CITY COUNCIL SPECIAL SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
1005 BAKER AVENUE
MONDAY, NOVEMBER 21, 2016
5:00 TO 5:30 PM

1. 5:00 - Call to Order
2. 5:05 - Interviews for Committee Vacancies- Wisconsin Avenue Corridor Plan Steering Committee and for Whitefish Housing Authority

   a. 5:05 – John Livingston-Whitefish Housing Authority-resident of Mountain View Manor
   b. 5:15 – Becky Forbis-Whitefish Housing Authority-resident of Mountain View Manor
   c. 5:25 – Ryan Brown-Wisconsin Avenue Corridor Plan Steering Committee-resident owner-occupied property owner

3. Public Comment
4. Appointments
   a. Whitefish Housing Authority- One (1) position, 2-year term, applicant must be a resident of Mountain View Manor-Mayoral appointed
   b. Wisconsin Avenue Corridor Plan Steering Committee- One (1) position, resident owner-occupied property owner of the Wisconsin Avenue Corridor-Council appointed

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

CITY COUNCIL WORK SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
1005 BAKER AVENUE
MONDAY, NOVEMBER 21, 2016
5:30 TO 6:45 or 7:00 PM

5. 5:30 to 6:45 –
   a. Review of Growth Boundary Maps as a prelude to revisions to the Extension of Services Plan
   b. Review and give direction on comments to send to Flathead County regarding proposed County Hwy 93 South Corridor Plan

6. Public Comment
7. Provide direction to City Manager on above matters

6:45 p.m. – POSSIBLE CLOSED EXECUTIVE SESSION –

a) Pursuant to Section 2-3-203 (4) M.C.A. – Possible litigation strategy with City Attorney

8. Adjournment

PUBLIC NOTICE
VACANCIES ON CITY BOARDS/COMMITTEES

IMPACT FEE ADVISORY COMMITTEE – Two Positions, 2-year terms. Openings are for a person from a Certified Public Accountant and a Member-at-Large. Applicants either live or work within the Whitefish zoning jurisdiction. The Committee meets once a year.

WHITEFISH PLANNING BOARD- Three Positions, 2-year terms. Applicants must live inside the City limits. The Board meets once a month in the evening.

ARCHITECTURAL REVIEW COMMITTEE- One Position to complete term ending May 31, 2018 for a licensed architect. The Committee meets once a month in the morning.

WHITEFISH HOUSING AUTHORITY-Two Positions, One (1) 2-year term, applicant must be a resident of Mountain View Manor, One (1) 5-year term-applicant must be a City resident or live within a 10-mile radius. The Committee meets monthly at 4:00 p.m.

BOARD OF APPEALS- One Position, term not designated. The Board of Appeals determines suitability of alternate materials and methods of construction and to provide for reasonable interpretations of the International Building Code. Applicant must be qualified by experience or training to pass on matters pertaining to building construction. The Committee meets as needed.

WHITEFISH LAKE & LAKESHORE PROTECTION COMMITTEE- One Position, term ending December 31, 2017. Applicant must be a County lakefront property owner. Committee meets once a month.

Interested citizens – Please submit a letter of interest to serve on the above committees to the Whitefish City Clerk's Office at 1005 Baker Avenue or mail to P.O. Box 158, Whitefish, MT 59937, by **Thursday, November 10, 2016. Please include your Name, Mailing Address, Physical Address, and Phone Number.** Interviews will be November 21, 2016 and December 5, 2016 or as needed. Thereafter, if vacancies still exist, letters of interest will be accepted until the positions are filled. If you have any questions, please call the City Clerk's Office at 863-2400 or visit the City's website: www.cityofwhitefish.org ***THANK YOU FOR YOUR INTEREST***

Publish Dates: 11/02/2016, 11/09/2016

received
11-10-16

City of Whitefish
PO Box 158
Whitefish MT 59937

November 10, 2016

Dear Council,

Please accept this as my letter of interest to serve on the Whitefish Housing Board. I am a resident of Mountain View Manor, believe I can be an asset, and wish to participate.

Thank you for your consideration.

John Livingston Tel. 406-249-1704
100 4th St E #224
Whitefish MT 59937

WHITEFISH HOUSING AUTHORITY-Two Positions, One (1) 2-year term, applicant must be a resident of Mountain View Manor, One (1) 5-year term-applicant must be a City resident or live within a 10-mile radius. The Committee meets monthly at 4:00 p.m.

received
11/9/16

City of Whitefish
P.O. Box 158
Whitefish MT 59937
Fax: 406/863-2419

November 9, 2016

***WHITEFISH HOUSING AUTHORITY**-Two Positions, One (1) 2-year term, applicant must be a resident of Mountain View Manor, One (1) 5-year term-applicant must be a City resident or live within a 10-mile radius. The Committee meets monthly at 4:00 p.m.*

Please accept this as my letter of interest to sit on the Whitefish Housing Authority board. I am a resident of Mountain View Manor, I hope to serve on this board and be more involved in activities regarding the Manor.

Thank you for your consideration.

Becky Forbis
100 4th St E Apt 109
Whitefish MT 59937
406/450-2616

Montana Code Annotated 2015

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

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

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

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

Provided by Montana Legislative Services

Housing Authority - MCA 7-15-4431 - City Resident or Within a 10 mile radius - 5 year term

	Mayoral Appointments			
Ralph Ammondson	100 E. 4th St. Apt 222 Mtn View ManorResident	862-8160	12/31/2017	2-yr term
Robert FitzGerald	100 E. 4th St. Apt 101 Mtn View Manor Resident		12/31/2016	2-yr term
Myrna Fleming	104 Railway Street	862-3568	12/31/2016	Chair
John Middleton	1285 Lion Mountain Dr	862-7200	12/31/2020	
Bill Mulcahy	2 Granite Springs Trail	730-2701	12/31/2018	
Ben Davis	140 Burly Bear Trail	652-222-530	12/31/2019	
Alison Young	1205 Hodgson Rd, Cfalls	407-1706	12/31/2017	

PUBLIC NOTICE
VACANCIES ON CITY BOARDS/COMMITTEES

IMPACT FEE ADVISORY COMMITTEE – Two positions, openings are for a person from a Certified Public Accountant, term ending December 2017; and a Member at Large, term ending December 2016. Applicant either lives or works within the Whitefish zoning jurisdiction. The Committee meets once a year.

WISCONSIN AVENUE CORRIDOR PLAN STEERING COMMITTEE- Three (3) positions open to one (1) residential owner-occupied property owners within the Wisconsin Avenue Corridor, two (2) "at large" Whitefish residents. The Committee shall meet as often as necessary, and shall be disbanded as of June 1, 2017 or earlier.

WHITEFISH PLANNING BOARD- One (1) position, term ending December 31, 2017, open to City Resident. The Committee meets once a month.

Interested citizens – Please submit a letter of interest to serve on the above committees to the Whitefish City Clerk's Office at 1005 Baker Avenue or mail to P.O. Box 158, Whitefish, MT 59937, by **Friday, July 8th, 2016.** Interviews will be July 18, 2016 as needed. Thereafter, if vacancies still exist, letters of interest will be accepted until the positions are filled. If you have any questions, please call the City Clerk's Office at 863-2400 or visit the City's website: www.cityofwhitefish.org ***THANK YOU FOR YOUR INTEREST***

Publish Dates: 6/29/16 & 7/6/16

21st

Michelle Howke

From: ryan brown <oggiebrowndoggie@hotmail.com>
Sent: Tuesday, October 18, 2016 10:52 AM
To: Michelle Howke
Subject: Re: Wisconsin committee

I am the owner and occupant of that address. I look forward to meeting with you. I will be out of town the first two weeks of November. I hope that is not a huge inconvenience. Thanks again for taking the time.
Sent from my iPhone

> On Oct 18, 2016, at 10:45 AM, Michelle Howke <mhowke@cityofwhitefish.org> wrote:
>
> Ryan,
>
> Thank you. I will contact you October 31st to set up an interview time with the Council for the November 7th meeting. Are you a residential owner-occupied property owner of 608 Wisconsin Ave?
>
> Thank you,
>
> Michelle Howke
> Whitefish City Clerk
> P.O. Box 158
> Whitefish, MT 59937
> 406-863-2402
> mhowke@cityofwhitefish.org
>
>
> -----Original Message-----
> From: ryan brown [mailto:oggiebrowndoggie@hotmail.com]
> Sent: Tuesday, October 18, 2016 10:32 AM
> To: Michelle Howke <mhowke@cityofwhitefish.org>
> Subject: Wisconsin committee
>
> Hi Michelle.
> I'm interested in being on the Wisconsin committee and hope to be considered for an interview. My phone number is 406.249.4106. Thanks for your time.
> Ryan Brown
> 608 Wisconsin ave.
> Sent from my iPhone

RESOLUTION NO. 16-16

A Resolution of the City Council of the City of Whitefish, Montana, establishing the Wisconsin Avenue Corridor Plan Steering Committee.

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

Section 1: There is hereby established the Wisconsin Avenue Corridor Plan Steering Committee (the "Committee").

Section 2: The general purpose of the Committee shall be to serve as the primary sounding board to work through the planning process with the consultant and members of the public to establish a development policy for the Wisconsin Avenue Corridor study district.

Section 3: The Committee shall consist of eleven (11) individuals appointed by the City Council with representation as follows: Two (2) City Council members, one (1) Whitefish City County Planning Board representative, one (1) business owner in the corridor representing resort or recreation interests; one (1) business owner representing commercial or retail interests; (1) business owner representing professional interests; (2) residential owner-occupied property owners; one (1) residential investment or multifamily property owner, two (2) "at large" Whitefish residents. 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 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 4.

Section 4: The Committee shall begin its deliberations as soon as practical after creation of the Committee. The Committee shall meet for two hours at a time on at least six occasions, with the dates and times to be determined by the Planning Consultant, Applied Communications. The Committee shall be disbanded as of June 1, 2017, or earlier if the City Council completes its consideration of the Committee's report prior to that date.

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 18TH DAY OF APRIL, 2016.

John M. Muhlfeld, Mayor

ATTEST:

Michelle Howke

Michelle Howke, City Clerk

WISCONSIN AVENUE CORRIDOR PLAN STEERING COMMITTEE RES 16-16

1. Councilor Feury	afeury@cityofwhitefish.org	406-250-4179
2. Council Barberis	pbarberis@cityofwhitefish.org	406-871-0223
3.City County Planning Board Member		
4. Kent Taylor Resort-Recreation Interest	1735 E. Lakeshore Dr, WF info@hiddenmooselodge.com	(406)261-6516 (406)862-6516 (O)
5. Tim Hinderman Commercial or Retail Interest	PO Box 4848, Whitefish tim.hinderman@fvsef.org	(406)885-2730
6. Tom Tornow Professional Interests	309 Wisconsin Ave, WF tom@tornowlaw.com	(406)862-7450 (O)
7. Toby Scott Owner-occupied property owner	PO Box 367, WF tobyscott2@gmail.com	(406)862-4708 (406)250-7004 (c)
8. Resident owner-occupied property owners		
9. Carol Atkinson Residentail investment or multifa	PO Box 370, WF rhcbatkinson@hotmail.com	(406)862-7591
10. Reeves Stanwood "At large"	102 Wisconsin Ave, WF reeves@piggybackbbq.com	406-863-9895
11. Mary Person "At large"	PO Box 4389, Whitefish harbor@centurytel.net	862-5511

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

To: Whitefish City Planning Board
From: David Taylor, Director of Planning & Building
Date: November 17, 2016
RE: Highway 93 South Corridor Plan Work Session Report

Summary

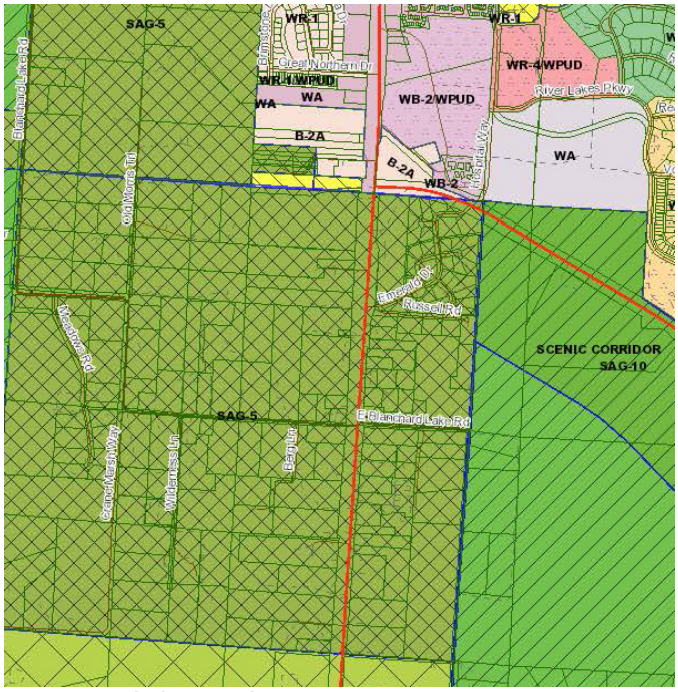
At the October 20 City Planning Board meeting, independent planner Dave DeGrandpre of Land Solutions LLC presented a draft of a citizen initiated plan, "Highway 93 South Whitefish Corridor Plan and Zoning Amendment", which will be presented to the Flathead County Planning Board in January. The Whitefish Planning Board asked staff to put the item on their next agenda as a work session so that they could review and discuss the plan and provide feedback and comments. This memo outlines the plan and summarizes staff's initial review. Our main concerns are the lack of public feedback and involvement prior to submittal, as well as the proliferation of commercial zoning south of Highway 40.

Overview

The plan intends on changing the zoning on 490 acres of land stretching one and a half miles south of Highway 40 that is currently zoned agricultural, either SAG-5, or AG-20, the majority of which is proposed for more intensive commercial or business service zoning.

In brief, the plan covers the area from Highway 40 south to the boundary of what was Whitefish's former extra-territorial planning jurisdiction, approximately 1.5 miles from Highway 40. That area is all currently within the jurisdiction of Flathead County and the majority of it is currently zoned agricultural. The plan calls for a special Overlay Zone over its extent with more restrictive development standards that on first blush appear to be consistent with Whitefish zoning standards for landscaping, buffers, site plan requirements, signs, parking, and dark skies lighting. There is also an architectural review element. Those more restrictive standards are a welcome addition to the corridor.

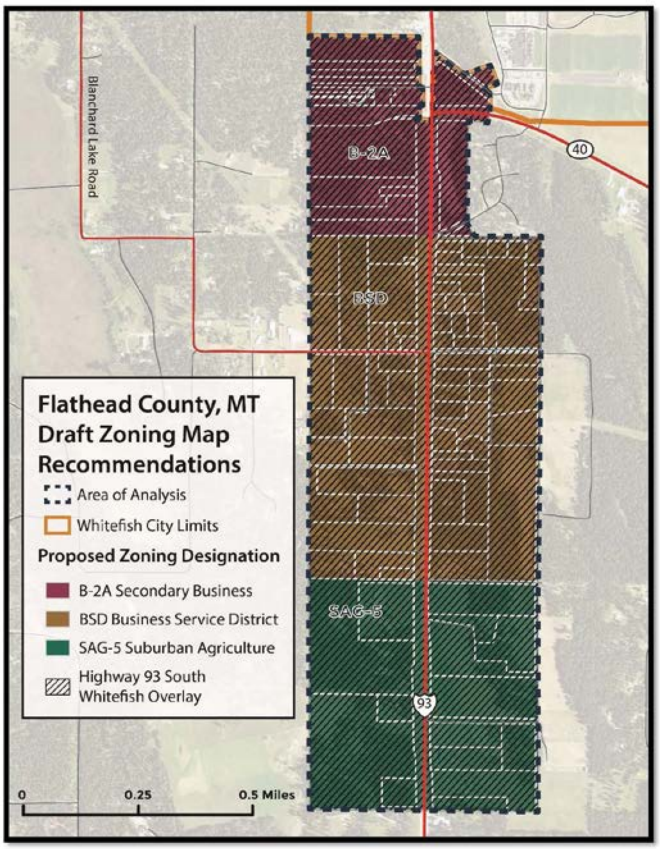
The plan also recommends changing the zoning within the corridor. Currently the corridor zoning goes from County B-2A commercial north of the Highway 40 intersection to SAG-5 (5 acre lot minimum) south of it. Further down toward the edge of the former Whitefish extra-territorial planning jurisdiction it turns to AG-20, or 20 acre lot minimums.



Map 1 - Existing Zoning

What is currently AG-20 would become SAG-5. What is currently SAG-5 would for the most part become Business Service District, or BSD, which is basically the Whitefish Business Service District zoning that the county recently adopted to match our former zoning out at Highway 40 and Dillon Road. Around the Highway 40 intersection the plan calls for extending B-2A commercial zoning south 1500 feet over what is now SAG-5. Staff will address that later in more detail. Below is the proposed zoning map from the draft plan.

Map 5: Recommended Zoning Map Changes



The plan also calls for some needed transportation improvements, including required backage and frontage roads for commercial development, unified site development and consolidated approaches to minimize highway access points, lower highway speeds, and easements for a future bike-ped trail.

Unfortunately, the city of Whitefish and its residents who are highly impacted by this plan have not had a seat at the table to help steer the development of this plan, but only an opportunity to comment on the plan to the developers and the County. Ideally, the proponents of this plan should have invited greater public engagement prior to releasing a final draft. There was no open house, no invitation to the public, city residents, and stakeholders for input and visioning, and no publicity on the development of the plan. Community buy-in is a critical element for any long range plan to be successful. The developers should have also come to the Whitefish Planning Board and City Council to ask for input prior to submitting the plan for approval with the County. That would have allowed time to go over items of concern and make potential amendments to the plan so it would fully have Whitefish's support. As it stands, a finished product has been delivered to the county with very little public and city input. Staff would like to see this process delayed by the County until more public outreach has been done by the applicants and Whitefish's concerns can be addressed. While it's true the area is currently under the jurisdiction of Flathead County, there is no doubt that someday the corridor or at least parts of it will be part of the city of Whitefish. Based on that, Whitefish needs to be allowed to have more input on the plan. Future Land Use Policy 3J from the 2007 Growth Policy states:

> 3J. The City of Whitefish shall facilitate the formulation of corridor plans for all major transportation corridors in the community. When corridor plans are prepared by the property owners, residents and business persons in the area, the planning process, study area boundary, and involvement program are subject to review and approval by the City.

<u>Specific Areas of Concern</u>

B-2A Secondary Business

The plan's extension of B-2A commercial south along Highway 93 is contrary to Whitefish's 2007 Growth Policy and current Extension of Services Plan.

The Highway 40/Highway 93 intersection is a critical gateway entrance into Whitefish, and Whitefish has always been extremely concerned that it be developed tastefully and in keeping with city aesthetics and values. The 1996 Whitefish 2020 City-County Master Plan, the 1998/2000 South Whitefish Neighborhood Plan, and the 2007 Growth Policy all recommend limiting Whitefish commercial growth to no further south than Highway 40.

The plan shows the extension of the County B-2A Secondary Business zoning (County zoning recently created to match Whitefish's WB-2 Secondary Business District zoning) from Highway 40 the length of Tee Bauer's vacant property on the southeast corner (about 1500 feet long) on both sides of the highway. The proposed width of the commercial corridor is as wide on the west side as any of the commercial WB-2 zoning along the strip in Whitefish proper.

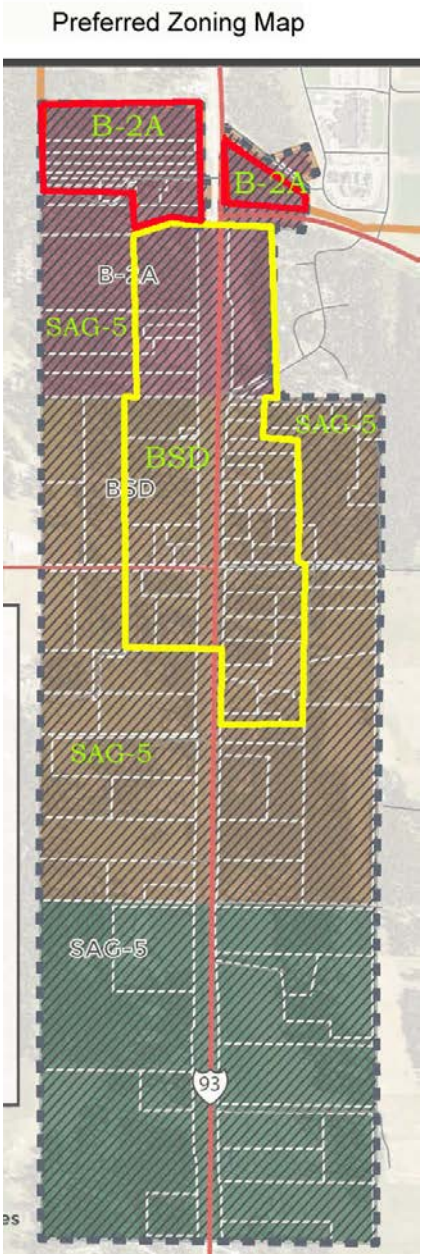
The city has scheduled a short work session with the City Council on November 21 to discuss our Extension of Services Plan, and one of the topics will be whether the City can and should extend water and sewer south of Highway 40. It has long been a policy that the city would not extend services south of Highway 40, consistent with the plans to not allow commercial growth south of Highway 40. If the city council decides to change that policy to retain more control, that has a large

impact on this proposed plan. It's possible the council may consider that, as large commercial developments will need city services to develop, and the ability to provide services and annex those properties will help the city manage those developments to a greater extent.

It is recommended that the B-2A zoning stop at the north side of the Highway 40 intersection, at least until such a time as the city can provide water and sewer services south of Highway 40 to accommodate that intensity of use. The proposed Business Service District (BSD) zoning is more appropriate than B-2A south of Highway 40, but it also needs to be evaluated intensely.

Business Service District Zoning (BSD)

Business Service District zoning is proposed for a major stretch of the corridor. That zoning does not allow commercial retail or restaurants, but does allow offices, building supplies, light manufacturing, and similar uses, all developed with an approved Site Plan and specific standards for design such as clustering, landscaping and signage controls. While the BSD is a significant change from the existing SAG-5, the area does have considerable existing non-conforming uses that appear consistent with that proposed zoning. The Business Service district zoning was originally designed by Whitefish specifically for the Highway 40/Dillon Road intersection. When it was adopted, there was some discussion that it might be an appropriate transition zone on Highway 93 as an alternative to full commercial zoning. While that zoning may be appropriate on parts of the corridor where non-conforming commercial uses proliferate anyway, we have serious concerns with the width of the new business service corridor, more than half a mile wide. At best it should just include properties that front on Highway 93 that have existing office and light commercial uses and only extend to the Blanchard Lake Road intersection. The district could extend a little further on the east side of Highway 93 to accommodate existing commercial users on that side such as the mini-storage facility. See staff's modified proposed zoning map on the right that better addresses our concerns and to which the Whitefish may be more willing to support.



Highway 93 South Overlay Zone

The proposed overlay zone offers some very positive aspects. They include landscaping standards, design standards, maintenance standards, buffering, site plan requirements, and sign standards. There are also added standards for architectural design and parking requirements.

Landscaping

For all new development in the B-2A and BSD districts as well as new commercial development in the SAG-5, the landscaping standards of the overlay mirror those of current City of Whitefish standards under 11-4, Landscaping Requirements. That includes 10% landscaping that would be required for sites up to an acre, reduced incrementally to 4% as lots get up to 10 acres or more. Maintenance, buffering, supplemental plantings, non-vegetative screening, disturbance and encroachment standards are all similar. The only thing not added is our tree density standards found under 11-4-9,

although a credit is provided for preserving existing trees similar to Whitefish's standards under Section G. Our tree density standards are problematic and need updated anyway.

The overlay would require a landscaping site plan to be submitted and approved by the County zoning administrator. It also includes allowances like our code does for temporary waivers for planting due to weather and other factors. These standards are superior to Flathead County landscaping standards and are welcome.

One issue is that the Landscaping section states that landscaping standards for parking lots and buffers are in addition to minimum % standards based on acreage. However, the Parking and Service Area standards (see below) do net set parking lot landscaping standards and Flathead County does not appear to have landscaping requirements that would specifically apply to parking lots in these districts other than a 5' landscaping buffer requirement where it abuts another property in the front setback. Flathead County Regulations 6.13.10 (2) states: *Parking is allowed within the front yard setback areas within five (5) feet of the adjoining property boundary provided there is a five (5) foot maintained landscape buffer*. Some additional parking lot landscaping requirements should be added to the Parking and Service Area section or the Landscaping section to match Whitefish's requirements. See further comment below under Parking.

<u>Signs</u>
The Overlay Zone suggests sign standards for the area that mirror our standards for the Whitefish Business Service District, which limits free standing signs to 50 square feet per face or building mounted signs to 24 square feet per tenant. Other similar standards are included. The Overlay also restricts internally illuminated signs and neon lighting to attract attention in the Lighting Section. Those restrictions are extremely important to Whitefish's constituents and are welcome additions.

<u>Architectural Design</u>
The plan calls for the County zoning administrator to review building elevations that show colors, materials, dimensions and architectural features. It states buildings shall be designed with mountain town, historic American west, national parks, or similar architectural themes. It specifies materials, roof types, massing, and corner treatment elements. It also limits building footprints to 15,000 square feet. While it is certainly lighter and vaguer than Whitefish's Architectural Review Standards, the city definitely supports having some design standards.

<u>Lighting</u>
The Lighting restrictions in the Overlay mirror some of the basic elements of Whitefish's Dark Skies Ordinance. Lights shall be shielded and not glare on right of ways or adjacent properties. Internally illuminated signs are prohibited. Canopies and awnings cannot be illuminated from within, nor is other lighting allowed to attract attention, including neon lighting around a building. Signs made of wood or natural materials are encouraged. Lighting reduction during non-operating hours is encouraged. Those standards are superior to existing Flathead County standards and are welcome additions.

<u>Parking and Service Areas</u>
This section requires at least 40% of the required parking to be in the side or rear of the building rather than the front to try to defer impacts of large parking areas being presented as the view from the highway.

One concern is this section states parking lot landscaping and buffer shall meet the requirements of the Landscaping requirements of Section 1, but that section does not provide additional landscaping requirements for parking lots and instead states that landscaping standards for parking lots are in addition to normal landscaping requirements. That seems like an oversight. Whitefish parking standards require parking and driveway areas for commercial projects to be landscaped, including a

5' wide landscaped buffer abutting streets, with a landscaping area requirement of 8% for 5 to 50 spaces (under 5 spaces is exempt), 10% for 51-99 required spaces, and 12% for over 100 spaces. Whitefish also has additional landscaping visual screening requirements when a parking lot abuts a residential zone or is along a street.

The section also recommends screening garbage and loading areas, which we support.

Transportation Improvements

The plan also recommends the following transportation related improvements, which are needed and which we support:

Backage and Frontage Roads

New commercial development requires backage roads where feasible, and frontage roads as an alternative. Frontage roads are great for access, but they do encourage strip development, thus backage roads are preferred. If commercial uses such as professional offices continue to proliferate in that area, consolidating access and limiting where people turn in and out off of the highway to more controlled accesses is critical.

Connected Development

The plan recommends adjacent properties be planned together with connected road networks. It recommends requiring developers to provide road easement to bordering properties and then construct the roads as part of the development approval process.

Access Control

The plan recommends consolidating/vacating existing approaches, center medians with turn pockets to control left turn movements and vehicle speeds, and possible additional traffic signals as a last resort. These are important considerations.

Vehicle Speeds

The plan recommends MDOT reduce the speed to 45 mph for a longer stretch to the edge of commercial activity after a speed zone study. While the state determines that, lower speeds would help with traffic safety.

Bike/Pedestrian Facilities

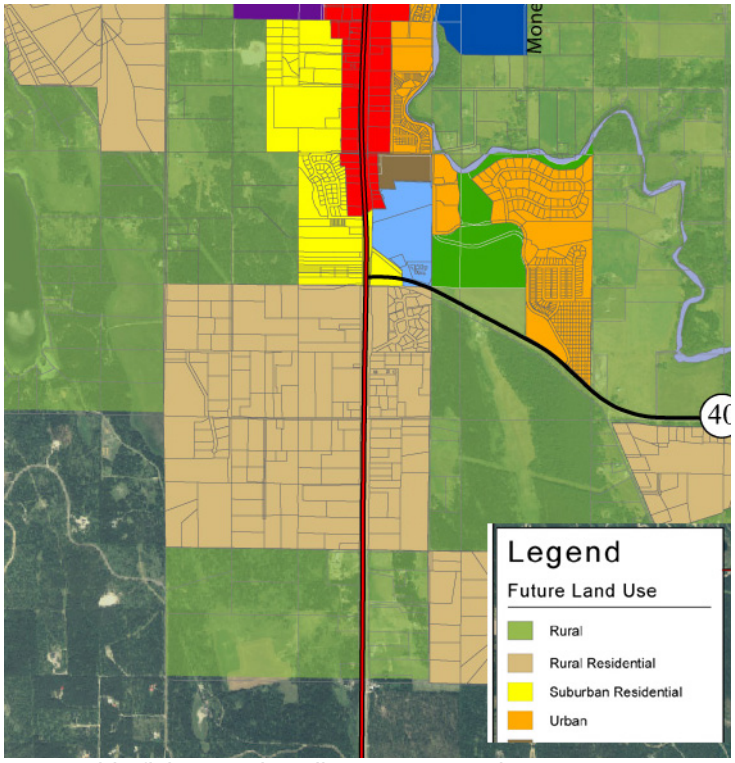
The plan states that trail easements should be required along Highway 93 and Highway 40 when development occurs to allow for alternative modes of transportation. Having a bike path along Highway 93 between Whitefish and Kalispell has long been a community planning goal.

2007 Whitefish City County Growth Policy References and Notes

It is important to review this proposed plan in light of Whitefish's adopted 2007 City-County Growth Policy, which is the guiding planning document for the city. The Growth Policy establishes many elements that a Corridor Plan for this area that the plan should cover, and the plan addresses most of them. That text from the Growth Policy is provided below for reference.

The Future Land Use Map (see graphic below) in the Growth Policy calls for the area within this plan to remain residential in lieu of a thorough Corridor Plan done in conjunction with and approved by City. At this point, this proposed plan has had little input from the city but was put together by property owners along the corridor for county approval. Our hope is that the plan developers will listen to City input and make some concessions to modify the plan accordingly.

On the Future Land Use Map, the northern area of the corridor is called out as Suburban Residential, which then transitions to Rural Residential, and then Rural as it gets further south of Whitefish. Note that the Future land use maps are inconsistent with City Zoning maps (see page 2 above), which have WB-2 zoning in areas called out for Suburban Residential around the Highway 40 intersection. That suburban residential future land use was apparently put in place over existing commercial zoning during the Growth Policy formulation to make sure a corridor plan was adopted with a thorough discussion about appropriate land use at that intersection.



2007 Whitefish Growth Policy Future Land Use Map

Compare the above map to the 1996 “2020” Whitefish City-County Master Plan map below that shows highway commercial land use up to Highway 40 (red areas).

1996 Master Plan Future Land Use

The dichotomy between existing zoning and the future land uses is something that was expected to be resolved by an adopted city approved corridor plan that would address water and sewer availability and commercial potential before recommending more intensive or controversial uses. This plan as proposed does not establish a strong case to justify commercial creep south of Highway 40. The plan merely states on page 27:

> *The plan attempts to mitigate the impacts of commercial growth through an overlay zoning district that addresses landscaping and buffering, building design, signage, lighting, and parking standards.*

The majority of the corridor calls for Rural Residential land use in the Growth Policy. Here is how that is defined:

> **Rural Residential**: The rural residential designation is intended primarily for areas that are already divided into lots of 2 ½ to 10 acres in size. Its intent is to preserve rural character while allowing existing large-lot residential areas to continue without becoming non-conforming as to minimum lot size. Applicable zoning districts include WCR and WA-10. Rural residential is not seen as a desirable future development option, and this Growth Policy does not advocate designating additional areas for rural residential beyond what is already depicted on the Future Land Use Map.

Secondary Commercial and Business Service Zoning is not consistent with the Rural Residential designation. However, future changes to the highway frontage zoning were expected to be looked at in more detail as part of a corridor plan. Staff is not completely opposed to applying the Business Service District zoning as a way to mitigate non-conforming uses in that area, most of which have been in place for over twenty years. The Growth Policy currently has a Future Land Use designation for Business Service Center that was applied on a commercial node on Highway 40 and Dillon road. When that new zoning district type was adopted, it was also considered as at least a "type" of zoning that could possibly be applicable on portions of Highway 93 South where non-conforming uses proliferate. While any change from SAG-5 to a business district isn't currently compliant with our Growth Policy, the BSD is certainly preferable to standard commercial zones or even the B-2A from Highway 40 to Blanchard Lake Road. The allowed uses in the BSD mirror many of the non-conforming property uses that currently exist on that corridor but still prohibit major commercial developments and retail uses.

Here is where the Growth Policy specifically references this corridor for reference:

Page 8 of Land Use Element

<u>ISSUE:</u> Whitefish has several highway corridors that are characterized by a variety of land uses, transportation functions, and design and development issues.

Land use planning along major transportation corridors is always a complex matter, with many varied and often conflicting issues to resolve. As pointed out at the beginning of the Transportation Element, there exists a reciprocal relationship between transportation and land use. Vehicle trips attract commercial land uses, which generate more vehicle trips, which attract more commercial development. Besides that, planning in transportation corridors usually involves multiple agencies and jurisdictions. A city may be in control of zoning and site plan reviews, but the county or state may have responsibility for maintenance and access permitting. Also, highways and arterial streets tend to be major routes for large water mains, sewer interceptors, and other utilities, and well as pedestrian and bike routes.

The two major community gateways are Montana Hwy 40 (from the east) and US Hwy 93 (from the south), and they are both very different in terms of appearance, character, and land use. Hwy 40 has a collection of business service type uses near the intersection of Dillon Road/Conn Road, but then is mostly agricultural land and large-lot residential to the intersection with Hwy 93. Average daily traffic (ADT) for the year 2005 was around 8,700, and the speed limit was recently lowered to 60 mph. Corridor planning emphasis here should be on keeping a rural character, while controlling screening, signage, and access standards for those few businesses that exist.

By contrast, Hwy 93 South is characterized by a number of commercial establishments of various kinds. Many are legal non-conforming uses, but most are legal permitted and conditional uses under the SAG-5 Flathead County zoning district (administered by the City of Whitefish within the jurisdictional area). Most of this corridor is heavily timbered, and many of the commercial buildings are of high quality. These two factors make the corridor far less visually distracting than many commercial strips in unincorporated Flathead County. Still, the corridor suffers from a lack of screening and landscaping, and from multiple uncontrolled highway approaches. Widening of the highway and growth in traffic have made the residential environment increasingly hostile. Because of this factor, there has been disinvestment in residential property resulting in some of those properties taking on a rundown appearance. ADT is approximately 15,000.

While the issues facing the Hwy 93 South corridor are complex and will be difficult to solve, the Whitefish community has long history of discouraging this area from becoming a "commercial strip". Policy 6.3 of the 1996 Master Plan states, *Avoid the spread of strip commercial activity south of the Highways 93 and 40 intersection.* In 2004 when the North Valley Hospital Neighborhood Plan was adopted, it included the following goal: [The North Valley Hospital Neighborhood Plan] *In no way promotes or encourages commercial*

development south of the Highway 40 intersection. As concluded earlier in this element of the Growth Policy, visioning session participants expressed very little support for extending additional commercial development in either the Hwy 93 South or Hwy 40 corridors. Finally, it is important to remember that the existing zoning in the corridor was put in place in 1993 by the Blanchard Lake Area Zoning District, and one of the reasons for the SAG-5 zoning along the highway itself was that additional commercial development was not supported by the master plan in effect at that time. Therefore, any corridor plan for Hwy 93 South **must successfully address** at least the following issues:

- Commercial growth- Commercial growth will continue to be discouraged by the City of Whitefish.
- Scale- The existing modest scale of commercial and residential structures should be maintained. No "big box" retail or office buildings should be proposed.
- Architectural standards- Any successful plan must include high standards of architectural design that is compatible with the wooded environs of the corridor.
- Landscaping/screening- The corridor plan must include standards for replacement of existing forest stands, on-site landscaping, and screening of parking and service areas.
- Utilities- Water and sewer service must be provided, or, the corridor plan should support no more development than can be served by well and septic systems **without** adversely affecting water quality or wells on neighboring properties.
- Trip generation- With growing traffic volumes on Hwy 93 already, additional non-residential uses should not be of a nature that attracts large numbers of additional vehicle trips. The corridor plan must include a traffic impact and access analysis.
- Traffic safety, circulation, and access- Traffic safety will be a major concern with any new growth in this corridor. The proliferation of access points can cause both safety and traffic access problems. An access and circulation component must be a product of the over-all corridor plan.
- Bike/pedestrian facilities- Bicycle and pedestrian ways must be provided within the corridor itself, and should link to the existing commercial areas north of Hwy 40.

Whitefish has never undertaken a "corridor plan"; a plan that takes into account the different transportation modes, land uses, and community functions. Corridor plans can be developed as neighborhood plans, which are provided for under Montana law. While corridor plans can be initiated by the City, they can also be conducted by the property owners, residents, and business persons in the corridor. Regardless of who conducts the corridor plans, they should have an extensive stakeholder involvement program, and should take a comprehensive approach to the critical issues such as transportation modes, land use, screening, noise, access, and aesthetics.

Summary

The proposed Highway 93 South Whitefish Corridor Plan and Zoning Amendment is a mixed bag. It has many elements that are attractive zoning protections to address aesthetic and safety concerns within the overlay standards of the corridor. The scope and stretch of the commercial zoning types is concerning, especially the creep of B-2A south of Highway 40 and the sheer width and length of the proposed BSD zoning, which should be at the most be narrowed to properties adjacent to the highway and not extend much past Blanchard Lake Road. It would be ideal if the developers of the plan would delay their submittal to Flathead County to allow for Whitefish's concerns to be addressed and greater public outreach to be achieved from stakeholders within the City.

Highway 93 South Whitefish Corridor Plan and Zoning Amendment

OCTOBER 7, 2016

Submitted by

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On behalf of planning area landowners

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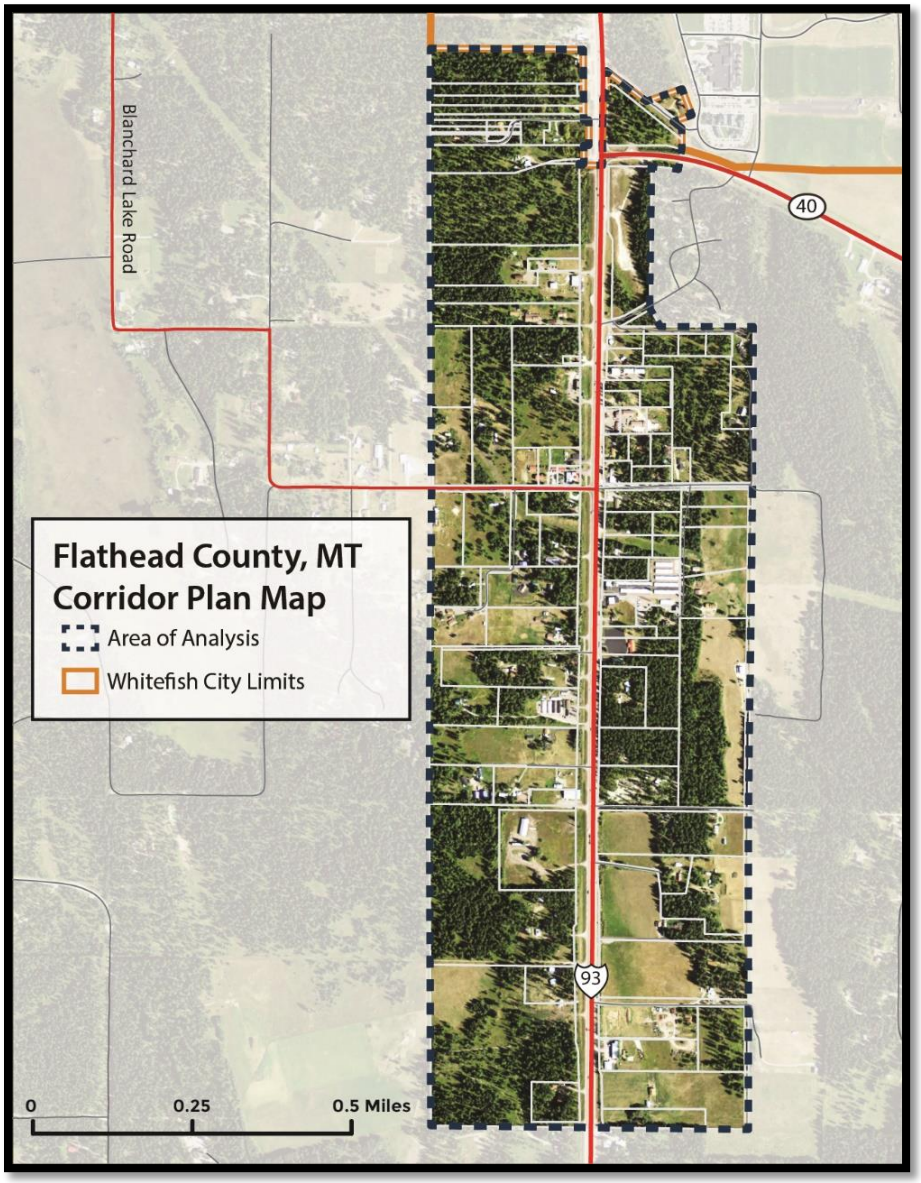
Project Overview

The Highway 93 South Whitefish Corridor Plan and Zoning Amendment project area is approximately 490 acres in size and is located along a roughly 1.5 mile stretch of Highway 93 south of the City Whitefish – see Map 1. This project was initiated by a group of property owners along the corridor whose aim is to examine the potential for permitting a wider mix of land uses than are allowed under Flathead County's current zoning regulations for the area. In carrying out this examination, this plan outlines existing land use and transportation conditions in the corridor, which are used to inform a series of land use, transportation and re-zoning recommendations for consideration by the Flathead County Planning Board and Board of County Commissioners.

Map 1: Planning Area



Purpose and Need

The purpose of this project is to provide opportunities that address increasing demand for development options in the planning area while minimizing visual and traffic safety impacts along the southern gateway to Whitefish. At this time the City of Whitefish has no plans to extend services or annex the subject area, limiting development opportunities to county zoning options. Flathead County has several zoning options in its current menu; however they lack specific policies to mitigate the scale, form, intensity and traffic safety needs of development to levels that are appropriate to this location, and that meet the goals and policies of the Flathead County and City of Whitefish Growth Policies.

The planning area is a transitional area along U.S. Highway 93, just south of the City of Whitefish. The zoning in the area is part of the Blanchard Lake Zoning District adopted in 1993, 23 years ago. Highway 93, the primary route linking Kalispell and Whitefish, was two lanes wide at that time. The population of Flathead County was around 60,000. The municipal boundary of the City of Whitefish was further north of the project area than it is today.

Since the adoption of the zoning district in 1993, the circumstances affecting the planning area have changed. The City of Whitefish municipal boundary is now adjacent to the subject area. Highway 93 is now five lanes wide, carrying 20,000 vehicle trips per day. The U.S. Census Bureau estimates the population of Flathead County to be more than 90,000. As traffic volumes and the population increased, the area has become progressively more attractive to new and additional uses than currently allowable under the zoning.

Population growth is expected to continue in Flathead County. The Montana Department of Commerce Census and Economic Information Center projects the population of to be over 100,000 in 2018 and the Flathead County Growth Policy projects the population to be over 125,000 in 2030, indicating a need for additional residential, commercial, industrial and tourist oriented development to accommodate growth.

The planning documents that guide land use decisions are an important consideration in the need for this project. The goals and objectives that guided the formation of the Blanchard Lake Zoning District were based on a planning document that has long been replaced. Since 1993, the Whitefish City-County Master Plan was adopted (1996) and rescinded (2015). The City of Whitefish took jurisdiction of the area (2005) and the county was awarded jurisdiction by the Montana Supreme Court (2014). In 2007, the county adopted a growth policy, made major revisions in 2012, and minor amendments in 2015. Today, the Flathead County Growth Policy guides land use decisions in the planning area.

Finally, the zoning in the project area is out of date. It only marginally reflects existing land uses and lot sizes and provides minimal opportunities for development. The zoning also does not address design, buffering, signage and other elements that are necessary to maintain the appearance and function of this gateway into Whitefish.

Project Goals

While this plan was initiated to allow for a wider mix of uses in the project area, this plan also recognizes that the corridor does not exist in isolation and that any land use changes will likely have impacts on transportation function, safety and the visual appearance of the corridor. As a result this plan seeks to also mitigate impacts to highway travel and preserve the scenic qualities of the corridor while allowing for a wider range of development options and parcel sizes.

Existing Conditions

Land Use

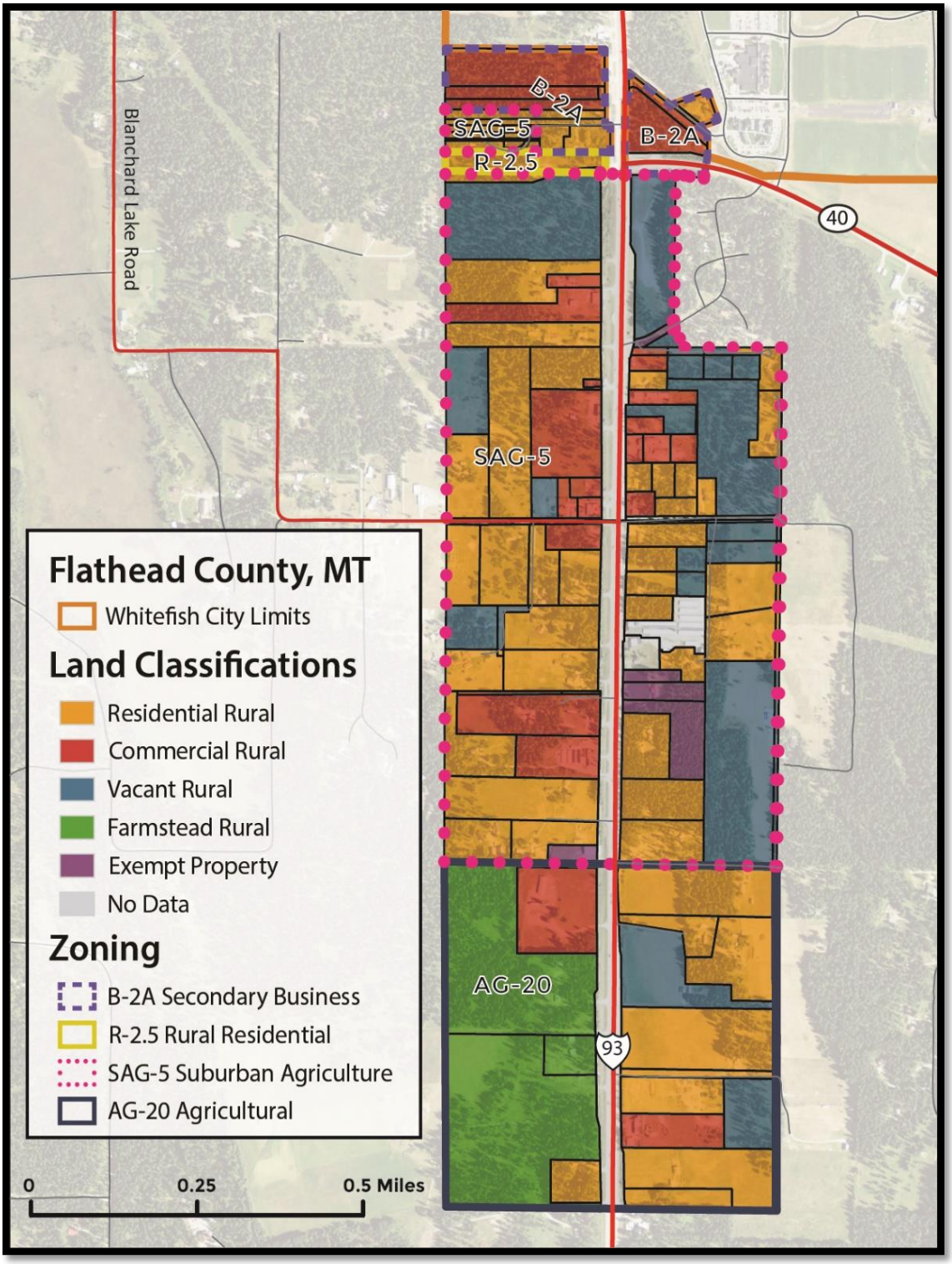
Development Patterns and Constraints

Within the corridor is a mix of parcel sizes and land uses. The area north of Blanchard Lake Road contains lots ranging from less than one acre to 17 acres in size. Land uses are a mixture of residential, small scale commercial and vacant properties. This is the most intensive portion of the planning area with regard to commercial land uses including medical offices, a coffee roaster, veterinary clinic, a sign company, dance studio and others. Several of the parcels in this area are vacant. The mixture of land uses and parcel sizes is indicative of an area in transition from rural to urban. Map 2 shows Montana Department of Revenue tax classifications in the planning area.

South of Blanchard Lake Road parcel sizes tend to be larger, and while a mixture of residential, commercial, vacant and agricultural land uses is present, the majority of the parcels are taxed residentially. One of the comments repeatedly voiced by landowners throughout the corridor is the traffic volume, vehicle speeds and noise associated with Highway 93 make the corridor unsuitable for residential development, at least for those properties abutting the highway.

With regard to constrains to development, properties in the corridor are served by onsite wells and wastewater treatment systems as opposed to public water and sewer, which limits the intensity of future development at this time. No streams are located within or in close proximity to the planning area. No rock outcroppings are known in the area. Some steep slopes are located along the eastern edge, but the topography is not a significant constraint for those properties with highway frontage which are located on a bench. Based on a review of well logs in the planning area, high groundwater is generally not a constraint to development. A few isolated wetlands exist in the planning area, primarily on the west side of the intersection of Highway 93 and Highway 40, according to the National Wetlands Inventory Data Mapper. The greatest constraint to development is traffic safety, discussed in the transportation section below.

Map 2: Land Use by Montana Department of Revenue Tax Classification



Zoning

The corridor is under the jurisdiction of Flathead County and land use is regulated by Flathead County Zoning Regulations. Map 3 displays the existing zoning districts in the corridor. A brief description of each district is provided below. Please note the number of parcels discussed in the following paragraphs exclude MDT rights-of-way, local street parcels, narrow parcels less than 35 feet in width, and those parcels less than 1/10th of an acre.

B-2A Secondary Business

The B-2A zoning covers 27 acres and 12 parcels of land in the northern portion of the corridor near the intersection of Highways 93 and 40. This district is intended to be compatible with zoning in the City of Whitefish. The B-2A zoning district provides for retail sales and services which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. Permitted uses include a range of commercial enterprises ranging from convenience stores, auto repair shops, and wholesale operations to professional offices, supermarkets and hotels. Conditional uses include light manufacturing, bars, and manufactured home parks. There are no requirements for minimum lot area or lot coverage in the B-2A district.

R-2.5 Rural Residential

The R-2.5 zoning covers two parcels of land and four acres in the northern portion of the corridor. The R-2.5 zoning district is intended to provide for rural residential development in transitional areas between higher density residential areas and suburban agriculture. The zoning text states the district is not appropriate in areas surrounded by suburban agriculture and agriculture zones. Permitted uses in the R-2.5 district include single family homes, nurseries, stables and parks. Conditional uses include bed and breakfasts, golf courses, institutional uses such as schools, and manufactured home parks. The minimum lot area in the R-2.5 district is 2.5 acres with 25% permitted lot coverage.

SAG-5 Suburban Agriculture

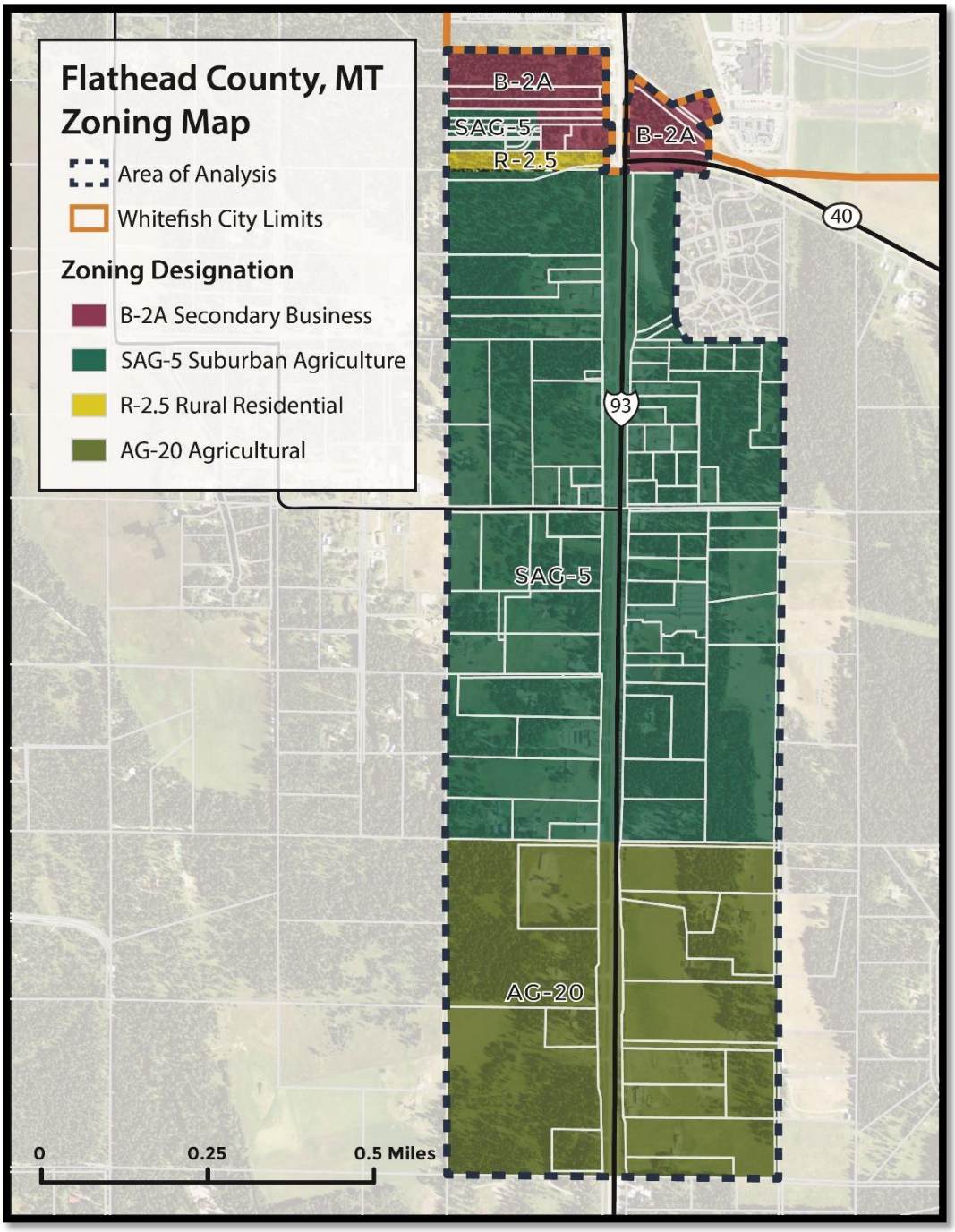
The majority of the corridor is zoned Suburban Agricultural 5 (SAG-5). This district covers 301 acres and 82 parcels of land. The SAG-5 zoning district is intended to preserve small-scale agricultural operations and provide a buffer between urban and larger scale agricultural operations. Although this is a residential/agricultural district, none of the properties are taxed agriculturally. Permitted uses include agriculture, single family dwellings, nurseries and landscaping businesses, and home occupations. Conditional uses include airfields, animal hospitals and veterinary clinics, churches, golf courses, community centers, schools, manufactured home parks, and limited commercial including bed and breakfasts, extractive industries, contractors' storage yards and recreational facilities. The minimum lot area in the SAG-5 district is five acres. Sixty six of the 82 parcels of land in this district (80%) are less than five acres in size.

AG-20 Agricultural

The southern portion of the planning area is zoned AG-20 Agricultural. This district includes 159 acres and 15 parcels of land. The AG-20 district is intended to protect and preserve agricultural lands and prevent

intrusions of uses not compatible with agricultural activities. Permitted uses are limited to agriculture and uses in support of agriculture, kennels, and single family dwellings. Conditional uses included institutional uses such as schools, storage yards, and limited commercial including bed and breakfasts, extractive industries, golf courses, and low impact recreational facilities. The minimum lot area in the AG-20 district is twenty acres. Two of the 15 parcels of land in this district are 20 acres or greater in size.

Map 3: Existing Zoning



Transportation

The planning area contains a 1.5-mile section of Highway 93 as well as its intersection with Highway 40, both of which are principal arterials on the National Highway System and managed by the MDT. Also within the corridor is Blanchard Lake Road, which is a paved county road providing an alternate route to the City of Whitefish. Other roads in the corridor provide local access to individual properties.

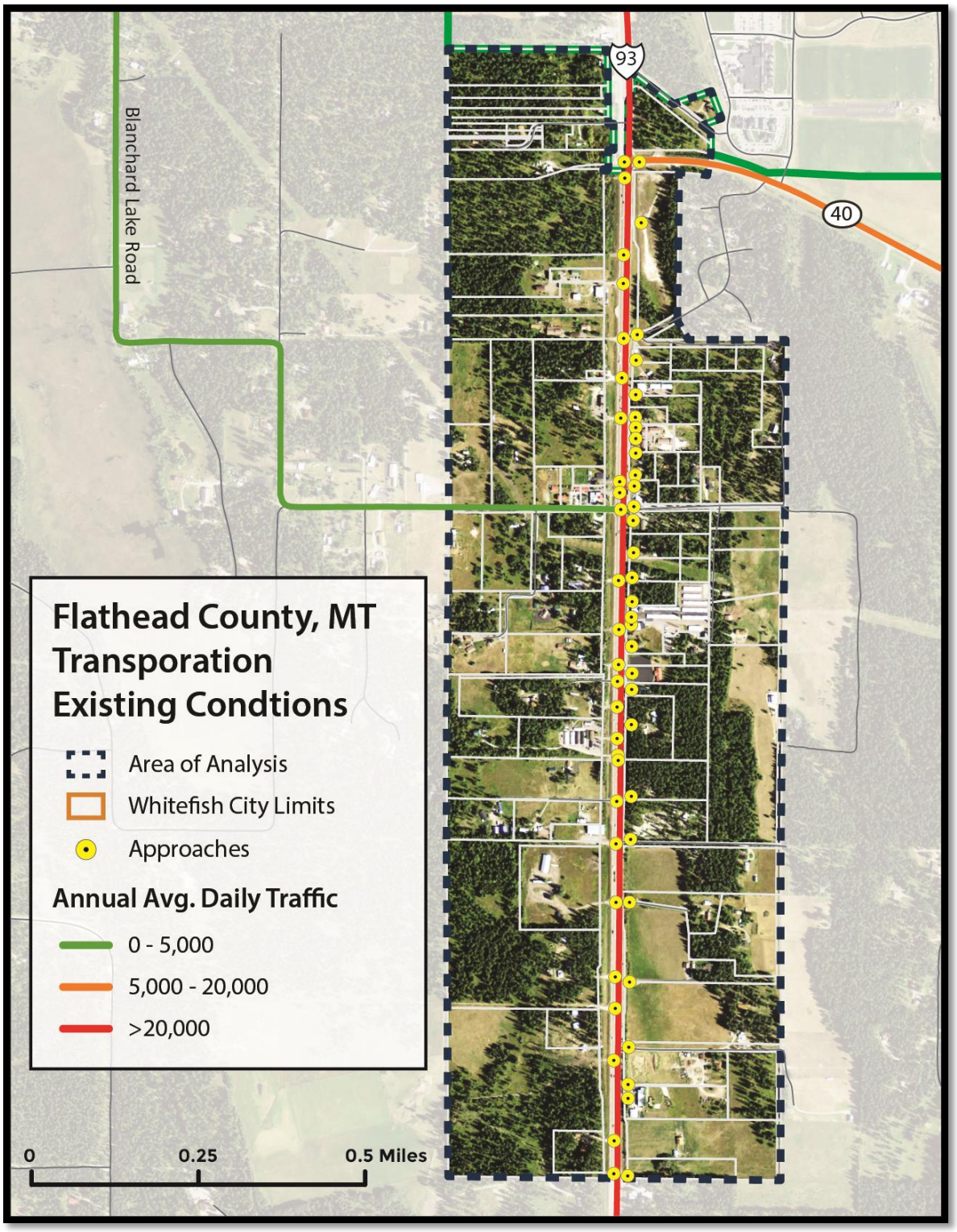
Highway 93 through the corridor is five lanes wide – two lanes each going north and south with a center turn lane and 10-foot shoulders on both sides. The highway right-of-way varies from roughly 200 to 250 feet wide. Through the majority of the corridor the speed limit is 65 miles per hour (MPH), with a 45 MPH zone beginning roughly 500 feet south of the intersection of Highway 93 and Highway 40. There are no pedestrian or bicycle facilities.

Relative to other state highways in Montana the corridor experiences high traffic volumes induced by both tourist traffic and traffic related to growth in Flathead County. Map 4 shows annual average daily traffic volumes within the corridor, showing that Highway 93 experienced volumes in excess of 20,000 average vehicle trips per day during 2015. Highway 40 traffic volumes in this area are also significant, with an average of 12,580 vehicle trips per day in 2015. The intersection of Highways 93 and 40 includes a three-way stop light to manage traffic flow.

The MDT Right-of-Way Operations Manual provides guidance on access management for Montana roads. According to the manual, this section of Highway 93 would be classified as an intermediate undivided highway, which is defined as, *"Key areas that benefit from strong access management. Areas that are adjacent to fully developed areas, including urban areas adjacent to city limits, and where MDT is concerned that development without attention to access management will significantly affect the performance and safety of the system."*

For intermediate undivided highways MDT's access density threshold is five to 25 access points per mile with a minimum of 660 feet spacing between access points. Within the 1.5 mile long corridor there are over 50 access points onto Highway 93, with spacing ranging from 40 feet to roughly 630 feet. The high density of access points coupled with the 65 MPH speed limit presents a safety concern, in particular with regard to left turns, which are considered to be the highest risk movements at intersections. On this particular stretch of road, between 2006 and 2015 there were six serious injury crashes and one fatal crash within the corridor.

Map 4: Traffic Volumes and Approaches



Guidance Documents

An area plan such as this is made under the authority of the Flathead County Growth Policy, but also must be guided and give consideration to other plans. A discussion of relevant guidance documents is presented below.

Flathead County Growth Policy

Flathead County's Growth Policy provides a general framework and foundation for land use planning and zoning in the county. Three elements of the growth policy are directly applicable to this plan and any subsequent zone changes.

The first element defines how a plan like this is to be viewed. The Flathead County Growth Policy describes this area as a 'Special Consideration Area' because it acts as a gateway to the City of Whitefish. (Chapter 11, Part 5, Page 162). The growth policy states, "Regulations applicable to 'Special Consideration Areas' should be the minimum necessary to mitigate the impact of growth and development. Special consideration areas should not be misconstrued to prohibit development, but should be used to create impact mitigating standards and/or incentives to promote appropriate and compatible development in these areas." Special Consideration Areas are distinct from neighborhood plans as described in the growth policy.

The second element of the Flathead County Growth Policy that is applicable to this plan is the Designated Land Use Map. The text describing this map, which is considered an 'officially adopted map,' is a bit ambiguous. On the one hand the growth policy states, "This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions…. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map."

On the other hand, the growth policy states that officially adopted maps are "extensions of the growth policy serving as 'visual policy statements' which are intended to be implemented and regarded the same as written portions." (Chapter 10, Part 3, page 157) Due to this potential ambiguity and because the growth policy provides the foundation on which zoning is based, if this plan is adopted and zoning modifications are made, the safest route would be for the Designated Land Use Map to be amended prior to or concurrent with any zone changes.

The third element of the growth policy that provides guidance on how this plan and any zone changes should be developed contains the goals and supporting policies for subjects like land use, transportation and coordination with other governments. The growth policy contains 50 goals and over 200 supporting policies designed to help achieve the goals. Because the goals and policies cover many subjects, no plan

can address every one. However, several goals and objectives are applicable to this planning area. Below is a list of 19 applicable goals and policies:

Goal 5: Adequate industrial land in areas that are close enough to goods and services to be efficient but far enough from other uses to offset objectionable impacts to the human and natural environment.

Goal 6: Adequate commercial land that is safely accessible and efficiently serviceable.

Policy 6.1: Encourage internal, interconnected roads for commercial development and frontage roads where appropriate.

Policy 6.3: Provide ample commercial land designation to promote affordability.

Policy 6.4: Require traffic impact analysis for all major commercial projects on major highways and arterials.

Goal 7: Consider existing community character in commercial land development.

Policy 7.2: Develop regulations that promote (the seven elements of the Flathead County Vision) and mitigate the negative impacts of commercial development.

Policy 7.4 **I**dentify existing areas that are suitable for impact-mitigated commercial uses.

Policy 7.5 Encourage commercial development that is visually and functionally desirable.

Policy 11.2: Identify development impacts that threaten gateway areas and develop land use guidelines that mitigate these impacts without prohibiting development.

Policy 11.5: Develop guidelines to ensure that lighting should not destroy the reasonable enjoyment by all residents of the night skies.

Policy 21.1: Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.

Policy 23.2: Limit private driveways from directly accessing arterials and collector roads to safe separation distances.

Policy 24.3: Require development projects to design road systems that complement planned land uses and maintain mobility on arterial roads and highways.

Policy 24.4: Require road easement dedications for identified areas of future connectivity as subdivision developments are proposed, to serve present and future needs of the county residents.

Policy 25.2: Identify and prioritize areas for a predictable regional and interconnected bicycle path network and require pedestrian/bicycle easements on both sides of county roads. Encourage developments that aid and/or connect to this network.

Policy 49.1: Promote representation by county officials of those residents outside of the City of Whitefish, while giving consideration to both the interests of those residents as well as the growth needs of the City of Whitefish during county planning processes.

Policy 49.2: Request comments from the City of Whitefish agencies on subdivision, zoning and other land use issues within 2 miles of city limits and give consideration to those comments during the county review process.

How these goals and policies are addressed in this plan is described in Appendix A.

Whitefish Growth Policy

Although Flathead County maintains jurisdictional land use authority in the planning area, the Flathead County Growth Policy calls for coordination with the city during county planning processes like this one. Under the Flathead County Growth Policy the planning area is considered a 'gateway' to Whitefish so measures to address items like traffic safety and visual impacts are appropriate. Additionally, respect for the interest and plans of the city is important because land use changes in the county impact the appearance, feel and function of the city.

The Whitefish City-County Growth Policy (2007) was adopted by the City of Whitefish when the city maintained land use planning authority over the subject planning area. The Montana Supreme Court awarded land use jurisdiction to Flathead County in 2014. Several components of the Whitefish Growth Policy address development in the planning area, for example:

> *"Hwy 93 South is characterized by a number of commercial establishments of various kinds. Many are legal non-conforming uses, but most are legal permitted and conditional uses under the SAG-5 Flathead County zoning district (administered by the City of Whitefish within the jurisdictional area). Most of this corridor is heavily timbered, and many of the commercial buildings are of high quality. These two factors make the corridor far less visually distracting than many commercial strips in unincorporated Flathead County. Still, the corridor suffers from a lack of screening and landscaping, and from multiple uncontrolled highway approaches. Widening of the highway and growth in traffic have made the residential environment increasingly hostile. Because of this factor, there has been disinvestment in residential property resulting in some of those properties taking on a rundown appearance. ADT is approximately 15,000. While the issues facing the Hwy 93 South corridor are complex and will be difficult to solve, the Whitefish community has long history of discouraging this area from becoming a 'commercial strip'." (Chapter 3: Land Use Element, Page 56)*

To address these issues, the growth policy calls for the creation of a corridor plan. The growth policy envisions the City of Whitefish leading this effort but due to legal jurisdictional issues, the city did not initiate the project. (Memo from David Taylor to Whitefish City Council, November 2009) The Whitefish Growth Policy calls for several issues to be addressed in a corridor plan as listed below:

Commercial growth: Commercial growth will continue to be discouraged by the City of Whitefish.

Scale: The existing modest scale of commercial and residential structures should be maintained. No "big box" retail or office buildings should be proposed.

Architectural standards: Any successful plan must include high standards of architectural design that is compatible with the wooded environs of the corridor.

Landscaping/screening: The corridor plan must include standards for replacement of existing forest stands, on-site landscaping, and screening of parking and service areas.

Utilities: Water and sewer service must be provided, or, the corridor plan should support no more development than can be served by well and septic systems without adversely affecting water quality or wells on neighboring properties.

Trip generation: With growing traffic volumes on Hwy 93 already, additional non-residential uses should not be of a nature that attracts large numbers of additional vehicle trips. The corridor plan must include a traffic impact and access analysis.

Traffic safety, circulation, and access: Traffic safety will be a major concern with any new growth in this corridor. The proliferation of access points can cause both safety and traffic access problems. An access and circulation component must be a product of the over-all corridor plan.

Bike/pedestrian facilities: Bicycle and pedestrian ways must be provided within the corridor itself, and should link to the existing commercial areas north of Hwy 40.

How these goals and policies are addressed in this plan is described in Appendix A.

Other Plans

The Whitefish Transportation Plan (2009) includes the subject planning area, although it does not significantly focus on it. The Transportation Plan recommends a bike route through the planning area along Highway 93 and a bike/ped pathway along Highway 40 (also included in the Whitefish Pedestrian and Bikeway Master Plan). It also recommends improvements to Blanchard Lake Road, including a separated bike/ped path in a manner sensitive to the lower density development pattern and rural character of lands southwest of Whitefish. [These improvements are also mentioned in the South Whitefish Transportation Plan (1999), which also does not thoroughly address the subject planning area.] The 2009 Transportation Plan notes that the levels of service at the intersection of Highway 93 and Highway 40 and the intersection of Highway 93 and Blanchard Lake Road are likely to decrease during peak hours without additional improvements. The Transportation Plan does not recommend other improvements through the planning area.

The Whitefish Downtown Master Plan (2015) does not consider the subject planning area but generally seeks to ensure the downtown area remains the community's focus for commerce, government services, civic and recreational activities. The Whitefish Extension of Services Plan (2009) does not anticipate extending services to the planning area.

The planning area is located approximately 10 miles from the City of Kalispell. Due to this distance and the low density development pattern between the planning area and the city this plan does not consider Kalispell to be 'nearby' as described in Montana Code Annotated 76-2-203.

Flathead County does not have a transportation plan that would influence this project. The Montana Department of Transportation does not have an access management or similar plan to address land use changes along this corridor, and instead reviews changing land uses through its Systems Impact Review process on a case by case basis.

Montana Code Annotated

Montana Code Annotated includes the following requirements for counties when adopting zoning regulations:

- In the adoption of zoning regulations, the board of county commissioners shall consider compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities; and
- Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities. (Montana Code Annotated 76-2-203)

Recommended Zoning Map Changes

Given the corridor's proximity to the City of Whitefish, its location at the intersection of two major highways and few environmental constraints, this area is well suited for increased levels of development. However, increased development will create additional traffic demand and will change the appearance of the corridor which acts as a gateway to the City of Whitefish. As a result, the impacts of changing development patterns on transportation safety and scenic qualities must be accounted for.

The northern portion of the corridor is suited for a wider array of commercial uses as this would be a congruent extension of the commercial area on the south end of Whitefish. In the event that the City of Whitefish chooses to work with property owners to extend water and wastewater services this would be a logical southern extension, enabling increased growth and development.

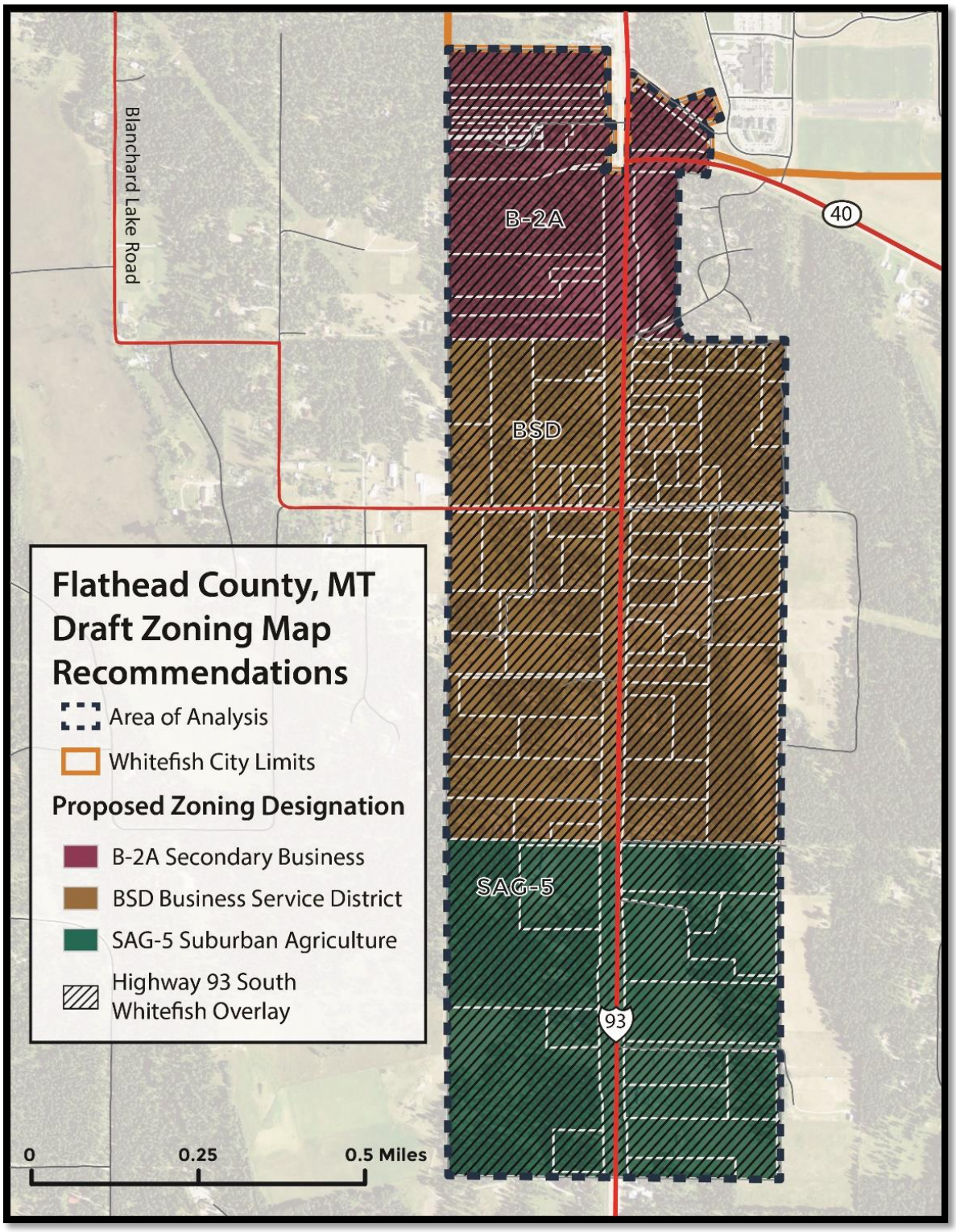
Moving south on Highway 93 the speed limit increases and the development pattern transitions from more urban to a wide mixture of uses of limited scale. While this middle section of the corridor can support more intensive uses, it is not recommended for a broad range of commercial uses like the northern portion is. Rather this area is better suited for non-retail limited commercial services, light industrial, small scale professional offices and uses of similar intensity that will not generate significant amounts of traffic and are more characteristic of the transitional nature of this area. Where possible, new land uses should be clustered to include common access, parking, landscaping, signage and structural design features.

At the southern end of the corridor rural land uses become more prevalent and highway approaches are fewer. In order to preserve the scenic qualities of the corridor and maintain highway safety it is

recommended that the southern portion of the corridor remain primarily suburban, recreational, and smaller scale, low-impact commercial uses that blend in with the forested landscape.

Flathead County already has zoning districts in its menu that can be applied to the planning area to meet some of the goals of this project and the guiding planning documents by providing a wider mix of land uses and moderate scale of development. Flathead County's B-2A Secondary Business, BSD Business Service District, and SAG-5 Suburban Agricultural zoning would help to meet these goals (Map 5 below and zoning text in Appendix B). However, some of the goals would not be met by applying these designations alone. Therefore, overlay zoning text to address visual impacts and transportation system recommendation and are provided below.

Map 5: Recommended Zoning Map Changes



Recommended Zoning Text Changes

Highway 93 South Whitefish Overlay Zoning

Maintaining and improving the visual quality of this gateway to Whitefish is an important component of this plan. As such, overlay zoning is proposed to be applied to the planning area that address landscaping and bufferring, signage, building design, lighting and parking as provided below. Until public water and sewer are extended along the corridor, the scale of development will be limited to that which can be supported by onsite water and wastewater facilities. Below is overlay zoning text based on standards adopted by the City of Whitefish.

I. LANDSCAPING

These standards apply to all new development in the B-2A and BSD districts and new commercial development in the SAG-5 district. These standards take precedence over section 5.05 Greenbelts

Section A. Landscaping Standards

1) Landscaping shall be provided for that portion of the developed area according to the following schedule:

Developed Area	Minimum Landscaping Requirements
Up to 1 acre	10% of developed area
1 acre up to 5 acres	8% of developed area
5 acres up to 10 acres	6% of developed area
10 acres or more	4% of developed area

2) For the purpose of determining the required amount of landscaping, "developed area" is defined as: The area encumbered by building footprints, parking lots, driveways and retail sales areas (both interior and exterior).
3) Landscaping standards for parking lots and buffers are in addition to the required minimum specified above.
4) At least 50% of the required landscaping shall occur between the building setback line and the MDT right-of-way and/or public road easements.

Section B. Design Standards

1) General Standards
   a) The minimum inside width of any required landscaped area, or of any form or fixed planter box used to satisfy required landscaping, shall be three feet.

b) Plant species native to the area and that will require minimal watering and treatments are encouraged. Information on suitable species may be obtained from the Flathead Chapter of the Montana Native Plant Society or the City of Whitefish.

2) B2-A and BSD Special Standards
   a) At least 40% of the landscaped area shall consist of shrubs or living ground cover that is a minimum of six inches in height.
   b) Along the street frontage, a minimum five foot wide landscaped buffer shall be installed with at least one large canopy tree per 50 feet of frontage or two small ornamental trees per 50 feet of frontage.
   c) When a parking lot fronts a street, a minimum five foot wide landscape buffer (seven feet wide if curb stops are not used and the car bumper hangs over the landscaped area) shall be installed that achieves a 50% visual screen within three years of planting.
   d) Landscaping treatments in parking lots shall be implemented and shall include trees both on the perimeter and interior of the parking lots.

Section C. Maintenance

Required landscaped areas shall be maintained in a neat, clean, orderly and healthful condition. Maintenance shall include proper pruning of trees and shrubs, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary, and the regular watering of all plantings.

Section D. Buffers

1) Applicability: Buffers shall be required between different zoning districts, and may be required between dissimilar uses in accordance with the provisions of the zoning regulations, conditional use or variance approval.
2) Standards for Permanent Buffers:
   a) Width of Buffers: When a commercial use is adjacent to any residential or suburban agricultural zoning, the property boundaries adjacent to the residential or suburban agricultural zoning must incorporate a buffer of 20 feet, except as authorized by a condition of conditional use, or variance approval.
3) Screening Requirements:
   a) Buffers shall consist of a mixture of trees, shrubs and ground cover. The buffer shall achieve a 50% visual screen of such nature and density so as to screen activities, structures and uses on the property from view from the normal level of a first story window on an abutting lot and shall further provide a year round effective visual screen.
   b) Buffers shall be natural, undisturbed, and free of encroachments except as authorized by a condition of conditional use, or variance approval, or as authorized herein, and shall contain the existing tree cover and vegetation as well as any supplemental plantings or replanting as may be required in order to meet the 50% visual screen in 3.a above.
   c) When buffers do not contain an adequate natural mixture of trees, shrubs and ground cover to meet the 50% visual screen, the buffer shall achieve a 50% visual screen within three years after planting following the provisions in (4) below.

d) Buffers required alongside property lines shall extend to a the MDT right-of-way line or public road easement line unless otherwise required by the administrator in order to observe the sight distance requirements contained in the development regulations, or as authorized by a condition of conditional use or variance approval.

e) In situations where the required buffer width is partially or completely contained within an existing easement (e.g., power or natural gas transmission, etc.), the screening requirements of this section may be met outside of the easement area.

4) Supplemental Plantings:

a) Buffers in which vegetation is nonexistent or is inadequate to meet the screening requirements of this section shall be planted with supplemental plantings so as to provide a year round effective visual screen.

b) Supplemental plantings and replanting shall consist of evergreen trees, shrubs, or combination thereof, native or adaptable to the region. All trees planted shall be a minimum of six feet in height at time of planting and shall be a species which will achieve a height of at least 20 feet at maturity. All shrubs planted shall be a large growing species, shall be a minimum of three feet in height at time of planting and shall be a species which will achieve a height of at least 10 feet at maturity.

c) All supplemental plantings shall be installed to allow for proper plant growth and maintenance.

5) Non-vegetative Screening:

a) Non-vegetative materials utilized to satisfy the screening requirements of this section, in addition to the use of existing vegetation and/or supplemental plantings, may consist of walls, fences, earthen berms or any combination thereof.

b) If walls or fences are to be utilized, their placement and installation shall be such so as to cause minimal disturbance of existing vegetation and located so as to provide an effective visual screen.

c) If fences are used in the buffer, the fence shall be made of material commonly used in construction such as wood or vinyl but not chain link.

6) Disturbance or Encroachments:

a) Ditches, swales, storm water conveyance facilities, storm water detention ponds, sanitary sewer conveyance facilities, similar facilities, and any associated easements shall not encroach into a buffer; except, that necessary access and utility crossings (e.g., storm water or sanitary sewer pipes) may encroach into the buffer as near to perpendicular as practical.

b) Supplemental plantings or replanting of vegetation, or authorized non-vegetative screening devices shall be authorized to encroach into a buffer, provided there is minimal disturbance of any significant existing vegetation.

c) Land disturbance is authorized in areas of a buffer that are devoid of significant vegetation; provided, that the final grade and replanting of vegetation meet the screening requirements contained herein.

d) Dying, diseased or dead vegetation may be removed from a buffer, provided minimal disturbance occurs. Vegetation thus removed shall be replaced where necessary to meet the screening requirements contained herein.

Section E. Site Plan Required

1) A site plan showing required landscaping shall be submitted to the zoning administrator for review and approval prior to development. A site plan shall be approved if it meets the requirements and intent of this chapter. A site plan shall include, but not be limited to, the following:
   a) Location of proposed landscaping drawn to scale, which scale shall be appropriate to the size of the project and agreed upon by the applicant and the zoning administrator.
   b) Location, size, type and condition of proposed vegetation and natural or manmade materials, including benches, walks, plaza, lighting, etc.
   c) Irrigation system.
   d) Description of the proposed maintenance plan.
   e) Estimated date of completion of the installation of plantings and finish materials.
2) The approved landscape and maintenance plans shall not be changed or altered without review and approval by the zoning administrator. All landscaping shown on the approved plan shall be installed and maintained.

Section F. Temporary Waiver

If, due to seasonal, climatic or weather conditions, installation of landscaping prior to expiration of an approved site plan is impractical, the zoning administrator may waive such installation for a reasonable time. If such a waiver is granted, the zoning administrator shall establish a time schedule for the installation of all required landscaping in accordance with the approved plan. In such a case, the owner or developer of the property shall, upon request, provide the county with an approved financial guarantee, in the amount of the estimated cost of landscaping plus ten percent (10%), which shall be forfeited if all required landscaping is not installed within the time provided.

Section G. Reduction of Landscaping Requirement

1) Landscaping which exists on any property or for any use, subject to the provisions of this chapter, shall not be altered or reduced below the minimum requirements of this chapter, unless suitable substitutions are made which meet the requirements of this chapter, and a site plan is first approved by the zoning administrator.
2) Preserving existing trees or groves of trees will provide a 100% bonus in calculating the required landscaping in Section A of this chapter. The bonus will not exceed 25% of the total landscaping requirement. (Example: The regulations require 1,000 square feet of landscaping. An existing grove of trees covers 300 square feet of area. The existing grove, if preserved, will account for 300 square feet plus 100 percent bonus for a total of 600 feet of the required landscaping. However, because the bonus cannot exceed 25 percent of the required 1,000 square feet or 250 square feet, the total will be 550 square feet (300 + 250).

II. SIGNS

These standards are in addition to Flathead County Zoning Regulations Section 5.11. In areas where the two sections conflict, the standards in this section shall apply.

Section A. Freestanding and ground mounted signs

1) All freestanding and ground mounted signs shall have a landscaped area around the base of the sign that is in addition to the required landscaping in section I. above.
2) The use of architectural structures and/or embellishments that enhance the building or site and are an integrated part of the sign are encouraged. Architectural embellishments that do not exceed more than 25% of the allowed height or 50% of the allowed square footage will not be counted against an area allowance.
3) A freestanding sign may consist of more than one sign panel provided all such sign panels are consolidated into one common integrated sign structure. In the event a sign is installed that does not utilize the maximum sign area permitted, any supplemental additions shall conform with and be compatible with the existing sign structure. All freestanding signs may be single-face or back-to-back but shall not be canted or constructed in a "V" shape.
4) Signs will be mounted on two parallel posts or an aggregate base rather than a single post.

Section B. Building mounted and wall mounted signs

1) Building mounted signs include projecting signs, awning/canopy signs, hanging signs, and building wall painted signs.
2) One projecting sign is allowed per business. The sign may not extend more than five feet beyond the building.
3) Awning/canopy signs may be used in conjunction with other building mounted signs and would be placed on permanent or temporary awning or canopy.
4) Hanging signs are typically mounted on an awning, canopy or similar overhang on a building.
5) Building wall painting signs are generally painted directly on the building wall.

Section C. Allowable Sign Area

1) Free standing and ground mounted signs
   a) Every property or developed site is allowed at least one freestanding, ground mounted or monument sign that does not exceed eight feet in height and 50 square feet per face. For lots that have less than 250 feet of highway or road frontage, one freestanding sign is allowed. For lots that have 250 feet or more of frontage, two freestanding signs are allowed. No property, regardless of the amount of frontage, or status as a through lot or corner lot, shall have more than a total of two free standing or ground mounted signs.
   b) Businesses located on a corner lot with frontage along two public roads may have a sign along each frontage provided that the signs may not be located within the same building setback area.
   c) The nearest edge of any freestanding sign shall be set back a minimum of five feet from the property line, right-of-way or road easement.
2) Building mounted and wall mounted signs
   a) Each business shall be allowed a minimum of one building mounted sign subject to the following standards:
      i) Maximum Number Of Signs Allowed: A maximum of two building mounted signs are allowed on developed sites with a single business.

ii) Single-Tenant Sites: The allowable sign area for a single-tenant site shall be 24 square feet unless otherwise provided.

iii) Multi-Tenant Sites: The allowable sign area for multi-tenant sites shall be 24 square feet per tenant unless otherwise provided.

iv) Awning/Canopy Signs: One awning/canopy sign is allowed per business or tenant in addition to a building mounted sign; provided, the total sign area does not exceed the allowable square footage provided for building mounted signs.

v) One projecting sign is permitted per business and cannot exceed 12 square feet per face; awning/canopy signs, painted wall signs and flush mounted building signs may be used in lieu of a projecting sign; provided, the total square footage does not exceed that which is allowed.

3) Multiple Businesses:

a) Each tenant is allowed one building mounted sign not to exceed 24 square feet or a maximum of 30 square feet if freestanding square footage is transferred to a building mounted sign.

b) Developed sites with two or more tenants shall be allowed one freestanding or ground mounted sign not to exceed 50 square feet per face, or as otherwise provided. Where more than one freestanding sign is allowed for a single property, the total allowable square footage for each sign shall not exceed 50 square feet per face.

Section III. ARCHITECTURAL DESIGN

1) Building elevations shall be submitted to the zoning administrator for review and approval in compliance with this section. The elevations shall show building colors, materials, dimensions and architectural features.
2) Buildings shall be designed with architectural features based on mountain town, historic American west, national parks, or similar architectural themes.
3) The exterior of buildings should include timber beam, log, brick, rock, wood, textured masonry, stucco and similar materials. Exposed concrete block an unmodulated metal siding are prohibited.
4) Building planes shall be broken with recesses and projections a minimum of every 40 feet on at least the side(s) paralleling publicly travelled ways. Other features such as projecting ribs, windows, landscaping, trellises and similar features are encouraged.
5) Buildings shall have varying rooflines and pitches which may include dormers, recessed upper floors, overhangs and similar features.
6) Corners shall have special massing and architectural treatments.
7) Building footprints shall not exceed 15,000 square feet. More than one building may be located on a property as a developed site with common access, landscaping, parking, walkways, utilities and service areas and have complimentary structural design elements.
8) Accessory buildings shall be designed to complement primary structures.

Section IV. LIGHTING

1) Lighting shall be designed, located, shielded and directed to prevent misdirected or excessive artificial light and to maximize energy efficiency.

2) Lighting shall have adequate shielding or screening so that it does not cast glare or direct light from artificial illumination upon any adjacent public right of way, surrounding property, residential property or motorist's vision. Downward directed lighting is encouraged.
3) Internally illuminated individual letters and internally illuminated signs are prohibited. Canopies, awnings, fascia and similar structures, whether or not they contain sign copy, may not be intentionally illuminated with direct internal illumination. Canopies, awnings, and fascias which are only minimally and indirectly illuminated may be permitted if, in the determination of the zoning administrator, they do not attract attention to a location or subject matter. Wood signs and signs made of natural materials that are externally lit are encouraged.
4) Use of neon and/or other lighting arranged around a building, sign or other structure for the purpose of attracting attention is prohibited.
5) Because night light pollution is a growing problem, reduction or turning off sign lighting during non-operating hours is encouraged.

SECTION V. PARKING AND SERVICE AREAS

The following standard applies to all development in the B-2A and BSD districts and new commercial development in the SAG-5 district.

1) At least 40% of the required parking shall be located to the side and/or rear of the building(s) fronting on Highway 93 and/or Highway 40.
2) Parking lot landscaping and buffering shall meet the requirements in Section I.
3) Parking lots built below grade are encouraged.
4) Service areas (garbage, loading, etc.) shall be screened from public roads by being located to the rear of buildings or by wood fencing and landscaping of sufficient height to provide effective screening.

Recommended Transportation Improvements

Increased development along the corridor will likely result in higher traffic volumes and increased turning movements as new development will attract and generate vehicle trips. A zoning text and map amendment to allow for additional development will not by itself create traffic demand and thus does not necessitate an immediate need for transportation safety improvements. However, when new development projects are proposed there will be a need to coordinate land use and transportation planning activities to mitigate impacts to highway safety and transportation system performance under MDT's Systems Impact process. This process is used to evaluate and potentially require changes to the transportation system based on the specific circumstances of each project including expected vehicle trips, road configuration and sight distance, travel speeds, nearby approaches and other site specific factors.

Flathead County and landowners within the corridor cannot steer MDT policy but can offer recommendations for how to coordinate land use and transportation improvements. Below are transportation improvement recommendations and options aimed at maintaining highway safety and transportation system performance, in the event additional development occurs in the corridor.

Backage and Frontage Roads: Require new commercial development to construct and utilize a network of backage roads where feasible to access new development. Where backage roads are not feasible frontage roads should be developed as an alternative. To the extent possible backage or frontage road outlets should be located at least 300 feet from Highway 93 to prevent excess queuing (see Figure 1).

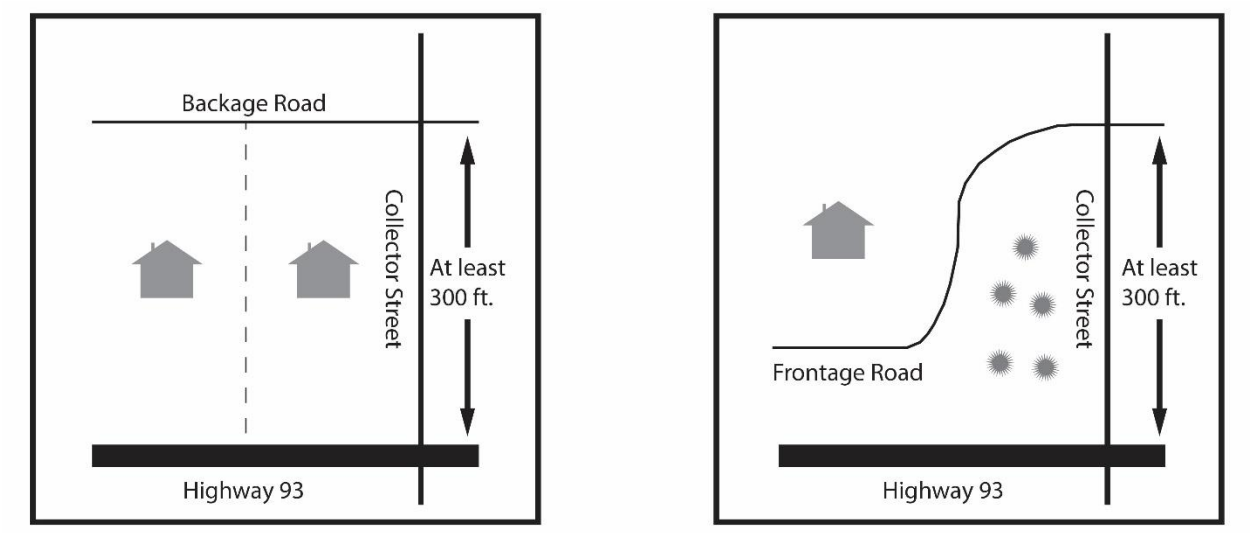


Figure 1 – Backage and Frontage Roads

Connected Development: Where development is planned in phases or adjacent to other parcels that have significant likelihood of being developed more intensively, internal road networks should be connected so vehicles are not required to travel on Highway 93 to access other portions of a development or to access adjoining development. This can be accomplished by requiring commercial developers to provide road easements to the bordering property, then requiring construction of the connecting roads as part of a development approval process.

Access Control: As vehicle trips increase due to increased population and visitor travel, Flathead County should work with MDT to develop an access control plan for the corridor to evaluate the need for access management strategies including but not limited to:

- Vacating/consolidating existing approaches
- Installing center medians with left turn pockets to control left turn movements and act to reduce vehicle speeds (Figure 2)

- Installing additional traffic signals or roundabouts dependent upon the scale and impact of development. So as not to adversely impact transportation system performance this should be a last resort option.

During development review Flathead County should work with applicants to consolidate access points when possible.

Figure 2 – Center median with left turn lanes

Vehicle Speeds: Under MDT standards speed limits in the corridor are already high given the number of access points. With increased development, the 65 MPH speed limit coupled with left turning movements has the potential to increase the risk of crashes in the corridor. As development occurs it may be appropriate for the 45 MPH speed zone to be extended south so that drivers reduce speed ahead of more intensive development.

Speed limits in Montana are set and changed by the Montana Transportation Commission. To change the speed limit in the corridor Flathead County will need to request for MDT to conduct a speed zone study. With the results of a speed zone study, the Flathead County Commissioners could then make a formal request to the Montana Transportation Commission for a speed limit reduction in at least a portion of the corridor.

Bike/Pedestrian Facilities: Trail easements should be required along Highway 93 and Highway 40 when development occurs to provide alternative modes of transportation. Construction of the facilities should occur as part of a larger bike/pedestrian project.

APPENDIX A

Flathead County and City of Whitefish Growth Policy statements with an explanation as to how the statement is addressed.

Flathead County Growth Policy

Goal or Policy	How the Goal or Policy is Addressed
Goal 5: Adequate industrial land in areas that are close enough to goods and services to be efficient but far enough from other uses to offset objectionable impacts to the human and natural environment.	Light industrial land uses near the City of Whitefish are recommended. Lot sizes, landscaping and buffering, signage, building design, parking and lighting standards are recommended to offset impacts.
Goal 6: Adequate commercial land that is safely accessible and efficiently serviceable.	Additional commercial opportunities with recommended traffic safety improvements.
Policy 6.1: Encourage internal, interconnected roads for commercial development and frontage roads where appropriate.	Internal, interconnected roads, frontage and backage roads are recommended.
Policy 6.3: Provide ample commercial land designation to promote affordability.	Additional land that may be used commercially is recommended.
Policy 6.4: Require traffic impact analysis for all major commercial projects on major highways and arterials.	Traffic impact analysis requirement to be implemented through MDT's Systems Impact Review process and Flathead County subdivision review processes when development approval is requested.
Goal 7: Consider existing community character in commercial land development.	Landscape buffers, signage, building design, parking and lighting standards compatible with Whitefish standards are provided.
Policy 7.2: Develop regulations that promote (the seven elements of the Flathead County Vision) and mitigate the negative impacts of commercial development.	Not all of the seven elements apply. However, protecting scenic views, promoting a diverse economy, managing transportation, maintaining the identify of rural communities, properly managing and protecting the natural and human environment, and preserving private

	property rights have all been addressed in various ways.
Policy 7.4 Identify existing areas that are suitable for impact-mitigated commercial uses.	The planning area has been identified as suitable for impact-mitigated commercial uses.
Policy 7.5 Encourage commercial development that is visually and functionally desirable.	Standards addressing landscaping and buffers, signage, building design and lighting, and transportation improvements are provided.
Policy 11.2: Identify development impacts that threaten gateway areas and develop land use guidelines that mitigate these impacts without prohibiting development.	Visual, functional and safety impacts are possible with increased development. Overlay zoning and transportation recommendations are provided to address these impacts.
Policy 11.5: Develop guidelines to ensure that lighting should not destroy the reasonable enjoyment by all residents of the night skies.	Outdoor lighting standards are provided.
Policy 21.1: Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.	Additional commercial and light industrial land is proposed to help to implement this policy.
Policy 23.1: Manage land use and the transportation system as a unified and coordinated system to ensure one does not outpace the other.	This plan recommends frontage and backage roads, connected development, trail easements and recommends access control and speed limit review. MDT's Systems Impact Review ensures impacts to the transportation system are addressed when development is proposed.
Policy 23.2: Limit private driveways from directly accessing arterials and collector roads to safe separation distances.	This will occur through MDT's Systems Impact process as development is proposed. No new direct highway accesses are anticipated under MDT's current policies. The plan recommends consolidating accesses and asking MDT to develop an access control plan.
Policy 24.3: Require development projects to design road systems that complement planned land uses and maintain mobility on arterial roads and highways.	Guidelines for interconnected, frontage and backage roads are included. Trail easements are recommended to be required as development occurs.
Policy 24.4: Require road easement dedications for identified areas of future connectivity as subdivision	Road easement dedication to adjoining commercial properties is recommended.

developments are proposed, to serve present and future needs of the county residents.	
Policy 25.2: Identify and prioritize areas for a predictable regional and interconnected bicycle path network and require pedestrian/bicycle easements on both sides of county roads. Encourage developments that aid and/or connect to this network.	Ped/bike easements are recommended in accordance with the growth policy Bike & Pedestrian Paths Network map as a condition of development approval.
Policy 49.1: Promote representation by county officials of those residents outside of the City of Whitefish, while giving consideration to both the interests of those residents as well as the growth needs of the City of Whitefish during county planning processes.	This plan is intended to address the needs and rights of landowners outside of Whitefish while respecting the interests and plans of the city and its residents.
Policy 49.2: Request comments from the City of Whitefish agencies on subdivision, zoning and other land use issues within 2 miles of city limits and give consideration to those comments during the county review process.	Participation by Whitefish officials is expected as part of the public review process. Consideration of comments to occur during the county review process.

Whitefish Growth Policy

Plan statement	**How the Plan Statement is Addressed**
Commercial growth: Commercial growth will continue to be discouraged by the City of Whitefish	The plan attempts to mitigate the impacts of commercial growth through an overlay zoning district that addresses landscaping and buffering, building design, signage, lighting and parking standards.
Scale: The existing modest scale of commercial and residential structures should be maintained. No "big box" retail or office buildings should be proposed.	The scale of development is limited by the current lack of public water and sewer and also by building size and height limitations.
Architectural standards: Any successful plan must include high standards of architectural design that is compatible with the wooded environs of the corridor.	Architectural design standards that are compatible with the wooded environs are included.
Landscaping/screening: The corridor plan must include standards for replacement of existing forest	Standards providing incentive to maintain forest stands and requiring landscaping and screening are included.

stands, on-site landscaping, and screening of parking and service areas.	
Utilities: Water and sewer service must be provided, or, the corridor plan should support no more development than can be served by well and septic systems without adversely affecting water quality or wells on neighboring properties.	The city does not plan to extend water or sewer at this time. All development will be served by wells and onsite wastewater systems in compliance with Montana Department of Environmental Quality standards to protect water quality.
Trip generation: With growing traffic volumes on Hwy 93 already, additional non-residential uses should not be of a nature that attracts large numbers of additional vehicle trips. The corridor plan must include a traffic impact and access analysis.	The plan addresses the impacts of potential additional traffic by recommending ways to improve traffic safety such as backage and frontage roads, access management, center medians and turn lanes, speed limit review and other measures. MDT's Systems Impact review will determine what safety improvements are necessary when development is proposed. The plan includes an analysis of traffic impacts and access issues.
Traffic safety, circulation, and access: Traffic safety will be a major concern with any new growth in this corridor. The proliferation of access points can cause both safety and traffic access problems. An access and circulation component must be a product of the over-all corridor plan.	The plan recommends that Flathead County request MDT to conduct an access management study and recommends shared/consolidated approaches, frontage and backage roads and other measures to ameliorate safety concerns.
Bike/pedestrian facilities: Bicycle and pedestrian ways must be provided within the corridor itself, and should link to the existing commercial areas north of Hwy 40.	Requirements for trail easements are included. Easements are recommended to be required as a condition of development approval.

APPENDIX B

B-2A Secondary Business

BSD Business Service District

SAG-5 Suburban Agricultural

SECTION 3.46 B-2A SECONDARY BUSINESS

3.46.010 Definition:

The B-2A district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. This district depends on proximity to the City of Whitefish, highways or arterial streets and may be located in business corridors or islands.

3.46.020 Permitted Uses (B-2A):

1. Antique, gift and card retail sales and auction barn.
2. Automobile (new and used) and accessory sales.
3. Automobile repair shop.
4. Automobile service station.
5. Beauty Salon and Barbershop.
6. Bed and breakfast establishment.
7. Boat and RV sales, new and used.
8. Boat and RV repair shop
9. Bowling alley.
10. Bus depot.
11. Churches and other places of worship.
12. Clinic, medical and dental.
13. Commercial caretaker's facility in a detached accessory building in conjunction with a business.
14. Convenience store.
15. Daycare centers (13 or more individuals).
16. Dwelling, single family.
17. Feed, seed and farm supply.
18. Financial institution.
19. Food store, supermarket, and delicatessen.
20. Frozen food lockers, not including slaughtering.
21. Funeral Home and crematorium.
22. Furniture and floor covering store.
23. Heavy equipment sales, rental and service.
24. Hospitals, and associated related nursing homes, retirement homes, congregate housing and personal care facilities in a campus setting.
25. Hotel and motel (including restaurants, lounges or bars integral to the facilities).
26. Household appliance and electronics store.
27. Laundromat or dry cleaner.
28. Lumber yard, building supply.
29. Military surplus store.
30. Pack-n-ship.
31. Professional offices.
32. Public building.
33. Recreational facility, high impact.
34. Recreational facility, low impact.
35. Restaurant.
36. Small animal veterinarian clinic (no outside activity).

37. Theater.
38. Wholesale trade and warehousing.

3.46.030 Conditional Uses (B-2A):

1. Accessory Apartment.
2. Amusement park or zoo.
3. Animal hospital.
4. Any new building greater than 15,000 square feet, existing buildings where an addition would cause the total footprint to be 15,000 square feet or greater, and additions to buildings where the footprint already is 15,000 square feet or greater.
5. Bar, lounge and tavern.
6. College, business school, trade school, music conservatory, dance school.
7. Community residential facility (See Chapter V- Performance Standards and Chapter VII- Definitions).**
8. Light assembly and manufacturing.
9. Manufactured home park.
10. Microbrewery.
11. Mini-storage, RV storage.
12. Recreational vehicle park.
13. Truck stop.

** Administrative Conditional Use Permit, 8 or fewer.

3.46.040 Bulk and Dimensional Requirements (B-2A):

1. Minimum Lot Area: Not Applicable.

2. Minimum Lot Width: Not Applicable.

3. Setbacks:
   A. Minimum Yard Requirements for Structures:
      Front: 20 feet.
      Side:* 0 feet each.
      Side Corner: 20 feet.
      Rear:* 0 feet.
      * 20 foot setback when abutting a residential district.

   B. A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.

   C. Increase yard requirements as follows when property fronts:
      MDT Maintained/County collector road:* 10 feet.

4. Maximum Height: 35 feet.
5. Permitted Lot Coverage: Not Applicable.

6. Maximum Fence Height:
   Front: 4 feet.
   Side: 6 feet.

Rear: 6 feet.

7. Off-Street Parking:See Chapter VI-Parking and Loading.

SECTION 3.49 BSD BUSINESS SERVICE DISTRICT

3.49.010 Definition:

The business service district is intended to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish and to create defined areas that are appropriate for nonretail limited commercial services and light industrial uses in proximity to the City of Whitefish. Typical uses would be light manufacturing and component assembly, office/warehouse showrooms, contractors, wholesale trades, and other nonretail commercial services of a destination nature. The grouping of uses shall be incorporated in order to develop as an island rather than as a strip. Landscaping will be extensive with good quality and effective screening and buffering.

3.49.015 Acceptance of an application for BSD zoning will be contingent upon a site plan, vicinity map and building concepts for the area requested being submitted for review. The site plan, vicinity map and building concepts will address each of the following:

1. The site plan shall include all buildings, structures, parking, driveways, sidewalks, utilities, drainage, landscaping and signage.

2. The site plan shall demonstrate conformance with the zoning regulations and other applicable county regulations. All projects constructed in accordance with an approved site plan shall be permanently maintained as approved.

3. The vicinity map shall include surrounding parcels, buildings, structures, circulation systems and major physical features.

4. Shared driveway access or frontage roads (whether public or private) are required where possible to provide a cohesive internal circulation pattern and to limit access onto arterials and collectors when development contains multiple commercial uses.

3.49.017 Implementation of Site Plan and Vicinity Map:

1. Once the site plan and vicinity map have been adopted, they shall be considered zoning and shall serve as the guidelines for the development.

2. Prior to any site development, a detailed site plan shall be submitted to the zoning administrator to demonstrate compliance with the approved site plan and vicinity map. Any desired subsequent changes shall be submitted for approval as an amendment to the site plan.

3. Minor deviations to the site plan shall be allowed which do not involve more than ten percent (10%) of the building site for a single building. This would include, but is not limited to, the location and/or expansion of the building, parking lot location, signage, number of parking spaces and landscaping. Minor deviations to the site plan shall be reviewed and approved by the zoning administrator.

4. Substantial modifications to the site plan will be required to be reviewed and approved by the County Commissioners. Substantial changes would include, but not be limited to, an increase in the number of buildings, major changes in

access or circulation, an increase in building size by more than ten percent (10%), major changes to signage and major changes to landscaping design and location.

3.49.020 Permitted Uses (BSD):

1. Agricultural/horticultural/silvicultural use.
2. Ancillary retail or showrooms, less than fifty (50%) percent of the gross floor area of each individual lease space or tenant
3. Animal hospital, veterinary clinic.
4. Contractors' storage yard and building supply outlet.
5. Dance, drama, and music school.
6. Dwelling, single family.
7. Farm equipment sales.
8. Feed, seed and farm supply, including grain elevators.
9. Home occupation (See Chapter V – Performance Standards and Chapter VII – Definitions).
10. Homeowners park.
11. Light assembly and manufacturing, fabrication, including light food manufacturing and processing, repairing, packing or storage facilities in enclosed buildings, provided that such uses do not produce objectionable impacts beyond the lot lines and do not involve materials that are explosive, hazardous or toxic.
12. Livestock.
13. Nursery, landscaping materials.
14. Parcel delivery service.
15. Park and publicly owned recreational facility.
16. Personal services with incidental retail sales.
17. Print and copy shop.
18. Produce stand.
19. Professional offices.
20. Public utility service installation (A minimum of five feet of landscaped area shall surround such building or structure).
21. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, furniture, and small engines, (no outdoor storage permitted).
22. Riding academy, rodeo arena.
23. Small equipment sales, rental and repair conducted indoors, (no outdoor storage permitted).
24. Stable, public and private.
25. Wholesale trade and warehousing, including offices and showrooms.

3.49.030 Conditional Uses (BSD):

1. Accessory apartments.
2. Ancillary retail or showrooms, more than fifty (50%) percent of the gross floor area of each individual lease space or tenant.
3. Churches and other place of worship.
4. College, business school, trade school.
5. Commercial caretaker's facility in a detached accessory building in conjunction with a business.*
6. Convention hall facility.

7. Day care center.
8. Kennel.
9. Mini-storage.
10. Research laboratory and institution.
11. When not shown on the initial site plan required for zoning or rezoning properties, all new structures with a gross floor area of ten thousand (10,000) square feet or greater, existing structures where an addition causes the total floor area to be ten thousand (10,000) square feet or greater, and additions to structures where the total floor area already is ten thousand (10,000) square feet or greater.

* Administrative Conditional Use Permit (See Section 2.06.045)

3.49.040 Bulk and Dimensional Requirements (BSD):

1. Minimum District Area: 5 acre.

2. Minimum Lot Area: 1 acre.

3. Minimum Lot Width: 125 feet.

4. Setbacks:

   A. Minimum Yard Requirements for Structures:
   Front: 30 feet.
   Side: 10 feet each.
   Side Corner: 30 feet.
   Rear: 15 feet.

   B. When a property abuts the following features, the abutting setback shall be increased to the following:
   Agricultural – use or zone: 30 feet.
   Residential – use or zone: 30 feet.
   Stream – high water mark: 20 feet.

5. Maximum Height:
   Principal Structures: 35 feet.
   Accessory Structures: 24 feet.

6. Permitted Lot Coverage: 40%.

7. Maximum Fence Height:
   Front: 4 feet.
   Side: 6 feet.
   Rear: 6 feet.

8. Off-Street Parking: See Chapter VI – Parking and Loading.

3.49.050 Additional Design Standards (BSD):

1. One commercial use permitted per gross acre. Multiple commercial uses should cluster development to include both shared parking areas and internal road access. Buildings shall be grouped into localized areas and shall not be developed in a linear fashion.

2. Clustering:

   A. Clustering of uses includes incorporation of common shared areas such as courtyards to create central nodes of business/development as opposed to linear development.

   B. Clustering should include shared access, parking, landscaping, with the overall development designed to protect surrounding properties from adverse impacts.

   C. For the purpose of clustering, the site will be developed as one lot. Property setbacks for commercial uses shall not apply except for separation from residential uses. This allows for cohesive development on multiple properties developed in conjunction with an overall development theme or business park plan.

3. Landscaping:

   A. Landscape design shall be in accordance with the concept of a business park. A combination of landscape materials should be arranged in a harmonious manner as an integral part of the project design to enhance building design, public view and interior spaces and provide buffers and transitions, as appropriate.

   B. Landscaping shall comply with Section 5.05 and parking lot landscaping shall comply with Section 6.13.010(2).

   C. Exposed utilities, storage areas, machinery, installations, service and loading areas and similar accessory areas and structures shall be set back to the primary structure requirements or screened to minimize the loss of views, privacy and the general aesthetic value of surroundings.

4. Signage:

   A combination of natural materials and colors should be arranged in a harmonious manner that complements the overall design of the site and does not create visual clutter, distractions for passing motorists or the obstruction of important architectural or landscaping features.

SECTION 3.08 SAG-5 SUBURBAN AGRICULTURAL

3.08.010 Definition.

A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.

3.08.020 Permitted Uses (SAG-5).

1. Agricultural/horticultural/silvicultural use.
2. Class A and Class B manufactured home (See Chapter VII – Definitions).
3. Cluster housing (See Chapter V – Performance Standards).
4. Day care home.
5. Dwelling, single-family.
6. Dwelling unit, accessory (ADU).
7. Guest house.
8. Home occupation (See Chapter V- Performance Standards and Chapter VII – Definitions).
9. Homeowners park and beaches.
10. Livestock
11. Nursery, landscaping materials.
12. Park and publicly owned recreational facility.
13. Produce stand.
14. Public transportation shelter station.
15. Public utility service installation.
16. Stable, private.

3.08.030 Conditional Uses (SAG-5).

1. Airfield.
2. Aircraft hangars when in association with properties within or adjoining an airport/landing field.*
3. Animal hospital, veterinary clinic.
4. Bed and breakfast establishment.
5. Camp and retreat center (See Chapter IV – Conditional Use Standards and Chapter VII – Definitions).
6. Caretaker's facility.*
7. Cellular tower.*
8. Cemetery, mausoleum, columbarium, crematorium.
9. Church and other place of worship.
10. Community center building operated by a non-profit agency.
11. Community residential facility.**
12. Contractor's storage yard (See Chapter IV – Conditional Use Standards).*
13. Dwelling, family hardship.*
14. Electrical distribution station.
15. Extractive industry.
16. Golf course.
17. Golf driving range.
18. Kennel, commercial (See Chapter IV-Conditional Use Standards).
19. Manufactured home park.

20. Recreational facility, high-impact.
21. Recreational facility, low-impact.
22. Recreational vehicle park.
23. Riding academy and rodeo arena.
24. School, primary and secondary.
25. Stable, public.
26. Temporary building or structure.*
27. Water and sewage treatment plant.
28. Water storage facility.

*Administrative Conditional Use Permit (See Section 2.06.045)

**Administrative Conditional Use Permit, eight or fewer.

3.08.040 Bulk and Dimensional Requirements (SAG-5).

1. Minimum Lot Area: 5 acres.

2. Minimum Lot Width: No parcel or lot shall have an average depth greater than three times its average width unless the average lot width is more than 300 feet.

   Cul-de-Sacs: 60 feet.

3. Setbacks:
   A. Minimum Yard Requirements for Principal Structure:
      Front: 20 feet.
      Side:* 20 feet each.
      Side Corner:** 20 feet.
      Rear: 20 feet.

   B. Detached Accessory Structures:
      Front: 20 feet.
      Side:* 5 feet each.
      Side Corner:** 20 feet.
      Rear: 5 feet.
      * For non-conforming properties with lot widths of less than 150 feet, the side yard setback shall be 10 feet each. For non-conforming properties with lot widths of less than 50 feet, the side yard setback shall be 5 feet each.
      ** For non-conforming properties with lots with average widths of less than 200 feet, the side corner setback shall be 15 feet.

   C. A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.

   D. Increase yard requirements as follows when property fronts: **
      County Road:* 20 feet.

      * Classified as a collector or major/minor arterial as defined in the County Master Plan or City-County Master Plan.

** If the lot is in a subdivision created under the provisions of clustering in AG or SAG Districts (Section 5.09.030) a minimum 100 foot setback from the boundary of a highway for all structures is required.

4. Maximum Height: 35 feet.

5. Permitted Lot Coverage: 25% (Residential Uses).

6. Maximum Fence Height (Residential Uses):
   Front: 6 feet.
   Side: 6 feet.
   Rear: 6 feet.

7. Off-Street Parking: See Chapter VI – Parking and Loading.

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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,
November 21, 2016, at **7:10 p.m.** at Interim City Hall, 1005 Baker Avenue.

Ordinance numbers start with 16-19. Resolution numbers start with 16-60.

1) CALL TO ORDER

2) PLEDGE OF ALLEGIANCE

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

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

5) CONSENT AGENDA
   a) Minutes from November 7 , 2016 Regular Meeting (p. 83)
   b) Consideration of approving application from Jason Pohlman on behalf of David and Caroline Dixon for Whitefish Lake Lakeshore Permit (#WLP-16-W22) at 360 Dakota Avenue to replace an existing sewer line subject to 10 conditions (p. 89)

6) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC))
   a) Consideration of a request from the Whitefish Hotel Group to amend Conditional Use Permit #14-11 for the Firebrand Hotel at 650 East Third Street in order to locate a hot tub on the roof (p. 105)
   b) Resolution No. 16-___; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 82.7 acres of wholly surrounded land on Ramsey Avenue and various other parcels (p. 257)
   c) Ordinance No. 16-___; An Ordinance rezoning approximately 1.31 acres of land located 2045 Lion Mountain Loop Road, in Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from County R-1 (Suburban Residential) to Whitefish WSR (Suburban Residential District) and adopting findings with respect to such rezone (First Reading) (p. 302)

d) Ordinance No. 16-___; An Ordinance rezoning approximately 6.42 acres of land located 835 West Seventh Street, in Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from County R-3 (One-Family Residential) to Whitefish WR-1 (One-Family Residential District), and adopting findings with respect to such rezone (First Reading) (p. 326)
e) Ordinance No. 16-___; An Ordinance rezoning approximately 0.39 acres of unaddressed land legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from County R-1 (Suburban Residential) to Whitefish WSR (Suburban Residential District), and adopting findings with respect to such rezone (First Reading) (p. 352)

7) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR
   a) Consideration of approving Amendment No. 7 to the engineering design and management agreement with Anderson-Montgomery Consulting Engineers in the amount of $966,825.00 for the Wastewater Treatment Plant Improvements for engineering services up to and including bidding for the construction improvements (p. 375)

8) COMMUNICATIONS FROM CITY MANAGER
   a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 399)
   b) Other items arising between November 16th and November 21st
   c) Consideration of proposals to lease retail/restaurant/office space in Parking Structure and direct City Manager to negotiate a lease for future City Council consideration (p. 411)

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS
   a) Email from Scott Countryman regarding noise ordinance in Whitefish (p. 433)
   b) Consideration of appointments to Boards and Committees not made in tonight's prior special session because of time constraints (p.1)

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

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

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

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

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

- We encourage and value broad community participation.

- We encourage creative approaches to engage public participation.

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

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

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

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

Adopted by Resolution 07-09
February 20, 2007

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November 16, 2016

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

Mayor Muhlfeld and City Councilors:

Monday, November 21, 2016 City Council Agenda Report

There will be a work session at 5:00 p.m. for board and committee vacancy interviews, followed by a work session on the Urban Growth Boundary and the Hwy 93 South Corridor Plan submitted to Flathead County. There may also be an executive session to discuss litigation strategy if the Mayor and City Council want one. Food will be provided.

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

CONSENT AGENDA

a) Minutes from November 7 , 2016 Regular Meeting (p. 83)
b) Consideration of approving application from Jason Pohlman on behalf of David and Caroline Dixon for Whitefish Lake Lakeshore Permit (#WLP-16-W22) at 360 Dakota Avenue to replace an existing sewer line subject to 10 conditions (p. 89)

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

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

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

a) Consideration of a request from the Whitefish Hotel Group to amend Conditional Use Permit #14-11 for the Firebrand Hotel at 650 East Third Street in order to locate a hot tub on the roof (p. 105)

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

Update: At the November 7, 2016, the City Council opened the public hearing, took public testimony and passed a motion to continue the public hearing, leaving public comment open until the November 21, 2016 meeting when the city attorney could review a letter received by the applicant's attorney. It was noted that the Conditional Use Permit was deemed complete on September 2, 2016 and needs to be acted on by the City Council on or before December 1, 2016 pursuant to §11-7-8E(7), WCC.

Summary of Requested Action: Jeff Badelt on behalf of Whitefish Hotel Group llc is requesting a Conditional Use Permit to amend Condition #22 of WCUP 14-11 to locate a hot tub on the roof of the hotel. The property is developed with the Firebrand Hotel and is zoned WB-3 (General Commercial District). The Whitefish Growth Policy designates this property as "Core Commercial". The hot tub would be in the northwest portion of the roof – on the north side of the hotel and would only be available to guests of the hotel with a key card by either the elevators or stairs.

Planning & Building Department Recommendation: Staff recommended the original conditions of approval be maintained and did not recommend approval of the change to Condition #22.

Public Hearing: The applicant and the hotel manager spoke at the public hearing on October 20, 2016 in support of the application and described the noise study included in the packet. Two members of the public spoke in opposition to the request citing noise and incompatibility with the neighborhood.

The draft minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on October 20, 2016. Following the hearing, the Planning Board recommended denial of the above referenced conditional use permit and adopted the staff report as findings of fact (4-2, Linville, Qunell voting in opposition; Ellis was absent).

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing and the recommendations from staff and the Planning Board, deny WCUP 14-11A along with the findings of fact in the staff report and not amend Conditional Use Permit #14-11 for the Firebrand Hotel at 650 East Third Street in order to locate a hot tub on the roof.

This item is a quasi-judicial matter.

b) Resolution No. 16-___; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 82.7 acres of wholly surrounded land on Ramsey Avenue and various other parcels (p. 257)

There is a lengthy staff report and memo on the provision of services for these 44 properties proposed for annexation in the packet along with letters of protest from two property owners. I will address some of the concerns from one of the property owners during my presentation at Monday night's public hearing. These properties are proposed for annexation using the "Wholly Surrounded" method of annexation in state law. As shown by a copy of the state laws in the packet, the City may annex the properties even if a majority of property owners protest or object.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing and the recommendation from staff, adopt a Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 82.7 acres of wholly surrounded land on Ramsey Avenue and various other parcels

This item is a legislative matter.

c) Ordinance No. 16-___; An Ordinance rezoning approximately 1.31 acres of land located 2045 Lion Mountain Loop Road, in Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from County R-1 (Suburban Residential) to Whitefish WSR (Suburban Residential District) and adopting findings with respect to such rezone (First Reading) (p. 302)

From Planner II Bailey Minnich's transmittal memo:

Summary of Requested Action: This is a request by the City of Whitefish for a rezone on one parcel with the zoning designation of County R-1 (Suburban Residential) to City WSR (Suburban Residential District). The subject property is located at 2045 Lion Mountain Loop Road. The subject property totals approximately 1.31 acres.

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

Public Hearing: No member 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 Planning Board met on October 20, 2016 and considered the requested rezone. Following the public hearing, the Planning Board unanimously recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing and the recommendations from staff and the Planning Board, adopt an Ordinance rezoning approximately 1.31 acres of land located 2045 Lion Mountain Loop Road, in Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from County R-1 (Suburban

Residential) to Whitefish WSR (Suburban Residential District) and adopting findings with respect to such rezone (First Reading)

This item is a quasi-judicial matter.

d) Ordinance No. 16-___; An Ordinance rezoning approximately 6.42 acres of land located 835 West Seventh Street, in Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from County R-3 (One-Family Residential) to Whitefish WR-1 (One-Family Residential District), and adopting findings with respect to such rezone (First Reading) (p. 326)

From Planner II Bailey Minnich's transmittal memo:

Summary of Requested Action: This is a request by the City of Whitefish for a rezone on one parcel with the zoning designation of County R-3 (One Family Residential) to City WR-1 (One Family Residential District). The subject property is located at 835 W. 7th Street. The subject property totals approximately 6.42 acres.

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

Public Hearing: One member of the public spoke at the public hearing regarding potential subdivision of this property. Staff informed the Board and the public that if a future subdivision is proposed, it will have a separate public process. The draft minutes from the Planning Board for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on October 20, 2016 and considered the requested rezone. Following the public hearing, the Planning Board unanimously recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing and the recommendations from staff and the Planning Board, adopt an Ordinance rezoning approximately 6.42 acres of land located 835 West Seventh Street, in Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from County R-3 (One-Family Residential) to Whitefish WR-1 (One-Family Residential District), and adopting findings with respect to such rezone (First Reading)

This item is a quasi-judicial matter.

e) Ordinance No. 16-___; An Ordinance rezoning approximately 0.39 acres of unaddressed land legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North,

Range 22 West, P.M.M., Flathead County, Montana, from County R-1 (Suburban Residential) to Whitefish WSR (Suburban Residential District), and adopting findings with respect to such rezone (First Reading) (p. 352)

From Planner II Bailey Minnich's transmittal memo:

Summary of Requested Action: This is a request by the City of Whitefish for a rezone on one parcel with the zoning designation of County R-1 (Suburban Residential) to City WSR (Suburban Residential District). The subject property is unaddressed off Highway 93 West. The subject property is approximately 0.39 acres in size.

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

Public Hearing: No member 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 Planning Board met on October 20, 2016 and considered the requested rezone. Following the public hearing, the Planning Board unanimously recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing and the recommendations from staff and the Planning Board, adopt an Ordinance rezoning approximately 0.39 acres of unaddressed land legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from County R-1 (Suburban Residential) to Whitefish WSR (Suburban Residential District), and adopting findings with respect to such rezone (First Reading)

This item is a quasi-judicial matter.

COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

a) Consideration of approving Amendment No. 7 to the engineering design and management agreement with Anderson-Montgomery Consulting Engineers in the amount of $966,825.00 for the Wastewater Treatment Plant Improvements for engineering services up to and including bidding for the construction improvements (p. 375)

From Public Works Director Craig Workman's staff report:

On October 15, 2012, the City Council approved a contract with Anderson Montgomery Consulting Engineers (AMCE) for our Wastewater Permitting and Facility

Improvements Project. Copies of the staff memo and minutes from that Council meeting packet are attached to this staff report. Prior to recommending approval of the contract with AMCE, the Public Works Department advertised a Request for Qualifications from engineering consultants, interviewed finalists and negotiated a contract AMCE to provide engineering services for the Wastewater Permitting and Facility Improvements Project. A copy of the original RFP is also attached to this memo.

The RFP was created by the Public Works Department to select a consultant to work with the City on the following tasks:

1. Renewal of the MPDES permit - COMPLETE
2. Preparation of a Compliance Plan for the Administrative Order on Consent (AOC) - COMPLETE
3. Preparation of a Nutrient Reduction Plan - COMPLETE
4. Preparation of Preliminary Engineering Report for wastewater upgrades - COMPLETE
5. Completion of various I&I reduction projects – COMPLETE
6. Identification of funding sources and preparation of applications for State and Federal funding programs - COMPLETE
7. Engineering Design Services for the upgrades proposed in the PER
8. Equipment/Contractor Procurement for the upgrades proposed in the PER
9. Project Bidding assistance
10. Construction management
11. Preparation of Final record drawings and O&M manuals

During the original contract award in 2012 Council acknowledged that this would be a complex, long term project, involving many different aspects of planning, design, grant writing, permitting procedures and negotiations with various entities for several years into the future. For this reason, the contract was awarded with the anticipation of individual amendments being negotiated as the project evolved and took shape. The first six amendments to the contract were successful in completing the tasks as indicated above.

Current Report

This memo is to recommend Amendment No. 7 to the consultant contract. The proposed work scope includes all engineering services up through and including project bidding and award. This scope does not include construction management services, which will be negotiated during the final design phase, allowing for a more accurate estimate of cost.

Specifically, this amendment includes the engineering services necessary to design and bid improvements to the City's wastewater treatment plant, as described in the October 2016 Preliminary Engineering Report. A summary of plant improvements includes the following unit processes:

- Pump Upgrades to Main Raw Wastewater Pump Station
- Grit Removal Facilities including Washing and Dewatering

- Sequencing Batch Reactor (SBR) Treatment Plant
- Lagoon Solids Disposal
- Aerobic Digestion of BioSolids utilizing Existing Flocculating Clarifier Basin
- Stabilized Solids Disposal on Existing Drying Beds (after renovation)
- Ultraviolet Disinfection
- Emergency Power System
- System Controls and Integration
- Administration Building
- Site Landscaping and Restoration of Lagoons

The key assignments that will be included in this contract amendment are described as follows:

PRELIMINARY DESIGN SERVICES – This assignment includes the preparation of a preliminary design report, completion of a detailed topographic survey and completion of a geotechnical investigation. The Preliminary Design Report will establish design criteria to complete preliminary layout and equipment selection.

EQUIPMENT PROCUREMENT - This assignment includes the preparation of project documents to facilitate the purchase of key equipment components required for the new treatment facilities. Project documents will include all required funding agency specifications and will be reviewed by the regulatory and funding agencies participating in the project prior to advertisement for bids. During project bidding, AMCE will answer bidders' questions, provide written clarifications and/or addenda, convene and preside over a pre-bid meeting. They will also review the necessary Pre-Qualification information submitted by potential bidders.

FINAL DESIGN SERVICES – This assignment includes all professional engineering services required for the specification of equipment and final design for the proposed upgrades to the City's wastewater treatment plant, incorporating all pre-purchased equipment into the final project design. This includes the preparation of all civil, structural/architectural, mechanical, electrical and instrumentation design elements necessary to procure construction contractors to build the complete project as described in the PER.

PROJECT BIDDING AND CONTRACT AWARD – This assignment requires AMCE to prepare an Advertisement for Bids and develop a system for electronic bidding of the project. AMCE will then review all necessary Pre-Qualification information, attend the bid opening, tabulate the bid proposals, make an analysis of the bids and bidder eligibility, and make recommendations for awarding contracts for supply of specified equipment. All bids will be reviewed for compliance with funding agency specifications.

The anticipated project timeline is as follows:

- Site survey - December 2016
- Geotechnical Investigation - January 2017

- Preliminary Design Report - February 2017
- Final Draft Equipment Project Documents - April 2017
- Equipment Procurement and Award – July/August 2017
- Final Draft Project Documents - February 2018
- Project Bidding and Award - Spring 2018

Financial Requirement

The Public Works Department has negotiated a fee not to exceed $966,825 for the scope of services described above. The cost will be paid out of the Wastewater budget, which has $1,961,000 budgeted in FY 2017 for WWTP upgrades.

This negotiated fee is approximately 6.5% of budgeted construction costs of $14,580,000, and represents a value that is $80,0000 less than the $1,047,000 established in the PER budget for these services. AMCE and the Public Works staff worked hard to insure the most accurate and ideally lowest estimate of costs for this work by discussing the work scope with other consultants, obtaining quotes for specialized services, reviewing projects with similar work scope and projecting the number of sheets required for design as well as work effort required per sheet.

RECOMMENDATION: Staff respectfully recommends the City Council approve Amendment No. 7 to the engineering design and management agreement with Anderson-Montgomery Consulting Engineers in the amount of $966,825.00 for the Wastewater Treatment Plant Improvements for engineering services up to and including bidding for the construction improvements.

This item is a legislative matter.

COMMUNICATIONS FROM CITY MANAGER

a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 399)
b) Other items arising between November 16th and November 21st
c) Consideration of proposals to lease retail/restaurant/office space in Parking Structure and direct City Manager to negotiate a lease for future City Council consideration (p. 411)

Included in the design of the Parking Structure was a lease space for retail, restaurant, or office space. The lease space is in the NW corner of the parking structure at the corner of East 1st Street and Baker Avenue. The space is 2,824 square feet with two bathrooms and is currently unfinished space, with the finishing of the space to be dependent upon negotiations with a possible tenant or tenants. The existing construction contract currently provides for completely finishing the bathrooms, no concrete floor until electrical and plumbing needs are determined, finished walls other than interior walls (taped, but not painted), and electrical connections in ceiling for lights and electrical connections in the walls.

The Downtown Master Plan update adopted on April 6, 2015 called for this space to be retail or commercial. A key aspect of this portion of the plan was the desire to "activate" the corner with "ground-floor retail space should be designed to accommodate retail uses that will serve local residents". It was also meant to serve as a retail linkage from Central Avenue to the Railway District. Copies of the relevant pages from the Downtown Master Plan Update are attached to this report.

On December 7, 2015, the City Council approved capitalizing three years of lease revenue from this lease and using $162,000 of Tax Increment Funds to put into the cost of the Parking Structure project. Thus, we should get at least $54,000 per year from a lease to repay this capitalization loan.

Our realtor, Chap Godsey, marketed the leasing of the property for us. A copy of the marketing materials are attached to this report.

Current Report

Chap Godsey and the City have received two proposals for leasing all or a part of the space. Copies of the two proposals are attached to this report. One proposal is from Glacier Sotheby International Realty and they would like the entire 2,824 square foot space in a five year lease with options to renew for two additional five year terms at an initial rate of $19.50 per square foot ($55,068 annually). The other proposal is from the Pig and Olive Sandwich Shoppe which is currently located in the Stumptown Marketplace. The Pig and Olive only wants half of the space (the eastern half which is where we designed kitchen facilities to be) and their rate is $18.00 per square foot which was our minimum ($25,416 annually). There is some interest from at least one other vendor, but that interest has not yet generated a proposal. It could come in later however.

We do need to make some decisions on a tenant as materials have to be ordered such as a second set of doors if there are two occupancies and the finish work needs to be negotiated, designed, ordered, and installed.

The Real Estate Advisors, Mayor Muhlfeld, Andy Feury, Chuck Stearns, and Dana Smith met with Chap Godsey on Thursday, October 27th to review the proposals. At that meeting, it was decided just to forward both proposals on to the City Council for consideration without a recommendation, but to include some pros and cons of each proposal. Those strengths and weaknesses are listed below. There may be other pros and cons that can be added to the list as well.

Glacier Sotheby International Realty Proposal

Strengths	Weaknesses
Great financial proposal - $19.50/ square foot. Meets and exceeds financial target without a second tenant	Not ground level retail space anticipated in Downtown Master Plan update
Strong tenant – wants three 5 year leases with inflation	Maybe not as geared toward local clientele as retail or restaurant, but retail and restaurants also cater heavily to visitors
Realtors familiar with location – some were with Coldwell Banker when it was there	No resort tax generation
They want the entire space.	Franchise of International Realty Firm with local owners - formula aspects of City Code don't apply to Professional offices except on Central Avenue
Less turnover with this tenant than with others	

Pig and Olive Sandwich Shoppe

Strengths	Weaknesses
Meets ground level retail space aspect of Downtown Master Plan update	Only want ½ the space so would generate only $25,416 – would have to obtain another tenant to meet financial targets.
Meets minimum financial lease target rate of $18 per square foot	Still somewhat of a fledgling restaurant, moving out of Stumptown Marketplace incubator – does not have the financial track record of Glacier Sotheby. Has had some Resort Tax delinquencies.
Should generate a lot of foot traffic and help "activate" the corner	Proposal not as well put together as Glacier Sotheby's proposal, but Glacier Sotheby's proposal is easier to put together.

Local, not franchise or formula owner	Would require addition of a kitchen and grill hood with sprinkling, adding $20,000 to $50,000 to cost of needed improvements.
Will generate additional resort tax revenues	Restaurants, unless successful, may not have as long term tenancy, thereby creating more turnover, vacancy, advertisements for tenants and less revenue.

Financial Requirement or Revenues

As shown above and in their proposals, Glacier Sotheby's proposal is for $55,608 per year during the first five years and Pig and Olive's proposal is for $25,416 annual for ½ of the space. The Pig and Olive proposal will require more improvements by the City, but that is subject to negotiation with prospective tenants.

Additional Costs:

There are additional costs to finish the leased space regardless of the tenants. Architect Ben Tintinger said that he couldn't design the finish of the space 18 months ago when we were designing and pricing the project because he didn't know what to finish it for – a restaurant or retail/office. I have asked Ben to estimate the remaining costs for either a restaurant or retail/office. At this point, I only know the following estimated costs:

HVAC (w or w/o kitchen hood and make-up air) – If two spaces, the HVAC is estimated to cost $30,000 per side or $60,000 total, but we think that estimate may be high. I have also asked for an estimate for the HVAC if one tenant takes the entire space for retail/office. If a restaurant goes in, there is also a cost for the kitchen hood and make-up or replacement air for that venting and that estimate may be $20,000 to $40,000.

Plumbing (w or w/o grease trap) – No estimate yet, but a grease trap for a restaurant will add to the cost.

Electrical and Lighting – no estimate yet because it depends a lot on tenant desires.

Concrete Floor – no estimate yet as it depends if there are electrical services provided in the floor.

So we may have in excess of $100,000 additional cost depending on the occupancy. These costs are not yet in the budget and exceed what remains in the construction contingency and in my ancillary costs account. Once we negotiate with a potential tenant, we will be able to get better cost estimates.

RECOMMENDATION: Staff respectfully recommends the City Council authorize the City Manager to pursue negotiations with one of the businesses that submitted proposals to lease the 2,824 square foot space in the parking structure and return to the City Council with a proposed lease for approval.

This item is a legislative matter.

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

a) Email from Scott Countryman regarding noise ordinance in Whitefish (p. 433)
b) Consideration of appointments to Boards and Committees not made in tonight's prior special session because of time constraints (p. 1)

ADJOURNMENT

Chuck

Sincerely,
Chuck Stearns, City Manager

Table 1: Common Motions Used in a Meeting.[1]

	Wording	Interrupt another speaker	Requires a second	Debatable	Amendable	Vote Required	Reconsider
Privileged Motions							
Fix time for next meeting (12)	"I move that we meet next at..."	No	Yes	No	Yes	Majority	Yes
Adjourn	"I move that we adjourn"	No	Yes	No	No	Majority	No
Take a recess (12)	"I move that we recess. . ."	No	Yes	No	Yes	Majority	No
Raise a question of privilege	"I rise to a question of privilege affecting the assembly"	Yes	No	No	No	(1)	No
Call for the orders of the day	"I call for the orders of the day"	Yes	No	No	No	(1) (15)*	No
Subsidiary Motions							
Lay on the table	"I move to lay the question on the table" or "I move that the motion be laid on the table"	No	Yes	No	No	Majority	(3)*
Previous question (to close debate)	"I move the previous question" or "I move we vote immediately on the motion"	No	Yes	No	No	2/3 of assembly	Yes
Limit-extend debate (12)	"I move the debate be limited to. . ." or "I move that the speaker's time be extended by. .	No	Yes	No	Yes	2/3 of assembly	Yes
Postpone to a definite time (12)	"I move that the question be postponed until. . ."	No	Yes	Yes	Yes	Majority	Yes
Refer to a committee (12)	"I move to refer the matter to the . . . committee"	No	Yes	Yes	Yes	Majority	Yes
Amendment to the main motion (12)	"I move to amend by adding/striking the words. . ."	No	Yes	(5)	Yes	Majority	Yes
Postpone indefinitely (12)	"I move that the motion be postponed	No	Yes	Yes (16)	No	Majority	(4)
Main Motions							
Main Motion	"I move that we..."	No	Yes	Yes	Yes	Majority	Yes
Incidental Motions (11)							
Suspension of rules	"I move to suspend the rules so that. . ."	No	Yes	No	No	(9)*	No
Request to withdraw a motion (13)	"I move that I be allowed to withdraw the motion"	*	*	No	No	Majority*	(3)
Objection to the consideration of a question (10)	"I object to the consideration of the question"	Yes	No	No	No	2/3 of assembly (17)	(3)
Point of order	"I rise to a point of order" or "Point of order!"	Yes	No	No	No	(1)*	No
Parliamentary inquiry	"I rise to a parliamentary inquiry" or "A parliamentary inquiry, please"	Yes	No	No	No	(1)	No
Appeal to the chairperson	"I appeal from the decision of the chair"	Yes	Yes	Yes*	No	(7)	Yes

	Wording	Interrupt another speaker	Requires a second	Debatable	Amendable	Vote Required	Reconsider
Point of information	"I rise to a point of information" or "A point of information, please"	Yes	No	No	No	(1)	No
Division of assembly	"Division!" or "I call for a division"	Yes	No	No	No	(14)	No
Division of a question	"I move to divide the motion so that the question of purchasing ... can be considered separately."	No	Yes	No	Yes	Majority	No
Renewal Motions (8)							
Reconsider* (2)	"I move to reconsider the vote on the motion relating to. . ."	No*	Yes	(5) (16)	No	Majority	No
Take from table	"I move to take from the table the motion relating to. .	No	Yes	No	No	Majority	No
Rescind	"I move to rescind the motion passed at the last meeting relating to. . ."	No	Yes	Yes (16)	Yes	(6)	(3)
Discharge a committee	"I move that the committee considering . . . be discharged."	No	Yes	Yes (16)*	Yes	(6)	(3)

[1] Source: Robert, H. 2000. *Robert's Rules of Order* (Newly Revised, 10th Edition) New York: Perseus Books Group; Sturgis, A. 2000. *The Standard Code of Parliamentary Procedure* (4th Edition). New York: McGraw-Hill.

**** Refer to Robert's Rules of Order Newly Revised***

(1) The chair decides. Normally no vote is taken.

(2) Only made by a member who voted on the prevailing side and is subject to times limits.

(3) Only the negative vote may be reconsidered.

(4) Only the affirmative vote may be reconsidered.

(5) Debatable when applied to a debatable motion.

(6) Majority with notice, or 2/3 without notice or majority of entire membership.

(7) Majority or tie vote sustains the chair.

(8) None of these motions (except Reconsider) are in order when business is pending.

(9) Rules of order, 2/3 vote—Standing rules, majority vote.

(10) Must be proposed before debate has begun or a subsidiary motion is stated by the chair (applied to original main motions).

(11) The Incidental Motions have no precedence (rank). They are in order when the need arises.

(12) A Main Motion if made when no business is pending.

(13) The maker of a motion may withdraw it without permission of the assembly before the motion is stated by the chair.

(14) The chair can complete a Division of the Assembly (standing vote) without permission of the assembly and any member can demand it.

(15) Upon a call by a single member, the Orders of the Day must be enforced.

(16) Has full debate. May go into the merits of the question which is the subject of the proposed action.

(17) A 2/3 vote in negative needed to prevent consideration of main motion.

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WHITEFISH CITY COUNCIL
November 7, 2016
7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Hildner, Feury, Barberis and Williams. Councilors Frandsen and Sweeney were absent. City Staff present were City Manager Stearns, City Clerk Howke, Finance Director Smith, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, Lieutenant Kelch and Fire Chief Page. Approximately 35 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Jamie Shennan to lead the audience in the Pledge of Allegiance.

3) PRESENTATION

a) Update on City Hall/Parking Structure Construction progress – Mike Cronquist, Owner's Representative (p. 68)

Mike Cronquist, Owner's Representative gave his report that is provided in the packet on the website.

b) Extra Mile Proclamation (p. 80)

Mayor Muhlfeld read the Extra Mile Proclamation Honoring Whitefish Community Foundation. The proclamation is provided in the packet on the website. He then provided a plaque to the Whitefish Community Foundation thanking them **for their extra mile efforts.**

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 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)

None

5) COMMUNICATIONS FROM VOLUNTEER BOARDS

Rebecca Norton, 530 Scott Avenue, the Wisconsin Avenue Corridor Study Chair announced there will be an open house Wednesday November 9, 2016 at the Whitefish Lake Lodge from 5-7 pm.

Councilor Hildner reported the Bike and Pedestrian Committee met and the final Bike/Ped Master Plan will be a Public Hearing at the Planning Board meeting November 17, 2016, and at the Council meeting December 5, 2016, and is available on the website.

6) CONSENT AGENDA

a) Minutes from October 3, 2016 Regular Meeting (p. 83)
b) Consideration of approving application from Daniel Scheffer & Triple S Landgroup for a 6-lot subdivision located at 235 Haugen Heights Road. (p. 92)

c) **Resolution No. 16-57; A Resolution of the City Council of the City of Whitefish, Montana, declaring certain property to be unneeded and obsolete, and authorizing the disposal of such property (Depot Park Building and one Police car) (p. 127)**
d) **Resolution No. 16-58; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 1.02 acres of land known as 2088 Houston Drive, for which the owner has petitioned for and consented to annexation (p. 129)**

Councilor Hildner had a correction to the minutes on page 91 of the packet that is provided online, last paragraph, third row down should read "The topic is". **Councilor Hildner made a motion, second by Councilor Feury to approve the consent agenda as corrected. 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) **Resolution No. 16-59; A Resolution to establish an increase in the public usage fee for the Whitefish City Beach boat launch (p. 141) (CD 17:00)**

Parks and Recreation Director Butts gave her staff report that is provided in the packet on the website. Councilor Hildner asked and Director Butts stated the Park Board chose $10 for the convenience for giving change to the customer.

Mayor Muhlfeld opened the Public Hearing.

Paul McCann, 340 Somers Avenue, supports the increase and would also like to see the dock lengthened.

Laidlaw, 1230 Lion Mountain Drive, supports the increase and stated it is hard to get in and out of the State Park boat launch. City Beach is a much better facility.

There being no further comments, Mayor Muhlfeld closed the Public Hearing and turned the matters over to the Council for their consideration.

Councilor Barberis made a motion, second by Councilor Hildner to approve Resolution 16-59, A Resolution to establish an increase in the public usage fee for the Whitefish City Beach boat launch. The motion passed unanimously.

b) **Consideration of a request from the Whitefish Hotel Group to amend Conditional Use Permit #14-11 for the Firebrand Hotel at 650 East Third Street to locate a hot tub on the roof (p. 144) (WCUP 14-11A) (CD 23:58)**

Senior Planner Compton-Ring gave her staff report that is provided in the packet on the website. Councilor Feury asked and Planner Compton-Ring said the application was deemed complete September 2nd, 2016, so 90 days is December 1st.

Mayor Muhlfeld opened the Public Hearing.

Sean Averill, 697 Armory Road, gave the history of the hotel. The hotel has been on the master plan for a long time. The Growth Policy recognized it as an economic driver for downtown Whitefish. The hotel was built through a Conditional Use Permit (CUP). At one time, they were leaning towards a flag business hotel before becoming a boutique hotel, which is challenging due to the amenities. They decided to build this as a design and build, when they decided they needed a hot tub on the roof top. The hotel was built over 19 lots, under current zoning 19 buildings could be built with a hot tub on the roof of every building. That was their interpretation. They thought they could put a hot tub on a patio. Sean stated the hot tub is and will be monitored by staff. This is an economic benefit for businesses downtown.

Brian Averill, 1494 Barkley Lane, said the main concern about the hot tub was sound. They consulted a sound engineer company, J.S.M Production, and he reviewed the report that is provided in the packet on the website on page 244. Brian stated that they have installed a 6-foot cedar fence for a sound barrier that absorbs the sound. The hot tub would be open 8 am to 11 pm, with security personnel and cameras. Staff is trained to protect the quiet enjoyment of other guests. Key access is required to get into the gate of the hot tub along with the elevator to the roof top. He states the hotel will lose up to 20% of revenue if there is not a roof top hot tub. They project the hotel will bring around $26.5 million that will be spent in the community on an annual basis. The visual impact was another concern. The glass around the roof top will be frosted to help block the view. Brian presented a picture that was taken from the grounds of the Middle School to show it was difficult to see into the windows of the hotel due to reflection of the glass. He also called the Principal and there have not been any complaints so far.

Paul McCann, 340 Somers Ave, is not in support of the hot tub. He was in support of the patio since there was no hot tub, no pool, no bar, and no rock band music. Now there are speakers. He asked if the condition can be limited to where there is no alcohol at all. No alcohol with help minimize the noise. If this is approved, how is it going to be enforced. The empty lot on Kalispell Avenue is being used for parking. This is an unsightly view from the neighborhood into a parking lot. This renegotiation of conditions is disturbing him.

Leo Rosenthal, 236 Columbia Avenue, opposes the project based on the size, and the impact to the adjacent neighborhood. During the CUP process, many expressed concerns regarding parking, traffic and noise associated with the roof top patio. This process went on for months and in the end, City Council decided to approve the CUP with several conditions. One condition was that the roof top patio could not be used as a bar, music or any other entertainment purposes. This condition was placed to mitigate any potential noise impacts to the adjacent neighborhood. None of the approved building plans that were submitted ever depicted a hot tub on the roof top. Concerns were raised during the original CUP process regarding parking, they said they provide 75 plus spaces for guests, but are charging the guests $12 a day to park and encouraging them to park in the residential area. They had no plans for a full restaurant or lounge for the public, more just something for the guests. They advertise live music and encourage people to come in off the street to eat and drink. They advertise the roof top patio can be used for weddings and social gatherings, and they have installed speakers, knowing that music and entertainment are not allowed. He commends City Council for being pro-active and limiting the uses of the roof top to mitigate for impacts to the adjacent neighborhood. Now it is time to follow through with the commitment and hold the developers to the conditions of the permit. This request has been denied by Dave Taylor, Building and Planning Director, the Board of Adjustments, City Planning Staff

and the Planning Board. He urges the Council to consider the residence of Whitefish and stop this hotel from impacting them any further.

Janice McCann, 340 Somers Avenue, states she is not sure about the sound study. She can hear the school announcements from the High School. She finds it hard to believe they could put the sound at the level of a rock concert at the hotel that is closer to her and she won't hear it, but she can hear the High School announcement. She also stated she can hear more when the weather is cold. It is a quiet neighborhood and it is important to protect it. She feels the residential neighborhood was there first. The hotel doesn't bother her, but the roof top does and she is not sure about the alcohol policy. She is not against alcohol, but she knows the noise that it creates.

Bart Slaney, 220 Central Avenue, stated that the intersection is busy and noisy. He does not think a hot tub near the front of the hotel will have any effect on the neighborhood to the east.

Angela Flickinger, 676 Trumble Canyon Road, Columbia Falls, the Firebrand General Manager, states her team takes all guests security and safety into consideration. Their number one goal is to create an environment that is pleasant to all their guest. Majority of their guests so far have been families and adults 45-65 years old. They are not the frat party house, and they assure that will not happen. They are thankful for their warm welcome from the downtown business neighbors. There are 51 employees and 70% live in and around the hotel. Hotel industry standards and independent studies show that the addition of a hot tub can affect occupancy by 20%, which has a huge impact on the work force along with the revenue impact it can have for downtown Whitefish. She asks the Council to take into consideration the 51 employees and the 152 family members that their decision impacts.

There being no further public comment, Mayor Muhlfeld kept the public hearing open and turned it over to the Council for discussion.

Councilor Feury made a motion, second by Councilor Williams to continue the Public Hearing until November 21st due to a correspondence that was received by the applicant's attorney after the packet was completed and after the staff report had been completed and City Attorney Jacobs is not present for legal advice. The motion passed unanimously.

8) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR (CD 1:10:20)

a) Approval of the rating panel and selection panel with one elected official to recommend the selection of a firm or firms for engineering services during 2016 – 2018 (p. 27)

Public Works Director Workman gave his staff report that is provided in the packet on the website.

Councilor Hildner made a motion, second by Councilor Williams to appoint Mayor Muhlfeld to the rating panel and the selection panel to recommend the selection of a firm or firms for engineering services during 2016-2018. The motion passed unanimously.

9) COMMUNICATIONS FROM CITY MANAGER (CD 1:15:00)

a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 297)

None

b) Other items arising between November 2nd and November 7th

None

c) Resolution No. 16-56; A Resolution relating to $779,000 Special Improvement District Bonds (Special Improvement District No. 167), Series 2017; authorizing the issuance and private negotiated sale thereof and authorizing the pledge of the revolving fund to the security thereof (p. 303)

Manager Stearns gave his staff report that is provided in the packet on the website. **Councilor Hildner made a motion, second by Councilor Feury to approve Resolution No. 16-56; A Resolution relating to $779,000 Special Improvement District Bonds (Special Improvement District No. 167), Series 2017; authorizing the issuance and private negotiated sale thereof and authorizing the pledge of the revolving fund to the security thereof. The motion passed unanimously.**

d) Review and consideration of the annual Impact Fee Report (p. 312)

Finance Director Smith gave her staff report that is provided in the packet on the website. **Councilor Feury made a motion, second by Councilor Williams to accept the Annual Impact Fee Report. The motion passed unanimously.**

e) Quarterly Financial Report (p. 321)

Director Smith gave her Quarterly Financial Report provided in the packet on the website. Mayor Muhlfeld asked and Finance Director Smith said her goal would be 20% reserves. Councilor Hildner gave Director Smith his appreciation for her report.

10) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

a) Letter from Governor Steve Bullock awarding the City of Whitefish a $40,000 CDBG planning grant for the Affordable Workforce Housing Plan (p. 331)

Mayor Muhlfeld and Councilor Williams stated there will be a presentation from the consultant on Phase 1 of the Needs Assessment at the O'Shaughnessy Center at noon on December 5th, 2016. The public is invited; refreshments and a light lunch will be provided.

b) Email from Alex Pearl of America in Bloom organization inviting the City of Whitefish to join the America in Bloom organization (p. 332)

None

Council Comment

Councilor Hildner reminded the community to vote November 8th.

Mayor Muhlfeld congratulated Police Officer Clint Peters for his offer as Columbia Falls Police Chief and his 14 years of dedicated service to the City of Whitefish. He also reminded the Council of their retreat November 15th and 16th.

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

Mayor Muhlfeld adjourned the meeting at 8:58 p.m.

_____
Mayor Muhlfeld

Attest:

_____
Michelle Howke, City Clerk

DAVID & CAROLINE DIXON
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-16-W22
NOVEMBER 21, 2016

Property Owner:	David & Caroline Dixon
Mailing Address:	1819 Polk Street #229 San Francisco, CA 94109
Telephone Number:	406.671.8310
Applicant:	Jason Pohlman
Mailing Address:	118 W. 2nd Street Whitefish, MT 59937
Telephone Number:	406.249.9492
Property Legal Description:	Lot 23-N2-BLK8 of WFSH TSTE CO 5AC TR ADD1 Subdivision in Section 25, Township 31N, Range 22W
Property Address:	360 Dakota Avenue
Lake:	Whitefish Lake
Lake Frontage:	69'
Project Description:	Repair of existing sewer line

Discussion: The applicant is proposing to repair an existing sewer line located within the Lakeshore Protection Zone. The existing domestic sewer line and municipal sewer line are both non-conforming structures within the Lakeshore Protection Zone. Previously in 2000, under WLP-00-W20, the City approved a lakeshore permit to relocate the existing sewer line to its current location. The applicant submitted an emergency lakeshore application on October 19, 2016 to replace the cracked sewer line. The applicant is replacing the sewer line in the exact same location with a small excavator. The regulations require an approved permit from the Lakeshore Protection Committee and Whitefish City Council to operate machinery with the Lakeshore Protection Zone.

Frontage and allowable constructed area: The subject property has 69 feet of lakeshore frontage, and is eligible for 552 square feet of constructed area.

Existing constructed area: There is an existing non-conforming dock located on the property, approximately 795 square feet (per previous permits). In 2013, under WLP-13-W24, the gangway was permitted to be replaced. Additionally, the applicant has indicated that there are existing stone stairs approximately 16 square feet and a fire pit on the property. However, no permits are on file for either structure.

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

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

Recommended Conditions of Approval:

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

Report by Bailey Minnich

WHITEFISH LAKESHORE PROTECTION COMMITTEE
MINUTES OF November 9, 2016

The meeting was called to order at 5:59pm by Chairman Herb Peschel.

MEMBERS PRESENT:

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

MEMBERS ABSENT: Brian Sullivan and Donna Emerson

ADDITIONS/CORRECTIONS TO TONIGHT'S AGENDA: none

APPROVAL OF JUNE MINUTES:

- Koel Abell moved to approve the August 17, 2016 minutes as presented. Joe Malletta seconded the motion. All in favor and motion carried.

GENERAL PUBLIC COMMENT: none

Old Business: none

NEW BUSINESS

WLP-16-W22 – Dixon – Repair Sewer Line
[Present: none]

Discussion:
Staff began with a presentation of the proposed project and draft lakeshore permit report. Discussion was held regarding the location of the sewer line and emergency authorization notice. Also discussed was the reason for the Committee and Council to approve the permit and why it could not be approved administratively. Staff explained that only certain activities can be approved administratively, and requiring machinery in the Lakeshore Protection Zone is not one of them.

Motion:

- Jim Laidlaw moved to approve the permit as presented. Koel Abell seconded the motion. Motion approved unanimously, 4-0.

BOARD COMMENTS: none

STAFF COMMENTS none

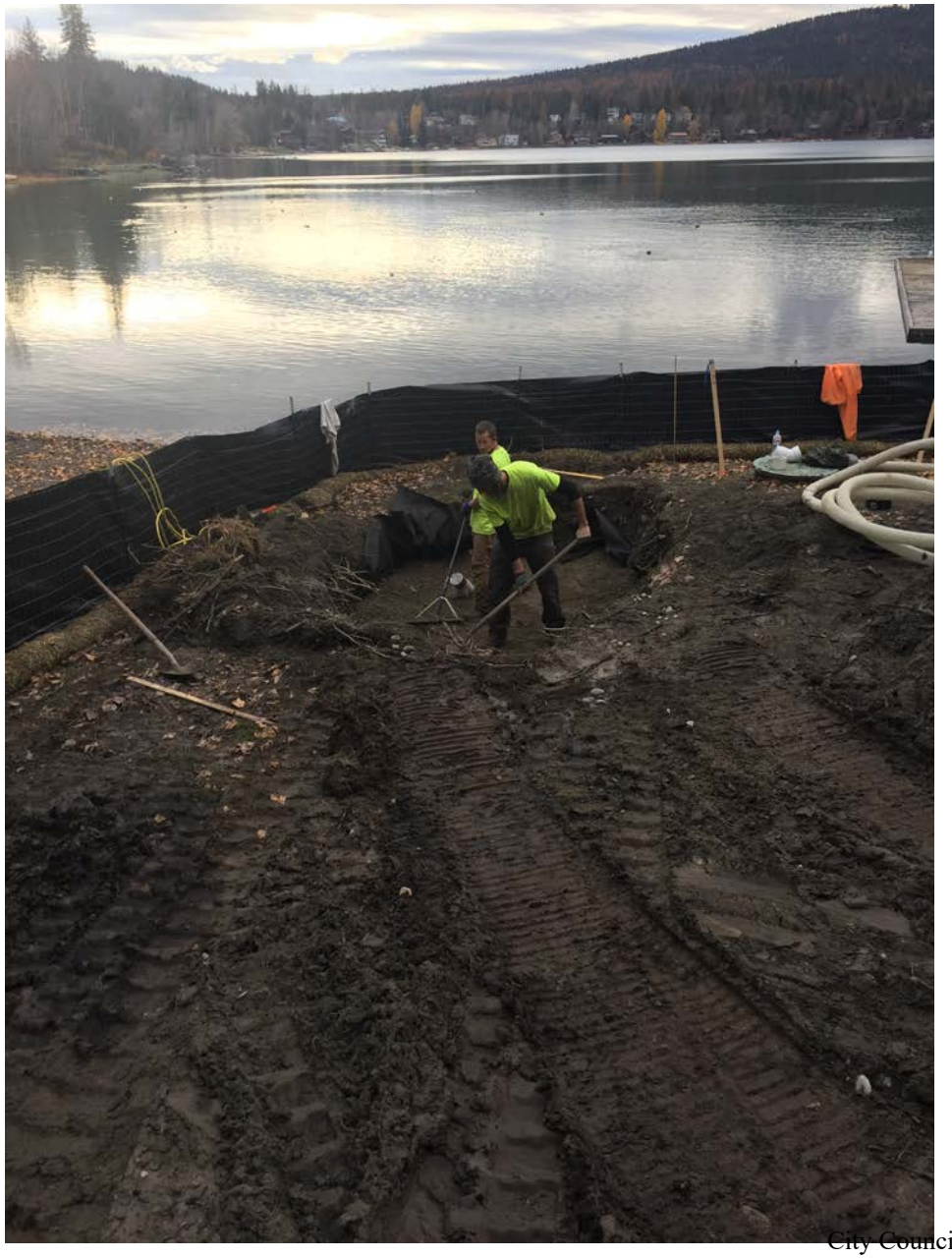
ADJOURNMENT
The meeting was adjourned at 6:07pm.

NEXT MEETING

December 14, 2016 * 6:00pm
Whitefish Planning & Building Office
510 Railway Street – Whitefish, MT

DRAFT

During repair of the sewer line



Completion of repair work

View of work area from lake after completion

DAVID & CAROLINE DIXON
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-16-W22
NOVEMBER 2, 2016

Property Owner:	David & Caroline Dixon
Mailing Address:	1819 Polk Street #229 San Francisco, CA 94109
Telephone Number:	406.671.8310
Applicant:	Jason Pohlman
Mailing Address:	118 W. 2nd Street Whitefish, MT 59937
Telephone Number:	406.249.9492
Property Legal Description:	Lot 23-N2-BLK8 of WFSH TSTE CO 5AC TR ADD1 Subdivision in Section 25, Township 31N, Range 22W
Property Address:	360 Dakota Avenue
Lake:	Whitefish Lake
Lake Frontage:	69'
Project Description:	Repair of existing sewer line

Discussion: The applicant is proposing to repair an existing sewer line located within the Lakeshore Protection Zone. The existing domestic sewer line and municipal sewer line are both non-conforming structures within the Lakeshore Protection Zone. Previously in 2000, under WLP-00-W20, the City approved a lakeshore permit to relocate the existing sewer line to its current location. The applicant submitted an emergency lakeshore application on October 19, 2016 to replace the cracked sewer line. The applicant is replacing the sewer line in the exact same location with a small excavator. The regulations require an approved permit from the Lakeshore Protection Committee and Whitefish City Council to operate machinery with the Lakeshore Protection Zone.

Frontage and allowable constructed area: The subject property has 69 feet of lakeshore frontage, and is eligible for 552 square feet of constructed area.

Existing constructed area: There is an existing non-conforming dock located on the property, approximately 795 square feet (per previous permits). In 2013, under WLP-13-W24, the gangway was permitted to be replaced. Additionally, the applicant has indicated that there are existing stone stairs approximately 16 square feet and a fire pit on the property. However, no permits are on file for either structure.

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

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

Recommended Conditions of Approval:

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

Report by Bailey Minnich

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

File #: WLP-16-W22
Date: 10/19/16
Intake Staff: BM
Date Complete: _____

LAKESHORE CONSTRUCTION PERMIT APPLICATION

WHITEFISH or LOST COON LAKE

FEE ATTACHED $ 350.00

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

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

INSTRUCTIONS:

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

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

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

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

A. LEGAL DESCRIPTION OF PROPERTY:

Street Address 360 Dakota Ave

How many feet of the lake frontage do you own? 69

Assessor's Tract No.(s) 0534250 Lot No(s) N 1/2 of Lot 23
Block # 8 Subdivision Name 1st Addition to Whitefish Townsite Company's 5 Acre Tracts
1/4 Sec _____ Section 25 Township 31N Range 22W

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

_____ _____
Owner's Signature[1] Date

_____
Print Name

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

Revised 7-28-15

OCT 19 2016

Applicant's Signature

Date

Print Name

Representative's Signature

10/19/16
Date

Jason Pohlman
Print Name

APPLICATION CONTENTS:

Attached	ALL ITEMS MUST BE INCLUDED - INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED
✓	Lakeshore Construction Permit Application
✓	Written description how the project meets the criteria in Sections C-F
✓	Site Plan drawn to scale
✓	Project Drawing that is drawn to scale
✓	Vicinity Map
✓	Minimum of three (3) photos: 1 photo of property from lake; 2 photos showing lakeshore protection zoning from property boundary toward the other property boundary (e.g., from the north property line across property to the south) and photos of each existing structure or constructed area within the lakeshore protection zone (dock, boathouse, stairs, etc.)

B. OWNER(S) OF RECORD:

Name: David and Caroline Dixon Phone:

Mailing Address: 1819 Polk St #229

City, State, Zip: San Francisco CA 94109

Email:

APPLICANT (if different than above):

Name: Jason Pohlman Phone: 249-9492

Mailing Address: 118 W. 2nd St

City, State, Zip: Whitefish, MT 59937

Email: jason@mindfuldesignsinc.com

CONTRACTOR:

Name: applicant Phone:

Mailing Address:

City, State, Zip:

Email:

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

Plan to replace failed sewer line from the house to the main. We will use schedule 40 pipe and dig with a small excavator. When crossing the 20' lakeshore protection zone, we will extend the erosion control around our dig area. After repair, we will rehabilitate disturbed area to original condition.

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

Our erosion control is a steel backed silt fench trenched into the ground with straw waddle. These measures should alleviate any environmental impacts.

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

Property is old, but new to current owners. These items were existing and look like they've been there a very long time...
Dock- approx 40sf
Stone steps- ~16 sf
Firepit ~10sf

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

n/a

Bailey Minnich

From: Jason Pohlman <jason@mindfuldesignsinc.com>
Sent: Wednesday, October 19, 2016 3:48 PM
To: Bailey Minnich
Subject: Fwd: Sewer line repair to 360 Dakota

Authorization for Permit at 360 Dakota Ave

Hi Jason,

This provides our authorization for you as our representative to submit the permit to the Whitefish City Lakeshore committee to replace the sewer line at 360 Dakota.

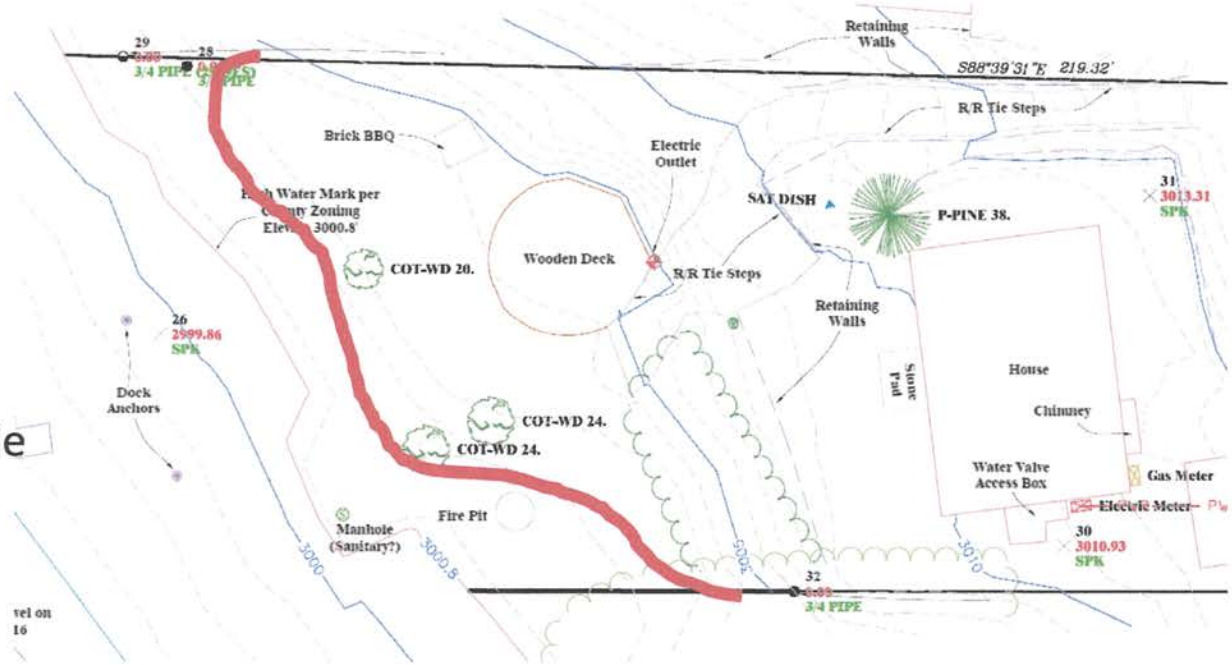
Thank you,
Caroline and David Dixon

--
Jason Pohlman

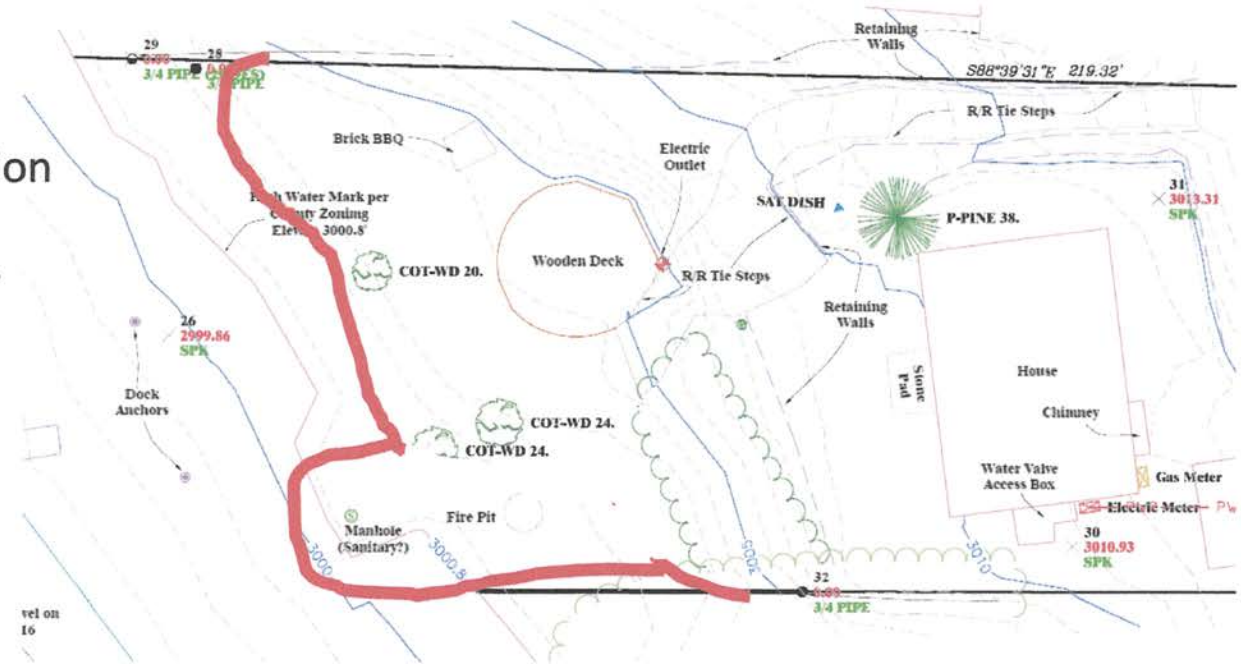
Mindful Designs
c. 406.249.9492
o. 406.863.9177
www.MindfulDesignsInc.com

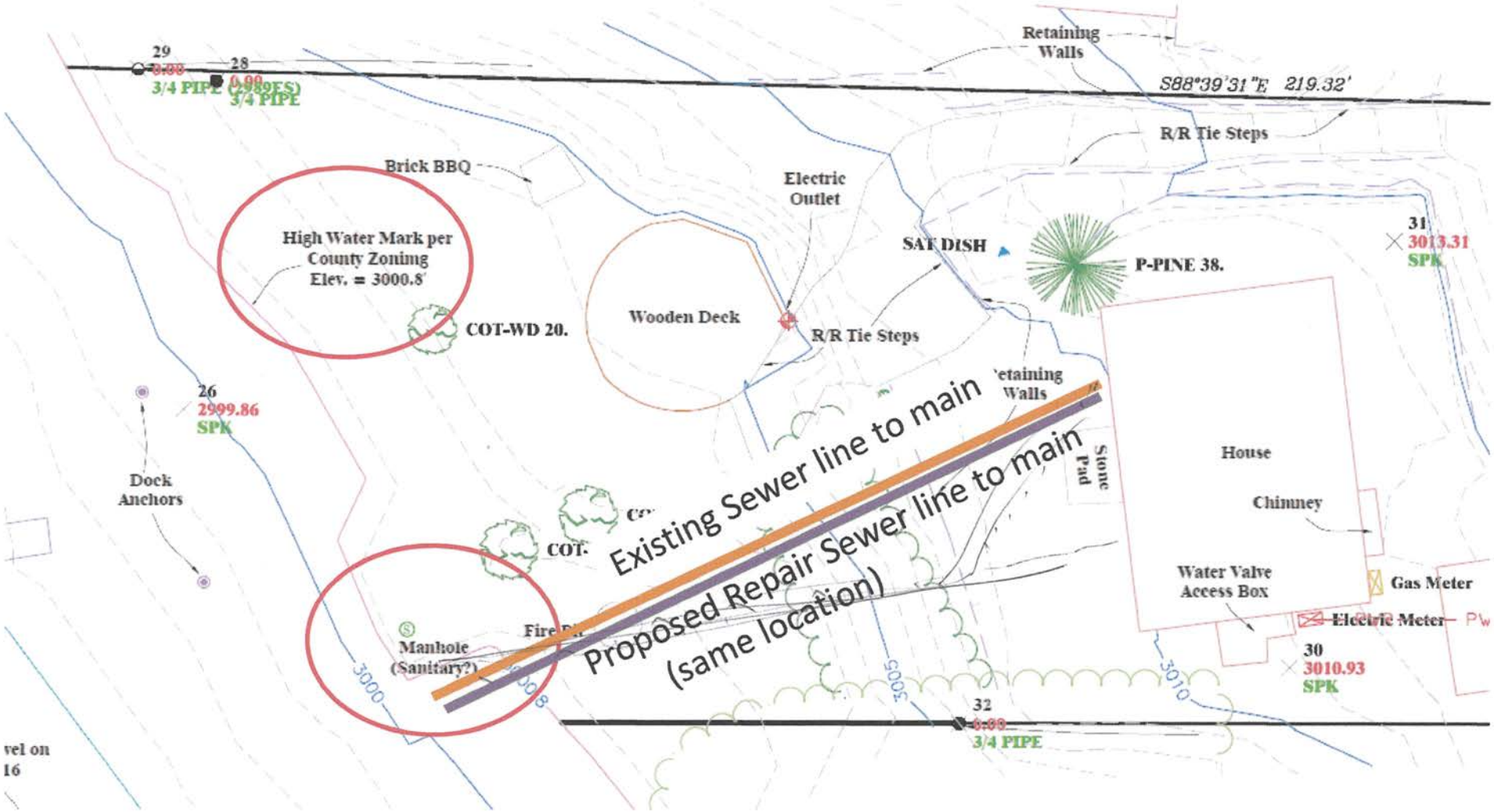
EXPERIENCE THE EFFICIENCY OF IN HOUSE
DESIGN | BUDGET | BUILD

Existing erosion control plan with silt fence and straw waddle

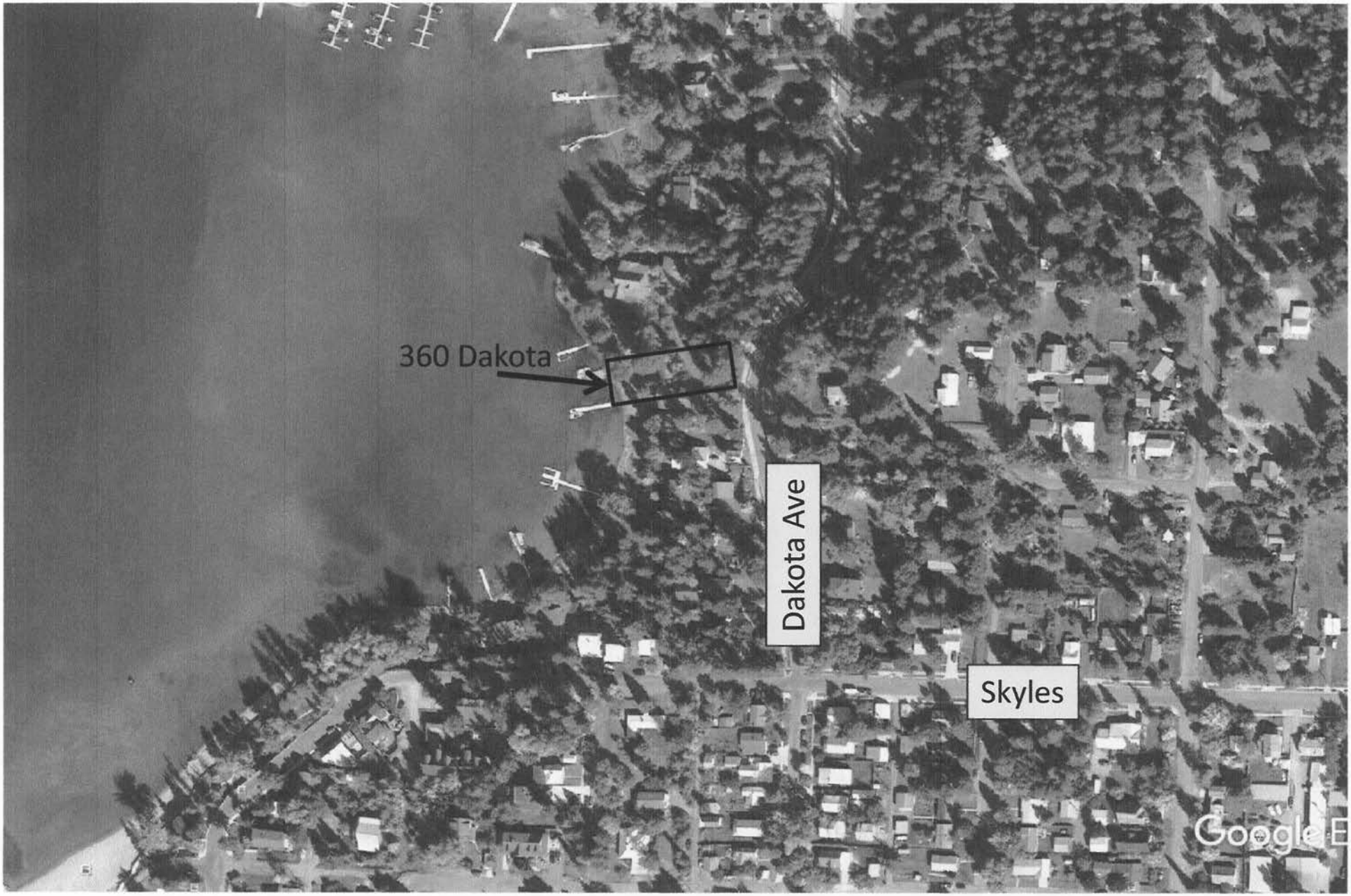


Proposed temporary erosion control location for sewer repair connection




29
0.00
3/4 PIPE
28
0.00
3/4 PIPE
Retaining Walls
S88°39'31"E 219.32'
R/R Tie Steps
Brick BBQ
Electric Outlet
High Water Mark per County Zoning Elev. = 3000.8'
SAT DISH
P-PINE 38.
31
3013.31
SPK
COT-WD 20.
Wooden Deck
R/R Tie Steps
26
2999.86
SPK
Retaining Walls
Existing Sewer line to main
Proposed Repair Sewer line to main
(same location)
Stone Pad
House
Dock Anchors
Chimney
COT.
Water Valve Access Box
Gas Meter
Electric Meter
Manhole (Sanitary?)
Fire
3000
3005
3010
30
3010.93
SPK
32
0.00
3/4 PIPE
vel on
16

Vicinity Map



Man hole to sewer main located
just outside high water

High water designation
by Sands Surveying, Sept '16

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

November 15, 2016

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

RE: Firebrand Hotel – request to amend Condition #22; (WCUP 14-11A)

Honorable Mayor and Council:

Update: At the November 7, 2016, the City Council opened the public hearing, took public testimony and passed a motion to continue the public hearing, leaving public comment open until the November 21, 2016 meeting when the city attorney could review a letter received by the applicant's attorney. It was noted that the Conditional Use Permit was deemed complete on September 2, 2016 and needs to be acted on by the City Council on or before December 1, 2016 pursuant to §11-7-8E(7), WCC.

Summary of Requested Action: Jeff Badelt on behalf of Whitefish Hotel Group llc is requesting a Conditional Use Permit to amend Condition #22 of WCUP 14-11 to locate a hot tub on the roof of the hotel. The property is developed with the Firebrand Hotel and is zoned WB-3 (General Commercial District). The Whitefish Growth Policy designates this property as "Core Commercial". The hot tub would be in the northwest portion of the roof – on the north side of the hotel and would only be available to guests of the hotel with a key card by either the elevators or stairs.

Planning & Building Department Recommendation: Staff recommended the original conditions of approval be maintained and did not recommend approval of the change to Condition #22.

Public Hearing: The applicant and the hotel manager spoke at the public hearing on October 20, 2016 in support of the application and described the noise study included in the packet. Two members of the public spoke in opposition to the request citing noise and incompatibility with the neighborhood.

The draft minutes for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on October 20, 2016. Following the hearing, the Planning Board recommended <u>denial</u> of the above

referenced conditional use permit and adopted the staff report as findings of fact (4-2, Linville, Qunell voting in opposition; Ellis was absent).

Proposed Motion:

- I move to deny WCUP 14-11A along with the Findings of Fact in the staff report, as recommended by the Whitefish Planning Board.

This item has been placed on the agenda for your regularly scheduled meeting on November 7, 2016. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

Wendy Compton-Ring, AICP
Senior Planner

Att: Draft Minutes, Planning Board, 10-20-16

Exhibits from 10-20-16 Staff Packet

1. Staff Report – WCUP 14-11A, 10-13-16
2. Adjacent Landowner Notice, 9-30-16
3. Advisory Agency Notice, 9-30-16
4. Email, McCamley, 10-3-16
5. Email, VonLindern, 10-6-16
6. Email, Bortree, 10-6-16
7. Email, D. Lard, 10-6-16
8. Email, Kohl, 10-7-16
9. Email, L. Lard, 10-7-16
10. Email, Ledyard, 10-7-16
11. Email, Sarratt, 10-7-16
12. Email, Scott, 10-7-16
13. Email, Kahane, 10-7-16
14. Email, Fisher, 10-10-16
15. Letter, Rosenthal, 10-11-16
16. Email, Cutforth, 10-11-16
17. Email, Sausen, 10-11-16
18. Email, Fairbank, 10-12-16
19. Letter, Kraus, 10-13-16
20. Approval Letter, WCUP 14-11, 2-3-15
21. Minutes, City Council, 2-2-15
22. Minutes, Planning Board, 1-15-15
23. Minutes, Planning Board, 12-18-14
24. Minutes, Board of Adjustment, 5-3-16
25. Pictures, Downtowner Hot Tub, 10-11-16

The following were submitted by the applicant:

26. Application for Amended Conditional Use Permit, 8-23-16

The following were received after the Planning Board packet was mailed:

27. Email, Watkins, 10-17-16
28. Email, N. Howard, 10-17-16
29. Email, Carloss, 10-19-16
30. Email, Gulick, 10-19-16
31. Email, Blackwell, 10-19-16
32. Email, Taylor, 10-19-16
33. Email, E. Howard, 10-19-16
34. Email, Daniels, 10-19-16
35. Email, King, 10-19-16
36. Email, Thomas, 10-19-16
37. Email, Hyatt, 10-20-16
38. Letter, Gartland, 10-20-16
39. Letter, N. Howard, 10-30-16
40. Email, J Hannon, 10-31-16
41. Letter, M Hannon, 11-1-16
42. Email, Schultz, 11-1-16

The following were received after the City Council packet (items were handed out at the meeting):

43. Email, Strellnauer, 11-1-16
44. Letter, Datsopoulos, MacDonald & Lind, 11-2-16
45. Email, Jense, 11-7-16
46. Email, C Blackwell, 11-7-16
47. Email, Neal, 11-7-16
48. Email, Celentano, 11-7-16
49. Email, Cripe, 11-7-16
50. Email, Shors, 11-9-16

c: w/att Michelle Howke, City Clerk

c: w/o att Jeff Badelt, Whitefish Hotel Group llc, PO Box 275 Bigfork, MT 59911

	there are currently too many unknowns. The density might have to change because of the water in that area and without knowing that it is too hard to go forward. Assuming the vote will be to continue until next month, Hildner asked the developer to include a further discussion on including a place to recycle as he will probably ask to have that added as a Condition. Secondly, he would like the developer to incorporate boulevard trees and boulevard irrigation, along with some of the things they have concerns about. Qunell asked and Mr. Lapp said a month will probably be enough time to address these items. He asked and Compton-Ring said Planning staff would need to get stuff early, review it and get it to the Planning Board. Mr. Lapp asked if it could be delayed to the next month if necessary and she agreed. Chairman Meckel reminded the Board of its responsibility and discretion. Members are not designers, which is why we have the Public Works Department. He typically would not want to get too much into the design, but in this case, he agrees with Hildner that the high groundwater situation is a big concern. He cautioned the Board about crossing the threshold and trying to do Public Work's job and just to be wary of the line. Norton said she appreciates Chairman Meckel's caution.
VOTE	**The motion to continue passed unanimously.** The matter was previously scheduled to go before the Council on November 7, 2016.
BREAK: 7:15 pm	Five-minute break with microphone off.
PUBLIC HEARING 2: WHITEFISH HOTEL GROUP WCUP CONDITION AMENDMENT REQUEST 7:20 pm	A request by Whitefish Hotel Group to amend Condition #22 of Conditional Use Permit WCUP 14-11 to install a hot tub on the roof of the hotel. The property is zoned WB-3 (General Business District). It is addressed as 650 East 3rd Street and can be legally described as Whitefish Original Townsite, Block 46, Amended Lots 1-18 in S36, T31N, R22W.
STAFF REPORT WCUP 14-11A (Compton-Ring)	Compton-Ring reviewed her staff report and findings. As of the writing of the staff report, fifteen public comments have been received. Eleven comments were in support of the request on the basis that it will bring more business to the hotel and add value to the hotel. Three comments were not in support of the request, citing continued concerns with noise

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	and neighborhood impacts. One comment questioned the use of the roof as usable space; essentially a fourth floor, when the maximum number of floors in Whitefish is three. Since the packets went out, there have been twelve additional comments, two against and ten in support, with a couple of them suggesting closing the hot tub at 10:00 pm, so there are now 24 comment letters. Staff recommended the Whitefish Planning Board adopt the findings of fact within staff report WCUP 14-11A, and recommend to the Whitefish City Council that the original conditions of approval be maintained and amendment to Condition No. 22 be **denied**.
BOARD QUESTIONS OF STAFF	Qunell asked for clarification on how Planning staff found out how the Whitefish Hotel Group was going to be building a hot tub on the roof of The Firebrand, and what set of building plans they finally saw that incorporated the hot tub. Qunell asked and Compton-Ring said the July 24, 2015 building plans did not show any type of hot tub nor plumbing for a hot tub. Minnich reviews the building plans and said it started as a rumor in the Fall of 2015. In January 2016, theApplicant said they were planning to do a hot tub. To her knowledge, no building plans have ever been submitted showing the hot tub or plumbing. Taylor said the Applicant was told they would not be able to include a rooftop hot tub, so they were looking at other means to pursue it and would have had to submit additional drawings to be able to do so. Qunell asked if Planning staff had to contact the Applicant and tell them a hot tub was not okay. Taylor said the Applicant thought a hot tub was part of a patio, but because of the specific language the City Council placed on the Condition, he made the determination that since it was never talked about nor anticipated, but since it would have some of the same impacts of what was anticipated, a hot tub was also covered in that Condition and they would have to pursue other mean to get approval for a hot tub. Norton asked and Taylor said there are no statutes about indecent exposure in the City Code, but she would have to ask the Police.
APPLICANT / AGENCIES	Sean Averill, Whitefish Hotel Group, said the Growth Policy anticipated a downtown hotel in Whitefish for 20 years and there are plenty of reasons why it did not happen for a long time because it is very challenging and difficult to get one, along with being very expensive, and he described failed previous attempts. The Whitefish Hotel Group deemed this as a partnership with the City to get a hotel downtown. The Whitefish Hotel Group went through the CUP process, and when they submitted the CUP, they anticipated a flag business hotel with a

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brand on it. The reason was because the appraisal came back and the bank was going to require having a branded hotel to make it work. The City Council said they did not want that, they wanted a boutique hotel, and the Applicant agreed, but it was easier said than done as they had to redo everything. The original plan had a basement pool, but to make this a true boutique hotel, they felt they needed to get a hot tub included and the roof seemed like the best idea for its placement. They did not mean to be secretive, it was just a big change at the last minute and they were just busy moving through the process of redesign to change it from a brand hotel to a boutique hotel, including getting it reappraised and secure financing. They feel they are a good partner with the City on this hotel. They moved it over 18' and gave up a big strip to the City, kept a small footprint, and tried to make it look like it has been there for a while by using a lot of brick and rock. They think they have done a good job of making this look like something the community will be proud of. Mr. Averill believes, if they had known what they needed for a boutique hotel the first day they would have shown a rooftop hot tub and it would have been approved from the outset but because they did not know, he feels they are kind of being punished on this.

Brian Averill, 1494 Barkley Lane, feels noise is the main issue and he agrees it is an issue, but creating noise impacts their guests which hurts the Hotel's reputation and revenue. They wanted to study the noise to see if there is an impact and come here with some hard proof. They hired a sound engineer company out of Missoula who measured the noise as it exists today and added a noise source and re-measured it. He went over the results that are included in the packet. They took it to the level of what a rock concert would be and the main takeaway is there was no discernable noise increase in the neighborhood between pink noise and rock concert noise. They have an eight-foot high cedar fence on the south and east sides of the proposed hot tub area and are planning to frost the glass on the north and west sides which would block direct sight access to the School. Since sounds travels in a straight line, it is not able to carry over the fence into the neighborhood. They plan to operate the hot tub from 8:00 am until 11:00 pm, with quiet hours after 11:00 pm. They have security, security cameras, and staff trained to deal with noise situations. They will use a key card system to access the elevators and stairways and will restrict the access after 11:00 pm.

Mr. Averill pointed out a letter in the packet from a gentleman at PKF Consulting, a foremost hotel consulting company in Montana, concerning why hotels need hot tubs, and the impact on the revenues

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of a hotel if they do not have a hot tub, which he identified as 10-20% annually for a mountain resort destination with proximity to skiing. That could jeopardize the whole financial viability of the hotel.

Mr. Averill reminded the Board of what he previously mentioned during the approval process that the ratio between the amount a hotel guest spends in a hotel and how that equates to an economic benefit to the community. They anticipate guests of The Firebrand Hotel would generate $26.5 million spent locally, and based on the 10-20% impact to the community, that would be approximately $5 million annually.

Qunell asked and Mr. Averill explained why some of the sound readings were taken for 15 minutes and others were not because they were averaged. Qunell asked and Mr. Averill said requiring the clear glass to be frosted as a Condition would not be a problem.

Laidlaw said he can understand the issue of the sound, but he thinks there is a greater underlying concern, with all their expertise, initial planning, work done with international chains, etc., that went into this hotel, why wasn't the hot tub ever raised at all? And yet it is now all completed except for the actual machinery of the hot tub itself being put in. Why has it taken so long to figure this out? Mr. Averill said that is a fair question. Sean alluded to all the different challenges and the week before they went to City Council, they changed from a branded hotel to making a commitment to make it an independent hotel. They went from a commercial hotel box, where the chain is going to produce 40-60% of the clientele through reward points, memberships, etc., with them not having to do anything, to an independent hotel where they must do everything themselves, based on the services and amenities they provide. After they got through City Council, they redesigned the services and amenities. The hotel, if the architect was here, would tell us it was in a "design-build" process almost to when the building was totally open. In hindsight, it was a terrible decision, but they wanted to open in summer of 2016.

Laidlaw toured the property the other day and this morning, and thought we were talking about a 10:00 pm closing, but now they are saying 11:00 pm. He asked and Mr. Averill said they have tested going until 10:00 pm at The Lodge and prefer 11:00 pm, but having the hot tub is more important than the hours.

Qunell asked and Mr. Averill said the speakers are for music. Qunell pointed out the Condition says no music and Mr. Averill said it is a residential, household speaker used to create ambiance as it is awkward

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not to have any background noise, but the volume is controlled downstairs. This is a touchy issue.

Hildner said he recently observed noise when he left a function at Central School at 9:30 pm and the amount of noise from the roof of The Firebrand was sufficient to draw his attention and that of his companion, and not just in a casual way. That concerns him. Hildner asked and Mr. Averill said people using the hot tub would have access to both the open area and the currently locked enclosure. Hildner asked and Mr. Averill said access is controlled by your room key card, which can be programmed to prevent access after stated hours of operation. The elevator is programmed to shut off at prescribed times.

Laidlaw said when he toured the facility, the manager said the patio equipment is borrowed from The Lodge but the layout is the same as what it is designated for, a place for people to relax in the sun and enjoy themselves. He is concerned with Winter Carnival, or other public events up there. Mr. Averill does not want to make commitments about what is not going to happen there, but he does not anticipate that being a big issue as you must maintain space for hotel guests. Winter Carnival has already approached them about whether they can announce from the patio.

Norton said when this came through Planning Board, there was a pool and she assumed a hot tub in the basement and they deviated from the plan. She said it looks like there is a meeting room and workout room in the basement and asked if it was possible to convert a hotel room to a hot tub room and get a hot tub in another area of hotel. Mr. Averill said it is probably possible, but their bank loan is predicated on a certain number of guest rooms, and there would probably be some structural issues, so it would be difficult.

Hildner said he can understand the desire for a hot tub, but nothing he has read says it must be on the roof. Their original plan called for a swimming pool and hot tub at the ground level and they choose not to do that but to put in some conference facilities instead. He takes their word for it that a hot tub is necessary for the solvency of the project, but he does not see anything that says it must be on the roof, especially when considering the size of the hot tub, which is 22.5' long, 4.5' deep and 8' wide, almost to lap-pool size. It is a big hot tub. Mr. Averill referred to the PKF consultant's letter, which says aside from a lounge/beverage service, an outdoor hot tub is rated as the most amenity for a mountain resort property with proximity to skiing. A basement hot tub would be run of the mill, and as a high-end boutique

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	independent place, they are looking for a unique. The size is based on maintaining enough space on the patio for everyone else and is rated for 16 people. They have 86 guest rooms with an average of 1.5 people per guest room, but the size of the hot tub is more based on the size of the hot tub at The Lodge. Jeff Badelt, the Whitefish Hotel Group, said the measurements described by Hildner are the overall measurements including decking, so the tub itself is 7' by 20'. The space with the tub would hold 16 people and without would hold 24 people. It is already approved for potentially 24 people standing out in the rain chatting and now they are looking for approval for 16 people sitting in the water and he does not see how that is a big difference.
PUBLIC COMMENT	Leo Rosenthal, 236 Columbia Avenue, lives one block east of the hotel. He has been opposed to this project since the inception of it. He and lots of other residents of Whitefish have concerns with the size and scale of the hotel. They talk about this being a boutique hotel but they had to get a Conditional Use Permit because the size they wanted to build was twice the size footprint of what zoning allowed. There were other residents of Whitefish who were concerned about parking, noise having to do with the rooftop patio. This went on for months and much to his chagrin, the City Council decided to pass this Conditional Use permit. They took a lot of the input from the public and residents of the historic downtown neighborhood, and carefully put a lot of different Conditions into approving this project, including landscaping and parking, but one of the most important Conditions they included was that the rooftop patio could only be used for patio - not for music, not for a bar, and not for any other entertainment purposes. Contrary to what Brian and Sean will tell you, they tried to slip this one by the City. It wasn't until City Planning staff heard rumors about it and prodded the developers who finally admitted to putting a hot tub on the roof. Had they not heard about this, there would be people sitting up there right now. This is just another example of the owners trying to get one over on this. There have been other Conditions that were worked through during the CUP portion of this, one of which was providing adequate parking for guests and they agreed to put in 76 parking spots for guests, and now they charge $12 per day for their guests to use the parking. If guests do not want to pay, they suggest they use the residential neighborhood. They also said they were going to have a minimum beverage service when there were concerns about have a bar and lounge across the street from the Middle School. Brian said they needed to have a minimum beverage and food service for their guests, but now if you look at Flathead Events online they have live music

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almost every day scheduled and have signs on the street where they are trying to bring guests in off the street to come in and visit their lounge. It is just another example of them being disingenuous with their motives. In his opinion they have not fulfilled all the Conditions the City Council placed on them and now are coming back and trying to get amendments to Conditions they have not even fulfilled. He urged the Board to uphold the City Council's Conditions they placed on this hotel to mitigate the impacts of such a large hotel on the adjacent neighborhoods, the historic downtown neighborhoods of Whitefish. These impacts have already been felt in their neighborhood and he urged the Board to uphold the City Council's Conditions and stop them for doing any more damage to their neighborhood.

Nola Howard, 224 Columbia Avenue, has owned that property for 38 years and seen a lot of transition. She was one of the people interested when they first wanted to put this hotel in this location and she wrote a 2-3-page document expressing her concerns with noise, parking and the location in general. She thinks what they have done is very nice and the Planning Board and staff as community representatives have done well to work with them to protect the community. Regarding the noise issue, OSHA law requires an employer to give employees headgear at 85 decibels, as it causes damage to the ears. When Mr. Averill was talking about 75 decibels, that is annoying if it is people yelling on an overhead bar, but if it is music, it is very annoying. As an example, during Octoberfest last year at 11:00 pm she was living by the Duck Inn, a mile away, and it was so loud that she couldn't sleep. We should be going by the top decibel, not the average decibel. Music should not be allowed period, ambiance or otherwise. From a safety issue, when you get in a hot tub, you will get drunk faster. We live in a higher elevation and people from lower elevations do not realize they can get drunk faster, due to oxygen deprivation. People also easily suffer from dehydration when they drink a lot of alcohol and/or caffeine and do not realize those are diuretics. She doesn't know the clientele they are looking for, but ski groups and Carnival will be a real issue up there. If they are looking for a family friendly place where people can come for business, a place where you do not want to be in the lounge/bar or restaurant, you have a third place to go as a family, which would be on the rooftop. She does not think the ambiance of a hot tub with people getting inebriated, would be a benefit to the hotel or community. She thinks the business will do well and they just must find their thing, but she doesn't think this hot tub will speak to all the people who want to stay there and may invite clientele that might make some people not want to go there. She felt kids getting access to key cards and going to the rooftop by themselves may be another safety

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issue. She just recent found out about the $12 charge for parking. While the hotel was being built, people on her street had to accept all the construction traffic and they accepted it. However, they made a very special point to City Council that they do not want their street to be a parking lot for hotel guests, friends or employees. She understood the employees would not be parking on their streets and there would be a way for them to get to work that would not involve using the streets as a private parking lot. People have been told by the hotel employees to go park in front of the houses on the streets if they do not want to pay the $12. The Planning Board has done everything to represent the community and answered the hot tub question numerous times and she thinks it should keep with what it has already decided. She thinks the parking should be addressed to get it off their streets and the developers should be held to their agreement to provide parking for their guests. She is happy about having the hotel, but does not want there to be a noise impact.

Angela Flickinger, 676 Trumbull Canyon Road, General Manager of Firebrand, is responsible for booking music at The Firebrand on Saturday nights and it is dinner music in the lounge from 7:00 to 10:00. As General Manager representing The Firebrand, it is very important they establish a relationship with the community. They have a sales focus where they are going to the downtown business owners, introducing themselves and saying how excited they are to be downtown. They are asking them what they can do to work with other downtown businesses to make Whitefish even better, to increase tourism and business. Their 51 employees are looking forward to having successful careers at the Hotel and she wants that to start with a good relationship with the community. The Performing Arts folks come in and have dinner with them before performances and stay with them. BNSF is excited to be part of their hotel community. The support they have gotten from downtown stores has been awesome.

There being no further comment, Chairman Meckel closed the public hearing and turned the matter over to the Planning Board for consideration.

Norton disclosed she received a public comment via telephone tonight at 5:19 pm, from Chris Holt who got her number from Jan Metzmaker. Norton read the notes she took during the conversation into the record as Ms. Holt was not able to attend tonight. Ms. Holt has been a teacher at the Middle School for 39 years, teaching 7th and 8th grades, as well as working with the student council and supervising students on special projects before and after school. Twice in the last week her students

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	have observed people without clothes on getting dressed in their rooms with their lights on and the shades open. The children can see the patio from about the calf level upwards and Ms. Holt is concerned about indecent exposure from the rooms and activities the children might be exposed to in a hot tub from 8:00 am to 11:00 pm, which includes school hours. Norton wanted to bring it to the attention of the Board and the Hotel owners.
MOTION / BOARD DISCUSSION	Hildner moved and Norton seconded to deny amendment to Condition #22 to permit a rooftop hot tub at The Firebrand Hotel. Hildner said the Planning Board initially addressed the issue, Council in addressing the issue came up with Condition No. 22, and it was clear how Council was responding to the wishes, desires and concerns of the neighborhood. Then the Board of Adjustment upheld the Planning Director's statements on the purposes of a patio versus and/or a hot tub, followed by the Planning staffs' recommendation to deny. In taking another look at this with regards to the necessity of a hot tub, he thinks that could have been addressed as it was initially in the designs of the Hotel, but to come back later at this point is not in keeping with the actions of Council, Board of Adjustment, and Planning staff. Norton said she feels bad about how this has come out because she can see their vision and thinks it would be a great idea in another setting, and beautiful on the roof if on another setting. Unfortunately, the plans presented were in the basement and that is what was approved at the time it passed through the public process. To have this come out later, when we have a lot of concerns already about the noise levels and now what the children are seeing, she does not think it is appropriate to allow it. She hopes they can make it work in the basement and she is sure they will do a great job. She is sorry it was not discussed earlier, as maybe there would have been another location where it would have worked out, but she is against it at this point. Qunell said there are some things that probably need to be said. His original concern was there was some aspect of being sneaky,but in this case, he does not think this is what happened. He thinks what happened is what the Applicants said, this was a design-build project where they were running as fast as they could to get things done and to include the amenities they felt they needed to have in this Hotel to make it successful. Though, he also has two questions, what did City Council mean in Condition No. 22 that no other uses will be permitted and he thinks they meant what they said - they did not envision a hot tub being up there. That is the current Condition and what they meant,

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but now the other question we are looking at is trying to decide if the noise, and now the issue with indecent exposure, is going to be a nuisance. Qunell believes the noise will not be an issue as he believes in science. It was suggested at the Board of Adjustment meeting it would be nice if there was a study about the noise and the Applicant went out and did it. They have been acting above board, but there is a perception unfortunately in the community that they are trying to slip one through. He honestly does not think that is the case. Ultimately, he does not think the Planning Board should be the ones dealing with this, he thinks they should go back to the Council and say we know this is what you said, but this is what we need to make this a successful project. He does not think there is anyone in this room that does not want this project to be a success. He wishes there was some way to negotiate or compromise somewhat on where the hot tub is located, and that is the real issue. Unfortunately, through the design-build process the hot tub was put on the roof, but it got us to this point whereas if they knew they could not put it there, the design-build would have put it somewhere inside. He would hope we have some sort of leverage to rethink that the location, or just no hot tub, but he does not think that is a good idea. He believes as an amenity downtown, they need to have a water feature, and he hopes they can find a way to do that. He thinks it needs to go back to the City Council.

Qunell said he would like to add a Condition of Approval as a separate motion that if this does go through that there is frosting on the glass, but Taylor said since the motion to deny, adding a Condition towards the Approval would not make sense. If the motion should fail, then Qunell could offer the motion.

Laidlaw agreed completely with what Qunell said. He thinks they have done an excellent job. He has looked at all the research and studies the letters, and the hot tub is a feature they must have. He has a problem with the location and what this will lead to, but he is sure they will figure out a way to have one and they do need one, but not there.

Linville said at this point she thinks the planning part seems sort of reactionary, and it is difficult to be looking at this plan and considering this amenity only in this one available place where it is prepared to be put. She understands the community concerns, and it is an amenity an upscale hotel would need, but there is no discussion where it could go. Facing the school is a concern for some community members and the noise is a concern. The view would be nice for the Hotel, but she is struggling that there is no conversation around relocating it on the roof because it sounds like something that is appropriate for the hotel, but

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	they may need to adjust the exact placement of it. Chairman Meckel called for the question.
VOTE	**The motion to deny passed, with Chairman Meckel, Hildner, Laidlaw and Norton voting in favor; and Linville and Qunell voting against denial.** The matter is scheduled to go before the Council on November 7, 2016.
PUBLIC HEARING 3: CITY OF WHITEFISH REZONE REQUEST 8:45 pm	A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The property is unaddressed off Highway 93 West, and can be legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of S35, T31N, R22W.
STAFF REPORT WZC 16-07 (Minnich)	Planner Minnich reviewed her staff report and findings. To date, no comments have been received. Staff recommended adoption of the findings of fact and conditions of approval within staff report WZC 16-07, and for **approval** to the Whitefish City Council.
BOARD QUESTIONS OF STAFF	Hildner asked and Minnich said the annexation was at the request of the landowners.
APPLICANT / AGENCIES	None.
PUBLIC COMMENT	There being no comment, Chairman Meckel closed the public hearing and turned the matter over to the Planning Board for consideration.
MOTION / BOARD DISCUSSION	Hildner moved and Norton seconded to adopt the findings of fact within staff report WZC 16-07.
VOTE	**The motion passed unanimously.** The matter is scheduled to go before the Council on November 21, 2016.
PUBLIC HEARING 4: CITY OF WHITEFISH REZONE REQUEST 8:50 pm	A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The property is unaddressed off Highway 93 West, and can be legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of S35, T31N, R22W.

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WHITEFISH HOTEL GROUP
CONDITIONAL USE PERMIT – AMENDMENT OF CONDITION #22
STAFF REPORT
WCUP 14-11A
October 13, 2016

A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by the Whitefish Hotel Group to amend condition #22 of Conditional Use Permit WCUP 14-11 in order to locate a hot tub on the roof of the Firebrand Hotel. A public hearing is scheduled before the Whitefish Planning Board on October 20, 2016 and a subsequent hearing is set before the City Council on November 7, 2016.

A. OWNER:

Whitefish Hotel Group
Jeffrey Badelt
PO Box 275
Bigfork, MT 59911

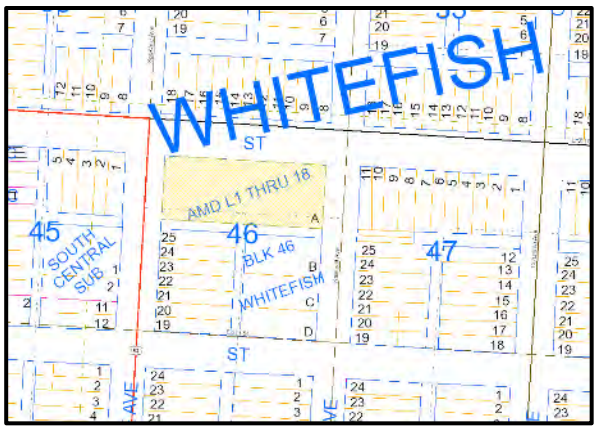
B. LOCATION OF PROPERTY:

The Firebrand Hotel is located at the southeast corner of E 2nd Street and Spokane Avenue. It can be described as Block 46, Amended Lots 1-18, Whitefish Original Townsite.

C. ZONING:

The property is zoned WB-3 (General Business District).

D. NATURE OF REQUEST:



The applicant is requesting a Conditional Use Permit in order to amend Condition #22 of WCUP 14-11 to locate a hot tub on the roof of the hotel.[1] The hot tub would be located in the northwest portion of the roof – on the north side of the hotel and would only be available to guests of the hotel with a key card. The hot tub would be accessed by either the elevators or the stairs. Attached to this report, please find the written request from the applicant and supplemental

[1] The zoning regulations do not have a separate process to amend a condition of an approved Conditional Use Permit. In order to amend a condition of approval, one must reapply for a new Conditional Use Permit (CUP).

reports.

While this request is only related to the hot tub request and Condition #22, it should be noted that all conditions of approval have been met for the Conditional Use Permit or they are working on finalizing some items (street furniture and street lights are due in late October). The approval letter with all conditions is attached as an exhibit to this report.

Background

The Whitefish City Council approved the Conditional Use Permit for the Firebrand Hotel to exceed 7,500 square foot footprint on February 2, 2015 subject to 24 conditions of approval. During the public hearing process before both the Planning Board and City Council, public comments identified concerns related to activities on the roof of the hotel. Residents noted how noise from nearby restaurants and bars infiltrate adjacent neighborhoods and the location of the hotel, even closer to the residential neighborhood, could be more intrusive. As such the Council added condition #22 to state:

> "Under no circumstances shall the roof top facilities be used as a bar, for music or other entertainment or for anything other than a patio. (Whitefish City Council Meeting, 2-2-15)"

It was discovered by staff on January 7, 2016 during the construction process that there were plans to install a hot tub on the roof of the hotel. The hot tub was not shown on the building plans (issued on 7-24-15) staff originally reviewed nor discussed during the land use planning process, but was added at a later date by

the owner. Once this intention was revealed, staff reviewed the conditions of approval and informed the owner that only a patio was permitted – no other uses.

The applicant then requested an official zoning interpretation from the Zoning Administrator that "patio," as used in the conditions of approval, could also include a hot tub. The Zoning Administrator determined on February 22, 2016 the condition of approval precluded the installation of a hot tub. The applicant was informed they could either appeal the Zoning Administrator's decision to the Board of Adjustments or request an amendment to Condition #22 of their Conditional Use Permit and go back through the public hearing process.

On March 18, 2016, the applicant chose to appeal this decision to the Whitefish Board of Adjustments (BOA). The BOA met on May 3, 2016. After taking public testimony and much deliberation, the Board concurred with the Zoning Administrator's determination and directed the applicant to apply to amend their Conditional Use Permit.

On August 4, 2016, the Building Department issued a certificate of occupancy for the hotel.

E. PUBLIC NOTICE:

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on September 30, 2016. Advisory agencies were noticed on September 30, 2016. A notice was published in the Whitefish Pilot on October 5, 2016. As of the writing of this report, fifteen public comments have been received. Eleven comments were in support of the request on the basis that it will bring more business to the hotel and add value to the hotel. Three comments were not in support of the request, citing continued concerns with noise and neighborhood impacts. One comment questioned the use of the roof as usable space; essentially a 4th floor when the maximum number of floors in Whitefish is three.

F. EVALUATION OF THE REQUEST:

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

1. Growth Policy Compliance:

The Growth Policy designates this area as Core Commercial which is consistent with the WB-3 zoning District. Aspects of the adopted Downtown Plan have been implemented as part of this project.

Finding 1: Although this criterion does not apply to the proposed hot tub, the hotel and restaurant complies with Growth Policy Designation of Core Commercial because it is zoned WB-3 (General Commercial District) and is consistent with the

WB-3 zone and aspects of the development implemented the Downtown Master Plan because they provided additional easement along Spokane Avenue to develop the Pedestrian/Bike Trail along the western edge of Block 46 and they developed a hotel in the downtown.

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

The property is zoned WB-3 which permits hotels and restaurants. In addition, all development standards and Architectural Review standards have been met with the project.

Finding 2: Although this criterion does not apply to the proposed hot tub, the hotel and restaurant complies with the zoning regulations because all the zoning standards have been met with conditions of approval and review of the building permit.

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

Finding 3: Although this criterion does not apply to the proposed hot tub, the site is suitable for the hotel and restaurant because it was approved by the City Council for a Conditional Use Permit, it was approved by the Architectural Review Committee and a building permit was approved.

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

Finding 4: Although this criterion does not apply to the proposed hot tub, the quality and functionality of the proposed development effectively dealt with the site design issues because they have a Conditional Use Permit, Architectural Review approval and an approved Building Permit.

5. Availability and Adequacy of Public Services and Facilities.

Finding 5: Although this criterion does not apply to the proposed hot tub, public facilities and services are available and adequate because these matters were reviewed at the time of Conditional Use Permit approval and Building Permit review and approval and they are serving the site.

6. Neighborhood/Community Impact:

Traffic Generation: Traffic will be unchanged due to the addition of a hot tub.

Noise or Vibration: The applicant has submitted two reports on sound indicating the noise from the hot tub will not be noticeable due to the noise surrounding the project from other sources. In addition, the consultants indicate any noise originating on the roof will not transmit to the adjacent residential areas. The applicant has installed an 8-foot tall wood fence along the east and south sides of the hot tub to reduce any noise toward the residential areas. They have installed a 5-foot glass wall along the north and west side to further reduce noise but permit views of the mountains.

Staff noted speakers on the roof of the patio facing Spokane Avenue. The speakers alone may not pose a noise problem; however, if additional speakers are added, they could contribute to additional noise coming from the rooftop.

Noise was one of the main reasons Council added Condition #22. The neighbors' public testimony was compelling as they described the noise from the downtown establishments with live music. There was concern that a rooftop bar would be installed and live music would occur.

Dust, Smoke, Glare, or Heat: No impact is anticipated with regards to dust, smoke, glare or heat.

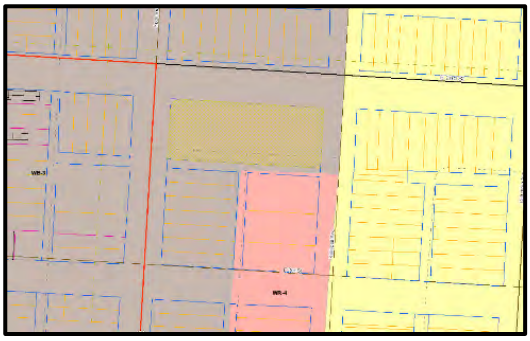
Smoke, Fumes, Gas, and Odor: No impact is anticipated with regards to smoke, fumes or gas.

Hours of Operation: The applicant indicates the hours of operation for the hot tub are 8:00 AM – 11:00 PM.

Finding 6: The proposed hot tub is not anticipated to have a neighborhood impact because negative impacts due to dust, smoke, odor or other environmental nuisances. No changes are expected regarding outdoor lighting or traffic. The applicant has presented reports from sound engineers that noise from the hot tub will not infiltrate into the neighborhood and will be mitigated through in the installation of noise damping techniques.

7. Neighborhood/Community Compatibility:

The building is constructed so neighborhood compatibility issues associated with structural bulk, mass, scale, density and neighborhood context have been addressed through the review of the Conditional Use Permit, Architectural Review and the building permit.



The commercial district in this area is at the edge of the residential area and, as such, needs to be carefully designed to be a good neighbor. Through the Conditional Use Permit process, numerous comments were received during public hearings about the compatibility of a hotel adjacent to the existing residential neighborhood and possible negative impacts. Issues such as landscaping, buffering, traffic, parking and noise were all discussed. These issues were mitigated through conditions of approval. The effects of usable space on the roof top was also a concern, as it essentially creates a 4th floor. As described earlier in this report, the neighbors pointed to other downtown establishments with outdoor roof top spaces and live music that infiltrates the residential neighborhood. When the Council added condition #22, all of these issues and the public testimony were part of the careful consideration.

Staff does not find conditions have changed to warrant changing the condition of approval. Issues surrounding neighborhood compatibility remain an important part of preserving the character of the neighborhood and the community – especially now that the project is constructed.

Finding 7: The project is compatible with the neighborhood and community because the original conditions of approval carefully considered the impact of the project and were designed to mitigate any negative effects of the project.

G. RECOMMENDATION

It is recommended that the Whitefish Planning Board adopt the findings of fact within staff report WCUP 14-11A and that the original conditions of approval be maintained and no amendment to Condition #22 be approved.

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

Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that the Whitefish Hotel Group is requesting an amendment to Condition #22 of Condition Use Permit WCUP 14-11 in order to install a hot tub on the roof of the hotel. The property is currently developed with the Firebrand Hotel and is zoned WB-3 (General Business District). The property is located at 650 E 3rd Street and can be legally described as Block 46, Amended Lots 1-18, Whitefish Original Townsite in S36, T31N, R22W P.M.M., Flathead County.

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

Thursday, October 20, 2016
6:00 p.m.
Whitefish City Council Chambers, City Hall
1005 Baker Avenue, Whitefish MT 59937

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

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Tuesday, October 11, 2016, 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: September 30, 2016

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, October 20, 2016 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 a subsequent public hearing for items 1-2 on Monday, November 7, 2016 and items 3-5 on Monday, November 21, 2016. City Council meetings start at 7:10 pm at **1005 Baker Avenue** in the Whitefish City Council Chambers.

1. A request by Cottonwood llc to develop a 23-lot subdivision. The property is zoned WR-2 (Two-Family Residential District). It is addressed as 709 & 711 Colorado Avenue and can be legally described as Whitefish Townsite Company 5 Acre Tracts, Block 2, Lot 6 in S25, T31N, R22W. (WPP 16-03) Compton-Ring

2. A request by Whitefish Hotel Group to amend Condition #22 of Condition Use Permit WCUP 14-11 in order to install a hot tub on the roof of the hotel. The property is zoned WB-3 (General Business District). It is addressed as 650 E 3rd Street and can be legally described as Whitefish Original Townsite, Block 46, Amended Lots 1-18 in S36, T31N, R22W. (WCUP 14-11A) Compton-Ring

3. A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The property is unaddressed off Highway 93 West, and can be legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31N, Range 22W. (WZC 16-07) Minnich

4. A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-3 (One Family Residential) to WR-1 (One-Family Residential District). The subject property is located at 835 West 7th Street and can be legally described as Lot 1 in Torgerson Subdivision located in NW1/4SW1/4 of in Section 36, Township 21N, Range 22W. (WZC 16-08) Minnich

5. A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The subject property is located at 2045 Lion Mountain

Loop Road and can be legally described as Tract 1DF in Section 35, Township 21N, Range 22W. (WZC 16-09) Minnich

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

Wendy Compton-Ring

From: Rick McCamley <mccamley@aboutmontana.net>
Sent: Monday, October 03, 2016 2:52 PM
To: Wendy Compton-Ring
Subject: Firebrand Hotel hot tub request

Hello Wendy,
I do not believe the Firebrand should be allowed to add a hot tub to the roof of their new motel. This wasn't in the original building plans. The plan for this that I received with the Public Notice shows a hot tub that measures 8 1/2' x 22'. That is one big hot tub! Picture that hot tub filled with a whole bunch of partiers on a Friday or Saturday night..It will be loud and probably pretty obnoxious. As I recall, one of the biggest reasons a bar or live music wasn't allowed was in consideration of the neighborhood. I would contend a hot tub, with the partiers, would be louder than the bar they wanted. So, with this said, I would hope their request is not permitted.

Please pass my comments onto the Planning Board Members.

Sincerely,

Rick McCamley
Chief Operating Officer

Rick McCamley
Richatti Investment Corp.
807 Spokane Avenue, Ste. 200
Whitefish, MT 59937
406-862-8304-Office
406-862-2024-Fax
406-253-9679-Cell
mccamley@aboutmontana.net

Wendy Compton-Ring

From: Cheryl VonLindern <cvonlindern@icloud.com>
Sent: Thursday, October 06, 2016 8:32 AM
To: Wendy Compton-Ring
Subject: Firebrand Hotel

I support the Firebrand putting in a hot tub. Skiers in the winter would stay at the Firebrand, thus spending time in downtown Whitefish which brings revenue to business owners and resort tax for the city

Sent from my iPhone

Wendy Compton-Ring

From: Scott Bortree <scottboats@yahoo.com>
Sent: Thursday, October 06, 2016 9:01 AM
To: Wendy Compton-Ring
Subject: Firebrand Hotel hot tub.

I am the owner of a home very near this hotel. I am opposed to the addition of the roof top hot tub. This is a residential area and I feel that the roof top hot will create noise in what is a very peaceful quite neighborhood.

Scott Bortree
706 2nd St East.

Sent from my iPad

Wendy Compton-Ring

From: Darcy Lard <darcy@flatheadtravel.com>
Sent: Thursday, October 06, 2016 11:06 AM
To: Wendy Compton-Ring
Subject: Hot tub on Firebrand roof

Dear Ms. Compton-Smith,

I am writing to support the installation of a hot tub on the roof of the new Firebrand. As a longtime local business, we realize the value this hot tub will add to the Firebrand and its' customers. Having seen the roof personally, I believe it will not harm the quality of the downtown area or its neighbors. The hot tub will add needed value to this property and make it more comparable to other Whitefish lodging.

Thank you for your time and consideration.

Darcy Lard
President
Flathead Travel Service, Inc.
406-752-8700

Wendy Compton-Ring

From: Rhonda Kohl <rkohlmt@gmail.com>
Sent: Friday, October 07, 2016 9:00 AM
To: Wendy Compton-Ring
Subject: Firebrand rooftop hot tub

Wendy,
I fully support the Firebrand Hotel installing a rooftop hot tub for guests.
Thank you,
Rhonda

Rhonda Kohl
PureWest Real Estate
The Lodge at Whitefish Lake Office
1380 Wisconsin Avenue
Whitefish, MT. 59937
Cell 406-250-5849
Office 406-862-4900

Wendy Compton-Ring

From: Laci Lard <laci@flatheadtravel.com>
Sent: Friday, October 07, 2016 9:20 AM
To: Wendy Compton-Ring
Subject: Firebrand Hot Tub Approval

Dear Wendy,

I am a travel agent with Flathead Travel Service. I have had the pleasure of touring the brand new Firebrand hotel with our team on Wednesday. We are so excited about this new property for our customers as I already have a group blocked for Summer of next year there. I am writing to show my support for the approval of the hot tub on the roof. I think that my customers will benefit from this addition greatly.

Thank you for your consideration.

Best Regards,

Check out Flathead Travel's Blog for inside travel tips!

Laci Lard
Travel Consultant
Flathead Travel
406-751-5402
www.flatheadtravel.com

Wendy Compton-Ring

From: Elizabeth Ledyard <elizabethledyard@icloud.com>
Sent: Friday, October 07, 2016 10:53 AM
To: Wendy Compton-Ring
Cc: wendy@aboutmontana.com
Subject: Hot tub at Firebrand

Sent from my iPhone Hi , I am a resident of Whitefish and recently had friends stay at the Firebrand. They were surprised that there was no hot tub! I was hoping that the City Council would support a hot tub at such a nice addition (Firebrand) to our town. I think it would attract more guests to the hotel and consequently more business to the downtown shops and restaurants. Thank you for any consideration, Wendy Ledyard.

Wendy Compton-Ring

From: Connie Sarratt <connie@flatheadtravel.com>
Sent: Friday, October 07, 2016 11:28 AM
To: Wendy Compton-Ring
Subject: hello

Dear Ms. Compton-Smith,

I visited the Firebrand hotel Thursday evening.
It is a beautiful property that has enhanced the town, and I believe Whitefish community will benefit from Firebrand having a hot tub on the rooftop.

Have a great weekend,
Thank you for your consideration,
Connie Sarratt

Connie Sarratt
Travel Consultant

Flathead Travel Service
500 South Main Street
Kalispell MT 59901
406-751-5405- Direct Line
800-223-9380-Toll Free
www.flatheadtravel.com

Wendy Compton-Ring

From: Kathleen Scott <badkittybikes@yahoo.com>
Sent: Friday, October 07, 2016 12:21 PM
To: Wendy Compton-Ring
Subject: Support of hot tub/FB

Hello!

I simply wanted to say that I support a hot tub on the roof of Firebrand. We have needed a nice hotel downtown for so long...now we have it! Let's make it perfect by allowing a hot tub. I can't imagine there being any issues especially with the clientele Firebrand will attract.

Thank you for listening!

Kathleen Scott
1636 Whitefish Ave

Sent from my iPhone

Wendy Compton-Ring

From: Skip Kahane <skipk@bresnan.net>
Sent: Friday, October 07, 2016 3:25 PM
To: Wendy Compton-Ring
Subject: The Firebrand Hotel-Hot Tub

Wendy
My name is Charles Kahane. I'm an Audio Engineer & Head of Research & Development for KELLETT ENT Inc., located in Greenville, South Carolina. I LIVE in Lolo, Montana and have for 25+ years. Over the last 25 years I've provided services to SNOW GHOST Studios (Brett Allen & Jeff Allen), multiple entertainment venues, John Cole (a consummate Pianist & resident of Whitefish), numerous Architectural firms, DON K. SUBARU of Whitefish, The Lodge @ Whitefish Lake, Contractors and many more (to numerous to mention). I travel to Whitefish regularly and stay over night in Whitefish on a very regular basis. I'm 66 years old and one of the amenities I consider to be a 'standard bearer' of the quality of my selected lodging is the HOT TUB. I feel this allows me to relax and erase the miles I travel to & from Whitefish, to do business there. I've stayed at almost all of the Hotels in and near Whitefish. I would also like to stay DOWNTOWN, where i'm close to the companies work with, and close to shops, nightlife & entertainment. The new Firebrand Hotel provides those needs, but does not have HOT TUB yet. It is my hope that I can stay @ this fine new Hotel in the near future. It is obvious to me that the facility readily provides a 'hub' for travelers, with close access to the downtown corridors. We all LIKE that. That said, amenities are an important part of my considerations when selecting Lodging.

I work with a Cadre of Engineers & Architects who also feel similarly. We'd all prefer to stay downtown @ the new Firebrand!

Charles G.(Skip) Kahane C.A.E.
P.G.S./BMS
KELLETT Ent. Inc.
P.O. Box 8332
Missoula, Mt 59807
Office 406-493-1128
Mobil 406-36-0134

Wendy Compton-Ring

From: Jennifer Fisher <jennifer@kandaharlodge.com>
Sent: Monday, October 10, 2016 11:10 AM
To: Wendy Compton-Ring
Subject: Firebrand hotel hot tub on the rooftop

Hello Ms. Compton,

I understand that the Firebrand Hotel is asking for a permit to operate a hot tub on their roof top deck. Apparently there are community members who have expressed concern about the noise generated from that activity. I think it is meaningful that the Firebrand staff has measured the decibels at street level with music playing on the rooftop deck and without music playing and there has been no change in the decibels recorded at street level. It is also meaningful that the Downtowner has two outdoor hot tubs operating on their rooftop. They do not appear to be causing a noise disturbance.

I am in favor of the Firebrand obtaining a permit to operate a hot tub on their roof top deck.

Thank you for your time.

Best regards,

Jennifer Fisher
Director of Sales & Marketing
Kandahar Lodge at Whitefish Mountain Resort – www.kandaharlodge.com
800-862-6094/406-862-6098
Jennifer@kandaharlodge.com

Be Enchanted Be Our Guest

Leo Rosenthal
236 Columbia Avenue
Whitefish, MT 59937
406-544-3058

To whom it may concern:

I am writing this letter in response to the Firebrand Hotel owners' desire to put a large hot tub on the rooftop patio of their new hotel. I live at 236 Columbia Avenue, which is located one block east of the new hotel. During the developers' planning process, I and many other members of the community opposed the issuance of a conditional use permit (CUP) that allowed the hotel to be built much larger than the zoning allowed. Concerns included impacts to the adjacent neighborhood associated with increased traffic, parking shortfalls, and noise from the rooftop patio. The public process was relatively contentious and in the end the City issued the CUP with several conditions. One of those conditions was that the rooftop patio could only be used as a sitting area for their guests to take in the views, and not to be used as a bar, for music, or for other entertainment purposes. This condition was added by City Council to address concerns from the community about noise and the inappropriateness of providing a party-like atmosphere across the street from our middle school. At the time of issuance of the CUP, the developers' plans only called for a rooftop patio. Now we find out that they have tried to slip one by the City and put a large hot tub on the roof, as noted by the inclusion of plumbing and engineering to accommodate a large pool. Noise associated with a rooftop hot tub will certainly be pervasive throughout the adjacent neighborhood and will infringe on long-time homeowners' ability to enjoy a nice quiet evening. I know this from experience, as I can many times hear the patrons of Casey's rooftop bar located four blocks away. This rooftop hot tub will be one block from my house and will result in noticeable nighttime noise heard throughout the historic downtown neighborhood.

These developers have a history of being disingenuous with regard to their plans and trying to push zoning and building limits to their fullest. The conditions placed by City Council were put in place to mitigate the impacts of a large hotel on the historic downtown neighborhood. Therefore, I urge the Planning Board to deny the hotel owners' request for the rooftop hot tub. Many hours and much thought was given to the conditions that City Council placed on the development of this hotel. By allowing for this hot tub, you would be overturning a decision that came after considerable public comment and the will of our elected city representatives.

Sincerely,

Leo Rosenthal

Wendy Compton-Ring

From: Yvonne Cutforth <y.d.cutforth@gmail.com>
Sent: Tuesday, October 11, 2016 11:59 AM
To: Wendy Compton-Ring
Subject: Firebrand hotel hot tub

Dan Cutforth, Owner
Downtowner Inn

Regarding the hot tub of Firebrand Hotel-- The Downtowner Inn has been brought up as an example of a hot tub on a roof in the area. Just to clarify our hot tub is on the third floor of our building surrounded by 3 walls and a roof, all in accordance with existing zoning.
My understanding is that Firebrand wants a hot tub on the 4th floor with walls. I also was under the impression that three floors is the max in Whitefish. How is it that the Firebrand has 4 floors?? That's the bigger question not the hot tub.

Sent from my iPad

Wendy Compton-Ring

From: Cheryl Sausen <Cheryl.Sausen@nprmail.com>
Sent: Tuesday, October 11, 2016 1:09 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Firebrand Hotel

To Whom it May Concern:

This letter is being sent in support of the new Firebrand Hotel in downtown Whitefish. As a local reservation company that specializes in national park lodging around the country, we are excited to support the Firebrand as one of the featured hotels in the area near Glacier National Park.

With 2016 seeing record numbers at the park, adding another hotel in Whitefish was a necessity as we continue to become the popular place to stay for area visitors. As you know, Whitefish continues to grow and is becoming one of the hot spot tourist destinations for small-town vacations, drawing a variety of people from around the world. The Firebrand Hotel is a perfect, much-needed addition to the downtown area, and specifically to the lodging community. We applaud Averill Hospitality for their continued support and development efforts around the Flathead Valley.

We at National Park Reservations are looking forward to another record season in 2017 and are anxious to promote the City of Whitefish and all it has to offer!

Respectfully,

Cheryl Sausen
Director of Reservations
National Park Reservations
1-406-730-5925

Wendy Compton-Ring

From: Pam Fairbank <pfairbank@flatheadtravel.com>
Sent: Wednesday, October 12, 2016 2:33 PM
To: Wendy Compton-Ring
Subject: I support the Firebrand Hotel - Hot tub

Good afternoon,

After experiencing the Firebrand Hotel's rooftop, I believe that a hot tub would be a wonderful attraction for Whitefish travelers. What a great view and so peaceful after a long day of sightseeing or skiing. It adds a touch of luxury and knowing the great staff at the Firebrand, it would be operated efficiently and respectfully.

Thank you!

Pamela Fairbank, CTC
Operations Manager
Flathead Travel Service
(406)752-8703
pfairbank@flatheadtravel.com
www.flatheadtravel.com

COMMERCIAL REAL ESTATE SERVICES

CBRE

Chris Kraus
Managing Director
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October 11, 2016

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

RE: Firebrand Hotel – Hot Tub Application

Dear Ms. Compton-Ring:

At the request of Mr. Brian Averill, I have been asked to comment on the need for a (roof-top) hot tub water feature in the newly opened Firebrand Hotel located in the downtown area of Whitefish, Montana. Provided in the paragraphs below are my opinions regarding the necessity of a hot tub amenity in a property such as the Firebrand Hotel.

As a 20 year veteran of the hospitality industry and of CBRE Hotels (formerly operating as PKF Consulting USA), I have evaluated literally thousands of existing hotels and resorts across the country and of all quality levels, including branded and boutique in markets ranging from urban to mountain resort. I have evaluated numerous high quality, full service hotels in ski towns such as Big Sky, MT, Vail, Beaver Creek, Aspen, and Telluride, CO, Jackson, WY, Park City and Deer Valley, UT, Sun Valley, ID, and Lake Tahoe, CA.

While I have not personally inspected the Firebrand Hotel, based on a review of the development budget, architectural renderings, and photos of the completed property, the Firebrand Hotel was developed and operates as a high-quality, upper upscale, independent, full-service hotel. This type of hotel property, located proximate to a major ski resort such as the Whitefish Mountain Resort, and in a scenic mountain location, would be expected to capture between 40 and 60 percent of its demand from the leisure (vacation travel) market segment. Given this high percentage of leisure travel, it is imperative that the hotel amenities include a hot tub, and ideally one that offers an outdoor experience with surrounding mountain or city views. Based upon my professional experience, aside from the lounge/beverage service, an outdoor hot tub is rated as the most important amenity for a mountain resort property with proximity to skiing.

In fact, if the Firebrand Hotel does not provide a hot tub as part of the overall guest amenity package, the resulting impact through word of mouth and social media alone (TripAdvisor ratings and reviews as an example) could be a reduction in both the occupancy and average daily room rate that could result in a 10 to 20 percent reduction in the overall revenue to the property. This loss would not only be re-occurring, but could also jeopardize the financial viability of the project.

As a matter of comparison, in all of my professional work in mountain resort destinations, I have never encountered a high-quality, upper upscale, independent, full-service hotel that did *not* offer a hot tub amenity. This has become such a standard in the mountain resort market that nearly all independent hotels and major hotel brands mandate a hot tub amenity in properties that not only cater to the leisure traveler but also predominately to the individual business traveler in locations that extend beyond resort, to suburban and urban. This is best demonstrated by the requirement of the major hotel companies such as Marriott International, Inc., Hilton Hotels Corporation, Starwood Hotels and Resorts, Hyatt Hotels, and the InterContinental Hotel Group to include a hot tub and pool as part of their guest amenity brand standards for nearly all property types. As a local point of reference, in the Flathead Valley all of the newly developed upscale and upper upscale branded and independent hotels provide a hot tub and pool.

In conclusion, given the quality level and location of the Firebrand Hotel, it is a necessity that the property contain a hot tub amenity and ideally one that provides an outdoor experience with views of the surrounding mountains and city. Given the high percentage of leisure travel the property must capture, a hot tub is one of the most crucial amenities to insure the financial success of the hotel.

If I can be of any further assistance on this matter, please do not hesitate to contact me directly.

CBRE Hotels

By: Chris Kraus
Managing Director

chris.kraus@cbre.com | 406.582.8189

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

February 3, 2015

Sean Averill
Whitefish Hotel Group llc
PO Box 275
Bigfork, MT 59911

Re: Hotel at 205 Spokane Avenue; (WCUP 14-11)

Mr. Averill:

On February 2, 2015, the Whitefish City Council approved your request for a CUP subject to twenty-four (24) conditions of approval, enclosed herein. The CUP approved was according to the application submitted November 20, 2014 and updated site plan dated February 2, 2015.

The conditional use permit is valid for a period of 18 months from the date of approval or until August 2, 2016.

Please let me know if you have any questions.

Sincerely,

Wendy Compton-Ring, AICP
Senior Planner

C: Building Department
Fire Department
Public Works Department

Exhibit A
Block 46 Hotel
Conditional Use Permit
WCUP 14-11
Whitefish City Council
Conditions of Approval
February 2, 2015

The Whitefish City Council approved the project subject to the following conditions of approval:

1. The project shall be in compliance with the application submitted on November 26, 2014 and the revised site plan dated February 2, 2015, except as amended by these conditions. Any significant deviation from the plans shall require approval (§11-7-8, WCC).

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

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

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

5. Proper sight distance measures shall be designed and put in place for the intersection of the east-west alley and Kalispell Avenue. Such measure shall be reviewed and approved by the Public Works Department. (Finding 6)

6. The interior lot lines located between Lots 1 and 11 shall be abandoned prior to the issuance of the building permit. (§11-2-3B(3), WCC)

7. Approval from the Architectural Review Committee shall be obtained prior to submitting an application for a building permit. (§11-3-3B, WCC)

8. A copy of the state of Montana Restaurant Beer Wine license shall be provided to the Planning Department. Any other alcohol permit shall require approval of a Conditional Use Permit by the city of Whitefish. (§11-2L-3, WCC)

9. An encroachment permit shall be obtained from Montana Department of Transportation (MDT) for any construction within the right-of-way. Any revisions to the site plan based on MDT requirements shall be reviewed and approved by both the Planning & Public Works Departments. (Finding 5)

10. Coordinate with Public Works Department regarding required Structural and Construction Encroachment Permits, which are issued independently from this Conditional Use Permit. (§7-2-1, WCC)

11. Prior to the issuance of a building permit, the applicant shall either dedicate right-of-way or grant an access easement for the shared pedestrian-bike path along Spokane Avenue. The bike path shall be 11-feet and the sidewalk shall be 8-feet. The applicant and the city shall work together with respect to the parking lot landscaping to ensure adequate landscaping, space room for the pedestrian-bike path and no loss of on-site parking. (Findings 1, 5)

12. The refuse location shall be reviewed and approved by the Public Works Department and North Valley Refuse. (§4-2, WCC)

13. An engineered stormwater plan, including the additional alley width, shall be submitted for review and approval to the Public Works Department. (Whitefish Engineering Standards, Section 5)

14. No groundwater from Block 46 shall be discharged to the City stormwater collection system without specific written approval from the Public Works Department. The developer shall reimburse the City for reasonable expenses necessary to evaluate such a proposal. Those expenses may include, but will

not necessarily be limited to, the services of an independent professional consultant. (Finding 3)

15. Necessary business licenses and sign permits shall be obtained. (§3-1, §11-5-7, WCC)

16. The applicant shall comply with all city fire codes for this classification of occupancy and the building shall be equipped with a fire sprinkling system. The alleys are the emergency access and shall be improved to a width of 20-feet. The additional width shall either be in the form of an easement or right-of-way dedication and shall be recorded or otherwise granted prior to the issuance of a building permit. (IFC)

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

18. All exterior mechanical equipment shall be screened visually and acoustically. (4.6.1., Arch Review Standards)

19. A landscaping plan pursuant to §11-4 shall be reviewed and approved by the Planning Department prior to the issuance of a building permit. This plan shall also include screening along the eastern edge of the parking lot. (§11-4, WCC)

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

21. The hotel shall be required to maintain employee parking at an off-site location in order to ensure the off-street parking lot is used for hotel guests. (Whitefish City Council Meeting, 2-2-15)

22. Under no circumstances shall the roof top facilities be used as a bar, for music or other entertainment or for anything other than a patio. (Whitefish City Council Meeting, 2-2-15)

23. The hotel shall not be a chain or formula hotel. (Whitefish City Council Meeting, 2-2-15)

24. Mass, scale and character of the building shall be consistent with the Architectural Review Standards and the building shall be sensitive to the residential neighborhood to the east. No building wash lighting shall be permitted. (Whitefish City Council Meeting, 2-2-15)

State of Montana; amending Section 9-1-1 of the Whitefish City Code to recognize said adoption; and allow continual adoption by reference of subsequent versions of the International Fire Code (First Reading). The motion passed unanimously.

b) **Consideration of an application from Sean Averill on behalf of Whitefish Hotel Group, LLC for a Conditional Use Permit for a proposed hotel at 205 Spokane Avenue (Block 46) that exceeds 7,500 square feet and is proposed to contain 89 rooms with 72 parking spaces (WCUP 14-11) (p. 100)** (CD 31:55)

Senior Planner Compton-Ring drew the Council's attention to the revised site plans and building elevations of a 3-story building that started on packet page 233 that were submitted to the City Manager's office after her packet had been submitted to the City Manager for tonight's meeting. The revisions include a reduction in rooms from 89 to 86, and increases the parking spaces from 72 to 74 on land adjacent to and just south of the hotel, and about 5 on-street parking spaces. In the revisions the applicants says the project is now for an independent hotel instead of a franchise hotel, along with some other details that the applicant will be going into with their presentation. Customers will access the parking off the existing alleys at E. 3rd Street and Kalispell Avenue. A Conditional Use Permit is required for buildings with a footprint that exceed 7,500 square feet; hotels are a permitted use in this zone (WB-3), but the process requires a conditional use permit and conditions can be attached to the permit that the developer must meet. The Growth Policy identifies this area as Commercial, and the Master Plan that was adopted in 2005 identifies a boutique hotel as one of the catalyst projects. The Planning Board held two public hearings on this project, one in December 2014 and one in January 2015 because in December they had received an amended site plan and the traffic study. There was considerable public comment at both public hearings. The Planning Office has received over 100 comments, and she was sure the Council had received more. Of the 100, over half of them are a petition in support of the project and at least 33 are from citizens who have concerns about the project; those concerns are listed on page 129 of the packet. Planner Compton-Ring detailed the evaluation of the project based on the criteria required for consideration of a conditional use permit; and said this was an application for a hotel only, and does not include a bar and/or restaurant. That would have to be an application with a separate review. Condition #8 addresses requirements regarding a Beer & Wine and alcohol permits. Compton-Ring suggested the Council consider adding a condition of approval regarding the revised application that this project is not a chain hotel. Compton-Ring reviewed the building height according to WB-3 zoning regulations; architectural review is required that not only includes review of the building but also parking lots, pedestrian features, and landscaping. Compton-Ring's staff report also addresses Site Suitability; the site was a former gas station with a leaking underground storage tank and the applicant and staff are working with the Department of Environmental Quality to insure all standards are met and a condition of approval addresses these issues. Additional issues of accessibility and traffic flow, a parking analysis, employee parking, and discussion regarding issues of hotel parking in the adjacent residential area, landscaping, overhead utilities going underground, an engineered stormwater plan, provision of extra right/way to allow an 11-foot pedestrian/bicycle path along Spokane Avenue, the compatibility of this building in this neighborhood, were included in Compton-Ring's report as shown on packet pages 129 through 141. The recommended Conditions of Approval are on packet pages 141 through 143; and Compton-Ring suggested the Council could consider adding another condition if they wanted to give the Architectural Review Committee (ARC) additional direction along with their standards to consider during the ARC review. On a vote of 5 to 2, the Planning Board is recommending approval, adopting the staff report as findings subject to 20 Conditions of Approval, including an amendment to Condition #11, all as shown on packet pages 104 through 106, and Planner Compton-Ring reviewed those. The Planning Board also agreed to

recommend the Council carefully consider the impact of the roof top patio and associated activities, and to consider creating a residential parking district as discussed in her staff report. The Planning Board was ready to add a condition regarding on-street parking, but Compton-Ring said that was within the Council's authority.

Karin Hilding, Senior Project Engineer, explained some of the issues regarding the drainage of surface water and groundwater that they have been dealing with on this property. City Manager gave a further explanation of our current residential only parking area by the high school that is regulated by signage and enforced by the Police Department when complaints are called in. The other residential parking district he was familiar with and explained was around the University of Montana in Missoula, that involves having a parking permit for each vehicle.

Mayor Muhlfeld opened the public hearing.

Sean Averill from the Whitefish Hotel Group LLC addressed the Council. He said their plan has evolved to address concerns they heard from the public and the Planning Board. He said with him tonight were Roger Noble from Water Consulting and Brian Averill, both who could answer Council's questions; also other members of their team were Bruce Boody – Landscape Architect, Montana Creative – Architect, and TD & H – Civil Engineer. He said they have support from 64 of downtown's 71 businesses. One of the biggest changes was going independent, so they could take out the pool that was franchise driven, they are working on off-site employee parking, they are excited about this site one block off Central Avenue, it is a gateway into Whitefish and their guests can walk to downtown retail, bars, and restaurants. Their proposal fits what has been called for in the Downtown Master Plan as a catalyst project. He showed the breakdown of the lots, 19 of them, all zoned WB-3; and said if each one would have been developed individually, lot line to lot line, and no additional parking added, think of the impact of that block on the downtown in comparison to their proposed development which he feels will complement the downtown rather than competing with it. Their hotel will be built on the north portion of the block and parking will be provided in the back. He compared, on an aerial photograph, their proposed footprint in comparison to other buildings in close proximity with a footprint larger than 7,500 square feet; the school, the office building to the south at 307 Spokane Avenue, the church to the east and the First Interstate Bank. So he said their building does fit into the character of the neighborhood. He put up a slide from packet page 193 from their traffic study counting trips from Spokane Avenue: 35% goes west on 2nd Street and 35% goes south on Spokane Avenue, 15% goes north on Spokane Avenue, 5% goes east on 2nd Street and 10% goes west on 3rd Street. The traffic study showed the property going east on 2nd Street has had an overall decrease in traffic volumes over the last 10 years. The study says the total traffic volume increase caused by this project on the surrounding road system is between 2% and 4%. By going to an independent hotel; the current proposal is 86 rooms, onsite parking is 74 spaces, offsite leased parking is 16 (across the street to the south and to the west) and offsite public parking created is 5 that is public parking on 3rd Street newly created by this construction removing current curb cuts; for a total of 95 spaces. Sean described their plans for the promenade, he said Bruce Boody will go over it in more detail; but it will be an improvement of the current narrow sidewalks fit between the buildings to the south that are built up to the lots lines, then the sidewalk, then the curbs onto Spokane Avenue. Sean said they wanted to build a building that would stand for 50 years and looked like it had been standing for the last 50 years. He said their current rendering has evolved from an earlier, more modern look, and he introduced their architect, Aaron Wallace (Montana Creative) to describe it.

Aaron Wallace went back to the current site plan on packet page 233, and described the setbacks, including that the setback on the west side of the building is setback 13 feet to allow room for the promenade. He said with this site plan they don't get into the city utility infrastructure in the alley which was always a concern, and their current plan maximizes parking spaces for the area. He described a 3-story building with a basement for subsidiary public space and building support/mechanical space. He said they are using stone and brick and architectural elements to help create their timeless look, and a series of breakups to address the building mass. A patio is on the roof top at both the north and south side of the western portion of the building. The main building is 33', a couple popup areas are 35' and the elevator elements go up a little higher than that. The same building design at the front of the building is carried through to both sides and the back of the building.

Bruce Boody, Landscape Architect, again referred to the site plan on packet page 233 and said the primary entrance will be off of 3rd Street, with traffic entering into an alley widened to 20'. The east-west alley that enters back onto Kalispell Avenue has also been widened to 20' to allow room for emergency vehicles, as requested by the Fire Marshal. He said greater setbacks to development provide 3 public plaza areas along the west side; one at each corner and one at a center-point between the building and the parking area. He said in order to allow room for the promenade, the developer has to give to the city, either through an easement or a deed, an amount of land just about equal to one city lot, (25' x 130' lot) as shown on packet page 237. The existing easement and the promenade easement and building setbacks are detailed on Exhibits A, B and C on pages 234 through 236 in the packet; which Bruce Boody showed as he described those dimensions. The architect and landscaping team has been working with city staff and Crandall & Arambula to fit their building, the landscaping buffer, and the addition promenade easement all in.

Brian Averill called attention to the current rendering of the building on packet page 225, and said they are finally getting close to the look and feel of the building they want. He confirmed that this is not a franchise hotel, but will be independent. He said the Whitefish Lake Lodge is currently the only other large locally owned and operated hotel in Whitefish. They reduced their room count to 86 to be able to offer some larger suites; also basing their final room count on a formula calculating annualized occupancy in town and associated development costs. They hope to provide higher end accommodations with limited food and beverage services designed and intended to serve their guests. They do not intend to create a bar and restaurant but more a wine and beer and limited food service, not for the community. He said they envision their guests going downtown for major dining and entertainment purposes. He said this was one of the sites called out in the Downtown Master Plan for a hotel, and this is the only site downtown that has room for a hotel with parking. There is a Montana State study projecting an economic benefit ration of $1 to $9. If $26.5 million is spent in local businesses by travelers of the hotel; retailers will profit around $5.83 million in annual sales from hotel visitors, and restaurants and bars will profit around $5 million in annual sales from hotel visitors. Community Tax Benefit projections: Whitefish Resort Tax $59,000, Tourism Promotion Assessments $29,500, and TIF/Property Tax $100,000. Brian brought up the parking and said they currently shuttle their Whitefish Lake Lodge staff back and forth to work in the peak seasons of summer and holiday times, it is not regulatory but have found that it works well for them and they anticipate doing the same at peak seasons for this project. In addition, because they know parking is at a premium in Whitefish, the will need their onsite parking during the summer months and holidays, and less at other times. They foresee opening up their parking to the community on a controlled basis during those times it is not needed for their business, doing their part in providing community parking as they can. A residential parking plan to benefit those residential neighbors is not yet in place, but they anticipate being in support of that if it is of benefit to the residential community. They feel their summertime and holiday traffic

will not be an impact to the school traffic; and not all their guests leave at 8 or check in at 5 but arrivals and departures are spread throughout the day so should be of minimum impact to surrounding businesses.

Sean Averill introduced Mark Loncar, 422 Central Avenue, who has been working with them on theme development just since they decided to go with the independent hotel. Mr. Loncar explained their theory of establishing an identity for the hotel, and it is early in the game because he has only been working on it for a couple days but they are thinking of working around the name of "Empire Hotel".

Mayor Muhlfeld asked if there were public who would like to comment. (CD 1:30:11)

Jeffrey Anderson, PO Box 1242, Whitefish, spoke against the project. He said he did not think it was an exciting project but an overwhelming project; massive and not within the character of the town and he thought it should have been reduced from 89 rooms to 64 instead of 86. He said he was not against growth but had concerns about the impact to the Police Department, the school across the street, and the 'liability' of underground toxic waste becoming a burden to the taxpayers. He said the list of concerns of others that Planner Compton-Ring read during her staff report was powerful. He said this might be a great idea but the wrong place – the developers are banking on continued economic growth, but lately that trend has been going down. He said in the developers' words; the purpose of the project is to provide services for their guests, it is not for the community. He said it is way too big, big impacts, and environmental concerns are a big potential problem. He thanked the Council for their time.

Leo Rosenthal, 236 Columbia Avenue, spoke against the project. He said he lives one block east of this project in an historic neighborhood, all older homes. He said this is the block where everyone brings their kids to on Halloween for trick or treating. He asked the Council to deny the conditional use permit (CUP) on the basis the project is too big, parking is an issue, the development displaces current parking for 30 to 40 cars, there will be snow removal impacts, parking problems for the adjacent residential neighborhoods and a possible burden on those neighbors if it becomes up to them to police those who are a parking violation, and the rooftop patio is not appropriate for the area that close to the neighborhoods and across from the school. He said on a nice summer night he hears the rooftop bar at Casey's which is five blocks away, so he asked them to imagine the noise from something so close as one block away. He said the Downtown Master Plan calls for a small hotel and he requested the Council uphold that vision; he said a hotel about half this size would be a better fit with the zoning and to the Whitefish character, and would not negatively impact an historic Whitefish neighborhood. He asked the Council to scale this down, he disagreed with Planner Compton Ring that they aren't asking for exceptions; he said this project is too big and will forever change the face of Whitefish. He asked the Council to think of the residents – Whitefish is where they live and work and enjoy, it is not just for tourists. He asked the Council to uphold this philosophy and deny the CUP, keep Whitefish like it is.

Erica Mortensen, 2650 E. Edgewood Drive, spoke against the project. She said she has two children and is concerned about the safety and security at the school across from this project. She said the hotel will have windows that look directly into the school; and customers who come and go on irregular schedules that would be hard to monitor and difficult to pick up on if anything is suspicious. She said it is disappointing that it seems like many land decisions are made from the tourist's perspective and not of those who live and work here in this community. She asked the Council to consider the impact on the safety and security of the kids in this community, she said she is vigorously opposed to this hotel.

Durae Belcer, 230 Meadows Road, spoke against the project. She said she used to live on Kalispell Avenue and now lives outside of town but still has concerns about this project. She spoke against the size adjacent to a residential neighborhood and felt 86 rooms did not fit a boutique hotel as called out in the Master Plan, and it would be a dramatic change to the neighborhood. Because they had to reduce their building to allow room for the promenade maybe they should reduce their building even more, there may be parking issues and problems for the residents, contaminated ground water, a rooftop patio that isn't appropriate next to the neighborhoods; maybe this isn't the right place for their hotel. She said there isn't a benefit to the existing neighborhood, just to the visitors that come to town. The size is not appropriate, it will change the character of the neighborhood and it won't blend in.

Chris Schustrom read a letter to the Council from Rhonda Fitzgerald in support of the project. She supported an independent hotel and thought the redesign fit the character of downtown Whitefish. She said visitors to Whitefish seek an "authentic sense of place".

Karen Reeves, 230 Missy Lane, spoke against the size of the project. She was hoping it would have been reduced to a smaller hotel, this one is too big and there isn't enough parking.

Mayre Flowers, Citizens for a Better Flathead, 35 4th Street West in Kalispell, said her email had been distributed earlier to the Council wherein she listed her concerns regarding the size of this project, traffic and parking issues both for hotel use and spilling into the neighborhoods, prohibition of "formula retail", and regulation of noise from a rooftop patio. She said this application has been amended several times and with yet a new plan just submitted tonight – staff and public have not had the time for complete review nor the time to formulate their comments; and she said the City should change their regulations and process to prevent this kind of thing from happening. She said this does not meet what was called for in the Master Plan which was a 36-room boutique hotel. She had concerns over the findings and said the conditions of approval should align with the facts. (Submittals are appended to the February 2, 2015 Council packet as after-packet materials).

Jeff Raper, speaking in support of the project on behalf of the Chamber as a member of the Board of Directors, and said the developers had given a presentation on the project to the Chamber. On a business perspective, he said there is a formula to determine number of rooms based on several things including economics, zoning, development costs, and sustainability. His family faced that years ago when they bought a 7-cabin facility that, in order to make ends meet, became the 66-room Pine Lodge. He said this is 19 lots with WB-3 zoning that if developed individually could have a much greater impact that this one building with nice setbacks.

Lauren Walker, has a business address of 713 E. 13th Street, spoke against the project. This project is asking for special permission. She thought this was a bad location for a hotel this size; the developer says they can't go smaller or their numbers won't crunch so she thought they should look for a different site. She said the same developers have a large project to build out on East 2nd Street and she thought it would be best to see how that project impacts the community before another project is approved. She said once this hotel is built on this site, it won't go away. She thought the site would be better for affordable housing.

There being no further public comment, Mayor Muhlfeld closed the public hearing and called a recess at 9:30 p.m. The Council reconvened at 9:42 p.m.

Some of the Council had questions answered by both applicants and staff. Councilor Anderson said he was recusing himself both from the discussion and the decision on this project.

Councilor Sweeney made a motion, second by Councilor Feury, to approve a Conditional Use Permit for a proposed hotel at 205 Spokane Avenue (Block 46) that exceeds 7,500 square feet and is proposed to contain 86 rooms with 74 parking spaces along with the Findings of Fact in the staff report (WCUP 14-11) and the amended twenty conditions of approval as recommended by the Whitefish Planning Board, and with the addition of Condition 21 to read: "The hotel shall be required to maintain employee parking at an off-site location in order to ensure the hotel parking lot is used for hotel guests."

Councilor Sweeney made an amendment to the original motion, second by Councilor Frandsen, to add a Condition 22 to read: "Under no circumstances shall the roof top facilities be used as a bar, for music or other entertainment or for anything other than a patio." The amendment passed with five aye votes, Councilor Anderson abstaining.

Councilor Frandsen made an amendment to the original motion, second by Councilor Sweeney, to amend Condition #1 to reference the most recent site plan dated 2-2-15. The amendment passed with five aye votes, Councilor Anderson abstaining.

At this point part of the Council asked the Public Works to have a viable parking plan in place at the time construction begins to address issues of this project impacting the parking in the adjacent residential area. Manager Stearns advised that is an extra task assigned to an already busy and short-staffed department; it may come to the point staff has to pick and choose what projects they have time to work on.

Councilor Sweeney made an amendment to the original motion, second by Councilor Hildner, to add a Condition 23 to read: "The hotel shall not be a chain or formula hotel." The amendment passed with five aye votes, Councilor Anderson abstaining.

Councilor Hildner made an amendment to the original motion, second by Councilor Frandsen, to add a Condition 24 to read: "Mass, scale and character of the building shall be consistent with the Architectural Review Standards and the building shall be sensitive to the residential neighborhood to the east. No building wash lighting shall be permitted." The amendment passed with five aye votes, Councilor Anderson abstaining.

The original motion, as amended, was approved with five aye votes, Councilor Anderson abstaining.

c) **Resolution No. 15-___; A Resolution of Intention indicating its intent to adopt the Whitefish Highway 93 West Corridor Plan as an amendment to the 2007 Whitefish City-County Master Plan (2007 Growth Policy) (WPGA 15-02) (p. 240)** (CD 2:45:08)

Planning and Building Director Taylor introduced the staff report presentation saying that with the consultant, the WGM Group, staff and a Steering Committee have worked together on a land-use plan for this area over a period of time in nine meetings, four public outreach sessions, 2 work sessions with the Planning Board followed by a public hearing at the Planning Board to bring forward the recommendation for the intent to adopt the Whitefish Highway 93 West Corridor Plan. Bruce Lutz,

CALL TO ORDER AND ROLL CALL

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

APPROVAL OF MINUTES

Rebecca moved and Jim seconded to approve the December 18, 2014 minutes with no amendments. The motion passed unanimously with Richard abstaining since he was not in attendance at the meeting.

COMMUNICATIONS FROM THE PUBLIC (ITEMS NOT ON THE AGENDA)

Mayre Flowers spoke representing Citizens for a Better Flathead, a business that encourages public participation, 35 Fourth Street West in Kalispell, regarding giving the public a reasonable opportunity to participate. She felt there were too many items on the agenda tonight with too broad of a nature to the community, and felt there was a lack of adequate time to try to address all the issues on the agenda and the meeting would run too late. She thought maybe some of the items could have, and suggested they still could be, rescheduled. She also thought it was misleading to list the CUP for the Block 46 hotel under Old Business on the agenda and that it was not listed as a public hearing. In the legal notice it is, and she felt that in order to ensure informing the public at large, the agenda should be consistent with the legal notice. She also thought it was too difficult to find the Planning Board's packet on the City's Website and that it should be much more straightforward to locate and include all attachments, not just staff reports.

OLD BUSINESS:
1. CONTINUATION OF PUBLIC HEARING ON WHITEFISH HOTEL GROUP, LLC'S, CONDITIONAL USE PERMIT REQUEST

Whitefish Hotel Group, LLC, is requesting a Conditional Use Permit to construct a hotel that exceeds 7,500 square feet per § 11-2L-4, WCC, of the WB-3 zoning district at 204 Spokane Avenue, legally described as Lots 1-11 and 19-25 in Block 46 of Whitefish Original Townsite in S36 T31N R22W, P.M.M., Flathead County, Montana.

STAFF REPORT WCUP 14-11 (Compton-Ring)

Senior Planner Compton-Ring reviewed her staff report and findings which now reflect the changes made in the site plan that was submitted at the December 18, 2014 Planning Board meeting, along with addressing the items members asked for more information on at that meeting and the traffic study which was submitted on December 22, 2014, and sent out with Planning

Board packets for this meeting. Since that time, the applicant submitted another site plan with one additional parking space as the only change, for a current total of 72.

More comments have been received and distributed to the members since the second notice to the public and neighboring properties, which include concerns with parking, stress on downtown, stress on neighborhood parking, change in downtown character, bar too near school, concerns about it being a franchise hotel but also not caring whether it was a franchise hotel, wanting it to be more historical in design and pedestrian safety while crossing surrounding roadways. A neighborhood parking permit system was discussed with the police department and apparently this is one method used in Whitefish. The Police Department said it is complaint-driven and working well.

The revised site plan was submitted to the MDT and they were pleased to see entrance on Spokane eliminated. The Traffic Study showed 720 daily trips with all intersections still at an acceptable level. The Study showed most traffic anticipated south on Spokane Avenue and west on Highway 93 W.

Wendy visited with the Public Works and Fire Departments regarding closing the alley access off Kalispell and the Fire Department was still against that idea.

Staff recommended adoption of the findings of fact within staff report WCUP 14-11 and for **approval** to the Whitefish City Council, subject to 20 Conditions of Approval. Wendy addressed the ones that have changed (Nos. 5, 9 and 14) since the staff report for the December 16 meeting.

BOARD QUESTIONS OF STAFF

Richard asked if Condition No. 11 is consistent with Downtown Master Plan, and whether the vegetation planned along Spokane will work for pedestrians, kids walking to school, etc., and Wendy said yes. Rebecca asked whether the Applicants have submitted anything indicating whether they intend for this to be a Marriott franchise hotel. Wendy said there was a letter in the packet submitted by the Applicants. She said franchise hotels are not disallowed in the Whitefish City Code, but what is located within the hotel is addressed, i.e., a McDonald's could not be located inside the hotel.

Ken M. reiterated that the board wants to hear all comments, but there is a large agenda and he asked that folks try to talk about any new issues, etc., and refrain from rehashing previously presented information and/or questions.

APPLICANT / AGENCIES

Sean Averill spoke for Whitefish Hotel Group and went over some of the high points from their slide presentation shown at the December 16 meeting.

Aaron Wallace, Montana Creative, principal architect, showed a new design with no change to the footprint of the building, but many changes to the external look, including materials, lighting, the building slopes down a couple of feet with steps to the front revolving door, front windows with a two-story entrance, arches, cut natural stone, a cleaner look awning, tumbled brick in darker tone in upper two stories and different features to break of façade. He feels the look is a little more contemporary but thinks it will still look good 50 years from now. There is also a rooftop patio with glass railing proposed, with only tables and chairs for getting outside only – no restaurant or bar on the roof.

Rebecca asked how many pop-up areas beyond the height restriction of 35' were included and Aaron said three core towers (stairway and elevator), which were all allowed. He said the highest point is the elevator core, but demonstrated how the tower is not seen from front the front of the building, and that it will be the same height as the elevator tower at Casey's, approximately 42'. John asked about the main entrance tower height and the square footage of the building footprint and Aaron said approximately 40' for the front entrance, and 14,970 square foot average per floor. Rebecca requested the design changes be shown to the audience since they hadn't seen them. John asked for a rendering from Kalispell Avenue, but none was available. However, Aaron said the brick wrapped around the entire building and the character was the same. He said the smallest setback is 15', and Sean said there is a 4' difference in a king versus a queen room, and this design makes a natural use of that difference to bring walls in and out.

Bruce Boody said the setbacks are now pretty significant, with 15-20' setbacks most of the way around. The corner at the main entrance is now setback 32', which is a significant public space (roughly 30' x 30'). On Spokane Avenue, there is an 11' promenade, and 8' pedestrian way, and an additional 3' of paving next to the building, so roughly 22'. For the parking lot planting buffer, the applicants need a little give and take, as they can fit a 5' buffer, not a 7' one, without losing seven parking spaces. They are requesting a modification to Condition No. 11 so that City staff and developers work together to find an equitable solution. Richard asked whether there would be enough room for viable landscaping if the planting buffer was reduced to 5' from 7' and Bruce said there would be as the angle of the parking stalls will be

80° rather than 90°, which will allow some extra room and he thinks there can still be a good strong buffer there that will work, and it will be similar to what the City has on Central Avenue. John asked about on-street parking on Third Street East and Bruce said there is existing parking along the east side of the alley, but not on west. New curbing will give between four and six parking spaces additional spaces.

Brian Averill reminded us the project has 89 guest rooms, and that number was arrived at based on making enough profit to be viable. They plan limited food and beverage services as an amenity for guests, but nowhere near the type available at Whitefish Lake Lodge. They envision beer and wine enjoyed in a cozy lobby or something similar. He reminded us that research shows $1 spent on a hotel room equals $9 spent in the community. Bruce and his staff have squeezed out five additional parking spaces, for a total of 72. They are also entering into an agreement for leasing 12 more, for a total of 84 spaces. They are also willing to shuttle staff, if necessary, which they currently do at the Lodge and it works well. They continued to consider the benefits and logic of whether to have a franchise hotel or not. They wrote a letter and it was included in the Planning Board's packet. They have found it would be economically better for them to build a franchise hotel, but this is a big step for them. He has spoken to a lot of folks in the community and some like the idea of a franchise hotel and some don't. Whether a franchise hotel or not, the look will be the same, and it's going to be operated by a locally owned and operated company, not by a national chain. They want to hear the Planning Boards concerns, and if the City feels the franchise issue is a deal breaker, they want to know, so they are looking for members to speak up. John asked how many employees they envision hiring and what percentage would need a parking space? Brian thought maybe 37 or so, with maybe 10-15 working at any one time, so it won't be a heavily staffed operation, but the majority would probably drive to work. The peak parking is in the summer and on holidays. If they have a problem, they would shuttle staff with designated shifts. John asked if franchise agreements run for period of time, in other words, could they try it and then change their mind if not happy with the franchise. Brian said no, they would be locked down pretty good. Rebecca asked where the leased parking will be and where shuttled employees would park, and Brian replied probably the same place where Lodge staff parks, which is at the Methodist Church south of The Lodge. They have also talked to First Interstate Bank, who is fine with them using some of their lot at night. The hotel will also plan to open up some of their lot during low occupancy times. Jim

asked about policing and Brian said he didn't know right now. Brian said looking at the overall picture, a franchise would probably increase occupancy by 12 to 14%, and help them compete better with Kalispell, and help increase occupancy during the shoulder season. He said the modern traveler seems to go to franchise hotels for points, etc. He said they really, sincerely want to know how the members and community feel about the franchise issue.

Rebecca said she feels they will be successful with whatever they decide to do. She asked if the public would be allowed to use the food service area and Brian said they would be welcome to, but it would be designed more for hotel guests.

Richard asked what type of signage the hotel would have to get guests to the parking lot without using up all their signage allotment. Brian replied directional signs should get them to Third, that signs will be down near the ground, not up on building, and that the City's Wayfinding signs would probably also come into play. Bruce said the primary sign is planned to be a ground-mounted sign on the southeast corner of the parking lot. He said the entry for check-in will have maple trees on both sides so will "read" as main entrance to hotel. Sean said they are entering into a lease for 12 spaces (24 hours) very near the hotel, but wouldn't disclose where until the lease was signed.

Roger Nobel, hydrologist with Applied Water Consultants, spoke regarding the stormwater plan. Rebecca said she found it scary to consider doing anything underground at that intersection as it could be disastrous in a high water year if anything happened. Roger said there is high water here and a basement is planned in this building, so there will need a dewatering plan. As far as contamination, there was an old gas station there and several others in Whitefish and probably all of those have contaminates, but the ones here are relatively low. They received a letter from the DEQ, and the DEQ doesn't even want the materials removed as they don't think there's an issue. John Wilson has copies of all the materials that Roger received. He said they will treat the water in order to discharge it into the stormwater sewer system. He said it is not uncommon here, and DEQ has a mechanism where they recommend that as an alternative. The developers will need a permit to discharge with monitoring, laboratory testing, etc. John asked if other cities are doing it and Roger said there are currently three in Helena, and one in Billings. The DEQ gave Roger a copy of one they just issued to Sydney. Sydney is allowed to discharge 800 gallons to the wastewater system and 400 gallons to the stormwater system and he said we are talking 5-15 gallons a

minute here, so it is much less. Richard asked about odor and Roger said there probably wouldn't be any at this level. Rebecca said on P. 10 of Staff Report WCUP 14-11 it says, "It is unlikely the City will permit discharge of this water to the City's storm system." Roger referred her to Condition No. 14. Rebecca asked if using the City's stormwater sewer system is the only possibility and Roger said yes. Rebecca asked whether there will be an opportunity to make changes once excavation starts and putting in the dewatering system starts and Roger said yes, there will get further data and make changes as appropriate. John asked how far below ground level the bottom of the swimming pool is and Aaron said they are only displacing about 4' of water as the slab goes down 11' and the first 7' are dry. Maximum depth of pool is 6'.

PUBLIC COMMENT

Patty Scruggs, 611 Delrey Road, said she feels the Board is not getting full disclosure unless they ask very specific questions. She is very concerned about the water and where it's going to go, she feels parking is a huge issue and doesn't like the idea of using the First Interstate Bank parking lot because others need to use it. The City should monitor the water, etc., not the developers. She thinks the hotel is too large for the character of downtown, and doesn't like alcohol being served so close to the school, but knows that Montana allows that. The site is zoned for 7,500 square feet and wonders why we have a zoning law if we're going to allow 15,000 square feet. She doesn't trust some of what the developers say because every time a Board members asks a question, they get more information, and feels the developers are not forthcoming enough. She agrees with Mayre Flowers that not enough information has been available to the public. She urged the Board to be careful when deciding, and feels the meeting should be postponed.

Marcus Duffy, 326 Somers Avenue, and local business owner. He supports this project and thinks it is a great economic driver for Whitefish, and that the developers are two families who have brought a lot of economic good to this community. He supports the project wholeheartedly.

Mayre Flowers, Citizens for a Better Flathead, appreciates the fact that the Board allowed the applicant to provide additional information and that they brought experts to answer questions. What is missing is looking at 2007 Growth Policy and Downtown Master Plan, which says "One of the primary objectives of the Downtown Master Plan is to preserve and enhance the special character and qualities of downtown Whitefish," and "discourage or prohibit formula business from locating in the downtown area." She thinks the Marriott requires businesses called "Bistro" and

"Market" within their hotels, which are franchise businesses. Lodging should be designed to be on scale with the surrounding architecture and not affect parking. She thinks the Board should prohibit franchise and make it a condition that no formula business be allowed at this site. She also questions the traffic study and wonders how the 720 trips were arrived at, she thinks the number should be based on the peak season when downtown businesses are relying on making their money and parking is most needed. She questioned the accuracy of some of the numbers being related to peak seasons. She also didn't understand what Bruce meant that they would lose 11 parking spaces if they were required to have 7' for the landscaping buffer instead of being able to reduce that to 5'.

Lauren Walker, 155 Fonner Road, feels she has a unique perspective on all the growth here as she lived here and then was gone for several years. She objects to the developers saying this is the only place where a downtown hotel could be located, and possibly the worst place for a hotel. She also doesn't feel this is a "boutique" hotel. She also reminded us of the new subdivision going in on East Second Street and thinks traffic will be hugely affected. She feels there are many locations that would be much better, like where the Noodle Shop is located or the Church across from the post office. She asked the developers to consider a different location.

Ian Collins, 898 Blue Heron Drive, said he saw a lot of the same people at the Downtown Master Plan meeting last night. He feels the community has been extremely successful and we live here because of the uniqueness of our community. He doesn't think a franchise hotel would be a good fit for Whitefish and doesn't think we have enough of an answer from the developer on what they have planned. He still thinks we need the question answered. Ian provided the plans provided to the Architectural Review Committee in the packet and it is clearly a cookie-cutter Courtyard Marriott. The intent of the Growth Policy is very clear and people in the community want it to stay unique, and there is no need for a franchise. He feels we will have more success if we are patient and stick to the Plan.

Leo Rosenthal, 236 Columbia Avenue, was here at the last meeting, and wanted to say again how concerned he is about parking in the neighborhood where he lives. He also sees traffic as an issue, and is concerned about the proposed rooftop patio and alcohol on the patio directly across from the Middle School. He said at his house four blocks away he can hear people from Casey's, and this location is only one block away. He urged the Board to deny the CUP.

The public hearing was closed.

Melissa wanted to clear up that this hotel does meet the definition of a "boutique hotel".

MOTION

Rebecca moved to deny CUP, John seconded. Rebecca is excited to see what is being proposed and likes the new design much better than first one, with a more historical look, but she still has concerns about the groundwater issue, the size of the hotel being too large for that site, traffic/safety issues and public comments against the project proceeding. The southeast corner of the block has previously been included in proposed projects, but not in this one which she thinks is odd and would have helped with parking. The intention is to have non-franchised businesses in our community to help locals survive and get income here, and we need to support local businesses.

Ken S. pointed out if the CUP is passed, there still is a lot of work to be done, with the 7' planting buffers being reduced to 5' so the 15 parking spaces in the parking lot are not lost, and feels there is a certain amount of responsibility upon non-private entities to provide parking for the City. He said the parking lot at First Interstate Bank is posted, so the people that are parking after hours do not have permission to do so. Parking is an issue and inherent to our town that cannot be a burden to one project.

Jim sides with Ken S. on this and said regarding the groundwater issue, we have the engineers, Public Works and DEQ involved, and technology has risen to a state that we can deal with these issues and it shouldn't be the developers' responsibility to solve that. We have had groundwater issues and have been able to survive.

Richard said in reference to Ian's remarks with regarding the overall architecture, ARC will get another shot at it, as he is on the City Council, and that there are issues still pending with regards to the CUP, but he thinks personally he would like to see the Averills to have an opportunity to make a presentation to the ARC with embellishments and refinements that will need to be addressed, and the Council will also have a chance, so he won't support the motion.

Ken M. reminded the Board to also consider what might happen to this property if this project doesn't go forward. As Frank Sweeney pointed out at the last meeting, this land is zoned WB-3 and if it gets sold in different ways there might not be any setbacks, and parking doesn't have to be provided in the WB-3.

Jim called for the question. In favor of the motion to deny the project (2-5) (Richard, Ken S., Melissa, Jim and Ken M voting in opposition).

BOARD DISCUSSION

Ken S. made a motion to approve WCUP 14-11 along with Findings of Fact and the 20 Conditions as presented. Melissa seconded. Ken S. made an amendment to Condition No. 11 that City staff and the applicant work together to review the landscaping to retain the proposed 15 spaces on the west side of the parking lot and include 5' landscaping areas within the parking lot. John E. seconded. Ken S. reminded the Board that they are an advisory board and thinks it's appropriate to pass baton to other groups who have more expertise. Unanimous vote in favor of amendment.

Richard said when this goes to the ARC, some of the historic elements will receive a great deal of scrutiny and the franchising issue, and exactly what will be located inside and who it will be controlled or operated by, will be major concerns that will be well addressed by the Council. Melissa suggested adding a Condition about residential permits, but Wendy said only group who can restrict parking is Council, but that could be added to her staff report, and Ken M. would also like the Council to look at the rooftop patio issue as he has heard people complain about the noise from Casey's.

VOTE

Ken M. called for question on motion. The motion passed with five voting in favor (Richard, Ken S. Melissa, Jim and Ken M.), and two opposed (Rebecca and John). The matter is scheduled to go before the Council on February 2, 2015.

PUBLIC HEARING 1: IRON HORSE HOMEOWNERS' ASSOCIATION REQUEST TO RECONFIGURE THE ENTRYWAY

A request by the Iron Horse Homeowners' Association to reconfigure the entryway by installing a center landscape median that will include a single story welcome center. The project will be located on Iron Horse Drive in the vicinity of the existing guard house which will be removed.

STAFF REPORT WPP-97-01A (Compton-Ring)

Senior Planner Compton-Ring reviewed her staff report and findings. They are asking to reconfigure the entryway, not gate it, so it does meet the requirements of the Engineering Standards and Subdivision regulations that prohibit gating. The Neighborhood Plan, approved in 1996, and the PUD of Phase II, say the roads will be privately owned and maintained but will be open to the public with the same rights of usage as owners and residents.

BOARD DISCUSSION	Rebecca is concerned with the parking but admits that other studios in the area have worked the parking issue out. Also, safety in the alley is a concern but Rebecca felt it wasn't worth holding up the application. Melissa suggested signs reinforcing use of cross walks to minimize jaywalking. Rebecca asked what the maximum occupancy at any one time might be and Bailey said that would be addressed through the Building Permit process. Jim said there is an allocation of four parking spaces, but other than that, the Planning Board doesn't have any ability for input on that. Ken S. called for the question.
VOTE	The motion passed unanimously. The matter is scheduled to go before the Council on January 5, 2015.
2. ZONE CHANGE ON PROPERTY RECENTLY ANNEXED INTO CITY LIMITS	Request by the City of Whitefish for a Zone Change on a parcel recently annexed into City limits. The property is developed with a residential use. The subject property is located at 1016 Park Avenue, legally described as Tract 1AA in S31 T31N 22W.
STAFF REPORT WZC 14-09 (Minnich)	Planner Minnich reviewed her staff report and findings. The purpose of the rezone is due to recent annexation of the property into City limits. No comments were received from notified property owners. Staff recommended adoption of the findings of fact within staff report WZC 14-09 and that the map amendment from County R-4 (Two-Family Residential) to City WR-2 (Two-Family Residential District) be recommended for **approval** to the Whitefish City Council.
APPLICANT / AGENCIES	None.
PUBLIC COMMENT	None.
MOTION	Rebecca moved and Frank seconded, to accept staff report WZC 14-09.
BOARD DISCUSSION	None. Ken M. called for question.
VOTE	The motion passed unanimously and the matter is scheduled for City Council on January 5, 2015.
3. WHITEFISH HOTEL GROUP LLC	Whitefish Hotel Group, LLC, is requesting a Conditional Use Permit to construct a hotel that exceeds 7,500 square

CONDITIONAL USE PERMIT REQUEST

feet per § 11-2L-4, WCC, of the WB-3 zoning district at 204 Spokane Avenue, legally described as Lots 1-11 and 19-25 in Block 46 of Whitefish Original Townsite in S36 T31N R22W, P.M.M., Flathead County, Montana.

STAFF REPORT WCUP 14-11 (Compton-Ring)

Senior Planner Compton-Ring reviewed her staff report and findings, including that four letters were sent out with the Planning Board packet and that four letters were received since the packet went out, which were also given to Planning Board Members for review. Two of the letters were in support and the other letters mentioned concerns with parking, impacts on snow removal, change in character of downtown, impact on infrastructure, inappropriate location for bar (near school), and rumors that it might be a chain hotel. The project has been reviewed by the Architectural Review Committee (ARC) on two occasions and the Committee has made suggestions to the design, but their formal review will occur following Council approval. The WB-3 zone does not require parking, but they are providing 67 spaces. The conversion of this lot to hotel parking rather than public parking will impact downtown parking. The Montana Department of Transportation requires an encroachment permit and is concerned with the right-in/right-out and its proximity to the East 2nd Street/Spokane Avenue intersection.

Staff recommended adoption of the findings of fact within staff report WCUP 14-11 and that the Conditional Use Permit be recommended for **approval** to the Whitefish City Council subject to 19 Conditions of Approval.

John asked whether there is any other reason why this project needs a CUP other than exceeding 7,500 square feet and Wendy said no. He asked how and when historically this property was zoned commercial. Dave said it was the location on the corner of Stacey Oil, a gas station, for many years, but Planning staff wasn't sure when or why it became commercial. John also asked for the current proposed square footage of the building and Wendy said there have been so many different proposal that John needed to ask the Applicant. John also asked if a DEQ analysis was done and Wendy replied that the Public Works Department does that part. John wondered if the Planning Department or Public Works ever does an independent study or they simply accept what the Applicant says. Wendy replied that the Applicant hires a consultant and staff reviews their findings. John wanted to know if aligning the building lengthwise along

Spokane Avenue had been considered rather than on East 2nd Street and Wendy said it had been suggested and rejected by the applicant because there are sewerlines that are in the alley that would need to be abandoned. John asked whether a parking structure with more than one level had been considered and Wendy said John would need to ask the Applicant. John asked what the highest building is in the area and Wendy replied the towers at the Middle School are 55'. John asked what the height of the building at 3rd and Spokane was and Wendy didn't know. John asked about the possibility of blocking off the alley that enters onto Kalispell Avenue. John asked if the Applicant would pay for the easements and Wendy replied the Applicant owns the entire block. Ken S. asked about the newsletter article that TIF money might be available to move the sewer line and Jim asked if they can't discharge into stormwater, where do they go? Wendy said they would need to work with the City to determine an appropriate method. Frank clarified that the newspaper article referred to a proposal for a prior hotel project utilizing TIF funds to move sewer and that the Council would entertain that request if the same proposal was made for this project. Rebecca said other communities have done bonds for off-site damage and wondered if Whitefish has done that. Wendy didn't know of any.

APPLICANT / AGENCIES

Sean Averill addressed the Planning Board on behalf of Whitefish Hotel Group, LLC. They brought their traffic study with them tonight, and showed an updated site plan via PowerPoint. They have an investor out of Florida, Bruce Boody is working on the site plan, Montana Creative is the architect, and TD&H is the engineer. There are 19 lots included in the building footprint, seven facing Spokane Avenue and 12 facing East 2nd Street. Sean said they are not taking this lightly and are trying to build a year-round hotel to be proud of.

Scott Elden spoke for architects Montana Creative. He said the limit of 7,500 sq. ft. comes from ARC guidelines regarding the Old Town District to prohibit large "box style" buildings. Several buildings (Middle School, Rocky Mountain Real Estate office, etc.) in area have larger footprints. They have already incorporated several recommendations made by the ARC.

Frank asked how many square feet were in the footprint and Scott replied 14,997 square feet. Frank asked for the square footage of the building and Scott said he hadn't done the

math, but it would equal three levels with 14,997 square feet with jigs and jogs. Mellisa said she thought it was a beautiful building, but doesn't think it looks like it fits with the character of Whitefish. Scott said breaking up of long façade into different colors and sections will help. The Middle School is the largest building in Whitefish and right across the street, and Scott felt the proposed hotel would complement it.

Bruce Boody, Landscape Architect, addressed the Planning Board and new site plans were distributed. Rebecca asked what changes have been made. Bruce pointed out there will now be no access off Spokane Avenue and the main access is now the north-south alley off E. 3rd Street, with a drop-off area on the south end of building. Currently the alley is 16', but will become 24' wide with an easement. There will also be a 7' landscape buffer to the east of that. Access off Kalispell Avenue is proposed with a 20' roadway and they are showing 69 parking spaces. Local hotel owners say their occupancy rate is 60-70% if they are really doing well. If there are 89 rooms, 60% would be 54 needed parking spaces and 70% would be 63. They are still looking for ways to make employee parking work. Tom Kennelly, Whitefish Fire Marshal, was satisfied with the original access and Bruce believes they have made it much better since Tom reviewed it. Bruce said the hotel has been moved 13' to the East to accommodate the promenade. On Spokane Avenue there is now an 11' bike way, a 4' street tree separation, and 11' sidewalk next to building. There is still a 15' setback on Kalispell, and the setback on East 2nd Street varies between 20-25'.

Rebecca asked why Whitefish Hotel Group was not using the other portions of Block 46 and Sean replied that those lots are zoned WR-4, a totally different zone with different requirements, and is not zoned for a hotel or parking.

John asked Bruce about traffic onto Kalispell Avenue and Bruce said the traffic study showed most trips will be via the other two access areas. John wanted to know why the access on Kalispell Avenue couldn't just be eliminated and Bruce replied that Fire Marshal Tom Kennelly said the access was needed for emergency vehicles. John asked about setback requirements and Bruce said WB-3 has no requirements. John also asked about a wall or fencing to block the other portion of the block. Bruce said a 7' landscaping buffer off the alley is proposed as he pointed out before. Ken S. asked

who would maintain the buffer and Bruce said the hotel, and Sean agreed. Frank asked about north end of block that is not being developed, and why no landscape screening is proposed along the South side of Kalispell Avenue access. Sean agreed that would be a good idea to consider. Rebecca asked that extra copies of the site plan be distributed to the public.

Brian Averill addressed the Board regarding their goals, services provided, etc. They want the outside of the building to be timeless and he feels that utilizing wood and glass as depicted on the drawings will be timeless. He explained that Whitefish traditionally has a high occupancy rate in the summer and low occupancy rate in "off season". Brian feels 70% occupancy that Bruce mentioned is way too high. Because of the varying occupancy rate and high development and construction costs, 89 rooms is the minimum they felt would be cost effective. Food and beverage services as depicted will be limited so people will go out into the community, but they have to have some services. They have no plans for a full restaurant and lounge for the public, more just for guests, and they will only apply for the beer and wine license, rather than a full liquor license. The Downtown Master Plan calls for a downtown hotel because it is the economic driver for the community. The State of Montana produced figures show the ratio of hotel visitor revenue to dollars spent in a community as if a customer spends $1 on a hotel room, they will spend $9 in the community. Frank asked what percentage of guests that Brian anticipates will need to park a car. Brian said 75% of hotel guests at Whitefish Lake Lodge have a car, but that they also have a large restaurant and marina. The only time they run out of parking is when they have an event, and that is rare. They will provide airport, train, etc., pickup. Staff will be there during the day and guests will be parking at night. Leased parking has also been offered to them. Brian thinks the number of parking spaces is adequate. John asked how many rooms and parking spaces the Lodge. Brian replied 140 rooms but didn't know how many parking spaces. John asked if they also rent parking spaces from the Methodist Church and Brian said they do for events and staff in the summer and that they shuttle staff and guests. John said that the Lodge is unique in that there is no opportunity to park in residential areas and asked how that would be controlled in this area. Brian agreed that parking is a problem in the downtown area. Brian was asked what the occupancy would be for the proposed meeting room and he

replied approximately 50, and that no large conference rooms like The Lodge has are proposed.

Melissa said Wikipedia defines "boutique hotel" as having less than 100 rooms and often containing luxury facilities in unique or intimate settings with full service accommodations and she doesn't think this is technically a "boutique hotel" but she thinks the design is nice. She said the design shows providing "some services" so she assumed food and beverages and Brain agreed. She said the plans indicate a workout facility and retail and asked if that meant a sundry type of store, and Brian said that meant newspapers, sodas, snack food, and typically things forgotten by guests. Melissa asked about the two proposed treatment rooms for guests and whether the hotel would hire an independent contractor or would they be staffed by an actual employee. Brian said the rooms would be just used to provide treatments such as massages to guests and independent contractor(s) would be utilized, not employees. Melissa said realistically this project causes a parking deficit of approximately 50 spaces because the location is currently being utilized by the City as a parking lot. She feels check-in and check-out times coincide with the Middle School arrival and departure times and thinks this causes safety issues in the area. Brian said statistically guests' arrivals and departures are very staggered and there is not a set rush time. Rebecca said Sean talked about this project being more responsible than the last hotel project envisioned, but she feels this is a larger scale project than envisioned by the community. Sean said they have a vested interest in making this a pleasing project. Melissa asked about there being a GoBoard® as indicated in the plans, which is an interactive, touch screen information display panel, located in lobbies of Marriott Hotels, and asked if they anticipated this being a franchise hotel. Brian said they have looked at franchise hotels, including the Marriott. There are definitely tremendous benefits, but they have not made any decisions. Rebecca asked when they might decide and Brian said he didn't know for sure and that they are still evaluating whether to franchise or stay independent. Sean said the Averills have never had a franchise hotel and are looking at the benefits of doing it, but that they are not franchise people. John asked about where the hotel sign might be located and Sean replied that a monument sign on the south end of the building is currently envisioned. Ken S. asked where the air conditioning units might be located and Scott said they will all be on rooftop, and that the equipment will be hidden like it is at Casey's.

Rebecca asked Doug Peppmeier, TD&H Engineering, about environmental concerns, including stormwater issues. He said this is not a new technology that is being proposed, just new to Whitefish. Roger Noble, Applied Water Consulting, is working with them, along with Public Works. The plan needs to be approved by the DEQ.

PUBLIC COMMENT

Ian Collins, 898 Blue Heron Drive, is on the ARC and explained the preliminary nature of this project when they looked at it. Ian made a motion to table the project based on the outcome of the CUP process so it would be reviewed on a much larger basis than ARC review. He felt Scott Elden trivialized the CUP process in his presentation. The 7,500 square foot threshold is very clearly in the zoning code and triggers all the same considerations of any project. He feels strongly that this project is subject to all the same criteria that any project being brought forward that requires a CUP would have.

Leo Rosenthal, 236 Columbia Avenue, urged the Board not to approve this CUP because of the changes to the historic residential character of the area, problems with cars parking during snow removal times (residents are currently required to move their cars but hotel guests may not be) and reduced available parking. He feels the project needs to be scaled back, that a downtown hotel is needed but that this proposed hotel is too large for the neighborhood.

Dan Cutforth, 224 Spokane Avenue, owns the Downtowner and the Stumptown Inn, and is in favor of this project but is concerned about parking. He feels occupancy is higher in the summer than the Averills estimated, but the rest of the year, 70% would be a goal he would appreciate. Ken M. asked how many of Dan's customers stay in his hotels without parking a vehicle and Dan said maybe previously 10%, but now that the train has become so unreliable, that it is probably lower. John asked how many rooms and parking spots Dan has and he said 24 rooms, and 40 parking spots. He said if non-guests park in his parking spots and don't move after being warned, he does have to tow. Melissa asked how this would be a positive thing for Dan's hotels and why he would be in favor of the project. He replied that in addition to raising property values, the proposed hotel would have different customers who would pay more for a hotel room, which would make his prices look better.

Andy Huntsberger, 574 Somers Avenue, said he felt a downtown hotel would be a great thing for the community, but feels this one is too large, and that parking for 89 rooms would directly impact downtown parking negatively.

Mayre Flowers, Citizens for a Better Flathead, 35 4th Street West, Kalispell, asked whether approval of a CUP for this particular project could be transferred to another owner. She said she was disappointed about the lack of information in the staff report, the fact that there is no traffic study available to the public, and that the current proposed site plan was only passed out tonight. She thought the formula business issue was a concern, and that as a CUP, the Board and City were being asked to provide a major exception to the zoning with a building twice the size of what would normally be approved to be built in this location. Because of the uncertainty of the design and lack of information about a drainage plan and other issues, residents in this area and downtown businesses all need more assurance that what is being proposed will be what is actually built at this site. She feels the standard used for needed parking should be full occupancy rather than average occupancy as a week or a month of congestion in downtown area impacts a lot of people. She said there is not a lot of detail on lighting, i.e., how headlights will be buffered and how building lighting will impact the neighborhood. In this area of downtown the school yard is just down the road, and there are a lot of farmers' markets and festival activities that take place in this area and traffic really needs to be considered. Leased parking may solve this facility's needs but leased parking is limited and she feels the Board and public needs to understand the capacity of leased parking. She said the previous plans not including a bar or restaurant was mentioned in the staff report but now tonight we've been told there will be those services, and she feels the public needs time to review the information. She recommended the public hearing be continued.

MOTION

Rebecca moved and John seconded, to continue the public hearing to the next Planning Board meeting so more detail can be provided. Rebecca said she is not ready to turn the CUP down but still has a lot of concerns. Whether to *table* or *continue* the hearing was discussed and clarification provided was that *tabling* the motion would indefinitely postpone the consideration, but *continuing* it until next month proposes a definite time to reconsider.

BOARD DISCUSSION

Frank asked Sean if continuing the project will cause a problem and Sean replied that when they originally started the project, they didn't know they needed a CUP. There has already been a lot of delay and there is definitely an expense of carrying this for another month, and he asked exactly what the Planning Board would need to see.

John wants to see the traffic study at least two weeks in advance of the meeting. He also wants to hear from the Public Works Department regarding stormwater issues, the possibility of closing or restricting access to Kalispell Avenue, and whether residents could have stickers or some other type of indication that they are residents. He urged the Board to continue the hearing.

Rebecca said part of this Board's responsibility is to represent the public and that this is a major project. She wants the ability to review the traffic study and read a report from the DEQ since this is a critical intersection for our town and it would be very serious if something happened. The Whitefish Growth Policy calls for a boutique hotel, which has a special, unique character, and she has concerns about whether this is going to be a Marriott. She said Page 21 of the Growth Policy addresses the detrimental effects of bringing in a franchise hotel because of the harm it can do to current businesses. If the Whitefish Hotel Group could outline whether they are presenting a franchise opportunity for the City, it would be better for the public to know rather than being surprised later.

Frank asked that the parking issue be adequately addressed.

Ken M. admitted that while this is a very nice looking project, he has really struggled with the parking issue. He feels it seems that cumulative decisions keep being made that add to the parking issue. He said the impact on the neighborhood and the parking situation are his major concerns, but that it is still a very nice looking project.

Frank said the density that could go in there without any requirement for parking could cause even more horrific problems for the parking.

Rebecca asked if a PUD would be more appropriate. Wendy said a PUD would not be appropriate since the applicant is not asking for any deviations to zoning. A CUP is appropriate because of the mass, etc., of the building. She

pointed out that a CUP is for 18 months and does run with the land, so if approved, even if the owners changed, it would be for 18 months.

Ken M. said the traffic study is done, just not yet distributed, and the landscape plan has come a long way. He thought the formula business issue was addressed in the staff report, and that the restaurant and bar not being designed for the public, but rather hotel guests, has also been addressed.

Jim said the Applicants have worked really hard to address the questions and problems, but feels this Board needs more time to look at issues.

Jeff from the Whitefish Hotel Group said he has seen the traffic report and feels the Board will be shocked by the minimal effect, which has been summarized as less than 4% impact, probably more like 2-4%, even during peak times.

VOTE

The motion passed unanimously. The matter is scheduled to go before the Council on January 5, 2015.

NEW BUSINESS (Taylor)

1. Work Session on the Final Draft of the *Highway 93 West Corridor Land Use Plan*. The Planning Board went into a Work Session. Several members of the Highway 93 West Committee were present, and Doug Reed, Chairman, gave a brief introduction. Doug said the vote in favor of this *Plan* was 7 or 8 to 1.

Frank asked why it was not unanimous and Anne Moran said she voted against the *Plan* as she represented the Area A and C (the residential owners of the neighborhood) and when the Committee was composed it was partly in reaction to a microbrewery on the north side of the highway. The residents had an issue with that and the developers didn't have enough information and she felt the residents continued to have very strong reservations regarding the microbrewery in Area B.

Bruce Lutz, Sitescape Associates, who served as the local guy on the planning consultant team, gave a PowerPoint presentation on the *Plan*.

Director Taylor discussed the initial draft of the *Plan* and the staff's review and revisions.

Melissa complimented *Plan* and work done by Committee.

WHITEFISH BOARD OF ADJUSTMENT
MAY 3, 2016

CALL TO ORDER AND ROLL CALL
The meeting was called to order at 6:00 p.m. Members present were Josh Akey, Brandon Jacobson, Herb Peschel, Scott Sorenson and Steve Qunell.

COMMUNICATIONS FROM THE PUBLIC-None.

APPROVAL OF THE BOARD OF ADJUSTMENT MINUTES OF THE JANUARY 5, 2016 MEETING
Josh Akey made a motion, seconded by Steve Qunell, to approve the January 5, 2016 minutes. The motion passed unanimously.

OLD BUSINESS- NONE

PUBLIC HEARING
Consideration of an administrative appeal by the Whitefish Hotel Group, LLC, of an interpretation of the zoning administrator that a condition placed by the City Council on the Conditional Use Permit approval for the Firebrand Hotel which states: "Under no circumstances shall the roof top facilities be used as a bar, for music, or for other entertainment or for anything other than a patio" precludes putting a hot tub on the roof of the facility. The subject property is located at 205 Spokane Avenue.

Planning & Building Director Dave Taylor gave the staff report. Director Taylor said on February 2, 1015 the Whitefish City Council approved a CUP (Conditional Use Permit) request by the Whitefish Hotel Group, LLC (WHG) to build the Firebrand Hotel in excess of 7,500 square feet in the Old Town Central District part of the WB-3 zone. During the public hearing, due to concerns from neighboring residential property owners about potential noise from roof top activities, the City Council added the following condition to the approval:

> **22. Under no circumstances shall the roof top facilities be used as a bar, for music or other entertainment or for anything other than a patio.**

Director Taylor said none of the plans submitted and approved for the CUP, the approved plans by the Architectural Review Committee, nor the building permit and subsequent addendums showed a hot tub facility on the roof. There was no discussion of locating a hot tub on the roof by the applicants during the CUP approval process. This was brought to the Planning department when the Building department saw that the hotel was looking at changing their plumbing and structural plans to facilitate putting a hot tub on the roof top. Director Taylor said staff met with members of the WHG team to discuss the hot tub, and explained why it was prohibited. The applicant had several options to resolve the issue, such as asking the City Council to clarify or revising their CUP application with a new or revised condition. They chose to appeal the zoning administrator's interpretation of the condition to the Board of Adjustments.

Director Taylor said the City of Whitefish zoning code does not define patio. When a term is a generally understood term it is not always codified, and in those cases standard dictionary definitions suffice. Patio is defined by Merriam-Webster as:

"A flat area of ground that is covered with a hard material (such as bricks or concrete), is usually behind a house, and is used for sitting and relaxing.
1: courtyard; especially: an inner court open to the sky
2: a recreation area that adjoins a dwelling, is often paved, and is adapted especially to outdoor dining"

While someone may choose to put a hot tub on a patio, it is not implied to be standard feature of a patio in any definition available.

Director Taylor said per Zoning Code section 11-7-6-A: Any Person may file an appeal when aggrieved by a decision or interpretation made by the zoning administrator; provided, that the appeal is based on an allegation that:

1. The zoning administrator made an error in interpretation of these regulations; and that
2. The erroneous interpretation specifically aggrieves the applicant.

The appellant appealed a February 22nd email he sent with an interpretation of the city council imposed condition to their CUP within the required 30-day window, but there is a question of whether the interpretation made by the zoning administrator was related to interpreting Title 11 of the zoning regulations. The appellant is arguing in the attached letter from Judah Gersh written on March 18, 2016 that the zoning code does not prohibit hot tubs in any way, nor does it preclude a hot tub from being placed on a patio. They are also arguing that prohibiting a hot tub aggrieves the appellant because a hot tub is a typical high end hotel accessory.

Director Taylor said the points of appeal cited in their appeal letter fail to show that the Zoning Administrator erred in the interpretation of City Code, as the interpretation is related to interpreting a broad condition placed on the CUP by the City Council. No other activities except a patio are allowed. While the code doesn't define patio, standard definitions do not assume hot tubs are standard on patios, and a hot tub would violate the terms and intent of the City Council condition, which was placed to prevent disturbance to neighboring properties.

The staff's recommendation is for the Board of Adjustment should review the facts and decide whether the Zoning Administrator erred in his interpretation of the code. Staff believes that the appellants have failed to demonstrate that the zoning code was interpreted improperly. Staff recommends that the Board of Adjustments uphold the decision of the Zoning Administrator to prohibit the hot tub based on the following findings:

Finding 1: The appellant failed to demonstrate that the Zoning Administrator made an error in interpreting the city's zoning regulations.

Finding 2: The City Council placed a condition on the CUP limiting activity on the roof to anything but a patio, and a hot tub exceeds that limitation.

Steve asked if this is not approved can they go back to City Council and either do another CUP or amended the current one and Director Taylor said they could.

Judah Gersh spoke for Whitefish Hotel Group, LLC who are the owners of the property at 205 Spokane Avenue. Judah said the plans had shown a hot tub in the basement and in going through everything they felt that the basement would work better for laundry and meeting rooms. Judah said that Dave Taylor

said a patio does not include a hot tub and they do not agree with this and this is where they are at. He said there are not any codes concerning hot tubs, patios are for sitting and relaxing and that is also what hot tubs are for. The hours for the hot tub will be 10 a.m. to 10 p.m. Judah showed a new drawing on where the hot tub would be located on the roof and they will be having a glass wall on the north and west side and on the east side will be a solid 8' cedar wall which will help with noise, the south side is where the elevator is at. He said it will be a hardship for the owners as it should be on the roof top and not in the basement.

Some of the concerns the board had was if it was just a hot tub and no swimming pool, how sound proof it was going to be, if the structure will be strong enough to support the hot tub and do they have room elsewhere in the building where they could put the hot tub.

Aaron Wallace with Montana Creative said it would only be the hot tub, he did not know the specific on the sound proof as the top is open so some sounds would be there, the structure was built strong enough to hold the weight of the hot tub and they really do not have any other place to put the hot tub as there is no room in the motel and if they put it outside they would lose parking spaces. He said the hot tub would be fully ADA so with the lift it would not fit in the basement.

Steve asked when they decided on putting the hot tub on the roof top as nothing was said during the CUP process or even when they were before the Board of Adjustment in January. Aaron said it was about 3 months after getting the CUP that they decided the roof top would be a good place for the hot tub and not the basement.

Jeff Badelt, 157 Ariel Way, said the hot tub is 10' by 22' stainless steel with decking and cost around $200,000. He does not know how many can sit in the tub.

Herb asked if there was anything else they could do to soften the noise and they really do not believe it will be that loud as it will be monitored by the staff and will have limited hours.

Brian Averill said the hot tub is over their two big suites with balconies and they will want to keep the noise down because of the suites. There will not have alcohol served and there is time limits on the use. Brian said that the Downtowner has two hot tubs on their roof.

PUBLIC COMMENT

Jim Goble, 716 2nd Street, said he would hate to see what happened at Casey's with their roof and all the noise that it creates. He said the shielding all around might help some with the noise. He said it is a fair question on what a patio is. He also asked if this was the only water feature and that 10 p.m. is the closing time.

Ray Boksich, 223 Columbia Avenue, asked if the roof access was limited at 10 p.m. and if the elevator will be locked at that time. He is also very concerned about when the bars close and people up on the roof as noise does travel.

Brian Averill said that the guests with key cards will be able to access the roof at all hours and this is where security will come into play. The hot tub area would be closed at 10.

Leo Rosenthal, 236 Columbia Avenue, said during the CUP he was opposed to the noise with the extra traffic being caused by the motel. He said there was a reason why the City Council put the condition on

the CUP for just a patio. They did not have plans about the hot tub until later in the process and they are just trying to sneak one by the City. He asked the board to uphold Dave's interpretation and stay with what the City Council wanted.

Mayre Flowers, Citizens for a Better Flathead, 35 4th Street West, Kalispell, said Citizens for a Better Flathead have reviewed this appeal, supports the determination of the zoning administrator that, since the intent of the condition imposed by the council was to prevent noise related disturbances which a hot tub might incur, and the condition very broadly prohibits "anything other than a patio," that a hot tub is clearly precluded. She said they do agree with the two findings that Dave had but provided additional findings of fact and information that she wished to be part of the public record:

Finding 3: None of the plans submitted and approved for the CUP, the approved plans by the Architectural Review Committee, nor the building permit and subsequent addendums showed a hot tub facility on the roof. (See MEMORANDUM To: Whitefish Board of Adjustment From: David Taylor, AICP, Director of Planning & Building Date: May 3, 2016)

Finding 4: Testimony by Sean Averill, recorded at the Feb. 2, 2015 Whitefish City Council meeting at which the CUP for the Firebrand Hotel was approved, made no reference to a hot tub as a feature of the rooftop patio. Mr. Averill responded to direct questioning by City Councilor Richard Hildner regarding rooftop uses and potential noise sources as part of that hearing record. Averill's response was recorded for that hearing record and is found at 2:10:30 of that tape [1]. Sean Averill stated as follows in describing the patio and uses that would occur there:

It is designed as a sun deck. ***It*** *is not designed for events. It doesn't have any services or amenities. It is not going to be a Casey's.* ***There is nothing up there but an open patio.***

Mayre Flowers asked that this tape found at http://www.cityofwhitefish.org/large-files/audio/council-2015/15%2002%2002.mp2 be made a part of this official hearing record.

Finding 5: The Whitefish Growth Policy states: "Conditional Use Permits (CUPs) are only granted after public hearings before the Planning Board and City Council, and permitting decisions are made based upon criteria that are set forth in the zoning ordinance. Also, **reasonable conditions to avoid and/or mitigate adverse impacts may be imposed as conditions of the CUP."**

Finding 6: The Whitefish City Council has the authority to limit and condition uses like hot tubs allowed at the Firebrand Hotel under City Code 11-7-8 (E) 6. "Upon receipt of the recommendation of the planning board, the city council shall hold a public hearing and render a determination whether to approve, **conditionally approve** or deny the application for a conditional use permit **based on public input, the staff report and findings of the planning board."**

Finding 7: Public testimony at both the Whitefish Planning Board and the Whitefish City Council establish the concerns of adjoining property owners and other residents that

noise from a proposed rooftop patio area would be detrimental to their health, safety and welfare.

Finding 8: Montana State statutes define a public nuisance as **"45-8-111. Public nuisance.** (1) "Public nuisance" means: (a) a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;"

Finding 9: The Whitefish City Council had a reasonable basis for its decision to limit patio uses to prevent noise related disturbances The adverse impacts of noise pollution have been well documented by the World Health Organization and others.[2] Studies recognize that inadequately controlled noise adversely affects people's health, safety, and welfare, property values, and the environment.

According to American Journal of Preventive Medicine May 25, 2015, noise pollution may increase your risk of hearing loss, stress, sleep disturbances, and heart disease. *A* new analysis conducted an environmental assessment of US noise pollution as a cardiovascular health hazard, and
revealed small decreases in noise could add up to major economic savings. The analyses suggested that a 5-decibel noise reduction would reduce the prevalence of high blood pressure by 1.4 percent and coronary heart disease by 1.8 percent. The annual economic benefit was estimated at $3.9 billion. There is also the issue of sleep disturbances, which is why nighttime noise pollution is thought to be worse than daytime exposures. If you can't sleep because of noise, it can cause a cascade of negative health repercussions.3

Finding 10: *A* hot tub is a form of entertainment consistent with the definition of entertainment. [Emphasis added below]

en·ter·tain·ment4,
en(t)ar'tanmant/ un noun:
entertainment

the action of providing or being provided with amusement or enjoyment.

---

2 http://www.medscape/com/viewarticle/554566_3
3 http://articles.mercola.com/sites/articles/archive/2015/06/20/noise-pollution.aspx#_edn3
4 https://www.google.come/search?q=entertainment&ie=utf-8&oe-utf-8#q=entertainment+definition

5

"everyone just sits in front of the TV for entertainment"

synonyms: amusement, pleasure, leisure, **recreation, relaxation**, fun, enjoyment, interest, diversion, "he reads for entertainment", an event, performance, or **activity designed to entertain others**.

Finding 11: Excess noise associated with hot tub use is a common complaint.[5]

Trip Advisor comment section has frequent complaints about excessive and disruptive noise from hot tub use including a recent posting for The Lodge at Whitefish owned by the Averill's.

From a Trip Advisor review of the Lodge at Whitefish Lake:

The huge problem we had is that we got room 233, a room that I don't think is really rentable!! It is located right directly above the outdoor patio restaurant and across from the pool - both created incredible noise that made the room totally unrestful. Even with all windows closed it was noisy - not enjoyable! We are seasoned travellers and my husband & I discussed these issues when we got to the room and saw this poor location, but after a 9 nine hour car ride to get there we were tired and stupidly said "it probably will be OK - this class of hotel would not let the outside restaurant get crazy late - wrong!! The outdoor patio is very busy and noisy all day, and then late at night the weddings moved to the patio, hot tub etc. with a lot of very loud drunks. That night was terrible! this deadbeat crowd was yelling and drinking on the patio - at 1:20 I called the front desk asking them to move the people inside.
https://www.tripadvisor.com/Hotel_Review-g45402-d251765-Reviews-Lodge_at_Whitefish_Lake-Whitefish_Montana.html

Finding 12: "The City of Whitefish zoning code does not define patio. When a term is a generally understood term it is not always codified, and in those cases standard dictionary definitions suffice. Patio is defined by Merriam-Webster as:

> "A flat area of ground that is covered with a hard material (such as bricks or concrete), is usually behind a house, and is used for sitting and relaxing.
> 1: courtyard; especially: an inner court open to the sky
> 2: a recreation area that adjoins a dwelling, is often paved, and is adapted especially to outdoor dining"

While someone may choose to put a hot tub on a patio, it is not implied to be a standard feature of a patio in any definition available.
(See MEMORANDUM To: Whitefish Board of Adjustment From: David Taylor, AICP, Director of Planning & Building Date: May 3, 2016)

In conclusion, these findings support denial of the appeal before you asking you to overturn the zoning administrator's ruling that hot tubs are allowed under the conditional use permit. Hot tubs are a form of entertainment, which is not permitted.

5 http://www.olmpichottub.com/hot-tubs-sauna-blog/2011/05/hot-tub-noise/
https://www.gottrouble.com/noise-law-legal-limits-and-nuisance-law/

Judah Gersh said he is objecting to having Mayre's comments be part of the records as they were not able to see her handout prior so they could not respond. Herb and Dave both said she has a right to comment and she pretty much read the whole thing word for word so it will be in the record and legally they are required to accept written comments.

Rhonda Fitzgerald said she attended the Planning Board and City Council meetings on the CUP. The Downtown Master Plan shows a boutique motel and this is not a boutique motel they have 86 rooms and a boutique motel is about 36 rooms. She said everyone is very concerned about the size and they do not want to ruin the great neighborhood. The CUP clearly stated nothing but a patio was allowed. Rhonda said Brian said nothing else would go up on the roof. She feels that if this is changing it needs to go back to the City Council.

Scott Sorenson made a motion, seconded by Steve Qunell, to uphold the Zoning Administrator's interpretation of the code and that no hot tub will be allowed on the rooftop. The motion passed on a 4 to 1 vote with Herb Peschel voting in opposition.

NEW BUSINESS- NONE

GOOD AND WELFARE

Matters from Board: None

Matters from staff: None

ADJOURNMENT

Meeting adjourned at 7:20 p.m.

Downtowner Hot Tub

WCMP 14-11A

City of Whitefish

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

CONDITIONAL USE PERMIT

FEE ATTACHED
$ _____ INSTRUCTIONS:
A Site Review Meeting with city staff is required.
Date of Site Review Meeting:

Submit the application fee, completed application and appropriate attachments to the Whitefish Planning & Building Department a minimum of
forty-five (45) days prior to the Planning Board meeting at which this application will be heard.

The regularly scheduled meeting of the Whitefish City Planning Board is the third Thursday of each month at 6:00PM in the Council Chambers at 1005 Baker Avenue.
After the Planning Board hearing, the application is forwarded with the Board's recommendation to the next available City Council meeting for hearing and final action.
A.
PROJECT INFORMATION:
Project Name: FIREBRAND HOTEL
Project Address: 650 E. 3RD ST
Assessor's Tract No.(s) 3122X36-WHT-24-BLK 46
Lot No(s) 1-11
Block # 46
Subdivision Name
Section 32 Township 31N Range 22W
I here by 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.

FOR DEPOSIT ONLY
GLACIER BANK OF WHITEFISH
Y OF WHITEFISH, CIT
FIREBRAND HOTEL 2055.00
08/02/2016 09:53:27 AM

AUG 23 2016

Whitefish Hotel Group

J Badelt PROJ. MGR.

Owner's Signature

Date

6.27.16

Print Name

JEFFREY BADELT

J Badelt

Applicant's Signature

Date

6.27.16

Print Name

JEFFREY BADELT

J Badelt

Representative's Signature

Date

6.27.16

Print Name

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 File #:
Date:
Intake Staff:
Date Complete:
(See current fee schedule)
Revised

APPLICATION CONTENTS:
Attached
ALL ITEMS MUST BE INCLUDED

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED
Conditional Use Permit Application

8 copies Written description how the project meets the criteria in Section D

8 copies Site Plan

8 copies

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

Reduced copy of the site plan not to exceed 11" x 17"

1 copy

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

Electronic version of entire application such as .pdf

Any other additional information requested during the pre-application process

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

B.
OWNER(S) OF RECORD:
Name: Whitefish Hotel Group
Phone: 406. 837. 1715
Mailing
Address: P.O. Box 275, Bigfork 59911

Email: susanm@twre.com

APPLICANT (if different than above):
Name: JEFFREY BADELT
Phone: 406. 890. 8195
Mailing
Address: 1380 Wisconsin Ave., WF
City, State,
Zip: 59937

Email: jeff@mtdevgroup.com

TECHNICAL/PROFESSIONAL:
Name: Aaron Wallace – Architect
Phone: 406. 249. 2145
Mailing Address:
158 Railway St. WF 59937

City, State,
Zip: 59937
Email: awallace@mt-creative.com

C. DESCRIBE PROPOSED USE:

In the Winter of 2014 The Whitefish Hotel group applied for and got passed a CUP for the Block 46 Hotel in Downtown Whitefish. This CUP application is for a CUP/CUP Amendment for the Block 46 Hotel for (1) specific amendment to the original CUP.

Item 1: Install a Hot tub on the roof top patio on the North/West side of the building.

ZONING DISTRICT: _WB-3

D. FINDINGS:

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

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

    a. The Block 46 Hotel is outlined as a desired project of the Growth Policy and City Masterplan. During the original CUP several items were raised up as a concern including the hotel we proposed not be a franchise. COI #23 states "the hotel shall not be a chain or formula hotel". This CUP amendment is a direct result of this condition.

    b. During the course of the original CUP the City mandated removal of Franchising as part of this project for approval. One week prior to the City Council meeting we agreed to go away from a franchise and to build a boutique independent hotel. As a result, at the time of passage, a full economic and amenity package analysis had not been completed on a boutique hotel. This change from a franchise to a boutique hotel required us to redesign the services and amenities of the hotel. In this process there

were a number of changes to the concept, one of them being the need for a hot tub. To command the rates and occupancies needed to support an independent hotel, in such a seasonal environment, a "unique" water feature such as a hot tub is vital. Additionally you will see from the original design that the interior basement level pool was removed based on space constraints for providing other amenities and the associated cost with a basement level pool. In either hotel concept the need for a water feature is critical to its success. As reference, the franchise hotel we considered required a water feature.

c. Due to the limited Square footage of the building we do not have the space within the facility to put a hot tub. The site is constrained and maximized for parking. Installing a hot tub on the rooftop patio is an appropriate solution. This solution also allows us to provide the unique amenity which will drive occupancy for the hotel. There is already elevator and stairway access and available space on the patio. We propose to enclose the hot tub area with the required 5' glass railing on the North and west and an 8' high wood fence on the south and east. This fence will shield the view from the surrounding area. Hot tub equipment will be in an enclosed mechanical space. The state requires a showerhead within 50' of the tub. This will be located on the backside of the elevator wall and enclosed on three sides.

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

a. In the original CUP the Conditions of Improvement specified that the roof top patio be limited to use as a patio only. This is a sweeping and vague stipulation that could be interpreted several different ways. After passage of the CUP and during the course of the development it was determined that a Hot tub amenity would be required to sustain a Hotel that is not franchised. Due to the limited availability of ground and internal space, plus to take advantage of the already

developed patio and views from the Roof, we are proposing to put a Hot tub on the Roof top patio with visual and sound screening

b. A Hot tub is a traditional element commonly seen in hotels of this size and quality. The original CUP application did not address this issue since it was an unknown at that time. There is no required permitting or Zoning items related to Hot tubs and where they are allowed or their requirements. As such we see no issue with allowing a Hot tub on the roof, other than we did not show a unit at the time of the original CUP. We are not increasing the size or use of the patio than what was originally proposed other than having people in water. Concerns related to noise will be addressed by hours of operation, enclosing mechanical equipment and providing a screened in area around the hot tub location.

3. How is the property location suitable for the proposed use? Is there adequate usable land area? Does the access, including emergency vehicle access, meet the current standards? Are environmentally sensitive areas present on the property that would render the site inappropriate for the proposed use?
   a. The Hotel was already determined appropriate for its overall location and use and meets all other current standards.
   b. The proposed hot tub location is the most appropriate location for its use. Due to its internal layout and required structural loading, this is the farthest location to the north and west away from the residential neighborhood to the south and east The structural support is already incorporated into the building.
   c. This rooftop location provides the largest buffer and offers the best views on the site. The Hot tub is set 25' off the north property line. It has glass and wood railings enclosing the Hot tub area. The enclosure will limit noise transfer to the South & SE. Typical experience is that the Hot tub area is a quieter environment than a swimming pool and is generally used for relaxation.

4. How are the following design issues addressed on the site plan?
    a. Parking locations and layout
        i. NA
    b. Traffic circulation
        i. NA
    c. Open space
        i. The hot tub on the roof will maintain the limited open space and parking we currently have on site.
    d. Fencing/screening
        i. The hot tub will have 5' glass railing on the North and West side of the hot tub enclosure allowing views but limiting noise impact and an 8' high wood fence on the south dampening sound. The mechanical equipment will be in a mechanical enclosure on the roof.
    e. Landscaping
        i. NA
    f. Signage
        i. NA
    g. Undergrounding of new utilities
        i. NA
    h. Undergrounding of existing utilities
        i. NA
5. Are all necessary public services and facilities available and adequate?
    a. Yes The State requirement for a shower within 50' has been met with addition of shower just south of hot tub area.

    If not, how will public services and facilities be upgraded?
    a. Sewer, Already Plumbed
    b. Water, Already Plumbed
    c. Storm water, Able to be tied into with elements onsite.
    d. Fire Protection, NA
    e. Police Protection, NA
    f. Street (public or private), NA
    g. Parks (residential only), NA
    h. Sidewalks, NA

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

6. How will your project impact on adjacent properties, the nearby neighborhoods and the community in general?
    a. The hotel has already developed and the proposed changes will have limited impact on the surrounding community however it is a necessary amenity for the overall solvency of the project.
        i. The hot tub is on an already approved patio space on the roof. The only issue related to the hot tub that has been expressed is related to noise and concerns of the neighbors. A couple of items to outline; The space identified for the hot tub is already able to be used for the patio at an occupancy of 24 people. The hot tub itself is sized for apx. 16 people so we are actually decreasing the amount of allowed people per space. The only difference is whether the people are in the water or not. Common experience is that people in the hot tub are generally relaxing usually lounging in a quieter more relaxed manner. Due to the overall nature of the hotel, we do not anticipate this being a high activity center of splashing or yelling. The hotel promotes a relaxing environment.
        ii. Hours of Hot tub operation is anticipated being from 8 a.m. to 11 p.m. This area will have security cameras allowing staff to monitor activities.

        iii. The hot tub is located over guest rooms and premium suites. Noise is a primary concern of the management and would be addressed immediately to limit the impact on guests. Finally, the area of the hot tub has larger railings and buffers to provide the required security and mitigate the issues of sound related to the hot tub. We see limited additional impact related to the hot tub than what is already approved for the existing patio space.

Describe any adverse impacts under the following categories.

a. Excessive traffic generation and/or infiltration of traffic into neighborhoods
    a. NA
b. Noise, vibration, dust, glare, heat, smoke, fumes, odors
    Please see the attached letter from Acoustic Treatments who has reviewed this issue. As outlined we have addressed noise in an appropriate manner.

7. What are the proposed hours of operation?
    a. 8 a.m. to 11 p.m.

8. How is the proposal compatible with the surrounding neighborhood and community in general in terms of the following:

a. Structural bulk and massing

The railing is already part of the existing building and due to its setback and screening it has limited visibility from ground level.

Scale

The hot tub is appropriate for the size of the hotel.

Context of existing neighborhood

The hotel is in the downtown core and an allowed use in the WB3 Zone and a hot tub is a typical use in a Hotel. The Downtowner Hotel across the street has had 2 hot tubs on its rooftop area for many years without known incident.

d. Density NA

e. Community Character

We feel that the additional of a hot tub only enhances the community character and provides a more viable hotel for downtown with a much needed amenity.

Additional Note from Judah Gersh:

In addition, the hot tub meets all of the requirements for a swimming pool found in Section 11-3-20. The hot tub will meet the setback requirement of the ordinance, and will also have fencing and gating that meets or exceeds the requirements of the ordinance. There are no specific regulations for hot tubs in the Code, so this ordinance regarding swimming pools is the closest applicable ordinance. Since the hot tub meets the fencing, gating, and setback requirements, it fully complies with the legal requirements that exist in the Code.

11-3-20: SWIMMING POOLS:

A. The intent of the requirements in this section is to make swimming pools inaccessible to small children for reasons of safety, and therefore, these requirements shall not be abridged except in a manner to exceed the specific requirements listed below:

1. All swimming pools shall be enclosed by a solid wall or fence, chainlink fence or wrought iron fence having vertical bars of at least one-half inch ($^1/_2$") cross section spaced no farther apart than four inches (4") between bars.

2. Required enclosure walls or fences shall be constructed so as to be unclimbable by children. Therefore, wood (woven) fences shall be prohibited where the boards or slats are horizontal; chainlink fences shall have interwoven slats.

3. All walls or fences shall not be less than five feet (5') nor more than seventy eight inches (78") in height except that at the discretion of the zoning administrator and after giving consideration to location, safety and effects on the neighborhood, a higher fence may be allowed.

4. No fence or wall shall have more than four inches (4") between the bottom of the wall or fence and the underlying ground.

5. Where possible, the ground underlying a fence or wall should be made impervious to any digging that a small child may attempt.

6. All gates shall be self-closing and shall have self-latching latches which shall be not less than four and one-half feet ($4^1/_2$') above the ground or otherwise inaccessible from the outside to small children.

B. In any single-family residence district, private swimming pools shall be in the side or rear yard and there shall be a distance of at least three feet (3') between any property line and the water's edge, provided that at no time shall a swimming pool be closer than twenty feet (20') to a public right of way.

C. No public swimming pool shall be located closer than twenty five feet (25') to any lot line of the lot on which it is situated. (Ord. A-407, 3-15-1982; amd. Ord. 05-01, 1-18-2005; Ord. 05-25, 11-21-2005)

Judah M. Gersh

Attorney at Law

Viscomi & Gersh, PLLP

121 Wisconsin Avenue

Whitefish, MT 59937

Phone: 406-862-7800

Fax: 406-862-7820

P.G.S./Broadcast Media Services
P.O. Box 8332
Missoula, Mt. 59807
Phone: (406) 493-1128 Mt. Cell#: 369-0134
E-mail: pgs1@bresnan.net

Acoustic Treatment
Vibration Isolation/ Noise Reduction
OSHA, ADA & FDA Compliance Testing
SITE DOSIMETRY & TESTING

6/1/16

Montana Creative
P. 406.862.8152
158 Railway St.
Whitefish, MT 59937

Attention: Aaron Wallace/ Jeff Badelt / Judah Gersh / Brian Averill / Dan
Re: Common Parlance Comparisons for Noise

This document shows a COMPARISON of Noise levels as defined by the scale on my NTi XL2 Sound Analysis Meter (Type 1 & 2) for purposes of clarifying the DECIBEL LEVEL associated with Noise Levels described here. It is a credible description of Noise Levels for the laymen, which helps to place such Noise Levels in a real world scenario.

This Comparison list of A Weighted (Background Composite) Noise Levels is supplied here to provide clarity in the discussion. There is currently no definable codified Noise Ordinance in the City of Whitefish, governing this Conditional Use. The table is below, lifted DIRECTLY from my Meter. / Skip @ PGS/BMS

0 dB	**Silence**
10 dB	**Sound proof Room**
20 dB	**Very calm room**
30 dB	**Whispering words**
40 dB	**Library**
50 dB	**Interior Noise in Car**
60 dB	**Large Stores, Talking**
70 dB	**NOISEY OFFICE**
80 dB	**Traffic on Busy Roadway**
90 dB	**LOUD Train Sounds**

As noted in the table above, most common Noise created surrounding the Hotel will readily eclipse ANY Noise that may be attributed to the rooftop Hot Tub.
This table is supplied to underscore the fact that Noises originating on the roof top are not interactive with any known site lines to residential areas adjacent to

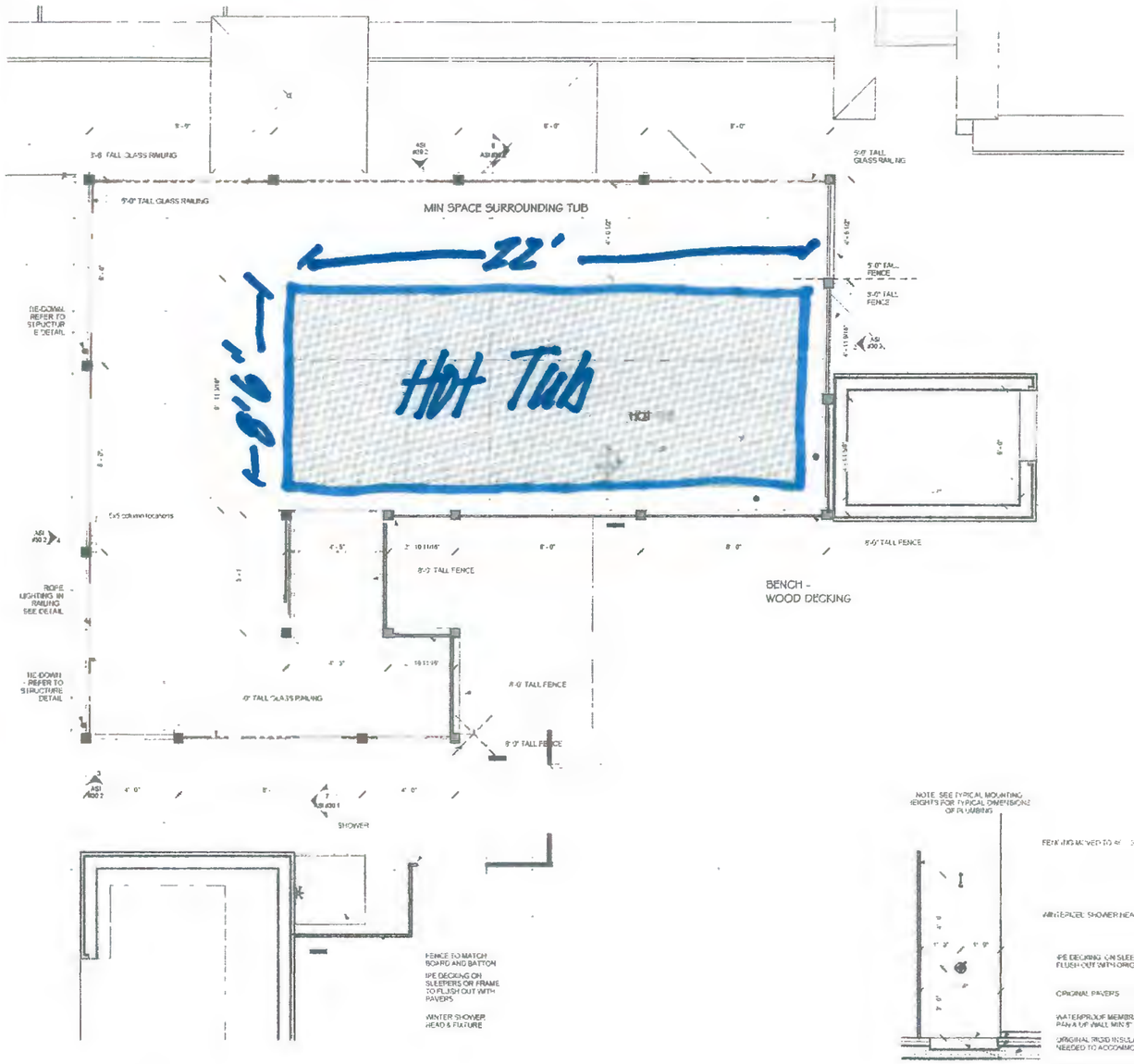
&/0r below the level of this installation. It simply is outside the realm of physical possibility for sound to travel downwards to the residential areas in question. Sound transmission is governed by the laws of physics & spatial geometry. The HEIGHT of this installation makes such downward migration a near physical impossibility. A site visit on Thursday has verified this fact to me.

I've authored or contributed to authoring more than 15 codified ordinances governing Noise in as many cities. To my knowledge the Conditional Use of the Hot Tub space on the Roof is not currently capable of proffering Noise to any adjacent areas currently I've examined./ Skip @ PGS/BMS

Charles G. Kahane, C.A.E. (Certificated Audio Engineer)
P.G.S./ Broadcast Media Services
P.O. Box 8332
Missoula, Mt 59807

← E. 2nd Street →

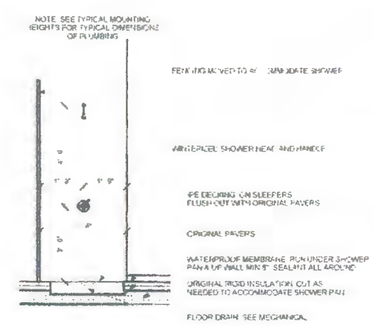
Spokane Avenue



1 HOT TUB PLAN
ASI #30 1 1/2" = 1'-0"

proposed hot tub location

6 NORTH WEST ENTRANCE
ASI #30.1



7 Roof Shower Section
ASI #30 1 1/2" = 1'-0"

CONSTRUCTION DOCUMENT SET

Reg No. 2800
AARON J. VINELAKE

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

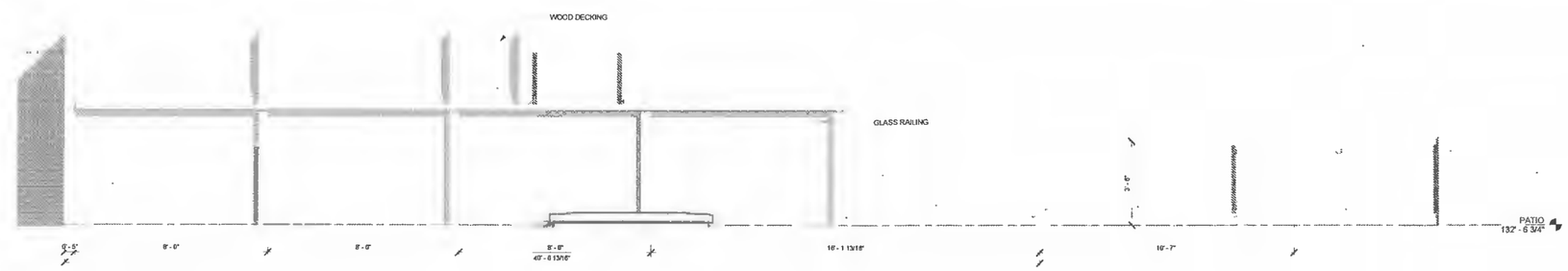
Project number
Date
Drawn By
Checked By
Revisions

Montana Creative architecture - design

HOT TUB

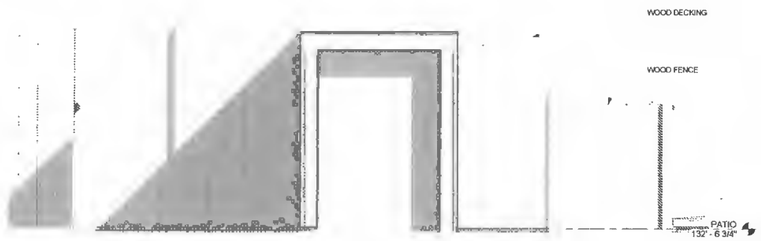
BLOCK 46 HOTEL

ASI #30.1

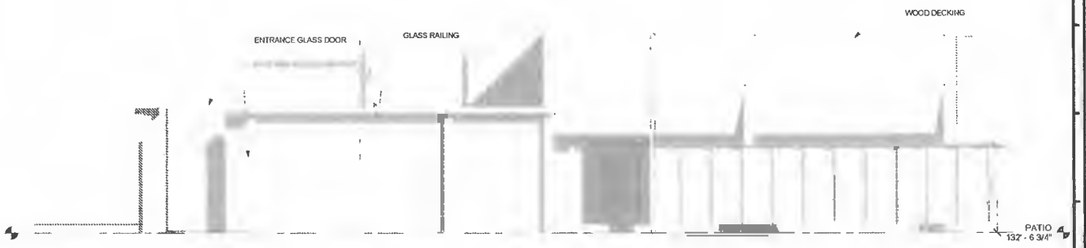


1 HOT TUB NORTH ELEVATION
ASI #30 21/2" = 1'-0"

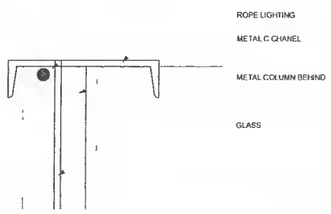
3



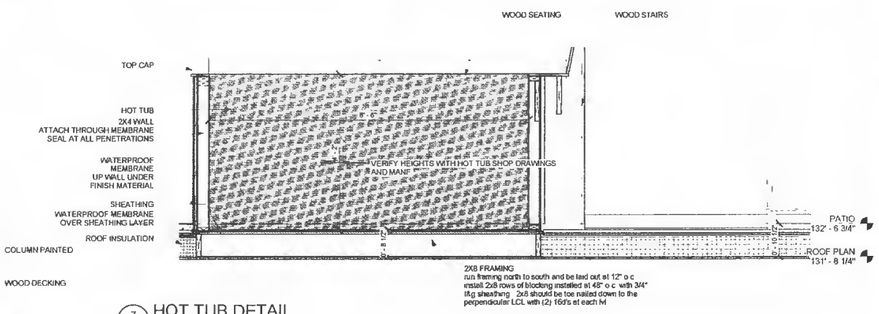
2 HOT TUB EAST ELEVATION
ASI #30 21/2" = 1'-0"



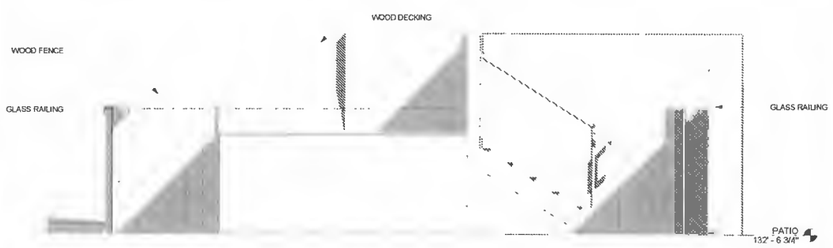
3 HOT TUB SOUTH ELEVATION
ASI #30 21/2" = 1'-0"



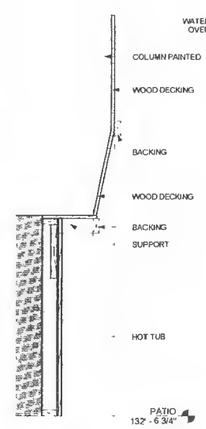
6 HOT TUB - RAILING CAP DETAIL
ASI #30 23" = 1'-0"



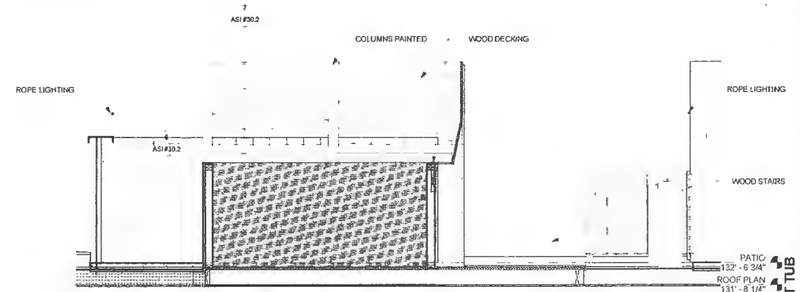
7 HOT TUB DETAIL
ASI #30 23/4" = 1'-0"



4 HOT TUB WEST ELEVATION
ASI #30 21/2" = 1'-0"



5 HOT TUB FENCE DETAIL
ASI #30 21" = 1'-0"



8 Section - HOT TUB
ASI #30 21/2" = 1'-0"

CONSTRUCTION DOCUMENT SET

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly licensed architect under the laws of the State of Montana pertaining to Architects. Montana

14-10
Date 8 19 15
Reg No 3432
AARON J WALLACE

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Project Number 14 1-
Date
Drawn By
Checked By
Revisions

Montana Creative
architecture + design
MONTANA CREATIVE
ARCHITECTURE +DESIGN
158 RAILWAY ST
WHITEFISH, MT 59937
406 862 8152
FAX# 406 862 8153

HOT TUB

BLOCK 46 HOTEL

WHITEFISH, MT

ASI #30.2

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GENERAL INSTALLATION GUIDELINES

Stainless steel and copper can become hot if left in direct sunlight for extended periods of time. DSI recommends undermounting all outdoor spas.

NEVER LEAVE THE SPA UN-COVERED WHILE EMPTY
excessive heat can build up on the spa if it is not full of water. A solid or opaque covering will suffice. Heat damage is not covered under your warranty.

NEVER LEAVE CHILDREN UNATTENDED AROUND SPA

1) Spa must sit on a smooth, flat, level concrete pad. Pad should be a minimum of 4" thick an or as per the structural engineer.
2) The area under the hot tub unit and the equipment must have a waterproof pan or membrane that goes into a drain to prevent flooding or water damage to the region below.
3) Certain applications may use plywood decking and or other material for tub support.
4) PVC and conduit requirements are specified for each tub. Make sure that all underground lines are pressure tested prior to and during back fill.
5) DSI will specify the necessary space requirements for remote location equipment rooms. Equipment rooms are to be no more than 50' from the spa unless previously discussed with DSI. The room is recommended to be at or below the same elevation of the spa.
6) DSI recommends a floor drain in the spa vault and the equipment room vault.
7) Once you have the tub placed and level, connect all water, air and communication lines. All plumbing and communication lines are clearly labeled at the stub out location spa side as well as on the equipment package. DSI recommends that you fill and test the spa at this time to verify proper connection of all water, air and communication lines.
8) Upon inspection of all plumbing and conduits, you may now build the remaining retaining vault wall. Take appropriate precaution that the lines are not disturbed during back fill.
9) **It is the responsibility of the owner/user to provide clear and easy access on all sides of the spa for repair. Otherwise, all additional costs to service and repair the spa will not be incurred by DSI. Inspection ports and/or service access is very important, please take this recommendation into consideration. If you have any questions and or need design ideas please call Diamond Spas.**

Electrical

1) Electrical requirements are specified for each unit. Only a licensed qualified electrician should connect the power supply.
2) Some units require more than one supply circuit. All power supply circuits must be located in the same disconnect box. (per NEC) Disconnect box must be more than 5(five) feet away from the tub and less than 50(fifty) feet away and within sight of spa.
3) All spas require a continuous bond. All spas are shipped with a bond connection on the frame. This connection must be made in the field.
4) Never turn the power on to the spa if it is empty. The spa needs water to properly test and satisfy diagnostic computations.
5) All electrical supply to the tub must be GFCI protected.
6) Any nearby electrical outlets, windows, hand rails or metal fencing may have special bonding requirements. Consult your licensed qualified electrician.
7) The communication cables for touch pad, low voltage lighting and water level sensors must be housed in separate conduits from the power supply. Never run communication and line voltage wires together.

Gas

1) Gas requirements are specified with each unit. (where applicable)
2) Gas lines must follow guidelines and code requirements for your location.
3) Ventilation and combustion air needs are different for each unit. Please take time to check all proposed heater locations with your gas company or gas fitter to insure adequate combustion air and ventilation.

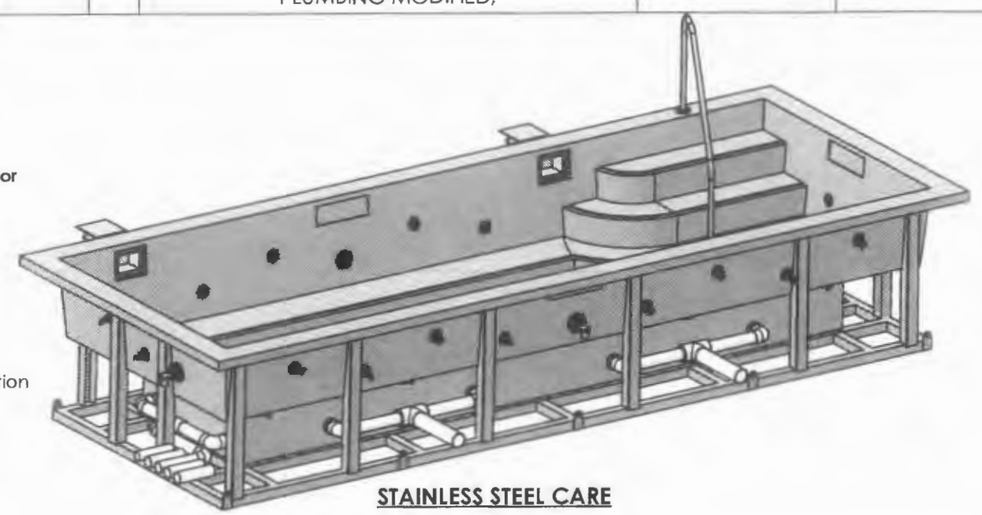
It is the responsibility of the client to make sure that all products are in compliance with local codes and regulations. Certain jurisdictions may require additional testing and/or listing. It is also the responsibility of the client to arrange and pay for any permits, permit fees, inspections and inspection fees. Consult your local governmental agencies for additional information.

Plumbing

1) Pipe materials for all pool recirculation and therapy lines to be schedule 40 PVC(ASTM D1785). PVC pipng shall be stamped with N.S.F. seal of approval. All plumbing fittings and pipe must be pressure rated.
2) Prior to connection to spa, all underground plumbing must be pressurized and maintain pressure for 24 hours minimum.
3) All plumbing stub-out locations will be labeled on drawing. Confirm location if applicable.
4) Never handle or lift tub by plumbing.

REVISIONS

REV.		DESCRIPTION	DATE	APPROVED
	A	Added the rest of the equipmentB1	12/10/2015	
	B	Removed SkirT	1/6/2016	
	D	STEPS, SEATS, FITTINGS, EQUIPMENT MODIFIED	2/19/2016	
	E	SKIMMERS, SUCTIONS, JETS, MOVED	2/24/2016	
	F	HANDRAIL LOCATION MODIFIED	2/25/2016	
	G	HANDRAIL LOCATION M ODIFIED, SKIMMER LOCATION MODIFIED, PLUMBING MODIFIED	2/29/2016	
	H	PLUMBING DETAILED, CHEMICAL FEEDER MODIFIEDB1	3/14/2016	
	J	EQUILIZER LINES REMOVED	3/15/2016	
	K	EQUIPMENT MODIFIED, HANDRAIL MODIFIED, PLUMBING MODIFIED,	5/3/2016	



STAINLESS STEEL CARE

1) Stainless steel is highly resistant to rust and corrosion. Stainless steel is extremely durable and with proper care and maintenance will maintain it's luster and appearance indefinitely.
2) DSI uses 316L or 304L grade stainless. Each unit has a random hand finish applied to it as all product is hand crafted, exhibiting a visible concise weld seam.
3) DSI recommends rinsing any exposed stainless steel with fresh water on a a regular basis to remove any salt air or pollution contaminate.
4) Minor build up and/or spotting is simply removed with regular care and a "Scotch-Brite" scouring pad.
5) NEVER use steel wool or steel brushes on a DSI product. These products are carbon steel and leave particles that will rust and create stains.
6) If you should notice any staining and/or discoloration on the stainless steel surface it must be removed immediately. Most discoloration and staining is removed with the "Scotch-Brite" scouring pad. After the area is cleaned rinse with fresh water and dry with a a soft cloth.
7) If you have any questions, please contact DSI at 1-800-951-7727

2904, Whitefish

UNLESS OTHERWISE SPECIFIED DIMENSIONS ARE IN INCHES. DO NOT SCALE DRAWING

MATERIAL: 304/316L Stainless Steel

FINISH: Rotary Hand Brushed

DRAWN: MR 5/3/2016

CHECKED: SK 5/3/2016

REVISION: K

SHEET: 1 OF 6

DIAMOND SPAS

4409 Coriolis Way
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ph. 720-864-9115
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fax. 1-866-605-2358

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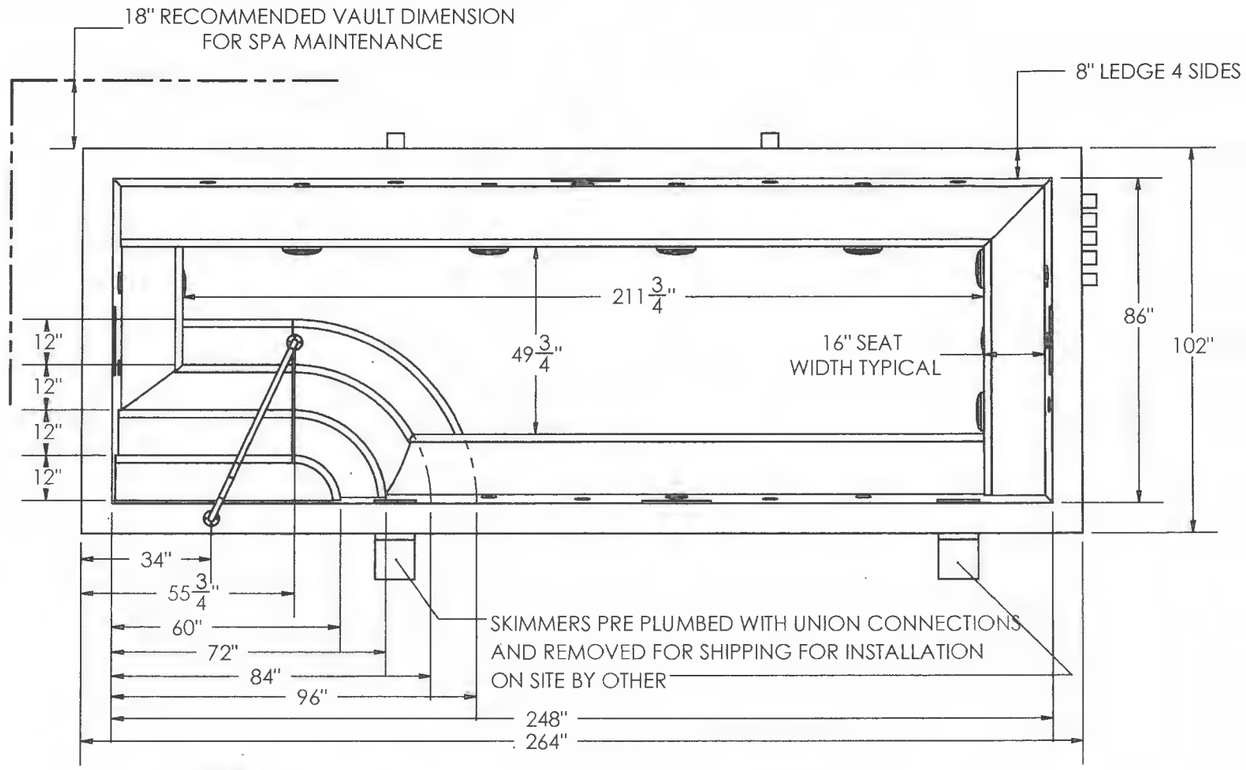

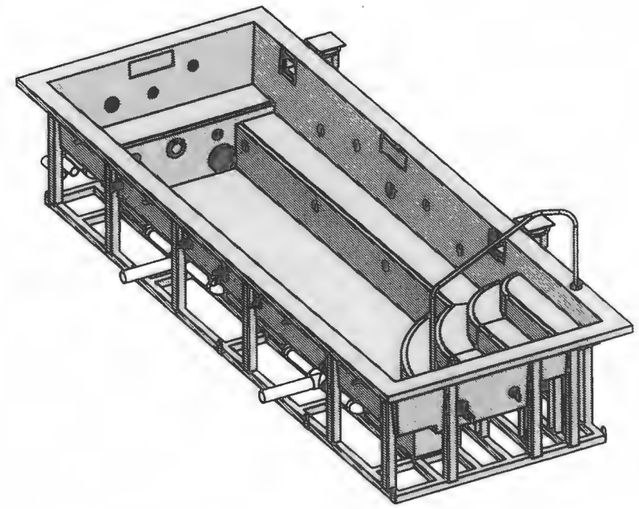

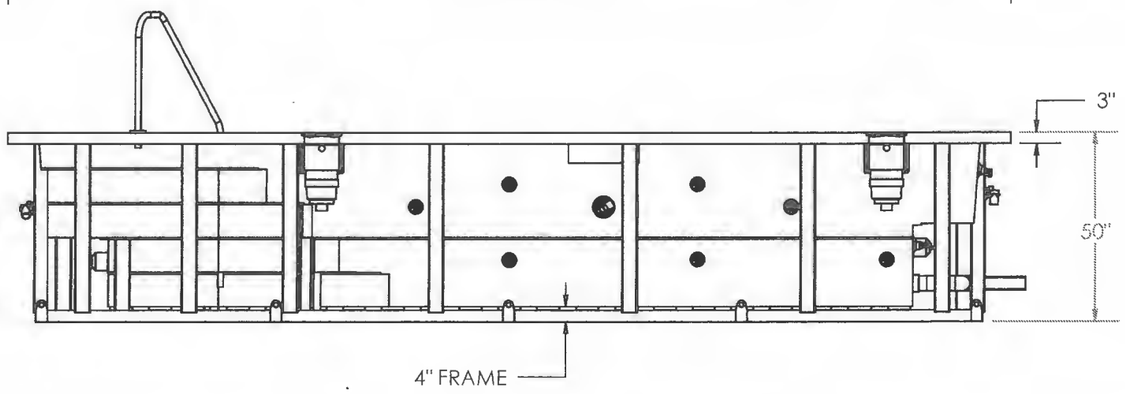

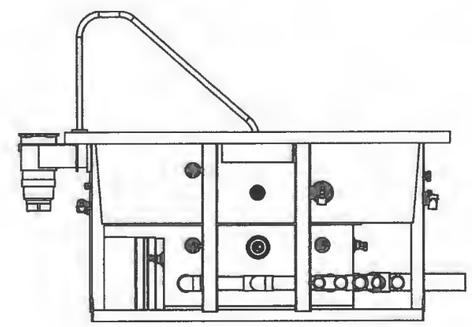

DATA	
Surface Area	146 sq.ft.
Spa Capacity	2470 gallons
Spa Water Weight	20606 lbs.
Spa Shell Weight	3835 lbs.
Spa Total Weight	24441 lbs

2904, Whitefish

NOTES:
- due to the custom nature and welding processes involved in fabrication, there may be some distortion or warping of the flat surfaces on our products.
- all inside weld seams will be visible.
- spa will be insulated with a 2-part polyurethane foam.
- standard foam, snap-lock cover to be supplied w/ spa.

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MATERIAL
304/316L Stainless Steel

FINISH
Rotary Hand Brushed

DRAWN MR 5/3/2016
CHECKED SK 5/3/2016
REVISION K
SHEET 2 OF 6

DIAMOND SPAS

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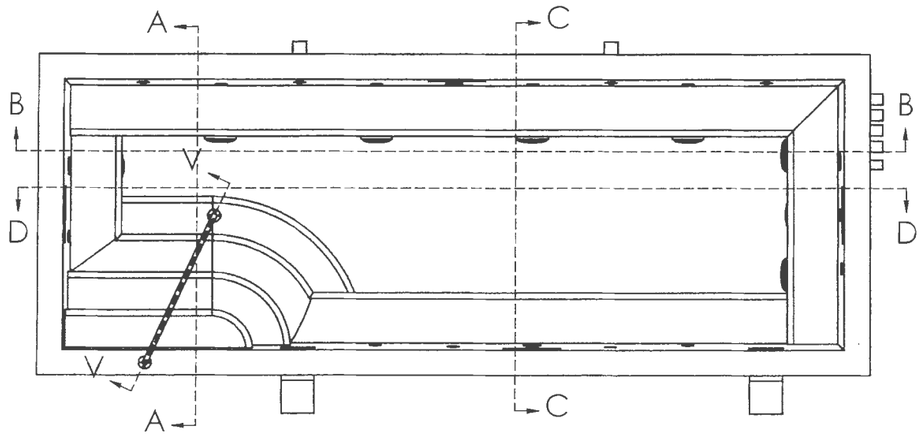
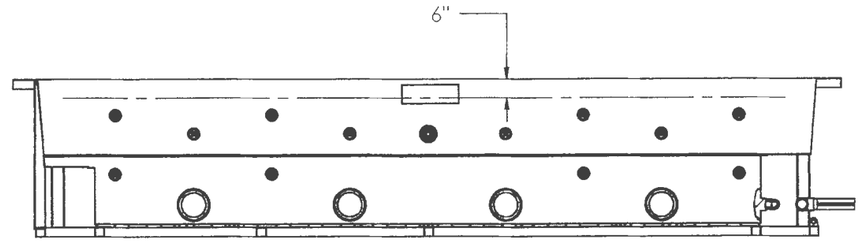
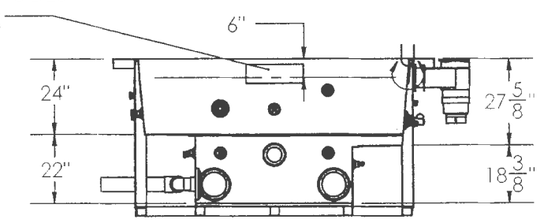


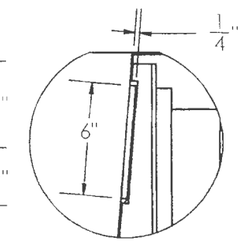


6" X 18" X 1/4" RECESS FOR WATER DEPTH AND NO DIVING TILES 4 SIDES
TILE BY OTHER

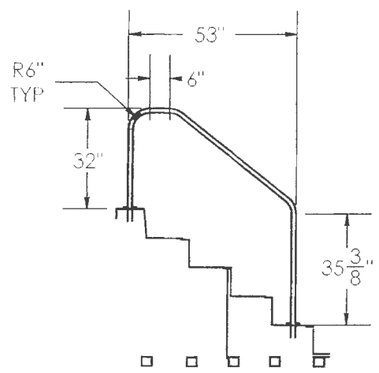
SECTION B-B
SCALE 1 : 60



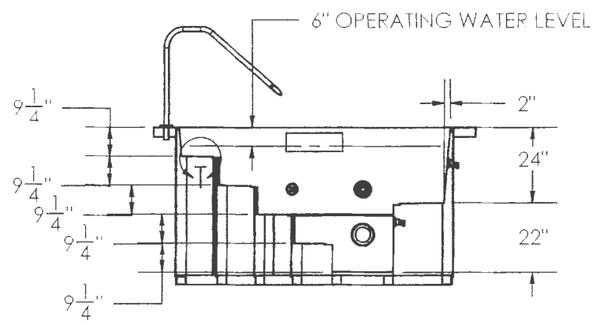
SECTION C-C
SCALE 1 : 60



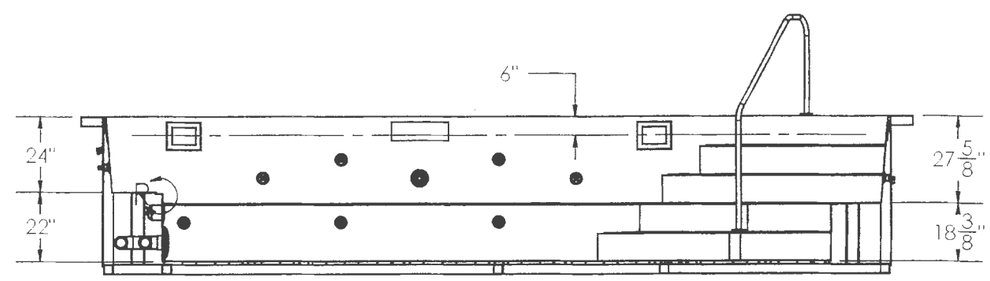
DETAIL U
SCALE 1 : 10
TILE RECESS
TILE BY OTHER



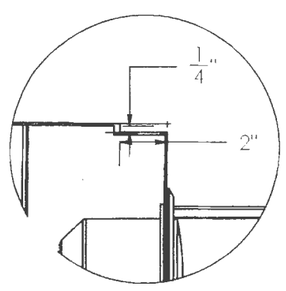
SECTION V-V
SCALE 1 : 60



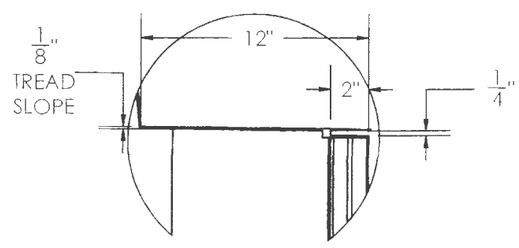
SECTION A-A
SCALE 1 : 60



SECTION D-D
SCALE 1 : 60



DETAIL R
SCALE 1 : 8
TILE RECESS
TILE BY OTHER



DETAIL T
SCALE 1 : 10
TREAD DETAIL

2904, Whitefish

UNLESS OTHERWISE SPECIFIED DIMENSIONS ARE IN INCHES. DO NOT SCALE DRAWING

MATERIAL: 304/316L Stainless Steel

FINISH: Rotary Hand Brushed

DRAWN: MR 5/3/2016

CHECKED: SK 5/3/2016

REVISION: K

SHEET: 3 OF 6

DIAMOND SPAS

4409 Coriolis Way
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fax. 1-866-605-2358

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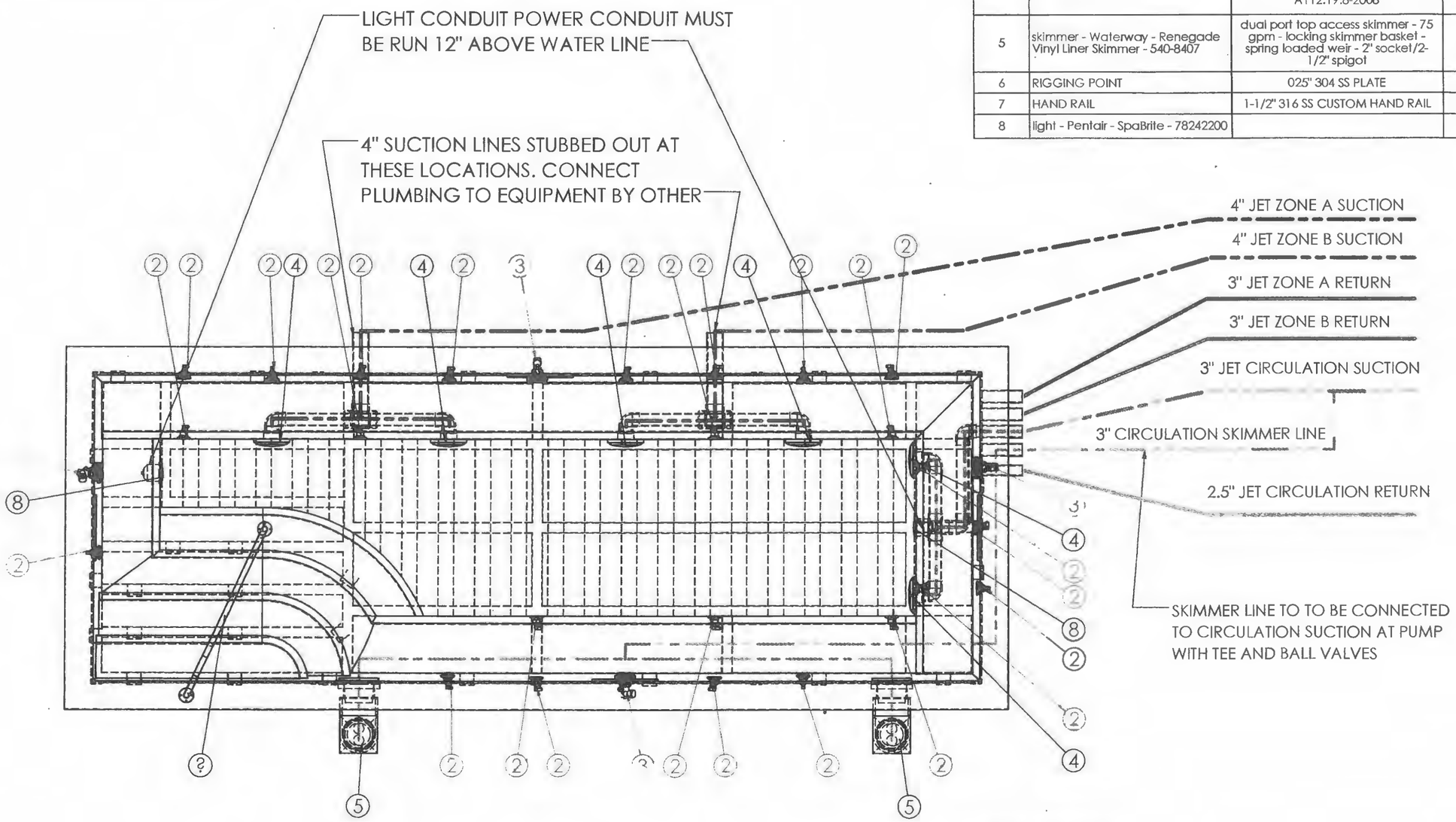
NOTE: VENTURI PLUMBED TO CHECK VALVE LOCATED UNDER SPA LEDGE

ITEM NO.	Equipment	DESCRIPTION	QTY.
1	SPA SHELL	12/14 GA 316 SS SPA SHELL WITH 304 SS SUPPORT FRAME	1
2	JET - WATERWAY - MINI STORM THREAD - ASSEMBLY DS P/N 228-0379 CPVC		24
3	jet - Waterway - DS P/N 212-2000	directional eyeball w/ 1" orifice - 1psi@30gpm	4
4	suction - Paramount - SDX	10" suction - 200GPM floor, 192GPM wall - VGB ASME A112.19.8-2008	6
5	skimmer - Waterway - Renegade Vinyl Liner Skimmer - 540-8407	dual port top access skimmer - 75 gpm - locking skimmer basket - spring loaded weir - 2" socket/2-1/2" spigot	2
6	RIGGING POINT	025" 304 SS PLATE	10
7	HAND RAIL	1-1/2" 316 SS CUSTOM HAND RAIL	1
8	light - Pentair - SpaBrite - 78242200		2



2904, Whitefish

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MATERIAL
304/316L Stainless Steel

FINISH
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DRAWN MR 5/3/2016

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REVISION K

SHEET 4 OF 6

DIAMOND SPAS

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EQUIPMENT AND RELATED ELECTRICAL REQUIREMENTS

Item No.	Equipment	QTY.	Description	Voltage	H.P./Amps	Notes
1	filter - Pentair - Clean & Clear plus - CCP520	1	520sq.ft. cartridge filter - 150gpm max. flow rate - NSF listed			requires 74" vertical height to remove filter cartridge for service/replacement
2	heater - Pentair - MasterTemp - 250 ASME PN 460771	1	Natural gas 250Kbtu gas heater w/ direct ignition.	230 volt		230V connection to control. requires connection to gas supply and venting as per manufacturers requirements.
3	pump - Pentair - WFE-6 - 011514	1	centrifugal pump and motor, 1-1/2 h.p., 105gpm @ 50 ft.TDH, 2" suction, 2" discharge	208-230 volt	9.6-8.8 amp	
4	pump - Pentair - WFE-12 - 011516	2	centrifugal pump and motor, 3 h.p., 143gpm @ 60 ft.TDH, 2" suction, 2" discharge	230 volt	15 amp	
5	chemical pump - Stenner - Peristaltic Pump 45M5	2	3-point roller peristaltic chemical pump	120 volt	2 amp	25 psi max operating pressure, 2.5-50 GPD, pump tube #5,
6	chemical feeder - Pentair - Intellichem	1	automated chemical management system with flow sensor	230 volt		
7	CLEAR COMFORT SANITIZER	1	SN:CCW100-150 1PMO76, MODEL: CCW100, FLOW RATE 5.5 LPM			60 HZ
8	Gauge - pressure and vacuum - 0-60 psi	3	Liquid filled pressure and vacuum combination gauge			0-60 psi pressure range 0-30 inHg vacuum range, 1/4-NPT male fitting
9	thermometer - pentair - inline 30-130 deg F	3	inline thermometer with nylon well, 30-130 deg F range			
10	flowmeter - Blue-White Industries - F30250P	1	clamp mount Acrylic Pitot Tube horizontal flowmeter			2.5" pvc mount, 60-240 GPM flow range
11	auto-fill control - Levelor - F1100	1	auto-fill control - input from sensor - 24VAC output to 1" solenoid valve	115/230 volt	1/.5 amp	115V connection to control. requires 1/2" backflow protected and freeze protected water line
12	control - Pentair - Compool LX802L	1	commercial pool control w/ dual time clocks and emergency shut-off	230 volt	<1 amp	

NOTES:
- spa requires (1x)230V 60A GFCI service @ equipment.
- spa shell and all equipment to be bonded w/ min. #6AWG bare copper conductor.
- Pumps must be at or below spa suction height to ensure correct pump operation
- **LX802L PROVIDED WITH 2X JET BUTTONS FOR DUAL ZONE CONTROL**

ALL EQUIPMENT PROVIDED TO BE PLUMBED AND INSTALLED ON SITE BY OTHER

2904, Whitefish

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MATERIAL: 304/316L Stainless Steel

FINISH: Rotary Hand Brushed

DRAWN: MR 5/3/2016

CHECKED: SK 5/3/2016

REVISION: K

SHEET: 5 OF 6

DIAMOND SPAS

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ph. 720-864-9115
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Primary contact/project manager: _____

Phone #: _____ Email Address _____

Bill to Address: _____

City _____, State _____ Zip _____

Ship to Address: _____

City _____, State _____ Zip _____

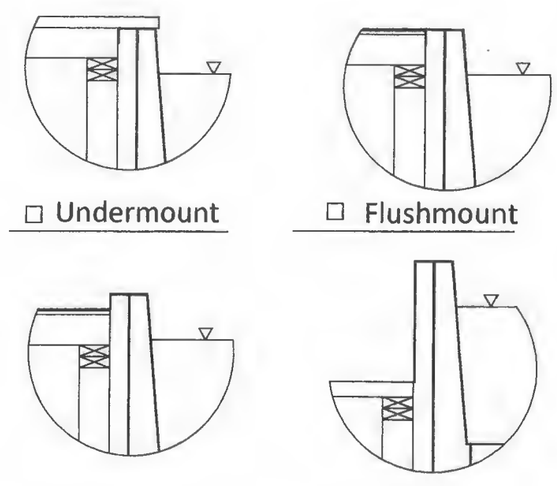
Foam cover color selection: _____

Autocover color selection: _____

Link -

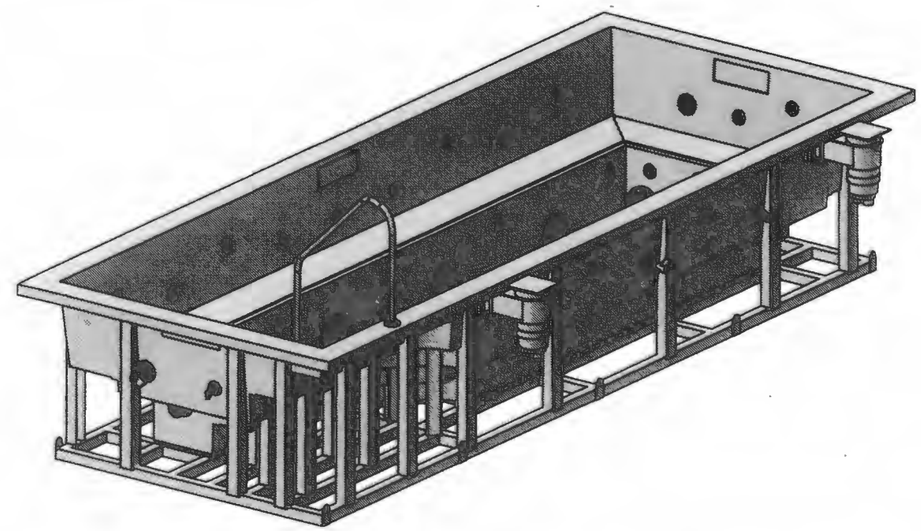
https://www.diamondspas.com/swimming-pool-spa-collection/custom-spas-hot-tubs/spa-cover-colors/

Selected Mounting Method



☐ Undermount ☐ Flushmount

☐ Self-rimming ☐ Skirting



"All service and repairs require access to the outside of the spa. The purchaser accepts the related responsibility for the method of access selected as part of the architectural design outside of the DSI scope of work. These drawings do not include access unless it is part of the metal fabrication we provide."

Access Methods below have been reviewed and considered (Checkbox) ☐ **Date** _____

ACCESS METHODS:

Construct a crawl space a person can enter to make repair, minimum 18" wide.

Plan to construct removable panels to gain access.

- Metal Panel constructed by DSI
- Panel Constructed by others

Plan for a method to slide, move, or hoist the spa to gain access.

Plan for demolition to occur to gain access.

Plan to hoist spa as necessary

Other method

NOTE: installer should test the spa for leaks prior to completing surrounding finishes.

REVIEWED BY: _____ DATE: _____

check one: ☐ revise and resubmit ☐ approved as drawn

By signing this page and checking "approved as drawn" I acknowledge that I have read and understand pages 1 through 6 in this document.

2904, Whitefish

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MATERIAL: 304/316L Stainless Steel

FINISH: Rotary Hand Brushed

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SHEET: 6 OF 6

DIAMOND SPAS

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J.S.M. Productions

P.O. Box 8332 Missoula, MT 59807
Phone: (406) 493-1128 Cell: (406) 239-5304
E-Mail: jsmpro@yahoo.com

OCT 13 2016

9/27/16

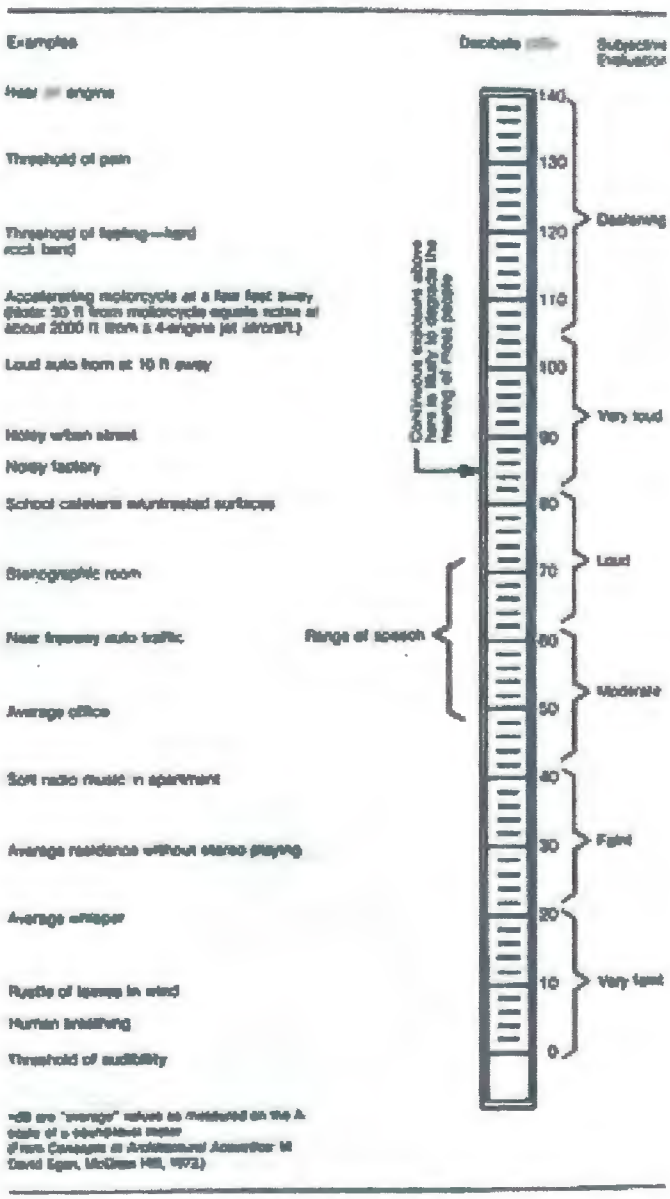
Whitefish Hotel Group
Firebrand Hotel
650 3rd St
Whitefish, MT 59937
(406) 863-1900

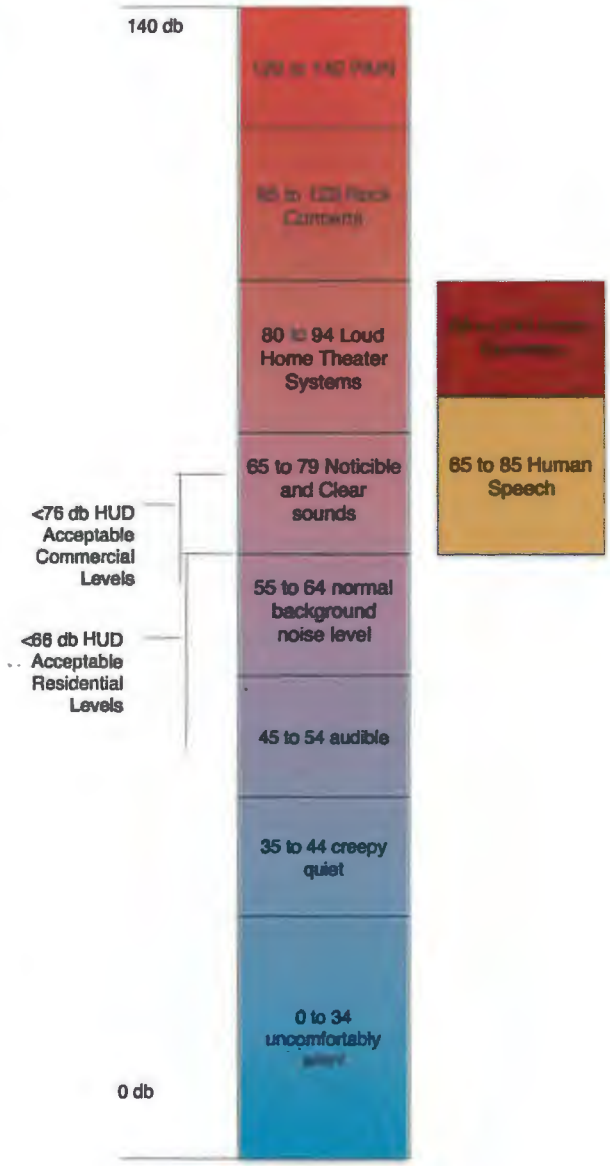
Whitefish Environmental Noise Assessment

On September 1st and 2nd of 2016, I took sound level readings and site observations in the City of Whitefish in the commercial and residential areas to the immediate East and South of the Intersection of Spokane and 2nd Street. These readings were taken at the request of the Firebrand Hotel and consisted mostly of background noise assessments to determine the base operating sound levels of the area. A large speaker was also played on the roof of the Firebrand to determine the possible effects of noise produced in the area planned for hot tub installation. This report contains my professional assessment of those tests and observations. A full copy of all readings I took those days are available from me upon request. Any assessments I make about the site can be verified in the plans or at the Firebrand Hotel itself.

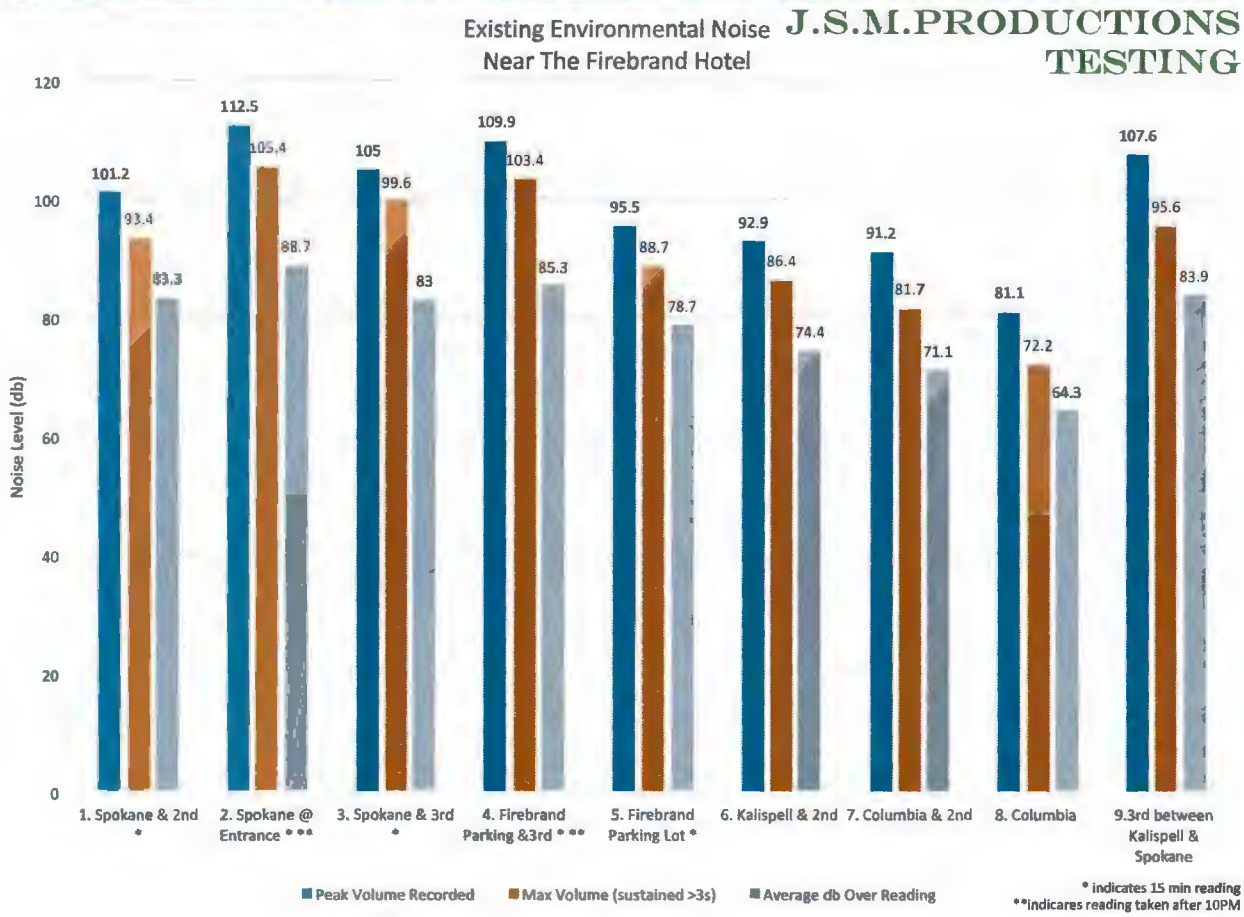
There are three basic parts to this assessment. First is to establish background noise levels for the area. In the second section I show the results of testing done on site with a noise source (large speaker) on the roof directed at the residential areas. Finally there will be a site assessment based on existing conditions as I witnessed them. The results of these three assessments are the reason I feel comfortable saying that if/when The Firebrand opens it's proposed rooftop amenities *testing shows you can expect no significant, discernible change in Noise Levels to the surrounding residential areas.*

In the City of Whitefish there are no defined noise standards, so for comparison I will use commonly accepted government standards. Below are reference graphs that show these standards. The one on the left is from the Housing and Urban Development (HUD) *Noise Guidebook*. This guidebook is available at https://www.hudexchange.info/resource/313/hud-noise-guidebook/ or upon request from HUD. The one on the left is one I created for customer reference.





There are many readings used to establish a background composite of an area as large as this. The public sidewalk immediately bordering the Firebrand hotel received most of the recordings to establish what that area is exposed to without outdoor commercial operation. Below is a map of where the readings were taken and the recorded background levels at each site.



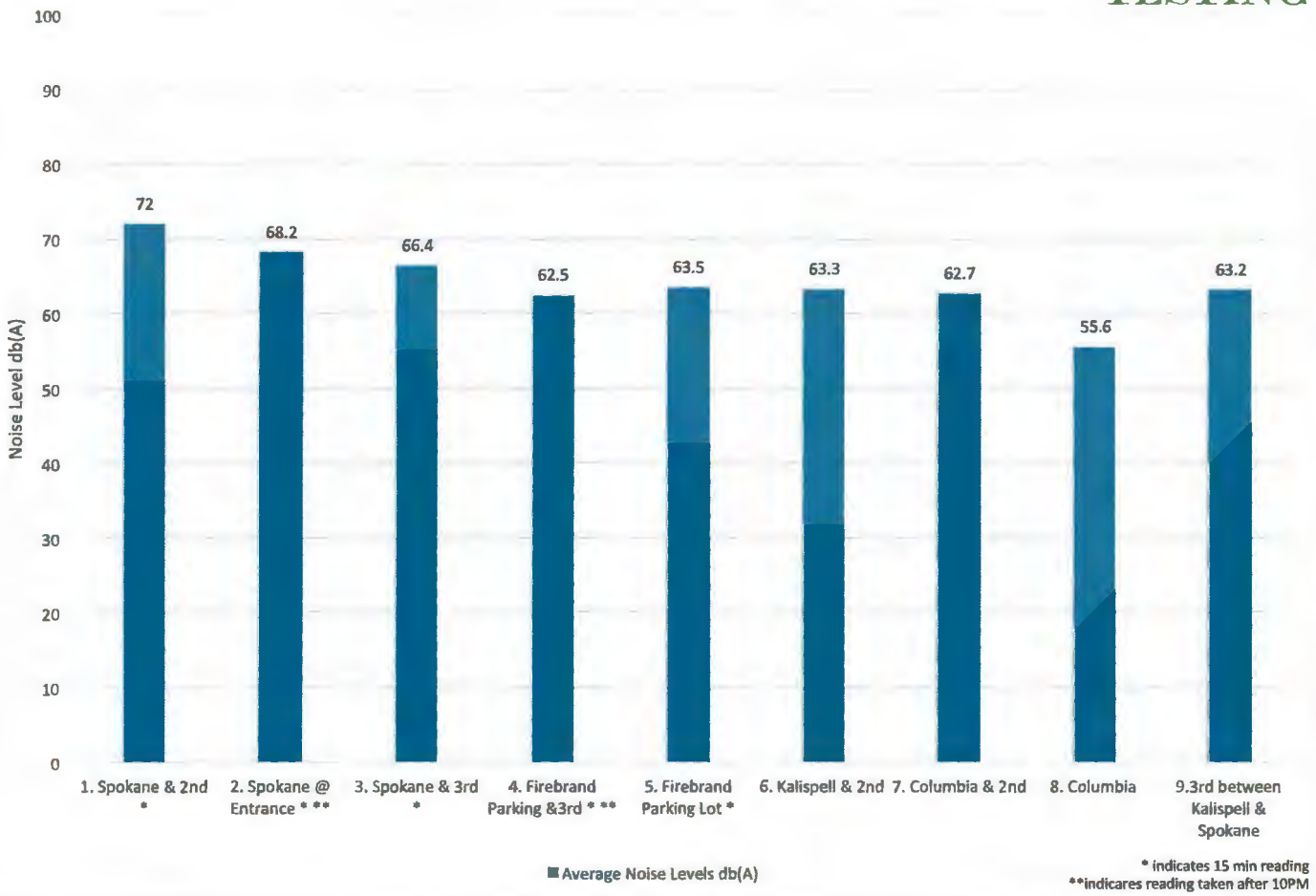
The graph on the previous page shows actual Sound Pressure Levels (SPL) measured in Decibels (db) without any weighting applied. While the "Peak Volume Recorded" and the "Max Sustained Volume" are important the gray bar is the best representation of overall noise level. The differences are noticeable and the logarithmic nature of sound means that every 10 (db) of difference means double the volume. So in this case the intersection of Spokane (US 93) and 2nd (#1) (where the Firebrand is) has standard operating levels that are twice as loud as they are two blocks away at the intersection of Columbia and 2nd (#7).

One of the most mentionable things that you can see in that graph is the times of the loudest recordings. Spokane St. (US 93) in front of the Firebrand (#2) was often operating at these levels but this particular 15 minute recording was taken from 10:08 PM to 10:23 PM. recording is of the normal City operating SPL during the first hour of the City of Whitefish's "Disturbing the Peace Ordinance". *It would be nearly impossible for The Firebrand to exceed these levels under the proposed operation.*

Another fact of that graph that deserves mention is that the readings taken around the area of the Firebrand are all very similar. Most of this can be attributed to topography but it does go to show that the normal operation of the city and the Firebrand is the same on most sides of their property. It indicates that the Firebrand should be able to reasonably expect to operate at the same SPL (db) on all sides of their property.

All of those readings are unweighted. To clarify, SPL is measured by the pressure created across the frequencies humans can hear. However our ear doesn't hear all frequencies equally. The ASTM standard is to adjust these readings to the A-Weighted Curve (db(A)). The use of db(A) gives us a more accurate look at what a human is hearing during any of these recordings. The graph on the following page shows the average db(A) for the same readings.This graph shows how the human ear perceives the same readings from above. You'll note that location #1 is still twice as loud as location #7, however because the frequencies on Spokane St. (#2) aren't as audible to the human ear, it is now a lower level. I think the most outstanding thing about this graph is that is shows that the background composite SPL db(A) is very similar across the entire area.

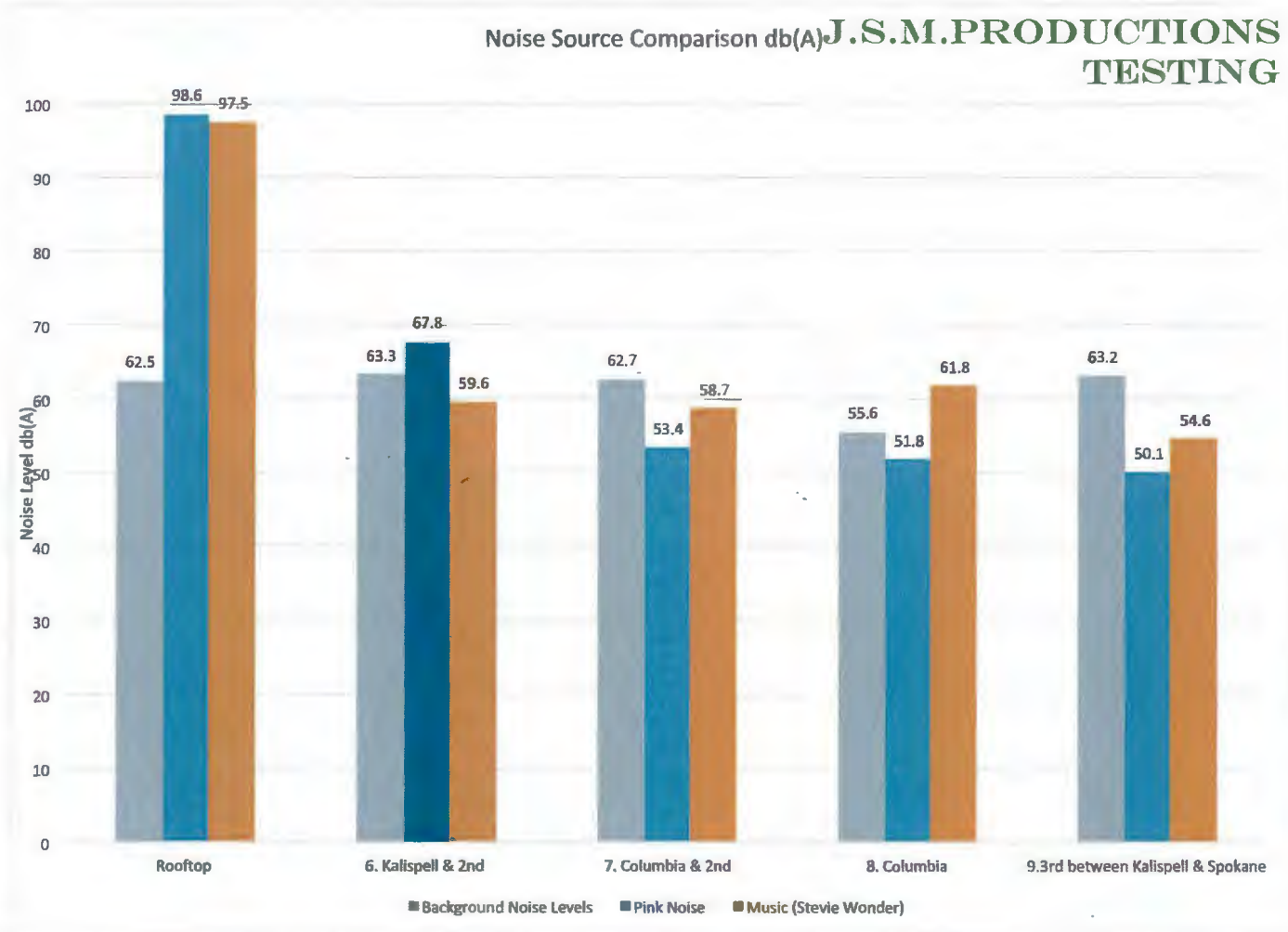
Average Noise Levels db(A) **J.S.M.PRODUCTIONS TESTING**



These readings are within what HUD defines as "Normally Acceptable" in their noise guidebook for the interface between Commercial and Residential levels. They are however on the upper end of these limits, this is to be expected due to the adjacent major US Highway in operation, as also described in the HUD guidebook.

The Peak and Max levels shown in the first graph indicate that the Highway can at any point reach well above those levels deemed "acceptable" without significantly altering the SPL db(A). Such peaks are similar to what is expected during the use of the rooftop facility at the Firebrand. It is in the following section that I show how these established levels compare to the levels recorded when I was creating noise in the area designated for the hot tub.

I introduced the noise source with a JBL EON 615 Powered Loudspeaker. It was mounted on a ProStage speaker stand so that the center of the speaker was approximately 5'6" above the ground at human ear and mouth level as described in ASTM E1527 testing standards. The ASTM Standards require the introduction of pink noise which is a consistent noise source, however I also performed the same tests with music (Stevie Wonder: 20th Century Masters) so that it would more accurately represent the actual use of this area. The graphs below show the most average readings taken 1 meter away from source, the effects of the source in the surrounding areas, and the standard averages that were also shown above.

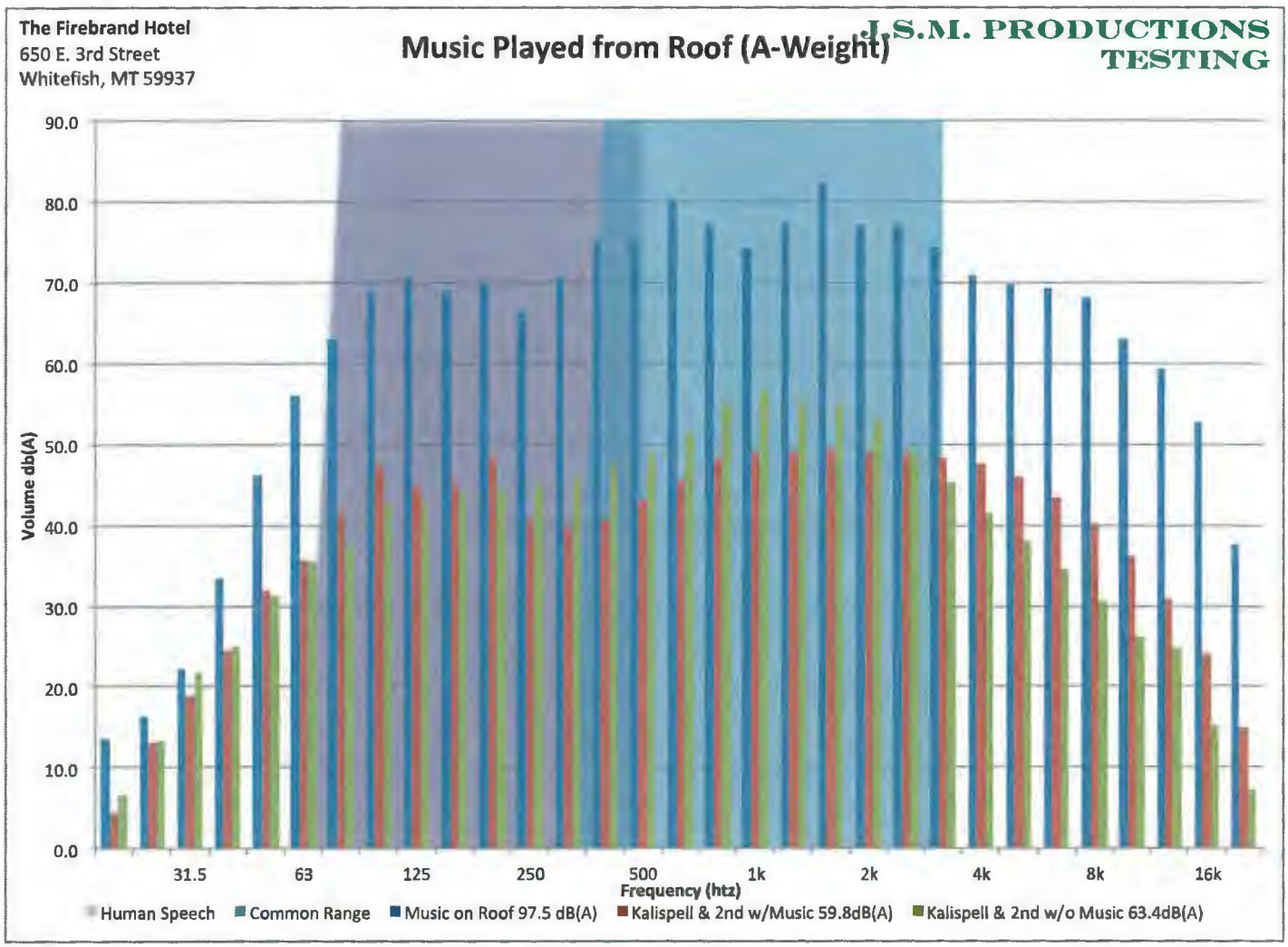


This comparison clearly shows that noise created at the area designated as the Firebrand Hotel Rooftop hot tub does not significantly add to the background noise level in the surrounding residential area. It also shows that background noise levels are constantly subject to traffic and other environmental effects.

At this point I'd like to note that readings taken at Kalispell & 2nd were also taken at location #11 with Pink Noise and Music, but that the readings at location #6 were actually louder and for the sake of consistency were the readings used for this graph. This is also the point to mention the lowest background reading I took over the course of two days. This was at Columbia St. (location #8) and was an amazing 47.1 db(A). This level is so low in an urban setting that it would make any noise noticeable. This then becomes a matter of perception and a good place to discuss the site evaluation.

We will start with the readings at Columbia St. (#8). The ASTM standards do not require that I test so far away from the site but I did at the request of the client who wanted to be sure that they were doing as much as possible to mitigate the effects they were having on the area. The pink noise readings that I took were 1 meter from the noise source and in similar conditions the SPL is expected to drop 6 db every time the distance doubles. The readings on Columbia St. (#8) were taken approximately 182.4 Meters away from the hot tub location. This means with an unobstructed view the 98.6 db(A) SPL from the roof would diminish to just 53.4 db(A), way below acceptable levels for a residential area as defined by HUD. It is worth noting that the view is not unobstructed. The source (hot tub) is surrounded by a 3 meter cedar sound barrier fence on the east and south sides that will deflect sound traveling in the direction of the residential areas. The North & West sides are also partitioned by 5' tall glass panels. The hot tub area is a rooftop location on the far Northwest corner of the building. this location starts the source above the surrounding residential area and uses the building as a way to prevent any noise created from being directed downwards towards the residential areas. There is a church, homes, and numerous trees in the line of sight between the Firebrand rooftop and where these recordings were taken, all of which deflect, diffuse, and absorb sound.

Normally when I arrive to evaluate a site my clients will ask if there is anything they could do to address their issue. In this case The Firebrand has already taken steps to mitigate their impact on the area. The designated area is on the northwest corner of the building as far from the residential areas as possible and as close as possible to the loudest existing noise source in the area (US-93 & 2nd). They also surrounded the area with a cedar fencing. This barrier creates a deflection limiting the power of the signal in those directions and casting a small "acoustic shadow". Cedar fencing is often sold as noise barrier fencing because the spongey rough cut structure of the wood lends itself sound absorption. Finally the usual commercial equipment (HVAC, vents, pumps, etc.) are all on the roof between the source and the residential areas, creating a wall of active sound similar to how we would use white noise for masking in an office space. *The design and orientation of the building will hinder sounds directed at the residential areas and direct most noise upwards or towards the commercial district.*



In this graph the purple area above indicates the extreme range of the normal human voice. The green area is the area Commonly known as the "Telephony Speech Range" which is the area we hear best at. These are the two areas that our ears and brains are trained to respond to (the A Weighted scale is designed to compensate for this). This means those are the frequencies most likely to distract a human. As you can see in the graph these are also the frequencies that traffic operates at in this area. Since the sounds we are most concerned with in this case are human voices it is important to indicate that just because someone perceives a noise as being louder it doesn't actually make it louder.

The home at the corner of Kalispell & 2nd (#11) has the most exposure to any rooftop noise created by The Firebrand. It is also one block from one of the busiest intersections in Whitefish. It happens to also be right next door to a school and performing arts center, across the street from a church, and "kitty-corner" from The Firebrand Hotel itself. It is bordered on three sides by commercial properties. I could not audibly discern any sounds coming from the hotel roof from the traffic sound on the street.

During the testing I became aware that Caseys has a rooftop bar & music nearby The Firebrand. I understand there has been some audible community noise from this facility, and understandably so. Without making a full assessment of Caseys I can only note site observations but it is surrounded by walls that push the sound in the direction of the residential neighborhood with no visible measures taken to deflect the sound away. The Firebrand facilities are on the rooftop (above the homes) and the only walls present are the sound barrier walls installed between the residential area and the hot tub. *Everything about the rooftop design of The Firebrand drives sound up, and not out.*

Conditions will determine some of the effects of transmission but it will affect all sounds equally. On occasion conditions may mean some sounds originating from the rooftop will make it to the surrounding area but not consistently and at greatly diminished power. The background levels found in this entire area were similar to what I would expect in the transition from commercial to residential, and the fact that the commercial area borders a major transportation throughway makes these readings remarkably low. It would be difficult for The Firebrand to create anywhere near as much sustained noise as US 93.

Due to existing background noise, site topography, the physics of sound, and the efforts taken by The Firebrand in creating noise barrier walls it would take intentional effort to raise the noise level long enough to "Disturb the Peace" at the neighboring residential properties. You should expect operation to easily be below commonly accepted government standards.

These tests were performed to the standards described in ASTM E1903 guidelines. The audio tests were performed with a NTI Audio XL2 analyzer with a MA 220 Microphone. The meter's license, calibration data, and microphone specs are available from Jeremy Fistrovich at Global Specialty Products at (952) 448-3808: 2480 Chaska Blvd, Chaska, MN 55318. All readings have an audio recording, SPL Log, and 3rd Octave frequency readouts. There were 72 readings recorded and all were taken when the rooftop area of the Hotel was not in operation in order to verify levels without the source in question. Readings were taken between; 4:15 pm and 11:00 pm on Sept 1, 2016 and; 6:00 am and 12:30 pm on Sept 2, 2016. The readings record a lot of information all of which establishes the background levels for an area. Most of these readings were recorded over 1 minute but there are several 5 and 15 minute recordings to verify that the levels found in the shorter readings were accurate. In most cases I have multiple readings of multiple areas. In these instances for this report I most often show the longest reading or the reading that is the closest to the average of the readings unless otherwise stated

The contents of this report are the property of Whitefish Hotel Group. This report was written by, all testing was performed by, and all test data is available from:

Devin Jackson
Jackson Sound Management Productions
jsmpro@yahoo.com
P.O. Box 8332
Missoula, MT 59807
406-239-5304

Wendy Compton-Ring

From: Bookworks <bookworks@bresnan.net>
Sent: Monday, October 17, 2016 2:33 PM
To: Wendy Compton-Ring
Subject: firebrand hot tub

Greetings,

Before the Firebrand was built, the owner of the building at 307 Spokane wanted to buy the property behind the building to create a parking lot. A lot used 8-5, m-f. That was turned down. Yet the Firebrand with inadequate parking and 24/7 disruption of the same neighborhood was approved.

The hot tub request was originally rejected by the city. But according to the WF Pilot, inspectors found pipe work laid during the building process. The city paperwork indicates the size of the hot tub as 22x8'6". That is not a hot tub - the size indicates a lap pool or small swimming pool.. That size indicates a large number of people, followed by a lot of noise and trash thrown off the roof.

As the former owner of the Pine Lodge Motel I can tell you about troubles with swimming pools and hot tubs. As owner of the Third St. Market building and owner of Bookworks in that building, and neighbor to the Downtowner, I can tell you about the noise, night and day from the hot tub. Guess how many beer bottles and other trash we clean off the top of our building.

The overall picture of the hot tub across from the school is another issue. No amount of plastic to hide it from view will be enough! Finally, whatever happened to the issue of alcohol being so close to a school. It was certainly an issue with the Downtowner several years ago.

Trash, noise and the school - I object!!

Cheryl Watkins
862- 4980

Wendy Compton-Ring

From: David Taylor
Sent: Monday, October 17, 2016 4:23 PM
To: Wendy Compton-Ring
Subject: FW: Firebrand Hot tub and Charging for parking

FYI

From: NH [mailto:whitefish4u2@gmail.com]
Sent: Monday, October 17, 2016 4:03 PM
To: David Taylor <dtaylor@cityofwhitefish.org>
Subject: Firebrand Hot tub and Charging for parking

Hello Dave Taylor,
The letter is regarding the Firebrand Hotel issues of a hot tub on the top Deck and also the additional parking fees for Parking on the premises of the Hotel for their own customers.

1. The City of Whitefish has responded with the wishes of members in the community multiple times for this same request for the Hot Tub. I wrote a letter regarding this once before. I ask that the request be denied again and for the last time.

Medically speaking, when Visitors come to Whitefish with it's high elevation from lower elevations, they become more drunk with less alcohol and quicker due to the lower Oxygen levels in the air. In addition, many tourists are drinking alcohol more on their holiday and then drinking more coffee to wake up in the morning. Both Alcohol and Caffeine are diuretics and lead to dehydration. People who are dehydrated have lower blood pressure and get also get drunk faster with less alcohol due to the lack of volume in their blood vessels. And finally, getting into a hot tub also hugely increases the effect of alcohol due to the peripheral vasodilation (dilation of blood vessels just under the skin) which lowers the blood pressure and cause that rosy pink skin. For multiple articles regarding this danger, google "Alcohol and Hot Tubs" and you will have pages of warnings to read. These are well known effects of alcohol on the body.

The outcome is that you have clients who get much more drunk and much faster with the behavior changes associated with being very drunk unexpectedly. It also may affect the driving of customers leaving the bar. I also think that a hot tub changes the entire ambiance of the top deck and invites
all customers and family members to enjoy the upper deck.

2. Firebrand is charging their customers a parking fee per day in the summer of $12/ day. Firebrand were clearly required in the approval process to provide parking for their customers on their premises. I was very clear in my letters in the beginning of the building process for this hotel that they would have to provide enough parking for their customers, their staff and the visitors of their customers AND NOT ON MY STREET, in front of my house! Coming and going at all hours of the night and day. I own 224 Columbia Avenue and I do not want the parking on my residential street to be filled with Firebrand staff or their customers or their customer's guests. I have heard that the staff at Firebrand tell the Firebrand customers that they can park for free on my street and other streets around the Hotel. That is not what was agreed when the City of Whitefish approved for this Hotel to be build and run.

I demand that you require that the hotel provide the parking for their customers and also for their staff that do not include using my street and the other neighboring residential streets as their private parking lot. Owners and occupants of houses near this hotel had to put up with the carpenters and labor building the hotel. They blocked the Tenant and Owners from having parking places on the street for their own friends and family. That was for a long time and that was enough.

Enough of Firebrand demands! I ask that you require that they own up to this obligation for providing parking and also to deny the hot tub as you have done many times in the past. I am seeing very little appreciation from Firebrand for

what the City has already offered and given them. They have no end to their demands and it is time for us to say no more.

Thanks you,
Nola Howard

Wendy Compton-Ring

From: Pat Carloss <patcarloss48@gmail.com>
Sent: Wednesday, October 19, 2016 8:26 AM
To: Wendy Compton-Ring
Subject: Firebrand hot tub

Hey Wendy, Emailing you to voice my support for hot tub on rootop of firebrand with stipulations in place such as 10 o'clock closing, etc. Also, thanks for the input and time from you and Dave on the project Dale and I are working on. Pat

Wendy Compton-Ring

From: Chris Gulick <gulick1970@gmail.com>
Sent: Wednesday, October 19, 2016 1:44 PM
To: Wendy Compton-Ring
Subject: Firebrand Hotel

To whom it may concern:

I am sending this letter in support of the new firebrand hotel. As a resident living very close to the hotel I am in full support of the FB and what it will bring into our community.
I know some concerns have been raised about noise and other inconveniences to the neighborhood but I personally have not been affected or bothered by any of the hotels activities.
It's a beautiful building that enhances the downtown area. Even the neighbors I've bumped into during the whole project that started out in a bit of a negative reaction to the hotel have turned around and continue to complement on how they like it.
It's a wonderful place for locals and tourists . And a great addition to our downtown.

Sincerely,
Chris Gulick
Kalispell Ave.

Wendy Compton-Ring

From: B.E.I. <cole@blackwellenterprisesinc.com>
Sent: Wednesday, October 19, 2016 1:59 PM
To: Wendy Compton-Ring
Subject: Firebrand Hotel

To Whom It May Concern,

This letter is to notify of my full support for the approval of the construction of a hot tup on the roof top of the Firebrand. This hotel has contributed tremendously to the community in helping bring in more visitors and jobs and the addition of the rooftop hot tub will allow them to offer a better resort environment to its guests.
I have reviewed the plans ,and the design and layout provides no outside impact or visibility to the public.
If Casey's can have a rooftop bar, I don't see any warrant to deny a hottub.

Thank You,

Cole Blackwell
President
Blackwell Enterprises, Inc.
CELL. 406.471.3081
OFF. 888.636.0003 EXT. 2
FAX. 866.839.8187

750 West 2nd Street, Suite F ~ Whitefish ~ Montana ~ 59937

United States ~ Canada

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Wendy Compton-Ring

From: Travis Taylor <Travis@glacierpayments.com>
Sent: Wednesday, October 19, 2016 2:23 PM
To: Wendy Compton-Ring
Subject: Firebrand Hotel

Importance: High

Dear City of Whitefish,

I am writing in support of the construction/approval of a rooftop hot tub at the brand new Firebrand Hotel in the City of Whitefish, Montana.

As a resident and business owner of Whitefish, Montana for 20 years now, I believe that the addition of a rooftop hot tub at the Firebrand Hotel would help boost the economy of our beautiful City. The rooftop hot tub, would cause not harm and or disruption to our beautiful resort community, in fact I believe it will help by bringing in new visitors to our community, which in turn will drive more money into our local businesses. By denying the hotel the ability to build a rooftop hot tub it will result in serious hardship for the hotel, as well as the City of Whitefish entirely. I have many friends, family and business associates who fly in from all over the world that I would like to recommend to our newest hotel, but without the proper accommodations I will not feel confident in doing so.

I am asking for your support in the building of the rooftop hot tub at the Firebrand Hotel, which will boost our local economy by bringing in ski groups, business personnel and additional revenue for our local businesses.

When the benefits are so great, it makes good sense to support a rooftop hot tub at our newest, most state of the art hotel in our beautiful City of Whitefish, Montana.

Thank you so much for your help.

Sincerely,

Travis Taylor | Chief Executive Officer – ETA CPP
tel: 800.651.0924 **ext.** 201 | **dir:** 406.545.2199
cell: 303.912.1018 | **fax:** 888.453.3992
travis@glacierpayments.com

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Wendy Compton-Ring

From: Erica Howard <Erica@glacierpayments.com>
Sent: Wednesday, October 19, 2016 2:53 PM
To: Wendy Compton-Ring
Subject: Firebrand Hotel

Dear City of Whitefish,

I am writing in support of the construction of a rooftop hot tub at the brand new Firebrand Hotel in the City of Whitefish, Montana.

As the administrative assistant of the #1 fastest growing company, Glacier Payments, I am asking that the addition of the rooftop hot tub at the Firebrand Hotel be approved. I am in charge of handling all travel arrangements for our clients who visit us here in Whitefish from all across the world. I am hoping to book rooms for our clients at the newest hotel in Whitefish but unfortunately without the proper accommodations it leaves me unable to do so. Please support our local businesses by allowing the construction of a rooftop hot tub at the brand new Firebrand Hotel.

Thank you so much.

Best,

Erica Howard | Administrative Assistant
tel: 800.651.0924 **ext.** 207 | **fax:** 888.453.3992
erica@glacierpayments.com

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Wendy Compton-Ring

From: Big Mountain Builders <marc@bigmtnbuilders.com>
Sent: Wednesday, October 19, 2016 2:54 PM
To: Wendy Compton-Ring
Subject: Firebrand Roof Hot Tub

Hi Wendy,

Brian and Sean Averill let me know there was some resistance to the Roof Hot Tub but honestly it seems like it would be such a great addition to that space and a great user experience for their guests. I would recommend approving that amenity as I think it would be a great asset to their guests.

Thanks,
Marc Daniels

Sent from my iPhone
Big Mountain Builders
Whitefish, MT
www.BigMountainBuilders.com

Wendy Compton-Ring

From: Darcy King <darcyqking@gmail.com>
Sent: Wednesday, October 19, 2016 3:53 PM
To: Wendy Compton-Ring
Subject: Firebrand Hotel Rooftop Hot Tub

Dear Ms. Compton-Ring,

I would like to show my support, and favor for an addition of a rooftop hot tub in the Firebrand hotel. Whitefish frequently is listed in polls, ratings, and trip recommendations as a first-class travel destination. I don't know about you, but I have never myself visited a hotel that did not have a hot tub area of some sort. While some may not like the idea of our area growing, or being so frequently visited, it is a reality.

For those in the service industry, we rely on a heavy customer base for our livelihood. Denying the hotel the option of a hot tub would greatly decrease client activity as they may be inclined to head to neighborhood hotels that do offer that luxury.

As a child, one of my favorite things to do was sit in the hot tub and watch the snow fall. Now, as an adult, if I were on vacation, I can't think of a more perfect end to the day than come down off the hill, soak sore, tired muscles, while taking in the impressive winter views Whitefish and the mountain has to offer from a prime vantage point. Not only would this amenity be unique to the area, but to hotels in Montana overall. I really can't think of a disadvantage.This simply is a fabulous service and convenience to offer skiers and vacationers alike.

Again, I fully support the Firebrand moving forward with the construction of the rooftop hot tub. I sincerely hope the decision is unanimous to move forward with this proposal.

Thank you so much,

Darcy King

Wendy Compton-Ring

From: timmy thomas <brothertimmy@yahoo.com>
Sent: Wednesday, October 19, 2016 9:47 PM
To: Wendy Compton-Ring
Subject: FIREBRAND ~ ROOFTOP

Wendy....

I am simply sending a note in support of THE FIREBRAND pursuing the ability to have a hot tub on the rooftop of their establishment. Frankly I am not quite sure why it would be an issue to have such a service in their boutique hotel. The overall product that is THE FIREBRAND (and Whitefish) would benefit from such an addition. If a place like CASEY'S can have an entire bar on their rooftop...which i can only assume has had issues with matter dropping down to the street....a hot tub isn't even the same league. I am in full support of THE FIREBRAND having said service. If you have any questions, do not hesitate to contact me.

Thanks in advance,

Timmy Thomas
Owner ~ The White Room
406-270-9185

Wendy Compton-Ring

From: Chris Hyatt <chris.hyatt.mt@gmail.com>
Sent: Thursday, October 20, 2016 11:44 AM
To: Wendy Compton-Ring
Subject: CUP for a Hot Tub on the FIREBRAND roof top

Hi Wendy,
I'm in support of the addition to the CUP for a Hot Tub on the FIREBRAND roof top. We over the last few years we have enjoyed the roof top bar at Casey's with our out of town guests. The rooftop experience for our guests has given them another view of our great community. Having a business on Spokane avenue I believe this fits into the resort atmosphere of our quaint downtown allowing skiers, bikers and hikers to soak after a long day of recreating here. Thank you for your time on this matter.

A request by Whitefish Hotel Group to amend Condition #22 of Condition Use Permit WCUP 14-11 in order to install a hot tub on the roof of the hotel. The property is zoned WB-3 (General Business District). It is addressed as 650 E 3rd Street and can be legally described as Whitefish Original Townsite, Block 46, Amended Lots 1-18 in S36, T31N, R22W. (WCUP 14-11A) Compton-Ring.

Chris

Christopher S. Hyatt
CIRCLE ARROW HOLDINGS
547 Spokane Avenue, Suite B, Whitefish, MT 59937
406.261.7541 **chris.hyatt.mt@gmail.com**

OCT 20 2016

Kevin & Debra Gartland

622 Somers Avenue
Whitefish, MT 59937

Oct. 18, 2016

Whitefish Planning Board
City of Whitefish
P.O. Box 158
Whitefish, MT 59937

Re: Firebrand Hotel's request for outdoor hot tub

Dear Board members:

We want to express our support for the Whitefish Hotel Group's application to install a hot tub on the roof of the Firebrand Hotel in downtown Whitefish.

We believe that the proponents have adequately addressed the noise concerns of local residents by locating the amenity at the west end of the building's rooftop, and by enclosing the patio with walls to deflect sound away from the residential area to the east.

The key to complying with the City's sound restrictions is self-enforcement by hotel staff, and the track record of these hoteliers – including the peaceful operation of outdoor pools and hot tub facilities for many years at The Lodge at Whitefish Lake – give us confidence that the peace-and-quiet of their neighbors (us included) will be respected.

With that said, 11 p.m. may be a bit late for the amenity to be available for guest usage. We would suggest that the hot tub (and patio) be closed at 10 p.m., which is consistent with the City's practice of enforcing of outdoor noise levels throughout the downtown area.

Respectfully submitted,

Debra A. Gartland

Kevin O. Gartland

Oct 30, 2016

To: City Council of Whitefish re: Firebrand request for Hottub

A few weeks ago, Firebrand hotel requested at the planning board meeting, a 16-person hot tub for their rooftop deck open from 8am to 11 pm. It was denied for the fourth or fifth time and today Firebrand is asking for the hottub at the Whitefish City Council meeting. At this time, the rooftop is not approved to have any music, gatherings/parties or events on the rooftop based on the approval by the Planning Board. They are also required to provide parking for their customers and employees as part of the approval process with the City of Whitefish.

During the planning board meeting, a representative for the Firebrand said that they would like to have music playing on the deck for ambiance. In addition, on the Firebrand website under this roof deck, they are advertising the following: "You may consider this unique setting for a wedding ceremony or social gathering." At this time, patrons are allowed by Firebrand to carry alcohol drinks in a glass from the bar into the rooftop deck. I don't know if they are allowed to carry their restaurant food to the rooftop as well? What other plans does Firebrand have in mind for the rooftop beyond the hottub? Music from multiple speakers, Live music? Weddings and meetings/presentations using microphones? Private parties??? Public parties? Will the use of the rooftop deck only be open to people staying at the hotel or can they have have groups of friends come to meet and use the hottub?

The Firebrand also has on their Website that they charge their patrons for parking on the premises $12/day parking for about 86 parking spots. This comes to $$94,170 for 3 months last summer. The Firebrand staff is believed to have told their customers where to go so that they could park on the residential streets for free. This goes against the agreement for approval of this hotel to provide parking for their customers and employees. It takes up the parking that could be used by the local people and creates noise from their employees and customers at all times of day or night in front or around their houses as they come to and from their parked card. I now ask that the City of Whitefish stop this practice to the detriment of the residents living near the Hotel.

Their are many unanswered questions regarding the Hot tub. Three impact the entire neighborhood including the school, church, pedestrians, drivers and nearby residents. These are noise pollution, the uninvited view of people in trunks and bikinis on the deck top by the school staff and children, pedestrians and drivers from 8am to 11pm (lit up at night) Will parkiing in the neighborhood be abused by the increase possible uses for the hot tub not yet defined?

Even more unanswered questions exist regarding how the Noise Polution will be heard by the people living nearby, children going to school, teachers, nearby businesses,

pedestrians or people attending church. These are all the INVOLUNTARY LISTENERS. They may hear what is called Plainly Audible Sound which is any noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of the citizens of and visitors to the city. The definition of Plainly Audible Sound is: Any sound for which the information content is unambiguously communicated to the listener, such as, but not limited to, understandable speech, comprehension of whether a voice is raised or normal, repetitive bass sounds, or comprehension of musical rhythms, without the aid of any listening device.

The human hearing of Sound is characterized by 1. Pitch (the perception of the relative pitch of two tones). 2 Loudness, which is intimately related to sound intensity but is not identical to it. 3. Sound Quality or timbre. Timbre is mainly determined by the harmonic content of a sound and the dynamic characteristics of the sound such as vibrato and the attack-decay envelope of the sound. The two reports provided by Firebrand were testing speaker decibels only which do not equate to what the Human ear can hear. Their tests lack the ability to measure intensity and are not able to predict what humans will consider Noise Polution. Noise from the hottub will reflect off of the solid brick School facade and will indeed **Reflect** the noise back into the residential neighborhood including the church. Another important parts of our experience with sound involve **Diffraction**. The fact that you can hear sounds around corners and around barriers involves both diffraction and reflection of sound. Diffraction in such cases helps the sound to "bend around" the obstacles. Like the base rhythm of the band or music causes waves to bend around obstacles causes them to spread out past small openings like holes in a glass fence.

It is essential that these tests be verified to be accurate and relevant to the problem of Noise Polution for our Neighborhood. There seemed to be inconsistencies regarding the sampling times of 15 minutes vs 1 minute, exact location and time of sampling, etc. More review of any Noise Polution reports will need to be done before any approval be made regarding this HotTub at this location.

Regards,
Nola Howard
224 Columbia Avenue
Whitefish, MT 59937

Wendy Compton-Ring

From: Jarett Hannon <newleafhomebuilders@gmail.com>
Sent: Monday, October 31, 2016 3:05 PM
To: Wendy Compton-Ring
Subject: Firebrand Hot Tub Request

Dear Wendy,

I am writing in full support for the request of the roof top hot tub at the Firebrand hotel. I believe it would be a great asset to the Hotel, attracting more guests and brining additional revenue to the City through lodging tax. It would be beneficial for the Hotel, City and the small businesses in the area.

Kind Regards,

Jarett Hannon
General Contractor
New Leaf Homebuilders LLC
406-270-6883

MURPH N HANNON
704C East 13th Street – 120
Whitefish, Montana 59937

November 1, 2016

City of Whitefish
Whitefish, MT

Attention: Wendy Compton Ring

Dear Wendy

I am writing this letter in support of the Firebrand Hotel's request to put a hot tub on the roof of the hotel.

The success of this hotel is good for the City of Whitefish in general. I have been in the hotel business, and believe that that a hot tub is essential for the hotel in attracting skiers during the winter months.

I don't believe that there will be any impact to the surrounding community as it is to be located on the roof and the hours of operation will be restricted. In addition it is in the best interest of the hotel to make sure their staff enforces proper conduct.

Yours truly

Murph Hannon

Wendy Compton-Ring

From: Troy Schultz <mteamfitness@gmail.com>
Sent: Tuesday, November 01, 2016 12:40 PM
To: Wendy Compton-Ring
Subject: Fire Brand

My wife and I frequent Whitefish all year. Hot tub upon a rooftop after skiing would be a fantastic amenity for a resort. I am all for it. I frequent all the restaurant and personal shops. A hot tub Up on the Rooftop would be first class style that Whitefish a hot tub Up on the Rooftop with her dad to the first-class style. In my opinion that's what Whitefish is all about

Wendy Compton-Ring

From: Scott Strellnauer <scott@purewestmt.com>
Sent: Tuesday, November 01, 2016 2:19 PM
To: Wendy Compton-Ring
Subject: Firebrand Hotel

Wendy,
I wanted to send a note to support the hot tub spa location on the top of the Firebrand hotel. I think it is a great amenity to the property and will help attract skiers and others to stay at the Firebrand. It is my understanding that the hot tub would be limited in use times to a late night of 11pm. I hope you will consider allowing this I can see this as a benefit for those staying there. The hotel will be a great economic boon to the downtown area and I hope you can support this. Thanks, Scott

Scott Strellnauer
President/Broker
PureWest Real Estate
Scott@purewestmt.com
406-249-3557

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George H. Corn
Kyle C. Ryan
° Brian M. Lebsock
• Jason A. Williams
⅄⅄ Anna C. Conley

Darla J. Keck [Of Counsel]
Ronald B. MacDonald [1946-2002]

⅄ Also admitted in Massachusetts
► Also admitted in North Dakota
° Also admitted in Washington
• Also admitted in Idaho
⅄⅄ Contract Counsel

November 2, 2016

RECEIVED
NOV 03 2016
BY: City - AJ

Via Email [ajacobs@cityofwhitefish.org]
and U.S. Mail
Ms. Angela Jacobs, Esq.
Whitefish City Attorney
P.O. Box 158
Whitefish, Montana 59937-0158

Re: Our Client: Montana Development Group
Block 46 Hotel Project
Our file no. 23938.001

Dear Ms. Jacobs:

Please be advised that this law firm represents the Montana Development Group (hereinafter referred to as "MDG") in connection with the above-referenced project in the City of Whitefish. I understand that there will be a City Council meeting on November 7, 2016 at which time the Council will be deciding whether or not my client will be permitted to construct a hot tub on the roof of the hotel. I have reviewed the pertinent background information concerning this matter and wanted to take this opportunity to express my client's concerns about the approval process and to explain its legal position in advance of the upcoming meeting. For the reasons discussed below, our client has claims against the City for substantial monetary damages and I believe it will beneficial for the Council to consider this information before rendering a decision on the permit.

As you are aware, within each zoning district there is a list of permitted uses which can be commenced on a property without additional zoning review and a separate list of conditional uses. Conditional uses require additional review through a Conditional Use Permit ("CUP") prior to commencement as the uses may have a greater impact on the surrounding neighborhood, traffic and roadways, or include additional performance standards. The CUP process is very costly, time consuming and highly unpredictable. As such, the absence of a CUP requirement was material to our client's decision to purchase the property. Our client would not have closed or proceeded with the hotel project if it had known that a CUP was required.

Our client hired Aaron Wallace of Montana Creative to provide architectural and design services for the project. Through Mr. Wallace, our client contacted Mr. David Taylor back in April 2014 about how the property was zoned and whether the project would require MDG to obtain a CUP. Mr. Taylor was the Whitefish Planning Director at that time and he began making a series of representations that no CUP is required. Between April and August, our client was engaged in its due diligence. Mr. Taylor's representations during this time period were material to our client's decision to ultimately close on its purchase of the property on August 15, 2016.

Later in August 2014, Mr. Taylor confirmed his representations in writing. On August 20, 2014, Mr. Taylor emailed Mr. Wallace and confirmed that "no CUP would be required unless you exceed 15,000 square feet as you are outside what is defined as the Old Town Central District." A copy of Mr. Taylor's email is attached as **Exhibit 1**. A CUP is only required if the square footage exceeds 15,000. Mr. Taylor's confirmation was consistent with our client's conclusion that the applicable zoning regulations outline the WB3 Old Town District from Baker to Spokane and that the ordinance definitions define the center of the street as the border of the zoning districts. Accordingly, our client's property and project fall outside of the Old Town Central District and no CUP is required.

Our client was also in contact with Mr. Eric Mulcahy of Sands Surveying, Inc. in the spring 2014. Mr. Mulcahy is a Certified Land Planner. On September 23, 2014, Mr. Mulcahy emailed Mr. Taylor and advised of our client's desire to construct a "flagship" hotel on the property. Mr. Mulcahy inquired as to whether the regulations would preclude our client from partnering with a "name brand" hotel company. Mr. Taylor responded by email the following day and advised that "the code" does not contain any "formula/chain restrictions" that would apply to MDG's hotel. A copy of the email exchange is attached as **Exhibit 2**. In short, Mr. Taylor represented to our client in an abundantly clear fashion that the hotel was not considered a restricted use. Our client reasonably and foreseeably relied on Mr. Taylor's representations in deciding to purchase the property and proceed with the hotel project.

Then, just a couple of months later, Mr. Taylor completely altered his position. He emailed Mr. Wallace on November 19, 2014 and surprisingly stated that he "concluded that Block 46, the location of your hotel project, is within the Old Town Central district." A copy of this email is attached as **Exhibit 3**. Not only did Mr. Taylor recant his prior representations to

our client, but his analysis is wrong. Our client engaged Doug Peppmeir, PE of TD&H Engineering to assess the dispute. Mr. Peppmeir noted glaring inconsistencies between the ARC standards and the zoning regulations and corresponding maps. Mr. Peppmeir ultimately agreed that Mr. Taylor's analysis is faulty. A copy of Mr. Peppmeir's analysis is attached as **Exhibit 4**.

Mr. Taylor altered his position *after* our client closed on its purchase of the property and had entered into multiple contracts and made considerable commitments to the project. There were multiple emails between Mr. Taylor and Mr. Wallace between August and November 2014 wherein Mr. Taylor confirmed the 15,000 square foot size limitation. Our client entered into a contract for a marketing and feasibility study in order to determine appropriate design criteria. Upon completion of this study, our client had the project appraised, costed and it applied for financing. After obtaining financing, our client entered into a contract with Rocky Mountain Builders for the construction of the hotel. All of this had to be redone when the City changed its position and suddenly demanded that our client go through the CUP process and construct an independent boutique hotel that includes a corner promenade and designating parking. The cost to our client associated with the City's misrepresentations and our client's detrimental reliance thereon approximates $3 million.

Notably, Mr. Taylor's analysis is dependent upon his interpretation of "the history and intent of the zoning code and ARC standards." However, the role of the judge when interpreting statutes is "to ascertain and declare what is in terms or substance contained therein, not to insert what has been omitted or to omit what has been inserted. Thus, the Court must first look to the statute itself. If the language is clear and unambiguous, the statute speaks for itself and there is nothing left for the Court to construe." *Montana Contractors' Ass'n v. Dept. of Highways*, 220 Mont. 392, 394, 715 P.2d 1056, 1058 (1986). As Mr. Taylor originally concluded, the Whitefish Zoning Map and regulations very clearly show that MDG'S property falls outside of the Old Town Central District. As such, there is no need for any consideration of the alleged intent underlying the regulations. No text amendment was made to incorporate the substance of the alleged intent upon which Mr. Taylor relied in changing his position. MDG made important decisions and moved the project forward based on the City's representations that Block 46 is not subject to a 7,500 sf CUP requirement. The City cannot utilize ARC review standards to define zoning districts and there is no merit to the argument that the ARC review standards overrule the zoning regulations in place.

When this dispute first came to a head back in 2014, our client hesitantly elected to go through the CUP process in order to mitigate costs and avoid the significant delays associated with litigation. At that time, the City recognized that MDG probably would prevail in court but also pointed out that obtaining a favorable ruling would likely take many years. Our client therefore agreed to apply for a CUP despite having no obligation to do so. Our client did so despite multiple verbal and written representations by Mr. Taylor over the course of many months that a CUP was not required. Beyond subjecting itself the burdensome and costly CUP

process, our client also agreed to cut ties with the Marriott and instead to construct a non-chain/formula hotel.

We are now two years down the road and the singular issue seems to be whether or not our client should be permitted to construct a hot tub on the roof of the hotel. Not being able to construct a hot tub on the roof will detrimentally affect the hotel's occupancy and may call into question the economic viability of the project as a whole. We are aware of no regulation or other valid basis which would warrant the denial of our client's pending application. Apparently, certain people have expressed concerns about noise that may stem from the hot tub area. Such concerns are entirely unfounded. The reports prepared by our client's professionals confirm the same.

Our client firmly believes that it has a strong case to seek a declaratory judgment that no CUP was required in the first instance and for substantial monetary damages. Even on the outside chance that the City was to prevail on this issue, our client still has valid claims for estoppel and misrepresentation. Mr. Taylor misrepresented important facts to our client who is an innocent party. At all times relevant, Mr. Taylor was authorized to act on behalf of the City. Our client relied on his false statements to its detriment and is now faced with the prospect of having its application denied. The City is accountable for the misstatements and errors of its administrative official. If our client were to prevail in litigation, the CUP and all related restrictions would be void and our client could consider all options for the project, including revisiting a partnership with a "name brand" hotel company. Any litigation will necessarily include a claim for substantial damages, as well as costs and fees.

The simpler and preferable solution would be for the City to approve the construction of the hot tub as requested. I am in receipt of the November 1, 2016 from Senior Planner, Wendy Compton, wherein the Staff recommends that the original conditions of CUP approval be maintained (i.e., no amendment of Condition # 22 to allow the rooftop hot tub). Obviously, we disagree with the recommendation. As noted above, our client's position is that a CUP is not required and that there is no basis or reason for denying the application. MDG respectfully requests that this correspondence be presented to the Council for review in advance of any decision on the application.

Thank you for your time and consideration to this very important matter.

Please feel free to contact me with any questions or concerns.

Sincerely,

William K. VanCanagan

Enc.

Cc: Montana Development Group (via email)

Kaetlyn Wargo

From: Bill VanCanagan
Sent: Monday, October 24, 2016 7:20 AM
To: Kaetlyn Wargo
Cc: Jill Johnson
Subject: FW: Review of block 46

Bill VanCanagan, Shareholder

DM&L

Datsopoulos, MacDonald & Lind, P.C.
201 W. Main Street, Suite 201 Missoula, MT 59802
Phone: 406.728.0810 | Fax: 406.543.0134

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From: Dan Averill [mailto:danlaverill@yahoo.com]
Sent: Saturday, October 22, 2016 5:38 PM
To: Bill VanCanagan <bvancanagan@dmllaw.com>
Subject: Fwd: Review of block 46

fyi

Begin forwarded message:

From: Aaron Wallace <awallace@mt-creative.com>
Subject: FW: Review of block 46
Date: November 20, 2014 at 1:08:27 PM EST
To: Dan Averill <danlaverill@yahoo.com>

From: David Taylor [mailto:dtaylor@cityofwhitefish.org]
Sent: Wednesday, August 20, 2014 4:27 PM
To: Aaron Wallace; wcompton-ring@cityofwhitefish.org
Cc: 'Jeff Badelt'
Subject: RE: Review of block 46

Aaron,
The building footprint is the area of the building measured at the exterior foundation wall line on the first floor. Anything enclosed by a roof is part of the building – so it would include attached areas with roofs (but not cantilevers or the roof overhangs). So a drive under portico would be included since it has a roof and is supported by columns. An outside pool would also be part of the building footprint if it is covered at all. We define building as 'a structure having a roof supported by columns or walls...'.
Dave

EXHIBIT
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From: Aaron Wallace [mailto:awallace@mt-creative.com]
Sent: Wednesday, August 20, 2014 12:43 PM
To: David Taylor
Cc: Jeff Badelt (Jeff@mtdevgroup.com)
Subject: RE: Review of block 46

David,
I just want to make sure that I design the building correct accordingly and to meet the 15,000 ft mark.
The 15,000 sf footprint is for interior square footage measured to the outside of the wall framing for the first floor footprint only.
The 15,000 sf does not include covered areas or overhangs or porticoes or drive under areas.
The 15,000 sf does not include areas such as an outside pool.
These standards are what we have used on other projects but I don't want to find out later that we missed something.
Thanks
Aaron

From: David Taylor [mailto:dtaylor@cityofwhitefish.org]
Sent: Wednesday, August 20, 2014 11:01 AM
To: Aaron Wallace
Cc: wcompton-ring@cityofwhitefish.org; 'Jeff Badelt'
Subject: RE: Review of block 46

Aaron,
I agree with you, no CUP would be required unless you exceed 15,000 square feet as you are outside what is defined as the Old Town Central District. You will need to comply with components of the WB-3, site review, and get ARC approval. There is also the matter of applying to vacate the alley, which would need to be accomplished early in the process and prior to building permit approval.
Dave

From: Aaron Wallace [mailto:awallace@mt-creative.com]
Sent: Tuesday, August 19, 2014 3:10 PM
To: 'David Taylor'
Cc: Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org> (wcompton-ring@cityofwhitefish.org); Jeff Badelt (Jeff@mtdevgroup.com)
Subject: Review of block 46

Dave,
I would like to review with you block 46 and how it would be triggered into the CUP requirements. It is our interpretation that the zoning guidelines outline the WB3 old town district from baker to Spokane and by the ordinance definitions the center of the street defines the districts. Accordingly Block 46 sits on the outside of the old town district and should not be required to meet any of the old town district WB3 zoning requirements but will need to meet the Architectural Review old town district requirements and the rest of the WB3 requirements.
Please let me know what works for you.
Thanks
Aaron

Aaron Wallace AIA

Montana Creative
architecture + design

P. 406.862.8152
158 Railway St.
Whitefish, MT 59937

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2 Village Loop
Kalispell, MT 59901
Ph. (406) 755-6481
Fax (406) 755-6488

From: David Taylor [mailto:dtaylor@cityofwhitefish.org]
Sent: Wednesday, September 24, 2014 8:23 AM
To: 'Eric H. Mulcahy'
Subject: RE: One more question

In reading the code, I see the formula/chain restrictions only applying to restaurants and retail stores. Hotels would not have that same restriction. They would obviously have to get ARC approval on their design, etc. Are they aware the Averills are moving ahead with their downtown hotel plans on Block 46? Seems like a sudden glut of hotels with the new Hampton Inn getting built this spring too.
Dave

From: Eric H. Mulcahy [mailto:eric@sandssurveying.com]
Sent: Tuesday, September 23, 2014 10:55 AM
To: David Taylor
Subject: One more question

Hi Dave I had one more question for you. I have some clients that are looking to construct a hotel in the WB-3 (General Business District). They are contemplating partnering with a flagship hotel chain. In reading the zoning regulations there is a prohibition on "formula retail" and "formula restaurant" chains. However the definition does not appear to have the same prohibition on Hotels, the definition appears specific to retail and restaurants only. Is this your reading as well? Would these clients be able to partner with a "name brand" hotel company? I don't believe they would be using corporate architecture or corporate uniforms if the partnership was made.

Eric H. Mulcahy, AICP
Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901
Ph. (406) 755-6481
Fax (406) 755-6488

EXHIBIT
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5. Per the ARC District definitions and map, when they say "both sides" of the street on some blocks they extend the boundary only mid block and on others (like Block 46) they extend it across the entire block? For example along Baker Ave. the Old Town Central district only extends to the west half a block but along Spokane it extends to the east all the way to Kalispell Ave. Why would these be different? I would argue that by definition the east half of block 46 is not part of the Old Town Central District which is also reflected by the WR-4 zoning on the residential lots. If that is the case, then the hotel footprint would fall half in the Old Town Central and half in the WB-3 zone. How would this be reviewed then?
6. There is also the statement within the ARC standards that the Old Town District is all zoned WB-3. If we are being told that per the ARC standards that Block 46 is within the Old Town Central district, then does this change the zoning of the WR-4 lots to WB-3 then? If so, does that change how you would approach developing the entire block?

I think there are way to many inconsistencies with the regulations as they currently exist and I don't think the explanation provided by the City addresses these. I find it interesting that when Dave first reviewed the regulations he agreed with our interpretation and said that we were not within the Old Town Central district, but now he has completely changed his opinion? If the zoning administrator is having difficulty interpreting the regulations then there is obviously still some issues that need to be addressed. To me there are still more questions that need to be answered. Let me know what you guys think.

Thanks,

Douglas Peppmeier, PE | Vice President / Regional Manager
TD&H Engineering
450 Corporate Drive, Suite 101 | Kalispell, MT 59901
t:406.751.5246 | c:406.212.0671
www.tdhengineering.com

>>> Aaron Wallace <awallace@mt-creative.com> 11/19/2014 2:40 PM >>>
Jeff, I would review this with your attorneys. From an architectural standpoint it is out of my hands.
Sorry,
Aaron

From: David Taylor [mailto:dtaylor@cityofwhitefish.org]
Sent: Wednesday, November 19, 2014 2:36 PM
To: Aaron Wallace
Cc: 'Jeff Badelt'
Subject: RE: dwg's

Aaron,
Following my consideration and review of the Whitefish City code and standards, I wanted to provide my response to your past inquiries.
Footprint.
Brick is a structural element, so it's part of the foundation if its carried down to it. Footprint is the building area measured where the walls or columns hit grade. If your brick load is carried down to a notch in your footing, then the face of brick would be the same as the foundation wall.
Old Town Central sub-districts.
In my review of the history and intent of the zoning code and ARC standards, I have concluded that Block 46, the location of your hotel project, is within the Old Town Central district. This conclusion has followed my review of the 2008 and 2009 zoning text amendments.
The 2008 zoning text amendment for the WB-3 was done in conjunction with an amendment to the ARC standards as an implementation of the Downtown Master Plan. The 'Old Town Central' and 'Old Town Railway' sub-districts were created at that time for the both the WB-3 and the ARC Standards, and the boundaries adopted at that time were identical and consistent for both. The intent was clear

EXHIBIT
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that the ARC design districts and the WB-3 business districts coincided. Both the zoning code and the ARC standards defined the Old Town Central District as Spokane to Baker, Railway to Third in 2008.
In May of 2009, a new amendment to the ARC standards was brought to the Planning Board and City Council and adopted by ordinance in August as an update of the zoning code. That amendment reformatted the standards, and further modified the boundaries of the 'Old Town Central' sub-district, expanding it to both sides of Baker and Spokane. This was the new language identifying the boundary of the Old Town District for our regulations:
There are three distinct Design Districts within the Old Town District. These are the Central, South and Railway.
The Central District is located on Central Avenue between 4th Street and Depot Street, west side of Spokane Avenue
between 4th Street and 3rd Street, both sides of Spokane Avenue 3rd Street to Depot Street, east side of Baker Avenue between 4th Street and 3Rd Street, both sides of Baker Avenue between 3rd Street and Railway Street. This area is the heart of the Old Town District and is characterized by 1 ½ to 2 story mixed-use buildings with retail on the main floor and offices or residential on the 2nd story.
According the Zoning Code, 11-3-3 of the Special Provisions chapter, Architectural Review Standards are part of the city zoning regulations and have the same weight as the zoning code.
C. Applicability: The architectural design standards supplement the city's zoning regulations as a stand alone document. The city adopted the architectural design standards by ordinance as zoning regulations and have the same force and effect as all of the city's zoning regulations.
We have spent several days researching information regarding the 2008 code amendment that amended both the 'intent' and the bulk and scale requirements of the WB-3 zone as well as the ARC standards. In our review of the zoning regulations we follow the general rules of construction. We pursue the intention of the City Council whenever possible. If provisions look inconsistent, we allow a particular provision to govern a general provision. The latter provision governs the former and so on. Applying these principles, it is, my opinion as the zoning administrator that your project falls under all special provisions and requirements of the Old Town Central district for both zoning and architectural review. As a result, your project is indeed within the Old Town Central district and your building would require a conditional use permit if it exceeds 7,500 sq feet.
It should also be noted that if the hotel project has a full service bar (serving hard liquor), a conditional use permit will be required. That could be done in conjunction with another CUP if required. Also, any restaurant within the hotel must be consistent with our 'formula retail/restaurant' prohibition in the WB-3.
If you have any further questions before submitting your application for your project, please contact me.
Dave
David Taylor, AICP
Director, Planning & Building
City of Whitefish
510 Railway Street
PO Box 158
Whitefish, MT 59937
(406)863-2416
| Please consider the environment before printing this e-mail.

From: Aaron Wallace [mailto:awallace@mt-creative.com]
Sent: Wednesday, November 19, 2014 11:12 AM
To: David Taylor
Cc: Jeff Badelt (Jeff@mtdevgroup.com)
Subject: RE: dwg's
David,
Do you have any resolution on the 15k sf issue?
Thanks
Aaron

From: David Taylor [mailto:dtaylor@cityofwhitefish.org]
Sent: Monday, November 17, 2014 3:52 PM
To: Aaron Wallace
Subject: RE: dwg's
If you have brick on the outside, then we would measure to the outside of that where it meets the dirt. That would be the footprint. Also, a heads up that the city attorney is stating that the Old Town Central district includes both sides of Spokane as that is how the ARC standards, which were adopted by ordinance, defines it. Meeting with her today. Will clarify tomorrow.

From: Aaron Wallace [mailto:awallace@mt-creative.com]
Sent: Monday, November 17, 2014 9:17 AM
To: David Taylor
Subject: RE: dwg's
Great. thanks, we will be doing a foundation plan easier for you to determine. In the latest room revision we actually made the building slightly smaller (2.5 inches on south wall) allowing for a bit more wiggle room.
Aaron

From: David Taylor [mailto:dtaylor@cityofwhitefish.org]
Sent: Friday, November 14, 2014 4:18 PM
To: Aaron Wallace
Cc: bminnich@cityofwhitefish.org; 'Wendy Compton-Ring'
Subject: RE: dwg's
Aaron,
We can't officially determine if its under 15,000 sq foot of a footprint until we get a final foundation plan and first floor plan submitted with dimensions. What I got using the polyline tool for area based on your explanation of layers is 14994.3, but its tough to tell where the studs are in some areas, especially the northeast corner where the wall treatment looks thicker or the walls aren't shown at all. All I can say is you better give yourself some wiggle room, because if your drawings show its pretty close to 15K give or take an inch, we'll have to further evaluate. If we have to do an 'as built' afterwards to determine the actual footprint area and then find its over, then there would be major issues, including the need for a CUP then which would then perhaps require some demolition if denied.
Dave

From: Aaron Wallace [mailto:awallace@mt-creative.com]
Sent: Friday, November 14, 2014 3:26 PM
To: David Taylor
Subject: RE: dwg's
If you wanted I would happy to do it in front of you at our office.
Thanks
Aaron

From: David Taylor [mailto:dtaylor@cityofwhitefish.org]
Sent: Friday, November 14, 2014 3:06 PM
To: Aaron Wallace
Subject: RE: dwg's
Do you guys have a foundation plan yet? That would make measuring this a lot easier.

From: Aaron Wallace [mailto:awallace@mt-creative.com]
Sent: Thursday, November 13, 2014 2:33 PM
To: David Taylor
Subject: RE: dwg's
Very close.
Attached is the 2007 version.
Please let me know if you come up with something different and we will adjust to get under that number but I think we have it.
Thanks
Aaron

From: David Taylor [mailto:dtaylor@cityofwhitefish.org]
Sent: Thursday, November 13, 2014 2:29 PM
To: Aaron Wallace
Subject: RE: dwg's
Cutting it close there, pard. ☺ Thanks for providing the files in Autocad format. Unfortunately, we only have Autocad 2007, so we would need either a dxf file or a dwg saved in a compatible format with 2007. If you could resend us the files in one or the other of those formats, that would be awesome. Thanks.
Dave

From: Aaron Wallace [mailto:awallace@mt-creative.com]
Sent: Thursday, November 13, 2014 9:32 AM
To: 'David Taylor'; bminnich@cityofwhitefish.org; Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org> (wcompton-ring@cityofwhitefish.org)
Cc: Jeff Badelt (Jeff@mtdevgroup.com)
Subject: dwg's
David, Baily, Wendy,
Attached is the current plan set showing the floor plans in dwg. A2.1 shows the first floor. Please review and let me know if you have any questions.
Please note the following:
As dave has outlined the sf tabulation is the outside edge of concrete of the first floor. On our projects we line up our outside face of stud with the outside face of concrete. As such the sf tabulation for this building can be tabulated by finding the outside face of stud on the outside walls and following that around the building. The computer program we use creates walls that have all the various layers of that wall so if you look closely you will see sheathing and exterior finish layers and to get the correct sf, it is important to find that stud wall layer. To hopefully make it easier, I have created a gray filled region on the first floor, following that line around the building. My system tells me that the total sf is 14,992.97 sf. You are happy to use that but you will probably want to confirm. For a couple of reasons we have pulled the building's west wall 2" to the east so that the overall building width is now 260'10"
Again if you have any questions concerns or get any different numbers than I am showing I am happy to adjust. I realize that we are close to that 15k mark and have ways to meet that requirement depending on your findings.
Thanks
Aaron

Aaron Wallace AIA

Montana Creative
architecture + design

P. 406.862.8152
158 Railway St.
Whitefish, MT 59937

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privileged and confidential information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

Many decisions were made and the project moved forward based on your review and associated correspondence outlining that you were in agreement that Block 46 was outside the 7,500 sf CUP requirement. In the architectural review packet and in discussions this week it was clearly outlined that planning had determined that we were to be held to a 15,000 sf footprint before CUP, suddenly this changed based on further review of the correlation between zoning and architectural review standards and their "intentions" of amendments in 2009. Whatever the intent was at that time, the current zoning ordinance which we base our design and development requirements on clearly outlines that boundary of this special district is the center of the road of Spokane and does not include Block 46. Please see the attachments. The maps and districts outlining Architectural review standards do not define zoning districts and overlap in very inconsistent manners of zoning and cannot be used as a defining factor of actual zoning districts. We understand that the documents are set to be used in conjunction but each has their own purpose. Zoning defines what uses are allowed in what districts, associated setbacks for those districts and allowed square footages of those districts and what and where CUP requirements are needed. Architectural review standards do not define any of these attributes but requires us to refer to zoning guidelines to address these issues. Saying that Architectural review standards and its maps and districts and its varying intentions defines CUP and sf requirements in this issue is just incorrect. Direct pages from zoning define the WB-3 district, its special district and its allowed uses and what would trigger a CUP. From a professional standpoint how are to determine any applicable zoning requirements moving forward if we cannot base our decisions on what is written clearly in zoning but have to refer to "intent" of decisions that were made 5 years ago and overlays of districts that do not line and no clearly defined documentation? Can we just start using Architectural design standards and its mapping and districts to define zoning uses and standards?

At this time I have been informed that unless this can be resolved in our favor today it is likely the project is dead, which I anticipate would have serious ramifications for all involved. I would like to know how to proceed and review this with the city, hopefully immediately. To my understanding this is the only issue that would require us to proceed with a CUP. Please contact me at your earliest convenience in how to resolve this issue.

Thank you,
Aaron Wallace

From Doug:

Jeff/Aaron,

I understand Dave's thought process below however, if that was the intent then it seems to me they should have made a text amendment to the zoning regulations also and not just the ARC standards. As it exists today, they have several different definitions for the area in question:

1. There is the Whitefish Zoning Map (Block 46 is zoned WB-3 & WR-4)
2. There is a written description of two "unique commercial areas" (Old Town Central district being one) within the WB-3 zoning. The boundary of this unique commercial area is defined by streets. The rules for interpretation of boundaries clearly state that the boundary line shall be deemed to be the center line of such street. There is no mention or reference to the ARC Standards definition.
3. There is the ARC District map which indicates that all of Block 46 is within one of the "distinct design districts" (Old Town Central district). This area does not match the zoning regulations or zoning map.
4. There is a written description of each of the distinct ARC Districts, however these descriptions do not match the ARC District map.

EXHIBIT 4

5. Per the ARC District definitions and map, when they say "both sides" of the street on some blocks they extend the boundary only mid block and on others (like Block 46) they extend it across the entire block? For example along Baker Ave. the Old Town Central district only extends to the west half a block but along Spokane it extends to the east all the way to Kalispell Ave. Why would these be different? I would argue that by definition the east half of block 46 is not part of the Old Town Central District which is also reflected by the WR-4 zoning on the residential lots. If that is the case, then the hotel footprint would fall half in the Old Town Central and half in the WB-3 zone. How would this be reviewed then?
6. There is also the statement within the ARC standards that the Old Town District is all zoned WB-3. If we are being told that per the ARC standards that Block 46 is within the Old Town Central district, then does this change the zoning of the WR-4 lots to WB-3 then? If so, does that change how you would approach developing the entire block?

I think there are way to many inconsistencies with the regulations as they currently exist and I don't think the explanation provided by the City addresses these. I find it interesting that when Dave first reviewed the regulations he agreed with our interpretation and said that we were not within the Old Town Central district, but now he has completely changed his opinion? If the zoning administrator is having difficulty interpreting the regulations then there is obviously still some issues that need to be addressed. To me there are still more questions that need to be answered. Let me know what you guys think.

Thanks,

Douglas Peppmeier, PE | Vice President / Regional Manager
TD&H Engineering
450 Corporate Drive, Suite 101 | Kalispell, MT 59901
t:406.751.5246 | c:406.212.0671
www.tdhengineering.com

>>> Aaron Wallace <awallace@mt-creative.com> 11/19/2014 2:40 PM >>>
Jeff, I would review this with your attorneys. From an architectural standpoint it is out of my hands.
Sorry,
Aaron

From: David Taylor [mailto:dtaylor@cityofwhitefish.org]
Sent: Wednesday, November 19, 2014 2:36 PM
To: Aaron Wallace
Cc: 'Jeff Badelt'
Subject: RE: dwg's

Aaron,
Following my consideration and review of the Whitefish City code and standards, I wanted to provide my response to your past inquiries.
Footprint.
Brick is a structural element, so it's part of the foundation if its carried down to it. Footprint is the building area measured where the walls or columns hit grade. If your brick load is carried down to a notch in your footing, then the face of brick would be the same as the foundation wall.
Old Town Central sub-districts.
In my review of the history and intent of the zoning code and ARC standards, I have concluded that Block 46, the location of your hotel project, is within the Old Town Central district. This conclusion has followed my review of the 2008 and 2009 zoning text amendments.
The 2008 zoning text amendment for the WB-3 was done in conjunction with an amendment to the ARC standards as an implementation of the Downtown Master Plan. The 'Old Town Central' and 'Old Town Railway' sub-districts were created at that time for the both the WB-3 and the ARC Standards, and the boundaries adopted at that time were identical and consistent for both. The intent was clear

Wendy Compton-Ring

From: KK Jense <kk_jense@yahoo.com>
Sent: Monday, November 07, 2016 11:47 AM
To: Wendy Compton-Ring
Subject: Firebrand

Dear City,
I am writing in support of putting a hot tub on the roof of the firebrand. I feel we should support any local businesses that are making our downtown a better place to visit. Please consider this addition to the Firebrand, for they have turned an ugly corner into a great addition to our downtown.

Thank You,
KK Jense
President/Founder
Proof Research ™

Wendy Compton-Ring

From: Chelsi Blackwell <chelsi@purewestmt.com>
Sent: Monday, November 07, 2016 1:40 PM
To: Wendy Compton-Ring
Subject: Firebrand rooftop Hot Tub

Dear City of Whitefish,

I am writing in support of the construction/approval of a rooftop hot tub at the Firebrand Hotel in the City of Whitefish, Montana.

As a resident and business owner in Whitefish, Montana for over 10 years, I believe that the addition of a rooftop hot tub at the Firebrand Hotel would help boost the economy of our beautiful City. I do not believe that a rooftop hot tub would cause any disruption to our community, in fact I believe it will help by bringing in new visitors to our community, which in turn will drive more money into our local businesses. By denying the hotel the ability to build a rooftop hot tub it will result in serious hardship for the hotel and therefore affect job security within our community.

I am asking for your support in the building of the rooftop hot tub at the Firebrand Hotel, which will boost our local economy by bringing in ski groups, business personnel and additional revenue for our local businesses. As a resident and business owner I believe that the pro's far outweigh any possible cons to allowing the Firebrand Hotel a rooftop hot tub and I 100% support the idea of the rooftop hot tub.

Thank you so much for your time and help.

Thank you,

Chelsi Blackwell
C. 406.471.8712
www.purewestmt.com

Wendy Compton-Ring

From: Claudia Neal <claudia5neal@gmail.com>
Sent: Monday, November 07, 2016 2:38 PM
To: Wendy Compton-Ring
Subject: Rooftop hot tub at the Firebrand.

This is to urge support for the rooftop hot tub at the Firebrand. It is a great attraction for winter skiers and snowboarders. This is a significant attraction for the hotel, which brings in significant revenue to the town for local businesses.

Please support this item.

Claudia Neal

Wendy Compton-Ring

From: Tia Celentano <tia.celentano@gmail.com>
Sent: Monday, November 07, 2016 5:39 PM
To: Wendy Compton-Ring
Subject: Support rooftop hot tub

To whom it may concern,

I'm writing this email to show my support for the Firebrand Hotel and their desire to place a rooftop hot tub at their venue. Adding this feature to the town of Whitefish, a feature that no other hotel in the Flathead Valley has, will be beneficial to all of Whitefish as it's just another amazing and beneficial perk to add to all the amenities that the town currently offers!

Tia Celentano

Wendy Compton-Ring

From: Jimmy Cripe <jimmycripe@gmail.com>
Sent: Monday, November 07, 2016 5:39 PM
To: Wendy Compton-Ring
Subject: Support rooftop hot tub at Firebrand Hotel

Hello,

I am writing to support the proposed rooftop hot tub at the Firebrand Hotel.

Thank you,
Jimmy Cripe

Sent from my iPhone

Sent from my iPhone

Wendy Compton-Ring

From: Heidi Shors <heidi.shors@gmail.com>
Sent: Wednesday, November 09, 2016 8:37 PM
To: Michelle Howke; Wendy Compton-Ring
Subject: firebrand hot tub allowance

Dear City Council-

I appeal to you on behalf of the Firebrand hotel. This hotel brings another nice element to the city of whitefish and a great option for family and friends to stay while visiting residents or checking out our beautiful city.

The hot tub is a key element to view the amazing mountain and soak tired muscles from all the great exercise to be had here and in Glacier Park. Please consider the option of allowing a rooftop hot tub for this establishment. I think it attracts great business to our town and allows a major draw for skiers. Thank you for your consideration and time.

Sincerely,

Drs. Heidi and Andy Shors

--
Heidi C. Shors
heidi.shors@gmail.com

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

RESOLUTION NO. 16-___

A Resolution of the City Council of the City of Whitefish, Montana, extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 82.7 acres of wholly surrounded land on Ramsey Avenue and various other parcels.

WHEREAS, by § 7-2-4501, MCA, the City of Whitefish may include as part of the City any tract or parcel of land that is wholly surrounded by passing a Resolution of Intent, giving notice and passing a Resolution of Annexation; and

WHEREAS, various tracts and parcels of land, as described on the attached Exhibit "A," were identified as wholly surrounded by the City of Whitefish and on municipal maps as being wholly surrounded within municipal boundaries, as depicted on the attached Exhibits "B," "C," "D," "E," "F," "G," "H," and "I;" and

WHEREAS, by approving Resolution No. 16-54 on October 3, 2016, the City Council of the City of Whitefish indicated its intent to consider annexing within the corporate limits of the City certain wholly surrounded land as described on Exhibit "A," gave notice, and set a public hearing at the City Council's regular Council meeting on November 21, 2016, to be held at 7:10 o'clock p.m., or as soon thereafter as the matter may be heard, in the City Council Chambers located at 1005 Baker Avenue in Whitefish, Montana; and

WHEREAS, by the same Resolution No. 16-54, the City Council of the City of Whitefish approved the September 7, 2016 Report on Extension of Services in City Manager memorandum #2016-025, now dated October 4, 2016, as the plan for provision of services required by § 7-2-4506, MCA; and

WHEREAS, at a lawfully noticed public hearing on November 21, 2016, after receiving public comment and reviewing a City Manager recommendation for the annexation of wholly surrounded land described on Exhibit "A," the Whitefish City Council reviewed the recommended wholly surrounded properties for annexation and found them reasonable and appropriate; and

WHEREAS, it is the considered and reasoned judgment of the City Council of the City of Whitefish to be in the best interests of the City of Whitefish and the inhabitants thereof, as well as the current and future inhabitants of the lands to be annexed that are described herein on Exhibit "A," that the said lands described herein be annexed into the City of Whitefish and it is hereby declared to be the intent of the City of Whitefish that the corporate limits of the City of

Whitefish be extended to include said lands described herein 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: That the corporate limits of the City of Whitefish be extended to annex the tracts of land herein described on Exhibit "A," according to the map or plat thereof, on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana.

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

Section 3: That, if the City annexation of any lot(s), parcel(s), block(s), tract(s) of land, or public streets or roads, including the rights-of-way, annexed into the City pursuant to this City annexation Resolution or any provision of this Resolution is ever held to be invalid or unconstitutional, the City Council hereby declares that any such decision shall not affect the validity of the annexation of the remaining lot(s), parcel(s), block(s), tract(s) of land, or public streets or roads, including the rights-of-way, annexed into the City or the remaining provisions of this Resolution. The City Council hereby declares that it would have passed this Resolution and annexed each lot(s), parcel(s), block(s), tract(s) of land, or public streets or roads, including the rights-of-way, into the City as well as each provision of this Resolution irrespective of the fact that the annexation of any one or more lot(s), parcel(s), block(s), tract(s) of land, or public streets or roads, including the rights-of-way, annexed into the City or provision of this Resolution may have been declared invalid or unconstitutional, and if for any reason the annexation of any lot(s), parcel(s), block(s), tract(s) of land, or public streets or roads, including the rights-of-way, or any provision of this Resolution should be declared invalid or unconstitutional, the annexation of the remaining lot(s), parcel(s), block(s), tract(s) of land, or public streets or roads, including the rights-of-way, and Resolution provisions are intended to be and shall be in full force and effect as enacted by the City Council.

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

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Michelle Howke, City Clerk

EXHIBIT "A"

1. 544 Ramsey Avenue - Assessor No. 0983118
Tract 6C in NW4NE4,
Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

2. 539 Ramsey Avenue - Assessor No. 0365750
RAMSEY ADD, BLOCK 3, Lot 8,
Section 26, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

3. No Address – Vacant - Assessor No. 0332537
RAMSEY ADD, BLOCK 3, W 100' of Lot 9,
Section 26, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

4. 520 Ramsey Avenue - Assessor No. 0906500
RAMSEY ADD, BLOCK 2, Lot 11 W 15' of N 223' & N 223' Lot 12 & Lot 9 ex W 100' COS 11928,
Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

5. 528 Ramsey Avenue - Assessor No. 0332550
RAMSEY ADD, BLOCK 2, Lot 13 & pt ABD Street, ex Tract A,
Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

6. 339, 341 and 345 Fraser Avenue - Assessor No. 0289150
RAMSEY ADD, BLOCK 2, Lot 11, W 15' of S 220' & S 220' of Lot 12,
Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

7. 512 Ramsey Avenue - Assessor No. 0666445
RAMSEY ADD, BLOCK 2, Lot 11, ex S 210' of E 101.1',
Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

8. 331 Fraser Avenue - Assessor No. 0666475
RAMSEY ADD, BLOCK 2, Lot 11, S 210' of E 101.1',
Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

9. 323 Fraser Avenue - Assessor No. 0289100
RAMSEY ADD, BLOCK 2, Lot 10, W 100' of S 70',
Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

10. 408 Ramsey Avenue - Assessor No. 0749545
RAMSEY ADD, BLOCK 2, Lot 9, N 67.5' of S 142.5',
Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

11. 400 Ramsey Avenue - Assessor No. 0952410
RAMSEY ADD, BLOCK 2, Lot 9, S 75',
Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

12. No Address – Vacant - Assessor No. E038972
Tract 4DA in NE4NE4,
Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

13. No Address – Vacant – Assessor No. 0244795
Tracts 4DAC & 4DAD in NE4NE4,
Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

14. Ramsey Avenue Right-of-Way
The full width of Ramsey Avenue including rights-of-way within Section 35, Township 31 North, Range 22 West and Section 26, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

15. 1 Tides Way - Assessor No. 0969703
Tract 7AAB in SW4SE4, Tract 7AABA in SW4SE4,
Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

16. 345 Jennings Avenue - Assessor No. 0440146
GOJENDES TR ADD 1, BLOCK 1, Lot 4,
Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

17. 333 Jennings Avenue - Assessor No. 0801100
GOJENDES TR ADD 1, BLOCK 1, Lot 3,
Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

18. Vacant Parcel Adjacent to 235 Good Avenue - Assessor No. 0364400
GOJENDES TR, BLOCK 1, S 160' of E 100' of W 200',
Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

19. Good Avenue Right-of-Way Adjacent to 100 West 3rd Street & 101 West 2nd Street
The full width of Good Avenue including rights-of-way adjacent to N'LY & S'LY portion of Lot 1, BLOCK 2 Gojendes Tracts within Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

20. 6356 US Highway 93 South - Assessor No. 0971946
Tract 3ABL in NW4SE4,
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

21. 1210 O'Brien Avenue - Assessor No. 0979618
Tract 2DA in Lot 3,
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

22. O'Brien Avenue Right-of-Way Known as Tract 5RF in SE4SW4
The full width of O'Brien Avenue rights-of-way in Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

23. 530 W 19th Street - Assessor No. 0954503
CHALET SUB, LOT 1 N 12.38',
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

24. Vacant - Adjacent to 6446 US Highway 93 South – Assessor No. 0001971
N'LY strip of UNIT-A, Whitefish South 93 Professional Bldg Condo,
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

25. Vacant - Adjacent to 6446 US Highway 93 South - Assessor No. 0012697
N'LY strip of UNIT-B, Whitefish South 93 Professional Bldg Condo,
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

26. Vacant - Adjacent to 6446 US Highway 93 South – Assessor No. 0012698
N'LY strip of UNIT-C, Whitefish South 93 Professional Bldg Condo,
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

27. Vacant - stormwater detention pond south of Mountain Mall – Assessor No. E000333
Tracts 1BF & 3I,
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

28. Unaddressed – Assessor No. 0595750
ACRES 26.99, Tract 3BB in SE4SW4 & SW4SE4,
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

29. 6204 - 6208 US Highway 93 South – Assessor No. 0030450
Tract 3B in SW4SE4,
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

30. 6200 US Highway 93 South – Assessor No. 0976684
Tract 3BD in SE4SW4SE4,
Section 01, Township 30 North, Range 21 West, P.M.M., Flathead County, Montana

31. 1180 Voerman Road – Assessor No. 0683450
Tract 5A & Tract 5C in NW4NW4,
Section 05, Township 30 North, Range 21 West, P.M.M., Flathead County, Montana

32. No Address – Vacant – Adjacent to 1009 Park Avenue – Assessor No. 0005593
N'LY portion of Tract 2 of COS 15158 in Lot 4,
Section 31, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana

33. Adjacent to 1009 Park Avenue
Adjacent 10th Street Right-of-Way to the N'LY portion of Tract 2 COS 15158 in Lot 4,
Section 31, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana

34. No Address (Park Avenue) – Vacant – Assessor No. 0350300
Tract 1F in Lot 4,
Section 31, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana

35. Alley Adjacent to Lots 1 through 7, BLOCK 5, PARK ADD

36. Vacant Land Adjacent to Park Avenue – Assessor No. 0004345
Tract 1 of COS 14544 in W2SW4SW4,
Section 32, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana

37. 1000 Creek View Drive – Assessor No. 0832985
Tract 2 of COS 15015 in SW4,
Section 32, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana

38. Vacant Land Off Ridge Crest Drive – Assessor No. 0968197
SUN CREST ADD 1, Lot 5 (SE PORTION),
Section 24, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana

39. Vacant Land on Whitefish Lookout Road – Assessor No. 0009676
Tract 2 of COS 16393 including adjacent Lookout Road in SE4SW4,
Section 12, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

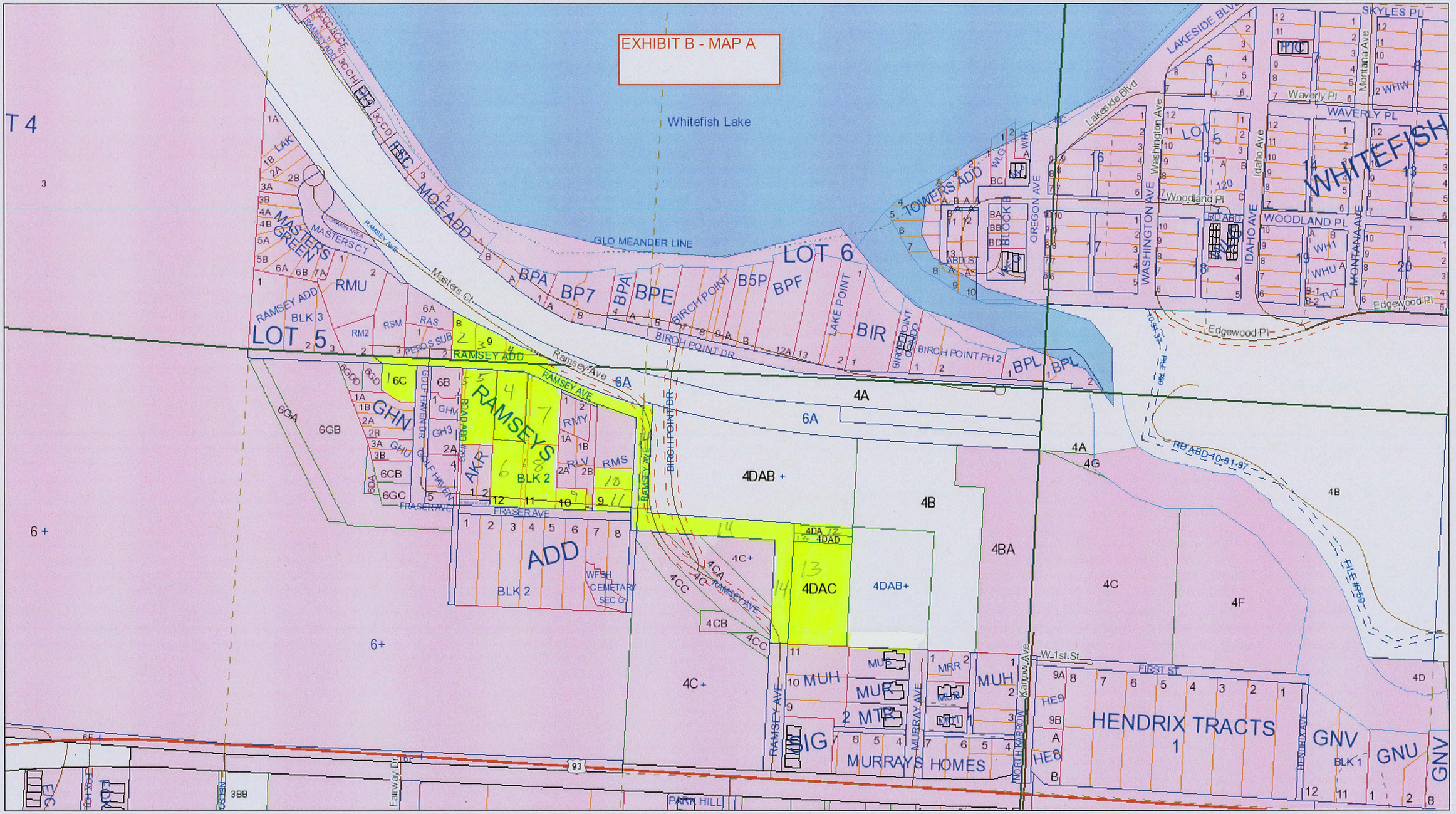
40. 1630 Baker Avenue – Assessor No. 0780360
Tract 5CD in Lot 2,
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

41. 250 West 18th Street – Assessor No. 0974998
Tract 5AC & Tract 5BB ex E'LY PT in Lot 2,
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

42. 1800 Baker Avenue and 285 and 291 West 19th Street – Assessor No. 0818999
Tract 6BBD in SW4NE4 COS 3588,
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

43. 1800 Baker Avenue and 285 and 291 West 19th Street – Assessor No. 0818998
Tract 6BB in SW4NE4 – Tract 2 COR COS 4522,
Section 01, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana

44. Between 634 and 636 Colorado Avenue – Assessor No. 0918750
WFSH TSTE CO 5 AC TR, S 35' of N 135' of E 120' of Lot 4, BLOCK 1,
Section 25, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana



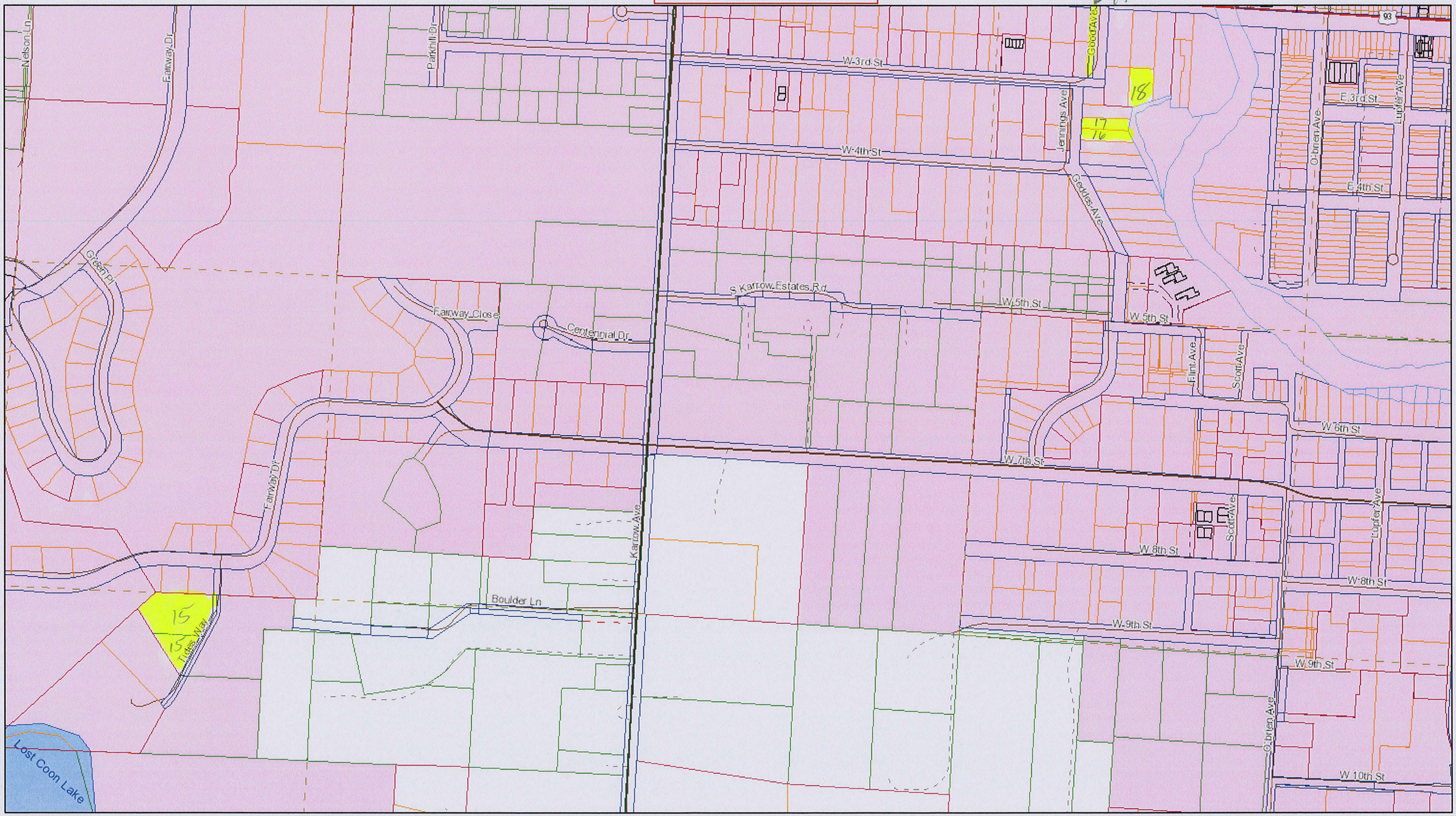
August 1, 2016

Neither Flathead County, nor any of its employees, makes any warranty or guarantee to any of the data provided and assumes no legal responsibility for the information provided herein.
Information is derived from multiple sources, subject to constant change, and may be of questionable accuracy, currency and completeness.
Data is provided for informational purposes only. Primary information sources should be consulted for verification of the information contained herein. Deriving conclusions from this

1:3,640

0 0.045 0.09 0.18 mi

Exhibit C - Map B



August 8, 2016

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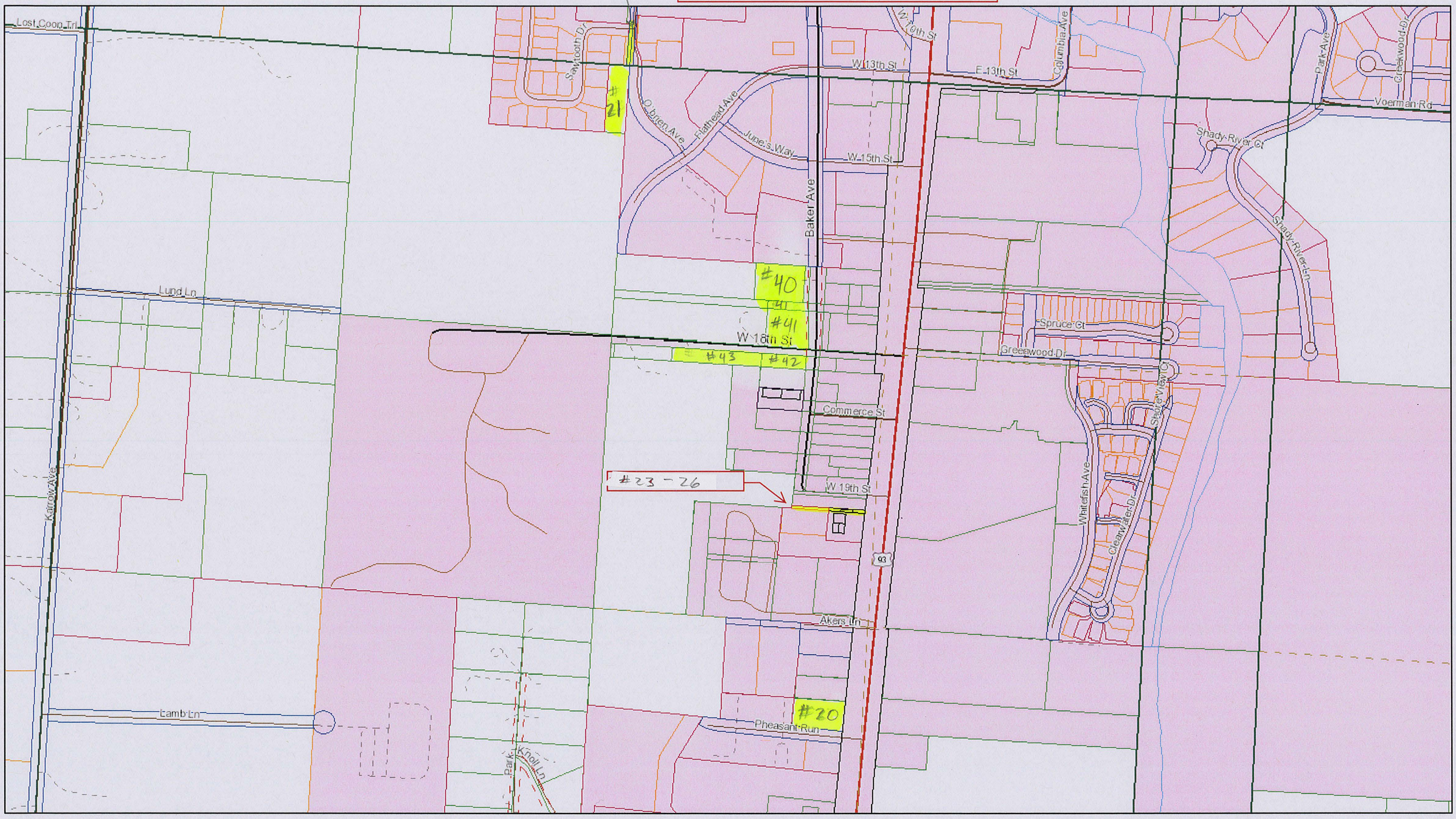
Information is derived from multiple sources, subject to constant change, and may be of questionable accuracy, currency and completeness.

1:4,535

Exhibit D - Map C



August 8, 2016

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1:5,338

Exhibit E - Map D

August 8, 2016

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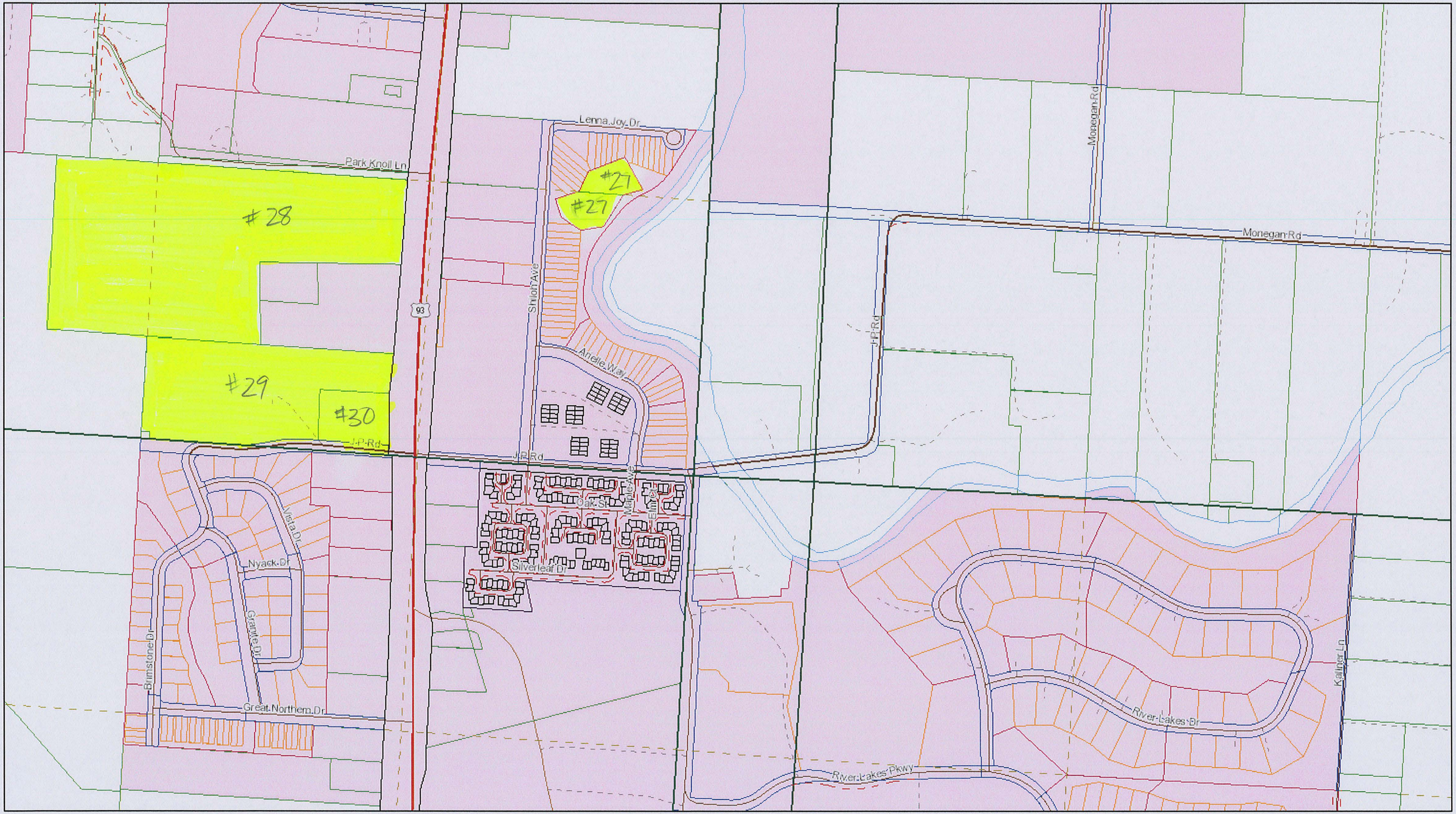
Information is derived from multiple sources, subject to constant change, and may be of questionable accuracy, currency and completeness.

1:858

EXHIBIT F - MAP E



August 8, 2016

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Information is derived from multiple sources, subject to constant change, and may be of questionable accuracy, currency and completeness.

1:5,338

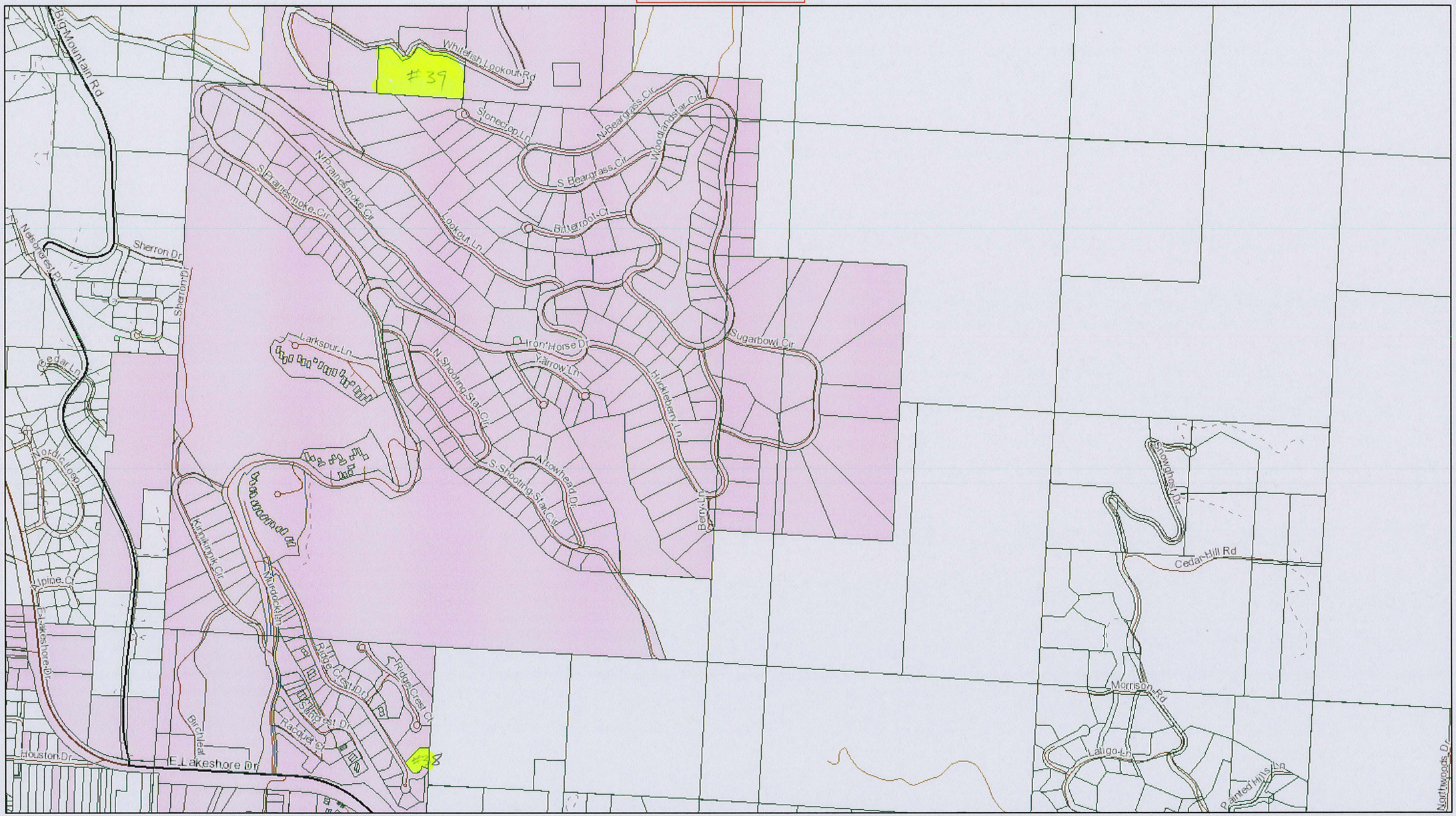
Exhibit G - Map F

August 8, 2016

Neither Flathead County, nor any of its employees, makes any warranty or guarantee to any of the data provided and assumes no legal responsibility for the information provided herein.
Information is derived from multiple sources, subject to constant change, and may be of questionable accuracy, currency and completeness.

1:5,338

EXHIBIT H - MAP G



August 8, 2016

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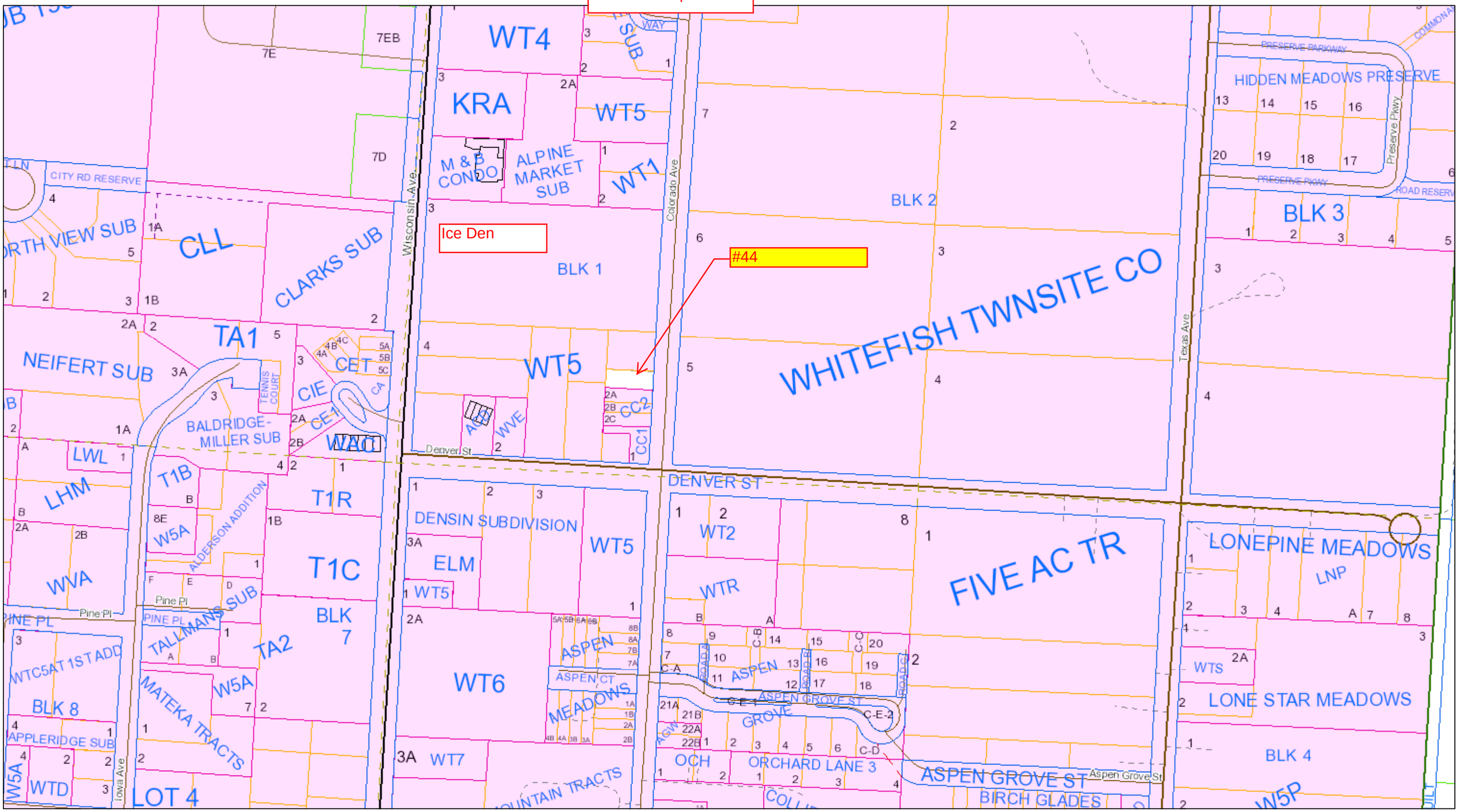
Data is provided for informational purposes only. Primary information sources should be consulted for verification of the information contained herein. Deriving conclusions from this data is done at the user's assumed risk.The areas depicted on these maps herein are for illustrative purposes only and do not necessarily meet mapping, surveying, or engineering standards. For the definitive description of real property, consult the deeds of record. Because each map layer has its own errors or inaccuracies, one layer may not display correctly with other layers. Data from this site may not be used as a mailing list as per Section 2-6-1017, Montana Code Annotated. Please contact the GIS staff of any suspected discrepancies.

1:10,676

0 0.125 0.25 0.5 mi

0 0.2 0.4 0.8 km

Exhibit I - Map H



September 2, 2016

Neither Flathead County, nor any of its employees, makes any warranty or guarantee to any of the data provided and assumes no legal responsibility for the information provided herein. Information is derived from multiple sources, subject to constant change, and may be of questionable accuracy, currency and completeness.
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1:2,807

0 0.035 0.07 0.14 mi

0 0.05 0.1 0.2 km

MEMORANDUM

#2016-029

To: Mayor Muhlfeld
City Council Members

From: Chuck Stearns, City Manager

Re: Ramsey and other various parcels for a Wholly Surround Annexation – Schedule for annexation and draft report on extension of services

Date: October 4, 2016

As approved by City Council at October 3, 2016 regular meeting.

This memo will present the discussion, rationale, and schedule for considering the annexation of forty-forty (44) properties on Ramsey Avenue and various other parcels using the wholly surround method of annexation. Thirty-four (34) of the properties are taxable properties and ten properties are tax-exempt, of which six (6) properties are either right-of-way (now required to annex by §7-2-4211 (2) MCA) or is the Montana Department of Transportation stormwater detention pond south of the Mountain Mall. This memo also presents the maps, plans, and report for the extension of services as required by §7-2-4506, §7-2-4736, and §7-2-4732 MCA.

Most of the requirements for compliance with §7-2-4732 are met by our Extension of Services plan as adopted on March 2, 2009 by Resolution No. 09-04 which is incorporated by reference within this report and is available for review at the City Clerk's office or on the City website at . http://www.cityofwhitefish.org/large-files/pdf/Planning/Final%20Extension%20of%20Services%20Plan%202009.pdf.

DISCUSSION AND RATIONALE

When the Whitefish City Council met in a work session on March 3, 2014 and again on July 5, 2016 to discuss the extent of utility connections and services provided outside of city limits and possible areas for annexation, the City Council's first priority expressed at that meeting was to annex the Houston Drive area on East Lakeshore Drive. However, that annexation has been held up by preventive litigation. We then annexed the West Lakeshore area properties on July 18, 2016. The next priority area discussed to be annexed is the area around Ramsey Avenue and other various, wholly surrounded parcels of land throughout the City.

This annexation is being pursued using the "Wholly Surrounded Land" method of annexation found in Title 7, Chapter 2, Part 45 of Montana Code Annotated. This separate method of annexation allows the City to annex certain property without the property owners having the right to protest and prevent the annexation. Section 7-2-4502 MCA provides as follows:

> **7-2-4502. Protest not available.** Wholly surrounded land is annexed, if so resolved by the city or town council, whether or not a majority of the real property owners of the area to be annexed object. The question of annexing the wholly surrounded land is not subject to being voted on by the registered voters of the area to be annexed.

A Montana Attorney General Opinion provides additional legal interpretation of when property is "wholly surrounded". From Montana Attorney General Opinion No. 41; 1987 Mont. AG LEXIS 9; 42 Op. Atty Gen. Mont. No. 41; November 18, 1987:

> While not statutorily defined, the term "wholly surrounded" was construed in Calvert v. City of Great Falls, 154 Mont. 213, 217, 462 P.2d 182, 184 (1969), to include land which, while not completely contiguous with the municipality, was nonetheless surrounded by it: "The term 'wholly surrounded' means that . . . where all lands on the side of the tract are within the city and where it is impossible to reach the tract without crossing such territory, the tract is 'wholly surrounded'."
>
> THEREFORE, IT IS MY OPINION:
>
> A parcel of land is "wholly surrounded" under section 7-2-4501, MCA, when access may be gained only by crossing through the municipality.

Given that all of these properties proposed for annexation can only gain access to their property by crossing through the municipality on various streets and highways which are already in City limits, these properties are "wholly surrounded".

SCHEDULE FOR CONSIDERATION OF ANNEXATION

September 6- City Council reviews draft memo and extension of services plan and authorizes consideration of annexation to proceed.

September 8 - City Manager mails letter and draft plan for extension of service to affected property owners. Letter includes notice of September 22nd meeting with property owners.

September 8– City Manager mails draft plan for extension of service to County, special districts, and WFSA providing them notice before approval of the report and asking if they want to consult on the orderly transfer of services pursuant to HB575 from 2011 Legislature.

September 22nd - City Manager and staff meet with affected property owners at a neighborhood meeting at City Council Chambers.

October 3– City Council considers a Resolution of Intention to annex pursuant to §7-2-4501 MCA and modifies and/or approves this report as the required plan and report on extension of services provided. After approval, make approved report available to the public.

October 12 and 19 – Publish notice as required by §7-2-4501, §7-2-4313, and §7-1-4127 MCA and mailed to property owners and occupants of the parcels. .

November 21 – Hold public hearing on annexation and if appropriate, adopt Resolution of annexation to annex the properties.

December 6th - City Clerk makes and certifies a copy of the Resolution and the minutes from the July 20th meeting and files those records with the Flathead County Clerk and Recorder.

PLANS AND REPORT ON EXTENSION OF SERVICES AS REQUIRED BY §7-2-4731 MCA

Section 7-2-4506 and 7-2-4732 MCA requires making of plans and the preparation of a report for the extension of services to any property annexed under this part, Annexation of Wholly Surrounded Land.

This section of this report presents the plans and report on extension of services. A listing of the properties proposed for annexation is in Exhibit A along with other property, tax, and assessment information for each property. A map of the proposed annexations are shown in Exhibits B through I (Maps A-H). The properties and areas conform to our Growth Policy adopted on November 19, 2007 and as subsequently amended. The current Growth Policy is available for review in the City Clerk's office or on the City's website at http://www.cityofwhitefish.org/planning-and-building/long-range-plans.php.

The following are the statements as to the plans for extending each major municipal service performed within the municipality to the property at the time of annexation.

- Electoral services - voting for municipal offices, ability to run for municipal offices will all be provided to the resident property owners immediately or in conformity to existing, applicable laws.

- Municipal Court – property owners and residents would immediately be afforded to all of the protections and services of the Municipal Court.

- Administration – The City Manager, City Clerk, and other administration services would all be available to the property owners and residents immediately, in substantially the same equitable basis, and in the same manner as such those services are provided within the rest of the municipality. Property owners or residents of the annexed properties would now be subject to business licensing, dog licensing, and resort tax payments if applicable.

- Legal Services – the protections and services of the City Attorney would all be available to the property owners and residents immediately, in substantially the same equitable basis, and in the same manner as such those services are provided within the rest of the municipality.

- Planning and Building – The City would take over providing Planning and Zoning services and regulations from Flathead County. The City provided such services before the Montana Supreme Court rescinded our extra-territorial jurisdiction in 2014. The properties' zoning would have to be revised pursuant to a separate notification and public hearing process. Building permits and associated impact fees will now be required for new development on these properties and all building services will be immediately available to the property owners. Building and Planning Services would all be available to the property owners immediately, in substantially the same equitable basis, and in the same manner as such those services are provided within the rest of the municipality.

- Police – While the Flathead County Sheriff currently provides public safety services to these properties, the City of Whitefish would often be the first responder in the case of an emergency. The Police Department is closely located in the Emergency Services Center to these properties and public safety services should increase greatly because of the reduced response time. Police Department services would all be available to the property owners immediately, in substantially the same equitable basis, and in the same manner as such those services are provided within the rest of the municipality.

- Fire – The City of Whitefish Fire Department currently provides service to these properties under our contract with the Whitefish Fire Service Area. Therefore, there is no change in the level of service for fire protection and fire services. However, their Insurance Services Office (ISO) fire rating for property insurance should decrease from a rating of 6 to 4, thus reducing their annual fire insurance premiums, but it is hard to quantify how much of a decrease that will be. Fire services would all be provided to the property owners immediately, in substantially the same equitable basis, and in the same manner as such those services are provided within the rest of the municipality.

- Ambulance - The City of Whitefish Fire Department currently provides ambulance service to these properties and that service will continue in the same manner. Property owners and residents will now be able to obtain the $200.00 discount on any ambulance calls afforded to property owners and residents of Whitefish. Ambulance services would all be provided to the property owners immediately, in substantially the same equitable basis, and in the same manner as such those services are provided within the rest of the municipality.

- Public Works –Water and Wastewater lines extend and available throughout the areas other than the property up by the Lookout Ridge subdivision. As shown on the property owner list and spreadsheet attached to this report (Exhibit A), there are 16 properties already on the water and/or sewer system. With annexation, their residential monthly bills for the base rate would decrease by 10.27% and their rate for quantity of water used would decrease by 27.49%. For a house that uses 3,000 gallons of water per month, those reductions would equal $11.53 per month.

  Stormwater services would remain as is until any street reconstruction project installed storm drainage or the residents created a SID for a stormwater system. The City of

Whitefish already plows all of the roads in these areas other than the Whitefish Lookout Road. Therefore, there would be no change in snow plowing.

All Public Works services would all be available to the property owners immediately in substantially the same equitable basis, and in the same manner as such those services are provided within the rest of the municipality. The property owners would face the normal connection costs when they want to connect to the municipal water or sanitary sewer system.

- Garbage Collection – the properties to be annexed will have garbage collection services provided under our current contract for services with North Valley Refuse. Thus, they will now be able to avail themselves of the quantity discounts and billing efficiencies that our contract for services provides. However, billing for use of the service is mandatory as it is for all other property inside the City. Garbage collection services would be available to the property owners immediately, in substantially the same equitable basis, and in the same manner as such those services are provided within the rest of the municipality.

- Parks and Recreation – These properties already benefit from, but are not charged for our greenway maintenance along Hwy 93. The property owners would now begin to pay for these services. All other Parks and Recreation services, facilities, and programs would all be available to the property owners immediately, in substantially the same equitable basis, and in the same manner as such those services are provided within the rest of the municipality.

- Library – no change in service. Library services would be available to the property owners immediately, in substantially the same equitable basis, and in the same manner as such those services are provided within the rest of the municipality. Property owners may currently use the Whitefish Community Library although, upon annexation, they would begin paying for those services.

A copy of our Extension of Services plan as adopted on March 2, 2009 by Resolution No. 09-04 is incorporated by reference within this report and is available for review at the City Clerk's office or on the City website at http://www.cityofwhitefish.org/large-files/pdf/Planning/Final%20Extension%20of%20Services%20Plan%202009.pdf.

The validity and applicability the City's Extension of Services Plan was upheld by the Montana Supreme Court in their ruling of September 21, 2004 upholding the City's 1998 annexations in their decision "NO. 03-229, IN THE SUPREME COURT OF THE STATE OF MONTANA 2004 MT 262"

Given that these properties are already using many city services and this annexation is an "in-fill" type of annexation, the financing of all services provided to these properties shall come from the city property tax levies and assessments that will be levied on these properties in the future. The estimated new property taxes from the annexation equal approximately $12,025.35 and the assessments for streets, greenway, street lights, and stormwater will equal approximately

$16,310.28 for total revenue to the City of approximately $28,335.63 based on the most recent valuation and the FY16 and Tax Year 2015 tax rate (see Exhibit A). The property owner will face the normal connection costs when they choose or need to connect onto the city's sanitary sewer or water system unless they are already connected.

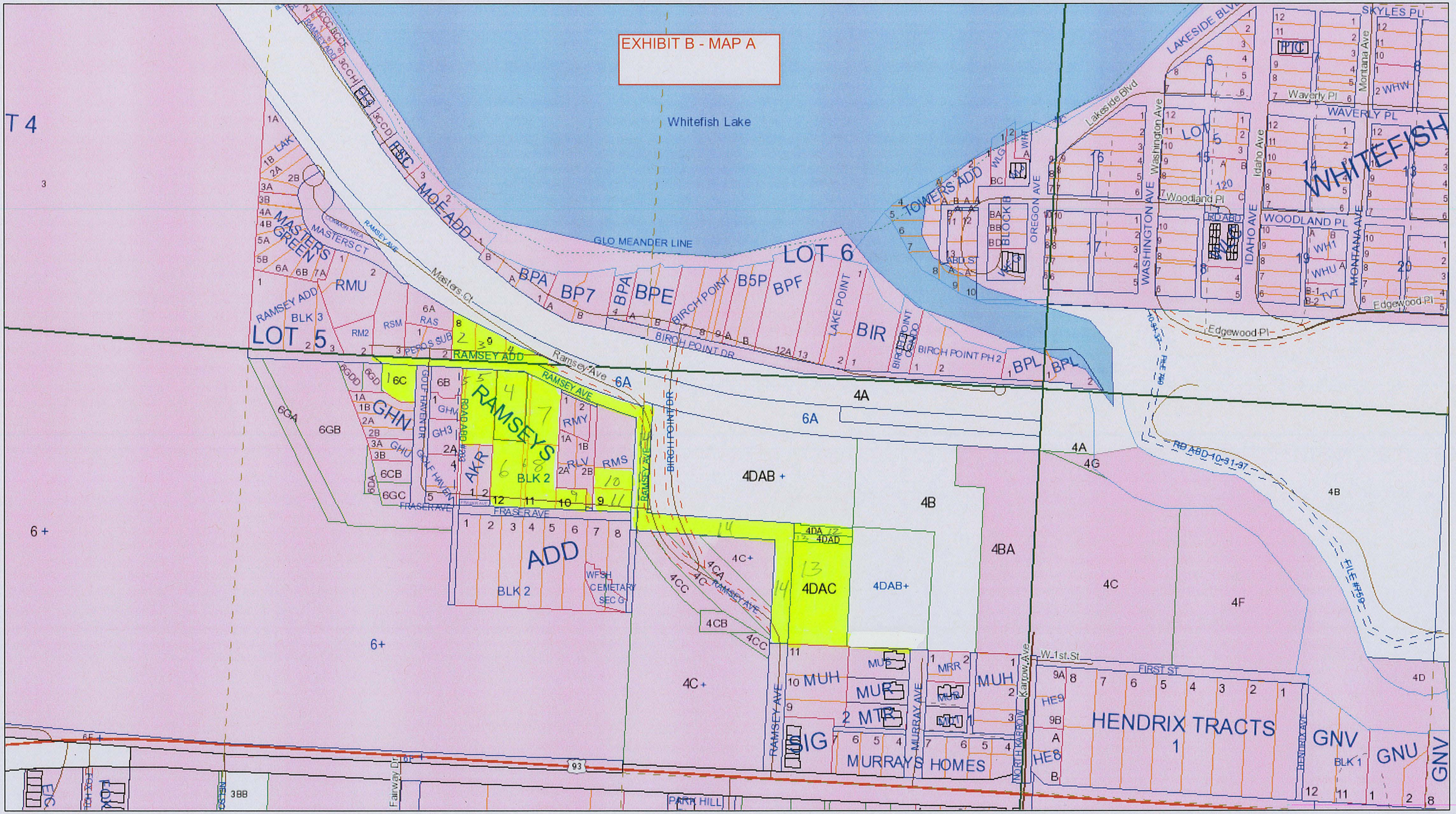
Property owners in this area will typically face a 16-28% increase in their property tax bill, with some exceptions for low value, vacant land or large lots, both of which have high percentage increases because of assessments, but relatively lower dollar increase impacts. The table in Exhibit A shows the City revenue and prospective increase in taxes (based on the most recent FY16- tax year 2015 property tax bills and last year's mill levies) that each property might face. Of course, mill levies can change each fall and reappraisal occurs every two years, with the next reappraisal coming in 2017. The property owners first tax bill with City taxes will not be issued until the fall of 2017.

The entire municipality tends to share the tax burden for these services, therefore the area may be annexed without a bond issue under the provisions of state law. As in-fill property, we do not anticipate the need to hire additional staff in order to provide the same level of service that is currently provided to other residents and property owners in Whitefish. Any increased costs will be marginal and incremental and offset by the new property taxes and assessments collected.

As this report shows, the City of Whitefish is ready and able to provide its full complement of municipal services to this property. Upon annexation, city services will be provided immediately, in substantially the same equitable basis, and in the same manner as such those services are provided within the rest of the municipality.

cc: Department Directors

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V
1					EXHIBIT A																	
2					Ramsey Avenue and Various Isolated Parcels																	
3					2016 Annexation																	
4					Mailing List and Tax Sumary																	
5					Prepared:					0												
6						9/7/2016																
7																						
8						Mailing					On City Water	City has signed	Assessor's		Prospective	Prospective	Prospective		2015 Tax Bill after			
9		Parcel ID	Assesor Number	First Name	Last Name	Address	City	State	Zip Code	Property Physical Address	or Sewer	Waiver/contract	Market Valuation	Taxable Valuation	City Property Taxes	City Assessments	Total City Revenue	2015 Existing Tax Bill	Annexation	Difference	Percent Change	Notes
10																						
11	Map A, #1	TR 6C IN NW4NE4	0983118	Monte and Dana	Mandarino	548 Ramsey Avenue	Whitefish	MT	59937	544 Ramsey Avenue	Water & Sewer		$263,300	$3,554	$423.78	$360.86	$784.64	$2,045.52	$2,621.52	$576.00	28.16%	
12	Map A, #2	RAMSEY ADD BLOCK 3, Lot 8	0365750	Anna C.	Wolry	339 Eisenhower Dr	Louisville	CO	80027-1145	339 Ramsey Avenue (A&B)	Water & Sewer	Yes - waiver of protest agreement signed by Thomas & Edith Wolry - not recorded	$315,100	$2,104	$250.88	$243.73	$494.61	$1,336.82	$1,649.15	$312.33	23.36%	
13	Map A, #3	RAMSEY ADD BLOCK 3, Lot 9, W 100 FT of Lot 9	0332537	Jerry Joe Ervin, Rita Kay and Morgan Alden	Hanson	P.O. Box 1214	Whitefish	MT	59937-1214	vacant - no address			$56,625	$764	$91.10	$320.79	$411.89	$409.64	$807.64	$398.00	97.16%	
14	Map A, #4	RAMSEY ADD BLOCK 2, Lot 11, ex W 100' of Lot 9	0906500	520 Hansen LLC		23601 19th Pl. W	Bothell	WA	98021-5201	520 Ramsey Avenue	Water	Recorded Waiver of Protest agreement signed by Fred & Carla Ost	$298,100	$4,024	$479.82	$490.92	$970.74	$2,312.80	$3,066.35	$753.55	32.58%	
15	Map A, #5	RAMSEY ADD, BLOCK 2, Lot 13, LOT 13 ABD ST EX TR A	0332550	Jerry Joe Ervin, Rita Kay and Morgan Alden	Hanson	P.O. Box 1214	Whitefish	MT	59937-1214	528 Ramsey Avenue	Water		$238,200	$3,216	$383.48	$355.99	$739.47	$1,880.80	$2,417.76	$536.96	28.55%	
16	Map A, #6	RAMSEY ADD, BLOCK 002, Lot 011, W 15FT OF S 220 FT L 11 & S 220 FT L 12	0289150	Upper 40 LLC		246 4th Street West	Whitefish	MT	59937-3025	Fraser Ave			$225,385	$4,260	$507.96	$343.91	$851.87	$2,208.04	$2,982.44	$774.40	35.07%	
17	Map A, #7	RAMSEY ADD, BLOCK 002, Lot 011, EX S 210' OF E 101.1'	0666445	Richard, Gail, & Brian	Ross	1280 Hems Road	Columbia Falls	MT	59937	512 Ramsey Avenue	Water & Sewer		$200,900	$2,712	$323.38	$388.92	$712.30	$1,645.87	$2,164.85	$518.98	31.53%	
18	Map A, #8	RAMSEY ADD, BLOCK 002, Lot 011, S 210' OF E 101.1'	0666475	Freddie Alvin	Ost	331 Ramsey Ave	Whitefish	MT	59937	331 Ramsey Avenue	Water		$235,697	$3,181	$379.30	$324.27	$703.57	$1,852.36	$2,354.08	$501.72	27.09%	
19	Map A, #9	RAMSEY ADD, BLOCK 002, Lot 010, W 100 FT S 70 FT 10 BLK 2	0289100	Freddie Alvin	Ost	331 Ramsey Ave	Whitefish	MT	59937	323 Fraser Avenue		Recorded Waiver of Protest agreement signed by Edwin and Nancy Gilliland	$77,184	$1,042	$124.25	$322.03	$446.28	$540.32	$967.65	$427.33	79.09%	
20	Map A, #10	RAMSEY ADD, BLOCK 002, Lot 009, WFSH RAMSEY ADD BLK 2 N 67.5 PT OF S142. 5 9	0749545	Roger Thomas	Sayre	25 E Nicklaus Ave	Kalispell	MT	59901-2771	408 Ramsey Avenue	Water	Recorded Consent to Annex agreement signed by Robert & Jean Burns	$158,200	$2,135	$254.58	$220.61	$475.19	$1,352.57	$1,644.93	$292.36	21.62%	
21	Map A, #11	RAMSEY ADD, BLOCK 002, Lot 009, RAMSEY ADD L9 S75' BLK 2	0952410	Lisa	Shimomura	400 Ramsey Ave	Whitefish	MT	59937-3169	400 Ramsey Avenue	Water	Recorded Consent to Annex agreement signed by Robert & Jean Burns	$227,373	$3,070	$366.07	$243.73	$609.80	$2,052.58	$2,318.54	$265.96	12.96%	
22	Map A, #12	S35, T31 N, R22 W, TR 4DA IN NE4NE4	0338972	City of Whitefish		P.O. Box 158	Whitefish	MT	59937	vacant - no address			$0	$0	$0.00		$0.00			$0.00	#DIV/0!	
23	Map A, #13	S35, T31 N, R22 W, TR 4DAC & 4DAD IN NE4NE4	0244795	Judith A.	Schooley	P.O. Box 1226	Whitefish	MT	59937-1226	vacant - no address			$97,445	$1,316	$156.92	$520.20	$677.12	$690.24	$1,343.43	$653.19	94.63%	
24	Map A, #14	Ramsey Avenue Right-of-Way											$0	$0	$0.00		$0.00			$0.00	#DIV/0!	
25	Map B, #15	S35, T31 N, R22 W, TR 7AABI IN SW4SE4, TR 7AABA IN SW4SE4	0969703	Douglas J & Carolyn K	Pitman	1 Tidewav Dr	Whitefish	MT	59937-3236	1 Tides Way			$334,100	$4,510	$537.77	$203.16	$740.93	$2,559.85	$3,074.75	$514.90	20.11%	
26	Map B, #16	GOJENDES TR ADD 1, BLOCK 001, Lot 004, GOJENDES TR ADD 1 LOT 4 BLK 1	0440146	Michael P	Gerrish	P.O. Box 1446	Whitefish	MT	59937-1446	345 Jennings Ave	Water		$133,900	$1,808	$215.59	$166.66	$382.25	$1,143.79	$1,349.14	$205.35	17.95%	
27	Map B, #17	GOJENDES TR ADD 1, S36, T31 N, R22 W, BLOCK 1, Lot 3	0801100	Eric C & Ava M	Verdell	250 Spring Prairie Rd	Whitefish	MT	59937-8709	333 Jennings Ave	Water		$210,100	$2,836	$338.16	$166.66	$504.82	$1,666.35	$1,975.59	$309.24	18.56%	
28	Map B, #18	GOJENDES TR, BLOCK 001, TR 1BB	0364400	Chrystal L	Higgins	235 Good Ave	Whitefish	MT	59937-3945	Vacant parcel adjacent to 235 Good Ave			$44,800	$605	$72.14	$164.66	$236.80	$307.54	$533.34	$225.80	73.42%	
29	Map B, #19	Good Ave right-of-way adjacent to 100 West 3rd Street & 101 West 2nd Street											$0	$0	$0.00		$0.00					
30	Map C, #20	S01, T30 N, R22 W, TR 3ABL IN NW4SE4	0971946	High Plain Pizza Inc		P.O. Box 2438	Liberal	KS	67905-2438	6356 Highway 93 S	Water & Sewer		$276,478	$5,225	$623.03	$801.31	$1,424.34	$2,677.31	$4,006.61	$1,329.30	49.65%	
31	Map C, #21		0979618	Peter and Linda	Costain	1210 O'Brien Ave	Whitefish	MT	59937	1210 O'Brien Ave			$250,700	$3,385	$403.63	$159.66	$563.29	$1,966.71	$2,324.44	$357.73	18.19%	
32	Map C, #22	O'Brien Avenue right-of-way adjacent to 1210 O'Brien Ave - Parcel SRF											$0	$0	$0.00		$0.00			$0.00	#DIV/0!	
33	Map C & D, #23	CHALET SUB. Lot 001, CHALET SUB LOT 1 N12.38'	0954503	Village T1 Partners LP		940 Emmett Ave, Suite 200	Belmont	CA	94002-3881	Vacant - no address			$8,603	$163	$19.44	$991.51	$1,010.95	$104.14	$1,112.12	$1,007.98	967.91%	
34	Map C & D, #24	WSJ-COMMONAREA-UNIT-A	0001971	Kanyon	Smith	6446 US Highway 93 South	Whitefish	MT	59937	Vacant - common area A adjacent to 6446 US Hwy 93 South			$0	$0	$0.00	$547.48	$547.48	$0.00	$547.48	$547.48	#DIV/0!	
35	Maps C & D, #25	WSJ-COMMONAREA-UNIT-B	0012697	Coco Investment Properties LLC		369 Shady River Lane	Whitefish	MT	59937	Vacant - common area B adjacent to 6446 US Hwy 93 South			$0	$0	$0.00	$272.31	$272.31	$0.00	$272.31	$272.31	#DIV/0!	
36	Maps C & D, #26	WSJ-COMMONAREA-UNIT-C	0012698	Coco Investment Properties LLC		369 Shady River Lane	Whitefish	MT	59937	Vacant - common area C adjacent to 6446 US Hwy 93 South			$0	$0	$0.00	$272.31	$272.31	$0.00	$272.31	$272.31	#DIV/0!	
37	Maps E, #27		0300331	State of Montana Department of Transportation		P.O. Box 201001	Helena	MT	59620	Vacant - stormwater detention pond south of Mountain Mall			$0	$0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	#DIV/0!	
38	Maps E, #28	S01, T30 N, R22 W, ACRES 26.99, TR 3BB IN SE4SW4 & SW4SE4,	0595750	Mark H	Hedman	P.O. Box 2105	Kalispell	MT	59903-2105	6260 US Highway 93 S			$207,867	$2,966	$353.67	$524.93	$878.60	$1,837.40	$2,437.31	$599.91	32.65%	
39	Map E, #29	S01, T30 N, R22 W, TR 3B IN SW4SE4	0030450	Eagle Enterprises		230 JP Rd	Whitefish	MT	59937	6204-6208 Hwy 93 South			$604,400	$8,160	$973.00	$654.91	$1,627.91	$4,392.67	$5,728.18	$1,335.51	30.40%	
40	Map E, #30	S01, T30 N, R22 W, TR 3BD IN SE4SW4SE4	0976684	Eagle Enterprises	Mail to Grant Thornton LLC	700 Milam Street, Suite 300	Houston	TX	77002-2848	6200 US Highway 93 S			$656,254	$12,403	$1,478.93	$1,564.64	$3,043.57	$6,806.53	$9,304.83	$2,498.30	36.70%	
41	Map F, #31	S05, T30 N, R21 W, TR 5A & TR 5C IN NW4SW4	0683450	Boone Karlberg Employees Profit Sharing Trust	Mail to Dennis G. Minemyer	3700 S Russell Street, Suite 112	Missoula	MT	59801-8574	1100 Human Rd			$189,800	$2,562	$305.49	$510.92	$816.41	$1,312.35	$2,082.16	$769.81	58.66%	
42	Map F, #32	S31, T31 N, R21 W, 1515ft-2, PARCEL N/A, TR 1CH IN L4 (SELL W/TR 1CF)	0005593	Susan M Riley-Elliott	Jefre Jon Elliott	P.O. Box 744	Whitefish	MT	59937-0744	Vacant - no address; adjacent to 1009 Park Avenue			$68,058	$919	$109.58	$456.42	$566.00	$467.16	$1,016.45	$549.29	117.58%	
43	Map F, #33	Adjacent 10th Street right-of-way								adjacent to 1009 Park Avenue			$0	$0	$0.00		$0.00			$0.00	#DIV/0!	
44	Map F, #34	S31, T31 N, R21 W, TR 1F IN L4	0350300	Sharon	Carr	717 Hafen Ln, Unit 29C	Mesquite	NV	89027-5958	vacant - no address			$69,048	$932	$111.13	$476.02	$587.15	$473.76	$1,044.68	$570.92	120.51%	
45	Map F, #35	Alley behind 815 Park Avenue to 915 Park Avenue											$0	$0	$0.00		$0.00			$0.00	#DIV/0!	
46	Map F, #36	S32, T31 N, R21 W, COS 14544-1, TR 6Z IN W2SW4SW4,	0004345	Craig E & Kathy G	Barnes	2703 Pickering Way	Sacramento	CA	95833-3916	vacant land adjacent to Park Ave			$122,066	$1,648	$196.51	$490.39	$686.90	$880.28	$1,537.19	$656.91	74.63%	
47	Map F, #37	S32, T31 N, R21 W, COS 15015-2, PARCEL N/A, TR 6P IN SW4	0812985	Gretchen aka Gretchen Jill	Moore	908 Ashar Ave	Whitefish	MT	59937-2865	1000 Creek View Dr 55			$102,862	$1,389	$165.62	$362.55	$528.17	$727.34	$1,230.25	$502.91	69.14%	
48	Map G, #38	SUN CREST ADD 1, S24, T31 N, R22 W, LOT 5 (SE PORTION), ref #0968197	0968197	Lloyd Winston	Sproule	P.O Box 1180	Pincher Creek	Alberta, Canada	T0K 1W0	vacant land off Ridge Crest Dr			$9,410	$127	$15.14	$0.00	$15.14	$73.07	$85.92	$12.85	17.59%	
49	Map G, #39	S12, T31 N, R22 W, 16393-2, PARCEL N/A, TR 6CBA IN SE4SW4	0009676	Dunlevie Living Trust, Bruce & Elizabeth		80 Santiago Ave	Atherton	CA	94027-5413	vacant land on Whitefish Lookout Rd			$256,628	$3,464	$413.05	$330.68	$743.73	$1,787.03	$2,467.76	$680.73	38.09%	
50	Map C, #40	S01, T30 N, R22 W, TR 5CD IN L 2,655ft 0780360	0780360	Hamilton Properties LLC		P.O. Box 961	Whitefish	MT	59937	1630 Baker Avenue	Water and Sewer		$238,700	$3,223	$384.31	$335.15	$719.46	$1,865.58	$2,182.41	$316.83	16.98%	
51	Map C, #41	S01, T30 N, R22 W, 8139FM, PARCEL N/A, TR 5AC & TR 5BB EX ELY PT IN L2	0974998	Thomas and Brenda	Banning	250 West 18th Street	Whitefish	MT	59937	250 West 18th Street	Water		$252,000	$3,402	$405.65	$173.65	$579.30	$1,962.57	$2,336.01	$373.44	19.03%	
52	Map C, #42	S01, T30 N, R22 W, TR 6BBD IN SW4NE4	0818999	Arrangements LLC		345 Spring Prairie Road	Whitefish	MT	59937	1800 Baker Avenue & 285 & 291 West 18th Street			$288,000	$5,443	$649.02	$353.86	$1,002.88	$3,100.70	$3,765.63	$664.93	21.44%	
53	Map C, #43	S01, T30 N, R22 W, TR 6BE IN SW4NE4	0818998	Arrangements LLC		345 Spring Prairie Road	Whitefish	MT	59937	1800 Baker Avenue & 285 & 291 West 18th Street			$192,800	$3,644	$434.51	$2,230.82	$2,665.33	$2,266.96	$4,546.33	$2,279.37	100.55%	
54	Map H, #44	WFSH TSTE CO 5 AC TR, BLOCK 001, Lot 004, WFSH TSTE CO 5AC TR35 OF N135' OF E120' LOT 4 TR CA BLK 1	0918750	Coletta V Cahoan	Mail To Swift Creek Cabins LLC	395 Delray Road	Whitefish	MT	59937	Between 634 and 636 Colorado Avenue			$48,760	$658	$78.46	$163.66	$242.12	$334.48	$564.62	$230.14	68.81%	
55																						
56																						
57		Totals											$6,858,843	$100,850	$12,025.35	$16,310.28	$28,335.63	$57,041.13	$80,136.16	$23,095.03		



August 1, 2016

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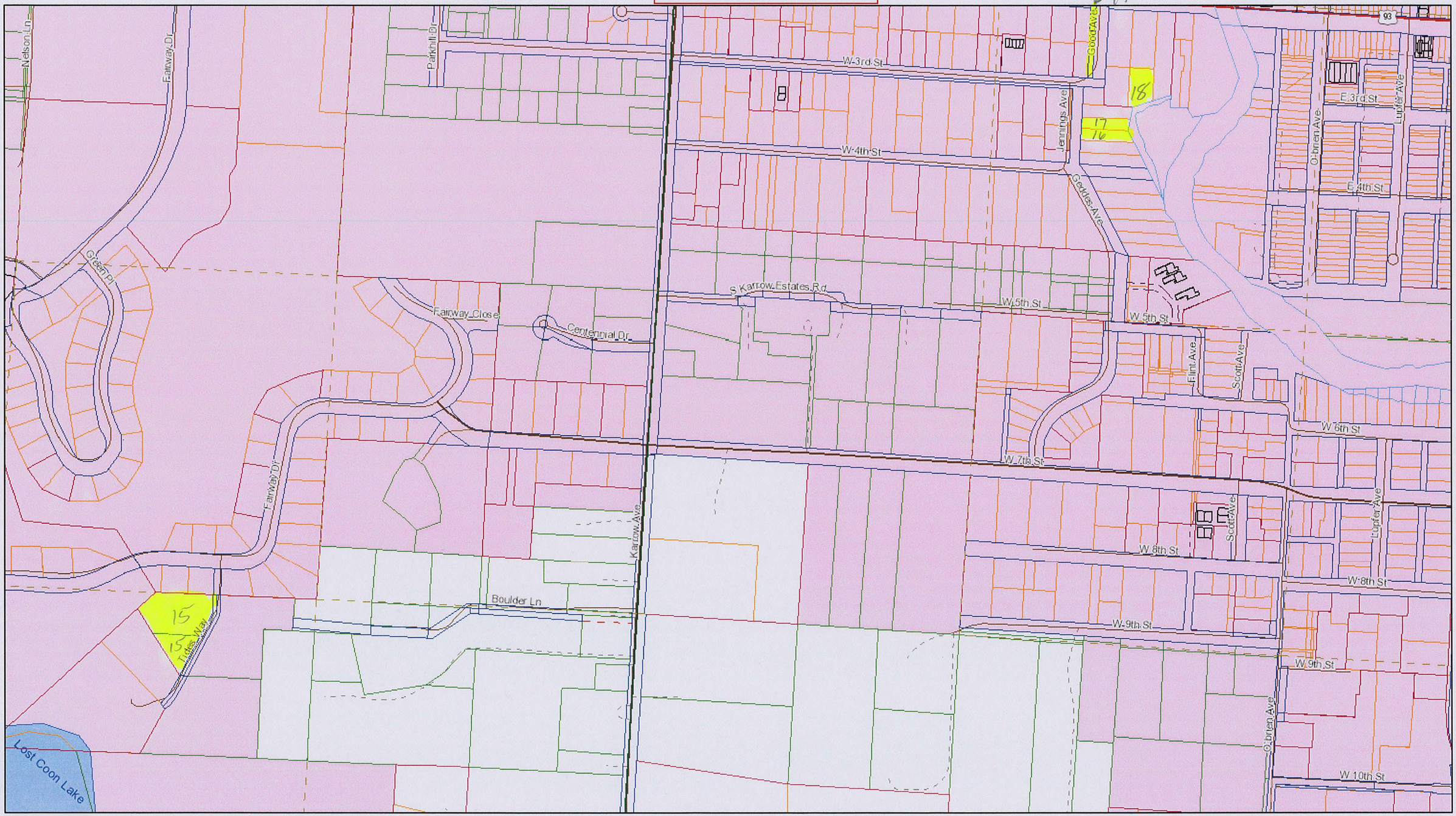
Information is derived from multiple sources, subject to constant change, and may be of questionable accuracy, currency and completeness.
Data is provided for informational purposes only. Primary information sources should be consulted for verification of the information contained herein. Deriving conclusions from this

1:3,640

0 0.045 0.09 0.18 mi

Exhibit C - Map B



August 8, 2016

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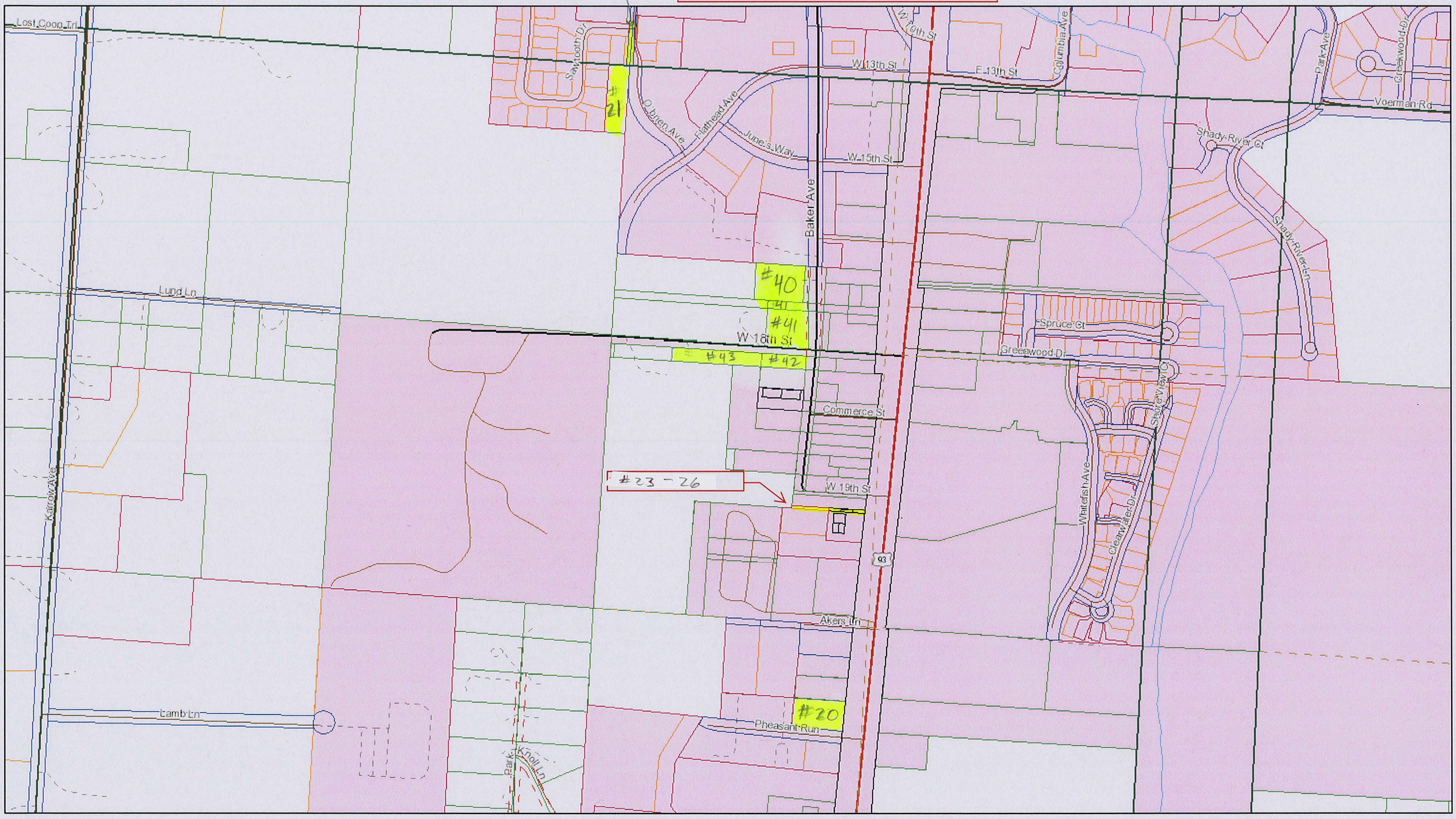
Information is derived from multiple sources, subject to constant change, and may be of questionable accuracy, currency and completeness.

1:4,535

Exhibit D - Map C



August 8, 2016

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1:5,338

Exhibit E - Map D

August 8, 2016

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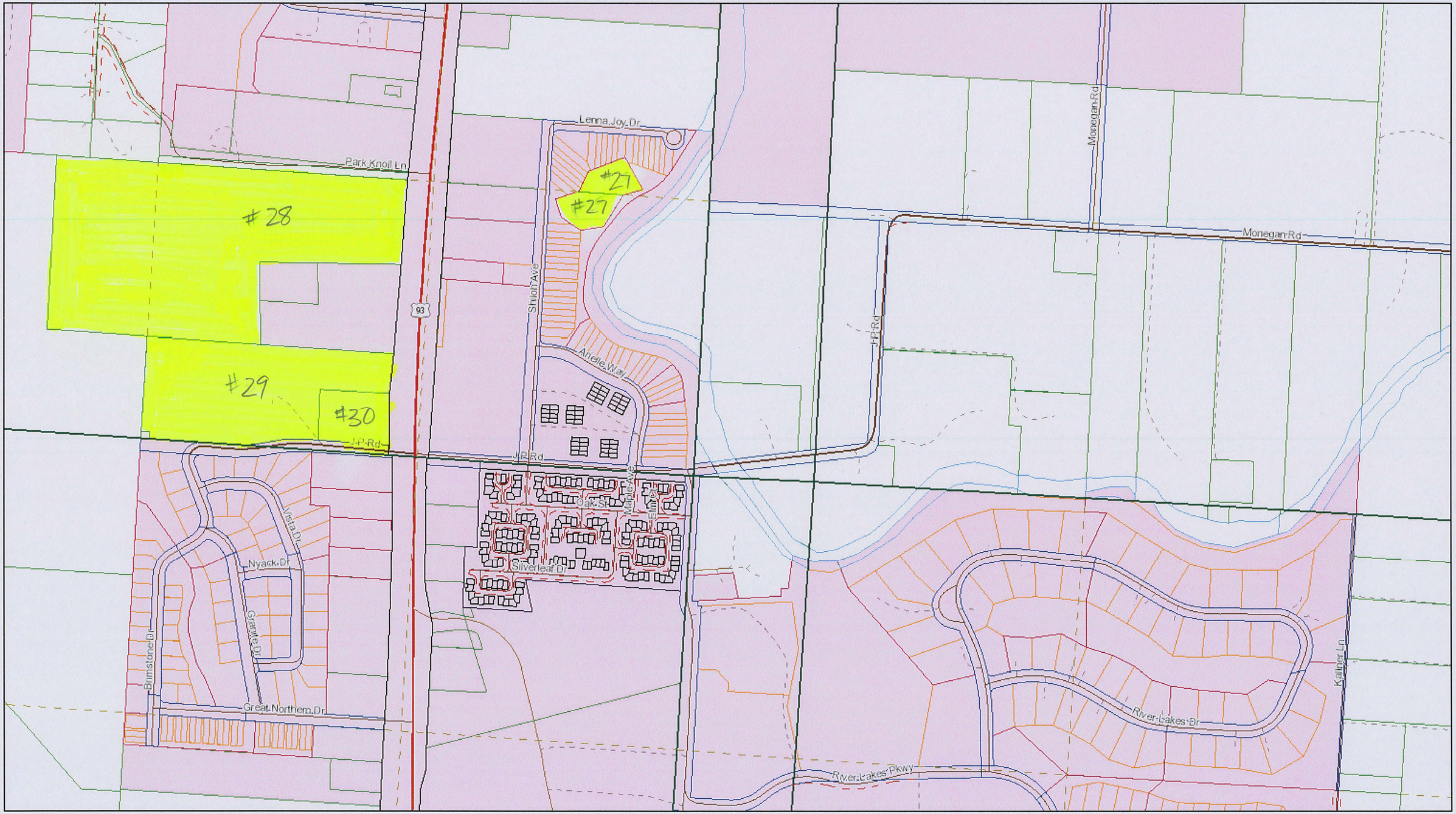
1:858

EXHIBIT F - MAP E



August 8, 2016

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1:5,338

Exhibit G - Map F

August 8, 2016

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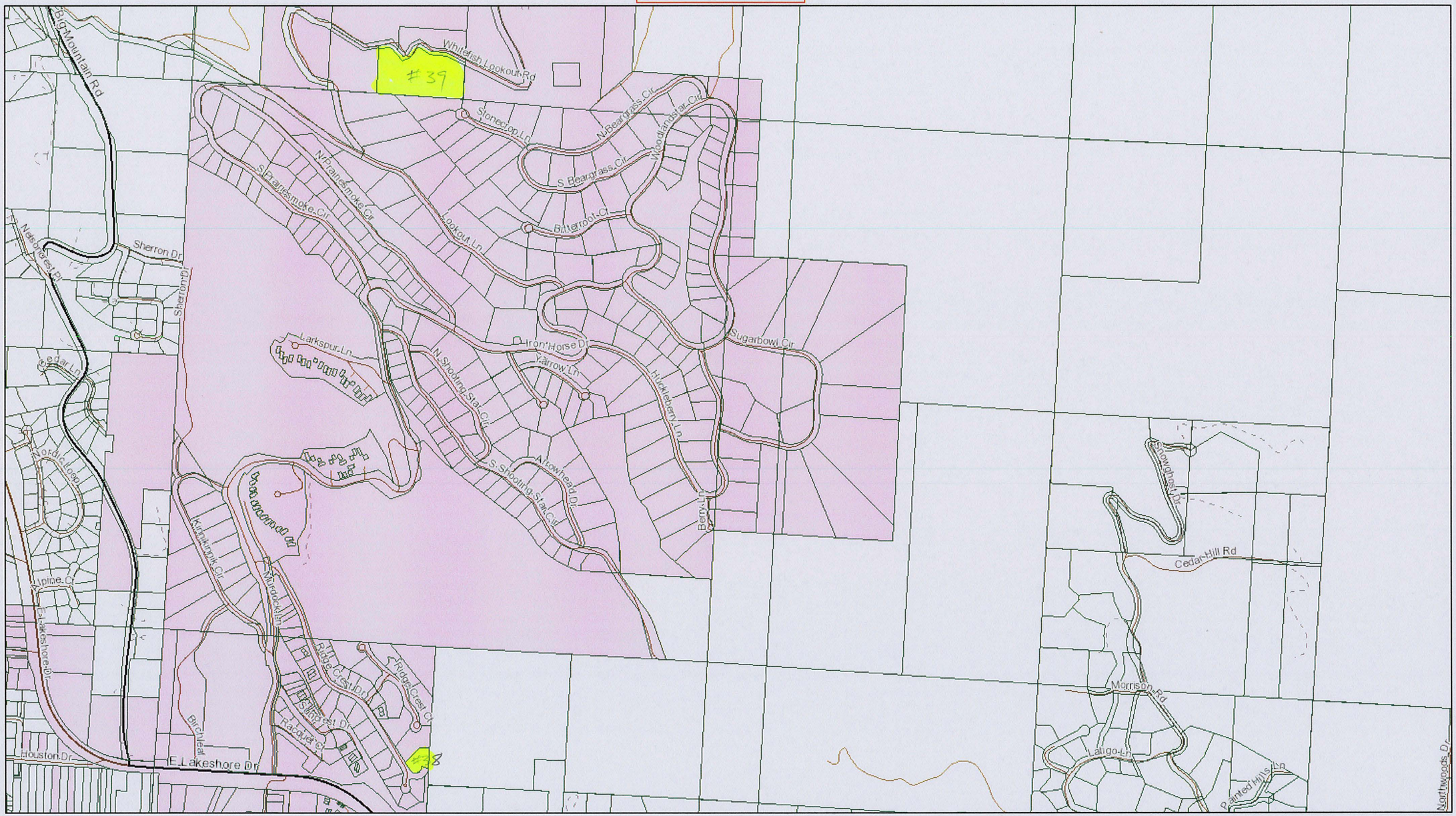
1:5,338

EXHIBIT H - MAP G



August 8, 2016

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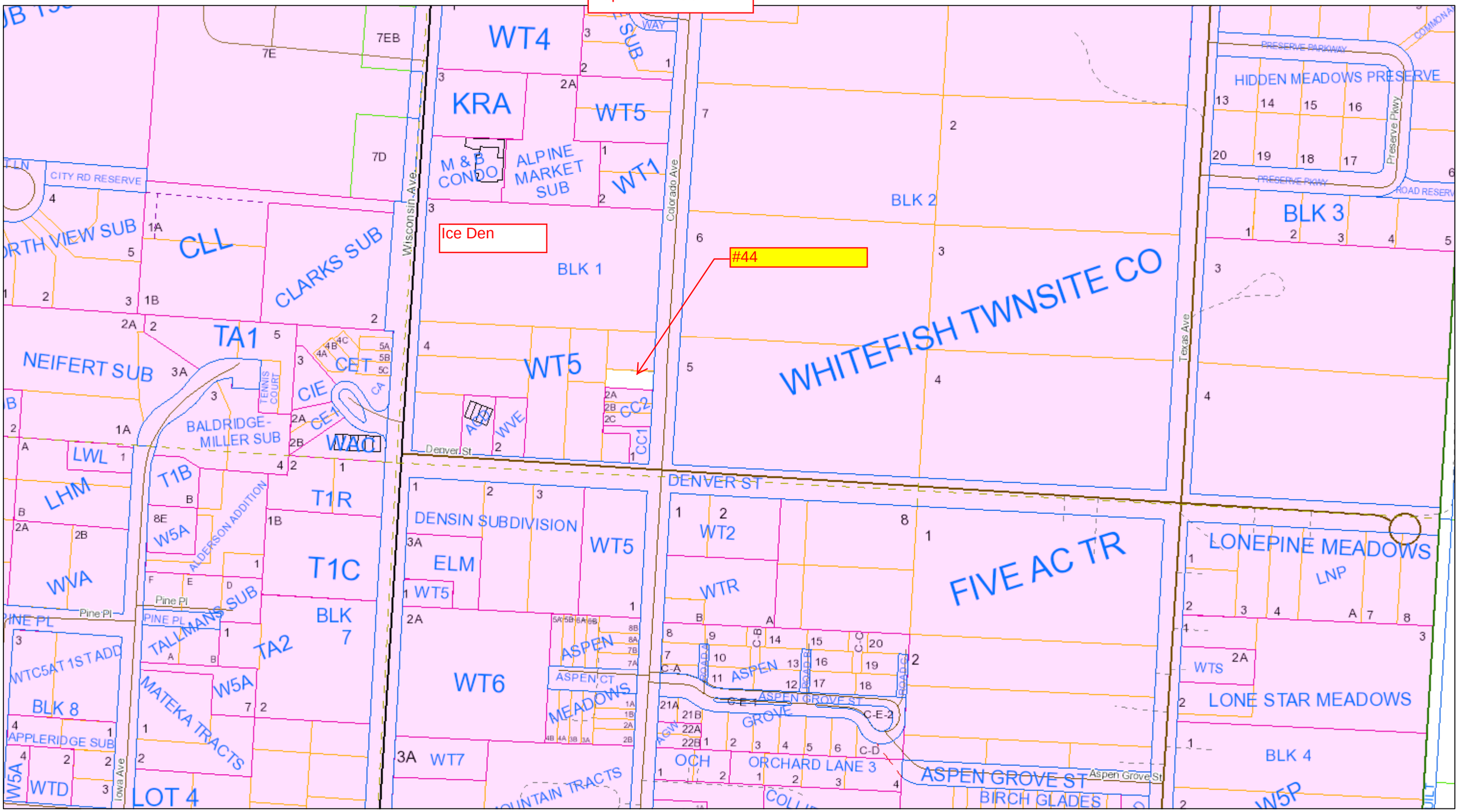
Data is provided for informational purposes only. Primary information sources should be consulted for verification of the information contained herein. Deriving conclusions from this data is done at the user's assumed risk.The areas depicted on these maps herein are for illustrative purposes only and do not necessarily meet mapping, surveying, or engineering standards. For the definitive description of real property, consult the deeds of record. Because each map layer has its own errors or inaccuracies, one layer may not display correctly with other layers. Data from this site may not be used as a mailing list as per Section 2-6-1017, Montana Code Annotated. Please contact the GIS staff of any suspected discrepancies.

1:10,676

0 0.125 0.25 0.5 mi

0 0.2 0.4 0.8 km

Map H - Exhibit I



September 2, 2016

Neither Flathead County, nor any of its employees, makes any warranty or guarantee to any of the data provided and assumes no legal responsibility for the information provided herein. Information is derived from multiple sources, subject to constant change, and may be of questionable accuracy, currency and completeness.
Data is provided for informational purposes only. Primary information sources should be consulted for verification of the information contained herein. Deriving conclusions from this data is done at the user's assumed risk.The areas depicted on these maps herein are for illustrative purposes only and do not necessarily meet mapping, surveying, or engineering standards. For the definitive description of real property, consult the deeds of record. Because each map layer has its own errors/tolerances, one layer may not display correctly with other layers. Data from this site may not be used as a mailing list as per Section 2-6-1017, Montana Code Annotated. Please contact the GIS staff of any suspected discrepancies.

1:2,807

0 0.035 0.07 0.14 mi

0 0.05 0.1 0.2 km

7-2-4421. When land conclusively presumed to be annexed. A tract or parcel of land that has been shown on municipal maps or plats as being within municipal boundaries but is later found to have been improperly or unofficially annexed is conclusively presumed to be annexed and may be so recorded if municipal taxes have been paid on the tract or parcel without protest for a period of 7 years.

History: En. Sec. 1, Ch. 109, L. 1981.

Part 45
Annexation of Wholly Surrounded Land

7-2-4501. Annexation of wholly surrounded land. A city may include as part of the city any platted or unplatted tract or parcel of land that is wholly surrounded by the city upon passing a resolution of intent, giving notice, and passing a resolution of annexation. Except as provided in 7-2-4502, the provisions of 7-2-4312 through 7-2-4314 apply to these resolutions and the notice requirement.

History: En. Sec. 1, Ch. 30, L. 1905; re-en. sec. 3214, Rev. C. 1907; re-en. Sec. 4978, R.C.M. 1921; amd. Sec. 1, Ch. 52, L. 1925; re-en. Sec. 4978, R.C.M. 1935; amd. Sec. 1, Ch. 239, L. 1957; amd. Sec. 1, Ch. 238, L. 1959; amd. Sec. 1, Ch. 217, L. 1961; amd. Sec. 1, Ch. 281, L. 1967; amd. Sec. 1, Ch. 510, L. 1977; R.C.M. 1947, 11-403(part); amd. Sec. 17, Ch. 250, L. 1979; amd. Sec. 1, Ch. 200, L. 1983.

7-2-4502. Protest not available. Wholly surrounded land is annexed, if so resolved by the city or town council, whether or not a majority of the real property owners of the area to be annexed object. The question of annexing the wholly surrounded land is not subject to being voted on by the registered voters of the area to be annexed.

History: En. Sec. 1, Ch. 30, L. 1905; re-en. sec. 3214, Rev. C. 1907; re-en. Sec. 4978, R.C.M. 1921; amd. Sec. 1, Ch. 52, L. 1925; re-en. Sec. 4978, R.C.M. 1935; amd. Sec. 1, Ch. 239, L. 1957; amd. Sec. 1, Ch. 238, L. 1959; amd. Sec. 1, Ch. 217, L. 1961; amd. Sec. 1, Ch. 281, L. 1967; amd. Sec. 1, Ch. 510, L. 1977; R.C.M. 1947, 11-403(part); amd. Sec. 8, Ch. 66, L. 1995; amd. Sec. 7, Ch. 485, L. 1997.

7-2-4503. Restrictions on annexation power. Land shall not be annexed under this part whenever the land is used:

(1) for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing purpose; or

(2) for the purpose of maintaining or operating a golf or country club, an athletic field or aircraft landing field, a cemetery, or a place for public or private outdoor entertainment or any purpose incident thereto.

History: En. Sec. 1, Ch. 30, L. 1905; re-en. sec. 3214, Rev. C. 1907; re-en. Sec. 4978, R.C.M. 1921; amd. Sec. 1, Ch. 52, L. 1925; re-en. Sec. 4978, R.C.M. 1935; amd. Sec. 1, Ch. 239, L. 1957; amd. Sec. 1, Ch. 238, L. 1959; amd. Sec. 1, Ch. 217, L. 1961; amd. Sec. 1, Ch. 281, L. 1967; amd. Sec. 1, Ch. 510, L. 1977; R.C.M. 1947, 11-403(part).

7-2-4504. What constitutes contiguous lands. Tracts or parcels of land proposed to be annexed to a city or town under the provisions of this part shall be deemed contiguous to such city or town even though such tracts or parcels of land may be separated from such city or town by a street or other roadway, irrigation ditch, drainage ditch, stream, river, or a strip of unplatted land too narrow or too small to be platted.

History: En. Sec. 1, Ch. 95, L. 1945; amd. Sec. 1, Ch. 16, L. 1955; R.C.M. 1947, 11-404.

7-2-4505. Applicability of part. (1) When the proceedings for annexation of territory to a municipality are instituted as provided in this part, the provisions of this part and no other apply, except where otherwise explicitly indicated.

(2) The governing body of the municipality to which territory is proposed to be annexed may in its discretion select one of the annexation procedures in parts 42 through 47 that is appropriate to the circumstances of the particular annexation. The municipal governing body must then follow the specific procedures prescribed in the appropriate part.

History: En. Sec. 3, Ch. 642, L. 1979; amd. Sec. 4, Ch. 130, L. 1981.

7-2-4506. Provision of services. In all cases of annexation under current Montana law, services must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

(1) as provided in 7-2-4736; and

(2) in first-class cities, when otherwise mutually agreed upon by the municipality and the real property owners of the area to be annexed.

History: En. Sec. 2, Ch. 642, L. 1979; amd. Sec. 3, Ch. 447, L. 1981; amd. Sec. 9, Ch. 66, L. 1995.

7-2-4507 through 7-2-4510 reserved.

7-2-4511. When land conclusively presumed to be annexed. A tract or parcel of land that has been shown on municipal maps or plats as being within municipal boundaries but is later found to have been improperly or unofficially annexed is conclusively presumed to be annexed and may be so recorded if municipal taxes have been paid on the tract or parcel without protest for a period of 7 years.

History: En. Sec. 1, Ch. 109, L. 1981.

Part 46
Annexation by Petition

7-2-4601. Annexation by petition — when election required. (1) The boundaries of any incorporated city or town may be altered and new areas annexed as provided in this part.

(2) The council or other legislative body of a municipal corporation, upon receiving a written petition for annexation containing a description of the area to be annexed and signed by not less than 33 ⅓% of the registered electors of the area proposed to be annexed, shall, except as provided in subsection (3), submit to the electors of the municipal corporation and to the registered electors residing in the area proposed by the petition to be annexed the question of whether the area should be made a part of the municipal corporation.

(3) (a) The governing body of a municipality need not submit the question of annexation to the qualified electors as provided in subsection (2) if it has received a written petition containing a description of the area requested to be annexed and signed by:

(i) more than 50% of the resident electors owning real property in the area to be annexed; or

(ii) the owner or owners of real property representing 50% or more of the total area to be annexed.

(b) The governing body may approve or disapprove a petition submitted under the provisions of subsection (3)(a) on its merits. When the governing body approves the petition, it shall pass a resolution providing for the annexation.

History: En. Sec. 1, Ch. 168, L. 1945; R.C.M. 1947, 11-506(1); amd. Sec. 293, Ch. 571, L. 1979; (3)En. Sec. 1, Ch. 641, L. 1979; amd. Sec. 1, Ch. 279, L. 1985; amd. Sec. 10, Ch. 66, L. 1995; amd. Sec. 1, Ch. 186, L. 2011; amd. Sec. 27, Ch. 49, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 49 in (2) substituted "except as provided in subsection (3)" for "without delay"; and made minor changes in style. Amendment effective November 4, 2015.

Cross-References

Petition requirements generally, 7-1-4130.

7-2-4602. Conduct of election on question of annexation. An election on the question of annexation must be conducted in accordance with Title 13, chapter 1, part 4.

History: En. Secs. 1, 2, Ch. 168, L. 1945; R.C.M. 1947, 11-506(part), 11-507(part); amd. Sec. 294, Ch. 571, L. 1979; amd. Sec. 28, Ch. 49, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 49 substituted current text requiring an election on the question of annexation to be conducted in accordance with Title 13, chapter 1, part 4, for former text that read: "(1) The question of annexation may be submitted at the next general municipal election to be held in the municipal corporation or it may be submitted prior to the general election, either at a special election called for that purpose or at any other municipal election, except an election at which the submission of such question is prohibited by law.

(2) The election shall be conducted and the returns made in the same manner as other city or town elections. All election laws governing city and town elections shall govern, insofar as they are applicable.

(3) Whenever the question of annexation under this title is submitted at either a general city or town election or at a special election, separate ballots, shall be provided therefor"; and made minor changes in style. Amendment effective November 4, 2015.

Cross-References

Elections generally, Title 13.

General elections, 13-1-104.

7-2-4603. Repealed. Sec. 262, Ch. 49, L. 2015.

History: En. Sec. 1, Ch. 168, L. 1945; R.C.M. 1947, 11-506(part); amd. Sec. 295, Ch. 571, L. 1979.

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 of the City Council of the City of Whitefish, Montana, extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 82.7 acres of wholly surrounded land on Ramsey Avenue and various other parcels" (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 November 21, 2016, 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 21st day of November 2016.

_____
Michelle Howke, City Clerk

Jerry E. Hanson

528 Ramsey Avenue
Whitefish MT 59937-3128
Phone [406] 250-7831
E-mail jericho@cyberport.net

received
11/1/16

Whitefish City Mayor and Council
PO Box 158
Whitefish MT 59937

Re: Proposed Annexation of our properties located on Ramsey Avenue

Honorable Mayor and Councilors:

On behalf of my wife, Rita Hanson, and son, Morgan Hanson, I am writing to present some considerations that reflect the impacts that will incur on us due to the pending annexation of our properties on Ramsey Avenue.

A bit of background pertaining to our residency at these properties is in order. My parents acquired these properties in the 1950s, and over the years, built and improved the properties. I was but eight years old when we moved out of a summer cabin at Bay Point, in which we had lived through that winter, into a 'huge' palace on Ramsey Avenue – about a thousand square feet.

The floors were bare concrete, the ceilings were foil-back insulation, sheetrock on one side of the partitions, curtains for doors. The interior of the exterior walls was unadorned cement block. I thought we were in heaven! I even had my own room!

As has been noted by those of us who grew up in Whitefish in that era, we were all poor, but we didn't know it, so it didn't bother us. We understood 'affordable housing' long before it became a political issue – largely created by the effects of governmental regulations.

My father passed away in 2003, and my wife and I were granted a life estate on these properties, with our son, Morgan, to gain the residual upon our relinquishment of that estate, or upon our deaths. Both my wife and I are on Social Security – the economic downturn in 2008 wiped out my retirement program, and through necessity, my wife has continued her Secretarial Service, as Social Security is, in one word, grim if that is all you have to make ends meet. Our largest single combined expense is medical – Medicare premiums (which are destined to increase drastically, we understand), supplemental insurance, which typically goes up 15% annually, and medications.

At the present time, we are living in housing that is marginally affordable to us, even though we do not have a mortgage payment. The proposed annexation will push the envelope of affordability to the razor's edge. And a part of the reason this will be the effect is that the time-

frame the City has scheduled smacks of being zip-zop, damn the torpedoes (and the property owners), let's git 'er done asap, and the heck with the impacts on the affected parties.

So a negative impression is immediately imparted, which probably leads to the outbursts and anger expressed by those who have responded to the City's notification of Annexation to date.

To clarify, we have two parcels of land, one with our home on it, and a second vacant parcel that was acquired solely to protect the view, with no intention of ever being built upon.

- Our current taxes on the vacant property (TY 2015) were $409.64. After annexation, the taxes on this vacant property will increase by $398, to a total of $809.64. Fifty-two percent plus of our projected taxes will be City Taxes – with no projected benefits accruing to that land.
- The current taxes on our residential property (TY 2015) were $1,880.80. After annexation, the taxes will increase by $536.96, bringing the total to $2,417.76, plus we will have a mandatory garbage collection fee, of which no one bothered to indicate the cost. Whether it's "tax" per se, or mandated fees, it's an economic impact, and should have been noted.

We would suggest the following, and would also like the City Council to consider some thoughts we have in response to several areas that have been offered as 'justification' for pursuing this annexation:

We would request that the City delay finalizing the annexation for a few months in order to give us a reasonable timeframe to fully assess the ramifications of annexation, i.e. how much it will cost us annually, and how we will go about factoring those costs into our budget, based on our limited incomes and scarce liquid resources.

Finalizing the annexation in January or February of 2017 would defer any increase in taxes until the November 2018 November tax notices. This should not cause great financial harm to the City, as the City Manager has expressed several times that the financial benefit to the City would only be in the neighborhood of $12,000 per year. With the multi-million dollar annual budget, not gaining $12,000 would be un-noticeable. However, the benefit to the affected property owners would be very beneficial in factoring in our added costs.

We would like to share some general considerations that may have been overlooked in the decision-making processes leading up to fast-tracking this annexation.

- The City's age-old argument is that we non-City residents are utilizing the City's infrastructure and amenities without paying for them, and it is only right that we be annexed to participate in paying for those benefits. Sound good, but is a crock. Here's why:

    - In 1987, the City implemented its Urban Renewal and Tax Increment Financing Program. Effectively, many, many millions of dollars were diverted from the School District, County offices, and a host of other taxing jurisdictions that had to

increase their mill levies to keep their public entities functioning – so in reality, all property taxpayers in Flathead County have subsidized the multi-million dollars capital improvements of all sorts of nature, some good, and some that might be deemed to be extravagant, including the City's Police and Judicial facility, which also includes the Fire Station. And we non-city residents have also subsidized the Fire Department through various means all along.

- Ironically, we have been paying $144.00 per year for Fire Services, plus an annual Ambulance Services fee, together with a $21 fee to the State Forestry department for fire protection on a vacant lot that is 98% lawn, and upon annexation, we'll pay $18 Fire and Ambulance on the vacant lot, and only $77 on our residential property. So it would appear that the non-City area residents have been subsidizing the City's fire department for quite some time. In addition, we participate in the Rescue Care program though we do not utilize it due to Medicare benefits and supplemental insurance; we have continued to contribute in order to assist the ability of the fund to help others in our community.

- And every time we non-City residents buy a hamburger or groceries in Whitefish, we are helping pay for the City's parks, streets, and a whole lot of other capital improvements through the City's so-called Resort Tax. In fact, the residents of School District 44 in the 2010 Census totaled somewhat over 13,000 residents, but only 6400 of those persons lived in the City.

  Therefore, one could safely presume that of the Resort Tax revenues that were not paid by tourists, i.e., seasonal or non-resident customers, we **non-City residents paid more than half** of the local revenues that have given Whitefish its fine streets and improved parks through the Resort Tax program – as well as the Property Tax Relief paid to City property owners, but not to non-City property owners.

  Again, it readily becomes clear that we non-City residents have been paying all along for the past couple of decades our fair share and possibly more for capital improvements that the City residents enjoy, just as do we.

- What other amenities does the City of Whitefish offer?

  - Oh, one of the top ten public libraries in the State of Montana! Beautiful building, very successful as an independent City Library.

  - The building was built with private dollars in conjunction with private monies that built the O'Shaughnessy Center back in the last half of the 1990s. $2.5 million private monies, gifted by several hundred Donors, a great number of who lived outside the City, paid for these two structures! Of the $2.5 million, $700,000 was from two sources – the O'Shaughnessy Foundation based out-of-state, but with numerous Whitefish Area

connections, and the Pennington Family, who lived at the head of Whitefish Lake – miles outside the City. Of the remaining $1.8 million of private monies, no one kept track of where the Donors lived, inside or outside the City, as it was immaterial to us – we were all a part of the **community**, and weren't keeping score.

- The O'Shaughnessy Center, discussed above, an amenity any city or town would love to have.

- One of the finest 500-seat theaters in the Pacific Northwest resulting from a multi-million dollar renovation of the auditorium at Central School, now deemed to be the Middle School. Again, paid for by private Donors, and no one kept track of the address of the Donors in terms of being or not being a City resident.

- Likewise, the Wave. On land the City got for nothing from the State of Montana, intended to become an industrial park until anything suggestive of industry in Whitefish became gauche`.

- Yes, the City did participate in enabling the construction of the Whitefish Library and the O'Shaughnessy Center by spending Urban Renewal tax increment dollars to actually do urban renewal by upgrading the streets and infrastructure to enable the construction of those two facilities, but, as discussed earlier, we 'outies' have contributed to that funding, as well as the 'innies,' albeit in an indirect manner, by paying higher taxes to those taxing jurisdictions that have had their revenue streams capped for nearly thirty years, with the increment diverted to the City.

  Yes, the City residents paid as well, but all of the City residents took money out of one pocket and put it in another (the Urban Renewal Tax Increment Fund) to fund the Urban Renewal District, but the non-City residents across the balance of Flathead County were then obligated to take money out of their pockets, and stuff it in the City's Urban Renewal pocket, as well.

And I might suggest that all of this was done without a great deal of angst on the part of most of the non-residents who helped, directly or indirectly pay their pro-rata fair share of all of these many improvements and amenities that the City so jealously feels today that we're using without paying for said use. In reality, that view is flawed, as we've have and are paying, through the two major funding programs the city has had in place for many, many years, the Urban Renewal Tax Increment program, and the Resort Tax program.

There is an old maxim often bandied about – "No such thing as a free lunch." In other words, someone, somewhere is going to pay for that lunch.

Well, the City has benefitted from a huge free lunch beginning in 1987, and continuing until mid-2020 when the Urban Renewal District dies, and we non-City residents have had to offset every dime of revenue that went into that City fund that would otherwise have gone to the Schools or other taxing jurisdictions that were frozen at the 1987 Base Line.

And the City, together with its residents have benefitted, and will continue to benefit from every purchase we non-City Whitefish residents make in virtually any store in the City, at a rate that is most likely more than 50% of the total non-tourist revenues, simply because there are more area residents living outside the City than inside. After subtracting the tax revenues due to tourism, then we locals very likely pay real close to 50%-50% into the City's Resort Tax Fund.

So I believe it is safe to say that yes, we out-of-City Whitefish residents are indeed paying our fair share if we want to drive a City street, or use a City park, or one of the privately-funded amenities that may be located in the City, but were paid for with private dollars.

And that brings us to discussing the intangibles – why is Whitefish what it is today? We've discussed the funding of a lot of why we're a unique and special place in Montana and in a multi-state region.

Whitefish is special because of its people, and I'm not talking about the City of Whitefish, but about the Whitefish Community. Both innies and outies are included. What other town of our size has an indoor skating rink, the eighth largest public library in Montana (five years after startup following 35 years as a branch library), two theaters (the O'Shaughnessy and the Central School), the Wave, the Whitefish Food Bank, together with the ONLY 36-hole golf course in Montana. Yes, the City owns the land under all but the Central School theater, but the amenities are there because of the people of the Whitefish Community, who made it happen. Some of those amenities got their start many decades ago, and some more recently.

These amenities are not in existence because of the City, but because of the people in our Community, some of whom live in the City, and some of whom live out.

I'm not going to attempt to say who did what, but my wife and I have both contributed greatly to this community. She spent many years on the Food Bank Board of Directors, and on the Board of Directors of the Glacier Twins. I served on the Whitefish City-County Planning Board, as Chair for three years or so, was Chairman of the Whitefish Government Review Commission in the early 1980s, and served on the Whitefish City Council for seven years beginning in January 1986.

As Chair of the Planning Board, I was a member of a broad-based committee that collectively spent thousands of hours hammering out an updated zoning ordinance for Whitefish and its extra-territorial jurisdiction, and prepared the initial zoning map which the committee, which the Planning Board, and eventually the City adopted with but minor changes in early 1982.

The Whitefish we see today is a reflection of the veracity of that zoning plan and map that was adopted well over thirty years ago!

As a member of the City Council, I was instrumental in the adoption of Whitefish's Urban Renewal and Tax Increment Financing program, which I saw as a very viable way for the City to fund its failing infrastructure.

During my tenure as a Councilor, the City turned wasteland and weeds west of Baker Avenue, which the City had owned for 50 or 75 years, into the park we now all enjoy. The City Beach Park had been neglected to the point it was an embarrassment, but we resurrected that facility. Baker Avenue from Second Street north to Railway was virtually undriveable; we fixed it.

If fact, shortly after being sworn into office, we found the City was within months of bankruptcy, was driving worn-out ex-highway patrol cars for its police, and a host of other problem areas existed which we worked to resolve. I bring this up, not to say I was responsible for what the Council did, but because this non-paid service to the City of Whitefish entitles me to have standing to object when we current non-City residents are accused of getting a free ride on the backs of City taxpayers.

The City is today in a large part, due to the measures taken in the last half of the 1980s by a very special City Council, and I say this not because I was one of them, but because we were a team that took care of the business that was overdue in being taken care of, and yes, we turned things around, put a mechanism in place to fund the Urban Renewal needs that were desperately shouting for attention.

After serving on the Council, I did put in some time on the City's Parks Commission. But most recently, my involvement has been pertinent to the Whitefish Library. I worked with a tremendously talented group of folks who approached the City of Whitefish in late 2010 with a request that the City consider re-instituting its library as a City Library after 35 years of being a branch library, as the Interlocal Agreement with the Flathead County Library System had been a mixed blessing at best.

In late 2010, the Council unanimously voted to NOT RENEW the Interlocal Agreement, with the effect that the Whitefish Library would become an independent City Library on July 1, 2011. Upon hearing that vote, the audience in attendance at the Council Meeting gave the Council a standing ovation, the second time that has ever happened to my knowledge.

The first such standing ovation was at the Council Meeting in 1987 when the Council unanimously voted to create the Urban Renewal & Tax Increment District. I sat on the Council back in 1987, but was in the audience in 2010 when the decision was made regarding the future of the Whitefish Library.

In the mid- to-late 1990s, I had served on the Coordinating Committee that raised the funding, designed, and built the Whitefish Library. And in 2010 and the first half of 2011, I spent many hundreds of hours behind the scenes working with the newly appointed Whitefish Community Library Trustees to prepare for opening day as an independent Community Library on July 5th.

While the Whitefish Community is renowned for its ability to step up and accomplish great things, I believe the start-up of the Whitefish Community Library, and achieving its current

ranking with the Montana State Library as the eighth largest public library in Montana in five years, is beyond anyone's wildest dreams. Without question, hundreds of people made this happen, maybe thousands. And every one of those volunteers and donors reflect the Whitefish Community, not just the City of Whitefish.

I am honored to have been a part of that endeavor, and once the Library was up and running, I stepped back from my behind the scenes involvement, as the Trustees, Library Director, and Staff were ready and able to move forward. My personal involvement shifted to the Whitefish Library Association, of which I have been a Director for more years than I remember. The Association has, in the past five years or so, benefitted the Whitefish Community Library to the tune of $250,000 or more, and will continue to serve as a private non-profit partner of the City's library on into the future. There again, the private sector, comprised of City residents and non-City residents, have greatly benefitted the entire community.

Whitefish would not be the great community it is today if it had been obligated to rely ONLY on City residents and taxpayers to make it happen!

I bring up the Whitefish Community service endeavors that my wife and I have engaged in for many decades in Whitefish, both as City residents, and as non-City residents, to point out that it is, bluntly put, insulting to suggest that the amenities currently existing in Whitefish were and are being paid for exclusively by the City residents and property owners.

We are but two of hundreds of examples that could be shared of non-City residents benefitting the City residents with our money, our time, and our expertise. Simply because some of us are not residing on the 'correct' side of a boundary does not demonstrate that we are not contributors to the Whitefish that we presently find.

Succinctly put, Whitefish as we know it today would not be what it is without a huge contribution, directly or indirectly, tangible, and intangible, from residents from throughout the Whitefish Community. Whitefish City is not what it is today solely from the efforts and taxes of the residents of Whitefish. Think it through before you accuse those of us who currently live outside the City of wrongfully using City streets and parks, and the other amenities found within the corporate limits.

This leads to another area of discussion. The City has been and is currently very concerned about Affordable Housing. In fact, the City Council, I understand, has just passed an increase in assessments for multi-dwelling unit development to raise monies to address provision of Affordable Housing. The effect will, in my view, make housing more expensive for some people, so that the City can make housing less expensive for others. Only time will tell if these efforts will truly benefit those in the community today who are struggling with housing affordability.

Back in the last half of the 1980s, when I was a Whitefish City Councilor, the City was approached by a developer who wanted to build a 40-unit complex of affordable housing, made affordable due to subsidies from the federal government. Ah ha! This would help provide affordable housing, which even back then was badly needed. The City granted approval.

Upon completion, nearly 100% of the forty units were gobbled up by people who not only had never lived in Whitefish, but their first visit to Whitefish was the day they came to move into our affordable housing. Didn't do a darn thing to alleviate housing crunches for those already living here.

Well, today my wife and I are living in affordable housing, the property that has been the Hanson family home since the early 1950s. Annexation to the City, however, might be the straw that breaks the camel's back financially, though, as we struggle to pay our property taxes as it stands.

Oh, the City says that the annexation of our properties, together with 42 other properties would only raise approximately $12,000 in additional revenue to the City. No big deal, huh? $12,000 divided by 44 is what? $272.73. No big deal, little impact on anyone, huh?

My wife and I have a life estate on our properties. I am 73, and she is 67. Social security doesn't cut it, so my wife has kept her business going. Even so, as mentioned, it's a struggle to pay the exiting property taxes – a significant percentage of our total net incomes from all sources.

We have two of the 44 parcels being considered for annexation. The larger parcel is where our home is located, and I might say as an aside, it is a small, early 1950s vintage home that any purchaser would bulldoze. The other parcel is vacant, and was acquired by my parents in order to protect their view of the lake and mountains. Call them Parcel A and Parcel B.
The taxes on Parcel A are projected to go up 28.96 percent, from $1,880.80 in 2015, to a total of $2,417.76. By the time the process is worked through and finalized, the increase might be more. This projection indicates an increase of $536.96.

The taxes on Parcel B are projected to go up 97.16 percent, from $409.64 in 2015, to a total of $807.64. This projection indicates an increase of $398.00.

Cumulatively, our taxes will go up $934.96, which represents a significant portion of our net spendable income.

We are living in, for us, affordable housing. But if we are annexed, and face this significant increase in our tax bill, we face losing our ability to continue to live in the home I grew up in, and in which we've lived for the past sixteen years. And if we are forced to move because of the increased tax obligation, our youngest son will come into sole ownership of the property in keeping with his grandfather's trust, and he can afford to live here even less than we can. So our family will be forced to sell out, and move elsewhere.

From an impersonal viewpoint, you may say, "So what? That's life." If you make your decisions based on only looking at the maps, without ever knowing the history of why these 44 isolated parcels have not already been annexed, and if you never take the time to explore the impact on the property owners, you might be inclined to move forward with no reservations.

But the Ramsey properties are wholly surrounded, according to the City's claim, solely because the City approved and annexed subdivisions that should never have been approved in the way they were, and the City has repeatedly taken actions affecting the Ramsey neighborhood without ever taking the time to come and talk with we, the affected parties, prior to finalizing those actions.

So on the one hand, the City is concerned about creating affordable housing in the City of Whitefish, while simultaneously taking other action, "...to clean up the City's boundaries..." with the effect of forcing long-time residents and contributing folks out of their existing affordable housing, by potentially forcing them to sell.

Yes, we could probably sell out our holdings without too much problem. But one of the rights of property ownership is, I believe, choosing when to sell, and not being forced to sell by the actions of others. Because of the location of our properties, and in looking at the ownership of most of the properties in the Ramsey neighborhood, it is likely that Canadians will be happy to purchase our properties, and will build something far more valuable that our humble home.

I find it ironic that the same people who want "...to have control of these properties for planning purposes..." are among those who declare that they don't want Whitefish to become another Vail or Aspen. Yet every decision they make accomplishes just one more step along that pathway.

There are ways the City of Whitefish can retain and expand the availability of AFFORDABLE HOUSING, without the worry that the new units they fund and encourage will be occupied by newcomers to the community. It's simple: make decisions that permit people like my wife and I, together with our son, may continue to own and retain property that is presently affordable, rather than forcing us to sell and relocate.

If the City will benefit by only $12,000 by annexing 44 properties, then there is no fiscal rationale forcing the City to act. Oddly, nearly one-twelfth of that purported increased revenue stream will come from my wife and me, so I guess we can safely assert that the impact on us will be much, much greater than the impact on any of the other property owners being annexed.

I've a few suggestions:

- We understand the City is engaged in litigation pertaining to the annexation of Houston Lakeshore Tracts. Let's begin this process by the City allowing that litigation to play out, as there may be some issues of merit in that case which would apply to the Ramsey neighborhood, and perhaps to other properties being considered for annexation.

  Once that matter has been resolved, clarity should be gained by all concerned, one way or another, and the process could then be continued if merited.

- The City should approach each of the affected property owners, and find out, one-on-one, what their feelings are pertaining the proposed annexation, and what the

individual impacts are, not just cold dollar amounts. For many of you Councilors and for many of the City staff, a $900 plus bump in property taxes would be more of an annoyance, rather than a life-changing impact. Talk to us, and find out the effect your actions will have affecting real people, real lives.

- Prior to my serving on the City Council, two or three attempts were made to 'forcibly' annex Houston Lakeshore Tracts. Shortly after begin sworn in as a Councilor, one of the other Councilors brought up the subject again. The decision was made to not try again to annex those properties forcibly.

  A suggestion was made for the City, should it ever choose to tackle that area in the future, that the approach should be to meet with the property owners, point out that ultimately it is in everyone's best interests for the area to annex, and then give the property owners the opportunity to pick the year in which they would agree to be annexed – five years out, ten years out, fifteen years out, twenty years out.

  Once the property owners had indicated their preference, then the City could present them with Waiver's of Annexation that indicated the chosen year was the year both sides of the matter would end, with protest free, and more importantly, litigation free annexation transpiring.

  The current annexation of that area, which is under litigation, is probably the third subsequent move on the part of the City to push for annexation since the 1980s. And even if the property owners had held out for a 25 year delay to be annexed back then, that deadline would have passed many years back, hassle and litigation free.

  Perhaps the City should make a similar offer to the property owners in the Ramsey vicinity. Five, or maybe ten years of grace before annexation in exchange for Waivers of Protest at the designated future time. While a different Council would be seated at that time, they could proceed to carry out the annexation when the time came, without battles that leave everyone unhappy. No litigation, no shouting and hollering, no anger – and it would give property owners such as my wife and my son and I the opportunity to make rational decisions regarding our property, without feeling like we were being forced to comply and potentially lose our property or be forced into a hasty sale.

  Instead, it seems that historically since the mid 1990s, the City has thrived on dropping the hammer on folks, and then doing battle needlessly in court, where no one really wins.

  Regarding the rationale to annex the remaining properties so that the City can undertake planning for the area, what planning? The neighborhood has relatively new water mains, new sewer mains, the streets are paved, albeit, they are narrow, because the rights-of-way are 20 feet wide, save for Golf Haven, which is the only street that "meets City standards" in the neighborhood – 60-foot right of way for 400 feet connecting to 20-foot rights-of-way on either end.

The entire Ramsey neighborhood was zoned WR-2 by the City in 1982, and after the fiasco with the County, I'm not certain what zoning we have now. If it's county, it is a county zone very analogous to the City's WR-2 and all of us know that if we would choose in the future to do anything major with our property, if we were not annexed, we would need to annex even if an agreement was in place deferring annexation for a period of years. And on annexation, we'd regain the WR-2 zoning that the rest of the neighborhood currently enjoys. So using planning as a rationale for forcing immediate annexation is a rather gratuitous assertion.

- Okay, the City wants $ city tax revenues from the Ramsey non-city properties. Net gain to the City, purportedly $12,000 annually, of which my wife and I would be obligated to pay slightly under one-twelfth. So the City cannot be annexing us because they cannot operate without our funds, and as noted above, the non-city properties in the Ramsey area are not preventing the City from planning, because the planning in most regards has already been done, and what needs to be done, if any remains, can be done regardless.

  And a part of that planning would be to simply hold off implementing any major upgrades in the neighborhood until the annexation date arrived. And the odds are pretty solid that even if annexation was deferred for fifteen or twenty years, the only remaining bit of infrastructure to be upgraded would be to rebuild the streets. And in all likelihood, rebuilding the Ramsey area streets would not be scheduled for at least that long, annexed or not!

- The City's argument that, "In any other place these properties would have never been allowed to stay outside the city," demonstrates a lack of knowledge of how the Ramsey neighborhood has evolved over the last twenty to thirty years. I won't speak to any others of the 44 properties, but developers descended upon one of the oldest residential neighborhoods in the Whitefish area, and lobbied and pushed and the City for annexation of their properties, along with approvals of their money-making schemes.

  The City rolled over and granted approvals, knowing that the approved subdivisions did not even meet the City's subdivision requirements, nor did the existing streets and their underlying rights-of-way give any but very constrained access to these subdivisions. No amount of planning will likely ever untangle the mess largely created by the City, whether 100% of the properties are annexed or not.

- What will we, the property owners, gain from annexation, other than higher tax bills? It would be nice if the City would tell us what tangible, on the ground benefits derive from being a part of the city.

- Oh, we'll also get to pay for garbage collection, whether we want it or not – but the City did not tell us what that mandatory expense was going to be. Must be a bit reluctant, because being forced to pay for a service that is not wanted is little different than an additional tax.

- And we get to buy exorbitantly expensive building permits if we want to throw on an addition or a garden shed, fees more akin to Vail or Aspen, which we don't want to become like. Oh, forgot. If the folks in Iron Horse or on Whitefish Lake can afford such stiff fees, then so should the rest of us. No wonder Whitefish has an affordable housing problem!

- If the City had packaged their proposal to annex the remaining non-City properties in Ramsey with something, anything, in return for higher taxes, then perhaps annexation might not be such a negative. Something like rebuilding our streets within a reasonable length of time, or doing something as simple as putting a gravel seal-coat on the asphalt we do have.

  But no, can't put the area on the street improvement program until everybody's annexed. And even with the tremendously good progress the City has made in upgrading streets in Whitefish, it would be a decade or several before Ramsey sees any upgrades, annexed or not, in the interim.

- Has the City proposed waiving Utility Plant Investment Fees for those properties that currently are not hooked to water and/or sewer in exchange for agreeing to annex? No, but they should be turning this situation from a **City wins-Property Owners lose**, into a balanced **win-win** scenario.

Bottom line is, the City seems to thrive on the exercise of power, coercion, force, haste, and forty-seven other adjectives that give folks not just the idea that the City is rather callous toward its constituency, but downright takes the offensive whenever they attempt to do something.

I find it ironic that from 1905 until the mid to late 1990s, the City litigated nothing, if my understanding is correct. In the seven years I served on the Council, the closest we came to litigation was when a Police Chief we had walked off the job, i.e., went AWOL, and then retained an attorney because he got terminated for his abandonment of duties. His attorney scheduled the Mayor and all six Councilors for depositions, but after the first deposition was conducted, advised his client to drop the suit.

But since the mid to late 1990s, the City of Whitefish has been in litigation almost around the clock. Doesn't anyone down there at City Hall realize that is really a poor way to achieve a good relationship with the folks you want to govern?

Respectfully Submitted,

Jerry E. Hanson 10-31-2016

Brenda Banning
250 W 18th St
Whitefish, MT 59937
October 28, 2016

received
11/2/16

Mayor Muhlfeld &
City Council Members
418 E Second St.
Whitefish, MT 59937

Subject: Annexation of additional properties into the City of Whitefish

Dear Mayor Muhlfeld & City Council Members:

On September 22, 2016, a Questions and Concerns meeting was held regarding the annexation of 44 additional properties in Whitefish. This meeting was attended by many concerned citizens of Whitefish to ensure our voices would be heard due to the large increase in taxes. Currently there is a pending ruling in the Montana Supreme Court that may affect this annexation.

We reside at 250 W. 18th Street and I attended the Questions and Concerns meeting held on September 22, 2016. Many other concerned citizens of Whitefish attended this meeting including retired veterans. The Whitefish City Manager, Mr. Chuck Stearns answered many questions that we had regarding the annexation of these additional 44 properties. During the questioning Mr. Stearns portrayed a very negative message in that the citizens of these 44 properties have been negatively impacting the City of Whitefish and need to start paying it back. These properties have been in these families for many years, and these members contribute each year to organizations that make Whitefish what it is today.

On October 3, 2016, I also attended the Whitefish City Council meeting to discuss the resolution to the annexation of these properties. I had addressed Mayor Muhlfeld and the City Council Members and asked the Council to postpone the decision to annex these additional properties until the Montana Supreme Court ruling on the Houston Drive annexation via the "Wholly Surrounded Method" has been decided. Rita Hanson also spoke after me and was in agreeance due to the similar nature of the annexation of these properties and the Houston Drive properties. If the Supreme Court rules in favor of the Houston Drive members, this would potentially alleviate further legal matters with this latest annexation.

The annexation would increase taxes to an estimated 19.03%. Many of these families currently are just getting by and will be severely impacted by this large of a tax increase. The concerned citizens of Whitefish don't believe the services rendered by the City of Whitefish), substantiate the almost 20% increase in taxes.

We feel it is to the best interests of all property owners to postpone this decision until the ruling from the Supreme Court is finalized. Thank you for your time and consideration.

Sincerely,

Brenda Banning

Brenda Banning

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ORDINANCE NO. 16-___

An Ordinance of the City Council of the City of Whitefish, Montana, rezoning approximately 1.31 acres of land located 2045 Lion Mountain Loop Road, in Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from County R-1 (Suburban Residential) to Whitefish 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 2045 Lion Mountain Loop Road, and legally described as Tract 1DF 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 16-09, dated October 13, 2016, which analyzed the proposed rezone and recommended in favor of its approval; and

WHEREAS, at a lawfully noticed public hearing on October 20, 2016, the Whitefish Planning Board reviewed Staff Report WZC 16-09, 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 November 21, 2016, the Whitefish City Council reviewed Staff Report WZC 16-09 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 16-09 dated October 13, 2016, together with the November 15, 2016 letter of transmittal from the Whitefish Planning & Building Department, are hereby adopted as Findings of Fact.

Section 3: The real property located at 2045 Lion Mountain Loop Road, and legally described as Tract 1DF 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 Whitefish 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 Whitefish WSR (Suburban Residential District). The Zoning Administrator is instructed to change the City's official Zoning Map to conform to the terms of this Ordinance.

Section 5: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

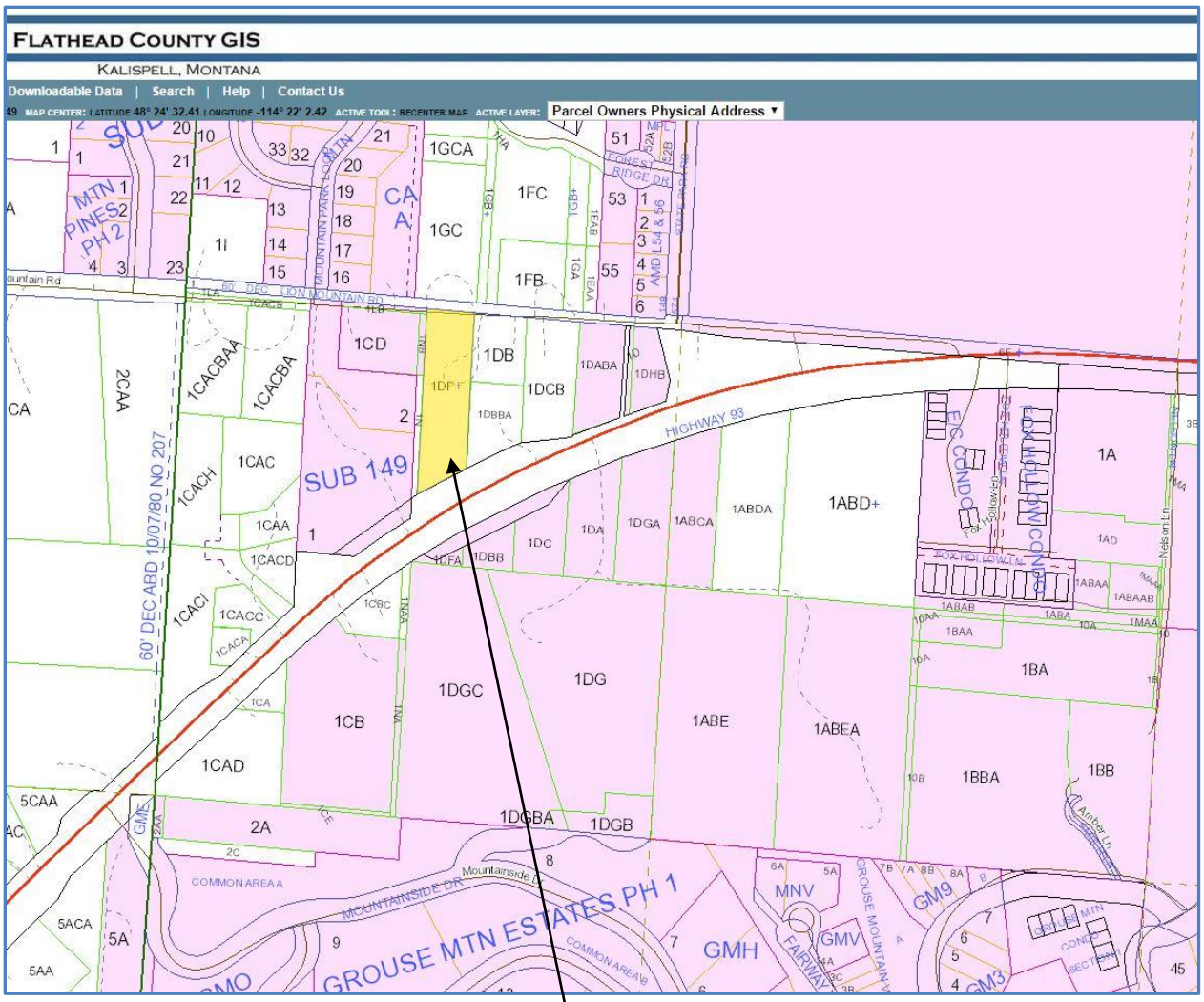
Section 6: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Michelle Howke, City Clerk



2045 Lion Mountain Loop Road
Assessor No. 0298645

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

November 15, 2016

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

RE: City of Whitefish Zone Change: WZC 16-09

Honorable Mayor and Council:

Summary of Requested Action: This is a request by the City of Whitefish for a rezone on one parcel with the zoning designation of County R-1 (Suburban Residential) to City WSR (Suburban Residential District). The subject property is located at 2045 Lion Mountain Loop Road. The subject property totals approximately 1.31 acres.

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

Public Hearing: No member 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 Planning Board met on October 20, 2016 and considered the requested rezone. Following the public hearing, the Planning Board unanimously recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

Proposed Motion:

- I move to approve WZC 16-09 and adopt the Findings of Fact in the staff report, as recommended by the Whitefish Planning Board on October 20, 2016.

This item has been placed on the agenda for your regularly scheduled meeting on November 21, 2016. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

Bailey Minnich, AICP, CFM
Planner II

Att: Draft Minutes of 10-20-16 Planning Board Meeting

Exhibits from 10-13-16 Staff Packet

1. Staff Report WZC-16-09, 10-13-16
2. Adjacent Landowner Notice, 9-30-16
3. Advisory Agency Notice, 9-30-16
4. Resolution 16-53, 10-3-16

The following was submitted by the applicant:

5. Application for Zoning Map Amendment, 9-19-16

c: w/att Michelle Howke, City Clerk

MOTION / BOARD DISCUSSION	Norton moved and Laidlaw seconded to adopt the findings of fact within staff report WZC 16-08 as proposed by City Staff.
VOTE	**The motion passed unanimously.** The matter is scheduled to go before the Council on November 21, 2016.
PUBLIC HEARING 5: CITY OF WHITEFISH REZONE REQUEST 8:55 pm	A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The subject property is located at 2045 Lion Mountain Loop Road and can be legally described as Tract 1DF in S35, T31N, R22W.
STAFF REPORT WZC 16-09 (Minnich)	Planner Minnich reviewed her staff report and findings. To date, no comments have been received. Staff recommended adoption of the findings of fact within staff report WZC 16-09, and for **approval** to the Whitefish City Council.
BOARD QUESTIONS OF STAFF	Qunell asked how many other parcels in that little area are part of the City already and Minnich said she thinks there is only one still in the County.
APPLICANT / AGENCIES	None.
PUBLIC COMMENT	There being no comment, Chairman Meckel closed the public hearing and turned the matter over to the Planning Board for consideration.
MOTION / BOARD DISCUSSION	Linville moved and Qunell seconded to adopt the findings of fact within staff report WZC 16-09 as proposed by City Staff.
VOTE	**The motion passed unanimously.** The matter is scheduled to go before the Council on November 21, 2016.
NEW BUSINESS 9:00 pm	None.
GOOD AND WELFARE 9:00 pm	1. Matters from Board. Chairman Meckel welcomed new members Linville and Qunell. Norton asked whether we have any data on the corridor plan presented tonight and Taylor said he has been talking with Mr. DeGrandpre for five years and knew they were going to submit something. Taylor will get a copy to the Planning Board and plan on

CITY OF WHITEFISH/MYERS-DAVIS
ZONE CHANGE WZC 16-09
EXHIBIT LIST
OCTOBER 13, 2016

1. Staff Report – WZC 16-09, 10-13-16
2. Adjacent Landowner Notice, 9-30-16
3. Advisory Agency Notice, 9-30-16
4. Resolution 16-53, 10-3-16

The following was submitted by the applicant:

5. Application for Zoning Map Amendment, 9-19-16

MYERS-DAVIS/CITY OF WHITEFISH
ZONE CHANGE
STAFF REPORT WZC 16-09
OCTOBER 13, 2016

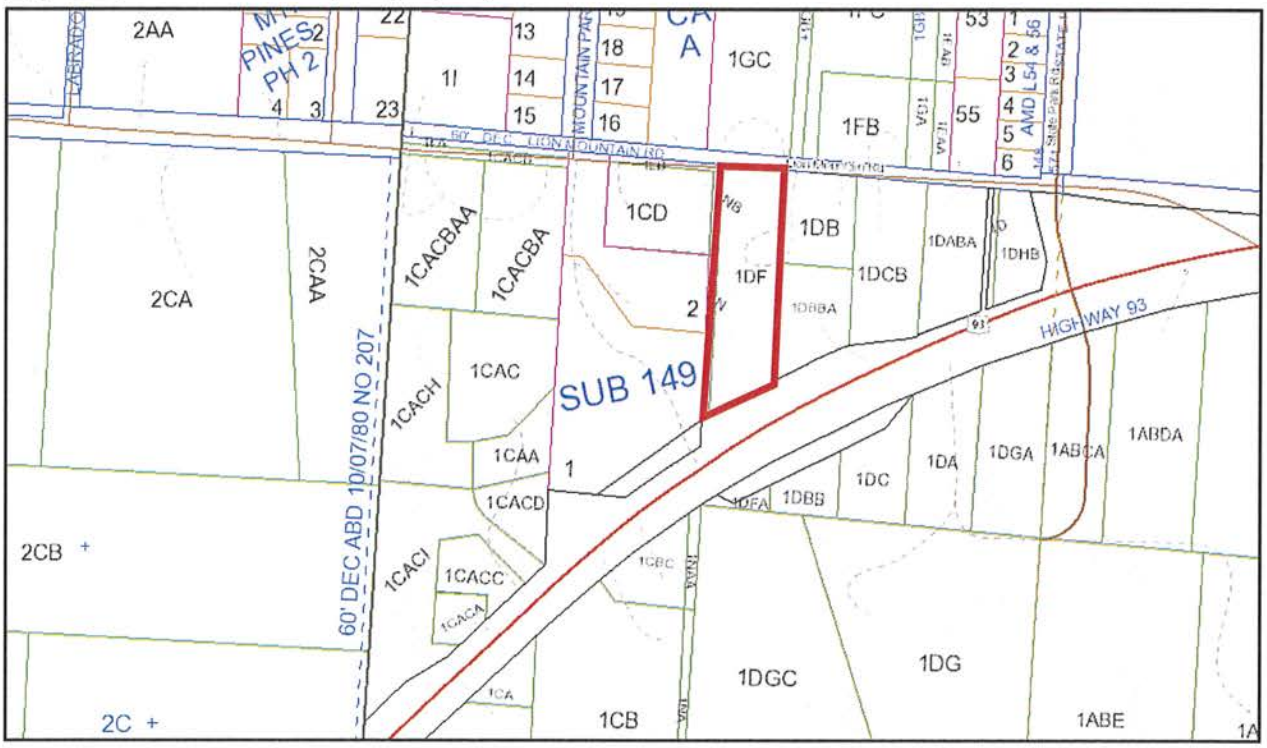
A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by the City of Whitefish on behalf of Alan Myers-Davis and Frances Montanye to rezone one parcel from County R-1 (Suburban Residential) to City WSR (Suburban Residential District) at 2045 Lion Mountain Loop Road. This request is scheduled before the Whitefish Planning Board for public hearing on Thursday, **October 20, 2016** at 6:00 PM. A recommendation will be forwarded to the City Council for a subsequent public hearing on Monday, **November 21, 2016** at 7:10 PM. Both hearings will be held in the Whitefish City Council Chambers.

PROJECT SCOPE

The City is requesting a zone change on one parcel from County R-1 (Suburban Residential) to City WSR (Suburban Residential District). The parcel is located along Lion Mountain Road, approximately 0.1 miles from the intersection of Lion Mountain Road and State Park Road. The parcel is located within the city limits.

The purpose of rezoning the property to a City zone is due to the adoption of Resolution 16-53 which annexed the property into Whitefish City limits on October 3, 2016. 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.



EXHIBIT

STAFF: BM

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.

	WSR (proposed zoning)	**R-1 (existing zoning)**
Minimum lot area:	1 acre	1 acre
Front yard setback:	25 feet	20 feet
Side yard setback:	15 feet	20 feet
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	25% maximum	40% maximum

A. Property Owners:

Alan Myers-Davis & Frances Montanye
2045 Lion Mountain Loop Road
Whitefish, MT 59937

Applicant:

City of Whitefish
PO Box 158
Whitefish, MT 59937

B. Location and Size:

The subject property is located at 2045 Lion Mountain Loop Road. The property can be legally described as Tract 1DF in Section 35, Township 31N, Range 22W. The subject properties total approximately 1.31 acres in size.

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

The property is 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	County R-4	Urban District
South:	residential	County R-1/City WSR/City WLR	Suburban Residential District
East:	residential	County R-1	Suburban Residential District
West	residential	City WSR/County R-1	Suburban Residential District

E. Public Notice:

A notice was mailed to adjacent land owners within 150-feet of the subject parcels on September 30, 2016. Advisory agencies were noticed on September 30, 2016. A notice was published in the Whitefish Pilot on October 5, 2016. 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:	City of Whitefish

REVIEW AND FINDINGS OF FACT:

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

The Whitefish zoning 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 Residential 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 public services are available to the property.

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

Water and sewer have been extended along Lion Mountain Road and Highway 93 West adjacent to the property, and extensions have been constructed to the properties along the road. The property is located adjacent to a City maintained road and a State maintained highway, both of which are paved. The school district will not change due to the recent annexation, and the subject property is located near 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 Lion Mountain Road, a paved City maintained road. The proposed zone change from a County R-1 zone to the 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 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 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 the proposed zoning is the same zoning utilized prior to the termination of the inter-local agreement.

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

The character of the district is predominately single family residential. 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 residential use. 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 residential uses, 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 the most similar to adjacent properties and is the zoning designation prior to the County rezone of the planning jurisdiction.

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

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 16-09 findings of fact and recommend to the Whitefish City Council the zoning map amendment be **approved**.

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

Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that the City of Whitefish is proposing to rezone a parcel recently annexed into City limits from County R-1 (Suburban Residential) to Whitefish WSR (Suburban Residential District). The subject property is located at 2045 Lion Mountain Loop Road and can be legally described as Tract 1DF 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, October 20, 2016
6:00 p.m.
Whitefish City Council Chambers, City Hall
1005 Baker Avenue, Whitefish MT 59937

The Whitefish Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on **Monday, November 21, 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 property. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *bminnich@cityofwhitefish.org*. Comments received by the close of business on Monday, October 10, 2016, 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

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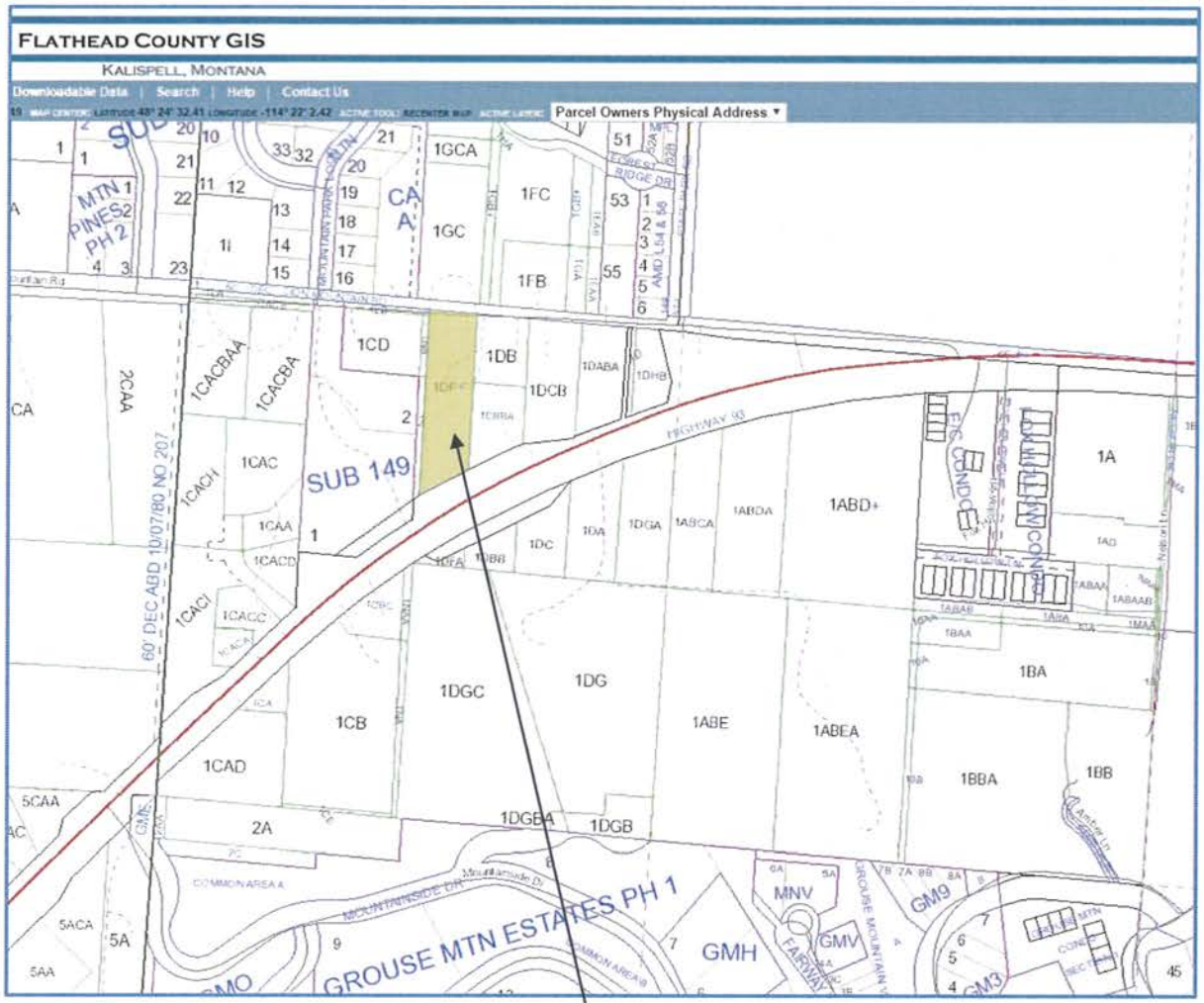
PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS



2045 Lion Mountain Loop Road
Assessor No. 0298645

CALTABIANO REVOCABLE TRUST, GIUSEPPE A
2075 LION MOUNTAIN LP RD
WHITEFISH, MT 59937

GENTILE, MERNA MC MILLAN
PO BOX 4572
WHITEFISH, MT 599370000

LA BRIE LIVING TRUST, WILLIAM JOSEPH
2040 LION MOUNTAIN LOOP
WHITEFISH, MT 59937

PETERSEN, JOHN C & LINDA M
PO BOX 1173
WHITEFISH, MT 59937

GENTILE, LANCE M
PO BOX 4572
WHITEFISH, MT 59937

BORGER, DONALD LEE
1877 RAE ST
REGINA, SK S4T 2E3

LA BRIE LIVING TRUST, ALICE MARIE
2040 LION MOUNTAIN LOOP
WHITEFISH, MT 59937

MUNDY, PETER MICHAEL
2035 LION MTN LOOP RD
WHITEFISH, MT 59937

WHITEFISH CONGREGATION OF JEHOVAH'S WITNESSES
239 7TH ST W #B
WHITEFISH, MT 59937

GATTON, DAVID W & AMY R
2033 LION MTN RD
WHITEFISH, MT 59937

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

Date: September 30, 2016

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, October 20, 2016 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 a subsequent public hearing for items 1-2 on Monday, November 7, 2016 and items 3-5 on Monday, November 21, 2016. City Council meetings start at 7:10 pm at **1005 Baker Avenue** in the Whitefish City Council Chambers.

1. A request by Cottonwood llc to develop a 23-lot subdivision. The property is zoned WR-2 (Two-Family Residential District). It is addressed as 709 & 711 Colorado Avenue and can be legally described as Whitefish Townsite Company 5 Acre Tracts, Block 2, Lot 6 in S25, T31N, R22W. (WPP 16-03) Compton-Ring

2. A request by Whitefish Hotel Group to amend Condition #22 of Condition Use Permit WCUP 14-11 in order to install a hot tub on the roof of the hotel. The property is zoned WB-3 (General Business District). It is addressed as 650 E 3rd Street and can be legally described as Whitefish Original Townsite, Block 46, Amended Lots 1-18 in S36, T31N, R22W. (WCUP 14-11A) Compton-Ring

3. A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The property is unaddressed off Highway 93 West, and can be legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31N, Range 22W. (WZC 16-07) Minnich

4. A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-3 (One Family Residential) to WR-1 (One-Family Residential District). The subject property is located at 835 West 7th Street and can be legally described as Lot 1 in Torgerson Subdivision located in NW1/4SW1/4 of in Section 36, Township 21N, Range 22W. (WZC 16-08) Minnich

5. A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The subject property is located at 2045 Lion Mountain

EXHIBIT 3

Loop Road and can be legally described as Tract 1DF in Section 35, Township 21N, Range 22W. (WZC 16-09) 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.

When Recorded Return to:
Michelle Howke, City Clerk
City of Whitefish
PO Box 158
Whitefish, MT 59937-0158

RESOLUTION NO. 16-53

A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 1.31 acres of land known as 2045 Lion Mountain Loop Road, for which the owners have petitioned for and consented to annexation.

WHEREAS, Alan Myers-Davis and Frances Montanye, 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

EXHIBIT

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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 OF CERTIFICATE OF SURVEY NO. 17698, LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 31 NORTH, RANGE 22 WEST, P.M.M., FLATHEAD COUNTY, MONTANA.
>
> EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF MONTANA BY DEED RECORDED JUNE 23, 2014 AS INSTRUMENT NO. 2014-000-11007.

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 3, 2016 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 3RD DAY OF OCTOBER, 2016.

John M. Muhlfeld, Mayor

ATTEST:

Michelle Howke

Michelle Howke, City Clerk

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Whitefish, Montana (the "City"), hereby certify that the attached resolution is a true copy of a resolution entitled: " A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 1.31 acres of land known as 2045 Lion Mountain Loop 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 3, 2016, 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.

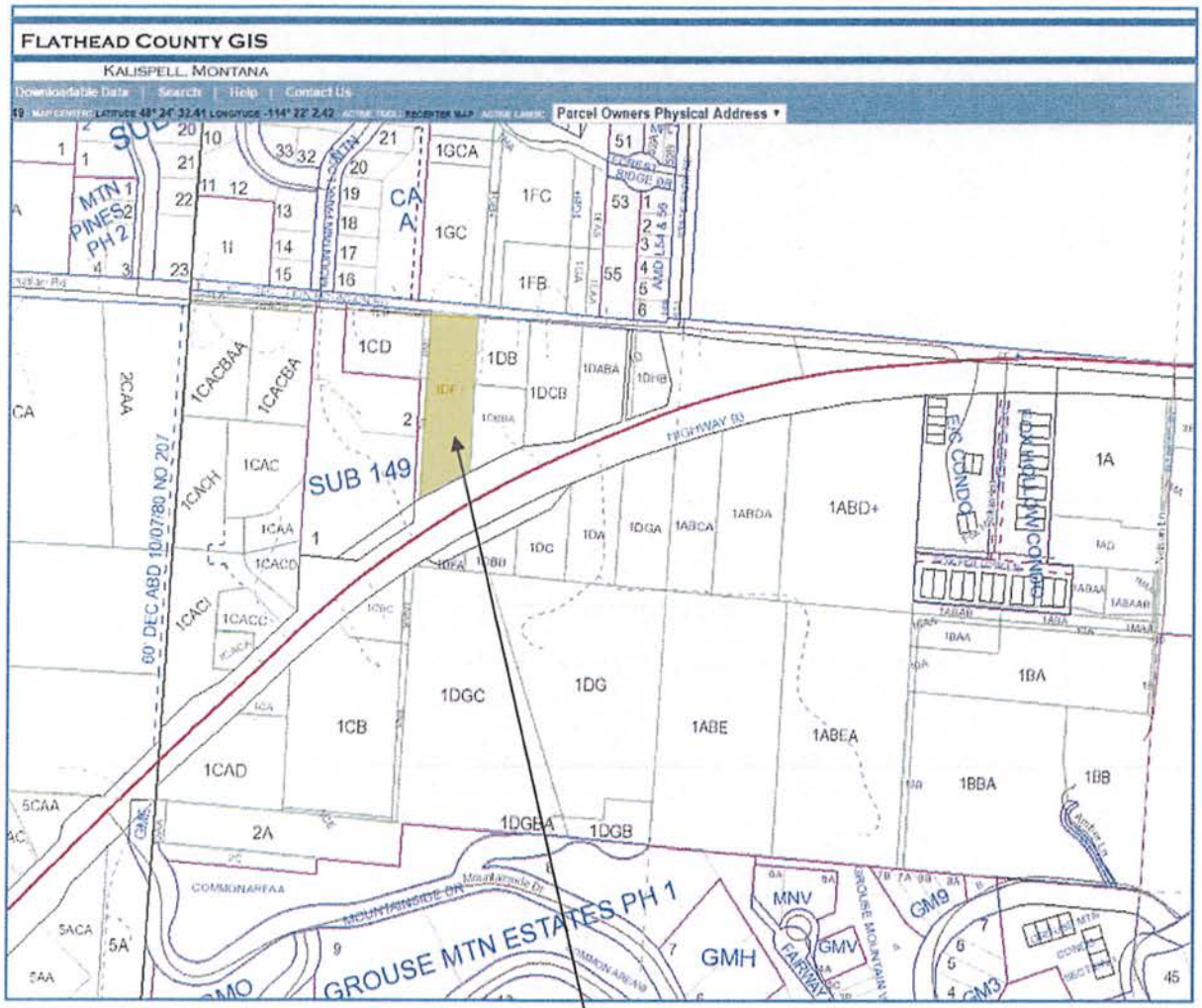
I further certify that, upon vote being taken on the Resolution at said meeting, Councilors voted unanimously in favor thereof.

WITNESS my hand and seal officially this 3rd day of October 2016.

CITY OF WHITEFISH CORPORATE SEAL MONTANA

Michelle Howke

Michelle Howke, City Clerk



2045 Lion Mountain Loop Road
Assessor No. 0298645

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: 9/19/16
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 1005 Baker Avenue.
- ☐ After the Planning Board hearing, the application is forwarded with the Board's recommendation to the next available City Council meeting for hearing and final action.

A. PROJECT INFORMATION:

Project Address: 2045 Lion Mountain Loop Road

Assessor's Tract No.(s)_____ Lot No(s)_____
Block # _____ Subdivision Name _____
Section _____ Township _____ Range_____

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

_____ _____
Owner's Signature[1] Date

Alan Myers-Davis & Frances Montanye
Print Name

_____ _____
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.

EXHIBIT 5

Revised 1-13-16

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 _____

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: Alan Myers-Davis & Frances Montanye Phone: _____

Mailing Address: 2045 Lion Mountain Loop Road

City, State, Zip: Whitefish, MT 59937

Email: _____

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:

Annexed into WF City Limits on October 3rd, 2016. Must be rezoned to City zoning.

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

PROPOSED ZONING:

CURRENT ZONING DISTRICT: _____

PROPOSED ZONING DISTRICT: _____

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ORDINANCE NO. 16-___

An Ordinance of the City Council of the City of Whitefish, Montana, rezoning approximately 6.42 acres of land located 835 West Seventh Street, in Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from County R-3 (One-Family Residential) to Whitefish WR-1 (One-Family Residential District), and adopting findings with respect to such rezone.

WHEREAS, the City of Whitefish initiated a rezone with respect to property located at 835 West Seventh Street, and legally described as Lot 1 in Torgerson Subdivision in Section 36, 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 16-08, dated October 13, 2016, which analyzed the proposed rezone and recommended in favor of its approval; and

WHEREAS, at a lawfully noticed public hearing on October 20, 2016, the Whitefish Planning Board reviewed Staff Report WZC 16-08, 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 November 21, 2016, the Whitefish City Council reviewed Staff Report WZC 16-08 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 16-08 dated October 13, 2016, together with the November 15, 2016 letter of transmittal from the Whitefish Planning & Building Department, are hereby adopted as Findings of Fact.

Section 3: The real property located at 835 West Seventh Street, and legally described as Lot 1 in Torgerson Subdivision in Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, previously zoned County R-3 (One Family Residential) is hereby rezoned to Whitefish WR-1 (One-Family 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 Whitefish WR-1 (One-Family Residential District). The Zoning Administrator is instructed to change the City's official Zoning Map to conform to the terms of this Ordinance.

Section 5: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

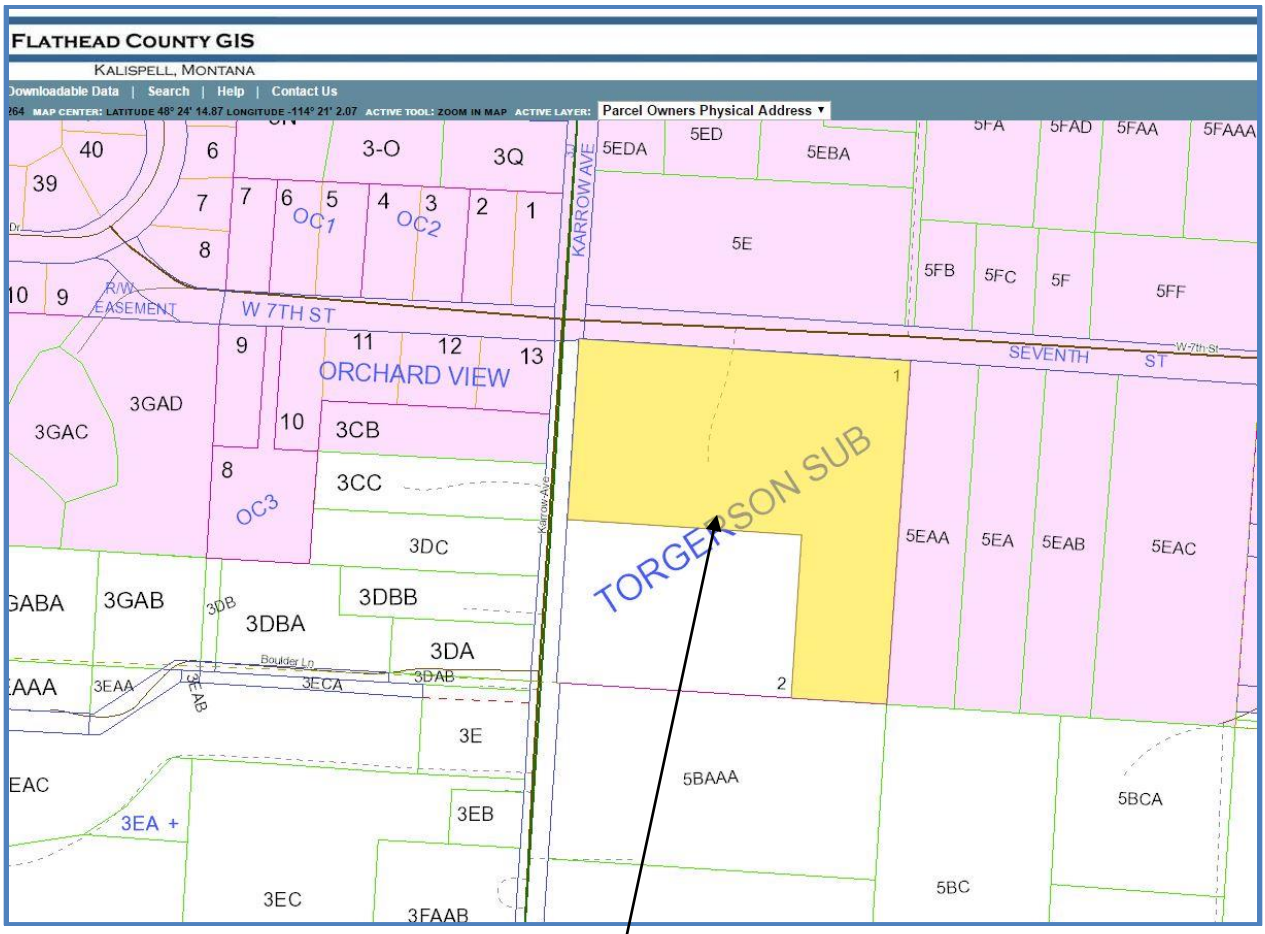
Section 6: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Michelle Howke, City Clerk



Lot 1 of the Plat of
Torgerson Subdivision
Assessor No. 0877200
835 W. 7th Street

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

November 15, 2016

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

RE: City of Whitefish Zone Change: WZC 16-08

Honorable Mayor and Council:

Summary of Requested Action: This is a request by the City of Whitefish for a rezone on one parcel with the zoning designation of County R-3 (One Family Residential) to City WR-1 (One Family Residential District). The subject property is located at 835 W. 7th Street. The subject property totals approximately 6.42 acres.

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

Public Hearing: One member of the public spoke at the public hearing regarding potential subdivision of this property. Staff informed the Board and the public that if a future subdivision is proposed, it will have a separate public process. The draft minutes from the Planning Board for this item are attached as part of this packet.

Planning Board Action: The Whitefish Planning Board met on October 20, 2016 and considered the requested rezone. Following the public hearing, the Planning Board unanimously recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

Proposed Motion:

- I move to approve WZC 16-08 and adopt the Findings of Fact in the staff report, as recommended by the Whitefish Planning Board on October 20, 2016.

This item has been placed on the agenda for your regularly scheduled meeting on November 21, 2016. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

Bailey Minnich, AICP, CFM
Planner II

Att: Draft Minutes of 10-20-16 Planning Board Meeting

Exhibits from 10-13-16 Staff Packet

1. Staff Report WZC-16-08, 10-13-16
2. Adjacent Landowner Notice, 9-30-16
3. Advisory Agency Notice, 9-30-16
4. Resolution 16-49, 8-6-16

The following was submitted by the applicant:

5. Application for Zoning Map Amendment, 9-6-16

c: w/att Michelle Howke, City Clerk

	relocating it on the roof because it sounds like something that is appropriate for the hotel, but they may need to adjust the exact placement of it. Chairman Meckel called for the question.
VOTE	**The motion to deny passed, with Chairman Meckel, Hildner, Laidlaw and Norton voting in favor; and Linville and Qunell voting against denial.** The matter is scheduled to go before the Council on November 7, 2016.
PUBLIC HEARING 3: CITY OF WHITEFISH REZONE REQUEST 8:45 pm	A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The property is unaddressed off Highway 93 West, and can be legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of S35, T31N, R22W.
STAFF REPORT WZC 16-07 (Minnich)	Planner Minnich reviewed her staff report and findings. To date, no comments have been received. Staff recommended adoption of the findings of fact and conditions of approval within staff report WZC 16-07, and for **approval** to the Whitefish City Council.
BOARD QUESTIONS OF STAFF	Hildner asked and Minnich said the annexation was at the request of the landowners.
APPLICANT / AGENCIES	None.
PUBLIC COMMENT	There being no comment, Chairman Meckel closed the public hearing and turned the matter over to the Planning Board for consideration.
MOTION / BOARD DISCUSSION	Hildner moved and Norton seconded to adopt the findings of fact within staff report WZC 16-07.
VOTE	**The motion passed unanimously.** The matter is scheduled to go before the Council on November 21, 2016.
PUBLIC HEARING 4: CITY OF WHITEFISH REZONE REQUEST 8:50 pm	A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-3 (One Family Residential) to WR-1 (One Family Residential District). The property is located at 835 West 7th Street, and can be legally described as Lot 1 in Torgerson

	Subdivision in S36, T31N, R22W.
STAFF REPORT WZC 16-08 (Minnich)	Planner Minnich reviewed her staff report and findings. To date, no comments have been received, although she has had a couple of questions about potential development, but this is just the rezone, not a development proposal. Staff recommended adoption of the findings of fact within staff report WZC 16-08, and for **approval** to the Whitefish City Council.
BOARD QUESTIONS OF STAFF	None
APPLICANT / AGENCIES	None.
PUBLIC COMMENT	Dave Streeter, 202 Abbey Road, here also for his next-door neighbor and partner, Dee Blank, who had a family commitment and could not be here tonight. He thanked the Planning Board and staff personally for working so hard to make the growth reasonable and prudent. WR-1 is an old designation and makes for a great density. He thinks the features of this subdivision are less dense than WR-1 and would like the Board to look at the least density possible being packed into this subdivision. Please make sure to keep that in mind as they go through the process. Minnich said she talked to Ms. Blank on the phone, and told her if it does go through Subdivision Review, that is a separate public process with public notice. The neighbors will be notified and there will be a public comment time for anything other than a standard single-family home. Qunell asked and Minnich said the other part of the property is not in the City, it is in the County. She said the siblings decided to do a split and did a subdivision in the County prior to coming in. From what she understands, because sewer and water are now located in 7th, the County would not issue a new septic permit as City utilities are available to the property. Therefore, to do anything they have to connect to sewer, which means they have to come in and be annexed. The other parcel belongs to one of the siblings. A house is being built on the County parcel, which had a valid septic permit. There being no further comment, Chairman Meckel closed the public hearing and turned the matter over to the Planning Board for consideration.

MOTION / BOARD DISCUSSION	Norton moved and Laidlaw seconded to adopt the findings of fact within staff report WZC 16-08 as proposed by City Staff.
VOTE	**The motion passed unanimously.** The matter is scheduled to go before the Council on November 21, 2016.
PUBLIC HEARING 5: CITY OF WHITEFISH REZONE REQUEST 8:55 pm	A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The subject property is located at 2045 Lion Mountain Loop Road and can be legally described as Tract 1DF in S35, T31N, R22W.
STAFF REPORT WZC 16-09 (Minnich)	Planner Minnich reviewed her staff report and findings. To date, no comments have been received. Staff recommended adoption of the findings of fact within staff report WZC 16-09, and for **approval** to the Whitefish City Council.
BOARD QUESTIONS OF STAFF	Qunell asked how many other parcels in that little area are part of the City already and Minnich said she thinks there is only one still in the County.
APPLICANT / AGENCIES	None.
PUBLIC COMMENT	There being no comment, Chairman Meckel closed the public hearing and turned the matter over to the Planning Board for consideration.
MOTION / BOARD DISCUSSION	Linville moved and Qunell seconded to adopt the findings of fact within staff report WZC 16-09 as proposed by City Staff.
VOTE	**The motion passed unanimously.** The matter is scheduled to go before the Council on November 21, 2016.
NEW BUSINESS 9:00 pm	None.
GOOD AND WELFARE 9:00 pm	1. Matters from Board. Chairman Meckel welcomed new members Linville and Qunell. Norton asked whether we have any data on the corridor plan presented tonight and Taylor said he has been talking with Mr. DeGrandpre for five years and knew they were going to submit something. Taylor will get a copy to the Planning Board and plan on

CITY OF WHITEFISH/TORGERSON
ZONE CHANGE WZC 16-08
EXHIBIT LIST
OCTOBER 13, 2016

1. Staff Report – WZC 16-08, 10-13-16
2. Adjacent Landowner Notice, 9-30-16
3. Advisory Agency Notice, 9-30-16
4. Resolution 16-49, 8-6-16

The following was submitted by the applicant:

5. Application for Zoning Map Amendment, 9-6-16

TORGERSON/CITY OF WHITEFISH
ZONE CHANGE
STAFF REPORT WZC 16-08
OCTOBER 13, 2016

A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by the City of Whitefish on behalf of Timothy & Teresa Torgerson to rezone one parcel from County R-3 (One Family Residential) to City WR-1 (One-Family Residential District) at 835 West 7th Street. This request is scheduled before the Whitefish Planning Board for public hearing on Thursday, **October 20, 2016** at 6:00 PM. A recommendation will be forwarded to the City Council for a subsequent public hearing on Monday, **November 21, 2016** at 7:10 PM. Both hearings will be held in the Whitefish City Council Chambers.

PROJECT SCOPE

The City is requesting a zone change on one parcel from County R-3 (One Family Residential) to City WR-1 (One-Family Residential District). The parcel is located along West 7th Street, on the southeast corner of the intersection of West 7th Street and Karrow Avenue. The parcel is located within the city limits.

The purpose of rezoning the property to a City zone is due to the adoption of Resolution 16-49 which annexed the property into Whitefish City limits on August 6, 2016. 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.

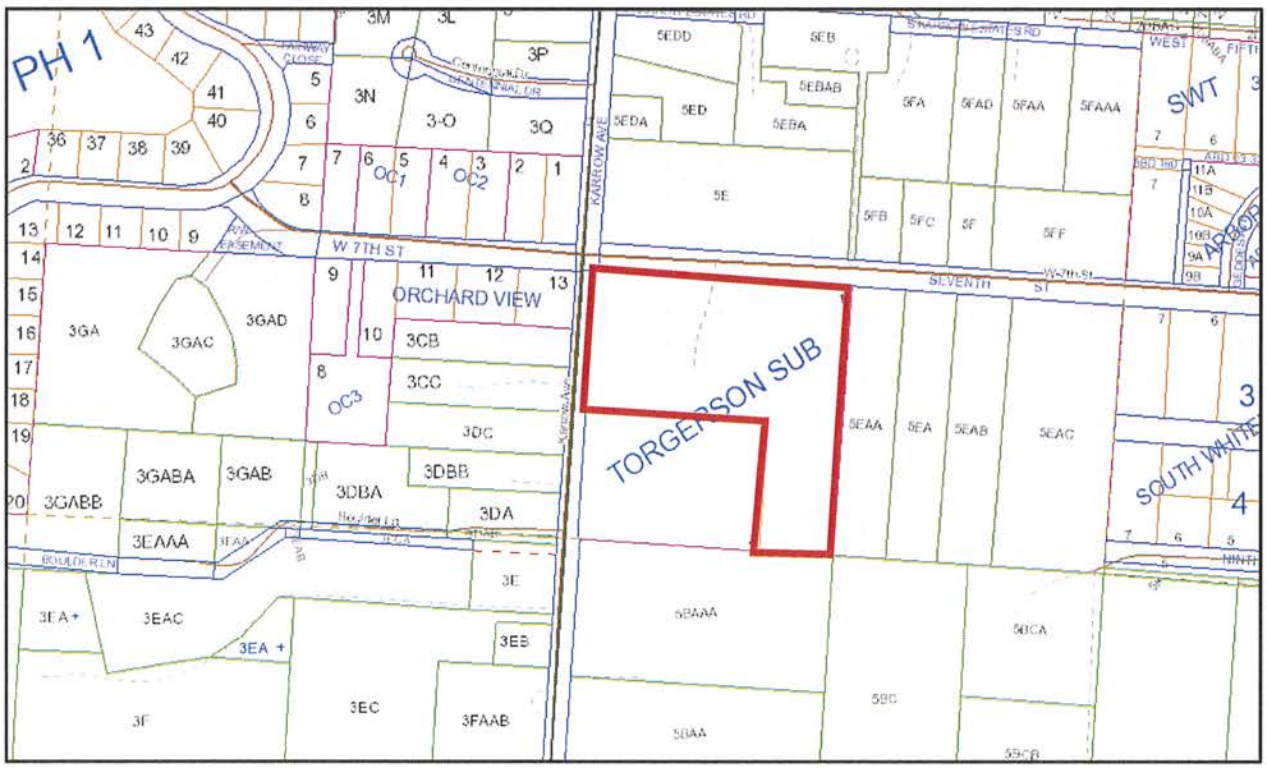


EXHIBIT 1

Purpose of WR-1: The WR-1 district is inteded for residential purposes to provide for single-family dwellings in an urban setting connected to all municipal utilities and services.

	WR-1 (proposed zoning)	**R-3 (existing zoning)**
Minimum lot area:	10,000 square feet	10,000 square feet
Front yard setback:	25 feet	20 feet
Side yard setback:	10 feet	10 feet
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	35% maximum	30% maximum

A. Property Owners:

Timothy & Teresa Torgerson
835 West 7th Street
Whitefish, MT 59937

Applicant:

City of Whitefish
PO Box 158
Whitefish, MT 59937

B. Location and Size:

The subject property is located at 835 W. 7th Street. The property can be legally described as Lot 1 in Torgerson Subdivision in Section 36, Township 31N, Range 22W. The subject property totals approximately 6.42 acres in size.

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

The property is 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-1	Suburban Residential District
South:	residential/vacant	County R-3	Suburban Residential District
East:	residential	City WR-1	Suburban Residential District
West	residential	City WLR	Urban District

E. Public Notice:

A notice was mailed to adjacent land owners within 150-feet of the subject parcels on September 30, 2016. Advisory agencies were noticed on September 30, 2016. A notice

was published in the Whitefish Pilot on October 5, 2016. 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:	City of Whitefish

REVIEW AND FINDINGS OF FACT:

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

The Whitefish zoning 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. That designation indicates it is generally for WCR, WER, and WSR. However, prior to the termination of the inter-local agreement with Flathead County, the property was zoned WR-1. The City has made the interpretation that if a property is annexed, it should be re-zoned the same zoning it was prior to the agreement termination. The proposed change to WR-1 (One-Family Residential District) zoning is consistent with the zoning designation prior to the inter-local termination.

Finding 1: While the proposed zone change to WR-1 is not in accordance with the Growth Policy designation of Suburban Residential, it is consistent with the zoning designation prior to the termination of the inter-local agreement with Flathead County.

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 public services are available to the property.

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

Water and sewer has been extended along West 7th Street with the 7th Street reconstruction project, and extensions have been constructed to the properties along the road. The property is located adjacent to a City maintained road, which is paved. The school district will not change due to the recent annexation, and the subject property is located approximately 0.66 miles west of Riverside/Baker Park, which is a City 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 West 7th Street, a paved City maintained road. The proposed zone change from a County R-3 zone to the City WR-1 zone will not have an effect on the motorized and non-motorized transportation systems because the proposed uses in each district are very similar.

Finding 6: The proposed zone change will not have an effect on motorized and non-motorized transportation systems because the property is served by a paved 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. However, prior to the termination of the inter-local agreement with Flathead County, the property was zoned WR-1. The City has made the interpretation that if a property is annexed, it should be re-zoned the same zoning it was prior to the agreement termination. The proposed change to WR-1 (One-Family Residential District) zoning is consistent with the zoning designation prior to the inter-local termination. Also, the subject property is currently served by public services.

Finding 7: The proposed zone change will promote compatible urban growth because the property is served by public services, and the proposed zoning is the same zoning utilized prior to the termination of the inter-local agreement.

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

The character of the district is predominately single family residential. 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 residential use. The WR-1 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 residential use, and the value of surrounding buildings will be maintained as the WR-1 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 WR-1 would encourage the most appropriate use of land as it would be the most similar to adjacent properties currently developed as residential.

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

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 16-08 findings of fact and recommend to the Whitefish City Council the zoning map amendment be **approved**.

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

Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that the City of Whitefish is proposing to rezone a parcel recently annexed into City limits from County R-3 (One Family Residential) to WR-1 (One-Family Residential District). The subject property is located at 835 W. 7th Street and can be legally described as Lot 1 in Torgerson Subdivision located in NW1/4SW1/4 of Section 36, 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, October 20, 2016
6:00 p.m.
Whitefish City Council Chambers, City Hall
1005 Baker Avenue, Whitefish MT 59937

The Whitefish Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on **Monday, November 21, 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 property. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *bminnich@cityofwhitefish.org*. Comments received by the close of business on Monday, October 10, 2016, 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

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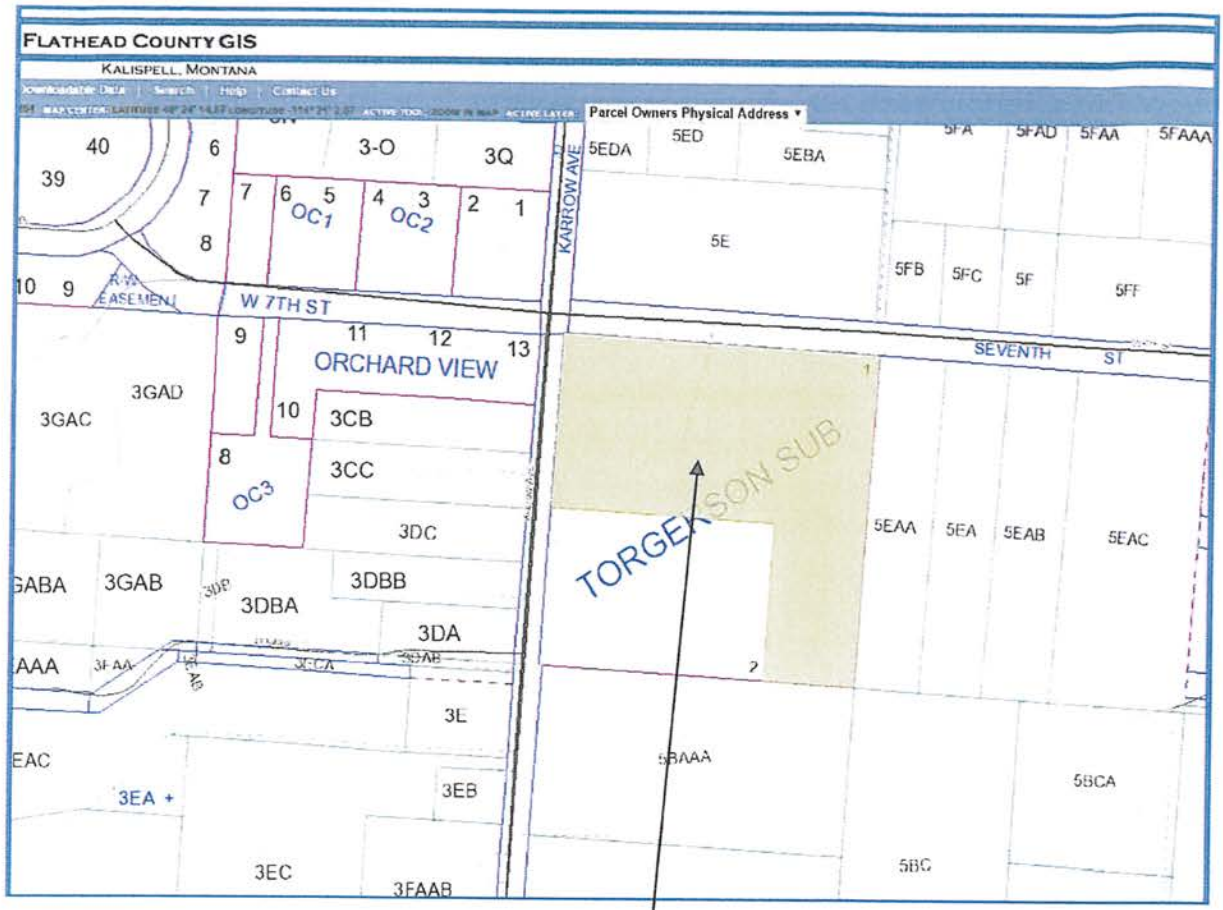
PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS



Lot 1 of the Plat of
Torgerson Subdivision
Assessor No. 0877200
835 W. 7th Street

TORGERSON, DAVID V
PO BOX 5023
WHITEFISH, MT 59937

DURKO, SANDY
1036 VIA FORTUNA
PALOS VERDES ESTATES, CA 90274

BLANK, DEBORAH LINNELL
PO BOX 953
WHITEFISH, MT 59937

MC FADDEN, MEGAN J
788 W 7TH ST
WHITEFISH, MT 59937

BLANK, DEBORAH LINNELL
PO BOX 953
WHITEFISH, MT 59937

HESSELLUND, JUDITH A
786 W 7TH ST
WHITEFISH, MT 59937

MILES, JUDITH A
786 W 7TH ST
WHITEFISH, MT 59937

COLLINS, JANET
910 W 7TH ST
WHITEFISH, MT 59937

MATDIES, JANET M
910 W 7TH ST
WHITEFISH, MT 59937

WRIGHT, KATHLEEN M
PO BOX 1995
WHITEFISH, MT 59937

DELGADO, JULIO M & BENILDA
630 KARROW
WHITEFISH, MT 59937

WILSON, BROCK W
726 KARROW AVE
WHITEFISH, MT 59937

MILLARD, C RONALD & PATRICIA A
PO BOX 426
WHITEFISH, MT 59937

ARMSTRONG, BARBARA J
675 PEBBLE DR
KALISPELL, MT 59901

ORNDORFF, LISA L
4300 N DOUGLAS HWY APT E
JUNEAU, AK 99801

GREGORY, MAXINE P
4300 N DOUGLAS HWY APT E
JUNEAU, AK 99801

WILSON, BROCK W
726 KARROW AVE
WHITEFISH, MT 59937

KUFFEL, THOMAS C & BETTY J
1020 W 7TH ST
WHITEFISH, MT 59937

DUSING, JA AKA JA (JAMES)
14 CRESCENT DR
COLUMBIA FALLS, MT 59912

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

Date: September 30, 2016

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, October 20, 2016 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 a subsequent public hearing for items 1-2 on Monday, November 7, 2016 and items 3-5 on Monday, November 21, 2016. City Council meetings start at 7:10 pm at **1005 Baker Avenue** in the Whitefish City Council Chambers.

1. A request by Cottonwood llc to develop a 23-lot subdivision. The property is zoned WR-2 (Two-Family Residential District). It is addressed as 709 & 711 Colorado Avenue and can be legally described as Whitefish Townsite Company 5 Acre Tracts, Block 2, Lot 6 in S25, T31N, R22W. (WPP 16-03) Compton-Ring

2. A request by Whitefish Hotel Group to amend Condition #22 of Condition Use Permit WCUP 14-11 in order to install a hot tub on the roof of the hotel. The property is zoned WB-3 (General Business District). It is addressed as 650 E 3rd Street and can be legally described as Whitefish Original Townsite, Block 46, Amended Lots 1-18 in S36, T31N, R22W. (WCUP 14-11A) Compton-Ring

3. A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The property is unaddressed off Highway 93 West, and can be legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31N, Range 22W. (WZC 16-07) Minnich

4. A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-3 (One Family Residential) to WR-1 (One-Family Residential District). The subject property is located at 835 West 7th Street and can be legally described as Lot 1 in Torgerson Subdivision located in NW1/4SW1/4 of in Section 36, Township 21N, Range 22W. (WZC 16-08) Minnich

5. A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The subject property is located at 2045 Lion Mountain

EXHIBIT 3

Loop Road and can be legally described as Tract 1DF in Section 35, Township 21N, Range 22W. (WZC 16-09) 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.

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

RESOLUTION NO. 16-49

A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 6.42 acres of land known as 835 West Seventh Street, and legally described as Lot 1 of the Plat of Torgerson Subdivision, located in the NW1/4SW1/4 of Section 36, Township 31 North, Range 22 West, P.M.,M., records of Flathead County, Montana, for which the owners have petitioned for and consented to annexation.

WHEREAS, TIMOTHY K. TORGERSON and TERESA M. TORGERSON, 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

EXHIBIT

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map or plat thereof, on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana, legally described as:

> Lot 1 of the Plat of Torgerson Subdivision, located in the NW1/4SW1/4 of Section 36, Township 31 North, Range 22 West, of Section 36, Township 31 North, Range 22 West, records of Flathead County, Montana.

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

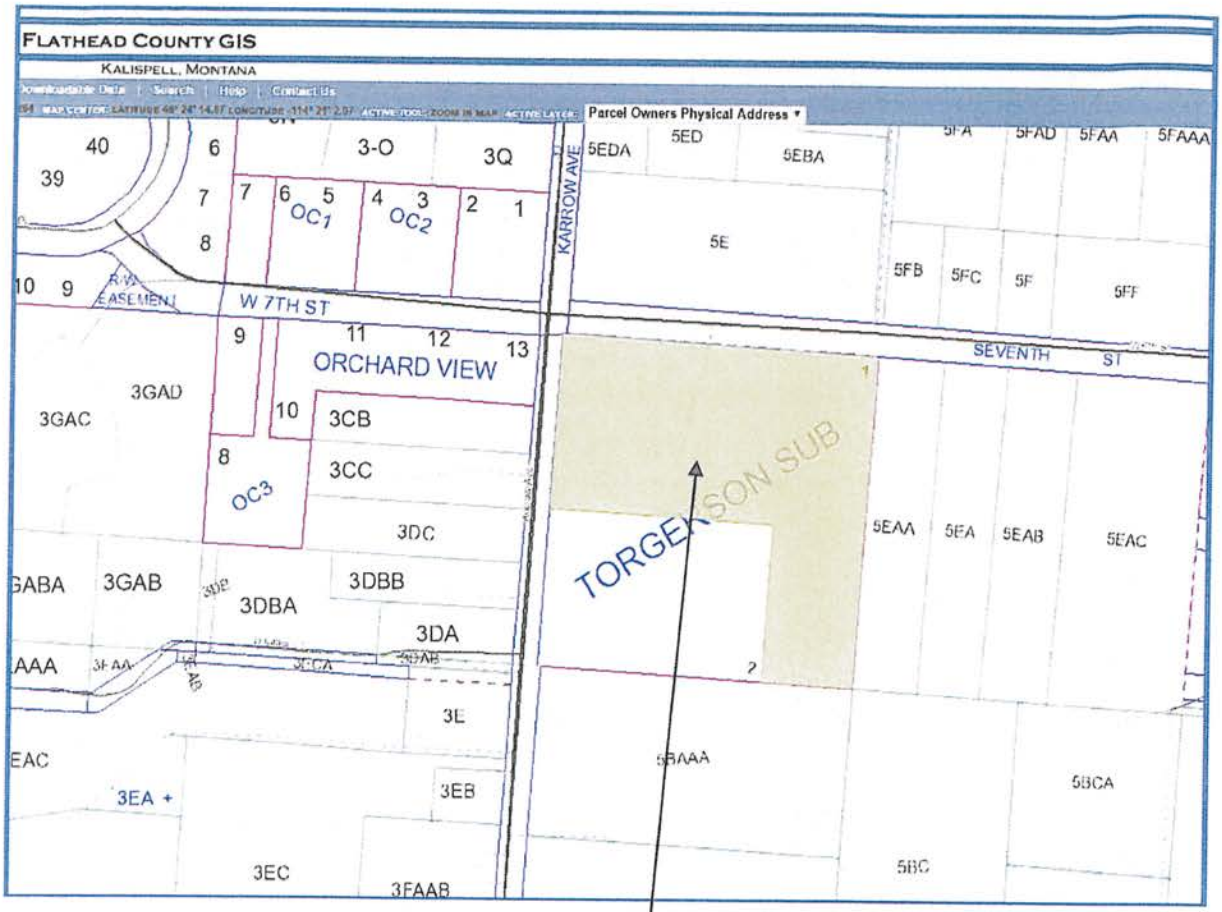
Section 3: The City Clerk is hereby instructed to certify a copy of this Resolution so entered upon the September 6, 2016 Minutes of the City Council. Further that this document shall be filed with the office of the Clerk and Recorder of Flathead County. Pursuant to § 7-2-4607, MCA, this annexation shall 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 6TH DAY OF AUGUST, 2016.

Richard S. Hildner, Deputy Mayor

ATTEST:

Michelle Howke, City Clerk



Lot 1 of the Plat of
Torgerson Subdivision
Assessor No. 0877200
835 W. 7th Street

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 approximately 6.42 acres of land known as 835 West Seventh Street, and legally described as Lot 1 of the Plat of Torgerson Subdivision, located in the NW1/4SW1/4 of Section 36, Township 31 North, Range 22 West, P.M.,M., records of Flathead County, Montana, 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 September 6, 2016, 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 6th day of September 2016.

CITY OF WHITEFISH CORPORATE SEAL MONTANA

Michelle Howke

Michelle Howke, City Clerk

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: 9/16/16
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 1005 Baker Avenue.
- ☐ After the Planning Board hearing, the application is forwarded with the Board's recommendation to the next available City Council meeting for hearing and final action.

A. PROJECT INFORMATION:

Project Address: 835 W. 7th Street

Assessor's Tract No.(s)_____ Lot No(s)_____
Block # _____ Subdivision Name _____
Section _____ Township _____ Range_____

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

_____ _____
Owner's Signature[1] Date

Timothy & Teresa Torgerson
Print Name

_____ _____
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.

EXHIBIT 5

Revised 1-13-16

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 _____

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: Timothy & Teresa Torgerson Phone: _____

Mailing Address: 835 W. 7th Street

City, State, Zip: Whitefish, MT 59937

Email: _____

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:

Annexed into WF City Limits on August 6th, 2016. Must be rezoned to City zoning.

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

PROPOSED ZONING:

CURRENT ZONING DISTRICT: _____

PROPOSED ZONING DISTRICT: _____

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ORDINANCE NO. 16-___

An Ordinance of the City Council of the City of Whitefish, Montana, rezoning approximately 0.39 acres of unaddressed land legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from County R-1 (Suburban Residential) to Whitefish WSR (Suburban Residential District), and adopting findings with respect to such rezone.

WHEREAS, the City of Whitefish initiated a rezone with respect to unaddressed property north of Highway 93 West and west of State Park Road, legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of 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 16-07, dated October 13, 2016, which analyzed the proposed rezone and recommended in favor of its approval; and

WHEREAS, at a lawfully noticed public hearing on October 20, 2016, the Whitefish Planning Board reviewed Staff Report WZC 16-07, 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 November 21, 2016, the Whitefish City Council reviewed Staff Report WZC 16-07 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 16-07 dated October 13, 2016, together with the November 15, 2016 letter of transmittal from the Whitefish Planning & Building Department, are hereby adopted as Findings of Fact.

Section 3: The unaddressed real property located north of Highway 93 West and west of State Park Road, and legally described as legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of 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 Whitefish 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 Whitefish WSR (Suburban Residential District). The Zoning Administrator is instructed to change the City's official Zoning Map to conform to the terms of this Ordinance.

Section 5: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

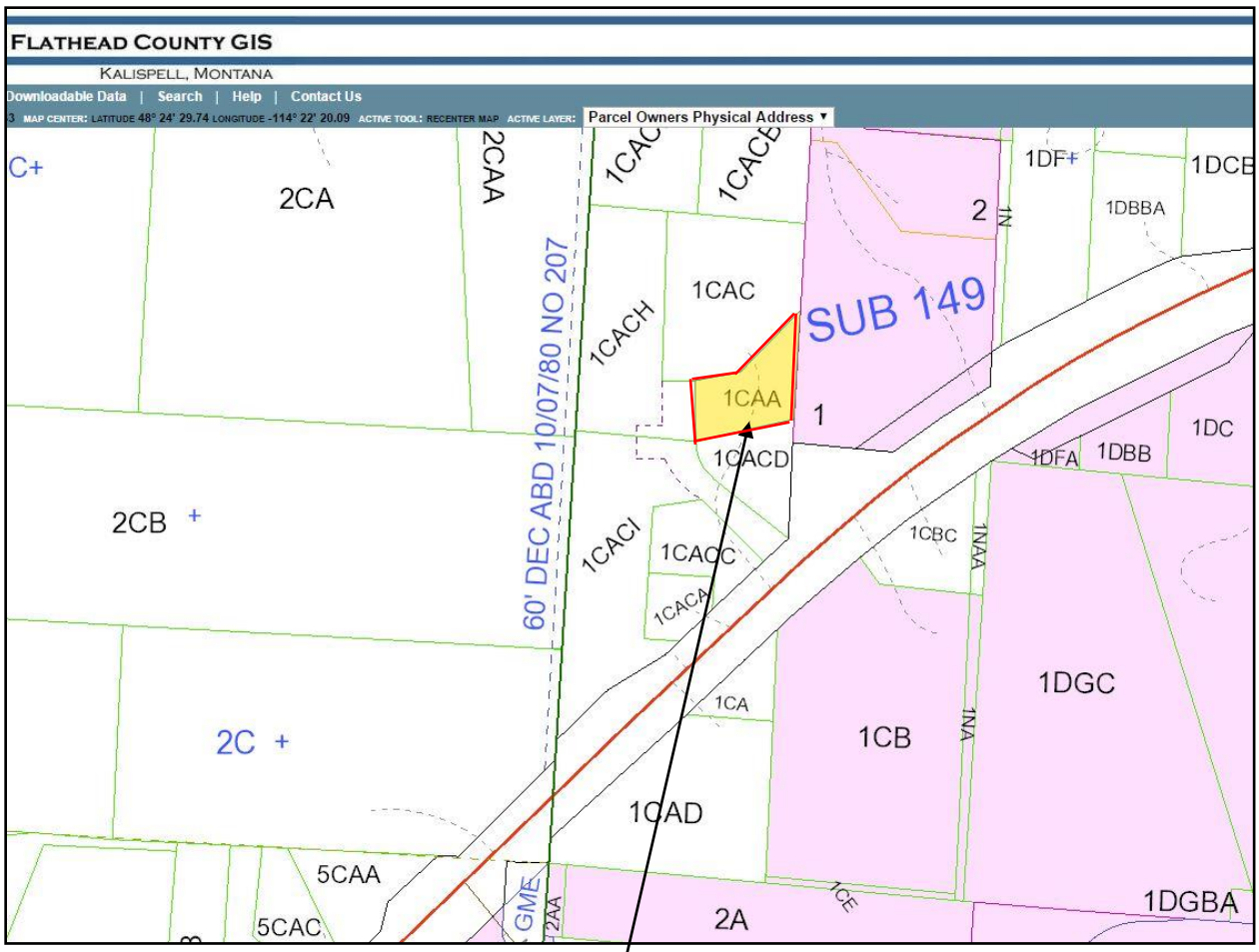
Section 6: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Michelle Howke, City Clerk



Tract 1CAA
Assessor No. 0014968
Unaddressed

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

November 15, 2016

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

RE: City of Whitefish Zone Change: WZC 16-07

Honorable Mayor and Council:

Summary of Requested Action: This is a request by the City of Whitefish for a rezone on one parcel with the zoning designation of County R-1 (Suburban Residential) to City WSR (Suburban Residential District). The subject property is unaddressed off Highway 93 West. The subject property is approximately 0.39 acres in size.

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

Public Hearing: No member 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 Planning Board met on October 20, 2016 and considered the requested rezone. Following the public hearing, the Planning Board unanimously recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

Proposed Motion:

- I move to approve WZC 16-07 and adopt the Findings of Fact in the staff report, as recommended by the Whitefish Planning Board on October 20, 2016.

This item has been placed on the agenda for your regularly scheduled meeting on November 21, 2016. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

Bailey Minnich, AICP, CFM
Planner II

Att: Draft Minutes of 10-20-16 Planning Board Meeting

Exhibits from 10-13-16 Staff Packet

1. Staff Report WZC-16-07, 10-13-16
2. Adjacent Landowner Notice, 9-30-16
3. Advisory Agency Notice, 9-30-16
4. Resolution 16-37, 8-17-16

The following was submitted by the applicant:

5. Application for Zoning Map Amendment, 8-8-16

c: w/att Michelle Howke, City Clerk

	relocating it on the roof because it sounds like something that is appropriate for the hotel, but they may need to adjust the exact placement of it. Chairman Meckel called for the question.
VOTE	**The motion to deny passed, with Chairman Meckel, Hildner, Laidlaw and Norton voting in favor; and Linville and Qunell voting against denial.** The matter is scheduled to go before the Council on November 7, 2016.
PUBLIC HEARING 3: CITY OF WHITEFISH REZONE REQUEST 8:45 pm	A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The property is unaddressed off Highway 93 West, and can be legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of S35, T31N, R22W.
STAFF REPORT WZC 16-07 (Minnich)	Planner Minnich reviewed her staff report and findings. To date, no comments have been received. Staff recommended adoption of the findings of fact and conditions of approval within staff report WZC 16-07, and for **approval** to the Whitefish City Council.
BOARD QUESTIONS OF STAFF	Hildner asked and Minnich said the annexation was at the request of the landowners.
APPLICANT / AGENCIES	None.
PUBLIC COMMENT	There being no comment, Chairman Meckel closed the public hearing and turned the matter over to the Planning Board for consideration.
MOTION / BOARD DISCUSSION	Hildner moved and Norton seconded to adopt the findings of fact within staff report WZC 16-07.
VOTE	**The motion passed unanimously.** The matter is scheduled to go before the Council on November 21, 2016.
PUBLIC HEARING 4: CITY OF WHITEFISH REZONE REQUEST 8:50 pm	A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-3 (One Family Residential) to WR-1 (One Family Residential District). The property is located at 835 West 7th Street, and can be legally described as Lot 1 in Torgerson

CITY OF WHITEFISH/PERO
ZONE CHANGE WZC 16-07
EXHIBIT LIST
OCTOBER 13, 2016

1. Staff Report – WZC 16-07, 10-13-16
2. Adjacent Landowner Notice, 9-30-16
3. Advisory Agency Notice, 9-30-16
4. Resolution 16-37, 8-17-16

The following was submitted by the applicant:

5. Application for Zoning Map Amendment, 8-8-16

PERO/CITY OF WHITEFISH
ZONE CHANGE
STAFF REPORT WZC 16-07
OCTOBER 13, 2016

A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by the City of Whitefish on behalf of Robert W. Pero Revocable Trust to rezone one parcel from County R-1 (Suburban Residential) to City WSR (Suburban Residential District) at an unaddressed property off Highway 93 West. This request is scheduled before the Whitefish Planning Board for public hearing on Thursday, **October 20, 2016** at 6:00 PM. A recommendation will be forwarded to the City Council for a subsequent public hearing on Monday, **November 21, 2016** at 7:10 PM. Both hearings will be held in the Whitefish City Council Chambers.

PROJECT SCOPE

The City is requesting a zone change on one parcel from County R-1(Suburban Residential) to City WSR (Suburban Residential District). The parcel is located off Highway 93 West, approximately 0.23 miles west from the new intersection of State Park Road and Highway 93 West. The parcel is located within the city limits.

The purpose of rezoning the property to a City zone is due to the adoption of Resolution 16-37 which annexed the property into Whitefish City limits on August 15, 2016. 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.

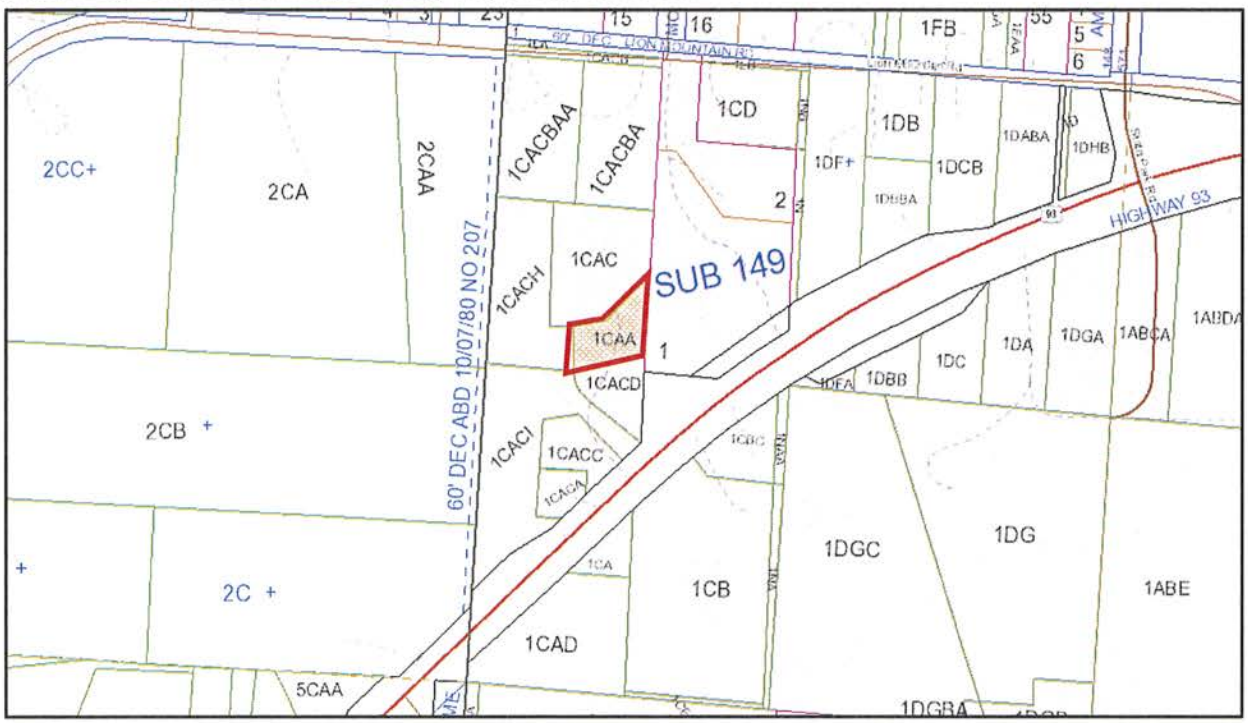


EXHIBIT 1

STAFF: BM

WZC-16-07
Page 1 of 5

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.

	WSR (proposed zoning)	**R-1 (existing zoning)**
Minimum lot area:	1 acre	1 acre
Front yard setback:	25 feet	20 feet
Side yard setback:	15 feet	20 feet
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	25% maximum	40% maximum

A. Property Owners:

Robert W. Pero Revocable Trust
1290 Birch Point
Whitefish, MT 59937

Applicant:

City of Whitefish
PO Box 158
Whitefish, MT 59937

B. Location and Size:

The property is unaddressed off Highway 93 West, and can be legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana. The subject property totals approximately 0.39 in size.

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

The property is currently undeveloped. 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 WSR	Suburban Residential District
South:	residential	City WSR	Suburban Residential District
East:	residential	City WSR	Suburban Residential District
West	residential	City WSR	Suburban Residential District

E. Public Notice:

A notice was mailed to adjacent land owners within 150-feet of the subject parcels on September 30, 2016. Advisory agencies were noticed on September 30, 2016. A notice was published in the Whitefish Pilot on October 5, 2016. 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:	City of Whitefish

REVIEW AND FINDINGS OF FACT:

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

The Whitefish zoning 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 Residential 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 public services are available to the property.

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

The property is accessed via a private road from Highway 93 West, a paved state maintained road. The school district will not change due to the recent annexation, and the subject property is located near city parks and trails.

Finding 4: The proposed zone change facilitates the adequate provision of transportation, water, 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. The proposed zone change from a County R-1 zone to the 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 public highway maintained by the state of Montana 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 properties have been recently annexed into the Whitefish City limits, the properties must be rezoned to an equivalent City zone, which is WSR. Therefore, the proposed zone change will promote compatible 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 the proposed zoning is the same zoning utilized prior to the termination of the inter-local agreement.

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

The character of the district is a mixed of residential, agricultural, and an adjacent church. The lot sizes are varied depending on the uses 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 mixture of residential, agricultural uses and an adjacent church.

I. Conserving the Value of Buildings.

The subject property is undeveloped. 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 will be developed in compliance with the zoning.

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 the most similar to adjacent properties and is the zoning designation prior to the County rezone of the planning jurisdiction.

Finding 10: The proposed zone change encourages the most appropriate use of land throughout the jurisdictional area because it will be the most 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 16-07 findings of fact and recommend to the Whitefish City Council the zoning map amendment be **approved**.

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

Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that the City of Whitefish is requesting a zone change for one parcels recently annexed into the City limits from County R-1 (Suburban Residential) to Whitefish WSR (Suburban Residential District). The property is unaddressed off Highway 93 West, and can be legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

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

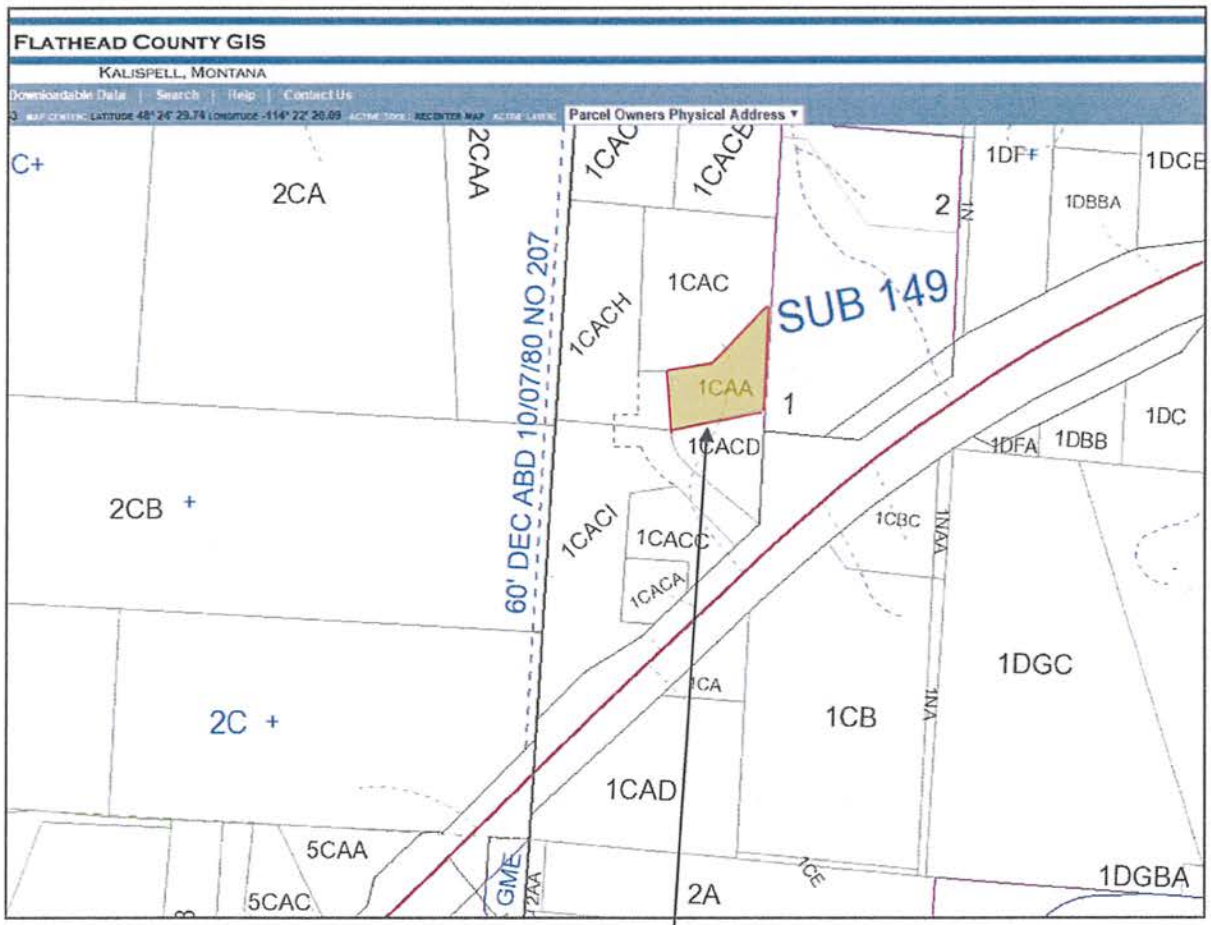
Thursday, October 20, 2016
6:00 p.m.
Whitefish City Council Chambers, City Hall
1005 Baker Avenue, Whitefish MT 59937

The Whitefish Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on **Monday, November 21, 2016** at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *bminnich@cityofwhitefish.org*. Comments received by the close of business on Monday, October 10, 2016, will be included in the packets to the Planning Board members. Comments received after the deadline will be summarized to the Planning Board members at the public hearing.

EXHIBIT
2

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS



Tract 1CAA
Assessor No. 0014968
No Address

PERO REVOCABLE TRUST, ROBERT W
1290 BIRCH POINT DR
WHITEFISH, MT 59937

GILLETT, R M
579 DEER PATH CT SE
CALGARY, AB T2J 6C8

WHITEFISH CONGREGATION OF
JEHOVAH'S WITNESSES
239 7TH ST W #B
WHITEFISH, MT 59937

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

Date: September 30, 2016

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held on Thursday, October 20, 2016 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 a subsequent public hearing for items 1-2 on Monday, November 7, 2016 and items 3-5 on Monday, November 21, 2016. City Council meetings start at 7:10 pm at **1005 Baker Avenue** in the Whitefish City Council Chambers.

1. A request by Cottonwood llc to develop a 23-lot subdivision. The property is zoned WR-2 (Two-Family Residential District). It is addressed as 709 & 711 Colorado Avenue and can be legally described as Whitefish Townsite Company 5 Acre Tracts, Block 2, Lot 6 in S25, T31N, R22W. (WPP 16-03) Compton-Ring

2. A request by Whitefish Hotel Group to amend Condition #22 of Condition Use Permit WCUP 14-11 in order to install a hot tub on the roof of the hotel. The property is zoned WB-3 (General Business District). It is addressed as 650 E 3rd Street and can be legally described as Whitefish Original Townsite, Block 46, Amended Lots 1-18 in S36, T31N, R22W. (WCUP 14-11A) Compton-Ring

3. A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The property is unaddressed off Highway 93 West, and can be legally described as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31N, Range 22W. (WZC 16-07) Minnich

4. A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-3 (One Family Residential) to WR-1 (One-Family Residential District). The subject property is located at 835 West 7th Street and can be legally described as Lot 1 in Torgerson Subdivision located in NW1/4SW1/4 of in Section 36, Township 21N, Range 22W. (WZC 16-08) Minnich

5. A request by the City of Whitefish to rezone one parcel recently annexed into City limits from County R-1 (Suburban Residential) to WSR (Suburban Residential District). The subject property is located at 2045 Lion Mountain

EXHIBIT 3

Loop Road and can be legally described as Tract 1DF in Section 35, Township 21N, Range 22W. (WZC 16-09) 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.

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

201600017532
Page: 1 of 10
Fees: $80.00
8/17/2016 12:39 PM
Debbie Pierson, Flathead County MT by NC

Approved 8/17/2016 cw 0014968

RESOLUTION NO. 16-37

A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 0.39 acres of land known as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, records of Flathead County, Montana, for which the owners have petitioned for and consented to annexation.

WHEREAS, Robert W. Pero Revocable Trust, has filed a Petition for Annexation with the City Clerk requesting annexation and waiving any right of protest to annexation as the sole owner of real property representing 50% or more of the total area to be annexed. 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

EXHIBIT 4

map or plat thereof, on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana, legally described as:

> Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, records of Flathead County, Montana.

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 August 15, 2016 Minutes of the City Council. Further that this document shall be filed with the office of the Clerk and Recorder of Flathead County. Pursuant to § 7-2-4607, MCA, this annexation shall be deemed complete effective from and after the date of the filing of said document with the Flathead County Clerk and Recorder.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 15TH DAY OF AUGUST, 2016.

John M. Muhlfeld, Mayor

ATTEST:

Michelle Howke

Michelle Howke, City Clerk

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Whitefish, Montana (the "City"), hereby certify that the attached resolution is a true copy of a resolution entitled: "A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 0.39 acres of land known as Parcel C of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, records of Flathead County, Montana, 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 August 15, 2016, 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 15th day of August 2016.

CITY OF WHITEFISH CORPORATE SEAL MONTANA

Michelle Howke

Michelle Howke, City Clerk

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

File #: WZC 16-07
Date: 8-8-16
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 1005 Baker Avenue.
- ☐ After the Planning Board hearing, the application is forwarded with the Board's recommendation to the next available City Council meeting for hearing and final action.

A. PROJECT INFORMATION:

Project Address: _____

Assessor's Tract No.(s)_____ Lot No(s)_____
Block # _____ Subdivision Name _____
Section _____ Township _____ Range_____

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

Owner's Signature[1] _____ Date _____

Print Name Robert W Pero

Applicant's Signature _____ Date 8/5/16

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.

Revised 10-01-15

EXHIBIT 5

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 _____

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: Robert W. Pero Phone: 406 253-6147

Mailing Address: 1290 Birch Point Dr

City, State, Zip: Whitefish MT 59937

Email: rjpero@aboutmontana.net

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:

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

PROPOSED ZONING:

CURRENT ZONING DISTRICT: _____

PROPOSED ZONING DISTRICT: _____

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City of Whitefish
Department of Public Works
1005 W. 10TH Street, PO Box 158
Whitefish, MT 59937
(406) 863-2460 Fax (406) 863-2419

November 15, 2016

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Recommendation to Approve Amendment No. 7 to the Wastewater System Improvements Agreement with Anderson Montgomery Consulting Engineers

Introduction/History

On October 15, 2012, the City Council approved a contract with Anderson Montgomery Consulting Engineers (AMCE) for our Wastewater Permitting and Facility Improvements Project. Copies of the staff memo and minutes from that Council meeting packet are attached to this staff report. Prior to recommending approval of the contract with AMCE, the Public Works Department advertised a Request for Qualifications from engineering consultants, interviewed finalists and negotiated a contract AMCE to provide engineering services for the Wastewater Permitting and Facility Improvements Project. A copy of the original RFP is also attached to this memo.

The RFP was created by the Public Works Department to select a consultant to work with the City on the following tasks:

1. Renewal of the MPDES permit - COMPLETE
2. Preparation of a Compliance Plan for the Administrative Order on Consent (AOC) - COMPLETE
3. Preparation of a Nutrient Reduction Plan - COMPLETE
4. Preparation of Preliminary Engineering Report for wastewater upgrades - COMPLETE
5. Completion of various I&I reduction projects – COMPLETE
6. Identification of funding sources and preparation of applications for State and Federal funding programs - COMPLETE
7. Engineering Design Services for the upgrades proposed in the PER

8. Equipment/Contractor Procurement for the upgrades proposed in the PER
9. Project Bidding assistance
10. Construction management
11. Preparation of Final record drawings and O&M manuals

During the original contract award in 2012 Council acknowledged that this would be a complex, long term project, involving many different aspects of planning, design, grant writing, permitting procedures and negotiations with various entities for several years into the future. For this reason, the contract was awarded with the anticipation of individual amendments being negotiated as the project evolved and took shape. The first six amendments to the contract were successful in completing the tasks as indicated above.

Current Report

This memo is to recommend Amendment No. 7 to the consultant contract. The proposed work scope includes all engineering services up through and including project bidding and award. This scope does not include construction management services, which will be negotiated during the final design phase, allowing for a more accurate estimate of cost.

Specifically, this amendment includes the engineering services necessary to design and bid improvements to the City's wastewater treatment plant, as described in the October 2016 Preliminary Engineering Report. A summary of plant improvements includes the following unit processes:

- Pump Upgrades to Main Raw Wastewater Pump Station
- Grit Removal Facilities including Washing and Dewatering
- Sequencing Batch Reactor (SBR) Treatment Plant
- Lagoon Solids Disposal
- Aerobic Digestion of BioSolids utilizing Existing Flocculating Clarifier Basin
- Stabilized Solids Disposal on Existing Drying Beds (after renovation)
- Ultraviolet Disinfection
- Emergency Power System
- System Controls and Integration
- Administration Building
- Site Landscaping and Restoration of Lagoons

The key assignments that will be included in this contract amendment are described as follows:

PRELIMINARY DESIGN SERVICES – This assignment includes the preparation of a preliminary design report, completion of a detailed topographic survey and completion of a geotechnical

investigation. The Preliminary Design Report will establish design criteria to complete preliminary layout and equipment selection.

EQUIPMENT PROCUREMENT - This assignment includes the preparation of project documents to facilitate the purchase of key equipment components required for the new treatment facilities. Project documents will include all required funding agency specifications and will be reviewed by the regulatory and funding agencies participating in the project prior to advertisement for bids. During project bidding, AMCE will answer bidders' questions, provide written clarifications and/or addenda, convene and preside over a pre-bid meeting. They will also review the necessary Pre-Qualification information submitted by potential bidders.

FINAL DESIGN SERVICES – This assignment includes all professional engineering services required for the specification of equipment and final design for the proposed upgrades to the City's wastewater treatment plant, incorporating all pre-purchased equipment into the final project design. This includes the preparation of all civil, structural/architectural, mechanical, electrical and instrumentation design elements necessary to procure construction contractors to build the complete project as described in the PER.

PROJECT BIDDING AND CONTRACT AWARD – This assignment requires AMCE to prepare an Advertisement for Bids and develop a system for electronic bidding of the project. AMCE will then review all necessary Pre-Qualification information, attend the bid opening, tabulate the bid proposals, make an analysis of the bids and bidder eligibility, and make recommendations for awarding contracts for supply of specified equipment. All bids will be reviewed for compliance with funding agency specifications.

The anticipated project timeline is as follows:

- Site survey - December 2016
- Geotechnical Investigation - January 2017
- Preliminary Design Report - February 2017
- Final Draft Equipment Project Documents - April 2017
- Equipment Procurement and Award – July/August 2017
- Final Draft Project Documents - February 2018
- Project Bidding and Award - Spring 2018

Financial Requirement

The Public Works Department has negotiated a fee not to exceed $966,825 for the scope of services described above. The cost will be paid out of the Wastewater budget, which has $1,961,000 budgeted in FY 2017 for WWTP upgrades.

This negotiated fee is approximately 6.5% of budgeted construction costs of $14,580,000, and represents a value that is $80,0000 less than the $1,047,000 established in the PER budget for these services. AMCE and the Public Works staff worked hard to insure the most accurate and ideally lowest estimate of costs for this work by discussing the work scope with other consultants, obtaining quotes for specialized services, reviewing projects with similar work scope and projecting the number of sheets required for design as well as work effort required per sheet.

Recommendation

We respectfully recommend the City Council approve Amendment No. 7 to the Wastewater System Improvements Consultant Agreement in an amount not to exceed $966,825

Sincerely,

Craig Workman, P.E.
Director of Public Works

CITY OF WHITEFISH
EXHIBIT A - TASK 1400
WWTP DESIGN and EQUIPMENT/CONTRACTOR PROCUREMENT SERVICES

TASKS	
1400	WWTP Design Services, Equipment/Contractor Procurement

This Addendum # 7 to the October 22, 2012 Consultant Agreement for engineering services to be performed in conjunction with the 2012 Wastewater System Improvements Project is comprised of two exhibits to the original agreement, 1.) Exhibit A which describes the scope of services for the project, schedule and compensation and 2.) Exhibit B which provides a breakdown of time and cost estimated for the engineering services required for the project.

I. PROJECT DESCRIPTION

The ENGINEER will perform the services deemed necessary by City of Whitefish for the design, engineering services and construction management of improvements to the City of Whitefish wastewater treatment plant, as described in the October 2016 Preliminary Engineering Report prepared by Anderson-Montgomery Consulting Engineers. A summary of plant improvements includes the following unit processes:

- Pump Upgrades to Main Raw Wastewater Pump Station
- Grit Removal Facilities including Washing and Dewatering
- Sequencing Batch Reactor (SBR) Treatment Plant Complete
- Lagoon Solids Disposal
- Aerobic Digestion of Biosolids utilizing Existing Flocculating Clarifier Basin
- Stabilized Solids Disposal on Existing Drying Beds (after renovation)
- Ultraviolet Disinfection
- Emergency Power System
- System Controls and Integration
- Administration Building
- Site Landscaping and Restoration of Lagoons

The ENGINEER shall be responsible for the professional quality, timely completion, technical accuracy, and other services furnished by the ENGINEER under this contract as described in Task Order 1400. A work schedule which generally estimates when each sub- task will occur is included. Work activities for work tasks described herein will be performed by Anderson-Montgomery Consulting Engineers of Helena, Montana, Robert Peccia and Associates of Helena and Kalispell, Montana and Richwine Environmental Inc. of Beaverton, Oregon. Other specialized consultants may be utilized. ANDERSON-MONTGOMERY CONSULTING ENGINEERS will be the prime contractor under this agreement and signatory to contract documents with the City.

The CITY OF WHITEFISH shall be directly involved in the design process for this task including participation in telephone calls and meetings, review of technical documents, collection of data, assisting with bid advertisements and reporting to Mayor, City Council and Public Works

Department as appropriate. Work scope, scheduling and compensation is described in the following sections

II. GENERAL WORK SCOPE

The project consists of engineering services required for the design of the proposed plant improvements at the wastewater treatment plant, development of bidding documents for procurement of key equipment components for the plant, bidding and recommendation of contract award for the equipment, incorporation of specific equipment into final plant design and preparation of plant design documents including project bidding. Key tasks are described as follows:

- Preparation of Preliminary Design Report, including:
  -Survey of Proposed Plant Layout Necessary to Locate Improvements
  -Completion of Geotechnical Investigation of Plant Site
- Preparation of Equipment Bid Documents
- Bidding and Recommendation for Award of Equipment
- Final Plant Design and Development of Bid Documents
- Regulatory and Funding Agency Review of Bid Documents
- Preparation of Cost Estimates and Project Budget
- Assistance with Development of Project Funding Plan
- Administration of Project Funding Elements through Design Phase

The cost estimate for providing these services is provided under as Exhibit B and compensation is discussed in Section X. Work scope is described in detail, as follows:

III. PRELIMINARY DESIGN SERVICES

The ENGINEER agrees to perform all professional engineering services required for the preparation of a preliminary design report, completion of a detailed topographic survey and completion of a geotechnical investigation. These services include but are not limited to:

1. The ENGINEER will provide surveying services required for preparation of the construction drawings for the Whitefish Wastewater Treatment Plant Project in Whitefish, Montana. The project includes work on two (2) separate survey areas within the limits of the existing City of Whitefish Treatment Plant, 1) Base Survey and 2) Additional Survey.

   Base Survey ~27 Acres – The survey work will include mapping of a portion of the existing Whitefish Wastewater Treatment Plant. Specifically, the area bounded by the following; to the east the main treatment plant access road, to the south the southern treatment plant fence, to the west the Whitefish River, and to the north the northern lagoon access road separating the lagoons from the drying beds. Also, included in the survey will be the northern access road to the headworks building up to the crossing of the existing bike path. Within the survey boundary the following features will be mapped, the existing treatment plant and accessory buildings, existing manholes and outfall pipes (including measure downs from rim to inverts of pipes), all surfacing improvements and fencing, general topography and features (excluding trees), all existing utilities located by others, utilities located by in-house investigations, lagoon aerators, and edge of water in lagoons (no mapping will take place below the water surface elevation and no sludge depth measurements will be conducted).

Additional Survey ~31 Acres – The survey work will include mapping of a portion of the existing Whitefish Wastewater Treatment Plant to the north of the Base Survey Area. Specifically, the area bounded by the following; to the east the eastern fence along Monegan Road, to the south the lagoon access road separating the lagoons from the drying beds, to the west the access road to the headworks building, and to the north the northern fence near the existing bike path

2. The ENGINEER, utilizing a specialized consultant, will complete a geotechnical investigation of the proposed plant site and location of new structures. The investigation will evaluate existing field conditions to obtain information on the physical properties of soil, rock and groundwater around the site to design earthworks and foundations for proposed structures.

3. The ENGINEER will prepare a Preliminary Design Report for proposed plant facilities as described in the PER, incorporating the following subjects:

   - Establish Design Criteria
   - Describe Unit Process
   - Preliminary Equipment Selection
     -Wastewater Pumping
     -Grit Removal
     -SBR
     -UV Disinfection
   - Preliminary Layout and Design
   - Selection of Architectural Design
   - Describe Control and Instrumentation
   - Describe Site Geotechnical Conditions
   - Describe Site Restoration
   - Emergency Power
   - Energy Considerations
   - Compliance with DEQ -2 Design Standards
   - Review and Meeting with City
   - Submittal to DEQ
   - Revisions as Needed

4. The Design Report and project documents will be completed in compliance with the MDEQ Circular DEQ-2, Design Standards for Wastewater Facilities.

5. The ENGINEER will meet with the OWNER during the preparation of the Design Report to discuss the project documents and receive input from the OWNER and public works staff. Multiple meetings are anticipated.

6. The ENGINEER will investigate the need for obtaining special construction permits and will either secure the necessary permits or include the requirements to obtain the permits in the construction contract documents applicable to the construction contractor. Applicable permits will be identified.

IV. EQUIPMENT PROCUREMENT

These services include but are not limited to:

1. Project documents will be prepared to allow for the procurement of key equipment components required for the new treatment facilities including grit removal, SBR components (aeration devices, blowers, decanter, solids processing), aerobic digestion and ultraviolet disinfection.

2. A systematic equipment selection process will be developed in the project documents to evaluate and select desired equipment components. This process will likely consider capital cost, operating cost, energy efficiency, references, service availability, cold weather operation and other criteria to allow for reasonable selection of desired equipment.

3. Project documents will include all required funding agency specifications. The project documents will be reviewed by the regulatory and funding agencies participating in the project and all revisions required will be made by the ENGINEER prior to advertisement for bids.

4. Prior to advertisement for bids, the ENGINEER will provide 4 copies of detailed drawings, specifications, and contract documents for use by the OWNER, DEQ and the appropriate Federal, State, and local agencies from whom approval of the project must be obtained. The cost of such drawings, specifications and contract documents shall be included in the basic compensation paid to the ENGINEER.

5. The ENGINEER will prepare an Advertisement for Bids for the OWNER and will notify Builders Exchanges and other venues of the projects' availability for bidding.

6. The ENGINEER will develop a system for electronic bidding of the project and will post the Project Documents on the firm's website allowing view by potential bidders and subcontractors.

7. As needed, the ENGINEER will furnish additional copies of the drawings, specifications and contract documents as required by prospective bidders, material suppliers and other interested parties. The ENGINEER will collect adequate charges from prospective bidders to cover the cost of reproduction of the project documents. Upon contract award, the ENGINEER will furnish to the OWNER up to three (3) sets of the drawings, specifications and contract documents for execution. The cost of these sets will be included in the basic compensation paid to the ENGINEER.

8. During project bidding, the ENGINEER will answer bidders' questions, provide written clarifications and/or addenda, convene and preside over a pre-bid meeting.

9. The ENGINEER shall review all necessary Pre-Qualification information submitted by potential bidders in order to determine qualifications of equipment suppliers needed to properly undertake the proposed project scope.

10. The ENGINEER will review bids for compliance with funding agency specifications including US Steel provisions, MBE/WBE participation and other applicable standards.

11. The ENGINEER will assist with or attend the bid opening and tabulate the bid proposals, make an analysis of the bids and bidder eligibility, and make recommendations for awarding contracts for supply of specified equipment.

12. The ENGINEER will assist in award notification to the successful bidder and notify and return bid bonds to the unsuccessful bidders.

V. FINAL DESIGN SERVICES

The ENGINEER agrees to perform all professional engineering services required for the specification of equipment and final design for the proposed upgrades to the City's wastewater treatment plant. Pre-purchased equipment will be incorporated into the final project design. The schedule and estimates of cost are based on issuance of one set of project documents for contractor procurement for the wastewater plant, complete.

These services include but are not limited to:

1. Preparation of project drawings and specifications necessary to procure construction contractors to build the complete project as described in **Section I, PROJECT DESCRIPTION,** above. All civil, structural/architectural, mechanical, electrical and instrumentation design elements will be included in preparation of project documents. Drafting will be prepared utilizing a 3-D drafting format to help clarify layout and design for construction and to reduce overall project drafting expense. Drafting models will be made available to the OWNER and construction contractor.

2. Review equipment submittals for pre-purchased equipment and incorporate selected equipment into project design.

3. Project documents will include all required funding agency specifications. The project documents will be reviewed by the regulatory and funding agencies participating in the project and all revisions required will be made by the ENGINEER prior to advertisement for bids.

4. The ENGINEER will prepare a Preliminary Estimate of Project Cost for consideration by the OWNER.

5. The construction contract documents furnished by the ENGINEER shall utilize standard construction contract documents endorsed by the City of Whitefish and Montana DEQ, including required Supplemental General Conditions, Contract Change Orders, and partial payment estimates. The ENGINEER will add supplemental specifications as required for the specific needs of the proposed project.

6. The construction plans and specifications will be completed in compliance with the MDEQ Circular DEQ-2, Design Standards for Wastewater Facilities.

7. The ENGINEER will meet with the OWNER during the preparation of draft plans and specifications to discuss the project documents and receive input from the OWNER and public works staff. Multiple meetings are anticipated.

8. Prior to advertisement for bids, the ENGINEER will provide 4 copies of detailed drawings, specifications, and contract documents for use by the OWNER, DEQ and the appropriate Federal, State, and local agencies from whom approval of the project must be obtained. The cost of such drawings, specifications and contract documents shall be included in the basic compensation paid to the ENGINEER.

9. The drawings prepared by the ENGINEER shall be of sufficient detail to permit the actual location of the proposed improvements on the ground. The ENGINEER shall prepare and furnish to the OWNER without any additional compensation, three (3) copies of exhibits showing the needed construction easements, permanent easements and the land to be acquired, if any.

10. The ENGINEER will investigate the need for obtaining special construction permits and will either secure the necessary permits or include the requirements to obtain the permits in the construction contract documents applicable to the construction contractor.

VI. PROJECT BIDDING AND CONTRACT AWARD

1. The ENGINEER will prepare an Advertisement for Bids for the OWNER and will notify Builders Exchanges and other venues of the projects' availability for bidding.

2. The ENGINEER will develop a system for electronic bidding of the project and will post the Project Documents on the firm's website allowing view by potential bidders and subcontractors.

3. As needed, the ENGINEER will furnish additional copies of the drawings, specifications and contract documents as required by prospective bidders, material suppliers and other interested parties. The ENGINEER will collect adequate charges from prospective bidders to cover the cost of reproduction of the project documents. Upon contract award, the ENGINEER will furnish to the OWNER up to three (3) sets of the drawings, specifications and contract documents for execution. The cost of these sets will be included in the basic compensation paid to the ENGINEER

4. During project bidding, the ENGINEER will answer bidders' questions, provide written clarifications and/or addenda, convene and preside over a pre-bid meeting. Records will be kept on the pre-bid meeting and written responses prepared for bidder's questions.

5. The ENGINEER shall review all necessary Pre-Qualification information submitted by potential bidders in order to determine qualifications of equipment suppliers needed to properly undertake the proposed project scope.

6. The ENGINEER will assist with or attend the bid opening and tabulate the bid proposals, make an analysis of the bids and bidder eligibility, and make recommendations for awarding contracts for supply of specified equipment.

7. The ENGINEER will review bids for compliance with funding agency specifications including US Steel provisions, MBE/WBE participation and other applicable standards.

8. The ENGINEER will assist in award notification to the successful bidder and notify and return bid bonds to the unsuccessful bidders.

VII. PROJECT ADMINISTRATION SERVICES

This work task includes general project administration and financial planning for the proposed project up through the final design phase. Work activities include the following tasks:

1. The ENGINEER will develop contracts and manage subconsultants in accordance with the City of Whitefish and funding agency requirements. The ENGINEER will work with the project team to insure that resources are allocated to meet project schedules and contractual commitments. The ENGINEER will insure that subconsultants are reimbursed in a timely manner.

2. The ENGINEER will administer the project in accordance with the City of Whitefish requirements, including applicability of standards to all sub-consultants.

3. The ENGINEER will work with the public, the City Council and City staff to insure that they are fully informed regarding project activities. This effort will include progress reports, press releases, public meetings and postings on the City's website.

4. The ENGINEER will assist the OWNER with development and implementation of the financial package for this project as well as seeking disbursements from the funding programs for project-related expenditures. With respect to the participating funding programs, the ENGINEER will serve as "Project Manager" on this project. Potential participating funding agencies include the MDEQ Wastewater State Revolving Loan Program (SRF), the MDOC-TSEP program and the MDNRC-RRGL funding programs.

5. The ENGINEER will assist the OWNER in the preparation of a SRF loan application if this funding source is utilized.

6. The ENGINEER will work with the OWNER and funding agencies to complete necessary project start-up requirements including review of funding agency agreements, preparation of a project management plan and schedule. The ENGINEER will also provide general assistance to the OWNER in setting procedures for managing project funds.

7. The ENGINEER will maintain a budget for the project with periodic modifications as needed. The ENGINEER will work with the OWNER and seek approval from funding agencies for any project budget revisions necessary to accommodate project modifications.

8. The ENGINEER will assist the OWNER in satisfying applicable environmental review requirements.

9. The ENGINEER will set up and maintain the necessary project grant administration files to satisfy funding agency standards.

10. The ENGINEER will work with the OWNER to insure proper contractor procurement.

11. The ENGINEER will assist the OWNER in preparation of periodic draw down requests from the funding agencies for eligible project costs. Draw down requests will include updated "Uniform Status of Funds" and "Uniform Invoice Tracking" spreadsheets, "Request for Funds" form, all related invoices, and all necessary labor compliance information and certifications.

12. On behalf of the OWNER, the ENGINEER will prepare and submit quarterly project status reports including the "Project Progress Report" to all funding agencies.

VIII. CONSTRUCTION MANAGEMENT SERVICES

The ENGINEER and OWNER will negotiate work scope and costs for project construction management, resident inspection, project startup and closeout engineering services at a later date, during the final design phase of the project.

IX. PROJECT SCHEDULE

These project tasks shall begin upon execution of the agreement between the OWNER and ENGINEER, anticipating a Notice to Proceed in November 2016. The anticipated project timeline is as follows:

• Site survey	Nov-Dec 2016
• Geotechnical Investigation	January 2017
• Preliminary Design Report	February 2017
• Final Draft Equipment Project Documents	April 2017
• Equipment Procurement and Award	May/June 2017
• Final Draft Project Documents	February 2018
• Project Bidding and Award	Spring 2018

X. OWNER'S RESPONSIBILITIES

1. Payment of any applicable state agency review or permitting fees.
2. Secure necessary easements and ownership of project site as necessary to allow design services and project construction.
3. Review and comment on project documents as needed to meet implementation schedules.
4. Advertisement of request for construction bids.
5. Provide direction on compliance with City environmental and architectural requirements.
6. Advertise and hold any public meetings, as required.
7. Assist with special data collection and testing as needed to enable equipment specification and project design.

XI. ENGINEER COMPENSATION

The OWNER shall compensate the ENGINEER for Services described in Exhibit A above on an hourly basis with a cost not to exceed nine hundred sixty six thousand, eight hundred and twenty five dollars ($966,825). This total fee is further broken down on Exhibit B to this Task Order into sub-task categories of Preliminary Design, Equipment Procurement, Final Project Design and Project Administration. Each sub-task category will be accounted for separately on requests for reimbursement made by the ENGINEER as well as the total amount of the engineering fee in terms of amount spent to date and amount remaining. Shifting funds between subtask categories is allowed, within the constraints of the total fee and project budget. Further information governing compensation to the ENGINEER is as follows:

1. Periodic progress payments may be requested and shall be based upon the number of hours, hourly rates and amount of reimbursable expenses which the ENGINEER certifies to have utilized under this Agreement. The ENGINEER may submit monthly requests for payment, based on actual work performed, which must be accompanied by an itemized invoice describing the services furnished, the number of hours worked to accomplish each item, the amount being billed for each item, a description of any other eligible expenses incurred during the billing period and the total amount being billed.

2. Hourly rates, estimated hours per task and estimate of reimbursable expenses are included as Exhibit B to this contract.

3. If OWNER fails to make any payment due the ENGINEER within 60 days for services and expenses and funds are available for the project, the ENGINEER shall be entitled to interest at the rate of twelve (12) percent per annum from said 60th day, not to exceed an annual rate of 12 percent.

EXHIBIT B City of Whitefish WWTP Upgrade Project - Estimate of Time and Cost

Page 1

10/28/2016

Task	AMCE PMgr/SR Eng	AMCE Design Eng	AMCE Drafting	AMCE Adm	RPA PMgr/SR Eng	RPA Design Eng	RPA Drafting	RPA Adm	CTA	P&ID	Misc	
Preliminary Design Services												
Surveying	8		8		4				17000			
Geotechnical Investigation	8			4		8					30000	
Establish Design Criteria	8				2							
Describe Unit Process	8											
Equipment Selection												
Grit Removal	18	8			8							
SBR	24	8			8							
UV Disinfection	16	8			8							
Preliminary Layout and Design	24	16	32		8							
Selection of Architectural Design	8		16		8							
Control and Instrumentation	8				8							
Emergency Power	8				4							
Energy Considerations	8	8										
Report Preparation	12	16	12	12	8							
QA/QC	12	8			16						500	Printing
Review and Meeting with City	12				8						750	Per Diem
Submission to DEQ	4											
Revisions as Needed	8	8		5								
	194	80	68	21	90	8	0	0	17000		31250	
Subtotal	$28,130	$8,800	$6,460	$1,365	$14,850	$1,120	$0	$0	$17,000		$31,250	**$108,975**
Equipment Procurement												
Scope Procurement	16				8							
Review Equipment Procurement Processes and Selection Criteria	16				8							
Specification Standard Specifications	8	16	4									
Funding Agency Specifications	4	8	6	4								
Address US Steel Provisions	4	8										
Technical Specifications	24	16	16	6	16	24						
Document Preparation	16	24	16		16			8				
QA/QC	12				16							
Review with City and DEQ	12	8			8						600	Per Diem
Review Meetings	8				8							
Printing and Production	16	8		16							750	Printing
Project Advertisement	4	8	8									
Address Bidders Questions	24	8			16							
Issue Addenda	16	12	8									
Bid Opening (Bid Opening by City)	8											
Bid Review and Award	16				8							
	204	116	58	26	104	24	0	8			1350	
Subtotal	$29,580	$12,760	$5,510	$1,690	$17,160	$3,360	$0	$640			$1,350	**$72,050**

EXHIBIT B - City of Whitefish WWTP Upgrade Project - Estimate of Time and Cost

Page 2

Task	AMCE					RPA					CTA		P&ID		Misc	
	PMgr/SR Eng	Design Eng	Drafting	Adm		PMgr/SR Eng	Design Eng	Drafting	Adm							
Project Documents																
Lagoon Sludge Management	4	6														
Specification Standard Specifications	8	8		4		8	8									
Funding Agency Specifications	2	16		8			8									
Address US Steel Provisions	4	8					4									
Review of Equipment Submittals	16	16				8	24									
Technical Specifications	40	40	8	16		24	40	8								
Project Layout, Design and Drafting																
General	39	84	74			39	84	74								
Civil Design	42	180	208			42	180	208								
Process Design	57	232	304			57	232	304								
Architectural Design	24	118	138			24	118	138	*Linked to Sheet Counts*							
Structural Design	34	136	182			34	136	182								
Mechanical Design	27	116	118			27	116	118								
Instrumental Design	26	74	68			26	74	68					12000			IPC
Electrical Design	8	0	0			8	24	0				55000				CTA
Geotechnical	4.5	18	9			4.5	18	9								
QA/QC	24	16				16	8									
Development of Cost Estimates	16	24		8		8	16		6							
Review with City and DEQ	24	8				16	8								1000	Per Diem
Production and Printing	12	16		24		8	8		16						1800	Printing
Project Bidding and Contract Award																
Project Advertisement	8			6												
Post Project Documents	4	8		4			4		2							
Review Pre-Qualification Requests	12	8		2		8										
Address Questions	32	16				12	12									
Prebid Meeting and Followup	20			4												
Issue Addenda	16	16		12		8										
Bid Opening (bid opening by city)	8			4		4										
Bid Review and Award	12	4				4									600	
	523.5	1168	1109	92	0	385.5	1122	1109	24	0	0	55000	12000	0	3400	
Subtotal	$75,908	$128,480	$105,355	$5,980		$63,608	$157,080	$121,990	$1,920	$0	$0	$55,000	$12,000		$3,400	**$730,720**
Project Management (15 month design)																
Contract Development	16			8		16										
Subconsultant Procurement	16															
Subconsultant Meetings and Oversight	32			8		16										
Resource Scheduling	16					8										
Engineering Payment Requests	16	8		16		8			24						100	Printing
Financial Planning & Budgeting	24			8												
Funding Agency Startup Conditions	8															
Funding Agency Reports	-			-		-										
Subconsultant Disbursements	16			12												
Project Status Reports	16															
Public/Council Involvement	16			4		8										
General Administration	40			16		24			8							
	224	8	0	80		84	0	0	32						100	
Subtotal	$32,480	$880	$0	$5,200		$13,860	$0	$0	$2,560						$100	**$55,080**
															Total	**$966,825**
															Budgeted Amount	**$1,047,000**

City of Whitefish WWTP Upgrade Project Index of Drawings

General

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Geotechnical Evaluation

FILE

P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

City of Whitefish

October 10, 2012

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Recommendation to Award an Engineering Consultant Contract for the Wastewater Permitting and Facility Improvements Project

Introduction/History

The Public Works Department has advertised a Request for Qualifications from engineering consultants, interviewed finalists and negotiated a contract with the top ranked consultant to provide engineering services for the Wastewater Permitting and Facility Improvements Project.

This memo is to recommend a contract with Anderson Montgomery Consulting Engineers (AMCE) for services to include assistance with tasks necessary to comply with a recent Administrative Order on Consent (AOC) discussed below; renewal of our wastewater discharge (MPDES) permit; and preliminary planning for wastewater system improvements including a major upgrade for the wastewater treatment plant. A consultant contract for this first phase of engineering services has been negotiated in an amount not to exceed $136,500.

Current Report

Administrative Order on Consent (Consent Order)

The AOC, referenced above and in the City Manager's Report, is the result of several violations of our MPDES (Montana Pollutant Discharge Elimination System) Permit over the past 12 months. These include occasions when the treatment plant discharge to the Whitefish River exceeded concentration limits or percent removal requirements for phosphorus, nitrogen or suspended solids, as well as one occasion on which we exceeded the limit for E. coli. These violations are attributed

to an active learning process about the performance of our new flocculating clarifier and disinfection system, especially during high spring flows. Our plant operators have learned from experience and we do not expect this to be a reoccurring problem.

Several other violations were associated with stringent ammonia toxicity tests which our effluent did not pass in the laboratory, but which also did not involve any toxicity risk in the river, whatsoever. This very specific laboratory test is the permit standard and samples taken from our lagoons did not pass during cold weather months. The fact is no conventional lagoon treatment system is capable of removing ammonia under cold weather conditions. All lagoons in Montana subject to Whole Effluent Toxicity tests can be expect to fail this test under similar conditions.

The AOC finally cites five incidents of sanitary sewer overflows (SSO). Please bear in mind, any event where sewage leaves the collection system at a point other than the designated outfall is an SSO by definition. Even if the SSO is contained and cleaned up, without risk to humans or any flow into a body of water, it is still a violation, regardless of how inconsequential the SSO may be.

These comments are not intended to dismiss the importance of permit violations, but to provide some clarity as to the actual risk and consequences involved.

The terms of the AOC include short term requirements for an Optimization Plan to maximize the existing treatment system's capacity for ammonia removal, as well as a Capacity, Management, Operations and Maintenance (CMOM) Plan to identify corrective actions to eliminate preventable SSOs.

Consultant Contract

One of the first tasks in the consultant's Scope of Work is to assist the City in preparing and implementing these plans. Another early task is to prepare an application to renew our MPDES permit, which expires on June 31, 2013. The renewal application is due by January 1st and considerable follow up and negotiation with the Department of Environmental Quality (DEA) is expected over the next 18 to 24 months.

The largest man-hour component in this initial phase of services will be preliminary planning for our eventual treatment plant upgrade. This work includes the following subtasks.

- Consideration of a 20 year planning period, with an evaluation of population growth and projected treatment demands,
- Wastewater characterization studies,
- Assessments of various treatment technologies and visits to other plants,
- Development of nutrient trading options,
- Monitoring of regulatory developments and
- At least one public presentation.

Financial Requirement

The Public Works Department and AMCE have negotiated a contract for the services described above in an amount not to exceed $136,500. This cost will be covered under the Wastewater Fund's capital line item for Wastewater Improvements. Seventy percent (70%) of this expense will be covered by Impact Fees.

Recommendation

We respectfully recommend the City Council authorize the City Manager to execute a consultant contract for the first phase of engineering services for the Wastewater Permitting and Facility Improvements Project with Anderson Montgomery Consulting Engineers in an amount not to exceed $136,500. Additional provisions for funding assistance, detailed engineering design, construction management and related services will be subject to future negotiations and City Council approval.

Sincerely,

John C. Wilson
Public Works Director

REQUEST FOR STATEMENTS OF QUALIFICATIONS
For the Whitefish Wastewater Permitting and Facility Improvements Project

In accordance with Title 18, Chapter 8 of the Montana Code (MCA) and adopted City policy for consultant selection, the City of Whitefish, Montana is seeking Statements of Qualifications (SOQs) from qualified engineering consultants to provide engineering and related consulting services for the Whitefish Wastewater Permitting and Facility Improvements Project.

The consultant selection process will consist of two steps; an initial ranking to identify three, or possibly four, finalists through a ranking of SOQs and interviews, followed by a Request for Proposals from the selected finalists and ultimate ranking based on the Selection Committee's evaluation of those Proposals.

Project Description

The City of Whitefish currently operates an aerated lagoon wastewater treatment system with a phosphorus removal clarifier. The design average daily flow is 1.25 MGD and effluent is continuously discharged to the Whitefish River. The City's MPDES permit expires in June 2013 and an application for permit renewal must be completed by the first of the year. In conjunction with the permitting process, the City must also plan for capital improvements and administrative/operational strategies to meet permit requirements for ammonia and nutrients.

The City's goal is to award a consultant contract in the summer of 2012. The scope of work may include, but will not necessarily be limited to:

- Renewal of the City's MPDES permit
- Compliance with a recent DEQ Administrative Order on Consent (AOC), with an emphasis on ammonia and nutrient limits. A copy of the draft AOC is attached.
- Facility planning, as necessary to accommodate evolving policies and regulations for nutrient reduction
- Preparation of Preliminary Engineering Reports and funding applications to various State and Federal funding agencies
- Identification of funding sources and preparation of applications for State and Federal funding programs
- Engineering design for new wastewater treatment facilities
- Preparation of construction drawings and specifications
- Bidding assistance
- Construction management
- Preparation of record drawings and O&M manuals
- Related tasks

The scope of work, budget, method of payment and project schedule will be determined through negotiations with the selected consultant.

Work on the MPDES permit renewal and AOC compliance will begin immediately. Facility planning and design tasks will move forward as promptly as may be practical.

Although funding sources have yet to be determined, the City intends to pursue all reasonable options for grants and loans from appropriate State and Federal agencies, as well as the sale of revenue bonds. All services provided under a consultant agreement resulting from this selection process, as well as subsequent construction contracts, shall be in full compliance with all requirements of applicable funding programs.

Required Services

The consultant services required under this request may include, but will not necessarily be limited to:

- Overall project management, including public involvement, grant and loan applications, grant administration and coordination with regulatory agencies and private utilities.
- Assistance with MPDES permit renewal.
- Facility planning and assistance necessary to comply with the AOC.
- Preliminary engineering, surveying and final design for wastewater facility improvements identified through the facility planning process.
- Preparation of easements, various presentation materials, newsletters, reports, construction drawings, specifications and bid documents.
- Bid administration.
- Construction management, observation, and testing.
- Preparation of record drawings and O&M manuals.
- Warranty inspections.
- Related tasks.

Closing Date and Mailing Address for Submittals

SOQs will be accepted until 4:30 p.m. on Wednesday, June 27, 2012, in the City Clerk's Office, City of Whitefish, 418 East 2nd Street, (P.O. Box 158) Whitefish, Montana, 59937. Submittals shall include six (6) complete bound copies of all requested information, clearly identified as "Statement of Qualifications for the Whitefish Wastewater Permitting and Facility Improvements Project." Faxed or emailed proposals will not be considered.

Minimum Requirements

As a minimum requirement, each SOQ must include:

1. The prime consulting firm's legal name, address and telephone number.
2. An organizational chart and resume for the proposed Project Manager and each professional staff person and subcontractor who would be assigned to the project. The information must include statements of relevant qualifications and experience, anticipated responsibilities on this project, involvement in any of the projects referenced below, and office assignment (location).
3. A statement of the assigned individuals' qualifications and ability to assist the City in renewing its MPDES permit and complying with the AOC.
4. A statement of the project team's qualifications and experience in identifying funding sources, preparing applications and administering grants and loans from State and Federal funding programs for similar projects.
5. A statement of the project team's qualifications, experience and approach to facility planning, design and construction for wastewater treatment systems to meet permit requirements for ammonia and nutrient reduction. Attention should be given to challenges and solutions for small communities with aerated lagoons subject to emerging policies and regulations for ammonia and nutrient reduction. Please provide three examples of similar planning and construction projects completed within the past ten (10) years, including scope of work, project dates, and contact information.
6. Projected workload and capability to meet project schedules through 2016.
7. Capability to meet project budget requirements.

SOQ's shall be no longer than fifty (50) pages, not counting resumes.

Evaluation of Qualifications

Each SOQ will be ranked according to the following criteria.

1. The assigned individuals' qualifications and experience in assisting communities with MPDES permit renewal and compliance with AOCs. 15%
2. The firm's qualifications and experience with facility planning for nutrient reduction programs and wastewater treatment systems for small communities with aerated lagoon treatment systems. 25%
3. The firm's qualifications and experience with design and construction management for wastewater treatment systems. 20%
4. The firm's past work for the City of Whitefish or references for similar work in similar communities. 15%
5. The firm's ability to meet project schedules and work within project budgets. 10%
6. Office location for personnel who would be assigned to the project 10%
7. Clarity of submittal and responsiveness to the Request for Qualifications 5%

Selection Process and Contract Negotiations
The consultant selection process will involve two steps. First, SOQs will be ranked by a Selection Committee in accordance with the criteria above. The five firms with the highest ranked submittals will be invited to interview. The three, or possibly four, highest ranked firms following interviews will be invited to participate in the next step.

Second, the finalists will receive a Request for Proposals (RFP). Responses will involve a written Proposal and presentation. The Selection Committee will determine the final ranking following the presentations.

Contract negotiations will begin as soon as possible with the qualified candidate whose Proposal is deemed most advantageous to the City, all factors considered. If the City determines acceptable terms cannot be reached, the City then will terminate negotiations and continue with the next highest ranked finalist. The City may choose to expand an engineering contract resulting from this selection process to include similar or related work.

This solicitation is being offered in accordance with federal and state statutes governing procurement of professional services. The City therefore reserves the right to negotiate an agreement based on fair and reasonable compensation for the scope of work and services proposed, as well as the right to reject any and all responses deemed unqualified or unresponsive.

Questions should be directed to the Whitefish Public Works Director, John Wilson, by telephone at 406.863.2460, email at jwilson@cityofwhitefish.org or written correspondence mailed to P.O. Box 158, Whitefish, Montana 59937.

Advertisement Published:
May 27, 2012
June 3, 2012
June 10, 2012
June 17, 2012

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MANAGER REPORT

November 16, 2016

RESORT TAX COLLECTIONS

Resort Tax collections were up by 1.2% in September which equaled an increase of $4,092. For the year-to-date after three months of collections, we are 13.01% or $161,113 ahead of last year's collections.

NEW EMPLOYEE

Cody Morris of Whitefish will start on November 14th as an Assistant Operator in the Public Works Department – Streets.

CITY HALL/PARKING STRUCTURE CONSTRUCTION UPDATE

Mike Cronquist has an update on the construction project attached to this report.

MEETINGS

Pre-Bid Tour of Depot Park Building (11/10) – I had scheduled a tour of the Depot Park building for prospective bidders who might want to purchase and move the building. Three representatives of the North Valley Music School attended the tour and looked at the crawl space, attic, roof, offices, and exterior of the building. I have since received a telephone call from a second party that may be interested. Bids from prospective buyers of the building are due on December 8th.

UPCOMING SPECIAL EVENTS

December 9th – Christmas Stroll – Central Avenue 5:30 p.m. to 9:00 p.m.

REMINDERS

Thursday and Friday, November 24-25 – City Hall closed for Thanksgiving Holiday

December 5th – Noon luncheon at the O'Shaughnessy Center for presentation of Affordable Workforce Housing Needs Assessment (followed by a shorter presentation that night at the City Council work session).

December 15-16 – Reception and interviews for City Manager candidates

December 19th – City Council meeting cancelled. Happy Holidays.

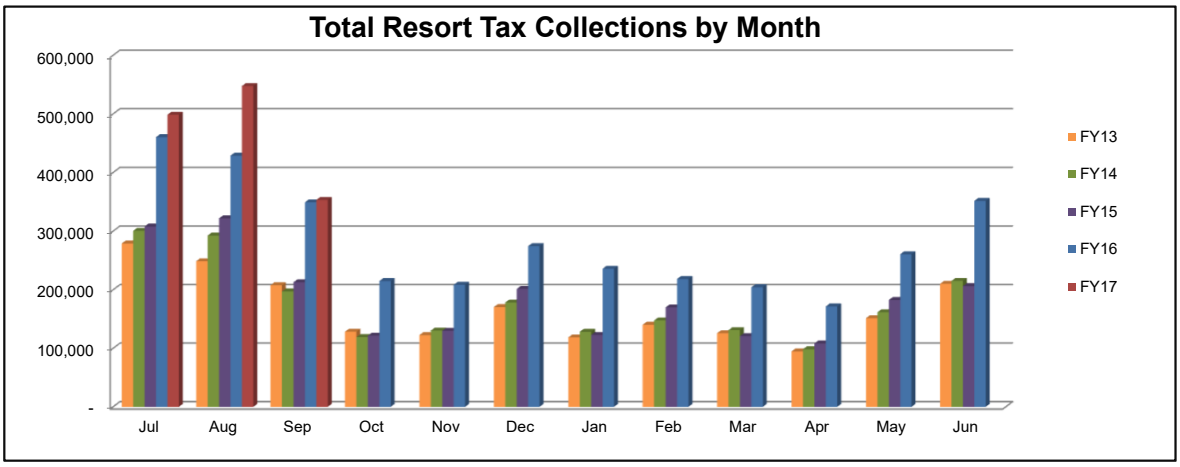
Chuck

Respectfully submitted,
Chuck Stearns, City Manager

Resort Tax Report
Reported in the Month Businesses Collected Tax

(Starting FY16 Resort Tax Rate Increased from 2% to 3%)

Month/Year	Lodging	Bars & Restaurants	Retail	Collected	% Chng Mnth to Pr Yr Mnth	% Chng Quarter to Pr Yr Quarter	Interest	Total
July 2014	84,053	104,935	118,876	307,864	2.5%		440	308,304
August 2014	93,049	117,674	111,016	321,739	10.0%		498	322,236
September 2014	49,804	84,149	78,813	212,767	7.9%	6.6%	246	213,013
October 2014	18,589	50,665	52,266	121,519	2.0%		604	122,123
November 2014	8,530	43,076	78,311	129,917	-0.3%		359	130,276
December 2014	20,944	74,617	105,885	201,446	13.0%	5.9%	293	201,739
January 2015	15,285	52,940	54,543	122,768	-4.2%		281	123,049
February 2015	25,805	74,286	69,705	169,795	15.1%		166	169,961
March 2015	16,336	51,183	53,368	120,887	-7.8%	1.6%	227	121,114
April 2015	11,755	50,637	45,835	108,227	10.0%		263	108,490
May 2015	23,911	61,756	96,773	182,441	13.0%		288	182,728
June 2015	39,483	78,394	88,316	206,194	-4.1%	4.6%	301	206,495
					YTD Compared to Last Year			
Total FY15	**$ 407,543**	**$ 844,313**	**$ 953,707**	**$ 2,205,564**	or	5.05%	**$ 3,966**	**$ 2,209,529**
FY14 vs FY15	6.04%	6.59%	3.32%	5.05%		$ 106,094	Taxable Sales FY15	$ 116,082,301
July 2015	117,769	166,601	176,012	460,383	-0.3%		377	460,760
August 2015	104,061	172,434	152,226	428,722	-11.2%		375	429,097
September 2015	113,548	112,210	123,398	349,156	9.4%	-2.0%	410	349,565
October 2015	28,753	95,909	90,167	214,829	17.9%		545	215,373
November 2015	12,917	65,378	130,291	208,586	7.0%		527	209,113
December 2015	27,515	112,463	134,468	274,446	-9.2%	2.7%	484	274,929
January 2016	26,527	105,037	104,312	235,876	28.1%		505	236,381
February 2016	30,945	85,771	101,640	218,356	-14.3%		500	218,856
March 2016	24,069	96,976	83,334	204,379	12.7%	6.2%	977	205,356
April 2016	18,683	77,007	75,952	171,643	5.7%		1,047	172,690
May 2016	33,058	95,579	131,878	260,515	-4.8%		1,112	261,628
June 2016	83,753	127,974	139,896	351,622	13.7%	5.2%	1,990	353,612
					YTD Compared to Last Year - See Note Below			
Total FY16	**$ 621,599**	**$ 1,313,338**	**$ 1,443,575**	**$ 3,378,512**		2.12%	**$ 8,849**	**$ 3,387,361**
FY15 vs FY16 (2% vs 2%)	1.68%	3.70%	0.91%	2.12%	or	$ 46,777	Taxable Sales FY16	$ 118,544,269
July 2016	117,574	200,804	180,232	498,610	8.3%		765	499,375
August 2016	182,129	188,792	176,595	547,516	27.7%		562	548,078
September 2016	99,874	131,365	122,010	353,248	1.2%	13.0%	870	354,118
October 2016				-				-
November 2016				-				-
December 2016				-				-
January 2017				-				-
February 2017				-				-
March 2017				-				-
April 2017				-				-
May 2017				-				-
June 2017				-				-
					YTD Compared to Last Year - See Note Below			
Total FY17	**$ 399,576**	**$ 520,960**	**$ 478,837**	**$ 1,399,374**		13.01%	**$ 2,198**	**$ 1,401,572**
FY16 vs FY17 (3% vs 3%)	19.14%	15.45%	6.02%	13.01%	or	$ 161,114	Taxable Sales FY17	$ 49,100,828
FY17 % of Collections	29%	37%	34%					
Grand Total	**$ 5,783,639**	**$ 11,871,531**	**$ 14,022,227**	**$ 31,677,397**			**$ 770,807**	**$ 32,448,754**
% of Total Collections	18%	37%	44%				2.5%	Average since '96



	Total Taxable Sales Since 1996
FY96-FY15	$ 1,415,763,781
FY16-YTD	$ 167,645,098
Total	**$ 1,583,408,879**

	Total Collected
FY96-FY15	$ 28,315,276
FY16-YTD	$ 5,029,353
Total	**$ 33,344,629**

	5% Admin
FY96-FY15	$ 1,415,764
FY16-YTD	$ 251,468
Total	**$ 1,667,231**

	Public Portion
FY96-YTD	**$ 31,677,397**

NOTE: The increases from the prior year in FY16 are calculated at a 2% vs. 2% rate. However, the dollar figures collected are actual collections at the 3% rate. FY17 figures are all calculated and reported at 3% vs. 3%.

PROJECT REVIEW

DATE: 15 November 2016

CITY OF WHITEFISH

NEW CITY HALL and PARKING STRUCTURE

REPORT TO CITY COUNCIL and STAFF for 21 November, 2016 COUNCIL MEETING

ACTIVITIES – THIS PERIOD

- Completed tightening post tensioning cables in the third element of the Parking Structure elevated ramps.
- Began rotating formwork for the fourth section of Parking Structure ramps.
- Interior framing is approximately 95% complete.
- Ceiling grids are 95% complete.
- Started installing drywall on the second floor of the City Hall – approx. 80% complete.
- The hollow metal door frames have been installed on the second floor.
- Continuing final elements of HVAC ductwork.
- Began receiving and installing brick on the south face of the City Hall – approx. 30% complete.
- Continued mechanical & electrical installation throughout the CH. Installed main switchgear at electrical entrance – City Hall.
- Completed alley paving – alley is now open to "normal" access.
- The storefronts and windows are in production and are expected to arrive within 4 – 6 weeks.
- The sliding doors for the Council Chambers conference area have also been ordered.

ACTIVITIES IN PROGRESS

- Crews are removing and rotating deck forms into place for the fourth ramp.
- Crews are beginning to install embeds and rebar for the last concrete ramp.
- Work is also progressing on columns and barrier walls in the Parking Structure.
- Brickwork is moving along on the South face of the City Hall.
- Masons are also continuing work on the CMU stairwells in the Parking Structure - as areas become available following deck concrete.
- An inspection has been performed by FEC for the new electrical power switchgear and FEC is scheduling permanent power connections.

- Mechanical and plumbing work is continuing in the City Hall.
- Drywall continues for the second floor of the City Hall. Dry-wall crews will proceed "from the top down"
- Martel is installing temporary heaters and finishing closing-in the building in preparation for drywall work in the City Hall.
- Continue HVAC work in the CH.
- Continue misc. concrete columns on the Parking Structure, along with the last ramp.

ACTIVITIES PLANNED (3 WEEK LOOK AHEAD)

- Place PT concrete – fourth ramp section, PS (Scheduled for the week of Nov.28th.)
- Perform final cable tensioning efforts.
- Continue mechanical and electrical work – CH.
- Boiler and AHU tie-in work.
- Continue receiving brick for the CH.
- Continue brick installation – City Hall, south face (2nd Street).
- Continue drywall – City Hall
- Begin taping and texturing drywall – City Hall.
- Continue setup of electrical switchgear and power-up of interior spaces.

FUTURE SCHEDULED ACTIVITIES

- Complete brickwork – Second Street, City Hall.
- Begin exterior brick installation -west face, City Hall.
- Begin exterior brick work – PS, west face.
- Potentially receive and start installing store fronts.
- Possibly receive the doors for the Council Chamber conference room.
- Begin installing ceilings on the second floor.
- Continue mechanical and electrical connections for heating and cooling systems.
- Complete ductwork connections to AHU's.
- Continue CMU for elevator shafts – Parking Structure
- Begin receiving components for the CH elevator and possibly start installation.

CONTRACT ACTIVITIES

- None, this period.

COMMUNICATIONS TO THE PUBLIC

- No formal communications this period.

AREAS OF CONCERN

- One post tension cable in a cross beam (G2) broke during the tensioning of the last concrete ramp pour. The engineer at Kimley-Horn was consulted about the cable breaking and said that it did not pose any structural or stability concern as there is plenty of other cable strength and redundancy

designed into the structure. Post tension cables can break when tensioning and that is why such redundancy is designed into the structure. There are 15 post-tension cables in that beam. The engineer instructed Martel Construction to put the broken cable back in its epoxy sleeve in the concrete slab to help prevent any water from getting into the area. The cable break seemed to be a flaw in fabrication, but the cause cannot be exactly determined.

Mike Cronquist
Owners Representative

SITE PHOTOS

Fig. 1 PARKING STRUCTURE – NE CORNER

Fig. 2 PARKING STRUCTURE –ENTRY

Fig. 3 TURNING UP TO SECOND TIER

Fig. 4 ENTERING THE SECOND TIER

Fig. 5 BRICK DETAIL AT STOREFRONT

Fig. 6 CORNER DETAIL

Fig. 7 COUNCIL CHAMBERS

Fig. 8 COUNCIL CHAMBERS CONFERENCE ROOM

Fig. 9 ENTRANCE TO COUNCIL CHAMBERS (CEILING GRID DETAIL AT TOP)

Fig. 10 CITY MANAGER'S OFFICE

Fig. 11 STAFF OFFICE (TYP)

Fig. 12 ADMINISTRATION AREA

MEMORANDUM
#2016-032

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – Consideration of proposals to lease retail/restaurant/office space in Parking Structure and authorize City Manager to negotiate a lease for future City Council consideration

Date: November 15, 2016

Introduction/History

Included in the design of the Parking Structure was a lease space for retail, restaurant, or office space. The lease space is in the NW corner of the parking structure at the corner of East 1st Street and Baker Avenue. The space is 2,824 square feet with two bathrooms and is currently unfinished space, with the finishing of the space to be dependent upon negotiations with a possible tenant or tenants. The existing construction contract currently provides for completely finishing the bathrooms, no concrete floor until electrical and plumbing needs are determined, finished walls other than interior walls (taped, but not painted), and electrical connections in ceiling for lights and electrical connections in the walls.

The Downtown Master Plan update adopted on April 6, 2015 called for this space to be retail or commercial. A key aspect of this portion of the plan was the desire to "activate" the corner with "ground-floor retail space should be designed to accommodate retail uses that will serve local residents". It was also meant to serve as a retail linkage from Central Avenue to the Railway District. Copies of the relevant pages from the Downtown Master Plan Update are attached to this report.

On December 7, 2015, the City Council approved capitalizing three years of lease revenue from this lease and using $162,000 of Tax Increment Funds to put into the cost of the Parking Structure project. Thus, we should get at least $54,000 per year from a lease to repay this capitalization loan.

Our realtor, Chap Godsey, marketed the leasing of the property for us. A copy of the marketing materials are attached to this report.

Current Report

Chap Godsey and the City have received two proposals for leasing all or a part of the space. Copies of the two proposals are attached to this report. One proposal is from Glacier Sotheby International Realty and they would like the entire 2,824 square foot space in a five year lease with options to renew for two additional five year terms at an initial rate of $19.50 per square foot ($55,068 annually). The other proposal is from the Pig and Olive Sandwich Shoppe which is currently located in the Stumptown Marketplace. The Pig and Olive only wants half of the space (the eastern half which is where we designed kitchen facilities to be) and their rate is $18.00 per square foot which was our minimum ($25,416 annually). There is some interest from at least one other vendor, but that interest has not yet generated a proposal. It could come in later however.

We do need to make some decisions on a tenant as materials have to be ordered such as a second set of doors if there are two occupancies and the finish work needs to be negotiated, designed, ordered, and installed.

The Real Estate Advisors, Mayor Muhlfeld, Andy Feury, Chuck Stearns, and Dana Smith met with Chap Godsey on Thursday, October 27th to review the proposals. At that meeting, it was decided just to forward both proposals on to the City Council for consideration without a recommendation, but to include some pros and cons of each proposal. Those strengths and weaknesses are listed below. There may be other pros and cons that can be added to the list as well.

Glacier Sotheby International Realty Proposal

Strengths	Weaknesses
Great financial proposal - $19.50/ square foot. Meets and exceeds financial target without a second tenant	Not ground level retail space anticipated in Downtown Master Plan update
Strong tenant – wants three 5 year leases with inflation	Maybe not as geared toward local clientele as retail or restaurant, but retail and restaurants also cater heavily to visitors
Realtors familiar with location – some were with Coldwell Banker when it was there	No resort tax generation
They want the entire space.	Franchise of International Realty Firm with local owners - formula aspects of City Code don't apply to Professional offices except on Central Avenue
Less turnover with this tenant than with others	

Pig and Olive Sandwich Shoppe

Strengths	Weaknesses
Meets ground level retail space aspect of Downtown Master Plan update	Only want ½ the space so would generate only $25,416 – would have to obtain another tenant to meet financial targets.
Meets minimum financial lease target rate of $18 per square foot	Still somewhat of a fledgling restaurant, moving out of Stumptown Marketplace incubator – does not have the financial track record of Glacier Sotheby. Has had some Resort Tax delinquencies.
Should generate a lot of foot traffic and help "activate" the corner	Proposal not as well put together as Glacier Sotheby's proposal, but Glacier Sotheby's proposal is easier to put together.
Local, not franchise or formula owner	Would require addition of a kitchen and grill hood with sprinkling, adding $20,000 to $50,000 to cost of needed improvements.
Will generate additional resort tax revenues	Restaurants, unless successful, may not have as long term tenancy, thereby creating more turnover, vacancy, advertisements for tenants and less revenue.

Financial Requirement or Revenues

As shown above and in their proposals, Glacier Sotheby's proposal is for $55,608 per year during the first five years and Pig and Olive's proposal is for $25,416 annual for ½ of the space. The Pig and Olive proposal will require more improvements by the City, but that is subject to negotiation with prospective tenants.

Additional Costs:

There are additional costs to finish the leased space regardless of the tenants. Architect Ben Tintinger said that he couldn't design the finish of the space 18 months ago when we were designing and pricing the project because he didn't know what to finish it for – a restaurant or retail/office. I have asked Ben to estimate the remaining costs for either a restaurant or retail/office. At this point, I only know the following estimated costs:

HVAC (w or w/o kitchen hood and make-up air) – If two spaces, the HVAC is estimated to cost $30,000 per side or $60,000 total, but we think that estimate may be high. I have also asked for an estimate for the HVAC if one tenant takes the entire space for retail/office. If a restaurant goes in, there is also a cost for the kitchen hood and make-up or replacement air for that venting and that estimate may be $20,000 to $40,000.

Plumbing (w or w/o grease trap) – No estimate yet, but a grease trap for a restaurant will add to the cost.

Electrical and Lighting – no estimate yet because it depends a lot on tenant desires.

Concrete Floor – no estimate yet as it depends if there are electrical services provided in the floor.

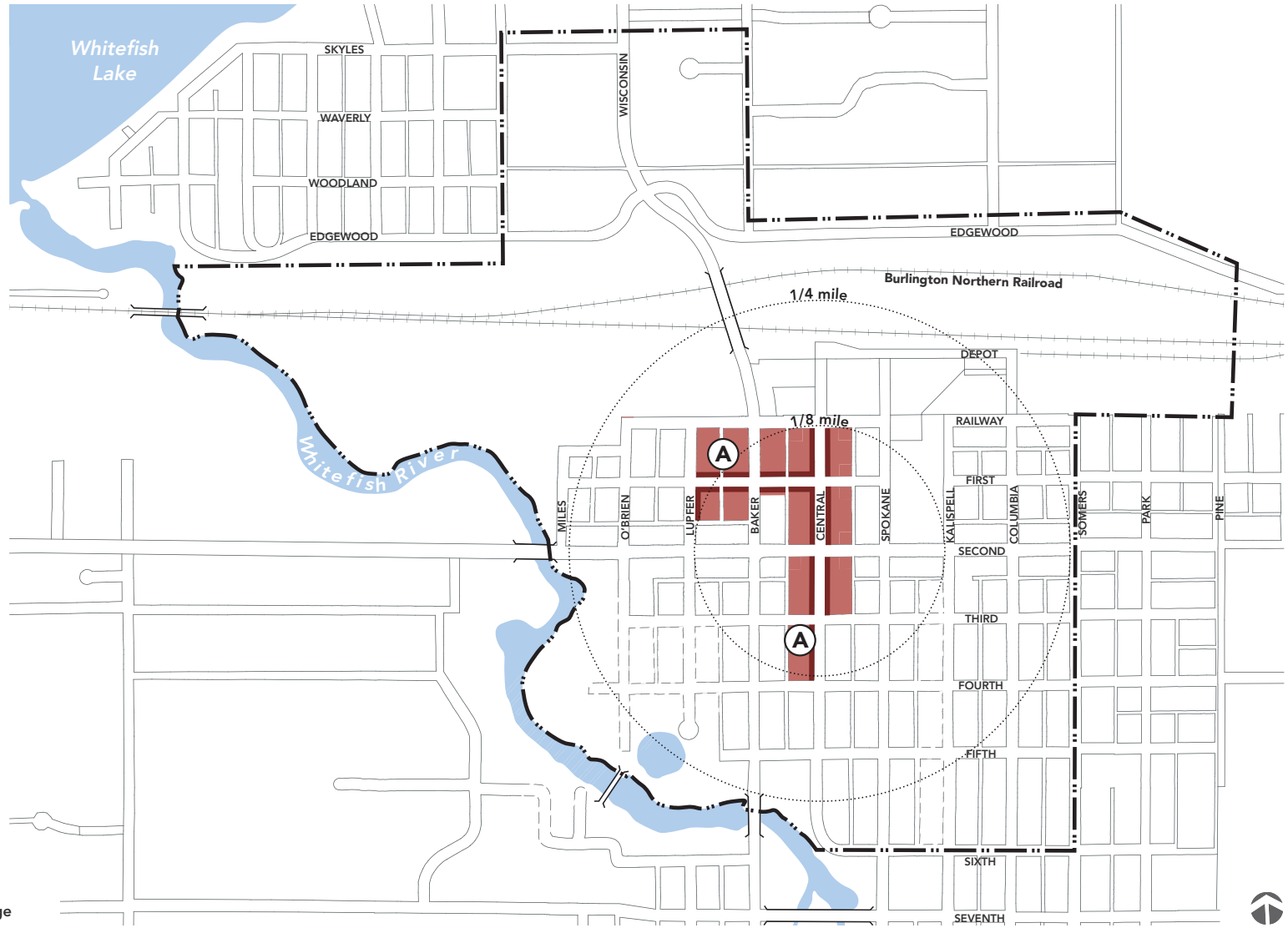
So we may have in excess of $100,000 additional cost depending on the occupancy. These costs are not yet in the budget and exceed what remains in the construction contingency and in my ancillary costs account. Once we negotiate with a potential tenant, we will be able to get better cost estimates.

Recommendation

Staff respectfully recommends the City Council authorize the City Manager to pursue negotiations with one of the businesses that submitted proposals to lease the 2,824 square foot space in the parking structure and return to the City Council with a proposed lease for approval.

attachments

Retail Elements



LEGEND

- Retail Block
- Storefront Retail Frontage
- (A) Retail Anchor Block

SHOPPING LOOP RETAIL EXPANSION

120,000 square feet of additional retail uses has been identified at build-out for parcels along the shopping loop. The identified development would occur within two anchor block project areas:

- Railway District Anchor Blocks—Properties that comprise this anchor area are owned by multiple entities (Blocks 26, 27, 37 and the City Hall parking structure). To maximize investment, a collaborative redevelopment approach should be fostered
- Central Avenue South Anchor Block— Properties within this anchor block are owned by both public and private entities (Existing municipal parking lot and single family residential parcels). A public-private partnership or acquisition of private property by the City of Whitefish will likely be required for implementation of this concept

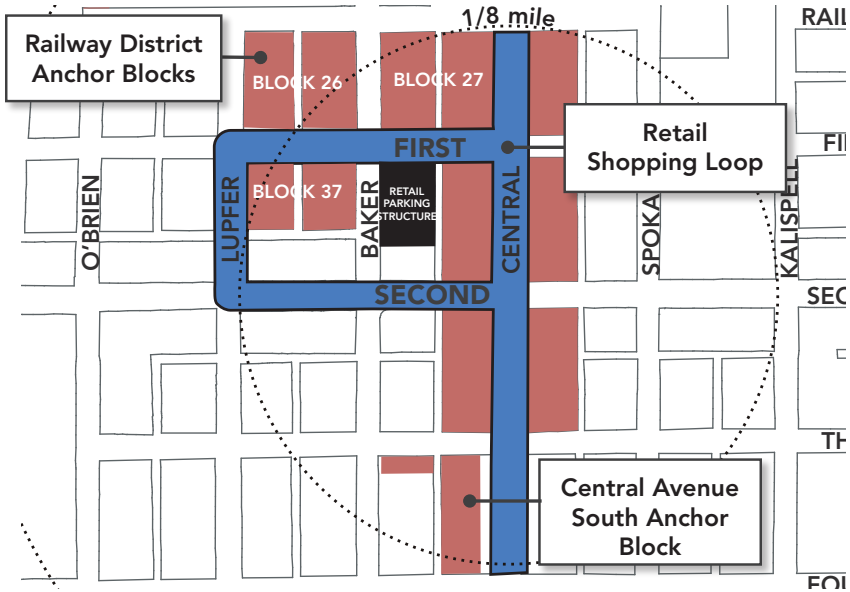
Railway District Anchor Blocks Projects

Retail storefronts are envisioned to extend westward from Central Avenue along First and Lupfer in the Railway District. Along this corridor, new development that accommodates both small and large floor plate retail establishments should be fostered. Uses that serve local residents such as a grocery or pharmacy should be recruited for these blocks, especially in the city-owned parking structure.

The retail expansion plan (opposite page) and massing diagram (Page 62) Illustrates the location of ground-floor retail storefronts, and building heights and massing that conforms to current zoning development standards. Buildings are setback from existing property lines along First and Lupfer to allow development of shopping loop street improvements.

As part of a zoning code update, the maximum size of buildings may need to be revised to permit larger uses by right rather than conditionally. The Railway District Anchor Blocks projects include:

- **Block 26–** envisions an assembled development site that includes a large Baker Avenue-oriented single story anchor along with multi-story commercial uses fronting First Street. Apartments or condominium uses are suggested as a transition and buffer between the new uses and existing uses along Lupfer. Retail and commercial-serving parking (along with possibly public parking) could be located in a basement level below the retail anchor building.



- **Block 37–** envisions smaller-scaled development on a parcel-by-parcel basis. Mixed-use buildings that include commercial, residential and ground floor retail uses are suggested. To maximize building size, parking is proposed in a shared lot behind the buildings. A shared parking development agreement between property owners and approval by the city would be required for implementation.
- **Block 27–** envisions a 'boutique' hotel, and commercial or residential development over ground floor retail fronting First Street. Development of the hotel would require relocation of the existing grocery use. Relocation of the grocery store to Block 26 should be investigated.

Additional redevelopment is also envisioned within the ground-floor of the City Hall parking structure (corner of First and Baker) and retail storefront infill sites along First Street and Central Avenue.

Shopping Loop Retail Expansion Plan– Railway District Anchor Blocks

LEGEND

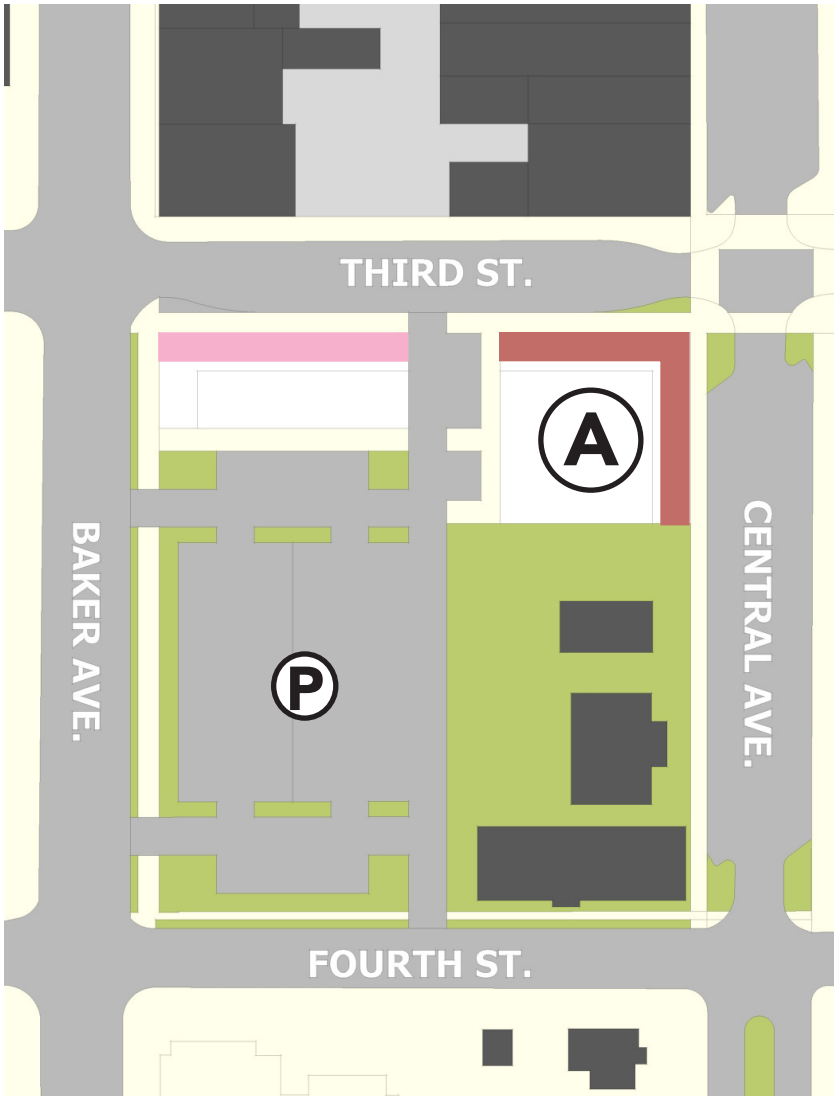
- Ground-Floor Storefront Retail
- Existing Ground-Floor Storefront Commercial

CENTRAL AVENUE SOUTH - RETAIL ANCHOR

A retail anchor is envisioned to replace the existing municipal parking lot at the southwest corner of Central and Third.

- As part of the redevelopment, a replacement parking facility (lot or long term future structure) site has been identified for the half block site between Third and Fourth Streets along Baker Avenue. The site should be acquired by the City and constructed before or concurrently with the redevelopment of the existing parking lot.
- Existing commercial uses fronting Third Street may remain or the parcels may be redeveloped as multi-story commercial buildings.
- The retail anchor building may be a single use or may include upper floor uses such as lodging, office, or residential uses.
- The removal of retail serving parking on the corner of Third and Central should not take place unless replacement parking is provided. Replacement parking should be relocated to serve Central Avenue retail.

Retail Anchor & Parking Plan



LEGEND

- Ground-Floor Storefront Retail
- Ground-Floor Storefront Commercial
- (A) Retail Anchor
- (P) Public Parking

PUBLIC PARKING

A downtown parking facility often serves as a Downtown's 'front door,' leaving either a lasting positive or negative impression on visitors and residents alike. It is simply good business practice to provide well-located, safe, and easy-to-use public parking that welcomes the shopper and supports other uses.

Providing adequate downtown parking requires that strategically located parking facilities meet the following key objectives; 1) ensure a competitive shopping environment with outlying highway commercial areas; 2) provide adequate spaces to meet future demand for employees, visitors, and those seeking government services.

PARKING STRUCTURES

Parking structures are expensive and due to their massing and scale, have a potential to negatively impact the pedestrian environment and architectural character of the downtown. With these concerns in mind, they must be sited and designed correctly. They should be located where they will be utilized most effectively by retail customers and their form and scale can be visually mitigated. The sites should be large enough for structures to be constructed efficiently, and located along major access routes. The parking structure sites include:

City Hall Retail Structure–The structure should be constructed to serve City Hall, but have a primary function of serving downtown retail and commercial customers. Internal vehicle circulation should be designed to avoid conflicts (one-way preferable); vertical circulation (grouped elevators and stairs) should be provided at both the north and south ends of the structure; ground-floor retail space should be designed to accommodate retail uses that will serve local residents.

Spokane Avenue and Second Street Parking Lot (Long Term Structure)– Over time, structured parking should replace the current City parking lot. As part of the structure, ground-floor commercial storefronts should be located along the Second Street and Spokane Avenue frontages.

South Retail Anchor– This parking facility would replace parking lost as a result of constructing a retail anchor at the current Central Avenue municipal lot (Central and Third). Initially this site would be a parking lot and would transition to a structure over time.

Block 26 Public/Private Parking Structure– A public or private parking structure, as demand warrants, may be included as part of the Block 26 redevelopment.

PARKING LOTS

Surface lots provide additional parking where there is a lower retail parking demand that can be met by a lot rather than a structure. Additionally, outlying lots can function as employee parking facilities. All parking lots should be constructed with adequate landscape screening from streets and sidewalks. The parking lot locations include:

Central Avenue Municipal Lot– Relocated to the half block west between Third and Fourth when a retail anchor is constructed at this site.

O'Brien Avenue Lot– Located north of Second Street, this site would serve retail and commercial uses and employee parking needs in the Railway District.

Snow Storage Lot–Located northeast of Railway Street and Columbia Avenue this site would provide parking during summer seasons for school, downtown activities, and employee use

Intersection of East 1st Street And Baker Avenue Whitefish, MT

PRIME COMMERCIAL LEASE SPACE IN DOWNTOWN WHITEFISH, MT

- *New Construction*
- *Accepting Lease Proposals until JULY 1st, 2016*
- *2,824 Sq. Ft. Leased as ONE WHOLE SPACE or 2 SEPARATE SPACES*
- *MINIMUM LEASE RATE $18 / Sq. Ft.*
- *Lease Term— 1-10 YEARS as NEGOTIATED*

Chap Godsey Broker, GRI, CRS

RE/MAX of Whitefish

509 E. 6th Street Whitefish, MT

chap@aboutmontana.net

406-261-8403

Information is deemed reliable, but not warranted by Re/Max of Whitefish and is subject to change.

PRIME COMMERCIAL LEASE SPACE IN DOWNTOWN WHITEFISH MONTANA

View of the subject commercial space located at the intersection of East First Street and Baker Avenue

THE CITY OF WHITEFISH IS NOW ACCEPTING LEASE PROPOSALS UNTIL JULY 1, 2016 FOR THIS PRIME COMMERCIAL SPACE ATTACHED TO THE NEW PARKING GARAGE AND CITY HALL. LOCATED AT THE INTERSECTION OF EAST FIRST STREET AND BAKER AVENUE, THE 2824 SQUARE FOOT SPACE CAN BE LEASED AS 1 WHOLE SPACE OR 2 SEPARATE SPACES. MINIMUM LEASE RATE OF $18/SQ.FT NNN.

AFTER JULY 1, 2016, THE CITY WILL REVIEW ALL SUBMITTED PROPOSALS AND THEN DETERMINE WHICH PROPOSAL AND TENANT OPPORTUNITY IS IN THE BEST INTEREST OF THE CITY.

THE CITY IS LOOKING FOR A TENANT WHO OFFERS THE MOST ATTRACTIVE LEASE TERMS AS WELL AS A TENANT WHO WILL DRAW PEDESTRIAN AND RETAILACTIVITY TO FIRST STREET, BAKER AVENUE, AND BEYOND.

THE CITY RESERVES THE RIGHT TO REJECT ANY AND ALL OFFERS UNITL THEY DETERMINE IF A PROPOSAL MEETS BOTH OF THESE GOALS AND MAY DECIDE TO EXTEND THE PROPOSAL DEADLINE PERIOD IF NEEDED.

PLEASE CONTACT CHAP GODSEY AT RE/MAX OF WHITEFISH FOR MORE INFORMATION.

chap@aboutmontana.com or (406) 261-8403

FEATURES

* **Location:** SE corner of Baker Avenue and East First Street

* **Parking::** Adjacent to parking structure with 212 spaces, at least 81 of which will be free retail spaces for customers with a 3 hour limit

* **Sq. Ft.:** 2,824 sq. feet as one space or dividable into two equal spaces of 1,412

* **Floor:** Concrete floor, slab on grade to be finished by City prior to occupancy. Flooring installed by lessee. The concrete floor is currently left out in the center of the space to facilitate any in floor electrical or plumbing for a tenant (1st Tenant). The floor concrete floor could be installed by the City or the Tenant.

* **Walls:** Drywall and taped provided by lessor; painting or finishes provided by lessee.

* **Windows:** Provided and Installed

* **Utilities :** Electricity - provided with separate meter; Paid by Lessee

  Natural Gas- Provided with Separate Meter; Paid by Lessee

  Water Sewer– Provided with Separate Metering or usage estimate paid by lessee

  Other Utilities- Provided by Lessee

- Vented to Outside for possible restaurant with kitchen on east side of premises
- 2 Bathrooms provided—on same water meter as retail
- 2 Doors on East 1st Street provided; no exit doors onto Baker Avenue—There is an exit out of the south wall of the space that leads to pedestrian opening of the parking garage on to Baker, although , this would not be an entry.
- Delivery via SE entrance in parking structure or from East 1st Street.

* **Lease Term: 1 to 10 years as negotiated**

* **Pricing: minimum of $18 per Sq. Ft.**

Please Contact

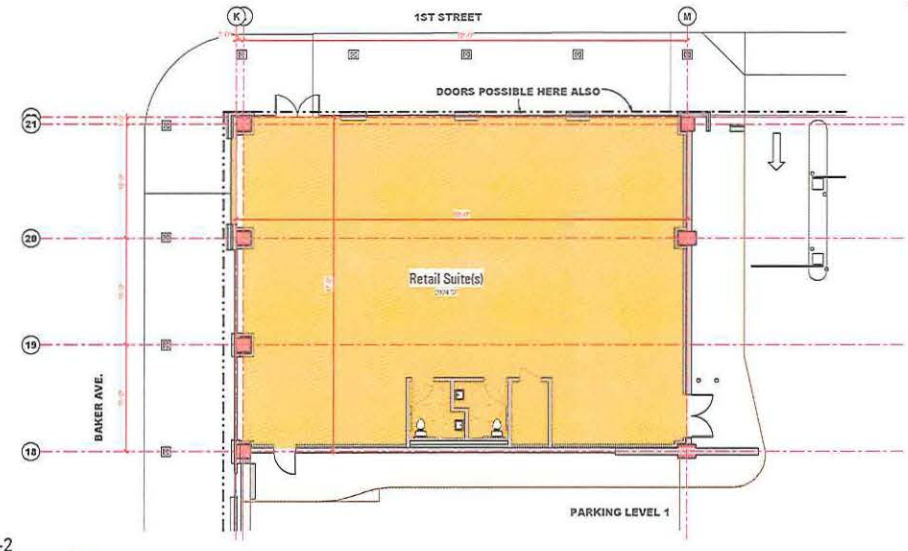
Chap Godsey Broker, GRI, CRS

RE/MAX of Whitefish 509 E. 6th St. Whitefish, MT (406) 863-3400

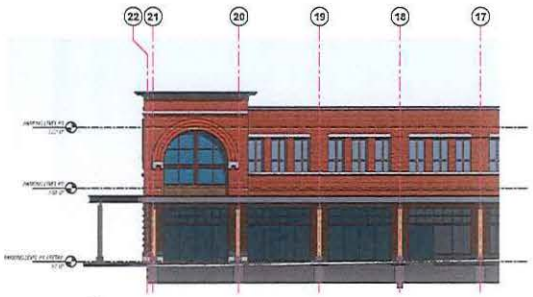
Whitefish Parking Garage & Retail Space

Whitefish, MT

R-1
mosaic | Baker & 1st Street
Whitefish Downtown Parking Structure



R-2
mosaic | RETAIL SUITE PLAN
Whitefish Downtown Parking Structure

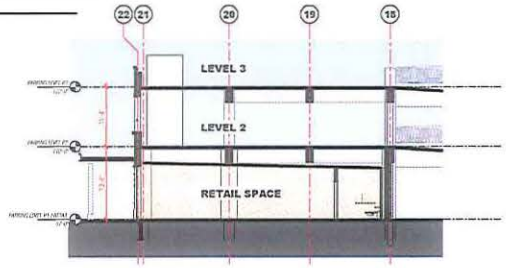


1 West Elevation - Retail Area
3/32" = 1'-0"

2 North Elevation Retail Area
3/32" = 1'-0"

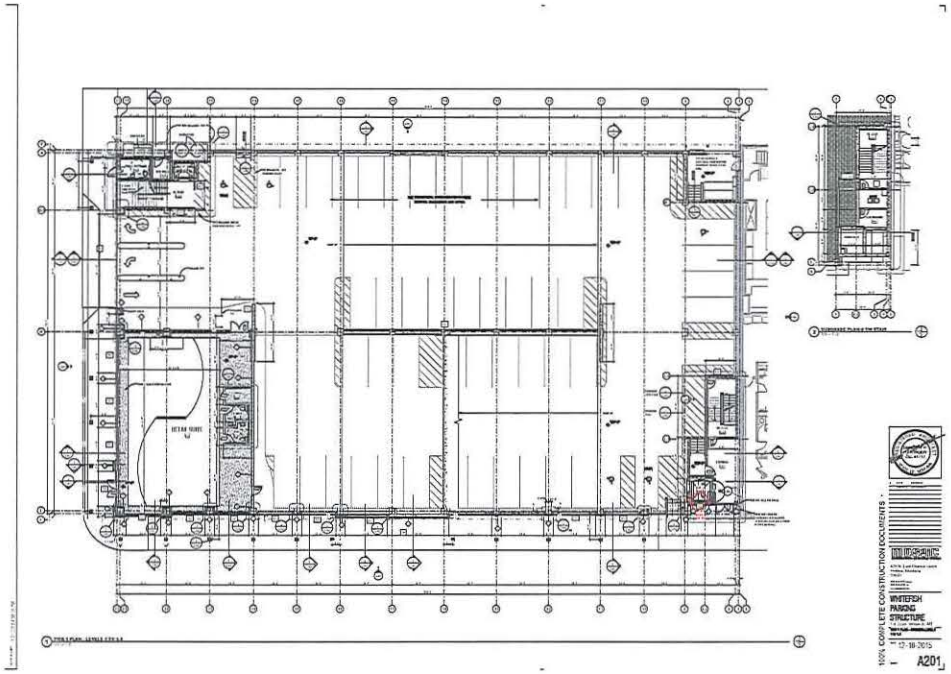
R-3
mosaic | RETAIL AREA ELEVATIONS
Whitefish Downtown Parking Structure

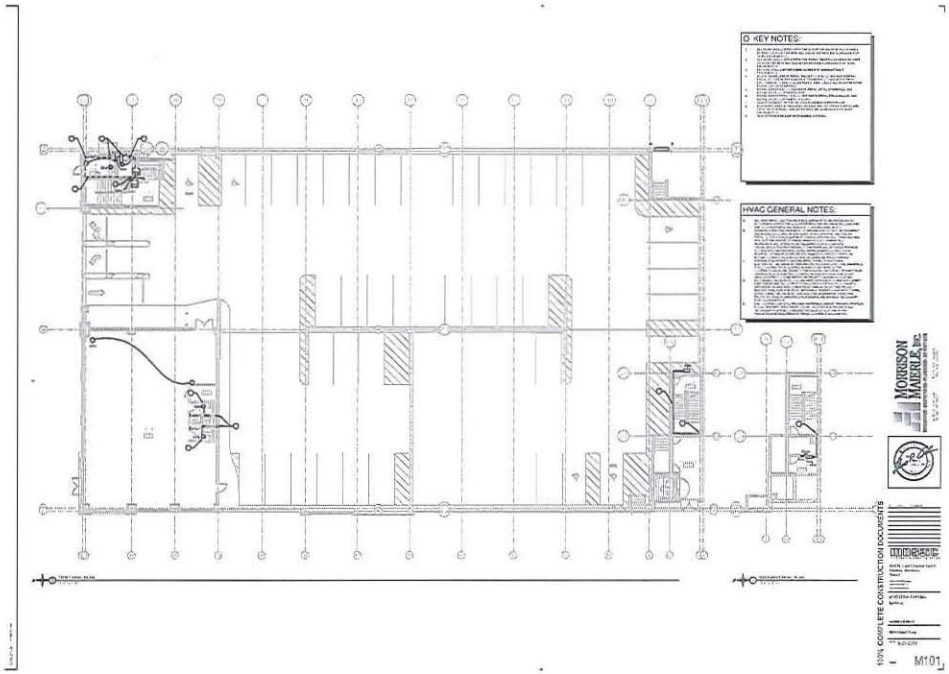
2 PG WE North Platforms Looking North
3/32" = 1'-0"

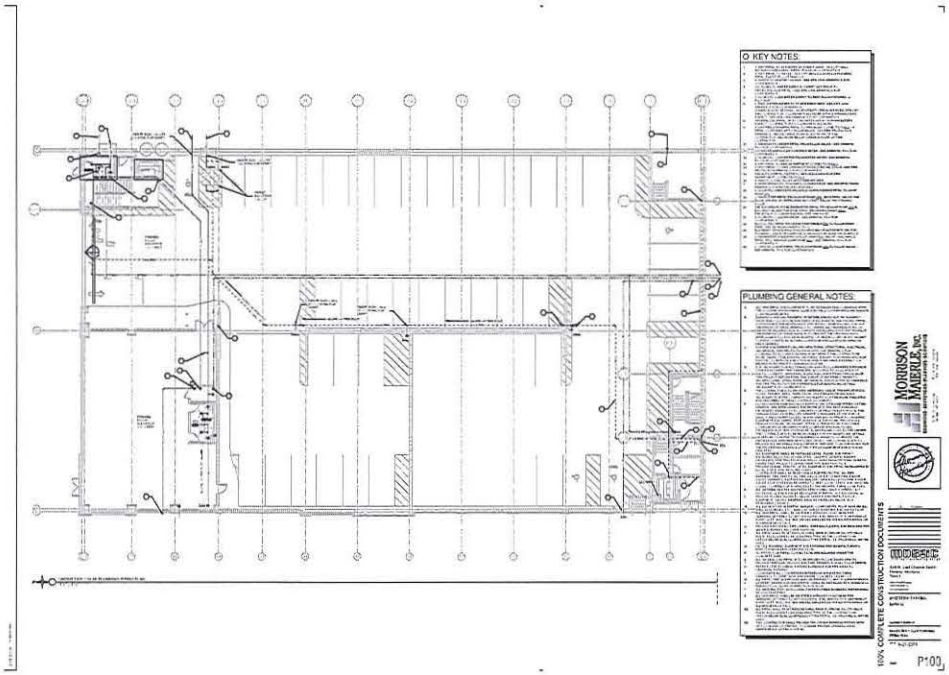


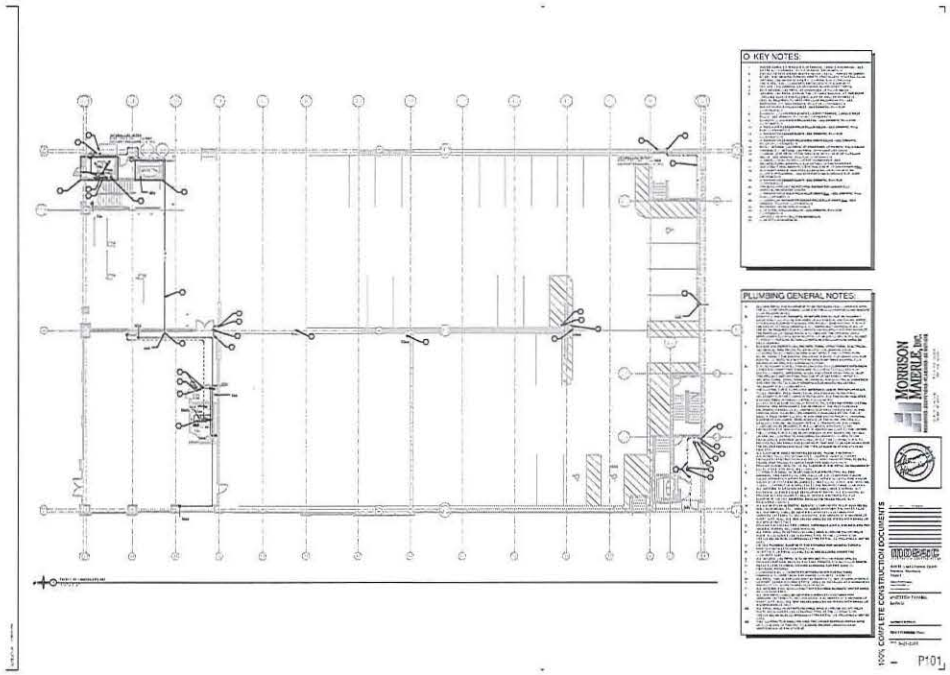
1 PG NS West Half Looking East
3/32" = 1'-0"

R-4
mosaic | SECTIONS - RETAIL AREA
Whitefish Downtown Parking Structure


WHITEFISH
PARKING
STRUCTURE
12-18-2015
100% COMPLETE CONSTRUCTION DOCUMENTS
A201


KEY NOTES:
HVAC GENERAL NOTES:
MORRISSON MAIERLE, Inc.
100% COMPLETE CONSTRUCTION DOCUMENTS
M101


O KEY NOTES:
PLUMBING GENERAL NOTES:
MORRISON MAIERLE, INC.
100% COMPLETE CONSTRUCTION DOCUMENTS
P101


O KEY NOTES:
PLUMBING GENERAL NOTES:
MORRISON MAIERLE, INC.
100% COMPLETE CONSTRUCTION DOCUMENTS
P101

Glacier

Sotheby's
INTERNATIONAL REALTY

100 Baker Avenue
Whitefish, MT 59937
t 406.863.3060
f 406.863.3066
info@glaciersir.com
glaciersothebysrealty.com

July 29, 2016

Chap Godsey
Re/Max of Whitefish
509 E 6th Street
Whitefish, MT 59937

Dear Chap:

The following is a letter of intent for Glacier Sotheby's International Realty to lease the premises at 405 1st Street E, Whitefish MT from the City of Whitefish.

The premises will be taken as described under the Features information that is hereby attached.

The lessee intends to utilize the premises for a real estate sales office. The office will be open 6 days per week and by appointments on Sunday.

Lease payments will be for $55,068 per year for 5 years to be paid monthly. Tenant shall have an option to lease for 2 additional 5 year terms with annual cost of living adjustments after the initial 5 year term based upon CPI.

All costs of interior improvements to be borne by tenant. Tenant will carry insurance for personal property.

Landlord shall maintain exterior of premises, with the exception of window washing and tenant's signage.

Glacier Sotheby's International Realty (GSIR) would be a great tenant for this location. GSIR has been open in Whitefish since 2004. The business has been successful in many aspects, and is well funded. The ownership group has many business interests in Whitefish, and intends on continuing their investments in Whitefish.

The parking garage will be a focal point for citizens of Whitefish as well as visitors to our area. GSIR would provide intellectual capital as well as collateral material to help people in understanding locations of community & business attractions in the Whitefish area as well as the Flathead Valley.

Each Office Is Independently Owned And Operated

Glacier

Sotheby's
INTERNATIONAL REALTY

100 Baker Avenue
Whitefish, MT 59937
t 406.863.3060
f 406.863.3066
info@glaciersir.com
glaciersothebysrealty.com

GSIR employees and agents are well versed on the City of Whitefish and the Flathead Valley. Office hours will be 8:30-5 Monday through Friday and 10-2 on Saturday. Sunday would be by appointment only.

The stability of GSIR would ensure the City of Whitefish an ongoing income stream with no tenant turnover.

Please contact me with any questions or concerns.

Respectfully submitted,

Ross Pickert
President
Glacier Sotheby's International Realty
100 Baker Avenue
Whitefish MT 59937

406.863.3060 office
406.253.2148 cell
rpickert@glaciersir.com

Each Office Is Independently Owned And Operated

FEATURES

*** Location:** SE corner of Baker Avenue and East First Street

*** Parking::** Adjacent to parking structure with 212 spaces, at least 81 of which will be free retail spaces for customers with a 3 hour limit

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*** Floor:** Concrete floor, slab on grade to be finished by City prior to occupancy. Flooring installed by lessee. The concrete floor is currently left out in the center of the space to facilitate any in floor electrical or plumbing for a tenant (1st Tenant). The floor concrete floor could be installed by the City or the Tenant.

*** Walls:** Drywall and taped provided by lessor; painting or finishes provided by lessee.

*** Windows:** Provided and Installed Lighting, permanent heating/cooling, mechanical makeup air for restaurant, mechanical venting for restaurant, and

Specific tenant equipment is not provided for the space. These are tenant specific items and anticipated to be installed by the Tenant.

*** Utilities :** Electricity - provided with separate meter; Paid by Lessee

Natural Gas- Provided with Separate Meter; Paid by Lessee

Water Sewer– Provided with Separate Metering or usage estimate paid by lessee

Other Utilities- Provided by Lessee

- Vented to Outside for possible restaurant with kitchen on east side of premises
- 2 Bathrooms provided—on same water meter as retail
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- Delivery via SE entrance in parking structure or from East 1st Street.

*** Lease Term: 1 to 10 years as negotiated**

*** Pricing: minimum of $18 per Sq. Ft.**

Chuck Stearns

From: Stinson, Al <AStinson@fnf.com>
Sent: Tuesday, November 08, 2016 12:35 PM
To: jmuhlfield@cityofwhitefish.org; Andy Feury; Chuck Stearns
Cc: Ross Pickert; Pat Donovan (pdonovan@glaciersir.com); Foley, Bill; Richard Atkinson
Subject: Various

Gentlemen

Let me introduce myself. My name is Al Stinson. Lisa and I have lived in the area for about 10 years, mostly on the Lake outside of the City. We have recently moved to 434 Dakota where we built a new home. For your info we paid building permit fees of about $29,000 which I consider to be outrageous. I am CEO and a shareholder of Sotheby's in Whitefish, Big Fork, Kalispell, and Missoula. I am also a shareholder and board member in GRG restaurant group. I guess you know we own Craggy Range, McRiver, Lattitude 48 and Mambo's in the downtown area. GRG has over 88 restaurants, many of them in the surrounding area and states. In addition, my partner, Bill Foley, owns a controlling interest in Winter Sports, Inc. and is the sole owner of Glacier Jet Center. Bill and I both have substantial real estate holdings in the area and as far as I know are considered good residents. We both are involved in numerous charitable causes in the Flathead Valley.

We have watched the management of the City from afar and consider it a dismal example of how government should be run. The most recent debacle is the huge investment in the City Hall which is totally unmerited. You could have bought the Army Navy site, or other site, slapped up some walls and have a perfectly acceptable office for a government entity. I can assure you that our GRG & Sotheby's offices are not nearly as fancy as your city hall will be. We are tasked with returning profit to the shareholders. Your job is to give good value to your citizens and you have not done so. However, you built it so what's done is done. So, that brings us to my concern which is to maximize the ROI on this investment in the best interest of the residents.

You have 2850 square feet of space which is available for lease. Sotheby's has made a very solid proposal to lease this space. As I understand it the space will be available in May of 2O17. I am told that you do not consider the space suitable for our operation and would prefer to have a restaurant. We are ready to go with a 5 year lease to occupy the space when ready which will begin to start returning cash flow to the city. Also, I hear that of all things you would rather have a restaurant in the space that is totally unsuitable for that. What will happen is you will get a restaurant in there with very little experience and they will be busted within a year and you will start all over in filling the space. That is absolutely not in the best interest of the city, irrespective of what some study tells you to do. If a restaurant would work, we would be all over the opportunity through GRG. Also, I want to make sure you are not being influenced by John's wife who works for a competitor in the real estate business. I believe National Parks Realty is the downtown city area as was Christy's at one time. Hopefully that is not the case, but I do wonder.

I welcome your response and would be happy to sit down with you and share my views and experience. As you may or not know I was CEO of a Fortune 500 company with a current market cap of $9.2 billion, so I have quite a bit of business experience. In addition, a number of years ago I headed up a task force to review the City of San Antonio's operating budget, so believe me I have a good understanding of city waste.

Now that we live in the city, I plan on taking an active role in monitoring the City's financial affairs. I suspect the local papers will be interested in hearing my views on public finance issues.

Best regards,

Alan L. Stinson

October 18, 2016

Proposal details for Pig & Olive:

Pig & Olive proposes a base rent of $25,416($18 psf)per year, payed in monthly installments of $2,118. Pig & Olive would be responsible for utilities, insurance and common area maintenance fees assoiciated with the leased property, and the lessor(City of Whitefish) would be responsible for property taxes.

In regards to finishes of the interior space, Pig & Olive would be responsible for floor finishes, wall finishes, lighting fixtures and any interior walls to be built.

The City of Whitefish would be responsible for installing electrical and plumbing in the space, with outlet, light switch, drains etc. to be planned by Pig & Olive. The City of Whitefish would also install the kitchen hood, venting, make up air unit and fire suppression.

Also, after speaking with Chap Godsey, he indicated that another proposed tenant might need more than half of the available space to make their business work, and we would be willing to look at different configurations to make this work for both parties, if necessary. We are also willing to negotiate on the above proposal.

Thank you,

Patrick & Molly Burns, owners of Pig & Olive

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Chuck Stearns

From: Michelle Howke
Sent: Thursday, November 03, 2016 8:07 AM
To: Chuck Stearns
Subject: FW: Sound ordinance in Whitefish

From: sacountryman@gmail.com [mailto:sacountryman@gmail.com]
Sent: Wednesday, November 02, 2016 6:06 PM
To: Michelle Howke <mhowke@cityofwhitefish.org>
Subject: Sound ordinance in Whitefish

Attention Mayor and City Council,

Please consider this as my request to add the following to the upcoming Council agenda as a review of the current Sound Ordinance within the city limits of Whitefish.

My name is Scott Countryman and I live at 239 Dakota Avenue in Whitefish. I along with other neighbors in the Dakota and Minnesota blocks between Skyles and Waverly have been dealing with a neighbor who insists upon playing his garage stereo at levels several times higher than any construction going on in the area. It has resulted in several noise complaints that get answered by Whitefish PD, but with no resolution because the tools for enforcement aren't in place.

I understand that the current sound ordinance allows for noise of any level to persist between the hours of 7:00am and 10:00pm. I don't know if that's fully accurate, but that's my understanding. The goal of the current ordinance is to create a "noise window" for construction and other necessary city functions to occur during daylight hours. Of course any citizen who might be adversely affected by construction noise within the allowable window at least knows that it's a temporary inconvenience because whatever project that's causing the noise will eventually be completed.

In cases such as ours, there's no project completion date. There's no stipulation for acceptable audible levels. There's no delineation between necessary vs unnecessary noise. Without those things, we end up with unnecessary noise played at unnecessary volumes within the hours of 7:00am and 10:00pm that interferes with our ability to enjoy our backyard whether it be for dinner, yard work, or whatever. Sadly, often times, the music volume exceeds the volumes of the construction occurring just across the street from our front yard. I have asked the neighbor politely to turn down the music but that is met with a defiant, I don't have to, attitude.

It's the vagueness of the ordinance that prevents our Police Department from having the tools needed to enforce sensible noise within our neighborhood. I'm asking the City to consider establishing a sound permit requirement within the existing sound ordinance policy. In this way, the 7:00am – 10:00pm window remains in tact, but an enforceable line is drawn between necessary and unnecessary noise inside city limits. Examples of the sound permit process might include having a construction company apply for a sound permit as a part of the building permit process if the construction is occurring in a residential neighborhood. Or, if an outdoor musical event is to be conducted in Depot Park, require that a sound permit be submitted. This informs police and potentially neighbors that the noise has been permitted and a clear range of dates/times established. If there's no permit on file, the PD would have the ability to shut down the offender until such time a permit is garnered.

I think this would be a very simple modification to the sound ordinance that could be managed within our existing permitting processes while giving our PD the tools to keep our neighborhoods enjoyable. Thank you for taking this issue under consideration.

Sincerely,
Scott Countryman

Chuck Stearns

From: bdialw1@bresnan.net
Sent: Tuesday, November 15, 2016 10:11 AM
To: Mike Ferda; Dave Herman; Shane Erickson; Tim Schuch; Ryan Zebro; Reese Stahlberg; Josh Fields; Rob Veneman; Trey Nasset; Chase Garner; Kevin Conway; Hunter Boll; Bridger Kelch; Daniel DeCoite
Cc: Chuck Stearns
Subject: 240 Minnesota

Gentlemen,
If we receive any more noise complaints from 240 Minnesota, the guy who plays his music very loudly in his garage, you will issue him, Mr. Hassler, a citation. His neighbors have complained to the City Council stating that we did not have the adequate ordinance to enforce. We do, its called disturbing the peace. No more warnings. Cite him! Any questions, c me Bill W-1

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

received
11/21/16

November 21, 2016

Whitefish City Council

RE: Whitefish Housing Authority Board Position

Dear Council,

I regret to inform you that I will be unable to attend today's interview for the Housing Authority Board due to my work situation. Should you find a need to fill this position later please keep me in mind. I do support John Livingston for this position and believe he will do a fine job for you.

Thank you for your consideration.

Becky Forbis
100 4th St E Apt 109
Whitefish MT 59937

Michelle Howke

From: Marcia O'Neil <bobon203@gmail.com>
Sent: Sunday, November 20, 2016 9:07 PM
To: Michelle Howke

Dear City Councillors, I read with dismay Mr. Stearns report on the possible renters in the new parking garage. It is important, I think, to try to find a use that would bring people and activity to that corner. I am by the current real estate office at the end of 1st St. multiple times a day. It is a dead building with no life or vitality. I cannot believe that to have them move across Baker would be a positive use for the prime space in the new garage nor a plus either for the Downtown or the Railway District. I am very sympathetic to the financial ramifications of your decision, but wonder if you might table your vote until the garage and City Hall are completed and thus more appealing looking. If you must make a decision this citizen would choose Pig and Olive. I apologize for not being at the meeting. I know that it is more meaningful than an e-mail. However, since I have been alone I do not go out in the evening unless it is unavoidable. Good luck, thank you for your excellent service, and Happy Thanksgiving, Marcia O'Neil, 113 E. 1st Street

November 20, 2016

Re: Sotheby's in the parking building

Sotheby has a great location right now but I never see a car in front of the building and it is dark and uninviting. I have been in every real estate office except that one. And I walk by it every day. It has great parking and drive-by exposure. A very good makeover is what is needed. Open up the front facade. Windows, unique decor, something. But don't just move 60 feet to the Parking Structure and take 40 parking spaces needed by the community for customers for other businesses. Downtown and the Railway district are desperate for parking.

There is a change happening now regarding what people want when they vacation. When people come to any resort, they want an experience and enjoy themselves with new local people that they meet. They want to go where local people go. Unique local stores with friendly local people, nice connection with the local people during their stay, skiing/boarding/X-C, taking pictures, some nice meals not with just tourists. Once they have an Experience in Whitefish, they may think about buying and living here. By then, they have started the online search and talked with agents.

But if there is more real estate offices, mortgage companies, rental offices, magazines of houses for sale than good experiences in Whitefish, the town has officially become boring. I have seen this in other resort towns, beach towns, Santa Fe downtown... After one quick walk around town, the reality sets in that the biggest business in town is selling houses. Whitefish becomes Anywhere USA.

Don't let this happen to Whitefish. Keep us unique, fresh and vibrant. Put something exciting and bright and inviting in that place. There is no rush to fill this space. Wait to find the right business. Our first impression to downtown is only made once. Don't let it be yet another real estate office.

Nola Howard

Nov 21 City Council meeting Re: Firebrand HotTub

Dear City Council Members,

I think that it is safe to say that the Firebrand will not stop at having just a Hot Tub on the roof. They will want music and speakers on the walls, and the roof open to non-guests, weddings and private parties of non-guests, live music events, a bar service and maybe even food. All of this makes a 4th floor that is against current zoning and building regulations. And 11pm is too late for residential areas to have noise from these venues.

Lawsuit threat or not, do not allow this Hot Tub to be installed. And remove the speakers they installed against #22 too. Remove the Fireside website invitation to have weddings and gatherings on the Rooftop deck. Have the windows darkened so that the school children and staff do not see naked guests in the rooms. Stop the selling of parking spaces to guests and non-guests and sending other guests to park on the neighboring streets.

If the requirements of #22 have not been fulfilled or there is a refusal to accept the CUP, then please close the rooftop to any use. What a shame to lose that stellar view but if Firebrand cannot accept what is legally possible with current zoning laws, then not allowing the rooftop use at all is the best option. That view can be a huge draw for the hotel, made sophisticated and different from 'every other bar in town with a hot tub on the roof'. Make it one of a kind, the best view in town. Without the noise and overbearing atmosphere of the hot tub. Dare to be different.

On this past Wednesday, a worker was yelling loudly on the top level of the Parking Structure and I was over 330 feet away on 1st Street. It was 7:30am, wet streets and light mist/fog. I could hear the man clearly as he yelled loudly at something on the roof. It was alarmingly loud even at that distance. I was so concerned that I walked a block to see what was wrong. But it was not an emergency, just loud yelling by the worker. This is what I expect to be heard from the Hot tub from the Firebrand to people at the School, the Church, the businesses on Spokane, the streets and the yard of the School and the residential homes in the area at all times of the day and week. Highly unacceptable.

The Decibel testing done by firms hired by Firebrand provided incomplete testing that did not do sampling times appropriate for the purpose. Testing on the street would need to include both quiet and noisy traffic times on Second street and Spokane. That would mean sampling of at least 8 hours and then averaging done by the Decibel meter using the SPL-A. The 1 minute testing done are not acceptable. Testing located at the School brick wall would be essential as noise will pass by the 3 foot glass fence with little sound dampening. Noise from the guests in and around the Hot Tub and roof area will add to the noise of the streets to make it louder. Noise will reflect off the hard surfaces of the Brick wall of the school, other buildings, streets and send noise into the nearby church and past the residential property lot lines.

Trees and short cedar or glass fences do not provide sound proofing. Occupants of churches, schools and residential properties will be able to hear the beat of drums from music, the soft and loud shouting of men and women, and know that music is playing and hear the high and low pitch of loud voices and music. It will disturb the peace of anyone near. The Decibel testing is used for testing of speakers and ambiance noise. But it cannot equate loudness or intensity of noise, multiple tones or pitch or intermittent noise that is heard by the human ear. There will be disturbance to the lives in the entire area near the Firebrand if this is allowed. It is wrong on so many levels to allow this to adversely affect our community school, church and residential homes. <u>Please deny this request now, once and for all.</u>

Regards, Nola Howard

Michelle Howke

From: Shelby Powell <thepowells@bresnan.net>
Sent: Monday, November 21, 2016 9:10 AM
To: Michelle Howke
Subject: Hot topics

Follow Up Flag: Follow up
Flag Status: Completed

Hi Michelle,

Just my two cents for the meeting tonight. My husband and I live on Second Street.....one block away from The Firebrand Hotel.
We think it is a fabulous addition to our town. The building is beautiful and the lobby/bar inside is such a classy and fun place to hang out.
Whitefish has needed an upscale hotel like this downtown. There are no nice places to stay within walking distance of downtown that are this classy.
It has been very much needed. I ask the council to please consider allowing them to put in a hot tub. It is not going to bother anyone in the neighborhood.
I also think they need a liquor license as well. We went there for drinks after a play and they were not allowed to serve food or drinks after ten.
That's such a bummer for us and for guests returning back to their rooms. It's just silly to stifle their success.

On another note.....is the recycling center by the train depot permanent? It is such a horrible eyesore to an area with such a beautiful view.
Can't the recycling center be moved over by The Fire station....or somewhere where it isn't prominently on display. It's so ugly right there.
These are my only grievances. I appreciate all you do steering our little town in the right direction. I know it is not an easy job.
Thank you for your service.

Shelby Powell
www.stumptownartstudio.org

City of Whitefish
P.O. Box 158 418 E 2nd St.
Whitefish Mt. 59937-0158

Michael R. Higgins
235 Goodane
Whitefish Mt. 59937

received
11/10/16

Whitefish City Council

I have been informed that it is the intention of the city council to annex a piece of my property into the city limits on Nov. 21 2016 Located @ 235 Goodane.

The history of that piece of property is that it did not exist in the early '70s. I dumped 11,000 cubic yards of fill to make down for my children to play on while they grew up as I had none when I purchased my place in 1969.

There is no legal access to the piece of property in question and never has been. Your (so called) city manager told me I could Bulldoze my #37 West 2nd Street rental over the hill and for $30,000 build a road to the lot and that would be my access. I haven't figured out yet whether he is a mental midget or an intellectual idiot, but with his degree which he probably received out of a box of cracker jacks he does not deserve to talk to the public or be in a position to.

There was also a piece put in the Whitefish Pilot that no ones taxes would increase more than 15-20 %. Why then was the letter I received stated mine would go up 73.4 %? No one has been able to answer that question as yet.

On another note when the road was rebuilt on Goodane in 2013 I had 4 parking spots wiped out and a 6 % slope into my front door given to me and a 25 inch raise to the road in front of my residence. No one has been able to give me an

answer to that either. The engineering co. also took over my culvert that I had put in 280' of when I put in the fill dirt to creat my lawn. They never asked. They just did it. I never signed off on anything. So now being that all these things have happend. If I am annexed we are going to negotiate on a rate per month for the use of my culvert for storm water use. Your current city manager will not be included in any negotiations in any way shape or form

Best Regards

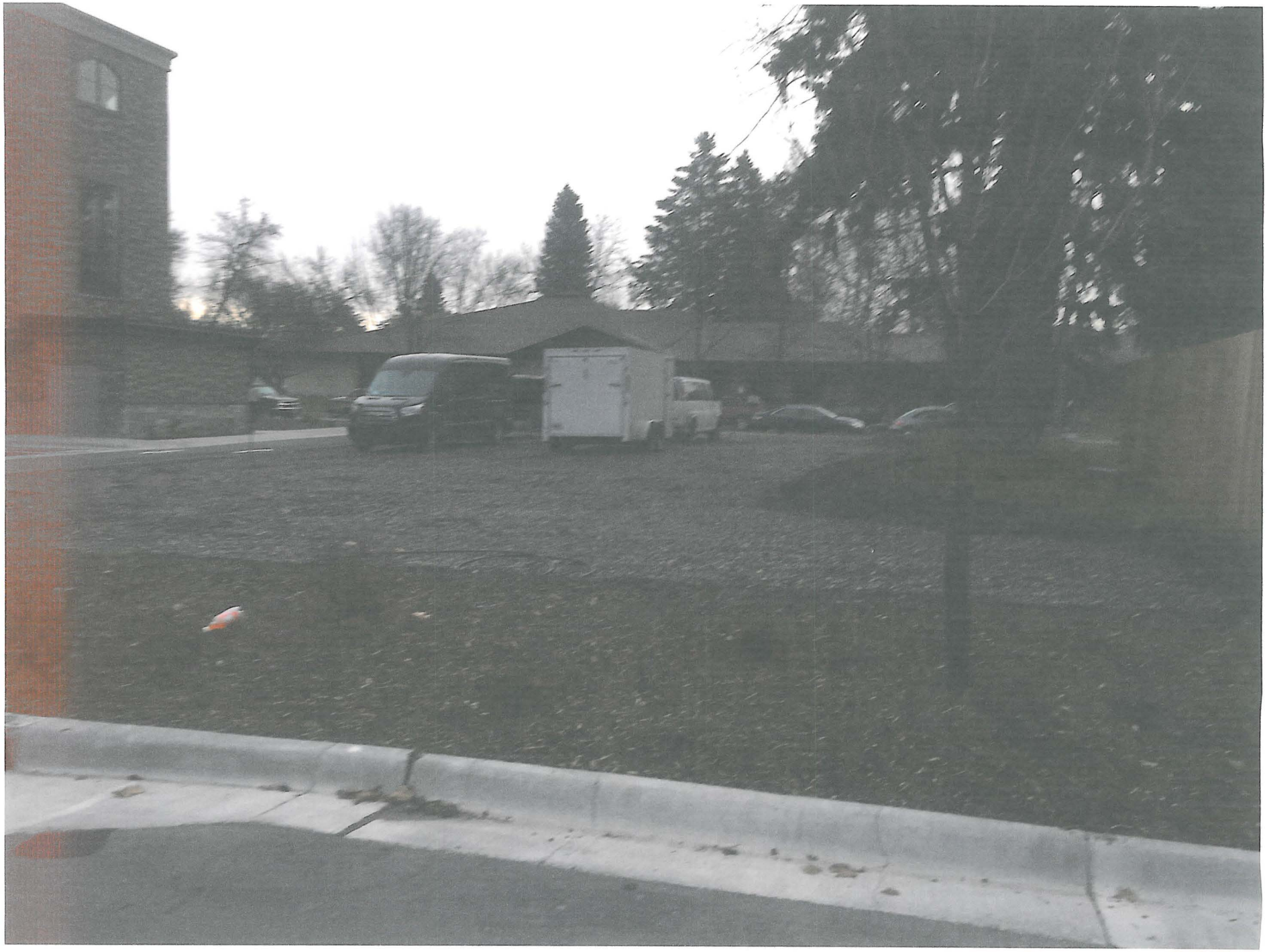
Michael R. Higgins

Vacant Parcel adjacent to 235 Goodale (Dojendes TR Block 1, S 160' of E 100' of W 200' in S36, T31N, R22W);
Good avenue Right-of-Way adjacent to 100 W. 3rd Street and 101 W. 2nd Street (The full width of Good ave including Right-of-Way adjacent to N'LY & S'LY portion of Lot 1, Block 2 Dojendes Tracts in S36, T31N, R22W);

Sept 18, 2016 1:44 pm

September 9/18/2016 - 8:26 am

November 12, 2016 8:28 am



November 12, 2016 8:30 am