration of a denial of a zone change for their properties on Baker Avenue that the Council did not approve at their last meeting. He showed maps of the land and said they purchased the lots of 1830 through 1848 Baker Avenue in 2014 for their offices. At that time the former Master Plumbing building was posted for lease. Their plan was to put in a mechanic's shop but received many requests for retail space, arts studio and office space so they decided against a mechanic's shop. After reconsidering possibilities, they decided to 'build to suit' to insure success. They have tenants and buyers for all three buildings and a buyer for a hotel; one who owns several other boutique hotels. As designed, this project should provide 65 new jobs and bring in over \$7M to the economy including thousands of dollars in permits and hookup fees; with continued revenue generated over time. They heard requests for low-income housing but after meeting with the SBA and local banks they feel sure they can provide low-cost opportunities for relocation of small local businesses, including space for industrial uses. They did not receive any complaints from adjacent land owners regarding the hotel or a restaurant. They engaged the opinion from outside law firms who disagree with the merit of CBF comments; and Mr. Keuylian said he like to know the City Attorney's opinion. He pointed out that, according to the CBF website, none of their board members reside in the City of Whitefish. He said his group does; the applicant he represents owns at least 15 other properties in Whitefish including four homes. He asked for a reconsideration to place the item back on a January or February agenda giving time for them to work with Council and Staff for a better understanding of their project. In addition, he showed a drawing of their planned improvements for the Moore Cabinet building in comparison to a picture of the building as it stands currently; he said it would better the community. He said he has the support of local businesses for this project, and hoped the Council would consider his request for a reconsideration.

Mayor Muhlfeld clarified the procedure for reconsideration.

Dave Grady, 785 Northwoods Drive, said he wanted to address the Haskill Basin Conservation Easement. He said he lives right across the street from what has become, over time, the defacto access to Haskill Basin, although he knows of other accesses as well. He has been reading the comments between FWP and Stoltze and FFT regarding management of the recreation component. Historically, he said, Stoltze had a general hands-off approach, which has worked

although there are issues regarding access points he said. His concern that the trend is going forward making this more of an official recreational area and if management issues are not addressed it could lead to future problems at access points and within the Basin. He is not aware that the City's stance on the recreational aspects of the Easement has been issued; and whether or not the City will weigh in on these management issues. He thought it important information to know prior to the January 19th hearing, his concerns are as a user of the land and a neighbor to the land. He hopes that all parties can come to an agreement.

Jeff Russell, 235 W. 6th Street, is the general manager and partner in the Great Northern Pasta Company. Five years ago they started in the Railway District and in a couple years outgrew that space and moved to their current location at 235 Baker Avenue. They have been there about three years; it has worked out well for them. He and their staff both live and work in Whitefish. He said his comments will address the zoning request for The Mix project on Baker Avenue because it impacts his business. Again they are looking for a location where they can continue to grow as they are outgrowing their current location. After looking around for options in Whitefish and not finding anything affordable they increased their search to greater Flathead areas; but then met the Keuylians and learned of their proposal for a project on south Baker Avenue. This project seems to offer the opportunity for their Pasta Company to find affordable space in Whitefish to expand their business, and they have been working on development plans toward that end. However, the Council's denial of the zone change does impact their business so he also requested the Council give the project reconsideration. He showed a diagram with a brief description of their plans.

Joy Keuylian, PO Box 5270 in Whitefish, said her comments would be towards the zoning request for The Mix that was denied at the Council's last meeting; and said there were some misconceptions she would like to clarify. At the last meeting it was stated the project was adjacent to a dump; but it isn't. The property is adjacent to a former gravel pit that is undergoing reclamation at this time. She has been back on that land and there hasn't been any dumping there. She said she'd be happy to meet anybody out there if they would like to take a look. Other adjacent uses; 1840 Baker Avenue – formerly Master Plumbing, is now the Montana Shirt Company and Sweet Peaks has their production kitchen in the back of the building. Their group owned that building and recently spent over \$300,000 on a major renovation. The remodel turned out so well that the Montana Shirt Company wanted to purchase it. The Mix purposely chose this building for their first upgrade of the area to show their standards for future improvements there. For 3 years they have been working on their vision for this land; working with local business members, professionals, City Staff of several departments and the Architectural Review Committee. Their next improvement project is the remodel of the former Moore Cabinet Shop on 1820 and 1822 Baker Avenue which they can do upon approval of their zone-change request. She said it would be a great improvement over the junk-car yard that is north on Baker Avenue. They have businesses interested if the zone change is approved; the Great Northern Pasta Company and a new brewery from out of state; and the these businesses will probably look for locations in other towns if they can't relocate here. The proposed boutique hotel was the idea of another new business that would like to move into The Mix; as accommodations for their clients and guests. Planning for The Mix project has been ongoing for three years, following all steps and procedures as required. She said if the Council would reconsider this request and it does get approved this area will become a productive property with new or improved older buildings, attracting small businesses like the current occupants – The Montana Shirt Company and Sweet Peaks, it will create jobs and opportunities for Whitefish residents and attract visitors from out of town. It will be an improvement to this part of Baker Avenue and hopefully creates a domino effect for adjacent properties to take pride in ownership and upgrade as well. The improvements will be a benefit to the community and to their investment in this property. The alternative, without a zone change, is to use the property for storage yard as that is an approved use

in the current zoning. They have collected over 750 signatures over the last few day from people supporting their project as they have envisioned it. She concluded with her request of reconsideration and submitted the petition to the City Clerk for the public record. (The petition is appended to the 12-7-15 packet as After Packet Materials).

Mayre Flowers, Citizens for a Better Flathead (CBF), 35 4th Street West in Kalispell, said she was taking this opportunity to remind everyone of the two hearings to be held by the Flathead County Commissioners on December 17, 2015, at 10:30 am and 11:00 am 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 the County Zoning Regulations and to consider changes the creation of a new zoning district to be known as the Rural Whitefish Zoning District regarding lands that are generally a two-mile area around Whitefish. She said the City had already commented along with many others at the September Planning Board meeting. The Planning Board did make some changes following their September hearing, and have now submitted their recommendation to the Commissioners. The meetings on December 17th will be a new opportunity to speak on the final recommendations. Ms. Flowers distributed copies of the public notice of those meetings and maps and texts regarding the changes. She pointed out the areas in green on the maps that were currently zoned Whitefish Agricultural with a minimum 15 acres and the County is proposing to zone them down to a 10-acre minimum (SAG 10). In addition, the County is proposing to rezone the properties within the Highway 93 South Corridor that has been zoned Whitefish B-2 to a County zone that will allow more retail uses. Another area she called attention to were lands along Karrow Avenue that have historically been zoned for 10-acre and 20-acre lots may be downzoned to allow 2.5-acre and/or 5.0-acre lots. A chart is included showing changes from lot sizes between City and County zoning. Included in the information she distributed were the revised Staff Reports submitted by the County Planning Board to the County Commissioners. She suggested this information be posted on the City's website for the public's information. (The information distributed to the Council is appended to the 12-7-15 packet as After Packet Materials).

Ms. Flowers commented, as follow-up to other public comment made tonight, regarding the zoning issue at the south end of Baker Avenue; CBF's concern on the issue is the zoning tool being utilized to implement that project. CBF's position is that there are other proper zoning tools to use; CBF's position is that the tool the City proposed to use in this instance could be used elsewhere in the City and would set a precedent. She said to work with the developer but with the appropriate tools for this development. She thanked the Council.

Brad Lampson, 1022 Horseman's Way, Columbia Falls, requested, in regards to the Haskill Basin Easement, that the City works with FWP and Stoltze to include the user groups; i.e. Legacy Partners, FFT, and others, to come up with an understanding and solutions to benefit all the different recreational users groups in the area. The purpose is to secure the land for future public use.

Rhonda Fitzgerald, 412 Lupfer Avenue, had comments regarding the City Hall/Parking Structure project's budget consideration in Agenda Item 8e. She said she agrees with the Council and their intent to keep the total budget for the total project under \$14.9M, but with that in mind she thought a couple essential elements were under consideration to be cut and she thought it is premature to do so. She felt there were opportunities for funding options and costs still to be considered. For her, two essential elements are the part of the canopies on Baker Avenue from the retail space to City Hall (150 feet), and the SW Elevator. She said if all Baker Avenue has the canopy the advantages are; it makes it pedestrian friendly, grows the downtown district to the west, creates activity, and enhances the appearance of the western elevation of the building because, without it, it will look like a parking garage. And in all the public meetings over the years, the

community has said it does not want to build an ugly parking garage in the middle of our downtown. The other awnings downtown create an invitation to pedestrians and that stretch of Baker Avenue should have the awnings as well. 150 feet of canopy is \$53,000 and she hopes the Council keeps it in the project. The SW Elevator is essential to the function of the parking garage. This parking garage will serve a lot of businesses to the west of Baker Avenue and south of City Hall, and easy to get to accesses are essential to retail parkers; and for those drivers who are leasing parking spaces this will be their safe and lit access to their cars especially if they work a late shift and have to get to their cars in the dark. These are key pieces to the function of the parking garage and need to be kept in the project to make it effective for everyone. The SW Elevator is not a luxury, but necessary for the function of a retail parking structure. She thought funding options to be considered should include value engineering proposals not yet identified within the project, use the contingency, make use of unused ancillary costs already in the budget, the use of Resort Tax for sidewalks and streetscape if approved by that advisory committee, and possibly other resources. Possibly the parking leases revenue could be considered for helping the project move forward. It has been suggested that the elevator shaft will be constructed and the elevator added later but she thought that would be at an even higher expense later than at the time of construction. She said it is early in the project and felt there was time for more consideration; several things have already been cut out of this building that would have been nice to have, but these two things she has just discussed are essential. She thanked the Council.

Chris Schustrom, 504 Spokane Avenue, said he also had comments regarding Agenda item 8e, changes to the budget level for the City Hall/Parking Structure project. The Heart of Whitefish participated in the Parking SID working group and he personally met with over 65 business informing them about the parking structure project and they all confirmed their support for a retail parking structure downtown. A key element of a retail parking structure are the two elevators, one at the northeast corner off of East First Street and one at the southwest corner off Baker Avenue. He said in comparison, the cost of one elevator compared to the effective cost of loss of accessibility to the parking structure by at least half of the business district; some of those businesses who had confirmed their support may reconsider and not be in support, and reconsider whether or not to lease parking spaces in the structure. In addition, he said, to add to Rhonda's comments regarding the awnings; within the zoning regulations for downtown it encourages active retail edges that contribute to a vibrant downtown. A canopy over the entire length of the Baker Avenue elevation would be that active edge connecting the City Hall/Parking Structure to the north and south on Baker and to the west into the Railway District. If the canopy and streetscape and landscaping is deleted – that connectivity will be lost as well. Both of these elements, if cut, would be costly to the overall effectiveness of the project. He thanked the Council for the opportunity to comment.

5) COMMUNICATIONS FROM VOLUNTEER BOARDS – None.

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 session (p. 60)

b) Resolution No. 15-52; 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)

RESOLUTION NO. 15-52

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.

S/S John M. Muhlfeld, Mayor

ATTEST:

S/S Necile Lorang, City Clerk

- c) Resolution No. 15-53; A Resolution affirming the denial of a zone change for properties identified as 1820, 1822, 1824, 1830, 1840, 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 (#WOP-15-W36) at 830 Dakota Avenue for repair of damages existing boat ramp within the Lakeshore Protection Zone subject to 17 conditions (p. 116)**

Councilor Hildner requested Item 6d. be removed from the Consent Agenda. Mayor Muhlfeld said that doesn't require a second and asked if Councilor Hildner would like to address it separately at this time.

Councilor Hildner made a motion, second by Councilor Sweeney, to amend Recommended Conditions of Approval (page 92): Condition #1 to read "This permit is valid until June 30, 2016 (instead of for a period of one year from the date of issuance.) Amend the first sentence of Condition #8 to read "Any existing or disturbed areas inside the lakeshore zone 'shall' (instead of 'may') be revegetated. Add a Condition #21 to read: "No signs are permitted within 20 feet of the high water elevation per Lakeshore Regulation §13-2-3(N), and including that the current "No Trespassing" sign currently posted in the lakeshore protection zone must be removed. Add a Condition #22 to read: "The permittee must comply with all applicable provisions of the Whitefish Water Quality Ordinance."

Staff, Planner Minnich, clarified some of the language of Councilor Hildner's amendments; and Council Hildner said the amendments were made to hold the applicant accountable for violations in the lakeshore protection zone. (A supplemental memo from Planner Minnich and pictures of the area distributed to the Council is appended to the 12-7-15 packet as After Packet Materials).

The amendments were approved unanimously.

Councilor Hildner made a motion, second by Councilor Sweeney, to approve the Consent Agenda as amended above.

Councilor Frandsen noted that during public comment there had been a request for the Council to reconsider their denial of a zone change for properties identified as 1820, 1822, 1824, 1830, 1840, 1842, 1844 and 1848 Baker Avenue, and for public clarification she stated the subject property is currently zoned WI (Industrial and Warehousing) which allows for the majority of uses proposed by the applicant, including manufacturing. Each Councilor gives hours of preparation of study and careful consideration to packet information, then attended the meeting; and following Staff's presentation and the Public Hearing, considered that application as a whole and unanimously voted for the denial of the application.

Manager Stearns clarified the numbering of the Resolutions as Resolution Nos 15-50 and 15-51 had to be preassigned to two resolutions that follow later in this agenda; the Resolutions in the Consent Agenda start with Resolution Number 15-52, followed by 15-53.

The motion passed unanimously.

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 (WCUP 15-14) (p. 134) (CD 56:10)**

Senior Planner Compton-Ring reported the Council voted at their November 16, 2015 to postpone their action to this meeting so staff could update the Staff Report and Findings of Fact to reflect current zoning. Staff requested an updated site plan (packet page 192) with uses removed that are not allowed in the current zoning (the applicant's original site plan as seen packet page 162 was submitted based on a pending zone change application that was denied). The Staff Report still includes the Planning Board's recommendation for approval. The revised staff report reflects the deletion of a proposed hotel and states there will be a variety of commercial and industrial uses consistent with the existent zoning. Six additional parking spaces have been added within the updated site plan. The revised staff report updates the total acres of the project to 1.74 acres and the section, township, and range have been corrected. The staff report includes information on the 2013 zone change because there were some questions about it at the last meeting, but it is not really related to this application; which is a request for a conditional use permit for multiple buildings. The zoning administrator has determined that the applicant has been proceeding diligently toward completion of the project by obtaining permits which are listed on page 145 in the packet. The traffic study is included on packet page 168. Based on these revisions and additional information, staff recommends approval of the application.

Mayor Muhlfield opened the public hearing.

Vik Keuylian, PO Box 5270 in Whitefish, said he is the project manager for The Mix on Baker Avenue and is here tonight for this presentation instead of Eric Mulcahy from Sands Surveying who had a conflicting meeting. There is a letter from Eric included in the packet on page 201. Their revised site plan is based on comments from the Council from the November 16th meeting. He described the revised site plan (packet page 192) saying the hotel has been removed replaced by an office building, and the removal of the street parking on Baker Avenue to allow for future street and boulevard improvements; sidewalks have been discussed. Their request remains the same – is it an application for a conditional use permit to have four buildings.

Mayre Flowers, Citizens for a Better Flathead (CBF), 35 4th Street West in Kalispell, said she just distributed additional comments to her comments already included in the packet. These additional comments included 10 points but to save time she would skip over some of them. (1) CBF believes this to be an infill project, and CBF supports quality infill development; but CBF did not believe that Whitefish Zoning Regulations supported the type of zone change requested by this applicant (on November 16, 2015) and makes the conditional use request before the Council tonight problematic. CBF believes the concept of blended zoning as proposed for this development is not supported by city zoning regulations and therefore illegal. (2) CBF asks the city and developer to continue to work with zoning regulations because CBF agrees this site would benefit from redevelopment. (5) CBF listed the possible multiple principle uses allowed per the zone change that was done in 2013, they are WB-2 uses. However, CBF believes that by the Council approving Resolution 15-53 earlier tonight disallows these multiple principle uses from WB-2. (6) CBF believes that Finding 2 in the revised staff report should be removed as CBF believes it is an unsupported statement. (7) CBF believes that Finding 5 should include sidewalks as a condition of approval. (8) CBF questions if striping on the parking lot surfaces meets city standards regarding accommodating pedestrians within a multiple use project. (9) Condition of Approval #1 in the staff

report refers to a site plan dated September 1, 2015 but the revised site plan presented by the applicant tonight is dated November 30, 2015, so the revised site plan date, whatever it is, should be stated when adopted. (10) The size and boundary of the parcel is confusing and should be clarified. (A copy of the written comments from CBF that were distributed to the Council are appended to the 12-7-15 packet as After Packet Materials).

Don Spivey, 117 Park Knoll Lane, said he still cares very much about Whitefish Zoning; he has reviewed and concurs with the comments from Mayre Flowers.

Vik Keuylian, PO Box 5270 in Whitefish, spoke responding to comments of Mayre Flowers that she continually calls the project illegal. He said if it is illegal they don't want to do it and he asked if the City Attorney thought it was illegal. He disagreed with Flowers that the zoning decision of 2013, precludes the project utilizing any of the 15 or so permitted uses in the WI Zone; and said her comments confuses the public. Councilor Hildner requested that all public comment remain respectful and follow the Principles for Civil Dialogue that are printed and attached to each Council Agenda. Mr. Keuylian said he had completed his comments.

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

Councilor Hildner made a motion, second by Councilor Sweeney, to add Condition #13 to require sidewalks constructed to City Standards. The motion passed unanimously.

Mayor Muhlfeld asked City Attorney Jacobs if she had any response or concerns with comments from CBF. Attorney Jacobs said she agreed with Planner Compton-Ring that the conditional use permit is separate from the zoning application that was denied; this application is for the conditional use permit and not the underlying zoning. Clarification was asked for and it was clarified that the revised staff report contains the correct acreage of 1.74 acres (due to a recent annexation of a strip of part of the land), and that it is correctly stated as land in Section 1, Township 30N, Range 22W.

Councilor Hildner made a motion, second by Councilor Sweeney, to amend Condition #1 to change the date of the plans from September 1, 2015 to November 30, 2015 as shown specifically on page 192 in the December 7, 2015 packet. The amendment passed unanimously.

Councilor Feury made a motion, second by Councilor Frandsen, to approve WCUP 15-14 according to the amended Staff Report and Findings of Fact, subject to Conditions of Approval, as recommended by the Whitefish Planning Board, added to and amended by the Council, now thirteen (13) Conditions of Approval. The motion passed unanimously.

- b) Ordinance No. 15-19; An Ordinance amending Subdivision Regulations in Whitefish City Code Title 12 to amend parkland dedication requirements (First Reading) (WSUB 15-01) (p. 225) (CD 1:19:52)**

Planner Compton-Ring reported this is a culmination of work done by staff per Council direction in February 2015 to review how parkland dedication is handled for small urban infill projects, regarding the Cash in Lieu calculations instead of parkland dedication. Staff met several times with the Park Board for their considerations and recommendations and the Council was updated on the proposed amendments at an October work session. The Planning Board had a work session and two public hearings on these amendments; and their final recommendation of approval comes forward to the Council from the November 19, 2015 Planning Board Meeting. The proposed amendments base calculations for Cash in Lieu on the fair market value, 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. A provision is proposed for agricultural or forest lands requiring the applicant submit a private appraisal to determine the fair market value. There are still concerns about equity between projects with similar density with different ownership patterns (i.e., condominiums or rental units versus townhouses). Condominiums are not required to have subdivision review. Open space requirement for those projects that do not fall under subdivision review is still on the worklist for the Planning Department. The recommendation deletes "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 .03 acres per lot." And replaces it with:

1. Eleven percent (11%) of the net acreage of the subdivision to be divided into lots one-half (1/2) acre and smaller;
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;
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;
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.

These are the standards the City used prior to the change in 2009, and these standards (as listed above) are from State Law. The standard in No. 1 above, the 11% for lots one-half (1/2) acres and smaller, is the lot-size that the majority of new subdivided lands are in town; so it treats all of those the same way. The amendments delete references to condominiums as State Law has changed. The amendments add an option for a micropark along with design standards and addresses the use of the fair market value for residential lands as determined by the State of Montana Department of Revenue or determination of the fair market value for agricultural and forest lands by private appraisal. Planner Compton-Ring described the new concept of microparks. The Park Board discourages dedication of parkland of less than one acre, unless the land is immediately adjacent to an existing or planned future park in order to allow the city to maintain the park in an efficient and cost effective way. But, if appropriate and pre-approved by the Parks and Recreation Department and Park Board, a developer can use this option to provide a small public space that can 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. Microparks would be appropriate when adjacent to existing or planned future park or public area.

Mayor Muhlfeld opened the public hearing.

Mark Van Everen, 4 Pine Place, has a current townhome project that is shown as one of the examples on the comparison chart on page 264 in the packet. He spoke in opposition to the proposed amendments as he views them as an inadequate solution. His project has been completed and he has received his certificate of occupancy, however the indecision on the park land and open space requirements still hangs over his project. His project is an infill project. With these proposed amendments it would cost him about \$2400/door; his is a 3-unit project and the total cost would be \$7,160.00. The examples on that comparison chart show that a 4-unit project pays about \$1800/door and a 20-unit project pays about \$550/door. How can these fees be congruent with the Master Plan's policy that the City supports infill projects? These examples show that the smallest lot/project is paying the highest fees per door and the largest is paying the least. He supports using the State's market value to determine the fees but disagrees with staff's recommendation to further convert the total into a per-acre value, he didn't think that was supported by State Law. Staff's conversion to a per-acre value creates inequities. He proposed a simpler solution; charge small project development (on lots one acre

or less) a flat fee of \$500/door that is tied to an inflation index. He said that is simple, equitable, it makes sense and supports infill projects. He thanked the Council and Staff for all their hard work and time spent on seeking a solution to this dilemma.

There being no further public comment, the Mayor closed the public hearing and turned the matter over to the Council for their consideration. Discussion among Council regarding options and equities followed. Zoning was discussed; lands zoned for denser development have the potential for developers to build to meet the high density and yield profits accordingly. Planner Compton-Ring reminded the Council that the standard in State Law bases calculation on the fair market value which is determined by the State; and lands across the valley are valued differently depending on their location.

Councilor Sweeney made a motion, second by Councilor Feury, to approve Ordinance No. 15-19; An Ordinance amending Subdivision Regulations in Whitefish City Code Title 12 to amend parkland dedication requirements, first reading. The vote was three (3) votes for the motion and two (2) votes against the motion (Councilors Frandsen and Barberis voted in opposition).

Manager Stearns pointed out that Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC), as noted on the agenda printed under Public Hearings. Mayor Muhlfeld agreed and said the motion to approve Ordinance 15-19 therefore failed. Councilor Hildner said the result would be to revert back to the current standard of cash or land dedication equal to 0.03 acres per lot and the Mayor agreed. Discussion followed among Council the reasoning for the votes in opposition. Councilor Frandsen explained that to her it was not equitable to ask developers of smaller lots, that are trying to do infill projects which the City does encourage, to pay a fee of 11% of the net acreage and at the same time only require 2.5% of the net acreage from developers of larger projects who are dividing properties into between 3 and 5 acre lots. Councilor Sweeney said going back to the 0.03 per lot doesn't lessen the burden so Councilor Frandsen asked if the percentages couldn't be revisited. Planner Compton-Ring said the percentages were straight out of State Law.

Councilor Frandsen made a motion, second by Councilor Barberis, to reconsider Agenda Item 7b, Ordinance 15-19. The motion to reconsider passed unanimously.

Councilor Hildner made a motion, second by Councilor Feury, to reaffirm the original motion as proposed by Councilor Sweeney, to approve Ordinance No. 15-19; An Ordinance amending Subdivision Regulations in Whitefish City Code Title 12 to amend parkland dedication requirements, first reading. The motion passed unanimously.

- 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 than 7,500 square feet at 214 E. 2nd Street (WCUP 15-17) (p. 266) (CD 1:48:46)**

Planner Compton-Ring reported this request is for a conditional use permit for a three-story multiuse building that will include office/retail space and two live-work units on the first floor and thirteen (13) residential units within the 2nd and 3rd floors. The required parking is provided both by enclosed garages and carports. The frontage along E 2nd Street has already been improved to standards within the Highway 93 West improvement project; and this project includes improvement of the O'Brien Avenue frontage to standards. The project is proposed for land that is currently vacant and surrounded by both residential and commercial uses. Staff found the project to be in compliance with the Whitefish City-County Growth Policy and Zoning Regulations. The project was publically noticed

as required by law and as of this public hearing no written comments have been received. The project does require an engineered stormwater plan; which is required as part of the conditions of approval. Staff recommends approval subject to eleven (11) Conditions of Approval and she reviewed those. The Planning Board held a public hearing on November 19, 2015 to consider the application; draft minutes of that meeting are attached in the packet. During their consideration the Board had discussion regarding environmental assessments performed on the property by Applied Water Consultants; and the Board asked that report be submitted for the record. That report is included in the tonight's packet (see pages 309 – 402). Applied Water Consultants have submitted construction suggestions pursuant to their environmental study, and a summary of the construction suggestions from Applied Water Consulting LLC dated December 4, 2015 was distributed to the Council tonight. (Appended to the 12-7-15 Packet as After Packet Materials). The Planning Board has forward a recommendation of approval to the Council, subject to the eleven (11) Conditions of Approval as found in the staff report.

Mayor Muhlfeld opened the public hearing.

Bruce Boody, Landscape Architect, 301 E. 2nd Street, addressed the Council as the Site Planner for this project saying they are also working with the Consultant Roger Noble, Applied Water Consultants, and RPA Engineers. Bruce said the development team is basically in agreement with all the Findings of Facts in the Staff Report and the Conditions of Approval, and would be happy to answer any questions if there are any.

Ken Huff, Solus Architecture, 1032 Klondike Loop in Somers, spoke to the Council as the project architect. He said he agreed with Bruce that they are in agreement with all the Conditions of Approval; they will just add value to the project. Project owner Mark Panissidi is present here tonight and wants the community to know it is his intent to create something special that will be an asset to this side of town. The project includes an open patio along E. 2nd Street, an open public space designed to be open and inviting to everyone. They are here tonight if there are any questions.

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

Councilor Sweeney made a motion, second by Councilor Barberis, to approve 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 than 7,500 square feet at 214 E. 2nd Street, WCUP 15-17, along with the Finding of Fact in the staff report and subject to eleven (11) Conditions of Approval as recommended by the Whitefish Planning Board.

Councilor Hildner made an amendment, second by Councilor Frandsen, to add Condition #12 to read: "An area for recycling for the exclusive use of the tenants of this project be integrated into the plan." The amendment was approved unanimously.

The original motion to approve WCUP 15-17 as amended, was approved unanimously.

- 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) (WPP 14-14A) (p. 404) (CD 1:59:05)**

Planner Compton-Ring reported to the Council that this is an application to amend a preliminary plat that was previously approved on August 4, 2014 and called Timber Ridge Subdivision; a 15 lot

subdivision. It was the developer's intent to build single family homes on the west side of the road and have the lots on the east side of the road as lots for duplexes and townhouses; but none of the lots on the east side of the road were platted for townhouses. This amended preliminary plat now call Maple Ridge Subdivision only amends lots 11-15 of the original plat; making each of the lots of 11-15 now two lots, for a total of 20 lots in the amended subdivision, all accessed off of a public street. The property is zoned WR-2, (Two-Family Residential District); and the proposed amended preliminary plat complies with Zoning Regulations, the Growth Policy and local and state Subdivision Regulations. As the City Council adopted the staff report and the findings of fact in 2014, staff updated the 2014 report with the new information based on the proposed amended plat; there were not many changes. Timber Ridge Subdivision preliminary plat was approved subject to 19 Conditionals of Approval one of which required annexation of the property prior to final plat. The property is now annexed so the preliminary plat of Maple Ridge is now subject to only 18 Conditions of Approval. Work on the subdivision has moved forward; roads and infrastructure are nearly complete. The applicant is proposing to pay cash in lieu to meet the parks and open space requirement; and for this subdivision the requirement is 0.6 acres which has been approved by the Park Board. The public and adjacent landowners were notified of this proposed amendment and a sign was posted on the property, all according to the required process. Prior to the Planning Board meeting one letter was received regarding a concern this would change the character of the neighborhood and that letter is in the packet (see page 472). Following the Planning Board's public hearing they voted to adopt the staff report and findings of fact and recommend approval of the preliminary plat. Council and staff held some discussion that the road is only alley width so there is no room for on-street parking; Planner Compton-Ring said the situation can be monitored to see if there are problems.

Mayor Muhlfeld opened the public hearing. There being no public comment, the Mayor closed the public hearing and turned the matter over to the Council for their consideration. Councilor Frandsen acknowledged the public comment from a concerned nearby resident but it was clarified in the Staff Report that this doesn't change the density.

Councilor Feury made a motion, second by Councilor Hildner, to approve WPP 14-04A along with the Findings of Fact in the staff report and the eighteen (18) conditions of approval as recommended by the Whitefish Planning Board. The motion was approved unanimously.

- 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 (WCUP 15-180 (p. 484) (2nd CD 05:10)**

Planner Compton-Ring reported the request is for use of an existing home as a residential facility to house five unaccompanied high school students with an on-site resident manager, from Sparrow's Nest of NW Montana, a nonprofit organization. No exterior modifications are proposed. The property is zoned WR-4, High Density Residential District, so the proposal is in compliance with the Zoning Regulations and the Growth Policy designation of High Density Residential. The public and adjacent landowners were notified of this application and a public notice was published in The Pilot, all according to the required process. A number of comments and letters were received and are included in the packet. Many comments were in support, and many had concerns including diminished home values, ways to measure if standards of conduct are maintained, code enforcement processes, and questions about the on-site manager and screening of the students. The application met the criteria required for consideration of a Conditional Use Permit as set out in the Zoning Regulations. Staff found the application in compliance with regulations and forwarded a recommendation of approval to the Planning Board subject to six (6) conditions of approval. Following the Planning Board's meeting with

a public hearing on this application on November 19, 2015, a record thereof is included in the packet, the Board voted to forward the recommendation of approval to the Whitefish City Council, subject to six (6) conditions of approval. Planner Compton-Ring reviewed the conditions of approval from page 486 in the packet.

Mayor Muhlfeld opened the public hearing.

Laura Kochis, has lived at 12 Willowbrook Close for 23 years, said she would start with her comments, and as there were many here tonight to support the project she would be asking them to stand to show their support instead of individually speaking. For background information, she said about three years ago the principal of Flathead High spoke to their parents' group making them aware that several of their students were homeless. The Christmas break was approaching and school meals and the warmth of school walls would not be open to them. Stacy Schultz (a board member of Sparrow's Nest) got together with other parents and provided those students with gift cards so they could at least buy food. Similarly, at spring break when the same conditions arrived, a high school student ask her Mom (Marcia Bunke, chairperson of Sparrow's Nest) if she could bring home a couple of friends for the break. The family found out these two friends of hers were homeless, so they invited them to stay at their home until the end of the school year when they graduated. These two ladies, Stacy and Marcia, started talking to more school staff and more parents and found out this situation was not just a few students at Flathead High School, but many students at many schools; and they also discovered there were no provisions for shelters for these homeless high school students. There are backpack programs for food during the week and weekends, and clothes and other provisions, but no shelter. The group Sparrow's Nest was formed to assist in finding shelters so the students can finish school and graduate. This past summer St. Peter's Lutheran Church contacted Sparrow's Nest offering a house they have on the back of their church-lot for a shelter. It is the Church's parsonage but not being used by their pastor who lives on his own property. The Church and Sparrow's Nest have worked out an agreement that the parsonage will house 5 students that are eligible for this program, and one resident manager who lives there full time; and other support staff will come and go to help out but not reside there. Whitefish students will be considered first but the house will be considered for any eligible student in a Flathead County school. There is a strict screening process to make the selection with continuing oversight; with the main prerequisite being that the student remains in school with the goal of completing for graduation. Not only will the students be working towards that goal but they must abide by house rules and share in household duties; and they will be encouraged to get involved in neighborhood and community programs. Sparrow's Nest strives to be a good neighbor and have notified the adjacent neighbors and property owners of their plans, they have answered many phone calls and have met with several of them personally. She said their proposal fits right in with the criteria listed in the Whitefish Growth Policy where it addresses support of social services. She asked for those in the audience who supported this request to stand, and about 30 people stood in support. She submitted signed petitions in support of the project to the City Clerk which has been appended to the 12-7-15 packet as After Packet Materials.

St. Peter's Lutheran Church's Pastor Michael Flannery, 201 Wisconsin Avenue, explained that he and his wife reside on their own property instead of the Church's Parsonage; so he and his church members discussed how the vacant house could be used for the benefit of the community and through United Way they found Sparrow's Nest. The Church is a nonprofit organization so no rent will be charged. He supported the terms of the agreement that the Church and Sparrow's Nest have agreed upon and said his congregation will be there as support to the student's as well.

Gail Shay Linne, 106 Murray Avenue, spoke in support of the project. She had submitted a letter that was included in the packet on page 530 and she read from that letter. This project will ensure

safe local housing for homeless youth. She is a former teacher and knows this is a need; there are more than five homeless students that would qualify to stay here, but this is a good start she said. She said the Council's support for this project is an investment in the future of these students.

Robert Sandman, President of St. Peter's Lutheran Church, 201 Wisconsin Avenue. The Church owns the lot that the church sits on as well as the house on the back of the lot at 200 Colorado Avenue. He said the special use agreement that they just entered into with Sparrow's Nest does not transfer ownership; the Church retains ownership; it is just an agreement for them to use the house similarly as their pastors have used the house since it was built about 20 years ago. The Church is happy to be able to serve the community in this way and he urged the public that if they ever have any concerns about the project they can contact himself or the church. He has confidence that Sparrow's Nest will run a successful program and he asked for Council's support and approval.

Heather Davis Schmidt, superintendent of Whitefish School District, spoke in support of Sparrow's Nest and this project in Whitefish, which supports the needs of students.

Sherry Stevens, 40 E. Nevada in Kalispell, said she was the Executive Director for United Way in Northwest Montana. She said United Way supports this project; the need for this type of project is valley-wide. United Way is currently the fiscal agent for Sparrow's Nest. All revenue for Sparrow's Nest runs through United Way; and a special fund has been set up to separately manage these funds. United Way, in conjunction with the Church, will be providing insurance for the property. She hopes the Council will approve the project and that it is embraced by the community towards supporting the needs of these students.

Marcia Sheffels, 450 Parkway, said she was the previous Flathead County Superintendent of Schools. She had the privilege of watching and working with this group of compassionate citizens in their endeavor to help these homeless students. She thanked the original working group along with all those who are here tonight in their support. Through their commitment and hard work, tonight we have their mission coming to reality. She urged the Council to approve this request.

Chris Krager, Executive Director of Samaritan House for the past 17 years at 124 9th Avenue West in Kalispell, spoke to the Council in support of this project. He said theirs is a homeless shelter and is nearly 99% full every night. That is 90 to 105 people/night; they serve 1400 people annually. He said of those 100 people he is currently serving nightly, 5 of them are kids that would fit into this project proposed for Whitefish. Samaritan House is committed to support Sparrow's Nest to have a successful program.

City Clerk Lorang noted a letter had come into the offices this afternoon and was distributed to the Council regarding this project and Mayor Muhlfeld requested she read it for the record. The letter is from Tom Muri, 668 Copperwood Court. He wrote in support of the Sparrow's Nest, the house is in his neighborhood, basically in his backyard he said. He recommended some trees be planted and that appropriate shades and curtains be installed as it is easy to see into the house in the evening. The letter is appended to the 12-7-15 packet as After Packet Materials.

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

Councilor Hildner made a motion, second by Councilor Frandsen, to approve WCUP 15-18 with the Findings of Fact in the staff report and the six (6) conditions of approval as recommended by the Whitefish Planning Board. Councilor Hildner said congratulations; as a

former school teacher he know of these needs for these students. Councilor Frandsen agreed, a great project, and encouraged the neighborhood to get involved to help with its success. **The motion passed unanimously.**

Mayor Muhlfeld declared a recess at 9:49 p.m. and the Council reconvened at 10:00 p.m.

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) (2nd CD 34:28)

City Manager Stearns said tonight's second reading and public hearing on this ordinance follows the first reading of the ordinance and a resolution of intent that was approved by Council at their November 2, 2015 meeting. The City's Bond Council, Dorsey and Whitney of Missoula, advised us to follow this procedure to amend the City's Urban Renewal Plan (adopted by Ordinance 87-3 in 1987) to include the City Hall and Parking Structure projects, located on the ½ block between East 1st and 2nd Streets and bounded on the west by Baker Avenue and on the east by the alley running north/south from East 1st and 2nd Streets on Lots 13-24 of Block 36, Whitefish, according to the recorded plat thereof, records of Flathead County, Montana; and designate these projects specifically as Urban Renewal Projects, and approve the financing of the projects with a \$9,800,000 Tax Increment Bond. The 1987 Urban Renewal Plan (packet pages 540-687) included the development of a new City Hall, but it was called out in a different location at that time. Land northeast of the Library was designated as a new City Hall site in the 1987 Plan. In addition, parking problems were identified in the 1987 Plan along with the mention of a parking structure, but no location was specifically identified for a parking structure. With our Resolution of Intention, Resolution No. 15-48, and the first and second readings of this Ordinance No.15-18, the Council is reaffirming the prior approval of the City Hall Project and Parking Structure Project as urban renewal projects and approving the financing thereof. The schedule for the issuance of the Tax Increment Bond is on packet page 538. Funding sources for the bond include Tax Increment Funds (TIF) on hand and accumulated in the City Hall/Parking Structure Construction Fund that was established by Resolution 03-63 whereby funds have been set aside annually toward construction of a new City Hall, Impact Fees, and \$750,000 from the Parking Structure. (See Sources & Uses page 692 in the packet). The term sheets from both local banks who are sharing the financing (approved by Council 4-20-15) start on page 699. The proforma statement (Financial Plan) is on packet page 705, which the Council may refer to later on in tonight's agenda when they discuss the City Hall/Parking Structure budget. Starting on page 688 in the packet, Manager Stearns included a memo from earlier this year dated July 14, 2015, that is a historical chronology of the City Hall and Parking Structure projects starting in 1987; including listing meetings, milestones and important decision points of the projects.

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

Councilor Feury made a motion, second by Councilor Frandsen, to adopt 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, on its second reading. The motion passed unanimously.

g) Resolution No. 15-54; A Resolution establishing rates charged to purchase the space for a nameplate on a Memory Wall in the Whitefish Cemetery (p. 707) (2nd CD 41:17)

City Clerk Lorang gave the staff report that the City Cemetery has a new bronze memory wall that was installed earlier this year giving family and friends an opportunity to have a written memorial

for their loved ones. The addition of the memory wall along with the new columbarium expands the services of the City's cemetery; both of which have been added to help accommodate the demand on a full facility. A space on the wall and a memorial nameplate can be purchased; and the proposed resolution establishes the City's fee for the space for the nameplate at \$60.00. The cost of the actual nameplate, the engraving and the installation of the nameplate on the wall, is done by an outside vendor. Currently that fee is \$290.00 but it is not included in this resolution as the outside vendor will establish that cost based on their cost of services. The City will collect that cost and pass it through to the vendor. The \$60.00 per space for the remaining 102 spaces on the wall will yield \$6,120 to the City and will help towards the purchase price of the next memorial wall when needed.

Mayor Muhlfeld opened the public hearing. There being public comment, the Mayor closed the public hearing and turned the matter over to the Council for their consideration.

Councilor Hildner made a motion, second by Councilor Frandsen, to approve Resolution No. 15-54; A Resolution establishing rates charged to purchase the space for a nameplate on a Memory Wall in the Whitefish Cemetery. The motion passed unanimously.

8) COMMUNICATIONS FROM CITY MANAGER (2nd CD 44:00)

- a) Written report enclosed with the packet. Questions from Mayor or Council?(p. 711) None.**
- b) Other items arising between December 2nd and December 7th**

Manager Stearns said that at a previous meeting Councilor Frandsen had asked about the City's snow removal policy and the department's plan for staffing for snow removal. In answer to that request Public Works Director Workman prepared a memo on Winter Street Maintenance which is attached to the City Manager's Report and is on page 713 of the packet. The Resort Tax Revenue for October came in late last week and reflect a 17.9% increase in collections over the prior year. October isn't usually a big revenue month; but last month before this report the year to date totals were down compared to the prior year to date. Now through the end of October the reports show being even with and even a little bit above last year's pace.

- c) Resolution No. 15-55; 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) (2nd CD 46:15)**

Manager Stearns said the Council received information on this new contract at a work session just prior to this meeting tonight. For the public's information; Manager Stearns reported that the current 5-year contract with the Fire Service Area Board (WFSA) for fire protection services outside the City Limits and within their district boundaries, expires December 31, 2015. Discussion and negotiations between the City and the WFSA have been ongoing since late spring. The WFSA did go before the Flathead County Board of Commissioners, to request and got approval for, an increase in their rate structure for fees that go on rural taxpayers tax bills for fire protection services. The residential rate that was \$90/year was increased to \$144/year for a single residence. The rates for multifamily buildings and commercial buildings increased proportionately as well. The outcome of negotiations is that the WFSA agreed to increase their annual contribution with a 2% annual inflationary increase to the base fee calculation and add another \$16,000/year to that contribution for the equivalent of the cost of ½ of the debt service of the Water Tender. A spreadsheet on packet page 736 gives the revenue calculations and the loan debt service schedule, and compares the cost of fire protection services between similarly valued homes inside the City and outside the City. With the increase in the WFSA fees to rural property taxpayers; there is now an equity between what city residents and rural residents pay for fire service protection which has long been a basis of the City's negotiations. Details

of the negotiations are included in the staff report in the packet. Manager Stearns felt both parties were negotiating in good faith, both parties compromised, and the result is a fair agreement for all parties. He had originally proposed a larger (4%) inflationary increase and more assistance for two pieces of equipment instead of just one; but he recognizes the WFSA's willingness to meet part way on the City's requests, so his recommendation is for approval of the Interlocal Agreement with the WFSA proposal of a 5 ½ year contract for fire protection services in the rural district outside of City Limits.

Councilor Frandsen made a motion, second by Councilor Sweeney, to approve Resolution No. 15-55; 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.

Councilor Frandsen thanked Manager Stearns for accomplishing the rate equity reached within the agreement for city and rural residents for fire protection services provided by the Whitefish Fire Department.

The motion passed unanimously.

- d) Update on City Hall/Parking Structure project (p. 742) (2nd CD 52:57)**
i) Mike Cronquist – Owner's Representative

Mike Cronquist reported that the demolition is mostly complete, sheet piling is approximately 70% complete, an old sewer line that ran under the old Fire Hall and City Hall has been capped and abandoned, and the Rammed Aggregate Pier equipment is on-site and has started their installation. Those site-preparations continue; following installation of the remaining sheet piling that equipment will be demobilized. Installation of underground utilities has started and will be ongoing. Within the next three weeks and before the end of December it is planned that foundation work will get started; Carver Engineering has been retained to perform foundation monitoring. They continue to keep the public informed of activities through press releases and personal visits to businesses. They continue to monitor the work that is in close proximity to the gas main in the alley; and are working closely with Northwestern Energy, meeting their requirements in order to avoid any incidents.

- ii) Ben Tintinger – Mosaic Architecture**

Ben Tintinger, Mosaic Architecture, said he would review the budget and items they have been working with the City Hall Building Subcommittee (Building Committee) that may have some variables with value engineering (VE) and bid alternates on Bid Package #5 which is the shell package. The Subcommittee made some cost-cutting decisions on the exterior of the building and he can show how those decisions changed the exterior appearance. Over the last month it has become apparent that, with the shell portion of the project, costs are over budget. Mosaic, through Martel, has asked all the subcontractors to review their scope of work and identify any red flags and reconsider if anything can be done differently. The same thing has been asked of the project's engineers (mechanical, electrical, structural). They took the spreadsheets in the packet on page 751-752 to the Building Committee with items listed that were separated by options (1) Keep as originally specified, (2) More discussion required, or (3) Modify specification to accept VE. It walks through details all the way from concrete to electrical work, identifying them as one of the classifications listed as just described. After Martel consulted with the subcontractors a list of post-bid revisions was established as seen on packet page 760 that shows savings through VE and bid adjustments. Project alternates are decisions in design that are more difficult. Skylights (in the Council Room and in above the main stairway), Basement Finish, Building Canopies (a portion mid-block on Baker Avenue), Cornice Detail (on four towers), Oversized

Brick Veneer; these items all totaled involve \$139,128. In the Parking Garage a decision whether or not to keep the Southwest Elevator could save \$90,000. That elevator was designed to accommodate an emergency gurney from both City Hall and the Parking Structure. So, if deleted, the City Hall elevator will have to be resized to meet those requirements and it would also not be as accessible to the Parking Structure. Ben reviewed each of these in detail and showed some images on the overhead screens on those items that change the appearance of the building exterior.

Manager Stearns referred to his report for the next item on the budget as more background information that may be helpful for the Council, however a subsequent bid package on interior finish that went out after his report has changed some of these numbers; where his report shows a \$227,687 shortfall it is now more like \$518,769. During a construction meeting today additional costs came forward that were not included in other bid packages for architectural and furniture costs, increasing that number. Factors in these high costs include the bad soil and the need for the rammed aggregate piers; the City was aware of the clay soils here but the mitigating cost is \$370,000. The exterior façade around the Parking Structure contributes heavily to the budget; but it has been a community goal throughout this whole process not to end up with a gray parking structure in the middle of downtown. It is designed to fit in with the character of downtown. The bidding and construction method established by the Council to do a construction manager at risk process versus design, bid, build - like was done on the Emergency Services Center. The decision was made with the advantage in mind that the contractor and architect could design to bring down costs and also to resolve building conflicts that if not resolved earlier ends up in change orders that are costly. This alternative method has the aspect of resulting in a higher quality finished product because it is not at the whim of the lowest bid. Another contributing factor may have been the accelerated construction; we still do not have a guaranteed maximum price which is usually received with the completion of the construction drawings, which are close to completion but not entirely. But that factor changes the typical construction manager at risk process. It is a tighter construction and labor market and steel and concrete prices may be up; there have been some discussion about concrete bid and whether or not it should be rebid as only one contractor submitted a bid. But, if concrete doesn't get started this month it would probably result in shutting down the project until next spring. Ben said in our area, and with such a specialized project as a parking structure, it is difficult to get contractors to bid on that type of work. Martel was the one bidder on the concrete but within that bid are a number of sub-bids on the raw materials from subcontractors and suppliers. He said they could try to re-bid it but he thinks it will be difficult to find contractors to fit it. He said in summary and overall, a lot of the individual elements came in in line with expectations, the largest difficulty with this project is the amount of effort it has taken to get out of the ground including abatement processes and demolition, dealing with local soil-types and site-prep. The project is close to \$1M over even before the concrete work can start. Yes, he said, they were all aware of these elements and had planned for them; but the earlier budgets from years ago that the City had been anticipating for a city hall and parking structure certainly did not include all of this type of work.

Tony Martel, Martel Construction, said their concrete bid was done in October which he reviewed and did a cost analysis. Cost of concrete materials (including rebar and formwork) and a mix design are contributors; but he has been emailing his subcontractors who are working on value engineering and he would like to have more time to see if they can bring the costs back down to the budget to the greatest extent as possible. He said 60% of the total cost is made up from items they buy; materials and labor. His said time is not on this project's side; one of the things that has been slowing the project down has been the process of having to go through the Building Committee. He thinks if the City goes out for re-bids, the cost will probably go up.

e) Consideration of changes to the budget level for the City Hall/Parking Structure project (CD 1:31:09) (p. 744)

Manager Stearns said that concrete bid under discussion is on the top of page 759 in the packet.

Councilor Frandsen made a motion, second by Councilor Hildner, to extend the meeting beyond 11:00 p.m. The motion passed unanimously.

Manager Stearns continued and said it might be helpful if the Council refers back to his staff report on pages 745-746 where he lists 4 items for Council's discussion and consideration; and #2 of that list refers to 6 items also listed on page 745 that had been discussed and voted on by the Building Committee. There are still some value engineering that might change, but there are still outstanding costs yet to be determined as we just found out; so maybe the Council should consider giving Mosaic Architects and Martel Construction more time to review to see if there are other cost saving measures.

Councilor Frandsen gave some discussion and said in the looking at the overall scheme of things the shortfall is only about a 7%-8% overage and she would like to move forward, continue to consider value engineering and look for solutions to do the right thing which is to finish this project in a quality way so there won't be remorse or add-on costs in the future.

(The motion on this item was made during the discussion of the next Agenda Item (f); see below.)

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 (CD 1:39:36) (p. 754)

Manager Stearns said the contract for Council's consideration tonight for \$10,294,553.76 covers most of the rest of the project other than the interior finishing for which the bids were just received last week. It does include concrete costs at \$933,000 over the July estimate, so the Council could consider a deduction in that amount but that is fairly arbitrary. The Council should proceed with some amount so the contractors can continue with plumbing and underground electrical components. Ben Tintinger said approving this contract does not establish the final price of the building because they are continuing the evaluation process where pluses and minuses come along that will still help the budget. He said in discussions with Manager Stearns on these budget issues cuts to this amendment was proposed but he did not support that at this time. With this contract amendment the project is still under the cost threshold and another amendment will follow which can serve to reconcile items that are still under consideration; the reconciliation will either be adding more dollars to the budget or finding value engineering or something else, but together a final cost will be determined. This amendment is the entire shell package; we can still vet the concrete and the interior package received last week.

Discussion followed regarding the obligation the City is taking on by approving this contract tonight; and also the bid process on the concrete; along with the intricacies of contracts being based of designs – if an amount is deducted off of a contract price – it would require new design – a post-bid addendum telling the contractor what is eliminated from the project. Manager Stearns said the theory of cutting some of the total was it was buying the City time, the project could still move forward but with time to evaluate all the issues. The Council can approve the contract and this amount and take Mosaic and Martel at their word that they will help us find more cost savings. The Mayor asked when the City could expect the Guaranteed Maximum Price (GMP) and Ben said that could be ready today if the project was under budget, but instead it is working backwards to try to shave costs to get back down to budget. Optimistically, by the first meeting in January, but that is with decisions made of what can be or can't be cut from the project to get to that budget number. Discussion followed regarding the

5% Contingency and how it figures in to the GMP. Manager Stearns said a project budget analysis from Mosaic Architects was prepared at the end of last week (on 12-4-15) that shows the \$518,769 overage. He distributed the analysis to the Council, a copy of which is appended to the 12-7-15 packet as After Packet Materials. It lists the original project budget in one column and the current bids for those items are in another column; but the \$420,000 for furniture is not anywhere on this page. The Mayor said he is looking for direction on what the Council needs to do tonight to keep the project moving forward; a lot of information has been submitted tonight part of which is new to several Council members if they have not had the advantage of sitting in on Building Committee meetings; it is a difficult situation for the Council, and the Architects, Engineers and Contractors. Manager Stearns said they need to address the contract (Amendment No. 3), either wholly or partially; or postpone their decision tonight to give more time for consideration and meet again on December 21st. More discussion followed.

Councilor Hildner made a motion, second by Councilor Barberis, to extend the meeting beyond 11:30 p.m. The motion passed unanimously.

Tony Martel said he would have to check, but bids are usually valid for a period of time, so he needs to verify the date these bids are good to. Holding off may cause additional increases; he recommended the Council move forward with this contract tonight and let the team work together toward further reconciliation of the budget issues. The Construction Team (Martel & Mosaic) explained if any items were deleted from the project that currently show on the Contract Spreadsheet as a deduction; it would be a credit, so the associated contract fees would go down. The Council discussed those items listed in the staff report (page 745), items 1-6 brought forward from the Building Committee.

Councilor Feury made a motion, second by Councilor Frandsen, to approve 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. The motion passed unanimously.

Action on agenda item 8e:

Councilor Hildner made a motion, second by Councilor Frandsen, to move forward with the Elevator in the SW corner. The motion was approved on a vote of 4 (four) to 1 (one); Councilor Feury voted in the negative.

- 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) (2nd CD 2:02:00)**

Finance Director Smith said the subject resolution relates to the water service lines within the Highway 93W Phase II project from Karrow Avenue to Mountainside Drive; it is payable over 20 years with an interest rate of 2.5%. The breakdown on costs and payments to the Montana Department of Transportation (MDT) are included in the staff report in the packet.

Councilor Frandsen made a motion, second by Councilor Hildner, to approve Resolution No. 15-50 as presented in the packet. The motion passed unanimously.

- 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)

Finance Director Smith said the subject resolution relates to the same project as the resolution above but for the sewer service lines. The staff report details the costs and payments to MDT. As in the previous resolution it is payable over 20 years with an interest rate of 2.5%. She noted no rate increases will be required at the passage of either Resolution Nos. 15-50 or 15-51 because the City's Net Revenues currently meet the 110% coverage requirement.

Councilor Frandsen made a motion, second by Councilor Feury, to approve Resolution No 15-51 as presented in the packet. The motion passed unanimously.

9) COMMUNICATION FROM MAYOR AND CITY COUNCILORS (2nd CD 2:06:45)

- a) **Email from Marti Bruce regarding existing single track mountain bike trails in proposed Haskill Basin Conservation Easement area (p. 921)** – No additional comments.
- b) **Letter from Dziko Zuckert regarding the housing situation in Whitefish (p. 922)** – No additional comments.
- c) **Consideration of appointment to volunteer boards and committees not made during the special session preceding tonight's meeting (p. 1)** - All appointments were made during the Special Session.

COUNCIL COMMENTS (CD 2:07:00)

Councilor Sweeney expressed his thanks to all the hard work that has gone into the City Hall/Parking Structure Project, but was also frustrated at the current state and the pressure the Council is under moving forward. The Construction Team stated tonight that it is partly due and the fault of our Building Committee process and that disturbed him because all along he felt they were under the impression that our process was a good process and things were moving along appropriately.

Councilor Hildner said there are 60 seconds remaining in December 7th, Pearl Harbor Day, and he would like to recognize the greatest generation as well as all the service people who have served our country so nobly, and recognize their valor and contribution to the United States of America.

Mayor Muhlfeld said he will attend the Fish & Game Commission on Thursday when the Haskill Basin Conservation Easement is on their agenda. He also continues to meet with the user groups, some of whom made comments earlier tonight, on the details of what will be the Management Plan for the Conservation Easement; and he said he will continue those meetings up to the time the Council has those items on the agenda in January. After our new Councilor Williams is sworn in Mayor Muhlfeld would like the Council's Retreat to be scheduled for some time in February or March so that it is in advance of the April goal setting sessions. Mayor Muhlfeld said he will give an update following the Thursday meeting with Fish & Game.

10) ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)
(2nd CD 2:09:15) Mayor Muhlfeld adjourned the meeting at 12:03 a.m.

Attest:

Mayor Muhlfeld

Necile Lorang, Whitefish City Clerk

ORDINANCE NO. 15-19

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 _____, 2016.

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;~~

~~21.~~ Eleven percent (11%) of the net acreage of the subdivision to be divided into lots one-half ($\frac{1}{2}$) acre and smaller;

~~32.~~ Seven and a half percent (7.5%) of the net acreage of the subdivision to be divided into lots larger than one-half ($\frac{1}{2}$) acre and not larger than one acre in size;

~~43.~~ 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;

~~54.~~ 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;~~
- ~~76.~~ 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;
- ~~87.~~ 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;
- ~~98.~~ 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.

56. 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.

67. 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.

78. 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.
89. 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.
910. 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 ($\frac{1}{3}$) 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 29, 2015

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

Re: Final Plat for Enna Townhouse Subdivision; WFP 15-06

Honorable Mayor and Councilors:

This office is in receipt of a final plat application from Enna llc for a 2-lot townhouse subdivision located on Columbia Avenue. The property is zoned WR-2 (Two-Family Residential District). The preliminary plat was approved by the Whitefish Planning Department as Preliminary Plat Waiver as it met the criteria in §12-3-7. This approval was granted on July 13, 2015, subject to ten (10) conditions of approval.

Following is a list of the conditions of approval and a discussion of how they have been met.

COMPLIANCE WITH PRELIMINARY PLAT CONDITIONS OF APPROVAL:

Condition 1. The Subdivision shall comply with Chapter 12-4 of the Whitefish Subdivision Regulations.

- Condition met. The final plat conforms to applicable City Codes and the approval granted by the Planning Department.

Condition 2. Street addresses shall be placed on the face of the plat. (Subdivision Regulations, §12-4-20C)

- Condition met. See face of plat.

Condition 3. All easements shall be shown on the face of the plat. (Whitefish Subdivision Regulations, §12-3-11)

- Condition met.

Condition 4. The Montana Department of Environmental Quality and Whitefish Public Works Department shall approve the water and sewer facilities.(Whitefish Engineering Standards, Section 4)

- Condition met. MDEQ EQ#16-1276.

Condition 5. A separate water & sewer service shall be provided to each lot in accordance with the City of Whitefish's policies and design standards. (Whitefish Engineering Standards, Section 4)

- Condition met. See MFE approval from the Public Works Department and the approved building permit signed-off by the Public Works Department.

Condition 6. An engineered stormwater plan shall be submitted to the Public Works Department for review and approval, if impervious area exceeds 5,000 square feet. (Whitefish Engineering Standards, Section 5)

- Condition met. See note on face of plat. The impervious area does not exceed 5,000 square feet, as reviewed by the Public Works Department.

Condition 7. The street tree proposed for removal due to driveway location shall be replaced. The location of the tree and species shall be approved by the Parks Department. (Whitefish Subdivision Regulations, §12-4-22)

- Condition met. See letter from Parks Department dated 11-17-15.

Condition 8. That a common off-street mail facility shall be provided by the developer and approved by the local post office. (Whitefish Subdivision Regulations, §12-4-24)

- Condition met. The postmaster has approved the placement of two individual mail boxes to be installed per USPS specifications.

Condition 9. The following notes shall be placed on the face of the plat:

- a. All house numbers will be visible from the road, either at the driveway entrance or on the house and shall conform to the current Fire Code, as adopted by the City Council.
- b. All noxious weeds, as described by the Whitefish City Code, shall be removed throughout the life of the development from the recorded property owner.

- Condition met. See notes on face of plat.

Condition 10. The preliminary plat approval is valid for three years and shall expire on June 19, 2018. (Whitefish Subdivision Regulations, §12-3-8)

- Condition met. The final plat applicant was received prior to its expiration.

Please be advised that the Council should act on this application within 30-days following receipt of this recommendation.

Sincerely,



Wendy Compton-Ring, AICP
Senior Planner

Attachments: 2 reproducible mylars of final plat
Final plat application, received 11-30-15
Letter, applicant, 11-30-15
Approval Letter, Whitefish Planning Department, 7-13-15
Treasurer's Certification, 11-18-15
Letter, DEQ, EQ#16-1276, 10-14-15
MFE, Approved by the Public Works Department
Letter, Parks Department, 11-17-15
USPS, 7-23-15
Title Report, Stewart Title, G-2222-000065213, 9-17-15

c/w/att: Necile Lorang, Whitefish City Clerk

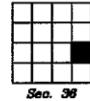
c/wo/att: ENNA, llc; attn: Ian Collins, 3080 E Lakeshore Drive Whitefish, MT 59937
Eric Mulcahy, Sands Surveying, 2 Village Loop Kalispell, MT 59901

By: SANDS SURVEYING, Inc.
 2 Village Loop
 Kalispell, MT 59901
 (406) 755-8481

JOB NO: 382906
 DATE: October 6, 2015
 COMPLETED DATE: / /
 FOR/OWNERS: ENNA, LLC.

Plat Of
ENNA TOWNHOUSE SUBDIVISION

NE1/4SE1/4 SEC. 36, T.31N., R.22W., P.M.,M., FLATHEAD COUNTY, MONTANA



SCALE: 1" = 10'
 10' 5' 0' 10' 20'



CERTIFICATE OF DEDICATION

WE, THE UNDERSIGNED PROPERTY OWNERS, DO HEREBY CERTIFY THAT WE HAVE CAUSED TO BE SURVEYED AND PLATTED INTO LOTS ALL THE FOLLOWING DESCRIBED PROPERTY AS DESCRIBED IN THE CERTIFICATE OF DEDICATION, AND SHOWN BY THE ANNEXED PLAT OR MAP AND SITUATED IN FLATHEAD COUNTY, MONTANA:

DESCRIPTION:

A TRACT OF LAND, SITUATED, LYING AND BEING IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 31 NORTH, RANGE 22 WEST, P.M.,M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

Lot 11A of the Plat of Riverside Addition to Whitefish, No. 3 and containing 0.250 ACRES; Subject to and together with all appurtenant easements of record.

The above described tract of land shall hereafter be known as:
ENNA TOWNHOUSE SUBDIVISION

Lots 1 & 2 are excluded from sanitation review by the Department of Environmental Quality pursuant to MCA 76-4-125 (2) (d) as the division is located within jurisdictional areas that have adopted growth policies pursuant to Title 76, Chapter 1 MCA or is within a first-class or second class municipalities for which the governing body certifies, pursuant to 76-4-127 MCA, that adequate storm water drainage and adequate municipal facilities will be provided. (Note Municipal Facilities Exclusion Checklist must be reviewed and approved by the Montana Department of Environmental Quality, and the original approval letter from MDEQ must be filed with the survey.)

UTILITY EASEMENT CERTIFICATE

The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "UTILITY EASEMENT" to have and to hold forever.

by: IAN COLLINS
 ENNA, LLC.

STATE OF MONTANA)
) SS
 COUNTY OF FLATHEAD)

On this _____ day of _____, 2015, before me a Notary Public for the State of Montana, personally appeared IAN COLLINS of ENNA, LLC., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

Notary Public for the State of Montana
 Printed Name of Notary _____
 Residing at _____
 My commission expires _____/_____/_____

CERTIFICATE OF CITY COUNCIL

We, _____, Mayor for the City of Whitefish, and _____, City Clerk of the City of Whitefish, Montana do hereby certify that the accompanying plat was duly examined and approved by the City Council of the City of Whitefish at its regular meeting held on the _____ day of _____, 2015.

Mayor of Whitefish, Montana _____ City Clerk of Whitefish, Montana _____

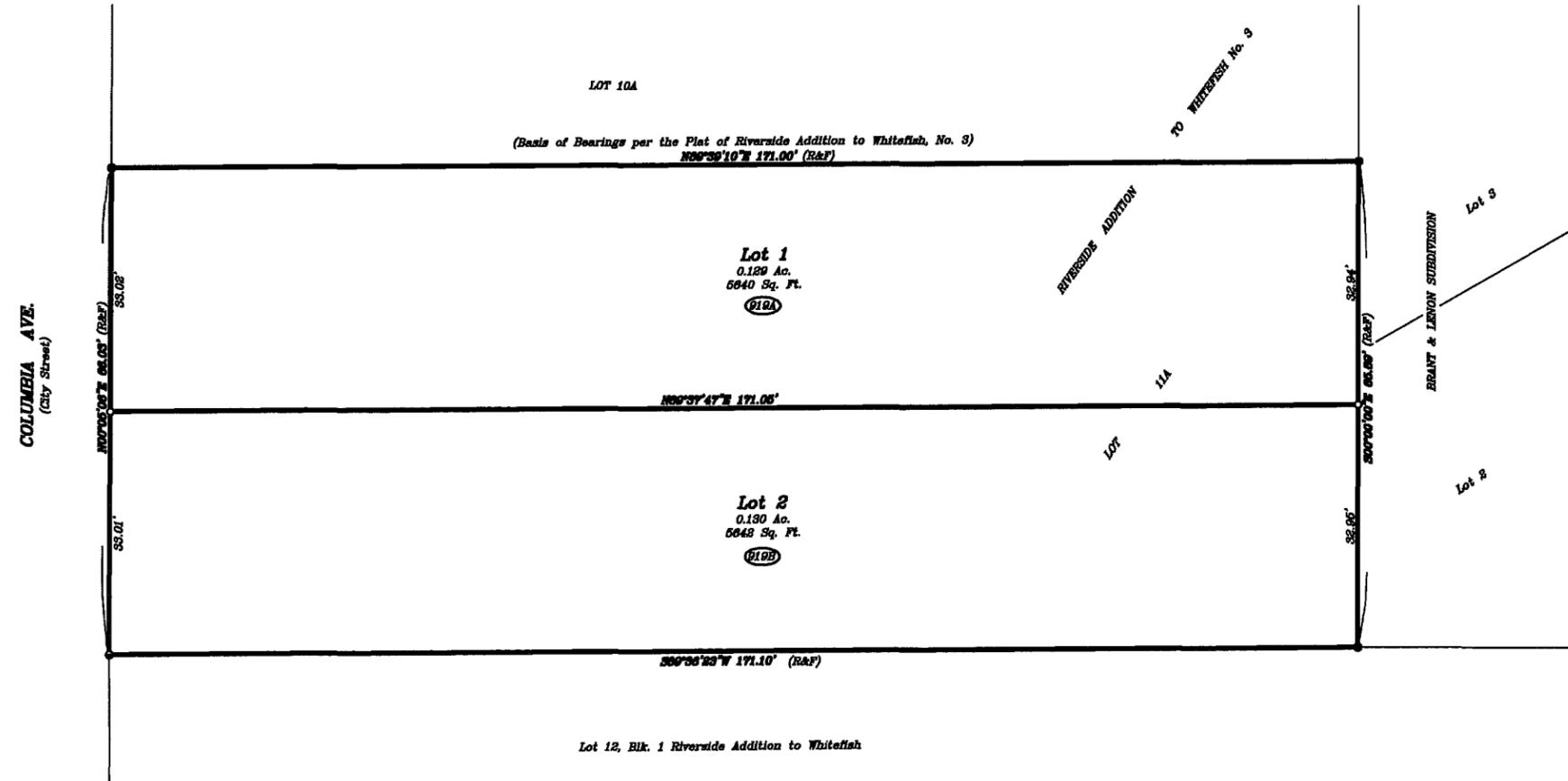
CERTIFICATE OF CITY ATTORNEY

I, _____, City Attorney for the City of Whitefish, Montana, do hereby certify that I have examined the Certificate of Title by a licensed title company on the land described in the Certificate of Dedication on the annexed Plat of ENNA TOWNHOUSE SUBDIVISION, and find that _____ are the owners in fee simple of the land so platted.
 Dated this _____ day of _____, 2015.

City Attorney for the City of Whitefish _____

Conditions of Approval per Whitefish City Council:

- a. All house numbers will be visible from the road, either at the driveway entrance or on the house and shall conform to the current Fire Code, as adopted by the City Council.
- b. All noxious weeds, as described by the Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner.



- LEGEND:**
- Set 1/2"x24" Rebar & Cap (7975S)
 - Found 1/2" Rebar & Cap (7975S)
 - ⊙ Found 5/8" Rebar & Cap (8065S)
 - (R) Record Information per Riverside Addition to Whitefish, No. 3
 - Street Address

CERTIFICATE OF SURVEYOR

THOMAS E. SANDS 7975-S

APPROVED: _____, 201__

EXAMINING LAND SURVEYOR
 REG. No. 54285

STATE OF MONTANA) SS
 COUNTY OF FLATHEAD)
 FILED ON THE ___ DAY OF _____, 201__
 AT _____, PAID FEE _____

CLERK & RECORDER

BY _____
 DEPUTY
 INSTRUMENT REC. No. _____

SHEET 1 OF 1

Whitefish Planning & Building Dept.
1055 C Baker Ave.
Whitefish, MT 59937
Phone: (406) 863-2410 Fax: (406) 863-2409

FINAL PLAT APPLICATION

Project / Subdivision Name: Enna Townhouse Subdivision

Contact Person:

Name: Sands Surveying, Inc
 Address: 2 Village Loop
Kalispell, MT 59901
 Phone No.: (406) 755-6481
 E-mail: eric@sandssurveying.com

Owner & Mailing Address:

Enna LLC, Attn: Ian Collins
3080 E. Lakeshore Drive
Whitefish, MT 59937
(406) 270-7047

Date of Preliminary Plat Approval: Waiver of Preliminary Plat was granted on July 13, 2015.

Type of Subdivision: Residential Industrial Commercial PUD Other

Total Number of Lots in Subdivision 2 Lots

Land in Project (acres) 0.259 Acres (11282 sf)

Parkland (acres) N/A Cash-in-Lieu \$ N/A Exempt Yes

No. of Lots by Type:

Single Family Townhouse 2-Lots Mobile Home Park
 Duplex Apartment Recreational Vehicle Park
 Commercial Industrial Planned Unit Development
 Condominium Multi-Family

Legal Description of the Property Lot 11A of the Plat of Riverside Addition to Whitefish, No. 3 to be after filling of this Final Plat as Enna Townhouse Subdivision.

FILING FEE ATTACHED \$ 2380.00

Minor Subdivision with approved preliminary plat	\$1,056 + \$200/lot
Major Subdivision with approved preliminary plat	\$2,574 + \$200/lot
Subdivisions with Waiver of Preliminary Plat	\$1,980 + \$200/lot
Subdivision Improvements Agreement	\$ 330

<u>Attached</u>	<u>Not Applicable</u>	<u>(MUST CHECK ONE)</u>
<u>X</u>	_____	Health Department Certification (Original)
<u>X</u>	_____	Title Report (Original, not more than 90 days old)
<u>X</u>	_____	Tax Certification (Property taxes must be paid)
_____	<u>X</u>	Consent(s) to Plat (Originals and notarized)
_____	<u>X</u>	Subdivision Improvements Agreement (Attach collateral)
_____	<u>X</u>	Parkland Cash-in-Lieu (Check attached)
_____	<u>X</u>	Maintenance Agreement
<u>X</u>	_____	Plats: 1 opaque OR 2 mylars
		1 mylar copy 1 signed blueline
		4 bluelines 4 bluelines, unsigned
		11X17 Copy 11X17 Copy

****The plat must be signed by all owners of record, the surveyor and the examining land surveyor.**

Attach a letter, which lists each condition of preliminary plat approval, and individually state how each condition has specifically been met. In cases where documentation is required, such as an engineer's certification, State Department of Health certification, etc., original letters shall be submitted. Blanket statements stating, for example, "all improvements are in place" are not acceptable.

A complete final plat application must be submitted no less than **60 days** prior to expiration date of the preliminary plat.

When all application materials are submitted to the Planning & Building Department, and the staff finds the application is complete, the staff will submit a report to the City Council. The Council must act within 30 days of receipt of the revised preliminary plat application and staff report. Incomplete submittals will not be accepted and will not be forwarded to the Council for approval. Changes to the approved preliminary plat may necessitate reconsideration by the Planning Board.

I certify that all information submitted is true, accurate and complete. I understand that incomplete information will not be accepted and that false information will delay the application and may invalidate any approval. The signing of this application signifies approval for Planning & Building staff to be present on the property for routine monitoring and inspection during the approval and development process.

****NOTE: Please be advised that the County Clerk & Recorder and the City of Whitefish request that all subdivision final plat applications be accompanied with digital copies.**



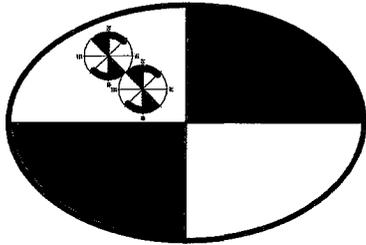
 Owner(s) Signature

11/24/15

 Date

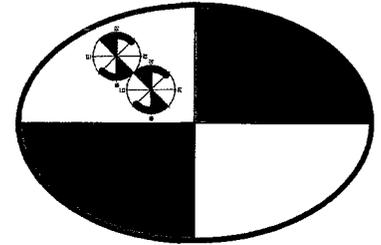
****A digital copy of the final plat in a Drawing Interchange File (DXF) format or an AutoCAD file format, consisting of the following layers:**

1. Exterior boundary of subdivision
2. Lot or park boundaries
3. Easements
4. Roads or rights-of-way
5. A tie to either an existing subdivision corner or a corner of the public land survey system



SANDS SURVEYING, INC.

2 Village Loop Road
Kalispell, MT 59901
406-755-6481
Fax 406-755-6488



WFP15-06

November 30, 2015

City of Whitefish Planning and Building Department
P.O. Box 158
Whitefish, MT 59937

RE: Final Plat submittal for Enna Townhouse Subdivision.

Dear Planning Office:

This cover letter is intended to give an overview of the conditions of approval and the supporting documentation for meeting the conditions Enna Townhouse Subdivision. The Whitefish Planning Office granted a waiver preliminary plat approval of the subdivision on July 13, 2015 as the subdivision met the City's Requirements for a waiver as outline in Section 12-3-7 of the Whitefish Subdivision Regulations.

Preliminary Plat Conditions

Condition #1: The subdivision shall comply with Chapter 12-4 of the Whitefish Subdivision Regulations..

This condition is met. The Subdivision complies with Title 12-4.

Condition #2: Street addresses shall be placed on the face of the plat

This condition is met. Addresses appear on the face of the final plat.

Condition #3: All easements shall be shown on the face of the final plat

This condition is met.

Condition #4: The Montana Department of Environmental Quality and Whitefish Public Works Department shall approve the water and sewer facilities

This condition is met. See MDEQ EQ#16-1276.

Condition #5: A separate water and sewer service shall be provided to each lot in accordance with the City of Whitefish's policies and design standards

This condition is met. (See MFE approval from Whitefish Public Works Department)

NOV 30 2015

Condition #6: An engineered stormwater plan shall be submitted to the public works Department for review and approval, if impervious areas exceed 5,000 square feet.

This condition is met. The impervious surface does not exceed 5,000 square feet and this will be verified with the submittal of the building permit for the townhouse structure and driveways.

Condition #7: The street tree proposed for removal due to the driveway location shall be replaced. The location of the tree and species shall be approved by the parks department.

This condition is met. The applicant has consulted with the Parks Department for removal and replacement of the street tree. The applicant will complete the tree planting as part of the final for the building permit. (Whitefish Parks letter 11/17/15)

Condition #8: That a common off-street mail facility shall be provided by the developer and approved by the local post office.

This condition is met. See approval letter dated July 23, 2015 from the USPS

Condition #9: The following notes shall be placed on the face of the final plat:

- a. All house numbers will be visible from the road, either at the driveway entrance or on the house and shall conform to fire code, as adopted by the City Council.
- b. All noxious weeds, as described by the Whitefish City Code, shall be removed throughout the life of the development from the recorded property owner.

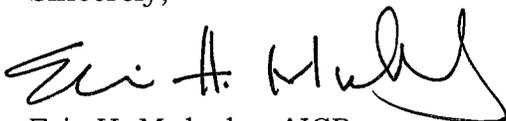
This condition is met. The notes appear on the face of the final plat.

Condition #10: The preliminary plat approval is valid for three years and shall expire on June 19, 2018.

This condition is met.

A title report is included with this application; no consents to plat are required. Taxes are paid in full. Should you have any questions regarding this final plat application, please contact me at 755-6481.

Sincerely,



Eric H. Mulcahy, AICP
Sands Surveying Inc.

Attachments: Final Plat Application (11/24/15)
Letter – Whitefish MFE

MDEQ approvals EQ# 16-1276, dated 10/14/15

Letter – USPS (7/23/15)

Title Report – Stewart Title File #: 62238; Guarantee #: G-2222-

000065213

Tax Certification (11/18/15)

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



July 13, 2015

ENNA, llc
Ian Collins
3080 E Lakeshore Drive
Whitefish, MT 59937

RE: 919 Columbia Avenue (Lot 11A, Riverside Addition to Whitefish, No. 3 in S36 T31N R22W); ENNA Townhouse Subdivision – Waiver of Preliminary Plat; WPP 15-04

Dear Mr. Collins:

This is in response to your application for a preliminary plat waiver for a residential subdivision at the above described property. The request would create two lots for a townhouse. Lot 1 is proposed to be 0.129 acres and Lot 2 is proposed to be 0.130 acres. Access will be from Columbia Avenue. The properties are zoned WR-2 (Two-Family Residential District) with a minimum lot area of 7,200 square feet (0.165 acres) for two-family and a minimum lot width of 25-feet for sublots (§11-2E-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. Street addresses shall be placed on the face of the plat. (Subdivision Regulations, §12-4-20C)
3. All easements shall be shown on the face of the plat. (Whitefish Subdivision Regulations, §12-3-11)
4. The Montana Department of Environmental Quality and Whitefish Public Works Department shall approve the water and sewer facilities.(Whitefish Engineering Standards, Section 4)
5. A separate water & sewer service shall be provided to each lot in accordance with the City of Whitefish's policies and design standards. (Whitefish Engineering Standards, Section 4)
6. An engineered stormwater plan shall be submitted to the Public Works Department for review and approval, if impervious area exceeds 5,000 square feet. (Whitefish Engineering Standards, Section 5)
7. The street tree proposed for removal due to driveway location shall be replaced. The location of the tree and species shall be approved by the Parks Department. (Whitefish Subdivision Regulations, §12-4-22)
8. That a common off-street mail facility shall be provided by the developer and approved by the local post office. (Whitefish Subdivision Regulations, §12-4-24)
9. The following notes shall be placed on the face of the plat:
 - a. All house numbers will be visible from the road, either at the driveway entrance or on the house and shall conform to the current Fire Code, as adopted by the City Council.
 - b. All noxious weeds, as described by the Whitefish City Code, shall be removed throughout the life of the development from the recorded property owner.
10. The preliminary plat approval is valid for three years and shall expire on June 19, 2018. (Whitefish Subdivision Regulations, §12-3-8)

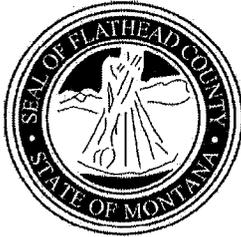
Please note that, for final plat approval, all requirements must be met per §12-3-11 (Final Plat) of the Whitefish Subdivision Regulations.

Sincerely,



Wendy Compton-Ring, AICP
Senior Planner

C: Public Works, City of Whitefish
Fire Department, City of Whitefish
Building Department, City of Whitefish
Eric Mulcahy, Sands Surveying 2 Village Loop Kalispell, MT 59901



Plat Room
 Flathead County, Montana
 800 S. Main St.
 Kalispell, MT 59901
 (406) 758-5510

This Form is for Subdivisions Only

BY: SANDS

FOR: ENNA LLC

DATE: 10/14/15

updated 11-18-15

DESCP: ENNA TOWNHOUSE SUB
 (L11A of Riverside Add Wfsh #3 ~
 36-31-22)

PURPOSE: SUB

YEARS

ASSESSOR #

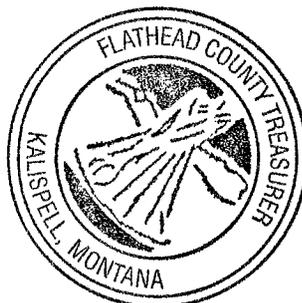
2012 THRU 2014
2015

0365726
0506380

I hereby certify that there are no outstanding taxes on the property assigned the assessor numbers listed above, for the years indicated for each assessor number.

NOV 18 2015

Judy L. [Signature]
 Deputy Treasurer
 (seal)





October 14, 2015

Carver Engineering
PO Box 2039
Kalispell MT 59903-2039

RE: Enna Townhouse Subdivision
Municipal Facilities Exclusion
EQ# 16-1276
City of Whitefish
Flathead County

Dear Sirs;

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. 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 76-4-131. 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,

A handwritten signature in cursive script that reads "Leata English".

Leata English
Subdivision Section
(406) 444-4224
email lenglish@mt.gov

cc: City Engineer
County Sanitarian
file

MUNICIPAL FACILITIES EXCLUSION CHECKLIST
(formerly called master plan exclusion)

Below, please find the information required under § 76-4-127 MCA regarding a municipal facilities exclusion for this subdivision within a growth policy area or first-class or second-class municipality.

1. Is this subdivision exempt from the Subdivision and Platting Act? Yes _____ No X
If yes, then you may not use the Municipal Facilities Exclusion for this subdivision
2. Does this subdivision affect property with a Title 76-4 Approval? Yes _____ No X
If yes, then you may not use the Municipal Facilities Exclusion for this subdivision
3. Name of Subdivision: Enna Townhouse Subdivision
4. Name and address of the applicant: Enna Inc. c/o Ian Collins
898 Blue Herron Drive; Whitefish, MT 59937
5. Name and address of engineer: Tom Cowan, P.E. - Carver Engineering
P.O. Box 2039; Kalispell, MT 59903-2039
6. Copy of preliminary or final plat: Attached X, Number of parcels in subdivision: 2
7. A copy of any applicable zoning ordinances in effect: WR-2 (Two-Family Residential)
8. How construction of the sewage disposal and water supply systems or extensions will be financed (method of financing): Owner Financing
9. Certification that the subdivision is within a jurisdictional area that has adopted a growth policy or within a first-class or second-class municipality: within City of Whitefish jurisdictional area
10. Copy of Growth Policy: On file X Attached: _____
11. Location of the subdivision to the city or town, vicinity map attached: Yes X No _____
12. Are adequate municipal facilities, as defined in §76-4-102 MCA, for the supply of water and disposal of sewage and solid waste available or will they be provided within the time provided allowed under §76-3-610, MCA Yes X No _____
13. Has the governing body has reviewed and approved plans to ensure adequate storm water drainage Yes X No _____ **Disturbed area less than 5,000 sq. ft.**
14. Will an extension of the existing sewer main(s) be necessary to serve this subdivision? Yes _____ No X
15. Will an extension of the existing water main(s) be necessary to serve this subdivision? Yes _____ No X
16. Exclusion Checklist review fee, (\$100) included: Yes X No _____
17. I certify that adequate municipal facilities for the supply of water and disposal of sewage and solid waste are available or will be provided within the time allowed under §76-3-610, MCA, and I certify that the governing body has reviewed and approved plans to ensure adequate storm water drainage. I further certify that I am authorized to sign this form on behalf of the governing body.

Name KARIN HELDING Signature 
Dept PUBLIC WORKS Title Senior Project Engineer
City Whitefish Zip 59937 Phone 963-2450

Please sign and send with the \$100.00 review fee to:

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY
SUBDIVISION REVIEW SECTION, PERMITTING AND COMPLIANCE DIVISION
PO BOX 200901
HELENA, MT 59620



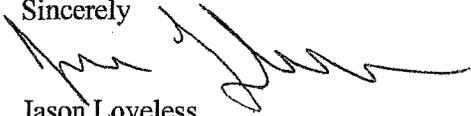
November 17th 2015

RE: Tree removal/replacement request

Dear Mr. Collins

This is in response to your request to remove a boulevard tree at 919 Columbia Ave. I have received your request and approve the removal and replacement of the existing tree in the boulevard to allow for the curb cut relocation. I have include the current list of acceptable street trees and well as our planting standards. The location of the tree and species shall be approved by the Parks Department prior to planting.

Sincerely


Jason Loveless
Parks Superintendent

Part (A) – Tree Planting

All tree planting projects must follow the specifications given here:

Time of Year - The ideal time to plant a tree is when it is in a dormant condition, either in early spring before bud-break, or in the fall, after leaves have dropped. Weather conditions at these times are generally cool, and allow plants to establish new roots prior to having to endure the hot, dry conditions of summer.

Location – Consider site restrictions (such as available growing space, soil type, pavement, overhead or underground utilities, etc.) Visualize what this tree will look like in 20 years. Before you begin planting your tree, be sure you have had all underground utilities located prior to digging the hole. Call your local utility services at least 2 days prior to digging. (Usually 1-800-424-5555 in MT)

Tree selection –Carefully inspect trees and only purchase those that have a strong stem and no physical damage. Avoid trees with circling roots, severe pruning cuts, dead bark or signs of insects and disease.

Site preparation – Dig a space approximately three times the diameter of the root ball, and only as deep as the root ball. Amending soil is not necessary unless planting in disturbed sites or poor soil quality. Break up compacted soil on sides of the hole, and leave bottom firm.

Tree preparation – 1) Identify trunk flare - The trunk flare is the part of the trunk where the roots spread out at the base of the tree. This point should be visible after the tree has been planted. If the trunk flare is not visible, you may have to remove some soil from the top of the root ball prior to planting the tree. 2) Cut away strings and burlap or plastic from around the trunk. If tree is container grown, cut and remove container.

Tree placement – Lift tree into planting space by the root ball, not the trunk. Ensure tree is at proper depth and never plant too deep. Trunk flare and top of root ball should be at grade. Balance tree upright at center of planting space. Pull back burlap as much as possible without removing soil from the root ball.

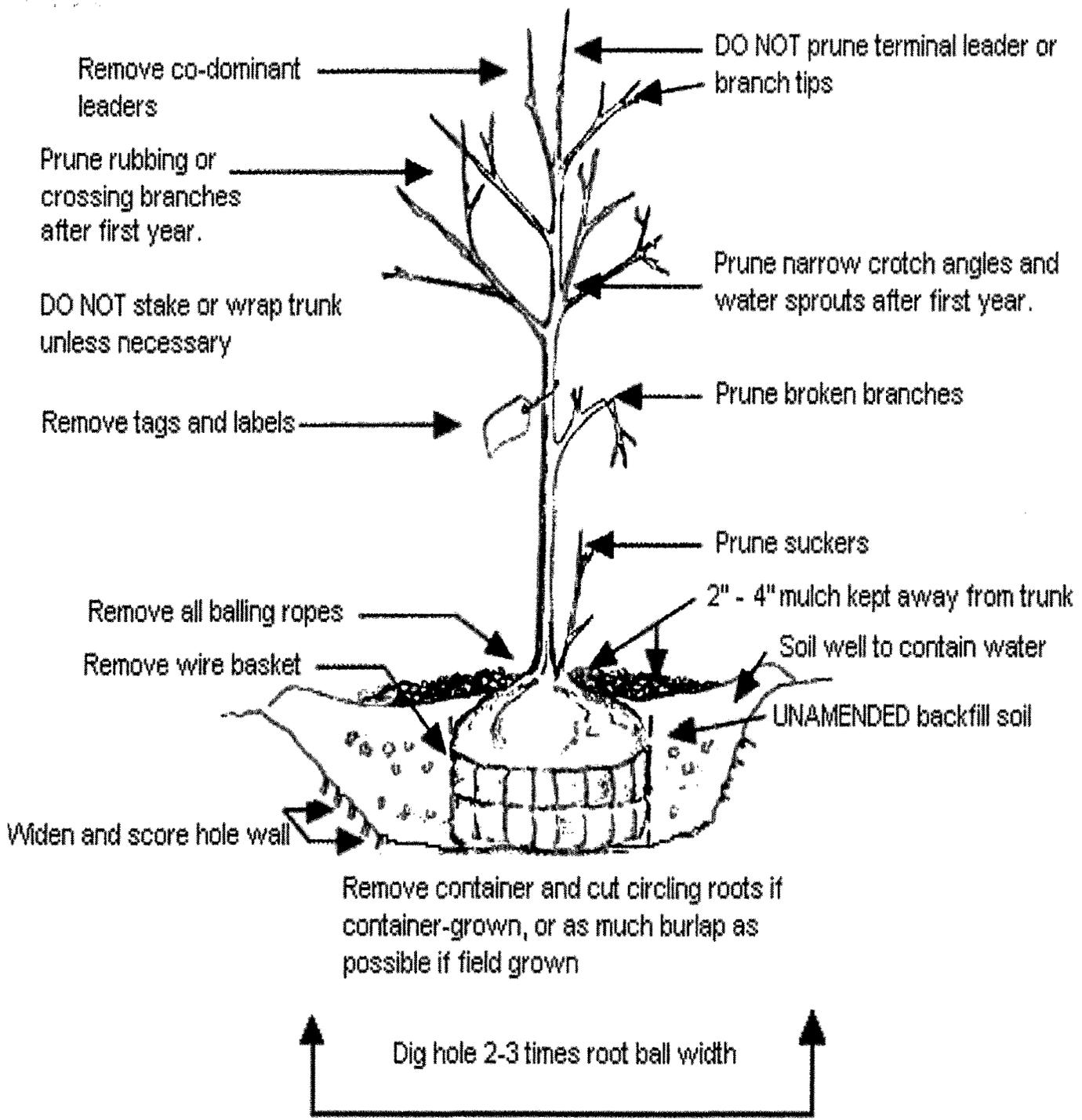
Fill with soil – Fill the hole while watering, periodically pausing to gently tamp base, to ensure the tree is firmly setting in the planting space. Finish filling soil just below the trunk flare.

Mulch – Mulch lightly and evenly with about 2 inches of organic material such as wood chips or similar composted material. Leave a 3-inch layer of bare soil around the trunk.

Only stake if necessary - Trees will establish more quickly and develop stronger trunk and root systems if they are not staked at the time of planting. However, protective staking may be required on sites where equipment damage, vandalism or windy conditions are concerns. A wide, flexible tying material should be used to avoid injuring trunk and allow the tree to move or sway. Staking and ties should be removed after one year.

After Care – Do not fertilize at planting time. Water regularly throughout the first growing season (about once a week unless significant rainfall is received), but do not overwater. Keep lawn mowers and string trimmers away from tree to avoid wounding bark. Only prune dead or injured branches at time of planting. Do not plant flowers or cultivate soil directly under tree.

Long term maintenance – Have a 3-year annual inspection program to replace mulch, provide small tree training (light pruning cuts), and check for signs of stress, insects, disease, or vandalism. Keep trunk area free and clear of weeds and other competing vegetation.

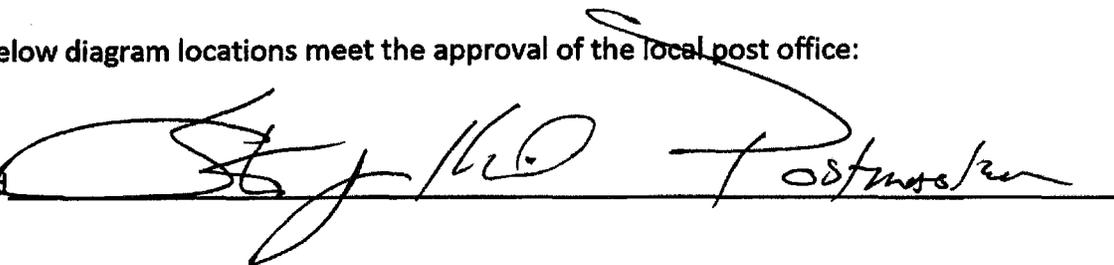


July 23, 2015

RE: Final Plat submittal for Enna Townhouse Subdivision: 919 Columbia Avenue

Condition #8: *That a common off-street mail facility shall be provided by the developer and approved by the local post office*

The below diagram locations meet the approval of the local post office:

Signed 



GUARANTEE

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, AND SUBJECT TO THE FURTHER EXCLUSION AND LIMITATION THAT NO GUARANTEE IS GIVEN NOR LIABILITY ASSUMED WITH RESPECT TO THE IDENTITY OF ANY PARTY NAMED OR REFERRED TO IN SCHEDULE A OR WITH RESPECT TO THE VALIDITY, LEGAL EFFECT OR PRIORITY OF ANY MATTER SHOWN THEREIN.

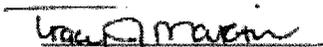
ISSUED BY

STEWART TITLE GUARANTY COMPANY

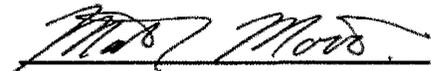
a corporation, herein called the Company,
GUARANTEES

the Assured named in Schedule A against actual monetary loss or damage not exceeding the liability amount stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurances set forth in Schedule A.

Countersigned by:


Authorized Countersignature

stewart
title guaranty company



Matt Morris
President and CEO

Main Office
211 South Main Street
Kalispell, MT 59901
Agent ID: 260052





Denise Carraux
Secretary

Page 1 of
Serial No.

G-2222-000065213

GUARANTEE CONDITIONS AND STIPULATIONS

1. **Definition of Terms** – The following terms when used in this 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. **Exclusions from Coverage of this Guarantee** – The Company assumes no liability for loss or damage by reason of the following:
 - (a) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
 - (b) (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 by (1), (2) or (3) are shown by the public records.
 - (c) Assurances to 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 on which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement; or any rights or easements therein unless such property, rights or easements are expressly and specifically set forth in said description.
 - (d) (1) Defects, liens, encumbrances, or adverse claims against the title, if assurances are provided as to such title, and as limited by such assurances. (2) Defects, liens, encumbrances, adverse claims or other matters (a) whether or not shown by the public records, and which are created, suffered, assumed or agreed to by one or more of the Assureds; (b) which result in no loss to the Assured; or (c) 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 assurances provided.
3. **Notice of Claims 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 under this Guarantee unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.
4. **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.
5. **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 4 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 5(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.
6. **Proof of Loss or Damage** – In addition to and after the notices required under Section 3 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.
7. **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 the 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 option under Paragraph 5, 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 prosecution of any litigation for which the Company has exercised its options under Paragraph 5.

8. 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 stated in Paragraph 2.

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;
- (b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 7 of these Conditions and Stipulations or as reduced under Section 10 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.

9. 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.

10. Reduction of Liability or Termination of Liability – All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 5 shall reduce the amount of liability pro tanto.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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 P.O. Box 2029, Houston, Texas 77252-2029.

SUBDIVISION GUARANTEE SCHEDULE A

File No.: 62238

Guarantee No.: G-2222-000065213

Date of Guarantee: September 17, 2015 at 5:00 P.M.

Liability: \$1,000.00

Premium: \$125.00

A. Assured:

Sands Surveying, Inc.

B. Assurances:

1. Description of the land:

A tract of land situated, lying and being in the Northeast Quarter of the Southeast Quarter of Section 36, Township 31 North, Range 22 West, P.M.,M., Flathead County, Montana and more Particularly described as follows to wit:

Lot 11A of the Plat of Riverside Addition to Whitefish No. 3

2. Name of Proposed Subdivision Plat or Condominium Map:

Enna Townhouse Subdivision

3. That the only hereafter named parties appear to have an interest showing in the public records affecting the land necessitating their execution of the name proposed plat or map area as follows:

Enna, LLC

File No.: 62238

Guarantee No.: G-2222-000065213

SUBJECT TO:

1. Real estate taxes or special assessments imposed on the Title for the year 2015, that are due or payable, but unpaid.
2. For informational purposes only, do not rely upon for a tax payment. Flathead County records indicate the taxes for the year 2015 are:
FIRST HALF: \$506.05 NOT PAID
SECOND HALF: \$506.00 NOT PAID
TOTAL : \$1,012.05
Assessor No.: 74-0506380
Tax Roll No.: 44124
3. Delinquent water and sewer charges of City of Whitefish, if any.
4. Taxes, charges, and assessments of Whitefish County Water District, payable with the general taxes.
5. All matters, covenants, conditions, restrictions, easements and any rights, interest or claims which may exist by reason thereof, disclosed by the plat of Riverside Addition to Whitefish Montana, Wid-Bo Subdivision & Riverside Addition to Whitefish, No. 3, but deleting any covenant, conditions 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. Provisions and conditions contained in Certificate of Approval by the State of Montana Department of Health and Environmental Sciences as attached to The Plat of Riverside Addition to Whitefish, No.3.
7. Correction of the Certificate of Dedication of WID-BO Subdivision, recorded on December 14, 2004 as Document #200434916550, records of Flathead County, Montana.
8. Lis Pendens recorded November 30, 2006 as Document #200633410010, records of Flathead County, Montana. (as to the South 4 feet of the West 139.99 feet)
9. Findings of Fact, Conclusions of Law, and Judgment recorded February 1, 2007 as Document #200703208230, records of Flathead County, Montana.

Survey/Plat, when recorded, must be in compliance with the provisions of the Montana Subdivision and Platting Act, 1973, (Sections 76-3-101 M.C.A. through 76-3-614 M.C.A.) and the regulations adopted pursuant thereto.

Easements, conditions and restrictions as disclosed or to be disclosed on proposed Survey/Plat to be recorded prior to or as part of this transaction.

STG Privacy Notice Stewart Title Companies

WHAT DO THE STEWART TITLE COMPANIES DO WITH YOUR PERSONAL INFORMATION?

Federal and applicable state law and regulations give consumers the right to limit some but not all sharing. Federal and applicable state law regulations also require us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand how we use your personal information. This privacy notice is distributed on behalf of the Stewart Title Guaranty Company and its title affiliates (the Stewart Title Companies), pursuant to Title V of the Gramm-Leach-Bliley Act (GLBA).

The types of personal information we collect and share depend on the product or service that you have sought through us. This information can include social security numbers and driver's license number.

All financial companies, such as the Stewart Title Companies, need to share customers' personal information to run their everyday business—to process transactions and maintain customer accounts. In the section below, we list the reasons that we can share customers' personal information; the reasons that we choose to share; and whether you can limit this sharing.

Reasons we can share your personal information.	Do we share	Can you limit this sharing?
For our everyday business purposes — to process your transactions and maintain your account. This may include running the business and managing customer accounts, such as processing transactions, mailing, and auditing services, and responding to court orders and legal investigations.	Yes	No
For our marketing purposes — to offer our products and services to you.	Yes	No
For joint marketing with other financial companies	No	We don't share
For our affiliates' everyday business purposes — information about your transactions and experiences. Affiliates are companies related by common ownership or control. They can be financial and non-financial companies. <i>Our affiliates may include companies with a Stewart name; financial companies, such as Stewart Title Company</i>	Yes	No
For our affiliates' everyday business purposes — information about your creditworthiness.	No	We don't share
For our affiliates to market to you — For your convenience, Stewart has developed a means for you to opt out from its affiliates marketing even though such mechanism is not legally required.	Yes	Yes, send your first and last name, the email address used in your transaction, your Stewart file number and the Stewart office location that is handling your transaction by email to optout@stewart.com or fax to 1-800-335-9591.
For non-affiliates to market to you. Non-affiliates are companies not related by common ownership or control. They can be financial and non-financial companies.	No	We don't share

We may disclose your personal information to our affiliates or to non-affiliates as permitted by law. If you request a transaction with a non-affiliate, such as a third party insurance company, we will disclose your personal information to that non-affiliate. [We do not control their subsequent use of information, and suggest you refer to their privacy notices.]

SHARING PRACTICES

How often do the Stewart Title Companies notify me about their practices?	We must notify you about our sharing practices when you request a transaction.
How do the Stewart Title Companies protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer, file, and building safeguards.
How do the Stewart Title Companies collect my personal information?	We collect your personal information, for example, when you <ul style="list-style-type: none"> ▪ request insurance-related services ▪ provide such information to us We also collect your personal information from others, such as the real estate agent or lender involved in your transaction, credit reporting agencies, affiliates or other companies.
What sharing can I limit?	Although federal and state law give you the right to limit sharing (e.g., opt out) in certain instances, we do not share your personal information in those instances.

Contact us: If you have any questions about this privacy notice, please contact us at: Stewart Title Guaranty Company, 1980 Post Oak Blvd., Privacy Officer, Houston, Texas 77056

STG Privacy Notice 2 (Rev 01/26/09) Independent Agencies and Unaffiliated Escrow Agents

WHAT DO/DOES THE Sterling Title Services - Kalispell Branch (Main) DO WITH YOUR PERSONAL INFORMATION?

Federal and applicable state law and regulations give consumers the right to limit some but not all sharing. Federal and applicable state law regulations also require us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand how we use your personal information. This privacy notice is distributed on behalf of Sterling Title Services - Kalispell Branch (Main), and its affiliates (" N/A "), pursuant to Title V of the Gramm-Leach-Bliley Act (GLBA).

The types of personal information we collect and share depend on the product or service that you have sought through us. This information can include social security numbers and driver's license number.

All financial companies, such as Sterling Title Services - Kalispell Branch (Main), need to share customers' personal information to run their everyday business—to process transactions and maintain customer accounts. In the section below, we list the reasons that we can share customers' personal information; the reasons that we choose to share; and whether you can limit this sharing.

Reasons we can share your personal information	Do we share?	Can you limit this sharing?
For our everyday business purposes — to process your transactions and maintain your account. This may include running the business and managing customer accounts, such as processing transactions, mailing, and auditing services, and responding to court orders and legal investigations.	Yes	No
For our marketing purposes — to offer our products and services to you.	Yes	No
For joint marketing with other financial companies	No	We don't share
For our affiliates' everyday business purposes — information about your transactions and experiences. Affiliates are companies related by common ownership or control. They can be financial and non-financial companies.	Yes	No
For our affiliates' everyday business purposes — information about your creditworthiness.	No	We don't share
For our affiliates to market to you	Yes	No
For non-affiliates to market to you. Non-affiliates are companies not related by common ownership or control. They can be financial and non-financial companies.	No	We don't share

We may disclose your personal information to our affiliates or to non-affiliates as permitted by law. If you request a transaction with a non-affiliate, such as a third party insurance company, we will disclose your personal information to that non-affiliate. [We do not control their subsequent use of information, and suggest you refer to their privacy notices.]

Sharing practices

How often do/does Sterling Title Services - Kalispell Branch (Main) notify me about their practices?	We must notify you about our sharing practices when you request a transaction.
How do/does Sterling Title Services - Kalispell Branch (Main) protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal and state law. These measures include computer, file, and building safeguards.
How do/does Sterling Title Services - Kalispell Branch (Main) collect my personal information?	<p>We collect your personal information, for example, when you</p> <ul style="list-style-type: none"> • request insurance-related services • provide such information to us <p>We also collect your personal information from others, such as the real estate agent or lender involved in your transaction, credit reporting agencies, affiliates or other companies.</p>
What sharing can I limit?	Although federal and state law give you the right to limit sharing (e.g., opt out) in certain instances, we do not share your personal information in those instances.

Contact Us

If you have any questions about this privacy notice, please contact us at: Sterling Title Services - Kalispell Branch (Main), 211 South Main Street, Kalispell, MT 59901

①



Paula Robinson, Flathead County MT by NW

201100013364
Page: 1 of 3
Fees: \$21.00
6/29/2011 4:08 PM

AND WHEN RECORDED MAIL TO:

*Enna, LLC
3080 E. Lakeshore Dr.
Whitefish, MT 59937*

Filed for Record at Request of:
First American Title Company

Space Above This Line for Recorder's Use Only

Order No.: 380071-WT
Parcel No.: 0365726

WARRANTY DEED

FOR VALUE RECEIVED,

Bonita Boyd

hereinafter called Grantor(s), do(es) hereby grant, bargain, sell and convey unto

Enna, LLC

whose address is: **919 Columbia Ave., Whitefish, MT 59937**

Hereinafter called the Grantee, the following described premises situated in **Flathead County, Montana,** to-wit:

SEE EXHIBIT "A"

SUBJECT TO covenants, conditions, restrictions, provisions, easements and encumbrances apparent or of record.

TO HAVE AND TO HOLD the said premises, with its appurtenances unto the said Grantees and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all lawful claims whatsoever.

0365726

APPROVED 6/29/11ff



Date: **June 29, 2011**

File No.: **380071-WT (tbd)**

EXHIBIT 'A'

LEGAL DESCRIPTION:

THE S $\frac{1}{2}$ OF LOT 10 AND ALL OF LOT 11 OF BLOCK 1 OF RIVERSIDE ADDITION TO WHITEFISH, MONTANA, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDS OF THE COUNTY CLERK AND RECORDER OF FLATHEAD COUNTY, MONTANA.

EXCEPTING THEREFROM THE FOLLOW DESCRIBED TRACTS:

TRACT 1:

THE S $\frac{1}{2}$ OF THE E $\frac{1}{2}$ OF SAID LOT 10.

TRACT 2:

E $\frac{1}{2}$ OF SAID LOT 11.

TRACT 3:

**ALL THAT PART OF SAID LOTS 10 AND 11, DESCRIBED AS FOLLOWS:
COMMENCING AT THE NW CORNER OF LOT 9 OF SAID BLOCK 1; THENCE EAST ALONG THE NORTH BOUNDARY THEREOF, A DISTANCE OF 169.9 FEET; THENCE SOUTH AND PARALLEL WITH THE WEST BOUNDARY OF SAID LOTS 9 & 10,, A DISTANCE OF 126.9 FEET TO THE SOUTH BOUNDARY OF THE N $\frac{1}{2}$ OF SAID LOT 10, AND THE POINT OF BEGINNING OF THE PROPERTY TO BE HEREIN DESCRIBED; THENCE SOUTH PARALLEL WITH THE WEST BOUNDARY OF SAID LOTS 10 & 11; A DISTANCE OF 126.9 FEET TO THE SOUTH BOUNDARY OF SAID LOT 11; THENCE EAST ALONG THE SOUTH BOUNDARY OF SAID LOT 11 A DISTANCE OF 87.55 FEET TO THE SW CORNER OF THE E $\frac{1}{2}$ OF SAID LOT 11; THENCE NORTH ALONG THE WEST BOUNDARY OF THE E $\frac{1}{2}$ OF SAID LOTS 10 & 11; A DISTANCE OF 126.9 FEET TO THE SOUTH BOUNDARY OF THE N $\frac{1}{2}$ OF SAID LOT 10, THENCE WEST ALONG THE SOUTH BOUNDARY OF THE N $\frac{1}{2}$ OF SAID LOT 10 A DISTANCE OF 87.55 FEET TO THE PLACE OF BEGINNING.**

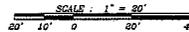
By: SANDS SURVEYING, Inc.
2 Village Loop
Kalispell, MT 59901
(406) 755-6481

JOB NO: 382903
DRAWING DATE: OCTOBER 2, 2014
COMPLETED DATE: 1/23/2014
FOR: IAN COLLINS
OWNER: ENNA, LLC

Plat Of RIVERSIDE ADDITION TO WHITEFISH, No. 3

The Amended Plat of
a Portion of the South Half of Lot 10 and a Portion of Lot 11,
Block 1 of Riverside Addition to Whitefish, Montana
Located in the

NE1/4SE1/4 SEC. 36, T.31N., R.22W., P.M.M., FLATHEAD COUNTY, MONTANA



THIS MAP IS FURNISHED FOR INFORMATION PURPOSES ONLY TO ASSIST IN PROPERTY LOCATION WITH REFERENCE TO STREETS AND OTHER PARCELS. NO REPRESENTATION IS MADE AS TO ACCURACY AND STERLING TITLE SERVICES ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE THEREON.

PURPOSE: BOUNDARY LINE ADJUSTMENT

DESCRIPTION:

A TRACT OF LAND, SITUATED, LYING AND BEING IN THE NE1/4SE1/4 OF SECTION 36, TOWNSHIP 31 NORTH, RANGE 22 WEST, P.M.M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

BEGINNING at the southwest corner of Lot 11, Block 1 of Riverside Addition to Whitefish (records of Flathead County) which is a found iron pin on the east R/W of Columbia Avenue; thence along said R/W N70°00'00"W 126.84 feet to a found iron pin; thence leaving said R/W N89°39'10"E 170.91 feet to a found iron pin; thence S00°00'00"E 126.80 feet to a set iron pin; thence S89°36'29"W 171.10 feet to the point of beginning and containing 0.499 ACRES. Subject to and together with all appurtenant easements of record.

The above described property is to be known as:
RIVERSIDE ADDITION TO WHITEFISH, NO. 3

OWNERS' CERTIFICATION:

I hereby certify that the purpose of this division of land is to relocate boundary lines of five or fewer lots within a platted subdivision, and that no additional parcels are hereby created; therefore, this relocation of boundaries is exempt from review as a subdivision pursuant to Section 78-3-207 (1)(d), M.C.A."

ALSO:

Lot 10A is excluded from sanitation review by the Department of Environmental Quality pursuant to M.C.A. 78-4-101 (2) (e) (i) as a remainder of an original tract created by aggregating a parcel from the tract for purposes of transfer because the remainder is served by public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or M.C.A. Title 78, Chapter 4.

AND:

Lot 11A is excluded from sanitation review by the Department of Environmental Quality pursuant to M.C.A. 78-4-101 (2) (d) as the division is located within jurisdictional areas that have adopted growth policies pursuant to Title 78, Chapter 1 M.C.A. or is within a first-class or second class municipalities for which the governing body certifies, pursuant to 78-4-107 M.C.A., that adequate storm water drainage and adequate municipal facilities will be provided. (Note: Municipal Facilities Exclusion: Checklist must be reviewed and approved by the Montana Department of Environmental Quality, and the original approval letter from MDEQ must be filed with the survey.)

Thomas E. Sands
ENNA, LLC

STATE OF MONTANA
County of FLATHEAD

On this 11th day of Dec 2014, before me, a Notary Public in and for the State of Montana, personally appeared Ian Collins, a single man, known to me to be the person whose name is subscribed to the foregoing instrument and who duly acknowledged to me that he executed the same.

Notary Public for the State of Montana
Printed Name: *Thomas E. Sands*
Residing at: *211 N. 1st St. Kalispell, MT 59901*
My commission expires: *12/31/2015*

LEGEND:

- Set 1/2" x 3/4" Rebar & Cap (79755)
- Found 2" Alum Cap (147315)
- Found as noted
- (R) Record Information Per Riverside Add. to Whitefish, Montana
- (RI) Record Information Per Conway Estates
- FOB Point of Beginning

CERTIFICATE OF SURVEYOR

Thomas E. Sands
THOMAS E. SANDS 79755

APPROVED: *11/15/2014*

EXAMINING LAND SURVEYOR
REG. NO. 54283

STATE OF MONTANA
COUNTY OF FLATHEAD, SS
FILED ON THE 22 DAY OF DEC 2014
AT 11:14 AM, PAID FEE 15-
Danila Robinson
CLERK & RECORDER

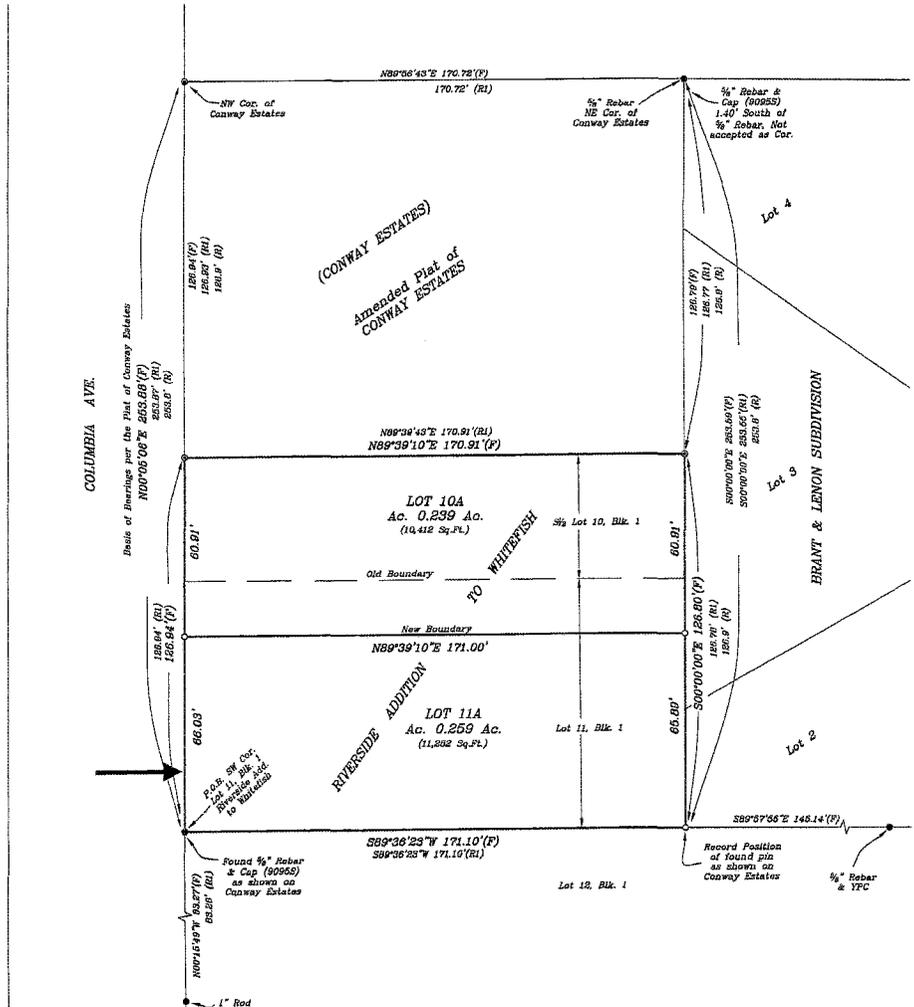
BY: *Thomas E. Sands*
DEPUTY

INSTRUMENT REC. NO. 201400025263
plat 2014 0006 No Abst

Plat # 20140066 Abstract# NA
201400025263 Fees: \$15.00 by: DD
by SANDS SURV
Date 12/23/2014 Time 11:19 AM
Paula Robinson, Flathead County Montana

SHEET 1 OF 1

FILE No. plat 2014 0006 No Abst



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ORDINANCE NO. 16-__

An Ordinance of the City Council of the City of Whitefish, Montana, rezoning approximately 1.177 acres of land located at 2722 and 2424 Carver Bay Road, in Section 14, Township 31 North, Range 22 West, Whitefish, Montana, from County R-1 (Suburban Residential) to City WSR (Suburban Residential District) and adopting findings with respect to such rezone.

WHEREAS, the City of Whitefish initiated a rezone with respect to property located at 2722 and 2424 Carver Bay Road, and legally described as Lots 9 and 10 of Whitefish Lake Summer Homes Subdivision, in Section 14, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana; and

WHEREAS, in response to the City-initiated rezone, the Whitefish Planning & Building staff prepared Staff Report WZC 15-04, dated November 12, 2015, which analyzed the proposed rezone and recommended in favor of its approval; and

WHEREAS, at a lawfully noticed public hearing on November 19, 2015, the Whitefish Planning Board reviewed Staff Report WZC 15-04, received an oral report from Planning staff, invited public comment, and thereafter voted unanimously to recommend in favor of the proposed zone change; and

WHEREAS, at a lawfully noticed public hearing on January 4, 2016, the Whitefish City Council reviewed Staff Report WZC 15-04 and letter of transmittal, received an oral report from Planning staff, and invited public comment; and

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

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

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

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

Section 2: Staff Report WZC 15-04 dated November 12, 2015, together with the December 29, 2015 letter of transmittal from the Whitefish Planning & Building Department, are hereby adopted as Findings of Fact.

Section 3: The real property located at 2722 and 2424 Carver Bay Road, and legally described as Lots 9 and 10 of Whitefish Lake Summer Homes Subdivision, in Section 14, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, previously zoned County R-1 (Suburban Residential) is hereby rezoned to City WSR (Suburban Residential District).

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

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

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

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

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS _____ DAY OF _____, 2016.

John M. Muhlfield, Mayor

ATTEST:

Necile Lorang, City Clerk



EXHIBIT "A"

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



December 29, 2015

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

RE: Grenier/City of Whitefish Zone Change: WZC 15-04

Honorable Mayor and Council:

Summary of Requested Action: This is a request by the City of Whitefish on behalf of Charles and Teresa Grenier for a rezone of two parcels with the zoning designation of County R-1 to City WSR (Suburban Residential District). The property is located at 2422 and 2424 Carver Bay Road and totals 1.177 acres.

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

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

Planning Board Action: The Whitefish City Planning Board met on November 19, 2015 and considered the requested rezone. Following the public hearing, the Planning Board voted 4-0 (unanimously, Ellis, Picoli, and Stein were absent) and recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

This item has been placed on the agenda for your regularly scheduled meeting on January 4, 2016. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

A handwritten signature in black ink, appearing to read "Bailey Minnich". The signature is written in a cursive, flowing style.

Bailey Minnich, AICP, CFM
Planner II

Att: Draft Minutes of 11-19-15 Planning Board Meeting

Exhibits from 11-12-15 Staff Packet

1. Staff Report WZC-15-04, 11-12-15
2. Adjacent Landowner Notice, 10-30-15
3. Advisory Agency Notice, 10-29-15

The following was submitted by the applicant:

4. Application for Zoning Map Amendment, 9-28-15

c: w/att Necile Lorang, City Clerk

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

Senior Planner Compton-Ring reviewed her staff report and

**GRENIER/CITY OF WHITEFISH
ZONE CHANGE WZC 15-04
EXHIBIT LIST
NOVEMBER 12, 2015**

1. Staff Report – WZC 15-04, 11-12-15
2. Adjacent Landowner Notice, 10-30-15
3. Advisory Agency Notice, 10-29-15

The following was submitted by the applicant:

4. Application for Zoning Map Amendment, 9-28-15

**GRENIER/CITY OF WHITEFISH
ZONE CHANGE
STAFF REPORT WZC 15-04
NOVEMBER 12, 2015**

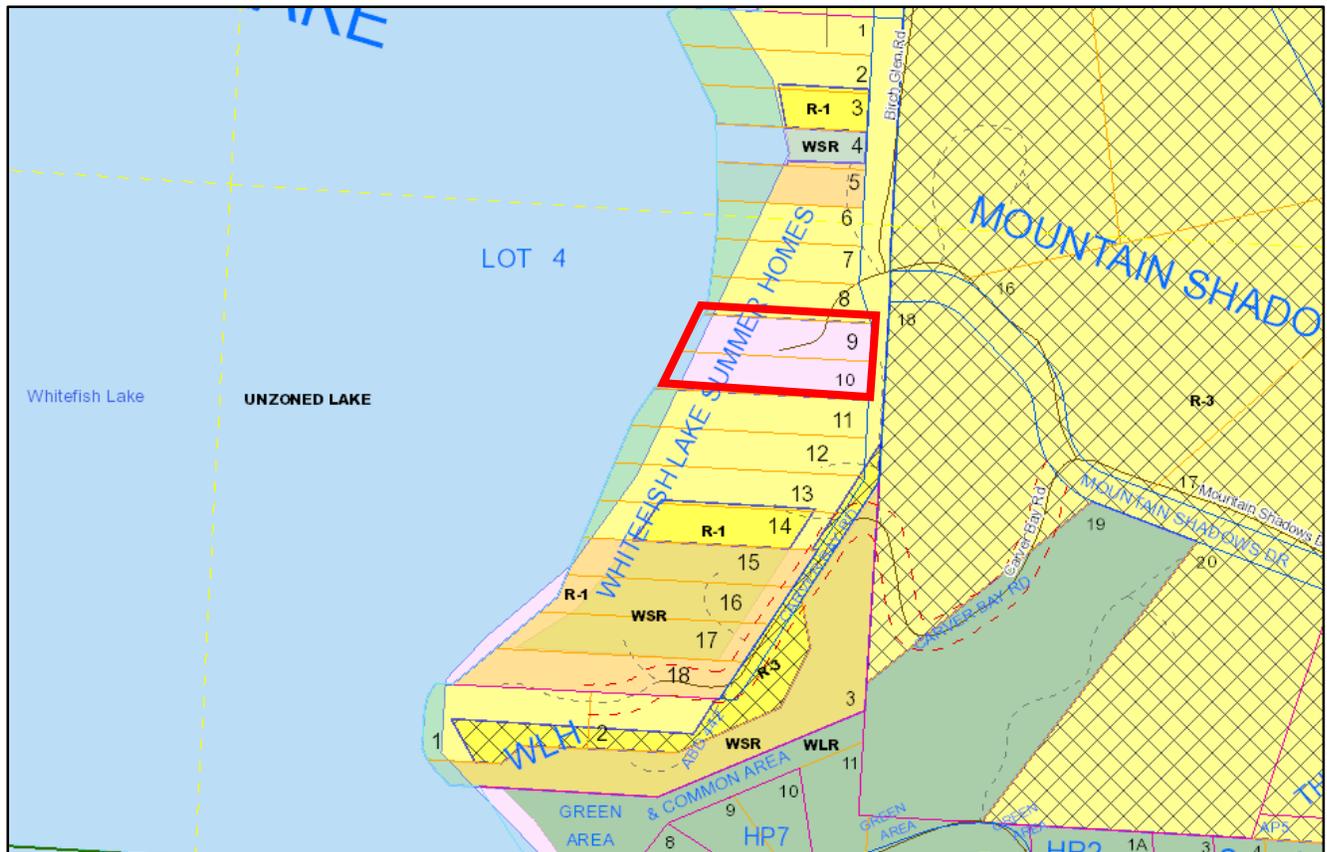
A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by the City of Whitefish on behalf of Charles and Teresa Grenier to rezone two parcels from County R-1 (Suburban Residential) to City WSR (Suburban Residential District) at 2422 and 2424 Carver Bay Road. This request is scheduled before the Whitefish Planning Board for public hearing on Thursday, **November 19, 2015** at 6:00 PM. A recommendation will be forwarded to the City Council for a subsequent public hearing on Monday, **January 4, 2015** at 7:10 PM. Both hearings will be held in the Whitefish City Council Chambers.

PROJECT SCOPE

The City is requesting a zone change on two parcels (lots 9 and 10) from County R-1 (Suburban Residential) to City WSR (Suburban Residential District). The parcels front on Carver Bay Road and are located within the city limits.

The purpose of rezoning the properties to a City zone is due to the adoption of Resolution 15-44 which annexed the properties into Whitefish City limits on October 5, 2015. As the property is now within the City, the zoning must be changed from a County zoning designation to a City zoning designation.

Figure 1: Location of subject property outlined in red.



Purpose of WSR: 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.

	<u>WSR (proposed zoning)</u>	<u>R-1 (existing zoning)</u>
Minimum lot area:	1 acre	1 acre
Front yard setback:	25 feet	20 feet
Side yard setback:	15 feet	20 feet* [for non-conforming properties with lot widths less than 150 feet – 10 feet; less than 50 feet – 5 feet]
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	25% maximum	40% maximum

A. Property Owners:
 Charles & Teresa Grenier
 2422 Carver Bay Road
 Whitefish, MT 59937

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

B. Location and Size:
 The subject properties are located adjacent to Carver Bay Road. The properties can be legally described as lots 9 and 10 of Whitefish Lake Summer Homes Subdivision in Section 14, Township 31N, Range 22W, P.M.M., Flathead County, Montana. The subject properties total approximately 1.177 acres in size.

C. Existing Land Use, Zoning and Growth Policy Designation:
 The properties are currently developed with a single-family residence. The Growth Policy identifies the parcels as Suburban Residential on the Whitefish City-County Growth Policy Future Land Use Map. The text within the Growth Policy relating to the classification states this designation is for lower density residential areas at the periphery of the urban service area, predominantly single family residential. Zoning is generally WCR, WER, and WSR.

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

North:	residential	Flathead County R-1	Suburban Residential
South:	residential	Flathead County R-1	Suburban Residential
East:	residential	Flathead County R-3	One Family Residential

West Whitefish Unzoned N/A
 Lake

E. Public Notice:

A notice was mailed to adjacent land owners within 150-feet of the subject parcels on October 30, 2015. Advisory agencies were noticed on October 29, 2015. A notice was published in the Whitefish Pilot on November 4, 2015. As of the writing of this report, no public comments have been received.

F. Utilities

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

REVIEW AND FINDINGS OF FACT:

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

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

A. Made in Accordance with a Growth Policy.

The Growth Policy Future Land Use Map designates the parcel within the Suburban Residential designation. The proposed change to WSR (Suburban Residential District) zoning is consistent with the Suburban designation.

Finding 1: The proposed zone change to WSR is in accordance with the Growth Policy because it complies with the Suburban Residential land use designation.

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

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

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

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

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

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

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

Water and sewer will be extended to the property. The subject property is located adjacent to a County maintained road, which is paved. The school district will not change due to the recent annexation, and the subject property is located approximately 1 mile south of Les Mason State Park, which is a state maintained public park.

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

E. Reasonable Provision of Adequate Light and Air.

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

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

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

The property is located in the city limits and is served by Carver Bay Road and E. Lakeshore Drive which are both County maintained roads. The proposed zone change from a County R-1 zone to a closely equivalent City WSR zone will not have an effect on the motorized and non-motorized transportation systems because the proposed uses in each district are very similar.

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

G. Promotion of Compatible Urban Growth.

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

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

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

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

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

I. Conserving the Value of Buildings.

The subject property is currently developed with a single-family residence. The WSR zoning specifically only permits single-family dwellings. Therefore the value of surrounding buildings will not be negatively impacted by the proposed zone change.

Finding 9: The proposed zone change will conserve the value of buildings because the property is currently developed with a single-family residence, and the value of surrounding buildings will be maintained as the WSR zoning only permits single-family residences.

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

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

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

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

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

RECOMMENDATION

It is recommended that the Whitefish Planning Board adopt staff report WZC 15-04 findings of fact and recommend to the Whitefish City Council the map amendment be **approved**.



Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that The City of Whitefish is proposing to rezone parcels recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). 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 14, Township 31N, Range 22W.

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

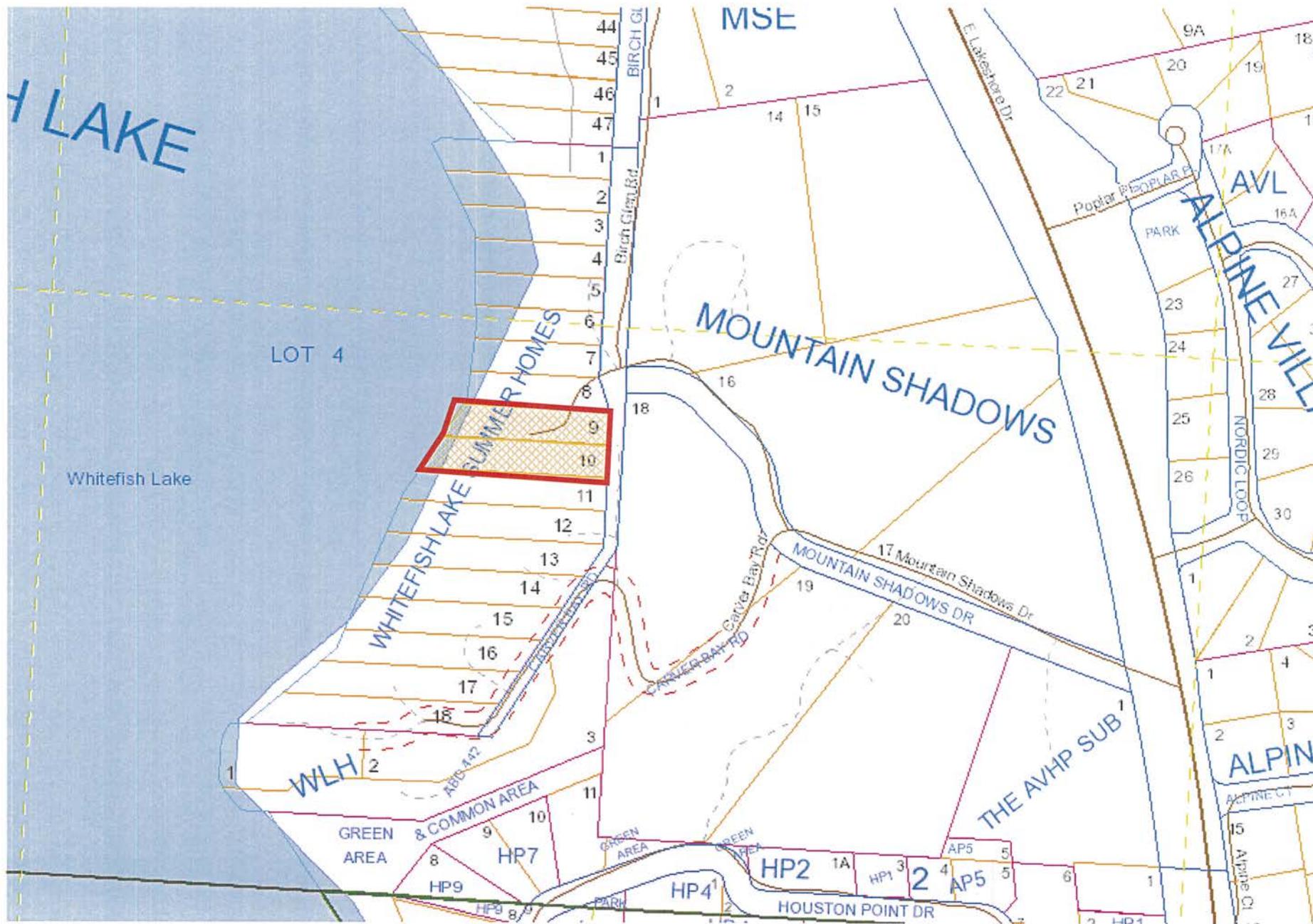
Thursday, November 19, 2015

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, January 4, 2016 at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a map showing the subject properties. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at bminnich@cityofwhitefish.org. Comments received by the close of business on Tuesday, November 10, 2015, will be included in the packets to the Planning Board members. Comments received after the deadline will be summarized to the Planning Board members at the public hearing.



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



Date: 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 #: W2C-15-04
 Date: 9/28/15
 Intake Staff: BM
 Date Complete: _____

ZONING MAP AMENDMENT

FEE ATTACHED \$ _____

INSTRUCTIONS:

(See current fee schedule)

- A pre-application meeting with planning staff is required. Date of pre-application 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 City-County Planning Board is the third Thursday of each month at 6:00 PM in the City 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 Address: 2422 CARVER BAY ROAD ; 2424 Carver Bay Road
 Assessor's Tract No.(s) 0692850 Lot No(s) 9 & 10
 Block # _____ Subdivision Name WF LAKE SUMMER HOMES
 Section 14 Township 31 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.

Charles Grenier
 Owner's Signature¹

9/29/15
 Date

CHARLES GRENIER
 Print Name

Teresa A. Grenier
 Applicant's Signature

9-29-15
 Date

TERESA A. GRENIER
 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

SEP 28 2015

APPLICATION CONTENTS:

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

- Zoning Map Amendment – Annexation Application
- Map showing the location and boundaries of the property
- Copy of Approved Resolution annexing property into City limits or
Date of City Council Meeting October 5, 2015 Res # 15-44

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: Charles & Teresa Grenier Phone: 862-9887

Mailing Address: 2422 Carver Bay Road

City, State, Zip: Whitefish, MT 59937

Email: charlie@carversbay.com

APPLICANT:

Name: City of Whitefish Phone: 406-863-2410

Mailing Address: P.O. Box 158

City, State, Zip: Whitefish, MT 59937

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

Annexation into Whitefish city limits.

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

PROPOSED ZONING:

CURRENT ZONING DISTRICT: County R-1

PROPOSED ZONING DISTRICT: WSR



October 13, 2015

JYI

Ms. Debbie Pierson
Flathead County Clerk & Recorder
800 South Main Street, Room 114
Kalispell, MT 59901-5420

COPY

*RE: Resolution No. 15-44 Annexing
2422 and 2424 Carver Bay Road*

Dear Ms. Pierson:

We enclose City of Whitefish Resolution No. 15-44 which we request that you record at your earliest convenience.

Please include the recording fee for this documents on our monthly statement, and return the recorded originals to the City of Whitefish as indicated on the document.

Thank you for your assistance.

Sincerely,

Keni Hopkins
Legal Assistant

Enclosure

cc (w-o Enclosure):

Necile Lorang, City Clerk
Linda Brosheit, Permit Technician
✓Wendy Compton-Ring, Senior Planner
Rose Elliott, Utility Services Supervisor

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



Debbie Pierson, Flathead County MT by DD

20150914581
Page 1 of 10
Fees: \$70.00
10/16/2015 2:36 PM

RESOLUTION NO. 15-44

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 2422 and 2424 Carver Bay Road, for which the owners have petitioned for and consented to annexation.

WHEREAS, Charles P. and Teresa A. Grenier, have filed a Petition 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 petition for annexation pursuant to the statutory Annexation by Petition method set forth in Title 7, Chapter 2, Part 46, Montana Code Annotated; and

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

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

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

Section 1: The corporate boundaries of the City of Whitefish are hereby extended to annex the boundaries of the area herein described in the Petition 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:

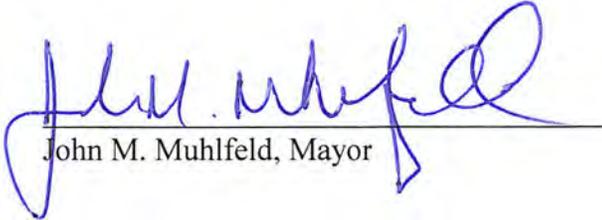
LOTS NINE (9) AND TEN (10) OF WHITEFISH LAKE SUMMER HOMES,
according to the map or plat thereof on file and of record in the office of the Clerk
and Recorder of Flathead County, Montana.

0692850
VED 10/16/15ff

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 October 5, 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 5TH DAY OF OCTOBER, 2015.


John M. Muhlfield, Mayor

ATTEST:


Necile Lorang, City Clerk



CITY OF MONTANA }
County of Flathead } SS
City of Whitefish }

I hereby certify that the instrument to which this certificate is affixed is a true, correct and compared copy of the original on file in the office of the Clerk of the City of Whitefish.

Witness my hand and the seal of the City of Whitefish, Flathead County, Montana, this 14th day of October 2015

by Necile Lorang Clerk

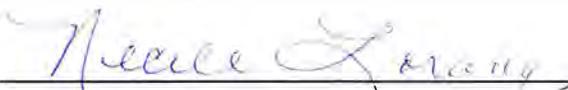
**CERTIFICATE AS TO RESOLUTION
AND ADOPTING VOTE**

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 2422 and 2424 Carver Bay Road, 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 October 5, 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 5th day of October 2015.





Necile Lorang, City Clerk

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 28th day of September, 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 28th day of September, 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:

LOTS 9 & 10 WHITEFISH LAKE SUMMER HOMES
S 14 T 31 R 22W

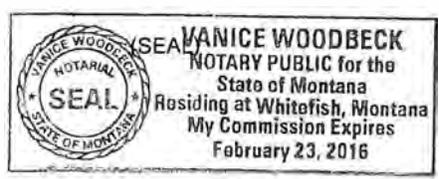
PROPERTY ADDRESS: 2422 CARVER BAY ROAD
ZONED AS: R-1

Charles Grenier
Charles Grenier [Printed Name]
TERESA GRENIER [Printed Name]

STATE OF Montana)
County of Flathead) :ss

On this 28 day of September, 2015, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared Charles Grenier and Teresa Grenier, 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
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

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

THIS AGREEMENT is entered into as of 28th day of SEPTEMBER, 2015, by and between the City of Whitefish, a municipal corporation ("CITY") as grantor of City water and/or sanitary sewer services, and Charles & Teresa Grenier ("OWNER"), as grantee recipient(s) of City water and/or sanitary sewer services, whose mailing address is 2422 CARVER BAY ROAD 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

LOT 9 & 10 WHITEFISH LAKE SUMMER HOMES

- 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.

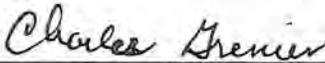
(11) Partial Invalidity: Each term, covenant, condition or provision of this Agreement shall be viewed as separate and distinct, and in the event that any such term, covenant, condition or provision shall be held by a court of competent jurisdiction to be invalid, the remaining provisions shall continue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

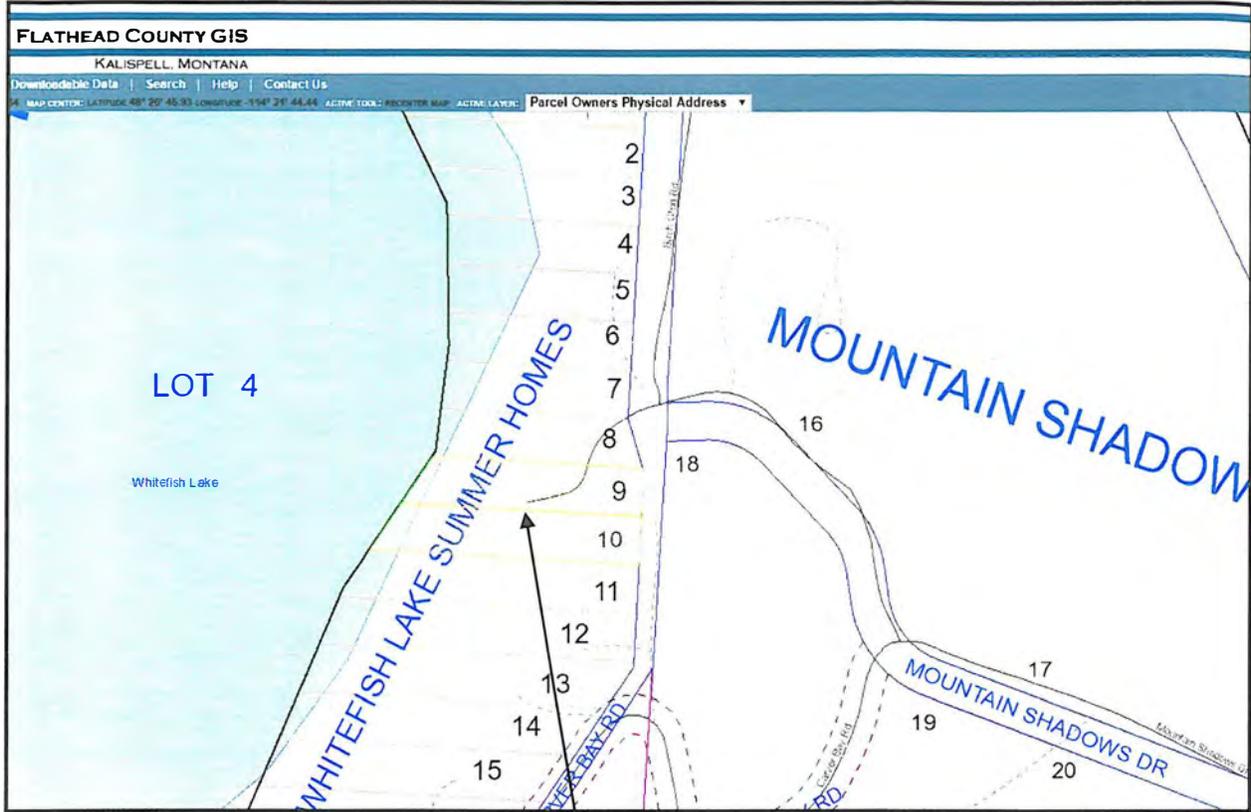
CITY OF WHITEFISH

By: 
Charles C. Stearns, City Manager

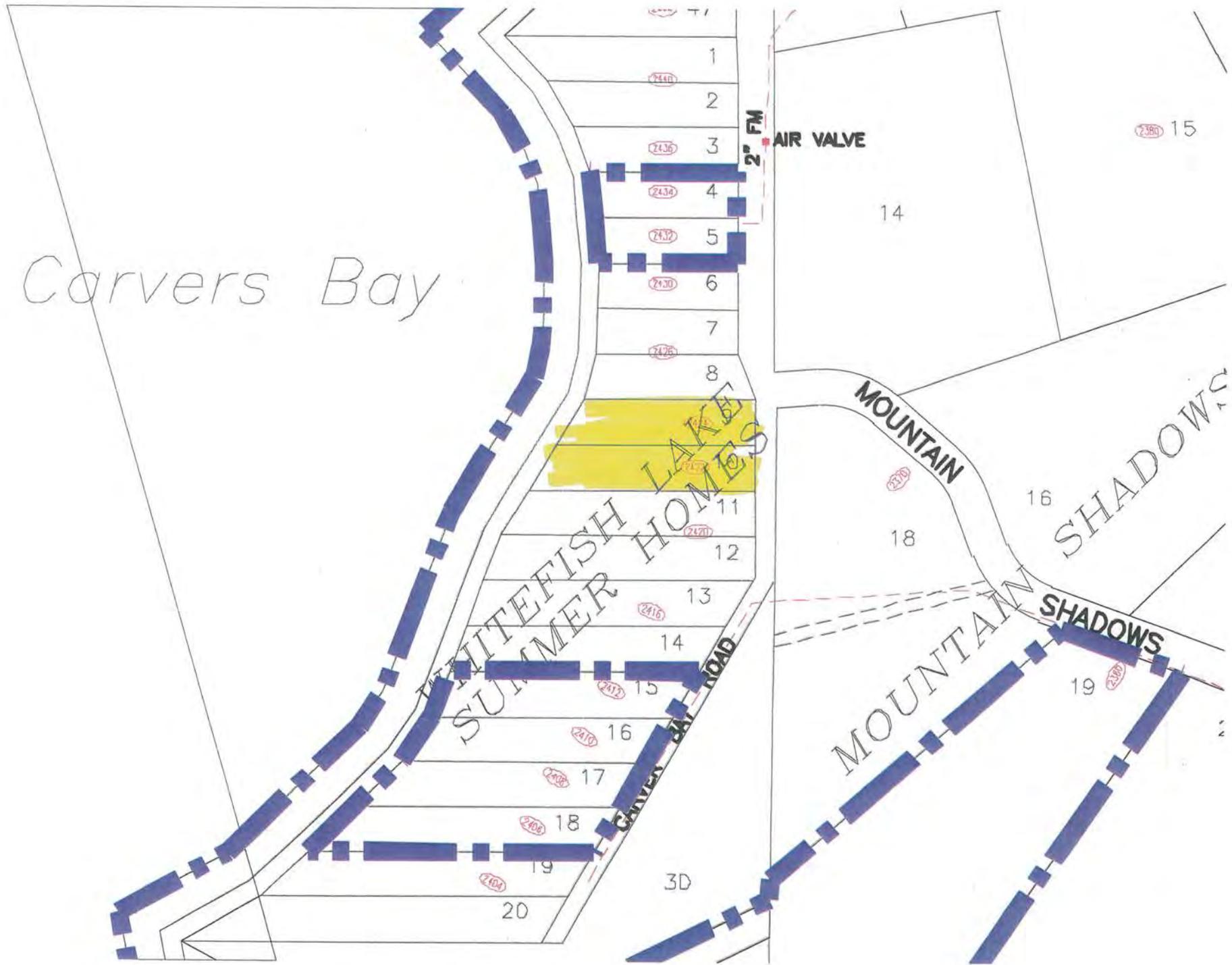
OWNER(S)


CHARLES GRENIER
[Printed Name]


TERESA A GRENIER
[Printed Name]



2422 and 2424 Carver Bay
Assessor No. 0692850



(This page left blank intentionally to separate printed sections)

ORDINANCE NO. 16-__

An Ordinance of the City Council of the City of Whitefish, Montana, rezoning approximately 1.391 acres of land located at 1750 and 1770 US Highway 93 West, in Section 35, Township 31 North, Range 22 West, Whitefish, Montana, from County R-1 (Suburban Residential) to City WSR (Suburban Residential District) and adopting findings with respect to such rezone.

WHEREAS, the City of Whitefish initiated a rezone with respect to property located at 1750 and 1770 US Highway 93 West, and legally described as Tracts 1DABA, 1D, and 1DHB, in Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana; and

WHEREAS, in response to the City-initiated rezone, the Whitefish Planning & Building staff prepared Staff Report WZC 15-04, dated December 10, 2015, which analyzed the proposed rezone and recommended in favor of its approval; and

WHEREAS, at a lawfully noticed public hearing on December 17, 2015, the Whitefish Planning Board reviewed Staff Report WZC 15-05, received an oral report from Planning staff, invited public comment, and thereafter voted to recommend in favor of the proposed zone change; and

WHEREAS, at a lawfully noticed public hearing on January 4, 2016, the Whitefish City Council reviewed Staff Report WZC 15-05 and letter of transmittal, received an oral report from Planning staff, and invited public comment; and

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

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

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

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

Section 2: Staff Report WZC 15-05 dated December 10, 2015, together with the December 29, 2015 letter of transmittal from the Whitefish Planning & Building Department, are hereby adopted as Findings of Fact.

Section 3: The real property located 1750 and 1770 US Highway 93 West, and legally described as Tracts 1DABA, 1D, and 1DHB, in Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, previously zoned County R-1 (Suburban Residential) is hereby rezoned to City WSR (Suburban Residential District).

Section 4: The official Zoning Map of the City of Whitefish, Montana, shall be amended, altered and changed to provide that the rezone and zoning map amendment of the real

property identified on the map attached hereto as Exhibit "A", and incorporated herein by reference, shall be designated City WSR (Suburban Residential District).

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

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

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

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS _____ DAY OF _____, 2016.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

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



December 29, 2015

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

RE: Mitchell/City of Whitefish Zone Change: WZC 15-05

Honorable Mayor and Council:

Summary of Requested Action: This is a request by the City of Whitefish on behalf of Philip & Belinda Mitchell for a rezone of two parcels with the zoning designation of County R-1 to City WSR (Suburban Residential District). The property is located at 1750 & 1770 Highway 93 West and totals 1.391 acres.

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

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

Planning Board Action: The Whitefish City Planning Board met on December 17, 2015 and considered the requested rezone. Following the public hearing, the Planning Board voted 6-0 (unanimously, Laidlaw abstained) and recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

This item has been placed on the agenda for your regularly scheduled meeting on January 4, 2016. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

A handwritten signature in black ink that reads "Bailey Minnich". The signature is written in a cursive, flowing style.

Bailey Minnich, AICP, CFM
Planner II

Att: Draft Minutes of 12-17-15 Planning Board Meeting

Exhibits from 12-10-15 Staff Packet

1. Staff Report WZC-15-05, 12-10-15
2. Adjacent Landowner Notice, 11-25-15
3. Advisory Agency Notice, 11-25-15

The following was submitted by the applicant:

4. Application for Zoning Map Amendment, 11-12-15

c: w/att

Necile Lorang, City Clerk

Draft

**MOTION / BOARD
DISCUSSION**

Frank moved and Ken seconded to continue this matter to the January 21, 2016 Planning Board Meeting.

VOTE

The motion passed unanimously.

**PUBLIC HEARING 2:
CITY OF WHITEFISH
REZONE REQUEST
6:03 pm**

A request by the City of Whitefish on behalf of Philip and Belinda Mitchell for a Zone Change on parcels recently annexed into City limits. The properties are developed with residential uses. The subject properties are located at 1750 and 1770 Highway 93 West, and can be legally described as Tract 1DABA, 1D and 1DHB in S35, T31N, R22W.

**STAFF REPORT
WZC 15-05
(Minnich)**

Planner Minnich reviewed her staff report and findings.

Staff recommended adoption of the findings of fact within staff report WZC 15-05 and for **approval** to the Whitefish City Council.

**BOARD QUESTIONS
OF STAFF**

Frank said he is comfortable with this as a general proposition, but asked whether the existing structures and use of the property are consistent with the proposed zoning, so that there will not be any nonconforming uses on the property at that point. Planner Minnich replied that other than setbacks, which she has not looked at, the uses are consistent.

**APPLICANT /
AGENCIES**

None.

PUBLIC COMMENT

None.

**MOTION / BOARD
DISCUSSION**

Ken moved and Rebecca seconded to adopt the findings of fact within staff report WZC 15-05. Jim recused himself since he was appointed by the County Commissioners to serve on this Committee and this is a County Commissioner's project.

VOTE

The motion passed unanimously with Jim recusing himself. The matter is scheduled to go before the Council on January 4, 2016.

**PUBLIC HEARING 3:
AMENDMENT OF
WHITEFISH CITY
CODE TITLE 11,
ZONING
REGULATIONS
6:10 pm**

A request by the City of Whitefish for a variety of housekeeping amendments in §11-9-2, definitions, bar/lounge; §11-3-2A, Accessory Buildings; add micro-distillery to the Conditional Uses in §11-2R-3, Industrial District, §11-2L-3, General Business District, §11-2K-3, Secondary Business District, and §11-2J-3, Limited Business District, of the Zoning Code.

STAFF REPORT

Senior Planner Compton-Ring reviewed her staff report and

Draft

**MITCHELL/CITY OF WHITEFISH
ZONE CHANGE WZC 15-05
EXHIBIT LIST
DECEMBER 10, 2015**

1. Staff Report – WZC 15-05, 12-10-15
2. Adjacent Landowner Notice, 11-25-15
3. Advisory Agency Notice, 11-25-15

The following was submitted by the applicant:

4. Application for Zoning Map Amendment, 11-12-15

**MITCHELL/CITY OF WHITEFISH
ZONE CHANGE
STAFF REPORT WZC 15-05
DECEMBER 10, 2015**

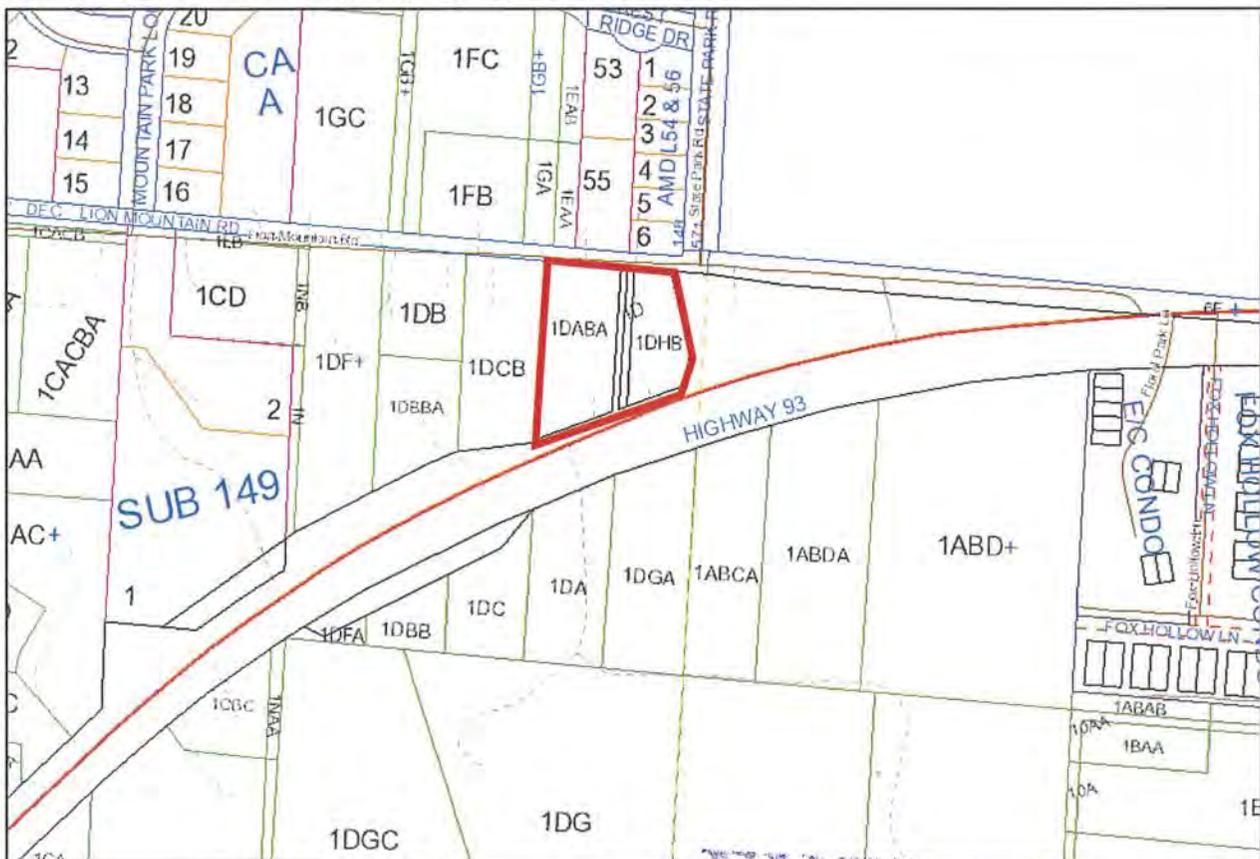
A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by the City of Whitefish on behalf of Philip & Belinda Mitchell to rezone two parcels from County R-1 (Suburban Residential) to City WSR (Suburban Residential District) at 1750 and 1770 Highway 93 West. This request is scheduled before the Whitefish Planning Board for public hearing on Thursday, **December 17, 2015** at 6:00 PM. A recommendation will be forwarded to the City Council for a subsequent public hearing on Monday, **January 4, 2015** at 7:10 PM. Both hearings will be held in the Whitefish City Council Chambers.

PROJECT SCOPE

The City is requesting a zone change on two parcels from County R-1 (Suburban Residential) to City WSR (Suburban Residential District). The parcels front on Highway 93 West and Lion Mountain Road and are located within the city limits.

The purpose of rezoning the properties to a City zone is due to the adoption of Resolution 15-52 which annexed the properties into Whitefish City limits on December 7, 2015. As the property is now within the City, the zoning must be changed from a County zoning designation to a City zoning designation.

Figure 1: Location of subject property outlined in red.



Purpose of WSR: 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.

	<u>WSR (proposed zoning)</u>	<u>R-1 (existing zoning)</u>
Minimum lot area:	1 acre	1 acre
Front yard setback:	25 feet	20 feet
Side yard setback:	15 feet	20 feet* [for non-conforming properties with lot widths less than 150 feet – 10 feet; less than 50 feet – 5 feet]
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	25% maximum	40% maximum

A. Property Owners:
 Philip & Belinda Mitchell
 P.O. Box 1567
 Whitefish, MT 59937

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

B. Location and Size:
 The subject properties are located adjacent to Highway 93 West and Lion Mountain Road. The properties can be legally described as Tracts 1DABA, 1D, and 1DHB in Section 35, Township 31N, Range 22W, P.M.M., Flathead County, Montana. The subject properties total approximately 1.391 acres in size.

C. Existing Land Use, Zoning and Growth Policy Designation:
 The properties are each currently developed with a single-family residence. The Growth Policy identifies the parcels as Suburban Residential on the Whitefish City-County Growth Policy Future Land Use Map. The text within the Growth Policy relating to the classification states this designation is for lower density residential areas at the periphery of the urban service area, predominantly single family residential. Zoning is generally WCR, WER, and WSR.

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

North:	residential	City WR-3	Low Density Multi-Family Residential District
South:	residential	City WSR	Suburban Residential District
East:	Highway 93 ROW	Flathead County R-1	Suburban Residential

E. Public Notice:

A notice was mailed to adjacent land owners within 150-feet of the subject parcels on November 25, 2015. Advisory agencies were noticed on November 25, 2015. A notice was published in the Whitefish Pilot on December 2, 2015. As of the writing of this report, no public comments have been received.

F. Utilities

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

REVIEW AND FINDINGS OF FACT:

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

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

A. Made in Accordance with a Growth Policy.

The Growth Policy Future Land Use Map designates the parcel within the Suburban Residential designation. The proposed change to WSR (Suburban Residential District) zoning is consistent with the Suburban designation.

Finding 1: The proposed zone change to WSR is in accordance with the Growth Policy because it complies with the Suburban Residential land use designation.

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

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

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

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

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

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

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

Water and sewer has been extended along Highway 93 West adjacent to the properties. The properties are located adjacent to a State maintained road, which is paved, however they are both accessed from Lion Mountain Road, a paved City maintained road. The school district will not change due to the recent annexation, and the subject property is located approximately 1.2 miles south of Whitefish State Park, which is a state maintained public park.

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

E. Reasonable Provision of Adequate Light and Air.

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

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

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

The property is located in the city limits and is served by Highway 93 West, a paved State maintained road, and Lion Mountain Road, a paved City maintained road. The proposed zone change from a County R-1 zone to a closely equivalent City WSR zone will not have an effect on the motorized and non-motorized transportation systems because the proposed uses in each district are very similar.

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

G. Promotion of Compatible Urban Growth.

The subject property is located in an area identified as Suburban Residential by the Growth Policy's Future Land Use Map. The Growth Policy designates Suburban Residential as including WCR, WER, and WSR zoning. Since the subject property has

been recently annexed into the Whitefish City limits, the property must be rezoned to an equivalent City zone, which is WSR. Therefore, the proposed zone change will promote compatible urban growth for the surrounding area.

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

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

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

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

I. Conserving the Value of Buildings.

The subject properties are currently developed with single-family residences. The WSR zoning specifically only permits single-family dwellings. Therefore the value of surrounding buildings will not be negatively impacted by the proposed zone change.

Finding 9: The proposed zone change will conserve the value of buildings because the properties are currently developed with single-family residences, and the value of surrounding buildings will be maintained as the WSR zoning only permits single-family residences.

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

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

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

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

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

RECOMMENDATION

It is recommended that the Whitefish Planning Board adopt staff report WZC 15-05 findings of fact and recommend to the Whitefish City Council the map amendment be **approved**.



Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that The City of Whitefish is proposing to rezone parcels recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The properties are developed with residential uses. The subject properties are located at 1750 and 1770 Highway 93 West and can be legally described as Tracts 1DABA, 1D, and 1DHB in Section 35, Township 31N, Range 22W.

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

Thursday, December 17, 2015

6:00 p.m.

**Whitefish City Council Chambers, City Hall
1005 Baker Avenue, Whitefish MT 59937**

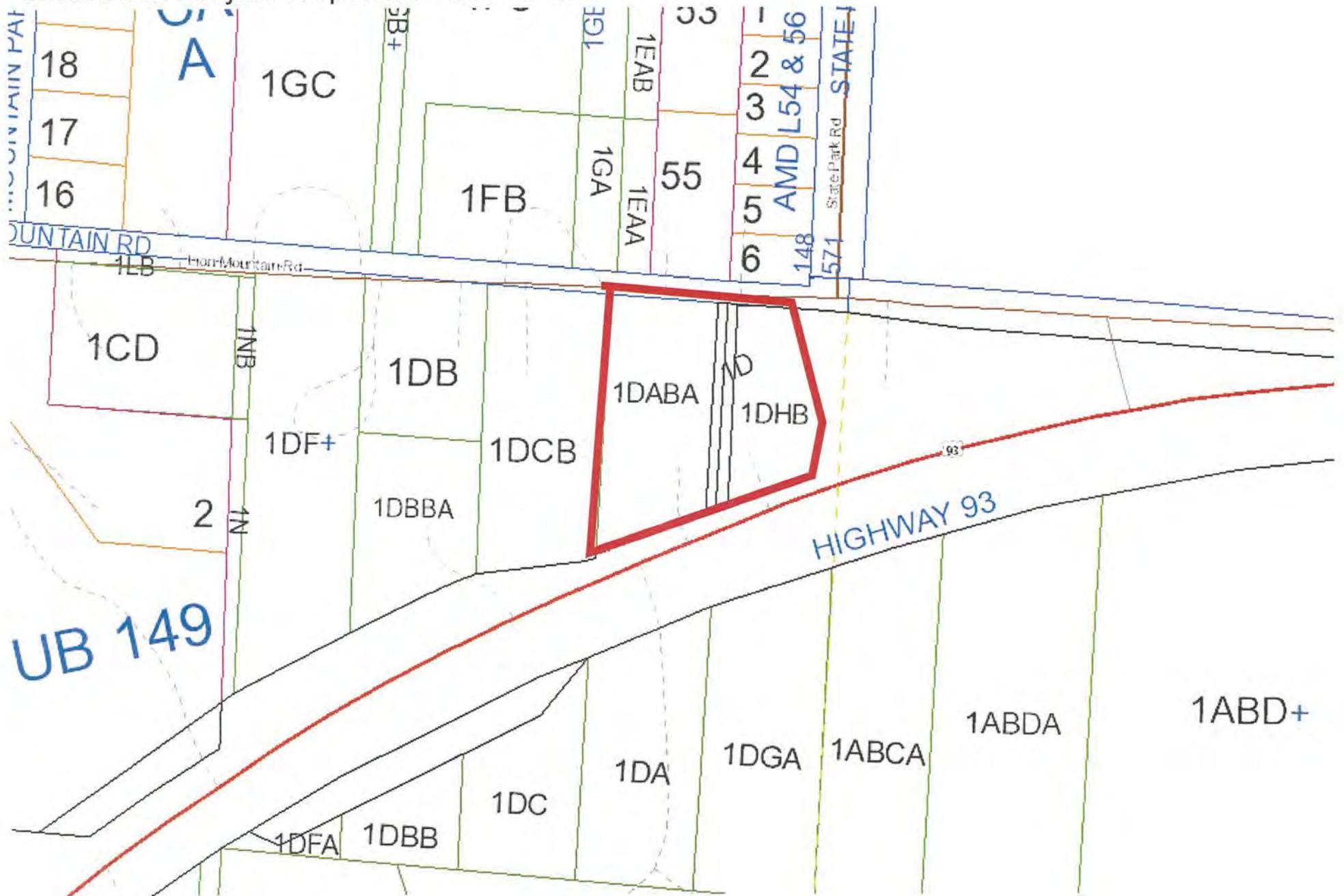
The Whitefish Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on Monday, January 4, 2016 at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a map showing the subject properties. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at bminnich@cityofwhitefish.org. Comments received by the close of business on Wednesday, December 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.

EXHIBIT

2

Location of Subject Properties outlined in Red



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



Date: November 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, December 17, 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 January 4, 2016 for item #1 and Tuesday, January 19, 2016 for items #2 and #3. City Council meetings start at 7:10 pm at **1005 Baker Avenue** in the Whitefish City Council Chambers.

1. A request by the City of Whitefish on behalf of Philip and Belinda Mitchell for a Zone Change on parcels recently annexed into City limits. The properties are developed with residential uses. The subject properties are located at 1750 and 1770 Highway 93 W., and can be legally described as Tract 1DABA, 1D and 1DHB in Section 35, Township 31N, Range 22W. WZC 15-05 (Minnich)
2. A request by the City of Whitefish for a variety of housekeeping amendments in §11-9-2, definitions, bar/lounge; §11-3-2A, Accessory Buildings; add micro-distillery to the Conditional Uses in §11-2R-3, Industrial District, §11-2L-3, General Business District, §11-2L-3, Secondary Business District, and §11-2J-3, Limited Business District, of the Zoning Code. WZTA 15-04 (Compton-Ring)
3. A request by the City of Whitefish for an amendment to Section 11-2S, WPUD, Planned Unit Development District, to clarify the blending of uses and density where a PUD overlays multiple underlying zones. WZTA 15-01 (Taylor)

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

EXHIBIT



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

File #: WEC 15-05
 Date: 11/12/15
 Intake Staff: BM
 Date Complete: _____

ZONING MAP AMENDMENT - ANNEXATION

INSTRUCTIONS:

- Submit the completed application with annexation form and appropriate attachments to the Whitefish City Clerk's Office.
- After annexation, the rezone application will be scheduled at the next available meeting of the City Planning Board, which meets on the third Thursday of each month at 6:00 PM in the City Council Chambers at 402 E 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 Address: 1750 Hwy 93 West
 Assessor's Tract No.(s) 2 Lot No(s) Survey # 19517
 Block # _____ Subdivision Name _____
 Section S35 Township T31N Range R22W

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.

Philip & Belinda Mitchell
 Owner's Signature¹

11-10-15
 Date

Philip & Belinda Mitchell
 Print Name

Philip Mitchell
 Applicant's Signature

11-10-15
 Date

 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.

EXHIBIT

4

APPLICATION CONTENTS:

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

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

When all application materials are submitted to the Planning & Building Department, the application will be scheduled for public hearing before the Planning Board and City Council.

B. OWNER(S) OF RECORD:

Name: Philip & Belinda Mitchell Phone: 406-261-4495
Mailing Address: Box 1567
City, State, Zip: Whitefish, Mt. 59937
Email: socrates@outlook.com

APPLICANT:

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

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

Annex to City

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

PROPOSED ZONING:

CURRENT ZONING DISTRICT: R-1
PROPOSED ZONING DISTRICT: WSR



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: _____

ZONING MAP AMENDMENT - ANNEXATION

INSTRUCTIONS:

- Submit the completed application with annexation form and appropriate attachments to the Whitefish City Clerk's Office.
- After annexation, the rezone application will be scheduled at the next available meeting of the City Planning Board, which meets on the third Thursday of each month at 6:00 PM in the City Council Chambers at 402 E 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 Address: 1770 Hwy 93 West
 Assessor's Tract No.(s) 1 Lot No(s) Survey # 19517
 Block # _____ Subdivision Name _____
 Section 535 Township T31N Range R22W

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.

Philip B. Mitchell _____ 11-10-15 _____
 Owner's Signature¹ Date

Philip Mitchell _____
 Print Name

Philip Mitchell _____ 11-10-15 _____
 Applicant's Signature Date

 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.

APPLICATION CONTENTS:

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B. OWNER(S) OF RECORD:

Name: Philip & Belinda Mitchell Phone: 406-261-4495
Mailing Address: Box 1567
City, State, Zip: Whitefish, Mt. 59937
Email: soctrees@outlook.com

APPLICANT:

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

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

Annex to City

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

PROPOSED ZONING:

CURRENT ZONING DISTRICT: _____

PROPOSED ZONING DISTRICT: _____

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

RESOLUTION NO. 15-52

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:

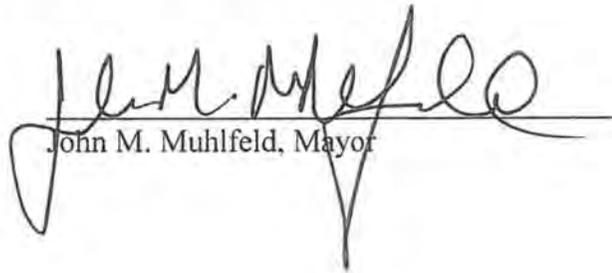
Section 1: The corporate boundaries of the City of Whitefish are hereby extended to annex the boundaries of the area herein described in the Petitions for Annexation, according to the map or plat thereof, on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana, legally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

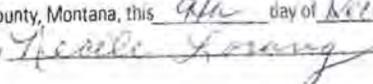
ATTEST:


Neville Lorang, City Clerk



STATE OF MONTANA }
County of Flathead } SS
City of Whitefish }

I hereby certify that the instrument to which this certificate is affixed is a true, correct and compared copy of the original on file in the office of the Clerk of the City of Whitefish.

Witness my hand and the seal of the City of Whitefish, Flathead County, Montana, this 9th day of December 2015
by  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

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 Cont. 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 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.

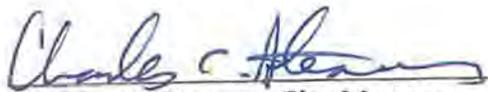
(9) **Term:** This Agreement shall be in perpetuity.

(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.

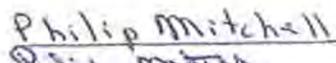
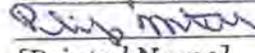
(11) **Partial Invalidity:** Each term, covenant, condition or provision of this Agreement shall be viewed as separate and distinct, and in the event that any such term, covenant, condition or provision shall be held by a court of competent jurisdiction to be invalid, the remaining provisions shall continue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

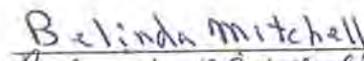
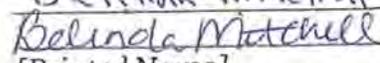
(12) **Necessary Acts:** Each party to this Agreement agrees to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

CITY OF WHITEFISH

By: 
Charles C. Stearns, City Manager

OWNER(S)



[Printed Name]



[Printed Name]

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 19511
S35 / T31N / R22W
except roads & right of ways

PROPERTY ADDRESS:

1750 Hwy 93 NW

ZONED AS:

R-1

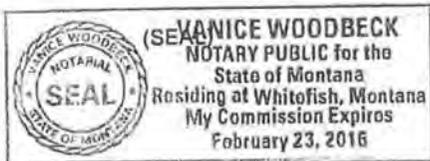
Philip Mitchell
Philip Mitchell (Printed Name)

Belinda Mitchell
Belinda Mitchell (Printed Name)

STATE OF Montana)
County of Flathead) :ss

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
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

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

THIS AGREEMENT is entered into as of 12 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 & Belinda Mitchell
("OWNER"), as grantee recipient(s) of City water and/or sanitary sewer services, whose
mailing address is Box 1567, M.F. 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 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 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.

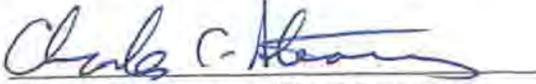
(9) **Term:** This Agreement shall be in perpetuity.

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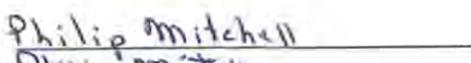
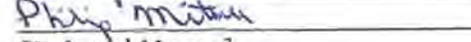
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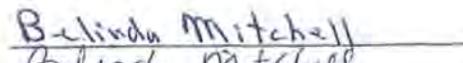
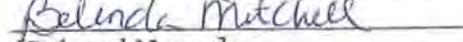
(12) **Necessary Acts:** Each party to this Agreement agrees to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

CITY OF WHITEFISH

By: 
Charles C. Stearns, City Manager

OWNER(S)



[Printed Name]



[Printed Name]

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 12 day of Nov., 2015.

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

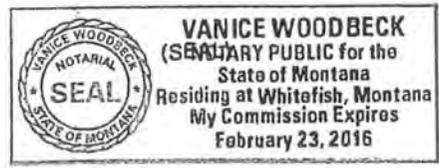
PROPERTY ADDRESS: 1770 Hwy 93 West
ZONED AS: R-1

Philip Mitchell _____
Philip Mitchell [Printed Name]
Belinda Mitchell _____
Belinda Mitchell [Printed Name]

STATE OF Montana)
County of Flathead) :ss

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

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



January 4, 2015

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

RE: Potters Field Ministries Parish House; (WCUP 15-15)

Honorable Mayor and Council:

Summary of Requested Action: Potters Field Ministries is requesting a Conditional Use Permit for a Parish House to house six student interns and/or staff members associated with the Potters Field Ministries directly across the street. A Conditional Use Permit is required for churches, including parish houses and parsonages. The property is developed with a single family home and is zoned WR-2 (Two-Family Residential District). The Whitefish Growth Policy designates this property as 'Urban'. They originally asked for eight people, but reduced that request to six.

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with seven (7) conditions set forth in the attached staff report. The Planning Board amended Condition 5, which we support.

Public Hearing: Mike Rozell, president of Potter's Field Ministries, and two members of the public spoke at the public hearing on November 19, 2015. Both members of the public had concerns about the rate of turnover and traffic in the neighborhood. 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 the seven (7) conditions as contained in the staff report, with an amendment to Condition No. 5, which now reads, "The house shall only be used for residential purposes and shall not exceed six occupants", and adopted the staff report as findings of fact.

Proposed Motion:

- I move to approve WCUP 15-15 along with the Findings of Fact in the staff report and the seven (7) conditions of approval, as recommended by the Whitefish Planning Board.

This item has been placed on the agenda for your regularly scheduled meeting on January 4, 2016. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

A handwritten signature in blue ink, appearing to read "David Taylor".

David Taylor, AICP
Director

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 15-15, 11-19-15
2. Adjacent Landowner Notice, 10-30-15
3. Public Comments (7 Letters)
4. Application for Conditional Use Permit, 10-9-15

c: w/att Necile Lorang, City Clerk
Potter's Field Ministries, 914 Second Street E, Whitefish, MT 59937

Exhibit A
Potters Field Ministries Parish House
WCUP 15-15
Whitefish Planning Board
Recommended Conditions of Approval
November 19, 2015

1. The project shall be in compliance with the site plan submitted on November 4, 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 applicant must maintain at least three parking spaces within the garage, and two in the driveway.
3. The gravel driveway parking area adjacent to the alley and garage shall be paved.
4. The property must be inspected and signed off on by the city Fire Marshal and will need to comply with all fire codes for this classification of occupancy.
5. The house shall only be used for residential purposes and shall not exceed six occupants
6. All on-site lighting shall be dark sky compliant. (§11-3-25, WCC)
7. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun.

**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.

Staff recommended adoption of the findings of fact within staff

report WCUP 15-15, and for **approval** to the Whitefish City Council.

**BOARD QUESTIONS
OF STAFF**

Richard asked for further clarification on the definition of a "parish house" as far as what the Whitefish City Code allows and Director Taylor said "parish houses" are not in the Code so he consulted Webster's dictionary, which has a broad definition. Richard also asked if the Fire Marshal had concerns and Dave said there would be an inspection.

Rebecca asked about four "unrelated individuals" living in a house and Director Taylor clarified that is the limit for single-family homes, not necessarily church-related facilities. Rebecca asked if and how that limit is enforced, and Director Taylor said it is complaint driven and difficult to enforce, but that is how our Code addresses it.

**APPLICANT /
AGENCIES**

Mike Rozell, 857 Highland Loop, President of Potter's Ministry, said the house on 2nd Street was purchased to house staff and members of the Potter's Field Ministry, and they are willing to reduce the number of occupants from eight to six based on the neighbors' complaints that have been received. They previously had an 80-acre ranch in Olney. They have many programs in different countries, and recently added the Browning Indian Reservation. Interns are trained and then go into the field and come back to make Whitefish their home and help with the ministry here. Due to the lack of low-income housing here, one of their supporters purchased the home on 2nd Street. Interns are between 18 and 29 years old and come here for a year commitment, after they have served in foreign countries doing medical outreach. They will comply with whatever requirements the City has, and does not think there is a law against him purchasing another house to put four people in. He spoke highly of the integrity of the individuals who will be living there.

Jim asked to Mr. Rozell to expand on the nature of work. Mr. Rozell said he and his wife had a touring ministry, which has thousands of sponsors helping the children. They have to give great account as to where money goes per IRS requirements, which requires a lot of administrative work. They also work with foster care children and constantly look for opportunities to do what they can in foreign countries and on the Browning Indian Reservation.

Rebecca asked about the concern, based on comment letters received, about interns entering the ministry who have had some

issues. Mr. Rozell said they do the best they can but of course, there might be some who fall through the cracks, but the interns have gone through a year already by the time they come here.

Richard asked about residents doing outreach to people of Whitefish, and whether those people would come into the home. Mr. Rozell said they would come to the church, but not be housed in the parish house.

PUBLIC COMMENT

Leslie Jones, 223 Somers Avenue, said she lives across the street from the house that was withdrawn (224 Somers Avenue) and she wants to be clear about the picture being painted. This is only one of three houses that have been purchased within a block of this church, and her house sits between two of them. These are quintessential, historic downtown homes, and they are concerned about the feel of "employee housing" surrounding them. There is a lot of foot traffic, which affects the feeling of the neighborhood. She asked for clarification on how frequent the turnover will be, will there be new people there every week?

Veronica Feightnus, 201 Park Avenue, said she has the same concerns as Ms. Jones. She feels this is a school-zone, family neighborhood, and there are too many people and too much traffic coming and going, and that some of the people have not been nice when she has tried to ask them questions.

MOTION / BOARD DISCUSSION

Jim moved and Rebecca seconded to adopt the findings of fact within staff report WCUP 15-15, with the seven (7) Conditions of Approval as proposed by City Staff.

Richard asked for clarification that this is not transient, but permanent, housing of a year in duration based on the comment by Ms. Jones. Mr. Rozell said they are not invited back to assist with administrative work until they make a year commitment. He said some interns purchase their own homes, which is something he cannot control. Jim asked if the commitment is a year in Whitefish and Mr. Rozell said yes. Rebecca asked about the one-month debriefing period Mr. Rozell mentioned and he said they have other facilities for the one-month periods.

Richard has a concern with parking. If there is a three-car garage and then cars park in the driveway in front of the garage doors, is that really adequate parking? Director Taylor replied there would be additional space on the lot if a fence were removed. Richard said he does not see five true parking spots, and Director Taylor said the code allows garages to count as parking spaces, but the

Planning board we could make that a requirement for five outside spaces.

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

**POTTER'S FIELD MINISTRIES
943 E SECOND STREET
CONDITIONAL USE PERMIT
WCUP 15-15
NOVEMBER 12, 2015**

1. Staff Report – WCUP 15-15, 11-19-15
2. Adjacent Landowner Notice, 10-30-15
3. Public comments (7 letters)

The following were submitted by the applicant:

4. Application for Conditional Use Permit, 10-9-15

**POTTERS FIELD MINISTRIES PARISH HOUSE
CONDITIONAL USE PERMIT REQUEST
WCUP 15-15
November 19, 2015**

This is a report to the Whitefish Planning Board and the Whitefish City Council regarding a request Conditional Use Permit application for Potters Field Ministries for a 'parish house' to house up to six ministry staff and/or interns. The property is zoned WR-2 and is located at 943 East 2nd Street. It can legally be described as Lot 1A of AMD Lot 5, 6, Block 1 McKeens Addition, S31 T31N R21W. 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, January 4, 2016.

PROJECT SCOPE

The applicants are requesting a conditional use permit to use an existing single family house at 943 East Second street as a 'parish house' associated with their nearby Potters Field Ministries across the street to house up to six student interns and/or staff members. The building is currently in the WR-2 zoning district where churches, parish houses, and parsonages are allowed with a conditional use permit.



The existing home is a two bedroom, one bath home, and currently has five off-street parking spaces, which meets the standard. No modifications are proposed to the home. The applicants originally asked to house eight individuals, but reduced that to six because of off-street parking requirements. They had also originally asked for an additional CUP for a similar use at 224 Somers Avenue, but withdrew that request due to lack of off-street parking. Up to four unrelated individuals can reside in a house without any special permits.

A. OWNERS:

Potter's Field Ministries
914 Second Street E
Whitefish, MT 59937



B. SIZE AND LOCATION OF PROPERTY:

The property is a lot totaling 13,068 square feet and is located at 643 Second Street East, and can be described as Lot 1A of AMD Lot 5, 6, Block 1 McKeens Addition, S31 T31N R21W

C. EXISTING LAND USE AND ZONING:

The subject property is currently developed with a 1624 square foot single family home built in 1905. The property is zoned WR-2, Two-Family Residential. The purpose of this district is intended for residential purposes to provide for one-family and two-family homes in an urban setting connected to all municipal utilities and services. Churches and associated uses are allowed as a conditional use.

D. ADJACENT LAND USES AND ZONING:

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

E. ZONING DISTRICT:

WR-2 (Two-family Residential)

F. WHITEFISH CITY-COUNTY GROWTH POLICY DESIGNATION:

The Whitefish City-County Growth Policy designation for this area is Urban. Chapter 3 of the Growth Policy states this designation generally corresponds to the WR-2, WR-3, and WR-4 zoning districts. The existing WR-2 zoning is consistent with the Growth Policy.



G. 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 District

H. PUBLIC COMMENTS

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on October 28, 2015. A notice was mailed to advisory agencies on October 29, 2015. A notice of the public hearing was published in the *Whitefish Pilot* on November 5, 2015. As of the writing of this staff report, staff had received the following comments:

1. Janet Martinson, 240 Park Avenue, via email:

I am writing in regards to the two Conditional Use Permits submitted by Potters field Ministries. My first concern is what effect will this have on the value of our homes in this single family neighborhood? Is this going to change the tax base for us and will Potters Field be paying the same amount of taxes that we do? If they get the approval on the permits where will it end? If it gets out of hand can the conditional permit be revoked? The other concern is based on the rumors regarding the background of the individuals involved. Before any decision is made I believe the Whitefish Planning Board and the Whitefish City Counsel owe it to the community and the property owners in the immediate are to delve into the history of these young people. Where are they from, how and why were they recruited, have they been in trouble and Potters Field is rehabilitating them. I can not speak for anyone but myself but I am not in favor of troubled teen homes or half way house in this area. Plus this is a well traveled area for children so their background is very important. I am asking for you to respect the home owners and tax payers feelings regarding this issue. Thank you.

2. Veronica Feightner, 201 Park Avenue, via email:

This is a family neighborhood, a school zone. I do not like the idea of the "parish" house for many reasons. A. There are too many people coming and going from there and we don't even know who our "neighbors are. B. The residents also take up a lot of parking, when the snow flies and their cars are all over the neighbors curbs, how much trouble will myself and my visitors have getting to my front door. ie big piles of snow left behind by the plow. C. Some of the residents at the parish house are down right rude. i.e. texting the whole time you are asking them to move their car, saying that if God wanted the leaves up he wouldn't let them fall, arguing with a boy in his truck until I went outside to see if all is alright. D. Some of the residents of the parish house, I was told by one of the boys, have very checked pasts, i.e. heroin addict, porn addict. A FAMILY NEIGHBORHOOD, SCHOOL ZONE IS NOT A PLACE FOR THE "PARISH" RESIDENTS. The children in this neighborhood shouldn't have to think about stranger danger while playing in their own yards. E. What is rate of turnover? Will there be a constant turnover of people? F. Will this "non-profit" owning multiple homes in my neighborhood effect my tax base? This is a family neighborhood.

3. Julie Norby, 236 Park Avenue, via mail:

I am not in favor of this. I am afraid that this will be a halfway house for Potter's Field Ministries. I am unable to attend the meeting.

4. Jody and Ferrin Spivey, 231 Somers, via email:

My husband and I live at 231 Somers Ave., Whitefish, MT. We relocated to Whitefish in 2013 following my husband's deployment and reassignment to the Montana Army National Guard Kalispell Armory. We spent over a year and a half contemplating on where to live within the Flathead Valley. In August 2014, we purchased our residence. We were thrilled to live a traditional community neighborhood. As time passed, we began to notice a large number of residences at 223 Somers Ave. The home is approximately 710 square feet and was housing anywhere from 8-12 people for 1 to 3 months at a time. We live in a zoned neighborhood that prevents short term rentals. In addition to the duration limitations, the number of residences in such a small home presents a significant health and safety issue. I am an occupational health nurse on my civilian side and a nurse in the Montana Army National Guard. The current utilization of 223 Somers goes against standard rights of health and safety. Even if they reduce the number of residences, the purpose of living in the community we selected was to enjoy a true neighborhood and not a VRBO, transient neighborhood.

As for 943 East 2nd Street, the increase capacity will allow for a 'parish house,' which the current owners have never reached out to the surrounding neighborhoods to share their plans, obtain community buy-in or discuss the actual utilization of the two properties. I am truly disheartened by their lack of respect of those how have worked hard to maintain and grow the neighborhood and the historical factor of Whitefish. I understand the definition of 'parish house', intern, etc., have never been fully disclosed by Potters Field. From my personal observations, it appears there is more of rehabilitation aspect to the residences staying at either home. I believe in the need for appropriate facilities, but we did not purchase our house next to a facility. We purchased in a neighborhood.

At this point, I feel this is truly goes against the focus of Whitefish Planning and Zoning to extend a conditional use permit for these two residences.

5. Eric Sawtelle, 239 Somers, via email:

Hello, I am writing this e-mail regarding the proposed Conditional Use Permit for a Potter's Field Ministries 'parish house' at 943 E. 2nd St. My wife and I are happy to be raising our two sons in a quiet family-oriented neighborhood (we live at 239 Somers Ave) and are concerned with a changing dynamic. Potter's Field Ministries currently owns a house across the street from us on Somers Ave. From our experiences, the constant influx of people to and from the property has had an impact far beyond that of a typical rental unit. As you consider this proposal please keep the neighborhood plan in mind and possible effects zoning changes may have on residents.

6. Camisha Sawtelle, 239 Somers, via email:

Dear Planning Board Members, I am writing in opposition to the application for Conditional Use Permits filed by Potter's Field Ministries. I own a home at 239 Somers Avenue and have concerns about the temporary housing of ministry staff and/or interns in a residential neighborhood. Originally, Potter's Field Ministries filed for CUPs on two properties in my neighborhood (224 Somers Avenue and 943 E. 2nd Street). The CUPs were for "parish houses". It is my understanding that the CUP for the property on Somers Avenue has been withdrawn and the application for the 2nd Street property has been amended to allow 6 people to stay there instead of the original 8. The Somers Avenue house will now be used to sleep only 4 unrelated people and will qualify as "single family" use. The amendment/withdraw of the applications does not change my position that the temporary housing of ministry workers is not keeping with the character of a residential neighborhood. I have exchanged very pleasant emails with Pastor Rozell and wish him the best in his work ministering. The Somers Avenue property looks great and the people I have interacted with at the house as they travel to and from the church with bibles under their arms have been pleasant. However, I have interacted with different individuals every week. I oppose turning the single family homes in my neighborhood into temporary bunkhouses for the employees/interns/missionaries of the Potter's Field Ministries. It is unclear to me how this use is allowed and yet temporary rentals are not. I do not understand how a missionary training school/church that has housing for a dozen employees/interns is not classified as a business. I have concerns about the precedent set by allowing businesses to house temporary staff/interns in a residential neighborhood.

7. Gordon and Debbie Sands, 204 Park Avenue, via email:

I am writing to note our opposition the Potters Field conditional use permit for address 943 East 2nd St. Whitefish, MT.

Primary concerns:

- 1) Safety of school kids and neighbors. Reason for concern: Added traffic, more people coming and going to and from the house and the church across the street .Not just cars but foot traffic. Also we don't know as yet how the additional traffic from the new Hotel and New subdivision are going to impact 2nd St. This is one of the main routes for kids biking, driving and walking to school.
- 2) Transient residents, and who has vetted the kids. I had spoken to a young man who is a resident of Potters field he told me that they do have a good number of kids in trouble. Who monitors the teens or kids or whatever age they are? Wouldn't there beautiful big ranch about 7 miles out of town be a better setting for a group to work out the rough spots they are encountering?
- 3) What does this do to the value of our great neighborhood both from a lifestyle and financial standpoint? I don't think we would buy a home in a neighborhood where there were new people always coming and going , not knowing who belonged there and who didn't .Never a sense or feeling of neighborhood.

- 4) The impact I believe will be greater than the six residents they are asking for. As it is now I see people coming back and forth from the church to the house. We live right next door. What will keep it from becoming an extension of the church with many people always there? As they noted in the findings line 7. As a place of residence people will be living there which means the use is 24 hours per day in theory.
- 5) Zoning is put in place to protect, in a way a promise that you will have a say in any changes in the future as a group. As a neighborhood this is nothing personal towards potter's field yet they bought the property zoned as it is now, why would they have the ability to change it for 10/20 families many who have lived here for up to 30 years. If this passes, will this be one more president that is changing the character of our neighborhoods? Where do we stop? We do have the right to say no.
- 6) If this passes what recourse do we as neighbors and citizens have if the use is not as stated.

REVIEW AND FINDINGS OF FACT

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

1. Growth Policy Compliance:

Finding 1: The proposed use complies with Growth Policy Designation of Urban.

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

The underlying zoning is WR-2 (Two-family residential). The permitted uses of this zoning category describes allowing residential as well as churches and parish houses with a conditional use permit. Housing more than four unrelated individuals necessitates a conditional use permit requirement for a parish house.

The development proposal is consistent with the purpose and intent of the applicable regulations.

Finding 2: The proposed use complies with the zoning regulations and intent for the WR-2 district based on conditionally permitted uses for churches and parish houses. Only two additional people will reside there beyond what is allowed under traditional residential zoning.

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

Adequate usable land area: The subject property is over 13,000 in size, considerably larger than a typical lot in that neighborhood. The existing structures

meets all required setbacks. The house is bordered on three sides by street or alley right-of-ways, so there is only one immediately adjacent neighbor. The property has a privacy fence around the entire perimeter. There is a three-car garage and room for several additional vehicles to park, as well as adequate room to expand parking. The house itself is fairly small, and will need to be inspected to insure adequate fire safety with the increased occupancy.

Access that meets the standards set forth in these regulations, including emergency access: Access to the site is existing off of the adjacent alley.



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, the already developed site is only moderately sloped, does not contain any water bodies or storm water conveyances.

Finding 3: The site suitability for the subject property is addressed through the large lot size and open space to address the need for adequate usable land area. It has a privacy fence and is bordered on three sides by either street or alley. There are no environmental hazards present in the subject area for construction. Access to the site is existing off the alley. A fire inspection will be required as a condition of approval.

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

Parking locations and layout: While the applicant has stated that very few of the student interns staying at the proposed house will have vehicles, the City zoning code requires multiple off-street parking spaces. 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 unrelated individuals. A condition will require five off-street parking spaces to be maintained. There are three spaces in the

garage (one is 'compact'), and room for at least two more in front of the garage. The outside parking area is gravel, and therefore will be required to be paved.

Traffic Circulation: The site is accessed via an alley maintained by the city.

Open space: The site plan shows adequate open space as the lot is over 13,000 square feet.

Fencing/Screening: Fencing and screening is not required for residential purposes, but the property is encircled by an existing privacy fence.

Landscaping: The property has adequate existing landscaping. Additional landscaping is not required.

Signage: No signage is proposed.

Undergrounding of new and existing utilities: There are utilities existing on site servicing both buildings.

Finding 4: The existing facility meets the required parking spaces. Open space is preserved. The property is fenced. The outside parking area will be required to be paved.

5. Availability and Adequacy of Public Services and Facilities.

Sewer and water: City water and sewer serve the site.

Storm Water Drainage: Storm water drainage plans will not be required due to additional paved parking being under 5,000 square feet of new impervious area.

Fire Protection: The Whitefish Fire Department serves the site.

Police: The Whitefish Police Department serves the site.

Streets: The subject property is accessed via city streets and is located on a major collector street.

Finding 5: City services and utilities are available to the site.

6. Neighborhood/Community Impact:

Traffic Generation: Because the house is across the street from the facility where the occupants will be working, the majority of traffic from the property will be foot traffic. Most of the occupants will not have vehicles. Six unrelated occupants may have slightly more impact on adjacent neighbors than a standard family

occupancy. The house is located on a major collector street designed to handle large volumes of traffic.

Noise or Vibration: No noise or vibration will be created beyond what is typical to normal residential use.

Dust, Smoke, Glare, or Heat: No impact is anticipated. Paving the off-street parking area will reduce dust.

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

Hours of Operation: Not applicable.

Finding 6: The proposed development is not anticipated to have a significant negative neighborhood impact beyond some additional foot traffic. Negative impacts on noise, dust, smoke, odor or other environmental nuisances are not expected, paving the parking area will reduce dust, and vehicle traffic impacts are not a concern.

7. Neighborhood/Community Compatibility:

Structural Bulk and Massing: There will be no structural or size changes to the existing buildings.

Scale: *Scale* means the spatial relationship with neighboring buildings. There are no major changes being proposed to the existing buildings.

Context of Existing Neighborhood: The existing neighborhood is a mix of single family residential, churches, and schools. The property is on a major collector street. The proposed use is not expected to impact or change the character of the existing neighborhood.

Density: The design of the proposed structure is similar to other buildings in the area and will not change visibly. There will be more occupants to the building than most neighboring properties.

Community Character: Since there will be minimal changes to the existing buildings, impacts to this will be negligible. Residential use will be maintained.

Finding 7: The existing house will not be modified and it is currently consistent with the designs, size and density of the immediate area. The fact that will house up to six individuals will give it more density than most of the single family properties nearby.

RECOMMENDATION

It is recommended that the Whitefish Planning Board adopt the findings of fact within staff report WCUP 15-15 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 November 4, 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 applicant must maintain at least three parking spaces within the garage, and two in the driveway.
3. The gravel driveway parking area adjacent to the alley and garage shall be paved.
4. The property must be inspected and signed off on by the city Fire Marshal and will need to comply with all fire codes for this classification of occupancy.
5. The house shall not exceed six occupants.
6. All on-site lighting shall be dark sky compliant. (§11-3-25, WCC)
7. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun.

C. DESCRIBE PROPOSED USE:

As background, Potter's Field Ministries has been in existence since 1992 and is a multifaceted ministry encompassing outreach and evangelism, kids programs in six geographic locations internationally and domestically, and a year-long training program for young adults where they are trained for three months at our Mission Training School in Antigua, Guatemala, and then sent to serve in one of our kids program locations around the world. These kid's program locations include Uganda, Kenya, Cambodia, Costa Rica, Guatemala. We are also looking to add a location in Browning, MT, after the first of the year. Additionally, for the last three years we have been meeting twice weekly for a bible study in our church building at 914 2nd Street East, Whitefish, which led to the establishment of Selah Fellowship, a church with the same heart as Potter's Field Ministries, dedicated to reaching outside of its four walls into our community as well as around the world. Both ministries have a real heart for our hometown, Whitefish, and our combined desire is to reach into our community and be a positive influence in the lives of people.

Our desire for the home at 943 2nd Street East, Whitefish, MT, is for it to be used as housing for staff and interns that work within the ministries of Potter's Field Ministries and Selah Fellowship located at 914 2nd Street East, Whitefish, MT. We are seeking a Conditional Use Permit for the allowable usage of Parish staff / Parsonage housing within a WR-2 zoning. Our intention is to house no more than six (6) individuals in the home, each of which would work with and for the ministry, and our desire is to be able to provide housing for them that is in close proximity to our ministry offices to assist them in being able to serve with us without the burden of the increasing rental costs in Whitefish. As was even stated in the Whitefish Pilot on September 30th, stemming from meetings held by business leaders, city officials, and concerned residents, our affordable housing situation is approaching a crisis because young people cannot afford to live and work, or in our case serve, in Whitefish due to the lack of rentals driving the cost of housing beyond affordability. We are striving to solve that problem for our ministry by creating an affordable solution to those who would like to come to live and serve in Whitefish with us by providing them housing.

Those who live in the home will be serving in the ministries of Potter's Field and Selah Fellowship, and reaching out into our communities through various opportunities and projects in Whitefish and throughout the Flathead Valley. Examples of things they have already participated in would be serving food on behalf of the Booster Club at Whitefish High School to raise funds for the sports programs, helping people moving homes, serving with Habitat for Humanity at the current housing projects providing housing for low income families, running horse camps for foster care children, voluntarily working in their community on various clean-up projects (such as going around raking up leaves in neighbor's yards, etc.), and also doing outreach in Browning, MT to the Blackfeet Indians.

The individuals who live, and will be living, in our home have all been involved with Potter's Field and Selah long before coming up to serve with us. In fact, the majority, if not all, of those who will reside there have all completed our year-long IGNITE Program where they were trained for three months in Antigua, Guatemala, served in one of our international locations (Uganda, Kenya, Cambodia, Guatemala, and Costa Rica) for six months, went through reentry for a month to debrief their experience in the mission field, and then served in their home churches for two months. These young people come to the IGNITE program from all over the United States, giving a year of their life to serve others who have nothing to give back. It is from this group of young people, having been trained, equipped, and served faithfully, that we select those who would have the opportunity to come serve with us in Montana in ministry. Suffice it to say, these are exceptional young adults with a heart to serve others.

We believe being able to use the home in this way, providing housing for individuals who will reach out in serving within our community of Whitefish, as well as the whole of the Flathead Valley, will

be highly beneficial through not only the ministry that will come through those who live in the home to the community around them, but also in setting an example of what it means for young adults to positively impact the Flathead Valley.

D. FINDINGS:

1. The home exists within WR-2 residential zoning and we are not adding anything to the home that would adversely affect the Whitefish City-County Growth Policy. No additions are proposed to home in question and the individuals would all reside in the home as it is constructed (see photos). They will operate within community in a respectful way and we do not see any negative effect with regard to the growth plan, nor do we see at this time how allowing for Parish Staff/Parsonage housing would affect the goals and policies of the City of Whitefish.
2. We met with Dave Taylor of the Whitefish Planning Department to discuss our options on the use of the homes in light of the residential codes for the City of Whitefish. He notified us that one of the allowable conditional uses in WR-2 zoning, as listed in 11-2G-3, is that of parish staff houses and parsonages. This type of housing is generally provided by churches and ministries as a benefit to staff members, and our use would be consistent with this. Each person who resides in the home will be serving in various capacities within the ministries of Potter's Field Ministries and Selah Fellowship, and it is the desire of these ministries to provide housing for those who are serving within the ministry to assist them in being able to financially afford to live in Whitefish, in close proximity to the ministry, and serve the community along with the whole of the Flathead Valley.
3. The home is located within a 45 second walk of the church and offices where the individuals will be serving, which is an optimal proximity. Also, as stated previously, parish staff housing and parsonages are allowable conditional uses within WR-2 zoning and, as such, the home is suitable for this proposed use. The home is already existing and is more than adequate for our proposed use, and no changes have been made that would change the access to the property for emergency vehicles access, etc. There are no environmentally sensitive areas that would prevent this use. (see photos)
4. The home has adequate square footage and rooms available for our purposes, and we have no issues that need to be addressed with regards to that.

With regards to parking, by code we need to allow for five (5) off-street parking spaces to allow for the maximum occupancy of 6 people. Though the majority of the individuals who come to serve with us come without vehicles, being within walking distance of the offices and church, you will see that our site plan shows the ability to provide these five parking spaces (outlined in red on the included site plan). Evident on the site plan is an existing garage that will house three cars comfortably, and there is already additional room for parking in front of the garage that is graveled. Lastly, if needed we could reconfigure the fence to provide more space for parking if need be.

We do not foresee any adverse affects on traffic flow and circulation in excess of what would be normal for the use of a home of this size.

The property is enclosed by fencing and is fully landscaped in a manner that is consistent with the community and adjacent homes. (see photos)

There is no signage needed and all utilities are already in existence.

5. The home already exists, and all services and facilities are adequate for the proposed use.
6. We do not believe our use will have any adverse impact on adjacent properties, the neighborhood, or the community. While it will allow for us to house more individuals in the home, as already stated, the majority of these individuals will come without vehicles so our use will not create excessive traffic, noise, dust, fumes, or any of the other concerns along these lines, and the required off-street parking is provided.

To the contrary, we believe our use will only have a positive impact within our community since the purpose of the individuals coming to live in the home is to serve within the ministries of Potter' Field and Selah Fellowship, with the heart to reach out to and serve within our community. As already mentioned, we have already seen this beneficial impact in how we have been able to serve in many ways around the Flathead Valley.

7. As a place of residence, people will be living there which means the use is 24 hours per day in theory.
8. Again, we are dealing with an existing home so the project will not affect the existing neighborhood with regards to scale, structural bulk and massing, or density.

With regards to context and community character, the home will be used as residential housing for staff and interns of Potter's Field Ministries and Selah Fellowship. Since the ministry is located within an existing residential community, the use of the homes as housing of staff and interns is completely within the context of the neighborhood as residential, as well as the fact that the ministry also exists in this same community. We have been encouraged seeing how our staff and interns have interacted in community, serving in various ways as well as attending block parties and the like, and we believe they have been a positive influence and presence. In that, the character of the community has only been enhanced by our presence and by the presence of those staff already residing in the home. Those living in the home are also required to maintain the property at a higher level than when we purchased it, so this has also only helped when it comes to the appearance of the neighborhood as a whole. We intend to continue to maintain and improve the appearance of the home as well.

PHOTOS NEXT PAGE

View of home from West side:



View of home from West side with garage and parking in view:



View of home from front:



View of home from East side:



1 SQ = 4ft

PARK AVE

100'

BOUNDARY FENCE

GATE

13'

PROPERTY LINE

BOUNDARY FENCE

20'

943

GARAGE 36'

30'

GATE

PARKING/DRIVEWAY

BOUNDARY FENCE

LANE WAY

GATE

BOUNDARY FENCE

126'

10'

EAST SECOND STREET

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December 14, 2015

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

**Request for Approval of Resort Tax Funds for a Full Court Basketball Court
in Memorial Park**

Mayor Muhlfeld and Councilors

Introduction/History

Throughout the past year the Parks and Recreation Department has been making various improvements to Memorial Park, including a pickleball court and a new playground. These projects have been paid for with resort tax funding. During the FY16 budget process, the Resort Tax Monitoring Committee recommended and City Council approved funding for these projects, as well as \$25,000 for resurfacing of the existing basketball courts. As improvements to Memorial Park began to take shape, the Park Board of Commissioners further discussed the overall conceptual plan for Memorial Park.

During the September Park Board meeting, the Park Board moved to form a Memorial Park Steering Committee made up of neighbors, community members, and school district representatives to establish a plan to move forward with improvements to Memorial Park. The steering committee met in October of 2015 and established a plan for the southeastern portion of the park, stating that it should remain as open greenspace with walking paths and one or two gazebos. The steering committee also recommended that the baseball field be dismantled and the basketball court be moved to the southwestern portion of the park.

In November, the Park Board of Commissioners discussed the steering committee's recommendations and approved them, recommending also that the basketball courts become full court basketball courts, as there are no other full court, outdoor basketball courts in the community. The Parks and Recreation Department received a quote of \$60,000 to complete this project, \$35,000 more than the allocated funds to resurface the existing courts. Therefore, the Park Board of Commissioners moved to direct the Parks and Recreation Department Director to request additional resort tax funding for the project.

During the November Resort Tax Monitoring Committee meeting, the Resort Monitoring Tax Committee moved and unanimously approved to recommend additional resort tax funding (cash reserves) be appropriated to complete the full court basketball court project in Memorial Park.

Current Report

The resort tax fund currently has an ending cash balance of \$195,727 reserved for park improvements. As well, other resort tax projects have come in under projected costs, making available an additional \$5,000, which the department recommends utilizing as a contingency for this project.

Financial Requirement

The financial requirement to complete this project is an additional \$35,000 of resort tax funds, for a total project cost of \$60,000. The additional funds would come from the budgeted year-end cash reserves of \$195,727 for park improvements. If the additional funding is approved, a budget amendment will only be prepared at year-end if the total expenditures exceed the total appropriations in the fund.

Recommendation

Staff respectfully recommends the City Council authorize \$35,000 of resort tax funding to construct a full court basketball court in the southwestern portion of Memorial Park.

Sincerely,
Maria Butts
Director of Parks, Recreation and Community Services



Google earth

© 2015 Google



400 ft

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MANAGER REPORT

December 30, 2015



RESORT TAX COLLECTIONS

On an equivalent basis of the 2% Resort Tax this year compared to last year, Resort Tax collections were up by 17.9% or \$21,700 in October. For the year-to-date, the comparative 2% Resort Tax is up 0.5% or \$4,837. Resort Tax collections from Bars and Restaurants were particularly higher at a 26.20% increase in October.

Overall, with the additional 1% Resort Tax that voters approved, the 3% Resort Tax was up by 76.79% or \$93,310 for October compared to the 2% Resort Tax in October, 2014. There are comparative figures and charts attached to this report in the packet.

SETTLEMENT OF UNION LABOR COLLECTIVE BARGAINING AGREEMENT WITH FIRE UNION

We have reached a tentative settlement for a new, three year Collective Bargaining Agreement with the Fire union, Local #3995 IAFF. While mediation of the negotiations was unsuccessful, after mediation I put forth a proposal to the IAFF Local #3995 that, with some tweaking and after a month, they made a counter-proposal upon which we were able to reach a tentative agreement. The union is scheduled to vote on the agreement on January 6th. The basic aspects of the agreement are:

- Three year contract for FY16 (current), FY17, and FY18 ending on June 30, 2018
- 2.3% pay increase for FY16 (current) with pay increases retroactive to July 1, 2015 (same as was settled for other unions and as approved for non-union employees).
- FY17 and FY18 pay increases will be the lower of the CPI (Consumer Price Index for West Urban) plus a 2% STEP increase or CPI plus the growth of the property tax base. This is the same formula agreed to with other unions for the past six years. However, for these years, the Fire union will have a floor of 1.5% (or no lower) and a ceiling of 4% (or no higher) pay increases.
- We agreed to give them 2.5 additional Kelly Days (furlough days without pay) which eliminates all scheduled overtime hours and sets their average hours worked per year at 2,756 hours (compared to 2,080 hours for other employees and their former average of 2,816 hours per year). In exchange for the additional Kelly Days, they agreed that, if we have to fill a shift to maintain minimum staffing of four firefighters on a day when a firefighter is off on a Kelly Day, we can now call in first a Qualified Reserve (formerly known as a Volunteer Firefighter/EMT) rather than calling in a Career Firefighter on overtime. This provision expires in three years unless renewed, but it should save us additional overtime costs.
- There were language changes to the Grievance Procedure and new sections for a Promotional Process and Maternity Leave/Light Duty and some other minor language clarifications.

This settlement, if ratified, avoids fact-finding and arbitration, a process that was scheduled to begin in mid-January.

CITY HALL/PARKING STRUCTURE CONSTRUCTION UPDATE

Martel Construction and their sub-contractor GeoTech Foundation Company continue to install the 400 Rammed Aggregate Piers that will support all of the concrete in the parking structure and City Hall. As of this week, they had installed and tested 153 rammed aggregate piers. Each pier is a 2.5 foot hole drilled by an auger 15 feet into the ground. Then replacement aggregate fill is put into the hole and tamped down by the tamping excavator. The clay that is removed from the holes is then trucked offsite for removal. They can do approximately 10 Rammed Aggregate Piers per day, so you can see there is still a fair amount of pier work to be done. The Geo-Tech sub-contractor stopped work on December 23rd and won't return until January 4th.

The inch of rain in December did cause some slowing down of the work as equipment stability was made much harder, but the recent colder temperatures were helping with the pier installation. There are pictures of the process (and clay being removed) below and attached to this report in the packet is a diagram of the locations of the Rammed Aggregate Piers at the site. We may also show you a 4 minute video on Rammed Aggregate Piers at the January 4th meeting.



Drilling and tamping piers



Piles of clay being brought out

MWED LETTER ON 2015 ACHIEVEMENTS

Attached in the packet is a letter from the Montana West Economic Development Corporation describing their projects and achievements in 2015.

MEETINGS

Affordable Housing Committee meeting (12/10) – Richard Hildner and I met as members of one of the Chamber of Commerce’s affordable housing sub-committees – the sub-committee working on the Needs Assessment. Bob Horne is the coordinator of this sub-committee and we reviewed and edited some common terms for a glossary of affordable housing terms and also reviewed what components we will want in an updated housing needs assessment.

City Hall Steering Sub-committee (12/11) – The sub-committee met and mostly reviewed and made changes to interior finishes options for design alternatives. The committee voted to remove one skylight, not paint ceilings in the parking structure, and make some other cost savings adjustments which the architect, Ben Tintinger will incorporate. Around \$50,000 to \$60,000 of cutbacks were made. It was also decided that a smaller group of people would get together to work updating and verifying the master project budget spreadsheet.

WAVE Board Meeting (12/17) – As a board member, I attended the bi-monthly WAVE Board meeting. The WAVE Board heard a presentation on Flathead Electric Coop’s community solar project for possible investment, the Board granted a temporary easement to a neighbor for temporary access onto O’Brien Avenue, and reviewed the 2016 budget. The 2016 budget was still undergoing some changes so it was not adopted, but it will be adopted in the future weeks.

UPCOMING SPECIAL EVENTS

Winter Carnival Coronation Ceremony – Central Avenue – Saturday, January 16th – 7:00 to 8:30 p.m.

Whitefish Winter Carnival – Saturday, February 6th

REMINDERS

Please remember to turn in your Ethics Disclosures Forms to City Clerk Necile Lorang as soon as possible and before the end of January.

Friday, January 1, 2016 – City Hall closed for New Year’s Day holiday



Respectfully submitted,
Chuck Stearns, City Manager

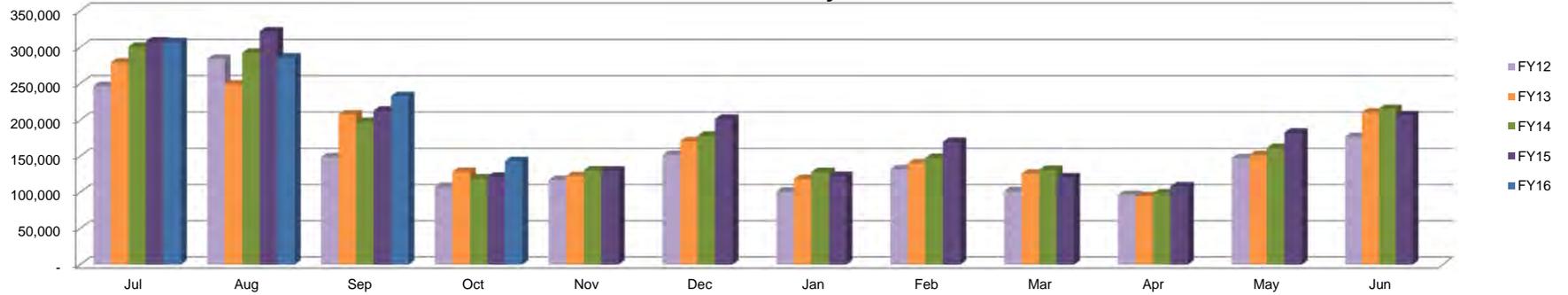
**Resort Tax Report
Reported in the Month Businesses Paid Tax**

Additional 1% Resort Tax Effective July 1, 2015

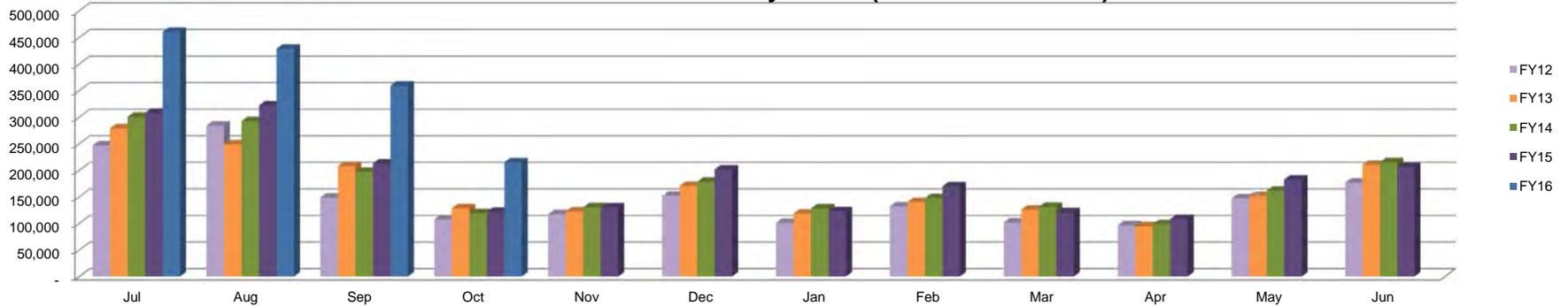
Month/Year	Lodging	Bars & Restaurants	Retail	Collected	% Chng Mnth to Pr Yr Mnth	% Chng Quarter to Pr Yr Quarter	Additional 1% Resort Tax Effective July 1, 2015				Total Collected (3% Resort Tax for FY16)	Interest	Total	
							Lodging	Restaurants	Retail	Collected				
Jul-13	81,828	98,642	120,028	300,497	7.7%		-	-	-	-	300,497	496	300,993	
Aug-13	77,809	108,131	106,422	292,362	17.6%		-	-	-	-	292,362	434	292,796	
Sep-13	50,377	77,416	69,328	197,120	-5.1%	7.4%	-	-	-	-	197,120	434	197,554	
Oct-13	16,851	48,015	54,271	119,137	-7.1%		-	-	-	-	119,137	434	119,571	
Nov-13	6,831	47,701	75,780	130,312	6.3%		-	-	-	-	130,312	2654	132,966	
Dec-13	21,782	64,884	91,585	178,251	4.6%	1.5%	-	-	-	-	178,251	404	178,655	
Jan-14	16,848	54,481	56,839	128,169	8.2%		-	-	-	-	128,169	404	128,573	
Feb-14	22,323	58,758	66,487	147,568	5.3%		-	-	-	-	147,568	404	147,972	
Mar-14	15,770	64,178	51,114	131,061	4.2%	5.8%	-	-	-	-	131,061	409	131,470	
Apr-14	10,065	41,894	46,458	98,417	4.0%		-	-	-	-	98,417	455	98,872	
May-14	18,993	58,791	83,683	161,467	6.6%		-	-	-	-	161,467	455	161,922	
Jun-14	44,865	69,190	101,053	215,107	2.4%	4.1%	-	-	-	-	215,107	455	215,562	
YTD Compared to Last Year														
Total FY14	\$ 384,342	\$ 792,081	\$ 923,047	\$ 2,099,470		5.12%	\$ -	\$ -	\$ -	\$ -	2,099,470	\$ 7,438	\$ 2,106,908	
FY13 vs FY14	11.2%	4.5%	3.3%	5.1%	or	\$ 102,265	n/a	n/a	n/a	n/a	5.1% Taxable Sales FY14	\$ 110,498,402		
Jul-14	84,053	104,935	118,876	307,864	2.5%		-	-	-	-	307,864	440	308,304	
Aug-14	93,049	117,674	111,016	321,739	10.0%		-	-	-	-	321,739	498	322,236	
Sep-14	49,804	84,149	78,813	212,767	7.9%	6.6%	-	-	-	-	212,767	246	213,013	
Oct-14	18,589	50,665	52,266	121,519	2.0%		-	-	-	-	121,519	604	122,123	
Nov-14	8,530	43,076	78,311	129,917	-0.3%		-	-	-	-	129,917	359	130,276	
Dec-14	20,944	74,617	105,885	201,446	13.0%	5.9%	-	-	-	-	201,446	293	201,739	
Jan-15	15,285	52,940	54,543	122,768	-4.2%		-	-	-	-	122,768	281	123,049	
Feb-15	25,805	74,286	69,705	169,795	15.1%		-	-	-	-	169,795	166	169,961	
Mar-15	16,336	51,183	53,368	120,887	-7.8%	1.6%	-	-	-	-	120,887	227	121,114	
Apr-15	11,755	50,637	45,835	108,227	10.0%		-	-	-	-	108,227	263	108,490	
May-15	23,911	61,756	96,773	182,441	13.0%		-	-	-	-	182,441	288	182,728	
Jun-15	39,483	78,394	88,316	206,194	-4.1%	4.6%	-	-	-	-	206,194	301	206,495	
YTD Compared to Last Year														
Total FY15	\$ 407,543	\$ 844,313	\$ 953,707	\$ 2,205,564		5.05%	\$ -	\$ -	\$ -	\$ -	2,205,564	\$ 3,966	\$ 2,209,529	
FY14 vs FY15	6.04%	6.59%	3.32%	5.05%	or	\$ 106,094	n/a	n/a	n/a	n/a	5.1% Taxable Sales FY15	\$ 116,082,301		
Jul-15	78,513	111,068	117,342	306,922	-0.3%		39,256	55,534	58,671	153,461	460,383	377	460,760	
Aug-15	69,374	114,956	101,484	285,814	-11.2%		34,687	57,478	50,742	142,907	428,722	375	429,097	
Sep-15	75,699	74,806	82,265	232,770	9.4%	-2.0%	37,850	47,403	41,133	126,386	359,156	410	359,566	
Oct-15	19,169	63,939	60,111	143,219	17.9%		9,584	31,970	30,056	71,610	214,829	545	215,373	
Nov-15	-	-	-	-	-		-	-	-	-	-	-	-	
Dec-15	-	-	-	-	-		-	-	-	-	-	-	-	
Jan-16	-	-	-	-	-		-	-	-	-	-	-	-	
Feb-16	-	-	-	-	-		-	-	-	-	-	-	-	
Mar-16	-	-	-	-	-		-	-	-	-	-	-	-	
Apr-16	-	-	-	-	-		-	-	-	-	-	-	-	
May-16	-	-	-	-	-		-	-	-	-	-	-	-	
Jun-16	-	-	-	-	-		-	-	-	-	-	-	-	
YTD Compared to Last Year														
Total FY16	\$ 242,754	\$ 364,769	\$ 361,202	\$ 968,726		0.50%	\$ 121,377	\$ 192,385	\$ 180,601	\$ 494,363	\$ 1,463,089	\$ 1,706	\$ 1,464,795	
FY15 vs FY16	-1.12%	2.06%	0.06%	0.50%	or	\$ 4,837	n/a	n/a	n/a	n/a	132.4% Taxable Sales FY16	\$ 77,004,686		
FY16 % of Collections	25%	38%	37%				25%	39%	37%					
Grand Total	\$ 5,005,218	\$ 10,402,002	\$ 12,461,017	\$ 27,868,238			\$ 121,377	\$ 192,385	\$ 180,601	\$ 494,363	\$ 28,362,601	\$ 761,466	\$ 29,124,617	
% of Total Collections	18%	37%	45%				25%	39%	37%			2.7% Average since '96		

**Resort Tax Report
Reported in the Month Businesses Paid Tax**

2% Resort Tax Collections by Month



Total Resort Tax Collections by Month (3% Effective 7/1/15)



**Total Taxable
Sales Since 1996**
\$ 1,492,768,467

Total Collected
\$ 29,855,369

5% Admin
\$ 1,492,768

Public Portion
\$ 28,362,601

City of Whitefish
Chuck Stearns
PO Box 158
Whitefish, MT 59937

December 5, 2015

Dear Chuck,

As I reflect back on Montana West Economic Development's accomplishments over the past year, I see an organization that is moving forward with a clear purpose and vision. As a result, Montana West is providing more services than ever before! Here is just a glimpse of our achievements in 2015:

- **\$10 million TIGER grant awarded to the City of Kalispell** - This was the culmination of three years' countless hours of effort put forth by the City of Kalispell, Flathead County Economic Development Authority, and Montana West Economic Development. The funding for infrastructure will facilitate build-out of the Glacier Rail Park and Kalispell Core Area Redevelopment which will transform our community.
- **\$20 million in government contracts awarded to local businesses** - In August of 2014, Montana West incorporated the Procurement Technical Assistance Center (PTAC), which brought government contracting assistance under the MWED umbrella of services. Over the past year, PTAC Manager Doug Bolender assisted 119 businesses that were awarded \$20,034,960 in government contracts.
- **178 new jobs** - Montana West facilitates business investment through our various programs and services, including Commercial Lending, Incumbent Workforce Training, Big Sky Trust Fund grants, and relocation/expansion assistance. The 55 clients receiving assistance from MWED over the past year created 178 new jobs – wow!

These are just a few of the accomplishments made possible by our members, and we hope that we can count on City of Whitefish for another year of partnership and support. The financial support from community business leaders such as you is vital to advance business growth and job creation in the Flathead Valley!

Sincerely,

A handwritten signature in blue ink that reads "Kellie Danielson".

Kellie Danielson, CEcD

MEMORANDUM

#2015-042



To: Mayor John Muhlfield
City Councilors

From: Chuck Stearns, City Manager

A handwritten signature in blue ink that reads "Chuck".

Re: City Hall and Parking Structure – Current Spreadsheet and Budget Status

Date: December 29, 2015

CURRENT STATUS

As the Project Budget Summary spreadsheet from Ben Tintinger, which is attached to this memo, shows, the current funding gap is \$882,699 (including an increased contingency to \$150,000) although Ben and Martel Construction are continuing to chase down cost savings through value engineering (VE). Most of the cost savings for value engineering are already built into this spreadsheet and most of the acceptable design alternatives (savings) are also built in. The third elevator is put back in pursuant to the City Council vote on 12/7.

Of this \$882,699 gap, \$162,000 of that can come from capitalizing three years of lease revenue from the retail space, borrowing those funds from the TIF fund and repaying that amount back to TIF over three years. While this amount would reduce the gap to \$720,699, it is still a project budget increase over the heretofore approved budget limit of \$14,952,636, which was approved on June 15, 2015.

Much of the public and media has focused on the cost estimates being over budget by \$1,000,000. While that was the case at one time, continued refinement of the costs, continued value engineering, and use of the lease revenue has now reduced the gap to \$720,699. **Please bear in mind that this figure can and will continue to change and could go up or down.**

Also, please remember that this City Hall and Parking Structure is a large and complex project. I put the two percentage cost overruns into the first summary page of the attached spreadsheets. The total cost overrun from the budget is 5.90%, a figure which might not be as alarming or concerning to the media and public. If we use the lease money as new, non-Tax Increment funds, then the percentage of the gap is only 4.82%. A cost overrun of 5%-6%, while unfortunate, is not the crisis that some of the media or public have made it out to be. Also, remember that most of the cost increases are for the Parking Structure, which is an economic

development project of the highest priority and it is most appropriate to use additional Tax Increment Funds for such an economic development priority project.

OPTIONS TO GO FORWARD

Some of my ideas on how to go forward are listed below, again not in any priority order. There may be other ideas out there and as I said, Ben Tintinger and Martel Construction are still working on cost savings.

1. Furniture – as difficult as this item is to let go, I think we just need to say that we will buy furniture with any leftover money at the end of the project. If there aren't any leftover funds, then we can re-use the furniture we have stored here at the interim City Hall. Departments then could always budget in future years to buy new furniture as needed (bear in mind that this practice does shift funding of furniture from TIF to the general fund, other property tax supported funds, and Public Works (enterprise funds)).

Dana also suggested that we could put the proceeds of the next surplus property auction when we move out of 1005 Baker Avenue towards the purchase of furniture. While that is possible, it would be ironic as most of the next surplus property auction was going to be furniture that we have at 1005 Baker Avenue, so we would be selling furniture to buy furniture – it is an option, but we are probably better off just retaining and re-using the existing furniture.

2. Furniture leasing – Ben Tintinger suggested we could lease-purchase furniture from a vendor for 0% interest and pay it off over time. That is an option, but again, it does shift costs from TIF to the General Fund, other property tax supported funds, and the Public Works enterprise funds. I am not generally in favor of this approach, but it is an option.
3. Commissioning – Commissioning is the process of having an independent engineer double check the HVAC (heating, ventilating, and air conditioning), mechanical systems, and electrical systems prior to occupancy to make sure they all work well and the HVAC system is balanced and working. The low quote for commissioning is \$28,861 from CTA in Kalispell. We could cut the commissioning of the system (we cut it for the ESC) and save that money, but commissioning does ensure the systems work together after a bunch of different sub-contractors have all put their separate systems in. I would like to keep this amount in the budget, but it is an area we could cut.
4. Reduce Owner's Representative's Hours – Mike Cronquist already estimates that he won't spend \$116,000 of his \$332,130 contract as he is only beginning to work more than half days at the job site. Now is really when the main focus of an Owner's Representative comes in to play – when construction has started. The Mayor and City Council wanted him to start earlier than typical and we did that last spring. When I asked Mike if we could cut him back to 4 hours per day, he did not think that would be

enough time for him to oversee the project. But, with his estimated savings shown above, we are saving more than 1/3 of his contract.

5. Things already done – I had things like value engineering, using more of the \$1,000,000 ancillary budget, and cutting some of the interior finishes in a prior list of mine, but all three of these things have been done, although there are still some value engineering items being researched and priced.
6. Rebid the concrete and rebar – Martel does not think rebidding the concrete and rebar division of work would be effective, but they are investigating whether there could be some savings in the amount of steel rebar going into the concrete. It is somewhat unfair to the bidder (Martel) to re-bid the item as other bidder know what dollar figure to shoot at and be lower.
7. Resort Tax – some members of the public (mostly Heart of Whitefish) have suggested that we redo the priorities of the Resort Tax Fund and allocate somewhere between \$80,000 and \$150,000 of Resort Tax money to the project for the sidewalks, street lights, and street furniture given that the Resort Tax fund paid those costs for the downtown Central Avenue projects. While this option may be somewhat attractive to some as it is new money from a different source, I generally don't favor this option. While it appears that you could still do West 7th Street project next summer, you would likely have to delay the next project, Somers Avenue somewhat. Also, I generally think that there is more money available in the TIF Fund than in the Resort Tax Fund – the controversy is not on the availability of funds, it is on increasing the budget. Also, to re-do the Resort Tax priorities, you would have to go through the Resort Tax Monitoring Committee, then to a public hearing, and then to a City Council vote. The City Council has the most control over the TIF Fund and we don't need to further complicate the process with adding a Resort Tax process to the mix. But, again, it is an option.
8. Impact Fees- Dana said that our current budgeting of City Hall Impact Fees for the project is only budgeting for the FY16 estimate of what we will receive for City Hall Impact Fees. Thus, we probably could also estimate and include another \$60,000 of City Hall Impact Fees toward the project for FY17. Again, this item is still a budget increase, but it does reduce the impacts on the TIF Fund.
9. Delay Depot Park – We can fund the \$720,699 shortfall with additional TIF funds, but it will probably delay most of the remaining work on Depot Park by 2-3 years at least. We could continue to do their gazebo next spring as they have a \$10,000 grant from Rotary that is contingent on construction next spring. If we delayed other aspects of Depot Park Master Plan Phase II (street, sidewalk, and corner hardscaping work), we can fund the gap needed. In my mind, this is the primary and best alternative to consider once the value engineering and other cost savings are maximized.
10. Change the Depot Park Master Plan, keep the building in the park, and lease it out for more revenue – As you know, once the Planning and Building and Parks and Recreation Departments move into the new City Hall so that all Departments other than Public

Safety (Police, Fire, Court) are in one building, the Depot Park building is scheduled to be demolished so as to have a fully green space park in downtown. That was the vision of the Depot Park Master Plan committee and was approved by the City Council. There has been continuing interest in leasing the building from the City, mostly from the Chamber of Commerce and WCVB. Personally, I always felt that we should leave the building up and make it the public restrooms and maybe some other purpose as well, but I let the committee do their work. Again, this option would take some process as the Master Plan would have to be changed (going through the Depot Park Master Plan Committee and the Park Board and then to the City Council), but it could be done. At 2,386 square feet, you might get \$35,000 to \$40,000 per year from the lease.

11. Other options - ????

I hope this memo helps you understand the background of the issues and some of the options. If you have other options that you want to discuss or have other questions, please give me a call.

Whitefish City Hall Building & Parking Garage

Whitefish, MT

12/23/2015

Project Budget Summary

Administrative/Owner Costs \$ 835,556

Professional Fees \$ 1,518,413

Construction Cost \$ 13,481,366

TOTAL PROJECT COST **\$ 15,835,335**

CURRENT FUNDS AVAILABLE \$ 14,952,636

COST GAP \$ (882,699.40)

5.90% cost overrun

FURNITURE ALLOWANCE ???

CAPITALIZATION OF LEASE SPACE \$ 162,000

TOTAL GAP \$ (720,699)

4.82% cost overrun

**CITY HALL AND PARKING STRUCTURE
ANCILLARY COSTS BUDGET AND EXPENDITURES**

Prepared: 12/14/2015

Item	Budget or Contract	Spent To Date - 12/15/15	Remaining Estimate Expenditures	Balance
Design Competition Stipends	\$20,000.00	\$20,000.00	\$0.00	\$0.00
Owner's Representative Contract	\$332,130.00	\$53,730.65	\$162,388.00	\$116,011.35
Seattle Trip Costs		\$2,088.50	\$0.00	\$0.00
City Hall Lot Line Vacation, CUP, & ARC Costs		\$6,475.60	\$0.00	\$0.00
Interim City Hall - Lease	\$187,000.00	\$51,000.00	\$136,000.00	\$0.00
Moving Costs		\$5,576.58	\$7,000.00	
Interim City Hall - Equipment and Misc costs	1	\$76,545.71	?	?
Asbestos Investigations (not remediation)		\$18,788.31	\$0.00	\$0.00
Newsletter		\$7,022.50		\$0.00
City Hall Audio Visual System	?		\$80,000.00	
City Hall and Parking Structure Security System (cameras and door entries)	?		\$80,000.00	
Parking Structure Parking Systems (lease spots and retail spot counter)	?		\$40,000.00	
Parking Structure Bobcat snow plow and sweeper	\$80,000?		\$80,000.00	
Foundation Vibration Monitoring	?		\$8,940.00	
Totals		\$241,227.85	\$594,328.00	\$116,011.35
Spent to date plus remaining			\$835,555.85	

1. Legal ads, display ads, telephones, audio-visual, moving in supplies, interim City Hall modifications, etc. Some of this equipment (Audio-visual and telephones) will go ov

BASIC SERVICES		AMOUNT
Phase 1 - Programming/Concept Design		\$65,700.00
Phase 2 - Schematic Design (SD)		\$153,695.76
Phase 2 - Design Development (DD)		\$164,674.01
Phase 3 - Construction Documents (CD)		\$456,850.00
Phase 4 - Bidding (BID)		\$54,825.00
Phase 5 - Construction Administration (CA)		\$219,300.00
Basic Services Total =		\$1,115,044.77

ADDITIONAL SERVICES (Estimated amounts)		AMOUNT
Site Survey (estimated amount)	Not to exceed	\$7,500.00
Geotech Investigation	Not to exceed	\$120,000.00
Civil Engineering		\$42,000.00
Revisions to the Design after Jan. 20 Council Mtg.	Hourly	\$14,907.50
Fire Protection Design	Performance Spec included in Basic Services	
Traffic Plan for Construction Period		\$5,100.00
Interior Furnishings Selection/Procurement		TBD
Record Drawings		TBD
Warranty Inspection	included in basic services	
Hazardous Material Investigation	Completed by City of Whitefish	
Building Commissioning		\$28,861.00
Construction Testing		\$85,000.00
Additional Services Total =		\$303,368.50

SUPPLEMENTAL SERVICES/REIMBURSABLES	Estimated	
Kimley Horn Travel Labor Cost per Trip	\$5,000	\$40,000.00
Direct Project Expenses (printing, travel cost, etc.)		\$60,000.00
Owner Initiated Change Orders		6% of Actual Construction Cost
Supplemental Services/Reimbursables Total =		\$100,000.00

TOTAL PROFESSIONAL COSTS **\$1,518,413.27**

	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	\$ 464,193	\$ 1,213,966	\$ 1,883,049	\$ 4,702,782		
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	60,000	60,000	60,000	60,000			453,084
45	Transfer from Impact Fees (City Hall repayment) ⁷		-	-	60,000	60,000	60,000			180,000
46	Total Revenues		<u>\$ 5,601,520</u>	<u>\$ 5,694,914</u>	<u>\$ 6,024,217</u>	<u>\$ 6,306,984</u>	<u>\$ 6,603,890</u>	<u>\$ -</u>		<u>30,231,525</u>
47	Expenditures									
48	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
49	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
50	Funding of Bond (Current Debt Service) Account ⁶		3,129,120	322,344	340,889	361,360	(2,679,843)	(1,473,870)		0
51	Semi-annual School Payment ¹		680,000	714,000	749,700	787,185	826,544			3,757,429
52	Transfer to City Hall/Parking Structure Fund ²		2,250,080							2,250,080
53	Salaries and O&M ³		388,657	400,317	412,326	424,696	437,437			2,063,433
54	Business Rehab Loan		30,000	30,000	30,000	30,000	30,000			150,000
55	Land Purchase									-
56	Urban Renewal Projects:									-
57	Misc Urban Renewal Projects		100,000	15,000	15,000	15,000	15,000			160,000
58	Buy Local Campaign		50,000							50,000
59	High School TIF project									-
60	Depot Park (\$2 million - phase 1-4)		480,802	620,267			827,534			1,928,603
61	Ice Den Roof Renovations and E-Ceiling		8,000							8,000
62	Ped-Bike bridge to Skye Park (Total ~\$829k)		61,600							61,600
63	Develop additional downtown parking (\$6.5M now in Debt Service)									-
64	Assist Private Developer - Boutique Hotel		150,000							150,000
65	Assist Private Developer - Idaho Timber									-
66	Assist Private Developer - N. Valley Hospital									-
67	Assist Private Developer - Other Redevelopment									-
68	Downtown/O'Shaugnessy Restrooms									-
69	Stairway at Stumptown Inn		21,000							21,000
70	Other Real Estate Committee Land Purchase		300,000							300,000
71	Housing Authority									-
72	Chamber (\$96k)	\$96,000								-
73	Depot Park Snow Lot (phase 5 of depot park)	\$550,000								-
74	Install/refurbish water & sewer lines throughout district									-
75	Contingency		100,000	100,000	100,000	100,000	100,000			500,000
76	Total Approximate Non-Committed	<u>\$646,000</u>								-
77	Total Expenditures		<u>\$ 7,861,653</u>	<u>\$ 5,548,577</u>	<u>\$ 5,274,444</u>	<u>\$ 5,637,901</u>	<u>\$ 3,784,157</u>	<u>\$ (0)</u>		<u>28,106,731</u>
78	Revenues less Expenditures		<u>\$ (2,260,133)</u>	<u>\$ 146,337</u>	<u>\$ 749,773</u>	<u>\$ 669,083</u>	<u>\$ 2,819,733</u>	<u>\$ 0</u>		<u>\$ 2,124,793</u>
79	Ending Cash Balance		<u>\$ 317,856</u>	<u>\$ 464,193</u>	<u>\$ 1,213,966</u>	<u>\$ 1,883,049</u>	<u>\$ 4,702,782</u>	<u>\$ 4,702,782</u>		
80										
81	1 Assumes 5% growth per year. Since FY2000 the average growth has been 9.62%.									
82	2 Final transfer from the TIF fund to the City Hall/Parking Structure Fund in FY16.									
83	3 FY2017 through FY2020 assume a 3% growth per year based on the budgeted FY2016 figures.									
84	4 Impact Fees transferred to TIF Fund to payoff TIF Bond issued for the ESC construction. FY17-FY20 based on a 7-year average.									
85	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%)									
86	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									
87	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									
88	(difference is used to make final payment with the reserve funds as well).									
89	7 After construction, City Hall impact fees will be transferred to TIF Fund to repay TIF Bond issued for the City Hall/Parking Structure Project - 7 year Average of collections used in estimating revenue. FY16 and									
90	FY17 revenues will be transferred directly to the Construction Fund.									

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Chamber of Commerce

December 28, 2015

Mayor John Muhlfeld & City Councilors
City of Whitefish
P.O. Box 158
Whitefish, MT 59937

Dear Mayor Muhlfeld & Council:

On behalf of the Whitefish Chamber of Commerce and its Workforce Housing Task Force, we respectfully request that City fund a comprehensive Workforce Housing Needs Assessment and Plan, as a first step toward addressing one of the most critical issues facing the Whitefish economy and community today.

Like most successful mountain resort towns, Whitefish has long struggled to meet the housing needs of its peak season workforce, as well as those workers who fuel our year-round economy. In recent years, the community's efforts to grow the tourism industry have been extremely successful, resulting in additional hotel, retail and service industry development ... all of which create jobs and the need for additional workforce housing.

Whitefish has also seen significant growth in the retirement and second home-owner markets, depleted the stock of existing housing available to resident workers. In addition, hundreds of private homes and condominium units that were previously in the long-term rental pool have been converted to short-term vacation rentals, a practice that magnifies the workforce housing shortage, negatively impacts occupancy rates at local hotels and motels, and creates conflicts between nightly renters and the permanent residents of our neighborhoods.

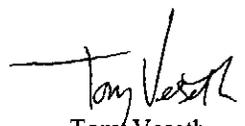
Following the Workforce Housing Summit sponsored by the City, the Chamber and Montana West Economic Development on Sept. 24, a broad-based Task Force was created to begin addressing the problem, and to bring recommendations to the Council on how our community can best tackle this growing problem.

The first recommendation to emerge from our Task Force meetings is to conduct a comprehensive Workforce Housing Needs Assessment, then develop a plan for moving forward. One of our three Task Force subcommittees is current working to draft a Request For Proposals from qualified firms to conduct the assessment and draft an action plan.

Based on information received from several different resort communities who have recently been through this process, we anticipate the cost of the Workforce Housing Needs Assessment & Plan to be in the \$55-65,000 range.

Thank you for your consideration of this request ... we look forward to continuing our joint efforts to address this critical community issue.


Kevin Garland
Executive Director


Tony Veseth
Board Chairman

City of WF Hiking Trail Easement/Iron Horse Hiking Trail = ~1 mile (Flathead Land Trust Conservation Easement 80 acre parcel)

Proposed Whitefish Trail -Haskill Basin- WT Trailhead, Trail, BLA December 2015

Existing Trail Easement

Proposed Whitefish Trail Corridor (Iron Horse)

F H Stoltze Proposed Conservation Easement (FWP 3,020 acres)

Boundary Line Adjustment (~0.54 acres to encompass trail corridor)

City of WF Water Treatment Facility

Murr Property (~16 acres)

Proposed Whitefish Trail Corridor (~0.5 miles)

Private Property

Existing Fenceline

Reservoir Rd

Proposed Trailhead 

Murdock Conservation Easement (TNC ~160 acres)



Chuck Stearns

From: Necile Lorang <nlorang@cityofwhitefish.org>
Sent: Monday, December 28, 2015 10:34 AM
To: cstearns@cityofwhitefish.org
Subject: Fwd: City Hall

----- Forwarded Message -----

Subject:City Hall

Date:Mon, 28 Dec 2015 09:37:10 -0700

From:Linda & Ron Olson <jayrae950@gmail.com>

To:nlorang@cityofwhitefish.org

To the Council members; First of all, let us express our appreciation for undertaking your positions. We would like to share our thoughts on the City Hall project. Forge ahead with the completion of the project as planned. There are some street projects that could be done at a later date in order to build the City Hall to completion. This project will be the cornerstone of Whitefish for many years ahead. As you have done in the past, keep the integrity of the unique place we are lucky enough to call home. Sincerely, Ron & Linda Olson

WHITEFISH PLANNING BOARD – WCC 2-15 – 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, 2017	Council Appointment
Jim Laidlaw	1230 Lion Mountain Drive	406-250-1473	December 31, 2015	County Appointment
Chairman Ken Meckel	1129 W. 7 th Street	406-862-5682	December 31, 2016	Mayoral Appointment
Vice-Chairman Ken Stein	509 E. 6 th Street	406-250-0599	December 31, 2016	Mayoral Appointment
Rebecca Norton	530 Scott Avenue	406-762-8175	December 31, 2016	Mayoral Appointment
John Ellis	PO Box 520	406-250-4328	December 31, 2016	Mayoral Appointment

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 own membership;
- B. One member appointed by the city council who, at the council’s discretion, may be an employee of the city of Whitefish or hold public office in Whitefish or Flathead County.
- C. One member appointed by the mayor upon designation by the Flathead County board of commissioners, who may be a member of the board of county commissioners or an office holder or employee of the county; and
- D. Four (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)

PARK BOARD – WCC 2-2 - 2 YEAR TERMS – Mayoral Appointments confirmed by Council (2nd Tuesdays @ 7 pm)

			TERM DATE	
Councilor Frank Sweeney	PO Box 158	863-4848 (O)		Mayor/Designee (Richard Hildner, Alternate)
Susan Schnee	1405 E. 2 nd Street	863-9856	5/01/2016	
Ron Brunk	130 E. 4 th St	862-6446, 862-6858	5/01/2016	
Ray Boksich	223 Columbia Ave	862-3430, 212-0261	5/01/2016	
Doug Wise	1000 Birch Point Dr	862-1463, 407-0927	5/01/2017	President
Terri Dunn	6211 D Shiloh Ave	862-8276, 250-7182	5/01/2017	
Jim DeHerrera	339 Fairway Drive	407-730-2424	5/01/2017	

BOARD OF PARK COMMISSIONERS

2-2-1: BOARD CREATED; MEMBERSHIP:

The board of park commissioners must be composed of the mayor, or the mayor's designee, and six (6) other persons to be appointed by the mayor, with the approval of the city council. The seven (7) persons to be so appointed shall have the same qualifications for the office of park commissioner as are required by Montana code 7-4-4301 for the office of mayor.**

****Montana Code Annotated 2009:**

7-4-4301. Qualifications for mayor. (1) A person is not eligible for the office of mayor unless the person:

- (a) is at least 21 years old;
- (b) has been a resident of the state for at least 3 years; and
- (c) has been a resident for at least 2 years preceding the election to office of the city or town or an area that has been annexed by the city or town.

(2) The office of mayor of a city or town is considered vacant if the individual elected as mayor ceases to be a resident of the city or town.**

A. Term Of Office:

1. Except as provided in subsection A2 of this section, the term of office of each park commissioner shall be two (2) years from and after May 1 of the year in which he is appointed and until his successor is appointed and qualified.

2. Three (3) of the commissioners first appointed shall hold office for the period of one year from and after May 1 and until their successors are appointed and qualified.

B. Vacancy: Any park commissioner who shall refuse or neglect to attend three (3) meetings of the board between May 1 and April 30 of the following year shall be deemed to have vacated his office, and thereupon his successor may be appointed.

C. Compensation: No park commissioner shall receive compensation for his service rendered under the provisions of this chapter, but the actual and necessary expenses incurred by any member of the board while acting under the orders of the board in the transaction of any business in its behalf may be paid upon being allowed and audited by the board.

D. Oath Of Office: Before entering upon the discharge of his duties, each park commissioner shall take and subscribe the oath provided by Montana code 2-16-211. The oath shall be filed in the office of the city clerk. (Ord. 96-15, 2-18-1997)

2-2-2: ORGANIZATION OF BOARD:

A. On the second Tuesday in May in each year, the board of park commissioners shall meet and organize by electing one of their number president and one of their number vice president, who shall hold their offices, respectively, for the term of one year.

B. The city clerk or the city clerk's designee shall be ex officio clerk of the board of park commissioners. (Ord. 96-15, 2-18-1997)

2-2-3: CONDUCT OF PARK BOARD BUSINESS:

- A. The board of park commissioners shall hold an annual meeting on the second Tuesday of May and a meeting at least once in each month in each year at such times as the board shall by rule prescribe. Special meetings may also be held at the call of the president or, in his absence, the vice president, upon giving to each member of the board at least twenty four (24) hours' notice in writing of the time and place of holding such meeting.
- B. A majority of the entire board shall be necessary to constitute a quorum for the transaction of the business of the board. (Ord. 96-15, 2-18-1997)

2-2-4: POWERS AND DUTIES:

- A. Officers: Except as provided in Montana code 7-16-4228(2), the president, and in the president's absence the vice president, shall preside at all meetings of the board. (Ord. 96-15, 2-18-1997; amd. 2003 Code)
- B. Park Board Minutes: The minutes of the meeting contained in the record book, when approved by the board, shall be prima facie evidence of the matters and things therein recited in any court of this state.
- C. Park Board Powers And Duties:
 - 1. The board of park commissioners shall have the management and control of all parks belonging to the city.
 - 2. The board of park commissioners shall have the following powers and be charged with the following duties:
 - a. To lay out, establish, improve and maintain parkways, drives and walks in the parks of the city; and to determine when and what parks shall be opened to the public;
 - b. To plant, cultivate, maintain and improve all trees and other plants required to be planted, cultivated and maintained in the parks belonging to the city;
 - c. If directed by the city council, to plant, cultivate, maintain and improve all trees and other plants required to be planted, cultivated and maintained in the streets, avenues, boulevards and public places in the city and for that purpose to establish and maintain nurseries for the growth of trees and plants;
 - d. Upon receiving approval from the city council, to purchase or otherwise acquire, and sell or otherwise transfer, real property; to make plats thereof; and to file the same in the office of the city clerk;
 - e. To provide written comments and recommendations to the city council prior to any action by the city council to acquire or transfer land used, or to be used, for a city park;
 - f. To pay all obligations authorized to be incurred by the provisions of this part;
 - g. To exercise all other powers incident to the duties enjoined by the provisions of this part. (Ord. 96-15, 2-18-1997)

2-2-5: CONTRACTS AND EMPLOYMENT:

A. The board of park commissioners has the following powers and duties:

1. To employ and discharge workers, laborers, engineers, foresters and others, and to fix their compensation; and

2. To make all contracts necessary or convenient for carrying out any and all of the powers conferred and duties enjoined upon the board by this part; provided, however, that any contract having a term of more than five (5) years must be approved by the city council.

B. All contracts made by the board must be in the name of the city and must be signed by the city clerk and by the president of the board or, in the president's absence, by the vice president of the board; provided, however, that any contract having a term of one year or less may be signed by the parks and recreation director.

C. An order or resolution authorizing the making of any contract may not be passed or adopted except by a ye and nay vote, which must be recorded in full in the minutes by the city clerk.

D. The board may elect to have all, or certain, personnel decisions made by the mayor, the city manager or the parks and recreation director pursuant to the policies and regulations governing other city personnel decisions. (Ord. 96-15, 2-18-1997)

RESORT TAX MONITORING COMMITTEE - WCC 2-4 - 3 Year Terms – City Council Appointments
Meet 3rd Wednesday-7AM

Position #				TERM EXPIRATION DATE	
1.	Andy Feury	PO Box 158	250-4179	May 31, 2017	Council Representative
2.	Ken Stein	509 E. 6 th	250-0599	May 31, 2017	Member at Large
3.	Julia Olivares	333 W. 6 th Street	862-6401	May 31, 2017	Member at Large
4.	Brian Averill	1476 Barkley Lane	250-2038	May 31, 2018	Member at Large
5.	Doug Reed, Whitefish Lake Golf Club Restaurant, <u>Chairman</u>	PO Box 1719	862-5285	May 31, 2018	Restaurant/Bar member
6.	Chris Schustrom,	504 Spokane Avenue	862-3440	May 31, 2016	Lodging member
7.	Trek Stephens	122 Central Ave	862-2271	May 31, 2016	Retail member- Secretary

RESORT TAX MONITORING COMMITTEE

2-4-1: COMMITTEE ESTABLISHED:

There is hereby established a resort tax monitoring committee for the city, hereinafter referred to as the committee. (Ord. 01-07, 2-20-2001)

2-4-2: PURPOSE, POWERS AND DUTIES:

The purpose of the committee is to monitor, review and advise the city council on the use of resort tax funds pursuant to title 3, chapter 3 of this code. The committee may also advise the city council on proposed changes to title 3, chapter 3 of this code. The committee shall report to the city council on matters of pertinence and interest related to the resort tax as the committee may deem appropriate or as the city council may request. The committee's powers shall be advisory only. Nothing in this chapter shall be construed to provide the committee with the power to authorize or prohibit the use of resort tax funds. (Ord. 01-07, 2-20-2001)

2-4-3: MEMBERSHIP:

A. Appointment; Compensation: The committee shall have seven (7) members. Members shall be appointed by the city council. The city council shall attempt to appoint one member who is a lodging business owner, operator, or representative; one member who is a restaurant/bar owner, operator, or representative; one member who is a retail business owner, operator, or representative; and one business owner at large, who may, but need not, own one of the types of businesses listed above. Any member designated as a business owner, operator, or representative of one of the above listed business categories, as well as the business owner at large, shall do so in relation to an associated business located within the corporate boundaries of the city of Whitefish, although personal residency shall not be required. The city clerk shall make appropriate notation of a member's business category affiliation on the official committee roster. If, within the discretion of the city council, an individual appropriate to fill a vacancy in any of the above listed business categories is not identified after publication of a notice of position vacancy, the city council may make a general membership appointment. In such case, the city council shall attempt to make such business category appointment with the next available vacancy where an incumbent member has not applied for reappointment or the city council decides not to reappoint an incumbent member. One position shall be specified for the mayor or a city councilor. The remaining positions shall be general membership positions and shall require residency within the corporate boundaries of the city of Whitefish. Committee members shall receive no compensation.

B. Terms; Positions: Committee terms shall be three (3) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the committee. The terms of those appointees holding positions on the effective date of this chapter shall continue until the termination date listed below:

Position	Position	Initial

<u>Number</u>	<u>Specification</u>	<u>Expiration Date</u>
1	Mayor or councilor	May 31, 2008
2	Member	May 31, 2008
3	Member	May 31, 2008
4	Member	May 31, 2006
5	Member	May 31, 2006
6	Member	May 31, 2007
7	Member	May 31, 2007

Thereafter members appointed to each position shall serve for three (3) year terms; the first of such terms beginning on June 1 of the year in which the initial term for the position expires. At the discretion of the city council, members may be appointed for more than one term. (Ord. 06-14, 6-5-2006)

C. Removal Of Member: A member of the committee serves at the pleasure of the city council and may be removed by 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 inability to attend a specific meeting shall notify the chair or secretary of the committee 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 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. 01-07, 2-20-2001)

2-4-4: ORGANIZATION:

At its first meeting after June 1 of each year, the committee 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 both the chair and the vice chair are absent from a specific meeting, the attending members shall elect a chair 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 chair, vice chair 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. 01-07, 2-20-2001)

2-4-5: MEETINGS, RULES AND REGULATIONS:

Four (4) 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 and convenient within the judgment of the committee, but shall meet not less than once every three (3) months. The committee shall decide the time, place and date of meetings. All meetings shall be open to the public. (Ord. 06-14, 6-5-2006)

2-4-6: EXPENDITURES:

The committee 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. 01-07, 2-20-2001)

MONTANA WEST ECONOMIC DEVELOPMENT BOARD OF DIRECTORS (4 Meetings, quarterly – 257-7711)

Council Representative Appointed by Council - Jen Frandsen, PO Box 158 270-7249
Alternate - Andy Feury, PO Box 158 250-4179

PEDESTRIAN & BICYCLE PATH ADVISORY COMMITTEE – WCC 2-8

(Minimum of 4 Whitefish City Limit residents required)

**Two-year terms, 1st Monday/month
@ 8:00 AM Council Conference Room**

Position #				Term Expiration Date
1.	*Richard Hildner, Councilor	PO Box 158	862-2831	May 31, 2016
2.	*Mike Fitzgerald, Member at Large	412 Lupfer Avenue	862-7426	May 31, 2017
3.	John Phelps, School District #44 Member at Large	615 Monegan Road	862-9977 (W) 862-3333	May 31, 2016
4.	*Doug Reed, Resort Tax Representative	Whitefish Lake Golf Club Restaurant, PO Box 1719	862-5285	May 31, 2017
5.	*John Repke, 411 Sunset View Ct, Member at Large		406-730-2419 630-670-6985	May 31, 2016
6.	* Jim DeHerrera, Park Board Representative, 339 Fairway Dr		407-730-2424	May 31, 2017
7.	*Hunter Homes, Member at Large (233 Woodland Pl)	PO Box 194	314-1417	May 31, 2017
Easement Negotiation Delegation - WCC 2-8-8				
	City Manager Stearns	PO Box 158, WF	863-2406 (W) 863-2419 (F)	City Manager
	Doug Adams	214 Rusty Spur Trail, WF		

Chapter 8

PEDESTRIAN AND BICYCLE PATH ADVISORY COMMITTEE

2-8-1: STANDING COMMITTEE ESTABLISHED:

There is hereby established a pedestrian and bicycle path advisory committee (hereinafter "committee"). (Ord. 05-30, 12-5-2005)

2-8-2: PURPOSE, POWERS, PROCESSES AND DUTIES:

The purpose and duties of the committee are to provide advice and recommendations to the city park board of commissioners, pedestrian and bicycle path easement negotiators¹ (hereinafter "easement negotiators") and city staff on matters of pertinence and interest related to the development of pedestrian and bicycle trails pursuant to the Whitefish pedestrian and bicycle path master plan. The committee shall report its advice and recommendations primarily to the park board of commissioners and the easement negotiators. The committee shall act in an advisory capacity only. Nothing in this chapter shall be construed to provide the committee with the power to authorize or prohibit the use of public funds. The committee shall be entitled to conduct fundraising activities and expend any funds raised for purposes related to the city's pedestrian and bicycle paths. In conducting fundraising activities, the committee shall not be entitled to incur indebtedness that could be charged against the city. (Ord. 15-05, 4-6-2015)

2-8-3: MEMBERSHIP:

A. Appointment; Compensation: The committee shall have seven (7) members. Members shall be appointed by the city board of park commissioners. Not less than four (4) members shall reside within the corporate limits of the city. Three (3) members may reside within the school district 44 area. Members shall have maintained residency within specified boundary requirements for one year prior to appointment to the committee. The city board of park commissioners shall appoint members according to the following representation categories: one member who is also the mayor or a city councilor; one member who is also a member of the park board of commissioners; one member who is also a member of the resort tax monitoring committee; and four (4) members who are citizen members at large. The city manager shall serve on the committee in an ex officio

capacity. The city clerk shall make appropriate notation of a member's representation category on the official committee roster. Committee members shall receive no compensation. Contracted consultants and city staff, except as otherwise provided for by the city manager, shall not serve as members, but may assist and participate in the facilitation of committee business. (Ord. 15-05, 4-6-2015)

- B. Terms; Positions: Committee terms shall be two (2) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the committee. The term for members serving pursuant to this chapter terminate on the date specified below for each position:

Position Number	Representation Category	Expiration Date
1	Mayor or councilor	May 31, 2007
2	Member at large	May 31, 2007
3	Member at large	May 31, 2007
4	Resort tax committee	May 31, 2006
5	Member at large	May 31, 2006
6	Park board	May 31, 2006
7	Member at large	May 31, 2006

Thereafter members appointed to each position shall serve for two (2) year terms; the first of such terms beginning on June 1 of the year in which the term for the position expires. At the discretion of the city council, members may be appointed for more than one term.

- C. Removal Of Member: A member may be removed from the committee by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of this chapter and the rules of procedures of the committee, or absences from three (3) consecutive meetings, including regular and special meetings, 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 chairperson or secretary of the committee 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 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 committee. (Ord. 05-30, 12-5-2005)

2-8-4: ORGANIZATION:

The committee, at its first meeting after June 1 of each year, the committee 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 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. 05-30, 12-5-2005)

2-8-5: MEETINGS; RULES AND REGULATIONS:

Four (4) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business before the committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter before 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 least once every three (3) months or at the call of the chairperson or the easement negotiators, and at such other times as the committee may determine. All meetings shall be open to the public. (Ord. 05-30, 12-5-2005)

2-8-6: STAFF SUPERVISION:

The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. (Ord. 05-30, 12-5-2005)

2-8-7: NO EXPENDITURES AUTHORIZED:

The committee shall have 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. (Ord. 05-30, 12-5-2005)

2-8-8: EASEMENT NEGOTIATORS:

- A. **Negotiators Established:** There are hereby established two (2) appointive positions to be known as the pedestrian and bicycle path easement negotiators (hereinafter "negotiators").
- B. **Purpose, Powers And Duties:** The purpose and duties of the negotiators are to represent the city in easement negotiations related to the development of pedestrian and bicycle trails pursuant to the Whitefish pedestrian and bicycle path master plan. The negotiators shall be the only individuals authorized to represent the city in trail easement negotiations. All agreements developed between the negotiators and property owners shall require approval by the city council to gain acceptance by the city.
- C. **Membership:** The city council shall appoint two (2) negotiators and designate a lead negotiator from among the two (2) appointments. Except for city employees, negotiators shall receive no compensation. Negotiators shall serve indefinite terms at the pleasure and discretion of the city council. Negotiators serving on the effective date of this chapter shall, within the discretion of the city council, continue in their respective positions.
- D. **Lead Negotiator:** The lead negotiator shall decide plans, methods used, offers tendered and concessions made in negotiating easement agreements. The lead negotiator is authorized to include other individuals in negotiation meetings if, in his discretion, such individuals would be helpful in developing an easement agreement. (Ord. 02-12, 4-1-2002)

2-8-9: FISH TRAILS COORDINATORS:

There is hereby established the positions within the committee of "Fish Trails coordinators". There shall be three (3) Fish Trails coordinators appointed by the committee from among its members or from the two (2) easement negotiators (established by ordinance 02-12). Committee members and easement negotiators may serve as Fish Trails coordinators only so long as they remain members of the committee or appointed as easement negotiators. The terms for Fish Trails coordinators shall terminate on the date specified for each position.

<u>Position Number</u>	<u>Expiration Date</u>
1	May 31, 2006

2	May 31, 2006
3	May 31, 2006

Thereafter Fish Trails coordinators shall serve one year terms, the first of such terms beginning on June 1 of the year in which the term for the position expires. Coordinators may be appointed for more than one term. The parks and recreation director shall serve as an ex officio Fish Trails coordinator.

The Fish Trails coordinators shall endeavor to promote awareness of and enthusiasm for the Whitefish trails system. The Fish Trails coordinators shall, with the assistance of volunteers, be responsible for the following matters, and for any other matters that the committee assigns that are consistent with this chapter:

- A. Maintenance of the Fish Trails website;
- B. Publishing of the Fish Trails newsletter;
- C. Organizing events related to the city's trails system;
- D. Handling public relations for Fish Trails events and the city's trails system;
- E. Attracting and increasing Fish Trails membership as a method of fundraising;
- F. Attracting and directing volunteers to assist with various Fish Trails projects and activities; and
- G. Conducting fundraising efforts.

Fish Trails Coordinators may be removed, and vacancies may be filled, by the committee. Fish Trails coordinators shall make decisions by majority vote. Fish Trails coordinators shall be primarily advisory to the committee, and shall obtain committee approval of projects that

it undertakes. All meetings shall be open to the public. The coordinators shall not make expenditures or disburse funds on behalf of the city. (Ord. 05-30, 12-5-2005)

TREE ADVISORY COMMITTEE – WCC 2-7 - Two-year terms, meet 2nd Tuesday - January, April, July, October, at 6:00 pm, before Park Board meets *(Minimum of 4 Whitefish City Limit residents required)*

Position #

				Term Expiration Date
1.	* Pam Barberis, Councilor	PO Box 158	871-0223	May 31, 2016
2.	*Terri Dunn, Park Board Representative,	6211 D Shiloh Ave	862-8276, 250-7182	May 31, 2016
3.	*Dan Cassidy, Member at Large	565 Somers Ave	862-0808	May 31, 2016
4.	Bruce Boody, Member at Large	301 E. 2nd St. #1B	862-4755	May 31, 2016
5.	*Matt Kennedy	806 Columbia Ave	471-5613	May 31, 2017
6.	*Tanya Island (824 E. 10 th St.)	PO Box 10931, Kalispell, MT 59904	253-6034	May 31, 2017
7.	*Tyler Hope	517 Somers Ave	270-9360	May 31, 2017

Chapter 7

WHITEFISH TREE ADVISORY COMMITTEE

2-7-1: COMMITTEE ESTABLISHED:

There is hereby established a Whitefish tree advisory committee for the city board of park commissioners, hereinafter referred to as the committee. (Ord. 15-05, 4-6-2015)

2-7-2: PURPOSE, POWERS AND DUTIES:

The purpose and duties of the committee are to provide advice and recommendations to the city park board of commissioners and city staff on matters of pertinence and interest related to the city's urban forest. The committee shall report its advice and recommendations primarily to the park board of commissioners and city staff. The committee shall act in an advisory capacity only. Nothing in this chapter shall be construed to provide the committee with the power to authorize or prohibit the use of public funds. (Ord. 15-05, 4-6-2015)

2-7-3: MEMBERSHIP:

A. Appointment; Compensation: The committee shall have seven (7) members. Members shall be appointed by the board of park commissioners. Not less than four (4) members shall reside within the corporate limits of the city. Two (2) members may reside within the school district 44 area. Two (2) members who are practicing professional arborists, landscapers and landscape architects, who also maintain a business within the Whitefish planning jurisdictional boundary, may serve without regard to residential standing. Members shall have maintained residency within specified boundary requirements for one year prior to appointment to the committee. The board of park commissioners shall appoint members according to the following representation categories: one member who is also the mayor or a city councilor; one member who is also a member of the park board of commissioners; and five (5) members who are citizen members at large. The board of park commissioners shall attempt to appoint up to two (2) members of the aforementioned five (5) members at large who are practicing professional arborists, landscapers or landscape architects. The city clerk shall make appropriate notation of a member's representation category on the official committee roster. Committee members shall receive no compensation. Contracted consultants and city staff shall not serve as members, but may assist and participate in the facilitation of committee business. (Ord. 15-05, 4-6-2015)

B. Terms; Positions: Committee terms shall be two (2) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the committee. Except for the positions specified for the mayor or a city councilor and the park board member, the committee existing at the time of enactment of this chapter shall determine by lot which members shall fill which positions. The initial terms for members serving pursuant to this chapter shall begin with the effective date of this chapter and terminate on the date specified below for each position:

Position Number	Position Specification	Initial Expiration Date
1	Mayor or councilor	May 31, 2002
2	Park board	May 31, 2002
3	Member at large	May 31, 2002
4	Member at large	May 31, 2002
5	Member at large	May 31, 2003
6	Member at large	May 31, 2003
7	Member at large	May 31, 2003

Thereafter members appointed to each position shall serve for two (2) year terms; the first of such terms beginning on June 1 of the year in which the initial term for the position expires. At the discretion of the city council, members may be appointed for more than one term.

C. Removal Of Member: A member may be removed from the committee by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of this chapter and the rules of procedures of the committee, or absences from three (3) consecutive meetings, including regular and special meetings, 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 committee 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 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 committee. (Ord. 02-19, 6-3-2002)

2-7-4: ORGANIZATION:

At its first meeting after June 1 of each year, the committee 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 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. 02-19, 6-3-2002)

2-7-5: MEETINGS, RULES AND REGULATIONS:

Four (4) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business before the committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter before 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 least once every three (3) months or at the call of the chair or the parks and recreation director, and at such other times as the committee may determine. All meetings shall be open to the public. (Ord. 02-19, 6-3-2002)

2-7-6: STAFF SUPERVISION:

The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. (Ord. 02-19, 6-3-2002)

2-7-7: EXPENDITURES:

The committee 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. (Ord. 02-19, 6-3-2002)

IMPACT FEE ADVISORY COMMITTEE – WCC 2-13 – 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

IMPACT FEE ADVISORY COMMITTEE

2-13-1: ESTABLISHED:

There is hereby established a Whitefish impact fee advisory committee, hereinafter "committee". (Ord. 06-32, 11-20-2006)

2-13-2: PURPOSE, POWERS, AND DUTIES:

As provided in section 7-6-1604, Montana Code Annotated, the purpose and duties of the committee are to review and monitor the process of calculating, assessing, and spending impact fees. The committee shall serve in an advisory capacity to the city council. Nothing in this chapter shall be construed to empower the committee to authorize or prohibit the use of public funds. (Ord. 06-32, 11-20-2006)

2-13-3: MEMBERSHIP:

A. Appointment; Compensation: The committee shall have five (5) members. Members shall be appointed by the city council. At least one member shall be a representative of the development community, and shall reside or work within the Whitefish zoning jurisdiction. At least one member shall be a certified public accountant, and shall reside or work within the Whitefish zoning jurisdiction. One member shall be a city councilor. One member shall be the city finance director. One member shall be a member at large, but shall work within the Whitefish zoning jurisdiction. The city clerk shall make appropriate notation of a member's representation category on the official committee roster. Committee members shall receive no compensation.

B. Terms; Positions: Committee terms shall be for two (2) years. There are hereby created positions numbered 1 through 5 inclusive of the members of the committee. The initial term of the committee members shall be staggered, with positions 1 through 3 serving two (2) year terms, and positions 4 and 5 serving one year terms. The initial term for members serving pursuant to this chapter shall begin upon appointment and terminate on the date specified below for each position: (ORD 07-14, 6-4-2007)

<u>Position Number</u>	<u>Representation Category</u>	<u>Initial Expiration Date</u>
1	Development community	December 31, 2009
2	Certified public accountant	December 31, 2009
3	City councilor	December 31, 2009
4	City finance director	December 31, 2008
5	Member at large	December 31, 2008

- C. **Removal Of Member:** A member may be removed from the committee by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of this chapter and the rules of procedures of the committee, or absences from three (3) consecutive meetings, including regular and special meetings, 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 chairperson or secretary of the committee 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 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 committee. (Ord. 06-32, 11-20-2006)

2-13-4: ORGANIZATION:

The committee, at its first meeting after July 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 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. 06-32, 11-20-2006)

2-13-5: MEETINGS, RULES AND REGULATIONS:

Three (3) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business before the committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter 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 at least annually, and at such other times as the committee may determine. All meetings shall be open to the public. (Ord. 09-03, 2-2-2009)

2-13-6: STAFF SUPERVISION:

The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. (Ord. 06-32, 11-20-2006)

2-13-7: 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. (Ord. 06-32, 11-20-2006)

MEMBERS OF INSURANCE COMMITTEE

Voting Member	Expiration Date	Name
Police Association	February 28, 2015	Shane Erickson
Police Association	February 29, 2016	Clint Peters
Public Works Union	February 29, 2016	Rob Goodman
Public Works Union	February 28, 2015	Mitch Wilson
Fireman Union	February 29, 2016	Scott Alexander
Fireman Union	February 28, 2015	Mike Zorn
Public Works, non-Union, non-exempt	February 29, 2016	
City Clerk's Office Non-union, non-Exempt	February 28, 2017	Vanice Woodbeck
Building Dept, non-Union, non-exempt	February 29, 2016	
Parks Dept, non-Union, non-exempt	February 28, 2014	
Court Clerk's Office, Non-union, non-Exempt.	February 29, 2016	Shellee Abel
Department Director	February 28, 2015	Bill Dial
Department Director	February 28, 2016	Dana Smith
EX-OFFICIO MEMBERS		
Council Member	February 28, 2016	Frank Sweeney
Council Member	February 28, 2016	Andy Feury
City Manager	Indefinite	Chuck Stearns

INSURANCE COMMITTEE

2-9-1: COMMITTEE ESTABLISHED:

There is hereby established an insurance committee for the city, hereinafter referred to as the committee. (Ord. 03-08, 4-7-2003)

2-9-2: DEFINITIONS:

HEALTH INSURANCE: Includes medical, vision, dental, prescription drugs and life insurance. (Ord. 03-08, 4-7-2003)

2-9-3: PURPOSE, POWERS AND DUTIES:

The purpose and duties of the committee are to make decisions regarding the procurement of health insurance for city employees. No later than the first regular meeting in March of each year, the city council shall evaluate and determine the amount of funds that the city can contribute toward the cost of health insurance premiums for the following fiscal year. Such determination shall be based, in part, on the need to ensure that the city has competitive benefits for its employees. Thereafter, the insurance committee shall investigate, analyze and determine the precise nature of health insurance benefits that the city will be capable of purchasing for the following fiscal year. In conducting its investigation and analysis, the committee shall be empowered to consider the city's current plan, alternative plans, plan components, coverage levels, multi-jurisdictional insurance pools, self-insurance pools and any other method of permitting the city to provide health insurance benefits for its employees at the cost determined by the city council. Coverage requiring premiums in excess of the city council's funding level may be adopted, but only after an affirmative vote of the committee. Any such excess premiums shall be paid by the covered employees.

The committee shall provide its final decision to the city council no later than the Tuesday prior to the first regular city council meeting in June. As long as the committee's determination complies with the budget determination previously made by the city council, the city council shall adopt the committee's determination and include it within the city's budget for the following fiscal year. If no determination is received from the committee by the deadline identified above, then the city council shall determine all health insurance issues for the city for the coming fiscal year. Nothing in this chapter shall be construed to provide the committee with the power to authorize or prohibit the use of public funds. (Ord. 03-08, 4-7-2003)

2-9-4: MEMBERSHIP:

A. Appointment; Compensation: The committee shall have thirteen (13) members. Two (2) members shall be appointed by the Whitefish police protective association from its membership. Two (2) members shall be appointed by the public works employees union, local no. 2943, from its membership. Two (2) members shall be appointed by the international association of firefighters, local 3995, from its membership. The nonunion, nonexempt public works employees shall choose a member from among themselves. The city clerk's staff shall select a nonunion, nonexempt employee from among themselves. The building department employees shall select a nonunion, nonexempt

employee from among themselves. The parks department employees shall select a nonunion, nonexempt employee from among themselves. The court clerk's staff shall select a nonunion, nonexempt employee from among themselves. The city department heads shall select two (2) members from among themselves. The committee shall also have three (3) ex officio, nonvoting members which shall consist of two (2) city council members, selected by the city council, and the city manager. All appointments shall be made in writing directed to the city clerk. The city clerk shall make appropriate notation of a member's representation category on the official committee roster. Committee members shall receive no additional compensation above that already provided by the city. Contracted consultants and other city staff shall not serve as members, but may assist and participate in the facilitation of committee business.

B. Terms; Positions: Committee terms shall be two (2) years. There are hereby created positions numbered 1 through 13 for voting members of the committee and positions numbered 14 through 16 for ex officio, nonvoting members. Seven (7) of the initial voting members, however, and one of the initial ex officio members, shall be appointed to one year terms so that the expiration of the terms of the committee members will be staggered. Where one entity or group is allowed two (2) appointments, that entity or group shall determine which of its appointees shall serve a one year term and which shall serve a two (2) year term. The initial term for members serving pursuant to this chapter shall begin with the effective date of this chapter and terminate on the date specified below for each position:

<u>Position Number</u>	<u>Position Specification</u>	<u>Initial Expiration Date</u>
Voting Members		
1	Police association	February 29, 2004
2	Police association	February 28, 2005
3	Public works union	February 29, 2004
4	Public works union	February 28, 2005
5	Firefighters union	February 29, 2004
6	Firefighters union	February 28, 2005
7	Public works nonunion/nonexempt	February 29, 2004
8	City clerk's office nonunion/nonexempt	February 28, 2005
9	Building dept. nonunion/nonexempt	February 29, 2004
10	Parks dept. nonunion/nonexempt	February 28, 2005
11	Court clerk's office nonunion/nonexempt	February 29, 2004
12	Department director	February 28, 2005
13	Department director	February 29, 2004

Ex Officio Members		
14	Council member	February 28, 2005
15	Council member	February 29, 2004
16	City manager	Indefinite

Thereafter members appointed to each position shall serve for two (2) year terms; the first of such terms beginning on March 1 of the year in which the initial term for the position expires.

C. **Removal Of Member:** A member may be removed from the committee by a three-fifths ($\frac{3}{5}$) vote of the voting members of the committee for cause upon written charges and after a public hearing. Wilful disregard of this chapter and the rules of procedures of the committee, or absences from three (3) consecutive meetings, including regular and special meetings, 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 committee 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 committee at least twenty four (24) hours prior to any scheduled meeting.

D. **Vacancy:** If any member position on the committee becomes vacant, it shall be filled as soon as possible by the entity or group that originally appointed the position. Upon appointment to fill the vacancy, the appointing entity or group shall notify the city clerk in writing of such appointment. (Ord. 03-08, 4-7-2003)

2-9-5: ORGANIZATION:

At its first meeting after March 1 of each year, the committee 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 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. 03-08, 4-7-2003)

2-9-6: MEETINGS, RULES AND REGULATIONS:

A simple majority of the appointed committee members shall constitute a quorum. Not less than a quorum of the committee may transact any business before the committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter 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 needed. All meetings shall be open to the public. (Ord. 03-08, 4-7-2003)

2-9-7: STAFF SUPERVISION:

The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. (Ord. 03-08, 4-7-2003)

2-9-8: EXPENDITURES:

Other than the duties of the committee as outlined above, the committee shall not have any additional 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. (Ord. 03-08, 4-7-2003)

WHITEFISH ARTS COUNCIL - Contact - Carol Atkinson, 404 Dakota Avenue, WF, 862-7591 Meets Quarterly

Council representative, - Jen Frandsen - appointed 1-6-2014 PO Box 158 270-7249

REAL ESTATE ADVISORS – Meets on as needed basis

Mayor John Muhlfeld

Councilor Andy Feury

City Manager Chuck Stearns

Finance Director Dana Smith

Legacy Lands Advisory Committee

Councilor Richard Hildner, PO Box 158, WF 862-2831, appointed 6-15-15 – Rec/Con Committee

Councilor Frank Sweeney, PO Box 158, WF 863-4848 (O), appointed 1-6-2014 – Whitefish Trail Operations Committee

City Hall Steering Ad- Hoc Committee:

Chuck Stearns
George Gardner
Ian Collins
Jeff Raper
Jen Frandsen
John Muhlfeld
Necile Lorang
Rhonda Fitzgerald
Richard Hildner
Ross Anderson
Sherri Baccaro
Toby Scott
Wendy Compton-Ring

Sub Committee:

John Muhlfeld
Jen Frandsen
Richard Hildner (Alternate for John or Jen)
Rhonda Fitzgerald
Ian Collins
Wendy Compton-Ring
Sherri Baccaro
Chuck Stearns

d) Consideration of delegating authority for City Hall/Parking Structure Design Development daily or weekly decisions to a sub-committee of the City Hall Steering Committee (p. 313)

Manager Stearns said page 313 has a list of 7 items that are a sample of some of the decisions coming up in the new City Hall/Parking Structure that will come up quickly from Mosaic Architecture. To coordinate a meeting time that works for all 13 of the Future City Hall ad hoc Steering Committee for these decisions as they come up has become difficult, and Ben, our architect from Mosaic, said at this time in the design phase these decisions could be made by a subcommittee that could get together on a shorter notice, maybe sometimes even by a conference call. Creating this subcommittee would not replace the larger committee who would probably continue to meet on a monthly/bimonthly basis. Manager Stearns had been thinking about the composition of this subcommittee and thought it could be about 6 members; two other staff along with himself, the Mayor and one other Councilor, and one citizen member. Manager Stearns said he thought the next decision for the Council will be approval of the design development drawings. (Continued below)

Councilor Hildner said it was 30 seconds to 11:30 and made the motion to continue the meeting to midnight, second by Councilor Frandsen, the motion passed unanimously.

Councilor Hildner requested a point of order at this time to recognize and acknowledge a boy scout (Josh Harvey) who had been in attendance for the full meeting since it started at 7:10 p.m., and was probably here to fulfill requirements towards a Merit Badge. He thanked him for coming and said since it was past 11:30 p.m. now, he thought he could be excused from the rest of the meeting so he could go home and get some sleep.

(Continuation from above) Manager Stearns said he thought decisions made by the subcommittee will be reported to the Steering Committee at their regular meetings which would also be included in reports back to the Council. The Mayor said he did not disagree with the concept and suggested perhaps the makeup of that subcommittee could be discussed by the Committee of the whole at their April 24th meeting; along with a discussion about how these decisions will go back to the Committee of the whole and the Council.

Councilor Frandsen made a motion, second by Councilor Sweeney, to delegate authority for daily/weekly decision making on the new City Hall/Parking Structure construction project to a subcommittee of the Future City Hall ad hoc Steering Committee as determined by the Future City Hall ad hoc Steering Committee; and the subcommittee have goals and guidelines for their decision making. The motion passed unanimously. Manager Stearns clarified that the ad hoc Steering Committee is authorized to determine the makeup of the committee.

From Council Meeting 4-20-15

RESOLUTION NO. 14-55

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, EXTENDING AND REVISING THE FUTURE CITY HALL STEERING AD HOC COMMITTEE.

WHEREAS, the current City Hall building, located on Block 36, was built in 1917 and renovated in 1958; and

WHEREAS, over time the City Council identified the need for a new City Hall in order for the City to offer services in an effective and efficient manner. By March 1987, the need for a new City Hall was identified as a specific project of the master plan in the City of Whitefish Urban Renewal Plan with findings "that the age and floor plan of the current facility hinders the efficiency of services that the City provides to the public;" and

WHEREAS, in 2003 the City Council established a City Hall Construction Reserve Fund by Resolution No. 03-63 "to be restricted and used at such future time as it becomes necessary to significantly expand City Hall or construct a new City Hall." As directed, the City has deposited annually into the City Hall reserve fund available Tax Increment Funds ("TIF") so that when the time came to expand and/or construct City Hall, the City would have accumulated a significant portion of the necessary revenues; and

WHEREAS, the City conducted a future needs study and space needs analysis for a new City Hall in 2006 which resulted in a 2007 needs assessment calling for a new office space of approximately 18,000 square feet in size to accommodate all departments; and

WHEREAS, because the current City Hall lacked suitable space for all City departments, satellite offices are used for the Parks and Recreation Department and Planning & Building Department. In 2010 the city constructed the new Emergency Services Center for the Police Department, Fire Department; and Municipal Court; and

WHEREAS, the City Council held work sessions on November 1, 2010, and October 17, 2011, to consider projects, including a new City Hall, which could be paid for using TIF monies; and

WHEREAS, the City Council Real Estate Committee has met, researched and identified five locations in town for a possible site for the new City Hall and negotiated options to purchase property for a future City Hall site, which have been considered by the City Council; and

WHEREAS, at a regularly scheduled meeting on September 6, 2011, the City Council held a public hearing and invited public comment concerning the five options identified by the Real Estate Committee, and potential purchase and construction costs for the five options, but were unable to narrow the five proposed options, and as a result delayed making any site decision seeking further public comment; and

WHEREAS, the City sponsored a citizen engagement meeting on October 19, 2011, at the O'Shaughnessy Center, to seek public input and consideration of the need for a new City Hall and polled the participants concerning a suitable location and funding for a new City Hall to be built using TIF monies; and

WHEREAS, at the November 7, 2011 City Council meeting, Councilors discussed the advantages gained from the use of an ad hoc committee to assist the Council in selection of the future site, design, and architect for the new City Hall; and

WHEREAS, pursuant to Resolution No. 11-57 adopted on November 21, 2011, the Future City Hall Steering ad hoc Committee was established; and

WHEREAS, the Future City Hall Steering ad hoc Committee was to be disbanded on January 31, 2015 or earlier if the City Council completes its consideration of the Committee's report prior to that date; and

WHEREAS, the design of the future City Hall is not yet complete, so it is desirable to extend the existence of the Future City Hall Steering ad hoc Committee until January 31, 2016 or earlier if the committee's work is done by that time; and

WHEREAS, the City Council had decided that it would like two additional City Council representatives on the Future City Hall Steering ad hoc Committee.

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

Section 1: The Future City Hall Steering ad hoc Committee (the "Committee") existence is extended to January 31, 2016 or until the City Hall design is complete and the building is under construction.

Section 2: The general purpose of the Committee shall be to study, evaluate and recommend ideas and process for the location, design and architectural selection for the future City Hall to the City Council.

Section 3: The Committee shall consist of fifteen (15) individuals. The Mayor, with the consent and approval of the City Council, shall appoint the Mayor, three (3) City Councilor, four (4) City Hall employees, one (1) representative of the Whitefish Chamber of Commerce, one (1) representative of the Heart of Whitefish, one (1) licensed architect, and four (4) citizens of the City of Whitefish. City staff may be appointed as ex officio members. The Committee members shall select a Chairperson from the members of the Committee. The Committee shall appoint one member as Secretary of the Committee, who shall provide public notice, and keep minutes of all meetings and submit them to the City Clerk. Seven (7) members shall constitute a quorum. The Committee shall meet as often as necessary to accomplish its mission as described herein. The Committee shall cease to exist as provided in Section 1.

Section 4: The Committee shall begin its deliberations as soon as practical after creation of the Committee. The Committee shall formulate and submit to the City Council a written report, which report shall include recommendations and ideas for a new City Hall, identification of the recommended site, design, and architect with an explanation of the Committee's criteria in making its recommendations.

Section 5: A member of the Committee may be removed by the City Council, after a hearing for misconduct or nonperformance of duty. 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 of the Committee at least twenty-four (24) hours prior to any scheduled meeting.

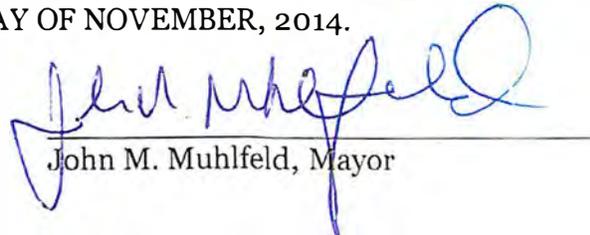
Section 6: Any vacancy occurring on the Committee shall be filled in the same manner that the initial position was filled.

Section 7: The Committee shall not have authority to make any expenditure on behalf of the City or disburse any funds provided by the City or to obligate the City for any funds.

Section 8: The Committee shall have no authority to direct City staff with respect to any matter, but may request information and assistance from City staff.

Section 9: 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 17th DAY OF NOVEMBER, 2014.



John M. Muhlfeld, Mayor

ATTEST:



Vanice Woodbeck, Assistant City Clerk

Mountain Trails Park Master Plan Ad Hoc Steering Committee

Resolution 13-30

Sue Schnee, Park Board Representative

Ron Brunk, Park Board Representative

Gregg Esakoff, Ice Rink Advisory Committee Representative

Murray Craven, Ice Rink Advisory Committee Representative

Mark Van Everen, Ice Rink Advisory Committee Representative, Alternate

Tim Hinderman, Flathead Valley Ski Education Foundation Representative

Bill Kahle, Flathead Valley Ski Education Foundation Representative

Donna Maddux, Member at Large, appointed 1-21-2014

Ray Boksich, Member at Large, appointed 1-21-2014

Councilor Jen Frandsen, appointed 1-6-2014

Councilor Richard Hildner, appointed 1-6-2014

Maria Butts, Parks and Recreation Director

Shannon Holmes, Recreation Facilities Manager

RESOLUTION NO. 13-30

A Resolution of the City Council of the City of Whitefish, Montana, authorizing the process to develop an amended Mountain Trail Park Master Plan and establishing the Mountain Trails Park Master Plan ad hoc Steering Committee.

WHEREAS, in 1984 the City of Whitefish acquired a 4.48 acre parcel, now known as the Mountain Trails Park, a gift from the Mountain Trails Saddle Club; and

WHEREAS, since its acquisition the Mountain Trails Park has been a popular community recreation area, with an ice rink facility, and miscellaneous buildings completed in 2003 and the Mountain Trails Master Plan was completed in 2004 and approved by the City Council on July 6, 2004; and

WHEREAS, at the September 10, 2013 City Park Board Meeting, due to its popularity and usage, the City Park Board and the City Parks and Recreation Department identified a need for an amended Master Plan for the use and future development of the Mountain Trails Park; and

WHEREAS, at the October 1, 2013 City Park Board meeting, the Park Board approved recommending the City Council establish a Mountain Trails Park Master Plan ah hoc Steering Committee (the "Committee") with the purpose to serve as the primary sounding board to work through the planning process with the current groups using the Mountain Trails Park and members of the public for an overall plan for the Mountain Trails Park and to report their findings to the City Park Board and City Council; and

WHEREAS, upon receipt of the Committee's findings, the City Park Board will conduct a public hearing, at which time the Committee will report its findings and recommendations and following public comment the Park Board will report its recommendations to the City Council for its consideration and action; and

WHEREAS, at the October 7, 2013 City Council Meeting, the City Council received an oral report from Parks and Recreation staff, and approved the establishment of an eleven-member Mountain Trails Park Master Plan ad hoc Steering Committee with Committee members from the City Council, Park Board, Ice Rink Committee representing different interest groups using the Ice Rink, Flathead Valley Ski Education Foundation and members from the general public; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to authorize the creation of the Mountain Trails Park Master Plan Steering Committee for the development of an overall plan for the Mountain Trails Park.

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

Section 1: There is hereby established the Mountain Trails Park ad hoc Master Plan Steering Committee.

Section 2: The general purpose of the Committee will be to serve as the primary sounding committee to work through the planning process with members of the public concerning the overall plan for the Mountain Trails Park, as depicted on Exhibit "A", and present the Committee's findings and report to the Whitefish Park Board, who will propose an overall plan for the Mountain Trails Park, and report their findings and recommendations to the Whitefish Park Board. The Whitefish Park Board will prepare a report for the City Council's consideration and approval.

Section 3: The Committee will prepare its findings and recommendations to the Whitefish Park Board, who will report its recommendations to the City Council for its consideration and action.

Section 4: The Committee will consist of eleven (11) individuals with representation as follows: Two City Councilors, two Park Board members, two Ice Rink Committee members representing different interest groups using the Ice Rink, two representatives from the Flathead Valley Ski Education Foundation, two "at large" community members without affiliation or association with present users of the Mountain Trails Park appointed by Mayor with City Council approval, and the Director of Parks, Recreation and Community Services or designee. The Committee members shall select a Chair from the members of the Committee. The Committee shall appoint one member as Secretary of the Committee, who shall keep minutes of all meetings and submit them to the City Clerk. Six (6) members shall constitute a quorum. The Committee shall meet as often as necessary to accomplish its general purpose, as described above. The Committee shall cease to exist as provided in Section 5.

Section 5: The Committee will begin its deliberations as soon as practical after creation of the Committee. The Committee shall be disbanded as of May 31, 2014, or earlier if the City Council completes its consideration of the Committee's report prior to that date.

Section 6: A member of the Committee may be removed by the City Council, after a hearing for misconduct or nonperformance of duty. 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. The 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 of the Committee at least twenty-four (24) hours prior to any scheduled meeting.

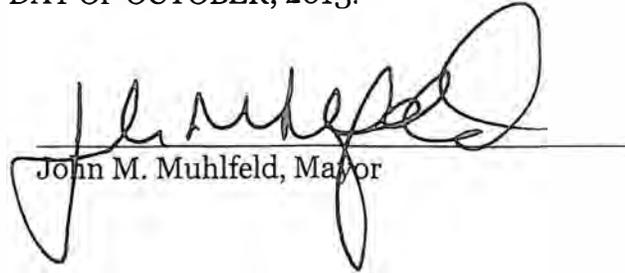
Section 7: Any vacancy occurring on the Committee will be filled in the same manner that the initial position was filled.

Section 8: The Committee will not have authority to make any expenditure on behalf of the City or disburse any funds provided by the City or to obligate the City for any funds.

Section 9: The Committee will have no authority to direct City staff with respect to any matter, but may request information and assistance from City staff.

Section 10: This Resolution will 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 7TH DAY OF OCTOBER, 2013.



John M. Muhlfeld, Mayor

ATTEST:



Necile Lorang, City Clerk

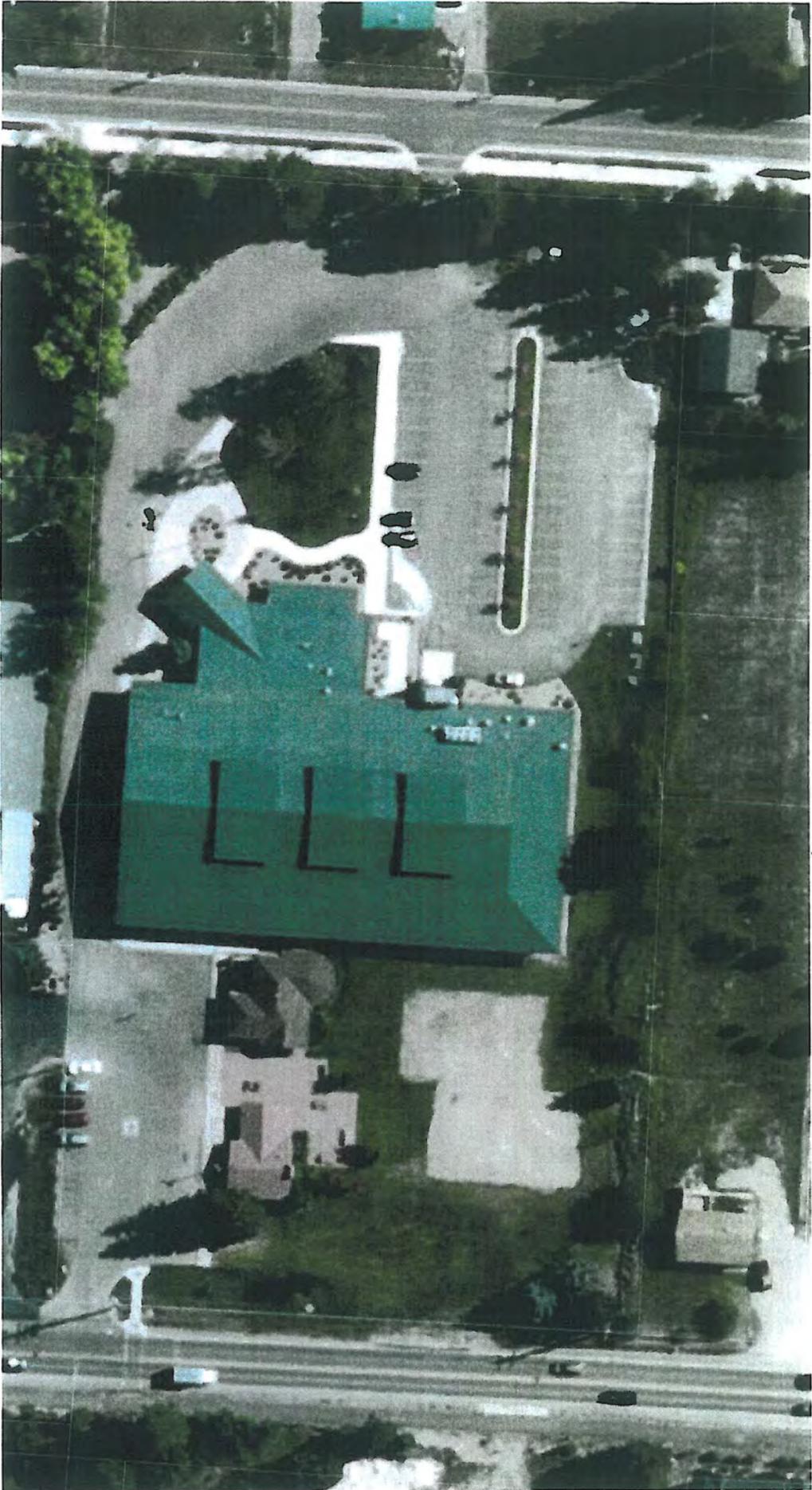


EXHIBIT "A"
City Council Packet January 4, 2016 page 265 of 265

received
1-4-16 after Packet

Subject: RE: Potters Field Ministries Parish house:(WCUP-15-15) Meeting
1/4/16
From: "Debbie & Gordon" <sands@montanasky.us>
Date: 1/4/2016 2:44 PM
To: <nlorang@cityofwhitefish.org>

RE: Potters Field Ministries Parish House:

Honorable Mayor and Council,

Since I will not be able to attend tonight's meeting I am sending this email in its place.

I would like to voice my concerns on the conditional use permit and the conditions that planning board has recommended.

I don't believe they are specific enough for what this is being approved for:

Condition #2: Parking: It was noted in board discussion that the fence could be removed for more parking? Is this for the house only ? The six only residents or potential for the church parking across the street? Is there a maximum amount of cars allowed?

Condition #5: Concern: Residential use only and not for church functions?. If this house sells how will the permit stand? As a parish house for only six residents or for just six residents whoever they are?

It was also noted in board discussion that the term is 1 year residents so it does not become a transient home? this is not noted in conditions.

**I am not in favor of this project as I see it as just one more thing that is degrading of our neighborhoods;
it would make it a bit easier to accept if I felt that the**

conditions were more concise and specific.

I Also have questions on how all of the conditions are monitored and enforced?

Thank you all for taking the time to consider these concerns.

***Debbie & Gordon Sands
204 Park Ave.
Whitefish, Mt 59937***

received
1-4-16

After Packet

Subject: Workforce Housing
From: Brian Labuda <brianl@kencosecurity.com>
Date: 1/4/2016 5:34 PM
To: "nlorang@cityofwhitefish.org" <nlorang@cityofwhitefish.org>

Hello Necile,

I'm unable to attend tonight's Council meeting and wanted to express my view on the issue of funding a Workforce Needs Assessment & Plan.

The need for housing for lower wage earners is tremendous and I'm pleased to know movement in the direction of addressing these needs is underway.

I believe funding for this process {which I understand to be \$55,000 - \$65,000} should come from the City. Many businesses and property owners utilize this workforce segment, but are not Chamber members. I think the City with its current budget could find room to pay for this vital need.

Respectfully,
Brian Labuda
Life Safety Specialist
O: 406.756.5533 | C: 406.253.9869



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