



**CITY COUNCIL SPECIAL SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
MONDAY, MAY 6, 2013
4:45 TO 7:00 PM**

1. Call to Order

2. Interviews for applicants

- 4:50 - Heidi Van Everen – Park Board
- 5:00 – Jim DeHerrera – Park Board
- 5:10 – Ray Boksich – Park Board
- 5:20 – Doug Wise – Park Board (phone call)
- 5:30 – Terri Dunn – Park Board
- 5:40 – Michael Blubaugh – Architectural Review Committee,(Pedestrian/Bike Path AC, WCVB) (phone call)
- 5:50 – Ross Doty – Police Commission
- 6:00 – Trek Stephens – Police Commission and Resort Tax Monitoring Committee
- 6:10 – Chris Schustrom – Resort Tax Monitoring Committee
- 6:20 – Duane Reisch – Resort Tax Monitoring Committee, Architectural Review Committee
- 6:30 – Ian Collins, Architectural Review Committee
- 6:40 – Kathryn Skemp – Architectural Review Committee
- 6:50 – Eric Matson – Park Board, Architectural Review Committee (Ice Rink Advisory Committee)

Note 1 – Committees listed in parenthesis () will have interviews a different night

3. Public Comment

4. Appointments:

- 4a. Park Board – Mayoral appointments (3) with Council Approval (p.19)
- 4b. Police Commission – Mayoral appointment (1) with Council Approval (p. 21)
- 4c. Resort Tax Committee – Council appointments (2) (p. 23)
- 4d. Architectural Review Committee – Council appointments (3) (p. 26)

Note 2 - If time runs out before all appointment are made, remaining appointments can be made during the Regular Council Session – Agenda #9.i)

5. Adjourn

4:50 pm

received
4/26/13

April 26, 2013

4 Pine Ave.
Whitefish, MT 59337

City Clerk's Office
City of Whitefish
418 E. 2nd Street
Whitefish, MT 59937

To Whom It May Concern:

I am interested in serving on the City of Whitefish Park Board. I understand there is an open Member at Large position, and as a Whitefish City resident since 2007, I am interested to be more involved as a City volunteer. As an advocate for outdoor recreation and the Executive Director of Whitefish Legacy Partners, I have an interest in seeing our City Parks thrive and continue to provide the residents of Whitefish wide open spaces, quality outdoor experiences, greater park connectivity, and invaluable recreation opportunities.

Please accept this letter of interest to serve on the Park Board. I am interested in being an active member of the Park Board and am willing to make a 2 year commitment.

Thank you kindly,



Heidi Van Everen

5:00 pm

received
4-25-13

April 25, 2013

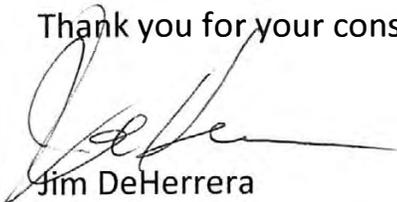
Dear Whitefish City Council:

I am again expressing my interest in serving on the Whitefish Park Board. I applied for the temporary openings last fall and was not selected, and by applying again I am emphasizing my sincere interest in serving on this Board. I am presently on the Pedestrian and Bicycle Path Advisory Committee and thoroughly enjoy that role. The Park Board would provide me the ability to contribute to a bigger picture perspective on parks and recreation activities in Whitefish.

I am an avid user of park facilities and a firm believer in the immeasurable value parks, trails, and recreation opportunities play in the quality of life for residents. I also believe parks and recreation are vital elements that generate an economic boost to our community. Specific to Whitefish, Depot Park is a critical asset to our community and I would welcome the opportunity to help develop solutions to the heavy use, funding challenges, and minimizing financial impacts on tremendous community successes such as Farmers Market.

Parks and recreation have always been a focal point in my life, both professionally and personally. As most of you know, I recently retired from a 32 year career with the US Forest Service. I have a degree in Outdoor Recreation Management from Colorado State University and have managed diverse Parks and Recreation opportunities throughout my career. I believe this professional experience, my personal experiences and activities, and my love of Whitefish would help me be a valuable contributor to the Park Board.

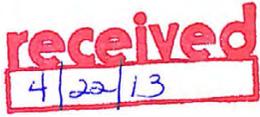
Thank you for your consideration.



Jim DeHerrera

339 Fairway Dr.

Whitefish, MT



5:10 pm

April 22, 2013

Please let this letter serve as my official request to be appointed to one of the positions on the Whitefish Park Board. I have lived within the city limits of Whitefish for over 30 years and at my current residence on Columbia Ave. for equally as long.

I have served on several boards for the city over the years including the Park Board in the late 80's and 90's. I also served as a City Councilmen and Mayor in that time period. As a park board member and board chair we, as a board, were able to get several city projects started and completed in that time period which included rebuilding City Beach, Memorial Park and Riverside Park. I most recently served a term on the library board and am extremely pleased with how well we were able to get through the transition from a county branch to what is now in place as the Whitefish City Library.

I thoroughly enjoyed my years on the park board and am quite proud of what we were able to get accomplished on a next to nothing budget. I would like to be a part of the future planning of the city parks and to help come up with ways to upkeep and maintain the ever growing amount of city land the park board is overseeing.

Please contact me if you have any questions or concerns, rboksich@yahoo.com or Cell # 212-0261 Home # 862-3430.

Thank you for considering my application

Sincerely yours,

Ray Boksich
223 Columbia Ave.
Whitefish, MT 59937.

5:20 pm



City of Whitefish, City Clerk's Office
418 E. 2nd Street, PO Box 158
Whitefish, Mt 59937
406-863-2400
nlorang@cityofwhitefish.org

February 12, 2013

Dear Doug Wise:

Your term on the Park Board expires this year on 5-1-13.

As a matter of course, the City will also be advertising this position along with others also expiring at this time. The deadline to receive letters of application/and to receive your letter of interest if you want to reapply to serve another term, is April 26, 2013. Interviews with the Council will be scheduled for May, and June if necessary; I will call you to set up your specific interview time if you are re-applying. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

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

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

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

Necile Lorang

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:

I am interested in serving another term on the Parks & Rec. Board

(Necile will be out of town in May & part of June can do phone interview if necessary Doug)
Doug Wise 406-407-0927
Signature Daytime Phone #
dougwise@acl.com

5:30 pm

From: "Dunn, Teresa" <tdunn@nvhosp.org>
To: <parksadm@cityofwhitefish.org>
Cc: <nlorang@cityofwhitefish.org>; <tldunn@bresnan.net>
Sent: Wednesday, February 13, 2013 1:52 PM
Subject: RE: Parks and Recreation Board
Mayor Muhlfield and City Councilors:

I am writing to express a letter of interest to continue to serve on the Parks and Recreation Board. I am interested in following through on the Master Plan, promoting ongoing programs, capital improvement projects and working collaboratively with the City Council regarding fee structures and optimal use of Depot Park while preserving the facility.

Thank you for your consideration.

Terri Dunn
6211 D Shiloh Avenue
Whitefish, Montana 59937
(406) 862-8276
tldunn@bresnan.net

Teresa L. Dunn, RN
North Valley Hospital
Employee/ Community Health; US RN
1600 Hospital Way
Whitefish, MT 59937
(406) 863-3513
tdunn@nvhosp.org

CONFIDENTIALITY NOTICE: This electronic mail correspondence may contain confidential information. It is intended only for the individual(s) to whom, or entity to which it is addressed and may contain information that is privileged and confidential. Rediscovery of this information is prohibited under applicable law. You are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this information is strictly prohibited. If you received this correspondence in error, please notify me by returning the message to me and deleting it from your server. Thank you!



Please consider the environment before printing this e-mail

5:40 pm

MICHAEL THOMAS BLUBAUGH

5009 River Lakes Parkway

Whitefish, Montana 59937

Cell: (706) 970-9335

Office: (406) 863-3905

March 17, 2013

Whitefish City Clerk
P.O. Box 158
Whitefish, MT 59937

To whom it may concern:

Please accept this letter as an expression of interest in serving on one or more of the following City of Whitefish volunteer committees, listed in order of relative interest:

Whitefish Convention and Visitor Bureau Committee
Architectural Review Committee
Pedestrian & Bicycle Path Advisory Committee

I'm attaching a copy of my resume as a means of introduction and as an indication of the skill-set I can offer the City of Whitefish.

I will look forward to the opportunity to meet for the purpose of discussing these opportunities in further detail and for providing additional background on myself as necessary.

I'll look forward to hearing from you in the coming months.

With regards,



EXECUTIVE PROFILE

<i>Executive Leadership</i>	High performance executive with extensive financial and general management experience.	
<i>Vision, Strategy & Execution</i>	Consistent success in maximizing performance—driving growth and revenues, capturing market share, improving profits, and enhancing value. Mentored, motivated, and lead high-performance business, sales, marketing, product management, technology, and development teams. Value proposition includes:	
<i>General Management</i>		
<i>Operations Management</i>		
<i>P&L</i>		
<i>Startup, Turnaround, Change Management</i>	Effective and wholly accountable in high-profile executive roles.	
<i>Mergers & Acquisitions</i>	Overcoming complex business challenges and making high-stakes decisions within fast-paced, high-pressure environments using experience-backed judgment, innovation, strong work ethic, and irreproachable integrity. Respected as motivational, lead-by-example manager, change agent, and a proponent of empowerment and accountability.	
<i>Process & Performance Improvement</i>	Visionary thinker with broad perspective and entrepreneurial drive.	
<i>Team Building & Leadership</i>		Key contributor to enterprise-level planning and decision-making. Valued advisor and requested consultant to board members, investors, and top-tier executives. Strong problem-solving skills with balanced powers of reasoning and objective analysis of the facts.
<i>Administration</i>		
<i>Relationship Management</i>		
<i>Internal Relations</i>	Well-documented track record for outstanding performance in a variety of fast track environments.	
<i>Customer Relations</i>	Experience includes banking, retail and wholesale sales, inventory distribution, residential and commercial real estate development, construction and property management; professional services, light manufacturing, and electric utilities.	

CHRONOLOGY

WHITEFISH CREDIT UNION – Whitefish, MT

2010–Current

SENIOR VICE PRESIDENT & CHIEF FINANCIAL OFFICER

Executive responsibility for accounting, finance, information technology, marketing, electronic funds transfer, facilities, project planning, and product development for Montana’s largest credit union with total assets exceeding \$1.2 billion. Reengineered all aspects of departments under management umbrella; hired key personnel within the accounting and information technology departments; outsourced key functions of the credit union; served on the MBL Loan Committee.

Select accomplishments:

- Oversaw the core operating system conversion to Symitar.
- Developed a new and more comprehensive descriptive chart of accounts and developed an entirely new comprehensive monthly reporting deck for management and Board of Directors.
- Assumed responsibility for \$460 million investment portfolio from third party portfolio managers saving over \$150,000 in annual management fees; developed three new broker relationships; and developed and implemented a new comprehensive investment strategy, tripling the portfolio yield and creating dependable cash flows without increasing risk profile.
- Improved annual budgeting discipline by decentralizing budget process, emphasizing zero based budget discipline, aligning budgets with Board and management strategic initiatives, adding computerized budgeting tools, and implementing monthly budget variance reviews with managers.

- Rewrote and implemented new comprehensive ALCO, Investment, and Liquidity Policies; developed relationship with third party Asset/Liability partner and outsourced preparation of quarterly reports.
- Hired Chief Information Officer and reengineered Technology Department including realignment of personnel job responsibilities; enhancing off-site critical equipment redundancy; development of third party relationships for patch management and network security; and rewrote and consolidated IT Policies and procedural manuals.
- Reengineered Marketing department, including development of partnership with 3rd party Marketing Agency; modified corporate donation practices; increased community involvement and exposure through such initiatives as a Junior Board of Directors.

UNITED CENTRAL BANK – Garland, TX

2009

EXECUTIVE VICE PRESIDENT & CHIEF FINANCIAL OFFICER

Heavily recruited over a five month period to help guide this \$2.7 billion community bank through needed enhancements within the accounting, finance, and treasury functions. Initial responsibilities focused on the consolidation of a newly acquired \$1.7 billion community bank, development of system wide operating budgets, development of branch profitability reporting, development of liquidity policies and procedures, FDICIA implementation, and management of the relationship with a newly engaged audit firm. Relationship terminated following the discovery of significant accounting irregularities.

CHATUGE BANK SHARES, INC./BANK OF HIAWASSEE – Hiawassee, GA

2005-2009

EXECUTIVE VICE PRESIDENT & CHIEF FINANCIAL OFFICER; CHIEF OPERATING OFFICER

Turned an undercapitalized, underperforming, poorly organized community bank into a high performance, profitable operation with \$450M in total assets. Developed and implemented a range of effective strategic planning, financial management, and capital acquisition solutions. Hired, developed, and mentored key managers and line personnel. Revitalized the bank's focus on customer service and overall staff accountability. Improved financial reporting accuracy, consistency, and frequency. Established and held staff accountable for a variety of new policies.

Select accomplishments:

- Transformed the bank, in 30 months, into a high performance bank with key performance ratios consistently ranking between the 72nd and 83rd percentile compared to the bank's National Peer Group. Key performance ratios include ROA, ROE, net interest spread, net interest margin, and efficiency.
- Built first class accounting, finance, and operations teams. Completely overhauled every aspect of financial reporting. Developed department specific operating and efficiency metrics and reports
- Reengineered deposit and loan operations and consolidated management of both areas resulting in increased efficiency and profitability.
- Initiated key service improvements to re-establish the bank's standing in the community and restore customer confidence.
- Issued \$8M in Trust Preferred Securities. Issued bank's first private placement memorandum in one hundred years raising \$5M in capital.
- Managed several construction projects including a new branch and a state-of-the-art operations center. Developed a new prototype for a customer service center designed to serve primarily as a deposit origination and customer service center.
- Established formerly non-existent spending accountabilities, including development of budgets, engaging managers in the budget process, implementing spending controls, and conducting monthly budget/variance meetings with managers.

UNITED NATIONAL CORPORATION / FIRST PREMIER BANK – Sioux Falls, SD

1998-2004

VICE PRESIDENT & CHIEF FINANCIAL OFFICER; SECRETARY

Managed all aspects of strategic business planning, financial management, information security, human resources, and policy development of the core bank and emerging lines of businesses for a \$1B non-traditional community bank. Emerging lines of businesses included subprime credit cards, ATM Funding, ACH origination, lock box, and medical equipment leasing. Directed financial management and

strategic business planning activities; directed human resource initiatives for nearly 2,500 employees working in four call centers and 13 branches.

Select accomplishments:

- Directed the development of strategic business plans that helped enable the Bank to grow from \$286 million to \$890 million in total assets in six years.
- Recognized by the ABA Banking Journal as the number one performing S-Corp financial institution in the country with assets under \$1B in 2001 and 2002 and over \$1B in 2003
- Ranked nationally as the 32nd largest ACH originator and 18th largest issuer of VISA and MasterCard credit card products, with over 3 million customers nationwide.
- Directly responsible for developing and managing the ATM Funding business; grew to over \$40 million in funding covering 1600 ATM's and 84 major US cities.
- Issued the bank's first ever Trust Preferred Securities, raising \$8M; assisted in the Bank's first ever Securitization of Subprime Credit Card Receivables with a total face value of \$108M.
- Managed a \$292M investment portfolio, achieving a perfect portfolio rating in the third and fourth quarters of 2001 based on an evaluation performed by Vining Sparks; consistently earned superior ratings.

BRIGHT NATIONAL BANK – Flora, IN

1995-1998

SR. VICE PRESIDENT, CHIEF FINANCIAL OFFICER, CHIEF OPERATING OFFICER

Directed all accounting, operations, retail management, human resources, and marketing functions of a \$350M community bank. Managed and administered fiscal record keeping. Administered internal and external financial and regulatory reporting. Developed and maintained automated accounting systems. Developed, implemented, and executed long-term strategic plans to grow market share, achieve measured and profitable growth, and penetrate new markets.

Select accomplishments:

- Opened two new branches in Lafayette, Indiana, the bank's first venture outside of a small community and into a major metropolitan area.
- Developed, introduced, and managed a sales culture at all branch locations. Introduced weekly and monthly calling programs. Implemented incentive programs for branch managers, tellers, and customer service representatives. Held monthly branch manager meetings to jointly discuss successes and opportunities; develop best practices for calling programs

FIFTH THIRD BANK OF SOUTHEASTERN INDIANA – Greensburg, IN

1993-1995

VICE PRESIDENT, CHIEF FINANCIAL OFFICER, SECRETARY

Heavily recruited to direct and manage the conversion of this newly acquired \$550M subsidiary and direct all ongoing strategic business planning, financial management and reporting, and investment activities. Managed financial reporting, budgets, forecasting, balance sheet management, investment portfolio management; participated in corporate strategic planning sessions on a quarterly basis. Set rates for all loan and deposit products.

Select accomplishments:

- Offered the recommendation which ultimately led to the consolidation of this bank with a sister bank located in Indianapolis, IN.

PRIOR

CHIEF OPERATING OFFICER - FURNITURE OUTLETS USA, Sioux Falls, SD

Contracted to develop the newly created COO position for a privately held, full service, promotional to midrange furniture chain, operating 26 stores in four states. Directed and coordinated a full range of operational activities including accounting and finance, technology, human resources, facilities management, customer service, and inventory distribution. Developed a company wide department specific operating and efficiency measures and completed the start-up of a new 135,000 sq. ft. distribution facility.

CPA, CORPORATE FINANCIAL CONSULTANT, Columbus, OH

Partnered with retired Chief Financial Officer of Wendy's International, Inc. and Trans World Airlines to provide complete suite of financial services to small and emerging businesses. Principal services included short and long term strategic planning; analytical review of proposed divestitures, mergers, and acquisitions; and reorganization and turnaround services. Principal client base included retail, transportation, automotive, printing, and professional services.

CO-OWNER/GENERAL MANAGER – HOMEFIELD ADVANTAGE, Columbus, OH

Retail and direct sales of sporting goods equipment and apparel with emphasis on direct sales to primary and secondary schools, small colleges and universities, and intramural leagues in a four state area. Built business from ground up on a part time basis, with annual sales of \$850K by end of fourth year with no debt.

VP CORPORATE FINANCE, DIRECTOR – CARDINAL LODGING GROUP, INC., Columbus, OH

Limited service motel development and property management company with 220 motels in 21 states.

SMALL BUSINESS SPECIALIST – DELOITTE & TOUCHE, LLP – Columbus, OH

Industry specialization included real estate development, construction, and property management, light manufacturing, retail, and assisted living retirement communities.

EDUCATION & CREDENTIALS

BS, Business Administration, Accounting Major – Franklin University, Columbus, OH

Graduate School of Banking – University of Colorado, Boulder, CO

Certified Public Accountant

AFFILIATIONS

Safe Systems, Inc. – Customer Advisory Counsel

Annual Legends Sports Clinics – Co-Founder, Co-Chair

Legends for Kids Youth Foundation – Co-Founder

Junior Achievement Instructor – Personal Economics

Sioux Falls Community Development Corporation – Board of Directors

South Dakota Rural Enterprise, Inc. – Board of Directors

Academy of Finance – Advisory Board

Wellmark Blue Cross and Blue Shield – Customer Advisory Council

Sioux Empire Baseball Association – Board Member

American Legion Baseball Association – Board Member

received
2-26-13
City Clerk's Office

5:50pm

March 24, 2013

City Of Whitefish
PO Box 158
Whitefish, Mt. 59937

To the Mayor & City Council Members:

It would be a pleasure to serve another 3 year term as Police Commissioner for the City of Whitefish. I have enjoyed serving as one of your Commissioners and would consider it a privilege to give back to my community by serving another term.

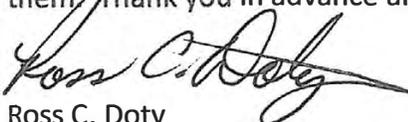
Due to my previous law enforcement and managerial experience, I feel that I am qualified for this position and will be an asset to the City.

As for my qualifications, I have been a property owner and frequent visitor to Whitefish since 1995. Then following my retirement from the pharmaceutical industry, my wife and I moved to Whitefish, Mt. and have been full time residents since November 2008. Below is a short version of my qualifications.

- 37 years in the pharmaceutical industry serving as a sales manager (Upjohn & Daiichi-Sankyo).
- 20 years of law enforcement experience with the Shelby County Sheriff's Department in Memphis, Tennessee. After graduation from college I became a Reserve Deputy Sheriff working weekends, special events and emergency situations. I started as a Patrol Officer, promoted to a Sergeant in the Detective Division, the Vice & Narcotics Division and during my last three years served as a Lieutenant in the special DUI Squad. My last assignment included responding to all types of criminal calls, and traffic enforcement.
- Graduated from Memphis state University with a BS Degree in Industrial Technology with a minor in Education.

Presently I am a member of the Whitefish Rotary Club. I enjoy helping others and believe everyone should give back to their community in some way. We are so fortunate to live in the beautiful city of Whitefish and I feel it would be a privilege to serve on the Police Commission.

If there are any questions regarding my qualifications or references I would be glad to answer them. Thank you in advance and I look forward to discussing this position in more detail.



Ross C. Doty
2019 Ridgecrest Dr.
Whitefish, Mt. 59937
406-730-2926(Hm)
901-359-8483(Cell)

received
3-6-13
City Clerk's Office



6:00 pm

City of Whitefish, City Clerk's Office
418 E. 2nd Street, PO Box 158
Whitefish, Mt 59937
406-863-2400
nlorang@cityofwhitefish.org

February 12, 2013

Dear Trek Stephens:

Your term on the Resort Tax Advisory Committee expires this year on 5-31-13.

As a matter of course, the City will also be advertising this position along with others also expiring at this time. The deadline to receive letters of application/and to receive your letter of interest if you want to reapply to serve another term, is April 26, 2013. Interviews with the Council will be scheduled for May, and June if necessary; I will call you to set up your specific interview time if you are re-applying. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

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

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

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

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:

I am interested in serving another term on the Resort tax committee.

I am also interested in serving on the police commission.

Signature

406.249.6105
Daytime Phone #

received
3/13/13

6:10 pm



City of Whitefish, City Clerk's Office
418 E. 2nd Street, PO Box 158
Whitefish, MT 59937
406-863-2400
nlorang@cityofwhitefish.org

February 12, 2013

Dear Chris Schustrom:

Your term on the Resort Tax Advisory Committee expires this year on 5-31-13.

As a matter of course, the City will also be advertising this position along with others also expiring at this time. The deadline to receive letters of application/and to receive your letter of interest if you want to reapply to serve another term, is April 26, 2013. Interviews with the Council will be scheduled for May, and June if necessary; I will call you to set up your specific interview time if you are re-applying. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

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

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

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

Necile Lorang

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:

I am interested in serving another term on the Resort Tax
Advisory Committee

Monitoring

Chris Schustrom

862-3440

Signature

Daytime Phone #

6:20 pm
received
4-5-13

April 4

City of Whitefish

My name is Duane Reisch I have lived in the Whitfish area since 1971 when I was transfered to Whitefish as manager of Safeway. Larry Jensen and I built the Pin and Cue. Dale my son and I Opened Markus foods since 1985 and still own and operate the store. I have been a member of the golf club since 1971. We have lived in the city since 1993. I would like to volunteer for the resort tax monitoring committee or the architectural review committee. Thanks for you your consideraton .

Thank you for

Duane Reisch

Duane Reisch
209 Fairay Dr

862-3025

6:30 pm

From: "Ian Collins" <ianbcollins@gmail.com>
To: "Necile Lorang" <nlorang@cityofwhitefish.org>
Cc: "Constenius, John" <jconstenius@jcarch.com>; "Compton-Ring, Wendy" <wcompton-ring@cityofwhitefish.org>
Sent: Tuesday, April 23, 2013 12:43 PM
Subject: Architectural Review Committee

Dear Necile:

I would like to reapply for another term on the Architectural Review Committee. I apologize for the delayed response; my wife works on Tuesday mornings and we have had difficulty this year with finding a babysitter so I wanted to make sure I would be able to regularly attend meetings before I reapplied.

I will be out of town May 15-22nd, so I will not be able to attend interviews during this time.

Thank you,

Ian Collins
898 Blue Heron Drive
Whitefish, MT
59937
(406) 863-9376

6:40 pm
received
4/22/13

April 22, 2013

Ms. Necile Lorang
Whitefish City Clerk
418 Second Street East
Whitefish, MT 59937

Re: Architectural Review Committee Openings

Dear Ms. Lorang:

My name is Kathy Skemp. I request to be considered for one of the three openings on the City of Whitefish Architectural Review Committee. I am a semi-retired architect who has maintained my initial architectural license in Wisconsin as well as my NCARB certification.

Whitefish is a wonderful city with much to offer - particularly the friendliness and professionalism of its residents. While living here over the past year, I have met many wonderful people through mentoring at Whitefish Middle School, singing in the choir at St. Charles and joining the Whitefish Walkers. It would be an honor to be able to expand my involvement in the community with an appointment to the city Architectural Review Committee.

I look forward to hearing from you regarding an interview for a committee position.

Thank you for your time and consideration.

Sincerely,



Kathryn A. Skemp, NCARB
6300 Locarno Drive Unit K
Whitefish, MT 59937
262-424-1680
archytek@gmail.com

6:50 pm

To Who it may concern,

While visiting city hall, I saw the flyer posted looking for Volunteers for the Park Board, Architectural Review Committee and the Ice Rink Advisory Committee. I feel it is very important to support the city that I have been living in for the past 12 years, and I am interested in Volunteering for a position in any one of these.

I take great pride in our city parks that give our children and ourselves a place to play and think it is only right to support our parks by volunteering my time to the park board.

I am a Builder here in whitefish and completely understand the need and responsibility of the Architectural Review Committee. I served on the Creekwood design review committee in the past and am willing to serve on The Whitefish Architectural review committee.

I am also interested in serving on the Ice Rink Advisory Committee. My daughter is a member of the Smooth Gliders, and I feel that the Ice Rink is one more reason that Whitefish stands out as a great place to raise a child.

I am very interested in Volunteering my time to any one of these. Please give me a call and let me know what I can do to help. I can be reached by phone at (406)862-6222 or by email at Eric@RedDogBuilders.com. I am excited to do my share in helping any one of these crucial parts of our community.

Thank you for your time. I look forward to talking to you.

Best,

Eric Matson
1023 Creekview Drive
Whitefish, MT.59937

PARK BOARD – WCC 2-2-1 - 2 YEAR TERMS – Mayoral Appointments confirmed by Council (2nd Tuesdays @ 7 pm)

			TERM DATE	
Chris Hyatt, Council	PO Box 158	261-7541		Mayor/Designee (Richard Hildner, Alternate)
Susan Schnee	1405 E. 2 nd Street	863-9856	5/01/2014	
Ron Brunk	130 E. 4 th St	862-6466, 862-6858	5/01/2014	
Laurel Grady	476 Aspen Court	212-6819	5/01/2014	
Doug Wise	1000 Birch Point Dr	862-1463, 407-0927	5/01/2013	President
Terri Dunn	6211 D Shiloh Ave	862-8276, 250-7182	5/01/2013	
Brad Ridgeway	911 Wisconsin Ave, Suite 103	570-6779	5/01/2013	Vice President

BOARD OF PARK COMMISSIONERS

2-2-1: BOARD CREATED; MEMBERSHIP:

The board of park commissioners must be composed of the mayor, or the mayor's designee, and six (6) other persons to be appointed by the mayor, with the approval of the city council. The seven (7) persons to be so appointed shall have the same qualifications for the office of park commissioner as are required by Montana code 7-4-4301 for the office of mayor.**

****Montana Code Annotated 2009:**

7-4-4301. Qualifications for mayor. (1) A person is not eligible for the office of mayor unless the person:

- (a) is at least 21 years old;
- (b) has been a resident of the state for at least 3 years; and
- (c) has been a resident for at least 2 years preceding the election to office of the city or town or an area that has been annexed by the city or town.

(2) The office of mayor of a city or town is considered vacant if the individual elected as mayor ceases to be a resident of the city or town.**

A. Term Of Office:

1. Except as provided in subsection A2 of this section, the term of office of each park commissioner shall be two (2) years from and after May 1 of the year in which he is appointed and until his successor is appointed and qualified.

2. Three (3) of the commissioners first appointed shall hold office for the period of one year from and after May 1 and until their successors are appointed and qualified.

B. Vacancy: Any park commissioner who shall refuse or neglect to attend three (3) meetings of the board between May 1 and April 30 of the following year shall be deemed to have vacated his office, and thereupon his successor may be appointed.

C. Compensation: No park commissioner shall receive compensation for his service rendered under the provisions of this chapter, but the actual and necessary expenses incurred by any member of the board while acting under the orders of the board in the transaction of any business in its behalf may be paid upon being allowed and audited by the board.

D. Oath Of Office: Before entering upon the discharge of his duties, each park commissioner shall take and subscribe the oath provided by Montana code 2-16-211. The oath shall be filed in the office of the city clerk. (Ord. 96-15, 2-18-1997)

2-2-2: ORGANIZATION OF BOARD:

A. On the second Tuesday in May in each year, the board of park commissioners shall meet and organize by electing one of their number president and one of their number vice president, who shall hold their offices, respectively, for the term of one year.

B. The city clerk or the city clerk's designee shall be ex officio clerk of the board of park commissioners. (Ord. 96-15, 2-18-1997)

2-2-3: CONDUCT OF PARK BOARD BUSINESS:

A. The board of park commissioners shall hold an annual meeting on the second Tuesday of May and a meeting at least once in each month in each year at such times as the board shall by rule prescribe. Special meetings may also be held at the call of the president or, in his absence, the vice president, upon giving to each member of the board at least twenty four (24) hours' notice in writing of the time and place of holding such meeting.

B. A majority of the entire board shall be necessary to constitute a quorum for the transaction of the business of the board. (Ord. 96-15, 2-18-1997)

2-2-4: POWERS AND DUTIES:

A. Officers: Except as provided in Montana code 7-16-4228(2), the president, and in the president's absence the vice president, shall preside at all meetings of the board. (Ord. 96-15, 2-18-1997; amd. 2003 Code)

B. Park Board Minutes: The minutes of the meeting contained in the record book, when approved by the board, shall be prima facie evidence of the matters and things therein recited in any court of this state.

C. Park Board Powers And Duties:

1. The board of park commissioners shall have the management and control of all parks belonging to the city.

2. The board of park commissioners shall have the following powers and be charged with the following duties:

a. To lay out, establish, improve and maintain parkways, drives and walks in the parks of the city; and to determine when and what parks shall be opened to the public;

b. To plant, cultivate, maintain and improve all trees and other plants required to be planted, cultivated and maintained in the parks belonging to the city;

c. If directed by the city council, to plant, cultivate, maintain and improve all trees and other plants required to be planted, cultivated and maintained in the streets, avenues, boulevards and public places in the city and for that purpose to establish and maintain nurseries for the growth of trees and plants;

d. Upon receiving approval from the city council, to purchase or otherwise acquire, and sell or otherwise transfer, real property; to make plats thereof; and to file the same in the office of the city clerk;

e. To provide written comments and recommendations to the city council prior to any action by the city council to acquire or transfer land used, or to be used, for a city park;

f. To pay all obligations authorized to be incurred by the provisions of this part;

g. To exercise all other powers incident to the duties enjoined by the provisions of this part. (Ord. 96-15, 2-18-1997)

2-2-5: CONTRACTS AND EMPLOYMENT:

A. The board of park commissioners has the following powers and duties:

1. To employ and discharge workers, laborers, engineers, foresters and others, and to fix their compensation; and

2. To make all contracts necessary or convenient for carrying out any and all of the powers conferred and duties enjoined upon the board by this part; provided, however, that any contract having a term of more than five (5) years must be approved by the city council.

B. All contracts made by the board must be in the name of the city and must be signed by the city clerk and by the president of the board or, in the president's absence, by the vice president of the board; provided, however, that any contract having a term of one year or less may be signed by the parks and recreation director.

C. An order or resolution authorizing the making of any contract may not be passed or adopted except by a ye and nay vote, which must be recorded in full in the minutes by the city clerk.

D. The board may elect to have all, or certain, personnel decisions made by the mayor, the city manager or the parks and recreation director pursuant to the policies and regulations governing other city personnel decisions. (Ord. 96-15, 2-18-1997)

POLICE COMMISSION - WCC 2-5-1 - 3 YEAR TERMS – Mayoral Appointments confirmed by Council

			TERM EXPIRATION DATE
Ross Doty	2019 Ridgecrest Drive	730-2926	First Monday of May, 2013
Gene Gemignani	567 Kalispell Avenue	270-0447 (C) 752-2575 (W)	First Monday of May, 2015
Jim Trout	PO Box 695	863-2265 (W)	First Monday of May, 2014

POLICE COMMISSION

2-5-1: COMMISSION ESTABLISHED:

There is hereby established a police commission for the city, hereinafter referred to as the commission. (Ord. 02-08, 4-1-2002)

2-5-2: PURPOSE, POWERS, PROCESSES AND DUTIES:

The powers and duties of the commission are set forth in Montana code 7-32-4151 through 7-32-4164, this chapter and rules of procedure adopted by the commission. Consistent with state statutes and this chapter, these powers and duties of the commission shall include:

- A. Review of police officer applicants when such review is sought by the chief of police or city manager;
- B. Hear and decide appeals by any member or officer of the police department who has been disciplined, suspended, removed or discharged by an order of the city manager; and
- C. Provide comment and recommendations to the chief of police or city manager on matters related to the police department. (Ord. 02-08, 4-1-2002)

2-5-3: MEMBERSHIP:

- A. Appointment; Compensation: The commission shall have three (3) members. Members shall be appointed by the mayor and ratified by the city council. Members shall reside within the corporate limits of the city and shall have maintained residency within the city for one year prior to appointment to the commission. Commission members shall receive no compensation.
- B. Terms; Positions: Commission terms shall be three (3) years. There are hereby created positions numbered 1 through 3 inclusive of the members of the commission. Members serving on the effective date of this chapter shall be assigned to positions that correspond with the expiration dates of their existing terms:

<u>Number</u>	<u>Term Expiration Date</u>
1	First regular council meeting in May 2002
2	First regular council meeting in May 2003
3	First regular council meeting in May 2004

As each of the above listed expiration dates is completed, members shall be appointed successively to three (3) year terms. Terms shall begin upon appointment at the first regular city council meeting held in May of each year. However, a member serving on the commission during an appeal proceeding under Montana code 7-32-4155 shall continue to serve on the commission until such time that a decision on the appeal is rendered. In such case, a new member may not sit on the commission for business. At the discretion of the city council, members may be appointed to more than one term.

- C. Removal Of Member: A member may be removed from the commission by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of state

statutes, city ordinances and the rules of procedures of the commission, or absences from three (3) consecutive meetings, including regular and special meetings, or absences from more than fifty percent (50%) of such meetings held during the calendar year, shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his inability to attend a specific meeting shall notify the chair or secretary of the commission at least twenty four (24) hours prior to any scheduled meeting.

D. **Vacancy:** Pursuant to subsections A and B of this section, any vacancy on the commission shall be filled by the mayor and ratified by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The city council may appoint members of the city council to temporarily fill vacant positions on the commission. (Ord. 02-08, 4-1-2002)

2-5-4: ORGANIZATION:

At its first meeting after June 1 of each year, the commission shall elect a chair, vice chair and secretary for the next twelve (12) month period. Upon the absence of the chair, the vice chair shall serve as chair pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chair, vice chair or secretary positions, the commission shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the commission and shall keep an accurate record of all commission proceedings. (Ord. 02-08, 4-1-2002)

2-5-5: MEETINGS, RULES AND REGULATIONS:

Two (2) members of the commission shall constitute a quorum. Not less than a quorum of the commission may transact any business or conduct any proceedings before the commission. The concurring vote of two (2) members of the commission shall be necessary to decide any question or matter before the commission. The commission shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. Meetings of the commission shall be held at least once every three (3) months or at the call of the chair, chief of police or city manager, and at such other times as the commission may determine. All meetings shall be open to the public. (Ord. 02-08, 4-1-2002)

2-5-6: ENFORCEMENT OF DECISIONS:

Pursuant to Montana code 7-32-4161, the city manager shall make orders enforcing the decisions of the commission. (Ord. 02-08, 4-1-2002)

2-5-7: STAFF SUPERVISION:

The commission shall have no supervisory control and shall not direct the chief of police or other staff in the performance of their official duties. Commission involvement in the operations of the police department shall be limited to comment and recommendations. (Ord. 02-08, 4-1-2002)

2-5-8: EXPENDITURES:

The commission shall have no authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds. (Ord. 02-08, 4-1-2002)

RESORT TAX MONITORING COMMITTEE - WCC 2-4-1 - 3 Year Terms – City Council Appointments
Meet 3rd Wednesday-7AM

Position #				TERM EXPIRATION DATE	
1.	Bill Kahle	PO Box 158	270-9467	May 31, 2014	Council Representative
2.	John Vail	1017 Creekview Dr	862-3562	May 31, 2014	Member at Large
3.	Julia Olivares	333 W. 6 th Street	862-6401	May 31, 2014	Member at Large
4.	Brian Averill	1476 Barkley Lane	250-2038	May 31, 2015	Member at Large
5.	Doug Reed, Whitefish Lake Golf Club Restaurant, <u>Chairman</u>	PO Box 1719	862-5285	May 31, 2015	Restaurant/Bar member
6.	Chris Schustrom,	504 Spokane Avenue	862-3440	May 31, 2013	Lodging member
7.	Trek Stephens Secretary	122 Central Ave	862-2271	May 31, 2013	Retail member-

RESORT TAX MONITORING COMMITTEE

2-4-1: COMMITTEE ESTABLISHED:

There is hereby established a resort tax monitoring committee for the city, hereinafter referred to as the committee. (Ord. 01-07, 2-20-2001)

2-4-2: PURPOSE, POWERS AND DUTIES:

The purpose of the committee is to monitor, review and advise the city council on the use of resort tax funds pursuant to title 3, chapter 3 of this code. The committee may also advise the city council on proposed changes to title 3, chapter 3 of this code. The committee shall report to the city council on matters of pertinence and interest related to the resort tax as the committee may deem appropriate or as the city council may request. The committee's powers shall be advisory only. Nothing in this chapter shall be construed to provide the committee with the power to authorize or prohibit the use of resort tax funds. (Ord. 01-07, 2-20-2001)

2-4-3: MEMBERSHIP:

A. Appointment; Compensation: The committee shall have seven (7) members. Members shall be appointed by the city council. The city council shall attempt to appoint one member who is a lodging business owner, operator, or representative; one member who is a restaurant/bar owner, operator, or representative; one member who is a retail business owner, operator, or representative; and one business owner at large, who may, but need not, own one of the types of businesses listed above. Any member designated as a business owner, operator, or representative of one of the above listed business categories, as well as the business owner at large, shall do so in relation to an associated business located within the corporate boundaries of the city of Whitefish, although personal residency shall not be required. The city clerk shall make appropriate notation of a member's business category affiliation on the official committee roster. If, within the discretion of the city council, an individual appropriate to fill a vacancy in any of the above listed business categories is not identified after publication of a notice of position vacancy, the city council may make a general membership appointment. In such case, the city council shall attempt to make such business

category appointment with the next available vacancy where an incumbent member has not applied for reappointment or the city council decides not to reappoint an incumbent member. One position shall be specified for the mayor or a city councilor. The remaining positions shall be general membership positions and shall require residency within the corporate boundaries of the city of Whitefish. Committee members shall receive no compensation.

B. Terms; Positions: Committee terms shall be three (3) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the committee. The terms of those appointees holding positions on the effective date of this chapter shall continue until the termination date listed below:

<u>Position Number</u>	<u>Position Specification</u>	<u>Initial Expiration Date</u>
1	Mayor or councilor	May 31, 2008
2	Member	May 31, 2008
3	Member	May 31, 2008
4	Member	May 31, 2006
5	Member	May 31, 2006
6	Member	May 31, 2007
7	Member	May 31, 2007

Thereafter members appointed to each position shall serve for three (3) year terms; the first of such terms beginning on June 1 of the year in which the initial term for the position expires. At the discretion of the city council, members may be appointed for more than one term. (Ord. 06-14, 6-5-2006)

C. Removal Of Member: A member of the committee serves at the pleasure of the city council and may be removed by majority vote of the same. Absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year, shall constitute grounds for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his inability to attend a specific meeting shall notify the chair or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting.

D. Vacancy: Pursuant to subsections A and B of this section, any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. (Ord. 01-07, 2-20-2001)

2-4-4: ORGANIZATION:

At its first meeting after June 1 of each year, the committee shall elect a chair, vice chair and secretary for the next twelve (12) month period. Upon the absence of the chair, the vice chair shall serve as chair pro tem. If both the chair and the vice chair are absent from a specific meeting, the attending members shall elect a chair pro tem for the meeting. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chair, vice chair or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 01-07, 2-20-2001)

2-4-5: MEETINGS, RULES AND REGULATIONS:

Four (4) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business or conduct any proceedings before the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. The committee shall meet as frequently as is necessary and convenient within the judgment of the committee, but shall meet not less than once every three (3) months. The committee shall decide the time, place and date of meetings. All meetings shall be open to the public. (Ord. 06-14, 6-5-2006)

2-4-6: EXPENDITURES:

The committee shall have no authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds except as has been included in the city budget and after the city council shall have authorized the expenditure by resolution, which resolution shall provide the administrative method by which funds shall be drawn and expended. (Ord. 01-07, 2-20-2001)

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

In Planning Department Conference Room

1.	Eric Payne	1399 Wisconsin Ave	270-8789	May 31, 2013	Owens Frontier Builders
2.	Carin Cross, ASID	PO Box 4968	862-6277	May 31, 2013	Design Professional*
3.	Ian Collins	898 Blue Herron Dr, WF	863-9376, 270-7047	May 31, 2013	Architect in Training
4.	George Gardner	2339 Nordic Loop, WF	863-9321	May 31, 2014	Museum Planning Conslt.
5.	Scott Freudenberger	PO Box 4612	862-3600	May 31, 2014	
6.	Matthew Lawrance (V-Chr)	309 Kalispell Ave	508-472-8947, 862-8152 (W)	May 31, 2015	Architect in Training
7.	John Constenius (Chrm)	210 Park Hill Drive	862-4818	May 31, 2015	Licensed Architect*

Phil Mitchell, ex officio Council member (PO Box 158, 261-4495; Alternate – Vacant

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

ARCHITECTURAL REVIEW COMMITTEE

- **2-10-1: COMMITTEE ESTABLISHED:**

- There is hereby established an architectural review committee, hereinafter "committee". (Ord. 03-26, 9-15-2003)

- **2-10-2: PURPOSE, POWERS AND DUTIES:**

- **Primary Purpose:** The primary purpose of the committee shall be to review and act on applications submitted to the committee by individuals or entities proposing to construct commercial, industrial, public or municipal buildings, or fiveplex or greater residential structures within the city of Whitefish zoning jurisdiction, as provided more fully in the city of Whitefish architectural review standards. Upon receipt of a formal application that has been determined by the committee or its staff, as appropriate, to be complete, the committee shall conduct a meeting regarding the proposed application, and its compliance with the city of Whitefish architectural review standards. The committee shall make one of the following decisions at the time of the meeting: to approve, to approve with conditions, to table the application pending submission of revisions or additional materials, or to deny the applicant's proposal. The committee's decision shall be announced at the meeting, and its decision, together with findings supporting its decision, shall be provided to the applicant, in writing, within five (5) working days of such meeting. The applicant may appeal a decision of the architectural review committee to the city council by delivering a written letter of appeal to the city manager within ten (10) days of the committee's issuance of its written decision. More information regarding the necessary content of an appeal, and the process before the city council, may be found in the Whitefish zoning jurisdiction regulations¹.
- **Secondary Purpose:** The secondary purpose of the committee shall be to make recommendations to the city's planning staff with respect to proposed amendments to the city of Whitefish architectural review standards, or the procedures utilized by the committee. (Ord. 03-26, 9-15-2003)

- **2-10-3: MEMBERSHIP:**

- Appointment; Compensation: The committee shall have seven (7) members who are either residents of the Whitefish zoning jurisdiction area, employed or own a business in the city of Whitefish, or own property in the city of Whitefish. Members shall be appointed by the city council. Two (2) of the committee members shall be Montana licensed architects and one of the members shall be a licensed design professional (i.e., either architect, engineer or landscape architect). If, within the discretion of the city council, less than two (2) licensed architects or one licensed design professional, as described above, is identified after publication of a notice of position vacancy, the city council may make an appointment of an individual that is not a licensed architect or licensed design professional. No member of the committee shall concurrently serve on the Whitefish city council, the Whitefish city-county planning board or the Whitefish board of adjustment. No member of the committee with any interest in a project may sit in review of that project, or attempt to influence other members of the committee other than through the normal application and public meeting process. Committee members shall receive no compensation.

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

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

- In making the initial appointments, the city council shall determine which appointees shall serve one, two (2) or three (3) year terms. Thereafter members appointed to each position shall serve for three (3) year terms. At the discretion of the city council, members may be appointed for more than one term.

- Removal Of Member: A member of the committee serves at the pleasure of the council and may be removed by a majority vote of the same. Absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year shall constitute grounds for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chairperson or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting.

- Vacancy: Pursuant to subsections A and B of this section, any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. (Ord. 03-26, 9-15-2003)

- **2-10-4: ORGANIZATION:**

- The committee, at its first meeting after June 1 of each year, shall elect a chairperson, vice chairperson and secretary for the next twelve (12) month period. Upon the absence of the chairperson, the vice chairperson shall serve as chairperson pro tem. If both the chairperson and the vice chairperson are absent from a specific meeting, the attending members shall elect a chairperson pro tem for the meeting. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chairperson, vice chairperson or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 03-26, 9-15-2003)

- **2-10-5: MEETINGS, RULES AND REGULATIONS:**

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

- **2-10-6: STAFF SUPERVISION:**

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

- **2-10-7: EXPENDITURES:**

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

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

Clerk's Note: Several applicants have applied for more than one board/committee, as you will see as you are reading their letters of interest. I have tried to keep all the applicants and all the boards/committees they have interest in all on the same night – but couldn't accommodate them all. So, four of tonight's interviews will be with people interested in more than one board/committee, some we are able to address tonight; but at least two of them (Blubaugh & Matson) will also be on the list of applicants for boards/committees that you will be interviewing on May 20th; but I wasn't going to reschedule either of them again in two weeks, because without those two you have 12 other interviews on the 20th. Necile

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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, May 6, 2013, at **7:10 p.m.** at City Hall, 402 East Second Street.

Ordinance numbers start with 13-04. Resolution numbers start with 13-05.

- 1) CALL TO ORDER
- 2) PLEDGE OF ALLEGIANCE
- 3) COMMUNICATIONS FROM THE PUBLIC – (This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments, but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)
- 4) COMMUNICATIONS FROM VOLUNTEER BOARDS
- 5) CONSENT AGENDA (The consent agenda is a means of expediting routine matters that require the Council’s action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
 - a) Minutes from the April 15, 2013 Council regular session (p. 47)
 - b) Consideration of approving application for Whitefish Lake Lakeshore Permit (#WLP-13-W09) to add an “L” Wing to dock; add EZ Port to Dock; install Shore Station with Canopy; Replace Wooden Stairs with Stone Steps install Dry Set Walkway, Stepping Stones & Low Voltage Pathway Lighting at 980 Packrat Lane subject to 28 conditions (p. 56)
 - c) Consideration of approving application for Whitefish Lake Lakeshore Variance (#WLV-13-W06) to place Naturalized Riprap (exceeding stone size and no filter fabric), amended Revegetation Plan and Maintenance Plan for care of plants, addition of 28 square feet (4’ x 7’) to existing Stone Steps at East Lakeshore Beach Club subject to 34 conditions (p. 73)
- 6) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant’s land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
 - a) Consideration of an application from PMT Properties LLC (“Tupelo Grille”) for a Conditional Use Permit to operate a bar/lounge at 17 Central Avenue. The subject property is zoned WB-3 (General Business District) and will operate as a restaurant which serves wine, beer and liquor. The restaurant currently serves wine and beer only. The property is legally described as Lots 16 and 17, Block 28, Whitefish Townsite, in Section 36, Township 31N, Range 22W, P.M.M., Flathead County, Montana (p. 112)

- b) Ordinance No. 13-___; An Ordinance approving a zone change for property identified as 1830 and 1840 Baker Avenue (First Reading) (p. 130)
- c) Ordinance No. 13-___; An Ordinance adopting amendments to the City's Impact Fee Ordinance to reduce impact fees for small projects (First Reading) (p. 168)
- d) Resolution No. 13-___; A Resolution amending Rule X and Rule XI of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility and repeal of Title 8, Chapter 3, Section 2 of the City Code to enable common water service connections and sewer service connections for multiple structures in certain instances (p. 181)

7) COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR

- a) Resolution No. 13-___; A Resolution approving an agreement that permits the Glacier Hockey Association, Inc., to construct additional locker rooms at the Stumptown Ice Den (p. 188)

8) COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 197)
- b) Other items arising between May 1st and May 6th
- c) Resolution No. 13-___; A Resolution declaring it to be the intention to vacate and abandon a portion of Scott Avenue and to widen a portion of O'Brien Avenue, lying between 8th Street and 9th Street of Block 6, First Addition to South Whitefish, the City of Whitefish (SW1/4 of Section 36, T.31 N., R. 22 W., P.M.M.) (p. 201)
- d) Resolution No. 13-___; A Resolution declaring certain property to be unneeded and obsolete, and authorizing the disposal of such property – O'Shaughnessy Center seating (p. 212)
- e) Consideration of a request from Bruce Boody representing Orlan Sorensen for commitment of Tax Increment Funds for sewer line relocation and sidewalk and parking infrastructure associated with his proposed boutique hotel on Block 46 (p. 215)

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Standing budget item
- b) Consideration of letter from Megan Olson regarding request to operate an ice cream truck on various city streets and in various neighborhoods during spring and summer months (p. 237)
- c) Email from Lyndsay Schott of 708 Lupfer Avenue regarding increased traffic on 7th Street from Hwy 93 construction (p. 241)
- d) Email from Doug Adams regarding maintenance of the landscaping on Hwy 93 South (p. 242)
- e) Letter from Robert Horne regarding selection of consultant for Hwy 93 West Corridor Plan (p. 244)
- f) Letter from Doug Wise and Janice Moore regarding a request for a quiet zone railroad crossing at Birch Point Drive (p. 245)
- g) Discussion of options for dealing with Aquatic Invasive Species (p. 246)
- h) Discussion with Planning Director regarding composition of Hwy 93 West Corridor Plan steering committee (p. 248)
- i) Appointments to Committees and Boards that were not made at tonight's Special Session before the meeting

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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May 1, 2013

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

Mayor Muhlfeld and City Councilors:

Monday, May 6, 2013 City Council Agenda Report

There will be a special session beginning at 4:45 p.m. for interviews for various board and committee positions. We will provide food.

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

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

- a) Minutes from the April 15, 2013 Council regular session (p. 47)
- b) Consideration of approving application for Whitefish Lake Lakeshore Permit (#WLP-13-W09) to add an “L” Wing to dock; add EZ Port to Dock; install Shore Station with Canopy; Replace Wooden Stairs with Stone Steps install Dry Set Walkway, Stepping Stones & Low Voltage Pathway Lighting at 980 Packrat Lane subject to 28 conditions (p. 56)
- c) Consideration of approving application for Whitefish Lake Lakeshore Variance (#WLV-13-W06) to place Naturalized Riprap (exceeding stone size and no filter fabric), amended Revegetation Plan and Maintenance Plan for care of plants, addition of 28 square feet (4' x 7') to existing Stone Steps at East Lakeshore Beach Club subject to 34 conditions (p. 73)

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

Item a is an administrative matter. Items b and c are quasi-judicial matters.

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

- a) Consideration of an application from PMT Properties LLC (“Tupelo Grille”) for a Conditional Use Permit to operate a bar/lounge at 17 Central Avenue. The subject property is zoned WB-3 (General Business District) and will operate as a restaurant which serves wine, beer and liquor. The restaurant currently serves wine and beer only. The property is legally described as Lots 16 and 17, Block 28, Whitefish Townsite, in Section 36, Township 31N, Range 22W, P.M.M., Flathead County, Montana (p. 112)

From Planning and Building Director Dave Taylor’s staff report:

Summary of Requested Action: This item is a request by Bill Hileman, Jr. on behalf of PMT Properties LLC and Southern Cross, Inc., for a conditional use permit to expand from a cabaret-type beer and wine license to a full bar/lounge at Tupelo Grille, 17 Central Avenue. The property is zoned WB-3, General Business District.

Planning Board Action: The Whitefish City-County Planning Board met on April 18, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with two (2) conditions as contained in the staff report and adopted the staff report as findings of fact. (Konopatzke, Anderson, and Vail were absent)

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with two (2) conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the public hearing and asked if they had any questions. Rhonda Fitzgerald, 412 Lupfer, spoke in favor of the project. Rebecca Norton, 530 Scott Avenue, spoke in favor of the project. The draft minutes for this item are attached as part of this packet.

A full staff report and documents are in the packet.

RECOMMENDATION: After considering the testimony at the public hearing, the Planning Board and staff recommendations, staff respectfully recommends the City Council approve an application from PMT Properties LLC (“Tupelo Grille”) for a Conditional Use Permit to operate a bar/lounge at 17 Central Avenue, subject to the conditions approved by City Council and approve the findings of fact in the staff report.

This item is a quasi-judicial matter.

- b) Ordinance No. 13-___; An Ordinance approving a zone change for property identified as 1830 and 1840 Baker Avenue (First Reading) (p. 130)

From Planning and Building Director Dave Taylor's staff report:

Summary of Requested Action: This item is a request by Eric Mulcahy on behalf of Elaine Edwards and 1840 Baker LLC to amend the Whitefish zoning jurisdiction map from WI (Industrial and Warehousing) to WI/WB-2-SC (Industrial and Warehousing/Secondary Business with a Statement of Conditions) on two lots comprised of 1.870 acres of property addressed as 1830 and 1840 Baker Avenue.

Planning Board Action: The Whitefish City-County Planning Board met on April 18, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced rezone request and adopted the staff report as findings of fact. (Konopatzke, Anderson, and Vail were absent)

Planning & Building Department Recommendation: Staff recommended approval of the above referenced zoning map amendment.

Public Hearing: The applicant's representative, Eric Mulcahy spoke at the public hearing. The draft minutes for this item are attached as part of this packet.

A full staff report and documents are in the packet.

RECOMMENDATION: After considering the testimony at the public hearing, the Planning Board and staff recommendations, staff respectfully recommends the City Council approve an Ordinance approving a zone change for property identified as 1830 and 1840 Baker Avenue (First Reading)

This item is a quasi-judicial matter.

- c) Ordinance No. 13-___; An Ordinance adopting amendments to the City's Impact Fee Ordinance to reduce impact fees for small projects (First Reading) (p. 168)

From Public Works Director John Wilson's staff report:

On April 1, 2013 the City Council considered a staff proposal to reduce impact fees for small construction projects by amending Section 10-2-12 of the City Code. This memo is to recommend adoption of the attached ordinance to that effect. A Notice of Public Hearing has been advertised.

A copy of the staff memo from the April 1st City Council meeting packet is attached. The intended purpose of this ordinance is to reduce water and wastewater impact fees for projects involving fewer than 20 fixture units.

The recommended action would require any additional expenditures, although it would result in slightly lower revenues from water and wastewater impact fees. While the reduction in annual fees is difficult to predict, we estimate that would be less than \$10,000 per year for each fund.

RECOMMENDATION: Staff respectfully recommends the City Council approve an Ordinance adopting amendments to the City's Impact Fee Ordinance to reduce impact fees for small projects (First Reading)

This item is a legislative matter.

- d) Resolution No. 13-___; A Resolution amending Rule X and Rule XI of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility and repeal of Title 8, Chapter 3, Section 2 of the City Code to enable common water service connections and sewer service connections for multiple structures in certain instances (p. 181)

From Public Works Director John Wilson's staff report:

On April 1, 2013 the City Council considered a staff proposal to amend the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility to relax the requirements for separate service connections to separate buildings as a means of reducing costs for utility customers in certain instances. This memo is to recommend adoption of the attached resolution to that effect. A Notice of Public Hearing has been advertised.

A copy of the staff memo from the April 1st City Council meeting packet is attached. The intended purpose of this resolution is to relax current requirements for separate water and sewer service connections for each separate building or structure, and thereby reduce costs for projects when such multiple structures are under single ownership and located on property which cannot be further subdivided.

RECOMMENDATION: Staff respectfully recommends the City Council adopt a Resolution amending Rule X and Rule XI of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility and repeal of Title 8, Chapter 3, Section 2 of the City Code to enable common water service connections and sewer service connections for multiple structures in certain instances.

This item is a legislative matter.

COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR

- a) Resolution No. 13-___; A Resolution approving an agreement that permits the Glacier Hockey Association, Inc., to construct additional locker rooms at the Stumptown Ice Den (p. 188)

From Parks and Recreation Director Karl Cozad's staff report:

As the Stumptown Ice Den has evolved from an outdoor ice rink facility with limited support amenities to a full service indoor ice rink, the popularity of youth hockey has also substantially increased. As the popularity of this sport has increased so has the demand and necessity to development additional locker rooms at the Stumptown Ice Den. Specifically, the increase in participation in girls hockey has resulted in requiring ice rinks to provide specific locker rooms designated for girls teams. The additional locker rooms will certainly enhance our ability to accommodate growth in local participation and the expansion of both youth and adult hockey events.

The existing locker rooms in the Stumptown Ice Den do not meet the requirements as set forth by USA Hockey in providing sufficient space for youth hockey tournaments and leagues that involve female hockey teams and players. In addition, the limited number of existing locker rooms results in a less than desirable situations in allowing sufficient space for teams that are "on the ice", those that have finished their playing time, and for those that are about to get ready to play. Given that hockey programs (youth and adult) make up more than 90% of our customer base, we feel that with the additional locker rooms we will have the capabilities of expanding the participation levels in both league and tournament activities and thus generate even greater revenues to offset the operational expenses of the Stumptown Ice Den. We are fortunate to have a very active youth hockey organization (Glacier Hockey Association) who has stepped forward and has secured the necessary financial resources through grants and donations to compete the proposed project of providing additional locker rooms at the Stumptown Ice Den.

GHA has been extremely instrumental not only in the original development of the Stumptown Ice Den, but also in providing financial support over the past 10 years of its' operation. The proposal of this partnership between the City of Whitefish and the Glacier Hockey Association is another example of how the public/private relationship is vital to enhancing the quality of life here in Whitefish. In comparison, this document is very similar to the document that is currently being utilized by the City of Whitefish and the Glacier Twins Baseball Program for improvements at Memorial Stadium.

The implementation of the Facility Improvement Agreement for additional locker rooms at the Stumptown Ice Den will have a minimal financial impact in the operation of the facility. The City has committed \$7,500 to cover the estimated cost for the flooring in the locker rooms and hallway. The improvements being made to the facility should actually result in generating new revenues that should more than offset any additional operational costs relating to the Stumptown Ice Den. The \$100,000 cost of this project is covered by fundraising from Glacier Hockey Association, especially with receipt of a \$50,000 grant from a source that wants to remain anonymous.

RECOMMENDATION: Staff, the Ice Rink Advisory Committee, and the City of Whitefish Park Board, respectfully recommend that the City Council adopt a Resolution approving an agreement that permits the Glacier Hockey Association, Inc., to construct additional locker rooms at the Stumptown Ice Den.

This item is a legislative matter.

COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 197)
- b) Other items arising between May 1st and May 6th
- c) Resolution No. 13-___; A Resolution declaring it to be the intention to vacate and abandon a portion of Scott Avenue and to widen a portion of O'Brien Avenue, lying between 8th Street and 9th Street of Block 6, First Addition to South Whitefish, the City of Whitefish (SW1/4 of Section 36, T.31 N., R. 22 W., P.M.M.) (p. 201)

In 2002, at the petition and request of property owners adjacent to Scott Avenue between 8th and 9th Streets, the City vacated and abandoned the northern 180 feet of Scott Avenue between 8th and 9th Streets. Part of the intent of this 2002 street vacation was to permit Rob Pero to re-subdivide and develop some lots he owned adjacent to Scott Street into the O'Brien Meadows subdivision. In return for that replatting, Mr. Pero dedicated an additional 30 feet of O'Brien Avenue to the City.

However, as you can see from the map attached to this memo, the entire length of Scott Avenue between 8th and 9th Streets was not vacated. The southern 75 feet of Scott Avenue between 8th and 9th Streets was not vacated at the time and remains the property of the City of Whitefish.

Last summer, an adjacent property owner, Dorothy Kvigne, contacted me wanting to know if we would vacate the remaining portion of Scott Avenue. After talking with City staff, we could find no reason to retain that remainder parcel in City ownership given that the northern portion of Scott Avenue was previously vacated. We felt that the entire length of Scott Avenue between 8th and 9th Streets should have been vacated in 2002.

However, we felt that we should try to obtain the additional 30 feet of right-of-way (R-O-W) from the owners of Lot 6 of the South Whitefish Addition (renamed Lot A in the attached draft plat in the packet) so as to have a unified width of R-O-W on O'Brien Avenue between 8th and 9th Streets.

Therefore, I began discussions with the owners of Lot 6 of the South Whitefish Addition as the same owners own both parcels of land (see attached letter in packet). They agreed that the vacation of the back portion of their Lot 6 would improve their property and they also agreed to dedicate the equivalent 30 foot wide parcel of O'Brien Avenue to the City in exchange for the vacation. However, once we had the property surveyed with stakes, they realized how far the 30 feet of R-O-W on

O'Brien Avenue would come into their property. We therefore agreed to consult with them in the future about any plans to bury utilities or otherwise improve that 30 foot portion of O'Brien Avenue R-O-W for as long as they owned the lot. We also extended that consultation to them on their residence which is Lot 4 of O'Brien Meadows, adjacent to and north of Lot 6 of the South Whitefish Addition. That consultation is contained in a plat note on the plat. The staking remains on the property if you decide to drive by the lot at the NW corner of 9th Street and O'Brien Avenue.

All of the property owners adjacent to this proposed vacation of 75 feet of Scott Avenue have agreed to the vacation and have petitioned the City to do the vacation. These petitions are contained in the packet. Moreover, the owners of Lot 6 of South Whitefish Addition (renamed Lot A in the attached draft plat in the packet) have agreed to dedicate 30' of land along O'Brien Avenue in exchange for our vacating the 60 feet width of Scott Avenue. In any street vacation, one half of the width goes to each adjacent property owner, so the owner of Lot 6 will gain the exact amount of land at the back of their lot for what they are giving up in the front of their lot along O'Brien Avenue.

Mary VanBuskirk has prepared a Resolution of Intention to start the process for this vacation of Scott Avenue and that Resolution is in your packet. If the City Council adopts the Resolution of Intention, as staff is recommending, then there will be a public hearing on May 20th on this proposed street vacation and amended plat.

City staff agreed to bear all costs for the amended plat for this street vacation because of the additional R-O-W that we gain along O'Brien Avenue where it is more useful to the City than the dead-end R-O-W of the South 75 feet of Scott Avenue. The estimate cost of preparing, surveying, and recording is approximately \$2,000. The surveying and preparation of the amended plat cost \$1,700 by itself.

RECOMMENDATION: Staff respectfully recommends the City Council approve Resolution No. 13-___; A Resolution declaring it to be the intention to vacate and abandon a portion of Scott Avenue and to widen a portion of O'Brien Avenue, lying between 8th Street and 9th Street of Block 6, First Addition to South Whitefish, the City of Whitefish (SW1/4 of Section 36, T.31 N., R. 22 W., P.M.M.)

This item is a legislative matter.

- d) Resolution No. 13-___; A Resolution declaring certain property to be unneeded and obsolete, and authorizing the disposal of such property – O'Shaughnessy Center seating (p. 212)

The Whitefish Theatre Company (WTC) is embarking on a fundraising and capital improvement project at the O'Shaughnessy Center. Ultimately this project will involve a remodeled entry area and an expansion of rehearsal space on the south side of the O'Shaughnessy Center. The first phase of the project for this summer is to

replace the seating on the main floor of the O’Shaughnessy Center. To begin that project, Kathryn McEnery, Executive Director of WTC, contacted me recently about the process to sell the existing seating. Because the existing seating is a fixture in the building, according to our lease, that property belongs to the City of Whitefish. Thus, I told her that we have to do a resolution to declare that property as surplus and they will need to hold a public auction to sell the old seats.

I have prepared the necessary resolution declaring the seating as surplus and that resolution is in the packet. The Whitefish Theatre Company is going to hold a public auction of the old seating as a fundraising event and to create awareness of their fundraising project.

The City has no financial obligation related to the sale of the old seating nor for the purchase of the new seating.

RECOMMENDATION: Staff respectfully recommends the City Council approve Resolution No. 13-___; A Resolution declaring certain property to be unneeded and obsolete, and authorizing the disposal of such property – O’Shaughnessy Center seating.

This item is a legislative matter.

- e) Consideration of a request from Bruce Boody representing Orlan Sorensen for commitment of Tax Increment Funds for sewer line relocation and sidewalk and parking infrastructure associated with his proposed boutique hotel on Block 46 (p. 215)

Orlan Sorensen, a local resident and owner of Landmark Builders, is under contract to purchase Block 46 in Whitefish, which is where we have a lease for a temporary parking lot at 3rd Street and Spokane Avenue, across the street from Third Street Market. Mr. Sorensen has talked with the Mayor and some Council members individually about his proposal to develop a boutique hotel on that block.

He and his consultant, Bruce Boody, have talked with staff on several occasions about the need to abandon and relocate the sewer line which runs underneath the property. They have also talked with and are beginning the process for the necessary Planning and Building Department approvals. They have also talked with me about the potential for asking the City Council to use Tax Increment Funds to pay for the cost of relocating the sewer line under Block 46 and for sidewalk, parking, and street amenities in the Right-of-Way (ROW) surrounding Block 46.

Bruce Boody, on behalf of the owner and developer, Orlan Sorensen, has submitted a letter requesting the Tax Increment Financing (TIF) Fund assistance for the costs of the sewer line relocation and the sidewalk, parking, and street trees and amenities for

the four blocks of street surrounding Block 46. This letter and the accompanying exhibits are attached in the packet.

Other than the building permit stimulus project several years ago where we used TIF funds to pay for the impact fees of new building permits in the TIF district for one building season, the City of Whitefish has typically not directly assisted specific, individual development projects. Rather, the City of Whitefish has typically done public projects that benefit a large number of people and properties such as street projects, parking projects, trail projects, the land and infrastructure for the Library, O'Shaughnessy Center, and the WAVE, the Emergency Services Center, etc. However, most cities do use Tax Increment Funds to provide associated infrastructure costs and development necessary to enable a specific development project to go forward. Often the test and justification for such economic development assistance is use of the "but for" doctrine, whereby, "but for" the assistance, the project would not go forward.

As shown in the letter from Bruce Boody in the packet, Mr. Sorensen is requesting that the City commit \$514,245 of tax increment funds for the sewer line relocation and the sidewalk, landscaping, and parking improvements on the four blocks of street surrounding Block 46. As shown in a letter from Robert Peccia and Associates in the packet, if contamination is found when we dig in 3rd Street near Spokane (as we found when we did the Downtown Street Improvements Project on 3rd Street), that would add another \$29,100 to this cost estimate for a total of \$543,345.

The developer, Mr. Sorensen, has indicated that the cost estimates for the boutique hotel that he will build are estimated at \$10,000,000 for the building and \$1,900,000 for personal property – FFE (furniture, fixtures, and equipment). As shown in a spreadsheet in the packet that I prepared, this improvement would normally result in new tax increment funds of approximately \$155,000 per year until the TIF District expires in 2020 or a total of \$930,000 (the spreadsheet shows \$157,035 per year, but we do not get TIF on the 6 mills for property tax levies for the statewide University system). Thus, in normal economic development analysis, our investment of up to \$543,345 would be repaid within 3.5 years.

However, Mr. Sorensen has indicated that he plans to apply for tax incentives allowed in State law under Section 15-24-1401 et. seq. (descriptions in packet). Mr. Sorensen says he received such tax incentives for new and expanding industries for hotels he building in Shelby and Sidney. It is my understanding that Flathead County and the City of Columbia Falls have typically approved such tax incentives, but neither Necile or I can find any evidence of the City of Whitefish having ever been approached for or considered such incentives. When I worked for the City of Missoula (1984-1994), the City of Missoula often approved such tax incentives.

In discussions with Mr. Sorensen last week, he indicated that, if the City Council approves using TIF for some of the infrastructure associated with his project, he would **not** come to the City Council for tax incentives. However, he did indicate that

he would likely apply to Flathead County for the property tax incentives. Under state law, when an applicant applies to either the city or the county for the tax incentives, if approved by either the city or county, the incentives extend to the mills levied by that jurisdiction (city and/or county) and the school district. Thus, if Mr. Sorensen applies to Flathead County for the property tax incentives, if granted, the incentives will apply to the mills levied by Flathead County and Whitefish School District #44.

If tax incentives are pursued and approved by Flathead County, the tax increment revenues that we would receive from the project are reduced from \$930,000 to \$580,687 (as shown in cell R-44 of the spreadsheet). Thus the \$543,345 of possible cost for the sewer line, street, and sidewalk improvements would use 94% of the project TIF revenues we would receive from the project.

It is very important for the City Council to consider carefully how much of TIF funds to commit to the infrastructure associated with this project as this decision will be a precedent and future private projects might request the same proportion of assistance. However, the sewer line relocation is the type of assistance that TIF exists for – to remove or relocate infrastructure that enables a private development to proceed. Also, the street, parking, and sidewalk improvements are very similar to the improvements done in the Downtown Street Improvements projects on Central Avenue project and also on earlier street reconstruction projects done with TIF.

There are a number of aspects, issues, and policy implications associated with this request. We would want to be sure that our commitment of Tax Increment Funds are only done if the project gets all its approvals and begins construction. On the other hand, it is difficult for the developer to begin construction on the project until the sewer line is relocated and abandoned. Thus, I think that the City Council should discuss and debate the level of TIF investment for infrastructure we want to provide in conjunction with the Boutique Hotel project and then authorize me to begin negotiations with the developer on a Development Agreement with binds both parties to their respective investments.

RECOMMENDATION: Staff respectfully recommends the City Council consider the extent of Tax Increment Funds that they would like to commit towards the infrastructure associated with the proposed development on Block 46 and request staff to negotiate a development agreement with the developer for City Council approval so that our funds are only used if and when the boutique hotel development goes forward.

This item is a legislative matter.

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Standing budget item

- b) Consideration of letter from Megan Olson regarding request to operate an ice cream truck on various city streets and in various neighborhoods during spring and summer months (p. 237)
- c) Email from Lyndsay Schott of 708 Lupfer Avenue regarding increased traffic on 7th Street from Hwy 93 construction (p. 241)
- d) Email from Doug Adams regarding maintenance of the landscaping on Hwy 93 South (p. 242)
- e) Letter from Robert Horne regarding selection of consultant for Hwy 93 West Corridor Plan (p. 244)
- f) Letter from Doug Wise and Janice Moore regarding a request for a quiet zone railroad crossing at Birch Point Drive (p. 245)
- g) Discussion of options for dealing with Aquatic Invasive Species (p. 246)
- h) Discussion with Planning Director regarding composition of Hwy 93 West Corridor Plan steering committee (p. 248)
- i) Appointments to Committees and Boards that were not made at tonight's Special Session before the meeting

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

Sincerely,



Chuck Stearns
City Manager

"Cheat Sheet" for Robert's Rules

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

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WHITEFISH CITY COUNCIL MINUTES

April 15, 2013

7:10 P.M.

1. CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Mitchell, Anderson, Hildner, Kahle and Hyatt. Councilor Sweeney was absent. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Assistant City Manager/Finance Director Knapp, Senior Planner Compton-Ring, Parks and Recreation Director Cozad, Police Chief Dial, and Fire Chief Kennelly. Approximately 21 people were in attendance.

2. PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked John Frandsen to lead the audience in the Pledge of Allegiance.

3. PRESENTATIONS - None

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

Mayre Flowers, Citizens for a Better Flathead, talked about their goals and priorities. She said she attended the workshop and felt they listened to the public after they had come to their conclusions, which is problematic. She said they put the Sign Code on the priority list and she is concerned about the vagueness of that priority. She said if the Sign Code is a priority then it needs to go through the public process. It was a big issue for the community and the finished product has flexibility. She doesn't think it needs to be re-opened. She said if they are opening it for the businesses that have raised concerns then they need to ask why they don't use the zone change request process. She said she spoke with Don K and told him she gets plenty of advertising and service from them, so she is not interested in seeing more signs at the entrance to Whitefish. She said last week at the Council meeting they announced that Councilors Hyatt and Mitchell would go to the Planning Board to recommend changes. She said if those Councilors go and take a position at the meetings it will put them in an unethical position when it comes to voting on the issue. She showed the Planning staff report, but said none of the public has had a chance to look at things because it is not on the website. She said items like staff reports and applications also need to be included on the website so the public can have easier access to documents.

Councilor Anderson stated, as a point of privilege, that he had missed the goal-setting work session but does not agree with listing amendments to the Sign Code as a priority. He will have to leave during the meeting tonight, but if this comes up while he is here he will not vote for the goals as long as the 'Possible Amendments to the Sign Code' is in there.

5. COMMUNICATIONS FROM VOLUNTEER BOARDS

Jan Metzmaker, Executive Director of the Whitefish Convention and Visitors Bureau (WCVB) introduced the Board and communications team. She presented the FY 14 Marketing Plan and the

April 15, 2013

Public Bed Tax Fund Budget (dollars which they receive from the State). She said they partner with the State marketing program and are able to market in major national magazines. Their budget started out at about \$40,000 in 2006 and now their total operating budget including private and public funds is close to \$440,000. Bed tax collections were up 9%. They have achieved all of their goals for the year except one. She said the business members are appreciative of their efforts, especially during the shoulder seasons.

John Frandsen, Old Town Creative, said they are the advertising agency for the WCVB. Through paid advertising and cooperative efforts with independent and State marketing efforts the WCVB reached 4.9 million people through print advertising.

Lisa Jones said she and Brian Schott are the contracted public relations team for the WCVB. By December 2012, they had reached 54 million in ad equivalency through “earned media” providing information to national PR programs that are sent out in print, by radio, online, and on television. When these free promotionals are compared to the cost of traditional advertising, it is worth \$5,276,246 to date. She said these free promotionals reached over 979 million people since July 1, 2012. They hosted a project with the Montana Office of Tourism to bring in the TV program, “The Bachelor.” It was advantageous for the community. It cost about \$300,000 to bring in the show and \$30,000 was contributed by the WCVB for food for the crew. She said the show highlighted the beauty of our small town and Glacier National Park. She said the show reached 9 million people each of the four times it was shown. She said a 30-second ad during “The Bachelor” would be \$70,000.

She said the website normally gets 500 hits a day and got 5,000 on the day after the show. She said the Whitefish Lake Lodge site crashed 11 times because of all of the hits after the show; and many local businesses saw more hits on their websites and booked more reservations following the airing of the show. The Chamber of Commerce, our Whitefish Visitors’ Information Center, had a 29% increase in activity in February and March. She thanked all of the partners, including the City staff that supported them in this endeavor. (Councilor Anderson left the Council Chambers at this time). Councilor Mitchell asked if it was normal to have to pay the production costs and Lisa Jones said yes, they have to “pay to play.” Councilor Mitchell asked if Whitefish was a resort town or a tourist town and Lisa Jones said Whitefish is a mountain town; a small, vibrant community that is a gateway to national wonders. Nick Polumbus said that Whitefish is marketed as a wonderful community and that is a large appeal to visitors. Lisa Jones said people love the scenery and interacting with the locals. Councilor Hildner said the key measurable objectives seem like they might be over ambitious—but, they reached the goals in 2013. Lisa Jones said they are reaching the 55 million geo-travelers so they have a targeted market group and research shows that 80% of those visitors return. Rhonda Fitzgerald said they have out-performed their goals every year so she made a motion to move the bar up. She said Whitefish is unique—not a resort town.

John Frandsen, Old Town Creative, said they don’t market themselves as a resort town; they market themselves as a vibrant town. He said the website had 198,000 hits in the past year. There is now a new web cam at City Beach and he thanked Director Cozad for his help with that project.

Councilor Kahle offered a motion, seconded by Councilor Hildner to approve the WCVB budget for FY 2014. The motion passed unanimously.

April 15, 2013

Councilor Kahle offered a motion, seconded by Councilor Hyatt, to approve the WCVB marketing plan for FY 2014. The motion passed unanimously.

Councilor Mitchell said he was on the tree committee and the Rollie Smith Sports Park is part of the Arbor Day program and will get five trees at the park. They will be planted April 26, 2013.

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

6a. Minutes from the April 1, 2013 Council regular session (p. 106)

Councilor Hildner offered a motion, seconded by Councilor Kahle, to approve the consent agenda. 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)

7a. Consideration of an application from Whitefish Mountain Resort, on behalf of Winter Sports Inc., for a variance to the Subdivision Regulations, §12-3-11I(1), in order to obtain a 2-year extension to a Subdivision Improvement Agreement for Northern Light West, Phase 2 subdivision. The property can be described as Lots 19-28, Northern Lights West, Phase 2 in S3, T31N, R22W (p. 114)

Senior Planner Compton-Ring said Dan Graves, on behalf of Winter Sports Inc., is requesting a variance to §12-3-11I(2)(a) of the Subdivision Regulations in order to extend the Subdivision Improvement Agreement for Northern Lights West, Phase 2, a second time for 24 months. The property is zoned WBMRR (Big Mountain Resort Residential District). This subdivision is within the 2006 Big Mountain Neighborhood Plan and this area is designated for single family residential.

Northern Lights West was approved by the Flathead County Commissioners on October 20, 2003. The project encompassed 102.7 acres and 28 single family lots. Phase 1 was finalized in 2007 and consisted of 18-lots. Phase 2 was finalized in 2008 and consisted of 10-lots. As part of the final plat application, WSI entered into a Subdivision Improvement Agreement (SIA) with the City to complete unfinished improvements including roads, water, sewer, drainage and other utilities. The SIA has been extended several times and is now set to expire on November 30, 2013.

When a preliminary plat is ready to be finalized, an application for final plat is submitted to the Planning Department. The application includes a list of the conditions of approval and how these conditions are met. Often when a developer is prepared to go to final plat, not all the infrastructure or other improvements are installed. In these cases, as part of the final plat application, a financial guarantee along with a Subdivision Improvement Agreement (SIA) is submitted. The SIA is an itemized list of outstanding items with a cost estimate for the total project plus 25%.

The Subdivision Regulations permit an SIA to be valid for 24-months at the time of final plat. The developer may request one 24-month extension from the City Council in order to complete the improvements. If a developer is unable to make the improvements, the City has the authority to cash out

the letter of credit and make the improvements. Staff placed a legal in the paper on March 6, 2013 and notified the adjacent land owners within 300-feet on March 1, 2013 and no comments have been received.

Planner Compton-Ring reviewed the criteria set forth in Section 12-2-5C of the City of Whitefish Subdivision Regulations. Variance language states no variance shall be granted unless the Council finds the following conditions are met or the conditions are found to be not pertinent to the particular case:

1. **The granting of the variance will not be detrimental to the public health, safety or general welfare or injurious to other adjoining properties.**

The project is served by Big Mountain Water Company, Big Mountain Sewer District and private roads. The private roads are extended to the northwest of the project boundary; however, there are no projects waiting to be served by the roads or utilities.

Finding 1: The granting of the variance to extend the Subdivision Improvement Agreement for an additional 24-months will not be detrimental to the public health, safety or general welfare or injurious to other adjoining properties.

2. **Due to the physical surroundings, shape or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner.**

Finding 2: This criterion is not pertinent to this particular request.

3. **Undue hardship is not based exclusively on a personal or financial hardship or any hardship that is self-imposed.**

WSI, like the rest of the valley, has felt the effects of the recent recession. Instead of spending capital on more residential development, they have made the choice to spend resources on visitor services and would prefer, in the near-term, to invest in more visitor services. One could make the case that the choices WSI has made in the past has placed them in a position to be requesting a variance to further extend the Subdivision Improvement Agreement. However, one could also make the case that WSI prefers to use their resources strategically to get the most out of day visitor usage which may, in turn, promote interest in mountain real estate.

Finding 3: The hardship is not based exclusively on a personal or financial hardship.

4. **The variance will not cause a substantial increase in public costs.**

Finding 4: The project is served by private infrastructure. An extension of the Subdivision Improvement Agreement will not affect the public.

5. **The variance will not place the subdivision in nonconformance with any adopted zoning regulations, growth policy or other adopted policies or regulations.**

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The variance request is not to any design standards. The project layout and design are established and will not be changing with this request. The request in and of itself will not place the subdivision into any nonconformity.

Finding 5: The variance request will not place the subdivision in nonconformance with any adopted zoning regulations, growth policy or other adopted policies or regulations.

Planner Compton-Ring said there are several issues to consider with this request:

This project was approved 10-years ago by Flathead County before it was in the City's planning jurisdiction under different zoning and subdivision standards. WSI has requested a number of extensions on this project. At what point, is it time to simply require a plat to be vacated?

On the other hand, as a community, the success of the Mountain is an important aspect of our community. The Mountain has a number of employees and is a draw to our town in the wintertime and other times of the year. If the Mountain believes delaying the installation of infrastructure in order to focus on day users of the Mountain and the variance to extend the SIA 'does no harm' the City should support that request.

She said the Planning Board held a public hearing on March 21st and recommended approval with two conditions:

1. An updated Subdivision Improvement Agreement (SIA) with revised engineering estimates shall be submitted to the City for review and approval.
2. A revised letter of credit or other form of financial guarantee shall be submitted to the city in an amount of 125% of the SIA and shall have an expiration date of 30-days past the date of the SIA.

Councilor Hildner asked and Planner Compton-Ring said the letter of credit will cover 125% of the SIA.

Mayor Muhlfeld opened the public hearing.

Dan Graves, Whitefish Mountain Resort, said the bond of 125% has already been guaranteed by the bank and they will get the updated estimates on the infrastructure. He said this is similar to the other single family preliminary plats he has brought before them. He said the single family market is slow so they are working on guest service improvements which will further promote tourism. He asked them for their continued patience so they can get through this period.

Mayor Muhlfeld closed the public hearing.

Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to approve a variance to the Subdivision Regulations, §12-3-11I(1), in order to obtain a 2-year extension to a Subdivision Improvement Agreement for Northern Light West, Phase 2 subdivision subject to two conditions and findings of fact in the staff report (WSV 13-01). The motion passed unanimously.

8. COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

8a. Consideration of approving a consultant contract for the Whitefish Hwy 93 West Corridor Plan project (p. 132)

Planner Compton-Ring said the City Council authorized staff to pursue Request for Proposals (RFP) for a Highway 93 West Corridor Plan at the January 22nd meeting. There were four responses to the RFP. Proposals were received from Applied Communications, WGM Group, Design Workshop, and CTA. A selection committee comprised of Mayor Muhlfeld, John Wilson, Wendy Compton-Ring, and Dave Taylor ranked all four proposals on a scale of 1-100. This team also interviewed all four firms on March 25 and ranked the interview presentations on a scale of 1-100.

Three of the four reviewers ranked Applied Communications, LLC first, while the other had them at a close second. It is the recommendation of the selection committee to award a contract for the Highway 93 West Corridor Plan to Applied Communications, LLC. Applied Communications, LLC, which is made up of professional planners Kathleen McMahon and Robert Horne, will team up with GSBS Richman as well as Geodata Services for this project. The majority of the selection committee felt that they had the strongest proposal. As a local firm, they have the most flexibility to attend steering committee and other meetings, have a great familiarity with Whitefish and our adopted long range plans, as well as the necessary experience for a successful project. The interview committee also unanimously felt their proposal for evaluating the economic performance of the district was the strongest of all the applicants. They were also tied for least expensive proposal at \$50,000 and can complete the project within a 22 week timeline, slightly less than six months.

Staff respectfully recommends the City Council award a contract for the Highway 93 West Corridor Plan to Applied Communications, LLC in the amount of \$50,000.

Councilor Hildner offered a motion to award a contract for the Highway 93 West Corridor Plan to Applied Communications, LLC in the amount of \$50,000. The motion failed for lack of a second.

Councilor Hyatt said the numbers between WGM and Applied Communications were rated very equitably and he felt WGM already was involved with the project. Planner Compton-Ring said WGM was the engineering team for the project out there. Councilor Hyatt said this team already has a great idea of what is going on to date. Councilor Kahle said he agreed that the WGM group has continuity for the project. He said he talked with people on that committee who feel like the relationship with WGM and the existing homeowners is vital.

Councilor Kahle offered a motion, seconded by Councilor Mitchell, to award the contract for the Highway 93 West Corridor Plan to the WGM Group in an amount not to exceed \$54,185.

Councilor Hildner said it made good sense to go with professional planners and not an engineering group. He said they needed to honor the team that went through the process and recommended Applied Communications. He can't recommend a 2nd place application when the steering committee voted unanimously for Applied Communications. Councilor Hyatt disagreed with Councilor

Hildner's comments. He said Director Taylor rated WMG group above Applied Communications. He would like to keep similarity in the project.

Councilor Hildner recognized Bob Horne in the audience.

Bob Horne, with Applied Communications, 151 Wedgewood Lane, said this is not an engineering project. The RFP said the engineering was a given. This is a planning project to evaluate the existing growth policy and zoning and to do a build-out scenario. He said the RFP said they wanted a regulatory framework and a Neighborhood Plan that is adoptable. He said the different businesses competed and the committee liked the economic basis of the Applied Communications approach and he asked that they be allowed to negotiate the contract with the City.

The motion passed 3-1 with Councilor Hildner voting in opposition.

9. COMMUNICATIONS FROM CITY MANAGER

9a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 145)

9b. Other items arising between April 10th and April 15th

Manager Stearns said he went down to attend a meeting with the County Commissioners about the highway corridor study, but their agenda was rearranged and he missed the agenda item. He said they told him that their County Attorney said they cannot participate in the Hwy. 93 South Corridor study until the donut litigation is settled. Mayor Muhlfeld said David DeGrandpre has been hired by some of the land owners out on Highway 93 and wanted to know what the City's intentions were, so he would let him know that the City's hands are tied right now. Councilor Mitchell said he hoped the donut issue would move forward, but it is not moving forward now.

Manager Stearns said there will be a 5th Monday meeting in Columbia Falls and when he gets the agenda he will let the Councilors know.

9c. Resolution No. 13-04; A Resolution establishing annual goals for the City (p. 148)

Councilor Kahle said the short term goal about the Sign Ordinance has been an issue since he got on the Council. No one wants to gut the Sign Ordinance, but it is a dynamic document and they need to look for ways to improve it. He said they have asked the Planning Board to bring up certain areas of the Code they are not happy with. He said this goal is not in response to what the businesses on Highway 93 South are saying. Mayor Muhlfeld agreed. Councilor Hildner said it has been on the goals list for 3 years, but they've dealt with several of the issues through revisions using the variance process. He would be more comfortable, especially since they can't move forward with the Highway 93 South Corridor study, if they took it off the goals list for now.

Councilor Hildner offered a motion to adopt the list of annual goals with the exception of the goal to amend the Sign Ordinance. The motion died for lack of second.

Councilor Kahle said the variance section of the code is costly, especially for small businesses. He would like to have a discussion and work session with the Planning Board. Councilor Mitchell said they have asked the Planning Board for updates and the Council was going to meet with them. Mayor

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Muhlfeld said they were waiting for a list and Planner Compton-Ring said she submitted a list to go before the Planning Board this Thursday; they have been keeping a running list of areas that seem problematic from both staff and the Planning Board, and she included 3 items from Councilor Hyatt. Councilor Mitchell said they can work on it. He said Mayre Flowers' comment that said he was going to attend the Planning Board meeting and go with an agenda was not true. He said he thinks there is value in reviewing this issue.

Councilor Hyatt offered a motion, seconded by Councilor Mitchell, to approve Resolution 13-04; A Resolution establishing annual goals for the City for FY 2013. The motion passed 3-1 with Councilor Hildner voting in opposition.

9d. Third Quarter Financial Report – Assistant City Manager/Finance Director (p. 152)

Finance Director Knapp gave the financial report and said the total property tax supported funds' cash increase from last Q3 was \$158k or 16%. The Parks Department cash is lower than normal due to large capital purchases early in the year and unexpected costs. Fire and Ambulance cost is lower because they haven't received funds yet from Medicare. He said the High School permit income hasn't been received yet. He said the numbers reflect the Police Department's Union pay raises but the Fire Department union pay increases have not taken effect yet. He said building permits income is the highest since 2007. He said water and sewer charges are 6-7% higher and planning fees are at 110% of budget. Revenue from impact fees has doubled from last year. The City is now generating hydroelectricity so it is decreasing that cost for the City.

Councilor Hyatt asked about the payment of the TIF money to the High School and Finance Director Knapp said the City will pay the full \$1 million later this week. Councilor Mitchell had a question on page 158, line 159 regarding the cash balance. Finance Director Knapp said they paid for the water improvements for the U.S. Highway 93 project with cash. Councilor Mitchell asked what amount in cash reserves is needed to reach 15% and Finance Director Knapp said he could look that up. Manager Stearns said the budget is \$150-\$170,000 ahead of last year. He said cash levels are higher, but they haven't received the largest permit fee for the high school. He said all the money for the fire equipment debt won't show up in this year's budget. Finance Director Knapp told Councilor Mitchell they need \$1.3 million to have a 15% cash reserve.

10. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

10a. Standing budget item - None.

10b. Selection of an elected official to serve on the Stormwater Improvement Project engineering selection committee.

Councilor Hyatt volunteered to serve on the committee.

10c. Email from Douglas Chadwick on sign code (p. 160)

10d. Email from Nancy Nei on sign code (p. 162)

Councilor Kahle said he believes that the Sign Ordinance review needs to be and will be a public process. They are looking for more clarification so they can fix a few problem areas.

April 15, 2013

Councilor Hyatt said Clean the Fish is April 20th, 8:30 a.m. at Glacier Bank parking lot. He invited the public to attend.

Councilor Mitchell said at the parking work session meeting he brought up the idea of sending information out to people in the TIF district to get their ideas on a parking garage. He asked if it was possible and Manager Stearns said anything is possible and there are a number of ways to get it done; if they decide on a survey, he thinks it will be hard to agree on how and what questions to ask. He said they have a list of all of the properties in the TIF, but he doesn't have a list of only commercial properties. He thought the County could come up with that list. Councilor Mitchell said it is an important issue for the public and will be an important issue for the whole town. He said Chris Schustrom commented that Councilor Mitchell didn't know the Growth Policy. He said he has spent hours reading the regulations and would appreciate being treated with respect.

Mayor Muhlfeld said during the work session it sounded like there is a need to update the TIF spreadsheet and Manager Stearns said staff was waiting to roll it out at a work session. He said they will get it updated as soon as they can, however the budget preparation is their current priority. Mayor Muhlfeld said it would be good if the Council could get the update before the May 20 meeting. Manager Stearns said it probably won't be a work session item until July.

Councilor Hyatt addressed the parking structure issue and said he asked for a similar survey to go out because only 28 people voiced their opinion about putting the City Hall on the existing site. He would like to hear from the public at large. Mayor Muhlfeld said unfortunately they only hear from people who come to public hearings. Councilor Hyatt said people talk to him every place but at the Council meetings. He said people who talk to him know there are people with an agenda at the meetings and they don't want to stand up as a lone voice speaking out against an issue. It is too intimidating. Mayor Muhlfeld said they need to encourage everyone to show up for the public meetings.

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 9:46 p.m.

Mayor Muhlfeld

Jane Latus Emmert, Recording Secretary

Attest:

Necile Lorang, City Clerk

**MIKE SHAW
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-13-W09
MAY 6, 2013**

Owner: Michael Shaw
Mailing Address: 505 Lakewood Ct
Whitefish, MT 59937
Telephone Number: 406.253.3520
Contractor: Reid Sabin (Steps)
Mailing Address: N/A
Telephone Number: 406.261.2262
Property Legal Description: Lot 8, Glenwood Park and part of Lot 2 in
Section 25, Township 31 North, Range 22 West
Property Address: 980 Packrat Lane
Lake: Whitefish Lake
Lake Frontage: 139'
Project Description: Add "L" Wing to dock; add EZ Port to Dock;
Installation of Shore Station with Canopy;
Replace Wooden Stairs with Stone Steps

Discussion:

Proposal: The applicant is requesting to add an "L" wing to the end of the dock (133.4 square feet). The new wing is 6'8" by 20'. The application also includes the addition of an EZ Port of 5' x 13' (65 square feet) and a shore station with a 10' x 22' canopy (220 square feet).

The third request is to replace the existing wooden steps with stone steps. Staff notes that the application lists the current wooden steps as 3' x 12' but previous permits list them as 3' x 20' for a total of 60 square feet. The request is for a replacement of stone steps that are 5' x 20' however the maximum allowable width for stairs within the lakeshore regulations is 4'. Replacement stone steps that conform to the regulations could be 4' x 20' (80 square feet). The replacement of the stairs would require the use of a small excavator and skid steer. The application states that the replacement would have no negative impacts on the lakeshore but does not include any measures to restore disturbed areas. Basic conditions for restoration can be included in the conditions of approval to address this issue.

Frontage and allowable constructed area: The property is eligible for 1112 square feet of constructed area based on 139' of lake frontage.

Existing Constructed Area: Four permits have been issued on this property since 2006. The property was previously owned by the Breidenbach family and had a swimming dock that was owned with the adjacent property. It has been removed. Existing improvements on-site include a retaining wall of 84' x 2' (168 square feet); wooden stairs at 3' x 20' (60 square feet); dock at 40' x 6.67' (266.80); gangway of 3' x 9.83' (29.49); and buoy. The total existing constructed area is 524.29 square feet. This leaves 587.71 square feet of available constructed area.

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

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

Recommended Conditions of Approval:

1. 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'.
2. The proposed dock dimensions specified on the application project drawing shall not be exceeded. Changes or modifications to increase any dimension or change configuration must be approved through a permit amendment.

Dock Conditions:

3. Any wood used in construction of the new dock shall be untreated and left in its natural state. Use of a wood polymer composite (i.e. TREX) is strongly encouraged. Use of painted material, plywood, particle board or other glued composite board is not allowed.
4. If foam logs or similar easily damaged flotation systems are incorporated into the dock design, said material shall be completely encased in solid wood or a suitable impervious, non-corrosive material such as a synthetic, aluminum or galvanized sheet metal to avoid the breakup or scattering of materials. Boards may be spaced up to one-half inch (1/2") apart on the bottom or drain holes may be incorporated into other materials to aid in drainage. All foam encased floating docks shall be maintained according to these standards or else be immediately and completely removed from the Lakeshore Protection Zone. All foam shall be extruded closed-cell polystyrene (blue or pink logs) unless encased in synthetic "rotomolded" floats.
5. Flotation-encased docks (i.e., Superdeck, EZ-Dock, Glacier Dock) or docks with rotomolded floats are strongly recommended for durability and longer-life

6. No additional dock access gangway is allowed unless included in the permit application and in the approved total dock length.
7. The dock section shall be constructed outside of the Lakeshore Protection Zone. Upon completion the components may be brought to the lakeshore area and launched.
8. The floating dock shall be suitably anchored to the lake bottom to avoid drift. Anchoring methods for the dock are limited to cable; galvanized chain or nylon or polypropylene rope attached to a suitable clean weight such as solid clean concrete, rock or steel blocks.
9. The dock shall be placed in the middle of the property ownership. Under no circumstances shall the dock be located closer than twenty (20) feet from the riparian property lines.
10. Only one lakeshore dock is permitted per property ownership.

Shore Station Conditions:

11. The shore station shall be located no farther into the lake than the dock length at that location.
12. The shore station shall be located no closer than twenty-five (25) feet from a riparian property line.
13. The highest point of the shore station shall not exceed 10 feet in height above the current water elevation of the lake.
14. A roof cover on the shore station shall be made of a non-reflective material. Earthtone colors such as green, tan, brown and gray are preferred. It shall be removed during the late fall, winter, and spring periods of non-use.

Stone Steps

15. The dimensions of 4' x 20' shall not be exceeded. Changes or modifications to increase any dimension or change the materials or construction methods described in the application must be approved through permit amendment.
16. The area disturbed by construction shall be restored to the condition prior to construction. 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.

17. Hand railings are permitted. The railing shall not extend higher than four feet (4') above the stairway and landing walking surface and shall have a visually open design. Metal, non-ornate railings may be painted brown or green by the manufacturer prior to installation.
18. The steps shall have a maximum width of four feet (4') and shall be designed to provide access only. The existing path may not be modified except for the installation of steps.
19. Clean, washed gravel may be used in setting the steps but cannot be used to modify existing terrain.
20. Rock may be handpicked from the immediate lakeshore but removal of said rock shall only be allowed if a solid armament of rock remains in place. The removal of any rock which exposes silts, sands or fines is prohibited.
21. Silt fencing, straw waddles or other erosion and sedimentation measures shall be utilized during construction. An approved plan for erosion and sedimentation during construction shall be required. Approval of the methods proposed shall be issued by the City of Whitefish in compliance with the Critical Areas Ordinance or other development standards.
22. The proposed project shall not exceed the allowable dimensions or deviate from the proposed location as specified on the site plan, except as amended by the Whitefish Lake and Lakeshore Protection regulations. Changes or modification to increase any dimension (or change configuration) must be approved through permit amendment. The owner must request an amendment before the permit expires.
23. All work shall be done when the lake is at low pool, before April 20th or after August 15th, and when the construction site is dry. Construction dates can be modified with approval by the Planning Department to account for fluctuations with high water and low water cycles dependent on late thawing or early lowering of lake levels.
24. The natural protective armament of the lakebed and lakeshore shall be preserved wherever possible.
25. The work authorized under this permit shall be completed in substantial compliance with the methods and materials described within the application.
26. At no time shall the wheels of any vehicle come in contact with the lake. All equipment tracks shall be raked or otherwise removed by hand.
27. If lake siltation occurs, work will be immediately halted and the City of

Whitefish Planning Department shall be contacted.

28. This permit is valid for a period of one year from the date of issuance. Upon completion of the work, please contact the Whitefish Planning and Building Department for inspection.

Report by: Nikki Bond

WHITEFISH, BLANCHARD & LOST COON LAKE Lakeshore Construction Permit Application

A permit is required for any work, construction, demolition, dock/shore station/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, 3,144.80' msl (NAVD 1988) for Blanchard Lake and 3,104' msl (NAVD 1988) for Lost Coon Lake. Please fill in all information, sign and pay the appropriate fees. In order to be on the next Lakeshore Protection Committee Meeting agenda the completed application must be submitted a minimum of **3 weeks** prior to the next regularly scheduled meeting and all required information must be provided in order to be deemed complete and scheduled for the next meeting date. The Committee meets on the second Wednesday of every month. An incomplete application will not be accepted.

Submit Application To:

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

OWNER Name <u>Michael Shaw</u> Phone <u>253-3520</u> Phone <u>862-1299</u> Mail Address <u>505 Lakewood Ct</u> Address _____ City, <u>Whitefish</u> State, Zip <u>MT 59937</u> Zip _____ Project address (if other than above): <u>980 Packrat Lane, Whitefish, MT 59937</u>	APPLICANT (If Other Than Owner) Name _____ Mail _____ City, _____ State, _____ Zip _____
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How many feet of the lake frontage do you own? <u>139'</u>	Legal Description (available from annual property tax notice) Lot/Tract#: <u>8/2</u> Section: <u>25</u> Township: <u>31N</u> Range: <u>R22W</u> Subdivision Name: <u>Glenwood Park</u>
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CONTRACTOR: Reid Sabin (Steps)
PHONE#: 406-261-2262

Mail Address:

FEES:	
Administrative Permit (no committee meeting)	\$75
Administrative Permit (w/ committee meeting)	\$255
Standard Permit	\$350 base fee (1 activity)
(Activity is defined as a separate component or project that by itself would require a permit)	\$140 each additional activity
Variance - Minor	\$490/variance - added to standard permit fee Supplemental Application Required

Variance - Major	\$1,400/variance - added to standard permit fee Supplemental Application Required
"After-the-Fact" Permit	4 times the normal fee

1. 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).

— Add to existing EZ dock - add 6'8" x 20' (L shape) & EZ port (5' x 13')

— Place Shore Station (10' x 10') with canopy (10' x 22')

— Replace painted wood stairs with stone stairway

Small Excavator & Skid Steer - Remove 3' x 12' stairs, Place 5' x 20' stone steps

2. 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.

Remove existing painted stairs & stabilize lakeshore. No anticipated negative impacts.

3. 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.

1 6'8" x 39' EZ dock (253 ft²)

1 3' x 9'10" Perforated gangway (aluminum & plastic)

1 3' x 12' painted wooden stairway

1 mooring buoy

3. 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?

4. The following Project Information must be included.

Is VICINITY MAP attached? X

Is SITE PLAN attached? X

Is PROJECT DRAWING attached? X

Are at least 3 PHOTOS of work site attached? X

1 photo of property from lake, 2 photos showing lakeshore protection zone from property boundary towards other property boundary, i.e., from north property line across to south property line, and photos of each existing structure or constructed area within the lakeshore protection zone (dock, boat house, stairs, etc)

I hereby state that the statements contained herein and the materials attached hereto are a true and complete statement of all proposed work and its effects (or probable effects) on the

lake and lakeshore and that I have answered all questions in the application. The signing of this application signifies approval for City Planning staff to be present on the property for routine monitoring and inspection during the approval and development process.

Michael K Shaw

3/26/13

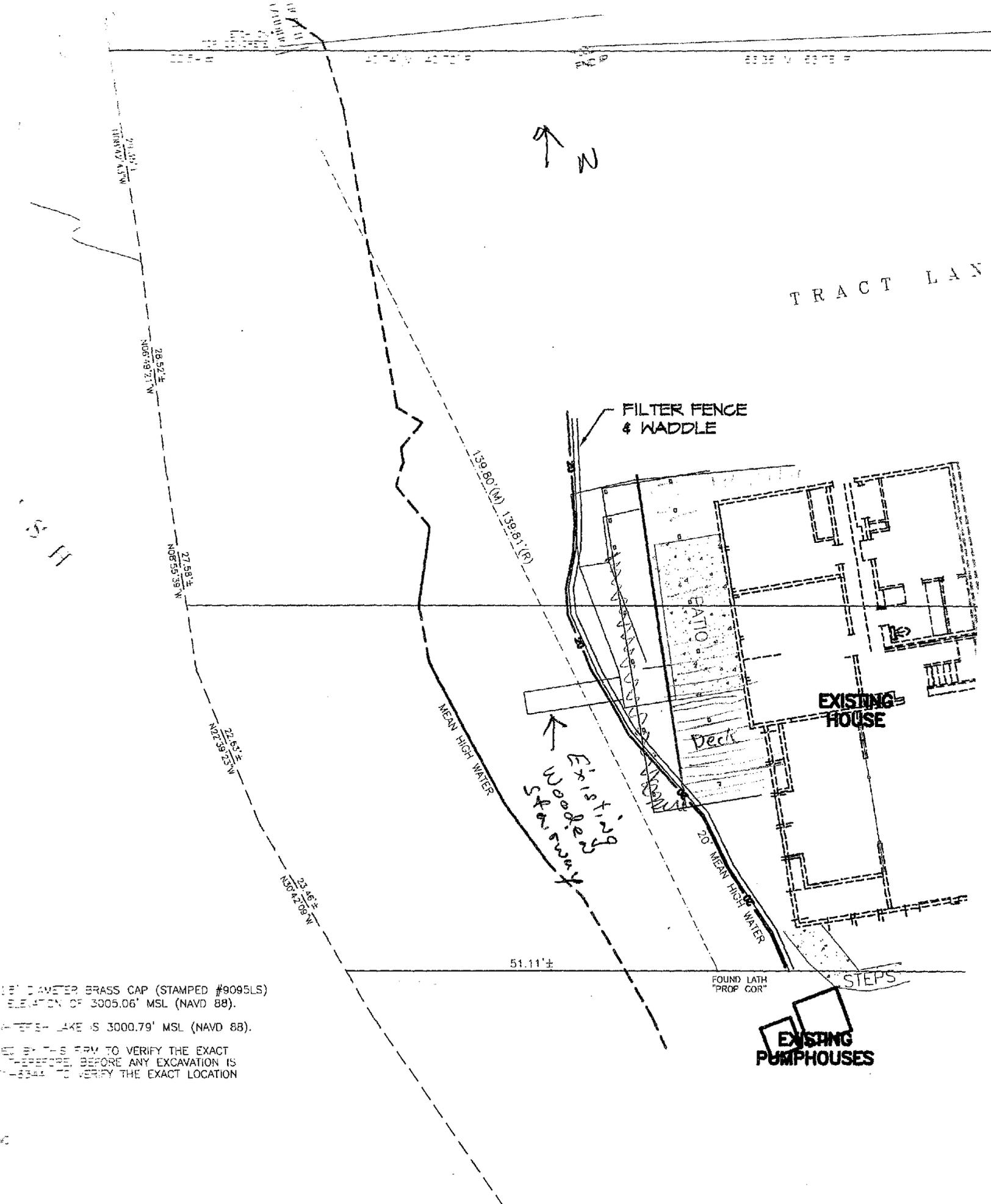
Owners Signature (May be signed by applicant but authorization letter from owner must be attached.)

Date:

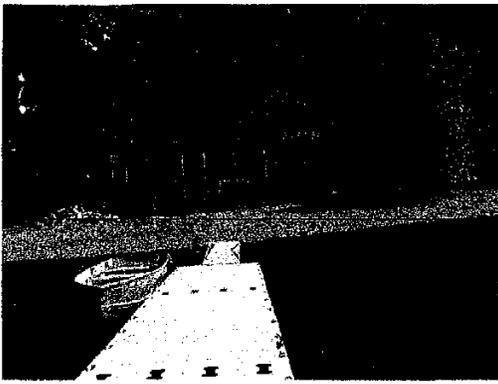
Michael K. Shaw

Print Name

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



1 1/2" DIAMETER BRASS CAP (STAMPED #9095LS)
 ELEVATION OF 3005.06' MSL (NAVD 88).
 LAKE IS 3000.79' MSL (NAVD 88).
 BY THIS FIRM TO VERIFY THE EXACT
 THEREFORE, BEFORE ANY EXCAVATION IS
 TO VERIFY THE EXACT LOCATION



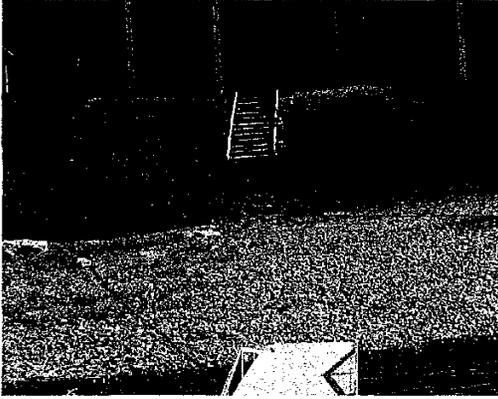
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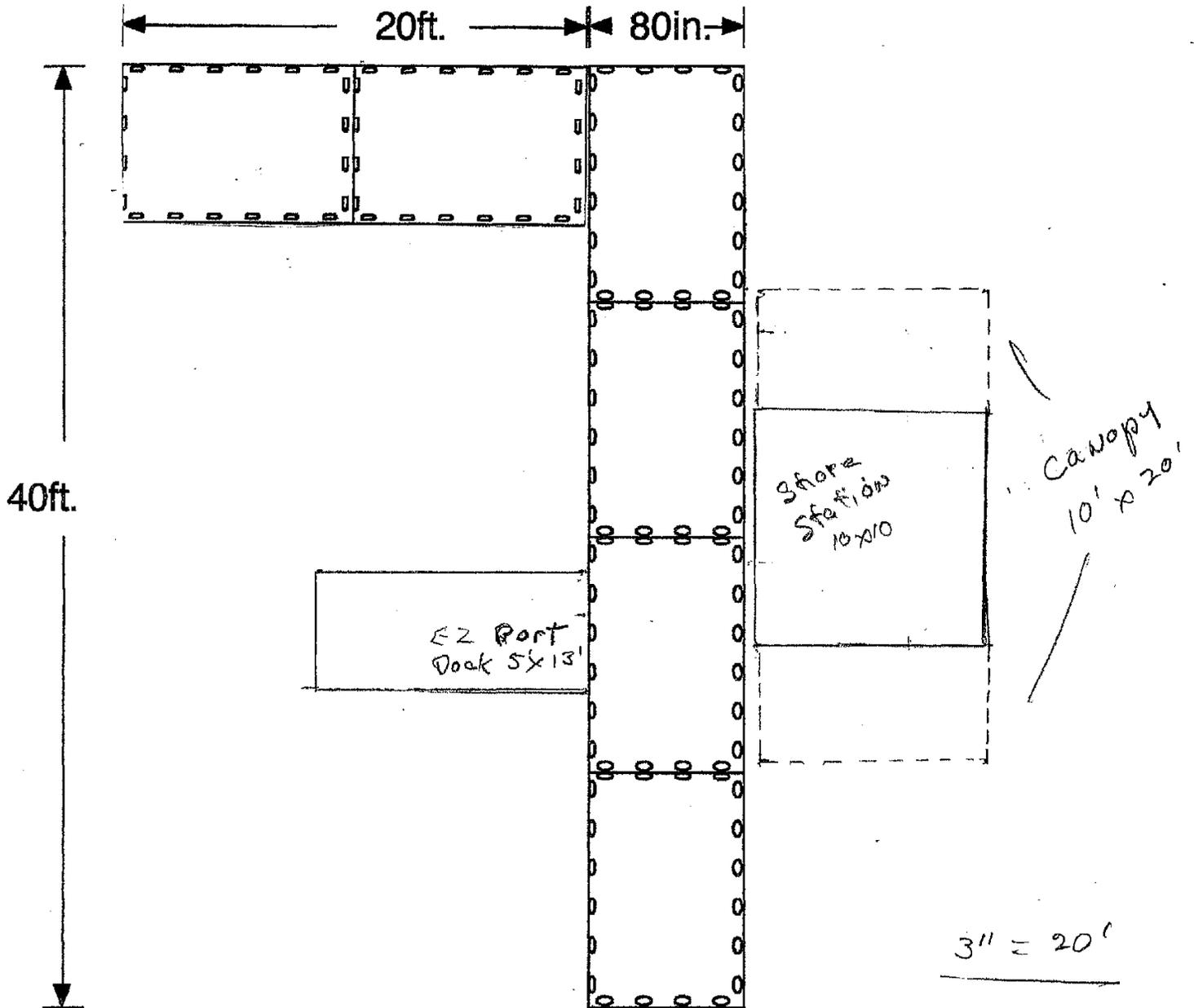


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E Z Dock Drawing For : shaw





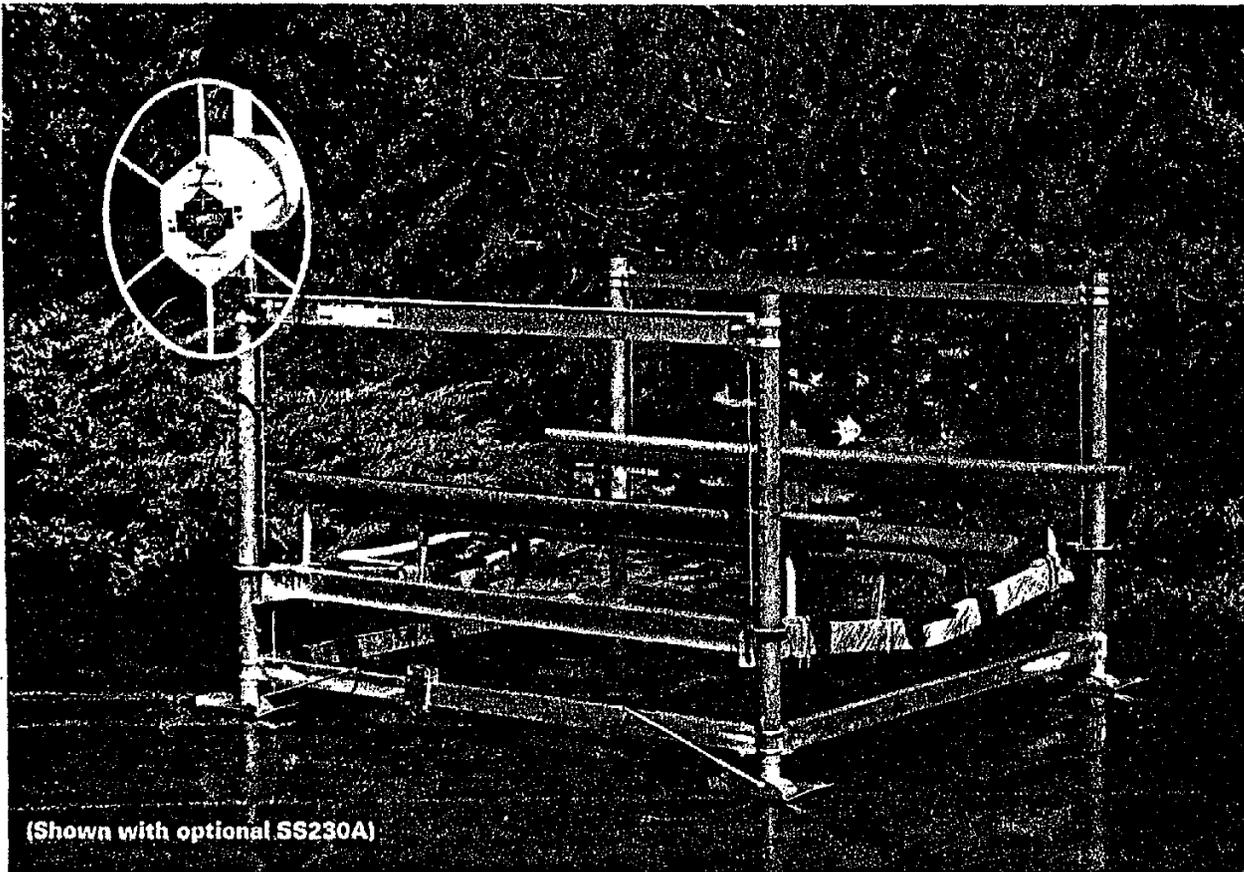


OWNERS MANUAL ALUMINUM BOAT HOIST **SS-V30108** & **SS-V40108**

Your SHORE-STATION Aluminum Boat Hoist is designed to give years of dependable service. Following the instructions in the operator's manual will insure its dependability and more important, YOUR safety. Read through this entire operator's manual before attempting to operate your hoist. Our goal is your safety — help us help you by knowing and observing the operating precautions and limitations you will find listed herein. If you do not understand any of these instructions, please ask your dealer for his personal attention to your questions.

Midwest Industries, Inc.
Ida Grove, Iowa 51445

BUNDLE LIST — ASSEMBLY — PARTS INSTALLATION — REMOVAL MAINTENANCE



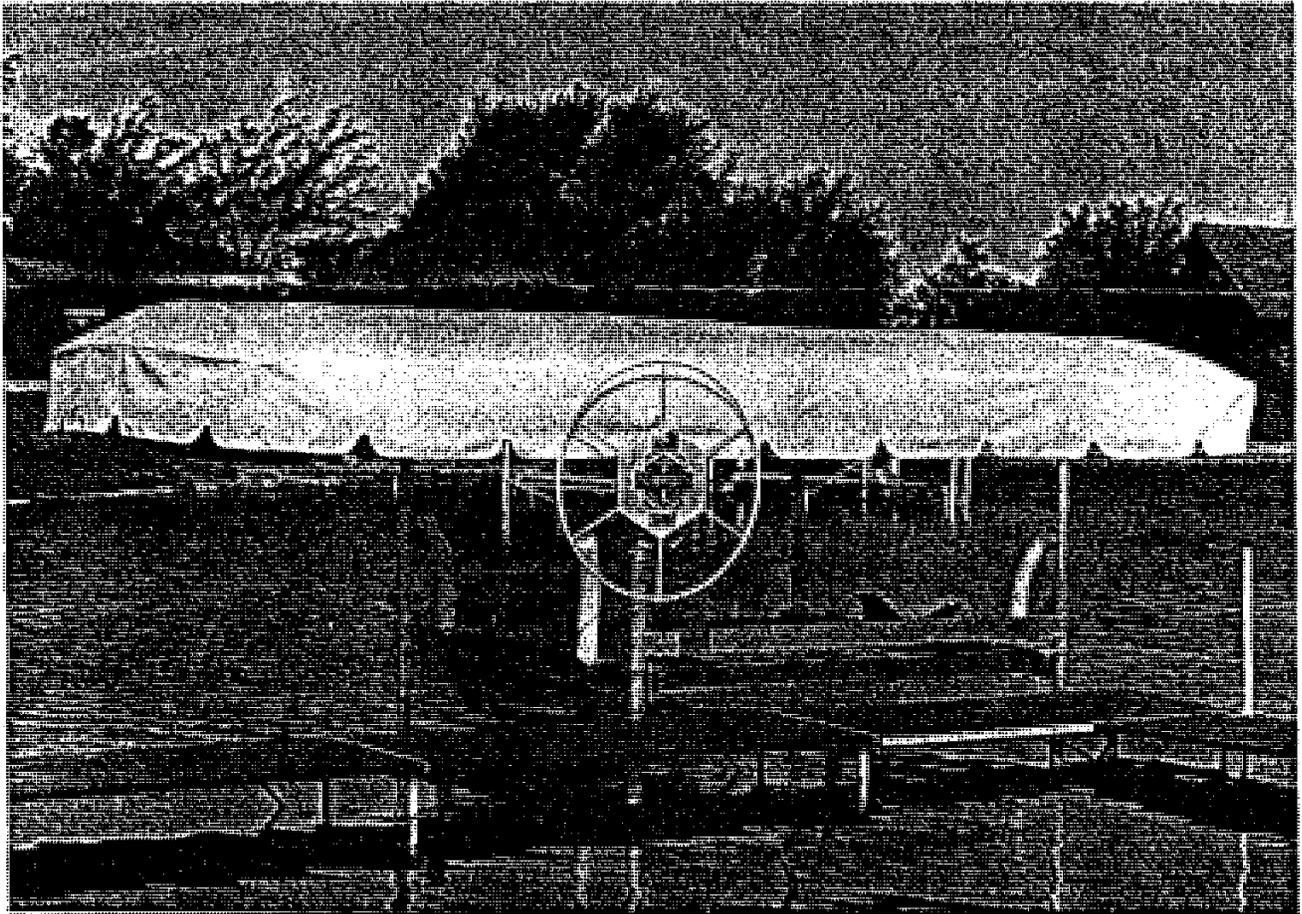
10' x 10'
Foot Print

(Shown with optional SS230A)

Midwest Industries, Inc., Ida Grove, Iowa 51445

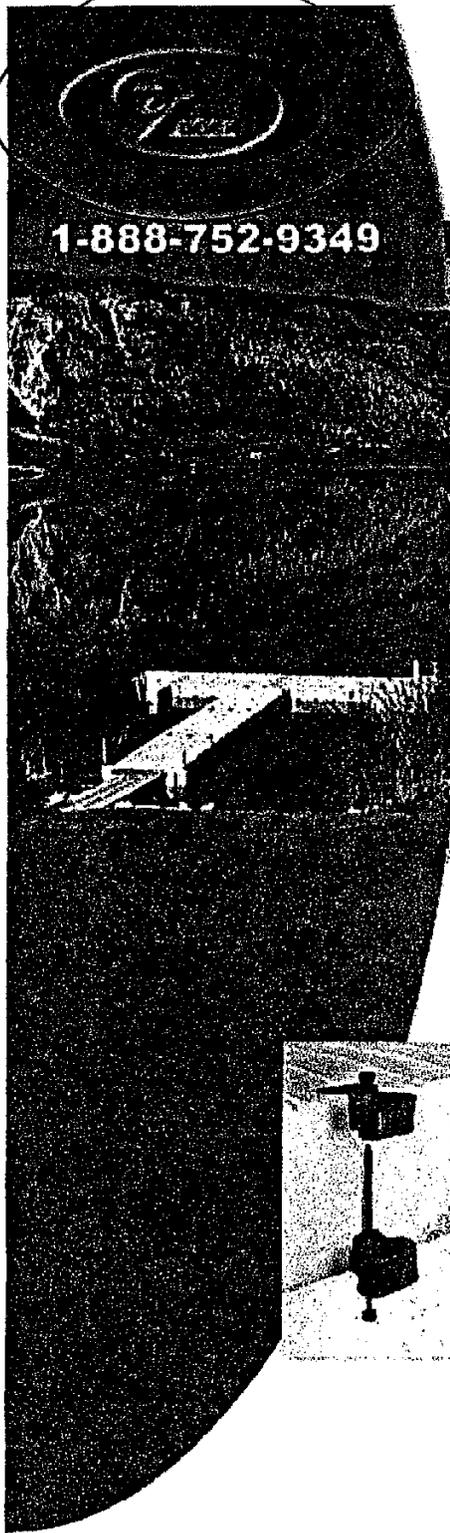


OWNERS MANUAL
Aluminum Canopy Frame
For Aluminum Models
SSF201, F221, F22, F24
Steel Models
SSF201S, F221S, F22S, F24S



Tan color
10' x 20'

Midwest Industries, Inc., Ida Grove, Iowa 51445



Dock Sections

1-888-752-9349

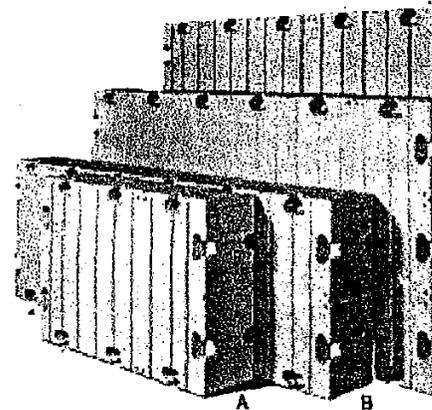
- Photo Gallery
- Dock Sections
- Boat Lifts
- PWC Lifts
- Air Actuated Lifts
- Roof System
- Anchoring
- Accessories
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- New Products
- Trade Shows
- Distributors
- Biz Opportunities
- EZ Dock Home
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The rotomolded polyethylene composition of our Dock beige color makes our docks more attractive and cooler to the touch-an especially important feature on hot summer days. End EZ Dock's patented floating design is fast and easy to install. You can choose a configuration that suits your application.



FEATURES & BENEFITS

- Low maintenance
- Beige color
- Variety of anchoring options
- Convenient accessories
- Versatile modular design
- Secure connection couplers
- Strength and flexibility
- Safe, slip resistant surface
- Four season accessibility

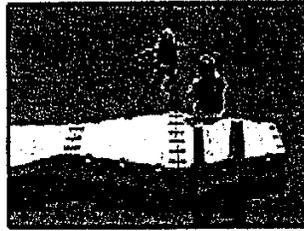


	SIZE	WEIGHT	FLOAT CAP/
A.	40" x 5' x 15" 1m x 1.5m x 38cm"	100 lbs. 45.4 kg	100 453
B.	40" x 10' x 15"	190 lbs.	200

Special connection couplers are designed to allow sections to move independently under

high-stress conditions, yet provide unified stability. Made with recycled material, the couplers are compounded to prevent fatigue problems. The composite coupler bolt and nut eliminate rusting in all water conditions. Part #: 301100

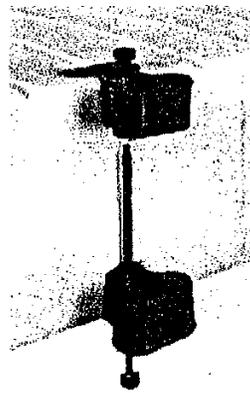
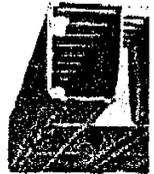
	1m x 3.1m x 38cm"	86.2 kg	907
C.	60" x 10' x 15"	285 lbs.	3001
	1.5m x 3.1m x 38cm"	129.3 kg	1380
D.	80" x 10' x 15"	375 lbs.	4001
	2m x 3.1m x 38cm"	170.1 kg	1812
E.	60" x 10' x 15"	210 lbs.	2001
	1.5m x 3.1m x 38cm"	95.3 kg	907



EZ Dock adds even more layout versatility with our new half-hexag dock option.

x 6
Total
after addition

A view of the bottom and inside of an EZ Dock section reveals individual flotation chambers and an extra-heavy-duty wall thickness that creates tremendous structural integrity. The need for foam fillings and the environmental concerns related to them are completely eliminated.



Special connection couplers are designed to allow dock sections to move independently under high-stress conditions and provide unified stability. Made with recycled material, the couplers are compounded to prevent fatigue problems. The composite coupler bolt and nut eliminate rusting in all water conditions.

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About EZ Dock

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1.800.654.8168

**EAST LAKESHORE BEACH CLUB
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLV-13-W06
MAY 6, 2013**

Owner: East Lakeshore Beach Club
(Paullin Lake Access Association)

Mailing Address: PO Box 4115
Whitefish, MT 59937

Telephone Number: 406.862.2793

Applicant/Contractor: David Noftsinger
Forestation Inc.

Mailing Address: PO Box 1043
Whitefish, MT 59937

Telephone Number: 406.862.4225

Property Legal Description: Lot 5, Tracts 1-7, Paullin Lake, Section 4,
Township 31 North, Range 22 West

Property Address: N/A East Lakeshore Drive

Lake: Whitefish Lake

Lake Frontage: 150' Per Plat

Project Description: Variance to Place Naturalized Riprap (exceeding
stone size and no filter fabric). Amended
Revegetation Plan and Maintenance Plan for care
of plants submitted with this application.
Addition of 28 square feet (4' x 7') to existing
Stone Steps.

Discussion:

Proposal: The applicant is requesting a variance to place naturalized riprap along the lakeshore. Amendments to an open permit are also requested for a revegetation plan and addition to the square footage of stone steps that were previously permitted under WLP-11-W10.

1. Total constructed area on the site is 848 square feet consisting of stone steps (28 sf) and a marina dock (820 sf). Both of which were approved as WLP-11-W10. The original permit received an extension of one-year and will expire on June 6, 2013.
2. The applicant is proposing to modify the existing vegetation plan by adding more native plants within the lakeshore protection zone as outlined in the applicant's narrative. The plants will be placed throughout the proposed riprap to "help armor the shoreline and provide habitat". Additional areas to be planted are located within the current gravel parking area which runs along the entire length of the Lakeshore Protection Zone.

3. An additional 28 square feet of stone steps is being proposed at the base of the existing stone steps. The beach club members have noticed that the steps (permitted as WLP-11-W10) do not reach far enough into the lakeshore zone to allow easy access to the gangway. The additional steps will be consistent with the stone steps that are already on site. The maximum area to be added will be 4' x 7' which will double the length of the existing steps.
4. The applicant is requesting to place naturalized riprap within the lakeshore zone that would exceed the scope of the allowable 18" in size permitted under Section 13-3-1-O-3-D. Staff notes that the variance is not for all the rock involved in the proposal. The applicant's rendering of the final project shows some larger boulders intermingled with riprap that is allowed under the regulations. The larger boulders are consistent with those existing on site and shown in the applicant's photos. The installation of the large boulders would provide the base area of the riprap to "re-create the toe of the slope in order to create a natural angle of repose". The riprap would not be stacked like a wall and will provide "a longer, slighter angle supporting the shoreline erosion." The applicant is also requesting not use filter fabric as the placement would require "excessive excavation" of the rock on site and the filter would remain visible and exposed to the elements.

Staff is familiar with this property due to previous permits and on-site meetings with the homeowner's association. This lakeshore area was created prior to the regulations with a cut and fill-into the lake method. The area to be supported with riprap is mainly gravel that was pushed into the lake - which is why the site has such active erosion in areas. The riprap and larger anchored boulders are more consistent with a native shoreline than the existing gravels.

Frontage and allowable constructed area: The property has 150 feet of lake frontage according the plat. The allowable constructed area based on 8 square feet per lineal foot of frontage is 1200 square feet. The application as submitted requests a total of 876 square feet of constructed area.

Existing Constructed Area: This property has an existing dock of 820 square feet and stone steps of 28 square feet for a total of 848 square feet.

Consideration of Minor Variance:

The applicant is requesting a variance to Section 13-3-1-O-3 of the Whitefish Lake and Lakeshore Regulations, Construction Standards, Constructed Area, which requires under (d): *"Stone used for riprap shall be limited to native rock picked from the shoreline, or nonangular rock whose appearance is similar to native shoreline stone. Size of imported rock shall be six (6) through twelve inch (12") nominal*

diameter, eighteen inch (18") maximum diameter, and shall be free of silts, sands or fine materials. Imported rock or stone that does not conform to these size requirements, or whose appearance is not similar to native shoreline stone, will result in a violation and be required to be removed and replaced," and under (e) that "Prior to placement of the riprap, filter fabric is required to be placed along the shoreline and incorporated into the riprap design to inhibit erosion and the washing of fine materials through the riprap". In reviewing a minor variance there are three criteria that the request must meet prior to granting said variance (13-4-2A-1):

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

Strict enforcement of the existing requirements and standards will not work effectively on this site due to the man-made disturbance used when leveling the site prior the lakeshore regulations. The shoreline is substantially compromised of stacked/mounds gravel and not a traditional earth-water interface. Strict enforcement the regulations would be an undue hardship for the property owners and would not solve the erosive problem on the site.

2. No reasonable alternatives exist which do meet the standards herein.

Reasonable alternatives that meet the standards do not exist. Strict adherence to the regulations would involve cutting into the existing bank "several feet to create a low angle of repose" to support the riprap. Such methods would require major soil disruption of the area and loss of lakeshore property. Installation of a retaining wall would also involve extensive exaction and heavy equipment operation within the lakeshore protection zone.

3. Granting of the variance will not have adverse impacts on a lake or lakeshore in terms of the Policy Criteria for Issuance of a Permit.

The Policy Criteria for all permits include:

- A. *Materially diminish water quality;*
- B. *Materially diminish habitat for fish or wildlife;*
- C. *Interfere with navigation or other lawful recreation;*
- D. *Create a public nuisance or public safety hazard;*
- E. *Create a visual impact discordant with natural scenic values, as determined by the governing body, where such values form the predominant landscape elements; and,*
- F. *Alter the characteristics of the shoreline.*

The proposed variance would not materially diminish water quality, diminish fish or wildlife habitat, interfere with navigation or lawful recreation, or create a public nuisance or safety hazard. The proposed variance is to create a restored area which is more consistent with the native shoreline and to remove the impact of the manmade

disturbance which created the site's conditions. According to the applicant's narrative the restored shoreline would mitigate active erosion and reduce sedimentation; promote wildlife habitat with the restoration plan; naturalize the shoreline and significantly improve the "heavily degraded 'moonscape' that currently exists"; and tie into the character of the property adjacent to the south.

4. Alternatively to subsections a & b (items 1 & 2 listed above), the granting of a variance would result in a general and universal public benefit.

General benefits from the requested variance would "restore both the look and function of a natural shoreline through well-designed placement of riprap stones and the installation of riparian plant communities that are vital to our lake and lake ecology." The restoration will be consistent with the neighboring properties and present a more cohesive shoreline when viewed from the lake.

Conclusion: The applicant meets the criteria for a variance. The proposed work complies with Sections 13-3-1 General Constructions Standards and 13-4-2 of the Whitefish Lake and Lakeshore Protection Regulations.

Recommendation: Based upon the above variance evaluation, the Whitefish Lakeshore Protection Committee recommends to the Whitefish City Council that the proposed variance request be approved subject to the following conditions:

Recommended Conditions of Approval:

1. 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 3,000.6'.
2. Temporary storage of vehicles, trailers, debris, other equipment or construction materials in the lakeshore protection zone is prohibited.
3. The work authorized under this permit shall be completed in substantial compliance with the methods and materials described within the application.
4. At no time shall the wheels of any vehicle come in contact with the lake.
5. All work shall be done when the construction site is dry.
6. Construction materials shall be of a non-reflective nature.
7. If lake siltation occurs, work will be immediately halted and the City of Whitefish Planning Department shall be contacted.
8. All available methods will be made to preserve and protect all of the existing trees in the lakeshore protection zone.

9. The natural protective armament of the lakebed and lakeshore shall be preserved wherever possible.
10. Natural vegetation in the Lakeshore Protection Zone shall be preserved wherever possible.
11. Silt fencing, straw waddles or other erosion and sedimentation measures shall be utilized during construction. An approved plan for erosion and sedimentation during construction shall be required. Approval of the methods proposed shall be issued by the City of Whitefish in compliance with the Critical Areas Ordinance or other development standards.
12. The proposed projects shall not exceed the dimensions or deviate from the proposed location as specified in the application, except as amended by the Whitefish Lake and Lakeshore Protection Regulations. Changes or modification to increase any dimension (or change configuration) must be approved through permit amendment. The owner must request an amendment before the permit expires.
13. All work shall be done when the lake is at low pool, before April 20th or after August 15th, and when the construction site is dry. Construction dates can be modified with approval by the Planning Department to account for fluctuations with high water and low water cycles dependent on late thawing or early lowering of lake levels.
14. The installation of riprap and steps shall be as described by the applicant with the permit application and shall follow best management practices during construction.

Stone Steps

15. The stone steps shall be located adjacent to the existing steps and enlarge the steps to no more than 4' wide by 14' long. The stone/rock used shall be free of silts, sands or fines. The stone shall be consistent with the size/type of the existing steps.
16. The proposed dimensions specified shall not be exceeded. Changes or modifications to increase any dimension or change the materials or construction methods described in the application must be approved through permit amendment.
17. All cutting of stairway materials shall be done outside the lakeshore protection zone. Upon completion, the components may be brought to the lakeshore area and assembled.

18. The stairways shall follow the natural grade of the existing lakeshore, and no portion of the walking surface of the stairway shall be situated higher than two vertical feet above the underlying lakeshore.
19. Hand railings are permitted. The railing shall not extend higher than four feet (4') above the stairway, deck, and landing walking surface and shall have a visually open design. Metal, non-ornate railings may be painted brown or green by the manufacturer prior to installation.
20. The stairway shall have a maximum width of four feet (4') and shall be designed to provide access only.
21. Existing gravel may be used in setting the stone steps but cannot be used to modify existing terrain except where shown on the site plan.
22. Any wood used in construction of the stairway shall be untreated and left in its natural state. Use of a wood polymer composite (i.e. TREX) is strongly recommended. Painted materials, plywood, particle board or other glued composite board are not allowed. Stairways or walkways of poured-in-place concrete are prohibited.
23. Cultured or natural stone or rock shall be used for the proposed work within the lakeshore protection zone. The stones or rock to be used shall be dry set.

Riprap - Shoreline Restoration

24. The rip rap shall be constructed at or landward of the mean annual high water elevation, shall conform to the contours of the existing shoreline, and shall be placed on a maximum slope of 2 horizontal: 1 vertical.
25. The riprap rock shall be angular and sized property for the specific task. Nominal rock size to be 6-12" (18" maximum) in diameter with the exception of larger rocks approved via variance. Changes or modifications to increase any of these dimensions must be approved through permit amendment. The larger sizes used for anchoring the riprap shall be consistent with the existing large rocks on site.
26. Rock or stone from the immediate lakeshore protection zone may be used for a project if its removal does not reduce the effectiveness of the existing lakeshore armament or expose silts, sands, clays, or fines.
27. Any material which is excavated from the lakebed or lakeshore shall be removed entirely from the lake and lakeshore protection zone and deposited in such a manner as to prohibit re-entry of the material into the lake.

28. All material excavated for placement of the stabilization rock/boulders may be deposited outside of the lakeshore protection zone.
29. Backfill shall not be permitted as the project will be utilizing anchored boulders to stabilize the use of riprap.

Revegetation

30. Landscaping shall be hand irrigated to ensure long-term survivability of the vegetation and trees.
31. The trees and vegetation shall be maintained for a ten (10) year period. If the trees and vegetation die within the ten year maintenance period, they shall be replaced to the standards which they were approved.
32. Plantings shall be consistent with the list submitted and site plan attached to the application.
33. 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 Whitefish Planning Department. Application of fertilizer is permitted only in minimal amounts to establish new plantings.
34. This permit shall be valid for one year from the date of issuance. Upon completion of the work, please contact the planning department at 863-2410 for an inspection.

Report by: Nikki Bond

WHITEFISH, BLANCHARD & LOST COON LAKE Lakeshore Construction Permit Application

A permit is required for any work, construction, demolition, dock/shore station/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, 3,144.80' msl (NAVD 1988) for Blanchard Lake and 3,104' msl (NAVD 1988) for Lost Coon Lake. Please fill in all information, sign and pay the appropriate fees. In order to be on the next Lakeshore Protection Committee Meeting agenda the completed application must be submitted a minimum of **3 weeks** prior to the next regularly scheduled meeting and all required information must be provided in order to be deemed complete and scheduled for the next meeting date. The Committee meets on the second Wednesday of every month. An incomplete application will not be accepted.

Submit Application To:

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

OWNER East Lakeshore Beach Club
(Paullin Lake Access
Association) Phone 406-862-2793
Mail Address PO Box 4115
City, State, Zip Whitefish, MT 59937
Project address (if other than above)

APPLICANT (If Other Than Owner)
Forestation, Inc.
Name David Neftinger Phone 406-862-4225
Mail Address PO Box 1043
City, State, Zip Whitefish, MT 59937
david@forestation.org
Email address (staff reports are sent via email): willylove@centrytel.net

How many feet of the lake frontage do you own? <div style="text-align: center; font-size: 1.5em;">150'</div>	Legal Description (available from annual property tax notice) Lot/Tract#: <u>Lot 5</u> Section: <u>4</u> Township Range: <div style="text-align: center;"> <u>Tracts 1-7</u> <u>31 N. 22 W.</u> </div> Subdivision Name: <u>Paullin Lake</u>
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CONTRACTOR: Forestation, Inc. **PHONE#:** 406-862-4225 office
406-314-0160 David cell
Mail Address: PO Box 1043
Whitefish, MT 59937

FEES:

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

-
1. 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).

See Attached.

-
2. 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.

-
3. 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.

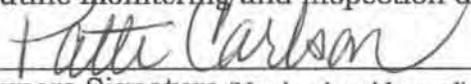
-
3. If a variance is requested in addition to this permit, specify the reasons or conditions which require or warrant the variance on a separate variance form. An additional fee is required for a variance request. What is the variance proposal?

-
4. The following Project Information must be included.

Is VICINITY MAP attached? _____
Is a "to scale" SITE PLAN attached? _____
Is a "to scale" PROJECT DRAWING attached? _____
Are at least 3 PHOTOS of work site attached? _____

1 photo of property from lake, 2 photos showing lakeshore protection zone from property boundary towards other property boundary, i.e., from north property line across to south property line, and photos of each existing structure or constructed area within the lakeshore protection zone (dock, boat house, stairs, etc)

I hereby state that the statements contained herein and the materials attached hereto are a true and complete statement of all proposed work and its effects (or probable effects) on the lake and lakeshore and that I have answered all questions in the application. The signing of this application signifies approval for City Planning staff to be present on the property for routine monitoring and inspection during the approval and development process.



Owners Signature (May be signed by applicant but authorization letter from owner must be attached.)

3-20-13

Date:

PATTI CARLSON

Print Name

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



**East Lakeshore Beach Club (Paullin Lake Access Association)
Lakeshore Construction Permit Application
Follow-up to Approved Permit – see Staff Report #WLP-11-W10**

*Prepared by David Noftsinger
March 20, 2013*

Forestoration, Inc. has worked with East Lakeshore Beach Club (ELBC) to create a restoration design and revegetation plan for their property area within the lakeshore protection zone (3,000 sq. ft.). This plan addresses erosion of the shoreline, the current gravel parking area, revegetation of the shoreline and general site, and maintenance, as well as a proposed variance.

1. NATURE OF PROPOSED WORK

Naturalized Riprap Along Shoreline: *Nearly all of the 150' of shoreline is actively eroding into Whitefish Lake due to the scouring effect of waves from recreational boats and wave runners. In a bygone era, the site was heavily excavated and altered, leaving only a gravel base that meets the lake. This gravel base, with minimal vegetation (knapweed and few non-native grasses), does not have the integrity to withstand the erosive forces of the lake water. The homeowners association has observed a significant loss of shoreline since the original lakeshore permit was submitted in the spring of 2011.*

Standards and Proposal for Naturalized Riprap Along Shoreline:

- a) Riprap will be placed at or leeward of the mean annual high water elevation. This will be necessary in order to break wave action and maintain the new native plantings. Without natural armor, the new native shrubs and trees will wash out into the lake.
Note: We are requesting a variance for rock placement below the high water mark.
- b) Riprap placement will follow the existing contour of the shoreline.
- c) Riprap rocks will be of varied sizes per the Whitefish Lake & Lakeshore Protection Regulations.
- d) Native stone gathered from around the site will be the majority of the rock used to build the naturalized riprap. If adequate rock is not available on the site, we may need to supplement with a nearby stone that looks and functions appropriately along the shoreline.

- e) Riprap will be placed in a way that mimics a natural rocky shoreline.

Current Gravel Parking Area: *A portion of the current gravel parking area that exists within the 20' setback will continue being used to accommodate vehicles turning around. The north and south ends of the property will be revegetated and designed for passive recreation. On the north end, a small area will remain gravel and be used as a picnic zone. On the south end, the smaller area will be used for shade and as a place to relax.*

Standards and Proposal for Current Gravel Parking Area:

- a) No new gravel will be added to the site for either the vehicle area or the picnic zone. Rather, the edges of the area will be defined through the addition of native vegetation.

Revegetation: *A native plant list as well as plant quantities are attached.*

Standards and Proposal for Revegetation:

- a) Strictly native plants will be used on the site. Plants will be provided by the Center for Native Plants.
- b) Several species of willow, black cottonwood, and red-osier dogwood will be planted throughout the riprap to help armor the shoreline and provide habitat, as well as more natural aesthetics. Aspen clusters and a variety of shrubs will help to revegetate and stabilize the areas above the shoreline.
- c) Minimal topsoil will be added to help establish the new plantings.
- d) A compost or bark mulch will be used around the plantings and as a groundcover.
- e) Native bunchgrasses, fescues, and wildflowers will be hydroseeded on the site between nursery plantings to help establish the barren site and to combat the noxious weeds present on the site. Bunchgrasses will be left wild and will not be treated and maintained as lawn.
- f) Some plants will require temporary deer exclosures to prevent browse and antler rub damage.

Maintenance : *Although native plants will thrive once they become established, an active watering plan will promote quick establishment on the hot, dry, west-facing aspect of this site.*

Standards and Proposals for Maintenance:

- a) Design and install a simple, yet effective, watering system.
- b) Monitor site for appropriate watering levels throughout growing season. Work and communicate with ELBC.

- c) Create a noxious weed plan for the site to be carried out over two years. Hand-pulling will be necessary along the shoreline for knapweed.

2. ENVIRONMENTAL IMPACTS

Potential Environmental Impacts: *The goal of the project is to restore the ecological integrity and function of this highly degraded and altered site. This can be achieved by mitigating 150' of continuous erosion along the shoreline and re-establishing a vibrant native plant community.*

In order to achieve these goals, we will need to set rocks by partially burying them in the existing rocky shoreline. We will also cause minor disturbance when we dig holes during the installation of proposed container plants; some holes will be hand-dug while others will be machine dug.

Standards and Proposal for Mitigation of Potential Environmental Impacts:

- a) All work within the lakeshore protection zone will be performed during low water.
- b) An erosion control wattle will be placed below the work zone to prevent sediment from entering Whitefish Lake.
- c) Any machinery used will be appropriately-sized for the task and will be washed prior to its arrival on site - free of noxious weed seed, dirt, and grease. Necessary equipment will include an excavator and skid steer. Some work will be done by hand.
- d) Machinery will be working from the existing gravel pad above the site.

3a. EXISTING IMPROVEMENTS ON THE PROPERTY WITHIN THE LAKESHORE PROTECTION ZONE:

Note: A new boat dock and stone steps were installed in the summer of 2012 through permit #WLP- 11-W10. The 7-slip dock is 860 sq. ft.

3b. VARIANCE REQUEST:

Note: A Supplemental Application for a Variance to the Whitefish Lake and Lakeshore Protection Regulations has been completed and submitted along with this document.

We are seeking a variance for the naturalized riprap and plantings along the shoreline. Along almost the entire shoreline, erosion has created an abrupt, steep ledge of crumbling, smaller stones and gravel; there is inadequate space to place the necessary, larger riprap rocks between the eroding edge and the high water mark to adequately fix the situation. This leaves us with the little room to work without excavating back into the eroding bank to insert stabilizing rocks. Building on contour along the high water

mark creates a "wall-like" effect. We are striving to avoid outcomes that appear linear, stacked, or "wall-like."

It is essential to help re-create the toe of the slope with larger rocks in order to create a natural angle of repose. There are several natural examples of this along the shoreline of the ELBC property where a larger rock has anchored itself below the high water mark. Varied sizes of rocks have piled up behind these anchored rocks - the result being a longer, slighter angle supporting the shoreline erosion vs. a sharper, steeper break at the high water mark. This more natural pattern of rock placement greatly increases the holding potential and stabilization of riprap and looks much more like a natural shoreline.

Rocks should be accompanied by native plantings of willow, black cottonwood, and red-osier dogwood.

The goal of the design is to create a restored shoreline that is both natural in its appearance as well as in its function.

Variance Proposal for Naturalized Riprap and Vegetation:

- a) We are requesting to strategically place larger rocks below the high water mark to create a more natural, functional, durable, and aesthetic shoreline.
- b) We are requesting that some of the rocks used be larger than the recommended 18" stones. We would like to use rocks that more closely resemble the actual size of rocks that currently exist on the site and are having the greatest effects against erosion. Without larger rock, 18" rocks alone are not large enough to hold this highly eroded and degraded shoreline together.
- c) We are requesting to plant native riparian plant species below the high water line to accompany the rock placements. Native plants grow below the high water mark on adjacent sites all around Whitefish Lake and are a major component for holding the lake shoreline together. As the current site is practically devoid of vegetation, no stabilizing root structure exists along the shoreline. Plants need to be planted in quantities that augment the rock placement, fortify the shoreline, and begin the restoration process.

Native plants will also help to create a more verdant landscape, having positive effects on shoreline bird and fish habitat.

- d) We are requesting to not use filter fabric behind the naturalized riprap. Placing fabric would require excessive excavation to an already unstable shoreline. Because the riprap will be naturalized and staggered (and not "wall-like"), it would be practically impossible to lay the fabric in a way that wouldn't expose pieces of it through continued wave action creating an unsightly appearance.



Nikki Bond <nicknackmt@gmail.com>

East Lakeshore Beach Club

2 messages

Greg Gunderson <greg@forestation.org>

Tue, Apr 2, 2013 at 5:06 PM

To: Nikki Bond <nicknackmt@gmail.com>, Bill Love <willylove@centurytel.net>, David Noftsinger <david@forestation.org>

Nikki,

Thank you for the phone call earlier this afternoon. Per our conversation, please add a request to the new East Lakeshore Beach Club lakeshore permit application for 28 square feet of additional stone steps. The 28 square feet that were approved in staff report #WLP-11-W10 have already been installed, based on a previous design by Montana Creative. However, the steps do not extend far enough down the embankment to reach the gangplank, causing property owners to risk injury on the unstable, angular cobbles between the bottom step and the gangplank.

Please do not hesitate to contact David or myself with any questions regarding this request.

Thank you,

Greg Gunderson
Forestation, Inc.
406.261.8407 cell

Nikki Bond <nicknackmt@gmail.com>

Tue, Apr 2, 2013 at 5:23 PM

To: Greg Gunderson <greg@forestation.org>

Got it. I will add it to the application.

Thanks,
Nikki

[Quoted text hidden]



Subject Property circled in Red





Photo 1. 48" boulder below ordinary high water mark, lone willow



Photo 2. 48" boulder stabilizing shoreline and supporting vegetation



Photo 3. Lone mockorange with exposed root system



Photo 4. Eroding embankment, looking south



Photo 5. Property line marker, erosion on neighboring parcel



Photo 6. Exposed root system of ponderosa pine on neighboring parcel



Photo 7. 50" boulder stabilizing slope and supporting vegetation



Photo 8. 48" boulder below ordinary high water mark



Photo 9 & 10. 24"-28" tall boulders below ordinary high water mark



Photo 11. Eroding embankment with knapweed

**East Lakeshore
Beach Club**

Native Plant List

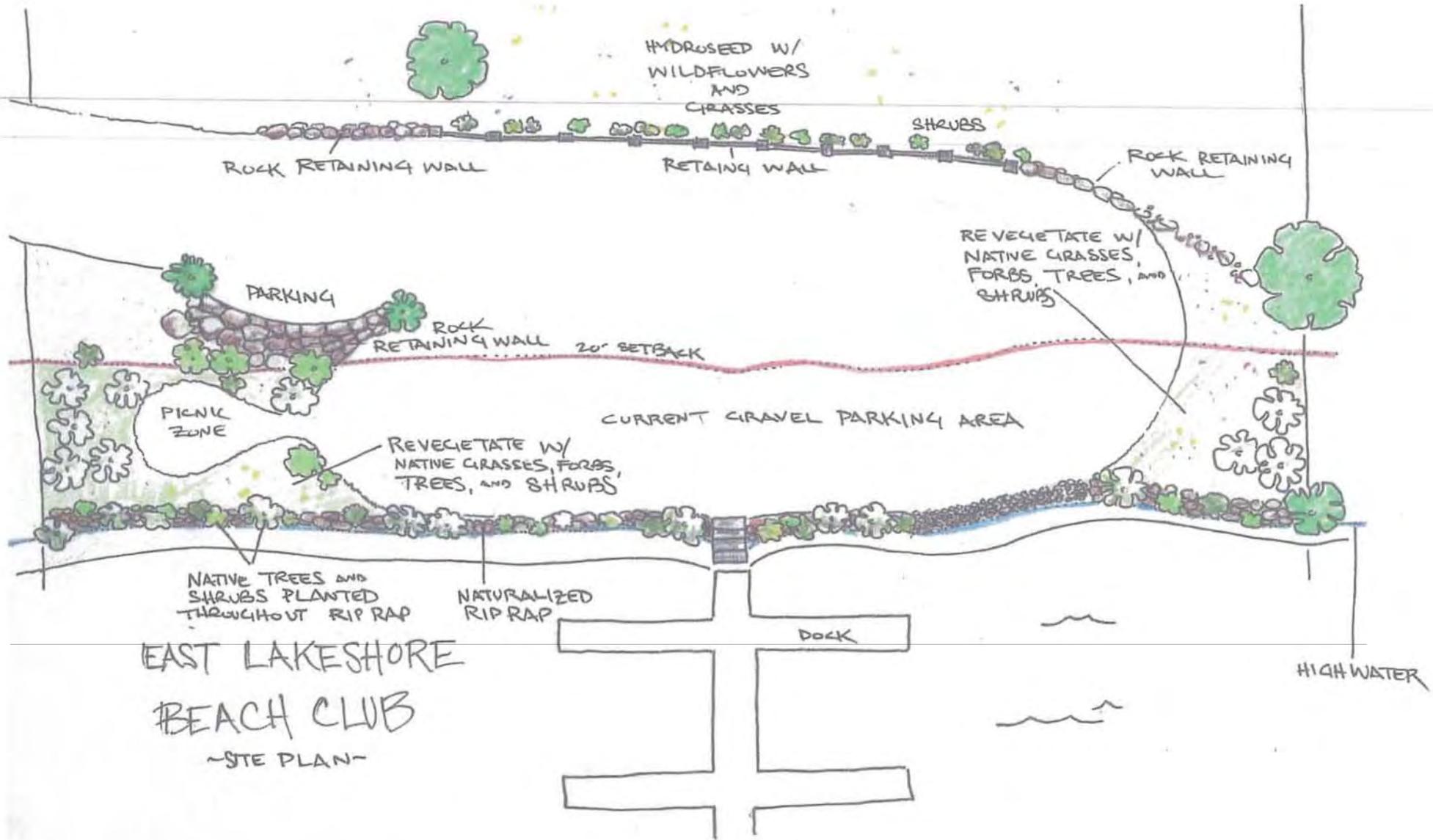
within the 20' lakeshore protection zone

PLANTS	QUANTITY	SIZE
Trees		
Quaking Aspen - <i>Populus tremuloides</i>	11, 3, and 2	15 gal., 7 gal., and 5 gal.
Ponderosa Pine - <i>Pinus ponderosa</i>	4	100 cu. in.
Western Larch - <i>Larix occidentalis</i>	3	100 cu. in.
Black Cottonwood - <i>Populus trichocarpa</i>	4 and 3	15 gal. and 5 gal.
Shrubs		
Red-osier Dogwood - <i>Cornus stolonifera</i>	5	15 gal.
Wood's Rose - <i>Rosa woodsii</i>	3	1 gal.
Common Chokecherry - <i>Prunus virginiana</i>	2	15 gal.
Serviceberry - <i>Amelanchier alnifolia</i>	4	7gal.
Golden Currant - <i>Ribes aureum</i>	5	5 gal.
Mockorange - <i>Philadelphus lewisii</i>	2	15 gal.
Shrubby Cinquefoil - <i>Potentilla fruticosa</i>	5	2 gal.
Bebb's Willow - <i>Salix bebbiana</i>	10	1 gal.
Snowberry - <i>Symphoricarpus albus</i>	0 in 20' set back	
Booth's Willow - <i>Salix boothii</i>	2	1 gal.
Coyote Willow - <i>Salix exigua</i>	3	5 gal.
Drummond Willow - <i>Salix drummondii</i>	7	1 gal.
Geyer Willow - <i>Salix geyeriana</i>	3	5 gal.
Grasses		
Rough Fescue - <i>Festuca campestris</i>	50	10T plug, seed
Idaho Fescue - <i>Festuca idahoensis</i>	15	1 gal., seed
Prairie Junegrass - <i>Koeleria macrantha</i>	50	10T plug, seed
Bluebunch Wheatgrass - <i>Pseudoegneria spicata</i>	50	10T plug seed
Western Wheatgrass - <i>Pascopyrum smithii</i>		seed
Slender Wheatgrass - <i>Elymus trachycaulus</i>		seed
Steambank Wheatgrass - <i>Agropyron riparian</i>		seed
Thickspike Wheatgrass - <i>Elymus lanceolatus</i>		seed
Forbs and Wildflowers		
Leafy Aster - <i>Aster foliaceus</i>	10	10T plug
Indian Blanketflower - <i>Gaillardia aristata</i>	10	10T plug
Wild Strawberry - <i>Fragaria virginiana</i>	10	4" pot
Pearly Everlasting - <i>Anaphalis margaritacea</i>	5	10T plug
Alumroot - <i>Heuchera cylindrica</i>	10	10T plug
Wild Blue Flax - <i>Linum perrene lewisii</i>		10T plug, seed
Clarkia - <i>Clarkia puchella</i>	10	10T plug, seed
Wild Bergamot - <i>Monarda fistulosa</i>	7	10T plug
Penstemon - <i>Penstemon ssp.</i>	10	10T plug
Red Columbine - <i>Aquilegia formosa</i>	5	10T plug



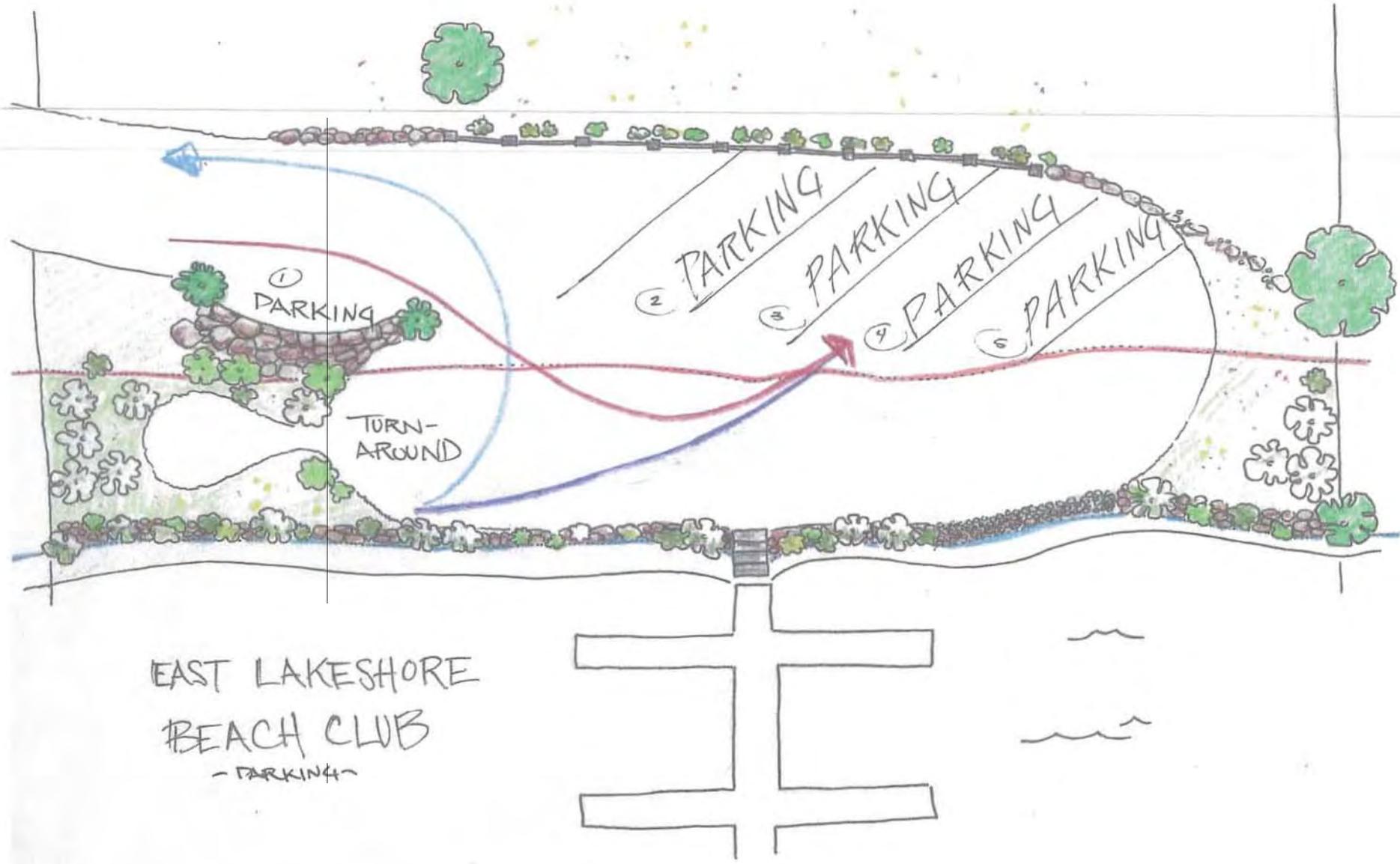
EAST LAKESHORE
 BEACH CLUB
 ~SITE PLAN~

NOFTSINGER

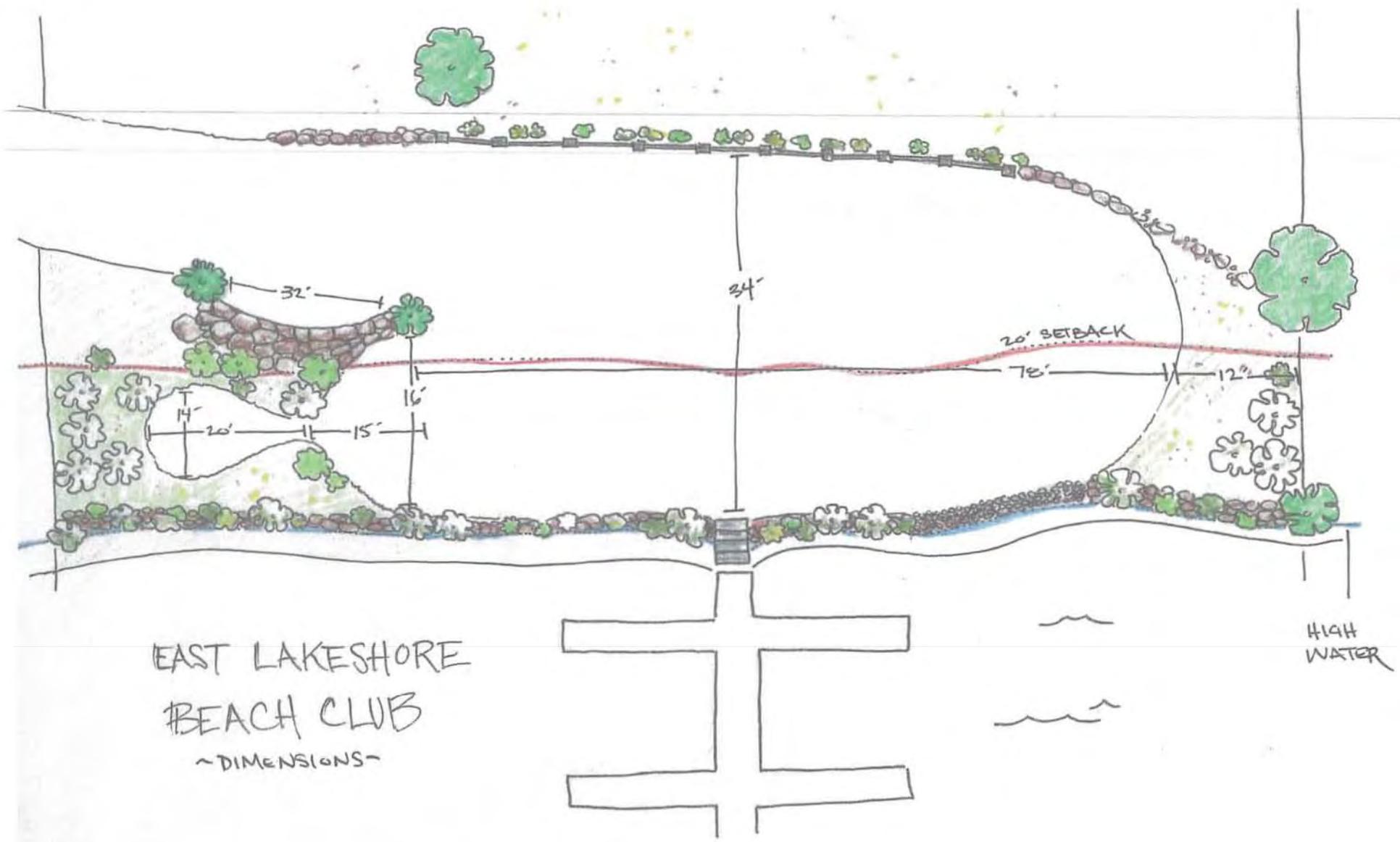


EAST LAKESHORE
BEACH CLUB
-SITE PLAN-

NOFTSINGER



NOFTSINGER



EAST LAKESHORE
 BEACH CLUB
 ~ DIMENSIONS ~

HIGH WATER

NOFTSINGER

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

**SUPPLEMENTAL APPLICATION FOR A VARIANCE
TO THE WHITEFISH LAKE AND LAKESHORE PROTECTION REGULATIONS**

PLEASE READ CAREFULLY

An application for a Whitefish Lake and Lakeshore Construction Permit must accompany the variance request form.

The variance mechanism is not intended to address situations that are a matter of convenience rather than hardship. It is not intended to provide economic relief from a specific standard requirement. A lakeshore variance is not intended to address a violation that does not conform to the lakeshore regulations.

A staff recommendation for approval of a variance does not provide an guarantee that the variance will be approved. The staff makes a recommendation to the Whitefish Lake and Lakeshore Protection Committee who in turn make a recommendation to the Whitefish City Council. The Whitefish City Council has the final authority whether a variance is approved or denied. Any appeal of the decision of the Whitefish City Council must be made in district court as per Section 75-7-215 of the Montana Code.

There is a filing fee for a variance that is non-refundable in the event that a variance is denied.

SITE PLAN AND PROJECT DRAWING – These are required as part of your lakeshore permit application and the request for a variance.

Submit a site plan, either drawn to scale or with dimensions added, which shows in detail your proposed project, your property lines, existing and proposed buildings, traffic circulation, driveways, parking, landscaping, fencing, and any unusual topographic features such as slopes, drainage, ridges, etc. Where new buildings or additions are proposed, building sketches and elevations must be submitted.

A Pre-application meeting is required with City staff. The City of Whitefish will only accepted completed lakeshore variance applications from individuals who have completed a pre-application meeting.

A pre-application meeting was held on: March 19, 2013
Date:


Applicant Signature


City Staff Signature

SECTION 13-6-2 OF THE WHITEFISH LAKE AND LAKESHORE PROTECTION REGULATIONS REQUIRES THE FOLLOWING:

FINDINGS - The following criteria form the basis for approval or denial of the variance request. The burden of satisfactorily addressing these criteria lies with the applicant. These criteria are intended to prevent the circumvention of the lakeshore protection regulations and are typically based on a unique circumstance over which the property owner has no control.

DESCRIBE THE NATURE OF THE VARIANCE REQUEST: (PLEASE ATTACH A SEPARATE DESCRIPTION IF NEEDED)

See attached.

EXPLAIN WHICH SPECIFIC SECTION OF THE LAKESHORE PROTECTION REGULATIONS THE VARIANCE WOULD APPLY TO AND THE EXTENT TO WHICH YOUR REQUEST WOULD DEVIATE FROM THE STANDARD.

EXPLAIN THE REASON WHY THE VARIANCE IS NEEDED.

DESCRIBE ALTERNATIVES TO THE PROPOSED PROJECT THAT HAVE BEEN EXPLORED AND DESCRIBE WHY SUCH ALTERNATIVES ARE UNACCEPTABLE.

DESCRIBE THE CONDITIONS OF THE SITE AS THEY NOW EXIST WITHOUT THE VARIANCE.

6.2.A.1: GENERAL CRITERIA (Applicable to all Variance Requests):

DESCRIBE THE ANTICIPATED IMPACTS AS THEY RELATE TO THE POLICY CRITERIA BELOW: (Note: A “yes” or “no” answer or simple restatement of the question is not acceptable.)

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

- b. No reasonable alternatives exist which do meet the standards herein; and,

- c. Granting of the variance will not have adverse impacts on a lake or lakeshore in terms of the “Policy Criteria for Issuance of a Permit” contained in Chapter 4 of the Whitefish Lake and Lakeshore Protection Regulations.

- d. Alternatively to (a) and (b), the granting of a variance would result in a general and universal public benefit.

6.2.A.2: MAJOR VARIANCE CRITERIA (Applicable to Major Variance Requests)

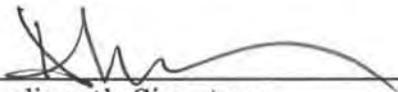
REQUIRES DETAILED ANSWERS TO EACH OF THE FOLLOWING CRITERIA BELOW AND SUBMITAL OF AN ENVIRONMENTAL IMPACT STATEMENT AS OUTLINED IN SECTION 6.2.B.2:

- a. The variance request does not meet the requirements of Section 6.2.A.1;

- b. The variance request deviates substantially from the construction requirements or design standards of these regulations; and;

- c. The variance request creates a major environmental impact.

I hereby certify under penalty of perjury and the laws of the State of Montana that the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as a part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be untrue, I understand that any approval based thereon may be rescinded and other appropriate action taken. The signing of this application signifies approval for the City of Whitefish staff to be present on the property for routine monitoring and inspection during the approval and development process.



Applicant's Signature

3-20-13

Date:



**East Lakeshore Beach Club (Paullin Lake Access Association)
Supplemental Application for a Variance to the Whitefish Lake and
Lakeshore Protection Regulations**

*Prepared by David Noftsinger
March 20, 2013*

NATURE OF VARIANCE AND REASON FOR THE VARIANCE: We are seeking a variance for the naturalized riprap and plantings along the shoreline of Whitefish Lake. The goal of the ELBC homeowners association is to create a restored shoreline that is both natural in appearance and aesthetics as well as in function.

Almost the entire 150' of shoreline is actively eroding. In a number of places along the shoreline, the erosion has created an abrupt, steep ledge of crumbling, smaller stones and gravel; there is inadequate space to place the necessary, larger riprap rocks between the eroding edge and the high water mark to adequately fix the problem. This leaves little room to work without excavating back into the eroding bank to insert stabilizing rocks, thus creating even more disturbance in the highly degraded site.

With minimal space to place rock between the high water mark and the eroding edge, the riprap would take on an unnatural, "wall-like" effect. We are trying to avoid outcomes that appear overly linear, stacked, or "wall-like."

It is essential to help re-create the toe of the slope with larger rocks in order to create a natural angle of repose. There are several natural examples of this along the shoreline of the ELBC property where a larger rock has anchored itself below the high water mark. Varied sizes of rocks have piled up behind these anchored rocks - the result being a longer, slighter angle supporting the shoreline erosion and holding vegetation vs. a sharper, steeper, more immediate breakover at the shoreline. This more natural pattern of rock placement greatly increases the holding potential and stabilization of the riprap and looks much more like a natural shoreline.

Rocks should be accompanied by native plantings of willow species, black cottonwood, and red-osier dogwood.

Variance Proposal (and Deviation from Standard) for Naturalized Riprap and Vegetation:

- a) We are requesting to strategically place larger rocks below the high water mark to create a more natural, functional, durable, and aesthetically pleasing shoreline.
- b) We are requesting that some of the rocks be larger than the recommended 18" stones. We would like to use rocks that more closely resemble the actual size of rocks that currently exist on the site and are having the greatest effects against erosion. Though they will be part of the riprap solution, 18" rocks alone are not enough to hold this highly eroded and degraded shoreline together. Existing rock examples around the site range from 24"- 48." *(See attached photos with measurements)*
- c) We are requesting to plant native riparian plant species above and below the high water line to accompany the rock placements. Native plants grow below the high water mark on adjacent sites all around Whitefish Lake and are a major component for holding the lake shoreline together. As the current site is practically devoid of vegetation, no stabilizing root structures exist along the shoreline. Plants need to be planted in quantities that augment the rock placement, fortify the shoreline, and begin the restoration process.

Native plants will also help to create a more verdant landscape, having positive effects on shoreline bird and fish habitat.

- d) We are requesting to not use filter fabric behind the naturalized riprap. Placing fabric would require excessive excavation to an already unstable shoreline. Also, as the riprap will be naturalized and staggered (and not "wall-like"), it would be difficult to lay the fabric in a way that doesn't become exposed through continued wave action creating an unsightly circumstance.

Note: Montana DEQ and the Flathead Conservation District do not require filter fabric behind riprap on shoreline restoration projects.

EXPLAIN WHICH SPECIFIC SECTION OF THE LAKESHORE PROTECTION REGULATIONS THE VARIANCE WOULD APPLY TO AND THE EXTENT TO WHICH YOUR REQUEST

WOULD DEVIATE FROM THE STANDARD: Chapter 5, Section O. Individual boulders would be placed below the ordinary high water mark. Some boulders would be larger than 18 inches. Some native plants (willows, dogwoods, cottonwoods) would be planted below the high water mark.

DESCRIBE ALTERNATIVES TO THE PROPOSED PROJECT THAT HAVE BEEN EXPLORED

AND DESCRIBE WHY SUCH ALTERNATIVES ARE UNACCEPTABLE: As most of the 150' of shoreline is having major, active erosion issues, few alternatives exist. As stated in the Lakeshore Protection Regulations, Construction Standards, Chapter 5, Section O, "Riprap

shall constitute the primary method of erosion control, and shall be limited to areas where active shoreline erosion is clearly present.”

One potential alternative to the naturalized riprap would be a stacked retaining wall, which seems to create more problems than solutions.

Another possibility would be to use the actual standards for riprap set forth in the Lakeshore Protection Regulations. This approach would also be accompanied by riparian vegetation. One limitation to this approach is the size of the rock (18” at the largest), which is not large enough to create the stability necessary to hold the crumbling bank together. The wave action could undercut these smaller stones thus compromising their effects. The other limitation is the small corridor between the high water mark and the eroding shoreline; there is simply not enough room to establish a natural angle of repose on the steeply eroding shoreline.

Plants alone would not be an effective solution as there is nothing to break the force of the waves; the neighboring parcel to the south provides an excellent example of how wave action continues to erode the shoreline even with mature trees and shrubs. New plantings with small root systems would quickly be washed away.

CONDITIONS OF THE SITE AS THEY NOW EXIST: Nearly all of the 150’ of shoreline is actively eroding into Whitefish Lake due to the scouring effect of waves from recreational boats and wave runners. In a past era, the site was heavily excavated and altered, leaving only a gravel base that meets the lake. This gravel base, with minimal vegetation (knapweed and few non-native grasses), does not have the integrity to withstand the erosive forces of the lake water. The homeowners association has observed a significant loss of shoreline since the original lakeshore permit was submitted in the spring of 2011. *(See attached photos)*

GENERAL CRITERIA:

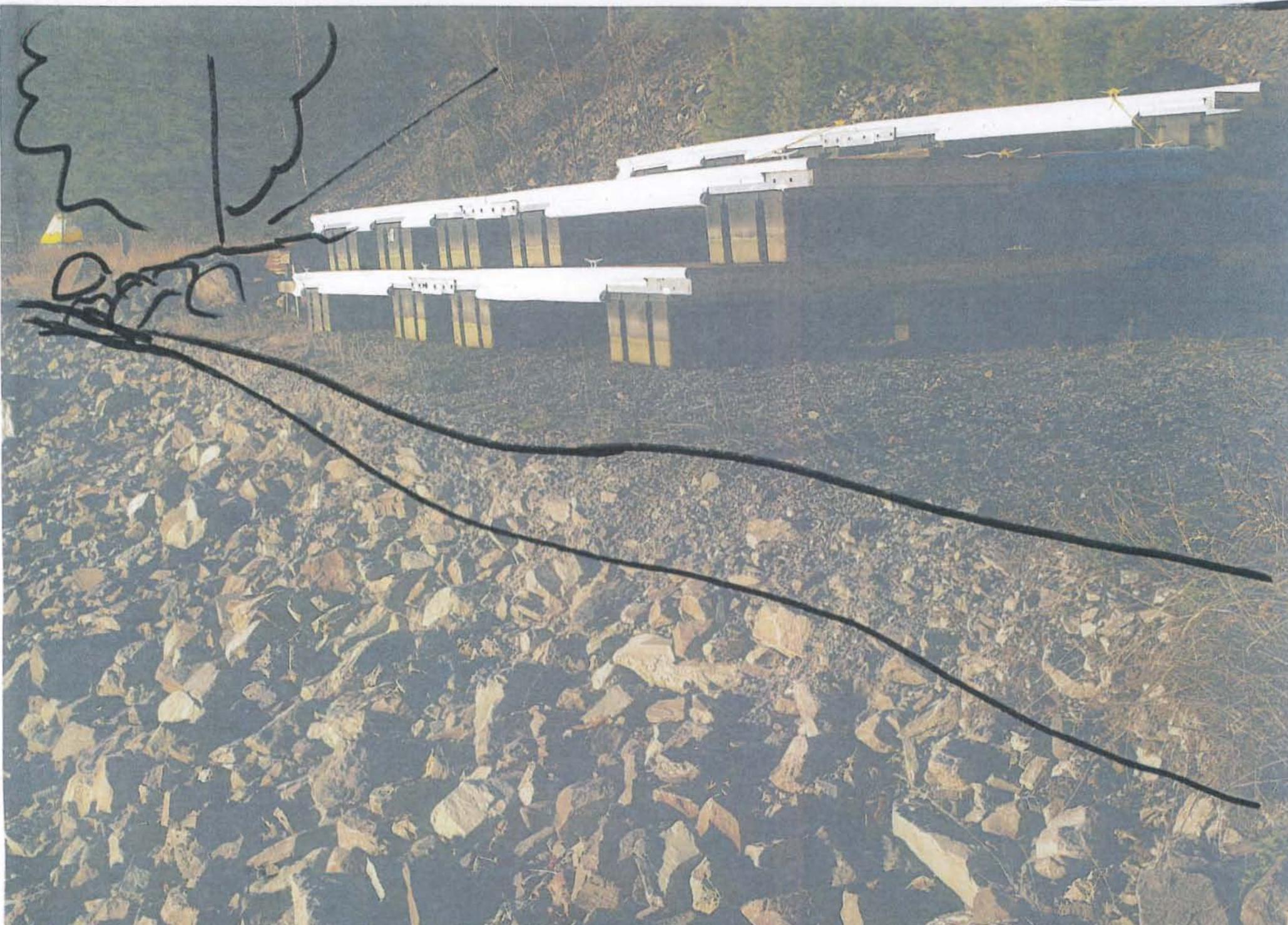
- a) *Due to unusual circumstances, a strict enforcement of such requirements and standards would result in undue hardship:* The shoreline at the ELBC property is an unusual property on Whitefish Lake. Historic excavation and modification of the property has resulted in an unnatural and unstable shoreline. Strict enforcement of the standards would compromise the restoration plan as few alternatives exist that are guaranteed to be effective.
- b) *No reasonable alternatives exist which do meet the standards herein:* The existing bank could be cut back several feet to create a low angle of repose. This approach would create significantly more soil disturbance and would result in a significant loss of usable space for the homeowners.
- c) *Granting of the variance will not have adverse impacts on a lake or lakeshore in terms of the “Policy Criteria for Issuance of a Permit” contained in Chapter 4 of*

the Whitefish Lake and Lakeshore Protection Regulations: In regards to the Policy Criteria, the restored shoreline with an approved variance:

- A. Will not materially diminish water quality; rather, it will mitigate active erosion and reduce sedimentation on 150' of shoreline.
- B. Will not materially diminish habitat for fish or wildlife; it will instead promote wildlife and songbird habitat by adding a variety of native trees, shrubs, and forbs.
- C. Will not interfere with navigation or other lawful recreation.
- D. Will not create a public nuisance or public safety hazard.
- E. Will not create a visual impact discordant with natural scenic views; it will instead naturalize the shoreline and significantly improve the heavily degraded "moonscape" that currently exists.
- F. Will not alter the characteristics of the shoreline; All elements of the proposed design can be found on existing natural shorelines on Whitefish Lake. The neighboring parcel to the south contains many of the proposed elements of this design.

- d) *Alternatively to (a) and (b), the granting of a variance would result in a general and universal public benefit:* The current site exists as an eyesore and public nuisance when viewed from the lake. The property lies between two landowners who take excellent care of their lakeside properties which exacerbates the barren nature of this highly degraded site. Most importantly, this project is being planned to restore both the look and function of a natural shoreline through well-designed placement of riprap stones and the installation of riparian plant communities that are vital to our lake and local ecology.

Thank you for the opportunity to present this application. Forestration, Inc. employs professionals who are highly skilled at natural design, well-versed in local ecosystems and their function, and place as their highest priority responsible stewardship of our lake resources.



NORTH END OF PROPERTY

**WHITEFISH LAKESHORE PROTECTION COMMITTEE
MINUTES OF APRIL 10, 2013**

The meeting was called to order at 6:00 pm by Vice Chairman Ron Hauf.

MEMBERS PRESENT:

X Greg Gunderson, Ron Hauf, Jeff Jensen, Dennis Konapatzke, Sharon Morrison, and Marcia Sheffels. Nikki Bond of the Whitefish Planning Office was also present.

MEMBERS ABSENT: Herb Peschel & Scott Ringer

WELCOME

Ron Hauf welcomed Greg Gunderson to the committee.

AGENDA CHANGES/ADDITIONS

Nikki Bond asked that the agenda be rearranged to address the applicants who had representatives present at the meeting. The committee agreed and moved the Shaw Permit and East Lakeshore Beach Club Permit to the top of the agenda.

GENERAL PUBLIC COMMENT: <none>

ADOPTION of MINUTES from LAST MEETING:

Marcia Sheffels moved to accept the minutes of March 13, 2013 with changes to the time that Sharon Morrison joined the meeting and Jeff Jensen seconded. Motion passes – Gunderson abstained as he was absent from the meeting of March 13.

NEW BUSINESS:

DISCUSSION

WLP-13-W09 – Michael Shaw – Dock Addition, Shore Station & Replace Steps

[Present: Michael Shaw]

Discussion:

Ron Hauf asked the applicant, Michael Shaw, if he had any questions regarding the staff report or if he had anything he would like to add to the permit prior to the committee reviewing the application. Michael Shaw stated the he had some questions regarding the regulations and asked if it would be better to move it to a later part of the meeting. The committee agreed to allow him to speak prior to the permit review.

Mr. Shaw stated that he felt the 4' maximum width to stairs was difficult to achieve when using natural stone. He said his contractor suggested he apply for the stairs to be up to 5' in width. He

also explained that it would be easier for access if stairs could be 5' in width. His mother-in-law has mobility issues and traversing the stairs with two people side-by-side can be difficult. Sharon Morrison noted his remarks and questioned why the 4' limit was in place when it is a reason of aesthetics and not part of the 5 criteria outlined in the Lakeshore Regulations to be judged for permit issuance. Marcia Sheffels recommended that the width issues be revisited at a later date when the Lakeshore Committee could review regulations that may need to be updated. Committee members concurred that it was an item that they would like to reevaluate.

Nikki Bond reviewed the application and Staff Report for the committee. The conditions were written to address the allowed width of the stairs at 4' and not the 5' contained in the applicant's permit as a variance was not requested. The additions of an "L" wing to the dock and shore station are well under the allowable constructed area. There were no further questions.

Motion:

- Sharon Morrison moved to accept Application #WLP-13-W09 as submitted, subject to the conditions detailed in the Planner's staff report. Dennis Konapatzke seconded. No further discussion. All in favor and motion carried.

WLV-13-W06 – East Lakeshore Beach Club – Minor Variance for Riprap; Revegetation and Stone Steps

[Present: David Noftsinger, Greg Gunderson]

Note: Greg Gunderson recused himself from the committee approval process for this application as his company was representing the applicant.

Discussion:

Nikki Bond reviewed the application and Staff Report for the committee. The request includes a minor variance for the use of boulders over 18" as allowed in the Lakeshore Protection Regulations. The property's lakeshore protection zone had been created by a cut and fill method that was leveled and pushed into the lake preceding the regulations. The area is composed of gravels and is unstable. There is little vegetation as there is not soil present at the land-water interface. The applicants would like to stagger larger boulders with riprap to create a naturalized angle of repose in the lakeshore protection zone. The applicants are also asking to omit the use of filter fabric. The installation process would disturb more area than is requested to be altered in the permit. Additionally, since the area is predominately gravel there would not be soils needing to be contained with the filter fabric. The request includes a revised vegetation and maintenance plan and the addition of 28 square feet of stone steps to the bottom of the steps that were installed under permit #WLP-11-10.

David Noftsinger provided an overview of the request. The site has quite a bit of knapweed outside of the lakeshore protection zone and the revegetation plan, which also incorporates areas outside of the lakeshore zone, will mitigate further spreading. He stated the existing condition of the property is not congruent with the neighboring properties. The end result they are hoping for will create a more verdant and vibrant lakeshore protection zone. The diversity of rock sizes is requested to address the break over that occurs during high water. Without larger boulders to

anchor the riprap, the rock would tumble into the lake. Other options that were addressed included a stacked wall and retaining wall but those were not pursued as they would change the nature of the lakeshore zone. The idea of the regulations, and this permit request, is to keep the lakeshore protection area in a naturalized state. Sharon Morrison asked if the existing large boulders on site would be left in place. David Noftsinger replied that they would be maintained as they are currently keeping rock and some small amounts of vegetation anchored.

The committee asked if there was a watering plan in place. The applicant stated that they will work with the property owners for a maintenance schedule. Nikki Bond noted that standard conditions require vegetation to be maintained and replaced if needed. Ron Hauf noted his concerns with erosion in the lakeshore zone attributed to large boats and the wakes they create. It creates a notable impact on the shoreline and hardy plants must be used. David Noftsinger stated that the plants they are proposing to use are native plants that are hardy to the area and thrive on sites around the lake. Greg Gunderson explained that vegetation alone does not stop erosion which is why they are requesting the use of large rock at the toe of the slope to stabilize the riprap. The DNRC has similar requirements for use on sites along the Flathead River. The native trees they are planting don't take root to filter fabric which is another reason for asking not to use it on the site.

Motion:

- Sharon Morrison moved to accept Application WLV-13-W08 as submitted, subject to the conditions detailed in the Planner's staff report. Jeff Jensen seconded. No further discussion. All in favor and motion carried.

WLP-13-W05 – Tom Burk – Dock

Discussion:

Nikki Bond reviewed the application and Staff Report for the committee. The property is well under the allowable constructed area with only a set of stairs located in the lakeshore protection zone. Staff recommended approval with standard conditions.

Motion:

- Marica Sheffels moved to accept Application #WLP-13-W05 as submitted, subject to the conditions detailed in the Planner's staff report. Dennis Konapatzke seconded. No further discussion. All in favor and motion carried.

WLP-13-W07 – John Walecka – Shore Station

Discussion:

Nikki Bond reviewed the application and Staff Report for the committee. This is an administrative permit for an uncovered shore station as the property is near the allowable constructed area. Staff recommends approval with standard conditions.

Motion:

- Dennis Konapatzke moved to accept Application WLP-13-W07 as submitted, subject to the conditions detailed in the Planner's staff report. Greg Gunderson seconded. No

further discussion. All in favor and motion carried.

WLP-13-W08 – Al Foder - Buoy

Discussion:

Nikki Bond reviewed the application and Staff Report noting that a buoy permit had been issued on this property in 2008. Staff recommends approval of the application with a special condition to clarify that only one buoy is allowed on the entire owner's properties. Marcia Sheffels suggested a grammatical change to the staff report for clarification of the placement of the buoy.

Motion:

- Dennis Konapatzke moved to accept Application WLP-13-W08 with changes to the staff report as noted for grammar. Marica Sheffels seconded. No further discussion. All in favor and motion carried.

BY-LAWS DISCUSSION

Nikki Bond explained that the regulations state that the committee should have by-laws in place however none have been adopted. The city attorney has drafted some example by-laws that would be a good starting point. However, the latest changes were not provided to the committee members as of yet. Noting that Herb Peschel, the committee chair, was not present, Nikki Bond asked the committee if the item could be carried over to the next meeting when all members were present. The committee members concurred. Sharon Morrison expressed that Flathead County should have a say in the proposed by-laws as the committee was compromised by appointees from both the city and the county. She also felt that the reference to the interlocal agreement should be removed from the proposed by-laws as it was open to debate due to the interlocal agreement being the subject of an on-going court case. Ron Hauf noted the case could continue to drag on but said the committee could revisit the proposed by-laws at the next meeting. The committee concurred to move the item to the May agenda.

ADJOURNMENT

Meeting was adjourned at 7:45 pm.

NEXT MEETING

May 8, 2013 * 6:00pm
Whitefish Planning & Building Office
510 Railway Street – Whitefish, MT

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



May 6, 2013

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

RE: PMT Properties LLC/Tupelo Grill CUP

Honorable Mayor and Council:

Summary of Requested Action: This is a request by Bill Hileman, Jr. on behalf of PMT Properties LLC and Southern Cross, Inc., for a conditional use permit to expand from a cabaret-type beer and wine license to a full bar/lounge at Tupelo Grille, 17 Central Avenue. The property is zoned WB-3, General Business District.

Planning Board Action: The Whitefish City-County Planning Board met on April 18, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with two (2) conditions as contained in the staff report and adopted the staff report as findings of fact. (Konopatzke, Anderson, and Vail were absent)

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with two (2) conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the public hearing and asked if they had any questions. Rhonda Fitzgerald, 412 Lupfer, spoke in favor of the project. Rebecca Norton, 530 Scott Avenue, spoke in favor of the project. The draft minutes for this item are attached as part of this packet.

This item has been placed on the agenda for your regularly scheduled meeting on May 6, 2013. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

A handwritten signature in blue ink, appearing to read "Dan Fisher", is written below the text "Respectfully,".

David Taylor, AICP, Director

Att: Exhibit A: Recommended Condition of Approval
Draft Minutes of 4-18-13 Planning Board Meeting

Exhibits from 4-18-13 Staff Packet

1. Staff Report, 4-18-13
2. Floor Plan

The following exhibits were submitted by the applicant:

3. Conditional Use Permit Application & Supporting Materials, 3-7-13

c: w/att Necile Lorang, City Clerk

c: w/o att Bill Hileman, Jr, 204 Central Avenue, Whitefish, MT 59937

Exhibit A
Tupelo Grill CUP
WCUP 13-02
Whitefish City-County Planning Board
Recommended Conditions of Approval
April 18, 2013

1. Except as amended by these conditions, the use of the conditional use permit shall be in substantial conformance with the uses described in the application for a restaurant with a full service bar.
2. The conditional use permit is perpetual, but shall terminate in 18 months unless commencement of the authorized activity has begun.

**WHITEFISH CITY PLANNING BOARD
MINUTES OF MEETING
APRIL 18, 2013**

**CALL TO ORDER AND
ROLL CALL**

The regular meeting of the Whitefish City-County Planning Board was called to order at 6:00 p.m. Board members present were Rick Blake, Ken Meckel, Diane Smith, Chad Phillips, Ole Netteberg and Greg Gunderson. Zak Anderson, Dennis Konapatzke and Mary Vail were absent. Planning Director Taylor and Senior Planner Compton-Ring represented the Whitefish Planning & Building Department. Approximately 12 people were in the audience.

APPROVAL OF MINUTES

Smith moved and Phillips seconded to approve the March 21, 2013 City minutes of the Whitefish Planning Board as submitted. On a vote by acclamation the motion passed unanimously.

**PUBLIC ITEMS NOT ON
AGENDA**

Joan Vetter Ehrenberg, 744 Hidden Valley Drive, said she worked on billboard legislation in 1995. She said she cares about signs and wants to keep Montana beautiful. She asked them to look forward, not backward. She didn't want them to go back into the Sign Ordinance. People come from all over and won't want to see waving signs. She said she won't buy her next Subaru from Don K if they push through a Sign Ordinance change. She said the entrance to Whitefish is very important.

OLD BUSINESS

None.

**CITY OF WHITEFISH
ZONING TEXT
AMENDMENT REQUEST**

A request by PMT Properties LLC ("Tupelo Grille") for a Conditional Use Permit to operate a bar/lounge at 17 Central Avenue. The subject property is zoned WB-3 (General Business District) and will operate as a restaurant which serves wine, beer and liquor. The restaurant currently serves wine and beer only.

**STAFF REPORT WCUP-13-
02**

Planning and Building Director Taylor reported that the subject application is to operate a bar/lounge in conjunction with full restaurant services. The property currently houses the restaurant Tupelo Grille and maintains a cabaret license for beer and wine. The property owners have applied to transfer an existing all beverage license (beer, wine and alcohol) from the former Sherwood Sports Bar. The property is located in downtown Whitefish and is surrounded by other retail establishments, restaurants, and bars. It meets all the criteria for the Code. Staff did not get any feedback from the public notice. The request complies with zoning regulations and the intent of the WB-3 District and staff recommends approval.

PUBLIC HEARING

The public hearing was opened to those who wished to speak on the issue.

William Hileman, attorney, represented Tupelo Grille and Missy

and Pat Carlos. He said they were available if the Board had any questions.

PUBLIC HEARING

Rhonda Fitzgerald, 412 Lupfer Avenue, spoke in favor of this project and said it was a great addition to the Tupelo Grille. She noted that to the south of Tupelo is a bar.

Rebecca Norton, 530 Scott Avenue, said she supports this project as well.

No one else wished to speak and the public hearing was closed.

MOTION

Gunderson moved and Phillips seconded Whitefish to adopt staff report WCUP-13-02 findings-of-fact and recommend to the Whitefish City Council to approve the conditional use permit for PMT Properties.

VOTE

The motion passed unanimously. (Scheduled for City Council on, May 6, 2013.)

**1840 BAKER LLC ZONING
MAP AMENDMENT
REQUEST**

1840 Baker LLC request for a zoning map amendment to change from W-I (Industrial and Warehousing) to WI/WB-2-SC (Industrial and Warehousing/Secondary Business with a Statement of Conditions) on two lots comprised of 1.87 acres of property addressed as 1830 and 1840 Baker and known as the former Master Plumbing site. The proposal would conditionally add several WB-2 permitted uses to the existing IH zoning, while removing some of the permitted uses of the WI zone. Setbacks are proposed at 20' for the front, and 5' on the side and rear.

**STAFF REPORT WZMA 13-
02**

Planning and Building Director Taylor said conditional zoning is a tool in the tool box that staff doesn't use very often. He said the last time they used this was for the Whitefish Motel which was adjacent to the commercial zone. The subject properties, which are the former site of Master Plumbing, have a Whitefish zoning designation of WI (Industrial and Warehousing), and are bordered on three sides by WI, and to the east by WB-2. The applicant is applying to utilize the 'conditional zoning' provision of the City code to rezone their property to a more restrictive mixed-use hybrid of WI and WB-2 permitted uses. The new zoning will allow the property to have a range of available future uses which are compatible with the existing industrial area as well as secondary business district zoning but don't compete with the downtown central business district. They are proposing professional offices (which is an allowed use) and furniture manufacturing/sales in the existing building, and new buildings with uses that would potentially include a specialty foods market and a fine auto restoration business with some auto sales.

**PMT PROPERTIES/TUPELO GRILLE
WCUP 13-02
EXHIBIT LIST
April 18, 2013**

1. Staff Report, 4-18-13
2. Building Floor Plan

The following exhibits were submitted by the applicant:

3. Application & Supporting Materials, 3-4-13

**PMT PROPERTIES LLC (“TUPELO GRILLE”)
CONDITIONAL USE PERMIT REPORT
WUP-13-02
APRIL 18, 2013**

A report to the Whitefish City-County Planning Board and the Whitefish City Council regarding a request by Bill Hileman, Jr. on behalf of PMT Properties LLC and Southern Cross, Inc., for a conditional use permit to expand from a cabaret-type beer and wine license to a full bar/lounge at Tupelo Grille, 17 Central Avenue. The property is zoned WB-3, General Business District. A public hearing is scheduled before the Whitefish City-County Planning Board for public hearing on April 18, 2013 and a subsequent hearing is set before the City Council on May 6, 2013.

BACKGROUND INFORMATION

The subject application is to operate a bar/lounge in conjunction with full restaurant services. The property currently houses the restaurant Tupelo Grille and maintains a cabaret license for beer and wine. The property owners have applied to transfer an existing all beverage license (beer, wine and alcohol) from the former Sherwood Sports Bar. The property is located in downtown Whitefish and is surrounded by other retail establishments, restaurants, and bars.

The property is zoned WB-3, General Business District. The WB-3 zoning district requires a Conditional Use Permit (CUP) for any bar/lounge (WCC 11-2L-3). The bar/lounge conditional use permit is required due to the transfer of an existing all beverage license to the subject property.

The subject site is addressed as 17 Central Avenue and is legally described as Lots 16 & 17, Block 28, Whitefish Townsite, in Section 36, Township 31N, Range 22W, P.M.M., Flathead County, Montana

PROJECT SCOPE

The applicant is requesting approval of a conditional use permit to operate a bar/lounge at 17 Central Avenue.

A. Applicant:

Bill Hileman
204 Central Avenue
Whitefish MT 59937

Patrick Carloss
Southern Cross, Inc.

Property Owner:

PMT Properties, LLC
829 Highland Drive
Whitefish MT 59937

B. Size and Location:

The subject site is addressed as 17 Central Avenue and is located at the east side of Central Avenue between Railway Street and First Street. The property is approximately 7,000 square feet.

C. Existing Land Use and Zoning:

The site is currently zoned WB-3, General Business District. The building currently houses a restaurant.

D. Adjacent Land Uses:

North:	Restaurant (McKenzie River Pizza)	WB-3
West:	Brewery, Restaurant with Bar/Lounge, (GN Brewery, Craggy Range)	WB-3
South:	Bar/Lounge (Great Northern)	WB-3
East:	Retail/Warehousing	WB-3

E. Growth Policy Designation:

The Growth Policy designation for this area is Commercial Core which corresponds to the downtown area of Whitefish. The major uses are retail, commercial, professional offices, financial institutions, restaurant and taverns, hotels and art galleries.

F. Utilities:

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

G. Public Notice:

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on March 15, 2013. No comments have been received as of the date of the staff report.

A notice was published in the *Whitefish Pilot* on April 3, 2013.

REVIEW AND FINDINGS OF FACT

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

1. **Growth Policy Compliance:**

This proposal complies with the Growth Policy's Commercial Core designation which is for the downtown area.

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

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

The underlying zoning is WB-3 (General Business District). The purpose and intent of this zoning category is intended as a center of financial retail, commercial, governmental, professional, institutional and cultural activities.

The proposal is consistent with the purpose and intent of the applicable regulations. Staff feels the project blends into the character of the existing neighborhood. No new development is associated with the request. The bar/lounge will operate within the confines of an existing restaurant in a neighborhood where restaurants, bars and taverns are abundant. The proposal meets the requirements of the zoning regulations for setbacks, parking and site suitability. The applicant is not requesting any deviations from the standards.

Finding 2: The proposed use complies with the zoning regulations and intent for the WB-3 district based on conditionally permitted uses for bar/lounges.

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

There is adequate space within the existing structure for the proposed use.

No physical hazards or sensitive areas are apparent on the site. The site is currently developed.

Access to the site is existing and meets the city requirements. The subject property has access from Central Avenue and via an alley which runs through the block and provides access from Railway Street to 1st Street. The city streets and alley allow adequate access for emergency situations.

Finding 3: Site suitability is addressed through the existing use and development on the property. There are no environmental hazards present on the site and adequate access to the property.

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

Building Design: The proposed use is located within an existing building. No building design standards are applicable to this application.

Parking: Whitefish Zoning Jurisdiction Regulations exempt off-street parking and loading spaces for nonresidential uses in the WB-3 zoning district (WCC 11-6-3-3).

Landscaping: There is no landscaping required for this application. There is no new construction associated with the property and the building is currently used for a restaurant.

Signage: Signage in accordance with City of Whitefish regulations currently exists. Any new signage for the proposed bar/lounge shall meet the requirements of the Sign Regulations chapter (WCC 11-5) and, specifically, the standards for the Old Town District (WCC 11-5-6-2).

Finding 4: The site is currently developed in compliance with City of Whitefish regulations and no new development is associated with the project.

5. Availability and Adequacy of Public Services and Facilities.

Sewer and water: City sewer and water currently connect to the site.

Storm Water Drainage: City stormwater is available in Central Avenue.

Police: The City of Whitefish serves the site, response times and access is adequate.

Fire Protection: The Whitefish Volunteer Fire Department serves the site; response times and access are good. The proposed use is not expected to have significant impacts upon fire services.

Streets: The site is accessed off Central Avenue and an alley.

Finding 5: Municipal services are currently in use on-site. Response times for police and fire are not anticipated to be affected due to the proposed development. The property has adequate access to city streets and an alley.

6. Neighborhood/Community Impact:

Traffic Generation: Staff does not anticipate any significant impact to traffic flow due to the long-term history of retail and restaurant establishments housed in the building and surrounding area.

Noise or Vibration: No impact is anticipated.

Dust, Glare, or Heat: Not applicable.

Smoke, Fumes, Gas, and Odor: Not applicable.

Hours of Operation: Hours of operation for businesses are not regulated by the zoning regulations contained within Title 11 of Whitefish City Code.

Finding 6: The proposed use for a bar/lounge in conjunction with the restaurant is not anticipated to have a negative neighborhood impact as there are multiple existing full bars within a block of the property.

7. Neighborhood/Community Compatibility:

Downtown Whitefish is home to a variety of restaurants, bars and retail uses. The proposed use is consistent with the downtown area. No new development is associated with the bar/lounge as it operates in an existing restaurant. The structural bulk and massing, density and scale of the project will not be changed from the current configuration.

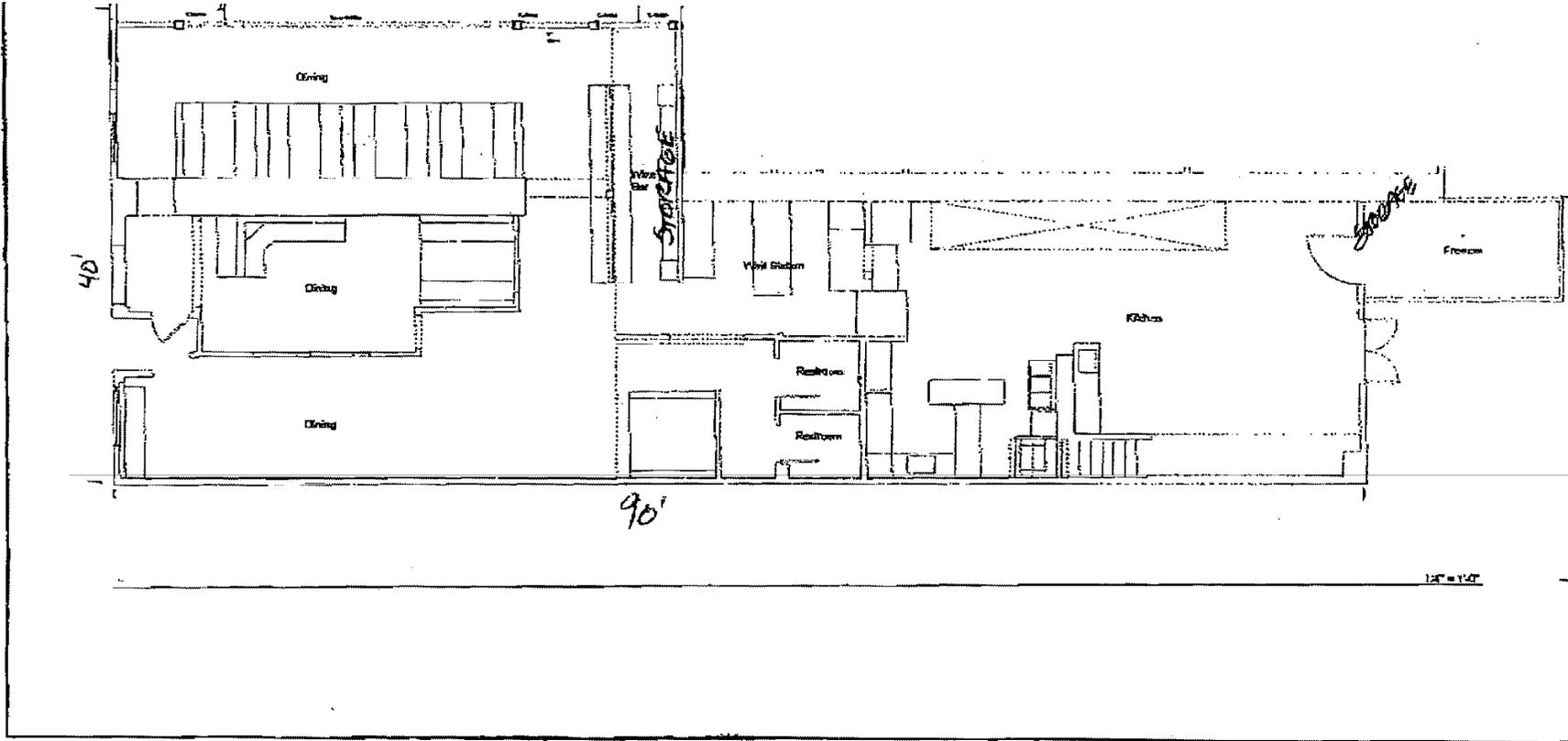
Finding 7: The project is compatible with the existing uses in the neighborhood and is consistent with the designs, size and density of the immediate area.

RECOMMENDATION

It is recommended that Whitefish City-County Planning Board adopt staff report #WCUP-13-02 findings-of-fact and recommend to the Whitefish City Council the conditional use permit for PMT Properties be **approved** subject to the following conditions:

1. Except as amended by these conditions, the use of the conditional use permit shall be in substantial conformance with the uses described in the application for a restaurant with a full service bar.
2. The conditional use permit is perpetual, but shall terminate in 18 months unless commencement of the authorized activity has begun.

Southern Cross, Inc., d/b/a Tupelo Grille
License #07-937-2448-002
17 Central Avenue, Whitefish, MT 59937
Date: 2/19/2013



<input type="checkbox"/> Design Development <input type="checkbox"/> Schematic Design <input type="checkbox"/> Preliminary Design <input type="checkbox"/> Final Design <input type="checkbox"/> Construction Documents	Bar Study For Tupelo Grille Whitefish, Montana <small>© Copyright Reserved. All rights of these drawings are reserved.</small>
Drawing Title Project No. Date Author Check DD1	

MAR 07 2013

LAW OFFICES
HEDMAN, HILEMAN & LACOSTA, P.L.L.P.

204 CENTRAL AVENUE
WHITEFISH, MONTANA 59937-2662
FAX (406) 862-1140
E-MAIL: will@whitefishlaw.com
TELEPHONE (406) 862-2528

EUREKA OFFICE
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P.O. BOX 390
EUREKA, MONTANA 59917-0390
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DONALD E. (GENE) HEDMAN
WILLIAM E. HILEMAN, JR.
SUSAN M. LACOSTA
CLIFTON W. HAYDEN
CALEB E. SIMPSON
WILFRIED L. ROYER - RETIRED
LEO FISHER
1921 - 2001

PLEASE REPLY TO WHITEFISH OFFICE

March 7, 2012

David Taylor
Director of Planning & Building
City of Whitefish
510 Railway Street
Whitefish, MT 59937

VIA HAND DELIVERY

**RE: PMT, Properties, LLC ("Tupelo Grille")
Application for Conditional Use Permit, City of Whitefish
(The "Tupelo Grille CUP Application")**

Dear David:

Southern Cross, Inc., d/b/a "Tupelo Grille", operates a restaurant located at 17 Central Avenue, Whitefish, Montana 59937; which property is leased from PMT Properties, LLC, the fee owner of said property. This letter shall serve as Southern Cross, Inc.'s, d/b/a Tupelo Grille's, approval and support of the CUP Application.

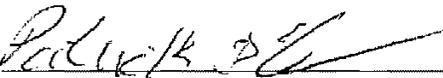
If you have any questions or comments, please feel free to contact me.

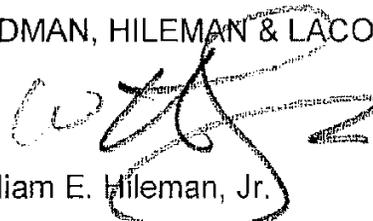
ACKNOWLEDGMENT & CONSENT

Very truly yours,

Southern Cross, Inc.

HEDMAN, HILEMAN & LACOSTA

By: 
Patrick G. Carloss, President


William E. Hileman, Jr.

WEH/jm
Enclosures

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

APPLICATION FOR CONDITIONAL USE PERMIT
CITY OF WHITEFISH

FEE ATTACHED \$1,980 (See current fee schedule)

OWNER(S) OF RECORD:

Name: **PMT Properties, LLC ("Tupelo Grille")**

Mailing Address: **17 Central Avenue**

City/State/Zip: **Whitefish, MT 59937**

Phone: **862-4136**

PERSON(S) AUTHORIZED TO REPRESENT THE OWNER(S) AND TO WHOM ALL CORRESPONDENCE IS TO BE SENT:

Name: **William Hileman, Jr.**

Mailing Address: **204 Central Avenue**

City/State/Zip: **Whitefish, MT 59937**

Phone: **862-2528**

LEGAL DESCRIPTION OF PROPERTY (Refer to Property Records):

Street	Sec.	Town-	Range
Address: 17 Central Avenue	No. 36	ship 31N	No. 22W

Subdivision	Tract	Lot	Block
Name: Whitefish Original Townsite	No(s). _____	No(s). 16&17	No. 28

DESCRIBE PROPOSED USE: **Bar/lounge as defined in Whitefish Ordinances Section 11-9-2. An existing restaurant serving wine, beer and liquor will be operated at this location.**

ZONING DISTRICT: **WB-3**

CHAPTER 7 OF TITLE 11 WHITEFISH ZONING REGULATIONS REQUIRES THE FOLLOWING:

A. **FINDINGS** - The following criteria form the basis for approval or denial of the Conditional Use Permit. The burden of satisfactorily addressing these criteria lies with the applicant. Review the criteria below and, on a separate sheet of paper, discuss how the proposal conforms to the criteria. If the proposal does not conform to the criteria, describe how it will be mitigated.

1. Describe how the proposal conforms to the applicable goals and policies of the Whitefish City-County Growth Policy.

The restaurant to be operated at 17 Central Avenue, Whitefish MT will create long-term, stable jobs for local residents, will promote and enhance the

Whitefish downtown area, will establish a strong and unique retail presence that will attract visitors and support local residents and will create and promote a pedestrian-friendly environment to encourage visitors and residents to utilize downtown businesses.

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

The addition of all beverage service to the existing restaurant will not substantially alter the business conducted at the restaurant location. Restaurants are a permitted use in WB-3 zoning and, since a restaurant will be operated at the location, the proposed use is consistent with the applicable zoning regulations. The area of downtown where the restaurant is located has been identified as an appropriate and desirable location for bars, lounges, and restaurants by the City of Whitefish. By way of example, Craggy Range Bar & Grill is located just north and across Central Avenue from the restaurant, the Great Northern Bar and Grill is located just south of the restaurant on Central Avenue, as is Casey's, each of which offers all beverage service. In addition, the existing restaurant has been operating with a cabaret license (restaurant beer & wine) for a number of years.

3. How is the property location suitable for the proposed use?

A restaurant has been operated at this location for a number of years with a cabaret license and, as noted in the answer to question 2 above, the operation of the restaurant is consistent with other uses on Central Avenue.

Is there adequate usable land area?

Yes, the restaurant has been designed to operate within the existing walls of the building.

Does the access, including emergency vehicle access, meet the current standards? **Yes.**

Are environmentally sensitive areas present on the property that would render the site inappropriate for the proposed use? **No.**

4. How are the following design issues addressed on the site plan?
 - a. Parking locations and layout: **All parking for the restaurant is located offsite on Central Avenue and the surrounding downtown Whitefish area.**
 - b. Traffic circulation: **Not applicable**
 - c. Open space: **Not applicable**
 - d. Fencing/screening: **Not applicable**
 - e. Landscaping: **Not applicable**
 - f. Signage: **Not applicable**
 - g. Undergrounding of new utilities: **Not applicable**
 - h. Undergrounding of existing utilities: **Not applicable**

5. Are all necessary public services and facilities available and adequate? If not, how will public services and facilities be upgraded?
 - a. Sewer: **Yes**
 - b. Water: **Yes**

- c. Stormwater: **Yes**
- d. Fire Protection: **Yes**
- e. Police Protection: **Yes**
- f. Street (public or private): **Yes**
- g. Parks (residential only): **Not applicable**
- h. Sidewalks: **Yes**
- i. Bike/pedestrian ways – including connectivity to existing and proposed developments: **Not applicable**

6. How will your project impact on adjacent properties, the nearby neighborhoods and the community in general?

The restaurant will benefit the adjacent properties, neighborhood and the City of Whitefish by creating jobs, increasing the number of visits to the downtown area and increasing the City's tax base.

Describe any adverse impacts under the following categories.

- a. Excessive traffic generation and/or infiltration of traffic into neighborhoods: **None**
- b. Noise, vibration, dust, glare, heat, smoke, fumes, odors: **None**

7. What are the proposed hours of operation?

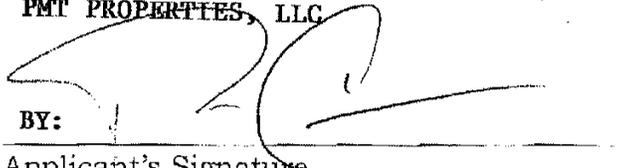
Monday – Sunday: 5:00 PM to 10:00 PM

8. How is the proposal compatible with the surrounding neighborhood and community in general in terms of the following:

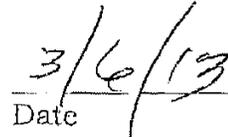
- a. Structural bulk and massing
- b. Scale
- c. Context of existing neighborhood
- d. Density
- e. Community Character: **The structural bulk and massing, scale, context of existing neighborhood, density and community character will be consistent with the existing restaurant operated at this location and shall be consistent with the businesses operating on Central Avenue as well as the surrounding area.**

I hereby certify under penalty of perjury and the laws of the State of Montana that the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as a part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be untrue, I understand that any approval based thereon may be rescinded, and other appropriate action taken. The signing of this application signifies approval for the Whitefish Planning & Building staff to be present on the property for routine monitoring and inspection during the approval and development process.

PMT PROPERTIES, LLC

BY: 

Applicant's Signature



Date

PATRICK G. CARLOSS

Print Name

(This page left blank intentionally to separate printed sections)

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

ORDINANCE NO. 13-__

An Ordinance of the City Council of the City of Whitefish, Montana, approving a zone change for property identified as 1830 and 1840 Baker Avenue.

WHEREAS, Elaine Edwards and 1840 Baker, LLC applied to the Whitefish Planning and Building Department for a zone change for their properties identified as 1830 and 1840 Baker Avenue, which properties include the former site of Master Plumbing; and

WHEREAS, the applicants requested a change from the existing WI (Industrial and Warehousing) to WI/WB-2-SC (Industrial and Warehousing/Secondary Business) with a proposed offer of restrictive conditions; and

WHEREAS, in response to such application, the Whitefish Planning and Building Department prepared Zone Change Report WZC-13-02, dated April 18, 2013, which analyzed the proposed zone change and recommended in favor of it; and

WHEREAS, at a lawfully noticed public hearing on April 18, 2013, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed Zone Change Report WZC-13-02 and the proposed offer of restrictive conditions, invited public comment, and thereafter voted to recommend in favor of the proposed zone change; and

WHEREAS, at a lawfully noticed public hearing on May 6, 2013, the Whitefish City Council received an oral report from Planning Staff, reviewed Zone Change Report WZC-13-02 and the proposed offer of restrictive conditions, and took public comment; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the proposed zone change and the proposed offer of restrictive conditions; and

WHEREAS, the proposed zone change will meet the criteria contained in § 11-7-11(D) of the Whitefish City Code.

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

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

Section 2: Zone Change Report WZC-13-02, together with a letter of transmittal dated May 6, 2013, from the City Planning and Building Department to the Whitefish City Council, are hereby adopted as Findings of Fact

Section 3: The properties identified as 1830 and 1840 Baker Avenue, and legally described as Assessors Tracts 6BGA and 6BK, Section 1, Township 30 North, Range 22 West, Flathead County, which were previously zoned WI (Industrial and Warehousing), are hereby rezoned to WI/WB-2-SC (Industrial and Warehousing/Secondary Business), subject to the restrictive conditions. The City Attorney is authorized and directed to prepare the Statement of Conditions according to § 11-7-12(D)(5) of the Whitefish City Code, and in an appropriate contractual form for recording with the Flathead County Clerk and Recorder.

Section 4: The Zoning Administrator is hereby authorized and directed to amend the official zoning map to conform to the terms of this Ordinance.

Section 5: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 6: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS _____ DAY OF _____, 2013.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

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



May 6, 2013

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

RE: 1840 Baker LLC Zoning Map Amendment

Honorable Mayor and Council:

Summary of Requested Action: This is a request by Eric Mulcahy on behalf of Elaine Edwards and 1840 Baker LLC to amend the Whitefish zoning jurisdiction map from WI (Industrial and Warehousing) to WI/WB-2-SC (Industrial and Warehousing/Secondary Business with a Statement of Conditions) on two lots comprised of 1.870 acres of property addressed as 1830 and 1840 Baker Avenue.

Planning Board Action: The Whitefish City-County Planning Board met on April 18, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced rezone request and adopted the staff report as findings of fact. (Konopatzke, Anderson, and Vail were absent)

Planning & Building Department Recommendation: Staff recommended approval of the above referenced zoning map amendment.

Public Hearing: The applicant's representative, Eric Mulcahy spoke at the public hearing. The draft minutes for this item are attached as part of this packet.

This item has been placed on the agenda for your regularly scheduled meeting on May 6, 2013. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

A handwritten signature in blue ink, appearing to read "David Taylor", is written over a light blue circular background.

David Taylor, AICP, Director

Att: Exhibit A: Statement of Conditions
Draft Minutes of 4-18-13 Planning Board Meeting

Exhibits from 4-18-13 Staff Packet

1. Staff Report, 4-18-13

The following exhibits were submitted by the applicant:

2. Conditional Use Permit Application & Supporting Materials, 3-7-13

c: w/att Necile Lorang, City Clerk

c: w/o att Eric Mulcahy

EXHIBIT A

CONDITIONAL ZONING STATEMENT OF CONDITIONS

Ordinance No. _____

We, _____, owners of parcels of land described in Exhibit A and located in S1-T30N-R22QW, also known as 1840 Baker Avenue and 1830 Baker Avenue, Whitefish, Flathead County, Montana, hereby voluntarily consent to the following Statement of Conditions as part of rezoning our property to Industrial and Warehouse/Secondary Business District (WI/WB-2/SC):

1. The subject parcels shall be subject to the development requirements of the WI Zone for yard setbacks, height limitations, minimum lot width, and minimum lot size, with the exception of the following:

Minimum Yard Spaces:

Front:	20'
Side:	5'
Rear:	5'

2. In addition to the following uses and conditional uses as amended in the WI zone, the subject parcels may be developed for the following principal uses from the WB-2:

WI Amended

Permitted Uses

- Automobile sales and service
- ~~Boat and recreation vehicle storage~~
- ~~Building supply outlets~~
- ~~Contractors' yards~~
- ~~Heavy equipment service~~
- Janitorial Services
- Light industrial manufacturing, fabricating, processing, repairing, packing, or storage facilities.
- ~~Nurseries and landscaping materials: retail and wholesale~~
- Office space (Less than 10,000 square feet)
- Parcel delivery service
- Petroleum products: retail
- ~~Public Utility facilities and storage yards~~
- ~~Publicly owned or operated buildings, uses or recreational facilities~~
- ~~Railroad Yards~~
- ~~Research laboratories and institutions~~
- Tire sales

Conditionally Permitted Uses

- ~~Automobile and boat sales~~
- ~~Automobile wrecking yards~~
- ~~Heavy equipment sales and rentals~~
- ~~Heavy industrial manufacturing, fabricating and processing~~
- Microbreweries
- ~~Outdoor amusements~~
- ~~Petroleum products, wholesale~~

- ~~Sexually oriented businesses, as defined in section 11-9-2 of this title~~
- ~~Tire retreading and recapping~~

WB-2 Added

Permitted Uses

- Antique stores and auction barns
- Automobile and boat sales, parts, repair and service
- Furniture and floor covering stores
- Grocery stores
- Laundry and dry cleaning
- Machinery and equipment sales, rental and repair
- Medical Clinic
- Restaurant

Conditionally Permitted Uses

- Buildings greater than 15,000 square feet

3. Sign's shall be approved under the regulations for the Highway District.
4. The site shall be subject parking and landscaping regulations of the Whitefish Zoning Ordinance

The aforementioned conditions are part of rezoning the property and apply to the land, including all successors in title, interest, and assignees. We understand that if any agreed to conditions are transgressed, it becomes a violation of the City of Whitefish Zoning Ordinance.

 Elaine Edwards
 1840 Baker LLC

 Date

STATE OF MONTANA)
 : ss
 County of Flathead)

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared ELAINE EDWARDS, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

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

(SEAL)

 Notary Public for the State of Montana

[print or type name of Notary]

Residing in _____, Montana

My Commission expires: _____

Legal Description of Property Rezoned

Tract 1:

A Tract of land in the Southwest Quarter of the Northwest Quarter of Section 1, Township 30 North, Range 22 West, P.M.M., Flathead county, Montanan, Described as follows:

Commencing at the northeast corner of the southwest quarter of the northwest quarter of Said Section 1; thence

South 00°10' west and along the easterly boundary line of said southwest quarter of the northwest quarter, a distance of 382.5 feet to a point; thence

North 89°50' west and parallel to the northerly boundary line of said southwest quarter of the northwest quarter, a distance of 393.6 feet to a true point of beginning of the tract of land herein being described; thence

North 89°50' west, a distance of 206.4 feet to a point; thence

North 02°36' east, a distance of 100.00 feet to a point; thence

South 89°50' east, a distance of 206.4 feet to a point; thence

South 02°36' west, a distance of 100.00 feet to a point of beginning.

Tract 2:

That portion of the southwest quarter northeast quarter of Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana, Known as:
Parcel B of Certificate of Survey No. 18334.

and Pat Carlos. He said they were available if the Board had any questions.

PUBLIC HEARING

Rhonda Fitzgerald, 412 Lupfer Avenue, spoke in favor of this project and said it was a great addition to the Tupelo Grille. She noted that to the south of Tupelo is a bar.

Rebecca Norton, 530 Scott Avenue, said she supports this project as well.

No one else wished to speak and the public hearing was closed.

MOTION

Gunderson moved and Phillips seconded Whitefish to adopt staff report WCUP-13-02 findings-of-fact and recommend to the Whitefish City Council to approve the conditional use permit for PMT Properties.

VOTE

The motion passed unanimously. (Scheduled for City Council on, May 6, 2013.)

**1840 BAKER LLC ZONING
MAP AMENDMENT
REQUEST**

1840 Baker LLC request for a zoning map amendment to change from W-I (Industrial and Warehousing) to WI/WB-2-SC (Industrial and Warehousing/Secondary Business with a Statement of Conditions) on two lots comprised of 1.87 acres of property addressed as 1830 and 1840 Baker and known as the former Master Plumbing site. The proposal would conditionally add several WB-2 permitted uses to the existing IH zoning, while removing some of the permitted uses of the WI zone. Setbacks are proposed at 20' for the front, and 5' on the side and rear.

**STAFF REPORT WZMA 13-
02**

Planning and Building Director Taylor said conditional zoning is a tool in the tool box that staff doesn't use very often. He said the last time they used this was for the Whitefish Motel which was adjacent to the commercial zone. The subject properties, which are the former site of Master Plumbing, have a Whitefish zoning designation of WI (Industrial and Warehousing), and are bordered on three sides by WI, and to the east by WB-2. The applicant is applying to utilize the 'conditional zoning' provision of the City code to rezone their property to a more restrictive mixed-use hybrid of WI and WB-2 permitted uses. The new zoning will allow the property to have a range of available future uses which are compatible with the existing industrial area as well as secondary business district zoning but don't compete with the downtown central business district. They are proposing professional offices (which is an allowed use) and furniture manufacturing/sales in the existing building, and new buildings with uses that would potentially include a specialty foods market and a fine auto restoration business with some auto sales.

Conditional zoning allows an applicant to rezone a property into a blended zone that offers restrictions on development requirements and future uses in exchange for the allowance for some uses allowed in an adjacent zone.

As part of the Statement of Conditions, the property owner is asking for the following uses from the WB-2 zone to be permitted:

- Antique stores and auction barns
- Automobile and boat sales, parts, repair and service (automobile and boat service is already permitted in the WI zone)
- Furniture and floor covering stores
- Grocery stores
- Laundry and dry cleaning
- Machinery and equipment sales, rental, and repair
- Medical clinic and related therapeutic health services
- Restaurant

Under Conditionally permitted uses, the following would be added:

- Buildings greater than 15,000 square feet

The front yard setback would be 20' as required in the WB-2 District, while the side and rear yard setbacks would remain 5' as required in the WI district (no side or rear setbacks are required in the WB-2).

They are also proposing to voluntarily remove the following allowed WI permitted uses:

- Boat and recreational vehicle storage
- Building supply outlets
- Contractor's yards
- Heavy equipment service
- Nurseries and landscaping materials, retail and wholesale
- Public utility buildings and storage yards
- Publically owned or operated buildings, uses, or recreational facilities
- Railroad yards
- Research laboratories and institutions

They are proposing to voluntarily remove the following conditionally permitted WI uses:

- Automobile and boat sales (added as permitted use per WB-2)
- Automobile wrecking yards

- Heavy equipment sales and rentals
- Heavy industrial manufacturing, fabricating, and processing
- Outdoor amusements
- Petroleum products, wholesale
- Sexually oriented businesses
- Tire retreading and recapping

The following uses would remain permitted as per the WI zone:

- Automobile sales and service
- Janitorial services
- Light industrial manufacturing, fabricating, processing, repairing, packing, or storage facilities
- Office space (less than 10,000 sq. ft.)
- Parcel delivery services
- Petroleum products, retail
- Tire sales

The following use from the WI would remain conditionally permitted:

- Microbreweries

The property formerly had an operating plumbing business as well as commercial retail sales of plumbing supplies and fixtures within the existing building. The new owner wishes to use to utilize that building as a multi-tenant mixed use facility, including professional offices, which could be done under the existing zoning up to 10,000 sq. ft., as well as furniture manufacturing and sales and other options. The larger of the two lots is currently vacant, but several future commercial buildings are planned. One building would potentially house a specialty food market and deli; another would have mixed uses, including high end automotive restoration and sales (indoors). The applicant is proposing to include several other uses permitted in the WB-2 to provide more flexibility for future tenants. Most of the uses being proposed are currently available in the neighborhood along Baker Avenue. No retail is being proposed that would potentially compete with the downtown WB-3 zoning district, nor are the WB-2 uses proposed completely reliant on highway frontage, large outdoor display areas, etc., as per the intent of the WB-2.

They have a statement of conditions that would be notarized and goes with the zoning district. It would be signed by the applicant and the City and filed with the Clerk and Recorder's office. He said the pool for industrial property is limited, so staff supports the request to keep that in this proposal. There were no comments from neighboring business owners. Staff recommends approval.

PUBLIC HEARING

The public hearing was opened to those who wished to speak on the issue.

Eric Mulcahy, Sands Surveying, represented the owners of the property. He said Joy, one of the owners, was present as well. He said Director Taylor did a great job describing the proposal. He said the east side of Baker Avenue is commercial and the west side is industrial. The applicant wants to makeover this property with perhaps a specialty market and butcher shop along with a furniture manufacturing shop.

Gunderson disclosed that he has a civil engineer on staff and they met with the property owner once, but they do not have any business relationship. The Board said it was fine for him to remain for the vote.

PUBLIC HEARING

No one wished to speak and the public hearing was closed.

BOARD DISCUSSION

Smith asked if this sets any precedence. Director Taylor said it is a creative tool and there may be incidences where it isn't appropriate. He said in this instance, due to the neighborhood it is in, there are no neighborhood conflicts. These uses are in character with the neighborhood and that will be a standard they can use in the future, too. This is consistent with the Growth Policy and is an area with mixed uses. He said he doesn't see this as out of character for the neighborhood. Netteberg asked and Director Taylor said if the applicant proposes a building over 15,000 square feet it will have to get a CUP and approval from ARC.

MOTION

Meckel moved and Blake seconded Whitefish to adopt the findings of fact found in staff report #WZC-13-02 and recommend to the Whitefish City Council that the property be rezoned from WI to WI/WB-2-SC, subject to an approved Statement of Conditions.

BOARD DISCUSSION

Gunderson asked where there was industrial zoning and Director Taylor said it goes up to the City shop and to the north it joins the WB-4 zone. The only other industrial zone is along the railroad tracks. Gunderson said he thinks commercial makes more sense than industrial along Baker Avenue.

VOTE

The motion passed unanimously on a vote by acclamation. (Scheduled for City Council on, May 6, 2013.)

NEW BUSINESS

Work Session on Sign Code

Senior Planner Compton-Ring passed out the Sign Code regulations. She said over the last couple of weeks, since the Council held their goals session, City Clerk Lorang has been receiving a number of

**1840 BAKER LLC
WZC 13-02
EXHIBIT LIST
APRIL 18, 2012**

1. Staff Report, 4-18-13
2. Adjacent Landowner Notice Map, 3-22-13

The following exhibits were submitted by the applicant:

3. Application & Supporting Materials, 3-4-13

**1840 BAKER LLC
STAFF REPORT
ZONING MAP AMENDMENT
WZC-13-02
APRIL 18, 2013**

A report to the Whitefish City-County Planning Board and the Whitefish City Council regarding a request to amend the Whitefish zoning jurisdiction map from WI (Industrial and Warehousing) to WI/WB-2-SC (Industrial and Warehousing/Secondary Business with a Statement of Conditions) on two lots comprised of 1.870 acres of property addressed as 1830 and 1840 Baker Avenue. These properties can legally be described as Assessors Tracts 6BGA and 6BK, S01-T30N-R22QW, Flathead County. This request has been scheduled before the Whitefish City-County Planning Board for public hearing on Thursday, April 18, 2013 in the City Council Chambers at Whitefish City Hall beginning at 6:00 p.m. A recommendation will be forwarded to the City Council for a subsequent public hearing on Monday, May 6, 2013, also in Council Chambers, beginning at 7:10 p.m.

Background Information:

These properties, which are the former site of Master Plumbing, have a Whitefish zoning designation of WI (Industrial and Warehousing), and are bordered on three sides by WI, and to the east by WB-2. The applicant is applying to utilize the 'conditional zoning' provision of the city code to rezone their property to a more restrictive mixed-use hybrid of WI and WB-2 permitted uses. The new zoning will allow the property to have a range of available future uses which are compatible with the existing industrial area as well as secondary business district zoning but don't compete with the downtown central business district. They are proposing professional offices and furniture manufacturing/sales in the existing building, and new buildings with uses that would potentially include a specialty foods market and a fine auto restoration business with some auto sales.

Conditional zoning allows an applicant to rezone a property into a blended zone that offers restrictions on development requirements and future uses in exchange for the allowance for some uses allowed in an adjacent zone.

Section 11-7-11-D, Conditional Zoning:

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

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

As part of the Statement of Conditions, the property owner is asking for the following uses from the WB-2 zone to be permitted:

- Antique stores and auction barns
- Automobile and boat sales, parts, repair and service (automobile and boat service is already permitted in the WI zone)
- Furniture and floor covering stores
- Grocery stores
- Laundry and dry cleaning
- Machinery and equipment sales, rental, and repair
- Medical clinic and related therapeutic health services
- Restaurant

Under Conditionally permitted uses, the following would be added:

- Buildings greater than 15,000 square feet

The front yard setback would be 20' as required in the WB-2 District, while the side and rear yard setbacks would remain 5' as required in the WI district (no side or rear setbacks are required in the WB-2).

They are also proposing to voluntarily remove the following allowed WI permitted uses:

- Boat and recreational vehicle storage
- Building supply outlets
- Contractor's yards
- Heavy equipment service
- Nurseries and landscaping materials, retail and wholesale
- Public utility buildings and storage yards
- Publically owned or operated buildings, uses, or recreational facilities
- Railroad yards
- Research laboratories and institutions

They are proposing to voluntarily remove the following conditionally permitted WI uses:

- Automobile and boat sales (added as permitted use per WB-2)
- Automobile wrecking yards
- Heavy equipment sales and rentals

- Heavy industrial manufacturing, fabricating, and processing
- Outdoor amusements
- Petroleum products, wholesale
- Sexually oriented businesses
- Tire retreading and recapping

The following uses would remain permitted as per the WI zone:

- Automobile sales and service
- Janitorial services
- Light industrial manufacturing, fabricating, processing, repairing, packing, or storage facilities
- Office space (less than 10,000 sq ft)
- Parcel delivery services
- Petroleum products, retail
- Tire sales

The following use from the WI would remain conditionally permitted:

- Microbreweries

The property formerly had an operating plumbing business as well as commercial retail sales of plumbing supplies and fixtures within the existing building. The new owner wishes to use to utilize that building as a multi-tenant mixed use facility, including professional offices, which could be done under the existing zoning up to 10,000 sq ft, as well as furniture manufacturing and sales and other options. The larger of the two lots is currently vacant, but several future commercial buildings are planned. One building would potentially house a specialty food market and deli, another would have mixed uses, including high end automotive restoration and sales (indoors). The applicant is proposing to include several other uses permitted in the WB-2 to provide more flexibility for future tenants. Most of the uses being proposed are currently available in the neighborhood along Baker Avenue. No retail is being proposed that would potentially compete with the downtown WB-3 zoning district, nor are the WB-2 uses proposed completely reliant on highway frontage, large outdoor display areas, etc, as per the intent of the WB-2.

There is a draft "Statement of Conditions" attached for review (see Exhibit 2) that the applicant has preliminarily agreed to.

A. Petitioners: 1840 Baker LLC
 Elaine Edwards
 PO Box 5270
 Whitefish, MT 59937

Consultant: Eric Mulcahy, Sands Surveying

- B. Location:** The properties are at 1830 and 1840 Baker Avenue. These properties can legally be described as Assessors Tracts 6BGA and 6BK, S01-T30N-R22QW, Flathead County.



- C. Size:** The property contains approximately 1.870 acres.

D. Existing and Proposed Zoning Designations:

Existing Zoning:

WI, Industrial and Warehousing

Purpose: The WI district is intended for light industrial purposes and to provide for light industrial and service uses in which a reasonable degree of control is desirable for the general well being of the community area.

Minimum Lot Area:	n/a
Front Yard Setback:	30 feet
Side Yard Setback:	5 feet
Rear Yard Setback:	5 feet
Maximum Height:	35 feet
Lot Coverage:	70%

WB-2 Zoning:

Secondary Business District

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

Minimum Lot Area: n/a
Front Yard Setback: 20 feet
Side Yard Setback: 20 feet adjacent to a residential district, otherwise none
Rear Yard Setback: 20 feet adjacent to a residential district, otherwise none
Maximum Height: 35 feet
Lot Coverage: n/a

Proposed Zoning:

WI/WB-2-SC, Industrial and Warehousing and Secondary Business District, with a Statement of Conditions

Purpose: A district that combines the development requirements and many of the permitted uses of the WI Industrial and Warehousing zone with some of the allowed uses of the WB-2 Secondary Business zone, keeping the mixed use warehousing and commercial district character of the Baker Avenue neighborhood intact.

Minimum Lot Area: n/a
Front Yard Setback: 20 feet
Side Yard Setback: 5'
Rear Yard Setback: 5'
Maximum Height: 35 feet
Lot Coverage: 70%

Public Notice:

A notice was published in the *Whitefish Pilot* on April 3, 2013. A notice was mailed to adjacent land owners within 150-feet of the subject parcel on March 22, 2013. While several adjacent owners picked up copies of the proposal and asked questions, no public comments have been received at the time of the writing of this report.



E. Review and Findings of Fact:

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

1. Conformity to the Growth Policy

11-7-11-D-3 has different standards for conditional zoning with regard to Growth Policy conformity in relation to standard zoning map amendments.

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

The Whitefish City-County Growth Policy Land Use Map designates the subject properties as Planned Industrial. An abbreviated description is as follows:

- For vital industries with low impacts to residential neighborhoods
- Centers of employment with less traffic from standard commercial, not dependent on drive by traffic for clientele
- Consistent with WB-4 and WI zones

The proposed zoning classification generally conforms to the Planned Industrial Residential designation as defined in Chapter 3 (page 66) of the Whitefish City-County Growth Policy in that the proposed use will provide for commercial and light industrial businesses with less traffic than standard commercial and the Statement of Conditions will limit the allowed uses to those most compatible with adjacent uses. The performance of the district will be compatible with the future land use designation.

Finding 1: The proposed zone change from WI to WI/WB-2-SC generally conforms to the current Planned Industrial designation in the adopted Growth Policy in that the zoning will be continue to allow industrial uses while expanding to some compatible commercial uses limited by a Statement of Conditions, and the uses generally are similar to what is allowed in the WI and WB-4 zoning districts.

2. Will congestion in the streets be lessened?

Previously, Master Plumbing had a limited impact on street congestion. Future uses will have similar traffic impacts as previous uses. Any potential future impacts from development of additional uses can be mitigated during the site review and construction phases of those projects.

Finding 2: The zone change will not increase traffic congestion, and any future impacts or redevelopment can be mitigated during the future permitting process.

3. Will the new zoning secure safety from fire, panic, and disasters?

These properties are served by the City of Whitefish Police and Departments. Any future development will meet all city requirements for roadway widths and fire department standards.

Finding 3: Zoning and other city standards will secure safety from fire, panic and disaster at the time of development.

4. Will the new zoning promote health and general welfare?

The site is served by public services and utilities, and a rezone will provide additional opportunities for creating jobs and improving the local economy.

Finding 4: Zoning and other city standards will promote health safety and general welfare at the time of development.

5. Will the new zoning provide adequate light and air?

The proposed zoning contains height limitations, setback standards and lot coverage, which will address and are intended to provide adequate light and air for this property and neighboring properties.

Finding 5: The proposed zoning and other city standards, including building and fire code requirements, will provide adequate light and air at the time of development.

6. Will the new zoning prevent overcrowding of land and avoid the concentration of people?

Through the Growth Policy planning process this area has been identified as an area appropriate for industrial development. There is no residential use planned.

Finding 6: The new zone change does not provide for residential development so there is no impact to density and concentration of people.

7. Will the requested zone facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements?

The property is served by Baker Avenue for vehicular access. The redevelopment of this property is infill. Water and sewer are available at the site.

Finding 7: The requested zone change by itself does not have the potential to change the nature and level of services for water, sewer, schools, and parks, and the type and size of redevelopment of the property is unlikely to have significant impacts.

8. Will the new zoning give reasonable consideration to the character of the district?

All new development is required to get approval by the Architectural Review Committee for building design. Additionally, landscape requirements are in place, and the conditional zoning limits the allowed uses to those most compatible with the existing industrial and commercial area. The general neighborhood can be characterized as a mix of commercial and industrial uses.

Finding 8: Consideration will be given to the character of the district during architectural review of any new development.

9. Does the requested zone give reasonable consideration to the peculiar suitability of the property for particular uses?

The proposed zoning does give reasonable consideration to the property as indicated in the proposed zone change application. The properties are located within an industrial area adjacent to commercial zoning along a major arterial, and it has an existing building used for industrial and retail for many years.

Finding 9: The requested zone gives reasonable consideration to the peculiar suitability of the property for particular uses, as the use will remain consistent with what has been there for many years.

10. Will the new zoning conserve the value of buildings?

This criterion is subjective at best, but staff can identify no instances where “buildings” will be subject to a diminution in value because of the proposed zone change. However, it is permissible for the Board to consider testimony from nearby residents as prima facie evidence of adverse impact. Any redevelopment of the currently vacant lots will likely increase adjacent property values.

Finding 10: The proposed zoning should not negatively impact the value of any buildings within the neighborhood, and should improve them as the site is redeveloped.

11. Will the new zoning encourage the most appropriate use of the land throughout the municipality?

Staff feels that the proposed uses are appropriate within the context of Baker Avenue, which already contains existing instances of the majority of the proposed uses (grocery store, auto parts, offices, manufacturing, etc).

Finding 11: The zoning encourages land use compatible with existing adjacent industrial and commercial uses.

12. Conformance with the purpose and intent of the zoning districts.

The proposed WI/WB-2-SC district combines the development requirements of the Industrial and Warehousing zone with some of the allowed uses of the WB-2 secondary commercial zone, keeping the industrial character while also allowing some similar uses, balancing the intents of both the industrial and commercial zones adjacent to the property.

Finding 12: The zone change includes a Statement of Conditions that makes the property generally conform to the existing WB-2 development requirements while restricting the majority of commercial uses to the hospitality and related uses currently grandfathered on the site, which will keep the property in character with the intent of adjacent zoning.

Discussion:

This southern section of Baker Avenue has traditionally been a hybrid of commercial and industrial uses, including a few commercial uses on the WI zoned west side, and industrial uses on the WB-2 zoned east side. Concern about eliminating more industrial zoned property from our already limited inventory is alleviated by maintaining most of the permitted industrial uses while also promoting other commercial endeavors by giving the property owner more flexibility to find future tenants.

Other cities municipal industrial zoning districts typically include the majority of allowed commercial uses. For whatever reason, Whitefish's industrial zoning has specific requirements for allowed uses, and limits a certain amount of commercial uses.

The applicants looked at several options to find the best way to approach this issue. Rather than rezone the property to straight WB-2, which would then preclude industrial use, or come forward with a PUD which would allow mixed zoning uses, which requires more established site development plans as well as public benefit, they chose conditional zoning. It is a tool that can achieve the same result with more flexibility, providing the city an opportunity to work with the applicant on a solution that works for both parties.

Since this property abuts existing WB-2 zoning to the east and WI on the other sides, and includes a statement of conditions that limits the performance of the zone to be similar to the existing WI zone, it would not be considered a spot rezone. With the existing mixed use nature of the area, the fact that no residential uses are nearby, the opportunity for redevelopment to improve the area aesthetics, and the restrictions provided in the statement of conditions which the council can continue to work with the applicant on, it seems like a workable solution.

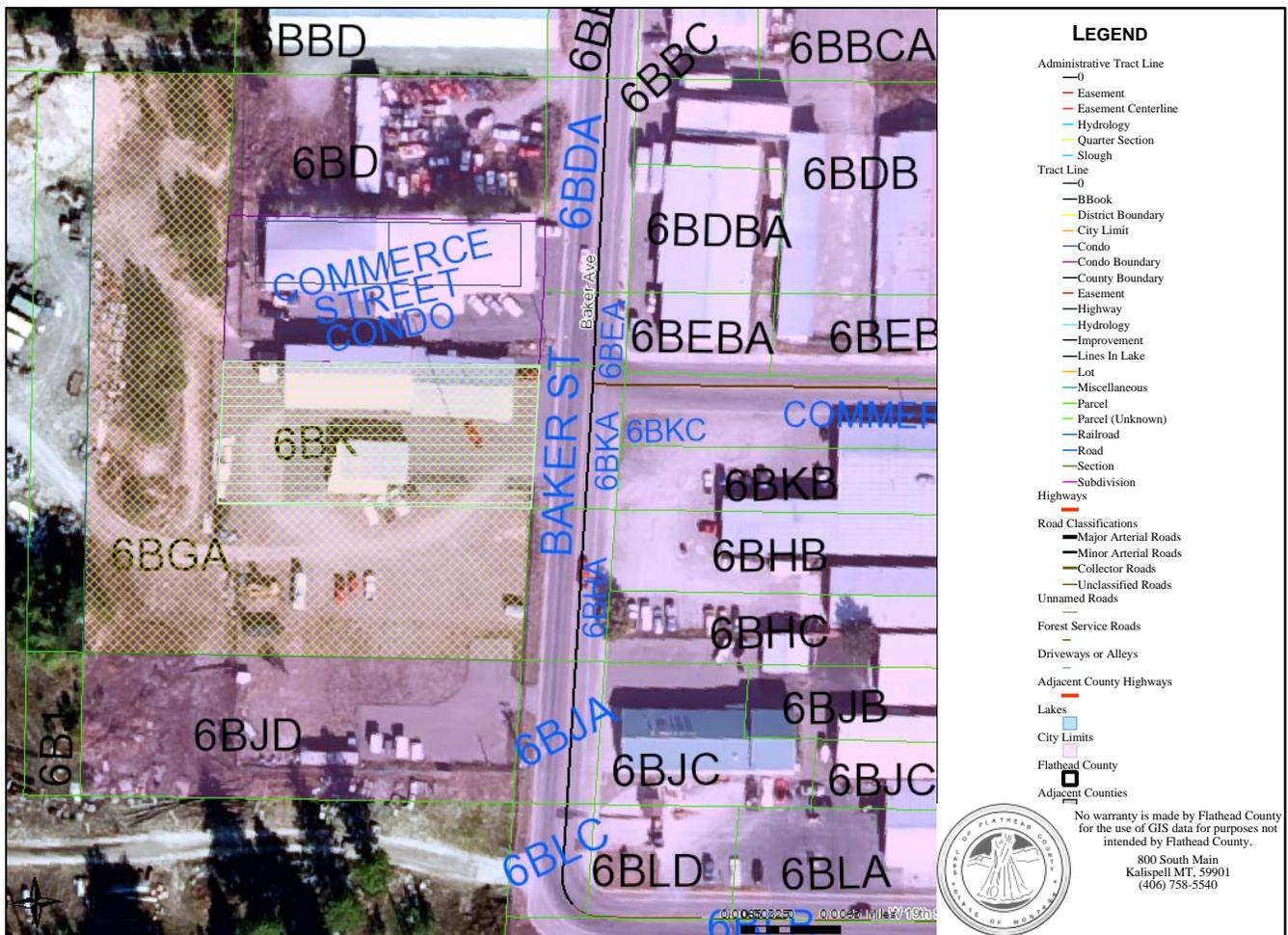
This type of conditional rezone request is quite different from the only other one we have reviewed. While conditional zoning often does blend the uses and development requirements of two zones, one is usually much more restrictive than the other (ie, commercial and residential). Blending commercial and industrial uses is less controversial. Another factor is the uncertainty regarding future development of the site. However, the applicant has indicated some potential future uses that are compatible with the neighborhood and not unreasonable considering the existing nearby uses both on the WI side of Baker and the WB-2 side of Baker. This seems like a better solution than a straight change to WB-2 with a Growth Policy amendment. Industrial property is limited in Whitefish, and this expands the allowed uses without precluding future industrial uses.

Staff can find no basis to oppose this request.

Staff Recommendation:

Staff recommends the Planning Board adopt the findings of fact found in staff report #WZC-13-02 and recommend to the Whitefish City Council that the property be rezoned from WI to WI/WB-2-SC, subject to an approved Statement of Conditions.

David Taylor, AICP, Director



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

PETITION FOR ZONING MAP AMENDMENT
WHITEFISH ZONING JURISDICTION

FEE ATTACHED \$2,433.00 (See current fee schedule)

NAME OF APPLICANT: 1840 Baker, LLC - Attn: Elaine Edwards

MAIL ADDRESS: P.O. Box 5270

CITY/STATE/ZIP: Whitefish, MT 59937 PHONE: (949) 441-9177 (Vik)

E-Mail (Optional; not for official notification.) _____

INTEREST IN PROPERTY: Owner

PLEASE COMPLETE THE FOLLOWING:

- A. Address of the property: 1840 Baker Avenue, Whitefish
- B. Legal Description: (Subdivision Name, Lot & Block and/or Tract Number (Section, Township, Range) Assessor's Tracts 6BGA and 6BK in Section 01, T30N, R22W, P.M.M., Flathead County
(Attach sheet for metes and bounds)
- C. Land area in zone change (ac) 1.870 ac
- D. The present zoning of the above property is: WI-1 (Industrial Warehouse District)
- E. The proposed zoning of the above property is: WI-1 (Industrial Warehouse - Conditional Zoning) amended and utilizing some of the permitted uses of the WB-2 (Secondary Business)
- F. State the changed or changing conditions that make the proposed amendment necessary:
The area of South Baker is unique in the Whitefish Zoning Jurisdiction as the properties on the west side of the street are zoned Industrial and the properties on the east side are zoned Commercial. There are good reasons for the zoning on each side of the street and Baker Avenue is the obvious geographical break for the different land use categories.

The applicant owns two properties on the south end of Baker that are zoned WI-1 and rather than changing to a commercial use that would not

conform to the Growth Policy, the applicant instead propose a blend of the two zoning districts using the Conditional Zone Provisions of the Whitefish Zoning Ordinance (11-7-12.D). The proposal would appear to work in this area as the existing uses along South Baker consist of a mix of warehouse, auto repair, light manufacturing, accessory retail, hotel/motel, uses which appear in either one or both of the Industrial and Commercial zoning districts.

In general the WB-2 and the WI-1 have similar and sometimes overlapping uses. The combination of the two districts as proposed would not diminish or be incompatible with the underlying and neighboring zoning districts.



HOW WILL THE PROPOSED ZONE CHANGE ACCOMPLISH THE FOLLOWING:

A. Promote public health, public safety, and general welfare:

The proposed zoned change will promote public health and general welfare by blending compatible uses between the Industrial and Commercial zoning districts both of which abut in this neighborhood. Baker Avenue is a major collector within the City. The City Emergency Services building is located just north of the subject parcels.

One of the purposes of zoning is to separate incompatible uses, for example, noise or fumes from an industrial uses does not impact the health and safety of persons living in an adjacent single family neighborhood. In this application the proposed WB-2 uses are compatible with and very similar to many of the WI-1 uses. See examples of similar uses in the following table:

WI-1 Zoning Uses (Permitted)	WB-2 Zoning Uses (Permitted)
Automobile and Boat Services. (Sales allowed with a CUP)	Automobile, boat, recreational vehicle sales, rentals, parts, and service
Petroleum products: retail	Automobile service stations and convenience stores within.
Building Supply Outlets	Furniture and floor coverings stores
Janitorial Services	Laundry and dry cleaning
Heavy Equipment service. (Sales and rental allowed with a CUP)	Machinery and equipment sales and service
Office Space, less than 10,000 s.f.	Professional Office

The applicant wishes to have a classic automobile restoration company on a portion of one of the properties and along with restoration, there will be selling of restored autos along with some parts and accessories. Another possible use that is being explored on the same lot is furniture manufacturing business on with the manufacturing the applicant would like a show room to sell the product and possibly related products. For the existing building (Old Master Plumbing Building), please see attached rendering of the a plan to renovate the structure to a professional office space.

B. Secure safety from fire and other dangers:

The subject property is within the Whitefish Fire Service Area and Whitefish City Limits. The new Fire Station/Police Department is located less than 1000-feet from the subject zone change. Baker Avenue is a collector street providing north/south movement in the City.

Any new structure or remodel of an existing structure is subject to the building codes administer by the Whitefish Planning and Building Department. Given that WI-1 zoning is located on the west side of Baker Avenue and WB-2 zoning is located adjacent and on the east side of Baker Avenue, location should not be a factor in safety from fire and other dangers.

C. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements:

The subject property is located within the City of Whitefish. Baker Avenue is a collector street within the City and went through significant upgrades in the mid

1990's. Bike paths are located along Baker Avenue. City sewer and water serve the sites. Industrial and commercial uses do not generate school aged children, but the uses do pay significant property taxes to the school districts. Industrial uses are not big contributors to park usage. As the development is in the City in an area planned for this type of development, the proposal will facilitate public services.

D. Provide reasonable provision of adequate light and air:

The Whitefish Zoning Ordinance addresses light and air through the bulk and dimensional requirements in the Code. The Height standards are the same in both the WI-1 and WB-2 zones with a maximum of 35-feet. Lot coverage is 70% in the WI-1 and no limit in the WB-2 zone. Setbacks are as follows:

	WI-1	WB-2	Proposed WI-1 Conditional Zoning
Front	30-feet	20-feet	20-feet
Side	5-feet	0-feet	5-feet
Rear	5-feet	0-feet	5-feet

The proposed zoning condition will provide adequate light and air.

E. Effect motorized and nonmotorized transportation systems:

The Southern portion Baker Avenue is designated in the Whitefish Growth Policy for Industrial use on the west side of Baker and Commercial Use on the east side of Baker. The proposal to blend some of the commercial uses with the industrial zoning designation will not impact the transportation system any more than the uses currently listed in the respective zoning districts.

F. Promote compatible urban growth:

The proposal does not change the underling Industrial zoning it only adds some uses and adjusts the front yard setback to match what is permitted on the east side of the street. The property is within the City Limits and in the area designated industrial on the City's Growth Policy Map. The proposal does promote compatible urban growth.

- G. Consider the character of the district and its particular suitability for particular uses:

The southern portion of Baker Avenue which is in question already is a blend of industrial and commercial uses. As shown previously in this application many of the uses in the WI-1 and WB-2 are similar in use and impact, therefore the proposed conditional zoning does give consideration to the district.

- H. Protect and conserve the value of buildings:

If anything, the new and remodeled structures proposed for the site will improve the value of neighboring buildings. The proposed conditional zoning designation will not affect neighboring property values in a negative way.

- I. Encourage the most appropriate use of land throughout the jurisdictional area:

The Whitefish Growth Policy Map depicts Industrial Use on the West side of Baker and Commercial Use on the east side of Baker Avenue. The proposal to enter into a conditional zoning contract that allows several commercial uses in the industrial zone will continue to promote appropriate use within the jurisdiction.

- L. That historical uses and established use patterns and recent change in use trends will be weighed equally and consideration not be given one to the exclusion of the other:

The Whitefish Growth Policy Map supports the industrial use on the West side of Baker Avenue and that is what the property is currently zoned. The east side of Baker Avenue is planned and zoned for Commercial use. The existing land uses along this southern part of Baker Avenue are a blend of commercial and light industrial uses and they all work in a compatible fashion. The applicants request would formalize this land use relationship with the conditional zoning provision. The proposal will not detract from the pattern of use within the neighborhood.

The signing of this application signifies approval for Whitefish Planning & Building staff to be present on the property for routine monitoring and inspection during approval process.

(Applicant Signature)

(Date)

Print Name

CONDITIONAL ZONING STATEMENT OF CONDITIONS
Ordinance No. _____

We, _____ owners of parcels of land describe in Exhibit A and located in S1-T30N-R22QW, also known as 1840 Baker Avenue and 1830 Baker Avenue, Whitefish, Flathead County, Montana, hereby voluntarily consent to the following Statement of Conditions as part of rezoning our property to Industrial and Warehouse District (WI-1):

1. The subject parcels shall be subject to the development requirements of the WI-1 Zone for yard setbacks, height limitations, minimum lot width, and minimum lot size, with the exception of the following:
Minimum Yard Spaces:
Front: 20'
Side: 5'
Rear: 5'
2. In addition to the following uses and conditional uses as amended in the WI-1 zone, the subject parcels may be developed for the following principal uses from the WB-2:

WI-1 Amended

Permitted Uses

- Automobile sales and service
- ~~Boat and recreation vehicle storage~~
- ~~Building supply outlets~~
- ~~Contractors' yards~~
- ~~Heavy equipment service~~
- Janitorial Services
- Light industrial manufacturing, fabricating, processing, repairing, packing, or storage facilities.
- ~~Nurseries and landscaping materials: retail and wholesale~~
- Office space (Less than 10,000 square feet)
- Parcel delivery service
- Petroleum products: retail
- ~~Public Utility facilities and storage yards~~
- ~~Publicly owned or operated buildings, uses or recreational facilities~~
- ~~Railroad Yards~~
- ~~Research laboratories and institutions~~
- Tire sales

Conditionally Permitted Uses

- ~~Automobile and boat sales~~
- ~~Automobile wrecking yards~~
- ~~Heavy equipment sales and rentals~~
- ~~Heavy industrial manufacturing, fabricating and processing~~
- Microbreweries
- ~~Outdoor amusements~~
- ~~Petroleum products, wholesale~~
- ~~Sexually oriented businesses, as defined in section 11-9-2 of this title~~
- ~~Tire retreading and recapping~~

WB-2 Added

Permitted Uses

- Antique stores and auction barns
- Automobile and boat Sales

Exhibit A

Tract 1:

A Tract of land in the Southwest Quarter of the Northwest Quarter of Section 1, Township 30 North, Range 22 West, P.M.M., Flathead county, Montanan, Described as follows:

Commencing at the northeast corner of the southwest quarter of the northwest quarter of Said Section 1; thence

South 00°10' west and along the easterly boundary line of said southwest quarter of the northwest quarter, a distance of 382.5 feet to a point; thence

North 89°50' west and parallel to the northerly boundary line of said southwest quarter of the northwest quarter, a distance of 393.6 feet to a true point of beginning of the tract of land herein being described; thence

North 89°50' west, a distance of 206.4 feet to a point; thence

North 02°36' east, a distance of 100.00 feet to a point; thence

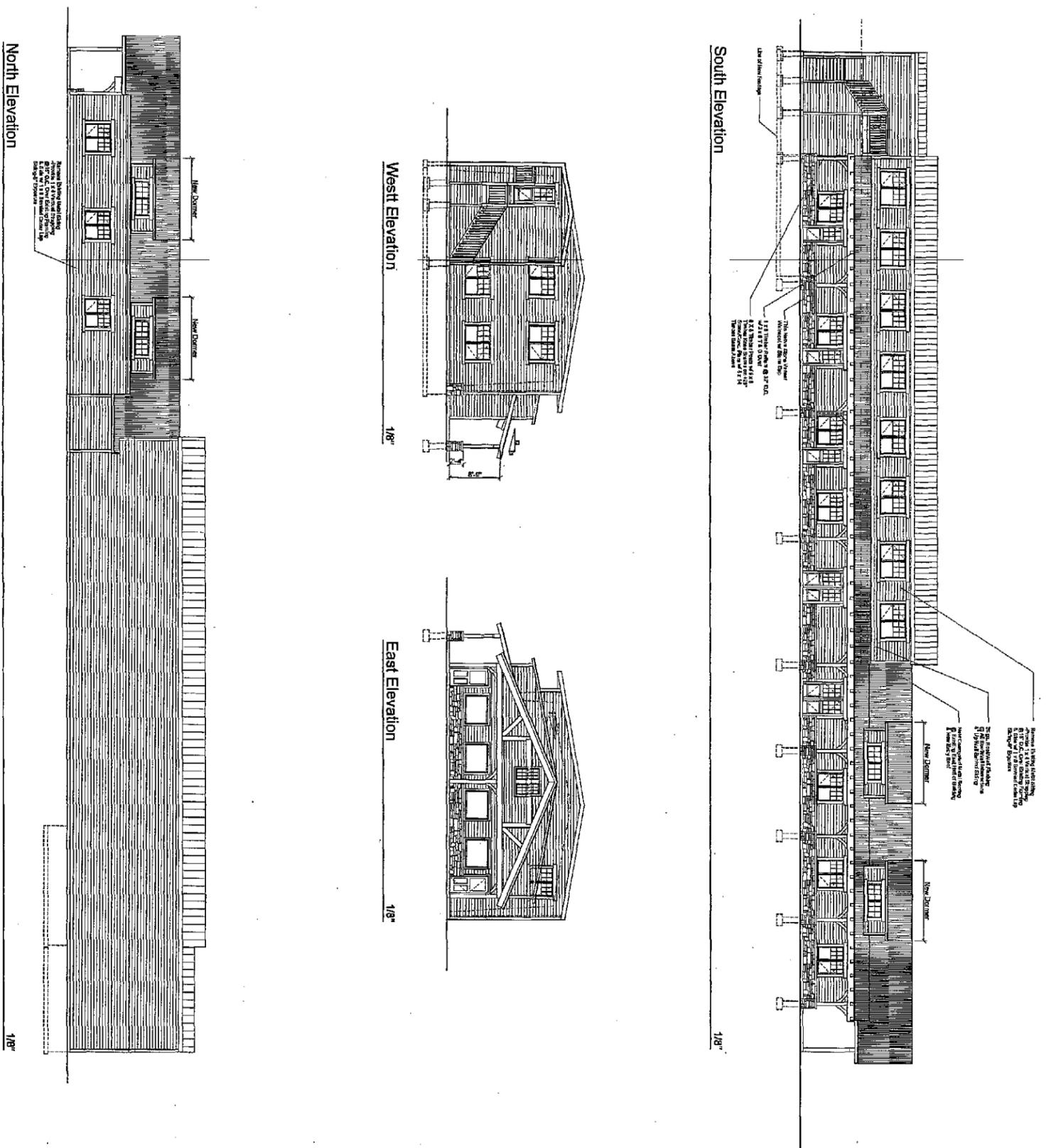
South 89°50' east, a distance of 206.4 feet to a point; thence

South 02°36' west, a distance of 100.00 feet to a point of beginning.

Tract 2:

That portion of the southwest quarter northeast quarter of Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana, Known as:

Parcel B of Certificate of Survey No. 18334.



Exterior Elevations
 ● Issued For Pricing
 ○ Issued For Construction
 ● Data Printed 02/20/13

All customers & trades shall verify all levels, depths, and elevations prior to commencement of the work. All errors and omissions must be reported immediately to the CONTRACTOR for correction prior to proceeding with the work.
 Do Not Scale these Drawings
 This drawing must not be used for construction unless it is marked ISSUED FOR CONSTRUCTION.

Office Building Remodel
 1840 Baker Avenue, Whitefish, Montana

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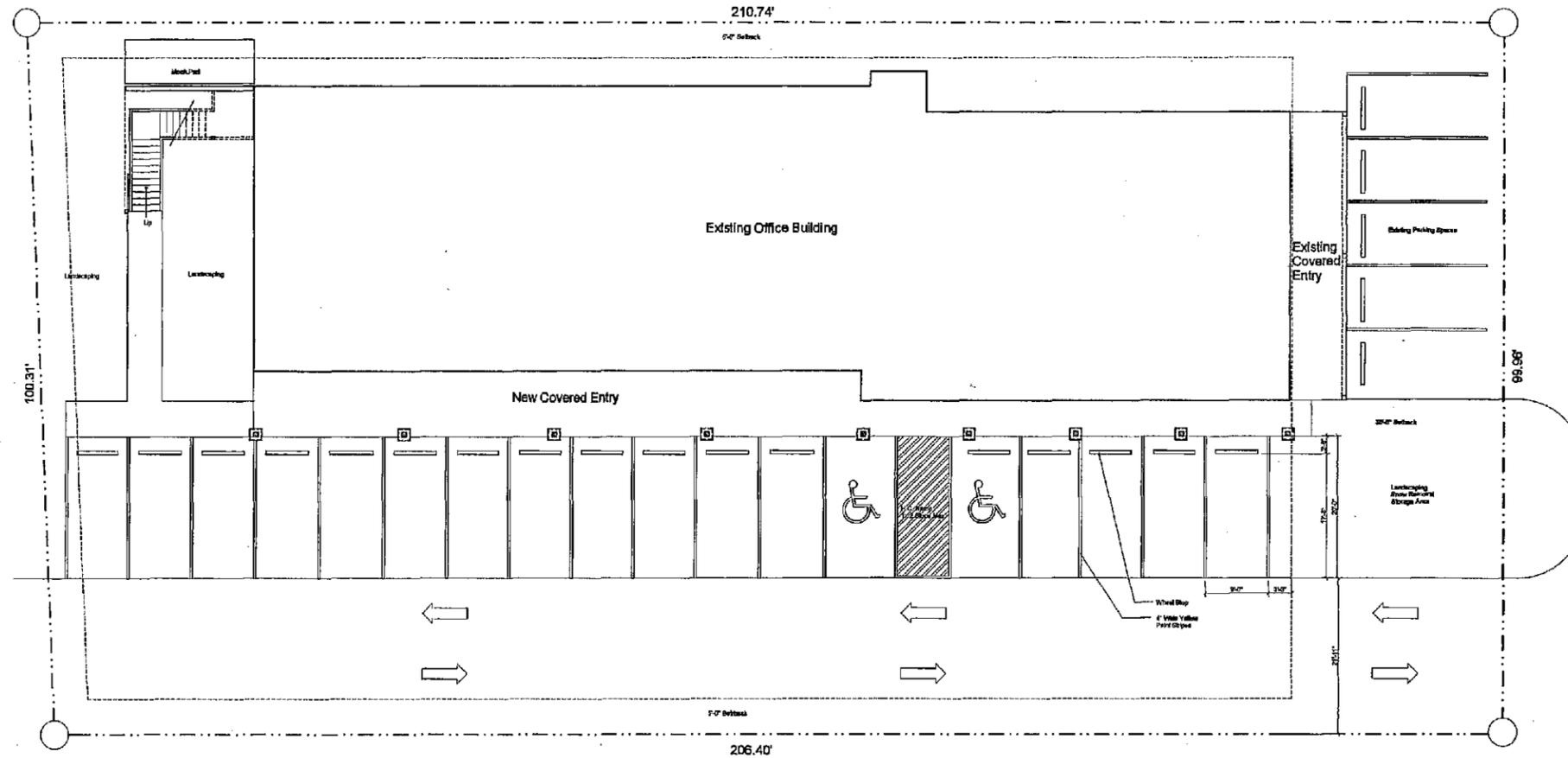
Lyndon L. Steinmetz Design Studio, LLC
 Kalispell, Montana (406) 257-5463

Foundations

Drawing Info
 Drawn LLS
 Date 02/20/13
 Scale 1/8"
 Job 1000013
 Sheet
A4
 4 of 4

Office Building Renovation For:
1840 Baker Avenue, LLC
 1840 Baker Avenue, Whitefish, Montana

Sheet Index:	Sht. No.	Sht. Title
	A1	Site Plan
	A2	Floor Plans
	A3	Foundations/Floor/Reel Framing
	A4	Exterior Elevations



Site Plan

Project Data:

Property Address:	1840 Baker Avenue, Whitefish, MT 59907
Legal Description:	Tract 68K, Flathead County, Montana
Zoning:	W1
Lot Area:	20,885 Sq.Ft.
Building Height:	23'-7"
Building Area:	7771 Sq.Ft.
Lot Coverage:	37.2% (70% Allowed)
Parking Required:	1 Space Per 400 Sq. Ft. 8381 Sq.Ft./400 Sq.Ft. = 23.45 23 Parking Spaces Required
Parking Provided:	21 Regular Spaces 9' x 20' 2 Handicap Spaces 10' x 20'



Scale: 1/8" = 1'-0"

CL
Baker Avenue

Review Set 02-20-13

Revisions												
<p>Lyndon L. Steinmetz Design Studio, LLC Kalispell, Montana (406) 257-5463</p>												
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<p>Office Building Remodel 1840 Baker Avenue, Whitefish, Montana</p>												
<p>Site Plan ■ Issued For Pricing □ Issued For Construction ● Date Printed: 02/20/13</p>												
<p>Drawing Info</p> <table border="1"> <tbody> <tr> <td>Drawn</td> <td>L.L.S.</td> </tr> <tr> <td>Date</td> <td>02/20/13</td> </tr> <tr> <td>Scale</td> <td>1/8"</td> </tr> <tr> <td>Job</td> <td>0100013</td> </tr> <tr> <td>Sheet</td> <td>A1</td> </tr> <tr> <td></td> <td>1 of 4</td> </tr> </tbody> </table>	Drawn	L.L.S.	Date	02/20/13	Scale	1/8"	Job	0100013	Sheet	A1		1 of 4
Drawn	L.L.S.											
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	1 of 4											

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ORDINANCE NO. 13-__

An Ordinance of the City Council of the City of Whitefish, Montana, adopting amendments to the City's Impact Fee Ordinance.

WHEREAS, pursuant to Ordinance No. 07-25, adopted by the City Council on August 6, 2007, the City implemented several different types of impact fees on new construction and/or development within the City limits; and

WHEREAS, after the City's Impact Fee Ordinance was in effect and the City had acquired some experience in its application, City staff identified amendments that it recommended would be in the best interests of the City to adopt; and

WHEREAS, City staff prepared certain amendments to the Impact Fee Ordinance to reduce water and wastewater impact fees for small projects, as shown in Exhibit "A"; and

WHEREAS, notice of a public hearing at which the proposed amendments would be considered by the City Council was published in conformity with Section 7-6-4013, MCA; and

WHEREAS, at a public hearing held by the City Council on May 6, 2013, the Whitefish City Council received and considered oral and written reports by City staff, received public input, and considered the proposed amendments; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to adopt the proposed amendments to the City's Impact Fee Ordinance;

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

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

Section 2: The City Council adopts a further Finding that the amendments to the Impact Fee Ordinance adopted herein are reasonable, equitable, and in full compliance with state law and the City's charter.

Section 3: The amendments to the City's Impact Fee Ordinance as shown on Exhibit "A", attached hereto and incorporated herein by reference, are hereby adopted. All amendments to the City's Impact Fee Ordinance are shown on Exhibit "A". Language that has been stricken is shown interlineated and language that has been added is shown underlined.

Section 4: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent

jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 5: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
WHITEFISH, MONTANA, THIS _____ DAY OF _____, 2013.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, Clerk

EXHIBIT "A"

**Title 10, Chapter 2
IMPACT FEES**

10-2-10: COMPONENT OF BUDGET:

- A. Pursuant to and consistent with section 7-6-1602(1)(k), Montana Code Annotated, the City's Capital Improvement Program is the component of the City's budget that:
1. Schedules construction of public facility capital improvements to serve projected growth;
 2. Projects costs of the capital improvements;
 3. Allocates collected impact fees for construction of the capital improvements; and
 4. Covers at least a five (5) year period and is reviewed and updated at least every two (2) years.
- B. The annual update of the Capital Improvement Program does not require an update of impact fee calculations unless a project is removed that was used as the basis for calculating impact fees.

10-2-11: REVIEW: Pursuant to and consistent with the requirements of section 7-6-1602(4), Montana Code Annotated, the documentation and impact fee rates may be reviewed and adjusted by the council as it deems necessary and appropriate, but at least once every five (5) years. On an annual basis the city manager or his or her designee shall calculate and present to the City Council for its consideration proposed changes in the amount of all impact fees set forth in Section 10-2-12, based on the amount that the construction cost index published by Engineering News Record has changed for the most recent twelve (12) month period prior to the date of the adjustment. The Council may adopt new impact fee amounts by resolution, after a public hearing, according to Section 7-6-4013, MCA.

10-2-12: IMPACT FEE RATES:

- A. The impact fee rates in this section are generated from the formulas for calculating impact fees set forth in the "Impact Fees for the Water, Wastewater, and Stormwater Utility Systems" dated July 2007, and "Rate Study for Impact Fees for Paved Trails, Park Maintenance Building, Emergency Services Building and City Hall" dated July 7, 2007, which are incorporated herein by reference. Except as otherwise provided for, exemptions in section 10-2-3 of this chapter, credits in section 10-2-4 of this chapter, and independent fee calculations in

section 10-2-14 of this chapter, all new development in the City will be charged the impact fee applicable to the type of development:

- B. The impact fee rate for paved trails shall initially be four hundred twenty one dollars (\$421.00) per dwelling unit. Future fee adjustments shall be by City Council resolution.
- C. The impact fee rate for park maintenance building shall initially be twenty eight dollars (\$28.00) per dwelling unit. Future fee adjustments shall be by City Council resolution.
- D. The impact fee rates for emergency services building shall initially be seven hundred seventy five dollars (\$775.00) per dwelling unit and thirty eight cents (\$0.38) per square foot of non-residential development. Future fee adjustments shall be by City Council resolution.
- E. The impact fee rates for city hall shall initially be seven hundred thirty four dollars (\$734.00) per dwelling unit and thirty six (\$0.36) per square foot of non-residential development. Future fee adjustments shall be by City Council resolution.
- F. The impact fee rate for water **initially** shall be:

Meter Size	Current Weighting Factor	Base Impact Fee	Base Number of Fixture Units	Additional Cost Per Fixture Unit Above Base
5/8"	1.00	\$1,563.00 <u>\$0.00</u>	0	<u>\$78.15</u>
3/4"	1.00	1,563.00	21	\$52.10
1"	1.50	2,345.00	36	52.10
1 1/2"	2.50	3,908.00	66	33.98
2"	5.00	7,815.00	181	26.05
3"	8.00	12,504.00	361	24.87
4"	15.00	23,445.00	801	15.63
6"	25.00	39,075.00	1801	13.96

Future fee adjustments shall be by City Council resolution.

G. The impact fee rate for wastewater (sewer) shall ~~initially~~ be:

Meter Size	Current Weighting Factor	Base Impact Fee	Base Number of Fixture Units	Additional Cost Per Fixture Unit Above Base
5/8"	1.00	\$ 1,575.00 <u>\$0.00</u>	0	<u>\$78.75</u>
3/4"	1.00	1,575.00	21	\$52.55
1"	1.50	2,363.00	36	52.52
1 1/2"	2.50	3,939.00	66	34.22
2"	5.00	7,874.00	181	26.26
3"	8.00	12,601.00	361	25.06
4"	15.00	23,628.00	801	15.75
6"	25.00	39,375.00	1801	14.06

Future fee adjustments shall be by City Council resolution.

H. The impact fee rate for stormwater shall initially be calculated and applied as follows:

Type of Development	Number of ERUs	Impact Fee
Single-family residential	1.0	\$200.00
Condo (per unit)	1.0	200.00
Duplex	1.8	360.00
Other development	Divide impervious area by 2,400 to determine ERUs	

Future fee adjustments shall be by City Council resolution.

10-2-13: ADMINISTRATIVE FEES: Pursuant to and consistent with the requirements of section 7-6-1601(5)(a), Montana Code Annotated, all development permits subject to the impact fees pursuant to section 10-2-2 of this chapter, or as subsequently adjusted by City Council resolution, shall pay an administrative fee in addition to the impact fee rates in section 10-2-12 of this chapter, in an amount equal to five percent (5%) of the amount of the impact fees.



April 29, 2013

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

**Recommendation to Adopt an Ordinance
Amending Water and Wastewater Impact Fees**

Introduction/History

On April 1, 2013 the City Council considered a staff proposal to reduce impact fees for small construction projects by amending Section 10-2-12 of the City Code. This memo is to recommend adoption of the attached ordinance to that effect. A Notice of Public Hearing has been advertised.

Current Report

A copy of the staff memo from the April 1st City Council meeting packet is attached. The intended purpose of this ordinance is to reduce water and wastewater impact fees for projects involving fewer than 20 fixture units.

Financial Requirement

The recommended action would require any additional expenditures, although it would result in slightly lower revenues from water and wastewater impact fees. While the reduction in annual fees is difficult to predict, we estimate that would be less than \$10,000 per year for each fund.

Recommendation

We respectfully recommend the City Council adopt the attached ordinance, amending Section 10-2-12 of the City Code to reduce water and wastewater impact fees for projects involving fewer than 20 fixture units.

Sincerely,

A handwritten signature in blue ink, appearing to read "John C. Wilson".

John C. Wilson
Public Works Director



March 26, 2013

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Recommendations to Reduce Utility Related Fees and Costs for Small Construction Projects

Introduction/History

The City Council recently expressed concerns about water and sewer impact fees for small construction projects. The Public Works staff has evaluated utility impact fees and regulations regarding service connections and is recommending two changes that may reduce costs for small projects. Those recommendations are to 1) update the method of calculating minimum water and sewer impact fees and 2) amend the utility regulations to relax requirements for separate water and sewer services to separate structures.

This memo is to present these recommendations and request direction from City Council. The recommendation concerning impact fees has not been presented to the Impact Fee Advisory Committee, but we can do so if the Council wishes. The means to implement these recommendations would be by resolution. If the Council so desires, we can prepare resolutions for a consideration at a future City Council meeting.

Current Report

Water and Sewer Impact Fees

Current City Code provides minimum water and sewer impact fees of \$1563 and \$1575, respectively, for projects with 20 or fewer fixture units. A home with 20 water and 14 sewer fixture units (as defined by the Uniform Plumbing Code) might typically have one full bathroom, a kitchen sink, a dishwasher, a clothes washer, a mop/utility sink and two outside hose bibs. Those same minimum fees would apply to a small business with a toilet and one sink.

We recommend replacing the current minimum water and sewer impact fees with unit fees of \$78.15 per water fixture unit and \$78.75 per sewer fixture unit. Under this proposal, the fee for 20 fixture units would match the current minimum, while the lower fee for small projects would better represent the impact to the water and sewer systems.

Toward that end, staff proposes amending Section 10-2-12 of the City Code as shown on Attachment A.

Utility Regulations for Service Connections

The Rules and Regulations for the Water and Wastewater Utility currently require that each separate structure must be service by separate water and sewer service lines. This provision is intended to enable prompt payment and accountability payments and maintenance on utility accounts under separate ownership.

In certain instances, such as the provision of services for an accessory dwelling unit in addition to a primary residence on the same lot, accountability is ensure by common ownership and we recommend relaxing the requirement for separate services. The effect would be to reduce the cost of construction for certain small projects and avoid unnecessary excavation of City streets and alleys.

Staff recommends amending certain provisions of Title 8, Chapters 2 and 3 of the City Code, regarding Water and Wastewater Regulations, if the wishes to implement such a change.

Financial Requirement

None

Recommendation

We respectfully recommend the City Council consider the recommendations outlined above and direct staff as to how to proceed.

Sincerely,



John C. Wilson
Public Works Director

10-2-10: COMPONENT OF BUDGET:

- A. Pursuant to and consistent with section 7-6-1602(1)(k), Montana Code Annotated, the City's Capital Improvement Program is the component of the City's budget that:
1. Schedules construction of public facility capital improvements to serve projected growth;
 2. Projects costs of the capital improvements;
 3. Allocates collected impact fees for construction of the capital improvements; and
 4. Covers at least a five (5) year period and is reviewed and updated at least every two (2) years.
- B. The annual update of the Capital Improvement Program does not require an update of impact fee calculations unless a project is removed that was used as the basis for calculating impact fees.

10-2-11: REVIEW: Pursuant to and consistent with the requirements of section 7-6-1602(4), Montana Code Annotated, the documentation and impact fee rates may be reviewed and adjusted by the council as it deems necessary and appropriate, but at least once every five (5) years. On an annual basis the city manager or his or her designee shall calculate and present to the City Council for its consideration proposed changes in the amount of all impact fees set forth in Section 10-2-12, based on the amount that the construction cost index published by Engineering News Record has changed for the most recent twelve (12) month period prior to the date of the adjustment. The Council may adopt new impact fee amounts by resolution, after a public hearing, according to Section 7-6-4013, MCA.

10-2-12: IMPACT FEE RATES:

- A. The impact fee rates in this section are generated from the formulas for calculating impact fees set forth in the "Impact Fees for the Water, Wastewater, and Stormwater Utility Systems" dated July 2007, and "Rate Study for Impact Fees for Paved Trails, Park Maintenance Building, Emergency Services Building and City Hall" dated July 7, 2007, which are incorporated herein by reference. Except as otherwise provided for, exemptions in section 10-2-3 of this chapter, credits in section 10-2-4 of this chapter, and independent fee calculations in section 10-2-14 of this chapter, all new development in the City will be charged the impact fee applicable to the type of development:

- B. The impact fee rate for paved trails shall initially be four hundred twenty one dollars (\$421.00) per dwelling unit. Future fee adjustments shall be by City Council resolution.
- C. The impact fee rate for park maintenance building shall initially be twenty eight dollars (\$28.00) per dwelling unit. Future fee adjustments shall be by City Council resolution.
- D. The impact fee rates for emergency services building shall initially be seven hundred seventy five dollars (\$775.00) per dwelling unit and thirty eight cents (\$0.38) per square foot of non-residential development. Future fee adjustments shall be by City Council resolution.
- E. The impact fee rates for city hall shall initially be seven hundred thirty four dollars (\$734.00) per dwelling unit and thirty six (\$0.36) per square foot of non-residential development. Future fee adjustments shall be by City Council resolution.
- F. The impact fee rate for water initially shall be:

Meter Size	Current Weighting Factor	Base Impact Fee	Base Number of Fixture Units	Additional Cost Per Fixture Unit Above Base
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1"	1.50	2,345.00	36	52.10
1 1/2"	2.50	3,908.00	66	33.98
2"	5.00	7,815.00	181	26.05
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4"	15.00	23,445.00	801	15.63
6"	25.00	39,075.00	1801	13.96

Future fee adjustments shall be by City Council resolution.

G. The impact fee rate for wastewater (sewer) shall initially be:

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5/8"	1.00	\$1,575.00 \$0	0	<u>\$78.75</u>
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2"	5.00	7,874.00	181	26.26
3"	8.00	12,601.00	361	25.06
4"	15.00	23,628.00	801	15.75
6"	25.00	39,375.00	1801	14.06

Future fee adjustments shall be by City Council resolution.

H. The impact fee rate for stormwater shall initially be calculated and applied as follows:

Type of Development	Number of ERUs	Impact Fee
Single-family residential	1.0	\$200.00
Condo (per unit)	1.0	200.00
Duplex	1.8	360.00
Other development	Divide impervious area by 2,400 to determine ERUs	

Future fee adjustments shall be by City Council resolution.

10-2-13: ADMINISTRATIVE FEES: Pursuant to and consistent with the requirements of section 7-6-1601(5)(a), Montana Code Annotated, all development permits subject to the impact fees pursuant to section 10-2-2 of this chapter, or as subsequently adjusted by City Council resolution, shall pay an administrative fee in addition to the impact fee rates in section 10-2-12 of this chapter, in an amount equal to five percent (5%) of the amount of the impact fees.

**CITY OF WHITEFISH
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that at its regular meeting on Monday, May 6, 2013, at 7:10 PM, in the City Council Chambers, located at 402 E. 2nd Street, Whitefish, MT, the City Council will conduct a hearing for the purpose of receiving public input concerning 1) an ordinance amending base impact fees for water and sewer service connections, Whitefish City Code §10-2-12(F) and (G); and 2) a resolution amending utility rules and regulations regarding water and sewer service connection requirements.

Individuals may appear or submit written testimony at the public hearing to comment on the amendments. Written comments may be delivered or mailed to the City Clerk, 418 E. 2nd Street, PO Box 158, Whitefish, MT, or emailed to nlorang@cityofwhitefish.org. For questions or further information phone 406-863-2400.

For publication on April 10, and April 17, 2013, in the Legal Notices Section of the *Whitefish Pilot*.

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RESOLUTION NO. 13-___

A Resolution of the City Council of the City of Whitefish, Montana, amending Rule X and Rule XI of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility and repeal of Title 8, Chapter 3, Section 2 of the City Code to enable common water service connections and sewer service connections for multiple structures in certain instances.

WHEREAS, as required by § 69-7-201, MCA, the City adopted Rules and Regulations for the operation of the City's Water and Wastewater Utilities and Garbage Collection pursuant to Resolution Nos. 02-55, 03-32, 11-33, 11-60 and 13-01; and

WHEREAS, in the City Council's consideration of impact fees on new construction and development within City limits, some amendments have been identified to reduce water and wastewater impact fees for small projects which require an amendment to the Rules and Regulations; and

WHEREAS, at the April 1, 2013 City Council meeting, the City Council reviewed the March 26, 2013 staff report which recommended amending the regulations and policies of the Water and Wastewater Utility to relax requirements for utility service connections to separate structures in certain instances and directed staff to proceed with a Resolution to that effect; and

WHEREAS, notice of a public hearing at which the proposed amendments would be considered by the City Council was published in the *Whitefish Pilot* on April 10 and April 17, 2013; and

WHEREAS, at a lawfully noticed public hearing on May 6, 2013, after receiving public comment and reviewing a staff report recommending the amendment of Rule X and Rule XI of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility, and repeal of Title 8, Chapter 3, Section 2 of the City Code to enable common water service connections and sewer service connections for multiple structures in certain instances, the City Council determined such recommendations to be reasonable; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to adopt the proposed amendments to the Rules and Regulations.

NOW, THEREFORE, BE IT RESOLVED 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: Title 8, Chapter 3, Section 2 of the Whitefish City Code is repealed.

Section 3: Rule X and Rule XI of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility are amended to allow for more than one building to

be served by a single water or sewer service line when those buildings are located on a single property, under single ownership and which property is not eligible to be subdivided to separate the dwelling units, as follows:

RULE X: SERVICE LINES AND CONNECTIONS

2. **Service Lines.** The customer, at the customer's expense, shall install all piping and appurtenances, except the meter, from the main connection to the point of usage, and restore all surfaces to the conditions which existed before installation. The water curb cock and curb box shall be located in an accessible location in the public right-of-way or easement, as directed by the Water Utility. There shall be no branches made in the water service line between the City's curb stop and the meter. All piping and appurtenances shall be installed, disinfected, and flushed in accordance with appropriate City standards.

6. **Separate Service Lines.** Service lines shall be so arranged that the supply of each separate building, house, or premises, is controlled by a separate curb cock and curb box, except as provided for by these rules and regulations. In the case of accessory apartments, accessory buildings or accessory uses, as defined by the zoning regulations, separate services may not be required if the following conditions are met:
 - a. The property remains under single ownership.
 - b. The property cannot be further subdivided to separate the dwelling units.

RULE XI: METERING

8. **Metering of Multiple Unit Dwellings.** In the cases of accessory apartments, accessory building, mobile home parks, trailer courts, apartment houses, town houses, condominiums, rooming houses, emporium shops, malls or similar situations where individual metering is not practical and a single owner or association of owners is primarily responsible for payment of water use, the Water Utility may require only one meter to service all units and will send only one bill. If payment is not kept current the entire service may be discontinued in accordance with Rule XV. Metering under these conditions will be based on the merits of each case.

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, ON THIS _____ DAY OF _____, 2013.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk



April 29, 2013

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

**Recommendation to Adopt a Resolution
Amending the Rules and Regulations for the Water and Wastewater Utilities Regarding
Water and Sewer Service Connections**

Introduction/History

On April 1, 2013 the City Council considered a staff proposal to amend the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility to relax the requirements for separate service connections to separate buildings as a means of reducing costs for utility customers in certain instances. This memo is to recommend adoption of the attached resolution to that effect. A Notice of Public Hearing has been advertised.

Current Report

A copy of the staff memo from the April 1st City Council meeting packet is attached. The intended purpose of this resolution is to relax current requirements for separate water and sewer service connections for each separate building or structure, and thereby reduce costs for projects when such multiple structures are under single ownership and located on property which cannot be further subdivided.

Financial Requirement

None

Recommendation

We respectfully recommend the City Council adopt the attached resolution, thereby amending Rules X and XI of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility and deleting Title 8, Chapter 3, Section 2 of the City Code to relax requirements for separate water and sewer service connections.

Sincerely,

A handwritten signature in blue ink, appearing to read "John C. Wilson".

John C. Wilson
Public Works Director



March 26, 2013

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

Recommendations to Reduce Utility Related Fees and Costs for Small Construction Projects

Introduction/History

The City Council recently expressed concerns about water and sewer impact fees for small construction projects. The Public Works staff has evaluated utility impact fees and regulations regarding service connections and is recommending two changes that may reduce costs for small projects. Those recommendations are to 1) update the method of calculating minimum water and sewer impact fees and 2) amend the utility regulations to relax requirements for separate water and sewer services to separate structures.

This memo is to present these recommendations and request direction from City Council. The recommendation concerning impact fees has not been presented to the Impact Fee Advisory Committee, but we can do so if the Council wishes. The means to implement these recommendations would be by resolution. If the Council so desires, we can prepare resolutions for a consideration at a future City Council meeting.

Current Report

Water and Sewer Impact Fees

Current City Code provides minimum water and sewer impact fees of \$1563 and \$1575, respectively, for projects with 20 or fewer fixture units. A home with 20 water and 14 sewer fixture units (as defined by the Uniform Plumbing Code) might typically have one full bathroom, a kitchen sink, a dishwasher, a clothes washer, a mop/utility sink and two outside hose bibs. Those same minimum fees would apply to a small business with a toilet and one sink.

We recommend replacing the current minimum water and sewer impact fees with unit fees of \$78.15 per water fixture unit and \$78.75 per sewer fixture unit. Under this proposal, the fee for 20 fixture units would match the current minimum, while the lower fee for small projects would better represent the impact to the water and sewer systems.

Toward that end, staff proposes amending Section 10-2-12 of the City Code as shown on Attachment A.

Utility Regulations for Service Connections

The Rules and Regulations for the Water and Wastewater Utility currently require that each separate structure must be service by separate water and sewer service lines. This provision is intended to enable prompt payment and accountability payments and maintenance on utility accounts under separate ownership.

In certain instances, such as the provision of services for an accessory dwelling unit in addition to a primary residence on the same lot, accountability is ensure by common ownership and we recommend relaxing the requirement for separate services. The effect would be to reduce the cost of construction for certain small projects and avoid unnecessary excavation of City streets and alleys.

Staff recommends amending certain provisions of Title 8, Chapters 2 and 3 of the City Code, regarding Water and Wastewater Regulations, if the wishes to implement such a change.

Financial Requirement

None

Recommendation

We respectfully recommend the City Council consider the recommendations outlined above and direct staff as to how to proceed.

Sincerely,



John C. Wilson
Public Works Director

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RESOLUTION NO. 13-____

A Resolution of the City Council of the City of Whitefish, Montana, approving an agreement that permits the Glacier Hockey Association, Inc., to construct additional locker rooms at the Stumptown Ice Den.

WHEREAS, in 2003, the Whitefish Sports Facilities Foundation ("Foundation"), as a Montana nonprofit corporation, raised funds to construct the Stumptown Ice Den, in partnership with the City of Whitefish, with the City responsible for interior and exterior improvements, all memorialized by the April 23, 2003 Community Pavilion Agreement; and

WHEREAS, the Glacier Hockey Association (GHA) desires to construct additional improvements to provide additional locker rooms at the Stumptown Ice Den in partnership with the City, with a projected construction completion date of August 5, 2013; and

WHEREAS, it will be in the best interests of the City, and its inhabitants, for additional improvements to be made to the Stumptown Ice Den and to allow the construction of additional locker rooms at the Stumptown Ice Den, subject to a construction agreement with GHA.

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

Section 1: The City will enter into a Construction Agreement with the Glacier Hockey Association, Inc., a draft copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, which permits GHA to construct additional locker rooms at the Stumptown Ice Den. The City Manager is authorized to negotiate the terms and execute the final Agreement and any and all other documents necessary to complete this project.

Section 2: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS _____ DAY OF _____, 2013.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

EXHIBIT "A"

CONSTRUCTION AGREEMENT

THIS AGREEMENT is entered into as of the ____ day of _____, 2013, by and between the City of Whitefish, a municipal corporation ("City"), and the Glacier Hockey Association, Inc. ("GHA"), with respect to the following facts:

A. The City owns an ice rink known as Stumptown Ice Den that is located in at 715 Wisconsin Avenue, Whitefish, Montana 59937.

B. GHA desires to construct substantial improvements to the facility, including additional locker room facilities.

C. Since 2005, an indoor community ice rink has existed in Mountain Trails Park and for many years, youth and adult hockey programs, figure skating programs, public skating opportunities have been extremely popular and are continuing to grow. Because of this increased usage additional locker room facilities is now necessary to meet this demand.

THEREFORE, the parties agree as follows:

1. Purpose of Agreement. This Agreement shall contain the terms under which GHA will be permitted to construct the new locker rooms as improvements to the Stumptown Ice Den.

2. Employment of Professionals. GHA shall employ an architect licensed in Montana to design all of the plans and specifications required for the construction of the new locker rooms. The new improvements shall be designed to comply fully with all local, state, and national ordinances, regulations, and statutes regarding building construction, including but not limited to OSHA, the Uniform Building Code and the Americans with Disabilities Act. The licensed architect's stamp shall appear on all building plans. The City shall provide site and construction supervision to assure quality construction in accordance with approved plans and permits. In addition, all structural components shall be reviewed and approved by a civil and/or structural engineer licensed in the State of Montana, and such licensed engineer's stamp shall appear on all items reviewed and approved by such engineer.

3. City to Approve Plans. Prior to any construction, GHA shall submit the plans, elevations, and a site plan to the City for review and approval by the Architectural Review Committee, the Whitefish Park Board, and the Whitefish City Council. Only after such plans have been approved by the City may construction begin.

4. Approval of Changes. GHA shall construct the new improvements according to the plans approved by the City, which may not be modified except pursuant to a mutual written agreement signed by the parties.

5. Sufficient Funds to Build. GHA shall not award a construction contract for any phase of the new improvements until GHA has raised, or otherwise secured, funds sufficient to cover the entire cost of construction, together with a ten percent (10%) contingency. Before signing a construction contract, GHA shall provide to the City Finance Director and Director of Parks and Recreation verification that it has raised and has available sufficient funds, as described above, which must be presented no later than May 10, 2013.

6. Construction Contract; Insurance; Indemnification. In any construction contract entered into between GHA and any Contractor involved in the construction of the new improvements, GHA shall insert a provision requiring that such Contractor provide proof of insurance coverage for a policy of liability insurance in an amount of not less than One Million Dollars (\$1,000,000.00), per occurrence that includes liability for accidents occurring during the contract or at the project site that are attributable to the Contractor's or its agents' conduct, which policy shall name the City and GHA as additional insureds. Such insurance policy shall be primary, and non-contributory, and shall provide that it may not be canceled without at least sixty (60) days prior written notice to the City and to GHA. In addition, any such construction contract shall provide that the Contractor shall indemnify, defend and hold the City and GHA, their employees and agents, harmless from any and all causes of action, claims, damages and liabilities incurred at the project site that are attributable to the Contractor's or its agents' conduct. Such obligation to defend shall include the payment by the Contractor of reasonable attorneys' fees incurred in the defense of the City or GHA.

7. Construction Contract with Contractor. In any construction contract entered into between GHA and any Contractor involved in the construction of the new locker rooms, expanded mechanical space, and related improvements, GHA shall insert the following provisions requiring that the Contractor:

- A. Obtain or have a valid City of Whitefish business license.
- B. Comply with applicable business regulation ordinances.
- C. Maintain workers' compensation insurance as required by law.

In addition, the construction contract shall provide:

- A. That any damage to property as a result of the Contractor's operation shall be the responsibility of the Contractor.
- B. That the Contractor warrants that all materials and services provided shall be of a good and workmanlike quality free and clear of defects of any kind, for a period of one (1) year after the date of substantial completion.
- C. A nondiscrimination provision required by MCA § 49-3-207.

- D. That the City has the right to inspect and test any and all work performed by Contractor on the construction project. Contractor shall allow City and its agents access to the construction project at all times and shall provide every reasonable facility for the purpose of such inspection and testing, including temporarily discontinuing portions of the work or uncovering or taking down portions of the finished work. Any inspection and testing performed by the City and its agents is for the sole benefit of the City and shall not relieve the Contractor of its duty, responsibility, and obligation to ensure that the work strictly complies with the Agreement terms and conditions and all applicable laws and building and safety codes. City's inspection and testing shall not be deemed or considered acceptance by the City of any portion of the construction project. City's inspection and testing shall not serve to nullify, amend, or waive any warranties provided by the Contractor under this Agreement.

8. Award of Contract. GHA shall be entitled to award a contract for construction of the new locker rooms and related improvements, and all costs associated with the construction shall be fully funded by private donations and other funds privately raised. The City shall provide \$7,500.00 to GHA to provide the flooring materials for the new locker rooms.

9. Construction. GHA shall be solely responsible for contracting for all construction work and materials with respect to the new locker rooms. GHA shall be solely responsible for managing construction and related improvements and for their completion. Construction shall not begin before May 20, 2013 and shall be complete no later than August 5, 2013 (76 calendar days). If requested, the City will provide advice and comment with respect to construction of the new locker rooms. GHA shall apply for and obtain a building permit from the Whitefish Building Department, and shall submit to building inspections as with any other construction project. Application for building permits has been submitted. GHA shall complete construction of the new locker rooms and related improvements no later than August 5, 2013. All materials shall be of a good quality and all work shall be done in a workmanlike manner.

10. Ownership of New Locker Rooms. Upon completion of construction, the City shall retain ownership of the Stumptown Ice Den and full ownership of the new locker rooms and all related improvements made or constructed by GHA.

11. No Liens. GHA shall not provide the improvements made or constructed as collateral for any loan, and shall not allow any encumbrance or construction lien to exist with respect to such City property. If any encumbrance or lien is imposed or recorded with respect to the improvements made or constructed on City property, GHA shall immediately cause such lien or encumbrance to be removed and fully satisfied.

12. Financial Matters; Records. All of GHA's financial records relating to the construction of the new improvements and the financing of construction per requirements of the Peter Kiewit Foundation Grant shall be open to the City, upon reasonable notice from the City, and all of such records shall be made available to the City.

13. Representatives:

- A. **City's Representative:** The City's Representative for the purpose of this Agreement shall be Karl Cozad, Director of Parks, Recreation and Community Services, or such other individual as City shall designate in writing. Whenever approval or authorization from or communication or submission to City is required by this Agreement, such communication or submission shall be directed to City's Representative and approvals or authorizations shall be issued only by such Representative; provided, however, that in exigent circumstances, when City's Representative is not available, GHA may direct its communication or submission to other designated City personnel or agents and may receive approvals or authorization from such persons.
- B. **GHA's Representative:** GHA's Representative for the purpose of this Agreement shall be Murry Craven, or such other individual as GHA shall designate in writing. Whenever direction to or communication with GHA is required by this Agreement, such direction or communication shall be directed to GHA's Representative; provided, however, that in exigent circumstances, when GHA's Representative is not available, City may direct its direction or communication to other designated GHA personnel or agents.

14. No Assignment. Neither this Agreement, nor any interest herein, shall be assigned, transferred, hypothecated or otherwise conveyed by either party without the prior written consent of the other party.

15. Attorney Fees. In the event of any litigation to enforce or interpret the provisions of this Agreement, or to remedy a breach thereof, the prevailing party shall be entitled to reasonable attorney fees as fixed by the court.

16. Entire Agreement. Except as to agreements referred to herein, this Agreement contains the entire agreement of the parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between the parties hereto relating to the subject matter contained in this Agreement which are not fully expressed herein.

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

18. Successors in Interest. Subject to the restrictions against assignment as herein contained, this Agreement shall inure to the benefit of, and shall be binding upon, the assigns, successors in interest, personal representatives, estate, heirs, and legatees of each of the parties hereto.

19. Time of Essence. Time is of the essence in the performance of all obligations under this Agreement.

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

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF WHITEFISH

GLACIER HOCKEY ASSOCIATION, INC.

By: _____
Charles C. Stearns, City Manager

By: _____
Murray Craven, President

Date: _____

Date: _____



May 6, 2013

Mayor Muhlfeld and members of the Whitefish City Council

Stumptown Ice Den Locker Room Addition in Partnership with Glacier Hockey Association –Recommendation for Adoption of Resolution 13-

Introduction/History

As the Stumptown Ice Den has evolved from an outdoor ice rink facility with limited support amenities to a full service indoor ice rink, the popularity of youth hockey has also substantially increased. As the popularity of this sport has increased so has the demand and necessity to development additional locker rooms at the Stumptown Ice Den. Specifically, the increase in participation in girls hockey has resulted in requiring ice rinks to provide specific locker rooms designated for girls teams. The additional locker rooms will certainly enhance our ability to accommodate growth in local participation and the expansion of both youth and adult hockey events.

Current Report

The existing locker rooms in the Stumptown Ice Den do not meet the requirements as set forth by USA Hockey in providing sufficient space for youth hockey tournaments and leagues that involve female hockey teams and players. In addition, the limited number of existing locker rooms results in a less than desirable situations in allowing sufficient space for teams that are “on the ice”, those that have finished their playing time, and for those that are about to get ready to play. Given that hockey programs (youth and adult) make up more than 90% of our customer base, we feel that with the additional locker rooms we will have the capabilities of expanding the participation levels in both league and tournament activities and thus generate even greater revenues to offset the operational expenses of the Stumptown Ice Den. We are fortunate to have a very active youth hockey organization (Glacier Hockey Association) who has stepped forward and has secured the necessary financial resources through grants and donations to compete the proposed project of providing additional locker rooms at the Stumptown Ice Den. GHA has been extremely instrumental not only in the original development of the Stumptown Ice Den, but also in providing financial support over the past 10 years of its’ operation. The proposal of this partnership between the City of Whitefish and the Glacier Hockey Association is another example of how the public/private relationship is vital to enhancing the quality of life here in Whitefish. In comparison, this document is very similar to the document that is currently being utilized by the City of Whitefish and the Glacier Twins Baseball Program for improvements at Memorial Stadium.

Financial Requirements

The implementation of the Facility Improvement Agreement for additional locker rooms at the Stumptown Ice Den will have a minimal financial impact in the operation of the facility. The City has committed \$7,500 to cover the estimated cost for the flooring in the locker rooms and hallway. The improvements being made to the facility should actually result in generating new revenues that should more than offset any additional operational costs relating to the Stumptown Ice Den.

Recommendation

I, along with the Ice Rink Advisory Committee and the City of Whitefish Park Board, respectfully recommend that the City Council adopt Resolution 13- for the purpose of entering into a Stumptown Ice Den Locker Room Addition Agreement with Glacier Hockey Association (GHA) to provide additional locker rooms at the Stumptown Ice Den.

Sincerely,

A handwritten signature in black ink, appearing to read "Karl Cozad". The signature is written in a cursive, somewhat stylized font.

Karl Cozad, Parks, Recreation, and Community Services Director

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MANAGER REPORT

May 1, 2013



WAYFINDING SIGNS UPDATE

In the past week, we have approved the final colors for the Wayfinding Signs after the vendor Epcon Sign Company sent us proofs. Jen Frandsen of Old Town Creative, who created the original color scheme, helped me check the sign proofs for colors and we did lighten up the background color as it had come out too black with too little green. Also, I worked with Mild Fence this week on the final locations for all of the signs and they have called in for the locating of underground utilities around each sign site prior to digging. The decorative poles arrived in Whitefish last week and Mild Fence may begin installing the decorative posts later this week or next week. There is no confirmed date on when the signs will be ready, but if the posts are already installed, Mild Fence can install the signs on the posts quickly and easily.

SAFE ROUTES TO SCHOOLS GRANT

Karin Hilding informed me that the State of Montana awarded us both of our Safe Routes to Schools grant applications this year – for non-infrastructure (education and programs) and infrastructure (crossings and signal improvements). We will receive \$15,500 for non-infrastructure programs and \$21,604 for infrastructure improvements. A copy of the award letter is attached to this report in the packet.

AUDIO FILES OF CITY COUNCIL MEETINGS ON THE WEBSITE

For insomniacs everywhere, we have begun posting the audio file of City Council meetings on our website. Actually, people who can't attend meetings may want to listen to prior meetings instead of watching them on the cable channel. Rich replaced the old cassette recorder with a digital recorder, so we now have digital audio files for the meetings. The audio files are posted at http://www.whitefish.govoffice.com/index.asp?Type=B_BASIC&SEC={3FA14F5F-CACD-4B7A-98F6-8894FD46E56A}.

WHITEFISH COMMUNITY LIBRARY RECEIVES EXCELLENT LIBRARY SERVICE AWARD FROM THE MONTANA STATE LIBRARY

The Whitefish Community Library received the 2013 Excellent Library Service Award from the Montana State Library. A copy of the April 22nd letter notifying us of the award is attached to this report in the packet.

MEETINGS

MDT Whitefish Hwy 93 – Spokane Avenue meeting (4/22) – John Wilson, Karin Hilding, and I met with Montana Department of Transportation officials from the Missoula District office regarding Hwy 93 on Spokane Avenue from 8th Street to 2nd Street. MDT officials would like to begin design work on the last remaining unfinished part of Hwy 93 in Whitefish in the near future. The planned design is where there would be two northbound lanes and one southbound lane on Hwy 93 between 8th Street and 2nd Street. Similarly, Baker Avenue would have two southbound lanes and one northbound lane. We discussed their thoughts on the plans for a 7th Street Bridge over the Whitefish River and they seem to think that may not be feasible, but that would be part of what they evaluate. I am sure there will be many meetings in Whitefish if they get that project started.

WAVE Board Meeting (4/26) – I attended the regular board meeting of the WAVE as a board member. Regular reports were reviewed and there were presentations on the Fitness and Personal Training programs. The Board members continued work on a possible expansion out the back of the WAVE.

5th Monday Meeting (4/29) – Phil Mitchell, John Anderson, Frank Sweeney and I attended the “fifth Monday” meeting of the elected officials from Kalispell, Columbia Falls, Whitefish, and Flathead County. Topics discussed were an overview of possible changes to the 9-1-1 Interlocal Agreement, an overview of the Flathead Regional Wastewater Management Group study and mapping of septic systems throughout Flathead County, Railroad Quiet Zones, and ways to expand airline flights into the airport.

UPCOMING SPECIAL EVENTS

Tuesday, May 28th – first downtown farmers’ market at Depot Park

REMINDERS

Monday, May 27th – Memorial Day holiday – City Hall closed

Respectfully submitted,



Chuck Stearns
City Manager



Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

Michael T. Tooley, Director
Steve Bullock, Governor

April 2, 2013

Karin Hilding
PO Box 158
Whitefish MT
59937

Subject: FY 2013 Application for Safe Routes to School Funding Assistance

Whitefish SRTS FY14

This is to inform you that the Montana Department of Transportation has awarded both your non-infrastructure and infrastructure Safe Routes to School programs for \$ 15,500 and \$ 21,604 respectively. This award is to support the SRTS program.

Infrastructure funding is for the 8th Street project described in the application. The bikes and trailer awarded in the non-infrastructure will be purchased by MDT/SRTS. The monies identified in the application for the bikes and trailer have been replaced with \$ 1,500 for outfitting the trailer with maintenance and safety equipment. This is reflected in the above awarded amount.

The project funded is listed below. In the near future, Taylor Lonsdale, the Montana Safe Routes to School Coordinator, or the Montana Department of Transportation will be contacting you with information on how to proceed. **DO NOT BEGIN WORK** on these projects until all contracts with the Montana Department of Transportation have been signed.

In future correspondence, please refer to this project as:

Whitefish SRTS FY14

We look forward to working with you on this project. If you have questions, please contact Taylor Lonsdale at 406-994-7031 or David Jacobs in Helena at 406-444-9192.
(cell) 548-1523.

Audrey Allums, Multi Modal Programs Bureau Chief
MT Department of Transportation

copy: SRTS Coordinator
Whitefish SRTS FY14 Program Manager
Project file
Mike Wherley, CTEP

received
4/23/13 CS



PO Box 201800 1515 East 6th Avenue Helena, MT 59620 (406) 444-3115

April 22, 2013

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

Dear Mr. Stearns,

It is a pleasure to inform you that the Whitefish Community Library has been recognized with the 2013 Excellent Library Service Award (the ELSA). This award is given by the Montana State Library Commission to libraries that demonstrate a high level of service to their communities. Libraries that apply must meet requirements established by the Commission in categories including collection development, information access, policies, planning and evaluation, fiscal management, board accomplishments, continuing education for staff and trustees, and outreach to the community.

Congratulations to your library and your community for achieving the ELSA. The Commission thanks you for the support you give your local library. It is essential to ensuring that your citizens have a better quality of life by giving them access to the information they need to make informed decisions to live healthy, happy lives.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Quillin", written in a cursive style.

Richard Quillin, Chair
Montana State Library Commission

RESOLUTION NO. 13-_____

A Resolution declaring it to be the intention of the City Council of the City of Whitefish, Montana, to vacate and abandon a portion of Scott Avenue and to widen a portion of O'Brien Avenue, lying between 8th Street and 9th Street of Block 6, First Addition to South Whitefish, the City of Whitefish (SW1/4 of Section 36, T.31 N., R. 22 W., P.M.M.).

WHEREAS, by Section 7-14-4101, MCA, the City of Whitefish has the authority to establish, widen and abandon streets following the procedure provided in Section 7-14-4114, MCA; and

WHEREAS, the City has determined that Scott Avenue has never been constructed or used as a street, the City having previously vacated and abandoned the northerly 180 feet of Scott Avenue to widen O'Brien Avenue an additional thirty (30) feet by Ordinance No. 02-14; and

WHEREAS, the City received two petitions requesting the vacation and abandonment of the South seventy-five (75) feet of Scott Avenue, lying between 8th Street and 9th Street, signed by all the property owners abutting the portion of Scott Avenue proposed to be vacated; and

WHEREAS, it is the intention of the City of Whitefish to vacate and abandon the South seventy-five (75) feet of Scott Avenue lying between 8th Street and 9th Street, which will revert to and combine with Lot A of the Amended Plat of the South 75 Feet of Block 6, First Addition to South Whitefish, and the South 180 Feet of Block 5, First Addition to South Whitefish, the adjacent private properties, in accordance with Section 70-16-202, MCA; and

WHEREAS, as a condition for the vacation, the owners of Lot A of the Amended Plat of the South 75 Feet of Block 6, First Addition to South Whitefish, will execute a quit claim deed to the City to widen O'Brien Avenue thirty (30) feet from Lot A. If this condition is not met by the property owners within thirty (30) days of the vacation, the vacation of the south portion of Scott Avenue will become and will be declared null and void by the City and shall revert to public use; and

WHEREAS, before acting upon the petition to vacate the south portion of Scott Avenue as described above, the City will publish notice stating when the petitions will be acted on and following such notice, providing an opportunity for citizen comments at the hearing scheduled for the May 20, 2013, City Council meeting; and

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

Section 1: The City Council will, at its regular meeting to be held on the 20th day of May, 2013 at the hour of 7:10 P.M., in the Council Chambers of the City Hall Building at

402 East 2nd Street, Whitefish, Montana, hear all matters pertaining to the proposed abandonment as set forth above.

Section 2: This Resolution will be noticed and notice of the hearing concerning the abandonment will be published once in the *Whitefish Pilot* as provided by law.

Section 3: The property intended to be vacated is subject to any and all utility easements over and across said property in accordance with Section 7-14-4115, MCA, to continue the installation, maintenance and repair of any and all public utilities.

Section 4: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor or Deputy Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS _____ DAY OF _____, 2013.

John M. Muhlfeld, Mayor

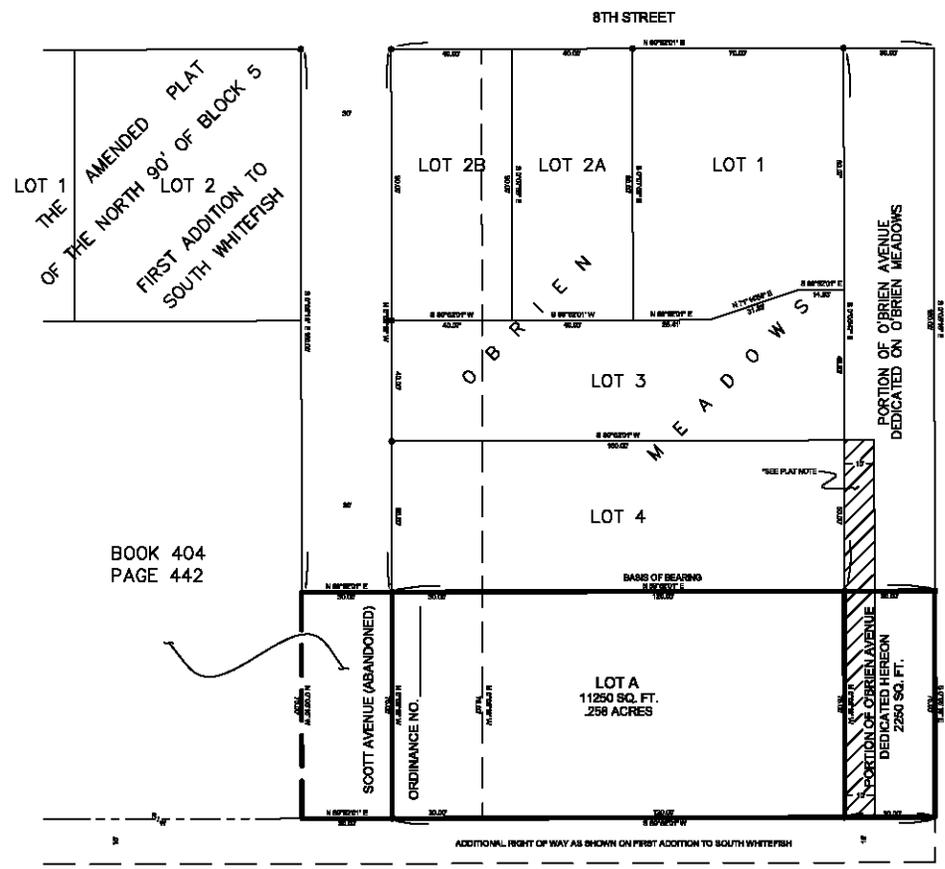
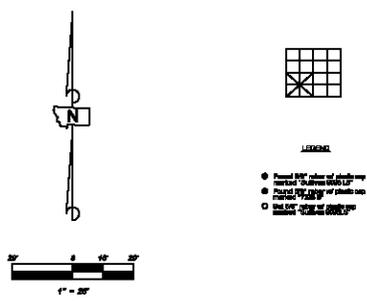
ATTEST:

Necile Lorang, City Clerk

Owners: City of Whitefish
 Crislin L. Mills / Durand J. Beaugher
 Date: 11/06/12
 Job#: 12-089 City of Whitefish
 For: Chuck Bissaris

F & H LAND SURVEYING, INC.
 144 Second Street East
 P.O. Box 114
 Whitefish, MT. 59917
 406-868-0389

**AMENDED PLAT OF
 THE SOUTH 75 FEET OF BLOCK 6,
 FIRST ADDITION TO SOUTH WHITEFISH
 A SUBDIVISION
 IN SW1/4 OF SECTION 36, T.31N., R.22W., P.M.,M.
 FLATHEAD COUNTY, MONTANA**



BOOK 404
 PAGE 442

*PLAT NOTE: The City of Whitefish will verify Crislin L. Mills and Durand J. Beaugher and others with their respective addresses use of the median ten (10) feet of the eastern portion of O'Brien Avenue shown on this plat is based on the 1928 map showing such portion of O'Brien Avenue. This agreement is hereby made known to the City of Whitefish and the Flathead County Assessor. The Amended Plat and adjacent to Lot A of O'Brien Meadows to remain as Crislin L. Mills and Durand J. Beaugher reserves to. This agreement is hereby made known to the City of Whitefish and the Flathead County Assessor to remain as Crislin L. Mills and Durand J. Beaugher longer own the respective.

PURPOSE OF SURVEY: RELOCATION OF COMMON BOUNDARY LINES

CERTIFICATE OF CONSENT

We, Crislin L. Mills and Durand J. Beaugher and The City of Whitefish, being the undersigned property owners, do hereby certify that we have caused to be surveyed, subdivided and platted into lots as shown by the plat and Certificate of Survey herewith included, the following described tract of land, to wit:

That portion of the South-west one-quarter (SW1/4) of Section eleven (11), Township Thirty-one North (T.31N.), Range Twenty-two West (R.22W.), Principal Meridian, Montana, Flathead County, Montana, described as follows:

The South 90 feet of Block 6, First Addition to South Whitefish, a map or plat of which is on file with the Clerk and Recorder's Office, Flathead County, Montana. Now to be known and designated as Amended Plat of the South 90 feet of Block 6, First Addition to South Whitefish.

We, Crislin L. Mills and Durand J. Beaugher and The City of Whitefish, being the undersigned property owners, hereby certify that the purpose for this division of land is to relocate common boundary lines of adjoining lots in a platted subdivision; fewer than six lots are affected and no additional lots are hereby created; therefore this division of land is exempt from review as a subdivision pursuant to Section 73-5-307 (1)(a), MCA.

Crislin L. Mills _____
 Durand J. Beaugher _____
 John M. McMillan, Mayor _____
 Heidi Lanning, City Clerk _____

STATE OF MONTANA)
 County of Flathead) SS

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Crislin L. Mills and Durand J. Beaugher, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of Montana _____

Printed Name _____
 Residing at _____, Montana
 My Commission expires _____

STATE OF MONTANA)
 County of Flathead) SS

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared John M. McMillan, Mayor and Heidi Lanning, City Clerk for The City of Whitefish, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of Montana _____

Printed Name _____
 Residing at _____, Montana
 My Commission expires _____

CERTIFICATE OF SURVEY

STATE OF MONTANA)
 County of Flathead) SS

Examining Land Surveyor, No. 2686
 STATE OF MONTANA)
 County of Flathead) SS

Filed on this _____ day of _____, 20____.

Clerk and Recorder
 BY _____
 INSTRUMENT FILED NO. _____

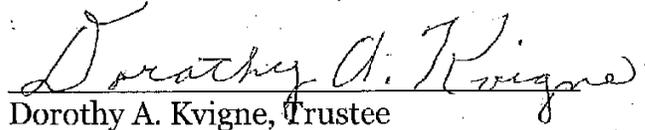
RECORD 1 of 1 SURVEY

PRELIMINARY

PETITION TO VACATE AND ABANDON
A PORTION OF SCOTT AVENUE

The undersigned property owner, Dorothy A. Kvigne, Trustees of The Kermit and Dorothy Kvigne Revocable Trust, P.O. Box 202, Whitefish Montana, with a current address of 334 W. 9th Street, Whitefish, MT 59937, and legal description of The South 180 feet of Block 5, of First Addition to South Whitefish, Section 36, T. 31 N., R. 22 W., P.M.M., Whitefish, Montana, does hereby respectfully petition the City Council of the City of Whitefish, to consider vacating and abandoning the south seventy-five (75) feet of Scott Avenue lying between 8th Street and 9th Street, as shown on the attached exhibit.

Petitioner Dorothy A. Kvigne, as Trustee of The Kermit and Dorothy Kvigne Revocable Trust.


Dorothy A. Kvigne, Trustee

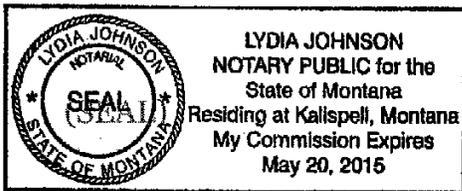
STATE OF MONTANA)

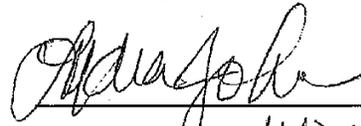
:SS

County of Flathead)

On this 19th day of April, 2013^{Pub}, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared DOROTHY A. KVIGNE, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same.

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




Printed Name: LYDIA JOHNSON
Notary Public for the State of MT
Residing at Kalispell
My commission expires: 5.20.15

**PETITION TO VACATE AND ABANDON
A PORTION OF SCOTT AVENUE AND CONSENT TO THE
WIDENING OF O'BRIEN AVENUE**

The undersigned property owners, Cristin L. Mills and Durand J. Beougher, with a current address of 830 O'Brien Avenue, Whitefish, MT 59937, with a legal description of Lots 4 and A, of Block 6, First Addition to South Whitefish, SW 1/4 of Section 36, T. 31 N., R. 22 W., P.M.M., Whitefish, Montana, hereby respectfully petition the City Council of the City of Whitefish, to consider vacating and abandoning the south seventy-five (75) feet of Scott Avenue lying between 8th Street and 9th Street, as shown on the attached exhibit. As a condition to the vacation, the undersigned owners consent and agree to the widening of O'Brien Avenue by the addition of ten (10) feet from Lot 4 and the addition of thirty (30) feet from Lot A.

Petititioner's signatures:

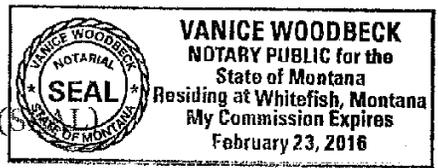
Cristin L. Mills
Cristin L. Mills

Durand J. Beougher
Durand J. Beougher

STATE OF MONTANA)
 :SS
County of Flathead)

On this 24 day of April, ²⁰¹³~~2012~~, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared CRISTIN L. MILLS, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same.

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



Vanice Woodbeck
Printed Name: _____
Notary Public for the State of _____
Residing at _____

My commission expires: _____

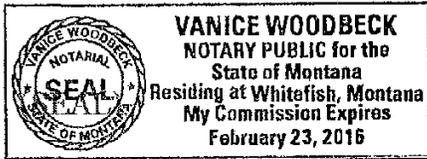
STATE OF MONTANA)

:SS

County of Flathead)

On this 24 day of April, ²⁰¹³~~2012~~, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared DURAND J. BEOUGHER, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

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



Vanice Woodbeck

Printed Name: _____

Notary Public for the State of _____

Residing at _____

My commission expires: _____

MEMORANDUM

#2013-024



To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

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

Re: Staff Report – Resolution No. 13-___; A Resolution declaring it to be the intention to vacate and abandon a portion of Scott Avenue and to widen a portion of O'Brien Avenue, lying between 8th Street and 9th Street of Block 6, First Addition to South Whitefish, the City of Whitefish (SW1/4 of Section 36, T.31 N., R. 22 W., P.M.M.)

Date: April 24, 2013

Introduction/History

In 2002, at the petition and request of property owners adjacent to Scott Avenue between 8th and 9th Streets, the City vacated and abandoned the northern 180 feet of Scott Avenue between 8th and 9th Streets. Part of the intent of this 2002 street vacation was to permit Rob Pero to re-subdivide and develop some lots he owned adjacent to Scott Street into the O'Brien Meadows subdivision. In return for that re-platting, Mr. Pero dedicated an additional 30 feet of O'Brien Avenue to the City.

However, as you can see from the map attached to this memo, the entire length of Scott Avenue between 8th and 9th Streets was not vacated. The southern 75 feet of Scott Avenue between 8th and 9th Streets was not vacated at the time and remains the property of the City of Whitefish.

Last summer, an adjacent property owner, Dorothy Kvigne, contacted me wanting to know if we would vacate the remaining portion of Scott Avenue. After talking with City staff, we could find no reason to retain that remainder parcel in City ownership given that the northern portion of Scott Avenue was previously vacated. We felt that the entire length of Scott Avenue between 8th and 9th Streets should have been vacated in 2002.

However, we felt that we should try to obtain the additional 30 feet of right-of-way (R-O-W) from the owners of Lot 6 of the South Whitefish Addition (renamed Lot A in the attached draft plat in the packet) so as to have a unified width of R-O-W on O'Brien Avenue between 8th and 9th Streets.

Therefore, I began discussions with the owners of Lot 6 of the South Whitefish Addition as the same owners own both parcels of land (see attached letter in packet). They agreed that the vacation of the back portion of their Lot 6 would improve their property and they also agreed to dedicate the equivalent 30 foot wide parcel of O'Brien Avenue to the City in exchange for the

vacation. However, once we had the property surveyed with stakes, they realized how far the 30 feet of R-O-W on O'Brien Avenue would come into their property. We therefore agreed to consult with them in the future about any plans to bury utilities or otherwise improve that 30 foot portion of O'Brien Avenue R-O-W for as long as they owned the lot. We also extended that consultation to them on their residence which is Lot 4 of O'Brien Meadows, adjacent to and north of Lot 6 of the South Whitefish Addition. That consultation is contained in a plat note on the plat. The staking remains on the property if you decide to drive by the lot at the NW corner of 9th Street and O'Brien Avenue.

Current Report

All of the property owners adjacent to this proposed vacation of 75 feet of Scott Avenue have agreed to the vacation and have petitioned the City to do the vacation. These petitions are contained in the packet. Moreover, the owners of Lot 6 of South Whitefish Addition (renamed Lot A in the attached draft plat in the packet) have agreed to dedicate 30' of land along O'Brien Avenue in exchange for our vacating the 60 feet width of Scott Avenue. In any street vacation, one half of the width goes to each adjacent property owner, so the owner of Lot 6 will gain the exact amount of land at the back of their lot for what they are giving up in the front of their lot along O'Brien Avenue.

Mary VanBuskirk has prepared a Resolution of Intention to start the process for this vacation of Scott Avenue and that Resolution is in your packet. If the City Council adopts the Resolution of Intention, as staff is recommending, then there will be a public hearing on May 20th on this proposed street vacation and amended plat.

Financial Requirement

City staff agreed to bear all costs for the amended plat for this street vacation because of the additional R-O-W that we gain along O'Brien Avenue where it is more useful to the City than the dead-end R-O-W of the South 75 feet of Scott Avenue. The estimate cost of preparing, surveying, and recording is approximately \$2,000. The surveying and preparation of the amended plat cost \$1,700 by itself.

Recommendation

Staff respectfully recommends the City Council approve Resolution No. 13-___; A Resolution declaring it to be the intention to vacate and abandon a portion of Scott Avenue and to widen a portion of O'Brien Avenue, lying between 8th Street and 9th Street of Block 6, First Addition to South Whitefish, the City of Whitefish (SW1/4 of Section 36, T.31 N., R. 22 W., P.M.M.)



August 15, 2012
Letter #2012-106

Durand J. Beougher
Christin L. Mills
830 O'Brien Avenue
Whitefish, MT 59937

Dear Mr. Beougher and Ms. Mills:

We have received a request from Dorothy Kvigne of 334 West 9th Street for the City to vacate and abandon a portion of Scott Street right-of-way (ROW) which is behind your recently acquired property at 320 West 9th Street. The northern 2/3rd's of the Scott Street ROW in this block was abandoned in 2002 to accommodate the platting of the O'Brien Meadows subdivision. I am enclosing a map showing the City's property, your property, and the Kvigne property in this area.

If we were to abandon and vacate the 60 foot wide portion of Scott Street behind your property, by law, 1/2 of the width or 30 feet would go to Mrs. Kvigne and 1/2 would go to your property. We would like to propose that, in exchange for the 30 feet of Scott Street ROW which you would gain, you would agree to a boundary adjustment to give the City an equal amount of land or 30 feet on the front or eastern end of your property. This land is already under the existing street and we own the same 30 feet in O'Brien Avenue alongside O'Brien Meadows.

If you were to agree to this exchange, the City would pay for all surveying, boundary adjustment, and document preparation and recording costs. Please consider this proposal and review the enclosed map. Please call me at 406-863-2406 to ask questions or discuss this proposal. I am very willing to meet you at the site and talk about the details of the parcels. Thank you for considering this request as we believe it will just clean up the existing street boundaries so they match legal property description boundaries and you would still have the same amount of land.

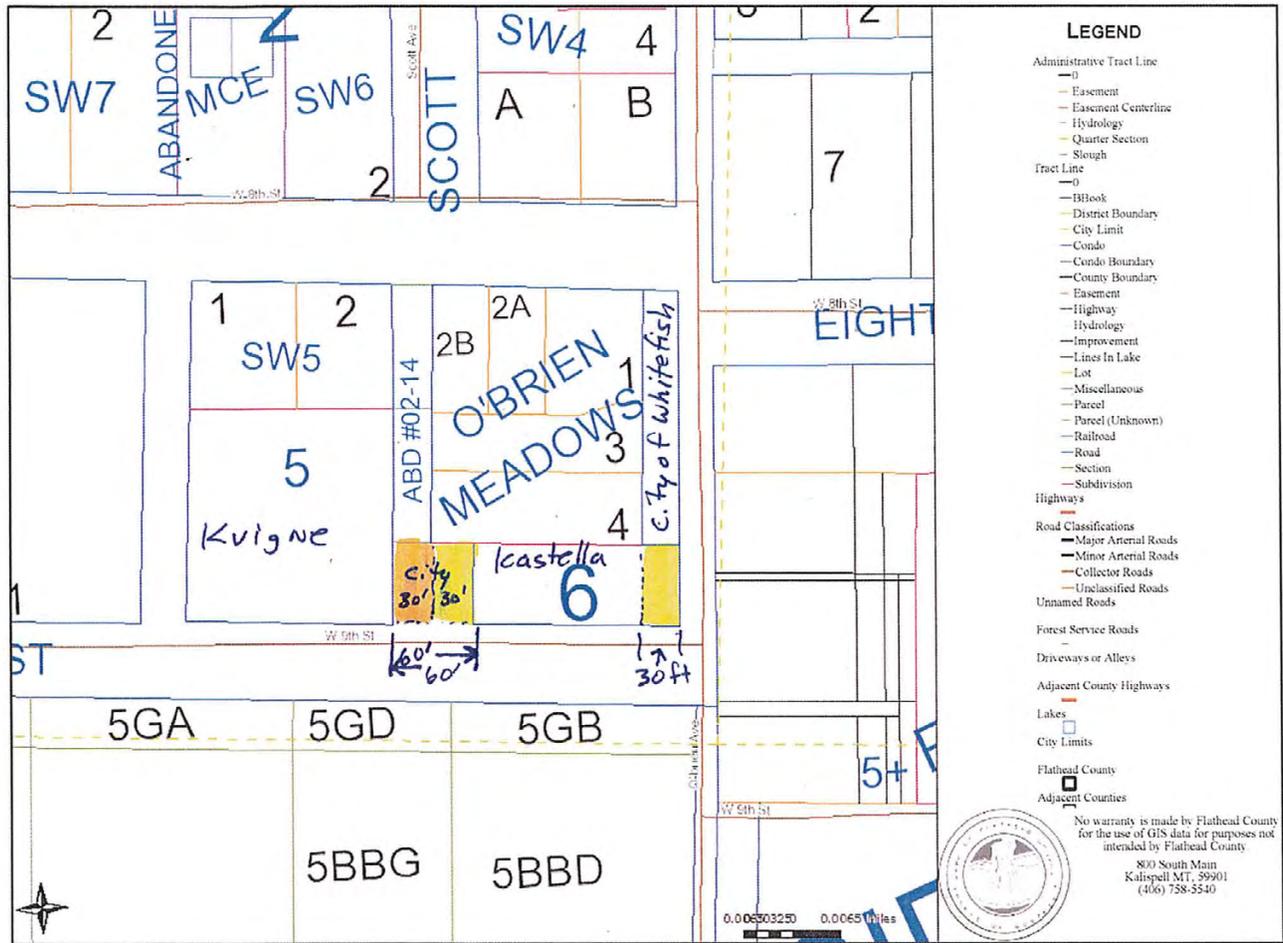
Sincerely,

A handwritten signature in cursive script that reads "Chuck Stearns".

Chuck Stearns
City Manager
cstearns@cityofwhitefish.org

enclosures

cc: John Wilson, Public Works Director



RESOLUTION NO. 13-_____

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.

WHEREAS, the City has accumulated a quantity of used property and equipment which is obsolete and of no further value or use to the City. Such property is described generally on Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, a public auction at the O'Shaughnessy Center is the best method to dispose of this property and comply with Montana State Law.

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

Section 1: That the recitals set forth above are adopted as findings of fact.

Section 2: That the City Council hereby determines that all of the items described on Exhibit "A" are of no further use to the City of Whitefish and can be declared surplus.

Section 3: That City staff is hereby authorized to dispose of the property described on Exhibit "A" at a public auction at the O'Shaughnessy Center. If not sold at the auction, the Whitefish Theater Company may dispose of remaining property as follows:

- A. Items having a market value may be sold by advertisement or in on-line listings or on-line auctions after the required, first public auction is held.
- B. Items having no market value may be donated to any non-profit organization that is willing to accept such items. Such non-profit organizations shall be ones which are qualified under Section 501(c)(3) of the Internal Revenue Code.
- C. Any items having no market value and which a non-profit organization declines to accept may be disposed of by hauling to the local landfill, or by other means of disposal.

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 _____, 2013.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

EXHIBIT A

Theater seats from the O'Shaughnessy Center:

Set #1 – the seats with folding brackets – 80 available

Set #2 – the seats with folding brackets – 44 available

Set #3 – seats with fixed brackets – 50 available

Set #4 – seats with fixed brackets – 100 available

Set #5 – seats with moveable brackets – 28 available

MEMORANDUM

#2013-026



To: Mayor John Muhlfield
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – Resolution No. 13-___; A Resolution declaring certain property to be unneeded and obsolete, and authorizing the disposal of such property – O’Shaughnessy Center seating

Date: April 26, 2013

Introduction/History

The Whitefish Theatre Company (WTC) is embarking on a fundraising and capital improvement project at the O’Shaughnessy Center. Ultimately this project will involve a remodeled entry area and an expansion of rehearsal space on the south side of the O’Shaughnessy Center. The first phase of the project for this summer is to replace the seating on the main floor of the O’Shaughnessy Center. To begin that project, Kathryn McEnergy, Executive Director of WTC, contacted me recently about the process to sell the existing seating. Because the existing seating is a fixture in the building, according to our lease, that property belongs to the City of Whitefish. Thus, I told her that we have to do a resolution to declare that property as surplus and they will need to hold a public auction to sell the old seats.

Current Report

I have prepared the necessary resolution declaring the seating as surplus and that resolution is in the packet. The Whitefish Theatre Company is going to hold a public auction of the old seating as a fundraising event and to create awareness of their fundraising project.

Financial Requirement

The City has no financial obligation related to the sale of the old seating nor for the purchase of the new seating.

Recommendation

Staff respectfully recommends the City Council approve Resolution No. 13-___; A Resolution declaring certain property to be unneeded and obsolete, and authorizing the disposal of such property – O’Shaughnessy Center seating.

MEMORANDUM

#2013-027



To: Mayor John Muhlfield
City Councilors

From: Chuck Stearns, City Manager

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

Re: Staff Report – Consideration of a request from Bruce Boody representing Orlan Sorensen for commitment of Tax Increment Financing Funds for sewer line relocation and sidewalk and parking infrastructure associated with his proposed boutique hotel on Block 46

Date: April 26, 2013

Introduction/History

Orlan Sorensen, a local resident and owner of Landmark Builders, is under contract to purchase Block 46 in Whitefish, which is where we have a lease for a temporary parking lot at 3rd Street and Spokane Avenue, across the street from Third Street Market. Mr. Sorensen has talked with the Mayor and some Council members individually about his proposal to develop a boutique hotel on that block.

He and his consultant, Bruce Boody, have talked with staff on several occasions about the need to abandon and relocate the sewer line which runs underneath the property. They have also talked with and are beginning the process for the necessary Planning and Building Department approvals. They have also talked with me about the potential for asking the City Council to use Tax Increment Funds to pay for the cost of relocating the sewer line under Block 46 and for sidewalk, parking, and street amenities in the Right-of-Way (ROW) surrounding Block 46.

Current Report

Bruce Boody, on behalf of the owner and developer, Orlan Sorensen, has submitted a letter requesting the Tax Increment Financing (TIF) Fund assistance for the costs of the sewer line relocation and the sidewalk, parking, and street trees and amenities for the four blocks of street surrounding Block 46. This letter and the accompanying exhibits are attached in the packet.

Other than the building permit stimulus project several years ago where we used TIF funds to pay for the impact fees of new building permits in the TIF district for one building season, the City of Whitefish has typically not directly assisted specific, individual development projects. Rather, the City of Whitefish has typically done public projects that benefit a large number of people and properties such as street projects, parking projects, trail projects, the land and

infrastructure for the Library, O’Shaughnessy Center, and the WAVE, the Emergency Services Center, etc. However, most cities do use Tax Increment Funds to provide associated infrastructure costs and development necessary to enable a specific development project to go forward. Often the test and justification for such economic development assistance is use of the “but for” doctrine, whereby, “but for” the assistance, the project would not go forward.

Financial Requirement

As shown in the letter from Bruce Boody in the packet, Mr. Sorensen is requesting that the City commit \$514,245 of tax increment funds for the sewer line relocation and the sidewalk, landscaping, and parking improvements on the four blocks of street surrounding Block 46. As shown in a letter from Robert Peccia and Associates in the packet, if contamination is found when we dig in 3rd Street near Spokane (as we found when we did the Downtown Street Improvements Project on 3rd Street), that would add another \$29,100 to this cost estimate for a total of \$543,345.

The developer, Mr. Sorensen, has indicated that the cost estimates for the boutique hotel that he will build are estimated at \$10,000,000 for the building and \$1,900,000 for personal property – FFE (furniture, fixtures, and equipment). As shown in a spreadsheet in the packet that I prepared, this improvement would normally result in new tax increment funds of approximately \$155,000 per year until the TIF District expires in 2020 or a total of \$930,000 (the spreadsheet shows \$157,035 per year, but we do not get TIF on the 6 mills for property tax levies for the statewide University system). Thus, in normal economic development analysis, our investment of up to \$543,345 would be repaid within 3.5 years.

However, Mr. Sorensen has indicated that he plans to apply for tax incentives allowed in State law under Section 15-24-1401 et. seq. (descriptions in packet). Mr. Sorensen says he received such tax incentives for new and expanding industries for hotels he building in Shelby and Sidney. It is my understanding that Flathead County and the City of Columbia Falls have typically approved such tax incentives, but neither Necile or I can find any evidence of the City of Whitefish having ever been approached for or considered such incentives. When I worked for the City of Missoula (1984-1994), the City of Missoula often approved such tax incentives.

In discussions with Mr. Sorensen last week, he indicated that, if the City Council approves using TIF for some of the infrastructure associated with his project, he would **not** come to the City Council for tax incentives. However, he did indicate that he would likely apply to Flathead County for the property tax incentives. Under state law, when an applicant applies to either the city or the county for the tax incentives, if approved by either the city or county, the incentives extend to the mills levied by that jurisdiction (city and/or county) and the school district. Thus, if Mr. Sorensen applies to Flathead County for the property tax incentives, if granted, the incentives will apply to the mills levied by Flathead County and Whitefish School District #44.

If tax incentives are pursued and approved by Flathead County, the tax increment revenues that we would receive from the project are reduced from \$930,000 to \$580,687 (as shown in cell R-44 of the spreadsheet). Thus the \$543,345 of possible cost for the sewer line, street, and

sidewalk improvements would use 94% of the project TIF revenues we would receive from the project.

It is very important for the City Council to consider carefully how much of TIF funds to commit to the infrastructure associated with this project as this decision will be a precedent and future private projects might request the same proportion of assistance. However, the sewer line relocation is the type of assistance that TIF exists for – to remove or relocate infrastructure that enables a private development to proceed. Also, the street, parking, and sidewalk improvements are very similar to the improvements done in the Downtown Street Improvements projects on Central Avenue project and also on earlier street reconstruction projects done with TIF.

There are a number of aspects, issues, and policy implications associated with this request. We would want to be sure that our commitment of Tax Increment Funds are only done if the project gets all its approvals and begins construction. On the other hand, it is difficult for the developer to begin construction on the project until the sewer line is relocated and abandoned. Thus, I think that the City Council should discuss and debate the level of TIF investment for infrastructure we want to provide in conjunction with the Boutique Hotel project and then authorize me to begin negotiations with the developer on a Development Agreement with binds both parties to their respective investments.

Recommendation

Staff respectfully recommends the City Council consider the extent of Tax Increment Funds that they would like to commit towards the infrastructure associated with the proposed development on Block 46 and request staff to negotiate a development agreement with the developer for City Council approval so that our funds are only used if and when the boutique hotel development goes forward.



Mr. Chuck Stearns
City Manager
418 East Second Street
P.O. Box 158
Whitefish, MT 59937

April 29, 2013

Re: Block 46 Boutique Hotel Project and Resort Tax/TIF Fund Allocation

Dear Mr. Stearns,

This letter is in regards to the proposed Block 46 Boutique Hotel project and describes the portions of the project eligible for TIF/Resort Tax funding. There are three distinct project components that fit the requirements for Resort Tax/TIF funding:

1. Sanitary Sewer Relocation
2. Streetscape
3. Alley abandonment

1. Sanitary Sewer Relocation

Robert Peccia and Associates, at the City's request, conducted an evaluation of the proposed 3rd Street Sewer Extension (dated April 3, 2013). They provided two options for the City to review. The preferred option (Option 2) was estimated at \$203,970 total costs (\$160,770 construction costs and \$43,200 Consultant fees). See Sanitary Sewer Relocation Exhibit.

\$ 203,970

The existing sewer line is an old clay 12" line that is in a bad location and now goes under the Four Square church. The city sewer department is short of funds but there are TIF funds available to use for the replacement instead of tapping the sewer funds at some time in the future. This sewer line will have to be replaced regardless of the hotel being built. This would be the opportune time to relocate the sewer line with a new sewer line and not have to use the already stressed sewer budget. The relocation of this sewer line will cost \$203,970 and the new property taxes for the hotel are estimated to be \$204,000 per year which is a 1 year payback. It seems like a financially responsible decision to use the TIF funds to replace the aging existing sewer line. TIF funds exist for exactly this purpose.

2. Streetscape

See Schematic Site Plan & Preliminary Cost Estimate attachment (Streetscape within Public ROW).

Spokane Avenue (design based on WF Downtown Master Plan-Promenade)

- South ½ includes new curb and gutter, asphalt patch
- 2' concrete separation
- 10' concrete two way bike lane
- 4' planter area
- Downtown double streetlights
- Street trees, landscaping, irrigation

2nd Street East

- New curb and gutter, asphalt patch
- New sidewalks, 5'-6'
- Bulb out at Kalispell Ave. intersection
 - New storm drainage
- Downtown single streetlights
- Sod, irrigation

Kalispell Avenue

- New curb and gutter, asphalt patch
 - New storm drainage
- New angle parking on S ½
 - Portion of expanded sidewalk
 - New storm drainage
- New 5' sidewalk
- New residential streetlights
- Sod, irrigation

3rd Street East

- New curb and gutter, asphalt patch
- New angle parking on W 1/2
- New sidewalk, 5'
- New streetlights downtown single
- New street trees and grates (w ½)
- Irrigation

\$ 314,275.00

3. Alley Abandonment

The project is requesting that the alley rights-of-way be abandoned.

\$ -0-

TOTAL

\$ 518,245.00

Portion of streetscape outside of the ROW areas will be paid for by the project. This includes additional sidewalks adjacent to the proposed angled parking areas and the portion of the WF

Promenade from the ROW line to the Hotel building, including pedestrian amenities like landscaping and benches.

\$ 150,446.00

The owners of this project anticipate the following as revenue to the City of Whitefish (annually):

Estimated taxes	\$ 204,000.00
Resort tax revenue (Hotel only)	\$ 70,000.00
Resort tax revenue (non-Hotel)*	\$ 80,000.00
Total annual revenue to City of Whitefish	\$ 354,000.00

The owners are requesting that TIF and/or Resort Tax monies be allocated to the construction of the streetscape, within the Rights-of-Way, along with the relocated sewer main (as described above). The initial 3 phases of the downtown reconstruction project (Central Avenue Reconstruction Project) resulted in significant increased revenue. In this project, the current tax revenue on the property is \$24,000 and the anticipated is \$204,000, resulting in a net of \$180,000 per year in taxes. In addition, Resort Tax revenue per year is expected to increase from \$0 currently to \$150,000 per year. Due to the fact that this project covers the full City block (46), the increased revenue will no doubt far exceed the increased revenue per block from the downtown project. **Based on the anticipated revenue, the City would be paid back for the entire Block 46 streetscape/infrastructure project within 2-5 years.**

The Resort Tax is the fund that pays for streetscape projects in downtown Whitefish. The existing resort tax generated for Block 46 is \$0 at this time. The new hotel will generate \$150,000 in resort tax. The cost of streetscape is \$314,275 and the payback to the resort fund is 2 years. The added benefit is that the resort tax will continue to be paid long after the Resort Tax fund is paid back. The new streetscape for the entire Block 46 will create a dramatic improvement to the entrance of Whitefish and is obviously a great investment of the resort tax fund. This one block of streetscape will produce as much or more income to the resort tax than previous blocks completed in the downtown district and will be a continuous income producer for the resort tax fund to help fund other projects and lower the taxes for Whitefish residents.

There will be a net gain of 11 public on-street parking spaces, due to the creation of angle parking, on Kalispell Avenue and 3rd Street. The hotel is planning a parking lot with 71 spaces for hotel guests (parking is not required in the WB-3 zone). Average hotel occupancy (70% occupancy) which translates to an average of 57 cars.

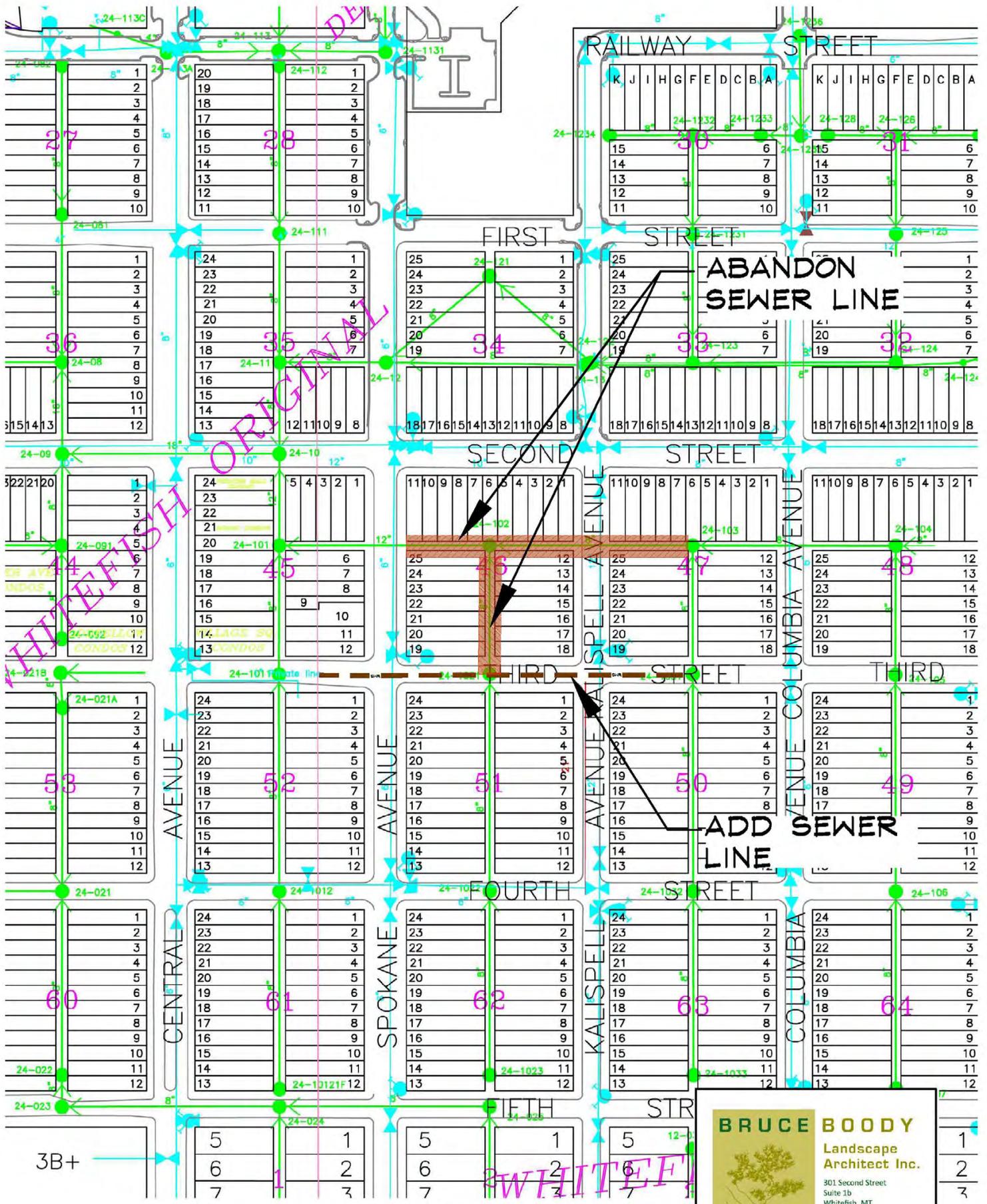
This project is a logical expression and minor extension of the Downtown Business District streetscape project. Enhancing this block, at one of the busiest and most visual intersections in town, is a vital enhancement for the downtown as a whole.

On behalf of Orlan Sorensen, Landmark Construction Management.

Bruce Boody ASLA

Attachments: Sanitary Sewer Relocation
Schematic Site Plan (R.O.W.'s highlighted)
Schematic Design Cost Estimate for TIF Funding

*Portions of this amount are anticipated revenue from the ancillary retail on site. The remainder is anticipated additional revenues generated in the downtown business district from extended visitor days (Flathead County Parks and Recreation Master Plan/Institute of Tourism and Recreation Research, University of Montana).

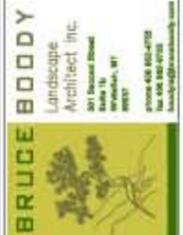
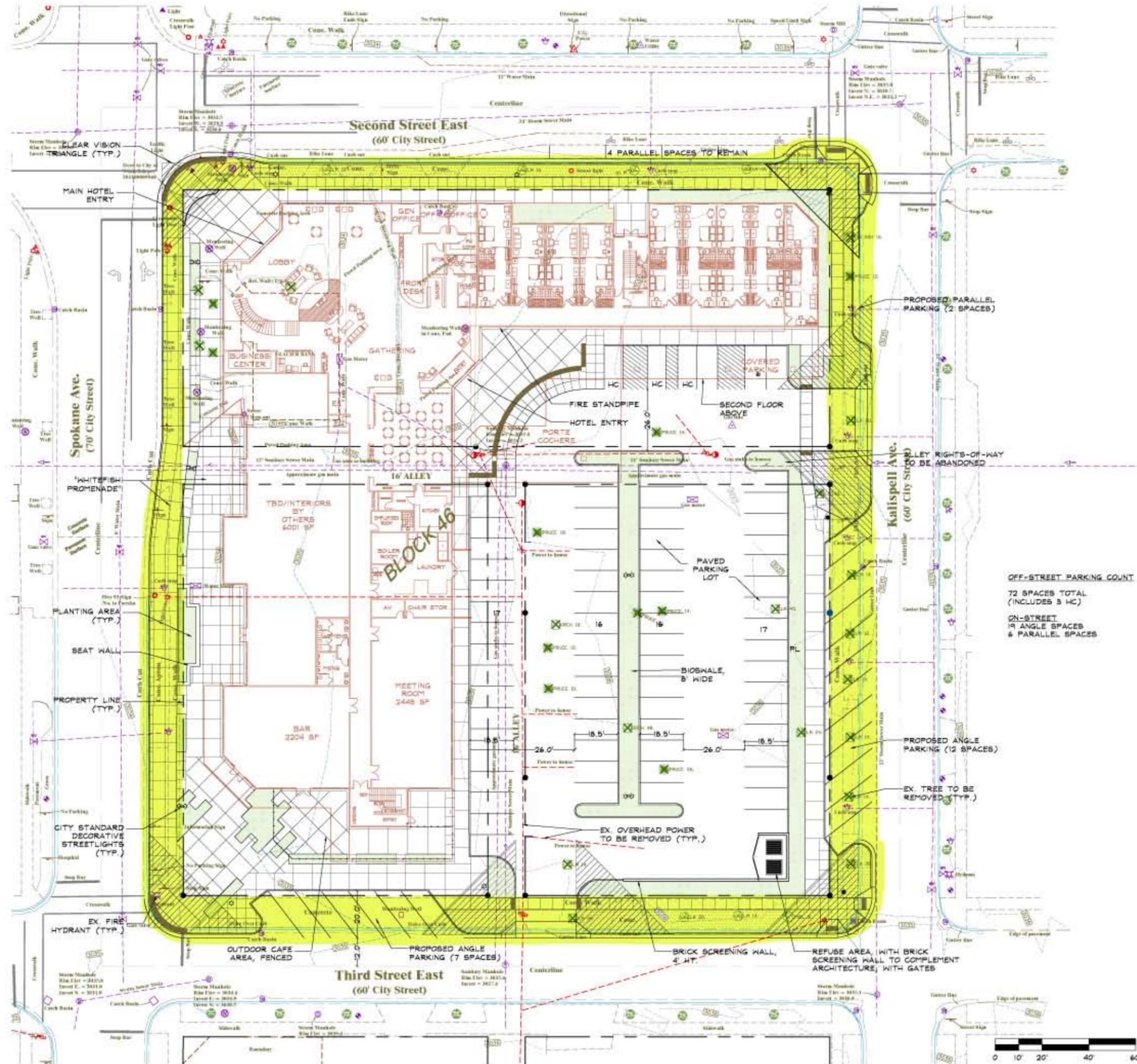


SANITARY SEWER RELOCATION
 APRIL 25, 2013
 SCALE: 1" = 200'

BRUCE BOODY
 Landscape Architect Inc.
 301 Second Street
 Suite 11b
 Whitefish, MT
 59937
 phone 406 862 4755
 fax 406 862 9755
 boodyla@bruceboody.com



VICINITY MAP
NOT TO SCALE



SURVEY BY:
SANDS SURVEYING INC.
TOM SANDS
2 VILLAGE LOOP
KALISPELL, MT 59901
(406) 755-6481

Revisions:

BLOCK 46
SORENSEN
WHITEFISH, MT
SEC 36, T31N, R22W



SCALE: 1" = 20'
DATE: 04/25/13
JOB #: 13-10

SCHEMATIC
SITE PLAN
WHITEFISH
SITE PLAN
REVIEW

SHEET 1 OF 1

Bruce Boody Landscape Architecture, Inc.
Preliminary Opinion of Probable Cost

Type Estimate: **Construction of:** **Improvement of:**
 Prelim.Design Softscape Block 46 Hotel
 Final Hardscape Streetscape within Public Right-of-Way

Based on Plan: Schematic Site Plan **Project #:** 13-10
Dated: 4/29/2013 **Prepared by:** J. Jauchius

Item #	Description	Quantity	Unit	Unit Price	Total
	Demolition, Excavation & Embankment	1	LS	\$25,000.00	\$25,000.00
	Storm Sewer Modification	1	LS	\$60,000.00	\$60,000.00
	Electrical	1,200	LF	\$16.00	\$19,200.00
	Curb & Gutter	933	LF	\$17.00	\$15,861.00
	Asphalt (Parking Areas & Patch, with gravels)	5,967	SF	\$4.00	\$23,868.00
	Concrete Sidewalk (with gravels)	8,875	SF	\$5.50	\$48,812.50
	Detectable Warning Strip	100	LF	\$10.00	\$1,000.00
	Brick Seat Wall	6	LF	\$45.00	\$270.00
	Single Light Pole	7	EA	\$3,148.00	\$22,036.00
	Double Light Pole	3	EA	\$4,108.00	\$12,324.00
	Bike Rack	7	EA	\$495.00	\$3,465.00
	Trash Receptacles	3	EA	\$1,295.00	\$3,885.00
	Street Trees	5	EA	\$425.00	\$2,125.00
	Ornamental Planting Areas (with plants, soils, weed fabric, bark mulch)	467	SF	\$6.00	\$2,802.00
	Sodded Lawn (with soils)	3,581	SF	\$1.50	\$5,371.50
	Automatic Irrigation System	4,048	SF	\$1.30	\$5,262.40
	Concrete Irrigation Vault	1	LS	\$4,000.00	\$4,000.00
	Construction Surveys & Materials Testing	1	LS	\$10,000.00	\$10,000.00
	Traffic Control	1	LS	\$4,000.00	\$4,000.00
	Mobilization, Bonding & Submittals	1	LS	\$4,000.00	\$4,000.00
Subtotal					\$273,282.40
15% Contingency					\$40,992.36
GRAND TOTAL					\$314,274.76

TO: John Wilson
FROM: Ryan Mitchell
SUBJECT: 3rd Street Sewer Extension
Proposed Project Options and Cost Estimates
DATE: April 3, 2013

John,

Per your request, RPA has evaluated the proposed 3rd Street Sewer Extension. You requested that RPA prepare a quote and a timeline to complete this preliminary work. I decided to perform this work as marketing, at no charge to the City. We appreciate our working relationship and are happy to assist you with these types of requests.

Below is a summary of what we have evaluated and our findings for the 3rd Street Sewer Extension.

Proposed Project and Options:

The proposed project consists of re-routing the existing sewer collection mains that are located upon the Block 46 Development Site. There are two (2) options that were reviewed to accomplish this. Option 1 consists of extending a sewer main from an existing manhole in 3rd Street, just west of Spokane Avenue, then continue east along 3rd Street to Kalispell Avenue and then north along Kalispell Avenue to the east-west alley and connect to the existing sewer main. Option 2 consists of extending a sewer main from an existing manhole in 3rd Street, just west of Spokane Avenue, then continue east along 3rd Street to the alley between Kalispell Avenue and Columbia Avenue and then then north along said alley to an existing manhole.

Existing Sewer Collection Area Analysis:

RPA review the collection area for the sewer and calculated the flow generated by the collection area. The sewer collection area is generally described as being the area that is bound on the west by Central Avenue, on the north by Second Street, on the east by Somers Avenue and the south by Fifth Street.

The sewer collection area consists of approximately 284 lots and 33.2 acres of land. Assuming that each lot has a 3 bedroom residential home, which is conservative, and produces a typical flow of 300 gallons per day (gpd) of wastewater, the collection area would produce a total of 85,200 gpd. This equates to 59 gallons per minute (gpm). With a peaking factor of 4.0, the peak flow for the collection area is estimated to be 237 gpm.

Peak Flow = 237 gpm

An 8" PVC sewer main on a minimum grade of 0.40% has the capacity to convey 480 gpm. Thus, the existing 8" sewer main in the alley between Central Avenue and Spokane Avenue should be adequate to convey the flow, but is dependent of the grade of the pipe.

Option 1 Design and Cost Estimate:

RPA has reviewed and used the sewer invert elevations provided to perform a preliminary design for this option. *It should be noted that we recommend a field survey of the manholes to verify invert elevations prior to any final design.* For this option, utilizing the minimum pipe slopes allowed by MDEQ, RPA has determined that the City would need to install a 10" PVC pipe and request a deviation from MDEQ for the oversized pipe. The minimum grade for a 10" PVC is 0.28%.

With a 10" pipe at a slope of 0.28%, it appears that this option is viable.

The cost for constructing this option is summarized below. A detailed cost estimate is attached.

Construction Costs = \$126,150
Consultant Fees = \$37,200
Total Project Costs = \$163,350

Option 2 Design and Cost Estimate:

RPA has reviewed and used the sewer invert elevations provided to perform a preliminary design for this option. *It should be noted that we recommend a field survey of the manholes to verify invert elevations prior to any final design.* For this option, utilizing the minimum pipe slopes allowed by MDEQ, RPA has determined that the City would need to install a 12" PVC pipe and request a deviation from MDEQ for the oversized pipe. The minimum grade for a 12" PVC is 0.22%.

With eliminating the 0.10-foot drop through each manhole and a 12" pipe at a slope of 0.22%, and it appears that this option is viable.

The cost for constructing this option is summarized below. A detailed cost estimate is attached.

Construction Costs = \$160,770
Consultant Fees = \$43,200
Total Project Costs = \$203,970

Contaminated Soils:

RPA is aware that contaminated soils were encountered at the southwest corner of 3rd Street and Spokane Avenue during the reconstruction of 3rd Street. Because of this, we want to discuss what typically happens if contaminated soils are encountered and a cost estimate for this work.

If contaminated soils are encountered during construction, the pipe would need to be changed to Ductile Iron with Nitrile Gaskets, the contaminated soil will need to be hauled away to an approved land disposal site and imported trench material would need to be utilized as backfill. Additionally, there is some testing of the soils that is required to determine exactly what the contamination is and what concentration. We have no idea to estimate the amount, if any, of contaminated soil that will be encountered. So, we have prepare a cost on a per station (per 100-foot) basis.

The increase in cost for dealing with contaminated soils, on a per station basis, is summarized below. A detailed cost estimate is attached.

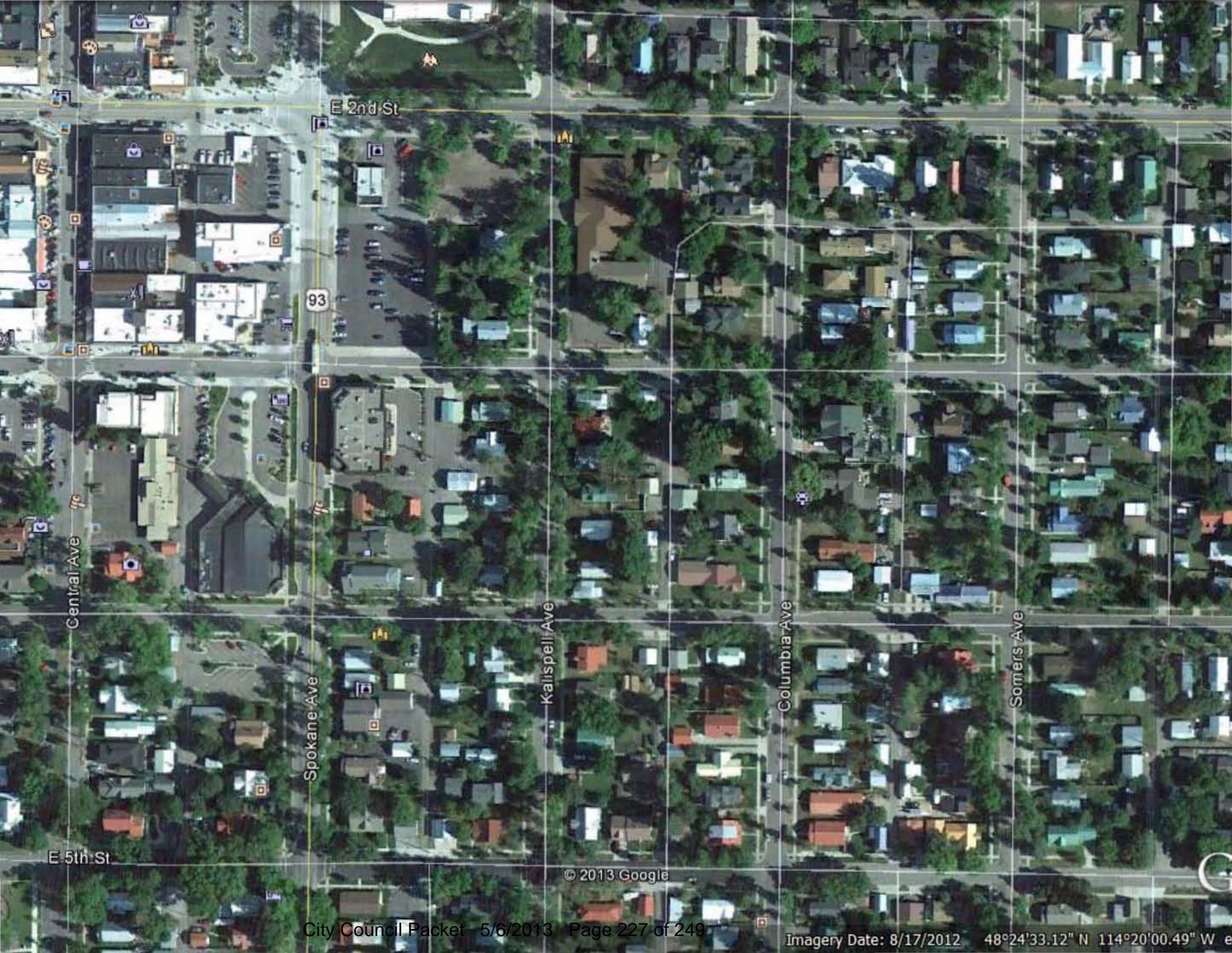
Construction Costs = \$25,100
Consultant Fees = \$4,000
Total Project Costs = \$29,100

It is our estimate that if contaminated soils are encountered that it would cost approximately \$29,100 per station. This equates to a cost of about \$291 per foot. This is a cost increase above any bid prices.

It will not be known how much, if any contaminated soil will be encountered during construction. I would conservatively estimate at least 100 feet (\$29,100) be included in any budgets.

As you review this information, please do not hesitate to contact me if you have any questions. Attached are .PDF files of the Sewer Collection Area, Option 1, Option 2 and Detailed Cost Estimates.

Thank you.



E 2nd St

93

Central Ave

Spokane Ave

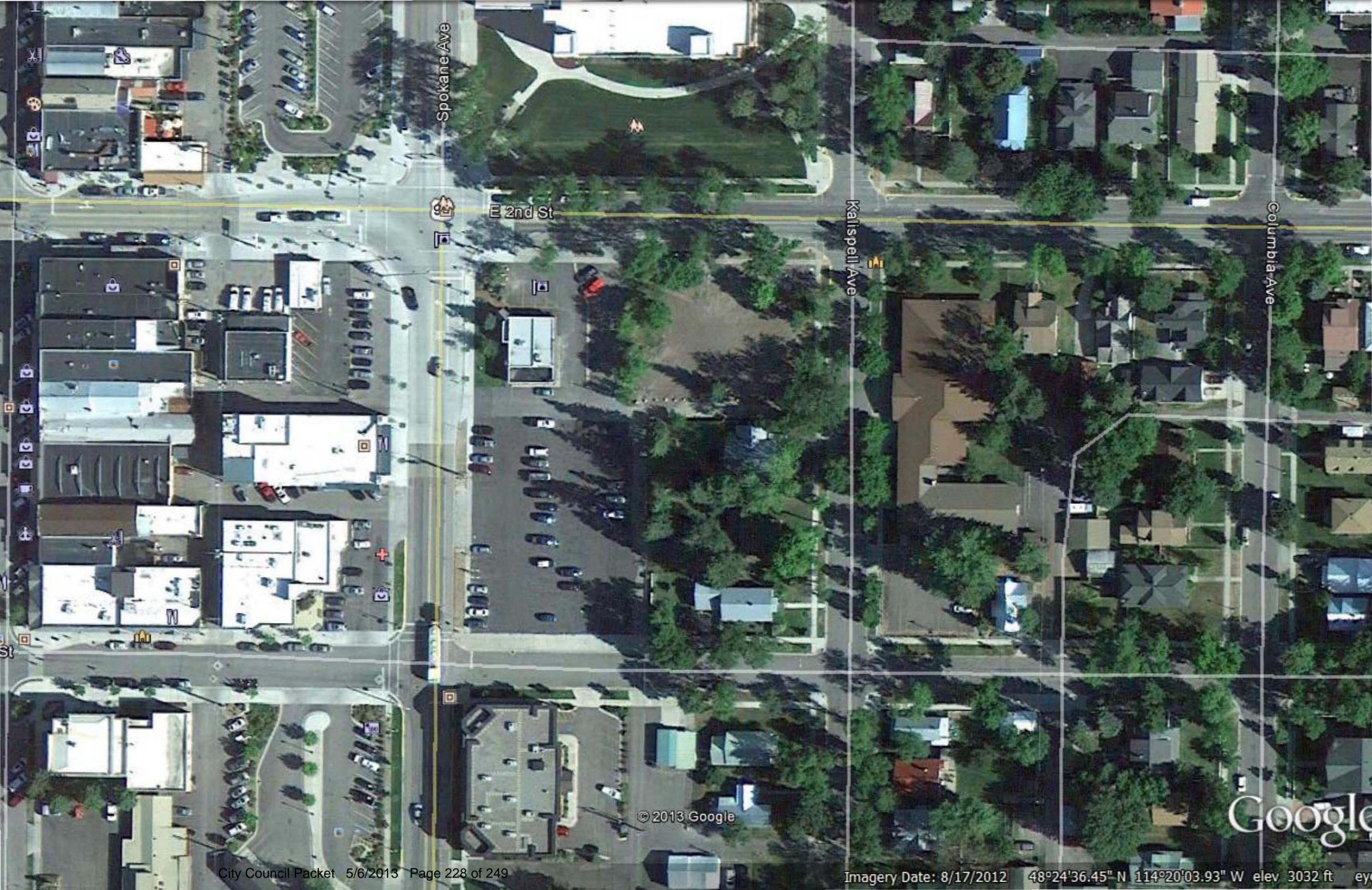
Kalispell Ave

Columbia Ave

Somers Ave

E 5th St

© 2013 Google



Spokane Ave

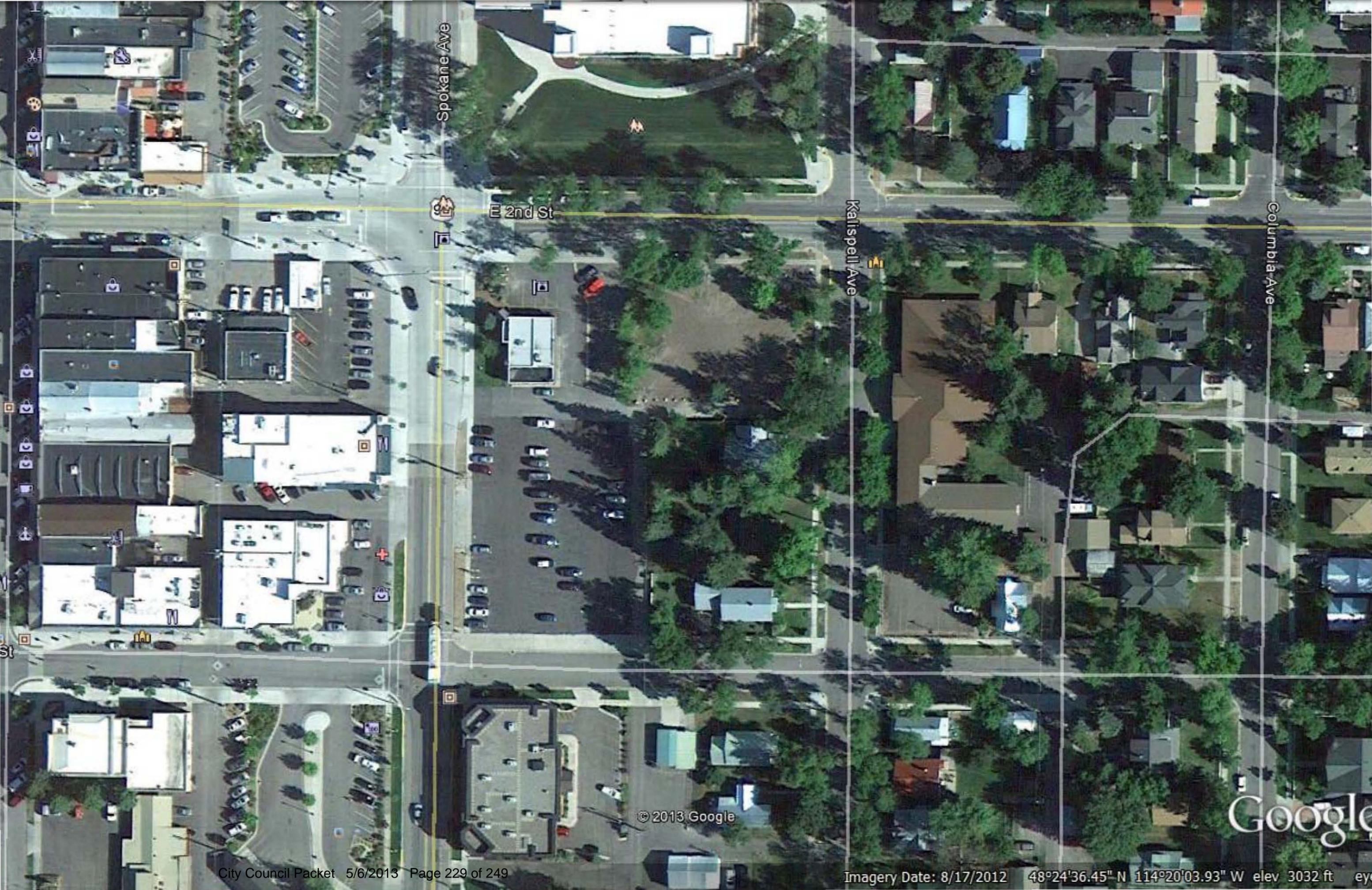
E 2nd St

Kalispell Ave

Columbia Ave

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Spokane Ave

E 2nd St

Kalispell Ave

Columbia Ave

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**Engineers Opinion of Probable Cost
3RD STREET SEWER - OPTION 1
Revised 4/02/13 by REM**



Robert Peccia & Associates, Inc.
825 Custer Avenue * Helena * Montana * (406) 447-5000
102 Cooperative Way, Suite 300 * Kalispell * Montana * (406) 752-5025

Item No.	Quantity	Unit	Unit Description	Engineer's Estimate	
				Unit Price (Figures)	Total Price (Figures)
CONSTRUCTION COSTS					
1	300	CY	Imported Trench Backfill	\$30.00	\$9,000.00
2	610	LF	Pipe - Buried: 10" Sanitary Sewer Main - SDR 35 PVC Pipe	\$55.00	\$33,550.00
3	3	EA	Sanitary Sewer Service with Cleanouts - Sch. 40 PVC Pipe	\$1,500.00	\$4,500.00
4	5	EA	Manhole - 48" Sanitary Sewer	\$3,500.00	\$17,500.00
5	500	SY	Stabilization Fabric	\$2.00	\$1,000.00
6	200	CY	Crushed Base Course - 3/4" Minus	\$35.00	\$7,000.00
8	120	TON	Asphalt Concrete Pavement (4" Thick, Includes Tack Coat)	\$90.00	\$10,800.00
9	160	CY	Flowable Fill	\$100.00	\$16,000.00
10	1	LS	Construction Surveys & Material Testing	\$3,000.00	\$3,000.00
11	1	LS	Traffic Control	\$7,900.00	\$7,900.00
12	1	LS	Mobilization, Bonding and Submittals (4% Max)	\$4,400.00	\$4,400.00
13	1	LS	10% Contingency	\$11,500.00	\$11,500.00
TOTAL CONSTRUCTION COSTS:					\$126,150.00
CONSULTANT FEES					
1	1	LS	Preliminary Engineering Phase	\$5,000.00	\$5,000.00
2	1	LS	Design Phase	\$19,200.00	\$19,200.00
3	1	LS	Bid to Award Phase	\$6,500.00	\$6,500.00
4	1	LS	Construction Phase (3 Weeks @ 24 Hours per Week)	\$6,500.00	\$6,500.00
TOTAL ENGINEERING FEES:					\$37,200.00
TOTAL PROJECT COSTS:					\$163,350.00

**Engineers Opinion of Probable Cost
3RD STREET SEWER - OPTION 2
Revised 4/02/13 by REM**



Robert Peccia & Associates, Inc.
825 Custer Avenue * Helena * Montana * (406) 447-5000
102 Cooperative Way, Suite 300 * Kalispell * Montana * (406) 752-5025

Item No.	Quantity	Unit	Unit Description	Engineer's Estimate	
				Unit Price (Figures)	Total Price (Figures)
CONSTRUCTION COSTS					
1	300	CY	Imported Trench Backfill	\$30.00	\$9,000.00
2	764	LF	Pipe - Buried: 12" Sanitary Sewer Main - SDR 35 PVC Pipe	\$65.00	\$49,660.00
3	5	EA	Sanitary Sewer Service with Cleanouts - Sch. 40 PVC Pipe	\$1,500.00	\$7,500.00
4	6	EA	Manhole - 48" Sanitary Sewer	\$3,500.00	\$21,000.00
5	630	SY	Stabilization Fabric	\$2.00	\$1,260.00
6	250	CY	Crushed Base Course - 3/4" Minus	\$35.00	\$8,750.00
8	150	TON	Asphalt Concrete Pavement (4" Thick, Includes Tack Coat)	\$90.00	\$13,500.00
9	160	CY	Flowable Fill	\$100.00	\$16,000.00
10	1	LS	Construction Surveys & Material Testing	\$3,800.00	\$3,800.00
11	1	LS	Traffic Control	\$10,100.00	\$10,100.00
12	1	LS	Mobilization, Bonding and Submittals (4% Max)	\$5,600.00	\$5,600.00
13	1	LS	10% Contingency	\$14,600.00	\$14,600.00
TOTAL CONSTRUCTION COSTS:					\$160,770.00
CONSULTANT FEES					
1	1	LS	Preliminary Engineering Phase	\$6,000.00	\$6,000.00
2	1	LS	Design Phase	\$22,100.00	\$22,100.00
3	1	LS	Bid to Award Phase	\$6,500.00	\$6,500.00
4	1	LS	Construction Phase (4 Weeks @ 24 Hours per Week)	\$8,600.00	\$8,600.00
TOTAL ENGINEERING FEES:					\$43,200.00
TOTAL PROJECT COSTS:					\$203,970.00

**Engineers Opinion of Probable Cost
3RD STREET SEWER - CONTAMINATED SOILS COSTS
Revised 4/02/13 by REM**



*Robert Peccia & Associates, Inc.
825 Custer Avenue * Helena * Montana * (406) 447-5000
102 Cooperative Way, Suite 300 * Kalispell * Montana * (406) 752-5025*

Item No.	Quantity	Unit	Unit Description	Engineer's Estimate	
				Unit Price (Figures)	Total Price (Figures)
CONSTRUCTION COSTS					
1	130	CY	Haul Off Contaminated Soil	\$130.00	\$16,900.00
2	130	CY	Imported Trench Backfill	\$30.00	\$3,900.00
3	100	LF	Pipe - Buried: Sanitary Sewer Main - Upgrade to Ductile Iron Pipe	\$20.00	\$2,000.00
13	1	LS	10% Contingency	\$2,300.00	\$2,300.00
TOTAL CONSTRUCTION COSTS:					\$25,100.00
CONSULTANT FEES					
1	1	LS	Soils Testing	\$4,000.00	\$4,000.00
TOTAL ENGINEERING FEES:					\$4,000.00
TOTAL PROJECT COSTS:					\$29,100.00

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R				
1			Estimate of Value of Property Tax Incentives Allowed under 15-24-1401																			
2				Project:		Boutique Hotel on block 46																
3				Prepared:		4/30/2013																
4																						
5																						
6	Assumptions:																					
7		1. Assessor's building valuation equals valuation on building permit - caution, may not be the case																				
8		2. Machinery and Furniture, Fixtures and Equipment (FFE) is valued at acquisition cost																				
9		3. Construction starts - Fall 2013																				
10		4. Construction ends - Fall, 2014																				
11		5. New building, machinery, and FFE is assessed at full value as of 1/1/15																				
12		6. First year of full taxation is 2015 tax year, FY16 with first tax bill issued October, 2015																				
13						120	*** may change over time															
14						62	*** may change over time															
15						89	*** may change over time															
16						120	*** may change over time															
17						545	*** may change over time															
18																						
19																						
20			Market	Tax Rate		Taxable		Total Taxes														
21			Valuation	Multiplier		Valuation		@ 551 mills w/o abatement														
22	Building		\$10,000,000	0.0247		\$247,000		\$136,097														
23	Machinery		\$0	0.02		\$0		\$0														
24	FFE		\$1,900,000	0.02		\$38,000		\$20,938														
25																						
26	Totals		\$11,900,000			\$285,000		\$157,035														
27																						
28																						
29																						
30			Tax Break			City tax	Elementary	High School														
31	Tax Year	FY	Rate			reduction	tax reduction	tax reduction		Totals												
32																						
33	2015	15	0.5			\$17,100.00	\$8,835.00	\$12,682.50		\$38,617.50		\$17,100.00			\$77,662.50			\$94,762.50				
34	2016	16	0.5			\$17,100.00	\$8,835.00	\$12,682.50		\$38,617.50		\$17,100.00			\$77,662.50			\$94,762.50				
35	2017	17	0.5			\$17,100.00	\$8,835.00	\$12,682.50		\$38,617.50		\$17,100.00			\$77,662.50			\$94,762.50				
36	2018	18	0.5			\$17,100.00	\$8,835.00	\$12,682.50		\$38,617.50		\$17,100.00			\$77,662.50			\$94,762.50				
37	2019	19	0.5			\$17,100.00	\$8,835.00	\$12,682.50		\$38,617.50		\$17,100.00			\$77,662.50			\$94,762.50				
38	2020	20	0.4			\$13,680.00	\$7,068.00	\$10,146.00		\$30,894.00		\$13,680.00			\$93,195.00			\$106,875.00				
39	2021	21	0.3			\$10,260.00	\$5,301.00	\$7,609.50		\$23,170.50		\$10,260.00		\$23,940.00			\$34,200.00					
40	2022	22	0.2			\$6,840.00	\$3,534.00	\$5,073.00		\$15,447.00		\$6,840.00		\$27,360.00			\$34,200.00					
41	2023	23	0.1			\$3,420.00	\$1,767.00	\$2,536.50		\$7,723.50		\$3,420.00		\$30,780.00			\$34,200.00					
42	2024	24	0			\$0.00	\$0.00	\$0.00		\$0.00		\$0.00		\$34,200.00			\$34,200.00					
43																						
44	Totals					\$119,700.00	\$61,845.00	\$88,777.50		\$270,322.50		\$119,700.00		\$116,280.00	\$481,507.50		\$136,800.00	\$580,687.50				
45																						
46																						
47																						

Montana Code Annotated 2011

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15-24-1401. Definitions. The following definitions apply to [15-24-1402](#) unless the context requires otherwise:

(1) "Expansion" means that the industry has added after July 1, 1987, at least \$50,000 worth of qualifying improvements or modernized processes to its property within the same jurisdiction either in the first tax year in which the benefits provided for in [15-24-1402](#) are to be received or in the preceding tax year.

(2) "Industry" includes but is not limited to a firm that:

(a) engages in the mechanical or chemical transformation of materials or substances into products in the manner defined as manufacturing in the North American Industry Classification System Manual prepared by the United States office of management and budget;

(b) engages in the extraction or harvesting of minerals, ore, or forestry products;

(c) engages in the processing of Montana raw materials such as minerals, ore, agricultural products, and forestry products;

(d) engages in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of the industry's gross sales or receipts are earned from outside the state;

(e) earns 50% or more of its annual gross income from out-of-state sales; or

(f) engages in the production of electrical energy in an amount of 1 megawatt or more by means of an alternative renewable energy source as defined in [15-6-225](#).

(3) "New" means that the firm is new to the jurisdiction approving the resolution provided for in [15-24-1402](#)(2) and has invested after July 1, 1987, at least \$125,000 worth of qualifying improvements or modernized processes in the jurisdiction either in the first tax year in which the benefits provided for in [15-24-1402](#) are to be received or in the preceding tax year. New industry does not include property treated as new industrial property under [15-6-135](#).

(4) "Qualifying" means meeting all the terms, conditions, and requirements for a reduction in taxable value under [15-24-1402](#) and this section.

History: En. Sec. 2, Ch. 564, L. 1981; amd. Sec. 1, Ch. 574, L. 1987; amd. Sec. 2, Ch. 694, L. 1991; amd. Sec. 29, Ch. 51, L. 1999; amd. Sec. 7, Ch. 591, L. 2001; amd. Sec. 2, Ch. 405, L. 2003.

Provided by Montana Legislative Services

Montana Code Annotated 2011

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15-24-1402. New or expanding industry -- assessment -- notification. (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their taxable value. Subject to [15-10-420](#), each year thereafter, the percentage must be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in [76-15-103](#) and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) Subject to [15-10-420](#), the governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) must include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(d) Property taxes abated from the reduction in taxable value allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of [15-24-1401](#), this section, or the resolution required by subsections (2)(a) and (2)(c) of this section. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in [15-16-102](#), during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

(3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. The benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10, [20-9-331](#), [20-9-333](#), or [20-9-360](#) or otherwise required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit.

History: En. Sec. 3, Ch. 564, L. 1981; amd. Sec. 2, Ch. 574, L. 1987; amd. Sec. 3, Ch. 694, L. 1991; amd. Sec. 48, Ch. 767, L. 1991; amd. Sec. 116, Ch. 27, Sp. L. November 1993; amd. Sec. 97, Ch. 584, L. 1999; amd. Sec. 1, Ch. 597, L. 2005.

Provided by Montana Legislative Services

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received
4/12/13

April 12, 2013

Megan Olson
205 Trestle View Court
Whitefish, MT 59937
(406) 871-5480

Chuck Stearns
City Manager
418 East Second Street
Whitefish, MT 59937

Cc: Mayor John Muhlfeld

Dear Mr. Stearns,

I am writing to request your support and approval of my new small business. With your endorsement I would like to operate an ice cream truck, named Lucy B's. Lucy B's will be a simple "old school" ice cream truck, much like the one we all have fond memories of. I anticipate providing popsicles, ice cream treats and specialty bars at a reasonable rate.

I intend to provide this service during the spring and summer months when weather permits. I would like the permission of City Council to use the public streets and surrounding neighborhoods for this business. I do not intend parking for a period longer than it takes to serve my customers. Enclosed you will find a list of streets and neighborhoods I would like to frequent.

Lucy B's is named after my own children, Bjorn and Lucy. It is my goal to teach Bjoand Lucy valuable tools for their future through this educational opportunity. Perhaps they will manage the business when they are old enough.

Lucy B's will function out of a 1983 Postal Jeep. It will be delightful in appearance, and adhere to Whitefish's special small-town charm and charisma. Without a doubt it will bring smiles to the citizens of Whitefish.

I am very excited about this opportunity. Please let me know if I can help answer any further questions about Lucy B's.

Sincerely,



Megan M. Olson

Enclosed: List of Streets & Neighborhoods

Enclosure: List of Streets & Neighborhoods

Bay Point

City Beach

Colorado Street

Creek Wood

Depot Park

Dog Park

Down Town Neighborhoods (Ex: Columbia Avenue)

Houston Point

Hueth Lane

Lupher Avenue

Monterra Units

Patterson Kid Park

Peregrine Lane

Peregrine Lane

Rail District

Rail District

Shady River Lane

Smith Ball Fields

Suncrest Subdivision

Vista Drive

Willow Brook

6-2-1: STANDING RESTRICTIONS:

A. Use Of Public Ways:

1. The city council is authorized to, by motion, designate such places upon the streets, avenues or highways of the city, as it may deem necessary, desirable or proper for pushcarts, lunch, popcorn or ice cream stands or wagons, and also for public and private hacks, buses and taxicabs to stand when not employed in carrying passengers; no pushcart, lunch, popcorn, ice cream stand or wagon shall stand in or upon or be operated in or upon any public street, highway or other roadway in any place other than that so designated by the city council, and no public or private hack, bus or taxicab shall stand or park upon any street in any business district at any place other than at the bus stop or taxicab or hack stand so designated by the city council, except that this provision shall not prevent the operator of any such vehicle from temporarily stopping in accordance with other parking regulations for the purpose of and while actually engaged in letting passengers into or out of such vehicle. It is unlawful for any driver of any taxicab to seek employment or passengers by persistently driving his vehicle back and forth in a short space so as to interfere with proper and orderly access to or egress from any theater, hall, hotel, public resort, railway station or any place of public gathering, but any driver of any automobile or taxicab may solicit employment by driving through any public street or avenue without stops other than those due to obstruction of traffic or requirement of this title, and may pass or re-pass any of such places hereinbefore referred to, provided that after passing such public place he shall not turn and re-pass the same until he shall have gone a distance of two (2) blocks beyond such place.
2. The city clerk and the police department shall keep on file and open to inspection a record showing the location upon the streets or highways set apart and designated as stands where public or private hacks, buses and taxicabs may stand when not employed in the actual carrying of passengers. (Ord. A-85, 12-5-1955)

B. Specific Areas: It is unlawful, at any time, to permit any vehicle to stand in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device:

1. In any intersection;
2. In any crosswalk;
3. At any place where the vehicle would block the use of a driveway;
4. On any sidewalk, parkway or curb area between any sidewalk and street curb line;
5. Within any alley in such a manner or under such conditions as to leave available less than sixteen feet (16') of the width of the alleyway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrances to any abutting property;
6. At any place where official signs prohibit parking;
7. On any private property without the consent of the owner of the property. (Ord. A-85, 12-5-1955; amd. Ord. A-137, 11-19-1965; Ord. A-155, 8-7-1967; Ord. A-165, 10-7-1968; Ord. 85-14, 10-21-1985)
8. For purposes of this title, "compact and subcompact motor vehicles" shall include only vehicles having a length of less than one hundred ninety inches (190"). (Ord. 03-09, 4-7-2003)

C. Violation; Penalty: A person who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, be subject to a fine as provided in the general penalty in section [1-4-1](#) of this code. A person who

violates this section shall also be deemed to have committed a municipal infraction, and shall be assessed the civil penalty described in section [1-4-4](#) of this code. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa. Each day that a violation remains shall constitute a separate violation. (Ord. 09-20, 10-19-2009)

Chuck Stearns

From: Lyndsay Schott [lyndsay@whitefishreview.org]
Sent: Wednesday, April 17, 2013 2:48 PM
To: nlorang@cityofwhitefish.org; Chuck Stearns
Subject: 7th St traffic plan during Hwy 93 construction

Chuck, John, Karin, Mayor Muhlfeld, & City Council members,

I'd like to bring to your attention the increase in traffic on 7th St W due to the Hwy 93 construction.

The traffic has increased 5 fold since the construction started. There are more speeding cars on 7th St and through the adjacent neighborhoods--from people trying to avoid the 7th & Baker intersection.

The traffic is noisy, stressful and generally upsetting. There are a number of children in our neighborhood, including our 2 children--ages 1 & 8, so the speeding through side streets is particularly bothersome.

Plans for Slowing the 7th St Traffic?

I'd like to know what plans for slowing the 7th St traffic the City has for the time during the Hwy 93 construction.

I was told (by City of Whitefish and LHC) there are no traffic control plans in place because this is a MT DOT project and there is no official detour through the neighborhood streets in place.

Potential Solutions

1. 25 mile per hour solar powered radar signs that show speed of cars & flash when cars are traveling at speeds above 25 mph.
2. temporary speed bumps to slow traffic
3. police speed traps-- not just increased patrol, but a parked police cars checking the speed of vehicles and ticketing them to create known speed trap areas in Whitefish (not to mention increased revenue, to cover the cost of the solar powered radar signs?)

There is a traffic problem now and it will only get worse as we approach the summer.

Please put this item on the agenda for the City Council.

I look forward to working with you on a solution to the traffic problem.

Thanks,
Lyndsay Schott
708 Lupfer Ave
Whitefish, MT 59937

tel 406.212.1331 | email lyndsay@whitefishreview.org | web www.whitefishreview.org

Chuck Stearns

From: Necile Lorang [nlorang@cityofwhitefish.org]
Sent: Thursday, April 18, 2013 10:35 AM
To: cstearns@cityofwhitefish.org
Subject: Fw: letter to councilors and mayor

----- Original Message -----

From: [Doug Adams](#)
To: [Necile Lorang](#)
Sent: Thursday, April 18, 2013 10:24 AM
Subject: letter to councilors and mayor

Necile, please forward this letter to the City Council.

Thanks,
Doug

Dear Mayor and Councilors:

I'm writing concerning the maintenance (or lack thereof) of the landscape along Hwy 93.

As a means of providing adequate background, the landscape was originally designed by a landscape architecture firm and installed when the highway was widened to 5 lanes in the late 90's. The landscape design was not very creative, but the real problem was that it was not maintained. The City crews eventually just started mowing over the shrubs and flowers. The City then decided to remove the edging, which basically did away with any definition of the beds and made any chance at maintenance impossible. At that point I talked with then Parks and Rec director Dan Keyes about some options. Ultimately, we decided to keep the beds and fill them with a variety of shrubs and perennials. I re-designed the beds to give more color and texture to the landscape (free of charge). I presented my plan to the Park Board. It was approved by them and the City Council. I emphasized in my presentation that there's no such thing as a maintenance-free landscape. Even concrete needs maintenance. I told them that a million dollar landscape isn't worth a dime if it isn't maintained. And I stressed that the maintenance will need to continue forever. I told them not to commit to it if they weren't going to follow through. City crews were used to install the plant material. For years, the landscaping along Hwy 93, from Pizza Hut to the "Welcome to Whitefish" sign, was very attractive, because it was maintained. As the economy dried up, so did the Parks and Rec budget. The end result is that there are dead/ diseased trees, grass in the beds, and unhealthy plants. When Flathead Electric came through there and decimated the trees on the west side, the corridor really took a hit. According to Karl, the City was never even contacted about the removal of its trees. In my opinion, FEC should have had to compensate the city so that new, height-appropriate trees could replace the ones that were removed.

These days, the landscape has grass growing between shrubs, particularly in front of Army Navy, where they had to dig through one bed for utility hookup. They eventually replace the junipers, but grass has been allowed to grow all in the bed. Rather than spraying Roundup, the City is just mowing through the bed. Other than the shrub pruning that volunteers from Fresh Life Church did last year, there's been no maintenance of the plants. I believe Karl told me that they're never fertilized, either. Although I probably pay more attention to the landscape than the average person since I'm a landscaper, I think that the area is a disgrace and an embarrassment to Whitefish. Whereas it used to be an attractive welcome to tourists, now it's just a reminder that most commitments get forgotten. In the end, if something doesn't change, most of the trees will eventually be gone (the aspens have a bad ant problem), the perennials will disappear (all they need is some fertilizer), and the shrubs will either get overgrown and removed, or they'll get mowed down when the weeds and grass overgrow them. A little bit of labor and fertilizer over the years could have prevented this eventual demise. Unfortunately, it costs more to renovate landscapes than to maintain them. In other words, it's very shortsighted, financially speaking, to ignore the problem rather than to keep it in check. I'm not advocating throwing more warm bodies at the problem. That's not what is needed. You need someone with some horticultural knowledge to oversee landscape maintenance along 93, and, for that matter, on all city landscapes. Ignorance is part of

the problem. The City does not, to my knowledge, have any employee with a knowledge of horticulture. Since a good professional horticulturist may well not be affordable, I suggested to Karl that the City take advantage of youthful exuberance and landscape knowledge by hiring horticulture interns from universities. I think you could offer up a great opportunity for a student to gain experience and hone his or her craft at a great price. Unfortunately, it may be July 1 before any money becomes available to hire additional maintenance workers in Parks and Rec. By that time, the landscape will be in that much worse condition, and I doubt that there will be any students available, as those seeking experience for the summer will have already found a job. I suggest that the City place ads immediately with universities that have landscape design majors and find some money to fund the position before July 1. I also suggest that you make it a priority to continue a horticulture intern program yearly. Otherwise, Hwy 93 will become more and more rundown, as will the parks, not to mention the new landscaping along Hwy 93 N, which I assume will have to be maintained by the City. \$10-\$15 an hour for a knowledgeable, passionate intern will ultimately save the City many thousands of dollars in renovation/removal costs and help Whitefish continue to be the jewel that it is.

Through the years, I have offered to meet with City employees to give advice on the landscape. I continue to offer free advice, if the City will only ask. If you hire a knowledgeable person, I can develop a game plan that will get the landscapes back into shape at an economical price.

Sincerely,
Doug Adams



Applied Communications LLC
151 Wedgewood Ln.
Whitefish, MT 59937
(406) 863-9255
rhorne@appcom.net

Whitefish Mayor and City Council
Via e-mail

April 19, 2013

Re: Consultant selection for Highway 93 West corridor plan

Dear Mayor and Council:

Applied Communications LLC will no longer seek reconsideration of your decision to award the consultant contract for the above referenced project to WGM Engineering. We wish the City, corridor residents, and property owners the best of success with this project.

Sincerely,

Robert Horne, Jr., AICP
Principal, Applied Communications LLC

CITIZENS FOR QUIET ZONE FOR BIRCH POINT CROSSING

March 21, 2013

John Muhlfeld, Mayor
City of Whitefish
P. O Box 158
Whitefish, MT 59937

RE: Birch Point Crossing Quiet Zone

Dear Mayor Muhlfeld:

This is to confirm that the residents in the area of the Birch Point Railway Crossing are requesting a quiet zone. The other two railway crossings in Whitefish are quiet zones and yet the Birch Point Crossing has more residents in the immediate area of the crossing than the other two.

With the increase of railroad traffic, the whistle becomes more of a nuisance. Also as the City of Whitefish has planned to build the Skye Bridge in conjunction with the bike path, and the Great Northern Veterans Peace Park is also at this crossing, the whistle will affect many more residents of Whitefish.

Citizens Representatives

Doug Wise and Janice Moore

City of Whitefish Aquatic Invasive Species (AIS) Conceptual Management Plan- 2013

TASKS

- 1) Partner with Bureau of Reclamation (BOR) and Flathead Basin Commission for Highway 2 Boat Inspection Station
The BOR has earmarked \$15,000 to provide seed money for a boat inspection station on Highway 2. The BOR earmark increases over the next several years. Negotiations with FWP and the Blackfeet Tribal Council have not yielded positive results to date but are on-going. Negotiations between the Flathead Basin Commission and Glacier National Park need to occur about a possible inspection station partnership. The most likely inspection station site (to be determined) would be somewhere west of Glacier National Park. There are a number of details to work out but a funding partnership by the City of Whitefish would get a station up and running and protect our local waterbodies from potential infestation from the north and east where no safeguards are currently in place. Funds would be dispersed to the Flathead Basin Commission for project management.
Cost: \$20,000

- 2) Support Flathead Basin Commission Technical Consultant
The Flathead Basin Commission Technical Consultant has proven to be a valuable asset in disseminating information on AIS issues, including control and eradication techniques, training boat inspectors, and responding to situations like the inspection of vessels involved with the Whitefish Lake clean-up effort. The budget for the consultant is support by various entities in Flathead and Lake Counties. Funds would be dispersed to the Flathead Basin Commission to support the technical consultant contract.
Cost: \$5,000

- 3) Beaver Lake Eurasian Watermilfoil (EWM) Monitoring/Control
Results of the 2012 Beaver Lake EWM monitoring and control effort yielded positive results. Work is needed for at least the next five years to monitor and eradicate any additional plants. The Beaver Lake EWM infestation currently presents the greatest AIS risk to Whitefish Lake. WLI is partnering in the project by deploying a sediment curtain near the lake outlet to Beaver Creek and will survey Beaver Creek and the downstream pond next to the BNSF tracks. Funds would be dispersed to the Flathead Basin Commission on behalf of the Beaver Lake EWM Workgroup for monitoring and control.
Cost: \$5,000

- 4) Early AIS Plant Detection Monitoring of Nearby Lakes
Early AIS detection of nearby lakes is vital to identify and manage any new AIS infestation. Early detection monitoring includes zebra/quagga mussel monitoring, and

aquatic plant monitoring including; EWM, curly leaf pondweed, flowering rush, yellow flag iris and fragrant water lilly. The monitoring of 40 local lakes and over 50 sites are conducted via the Northwest Montana Lakes Volunteer Monitoring Network (NWMTLVMN) which is administered and coordinated by the Whitefish Lake Institute through a partnership with Montana FWP and the Flathead Basin Commission. Funds would be dispersed to the NWMTLVMN via WLI for additional and more in depth AIS plant surveys.
Cost: \$5,000

5) eDNA Analysis

The NWMTLVMN currently collects zebra mussel veliger (larvae) samples at all program lakes for early detection monitoring. Samples are sent to Montana FWP and an independent source for microscopy analysis (looking for veligers under a microscope). Whereas this technique is a valued mechanism for early detection monitoring, it is a small sample compared to the large volumes in the program lakes. Environmental DNA analysis offers a complimentary analysis technique without the need to identify an actual individual mussel veliger. eDNA is also available for EWM. Funds would be dispersed to the NWMTLVMN via WLI or on account with the Flathead Biological Station for analysis.
Cost: \$5,000

6) City Beach AIS Inspection Program

During the routine sales of boat launch permits at City Beach, an abbreviated boat inspection and education and outreach effort could be implemented. It is recommended to extend the hours of staffing at the boat launch. It is recommended that the City hire the WLI intern Friday-Sunday to be the lead inspector for the program during peak use periods. It is recommended that the Whitefish City Police Department participate by use of quarantine if necessary if a fouled vessel is identified. WLI annual trains City Beach Staff on AIS issues and could brief the police department on the issue.
Cost: Additional cost to the City could come from increasing staff hours at City Beach and a potential increase to police department operations.

7) Yellow Flag Iris

The County Weed District plans surveys on the Whitefish River to GPS and describe the extent of infestation. The Riverside Storm Water Pond could have been the seed source for the infestation. It is my understanding that Public Works is spraying the Yellow Flag Iris in fall before the first frost and that this will continue for at least three years.

Submitted by: Mike Koopal, WLI Executive Director, mike@whitefishlake.org, 862-4327.
April 19, 2013

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



May 6, 2013

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Highway 93 West Corridor Plan Steering Committee

Summary

The City Council authorized staff to pursue a contract with WGM Group out of Missoula to develop a land use plan for the Highway 93 West corridor. We have done that, and are moving forward on developing our public involvement strategy. As part of that process, we need the Council's authorization to advertise for openings on a Highway 93 West Plan Steering Committee, the members of which would be appointed later by the council.

Discussion

The steering committee will be the primary sounding board to work through the planning process to establish a development policy. The make-up of the steering committee needs to be established so we can get an ad in the paper seeking volunteer representatives. We need a balanced committee that is comprised of various stakeholders, and the committee should not be too large to function adequately. After discussion with both Chuck Stearns and WGM Group's principal land use planner, Nick Kaufman, we have identified the following steering committee positions for your consideration:

- Two City Council representatives. (The Council already appointed Phil Mitchell and Frank Sweeney).
- One Whitefish City-County Planning Board city representative
- One Whitefish City-County Planning Board city or county representative (part of the scope includes a small area outside of city limits).
- One business owner in the corridor representing resort or recreation interests
- One business owner representing commercial or professional interests
- One residential owner-occupied property owner
- One residential investment or multifamily property owner
- One 'at large' community member or property owner in the study district

- One representative from the Montana Department of Transportation (ad hoc member)
- One representative from Idaho Timber (ad hoc member)

When the ad is published, we will set a deadline of ten days to respond in writing for potential applicants. We will ask the Planning Board to nominate two of their members to participate. The City Council will then appoint the rest of the steering committee based on the qualifications of the applicants. The ad hoc members would be appointed by their respective organizations.

Recommendation

Staff respectfully asks the City Council authorize staff to advertise for the above mentioned positions on the Highway 93 West Corridor Plan Steering Committee.

David Taylor, AICP