CITY COUNCIL WORK SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
MONDAY, AUGUST 19, 2013, 5:30 to 7:00 PM

1. Call to Order

2. 5:30 – 6:50 p.m. – Review and discussion with the Whitefish Community Wastewater Committee regarding their draft Management Program

3. Public Comment

4. Adjournment

WHITEFISH COMMUNITY WASTEWATER MANAGEMENT PROGRAM

FINAL DRAFT

31 July 2013

Photo courtesy: gravityshots.com

Prepared for:
Whitefish City Council

Prepared by:
the Whitefish Community Wastewater Committee

This document provides recommendations to Whitefish City Council regarding wastewater management, septic systems, nutrient trading, and wastewater conveyance. Per City of Whitefish Resolution 12-15, this Program Draft includes:

- Implementation Timeline
- Funding Options
- Short-term goals (E&O, planning)
- Long-term goals (expanded E&O, management options & regulations)
- Monitoring component
- *List of Resource Agencies and Decision Makers* included in communications of the committee

The Flathead County Health Department currently manages permitting and all issues pertaining to septic systems in Flathead County. For the purposes of this *Program Draft*, the governing body is identified as "Whitefish Community Wastewater Management Program Administrator." Because this *Program Draft* suggests possible additional efforts regarding septic systems for the City of Whitefish and the 2005 Whitefish Planning Jurisdiction, the potential Whitefish Community Wastewater Management Program Administrator is often identified in addition to the Flathead County Health Department. The Whitefish City Council will review the options provided by the committee regarding program implementation and management, and will engage and work on these issues in conjunction with the Flathead County Health Department.

COMMITTEE MEMBERS

Voting Members:
Ben Cavin, Carver Bay/East Lakeshore area representative
Andy Feury, Community Member at Large, Committee Chair
Denise Hanson, P.E., Community Member at Large
Pam Holmquist, Flathead County Commissioner
Bill Kahle, Whitefish City Councilor
Jim Laidlaw, Lion Mountain area representative
John Muhlfeld, Mayor of Whitefish
Jan Metzmaker, Flathead Basin Commission Board Member
Ryan Purdy, Lazy Bay area representative
Point of Pines, never filled

Ex-officio (Non-Voting) Members:
Greg Acton, Public Works Department designee, Alternate – John Wilson
Wendy Compton-Ring, Planning Department designee
Tom Cowan, P.E., Septic-system Engineer
Carl Denny, M.D., Whitefish Water District
Rich Knapp, City Manager designee
Karen Reeves, Whitefish Lake Institute Board Member
Joe Russell, Flathead County Health Department
Frank Sweeney, Whitefish Lake Institute Board Member

Facilitators:
Mike Koopal: Executive Director, Whitefish Lake Institute and Lori Curtis: Science & Education Director, Whitefish Lake Institute

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1. INTRODUCTION

1.1. Executive Summary

The Whitefish Community Wastewater Committee is an ad hoc committee of the Whitefish City Council tasked with delivering to the City Council recommendations regarding wastewater conveyance and management, septic systems, and nutrient trading. The committee was charged with providing funding considerations, education & outreach options, management options, and a plan for ongoing monitoring. This "Whitefish Community Wastewater Management Program" is the resulting deliverable. Given the scientific evidence provided by the Whitefish Lake Institute's *Investigation of Septic Leachate to the Shoreline Area of Whitefish Lake* which corroborated several previous studies, the committee agrees that the problem of aging and/or failing septic systems needs to be addressed.

The Program offers three alternatives to address the problem. These alternatives range from a minimal resource program of taking no action with the exception of Education & Outreach to a neighborhood program addressing areas prioritized by the committee, to a comprehensive program that addresses cleaning up the prioritized areas and includes policy approaches to prevent or curtail further contamination. Each alternative has varying resource requirements and varying degrees of potential effectiveness. It is important to note that these alternatives need not be chosen exclusively. Any individual section or combination of sections of the identified alternatives may be implemented in concert with any other alternative. In short, the alternatives are offered as a "menu" of options. If the City decides to act on Alternative 2 or 3, they will likely require the assistance of a contractor to manage the effort.

This Program Draft includes historical wastewater treatment information and background on public health issues. It also includes a description of the current state of the City's wastewater infrastructure. It briefly defines the various federal, state, county and city regulations. It also details funding options and funding processes critical to addressing issues of septic leachate pollution. These details were included for the purpose of providing the most complete illustration of the current situation. The WCWC is delivering this Program to the Whitefish City Council for review and determination of action.

It was initially planned that the WCWC would sunset after the delivery of this document, and the technical facilitators' work would be considered complete. Given the timing of the first City Council Working Session, the WCWC filed and received approval for an extension of the committee through the end of 2013. The facilitators' initial consultant agreement is fulfilled with the delivery of this Program Draft. However, the facilitators may be engaged through a new agreement for further work should the WCWC and/or City Council deem it appropriate. The facilitators will attend the August City Council Working Session as part of the existing agreement.

1.2. Background

1.2.1. As a result of the *Investigation of Septic Leachate to the Shoreline Area of Whitefish Lake* (Curtis & Koopal, 2012) report prepared by the Whitefish Lake Institute (herein WLI) which corroborated prior studies, the City of Whitefish formed an ad hoc committee—the Whitefish Community Wastewater Committee (herein WCWC)—to prepare a report and make recommendations to the Whitefish City Council regarding wastewater management. This program was developed 1) to protect human health, the health of the Whitefish economy, and Whitefish Lake from trending further toward cultural eutrophication from wastewater inputs, and 2) to provide a comprehensive and equitable strategy for ensuring properly installed, operated, and maintained septic and sewer systems.

1.2.2. There are three alternatives to consider in response to the findings of the WCWC. These alternatives are further described in Sections 4-6 of this plan. The alternatives can be used individually or in combination with all or part of the other alternatives. It is important to note that there are numerous funding opportunities to address the costs associated with the chosen alternative.

1.2.3. Alternative 1 is to take no action beyond Education & Outreach. Alternative 2 addresses the Whitefish Lake Watershed by concentrating on cleaning up areas of known septic leachate contamination identified in the septic leachate report and/or as prioritized by the WCWC. Alternative 3 could include the activities of Alternative 2, but also adds measure to curtail or prevent future contamination from failing and/or aging septic systems through policy approachesThis program

reiterates a number of existing state, county, and city regulations, while also recommending programs that could—over time--simplify the process of identifying and bringing up to date aging and/or failing septic systems. Existing regulations are noted by two-letters within parenthesis throughout the document as follows: MT= State of Montana, FC=Flathead County, CW= City of Whitefish. The regulation may be used in a sentence that adapts it to use by another management entity.

1.2.4. The WCWC compiled a *List of Resource Agencies and Decision Makers* to include in communications of the committee. The list is attached as Addendum A. It is the responsibility of the committee members and the resource agency and decision makers receiving communications of the committee to communicate the work product of this committee to their appropriate constituents.

1.3. Purpose of Committee

1.3.1. The committee formed under Resolution 12-15 to identify, monitor, and coordinate wastewater management issues for the community of Whitefish, and to deliver to the City Council a plan with recommendations regarding wastewater conveyance and management, septic systems, and nutrient trading. The report is to include funding considerations, education & outreach options, management options, and a plan for ongoing monitoring. This "Whitefish Community Wastewater Management Program" serves as the deliverable for this committee.

1.3.1.1. The committee was asked to address the defined issues for the "community of Whitefish." The committee has interpreted the "Community of Whitefish" to include areas that directly influence Whitefish and Whitefish Lake.

1.3.2. Resolution 12-15 (Addendum B)

1.3.3. There are a few issues that may seem related to this program for which the WCWC does not have jurisdiction and which do not fall within the scope of the committee. They include:

1.3.3.1. Annexation: It is not within the scope of this committee to make recommendations regarding annexation.

1.3.3.2. City Services & Fees: It is not within the scope of this committee to make recommendations regarding the provision of City services or the setting of fees for these services.

1.3.3.3. Whitefish Planning Jurisdiction: It is not within the scope of this committee to make recommendations or comment on the ongoing legal dialogue between the City of Whitefish and Flathead County regarding the planning jurisdiction.

1.4. Investigation of Septic Leachate to the Shoreline Area of Whitefish Lake Summary & Map

1.4.1. Executive Summary (Addendum C)

WLI conducted an investigation for the Whitefish County Water District under the Department of Natural Resources and Conservation Renewable Resource Grant & Loan program to determine the spatial and temporal extent of septic leachate to the shoreline area of Whitefish Lake (Curtis & Koopal, 2012). The study employed a toolbox of techniques to describe septic leachate, including; fluorometry, dissolved organic carbon (DOC), fluorometry/DOC ratio (F/DOC), *E. coli* enumeration, human DNA biomarkers, conductivity, total dissolved solids (TDS), and GIS methodologies. The study concluded with the development of a *Septic Leachate Contamination & Risk Assessment Map* which identifies confirmed sites of septic leachate contamination as well as areas of low, medium, and high potential for future contamination. This assessment is scientifically corroborated by past studies (as found in section 1.5) of a long-standing local issue.

1.4.2. Risk Assessment Map: Attached as Addendum D

1.5. Prior Studies

1.5.1. 1976 The Montana Department of Natural Resources and Conservation (DNRC) has, since 1976, measured total phosphorus, nitrates, and nitrogen entering Whitefish Lake from Swift Creek.

1.5.2. 1977 U.S. Environmental Protection Agency: The US Environmental Protection Agency (EPA) conducted a National Eutrophication Survey in which Whitefish Lake was classified as *oligotrophic*, but the EPA warned that any significant increased nutrient loading to the lake could result in degradation of water quality, and they urged that "every effort be made to limit phosphorus inputs to the lake" (U.S. Environmental Protection Agency, 1977). An oligotrophic lake has low nutrient content, therefore low primary productivity, low algal production, and clear, high-quality, drinkable water that also supports numerous fish species.

1.5.3. 1981 Flathead County Sanitarian: Dye tests conducted by the Flathead County Sanitarian in 1981 confirmed that septic tank effluent was entering Whitefish Lake from a number of sites along the east

lakeshore. In addition, the Sanitarian determined that septic systems were failing in a number of areas other than along the lakeshore (Whitefish County Water and Sewer District, 1984).

1.5.4. 1984 US Environmental Protection Agency: In September of 1984, the EPA's Region 8 Water Division requested laboratory analysis of color infrared aerial photographs of Whitefish, including the developed sections of the Whitefish Lake shoreline. The photos were stereoscopically examined for indications of malfunctioning septic systems. In October of 1984, several suspected failing septic systems were inspected. The ground observations provided an added level of detail that identified and isolated issues other than septic failure—such as Fairyring fungus, natural grass species patterns, and old filled-in drainage channels—so that actual septic system failures were correctly identified. Results of the study showed 85 possible failed septic systems of the 147 investigated, 55 with high confidence (U.S. Environmental Protection Agency, 1985). These historical results corroborate our current findings at sites where older septic systems remain in operation.

1.5.5. 1984 Flathead Biological Station: A limnological study of Whitefish Lake in the early 1980s by the Flathead Lake Biological Station indicated that the lake was in a transitory phase toward eutrophication (Golnar & Stanford, 1984). They reported that most metrics measured at that time (primary productivity, phytoplankton structure and density, total organic carbon, and total nitrogen) were within the typical ranges of an oligotrophic water body. However, oxygen depletion in the *hypolimnion* (the dense bottom layer of water—below the *metalimnion* (the transition layer between surface and deep water)—in a thermally stratified lake) during late summer, combined with high total phosphorus concentrations in the *epilimnion* (the top-most layer in a stratified lake) were associated with *mesotrophic* lakes (lakes with intermediate productivity, generally clear with submerged plant life and a medium level of nutrients).

1.5.6. 1986 Flathead Biological Station: A study sponsored by the Whitefish County Water and Sewer District and conducted by the Flathead Lake Biological Station investigated septic contaminated groundwater seepage as a nutrient source to Whitefish Lake (Jourdonnais *et al*. 1986). That study found evidence of septic contaminated groundwater and surface water along shoreline locations around the lake. The Jourdonnais *et al* report was instrumental in providing baseline data for comparison in the WLI 2012 study. The study was also used to support a grant application to extend the sewer system along a portion of the east shore of Whitefish Lake. This work was completed in the late 1980s.

1.5.7. 2003 Flathead Lake Biological Station: The Flathead Lake Biological Station returned to Whitefish Lake to gather data in 1986, 1987, and 1993, and select data were later reported in their Whitefish Lake Water Quality Report (Craft *et al*, 2003).

1.5.8. 2005 WLI formed with the objective of implementing a long-term Whitefish Lake Water Quality Monitoring Program. The goal of the program is to provide a comprehensive understanding of the lake resource by consistently gathering physical, chemical, and biological data for the lake and its tributaries over time and to gain an understanding of Whitefish Lake watershed processes. While the program takes into account past studies, it offers a higher level of consistency and coordination, a baseline data set, and an integrated long-term analysis of the lake. Prior studies on Whitefish Lake have been generally limited in duration and/or scope.

1.6. Trend analysis

1.6.1. Public, Economic, & Environmental Health

1.6.1.1. The City of Whitefish finds that regulating the treatment and disposal of wastewater and that the design, construction, use, alteration, maintenance, and repair of on-site wastewater treatment systems on or near Whitefish Lake will help in the control of human diseases and environmental pollution.

1.6.1.2. The regulations described in this program were developed to define and enforce the proper treatment of sewage, and are deemed necessary for the protection of the public, economic, and environmental health of the community of Whitefish.

1.6.1.3. The economic success of the services and retail enterprises sectors in Whitefish are driven by the appeal of the local geography. The high quality of Whitefish Lake and its tributaries and other waterways, surrounding forested lands, parks and recreation areas, abundance of wildlife, and numerous year-round sporting and recreation activities provide a desirability for living and visiting offered by few places in the US. The strength and durability of the Whitefish

economy are therefore highly dependent on the health of the environment. Additionally, the City of Whitefish gets a portion of its municipal water supply from Whitefish Lake at certain times of the year. As Whitefish Lake is a headwater for Flathead Lake, its health is of concern throughout the region. For all of these reasons, it is important to protect the health of the lake.

1.6.1.4. As described in the *Investigation of Septic Leachate to the Shoreline Area of Whitefish Lake* (Curtis & Koopal, 2012) …there are several constituents of concern to human health from wastewater, including biological contaminants (bacteria & viruses); synthetic organic contaminants (algaecides, pesticides, and herbicides); and inorganic contaminants such as phosphorus, nitrogen, metals (lead, tin, zinc, copper, iron, cadmium, and arsenic), sodium, chlorides, potassium, calcium, magnesium, and sulfates (U.S. Environmental Protection Agency, 1984). Pathogenic viruses are a major concern because they can enter groundwater from numerous sources, the most common being livestock waste, landfill effluent, and septic systems. Infective viruses have been shown to move 50 m (164 ft) in depth from septic tanks to drinking wells, and controlled studies have shown horizontal movement of up to 1.6 km (just under one mile) (Dodds, 2002). Deborde et al (1999) demonstrated that the poliovirus moved approximately 20 m (65.6 ft) in a course cobble aquifer resulting in a virus mortality rate of less than 1%. Soil properties, temperature, organic matter, microbial activity, and virus survival times all potentially influence the spread of viruses through groundwater.

1.6.1.5. Another set of health concerns emanating from groundwater contamination come from nitrates. High nitrate concentrations in drinking water have been linked in studies to Methemoglobinemia and “blue baby” syndrome (Avery, 1999), hypertension (Malberg et al, 1978), central nervous system birth defects (Dorsch et al, 1984), certain cancers (Hill et al, 1972) non-Hodgkin’s lymphoma (Ward et al, 1996 & Weisenberger, 1991), and diabetes (Parslow et al, 1997). Additional research is needed to further understand these linkages, but concern for nitrate related health risks from sewage outfall remains high. Some high nitrate readings have been recorded in the west Flathead Valley.

1.6.1.6. In addition to creating general human health hazards, one of the other main concerns regarding septic systems is the potential for long-term chronic nutrient, pollutant and bacterial loading to lakes. Bacteria, degradable organic compounds, synthetic detergents, and chlorides can enter and contaminate water and can increase eutrophication of lakes. The eutrophication process in lakes is natural. Typically as lakes age, nutrients, sediment, and plant material accumulates, slowly filling a lake’s basin. The basin eventually—over centuries—becomes inhabited by terrestrial vegetation. The timing is highly variable, depending on the climate and characteristics of the basin and its watershed. However, by altering nutrient and sediment inputs, humans have greatly increased the rate at which eutrophication takes place. Depending on the lake and degree of human impact on it, this cultural eutrophication can take place in a much shorter timeframe. Cultural eutrophication occurs when the addition of nitrates, phosphates, and sediment above natural background levels promotes excessive plant growth and decay, showing preference to algae and plankton over other aquatic plants. Enhanced growth of algae and phytoplankton can lead to a partial lack of available dissolved oxygen (hypoxia) or a total lack of available dissolved oxygen (anoxia) needed by fish and other aquatic life forms to survive, thereby disrupting normal ecosystem functioning. Algae normally produce oxygen through photosynthesis, but under eutrophic conditions, water clarity is reduced, as is underwater light needed by algae to produce oxygen. When algae lose the ability to produce oxygen, they begin to consume it, reducing available dissolved oxygen for other aquatic life forms. Further complications also arise as algae blooms die and precipitate to the lake bottom where bacterial and microbial decomposers further deplete available dissolved oxygen. Eutrophication can rapidly turn a lake into an anoxic and lethal environment. In addition to impacting fisheries, eutrophication also decreases the value of lakes for swimming, boating, fishing, and aesthetic enjoyment which can have significant economic impacts.

1.7. Current Wastewater Facilities & Infrastructure - Excerpted from the *Investigation of Septic Leachate to the Shoreline Area of Whitefish Lake* (Curtis & Koopal, 2012).

1.7.1. <u>City of Whitefish Sewer Infrastructure</u>

1.7.1.1. The City of Whitefish sewer system includes about 46 miles of conventional gravity sewer mains, 17 lift stations, 13 duplex grinder pump stations which each serve 1020 residences, and two septic tank pump systems on the east shore of Whitefish Lake. The wastewater treatment plant is located on 40 acres south of town alongside the Whitefish River and has a capacity of 1.8 million gallons per day. The system collects wastewater, delivers it to the main sewage lift station then to an aerated lagoon treatment system for the removal of phosphorus, finally discharging the water to the Whitefish River.

1.7.1.2. Lift station installation dates range from 1960 to 2003, with the main lift station having undergone a rehabilitation effort in 2003. The lagoons were built in 1979. An alum based phosphorus removal process was added and improvements to the main lift station were made in 1986. The lagoons were upgraded in 2002 with sludge removal and new aeration filters. In 2009, an automated 5mm bar screen was installed to replace the 2" bar screen that required manual cleaning. A second clarifier was also brought online. In 2012, the State is mandating disinfection before effluent enters the Whitefish River. (Cassidy *et al*, 2008). The City has continued to contract with engineers to identify wastewater system weaknesses and make improvements to the system including the 2011 project to rehabilitate 11,400 linear feet of sewer mains.

1.7.1.3. The bulk of the sewer system includes conventional gravity sewers, augmented by lift stations where required by terrain (Figure 3). Lift stations located in close proximity to the lake include Mountain Park, Boat House, Birch Point, City Beach, Viking, Monk's Bay, and Houston Point. According to an engineering report prepared for the City of Whitefish (Anderson-Montgomery, 2005), the City's gravity sewers have performed satisfactorily with the exceptions of typical root intrusions, cracked pipe sections, and occasional joint separations in older vitrified clay pipe sections. Manholes have been upgraded or replaced as needed due to structural deterioration. Hydraulic performance of the existing gravity system is good and the capacity of the treatment plant is sufficient to serve current customers and growth through the year 2020 (City of Whitefish, 2012).

1.7.2. <u>Septic System Installations</u>

1.7.2.1. Flathead County started requiring septic permits in 1970, even though the permitting process was voluntary for the first two years. As a result, it is not possible to determine septic system density pre-1970 (Flathead County, 2006).

1.7.2.2. Data from the Flathead County Department of Environmental Services reported there was a 44% increase in septic system installations from 2000-2005. There were 668 permits issued for new septic systems in 2005. After an increase to 727 new permits in 2006, issued permits declined continuously from 611 in 2007 down to 245 in 2011 (Flathead County, 2012).

1.7.2.3. The county's septic system permit database was updated in 2011 to capture previously unavailable information, and the county Geographic Information System (GIS) Septic System Permit Map was updated with this information. Although there remain numerous unknowns about septic system age and placement around Whitefish Lake, this updated information is the most current data available from Flathead County on relative density and age of septic systems around the lake. For this study, our GIS analyst researched and analyzed all other septic system databases and combined them to provide the most comprehensive view of septic system density around Whitefish Lake.

1.7.2.4. Since the earliest on-site wastewater regulations in Flathead County in 1969, regulations for septic systems have been continuously revised based on new science and technology. Each revision has represented improvements in construction standards and technologies with an emphasis on treatment, and has resulted in a tightening of regulations. Until 2005, most systems consisted of a tank and gravity flow drainfield. Currently, all systems use uniform pressure distribution in the drainfields requiring the use of a pump or siphon to pressurize the system. Since 2002, in compliance with the state Water Quality Act, an analysis on the impacts of water from nitrates and phosphorus is done prior to the issuance of any septic permit (Cassidy *et al*, 2008).

2. SCOPE & AUTHORITY

2.1. Geographic Scope of Program

2.1.1. This program and its regulations apply to any person or entity constructing, using, maintaining, altering, or repairing new, existing, or abandoned on-site wastewater treatment systems. The program addresses on-site wastewater management throughout the Whitefish Lake Watershed, and in the case of Alternative 2 and 3, includes the Whitefish Planning Jurisdiction. If Alternative 3 is selected, the geographic scope would need to be further fleshed out.

2.2. Management Authority

2.2.1. Program Management Authority

2.2.1.1. The Management Authority will depend on the Alternative chosen. If Alternative 2 is selected, the City will most likely need to partner with other entities. If Alternative 3 is selected, the City Council will work with Flathead County to determine the jurisdictional body that will have management authority over the final Whitefish Community Wastewater Management Program. Given the current legal dialogue regarding the Whitefish Planning Jurisdiction, the management authority for this Program is herein identified as the Whitefish Community Wastewater Program (WCWMP) Administrator.

2.2.2. Current State & Local Regulatory Authorities (in Montana, the State, counties, and cities all currently have the authority and responsibility to regulate subsurface wastewater treatment systems (SWTS) (U.S. EPA, 2006). Regulating authorities in Whitefish include the State of Montana, Flathead County, and the City of Whitefish. Their general regulations are listed below. This program will recommend changes and or additions to existing ordinances, and may suggest establishing additional regulations.

2.2.2.1. Montana (ARM 17.36.9 On-Site Subsurface Wastewater Treatment Systems (http://www.mtrules.org/gateway/Subchapterhome.asp?scn=17%2E36.9): Circular DEQ4 Montana Standards for Subsurface Wastewater Treatment Systems (www.deq.mt.gov/wqinfo/Circulars/DEQ42004Edition.pdf);TMDLs; DEQ Voluntary National Guidelines for Management of Onsite and Clustered (Decentralized) Wastewater Treatment Systems (water.epa.gov/infrastructure/septic/upload/onsite_handbook.pdf)

2.2.2.1.1. Setback, depth to groundwater, and septic size requirements; groundwater mixing zone regulations: subdivision requirements; DEQ approved system, non degradation guidelines, management guidelines

2.2.2.1.2. Construction or alteration of on-site wastewater treatment systems must, in addition to any regulations herein, conform to Circular DEQ-4 and A.R.M. 17.36.900.

2.2.2.2. Flathead County (Regulations for Onsite Sewage Treatment Systems – effective 1/1/05): Attached as Addendum E.

2.2.2.2.1. Flathead County regulations were written pursuant to Title 50-2-116: Powers and duties of Local Boards; they cover all sewage treatment systems in Flathead County except "Municipal and Publicly owned Treatment Systems." Listed herein is a sampling of some of the key Flathead County regulations. The City of Whitefish proposes that residents in the City and in the Whitefish Planning Jurisdiction follow all Flathead County regulations while considering additional regulations specific to the City of Whitefish. These regulations may be more stringent as necessary to protect the health and economy of the community of Whitefish. The City of Whitefish may consider recommending a Memorandum of Understanding (MOU) with Flathead County to support these efforts outside the City limits but within the Whitefish Planning Jurisdiction.

2.2.2.2.2. Flathead County Regulations require that wastewater must be treated so that:

2.2.2.2.2.1. It will not contaminate any existing or future drinking water supply,

2.2.2.2.2.2. It will not be accessible to insects, rodents, or other possible carriers which may come into contact with food or drinking water,

2.2.2.2.2.3. It does not pose a health hazard by being accessible to children,

2.2.2.2.2.4. It will not pollute or present the potential to contaminate any surface or ground water,

2.2.2.2.2.5. It will not give rise to a nuisance due to odor, insect or animal attraction,

2.2.2.2.2.6. It will not violate laws or regulations concerning water quality protection or sewage treatment/disposal.

2.2.2.3. City of Whitefish (Whitefish Water Quality Regulations; Whitefish Area Lake & Lakeshore Protection Regulations; Whitefish Growth Policy; Zoning & Subdivision Regulations)

2.2.2.3.1. The Whitefish Water Quality Regulations (Addendum F) are designed to apply development standards to lots or parcels with the greatest chance of affecting water quality. The regulations are intended to:

2.2.2.3.1.1. Protect and improve the quality of Whitefish area's water bodies, including lakes, streams, and the Whitefish River, which are central to the community's identity and values; and

2.2.2.3.1.2. Protect public safety, public and private property, and water quality from threats of geologic instability and erosion; as well as provide other protections unrelated to this program.

2.2.2.3.2. The regulations are applicable to:

2.2.2.3.2.1. Any new or expanded residential, commercial or industrial development proposal within two hundred (200) horizontal feet of a lake, river, wetland, stream or stormwater conveyance; and applies to lots or parcels that were created by whatever means prior to April 3, 2006 or after March 3, 2008.

2.2.2.3.2.2. Authority for the regulations is contained in MCA 76.2.301 (Municipal Zoning Authorized) and MCA 76.2.304 (Criteria and Guidelines for Zoning Regulations).

2.2.2.3.3. The Whitefish Area Lake and Lakeshore Protection Regulations (attached as Addendum G) designated under City of Whitefish City Codes Title 13, Chapters I-IV to provide regulations and enforcement, and are adopted under the authority of the State of Montana, Montana Code Annotated 75-7-2-7, which requires local governing bodies to adopt regulations regarding the issuance or denials of permits for work in lakes within their jurisdiction, including land which is within twenty (20) horizontal feet of the mean annual high water elevation. The purpose of the regulation is to:

2.2.2.3.3.1. Protect the fragile, pristine character of Whitefish area lakes and the intertwined adjacent riparian and upland areas;

2.2.2.3.3.2. Conserve and protect natural lakes because of their high scenic and resource value;

2.2.2.3.3.3. Conserve and protect the value of lakeshore property;

2.2.2.3.3.4. Conserve and protect the value of the lakes for the state's residents and visitors who use them (Ord. 09-08, 7-20-2009)

2.2.2.3.3.5. The Regulations describe in Chapter 2: Permit Requirements, Section 13-2-1 activities requiring permits, which includes "L. Installation of water lines, sewer lines, or other utility lines or facilities; and Chapter 4: Administration and Enforcement, Section 13-4-1 which explains the creation, composition, and compensation of the committee as "…a special planning board in compliance with section 75-7-211 Montana Code Annotated empowered to review and comment on all activities within the jurisdiction of the Whitefish Lake and lakeshore regulations.

2.2.2.3.4. In addition to the above mentioned regulations, the Whitefish Growth Policy describes services provided by the City, broad concepts and guidelines, and implementation strategies, as well as addressing water quality and sustainability, and other environmental protections.

2.2.2.3.5. If appropriate, final wastewater management regulations may be recommended for inclusion in the existing Zoning & Subdivision regulations.

2.3. Administration

2.3.1. Short Term Administration

2.3.1.1. Short Term Administration of final WCWMP as approved by City Council and adopted by the City of Whitefish for Alternative 1 will include all work up to delivery of this program to City Council. For Alternative 2 or 3, it will include all work up to and including Project Grant Funding Training through the Water, Wastewater and Solid Waste Action Coordinating Team - W2ASACT (Addendum H); and development of a calendar for Preliminary Engineering Report

(PER) Planning Grant Applications, PER Requests for Proposals (RFPs), and Project Funding Grants and Loans—all work prior to the "Uniform Application." The Uniform Application is one of the important outcomes of W2ASACT. It allows for communities and municipalities to use one main application to apply for funding from a number of federal, state, and local agencies. The process greatly reduces duplication of funding solicitation work effort.

2.3.1.1.1. PER's are intended to provide alternatives based on the specifics of each area. It should be noted that the prioritization of PER completion does not necessarily parallel the sequence for on-the-ground word or the funding of such work. In other words, the PERs could supply information that would change the priority of work in the different neighborhoods. See Figure 3 for PER Focus Areas.

2.3.2. Long Term Administration

2.3.2.1. Long Term Administration of final WCWMP as approved by City Council and adopted by the City of Whitefish for Alternative 2 will include all work from the "Uniform Application" through construction management. For Alternative 3, it will include the adoption and administration of policy.

2.3.2.2. Long Term Administration of final WCWMP as approved by City Council and adopted by the City of Whitefish includes:

2.3.2.2.1. The Whitefish Community Wastewater Program Administrator will create an administrative structure to manage the Whitefish Community Wastewater Program. The administrative structure will likely include participation from or partnerships with

2.3.2.2.1.1. Flathead County

2.3.2.2.1.2. Whitefish County Water District

2.3.2.2.1.3. Third Party Engineering Consulting Firm(s)

2.3.2.2.1.4. WLI

2.3.2.2.1.5. One or more of the relationships may require the development of a Memorandum of Understanding (MOU)

2.4. Program Funding

2.4.1. Short Term Program Funding

2.4.1.1. Funding Sources currently available for conducting PERs include

2.4.1.1.1. DNRC Planning Grants

2.4.1.1.2. Treasure State Endowment Program(TSEP) Planning Grants

2.4.1.1.3. The City of Whitefish

2.4.1.2. The following entities were identified as potential sponsors of planning grant applications for PER(s) based on their qualifications to sponsor applications.

2.4.1.2.1. City of Whitefish: East Lakeshore, Viking Creek (Some of these areas have City of Whitefish services)

2.4.1.2.2. Whitefish County Water District: Lion Mountain, Point of Pines (These areas are not serviced by the City of Whitefish sewer system)

2.4.1.2.3. Flathead County: Lazy Bay (This area is not serviced by the City of Whitefish sewer system)

2.4.1.3. Based on the final timeline of activities, appropriate entities and their staff will be assigned to

2.4.1.3.1. Complete planning grant (PER) applications,

2.4.1.3.2. Solicit Requests for Proposals (RFQs) for project work

2.4.1.3.3. Administer planning grant funds,

2.4.1.3.4. Complete the W2ASACTUniform Application for project funding, and

2.4.1.3.5. Manage project funds.

2.4.2. Long Term Program Funding

2.4.2.1. Long Term Program Funding will come from multiple grant and loan sources to cover:

2.4.2.1.1. <u>Program Infrastructure Costs</u> such as septic system upgrades, replacements, and additions to the City sewer infrastructure.

2.4.2.1.1.1. PERs completed during the Short Term Administration will identify options for specific areas which may include: Individual system replacement – regular, Individual system replacement – Level II, Upgrade to Communal System, Connect

to City Sewer (Including City of Whitefish service extension possibilities, initial hook-up fees, and ongoing costs to residents)

2.4.2.1.1.2. PERs completed during the Short Term Administration will determine Scope of Work requiring funding, including identifying the number of Tier I, Tier II, and Tier III septic systems to be replaced and/or improved.

2.4.2.1.2. Management Costs: for staffing to develop and implement the Program

2.4.2.1.3. The City of Whitefish will determine funding sources (working with W2ASACT) and will work on a Uniform Application for program infrastructure funding. Funding sources will likely include

2.4.2.1.3.1. The City of Whitefish

2.4.2.1.3.2. DNRC RRGL Project Grants

2.4.2.1.3.3. TSEP Construction Grants

2.4.2.1.3.4. MT State Revolving Fund (SRF)

2.4.2.1.3.5. Federal and State Loans

2.4.2.1.3.5.1. USDA Rural Development Grants & Loans

2.4.2.1.3.6. SID or RSID

2.4.2.1.3.7. Nutrient Trading Program: The State of Montana adopted a policy for nutrient trading which will provide numeric criteria for nutrients (nitrogen and phosphorus) in an effort to reduce nutrient loading and meet wastewater facility compliance criteria. There will be options for wastewater facility compliance including point to non-point source pollution credit exchanges. A nutrient trading program could allow the City to obtain compliance credits for financially enabling homeowners with failing or aging septic systems to hook up to the City sewer system where available. Where the sewer is unavailable, it could reduce costs to the City allowing the City to provide financial incentives to homeowners to join a communal septic system, or upgrade to current individual on-site septic system technology.

2.4.2.1.3.7.1. The economic and natural resource benefits of nutrient trading appear to be very promising for the community. By participating in a nutrient trading program, the City would directly reduce the amount of expenditure required to meet nutrient loading criteria for its wastewater facility plant-while also providing a vehicle to cover part of the cost for individuals to connect to the City sewer system. Participation in this program would reduce nutrient loading to Whitefish Lake and the Whitefish River from non-point source pollution, and will protect the water quality and beneficial uses of Whitefish Lake. The City was awarded a grant to explore the concept of nutrient trading as a tool for net economic benefit to the community and to protect and improve water quality.

2.5. Implementation Timeline

2.5.1.1. Program Implementation timing will be defined by the availability of funding sources. Funding availability is driven by legislative cycles. A proposed timeline with grant and loan funding cycles and proposal submission dates follows in two formats, Figure 1 and Figure 2

2.5.1.2. Program administrative infrastructure must be in place prior to completing the Uniform Application

2.5.1.3. Because the overall Whitefish Community Wastewater Program encompasses extensive, costly, and time-consuming components, the Program will likely be implemented in phases. The Program must therefore prioritize project areas based on threats to public, economic, and environmental health, funding availability, as well as the City's ability to manage program components.

WCWC FUNDING, PER & PROJECT IMPLEMENTATION CALENDAR

2013			
July 1	Renewable Resource Lg Watershed Planning Grant* (For overall watershed project plan)	$50K - $100K	Application Due (Odd years)
July or later	Renewable Resource Large Watershed Planning Grant		Grant Funded
July or later	Begin to write watershed plan		
2014			
July	Deliver Watershed Plan to DNRC		Must be done in one year
2015			
FCFS once Funding In place	TSEP Planning Grants	$15K ea	Applications Due
May 15	RRGL Project Planning Grants (3) For (*proposed*) : PER 1: City of Whitefish applies for East Lakeshore Drive PER 2: Whitefish Water & Sewer District applies for Lion Mountain PER 3: Flathead County applies for Lazy Bay	$20K ea	Applications Due (Odd years)
Spring-Early Summer	TSEP Planning Grants		Grants Funded
July 1 or later	RRGL Project Planning Grants		Grants Funded
July-December	Engineer conducts PERs 1, 2, 3		
2016			
May 15	Renewable Resource Project Grant $100K (For doing actual septic system upgrade work)		Uniform Application Due
April/May	TSEP Construction Grants (For doing actual septic system upgrade work)	$500K-$750K	Uniform Application Due
2017			
May 15	RRGL Project Planning Grants (3) For (*proposed*) : PER 4: Point of Pines PER 5: Viking Creek	$20K ea	Applications Due (Odd years)
July 1	Renewable Resource Project Grant Begin Infrastructure projects		Grant Funded
As approved by legislature	TSEP Construction Grants Begin Construction projects		Grant Funded

* Watershed Plan further define areas and assess habitat, quantify population, establish flow and loading criteria, summarize physical attributes of area, summarize known problems with on-site waste disposal, review funding mechanisms, consider nutrient trading potential, continue public education; all applicable to next step which is PER.

Figure 1. WCWC Funding, PER, and Project Implementation Calendar

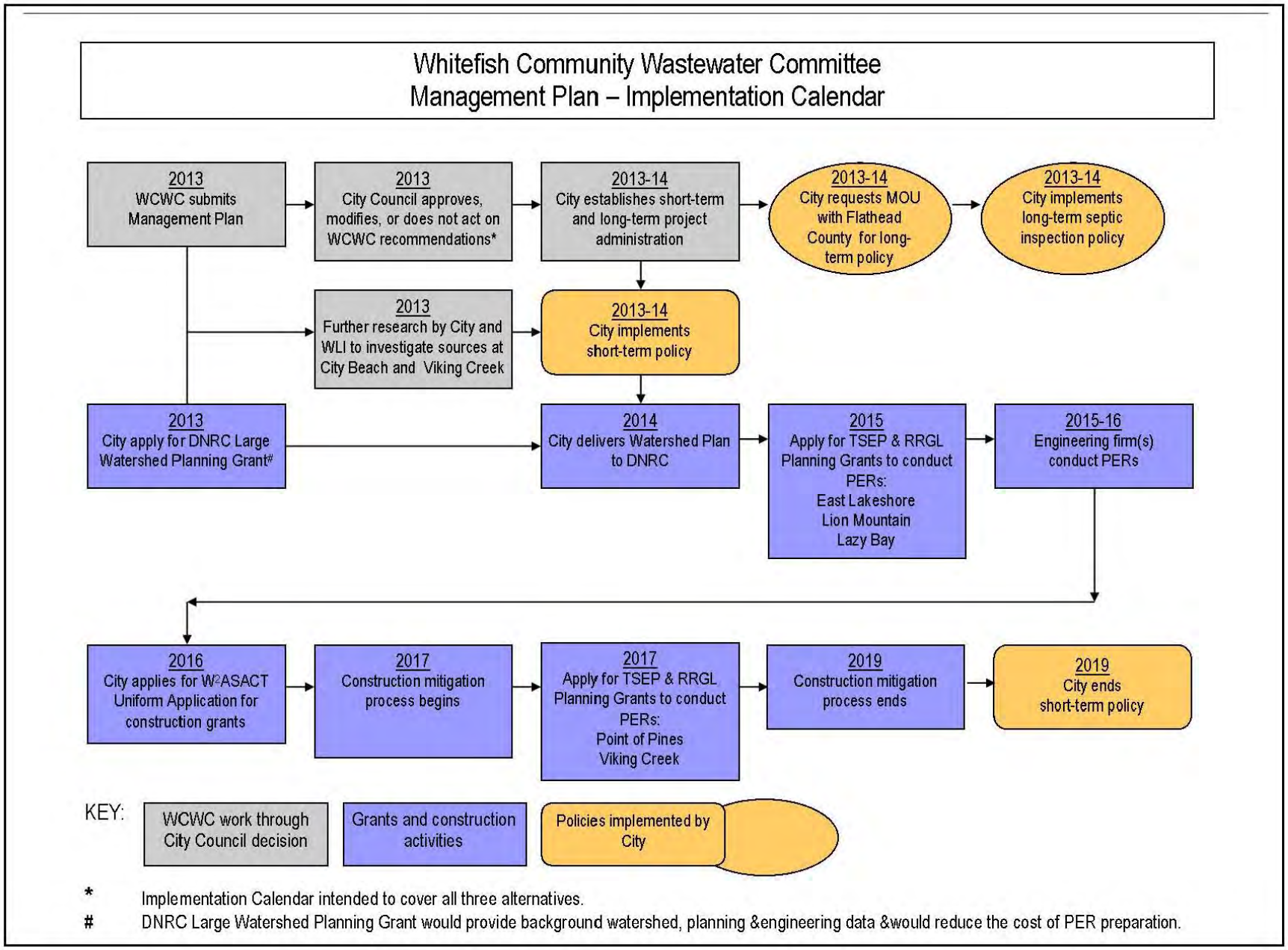

Figure 2. WCWC Management Plan Visual Implementation Calendar

3. EDUCATION & OUTREACH
   3.1. Short Term Education Goals
      3.1.1. Public awareness, involvement, and support of the Whitefish Community Wastewater Management Program will be important to its successful execution. The WCWC will work to make the Public aware of the committee's existence and its development of a Whitefish Community Wastewater Management Program and its financial assistance component. Efforts will focus on community awareness about wastewater management around and affecting the Whitefish Lake Watershed, and its effect on the Flathead Watershed. This will be accomplished through:
         3.1.1.1. A monthly column in the Whitefish Pilot: Published columns attached as Addendum I.
         3.1.1.2. Articles, letters to the editor, and press releases
         3.1.1.3. Holding Community Forums
            3.1.1.3.1. Results of March 2013 Community Forum are attached as Addendum J.
   3.2. Provide informational web links to septic system information on City of Whitefish and Flathead County websites so the public can begin to understand the issues and some of the potential solutions. Homeowners have a number of options depending on their situation. Because the implementation of this program is a lengthy process, homeowners with current septic system issues may need to act before a final program is in place. Some of the options available include updating an older septic system to a modern more efficient one, joining a communal on-site wastewater management system, or hooking up to City sewer if it is available. There are varying costs associated with each of these options, and in some cases there may be grants or loans available to help individuals accomplish their upgrades. The committee recommends that as much information as possible be provided on the City of Whitefish website.
   3.3. Long Term Education Goals
      3.3.1. Describe to the Public water quality goals around which criteria setting will be based, and for which policy standards will be developed to drive implementation of those water quality goals. Relate goals to human health, economic viability, and environmental health.
      3.3.2. Provide information on the Program through:
         3.3.2.1. Direct mailings to homeowners in and near priority areas
         3.3.2.2. Inserting program information in municipal utility bill mailings
         3.3.2.3. Postings in heavily trafficked public places (library, etc.)
         3.3.2.4. Outreach Events
            3.3.2.4.1. DEQ O&M Program (Joe Meek)
            3.3.2.4.2. Professional Septic System and City Sewer System Provider events
               3.3.2.4.2.1. Wastewater Systems 101 w/Septic System Tours (factory & on-site installations)
               3.3.2.4.2.2. City Sewer 101w/Wastewater Treatment Facility Tour
      3.3.3. Public/Homeowner Information
         3.3.3.1. Presentations to community organizations, HOAs, realtors,
         3.3.3.2. Septic System Care Fact Sheet & Checklist
            3.3.3.2.1. Describe importance of what is input into the system
            3.3.3.2.2. Describe modern water saving plumbing fixtures
         3.3.3.3. Provide "Septic System Installer Checklist"
         3.3.3.4. Provide "Choosing a Septic System Care Provider Checklist"

4. ALTERNATIVE 1
   4.1. Alternative 1 is to take no action beyond Education & Outreach. While this alternative requires minimal human-and limited financial resources, it is very limited in addressing the current or future health of the lake or the health and safety of the community. The septic leachate pollution issues on Whitefish Lake would continue to exist and lake ecosystem conditions would continue to decline. The community of Whitefish would prolong addressing the pollution issue and would likely spend more money and resources addressing a larger problem at a later date.

5. ALTERNATIVE 2
   5.1. Alternative 2 addresses the Whitefish Lake Watershed by concentrating on cleaning up neighborhood level areas identified in the septic leachate report and as prioritized by the WCWC. This alternative will mitigate contamination in the areas already identified. It does not require additional staff and can be handled by the

City of Whitefish and their project partners and outside consultants through the processes currently in place to address infrastructure improvements. It will not, however, address septic leachate groundwater pollution inputs from areas outside of those identified, nor will it address future septic system failures.

5.1.1. All current available information was used to develop a geographic scope within the Whitefish Lake Watershed that prioritizes problem areas identified by scientifically supported level of concern in the WLI investigation. These areas that have been identified as follows:

5.1.2. Tier I

5.1.2.1. Lazy Bay: High fluorometric values, high *E. coli* and positive human DNA markers coupled with a high density of aging septic systems *provide substantial evidence to pursue a Preliminary Engineering Report (PER).*

5.1.2.2. Lion Mountain: High fluorometric values, and high *E. coli* coupled with a high density of aging septic systems on a fractured bedrock bedding plane *provide substantial evidence to pursue a PER.*

5.1.2.3. East Lakeshore Drive (Gaines Point to Big Mtn. Road turn-off): This area had medium fluorometric values and has medium to high density of aging septic systems depending on localized area. In addition, Jourdonnais et al (1986) found this area with significantly high fluorometric and conductivity values. Carver Engineering also noted anecdotal evidence that found soils of Alpine Village to be poor for septic system suitability. *The combination of reports provide evidence that pursuing a PER for this area is warranted, however, the geographic scope needs to be clearly defined.*

5.1.3. Tier II

5.1.3.1. City Beach Bay: The positive human DNA biomarker found in this area was interpreted as drift from City Beach or from failure of the City sewer system due to the lack of septic systems in the area. *The best approach in this area is to not include in a PER but to have the City of Whitefish Public Works investigate/rule out a sewer system breach.*

5.1.3.2. Viking Creek: The positive human DNA biomarker found in this area was interpreted as possible failure of the sewer system or from an upper watershed source. *The best approach in this area is to have the City of Whitefish Public Works investigate/rule out a sewer system breach, and for WLI to conduct a synoptic sampling of Viking Creek to rule out an upper watershed source. The committee has identified this area for a PER.*

5.1.3.3. The City of Whitefish completed their investigation of City Beach and Viking Creek in mid-May and provided results of that work in Addendum K.

5.1.4. Tier III

5.1.4.1. Point of Pines: Due to medium range fluorometric values and a relatively medium to high density of aging septic systems near the lake this area is in need of mitigation. In 2012, a community wastewater facility was completed on DNRC land with partial hook-up occurring. There was no WLI data collection point south of Point of Pines; however, there is a medium density of aging septic systems in the area. *The approach in this area could be served by a PER, however the cost benefit of drafting a PER for the small population served, lends itself to mitigation through a long-term policy approach or a lower PER prioritization.*

5.1.5. General: Prioritization of risk assessment was driven by science. A number of factors (not any one factor) were analyzed in the *Investigation of Septic Leachate to the Shoreline Area of Whitefish Lake* study to develop this risk assessment and the resulting geographic scope tiers. This tier structure will remain in effect unless or until further research provides additional information to suggest re-categorization, or City Council chooses to re-categorize,.

Figure 3. Preliminary Engineering Report Focus Areas – This represents a very generalized scope of neighborhood boundaries.

6. ALTERNATIVE 3

6.1. Alternative 3 utilizes policy to curtail or prevent future contamination from aging or failing septic systems through policy. While this alternative offers the best overall long-term outcome for the resource, it would require the addition of staff, the establishment of a new program that would extend into the Whitefish Planning Jurisdiction, and working in cooperation with the Flathead County Health Department to enhance current regulations. This alternative proposes implementations of a similar program to assess and maintain septic systems that has been executed in Lewis & Clark County, Montana. Included in this alternative are Policy & Regulations, Permit Procedures & Requirements, System Requirements, Inspection Programs, Operations & Maintenance, and Enforcement. It is important to note that

6.2. POLICY & REGULATIONS

(NOTE: 69% of the regulations described herein already exist, while 31% are newly recommended. Of the newly recommended regulations, one (# 6.7) is a proposed septic system maintenance and inspection program. Existing regulations are noted by two-letters within parenthesis as follows: MT= State of Montana, FC=Flathead County, CW= City of Whitefish. Newly recommended regulations are noted as (Proposed)

6.2.1. Public Health Threat Regulations

6.2.1.1. It is a violation of this regulation to construct, repair, use, or alter any onsite wastewater treatment or disposal system that may:

6.2.1.1.1. Discharge wastewater to ground, surface, or any state water; (FC)

6.2.1.1.2. Contaminate any drinking water supply; (FC)

6.2.1.1.3. Cause a public health risk as a result of carriers of disease to humans, such as insects or animals; (FC)

6.2.1.1.4. Cause a public health hazard by being accessible to humans or animals; (FC)

6.2.1.1.5. Violate any federal, state, or local regulation governing water pollution; (FC)

6.2.1.1.6. Pollute or contaminate state waters, in violation of Section 75-5-605, MCA; (MT

6.2.1.1.7. Degrade state waters, in violation of Section 75-5-303, MCA; or (MT)

6.2.1.1.8. Cause a nuisance due to odor, unsightly appearance, or other aesthetic consideration (FC)

6.2.2. Guidelines & Limitations for Septic

6.2.2.1. Homeowners are to use centralized (City or communal) wastewater collection when available, unless physically or economically impractical (NOTE: The City will need to determine a definition for “economically impractical) (Proposed)

6.2.2.2. No new lakeside individual on-site septic system shall be installed, repaired, or rehabilitated where a communal septic system is available or where connection to city sewer infrastructure is available, except where an individual system is a cost effective alternative that has been defined through the PER process (Proposed)

6.2.2.3. System function criteria will serve as basis for guidelines (Proposed)

6.2.3. Sewer Connectivity Requirements

6.2.3.1. If wastewater collection is available through the City of Whitefish within a distance of 200 feet of the property line of a property for connection to collect a new source of wastewater, or replacement for a failed system, and the City approves the connection, wastewater must be discharged to the City sewer system. (Proposed)

6.2.3.2. A public system is not considered “readily available” if there is evidence demonstrating that connection to the system is physically or economically impractical, or that easements are not obtainable. (Proposed)

6.2.3.3. A connection is considered “economically impractical” if the cost of connection to the public system equals or exceeds three times the cost of installation of a proposed onsite wastewater treatment system approved by The City or County. (Proposed)

6.2.4. Prohibited Activities & Systems

6.2.4.1. It is a violation of these regulations to construct, repair, use, or alter any onsite wastewater treatment system without strict compliance with the provisions of these regulations and the possession of a valid permit issued pursuant to these regulations. (FC)

6.2.4.2. It is a violation of these regulations to begin construction prior to the issuance of a letter of approval or valid on-site wastewater treatment permit. (FC)

6.2.4.3. It is a violation of these regulations to discharge any untreated wastewater from private septic systems to any ditch, stream, pond, lake, natural or artificial waterway, county drain, groundwater, abandoned well, sinkhole, storm water conveyance, or swale. (MT, except for last 3)

6.2.4.4. Construction Prohibitions

6.2.4.4.1. Construction on any parcel of land prior to the issuance of a valid on-site wastewater treatment system permit is a violation of these regulations and will result in penalties. (FC)

6.2.4.4.2. Construction may not begin on any parcel of land unless all applicable permits are obtained from all government agencies. (FC)

6.2.4.5. Occupancy Prohibitions

6.2.4.5.1. It is a violation of these regulations to occupy or allow occupation of any dwelling unit or other structure served by a piped water supply unless the structure is connected to:

6.2.4.5.1.1. An on-site wastewater treatment system approved by the WCWMP Administrator, or (Proposed)

6.2.4.5.1.2. An on-site wastewater treatments system approved under earlier regulations or ordinances, or resolutions, or (Proposed)

6.2.4.5.1.3. An on-site wastewater treatment system installed prior to the enactment of any State, County, or City regulations, or (Proposed)

6.2.4.5.1.4. An on-site wastewater treatment system approved through a variance granted by the County or City, or (Proposed)

6.2.4.5.1.5. the public sewer system provided by the City of Whitefish

6.2.4.5.2. Prohibited Systems

6.2.4.5.2.1. The installation of cesspools for the disposal of wastewater is specifically prohibited. (Proposed)

6.2.4.5.2.2. Wastewater holding tanks may not be used as a permanent method of wastewater disposal (Proposed). Currently, Flathead County regulations state: "holding tanks will not be considered where new construction is proposed. Their only use will be for replacement of existing systems where current regulations cannot be met and variances cannot be granted due to the potential adverse impact that a sewage treatment system might have on ground or surface waters and/or the health of any person. The only exception to the above rule shall be where connection of the structure shall be made to a public or municipal system within one year of issuance of a temporary permit." (FC)

6.2.4.5.2.3. The installation of any system must comply with specifications and regulations in Circular DEQ-4 (2004) (MT)

6.2.5. System Failures & Abandonments

6.2.5.1. Failing sewage treatment systems are clearly defined to include sewage or effluent flows that enter surface or ground waters without adequate treatment or removal of bacteria, virus, and other contaminants of danger to public health or the environment. (FC)

6.2.5.2. The owner of the premises must report a failed system to the WCWMP Administrator. (Proposed)

6.2.5.3. Use of a failed wastewater treatment system violates these regulations

6.2.5.4. Upon determining that a system has failed, the WCWMP Administrator shall give written notice of the violation to the owner of the property.(Proposed)

6.2.5.5. Upon receipt of written notice, the owner shall stop the flow of wastewater if possible. (NEW)

6.2.5.6. The owner shall deliver—within 30 days of receipt of notice of violation of a system failure—a remediation plan for the repair and restoration of the failed wastewater treatment system. (Proposed)

6.2.5.6.1. An owner who fails to deliver a remediation plan within 30 days of receipt of notice of violation, or who fails to repair and restore the failed wastewater system within 90 days shall be considered in violation of these regulations. (Proposed)

6.2.5.6.2. The owner of the property may voluntarily vacate the premises instead of repairing or replacing the failed system provided that all surface contamination is properly

remediated, and the failed system is made inoperable. The abandoned tank must be pumped and then removed or filled with sand and/or gravel, or another approved fill material. (Proposed)

6.2.5.6.3. If any part of the system repair requires a variance from this regulation, or if other special circumstances exist, the property owner/tenant must provide a written plan to the WCWMP Administrator within 30 days of receipt of notification of violation. The WCWMP Administrator may approve an extension. (Proposed)

6.2.5.6.4. The WCWMP Administrator may require the owner and/or occupant to remove and dispose of contaminated soil. The WCWMP Administrator must approve any disposal or removal. (Proposed)

6.2.5.6.5. Before making repairs or replacing a failed system or any of its component parts, an owner/tenant shall acquire a permit. (FC)

6.2.5.6.5.1. The WCWMP Administrator may require a site evaluation to ensure that repair or replacement of the failed system complies with all current regulations. (FC)

6.2.5.6.5.2. The owner and or occupant shall comply with all requirements and pay all fees associated with the site evaluation and permit. (FC)

6.2.5.6.5.3. The WCWMP Administrator may permit use of components of the failed system that meet current requirements. (FC)

6.2.5.6.5.4. The WCWMP Administrator may require submittal of proof of compliance with the permit. (FC)

6.2.5.7. Abandonment of septic systems requires the sewer line be disconnected between the building and the septic tank; the septic tank pumped, destroyed by filling with an inert solid, the lid crushed into the tank, and the tank filled with sand or soil. It may also be removed from the premises or re-used if in suitable condition. (FC)

6.3. PERMIT PROCEDURES & REQUIREMENTS

6.3.1. Installer Certification

6.3.1.1. Flathead County and the Whitefish Community Wastewater Program Administrator require that all sewage treatment systems must be constructed, altered, or repaired only by persons holding valid Flathead County Sewage Treatment System Contractor's License. A homeowner constructing altering or repairing an individual sewage treatment system for his/her own residence upon his/her own property is exempt from this requirement. However, the owner must construct the system in full compliance with the regulations and design construction standards. Detailed plans showing the proposed layout, construction method and materials to be used must be provided to the County. A person who owns several parcels of land and who builds structures on these parcels for sale, rent or lease and not for the purpose of their residing in said structures shall not be considered a "homeowner." (FC)

6.3.1.2. Flathead County Contractor's Licenses are granted upon completion of applicant providing appropriate information, passing a required examination, and payment of a license fee. Contractor's Licenses may be denied or revoked based on rules of Flathead County. (FC)

6.3.2. New Systems

6.3.2.1. Flathead County's permitting regulations govern the design, installation, and operation of septic and other sewage treatment systems and establishes the minimum criteria for standards and require that applications for sewage treatment system permits or site evaluations must be made only by the owner or lessee of the property for which the system is proposed or his/her duly authorized agent or assigns and shall be in writing bearing the applicant's signature, and must follow all requirements listed in section 4.5 of the Flathead County Regulations. (FC)

6.3.2.2. A permit is required for any person to construct, alter, repair and/or operate any sewage treatment system within Flathead County unless the system is either a municipal or publicly owned sewage treatment system. (FC)

6.3.2.3. All new septic systems within Flathead County, except those previously reviewed under the Sanitation in Subdivision Act, shall comply with those standards as required under the Administration Rules of Montana (ARM) Title 17, Chapter 30, Sub-chapter 5, Mixing Zones in Surface and Groundwater and Sub-chapter 7, Nondegradation of Water Quality. (FC)

6.3.2.4. New onsite wastewater treatment systems must comply with all Flathead County regulations. (FC)

6.3.2.5. New systems must also comply with all Whitefish Area Lake and Lakeshore Protection Regulations. (CW)

6.3.2.6. If a sewage treatment system for which a permit has been issued has not been installed, inspected and approved by Flathead County within 12 months, said permit shall expire and be void. Should the permit expire, the applicant may reapply. The new permit shall be subject to all the requirements that exist at the time the new application is made. (FC)

6.3.3. Alterations & Replacements

6.3.3.1. Alterations to existing onsite wastewater systems must comply with all regulations at the time of alteration. Replacements must be made in accordance with all new system regulations and abandonments of old system regulations. (FC)

6.3.4. Denials & Variances

6.3.4.1. Flathead County Regulations for Onsite Wastewater Treatment Systems provides for denials of permits in Section 6 and variances in Section 11. (FC)

6.4. SYSTEM REQUIREMENTS

6.4.1. Site Requirements

6.4.1.1. The site and installation of a sewage treatment system and each part thereof shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance or constitute a hazard to public health, or endanger the safety of any actual or potential domestic water supply, or directly enter the waters of the State of Montana. In determining a suitable location of the system, consideration shall be given to the size and shape of the lot, soil conditions, slope of the land, depth to groundwater, proximity to existing and future water supplies, existing sewage treatment systems and State waters, depth to bedrock and/or other impervious materials and to areas for expansion or replacement of the treatment system. Minimum site requirements are published in Section 9 of the Flathead County Regulations for Onsite Sewage Treatment Systems. (FC)

6.4.1.2. Additional requirements of the Whitefish Water Quality Regulations, and the Whitefish Area Lake and Lakeshore Protection Regulations may apply to certain properties based on proximity to the lakeshore and geologic foundation such as slope. (CW)

6.4.2. Septic Tank Requirements

6.4.2.1. All onsite wastewater treatment systems must include a septic tank to provide primary treatment.

6.4.2.1.1. The septic tank must receive all wastewater from the structure being served.

6.4.2.1.2. All septic tanks must be designed and constructed in compliance with the specifications defined in the Flathead County regulations (FC)

6.4.2.1.3. All septic tanks must be equipped with an effluent filter, and (Proposed)

6.4.2.1.4. All septic tanks must have risers to grade. (Proposed)

6.4.2.2. Septic Tank Sizing

6.4.2.2.1. The minimum tank size for residential flows is determined in Figure 4 and is described in Circular DEQ-4. (MT)

Figure 4. Minimum size for residential flows

NUMBER OF BEDROOMS	MINIMUM TANK SIZE, GALLONS
1-3	1000
4-5	1500
6-7	2000
8	2250
9	2500
Add 250 Gallons for each additional bedroom after 9	

6.4.3. Treatment Field Requirements

6.4.3.1. Treatment field requirements are described in Section 9 of the Flathead County Regulations for Onsite Sewage Treatment Systems. (FC)

6.4.3.2. Treatment field minimum requirements are based on the soil characteristics of the site and the estimated wastewater flow to the proposed system. (FC)

6.4.3.3. The number of bedrooms is used to estimate the daily wastewater flow for residential structures.

6.4.3.3.1. The minimum allowable daily flow for any residence is based on two bedrooms. (FC)

6.4.3.4. Soil texture, structure, and type is determined using soil data obtained through on-site evaluations by professional engineers. (FC)

6.4.3.5. The linear feet requirement of a treatment field may be reduced through the use of a Level II filtration system. (FC)

6.5. INSPECTIONS

6.6. Inspection of Newly Installed Septic Systems

6.6.1. Once a permit has been issued by Flathead County or the Whitefish Community Wastewater Program Administrator for an onsite sewage treatment system, the applicant may begin construction. All systems shall be inspected by Flathead County or the Whitefish Community Wastewater Program Administrator prior to backfilling any portion of the system. For engineer designed systems, presence of design engineer or his/her representative is mandatory at this inspection. It shall be the responsibility of the applicant, or the applicant's contractor, to notify Flathead County or the Whitefish Community Wastewater Program Administrator twenty-four (24) hours in advance of the anticipated completion time of the construction of the system for the purpose of arranging a time for inspection. Requests for inspections must be made for normal Flathead County or Whitefish Community Wastewater Program Administrator work hours. (FC)

6.6.2. By issuance of a septic system permit, the owner of the property consents to the re-inspection by Flathead County or the Whitefish Community Wastewater Program Administrator during the operational life of the system to determine the system is operating in compliance with regulations. If not in full compliance, the owner is notified and has 15 days (unless a longer timeframe is approved by the County) to correct the problem. Noncompliance is subject to the County Attorney enjoining the violation, and to fines of up to $500/day. (FC) Note: Should we include something about making appointments with owner for inspection?)

6.6.3. Inspections of newly installed septic systems must comply with all the rules of Section 8 of the Flathead County Regulations for Onsite Sewage Treatment Systems. (FC)

6.7. Septic System Ongoing Maintenance Inspection Program (NEW: This entire program is a new recommendation to simplify septic system maintenance for owners and the agencies responsible for management and compliance. It is based on successful programs implemented elsewhere in Montana and other states. See Lewis & Clark County Septic System Maintenance Program online at: http://www.lccountymt.gov/health/environmental-services/septic-maintenance.html

6.7.1. In an effort to identify malfunctioning or failing septic systems, to extend the life of septic systems, and to protect human health, groundwater and surface water resources, the Whitefish Community Wastewater Program Administrator will implement a Septic System Maintenance Inspection Program

6.7.1.1. <u>Whitefish Community Wastewater Program Administrator Responsibilities</u> - The WCWP Administrator will need to:

6.7.1.1.1. Provide staff to oversee the implementation and ongoing administration of the inspection program,

6.7.1.1.2. Identify budget for inspection program

6.7.1.1.3. Create online database for tracking inspections of septic systems; system failures and upgrades.

6.7.1.1.4. Identify trained personnel to inspect systems (city staff and/or private inspectors)

6.7.1.1.5. Determine the Scope of the Work necessary to bring a failed system into compliance. Such Scope of Work may include, but is not be limited to:

6.7.1.1.5.1. performing soil and percolation tests and other necessary site analyses;

6.7.1.1.5.2. specification of the failed system components to be repaired, replaced and/or upgraded;

6.7.1.1.5.3. design of the system or components to be repaired, replaced and/or upgraded;

6.7.1.1.5.4. obtaining all applicable federal, state and local permits and approvals required to complete the work;

6.7.1.1.5.5. seeking bids and awarding contracts for assessment, design, consulting and construction work and materials in accordance with applicable laws, regulations and requirements;

6.7.1.1.5.6. minimizing any disruption of utility service, and reasonably restoring the property to as near its original condition as practicable; and

6.7.1.1.5.7. engaging such other services and procuring such other materials as shall be reasonably necessary to complete the project in a good and workmanlike manner.

6.7.2. Property Owner Responsibilities - Through the Septic System Maintenance Inspection Program, property owners will be required to perform one of the following maintenance tasks for their septic system, 1) Septic System Inspection (see 7.2.2.1): Hire an independent, licensed septic system maintenance and operation professional to perform a comprehensive inspection of their septic system. OR, 2) complete the Septic System Assessment Form (7.2.2.2) to answer a series of household use questions that lead to the assignment of a score to determine septic tank pumping frequency.

6.7.2.1. Septic System Inspection: Obtain an operations and maintenance inspection performed by a certified septic system operations and maintenance professional at an interval not to exceed five (5) years, and the septic tank pumped as determined by the inspection.

6.7.2.1.1. The results of the inspection, the septic tank pumping record, and applicable fees must be provided to the WCWMP Administrator through an online database or in writing for review.

6.7.2.1.2. The Administrator will work with homeowners on any problems encountered during the inspection. Deficiencies noted during the inspection must be corrected as noted herein.

6.7.2.1.3. Critical Deficiencies: The owner/occupant of an onsite wastewater treatment system with "critical" deficiencies must repair or replace the system *immediately*. These deficiencies include, but are not limited to:

6.7.2.1.3.1. Sewage being discharged to ground surface;

6.7.2.1.3.2. Sewage being discharged to surface water or a cesspool;

6.7.2.1.3.3. Septic tanks that are leaking, collapsing, or overflowing;

6.7.2.1.3.4. Sewage backed up into the structure;

6.7.2.1.3.5. Septic tank lids are broken or missing;

6.7.2.1.3.6. Effluent pump not functioning;

6.7.2.1.3.7. Floats or controls in effluent pump tank missing or not functioning;

6.7.2.1.3.8. Distribution lines leading into or out of the septic tank and/or drainfield are broken, collapsed, or blocked;

6.7.2.1.3.9. Broken or collapsed lines within a drainfield;

6.7.2.1.3.10. Tree roots within any part of the system;

6.7.2.1.3.11. System electrically unsafe.

6.7.2.1.4. Serious Deficiencies: The owner/occupant of an onsite wastewater treatment system with "serious" deficiencies must repair or replace the system *within 30 days of inspection*. These deficiencies include, but are not limited to:

6.7.2.1.4.1. High water alarm inoperable;

6.7.2.1.4.2. Septic tank baffles missing or broken;

6.7.2.1.4.3. Floats or controls I the effluent pump tank not positioned properly;

6.7.2.1.4.4. Effluent filters blocked, missing, or broken.

6.7.2.1.5. Moderate Deficiencies: The owner/occupant of an onsite wastewater treatment system with "moderate" deficiencies must repair or replace the system *before the next required operations and maintenance inspection*. These deficiencies include, but are not limited to:

6.7.2.1.5.1. Access lids from septic tank not to grade;

6.7.2.1.5.2. Cleanouts not accessible;

6.7.2.1.5.3. Access ports or risers not available for distribution systems;
6.7.2.1.5.4. Drainfield used for parking, driving, heavy livestock traffic;
6.7.2.1.5.5. Drainfield and/or septic tank not easily accessible;
6.7.2.1.5.6. Free space not adequate between inlet and baffle (2-4 inches);
6.7.2.1.5.7. Tank not installed properly so that the outlet is lower than the inlet;
6.7.2.1.5.8. Tank not set level.

6.7.2.2. Septic System Assessment: Frequency would range from three (3) to five (5) years based on the results of the assessment. The system owner sends the assessment and pumping record to the WCWMP Administrator by mail or through an online database for review. The manager will work with homeowners on any problems encountered during the assessment.

6.7.2.2.1. Septic tank pumping frequency is based on the following criteria:

6.7.2.2.1.1. High Frequency: A score of 25-36 Assessment points which requires the septic tank to be pumped at least once every three (3) years;
6.7.2.2.1.2. Medium Frequency: A score of 12-24 Assessment points which requires the septic tank to be pumped at least once every four (4) years;
6.7.2.2.1.3. Low Frequency: A score of 0-11 Assessment points which requires the septic system to be pumped at least once every five (5) years.

6.7.2.2.2. Criteria used to determine pumping frequency will include, but are not limited to:

6.7.2.2.2.1. System age;
6.7.2.2.2.2. System type;
6.7.2.2.2.3. Water softening units and/or garbage disposals;
6.7.2.2.2.4. Water usage and conservation measures;
6.7.2.2.2.5. Scum layer thickness;
6.7.2.2.2.6. Date of most recent septic tank pumping and/or inspection;
6.7.2.2.2.7. Number of people served by the system;
6.7.2.2.2.8. Location of septic system

6.7.3. Existing System Date Activated Regulation Option– This will define required actions based on specific septic installation origination dates. Data sources that can provide system installation dates, not just permit dates would be required. This is a new recommendation.

6.7.3.1. If system was built & installed pre 1999, specific actions required are:

6.7.3.1.1. Site Inspection by a specific date
6.7.3.1.2. Upgrade or replacement to be made by a specific date

6.7.3.2. If system built & installed post 1999, specific actions required are:

6.7.3.2.1.1. Follow rules of the Septic System Maintenance Inspection Program

6.7.4. Property Conveyance Regulation Option - This is a new recommendation

6.7.4.1. This regulation requires that septic system design & operating conditions are included in the real estate disclosure process; & requires septic system inspection and mitigation prior to transfer of property.

6.7.4.1.1. LEGISLATIVE NOTE: In an effort to encourage work on septic system issues around the state, Environmental Policy Director Joe Kolman drafted an interim study that Representative Ed Lieser would like to sponsor. A Joint Resolution of the Senate and House of Representatives of the State of Montana, the study would look at options to permit, inspect, and maintain septic systems. The draft discusses general septic system issues on Whitefish Lake, the results of the WLI study, and requests the Legislative Council designate an appropriate interim committee (or direct staff resources) to: evaluate state and local permitting, inspection, and maintenance regulations as compared to other states, and to examine government and non-government options for same.

6.8. OPERATIONS & MAINTENANCE

6.8.1. General Requirements: These general requirements exist to ensure that onsite wastewater treatment systems are operated and maintained in a manner that protects public health, ensures proper functionality of the systems, and prevents system failure. This section describes each

participant's responsibilities in carrying out the final program, including all or part of the newly recommended Septic System Ongoing Maintenance Inspection Program described in 7.2 above.

6.8.2. Owner/Occupant O&M Responsibilities

6.8.2.1. The owner/occupant shall insure that wastewater discharged to the onsite wastewater treatment system does not exceed the current permitted design capacity of the employed system.

6.8.2.2. The owner/occupant shall report instances of onsite wastewater treatment system failures to the WCWMP Administrator in accordance with the Failed System Regulations provided herein.

6.8.2.3. The owner/occupant must prevent adverse impacts to the system, including the primary and replacement soil treatment areas caused by use, activities, or other situations including, but not limited to:

6.8.2.3.1. Encroachments such as buildings, structures, or materials;

6.8.2.3.2. Vehicle traffic;

6.8.2.3.3. Domestic animal management activities;

6.8.2.3.4. Surface or storm water;

6.8.2.3.5. Compaction, excavation, grading, cutting, or ditching of soil on top of or adjacent to a system in violation of the horizontal setback requirements contained herein.

6.8.2.4. The owner/occupant shall monitor the use of the system to ensure conformance with these regulations

6.8.2.5. Owner/occupant shall, within 45 days of written notice, comply with the Septic System Maintenance Inspection Program and either obtain an Assessment for Septic Tank Pumping Frequency, and pump the septic tank at the interval required by the Assessment criteria, OR obtain an operation and maintenance inspection performed by a certified operation and maintenance professional at an interval not to exceed every five (5) years.

6.8.3. Operations & Maintenance Service Provider Responsibilities

6.8.3.1. O&M service providers may perform their services only when their certification is in good standing and in conformance with these regulations. Certification is a privilege extended to an Operations & Maintenance (O&M) service provider and is not a right.

6.8.3.2. Certification means that the O&M service provider has demonstrated sufficient knowledge of these regulations to perform an operation and maintenance inspection in compliance with these regulations.

6.8.3.3. O&M service providers have a duty to keep current on changes to these regulations.

6.8.3.4. To become certified, an applicant must:

6.8.3.4.1. Complete an application;

6.8.3.4.2. Pay the non-refundable fee;

6.8.3.4.3. Attend a WCWMP approved certification course (to be developed);

6.8.3.4.4. Pass the certification exam.

6.8.3.5. Performance criteria for O&M service providers include:

6.8.3.5.1. Performs operations and maintenance service in accordance with these regulations;

6.8.3.5.2. Possess equipment that allows for the proper inspection of septic systems;

6.8.3.5.3. Submit operations and maintenance reports on forms or by other methods specified by the WCWMP Administrator;

6.8.3.5.4. Submit deficiency reports on forms or by other means within two (2) working days after completing the inspection;

6.8.3.5.5. Provide payment of fees within thirty (30) days after maintenance is completed;

6.8.3.5.6. Submit complete, truthful, and accurate inspection and maintenance reports to the WCWMP Administrator and owner.

6.8.4. Whitefish Community Wastewater Program Administrator O&M Responsibilities

6.8.5. Whitefish Community Wastewater Program Administrator will:

6.8.5.1. Develop forms and reporting systems to facilitate conformance with these regulations;

6.8.5.2. Maintain records for all required operations and maintenance activities completed and submitted to the WCWP Administrator according to these regulations;

6.8.5.3. Provide upon request, records concerning the operations, maintenance, and compliance of any onsite wastewater treatment system;

6.8.5.4. Provide written notification to owners and occupants that they are required to perform operation and maintenance tasks for their system;

6.8.5.5. Require complete and accurate inspection reports or contract information, and require correction and re-submittal of information corrected by the provider or owner;

6.8.5.6. Respond to reports of "Critical" deficiencies within two (2) business days, "Serious" deficiencies within ten (10) business days, and "Moderate" deficiencies within twenty (20) business days;

6.8.5.7. Perform oversight and periodic review of certified providers to determine conformance with these regulations;

6.8.5.8. Investigate and track issues of public health significance caused by malfunctioning or failing systems;

6.8.5.9. Take necessary and responsible action to eliminate or mitigate public health concerns caused by malfunctioning or failing systems.

6.8.5.10. Review and update this program every two years.

6.9. ENFORCEMENT

6.9.1. Effectiveness

6.9.1.1. The most effective and defensible regulatory programs are based on clear policy; are incentive-based, providing funding options to reduce financial and other hardships of community members; and have an appropriate enforcement component. It is the intention of the WCWC that the WCWMP fulfills the requirements of effectiveness by clearly defining the program, making available all funding options and incentives, and defining responsibilities and enforcement.

6.9.2. Access Rights

6.9.2.1. By issuance of a Flathead County septic system permit, the owner of the property consents to the re-inspection of their septic system during the operational life of the system to determine the system is operating in compliance with regulations. Property owners therefore are required to provide access during regular business hours to inspectors. (FC)

6.9.2.2. It is the responsibility of the owner/occupant to give Flathead County and/or the Whitefish Community Wastewater Program Administrator free access to the property at reasonable times for the purpose of making such inspections as are necessary for determining compliance with these regulations. (FC)

6.9.2.3. No person may molest or resist representatives of Flathead County or the Whitefish Community Wastewater Program Administrator in the discharge of their duty, including inspections made before, during, and after the installation and final approval of a system. (FC)

6.9.3. Violations

6.9.3.1. It is a violation of these regulations to:

6.9.3.1.1. Own or operate a malfunctioning sewage treatment system; (FC)

6.9.3.1.2. Install or alter a sewage treatment system without a valid permit or written Flathead County Health Department approval; (FC)

6.9.3.1.3. Construct or maintain any dwelling or other occupied structure which is not equipped with adequate facilities for the sanitary disposal of sewage; (FC)

6.9.3.1.4. Violate any provision of these regulations. (FC)

6.9.3.2. If the Flathead County Health Department or the Whitefish Community Wastewater Program Administrator discovers there has been a violation of any provision of these regulations or if the requirements of a sewage treatment system have been willfully violated, the governing body shall give notice of such violation to the responsible person or persons. Such notice shall be in writing and shall specify any violations. The notice shall spell out the required corrective action and provide a reasonable time for correction, considering the severity of the violation and its public health significance. Service of such notice shall be by means of regular mail and shall be considered complete upon personal service or mailing by the governing body. If after the notice has been served, the deficiencies have not been fully corrected to the satisfaction of the governing body in the specified time period, the governing body shall provide such information to the County Attorney for appropriate legal action including, but not limited to, action to enjoin (take legal action) the violation. (FC)

6.9.4. Enforcement & Penalties

6.9.4.1. Enforcement authorities

6.9.4.1.1. Flathead County Health Department

6.9.4.1.2. Whitefish Community Wastewater Program Administrator

6.9.4.2. Fines

6.9.4.2.1. Any person who violates any provision of these regulations or any provision of any regulation adopted by the City of Whitefish pursuant to that authority granted by this regulation shall upon conviction be punished a fine not less than $50 or more than $500 (Committee needs to solidify recommendation - Flathead County is $50 - $500) per day of violation. Each day of violation constitutes a separate offense. The first day of the violation shall be the date of the notice of violation.

6.9.4.2.2. Similar to the Flathead County Regulations, Whitefish poses fines for violations including up to thirty (30) days in jail, a $500 fine, or both.

7. MONITORING

7.1. Two types of monitoring are suggested in conjunction with the Whitefish Community Wastewater Management Program; 1) Public Works sewer infrastructure inspections & exfiltration investigations, and 2) Whitefish Lake septic leachate monitoring.

7.1.1. Sewer Infrastructure: The City conducts ongoing sewer inspections to determine the condition of the wastewater infrastructure and to identify maintenance and rehabilitation needs. An extensive review of the system and recommendations for repairs and upgrades was made in 2006 (Anderson-Montgomery). The City conducted additional inspections of the sewer system in the identified problem areas in 2013 to evaluate system components and to identify any problems that might be contributing to sewer wastewater entering groundwater and the lake. No problems were identified.

7.1.2. Whitefish Lake Septic Leachate Monitoring: WLI will develop recommendations for a Long-Term Whitefish Lake Wastewater Monitoring Plan to measure effects of wastewater systems on the lake and its tributaries.

8. BUDGET

8.1. The City of Whitefish will create a budget to recognize expected project costs which will be further enumerated as the final program becomes clearer. Alternatives 2 & 3 will be subject to the costs of grant writing and eventually a cost-share with grants and loans, and may also be subject to the costs of a FTE or contractor to manage the program.

9. NEXT STEPS

9.1. The Whitefish Community Wastewater Committee was tasked with delivering to the City Council recommendations regarding wastewater conveyance and management, septic systems, and nutrient trading, including funding considerations, education & outreach options, management options, and a plan for ongoing monitoring. This “Whitefish Community Wastewater Management Program” is hereby delivered to fulfill that goal. It is now the task of the City Council to review the Program Draft for possible action.

It is with great respect for the enormity of the issue and for the demands on the county and city staff responsible for the health of our citizens that this Program Draft was developed. The WCWC members agree that the problem of aging septic systems needs to be addressed in order to protect human and economic health. The committee also recognizes that there is no one simple solution, and all actions come with a range of effectiveness and associated resource requirements. We believe however, that there are a number of actions that can be taken—over time—to address the issue of septic pollution. And, we have identified numerous proven funding programs designed to help municipalities address costly and time-consuming projects such as improving wastewater treatment. It is the hope of the WCWC that the alternatives proposed in this Program Draft will serve as a starting place for discussions between the City of Whitefish and Flathead County to implement the shared goals of a healthier community. The WCWC members appreciate the opportunity to serve on this ad hoc committee.

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10. ACRONYMNS

ARM	Administrative Rules of Montana
DEQ4	Montana Standards for Subsurface Wastewater Treatment Systems.
GIS:	Geographical Information Systems
HOA:	Home Owners Association
MCA:	Montana Codes Annotated
MOU:	Memorandum of Understanding
MSPA	Montana Subdivision & Platting Act
O&M:	Operations & Maintenance
PER:	Preliminary Engineering Report
RFP:	Request for Proposal
SRF:	State Revolving Fund
SWTS :	Subsurface Wastewater Treatment Systems
TSEP:	Treasure State Endowment Program
W2ASACT:	Water, Wastewater and Solid Waste Action Coordinating Team
WLI:	Whitefish Lake Institute
WCWC:	Whitefish Community Wastewater Committee
WCWMP:	Whitefish Community Wastewater Management Program

11. GLOSSARY OF TERMS

ABANDONED SYSTEM - A system is considered to be abandoned when it meets one of the following criteria: The system has not been used for two (2) years, or The use of the system has been discontinued because of connection to an improved, on-site system or a public sewer system. Systems for recreational cabins or dwellings used regularly, but infrequently, shall not be considered abandoned.

ALTERATION shall mean physically changing a system by relocating, modifying, repairing, extending or replacing, all or portions of a system.

APPROVED shall mean accepted by the jurisdictional body in writing.

ASSESSMENT FOR SEPTIC TANK PUMPING FREQUENCY means the form that the system owner uses to report information to the WCWMP about household and system use practices. The reported information is then used by the WCWMP Administrator to determine the frequency at which the owner must have the septic tank(s) pumped.

BEDROCK is the solid rock underlying unconsolidated surface materials. It is typically insufficient for the adequate treatment and disposal of wastewater.

BEDROOM shall mean any room that is or can be used for sleeping or any room or space such as a den, study, storage area, or other area, which can be easily converted to a bedroom. An unfinished basement shall be considered as an additional bedroom.

CERTIFIED INSTALLER is any individual who has attended required training and demonstrated an adequate knowledge of the regulations governing on-site wastewater treatment by passing all required examinations and paid the required certification fees.

CESSPOOL means a seepage pit without a septic tank to pre-treat the wastewater.

CONSTRUCTION shall mean the building or renovation of any structure intended for human occupancy that would result in an increase in wastewater flow; the drilling of a well or the provision of water to a site intended for human occupancy; or work on or the installation of any part of an on-site wastewater treatment system.

CRITICAL DEFICIENCY means an instance of non-compliance noted during an operation and maintenance inspection or risk assessment that is considered an immediate public health threat and poses concerns for public and environmental safety.

DWELLING refers to any structure, building or portion thereof, which is intended or designed for human occupancy and that must be supplied with water by a piped water system.

EMERGENCY is any situation that poses a threat to the health of the public or the environment by allowing untreated wastewater to be exposed to the ground surface or discharged to the aquifer.

FAILED SYSTEM means an on-site wastewater system that no longer provides the treatment and/or disposal for which it was intended, or violates any of the requirements of ARM. 17.36.913.

FLOODPLAIN means the area adjoining the watercourse or drainway that would be covered by the floodwater of a flood of one-hundred year frequency except for sheet flood areas that receive less than one (1) foot of water per occurrence and are considered Zone B areas by the Federal Emergency Management Agency. The floodplain consists of the floodway and the flood fringe, as defined in the A.R.M. Title 36, Chapter 15.

GRAY WATER is any wastewater other than toilet wastes or industrial chemicals, and includes but is not limited to shower and bath wastewater, kitchen wastewater, and laundry wastewater.

GROUNDWATER OBSERVATION is water level observation in a properly constructed well conducted for a long enough period of time to detect a peak and then a sustained decline in water level. Water level observing must be performed in accordance Circular with DEQ 4 in Appendix C.

INSTALLERS shall mean those persons who are involved in the actual physical construction of on-site wastewater treatment systems.

LEVEL II TREATMENT means a wastewater treatment system that must provide a higher degree of treatment than conventional systems, including the removal of at least sixty (60) percent of nitrogen as measured from the raw effluent load to the system. The term does not include treatment systems for industrial waste.

LICENSED SEPTAGE HAULER means a person licensed by the State of Montana to remove and transport wastewater from onsite wastewater treatment systems to an approved facility.

MAINTENANCE means routine or periodic action taken to assure proper system performance, extend system longevity, and/or assure a system meets performance requirements.

MODERATE DEFICIENCY means an instance of non-compliance during an operation and maintenance inspection or risk assessment that has the potential to interfere with the overall performance of the system and may interfere with proper operation and maintenance of the onsite wastewater treatment system.

MONITORING may refer to the periodic or continuous checking of an onsite wastewater treatment system, which is performed by observation and measurements, to determine if the system is functioning as intended and if system maintenance is needed. Monitoring also includes maintaining accurate records that document monitoring activities. Monitoring may also refer to the routine or periodic measurement of chemical and/or physical properties of a waterbody, conducted by scientists to measure changes to that waterbody.

MUNICIPAL SEWER SYSTEM is defined in MCA §7-13-2201 through §7-13- 2351, the term "municipality" includes a consolidated city and county, city, or town and includes all corporations organized for municipal purposes within the districts.

NON-CERTIFIED INSTALLER means any individual who has not attended required training and demonstrated an adequate knowledge of the regulations governing on-site wastewater treatment by passing all required examinations and paid the required certification fees. Non-certified also refers to any certified installer who has had his/her certification revoked.

OCCUPANCY means the fact or condition of using or residing in a building or part of a building that is served by a piped water supply, including residential, commercial, or any other type of building.

ON-SITE WASTEWATER TREATMENT SYSTEM refers to any form of subsurface wastewater treatment and all wastewater treatment systems for individual residences.

OPERATION means the act or process of operating or functioning or using an onsite wastewater treatment system.

OPERATION AND MAINTENANCE SERVICE PROVIDER refers to a qualified person certified by Flathead County or the Whitefish Community Wastewater Program Administrator to perform operation and maintenance inspections and repairs not requiring a permit on onsite wastewater treatment systems.

OWNER refers to a person or person who has legal title to, or possession of, real property, a building, structure, or place of business.

OWNERS AGENT refers to a person or business that an owner authorizes to represent them.

PERMEABILITY refers to the capacity of the soil to transmit fluids. The degree of permeability depends upon the amount, size and shape of the soil pores and their interconnections. Permeability is measured by the rate at which a fluid of standard viscosity can move a given distance through an interval of time.

PERMIT means the written authorization from the Whitefish Community Wastewater Program Administrator or Flathead County to install a new on-site wastewater treatment system or repair, replace, expand, alter, or improve an existing on-site wastewater treatment system or any part thereof.

PERSON shall mean any individual, corporation, company, association, society, firm, partnership, joint stock company or any branch of state, federal or local government; or any other entity that rents or leases property subject to this regulation.

PIPED WATER SYSTEM means a plumbing system that conveys water from a source, including but not limited to wells, cisterns, springs, or surface water to a structure.

PRIVATE SEWER means a sewer receiving the discharge from one building sewer and conveying it to the public sewer system or a wastewater treatment system.

PUBLIC SYSTEM means a system for: collection, transportation, treatment, or disposal of wastewater that serves 15 or more families or 25 or more persons daily for a period of at least 60 days in a calendar year. In estimating the population served, the reviewing authority shall multiply the number of living units times the county average of persons per living unit based on the most recent census data

PUMPING RECORD refers to the record or report provided by the licensed septage hauler that records the date of removal of wastewater and the size and condition of the septic tank(s) and/or dosing tank(s).

REPLACEMENT SYSTEM means an on-site wastewater treatment system proposed to replace a failed, failing, or contaminating system.

SEASONAL shall mean occupancy of a residence for not more than one hundred twenty (120) days in a calendar year and which would not qualify as the primary residence of a taxpayer for federal income tax purposes related to capital gains on the sale or exchange of residential property.

SEPTIC TANK means a storage-settling tank in which settled sludge is in immediate contact with the wastewater flowing through the tank while the organic solids are decomposed by anaerobic action.

SERIOUS DEFICIENCY means an instance of non-compliance noted during an operation and maintenance inspection or risk assessment that has the potential to result in a type deficiency and may create damage to the onsite wastewater treatment system.

SEWER DISTRICT is defined in MCA §7-13-2201 through §7-13-2351 as a unit of local government separate and distinct from a municipality, but a district may be treated as a municipality when applying for a grant, a loan, or other financial assistance from the state.

SITE EVALUATION means an evaluation to determine if a site suitable for the installation of a subsurface wastewater treatment system.

SLOPE means the rate that a ground surface declines in feet per 100 feet. It is expressed as percent of grade.

STATE WATERS is a body of water, irrigation system, or drainage system, either surface or underground; however, this does not apply to irrigation waters where the waters are used up within the irrigation system and the waters are not returned to any other state waters.

SUBDIVISION means a division of land or land so divided which creates one or more parcels containing less than 160 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any re-subdivision and condominium or area, regardless of size, which provides permanent multiple space for recreational camping vehicles or mobile homes.

SUBSURFACE WASTEWATER TREATMENT SYSTEM means the process of wastewater treatment in which the effluent is applied below the soil surface or into a mound by an approved distribution system.

SURFACE WATER refers to any body of water whether fresh or saline, including watercourses such as impoundments, lakes, streams, irrigation ditches, or ponds.

SYSTEM means all components of any wastewater treatment system from the point of exit from the structure/dwelling to the end of the distribution network (including but not limited to: pipe, septic tank, dose tank, pumps, manifold, distribution box, perforated pipe, chambers).

UNSTABLE LAND FORMS refers to areas showing evidence of mass down-slope movement such as debris flows, landslides, rock falls, and hummock hill slopes with undrained depressions up-slope. Unstable landforms may exhibit slip surfaces roughly parallel to the hillside; landslide scars and curving debris ridges; fences, trees, or telephone poles that appear tilted; and tree trunks that bend uniformly as they enter the ground.

VARIANCE means the granting of an exception to the minimum requirements set out in these regulations, or to the requirements in Title 17, Chapter 36, Subchapter 9 of the Administrative Rules of Montana, or to the requirements in Circular DEQ-4.

WASTEWATER means a combination of liquid wastes that may include chemicals, house wastes, wash water, human excreta and animal or vegetable matter in suspension or solution.

WASTEWATER TREATMENT SYSTEM or WASTEWATER DISPOSAL SYSTEM means a system that receives wastewater for purposes of treatment, storage, or disposal. The term includes, but is not limited to pit privies and experimental systems

WELL means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

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RESOURCE DECISION MAKERS

(Decision makers & first tier implementers to be kept in the loop re committee communications & activities)

Last updated 11/10/12

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RESOLUTION NO. 12-15

A Resolution of the City Council of the City of Whitefish, Montana, establishing an ad hoc Whitefish Community Wastewater Committee.

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

Section 1: There is hereby established a Whitefish Community Wastewater Ad Hoc Committee (the "Committee").

Section 2: The purpose and duties of the Committee shall be as follows:

A. Identify, monitor, and coordinate issues of wastewater management for the Whitefish Community;

B. Identify spatial and temporal extent of septic leachate contamination to the shoreline area of Whitefish Lake;

C. Provide a scientific basis for identifying ecological threats to Whitefish Lake; and

D. Prepare an ad hoc committee report with recommendations to the Whitefish City Council regarding wastewater management, septic systems, nutrient trading, and wastewater conveyance issues including:

1. Timeline of deliverables that takes into account the complexity of the issues and timing of funding opportunities.

2. Address short-term goals (such as education and outreach) and long-term goals (such as management options and/or policy setting).

3. Review current funding options and grant application deadlines so the committee can position the City to meet important deadlines.

4. Monitoring component to assess and disseminate information from ongoing investigations by the Whitefish Lake Institute and other science-based and technical organizations.

5. Prepare a list of resource agencies and decision makers to be included on communications of the committee.

Section 3: Membership of the Committee shall be as follows:

A. The Committee shall have up to ten (10) voting members. Members shall consist of one (1) or two (2) Whitefish City Councilors and/or Mayor, appointed by the Whitefish City Council, one (1) Flathead County Commissioner (or designee) appointed by the Flathead County Commissioners, one (1) Flathead Basin Commission Board Member, one (1) representative from each of the affected sampling areas, Lazy Bay, Lion Mountain, Carver Bay/East Lakeshore, and Point of Pines (four (4) citizens), and two (2) at-large members from the community of Whitefish and its extraterritorial area.

The City Clerk shall make a notation of a member's representation category to facilitate appointment to categories not represented.

B. The Committee shall also have up to nine (9) ex-officio (non-voting) members as follows: the City Manager or designee, one (1) representative from Whitefish City Public Works, one (1) representative from Whitefish City Planning Department, one (1) representative from Flathead County Health Department, one (1) septic system engineer, one (1) representative from Whitefish Water District, and two (2) representatives from the Whitefish Lake Institute appointed by the Whitefish Lake Institute.

C. The City Council shall be entitled to appoint those individuals that it determines most qualified, regardless of representation category. The City Council may appoint one of its members to serve as an ex officio (non-voting) member of the Committee.

D. Committee members shall receive no compensation.

Section 4: The Committee shall begin its deliberations as soon as practical after creation of the Committee. The Committee shall be disbanded no later than of July 31, 2013, or earlier if the City Council completes its consideration of the Committee's report prior to that date.

Section 5: A member of the Committee may be removed by the City Council, after a hearing for misconduct or nonperformance of duty. Absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year shall constitute grounds for removal. Circumstances of the absences shall be considered by the City Council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the Committee Chair at least twenty-four (24) hours prior to any scheduled meeting.

Section 6: Any vacancy on the Committee shall be filled by the unexpired term in the same manner as the original appointment.

Section 7: 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 16th DAY OF JULY, 2012.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

The Whitefish Lake Institute conducted this investigation for the Whitefish County Water District under the Department of Natural Resources Renewable Resource Grant & Loan program to determine the spatial and temporal extent of septic leachate to the shoreline area of Whitefish Lake. The study also provides a scientific basis for identifying ecological threats to the lake, economic threats to the community of Whitefish, and potential public health risks resulting from decreased water quality. Synoptic sampling of 20 sites—including one midlake reference site—occurred on 9 sample dates starting in May 2011 and concluding in October 2011. The results of this investigation are intended as actionable information for resource decision makers and Whitefish citizens concerning septic system usage around Whitefish Lake. Whitefish Lake is located in northwestern Montana in the larger Flathead Watershed which is part of the Columbia River Basin.

Septic "leachate" is the liquid that remains after wastewater drains though septic solids. The liquid contains elevated concentrations of bacteria and organic compounds from waste, detergents, and other household materials. When properly placed, functioning, and maintained, septic systems are designed to collect wastewater to neutralize these contaminants before they enter ground or surface water systems. Decomposition of waste begins in the septic tank and ends in a leachfield after undergoing a series of treatments whereby wastewater is chemically, physically, and biologically processed to remove contaminants. Modern septic systems are considered cost-effective for wastewater treatment, however issues such as improper initial system design, impermeability of soil, improper soil drainage class, improper vertical distance between the absorption field and the water table, improper slope, or improper maintenance may lead to system failure.
Even when properly installed and maintained, septic systems have a finite life expectancy.

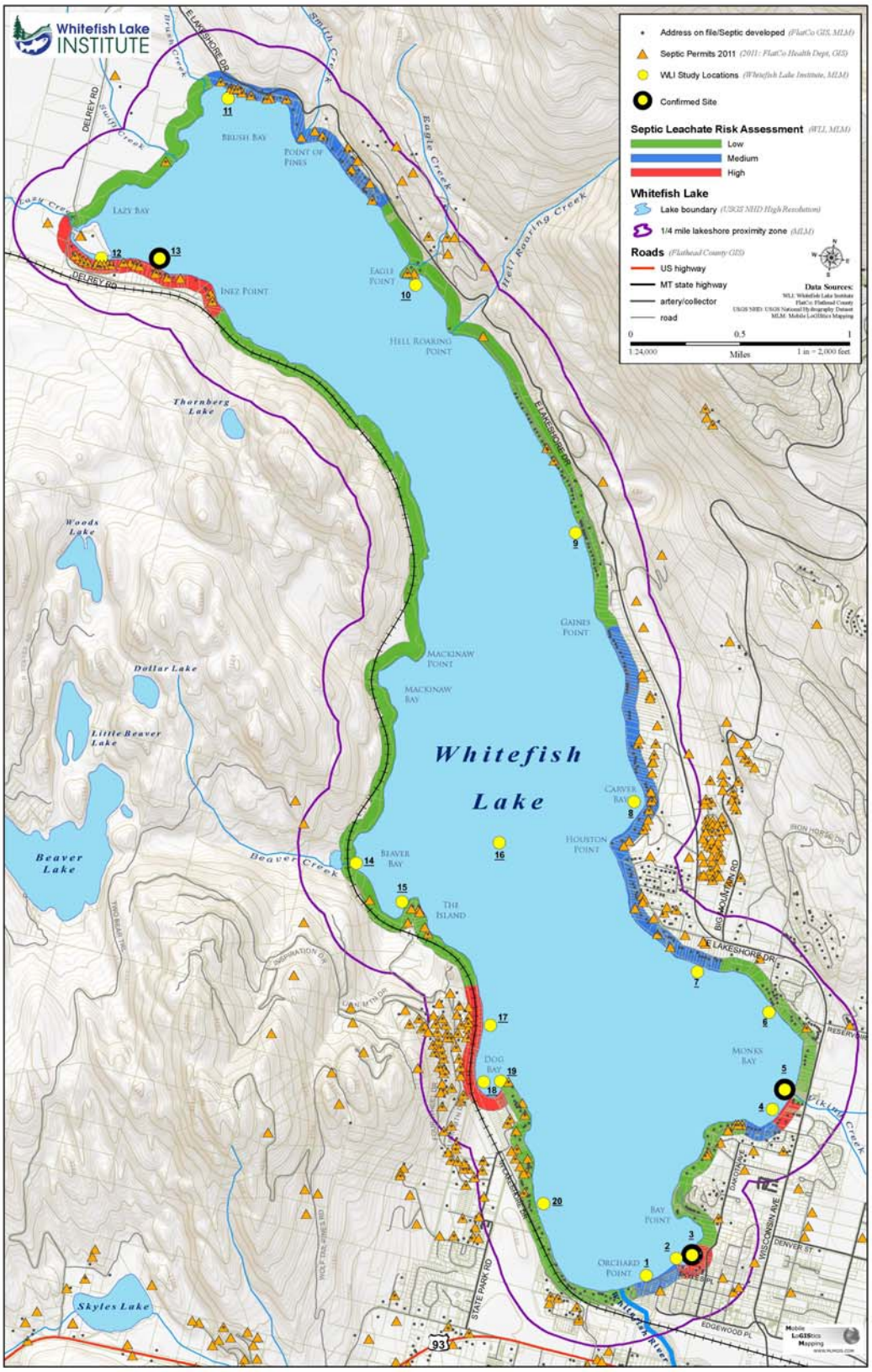
In addition to basic cleaning components, 97% laundry detergents in the U.S. contain Optical Brightening Agents (OBAs). OBAs are added to laundry soaps, detergents, and other cleaning agents because they adsorb to fabrics and materials during the washing and cleaning processes making clothes appear brighter. Laundry wastewater is the largest contributor of OBAs to wastewater systems. The presence of OBAs in wastewater with laundry effluent as a component is therefore considered an excellent indicator of septic or sewage system failure. Because the specific light spectrum emitted from OBAs found in cleaning products is easily measurable, it is one of the key data parameters used in tracking ineffective sewage treatment from septic systems.
Numerous studies have shown that septic leachate is transported by groundwater flow through lake-bottom sediments into lake water, elevating nutrient concentrations (Kerfoot and Brainard 1978; Belanger *et al*. 1985; Jourdonnais and Stanford 1985 *in* Jourdonnais *et al*. 1986). Previous studies specific to Whitefish Lake have indicated septic system failures, and confirmed the presence of OBAs from household cleaning products commonly found in septic leachate. This investigation was designed to build on the techniques and results of prior studies, but employ newer data collection techniques along with bacterial source tracking methodologies. Because septic leachates are known to contain elevated concentrations of both organic and inorganic compounds, the study employed a toolbox of techniques, including; fluorometry, dissolved organic carbon (DOC), fluorometry/DOC ratio (F/DOC), *E. coli* enumeration, human DNA biomarkers, conductivity, total dissolved solids (TDS), and GIS methodologies and tools. In addition to data collection and analysis, a historical record for the study area was established.

In total, we identified three confirmed areas of septic leachate contamination, including Site 3: City Beach Bay, Site 5: Viking Creek, and Site 13: Lazy Bay. We identified two areas of high potential for septic leachate contamination, including Site 12: Lazy Channel and Site 18: Dog Bay State Park Seep. Four areas were identified as having medium potential for septic leachate contamination, including Site 2: City Beach Seep, Site 4: SE Monk's Bay, Site 11: Brush Bay, and the East Lakeshore from Gaines Point south to north Monk's Bay, including Site 8: Carver Bay and Site 7: SE Houston Pt. The remaining 10 shoreline sites are considered to have a low potential for contamination by septic leachate (Figure 24). A study conducted in 1985 reported signs of chronic contamination from shoreline developments at Sites 2: City Beach Seep, 18: Dog Bay State Park Seep, 5: Viking Creek, and the approximate location of Site 14: Central Beaver Bay, correlating directly with results of this study.

Our results suggest that the three confirmed sites, along with the two sites with high potential and four sites with medium potential have also shown contamination in prior studies, and represent locations where action should be considered. The study concluded with the development of a *Septic Leachate Contamination & Risk Assessment Map* (Figure 24) which identifies confirmed sites of septic leachate contamination as well as areas of low, medium, and high potential for future contamination.

General and site specific recommendations included herein, largely based on examples from other wastewater management programs, are provided as examples of actions that can be taken to support the common goal of protecting Whitefish Lake water quality. They include Education & Outreach and Regulatory programs.

ADDENDUM D
RISK ASSESSMENT MAP



ADDENDUM E
FLATHEAD COUNTY REGULATIONS FOR ONSITE SEWAGE TREATMENT SYSTEMS

PART I FLATHEAD COUNTY
REGULATIONS FOR ONSITE SEWAGE TREATMENT SYSTEMS

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FLATHEAD COUNTY

REGULATIONS FOR ONSITE SEWAGE TREATMENT SYSTEMS

PURPOSE OF REGULATIONS

The Flathead City-County Board of Health understands the importance of proper treatment and disposal of sewage. Diseases such as dysentery, infectious hepatitis, typhoid, paratyphoid, and various types of diarrheal infections are transmitted from one person to another through fecal contamination of food , water and other vectors. This can occur by the improper treatment and disposal of sewage. Every effort must be made to prevent such hazards. Important to this is the proper treatment of sewage and not just the disposal of sewage.

Safe treatment and disposal of all sewage is necessary to protect the health of the individual family and the community and to prevent the occurrence of public health nuisances. To accomplish satisfactory results such waste must be treated and disposed of so that:

1. It will not contaminate any existing or future drinking water supply,
2. It will not be accessible to insects, rodents, or other possible carriers which may come into contact with food or drinking water,
3. It does not pose a health hazard by being accessible to children,
4. It will not pollute or present the potential to contaminate any surface or ground water,
5. It will not give rise to a nuisance due to odor, insect or animal attraction.
6. It will not violate laws or regulations concerning water quality protection or sewage treatment/disposal.

The Flathead City-County Board of Health has developed the following regulations and construction standards to insure the proper design, installation and operation of sewage treatment systems and to alleviate possible public health hazards associated with improper treatment and disposal of sewage.

SECTION 1 - Authority and Scope of Regulations

1.1 These regulations have been written pursuant to Title 50-2-116 - Powers and duties of Local Boards - (j) "adopt necessary regulations and fees for the control and disposal of sewage from private and public buildings not currently connected to any municipal system (fees shall be deposited with the County Treasurer)".

1.2 These regulations cover ALL sewage treatment systems in Flathead County except "Municipal and Publicly owned Sewage Treatment Systems", as defined herein.

1.3 The permit system established through these regulations governs the design, installation and operation of sewage treatment systems. Operation shall mean the system is functioning properly in compliance with the regulations at the time the permit is issued. The permit is not to be construed as being a building permit or any other permit that may be required by other agencies to erect a structure in Flathead County.

1.4 The permit itself establishes the minimum criteria for the standards adopted in Flathead County. The Department does not design the systems and the recommendations set forth in the permit do not bind or obligate the county to guarantee the satisfactory operation of any system.

1.5 At any time throughout this permit system process, the Flathead City-County Health Department may require the applicant to provide verification of compliance, or the ability to comply with other agencies', districts', or governmental entities' bylaws, ordinances, zoning laws, rules or regulations when deemed pertinent and appropriate by the Department.

SECTION 2 - Effective Date and Review Procedures

2.1 All provisions established under this regulation shall become effective as of January 1, 2005.

2.2 At any time, the Board may propose additions or revisions to these regulations. Changes proposed to the regulation by the Board shall be processed for adoption, as prescribed by existing County Administrative Regulations.

SECTION 3 - Definitions

3.1 "Abatement Order" shall mean a written order to (1) cease an act(s) which is in violation or causes a violation of these regulations or (2) to do an act(s) so as to comply with these regulations; it shall specify which section of these regulations is being violated or must be complied with and it shall be delivered in the manner prescribed in Section 13.2.

3.2 "Adequate Facilities" shall mean a subsurface sewage treatment system or other facilities approved by the Department.

3.3 "Alteration" shall mean physically changing a sewage treatment system by lengthening, shortening, widening, building structures over or changing the flow into a system by changing use of a dwelling unit. Changing the use of a dwelling unit may include, but not be limited to, adding living quarters, adding structures or changing the use in such a manner as to alter the wastewater characteristics for which the system was permitted. This shall not be construed to mean changing dwellings in a campground or a trailer court currently licensed by the State Department of Health and Environmental Sciences. Conversion of a campground to a mobile home park shall be considered an alteration requiring Department approval. Alteration shall also mean the conversion of an existing dwelling unit into multiple units.

3.4 "Applicant" shall mean any person, institution, public or private corporation, partnership or other entity that submits an application for a permit to install, alter, construct or repair a sewage treatment system.

3.5 "Bedrock" shall mean a consolidated rock formation of impervious material that may exhibit a jointed, fractured or cohesive structure. It shall also include the above material in a decomposing state.

3.6 "Board" shall mean the Flathead City-County Board of Health.

3.7 "Class 1 System" shall mean an individual sewage treatment system.

3.8 "Class 2 System" shall mean a shared, multi-user or public sewage treatment system with design flow of less than 1000 gallons per day.

3.9 "Class 3 System" shall mean a shared, multi-user or public sewage treatment system with design flow of 1000 or more gallons per day.

3.10 "Composting Toilet" shall mean a unit that consists of a toilet seat and cover over a riser which connects to a watertight compartment or vault that contains or will receive composting materials sufficient to reduce waste by aerobic decomposition.

3.11 "Conventional System" shall mean a sewage treatment system composed of a septic tank and standard soil absorption trenches.

3.12 "Department" shall mean the Flathead City-County Health Department.

3.13 "Dosing" shall mean storage and periodic, high rate discharge of sewage or effluent from one sewage treatment unit to the next.

3.14 "Failing Sewage Treatment System" shall mean any sewage treatment system not properly functioning and shall include but not be limited to:

(1) Sewage treatment systems whose sewage or effluent flows or enters surface waters or groundwaters without adequate treatment or removal of bacteria, virus, and other contaminants of danger to public health or the environment.

(2) Systems that have sewage or effluent overflow from any of their component parts that ponds or flows on the ground surface.

(3) Systems that back sewage or effluent into any portion of the building or plumbing system.

3.15 "Fill" shall mean soil materials that have been displaced from their original location by other than natural processes.

3.16 "Final effluent treatment" shall mean the natural treatment derived through the process of effluent release to the environment.

3.17 "Floodplain" shall mean the area adjoining the watercourse or drainway which would be covered by the floodwater of a flood of 100-year frequency, except for sheetflood areas that receive less than one (1) foot of water per occurrence and are considered "Zone B" by the Federal Emergency Management Agency.

3.18 "Greywater" shall mean any waste water other than toilet or industrial wastes and includes, but is not limited to, shower and bath wastes, kitchen wastewater, usual household chemicals and laundry wastes. Industrial wastes containing industrial chemicals are not considered as greywater.

3.19 "Groundwater Table" shall mean the upper surface of groundwater in the zone of saturation of a geologic formation. The upper surface of a perched water table is included in this definition.

3.20 "Health Officer " shall mean the legally established authority as designated by the Flathead City-County Board of Health.

3.21 "High Seasonal Groundwater Level" shall mean the minimum depth, during any period of the year to the groundwater table as measured from the natural ground surface.

3.22 "Holding Tank" shall mean a watertight receptacle for the retention of sewage before, during or after treatment where an effluent is not generated.

3.23 "Impervious or Restrictive Layer" shall mean a layer of material that prevents water or root penetration and/or has a percolation rate slower than one hundred twenty (120) minutes per inch.

3.24 "Individual Sewage Treatment System" shall mean a system designed to serve one single family dwelling or a structure used for a single commercial use which employs and/or serves less than 25 people per day or a single commercial use which employs and/or serves 25 or more people per day less than 60 days per year.

3.25 "Infiltrative surface" means the undisturbed soil interface beneath the drainrock or leaching chamber.

3.26 "Level 2 treatment" means a subsurface wastewater treatment system that:
(a) removes at least 60% of total nitrogen as measured from the raw sewage load to the system; or
(b) discharges a total nitrogen effluent concentration of 24 mg/L or less.
The term does not include treatment systems for industrial waste.

3.27 "Licensed Contractor" shall mean a person that holds a current license, issued by the Department, to install, alter or repair sewage treatment systems under the terms of these regulations.

3.28 "Mobile Home Park" shall mean a tract of land providing space and water and/or sewer service to two (2) or more mobile home lots for lease or rent to the general public.

3.29 "Multi-user Sewage Treatment System" shall mean all systems that serve 3 - 14 families or service connections, but not over 24 people.

3.30 "Municipal Sewage Treatment System" shall mean a system that is the sole responsibility of an incorporated city or town government.

3.31 "Owner" shall mean the person who is the legal titleholder of land onto which a sewage treatment system has been or is to be placed.

3.32 "Permit" shall mean a written authorization issued by the Department allowing construction, alteration, installation or repair and operation of a sewage treatment system under the provisions of this regulation.

3.33 "Person" shall mean any individual, public or private corporation, institution, partnership or other legal entity.

3.34 "Pit Privy" shall mean an excavated pit which receives undiluted sanitary sewage.

3.35 "Premises" shall mean a definite portion of real property with its appurtenances, also to include a building or part of a building. This shall include, but not be limited to, residential dwellings, mobile homes, recreational vehicles, commercial or industrial structures, apartment, condominiums, and townhouses.

3.36 "Primary Treatment" shall mean the initial process by which suspended solids are settled out of the wastewater.

3.37 "Publicly Owned Sewage Treatment System" shall mean a system that is the sole responsibility of a Special Improvement Sewer District created in accordance with Montana Law.

3.38 "Public Sewage System" means a system which serves 15 or more families, or 25 or more persons for a period of at least 60 days out of the calendar year.

3.39 "Sealed component" shall mean a receptacle which is watertight on the sides, bottom and possibly the top in which wastewater is held for primary treatment or effluent is held for intermittent conveyance to an additional treatment component.

3.40 "Secondary Treatment" shall normally mean any process or facility to further reduce the suspended or dissolved organic and/or inorganic solids in the effluent from a "Primary Treatment" facility or process. This can take many forms, one of which is a subsurface drainfield.

3.41 "Septage" shall mean material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device or similar treatment works that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool or similar treatment works that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.

3.42 "Septic Tank" shall mean a watertight accessible covered receptacle designed and constructed to receive sewage from a structure or structures, settle solids from the liquid, to anaerobically digest organic matter and store digested solids through a period of retention and allow the clarified liquids to discharge to other treatment units for final disposal.

3.43 "Sewage" shall mean a combination of liquid wastes that may include usual household chemicals, domestic wastes, human excreta, animal or vegetable matter in suspension or solution, and other solids in suspension or solution, which is discharged from a dwelling, building or other establishment. Within the scope of this definition sewage shall also include greywater.

3.44 "Sewage Treatment System" shall mean a system for sanitary collection, transportation, treatment and disposal of sewage, operated in accordance with State and Local Board of Health Regulations.

3.45 "Shared Sewage Treatment System" means a sewage treatment system which receives wastewater from 2 living or commercial units with a total service population of less that 25 people per day, or more than 25 people per day for less than 60 days per year.

3.46 "Site Evaluation" shall mean the physical inspection of the property to determine suitability for installation of sewage treatment systems.

3.47 "Soil Profile" shall mean a detailed description of the soil strata to a specific depth. The description can be expressed using the U.S. Department of Agriculture's Soil Classification System or the Unified Soil Classification System.

3.48 "Standard Soil Absorption Trench" or "Drainfield Trench" shall mean a ditch or trench with vertical sides and substantially flat bottom dug to a width of two (2) feet and to a maximum depth of three (3) feet.

3.49 "Subdivision" shall mean a division of land as defined in the most current revision of the Sanitation in Subdivisions Act (76-4-101 thru 76-4-131, M.C.A. 1995) and/or its Regulations (Title 17, Chapter 36, Sub-Chapters 1, 3 and 6 ARM), now and as hereafter amended.

3.50 "Subsoil Drain" shall mean foundation drains, french drains, vertical drains, or other drainage systems designed to lower a groundwater table.

3.51 "Surface Water" shall mean any natural or man made body of water or watercourse, including lakes, ponds, rivers, creeks, streams and swamps.

3.52 "Temporary Permit" shall mean a permit authorizing installation of an interim sewage treatment system.

3.53 "Test Hole or Test Pit" shall mean an open pit dug to sufficient size and depth to permit thorough examination of the soil to determine a soil profile.

3.54 "Vault Toilet" is a water tight tank that is approved by the Department for temporary storage of undiluted sanitary waste.

SECTION 4 - Application and Permits

4.1 A permit issued by the department is required for any person to construct, alter, repair and/or operate any sewage treatment system within Flathead County unless the system is either a municipal or publicly owned sewage treatment system.

4.2. All applications for permits shall be made to the Department. The Department will be furnished a copy of all plans. Individual sewage treatment plans will be processed at the County level. Multi-user and Public Sewage system plans will be reviewed by the Department and forwarded to the State Health Department, if required, for their review, approval and returned to the Department. Permits shall be issued upon compliance by the applicant with all provisions of these regulations. Upon completion of the review process, approval and payment of the appropriate fee, one copy of the permit will be provided to the applicant.

4.3 All sewage treatment systems in Flathead County shall utilize uniform pressure distribution. Plans and specifications shall be prepared by a professional engineer or a sewage treatment system designer certified by the Department.

4.4 Non-degradation - All new septic systems within Flathead County , except those previously reviewed under the Sanitation in Subdivisions Act, shall comply with those standards as required under the Administration Rules of Montana (ARM) Title 17, Chapter 30, Sub-chapter 5, Mixing Zones in Surface and Groundwater and Sub-chapter 7, Nondegradation of Water Quality.

4.5 Application for a sewage treatment system permit or site evaluation shall be made only by the owner or lessee of the property for which the system is proposed or his/her duly authorized agent or assigns and shall be in writing bearing the applicant's signature. Applications shall be made on forms provided by the Department and shall include the following:

(1) Legal description of property for which construction, alteration, or repair is proposed. (Lot and Block numbers in a platted subdivision, or if applicable the Tract Nos.; and a quarter-quarter breakdown of a Section plus the Section, Township and Range). The applicant MUST ALSO PROVIDE a visual representation of the property. This may be a copy of a Certificate of Survey that created the property, a copy of the Plat, Deed Exhibit, or a copy of the Section map. This material may be obtained at the Plat Room of the County Clerk and Recorder's Office at the owner's expense.

(2) Parcel Size

(3) Names, current addresses and telephone numbers of the applicant, and those legally responsible for the operation and maintenance of the system.

(4) Address of the property on which the system is to be installed.

(5) A site plan indicating whether public and/or private sewer and water systems will be used. Include the design and location of proposed sewer and water systems showing their relation to site elevations, water wells or surface water bodies, including those located on adjacent properties within 100 feet of the property line, proposed and existing buildings, driveways, parking areas, other utility lines, and lot boundaries. Show the site available for a replacement system, or include a plan to correct possible system failure.

(6) Proof that the proposed structure will be in compliance with current zoning regulations in that specific area is required.

(7) Payment of site evaluation fee.

4.6 Minimum lot size requirement - A proposal to use both an individual onsite wastewater treatment system and water supply for each single family residence or 700 gpd of design wastewater flow for commercial and

other non-residential uses on a lot which is smaller than 1 acre may be approved only if all regulatory requirements including separations and setbacks can be met.

Parcels for which additional development is proposed must provide:

1) at least 1 additional acre for each single family residence or 700 gpd of design wastewater flow for commercial and other non-residential uses if served by an individual water supply and sewer service or,

2) at least an additional 20,000 ft^2 for each single family residence or 700 gpd of design wastewater flow for commercial and other non-residential uses if either the water or sewer is provided by a shared, multi-user or public system.

If the property proposed for the sewage treatment system installation, alteration or repair and operation has not been reviewed and does not have a Certificate of Subdivision Plat approval, a site evaluation may be conducted by the Department to determine the suitability of the property and the area designated for the sewage treatment system installation, alteration or repair before issuing a permit under these regulations. The applicant shall grant the Department access to the property for the purpose of determining site suitability.

NOTE: The presence of a Certificate of Subdivision Plat Approval on a specific property does not obligate the Department to issue a sewage treatment system permit without a site evaluation if the information provided is found to be inaccurate or additional information from the immediate area regarding soil, groundwater, etc., indicates the physical conditions are different than represented by the Certificate of Subdivision Approval.

(1) On any existing tract of land in Flathead County, whether it be an individual tract or a lot in a platted subdivision where new construction is proposed requiring a sewage treatment system, area must be made available for a 100% replacement of the original system in the event that failure occurs or the applicant must provide the Department with a plan or procedure to correct the system failure should it ever occur. The plan or procedure must be approved by the Department prior to issuing the permit for the original or primary system.

NOTE: New construction on any tract of land or subdivision lot, regardless of when it was created, where the new construction proposed is for multiple family structures, multiple dwellings or for commercial or industrial structures shall be required to have area available for a 100% replacement of the original system.

(2) The Department may require that the applicant have a test hole dug in the area of the proposed sewage treatment system installation, alteration or repair. The depth of the test hole will be dependent upon the type of information the Department feels is necessary for that specific situation. The Department may require that the applicant provide more than one (1) test hole depending upon the variability of the soils, the type of information necessary, and/or the anticipated size of the drainfield area.

(3) After or during the inspection of the property, the Department may require that the applicant provide additional information. The reasons for this request shall be provided to the applicant. This additional information may include, but is not limited to, percolation tests, more detailed soil analyses, groundwater monitoring or a system designed by a professional engineer.

(4) If groundwater monitoring is deemed necessary based on information received during the site evaluation, derived from Soil Conservation Service (SCS) material or from experience with that specific area, groundwater monitoring shall be carried out to determine the depth to high seasonal groundwater during its period of occurrence, in order to determine compliance with these regulations (see Section 9.5).

(5) If information received during a site evaluation, or if any information received indicates that a conventional system cannot be installed so as to fully comply with these regulations, the Department may require that the applicant seek the assistance of a professional engineer to design a system complying with these regulations.

(6) Permits for multi-user systems which are designed to serve multiple lots or parcels shall not be issued until an ownership, maintenance and operation agreement acceptable to the Department has been submitted. Furthermore, final approval of the installation shall not be given until the agreement has been filed with the County Clerk and Recorder.

(7) If any portion of a sewage treatment system must encroach within 10 feet of a property line, written permission from the neighboring property owner must be obtained prior to issuance of a sewage treatment system permit.

(8) If any portion of a sewage treatment system will be located on another parcel of land, an easement filed with the County Clerk and Recorder will be required prior to issuance of a sewage treatment system permit.

(9) The Department may require the material discussed in this section be provided by persons trained in the related field(s).

4.7 The Department shall not issue a permit until all pertinent site data and required design plans have been received, reviewed and determined to be in full compliance with all provisions contained in these regulations and applicable State Regulations. If the Department does not have qualified personnel or facilities to perform adequate review of a particular plan, it shall secure review and evaluation by an independent engineer to the extent deemed necessary. Cost of such review will be borne by the Department. One set of plans approved by the Department, will be retained. At the time the Department determines the proposal outlined in the application complies with the regulation, a permit will be prepared and signed by the Department. A permit is not considered as issued until the applicant has paid the appropriate permit fee.

4.8 Permit and Site Evaluation Fees

(1) A site evaluation fee may be required and must be submitted with the initial applications.

(2) Applicants shall be required to pay the permit fee prior to issuance of the permit.

(4) Fees shall be in accordance with a Schedule of Fees adopted by the Flathead City-County Board of Health, a copy of which shall be available at the Health Department.

(5) Fees are to defray costs, to the extent deemed appropriate by the Board for evaluation of the site and system, administration, necessary inspection and re-inspection from initial application through construction and operational start-up.

4.9 Temporary Permit - A permit to install and operate a temporary sewage treatment system may be issued by the Department when municipal or public sewer is proposed to be made available to the subject property within six (6) months. Additional time must be granted through a variance with the Board of Health. Financial hardship shall not be considered as the basis for issuance of a temporary permit. Issuance of a temporary permit shall be subject to any or all of the following conditions as deemed appropriate by the Department through written agreement:

(1) Annexation to the municipality or district.

(2) The Department may require a form of security to assure compliance with 4.7(1). The form of security may be:

(a) Cash or other collateral readily convertible to cash at face value deposited in an escrow account or with the Department.

(b) Certificate of deposit payable to the Department.

c) The owner shall provide the Department with a letter of credit from a bank or other reputable institution or individual certifying the following:

1) That the creditor guarantees funds in an amount of 125% of the projected cost of completing all required improvements;
2) That if the owner fails to complete the specified improvements within the required period, the creditor will immediately pay the Department upon presentation of a sight draft without further action, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit stated in the letter;
3) That the letter of credit may not be withdrawn or reduced in amount until released by the Department

(d) A commercial bond, or

(e) Other security acceptable to the Board.

The amount of the security shall be 125% of the total estimated project cost and the estimated cost shall be determined by a licensed professional engineer or licensed contractor, whichever is deemed appropriate by the Department. If the Department determines that the holder of a temporary permit has not complied with the terms of the permit or agreement, it may withdraw the security and use these funds to construct the improvements or correct any deficiencies necessary to bring the permit holder's system into compliance with the permit or agreement.

4.10 Re-use of Existing Septic Systems - Sewage treatment systems no longer in use due to the removal or destruction of a structure may be permitted for re-use provided the following criteria are met:

(1) There is a permit for the existing system in the FCCHD files.

(2) The system is in compliance with all current separation and setback requirements.

(3) The system is in compliance with current construction standards.

(4) The system appears to have adequate capacity for the proposed use as related to current minimum standards, and

(5) Application is made and a new permit is issued.

Sewage treatment systems within the 100 year floodplain may be replaced provided all other setback and separation requirements are met. However, if any portion of the applicant's property is located out of the floodplain, the applicant may be required to locate all or a portion of the replacement system in this area.

4.11 A sewage treatment system which the Department determines must be abandoned shall have:

(1) The sewer line disconnected between the building and the septic tank.

(2) The septic tank destroyed by filling with an inert solid, removed from the premises or re-used if the tank is in suitable condition.

(3) Written certification by the owner to the Department that the system has been abandoned in accordance with the conditions referenced above.

SECTION 5 – Expiration and Revocation of Permits

5.1 If a sewage treatment system for which a permit has been issued has not been installed, inspected and approved by the Department within 12 months, said permit shall expire and be void. Should a permit expire, the applicant may reapply. The new permit shall be subject to all requirements that exist at the time the new application is made.

5.2 The permit for a sewage treatment system which has been inspected and approved will be revoked if the system has not been put into operation within three (3) years at the permitted or lesser level of use. A new application must be made to renew any revoked permit. The application for renewal will be reviewed prior to permitting to ensure compliance of the existing system with the regulation in effect at the time of application and that the connection to a structure can be made in compliance with those regulations. A fee for renewal of the permit will be required. An inspection of the connection to a structure may also be required.

NOTE: The Department is not obligated to issue a new permit to an applicant who has allowed a previously issued permit to expire or be revoked even though the new permit application utilized the same specifications and information as on the previously issued and expired permit. A new permit will not be issued if information becomes available indicating that a previously approved system or permit cannot now be approved or re-issued and be in full compliance with the regulations that exist at the time of reapplication.

5.3 The installation, alteration, repair or operation of a sewage treatment system after the initial permit has been voided shall constitute a violation of these regulations.

5.4 Any changes in plans, details or specifications of construction not approved by the Department after the permit has been issued, shall invalidate the permit.

5.5 There will be no reimbursement to any applicant of fees received for the issuance of the permit.

5.6 The Department may void a permit before its normal expiration date when any of the facts or conditions upon which the permit specifications were based are found be constitute a violation of these regulations.

SECTION 6 - Denial of Permits

6.1 The Department may disapprove an application for a permit if the Department determines:

(1) That the sewage treatment system, as proposed, will not comply with the requirements or specifications of these regulations, or,

(2) That the applicant has failed to supply all data necessary to make a determination as to whether or not the proposed sewage treatment system complies with the requirements or specifications of these regulations and had failed to provide such information within ninety (90) days after a written notice for such additional information has been made by the Department, or,

(3) That the applicant has failed to pay the required fees and has failed to make such payment within ninety (90) days after notice to the applicant by the Department that the permit has been prepared and can be issued upon payment of the appropriate fee.

6.2 If a tract of land is presently being reviewed under the Sanitation in Subdivisions Act, a permit

cannot be issued for any structure on that tract of land until the review of said subdivision has been completed and the subdivision approved.

6.3 A permit may be denied if it is found that any provision of a Certificate of Subdivision Approval has been violated or there is departure from any criteria set forth in the approved plans and specifications of said subdivision.

6.4 A permit may be denied if it is found that such installation is in conflict with the requirements of the Sanitation in Subdivisions Act or its regulations, or if such installation is intended as a means of avoiding the requirements of the Sanitation in Subdivisions Act or its regulations.

6.5 A permit to construct a sewage treatment system for a structure on any tract of land, regardless of size, where there already exists another structure or structures, serviced by a separate sewage system(s), shall be denied if the applicant cannot provide substantiating evidence that there is available area for the construction of said system and there is sufficient area to construct a 100% replacement system for that system and for any other sewage treatment system on that tract of land.

6.6 If an approved municipal or other publicly owned sewage collection and treatment system is readily available within a distance of 200 feet of the property line for connection to a new source of wastewater, or as a replacement for a failed treatment system, and the owner (management entity) of the publicly owned collection and treatment system approves the connection, the applicant must connect. A connection is considered as not readily available if:

(1) The cost of the connection, as determined by the Department, is greater than three times the cost of the installation of an onsite wastewater treatment system that could be approved for the site, or

(2) Connection to the public system is physically impractical, or

(3) Necessary easements cannot be obtained.

6.7 If it is determined by the Department that the primary purpose of a proposed septic system is to avoid annexation to a municipality, the permit shall be denied.

6.8 Any denial of a permit shall be made with reasons for such denial and shall be given to the applicant within fifty (50) days of the receipt of a completed application.

SECTION 7 - Contractor Licensure

7.1 It shall be unlawful for any person, except as delineated in this section, to construct, alter or repair an individual or multi-user sewage treatment system within Flathead County unless that person holds a valid Flathead County Sewage Treatment System Contractor's License. A homeowner constructing, altering or repairing an individual sewage treatment system for his/her own residence upon his/her own property is exempt from this requirement. However, it must be understood by the owner that the system must be constructed in full compliance with these regulations and design and construction standards. Detailed plans showing the proposed layout, construction method and materials to be used must be provided to the Department. A builder who owns several parcels of land and who builds structures on these parcels for sale, rent or lease and not for the purpose of their residing in said structures, shall not be considered a "homeowner".

7.2 All first time applications for contractor licenses shall be made to the Department who may grant the license upon completion of the following:

(1) Name, address and telephone numbers of the applicant.

(2) Passing the required examination.

(3) Receipt of the license fee payment.

All applications for license renewal shall contain all the elements of a first time application except that the examination requirement may be waived if the applicant has demonstrated knowledge of good sewage system design and/or installation in the year immediately preceding the application.

7.3 Contractor licenses shall be valid from January 1 through December 31 for the year stated on the license and shall be renewable by March 1 of the following year. Licenses are not transferable.

7.4 Contractor licenses may be denied for any of the following reasons:

(1) Having constructed or altered a sewage treatment system without a valid permit, and/or,

(2) Having a license revoked within twelve (12) months preceding the application, and/or,

(3) Failure to meet the terms of License Applications.

7.5 Contractor licenses are the property of the Department and may be revoked by the Department at any time for the following reasons:

(1) Installation of a sewage treatment system prior to the issuance of a septic system permit, and/or,

(2) Failure to gain approval for a sewage treatment system installation, and/or,

(3) Having provided false evidence or information to obtain a septic permit or gain approval of a septic installation.

7.6 In the event that any portion of Section 7.5 has been violated and revocation of the license is deemed appropriate, the Department shall notify the licensee in writing that the license has been revoked. Reasons for the revocation shall be specified in the letter.

7.7 Appeal to the Board. A contractor whose license has been revoked by the Department may appeal that decision to the Board of Health. After receiving the appeal, the Board shall allow the appellant to present his/her appeal before the Board at its next regularly scheduled meeting, provided that such request is received ten (10) days prior to the scheduled meeting date. At this meeting, the appellant may appear in person, be represented by another person, or may appeal to the Board in writing. The Board shall, within fifteen (15) days after hearing and/or reviewing the appeal, respond to the applicant in writing stating its decision and the reasons therefore. The Board's decision shall be determined as final.

7.8 The term of revocation will be for one calendar year from the date of violation. Relicensure shall be permitted only after completion of the requirements set forth in Section 7.2.

SECTION 8 - Inspection & Operation of Sewage Treatment Systems

8.1 Once a permit has been issued by the Department for sewage treatment system, the applicant may begin construction. All systems SHALL be inspected by the Department PRIOR to backfilling any portion of said system, unless specific permission has been granted by the Department to backfill a portion of the system. For engineer designed systems, presence of the design engineer or his representative is mandatory at this inspection. It shall be the responsibility of the applicant, or the applicant's contractor, to notify the Department twenty-four

(24) hours in advance of the anticipated completion time of the construction of the system for the purpose of arranging a time for inspection. Requests for inspections must be made for normal Department work hours.

8.2 By the issuance of a permit, the owner of the property consents to the re-inspection by the Department of the sewage treatment system during its operational life. This consent shall be binding upon the owner's successors, heirs and assigns in interest. Re-inspections shall be conducted during regular business hours. The purpose of the re-inspection is to determine that the sewage treatment system is operating in compliance with these regulations.

8.3 During the Department's inspection of the sewage treatment system the inspector shall diagram the distance, dimensions and capacities of all component parts of the system on the Department's copy of the application and evaluate the conformity of the construction and operation of the system relative to all provisions of these regulations and the plans and specifications approved for that permit.

8.4 Should the inspector find that any aspect of the construction or operation of a sewage treatment system is not in full compliance with these regulations and/or the plans and specifications filed with the permit, he/she shall describe these deficiencies in detail in writing on the Department's copy of the inspection record. The Department shall then notify the applicant or owner immediately of all deficiencies and require that corrective action be taken. A re-inspection shall be made upon notification by the applicant or the applicant's contractor, as specified in this Section, to ensure that the deficiencies have been corrected and that the system has been brought into compliance with these regulations and/or the specifications of the permit. A re-inspection fee shall be paid prior to the re-inspection.

8.5 The deficiencies as described by the Department must be corrected within fifteen (15) days, unless a longer compliance schedule is approved by the Department. Noncompliance with the above schedule or use of the system shall constitute a violation of these regulations. (See Section 12 - Violations, Penalties and Enforcement)

8.6 Final approval for engineer designed systems shall not be granted until the design engineer furnishes a complete set of as-built drawings and written certification to the Department that the project was completed as shown therein. Information required for the certification shall include that obtained by the engineer during an inspection conducted after final completion of the project. The certification and as-built drawings shall be provided to the Department within 10 days following the final inspection.

8.7 The property owner shall be responsible for proper operation, maintenance and cleaning of the system and/or abatement of any nuisance arising from its failure, unless jurisdiction for responsibility has been transferred to a public, quasi-public or private entity or political subdivision. The issuance of a permit does not constitute assumption by the Department or its employees of liability for the failure of any sewage treatment system nor does it imply any guarantee by the Department that the system will function properly.

8.8 The Board of Health or Department may require the owner of an individual or multi-user sewage treatment system to maintain and submit to the Department records of inspection, maintenance, cleaning and testing performed on the system as deemed necessary by the Board or Department for any system requiring maintenance beyond normal pumping and filter cleaning frequency, for any system designed to treat wastewater that exceeds residential strength, any system that utilizes Level 2 or greater treatment technology, or any system that may not be functioning or being operated properly.

8.9 Sewage treatment systems are designed to accept domestic wastes, not to include toxic chemical wastes, e.g., developing solutions from photographic activity, industrial wastes, washdown of chemical containers, etc. Water from roof drains, groundwater, surface runoff, gutters, sump pumps, etc., shall not be discharged into a sewage treatment system and should be purposely directed to discharge to locations that will not in any way affect a sewage treatment system or pollute State waters. NOTE: Greywater must be treated as sewage and disposed of through an approved sewage treatment system.

SECTION 9 - Minimum Requirements for Class 1 - 3 Sewage Treatment Systems

9.1 General

(1) The sewage treatment system shall consist of an inlet line from a point two (2) feet outside the foundation wall to the septic tank or other approved primary treatment device, possibly an intermediate treatment device and a final effluent treatment system usually consisting of a subsurface absorption field.

(2) All effluent treatment systems utilizing a subsurface absorption field shall employ uniform pressure distribution.

(3) Wastewater flows:

(a) - Residential wastewater flows

Minimum design wastewater flow from a single family dwelling unit in Flathead County is 350 gallons per day. For dwelling units which have more than 3 bedrooms, the design wastewater flow shall be increased by 100 gallons per day per additional bedroom.

(b) - Nonresidential wastewater flow

Typical daily flows for a variety of commercial, institutional, and recreational establishments are presented in Tables 5 -1, 5-2 and 5-3 of circular DEQ 4. For design purposes, the typical flows must be used as minimum design flows. Greater design flows may be required where larger flows are likely to occur, such as resort areas. Design flow must be computed using the total number of units in the proposed facility times the typical daily flow in the tables, with no reduction allowed for occupancy rates. Where the system includes several different types of uses from the tables, each use must be computed separately, and the design flow must be based on the sum of all of the uses. A means of flow measurement (such as flow meters or pump run-time meters) may be required.

As an alternative to the flows listed in the tables, design flow may be based on actual water use data from similar facilities. Because this water use data will typically be monthly averages, the peak design flow must be a minimum of 1.5 times the average flow. System components may be added (or enlarged) to address peak flows to allow drainfields to be sized based on average flow.

(4) Upon failure of any portion of a sewage treatment system, the Department may require upgrading of any other portion of the system in addition to the failed component.

(5) Installation of a pit privy is prohibited in Flathead County.

(6) Installation and use of a vault toilet shall be limited to serving a structure which does not have water piped into the building.

9.2 Location

(1) The location and installation of a sewage treatment system and each part thereof shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance nor constitute a hazard to public health nor endanger the safety of any actual or potential domestic water supply, nor directly enter the waters of the State of Montana. In determining a suitable location of the system, consideration shall be given to the size and shape of the lot, soil conditions, slope of the land, depth to groundwater, proximity

to existing and future water supplies, existing sewage treatment systems and State waters, depth to bedrock and/or other impervious materials and to areas for expansion or replacement of the treatment system.

(2) Minimum distances/separations have been established for location of the various component parts of the sewage treatment system and these distances/separations are shown in Table 1.

TABLE 1 - MINIMUM SETBACK AND SEPARATION DISTANCES

FROM:	TO: Septic Tank Pump Chamber Other Sealed Components (feet)	TO: Absorption System (feet)
Well [a]	50	100
100-year Floodplain	5	100
Surface Water [b]	50	100[a]
Foundation Wall	10	10
Water Lines	10	10
Property Lines [c]	10	10
Absorption System	10	---
Slopes in excess of 25%	10	25
Groundwater Table [d]	(e)	4 [a][f]
Bedrock [d]	(e)	4 [a][f]
Impermeable or Impervious Layer [d]	(e)	4 [a][f]
Subsoil Drains	10	10
Cisterns [a]	25	50

(a) Variances to these setbacks will not be considered for new construction.

(b) Surface Water - This distance shall be measured horizontally from the high water mark.

(c) For proposed installations where any portion of the sewage treatment system will be located less than 10 feet from the property line, written permission must be obtained from the adjoining owners.

(d) Groundwater Table - Depth to groundwater table shall be measured during its highest period of occurrence (high seasonal groundwater level).

(e) The Department may require that special design criteria and construction techniques be utilized when septic tanks, pumping chambers and sealed lines are proposed to be located within two (2) feet of the groundwater table, bedrock, impermeable soils, or extremely coarse soils (gravels).

(f) 4 feet - The separation to groundwater, bedrock and/or impermeable or impervious layer shall be measured from the infiltrative surface.

(3) No component of any sewage treatment system shall be located under driveways, parking areas or areas subject to heavy loading and no vehicles shall be driven over the system after installation, except those portions properly installed to accept traffic loads. No component part of any sewage treatment system shall be installed in an area that might later be used for building additions, garages, sheds or other structures that will restrict immediate access to any portion of the system for necessary maintenance and repair. NOTE: No absorption system shall be placed under driveways, roadways, parking areas or areas that may be subject to continued/periodic vehicular traffic, regardless of design and installation.

(4) Soil absorption fields shall be adequately protected (e.g., fenced) to prevent trampling by livestock or damage from vehicular traffic.

(5) Floodplain: No soil absorption system shall be located within 100 feet of a 100 year floodplain of any river, lake, stream, pond, or watercourse and from any swamp or seep as delineated by the most current Federal Emergency Management Agency (FEMA) floodplain maps available and accepted for use in Flathead County or other method of delineation described in subsection (b).

(a) Where FEMA floodplain maps are available the shaded zones as shown on the map shall generally be considered as a guideline in determining the area within the 100-year floodplain. In those areas where there are questions due to either the scale of mapping or variation in topography, the 100-year floodplain boundary shall be further delineated by obtaining a Letter of Map Amendment through FEMA. Elevations as determined by a licensed surveyor or licensed engineer may be required to verify that the proposed sewage treatment system site meets the location requirements set forth in Table 1.

(b) If any portion of a proposed system is within two thousand (2000) horizontal feet and twenty (20) vertical feet of a live stream draining an area of twenty-five (25) square miles or more and no official FEMA floodplain delineation or floodplain studies of the stream have been made, the applicant shall be requested to furnish a report delineating the base flood elevation of the 100-year floodplain to the Water Resources Division of the Montana Department of Natural Resources and Conservation. After the Water Resources Division has reviewed and approved the report delineating the floodplain, the applicant shall submit it to the Department.

(c) The horizontal setback to the 100-year floodplain may be waived in the event that the sewage treatment system drainfield is a minimum of 100 feet from the river, stream or other water body's average yearly highwater mark and the bottom of the drainfield will be at least two feet above the 100 year base flood elevation as determined by methods described above.

(d) Sewage treatment systems within the 100 year floodplain may be replaced provided all other setback and separation requirements are met. However, if any portion of the applicant's property is located out of the floodplain, the applicant may be required to locate all or a portion of the replacement system in this area.

(e) Replacements of sewage treatment systems within the 100 year floodplain shall be for only what the system has been serving or the use for which the system was permitted. No increase in use shall be allowed.

(f) The unpermitted filling of wetlands (e.g., ponds, watercourses, swamps) or the 100 year floodplain for the purpose of attaining the setback requirements set forth in Table 1 is prohibited.

(6) The sewage treatment system shall not be located in any swales or depressions where surface runoff may flow or accumulate. Careful consideration must be made to prevent any accumulation of water over the sewage treatment system by properly landscaping to direct drainage away from the system.

(7) The Department may require that special design criteria and construction techniques be utilized when septic tanks, pumping chambers and sealed lines are proposed to be located within two (2) feet of the groundwater table, bedrock, impermeable soils, or extremely coarse soils (gravels).

9.3 Groundwater: If groundwater is within seven (7) feet of the natural ground surface or if there is any reason to believe groundwater will be within seven (7) feet of the ground surface at any time of the year, groundwater monitoring holes shall be provided to a depth of at least eight (8) feet in the area of the absorption field to determine the high seasonal groundwater level (see Section 6 - Denial of Permits).

9.4 Bedrock/Impervious Material - If there is reason to believe that bedrock or other impervious material is within seven (7) feet of the natural ground surface, test holes shall be provided to accurately determine the depth to bedrock or other impervious material.

NOTE: If information is obtained indicating that a four (4) foot separation between the infiltrative surface and high seasonal groundwater, bedrock or other impervious materials cannot be provided in the area of the proposed sewage treatment system, a permit to install a conventional sewage treatment system shall be denied (see Section 6 - Denial of Permits).

9.5 Slope Restrictions - Natural slopes greater than 15% but less than 25 % shall preclude the use of sub-surface sewage treatment systems unless evidence is submitted substantiating that soil and groundwater conditions are such that there will be no visible outflow of liquid downslope from the installation of the sewage treatment system. Such material shall be submitted by an engineer, soils scientist, or geologist. Natural slopes greater than 25% will not be considered for sewage treatment system installation.

9.6 Holding Tanks: As defined in 3.23, holding tanks will not be considered where new construction is proposed. Their only use will be for replacement of existing systems where current regulations cannot be met and variances cannot be granted due to the potential adverse impact that a sewage treatment system might have on ground or surface waters and/or the health of any person. The only exception to the above rule shall be where connection of the structure shall be made to a public or municipal system within one year of issuance of a temporary permit (see Section 4.8).

9.7 If it is the finding of the Department that further installation of sewage treatment systems in an area may adversely affect or injure any property, the health or safety of any person, surface or groundwaters, or will conflict with the purposes of these regulations, the Board of Health may restrict, prohibit or impose additional conditions upon the installation of new sewage treatment systems within the affected area.

SECTION 10 - Special Districts

Within the limits of its authority, the Board of Health may enter into agreements with County Water and Sewer Districts for the purpose of mitigating public health hazards, improving, protecting and preserving water quality.

SECTION 11- Variances and Appeals

11.1 Appeal to the Health Officer: Should a sewage treatment system permit be denied or should any affected person wish to appeal the application or operation of any part of these regulations, the applicant or appellant may appeal such denial or the affected person may appeal the application or operation of the regulations within ten (10) days in writing to the Health Officer.

(1) The burden of proof shall be placed upon the applicant or appellant to show that the denial of the permit or application or operation of these regulations was contrary to these regulations or based upon incorrect information or incorrect interpretation of information.

(2) The Health Officer shall decide within thirty (30) days whether the denial will be upheld or the appeal granted. Reasons for any decision will be provided to the applicant or appellant in writing.

11.2 Appeal to the Board of Health. Should an appeal to the Health Officer result in a denial of the appeal, the appellant may make an appeal to the Flathead City-County Board of Health. After receiving the appeal, the Board shall allow the appellant to present his/her appeal before the Board at its next regularly scheduled meeting, provided that such request is received ten (10) days prior to the scheduled meeting date. At this meeting, the appellant may appear in person, be represented by another person, or may appeal to the Board in writing. The Board shall, within fifteen (15) days after hearing and/or reviewing the appeal, respond to the

applicant in writing stating its decision and the reasons therefore. The Board's decision shall be determined as final.

11.3 Application for Variance. An application for a variance to these regulations may be made to the Board within sixty (60) days of a denial of an application for a permit. The Health Officer shall receive all applications for variances.

11.4 The Health Officer shall maintain and be custodian of all records of the Minutes of the Board and findings and decisions of the Board. All records shall be open to the public. An application for a variance shall be in writing.

11.5 At least 10 days prior to the date of the hearing on the application for a variance, the Health Officer shall transmit a copy of said application to the members of the Board. The Department shall submit its advisory opinion on said application to the members of the Board prior to the date of hearing.

11.6 Conditions Governing Variances: The Board shall have the authority to grant a variance from a requirement of these regulations unless it clearly conflicts with state or federal law.

(1) Before any variance can be granted, the Board shall make written findings of fact based upon evidence produced at the public hearing setting forth and showing that the following circumstances exist:

(a) That special conditions and circumstances exist which are peculiar to the land such as size, shape, topography or location not applicable to other lands in the same area and that literal interpretation of the provisions of these regulations would deprive the property owner of rights commonly enjoyed by other properties similarly situated under the terms of these regulations;

(b) That special conditions and circumstances did not result from the actions of the applicant;

(c) That granting the variance requested will not confer a special privilege to the applicant or his property that is denied other applicants or property owners;

(d) That granting the variance will not adversely affect or injure any adjacent properties, will not conflict with the purpose of these regulations and will not adversely affect the health or safety of any person or be contrary to the six factors set out under "Purposes of Regulations";

(e) That the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that can be granted under the regulations;

(f) That there does not exist for the applicant a reasonable alternative method of complying with these regulations.

(2) The fact that the property may be utilized more profitably will not be an element of consideration before the Board.

(3) In granting any variance, the Board may prescribe conditions and safeguards that insure that the purpose and intent of these regulations shall not be violated. Violation of such conditions and safeguards when made part of the terms under which the variance is granted shall be deemed a violation of these regulations and punishable under Section 12 "Violations, Penalties and Enforcement".

11.7 The Health Officer shall notify the applicant in writing that the variance was denied or that the specific variance was granted and any conditions and safeguards that were made part of the terms under which the variance was granted.

SECTION 12- Violations, Penalties and Enforcement

12.1 General Prohibitions - It shall be a violation of these regulations to:

(1) Own or operate a malfunctioning sewage treatment system;

(2) Install or alter a sewage treatment system without a valid permit or written Departmental approval;

(3) Construct or maintain any dwelling or other occupied structure which is not equipped with adequate facilities for the sanitary disposal of sewage;

(4) Removed sewage or effluent from a system and disposed of it onto any site which has no prior approval for septage disposal;

(5) Violate any provision of these regulations.

12.2 Notice of Violation - If the Department discovers there has been a violation of any provision of these regulations or if the requirements of a sewage treatment system have been willfully violated, the Department shall give notice of such violation to the responsible person or persons. Such notice shall be in writing and shall specify any violations. The notice shall spell out the required corrective action and provide a reasonable time for correction, considering the severity of the violation and its public health significance. Service of such notice shall be by means of regular mail and shall be considered complete upon personal service or mailing by the Department. If after the notice has been served, the deficiencies have not been fully corrected to the satisfaction of the Department in the specified time period, the Department shall provide all such information to the County Attorney for appropriate legal action including, but not limited to, action to enjoin the violation.

12.3 Misrepresentation - Any permit or approval granted under these regulations which was based upon misrepresentation, failure to make a material fact or circumstances known or should have been known by the applicant or his agent, shall be void. Any construction, alteration, repair or use of a sewage treatment system after the permit for said system has been voided shall constitute a violation (see Section 12.2).

12.4 Any person who violates any provision of these regulations or any provision of any regulation adopted by the Flathead City-County Board of Health pursuant to the authority granted by this regulation, shall upon conviction be punished by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500) per day of violation. Each day of violation constitutes a separate offense. The first day of violation shall be the date of the notice of violation.

SECTION 13 - Severability and Conflicts

13.1 Conflict of Ordinances, Effect of Partial Invalidity: In any case where a provision of this regulation is found to be in conflict with a provision of any zoning, building, fire, safety or health regulation or code of the State of Montana, Flathead County, or any municipality within Flathead County, existing on the effective date of this regulation, the provision which, in the judgment of the Board, establishes the higher standard for the protection of the health and safety of the people, shall prevail.

13.2 If any section, paragraph, sentence, clause or phrase of this regulation should be declared invalid for any reason whatsoever, such invalidity shall not affect the remaining portions of this regulation, which shall remain in full force and effect, and to this end, the provisions of this regulation are hereby declared to be severable.

ADDENDUM F

WHITEFISH WATER QUALITY PROTECTION REGULATIONS

Whitefish Water Quality Protection Regulations

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ADOPTED by WHITEFISH CITY COUNCIL: Ordinance 08-04, March 3, 2008; Amended by Ordinance 08-18; Amended by Ordinance 08-25; Amended by Ordinance 09-04; Amended by Ordinance 12-04

11-3-29A. Purpose and Intent:

It is the purpose of this section to apply development standards to lots or parcels with the greatest chance of affecting water quality:

1. Maintain the community's ability to manage stormwater through protection of "critical conveyances".

2. Protect and improve the quality of the Whitefish area's water bodies, including lakes, streams, and the Whitefish River, which are central to the community's identity and values.

3. Protect public safety, public and private property, and water quality from threats of geologic instability and erosion.

4. Protect and preserve the lawful use and enjoyment of private property.

To accomplish these objectives, this section will set forth a series of standards and regulations to maintain the ability of critical conveyances to carry stormwater; to limit sediment, nutrients and other pollutants entering the area's streams and lakes; to properly condition and, where necessary, prohibit development in geologically unstable areas adjacent to water bodies.

The intent of these regulations is to promote lawful and responsible land development. These regulations allow the restoration of streams, stream banks, slopes, and wetlands; sound forest management; and the clearing and removal of hazardous vegetation to protect life and property.

11-3-29B. Administration:

1. Applicability:

Any new or expanded residential, commercial or industrial development proposal within 200 horizontal feet of a lake, river, wetland, stream or stormwater conveyance shall comply with this section. Any lots or parcels that were created by whatever means prior to April 3, 2006 or after March 3, 2008 shall be required to comply with this section.

The following developments, activities and associated uses shall be exempt from the provision of this section:

a. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventive action in a time frame too short to allow for compliance with the requirements of this section. After the emergency, the person or agency undertaking the action shall report any impacts to the water quality protection area to the director within five (5) days of the activity. The director may require submittal of a water quality protection area report or geotechnical letter to guide restoration or mitigation for these impacts. Final approval of the report, restoration and mitigation shall be in accordance with provisions of this section.

b. Operation, maintenance, repair, modification, or addition to existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, if the activity applies best management practices and does not further encroach within a water quality protection area or buffer and there is no increased risk to life or property as a result of the action. As applicable, new facilities must comply with subsections 11-3-33 (erosion control) and 11-7-10E (mitigation for impacts). Operation and maintenance includes minor landscaping, native plant landscaping, buffer restoration, bank stabilization with native plant landscaping and vegetation management, provided that such management actions are part of regular and ongoing maintenance and do not expand farther into the water quality protection area or buffer.

c. Agricultural activities, as defined in Montana Code Annotated 76-2-902. This includes timber harvesting, thinning, and regeneration on land without residential structures. Timber harvesting on forestlands that are proposed for conversion to other uses must be in compliance with Montana Code Annotated 77-5-301 - 307, the Montana streamside management zone law. Violations of Montana Code Annotated 77-5-301 - 307 must be remediated to the satisfaction of the Montana department of natural resources and conservation prior to submittal of development permits under this section.

d. Educational and research activities that do not degrade the functions and values of a water quality protection area or buffer, and conservation or restoration activities to protect or restore these functions and values.

e. Development of a lot contained within a preliminary plat or planned unit development approved by the Whitefish city council prior to April 2, 2008, pursuant to the approved building site plan or building pad, if the building site plan or building pad are specifically located on the lot, but only to the extent that such development is located within the building site plan or building pad. The zoning administrator may, on a case by case basis, approve minor modifications to the building site plan or building pad. However, this exemption does not exempt a property owner from the requirements of subsection 11-3-33 of this section.

2. Relationship to Other Regulations:

a. These water quality protection regulations shall apply as an overlay and in addition to zoning and other regulations adopted by the city.

b. Any individual water quality protection area adjoined by another type of water quality protection area shall have the buffer and meet the requirements providing the most protection to the water quality protection areas involved. When any provision of this section or any existing regulation, easement, covenant, or deed restriction conflicts with this section, that which provides more protection to the water quality protection areas shall apply.

c. The city shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a water quality protection area or associated buffer, without first ensuring compliance with the requirements of this section.

d. Compliance with the provisions of this section does not constitute compliance with other federal, state, and local regulations and permits that may be required, nor does it relieve an applicant from the duty to avoid harm to neighboring or downstream properties or create a duty to neighboring or downstream properties on the part of the city. The applicant is responsible for complying with these other requirements and duties, apart from the process established in this section.

3. Administrative Rules:

Applicable departments within the city are authorized to adopt such administrative rules and regulations as are necessary and appropriate to implement this section and to prepare and require the use of such forms as are necessary for its administration.

4. Permitting:

Development within 200-feet of a water quality protection area that is not exempt under Section 11-3-29B(1) shall obtain a permit prior to the start of any proposed activity pursuant to Section 11-7-10.

5. Reasonable Use Exception:

When the requirements of this section, or these requirements in combination with zoning and other development standards, would render a legally existing lot or parcel of record incapable of providing any legal and reasonable use, as defined in this subsection, a reasonable use exception (RUE) shall be issued by the director if the criteria in this subsection are met. A "legal and reasonable use" is defined as one that is allowed by the applicable zoning district and consistent with similar uses in the same general area, taking into account the most recent construction trends in the general area. For dwelling units, a legal and reasonable use may disturb no more than five thousand (5,000) square feet or fifteen percent (15%) of the parcel, whichever is greater, by structures or other land alteration, including grading, utility installations and landscaping, but not including the area used for an on site sewage disposal system.

a. An application for a reasonable use exception shall be made to the city and shall include a water quality protection area identification form; water quality protection area report or geotechnical letter, as applicable; and any other related project documents, such as permit applications to other agencies. The application shall document what can be developed on the property in compliance with the strict provisions of this section and other zoning and development standards, and shall explain why this would not permit any reasonable use of the property. It shall include the date the applicant purchased the property or otherwise obtained the right to develop or use it, and restrictions or conditions on use or development in existence on that date. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

b. Following receipt of a complete and accurate submittal, within thirty (30) days the director shall grant or deny a request for an RUE in writing with findings of fact pursuant to the determinations set forth in subsection B9c of this section.

c. In reviewing applications for RUEs, the director shall determine that all of the following criteria are met:

(1) The lot, tract, or parcel is a legal lot of record.

(2) All reasonable use of the property is preempted under the strict provisions of this section, or the combination of this section and zoning and

development standards, for reasons other than actions by the applicant after the effective date hereof.

(3) There are no reasonable development alternatives readily available to the applicant that meet the standards of these regulations.

(4) The RUE does not pose a threat of significant injury to occupiers of the land, other properties, or the natural resources protected by this section.

(5) Impacts associated with the RUE are the minimum necessary to allow for reasonable use of the property, and will be reasonably and effectively mitigated through conditions of approval.

d. An RUE shall not be approved solely to improve views and vistas or proximity to amenities when viable alternatives exist. Preference shall be given to modifying or waiving development standards that do not impact water quality protection areas or the safety of the occupiers of the land or other properties.

e. Approval or denial of any RUE may be appealed to the board of adjustment pursuant to section 11-7-5 of this title. An approved RUE shall be recorded with the Flathead County clerk and recorder prior to any construction activity. The RUE shall be valid for three (3) years and the director may approve up to two (2) 1-year extensions, provided the applicant can demonstrate progress is being made on the project. If construction has not begun during the approval period, the RUE shall expire.

6. Variances:

A variance from the requirements of this section may be authorized through a planned unit development or a neighborhood plan or, in other cases, by the director, in conjunction with the public works department, if the applicant provides clear and compelling evidence that the result would better protect or restore the functions and values of affected water quality protection areas than would application of standard criteria or in the case where these regulations conflict with state or federal regulations.

7. Public Agencies And Utilities:

If the application of this section would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for a reasonable use exception, which shall follow the procedures and criteria of subsection B9 of this section, as applicable, and shall also demonstrate that application of this section would otherwise unreasonably restrict the ability to provide services to the public.

8. Mapping:

The city shall maintain planning level maps indicating the best available information as to the location location of water quality protection areas. In addition to these maps, the following may be used as a guide for locating water quality protection areas:

a. Topographic maps published by the U.S. geological survey;

b. Flood insurance rate maps published by the federal emergency management agency;

c. Surficial geologic map of the upper Flathead River Valley (Kalispell Valley) area, Flathead County, northwestern Montana, published by the Montana bureau of mines and geology;

d. Soil survey of the upper Flathead valley area, Montana, published by the U.S. soil conservation service; and

e. Soil survey of Flathead national forest area, published by the U.S. forest service and the natural resource conservation service, in cooperation with Montana agricultural experiment station.

f. Topographic mapping through the Flathead Basin Mapping Project, 2009, maintained by Montana Natural Resource Information System.

All of these sources are to be used for planning purposes by the city, project applicants and property owners, but may be superseded by new data and do not eliminate the need for on site evaluation for the presence of water quality protection areas.

9. Density Calculation:

Density shall be calculated based on the gross acreage of the site. Land restricted from development within water quality protection areas or their buffers may be used to meet requirements for open space other than active recreation under section 12-4-11 of this code. Where development is partly prohibited due to the presence of water quality protection areas, as defined in this section, an applicant may be permitted to transfer up to one hundred percent (100%) of the density attributable to the undevelopable area of the property to another portion of the same property, where the director finds that this is consistent with the city's growth policy and that the following standards are met:

a. The increased density does not significantly harm the water quality protection areas on site or on adjacent properties;

b. The increased density does not significantly harm wildlife habitat, including migration corridors;

c. The increased density does not significantly harm the character and qualities of the existing neighborhood; and

d. Where applicable, the increased density makes efficient use of infill property.

Where the above standards are met, the normal standards of the underlying zoning district for minimum lot size, setbacks, and lot coverage may be modified to accommodate the increased density.

10. Enforcement and Penalties:

a. Reasonable access to the site shall be provided to the city for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period. The director shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property. Except in emergencies or when the director determines that there may be an imminent threat to environmental resources, such reasonable effort shall include written notice by certified letter seven (7) days in advance of a planned site inspection.

b. When a water quality protection area or its buffer has been altered in violation of this section, all ongoing development work shall stop and the water quality protection area or buffer shall be restored. The city shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this section. All development work shall remain stopped until a restoration plan is prepared and approved by the city.

c. If development work continues, the city shall have the authority to seek all legal and equitable relief necessary to enforce this section. Restoration plans shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in subsection B14d of this section. As necessary, the director shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

d. At a minimum, performance standards for restoration shall be as follows:

(1) For alterations to critical stormwater conveyances, or streams, wetlands, and lakes and their buffers, restoration shall return the affected environment to the historic conditions or the conditions existing at the time

of the initiation of the project; if that is infeasible, restoration shall replace, enhance, or provide substitute resources or environments, following the criteria for mitigation in Section 11-7-10D, where applicable.

(2) For alterations to steep or unstable slopes, the following minimum performance standards shall be met for restoration:

(A) The hazard shall be reduced to a level equal to, or less than, the predevelopment hazard;

(B) Any risk to public safety or other water quality protection areas resulting from the alteration shall be eliminated or minimized; and

(C) To the extent feasible, the hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

e. Any person convicted of violating any of the provisions of this section shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this section is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this section shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Montana. The city may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this section. The civil penalty shall be assessed at a maximum rate of one thousand dollars ($1,000.00) per day per violation.

11-3-29C. Stream, Lake and Wetland Buffers And Setbacks:

1. Standard Buffers and Setbacks:

A buffer is an area of land adjacent to a lake, wetland or stream, including the Whitefish River intended to protect the water quality area, while a setback is a smaller area of land adjacent to the buffer intended to protect buffers from human disturbance where structures are prohibited and only limited alterations are allowed.

Except where modified through a reasonable use exception under subsection B5 of this section or a variance under subsection B6 of this section, buffers and setbacks for streams, wetlands, and lakes are hereby established as follows. All buffers shall include the entire floodplain. Widths shall be measured on the horizontal plane perpendicular to the edge of the water quality protection area. Developments in compliance with buffer and setback requirements or allowed uses in this section shall not be required to submit a water quality protection area report unless specifically noted below.

Waterbody:	Buffer:	Setback:
Whitefish River *Section C(1)(a)*	75' or top of bank, whichever is greater	Variable, but no less than 20-feet
Other perennial streams *Section C(1)(b)*	100' with 25' increase/decrease for high/low intensity land use	10'
Intermittent streams *Section C(1)(c)*	50'	10'
Whitefish Lake *Section C(1)(f)*	20' with water quality plan to meet performance standard of 75' buffer	10'
Other lakes *Section C(1)(g)*	75'	10'
Wetlands *Section C(1)(d)*	100', with 25' increase/decrease for high/low intensity land use	10'

a. Whitefish River: The buffer shall be the top of bank (where evident) or seventy five feet (75') from the ordinary high water mark, whichever is greater. If there is an associated wetland along the river, the seventy five feet (75') shall be measured from the edge of the wetland. If any structure is proposed within two hundred feet (200') of the buffer on a property that abuts the river, a geotechnical letter consistent with subsection D of this section shall be required. Such an analysis may also be required if the director of public works

determines, based on field observation and in consultation with the applicant, that a proposed structure beyond this setback may be damaged by slope failure, slumping or other geologic instability, or that it may contribute to such instability on other properties. Unless an approved geotechnical letter concludes that a larger setback is necessary, the setback shall equal the rear yard setback in the applicable zone, but in no case shall it be less than twenty feet (20').

b. All Other Perennial Reaches Of Streams: All other perennial reaches of streams, including, but not limited to, Beaver, Cow, Eagle, Haskill, Hellroaring, Lazy, Smith, Swift, Viking, and Walker Creeks and their tributaries: The buffer shall extend one hundred feet (100') from the ordinary high water mark, except that the buffer for Second Creek upstream of the city's water supply intake shall be two hundred feet (200'). These buffers shall be increased by twenty five feet (25') for multi-family, industrial and commercial development; they shall be reduced by twenty five feet (25') for passive recreational uses such as parks or for low density residential development on lots 2.5 acres or greater and cannot be subdivided into lots less than 2.5 acres. There shall be no permitted reduction in the buffers for Second Creek. The setback shall be ten feet (10'), with no encroachment on the buffer allowed.

c. All Intermittent Streams: The buffer shall extend fifty feet (50') from the ordinary high water mark. The setback shall be ten feet (10'), with no encroachment on the buffer allowed.

d. Wetlands: For single-family residential development, the buffer shall be one hundred feet (100') for all wetlands not exempted under subsection C1e of this section. These buffers shall be increased by twenty five feet (25') for multi-family, industrial, and commercial development; they shall be reduced by twenty five feet (25') for passive recreational uses such as parks or for low density residential development on lots 2.5 acres or greater and cannot be subdivided into lots less than 2.5 acres. The setback shall be ten feet (10'), with no encroachment on the buffer allowed.

e. Exempt Wetlands: All isolated wetlands rated as category III or category IV using the Montana wetland assessment method, as developed and updated by the Montana department of transportation, and that are less than one thousand (1,000) square feet shall be exempt from these regulations. All such wetlands between one thousand (1,000) square feet and ten thousand (10,000) square feet shall have no buffer and setback restrictions and may be filled or otherwise degraded, if impacts are fully mitigated based on Section 11-7-10. Existing storm ponds that were former wetlands, provided a fifteen foot (15') setback is maintained from the edge of the pond, are exempt.

f. Whitefish Lake: The buffer and setback shall be regulated under title 13 of this code. All development of property within seventy five feet (75') of the lake shall

submit a water quality protection plan developed by a qualified professional, which shall make recommendations regarding stormwater management, impervious surface, grading and filling, and vegetation protection and restoration so that the estimated discharge of sediment, nutrients, and other pollutants to the lake during and after construction would be no greater than if the site had a seventy five foot (75') buffer, using a methodology approved by the director of public works. This plan may reference or incorporate other documentation required by the city. Requirements for a water quality plan may be waived by the public works director for minor disturbances.

g. All Other Lake Shorelines That Are Not Wetlands: The buffer shall be seventy five feet (75') from the mean high water mark. The setback shall be ten feet (10'), with no encroachment on the buffer allowed.

2. Restriction on Subdividing:

Land that is located wholly within a wetland or its buffer may not be subdivided. Land that is located partially within a wetland or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the wetland or its buffer.

3. Restoration Incentive:

Except for Whitefish Lake, buffer widths may be reduced up to twenty five percent (25%) if the buffer is restored or enhanced from a preproject condition that is disturbed (e.g., dominated by invasive species), so that functions of the postproject buffer are equal or greater. For single-family homes on existing lots of record, the restoration plan must be developed by a qualified professional for the relevant water quality protection area and must be approved by the director. For all other development, the restoration plan must also meet requirements in Section 11-7-10.

4. Buffer Averaging:

Except for Whitefish Lake, the director shall have the authority to average buffer widths on a case by case basis, where a qualified professional demonstrates to the director's satisfaction that all of the following criteria are met:

a. The total area contained in the buffer after averaging is no less than that contained within the buffer prior to averaging;

b. Decreases in width are generally located where riparian functions may be less sensitive to adjacent land uses, and increases are generally located where riparian functions may be more sensitive to adjacent land uses, to achieve no net loss or a net gain in functions; and

c. The averaged buffer, at its narrowest point, shall never be less than fifty percent (50%) of the standard width or fifty feet (50') for the Whitefish River.

5. Allowed Activities in Buffers:

The director shall permit the following uses within a stream, wetland, or lake buffer, provided they meet the standards set forth below and are not prohibited by any other applicable law. Certain allowed activities require a water quality protection plan approval. Activities along perennial streams, including the Whitefish River, may also require review and approval from the Flathead Conservation District:

a. For lake buffers, activities specifically authorized under title 13, "Lake And Lakeshore Protection Regulations", of this code.

b. Viewing structures, if they are no greater than one hundred (100) square feet, have no permanent foundation, and have impacts mitigated by planting an area with native vegetation at least equal in size to the area disturbed by the structure, preferably in the same buffer.

c. Walkways and trails, provided pathways minimize adverse impacts on water quality. As applicable, trails must comply with subsections 11-3-33 (erosion control) and 11-7-10 (mitigation for impacts). Paths should be designed using the best management practices and obtain permits when necessary. Unless required by the Americans with disabilities act or otherwise approved in the city's adopted master trails plan, they should generally be parallel to the perimeter of the water body, located in the outer twenty five percent (25%) of the buffer area, avoid removal of mature trees, and be limited to pervious surfaces no more than four feet (4') in width. City paths/trails also require approval of a water quality protection permit. A walking path to a lake, stream, or wetland may be permitted for single-family homes on existing lots of record provided impacts are mitigated based on recommendations by a qualified professional for the relevant water quality protection area, which must be approved by the director. For all other developments, mitigation for such a path must also meet requirements in Section 11-7-10.

d. Pesticides and fertilizers may be applied in buffers under the following conditions:

(1) Pesticides shall be applied according to the manufacturer's label. There are specific materials labeled for use that are appropriate applications in aquatic, ditch bank/edge areas and upland environments. All others shall be prohibited. The applicator shall ensure that the pesticide application is applied in accordance with the restrictions of the label for its intended use, targeted vegetation and/or area being treated.

(2) No fertilizer shall be applied to any buffer unless suggested as part of a buffer enhancement/mitigation plan. Such plan shall provide soils sample analysis indicating a need for the fertilizer and the composition of macronutrients (N, P, K), a schedule of application and measures to ensure the fertilizer does not reach adjacent water bodies. Fertilizer applied shall be no more than is needed for plant uptake.

e. Forest management. Tree removal within the buffer area for the following shall require the submittal of a tree removal plan to the zoning administrator for review and approval prior to removing trees.

(1) Tree removal for the health of the stand, including fuel reduction, habitat improvement, removal of diseased wood, and thinning for acceleration of multi-age, multi-story characteristics. Trees planted by the current property owner may be removed at the sole discretion of that property owner and need not be replaced unless they were required as mitigation or through an enforcement action under this section.

(2) Tree removal for limited view enhancement, meaning filtered views and/or view corridors from key vantage points, such as decks, balconies, and picture windows, achieved by pruning or limbing or, as a last resort, limited tree removal. Trees removed shall be replaced with additional trees at least three inches (3") in trunk diameter as measured eight inches (8") above ground level, unless installation of such trees would create erosion or slope stability hazards that cannot be adequately controlled or mitigated. Conifers removed shall be replaced by conifers. Replacement trees and shrubs shall be located in the same general area of the site as the trees removed, to the extent consistent with purposes for removal, and shall be sufficient in number to provide a comparable area of root coverage, once established.

g. Stream crossings, if necessary to provide access to property and if impacts are fully mitigated consistent with an approved water quality protection areas report.

h. Stormwater management facilities may be allowed within the outer twenty five percent (25%) of buffers, provided that:

(1) No other location with less impact is feasible; and

(2) Mitigation for impacts is provided to achieve no net loss or a net gain in functions.

i. Connection lines to utilities, if required by the city or utility, with a restoration plan for disturbed soils and vegetation approved by the director.

j. Bioengineering or soft armoring techniques for streambank stabilization is preferred.

6. Allowed Activities in Setbacks:

In addition to activities identified in subsection C5 of this section, the following uses are allowed in a stream, wetland, or lake setback, provided they are not prohibited by any other applicable law:

a. Activities specifically authorized within lake setbacks under section 11-3-27 of this chapter.

b. Recreational structures such as play apparatus or patios at grade and associated safety devices (railings, steps, etc.).

c. Vehicular access for maintenance or essential emergency services.

d. Lawns, gardens, and the application of associated fertilizers, herbicides, and pesticides are allowed.

e. Incidental outdoor storage of nonhazardous materials.

f. Tree removal is not restricted, but tree retention and management are highly encouraged, as is the planting of native trees.

11-3-29D. Slopes And Geologic Instability:

If a project is proposed on a lot or parcel with slopes greater than ten percent (10%) and is within two hundred feet (200') of a lake, wetland or intermittent or perennial stream, the applicant shall submit a geotechnical letter, as described below.

1. Geotechnical Letter:

a. The letter shall include an assessment of the existing geologic and geotechnical site conditions, including surface water runoff, groundwater, soil types, erosion, and slope stability.

b. The qualified professional shall prepare conclusions and recommendations for the proposed development and any mitigation necessary to address existing site conditions that may need to be modified due to the proposed development.

c. Maintenance Responsibility. Perpetual maintenance of all stabilization measures and their design effectiveness is the express responsibility of the property owner and all heirs and assigns. Failure to maintain these measures and their design effectiveness shall constitute a violation of this section pursuant to section 11-7-12 of this title.

2. Exemption:

For the following residential development applications within 200-feet of a lake, wetland or stream, the director shall waive the requirements of this subsection:

a. An addition less than two hundred (200) square feet in size.

b. Detached unoccupied auxiliary buildings such as garages and sheds 600 square feet or less.

c. Decks attached to structures where no additional load bearing weight is added to an adjacent slope.

d. Other small or minor disturbances, as determined by the director.

11-3-29E. Critical Stormwater Conveyances:

1. Restricted Area:

No building, structure, excavation, filling, or development of any kind, and no terrain disturbance that would interfere with stormwater flow shall be allowed within critical stormwater conveyances, as defined by this section, unless otherwise approved through a reasonable use exception under subsection B8 of this section, a variance under subsection B9 of this section, or by the director of public works as part of a detailed drainage study.

2. Applicability:

This section applies only to critical stormwater conveyances that have been identified on the city's most current maps, or to critical stormwater conveyances identified by the director of public works based on field observation, with the precise location of the conveyance to be determined on a site by site basis, as described in subsection E of this section.

3. Location:

Precise location of critical stormwater conveyance boundaries shall be determined on a site by site basis by the director of public works based on estimated flows for a 25-year storm (having a 4 percent chance of occurring in any given year), in consultation with the property owner and/or project proponent and reviewing the most recent city stormwater conveyance mapping, within thirty (30) days of a request by the property owner. The property owner may hire a qualified professional to establish the precise location of the boundaries and submit the determination for the city's review and approval.

4. Setback:

New structures or terrain disturbance that would interfere with stormwater flow are also prohibited within fifteen feet (15') of designated critical stormwater conveyances. Patios, driveways, and landscaping that would not significantly interfere with stormwater flow are allowed.

5. Property Access:

Structures necessary for vehicle access are allowed within critical stormwater conveyances and setback areas if they do not reduce conveyance capacity.

6. Pesticide and Fertilizer Application:

a. Pesticides shall be applied according to the manufacturer's label. There are specific materials labeled for use that are appropriate applications in aquatic,

ditch bank/edge areas and upland environments. All others shall be prohibited. The applicator shall ensure that the pesticide application is applied in accordance with the restrictions of the label for its intended use, targeted vegetation and/or area being treated.

b. Fertilizer applied shall be no more than is needed for plant uptake, taking into account the nutrient content of the soils.

7. Restricted Activities:

Removal and/or disturbance of existing ground vegetation and trees within critical stormwater conveyances, and filling and excavation of areas adjacent to critical stormwater conveyances, shall not be conducted in such a manner as to negatively impact the conveyance through additional runoff, erosion, or sedimentation. No storage or vehicle parking of any kind shall be allowed within a critical stormwater conveyance.

Chapter 1
GENERAL LAKE AND LAKESHORE PROTECTION PROVISIONS

13-1-1: TITLE AND AUTHORITY:
13-1-2: PURPOSE:
13-1-3: JURISDICTION:
13-1-4: INTERPRETATION:
13-1-5: DEFINITIONS:

13-1-1: TITLE AND AUTHORITY:

These regulations shall be known and referred to as the *WHITEFISH AREA LAKE AND LAKESHORE PROTECTION REGULATIONS*, and are adopted under the authority of the state of Montana, Montana Code Annotated 75-7-207, which requires local governing bodies to adopt regulations regarding the issuance or denial of permits for work in lakes within their jurisdiction, including land which is within twenty (20) horizontal feet of the mean annual high water elevation (see figure 1 of this section).

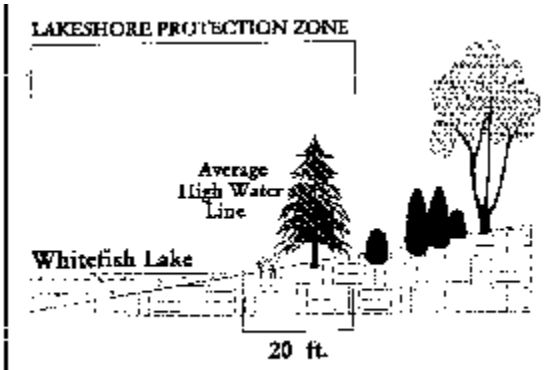

Figure 1. Lakeshore Protection Zone

(Ord. 09-08, 7-20-2009)

13-1-2: PURPOSE:

The purpose of these regulations is to:

A. Protect the fragile, pristine character of Whitefish area lakes and the intertwined adjacent riparian and upland areas;

B. Conserve and protect natural lakes because of their high scenic and resource value;

C. Conserve and protect the value of lakeshore property;

D. Conserve and protect the value of the lakes for the state's residents and visitors who use and enjoy them. (Ord. 09-08, 7-20-2009)

13-1-3: JURISDICTION:

These regulations govern any work which alters Whitefish Lake, Lost Coon Lake and Blanchard Lake, and the land which is within twenty (20) horizontal feet of the mean annual high water elevation of these lakes. The mean annual high water elevation for Whitefish Lake has been established according to statute 75-7-202(4) at three thousand and seventy nine-hundredths feet (3,000.79') msl (NAVD 1988), which is equivalent to two thousand nine hundred ninety seven feet (2,997.00') msl (NGVD 1929). The mean annual high water elevation on Lost Coon Lake is three thousand one hundred four feet (3,104') msl (NAVD 1988), which is equivalent to 3,100.21 feet msl

(NGVD 1929). The mean annual high water elevation of Blanchard Lake is three thousand one hundred forty four and eight-tenths feet (3,144.80') msl (1988 datum) which is equivalent to three thousand one hundred forty one feet (3,141') msl (1929 datum). (Ord. 09-08, 7-20-2009)

13-1-4: INTERPRETATION:

These regulations supplement all other regulations, and the permit issued hereunder does not supersede or negate the necessity for obtaining floodplain permits or other permits as may be required by other governmental units having jurisdictional responsibilities over a lake or its lakeshore. Where any provision of these regulations imposes more stringent regulations, requirements or limitations than imposed or required by any other regulation, resolution, ordinance or statute, the provisions of these regulations shall govern. (Ord. 09-08, 7-20-2009)

13-1-5: DEFINITIONS:

Whenever the following words or phrases appear in this title, they shall be given meanings attributed to them by this section. When not inconsistent with the context, words used in the present tense shall include the future, the singular shall include the plural and the plural the singular, the word “shall” is always mandatory, and the word “may” indicates a use of discretion in making a decision.

ADMINISTRATIVE PERMIT: A document issued by the administrator for such activities and projects, when constructed within the approved design guidelines, are deemed to have an insignificant impact on the lake and lakeshore per subsections 13-2-5B6 and B7 of this title.

ADMINISTRATOR: Administrator of the planning office for the governing body (Whitefish city council) which has jurisdiction over that portion of the lakeshore for which the permit application is made.

APPLICANT: The person or persons making applications to the governing body for a permit. On a permit in which a letter of authorization is provided to allow a contractor or other individual to act on behalf of the property owner, both the property owner and other individual or contractor shall be considered to be the applicant.

BOAT RAIL SYSTEM: A facility consisting of tracks extending from or across the lakeshore protection zone into the lake which is designed to facilitate launching or retrieving boats.

BOAT RAMP: A facility consisting of a pad extending from or across the lakeshore protection zone into the lake which is designed to facilitate launching or retrieving boats.

BOAT SHELTER: A permanent structure which provides shelter for boats and which has not more than ten percent (10%) of any side or end wall area enclosed. A breakwater adjoining a shelter shall not be considered a part of a wall.

BOATHOUSE: A permanent structure which provides housing and shelter for boats and which has more than ten percent (10%) of any side or end wall area enclosed.

BUILDING: A structure having a roof supported on columns or walls for storage, shelter, support or enclosure of persons, animals or chattels.

BUOY: A float moored to the bottom, used to moor boats, mark channels, etc.

CONSTRUCTED AREA: That portion of the lake and lakeshore protection zone covered by any constructed structure such as a dock, deck, walkway, patio, boathouse, boat shelter, water trampolines, shore station cover, floating boat lift or floating personal watercraft docking station or covered by any nonnative material or substance that would not naturally occur at this point, such as concrete, asphalt, or dry laid stone.

DOCK: A platform, either nonfloating or floating, which extends into, over or across the water to provide for boat moorage, access to a moorage area, swimming facilities or other related activities.

DOCK LENGTH: The total length of the dock including any access gangways (see figure 4 below).

DOCK WING: That portion of a dock and deck which lies generally parallel to the shoreline with its main function as a wave break or to provide a boat slip or sheltered area as opposed to primarily provide access out to deep water (see figure 4 below).

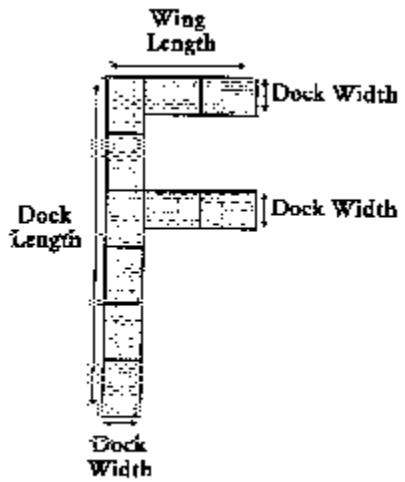

Figure 4. Dock Wing and Length

DREDGING: The process of excavating material from the lake bottom and thereby increasing the depth of a portion of the lake bottom. The term shall include the process of extending the lake area landward by excavating material from the lakeshore protection zone and thereby lowering the elevation of that portion of that zone.

DWELLING UNIT: All permanent, semipermanent and temporary buildings, guest quarters, cabins, apartments, mobile homes, campers, trailers, motor homes or similar facilities, including appurtenant structures, which provide sleeping and/or cooking facilities.

FAIR MARKET VALUE: The price that a willing purchaser would pay a willing seller, assuming that both parties are well informed and well advised, and neither is under a particular compulsion to buy or sell.

FILLING: The process of discharging material onto a lake bottom and thereby raising the elevation of a portion of the lake bottom including the elimination of an aquatic environment or a wetland environment by extending the dry land area into such aquatic or wetland area. This term shall include the process of discharging material onto the lakeshore protection zone and thereby raising the elevation of that portion of that zone.

FLOATING BOAT LIFT: A single or multisectional, self-floating system designed to support a boat or personal watercraft.

GOVERNING BODY: The Whitefish city council.

HAND TOOLS: For the purpose of routine or seasonal work on a nonconforming structure (see definition of Maintenance), hand tools would generally include implements that can be readily carried and operated by a single person, including power tools that operate with a battery, electricity or gasoline/diesel fuel.

IMPERVIOUS: Not permeable, impenetrable by water.

IMPROVEMENT: An addition made to property (real estate) or a change in its condition which is intended to enhance its value, aesthetics, utility, or to adapt it for new or further purposes.

LAGOONS: An artificial boat harbor created by excavating the shoreline, removing earth material and thereby extending an aquatic environment into a dry land area.

LAKE: A body of standing water, and the area within its lakeshore, occurring naturally rather than by virtue of constructed impoundments (although a natural lake whose level is raised and whose area is increased by the construction of impoundments includes the additional level and area), having a water surface area of at least twenty (20) acres for at least six (6) months in a year of average precipitation as such averages are determined by the United States geological survey, not used exclusively for agricultural purposes and navigable by canoes and small boats.

LAKE FRONTAGE: For the purpose of administering these regulations, lake frontage shall be based on the linear feet of lake frontage of the lot or tract to be developed as well as any adjoining undeveloped lots under the same ownership. "Common waterfront property ownership" shall be defined as multiple contiguous lots under one family or related ownership, including fractional ownership in a corporation, partnership or other legal entity. Lake frontage shall be determined from records at the Flathead County assessor's office, subdivision plats, certificates of survey, or may be measured as a straight line between two (2) lot lines at the point where mean annual high water intersects each lot line.

LAKESHORE PROTECTION ZONE: The lake, lake bed and the land area which is within twenty (20) horizontal feet of the parameter of the lake and adjacent wetlands when the lake is at the mean annual high water elevation (see figure 6 of this definition).

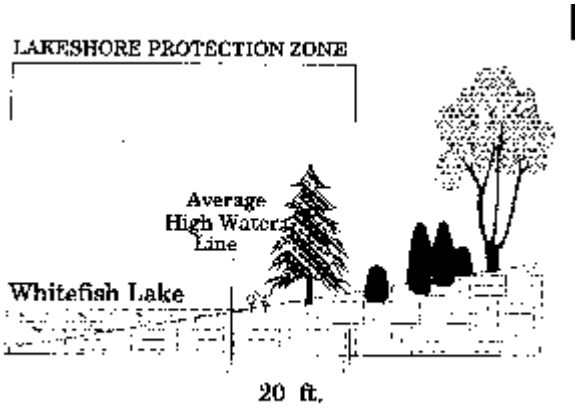

Figure 6. Lakeshore Protection Zone

MAINTENANCE: Routine or seasonal work or upkeep involving tightening, adjusting or minor replacement of boards, shingles, broken windows, cleanup of debris such as branches and leaves, restacking fallen rock, or similar activities. Painting or staining is allowed only on nonconforming structures built prior to 1978 and located landward of the mean high water line. Routine maintenance only requires hand tools. Any dredging, filling or excavation is not considered maintenance.

MARINA, PRIVATE: A marina facility which serves the needs of a homeowners' association, private housing development, resort facility, or other limited group, and provides overnight dockage or moorage.

MARINA, PUBLIC: A marina facility which provides boat slips and/or services, without restriction, to the general public.

MEAN ANNUAL HIGH WATER ELEVATION: The mean average of the highest elevation of a lake of at least five (5) consecutive years, excluding any high levels caused by erratic or unusual weather or hydrologic conditions. A highest elevation caused by operation of a dam or other impoundment counts towards the establishment of the mean annual high water elevation. For the purpose of these regulations, the mean annual high water elevation for Whitefish Lake has been established at three thousand and seventy nine-hundredths feet (3,000.79') msl (NAVD 1988), which is equivalent to two thousand nine hundred ninety seven feet (2,997.00') msl (NGVD 1929). The mean annual high water elevation on Lost Coon Lake is three thousand one hundred four feet (3,104') msl (NAVD 1988), which is equivalent to three thousand one hundred and twenty one-hundredths feet (3,100.21') msl (NGVD 1929). The mean annual high water elevation of Blanchard Lake is three thousand one hundred forty four and eight-tenths feet (3,144.80') msl (1988 datum) which is equivalent to three thousand one hundred forty one feet (3,141') msl (1929 datum).

NATIVE PLANTS: A terrestrial plant species that has persisted within one hundred feet (100') of mean high water of Whitefish, Lost Coon or Blanchard Lakes prior to influence by humans. A resource file on native plants is available from the jurisdictional planning office.

PERMIT: A document issued by the governing body verifying compliance with the requirements and provisions of these requirements.

PERSON: Any individual, firm, corporation, partnership, institution or entity; the state and its departments and any political subdivision of the state.

PLANNING BOARD: The Whitefish city/Flathead County planning board.

REAL VALUE: For the purpose of maintenance and/or repair of a nonconforming structure, the real value shall be determined to be the fair market value of the structure, exclusive of foundation, prior to any changes or damage.

RECONSTRUCTION: To rebuild an existing facility such that at the time of reconstruction in excess of fifty percent (50%) of the real value of the facility, excluding foundation, is replaced. Reconstruction of a nonconforming structure is prohibited. See definitions of Maintenance and Repair.

REPAIR: To restore an existing facility to sound condition by replacing component parts of the facility and maintaining the exact design, size and configuration as was original prior to repair. All repair materials shall conform with subsection 13-3-1A, "Construction Materials", of this title.

RETAINING WALL: Any structure built essentially parallel and contiguous to the shoreline of a lake which is designed to protect the landmass inland from the structure, from erosion or wave action and protect the lake from siltation.

RIPARIAN BOUNDARY: A projection of the side property lines from their point of intersection with the perimeter of the lake (at its mean annual high water elevations), lakeward at right angles to the natural shoreline. Where a structure has been built into the lake and the structure has caused the buildup of an artificial shoreline, the artificial shoreline cannot be utilized to establish the riparian boundary (see figure 7 of this definition).

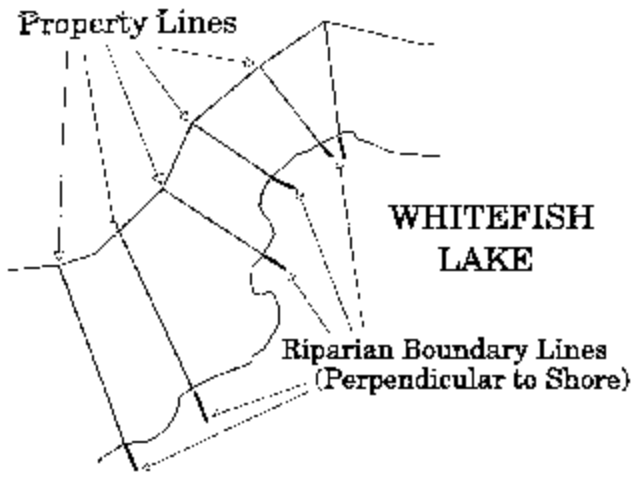

Figure 7. Riparian Boundary Lines

RIPRAP: A layer, facing, or protective mound of stones, or rock or other materials randomly placed to prevent erosion, scour or sloughing of a structure or embankment. Riprap shall be limited to areas where active shoreline erosion is clearly present, and requires a permit.

SEWAGE PUMPOUT FACILITY: A facility specifically provided to pump out and receive the contents of holding tanks onboard boats, with "holding tanks" understood to mean any retention system on a boat which is designed to hold sewage and which must be emptied from time to time.

SHORE STATION: A seasonal, portable, metal or wood frame carriage which is designed to hoist boats or personal watercraft from the water and to store boats or personal watercraft over the water or on the lakeshore.

SIDE WALL AREA (OF A DOCK): The side wall of that portion of a dock which is generally perpendicular to the shoreline.

STRUCTURE: That which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and either attached to or supported by the ground or floating on the water (e.g., dock, buoys, etc.).

SWIMMING DOCK: A type of dock which does not abut the shoreline or extend above the water to the shoreline, used typically for swimming and related activities (see definition of Dock).

WETLANDS: Water-land interface areas which are inundated or saturated by surface and/or ground waters at a frequency and duration of time periods sufficient to establish and, under natural conditions, support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs and similar areas. Wetland areas may be separated from the main body of water by manmade barriers or natural berms. The water elevation of a wetland area is related to the elevation of the lake water.

WORK: Activity that changes the condition of the lakeshore protection zone or structures within the lakeshore protection zone. (Ord. 09-08, 7-20-2009)

Chapter 2
PERMIT REQUIREMENTS

13-2-1: PERMIT REQUIRED:
13-2-2: EXEMPTIONS FROM PERMIT REQUIREMENTS:
13-2-3: PROHIBITED CONSTRUCTION OR INSTALLATIONS:
13-2-4: ADDITIONAL REQUIREMENTS:
13-2-5: APPLICATION REVIEW PROCEDURES:
13-2-6: POLICY CRITERIA FOR ISSUANCE OF A PERMIT:
13-2-7: POLICY CONSIDERATIONS:

13-2-1: PERMIT REQUIRED:

No person shall proceed with any work on, or alteration or disturbance of, a lake, lake bed, or lakeshore until he/she has obtained, and has physical possession of a valid "lakeshore construction permit" from the governing body. The person who performs or authorizes such work, and the property owner, are responsible for assuring that a valid permit has been obtained from the governing body.

The permit issued shall be displayed during work activity so that it is conveniently visible to the public.

Without limitation, the following activities, when conducted within the lake, lake bed or lakeshore protection zone, are examples of work for which a permit is required:

A. Construction of channels or ditches;

B. Excavation;

C. Dredging, to remove muck, silt sediment, rock or vegetation;

D. Filling, including artificial beach creation;

E. Construction of lagoons;

F. Construction of living quarters, buildings, or other impervious surfaces;

G. Construction of boat service facilities, including the installation of fuel pumps or sewage pumpout facilities;

H. Construction of elevated structures (example: decks, overhangs), including extensions into the airspace;

I. Construction of retaining walls and breakwaters;

J. Construction, installation or additions to docks;

K. Installation of boat and personal watercraft shore stations, boat rail systems, boat ramps, boat storage and parking facilities, buoys and floating docks, and floating trampolines;

L. Installation of water lines, sewer lines or other utility lines or facilities;

M. Any major clearing or removal of natural vegetation;

N. Reconstruction of existing facilities;

O. Stockpiling brush, trees, vegetation, construction materials or debris;

P. Moving a dock, shore station, or buoy to another location on the lake;

Q. Operation of machinery, with the exception of recreational watercraft and equipment used for seasonal removal/installation of docks;

R. Any other work not herein mentioned that may have an impact on a lake, lake bed or lakeshore. (Ord. 09-08, 7-20-2009)

13-2-2: EXEMPTIONS FROM PERMIT REQUIREMENTS:

The following types of work are not required to obtain a permit, but shall comply with the construction criteria of these regulations:

A. Repair Work: Repair work which qualifies as routine maintenance (see section 13-1-5, "Definitions", of this title) or, if a nonconforming structure, complies with subsection 13-3-1Z of this title.

B. Buoys: Buoys placed in a lake on a temporary basis (not exceeding 10 days) in a calendar year.

C. Emergency Work:

1. Emergency work where a condition exists that poses an imminent threat to property, structures, or improvements, provided that:
   a. The work being done is only what is necessary to mitigate the immediate threat; and
   b. The conditions which constitute the threat were caused by extenuating circumstances which could not be readily anticipated and which do not reoccur on an annual basis.
2. The following procedures shall be followed where emergency work is performed:
   a. The person proposing to do emergency work shall notify the governing body as to the nature of the emergency, description of the work to be done and the location of the site. If the work date falls on a normal working day (Monday through Friday, excluding holidays), notification must be made prior to beginning work. If the work date falls on a nonworking day (Saturday, Sunday and holidays), notification must be made on the next working day. Notification shall be made by phone and in writing.
   b. The administrator shall review the notification. If the administrator determines that the work is emergency work, the administrator shall sign the notification and send a copy of it to the applicant and the lakeshore protection committee.
   c. If work done under the emergency provision goes beyond the minimum necessary to mitigate the danger, or if work is done where no emergency condition existed, such work shall be considered a violation of these regulations.

D. Real Estate Signs: Real estate signs less than six (6) square feet in size. (Ord. 09-08, 7-20-2009)

13-2-3: PROHIBITED CONSTRUCTION OR INSTALLATIONS:

The following types of work, new construction, and installations are prohibited in the lakeshore protection zone:

A. Boathouses;

B. Boat shelters;

C. Pump houses;

D. Crib dock;

E. Pilings;

F. Covering beach with impervious nonnative material (material which does not allow water absorption);

G. Any installation of asphalt;

H. Satellite dishes;

I. Permanent or temporary buildings;

J. Hot tubs;

K. Fuel storage tanks;

L. Decks;

M. Roads, driveways, or parking areas; and

N. Signs. (Ord. 09-08, 7-20-2009)

13-2-4: ADDITIONAL REQUIREMENTS:

A. Restoration: A person who performs work in the lake, lake bed or lakeshore without a permit for that work shall, if required by the governing body, restore the lake, lake bed, or lakeshore to its condition before he/she disturbed it.

B. Property Rights: Work or development approved by permit under these regulations shall not create a vested property right in the permitted development, other than in the physical structure, if any, so developed.

C. Permission To Enter: The person making application for a permit grants the governing body, lakeshore protection committee, planning department, their staff and/or their consultants permission to enter upon his/her land or upon the waters of the lake upon reasonable notice to evaluate the site and verify compliance with any lakeshore construction permit issued under these regulations while the permit is in an active state.

D. Easement Holder Rights: Easement holders (individuals or groups who have easement access or easement rights within the lakeshore protection zone) are not eligible to apply for or obtain a lakeshore construction permit and shall not perform work within the lakeshore protection zone. (Ord. 09-08, 7-20-2009)

13-2-5: APPLICATION REVIEW PROCEDURES:

A. Application: Depending on the jurisdiction, any person seeking a lakeshore construction permit shall submit a complete application to the administrator of the planning office of the jurisdictional governing body. The application shall be accompanied by a vicinity map with directions to the property, photographs of the shoreline (including docks and all structures in the lakeshore protection zone), a scaled site plan, detailed project drawings, and fee established by the governing body.

The applicant may be required to submit additional information where the administrator, lakeshore protection committee or governing body determines that additional information is necessary to adequately evaluate the proposal.

B. Application Procedure:

1. An applicant shall file an application with the administrator.
2. An application is deemed as accepted when a complete application, required accompaniments and fee are presented to the administrator. The application must be either signed by the property owner or a letter of authorization from the owner must be attached.
3. Upon acceptance of an application, the administrator shall schedule it for review at the next regular meeting of the Whitefish lake and lakeshore protection committee.
4. The chairman shall be responsible to see that all pending applications are brought before the committee for comment and action.
5. The committee shall have up to sixty (60) days from the date of acceptance of the completed application to review and forward comments to the governing body for final action. If no comment is received after sixty (60) days, the application will be forwarded to the administrator for final action by the governing body with no comment. If the application is incomplete, the administrator or lakeshore protection committee shall notify the applicant within forty (40) days of receipt of the application. Incomplete applications will not be processed until resolved and deemed complete. This also applies to new applications on properties with active lakeshore violations.
6. Upon review and approval of a permit application by the committee, the administrator may issue an administrative permit specifically for floating docks which do not exceed sixty feet (60') in length (including gangway), for shore stations, and for buoys, providing that such permit complies with all other regulation standards and does not require a variance.
7. The administrator may issue an administrative permit for burning in the lakeshore protection zone or for buried domestic water lines installed during low water when such activities are found by the administrator to have a minimal or insignificant impact on the lake or lakeshore and to comply with the construction standards found in chapter 3 of this title. The administrator will notify the committee when these permits are issued.

C. Review Period: Review of a permit application and its approval, conditional approval or denial by the governing body, shall be placed on the governing body's agenda and take place within ninety (90) days from the date of acceptance by the administrator unless the application is deemed incomplete by the administrator or the lakeshore protection committee, or the applicant agrees to an extension of the review period.

D. Permit Validity: A permit is valid for a period of twelve (12) months from the date of issuance unless otherwise approved by the governing body. All construction shall be completed prior to expiration of the permit. The permit may be renewed without submission of a new application or plans if the applicant requests a permit renewal in writing from the administrator before the original permit expires and the administrator grants a renewal. The administrator, at their discretion, may grant more than one renewal. (Ord. 09-08, 7-20-2009)

13-2-6: POLICY CRITERIA FOR ISSUANCE OF A PERMIT:

All lakeshore construction permits shall be evaluated against the policy criteria for issuance of a permit. A permit shall only be issued when it is found that the proposed action will not, during either its construction or its utilization:

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. (Ord. 09-08, 7-20-2009)

13-2-7: POLICY CONSIDERATIONS:

A. A person who performs work in the lake or lakeshore protection zone after May 1, 1975, without a permit for that work shall restore the lake or lakeshore protection zone to its condition before he disturbed it.

B. Archive photos or baseline videos on file at the jurisdictional planning office may be used in enforcing regulations and prosecuting violations.

C. Areas where vegetation has been destroyed in the lakeshore protection zone shall be restored in accordance with subsection 13-3-1D of this title. (Ord. 09-08, 7-20-2009)

Chapter 4
ADMINISTRATION AND ENFORCEMENT

13-4-1: WHITEFISH CITY/COUNTY LAKE AND LAKESHORE PROTECTION COMMITTEE:
13-4-2: VARIANCES:
13-4-3: AMENDMENTS:
13-4-4: LIABILITY:
13-4-5: VIOLATIONS; PENALTY:

13-4-1: WHITEFISH CITY/COUNTY LAKE AND LAKESHORE PROTECTION COMMITTEE:

A. Creation, Composition And Compensation Of Members:

1. The Whitefish city/county lake and lakeshore protection committee is hereby created as a special planning board in compliance with section 75-7-211 Montana Code Annotated empowered to review and comment on all activities within the jurisdiction of the Whitefish lake and lakeshore protection regulations and shall be known as the lakeshore protection committee.
2. The committee shall consist of eight (8) voting members. Four (4) members shall constitute a quorum to conduct business.

a. The Whitefish city council shall appoint three (3) members. All members shall be residents of Whitefish and at least two (2) shall be lakefront property owners or residents.
b. The Flathead County board of commissioners shall appoint four (4) members. All members shall be residents of rural Flathead County and at least three (3) shall be lakefront property owners or residents. Of those three (3), at least one shall be a lakefront property owner or resident on Blanchard Lake.
c. The eighth member shall be appointed by the Whitefish city/county planning board. He/she shall serve for a two (2) year term unless he/she requests removal or is removed by a majority vote of the planning board. The eighth member may be a member of the planning board or may be a member at large, but in any event shall be a resident of Whitefish.

3. City appointees and county appointees shall each initially be appointed to a staggered term of one, two (2) and three (3) years. Thereafter, each succeeding term shall be three (3) years. Vacancies during the term shall be filled by the appropriate governing body for the duration of the unexpired term.
4. The committee members shall serve without compensation.

B. Duties: The committee shall:

1. Advise and work with potential applicants.
2. Review and give recommendations on projects requiring a lakeshore permit.
3. Review and offer amendments to the lake and lakeshore regulations, to keep them current, to improve efficiency and to address problems.
4. Report violations to the proper authorities.

C. Organization: The committee shall organize and adopt bylaws pursuant to these regulations establishing the operating policies and procedures of the committee. (Ord. 09-08, 7-20-2009)

13-4-2: VARIANCES:

A. General Criteria:

1. Minor Variances: Minor variances from the construction requirements or design standards of these regulations may be granted when the governing body determines the following conditions are met:

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 section 13-2-6, "Policy Criteria For Issuance Of A Permit", of this title.
d. Alternatively to subsections A1a and A1b of this section, the granting of a variance would result in a general and universal public benefit.
2. Major Variances: A variance request shall be considered major when any of the following criteria are met:
a. The variance request does not meet the requirements of subsection A1 of this section;
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.

B. Review Procedures:
1. Minor Variances:
a. The lakeshore protection committee, if it so determines, shall recommend to the governing body that a minor variance(s) from these regulations should be granted as part of an application's approval.
b. The governing body shall consider the lakeshore protection committee's recommendation and act upon the application. It may grant, modify or deny the variance request.
2. Major Variances:
a. When the lakeshore protection committee determines that a major variance is required, it shall notify the governing body and applicant of said decision.
b. The determination that a major variance is required shall cause to be prepared, by and at the expense of the applicant, an environmental impact statement. The environmental impact statement shall contain:
(1) Description of the proposed project;
(2) Description of, and the reason for, the major variance being considered;
(3) Description of existing conditions;
(4) Description of anticipated impacts as they relate to each of the policy criteria in section 13-2-6 of this title;
(5) Alternatives to the proposed project, which would not require a major variance; and
(6) Any other information that may be required.
c. Nine (9) copies of the environmental impact statement shall be submitted to the administrator.
d. The lakeshore protection committee shall review the application for major variance and make a recommendation to the planning board.
e. The planning board shall review the information and make a recommendation to the governing body.
f. The governing body, upon receipt of all materials and recommendations, shall hold a public hearing on the proposed action. Notice of the time and place of the public hearing shall be published at least once in a newspaper of general circulation not less than fifteen (15) nor more than thirty (30) days prior to the date of the hearing.
g. Following the public hearing, the governing body shall act upon the application and may grant, modify or deny the variance request. (Ord. 09-08, 7-20-2009)

13-4-3: AMENDMENTS:

These regulations may be amended. Prior to adopting any proposed amendment, the Whitefish city council shall hold a public hearing thereon. Notice of the time and place of the public hearing shall be published at least once in a newspaper of general circulation not less than fifteen (15) days nor more than thirty (30) days prior to the date of hearing. Records of amendments to these regulations shall be maintained by the governing body in a form convenient for use. (Ord. 09-08, 7-20-2009)

13-4-4: LIABILITY:

The permittee shall not hold the governing body or any of its agents liable for any damage that may occur to his/her property as a direct or indirect result of the issuance of a permit. (Ord. 09-08, 7-20-2009)

13-4-5: VIOLATIONS; PENALTY:

A. A person, partnership, association, company, corporation or contractor who violates the conditions of a permit issued under these regulations, fails to obtain a permit prior to performing work requiring a permit under these regulations, or who violates any provision(s) of these regulations, commits a misdemeanor, and on conviction may be sentenced to thirty (30) days in the city/county jail, fined five hundred dollars ($500.00), or both. A person, partnership, association, company, corporation or contractor who violates the conditions of a permit issued under these regulations, fails to obtain a permit prior to performing work requiring a permit under these regulations, or who violates any provision(s) of these regulations, commits a municipal infraction, and is subject to the civil penalties provided in section 1-4-4 of this code. Each separate violation of these regulations shall constitute a separate offense. For instance, each tree removed or violation of a different subsection requirement shall constitute a separate offense. Each day that the violation exists beyond a restoration deadline date shall constitute a separate offense. 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.

1. The conditions of a permit shall be considered to have been violated if work exceeds the scope and conditions of the permit in dimension, type or quality of materials, type of equipment used, or the extent of the work permitted.
2. Fines and civil penalties collected under this section shall be paid to the general fund of the governing body, for the purpose of administering these regulations. (Ord. 09-20, 10-19-2009)

B. In the event that any building, structure or improvement is erected, reconstructed, altered, converted, or maintained, or any building, structure, improvement, or land is used in violation of these regulations, the proper legal authorities of the jurisdictional governing body, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, maintenance, or occupancy of such building, structure, improvement or land, or to prevent an illegal act, conduct, business, or use in or about such building, structure, improvement or land.

C. Any person or entity applying for a permit under these regulations, or who is otherwise required to comply with these regulations, shall be responsible for becoming familiar with these regulations and for complying fully with such regulations.

D. Any permit issued which has been based on incomplete, incorrect, or false information supplied by the applicant in their permit application shall be deemed to be invalid. (Ord. 09-08, 7-20-2009)

8-3-4: PRIVATE DISPOSAL SYSTEMS:

A. Connection To Sewer: The city council shall have power, by resolution, to order any privy, water closet or house drain in actual use on any lot or part of lot in the city, adjacent to any main trunk sewer or lateral sewer in the city, now constructed or which may hereafter be constructed, to be connected with the sewer whenever the city council deems it necessary to the health or sanitary condition of the locality.

B. Order To Connect: When the city council orders any privy, water closet or house drain to be connected with the sewer, as provided by subsection A of this section, it shall be the duty of the city clerk to deliver to the chief of police a certified copy of the resolution and one additional copy thereof for each owner and person in charge of the privy, water closet or house drain ordered by the resolution to be connected with the sewer. The chief of police shall forthwith deliver to the owner and to the person in charge of the privy, water closet or house drain a certified copy of the resolution and make a return on the original to whom and when he delivered the certified copies and file the same with the city clerk.

C. Notice To Connect: If the owner of the property on which any privy, water closet or house drain is ordered to be connected with the sewer is a nonresident of the city, or for any other reason cannot be served as provided by subsection B of this section, the city clerk shall post a copy of the resolution in three (3) of the most public places in the city for one week which shall be a legal service and notice to such owner. (Ord. 106, 2-1-1915)

D. Compliance Required: If any owner or owners of any privy, water closet or house drain fails, refuses or neglects to comply with the requirements of the resolution of the city council ordering the privy, water closet or house drain to be connected with the sewer, after a receipt of a certified copy of the resolution as provided by subsection B of this section, or after the posting of copies of the resolution, as provided by subsection C of this section, in the way and manner as is provided by this chapter for thirty (30) days, the owner or owners shall, upon conviction thereof, be deemed guilty of a misdemeanor, punishable as set forth in section 1-4-1 of this code and shall also be deemed to have committed a municipal infraction, punishable as set forth 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.

E. Violation: It is unlawful for any person in charge of any privy, water closet or house drain, after receipt of a copy of a resolution ordering the privy, water closet or house drain to be connected with the sewer, to use the same for more than thirty (30) days after they have received a copy of the resolution. Any person violating the provisions of this section shall, upon conviction, be deemed guilty of a misdemeanor, punishable as set forth in section 1-4-1 of this code and shall also be deemed to have committed a municipal infraction, punishable as set forth 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. (Ord. 09-20, 10-19-2009)

ADDENDUM H
W2ASACT INFORMATION

In 1982, a group of professionals from state, federal, and non-profit organizations that finance, regulate, or provide technical assistance for community water and wastewater systems, decided to start meeting in order to coordinate and enhance their efforts. This group calls itself the "Water, Wastewater and Solid Waste Action Coordinating Team" or W2ASACT for short. W2ASACT meets several times a year to find ways to improve our state's environmental infrastructure.

W2ASACT members include:

Federal Agencies and Programs:
- Bureau of Reclamation (Department of Interior)
- U.S. Department of Housing and Urban Development- HUD Montana Field Office Helena Economic Development Administration (Department of Commerce)
- Environmental Protection Agency
- Rural Development, Rural Utilities Services (Department of Agriculture)

Private Associations or Non Profit Organizations:
- Midwest Assistance Program
- Montana Association of County Water and Sewer Systems
- Montana Association of Counties
- Montana League of Cities and Towns
- Montana Rural Development Partners
- Montana Rural Water Systems, Inc.

State Agencies and Programs :
- Community Development Block Grant Program (Department of Commerce)
- Community Technical Assistance Program (Department of Commerce)
- Public Water Supply Section (Department of Environmental Quality)
- INTERCAP Program (Board of Investments)
- Local Government Center (Montana State University)
- Local Government Services Bureau (Department of Commerce)
- Governors Office of Indian Affairs
- Montana Coal Board (Montana Department of Commerce)
- Montana Water Center (Montana State University)
- Municipal Wastewater Assistance Program (Department of Environmental Quality)
- Renewable Resources Grant and Loan Program (Department of Natural Resources and Conservation)
- State Drinking Water Revolving Fund (Department of Environmental Quality and Department of Natural Resources and Conservation)
- State Wastewater Revolving Fund (Department of Environmental Quality and Department of Natural Resources and Conservation)
- Treasure State Endowment Program (Department of Commerce)
- Technical and Financial Assistance Bureau (Department of Environmental Quality)

All of the programs represented in W2ASACT have different missions and meet unique needs. However, it has been the common elements shared by the funding programs that have been the driving force of W 2 ASACT. These programs provide money (grants or loans), take applications from communities to fund their projects, and administer those monies once the project is funded. While W2ASACT cannot change all of the state or federal requirements, it can identify unnecessary duplication of requirements that make compliance difficult for communities.

ADDENDUM I
WHITEFISH PILOT COLUMNS

Whitefish Pilot
Managing Editor Matt Baldwin printed our monthly column *The Water Closet* as follows:

Column Due	Publication Date	Authors	Subject
November 9	November 14	John Muhlfeld & Patti Scruggs	What is the purpose of the WCWC
December 7	December 12	Andy Feury & Denise Hasnon	Funding options
January 4	January 9 (Ran 1/16)	Jan Metzmaker & Jim Laidlaw	Describe the planning process
February 1	February 6	Tom Cowan & Bill Kahle	Septic 101
March 1	March 6	Pam Holmquist & John Muhlfeld	Community Forum
April 5	April 10	Karen Reeves & Ryan Purdy	Community Forum survey reminder
May 3	May 8	Tom Cowan & Bill Kahle	Landscape & Water Quality
May 31	June 5		Community Forum Results
July 31	Aug 7	Andy Feury & John Muhlfeld	Program delivered to City

Whitefish Community Wastewater Management Public Comment Results **Total Respondents 12**

1. How important to you is the water quality and health of Whitefish Lake?
   12 Very important 0 Somewhat important 0 Not important

2. How important to you is the health of your drinking water?
   12 Very important 0 Somewhat important 0 Not important

3. How important to you is the cleanliness of the lake water for swimming, fishing, boating, and other recreation?
   12 Very important 0 Somewhat important 0 Not important

4. Did you know that the City of Whitefish gets its drinking water supply from Whitefish Lake at certain times of the year?
   12 Yes 0 No

5. Is your home on-
   6 Individual Septic System 0 Communal Septic System 5 City Sewer 0 Don't know

5a. If you are on an individual septic system, how often do you have your septic system inspected and pumped?
   0 Never have 4 Every 0-5 years 2 Every 5-10 years

5b. If you are on a septic system, what are your top concerns about maintaining your system.
   (please rank in order of importance, 1 being the most important and 5 being the least important)
   (#) = number of respondents # = level of importance

(1) 1, (2) 2, (1) 3, (1) 5	the cost of pumping and other maintenance
(1) 2, (2) 3, (1) 4, (1) 5	the cost of inspections
(1) 1, (4) 4	disruption to your household
(3) 1, (1) 3, (1) 4	the possible need to upgrade your system
	other: 1 response commented: like septic system, save city money, find septic systems to be a positive

6. How likely would you be to attend a free wastewater management program that included information about sewer and septic systems, a tour of the Whitefish Wastewater Treatment plant, a tour of a communal septic system, or a tour of a facility that manufactures wastewater systems?
   6 Very likely 1 Somewhat likely 5 Not likely

7. Have you previously heard about the Investigation of Septic Leachate to the Shoreline Area of Whitefish Lake, Montana study conducted by the Whitefish Lake Institute in 2011 and published in 2012?
   11 Yes 1 No

8. Do you live in Whitefish…?

_9_ Full Time _1_ Part time

9. Do you live in the Whitefish extraterritorial area…?

_5_ Full time _1_ Part time

Comments:

I was disappointed that Ed Leiser's bill to add septic inspections to sale of propertiy got tabled- wondering if we would add that to our local laws? County?

I'm looking forward to everybody learning about their septic systems and learning to take care of them.

The lake is, by far, our most important natural asset - It must be protected.

Require all owners who can connect to Hellroaring sewer line to do so within 10 years.

P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

City of Whitefish

Date: July 11, 2013
To: Lori Curtis, Whitefish Lake Institute
From: John Wilson, Public Works Director
Re: Investigation of Viking Creek and City Beach Sewer Infrastructure

In mid-May 2013, the Public Works Department performed television inspections of all gravity sewer mains along the southeast shore of Whitefish Lake between Bay Point and City Beach. Field crews did not report any damage or potential for sewage to escape from the system.

Field crews also performed television inspections of the gravity sewer mains in the vicinity of Viking Creek, specifically along Wisconsin Avenue from the north end of the Lodge at Whitefish Lake condominiums to a point just north of Colorado Avenue. This covers a distance of at least 350 feet either side of Viking Creek. Again, no evidence was reported indicating potential for sewage to escape the system.

Regarding the new gravity sewer mains installed for the Viking Creek subdivision, while we did not perform a television inspection of these lines, they were certified by the project engineer to have passed inspections and leak test requirements in 2011.

Please let us know if you have any other questions.

Sincerely,

John C. Wilson
Public Works Director

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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, August 19, 2013, at **7:10 p.m.** at City Hall, 402 East Second Street.

Ordinance numbers start with 13-06. Resolution numbers start with 13-14.

1) CALL TO ORDER

2) PLEDGE OF ALLEGIANCE

3) PRESENTATION – Update on the Whitefish High School project – Dow Powell

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

5) COMMUNICATIONS FROM VOLUNTEER BOARDS

6) CONSENT AGENDA (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
   a) Minutes from the August 5, 2013 Council regular session (p. 127)
   b) Consideration of approving application from James D. Hill for Whitefish Lake Lakeshore Variance (#WLV-12-W39A) at 2726 Plaza Road to amend existing variance permit to include replacement of stairs subject to 14 conditions (p. 135)
   a) Consideration of approving application from Darren Paylor for Whitefish Lake Lakeshore Permit (#WLP-13-W23) at 2452 Birch Glen Road for Installation of stone steps and path, removal of existing rock walkway, replacement of a waterline, installation of a 671.48 square foot EZ Dock & Shore Station, and buoy installation subject to 42 conditions (p. 151)
   b) Confirmation of Glacier Hockey Association's appointment of Murray Craven as their representative to the Ice Rink Advisory Committee (p. 177)

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

   a) Resolution No. 13-___; A Resolution approving a Special Recreation Use License with the Montana Department of Natural Resources and Conservation with respect to the Spencer Trail Network, and authorizing the execution of documents (p. 179)

b) Consideration of a request from Mike Collins on behalf of Mountain Properties of Montana LLC, requesting a 24-month extension for the Ramsey Lakeview preliminary plat, a 4-lot (2 townhouses) subdivision on 0.63 acres at 502 Ramsey Avenue (p. 240)
c) Resolution No. 13-___; A Resolution amending the 2013 Fiscal Year annual budget by a Bike & Pedestrian Path Fund Balance appropriation of $4.64 to Bike & Pedestrian Path Fund; and amending the budget by a TIF Bond Debt Fund Balance of $2,253.00 to TIF Bond Debt Fund; all for the 2013 fiscal year commencing July 1, 2012 (p. 262)
d) FY14 Budget, Tax Levy, and Assessments Public Hearing:
   i) Resolution No. 13 - ___; A Resolution accepting and approving the Municipal Budget for the City of Whitefish for the 2014 Fiscal Year Commencing July 1, 2013, in its final form (p. 267)
   ii) Resolution No. 13 - ___; A Resolution (1) determining the property tax mills to be levied on all taxable property within the corporate limits of the City of Whitefish, and (2) levying and assessing all Special Improvement assessments and other assessments on real estate within the Districts (p. 269)
   iii) Resolution No. 13 - ___; A Resolution levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Street Maintenance District to defray the costs of street improvements (p. 272)
   iv) Resolution No. 13 - ___; A Resolution levying and assessing a tax upon all real estate in Special Improvement Lighting District No. 1 in the City of Whitefish, Montana, to defray the cost of improvements in said Special Improvement Lighting District (p. 274)
   v) Resolution No. 13 - ___; A Resolution levying and assessing a tax upon all real estate in Special Improvement Lighting District No. 4 in the City of Whitefish, Montana, to defray the cost of improvements in said Special Improvement Lighting District (p. 276)
   vi) Resolution No. 13 - ___; A Resolution levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Parkland and Greenway Maintenance District (p. 278)
   vii) Resolution No. 13 - ___; A Resolution levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Stormwater Improvement and Maintenance District (p. 280)
   viii) Resolution No. 13 - ___; A Resolution levying and assessing a tax on each lot or parcel of land in said City lying within the boundaries of Special Improvement Parking District No. 155 to defray the cost of creation of said District and of the improvements therein (p. 282)
   ix) Resolution No. 13 - ___; A Resolution levying and assessing a tax on each lot or parcel of land in said City lying within the boundaries of Special Improvement Water/Sewer District No. 158 (Pack Rat Lane) to defray the cost of creation of said District and of the improvements therein (p. 284)
   x) Resolution No. 13 - ___; A Resolution levying and assessing a tax on each lot or parcel of land lying within the boundaries of Special Improvement District No. 166 (JP Road) to defray the cost of creation of said District and of the improvements therein (p. 286)
e) Ordinance No. 13-___; An Ordinance approving a zoning change and amendment of the Whitefish Zoning Jurisdiction Map to rezone Tract 1K from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District), and to rezone Tracts 1D and 1DA from WA (Agricultural District) to WER (Estate Residential District), in Section 32, Township 31 North, Range 21 West, Whitefish, Flathead County, Montana,

located at East 2nd Street north of the East 2nd Street and Armory Road intersection (1st Reading) (p. 407)

f) Ordinance No. 13-___; An Ordinance approving the East 2nd Street Multi-Family/Condominium Planned Unit Development (PUD) overlay (1st Reading) (p. 407)

8) COMMUNICATIONS FROM CITY MANAGER
   a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 893)
   b) Other items arising between August 14th and August 19th
   c) Consideration of a two year employment contract extension for City Attorney Mary VanBuskirk (p. 898)

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS
   a) Standing budget item
   b) Letter from Whitefish Community Library about library restroom use during Farmers' Market and special events (p. 908)
   c) Consideration of approving Landlord's Release and Consent for assignment of lease for WAVE expansion financing (p. 909)

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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August 14, 2013

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

Mayor Muhlfeld and City Councilors:

Monday, August 19, 2013 City Council Agenda Report

There will be a work session at 5:00 p.m. to review the Management Program proposed by the Whitefish Community Wastewater Committee. Food will be provided.

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

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

a) Minutes from the August 5, 2013 Council regular session (p. 127)
b) Consideration of approving application from James D. Hill for Whitefish Lake Lakeshore Variance (#WLV-12-W39A) at 2726 Plaza Road to amend existing variance permit to include replacement of stairs subject to 14 conditions (p. 135)
c) Consideration of approving application from Darren Paylor for Whitefish Lake Lakeshore Permit (#WLP-13-W23) at 2452 Birch Glen Road for Installation of stone steps and path, removal of existing rock walkway, replacement of a waterline, installation of a 671.48 square foot EZ Dock & Shore Station, and buoy installation subject to 42 conditions (p. 151)
d) Confirmation of Glacier Hockey Association's appointment of Murray Craven as their representative to the Ice Rink Advisory Committee (p. 177)

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

Items a and d are administrative matters; 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) Resolution No. 13-___; A Resolution approving a Special Recreation Use License with the Montana Department of Natural Resources and Conservation with respect to the Spencer Trail Network, and authorizing the execution of documents (p. 179)

From City Attorney Mary VanBuskirk's staff report:

The review and consideration of the proposed Spencer Trail Network Special Recreation Use License (Spencer Trail Network SRUL) comes before the City Council for its approval by the attached Resolution. The Spencer Trail Network of the Whitefish Trail (Spencer Trail Network) is the next trail segment proposed for the Whitefish Trail through a SRUL with the Department of Natural Resources and Conservation (DNRC). As contemplated by the 2004 Whitefish Area Trust Lands Neighborhood Plan (Neighborhood Plan), and the 2006 A Trail Runs Through It Master Plan (Master Plan), the Spencer Trail Network offers a wide variety of recreational uses, with a variety of difficulty levels from moderate to difficult, and serves as a connection to existing and new trail systems.

In 2003, the Whitefish community, Montana Board of Land Commissioners, DNRC, Flathead County, and the City of Whitefish began a public process to establish a broad range of goals and policies for a sound land-use plan for the 13,000 plus acres of trust lands surrounding Whitefish. Through these efforts, the Neighborhood Plan was developed in November 2004. The Neighborhood Plan called for preserving the public's access to the Spencer Mountain Segment of the Whitefish Trail as "an important community objective". Neighborhood Plan, p. 25.

The Spencer Mountain Subarea (Spencer) provides approximately 2,740 acres of timbered and rolling terrain. As contemplated by the Neighborhood Plan, Spencer would be managed by the DNRC as a timber and recreational asset for a minimum of the next ten years to allow the community to develop and submit a proposal to the DNRC to generate revenue to the State Trust Lands and for protection of the majority of the land area for public access and recreation usage. If the community and the DNRC can show substantial progress (i.e., over 1,000 acres have been protected or substantial income has been generated), the DNRC would commit to an additional ten years to work with the community to protect the remainder. Neighborhood Plan, p. 26.

The trails in Spencer were described as "popular for a variety of recreational uses" with the trails having "a difficulty level of moderate to difficult for pitch and tread". Master Plan, p. 8. The Master Plan identified the proposed trail in Spencer as a recreational use for mountain biking, running, hiking, hunting and fishing, horseback riding, cross-country skiing, and snowshoeing. Master Plan, p. 25. Due to its varied terrain, the Spencer area offered a range of difficulty levels of moderate to difficult to offer a variety of recreational uses to a wide range of users based on the physical

design of the trail, depending on the natural features, volume of traffic on the trail and the types of activity. The Spencer area offered the possibility for a more challenging technical challenge for a wide range of recreational uses and users. Master Plan, p. 26.

In the development of the Master Plan, the Planning Committee expanded its membership to include interested Whitefish community participants, who organized themselves as Flathead Gateway Partners (now known as Whitefish Legacy Partners), and representatives from the U.S. Forest Service, the U.S. Fish and Wildlife Service, and the Montana Department of Fish, Wildlife & Parks.

Also, as contemplated by the Neighborhood Plan and Master Plan, the responsibilities for the care and maintenance of the Spencer area will be shared with the community and recreationalists.

Mary has a full, five page staff report and other documents in the packet.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering public testimony, approve a Resolution approving a Special Recreation Use License with the Montana Department of Natural Resources and Conservation with respect to the Spencer Trail Network, and authorizing the execution of documents.

This item is a legislative matter.

b) Consideration of a request from Mike Collins on behalf of Mountain Properties of Montana LLC, requesting a 24-month extension for the Ramsey Lakeview preliminary plat, a 4-lot (2 townhouses) subdivision on 0.63 acres at 502 Ramsey Avenue (p. 240)

From Senior Planner Wendy Compton-Ring's staff report:

This office is in receipt of a letter from Michael Collins, on behalf of Mountain Properties of Montana llc, requesting a 24-month extension for the Ramsey Lakeview preliminary plat. The Ramsey Lakeview preliminary plat is a 4-lot (2 townhouses) subdivision on 0.63 acres at 502 Ramsey Avenue. Attached to this report are the conditions of approval and the preliminary plat map.

The preliminary plat was approved by the Whitefish City Council on September 4, 2007. In 2010, the Council granted an extension, as provided for the in subdivision regulations in place at the time, until September 4, 2011. On June 6, 2011, the Council granted an additional 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires <u>September 4, 2013</u>.

This subdivision is located within the city limits and is zoned WR-2 (Two Family Residential District). Upon review of the file, issues raised during the public hearing process included:

- *Flag Lots and Through Lots.* It was determined that this particular lot was a 'through lot' and by definition already two lots. It was also determined that the prohibition on flag lots adjacent to one another was only for lots that accessed off the same street and not off different streets, such as this project.
- *Fraser Avenue as a Street for Access.* There was some question as to whether or not Fraser Avenue was a public right-of-way or an alley. It was determined that it is a public street and eligible for primary access. Ten-feet of right-of-way is required to be dedicated on Fraser Avenue. A review of the feasibility of expanding Fraser Avenue to the east is also included.
- *Storm Water Run-Off.* A previously approved 3-lot subdivision had an engineered storm water plan and there were concerns that the additional lot might cause run-off problems. The original approved storm water plan anticipated considerable impervious area that would be adequate for the proposed subdivision. Any changes to the plan would require additional review by city staff.
- *Emergency Vehicle Access.* Due to the flag lot development and narrowness of Fraser Avenue, there was concern that an emergency vehicle would have difficulty accessing the units. There was a condition placed on the plat to obtain approval from the Fire Marshal prior to final plat.

Change in Standards:
Since 2007, when this project received preliminary plat, certain regulations have been amended including the Subdivision Regulations. Below is a summary of items that changed and are pertinent to this preliminary plat:

- Lot 1A has some portions of the building envelope that exceed 10%, requiring a geotechnical reconnaissance to determine whether or not further geotechnical review is warranted (§12-4-10). A geotechnical investigation report was not a requirement for the application in 2007. There is adequate area to build a unit on a slope of less than 10% and this lot is a considerable distance from any water.

- While the issue of flag lots was resolved with this particular subdivision, the topic of flag lots was addressed in the subdivision regulations. The new regulations provide more options to use flag lots with a well-designed project. The new regulations would not have prohibited this particular project.

<u>Public Comment</u>
A notice was mailed to adjacent land owners within 300-feet of the preliminary plat on July 30, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on July 31, 2013. As of the writing of this report, six letters/emails have been received by neighbors. They cite the following concerns: traffic on Fraser Avenue, maintenance of the property, has had adequate time to complete subdivision and shouldn't be given any more time, privacy, noise, density, shared driveway, snow removal, parking, pedestrian traffic, drainage, topography and decrease in property values.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering testimony at the public hearing, approve the request to extend the Ramsey Lakeview preliminary plat for 24 months, expiring on September 4, 2015 based on the following findings of fact:

Finding 1: The 4-lot preliminary plat was approved by the Council on September 4, 2007. In 2010, the Council granted an extension, as provided for the subdivision regulations at the time, until September 4, 2011. On June 6, 2011, the Council granted an additional 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires September 4, 2013.

Finding 2: No other development or third party will be harmed if the preliminary plat is extended.

Finding 3: A legal notice was placed in the *Whitefish Pilot* on July 31, 2013 and public notice was mailed to property owners within 300-feet on July 30, 2013. As of the writing of this report, six letters have been received.

This item is a quasi-judicial matter.

c) Resolution No. 13-___; A Resolution amending the 2013 Fiscal Year annual budget by a Bike & Pedestrian Path Fund Balance appropriation of $4.64 to Bike & Pedestrian Path Fund; and amending the budget by a TIF Bond Debt Fund Balance of $2,253.00 to TIF Bond Debt Fund; all for the 2013 fiscal year commencing July 1, 2012 (p. 262)

From Assistant City Manager/Finance Director Rich Knapp' staff report:

The table below describes all expenditures and transfers that did not have or exceeded FY 2013 budget authority and require budget amendments as allowed by Montana law MCA Sections 7-6-4006(4) and 7-6-4021.

To	From	Amount	Justification
2991-430255-820 Bike & Ped Path	Bike & Ped Path Balance	$4.64	Transferred remaining cash out of fund to close it
3110-490200-552 TIF Bond Debt Fund	TIF Bond Debt Fund Balance	$2,253	Recognition of bond premium & costs amortized over life of loan higher than budget. **Non-cash expense**.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering testimony at the public hearing, approve A Resolution amending the 2013

Fiscal Year annual budget by a Bike & Pedestrian Path Fund Balance appropriation of $4.64 to Bike & Pedestrian Path Fund; and amending the budget by a TIF Bond Debt Fund Balance of $2,253.00 to TIF Bond Debt Fund; all for the 2013 fiscal year commencing July 1, 2012.

This item is a legislative matter.

d) FY14 Budget, Tax Levy, and Assessments Public Hearing:
   i) Resolution No. 13 - ___; A Resolution accepting and approving the Municipal Budget for the City of Whitefish for the 2014 Fiscal Year Commencing July 1, 2013, in its final form (p. 267)
   ii) Resolution No. 13 - ___; A Resolution (1) determining the property tax mills to be levied on all taxable property within the corporate limits of the City of Whitefish, and (2) levying and assessing all Special Improvement assessments and other assessments on real estate within the Districts (p. 269)
   iii) Resolution No. 13 - ___; A Resolution levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Street Maintenance District to defray the costs of street improvements (p. 272)
   iv) Resolution No. 13 - ___; A Resolution levying and assessing a tax upon all real estate in Special Improvement Lighting District No. 1 in the City of Whitefish, Montana, to defray the cost of improvements in said Special Improvement Lighting District (p. 274)
   v) Resolution No. 13 - ___; A Resolution levying and assessing a tax upon all real estate in Special Improvement Lighting District No. 4 in the City of Whitefish, Montana, to defray the cost of improvements in said Special Improvement Lighting District (p. 276)
   vi) Resolution No. 13 - ___; A Resolution levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Parkland and Greenway Maintenance District (p. 278)
   vii) Resolution No. 13 - ___; A Resolution levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Stormwater Improvement and Maintenance District (p. 280)
   viii) Resolution No. 13 - ___; A Resolution levying and assessing a tax on each lot or parcel of land in said City lying within the boundaries of Special Improvement Parking District No. 155 to defray the cost of creation of said District and of the improvements therein (p. 282)
   ix) Resolution No. 13 - ___; A Resolution levying and assessing a tax on each lot or parcel of land in said City lying within the boundaries of Special Improvement Water/Sewer District No. 158 (Pack Rat Lane) to defray the cost of creation of said District and of the improvements therein (p. 284)
   x) Resolution No. 13 - ___; A Resolution levying and assessing a tax on each lot or parcel of land lying within the boundaries of Special Improvement District No. 166 (JP Road) to defray the cost of creation of said District and of the improvements therein (p. 286)

The staff report is contained in the budget transmittal letter which is at the front of the budget document in the packet.

RECOMMENDATION: Staff respectfully recommends that the City Council, after considering testimony at the public hearing, adopt ten (10) resolutions adopting the FY14 Budget and levying and assessing property taxes and assessments for FY14.

These items are legislative matters.

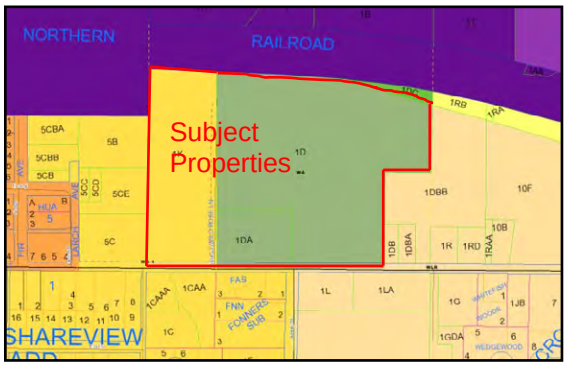
e) Ordinance No. 13-___; An Ordinance of the City Council of the City of Whitefish, Montana, approving a zoning change and amendment of the Whitefish Zoning Jurisdiction Map to rezone one parcel from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) on Tract 1K, 1D and 1DA, and to rezone two tracts from WA (Agricultural District) to WER (Estate Residential District) on Tracts 1D and 1DA in Section 32, Township 31 North, Range 21 West, Whitefish, Flathead County, Montana, located at East 2nd Street north of the East 2nd Street and Armory Road intersection (1st Reading) (p. 407)

From Senior Planner Wendy Compton-Ring's staff report:

A report to the Whitefish City-County Planning Board and the Whitefish City Council regarding a request by William MacDonald and Sean Averill on behalf of Community Infill Partners llc to rezone three parcels from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) and WA (Agricultural District) to WER (Estate Residential District) at 100 Wild Rose Lane and 1500 E 2nd Street. This request is scheduled before the Whitefish City-County Planning Board for public hearing on Thursday, July 18, 2013 at 6:00 PM. A recommendation will be forwarded to the City Council for a subsequent public hearing on Monday, August 19, 2013 at 7:10 PM. Both hearings will be held in the Whitefish City Council Chambers.

PROJECT SCOPE

The applicant is requesting a zone change on three parcels. One parcel (Tract 1K) is proposed to be rezoned from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District). The other two parcels (Tracts 1D and 1DA) are proposed to be rezoned from WA (Agricultural District) to WER (Estate Residential District). All three parcels front on E 2nd Street and are located within the city limits.



The purpose of rezoning the properties is to facilitate the proposed Planned Unit Development (WPUD 13-01) to develop a mixed single family/multi-family project. The PUD application accompanies the rezone request.

Purpose of WR-2: The WR-2 district is intended for residential purposes to provide for one-family and two-family homes in an urban setting connected to all municipal utilities and services.

	WR-2 (proposed zoning)	**WR-1 (existing zoning)**
Minimum lot area:	6,000 s.f. for single family 7,200 s.f. for duplex	10,000 s.f.
Front yard setback:	25 feet	25 feet
Side yard setback:	10 feet	10 feet
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	40% maximum	35% maximum

Purpose of WER: A residential district to provide for single-family, large tract or estate development. These areas will typically be found in suburban areas, generally serviced by municipal sewer and water lines.

	WER (proposed zoning)	**WA (existing zoning)**
Minimum lot area:	20,000 s.f.	15 acre
Front yard setback:	25 feet	50 feet
Side yard setback:	15 feet	20 feet
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	30% maximum	20% maximum for 2 acres or less; 10% maximum for 2 acres or more

A. Property Owner:
Wild Rose Knoll LP
Pine Hill LP
PO Box 91
Whitefish, MT 59937

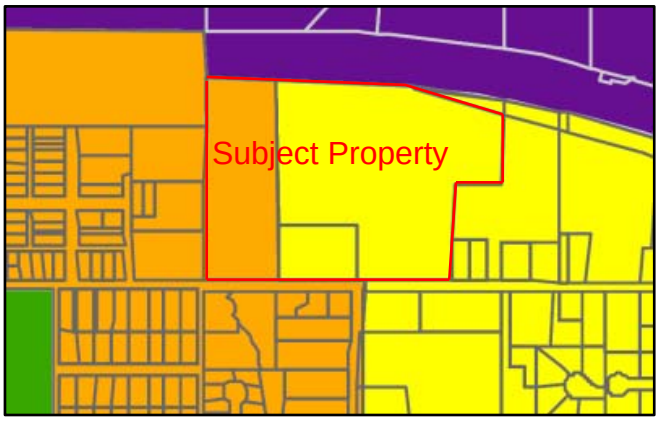
Applicant:
Community Infill Partners llc
William MacDonald and Sean Averill
PO Box 4600
Whitefish, MT 59937

B. Location and Size:

The subject properties are located on E 2nd Street north of the E 2nd Street and Armory Road intersection. The properties can be legally described as Tract 1K, 1D and 1DA in Section 32, Township 31N, Range 21W, P.M.M., Flathead County, Montana. They are 23.789 acres in size.

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

The properties are currently being used for two single family homes and some agricultural purpose. There are three properties – one is zoned WR-1 and two are zoned WA. The Growth Policy identifies the westerly parcel as Urban Residential and the two easterly parcels as Suburban Residential.



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

North:	BNSF Railway	WI	Planned Industrial
South:	Residential	WLR/WR-1	Suburban/Urban Residential
East:	residential	WLR	Suburban Residential
West	Residential	WR-1	Urban Residential

There is a complete staff report along with all documents, minutes, letters, and emails in the packet.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering public testimony and the recommendations of the Whitefish City-County Planning Board and staff, approve An Ordinance of the City Council of the City of Whitefish, Montana, approving a zoning change and amendment of the Whitefish Zoning Jurisdiction Map to rezone one parcel from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) on Tract 1K, 1D and 1DA, and to rezone two tracts from WA (Agricultural District) to WER (Estate Residential District) on Tracts 1D and 1DA in Section 32, Township 31 North, Range 21 West, Whitefish, Flathead County, Montana, located at East 2nd Street north of the East 2nd Street and Armory Road intersection (1st Reading)

This item is a quasi-judicial matter.

f) Ordinance No. 13-___; An Ordinance of the City Council of the City of Whitefish, Montana, approving the East 2nd Street Multi-Family/Condominium Planned Unit Development (PUD) overlay (1st Reading) (p. 407)

From Senior Planner Wendy Compton-Ring's staff report:

Summary of Requested Action: Will McDonald and Sean Averill on behalf of Community Infill Partners, llc are requesting a rezone and planned unit development (PUD) overlay in order to develop 23 acres into 143 dwelling units. The units are a combination of apartments (92), condominiums (36) and accessory apartments (15). Most units are accessed by a private road network. The applicant is setting aside rental units to be managed by the Whitefish Housing Authority and they are extending Armory Road which will be a dedicated public right-of-way. There are a series of trails and open space areas within the development. The applicant conducted two on-site neighborhood meetings on April 24, 2013 and on June 19, 2013. Both meetings were well-attended by neighbors. During the meetings, the applicant presented the project, provided a tour of the site and answered questions.

The project consists of three parcels with two single family homes. The properties have two zoning classifications. The western parcel is zoned WR-1 (One-Family Residential District) and is proposed to be zoned WR-2 (Two-Family Residential District). The other two parcels are zoned WA (Agriculture District) and they are proposed to be zoned WER (Estate Residential District). All three parcels are proposed to have the PUD overlay. There are two Growth Policy designations on the project. The western parcel has an 'Urban' designation and the other two parcels have a 'Suburban' designation.

Planning Board Action: The Whitefish City-County Planning Board held three public hearings on March 21, 2013, May 16, 2013 and July 18, 2013 to consider the request.[1] Following the first two hearings, the Planning Board tabled action and directed the applicant to listen to the comments made during the hearings and meet with the neighborhood. Following the July hearing, the Planning Board recommended approval of the above referenced rezone, subject to one condition as contained in the staff report and the planned unit development subject to eighteen conditions as contained in the staff report and adopted the staff report as findings of fact (5-1, Vail voting in opposition; Anderson, Smith and Blake were absent). The Planning Board also added the following two conditions of approval and made an additional recommendation for Council consideration:

19. Review the intersection of Armory Road and E 2nd Street with the Public Works Department and shift it to the west. (WCCPB, 7-18-13)

[1] Staff has included all the previous submittals for reference in order for the Council to fully understand the public comment and review the evolution of the project.

20. Conduct a traffic study that determines if the projected traffic from this development falls within 15% of the traffic projected from WR-1/WER zoning development. (WCCPB, 7-18-13)

The Planning Board also recommended that the Council place Armory Road on a priority list for roadway improvements that would also include sidewalks.

Planning & Building Department Recommendation: Staff recommended approval of the above referenced rezone subject to one (1) condition of approval and planned unit development subject to eighteen (18) conditions set forth in the attached staff report.

Staff is concerned with the two additional conditions recommended by the Planning Board and would recommend the following:

Condition 19:
The Public Works Department has reviewed a concept which would move the north leg of the Armory Road intersection 125-feet west of the existing 'T' intersection. This alignment would present more conflicts for motorists and pedestrians than a typical 4-way intersection and southbound Armory vehicles' headlights would shine directly into an existing home on the south side of E 2nd Street. We believe this configuration would create more problems than it might solve and prefer a condition that directs the developer to work with the Public Works Department to design the safest possible intersection. We recommend Condition #19 should be reworded to state:

19. The applicant, the applicant's engineer and the city Public Works Director shall explore the idea of moving the proposed Armory Road extension to the west and review its implications in order to establish the optimal alignment.

Condition 20:
City staff would recommend eliminating condition #20. The traffic study as part of the application, developed by a Professional Engineer using accepted engineering practices, determined there is adequate capacity on the surrounding roads. The 15% standard chosen by the Planning Board is not based on any recognized criterion and it hasn't been vetted through the public hearing process or reviewed and approved by the City Council.

Armory Road Placed on a Priority List:
The City is currently planning for East 2nd St from the Shareview alley to the BNSF tracks. The City's only source of funds for this type of project is the Resort Tax fund. A priority list for Resort Tax funded street projects was adopted in 1998 and revised in 2011. Armory Road is currently 25 projects out on the priority list. The typical pace of construction has been one project per year, with some projects requiring two years to complete. So given the current schedule of priorities, Armory Road would not be eligible for full reconstruction using Resort Tax funds until sometime after

2035. One funding alternative might be a Special Improvement District (SID), whereby property owners within a defined neighborhood district would carry the cost of design and construction in the form of assessments added to their property taxes over a period of 20 years.

The Resort Tax Monitoring Committee has considered reviewing the Resort Tax street reconstruction priority list over the coming months/winter. This would be an opportune time to propose a higher priority for Armory Road. Interested parties should bear in mind; priorities have typically been set with attention to spreading improvements around the community from one year to the next. East 2nd St will be reconstructed next year, so it seems unlikely an adjusted schedule of priorities will set up Armory Road for major improvements in the immediate future.

The next five projects on the current street reconstruction priority list are East 2nd Street (2014), West 7th Street from Baker to Karrow (2015 and 2016), East Edgewood Place from Colorado Avenue to the east City limits (2017), Karrow Avenue from 2nd St to 7th St (2018) and State Park Road from Hwy 93 to the BNSF tracks (2019 and perhaps 2020). Any proposal to move the Armory Road project up on the priority list would compete against the needs and goals for these neighborhoods, and perhaps others as well.

A suggestion was apparently made to consider a stand-alone path project on Armory Road, without full street reconstruction, and several points come to mind. The funding available for stand-along path projects is much more limited than what is available for full street reconstruction projects and even a stand-alone path project could easily cost over $200,000. When you consider the major improvements planned for East 2nd St next summer, including a bike/ped path from Shareview Alley to Armory Park, as well as the critical need for bike/ped paths in other neighborhoods, it's hard to imagine trail funds being dedicated to second project in this neighborhood right away.

Public Hearing: The public involvement and comment at all three public hearings has been substantial. At the hearings, 50-70 people were in attendance and 14-29 people per hearing testified before the Planning Board. It is difficult to briefly summarize neighborhood concerns in this transmittal as they are vast and varied. All the emails and letters received from the public are attached and should be carefully reviewed by the Council. Generally, the overarching themes of concerns from the neighborhood include: density, project out of character with the neighborhood, product-type (apartments instead of single family homes), traffic (volume, safety and construction traffic), lack of pedestrian and bicycle facilities on Armory Road, long-term maintenance of the project and concerns with a transient population.

RECOMMENDATION: Staff respectfully recommends the City Council, after considering public testimony and the recommendations of the Whitefish City-County Planning Board and staff, approve an Ordinance approving the East 2nd Street Multi-Family/Condominium Planned Unit Development (PUD) overlay (1st Reading)

This item is a quasi-judicial matter.

COMMUNICATIONS FROM CITY MANAGER

a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 893)
b) Other items arising between August 14th and August 19th
c) Consideration of a two year employment contract extension for City Attorney Mary VanBuskirk (p. 898)

Earlier this year, the Mayor and City Council asked Chris Hyatt, Bill Kahle, and me to work on a recommendation for a contract extension for City Attorney Mary VanBuskirk. Chris, Bill, and I met on May 30th and they asked me to do some additional research. After receiving that research, Chris and Bill were to discuss options for a contract extension and pay increase with the other elected officials. The Mayor and City Council then met in executive session after the August 5th City Council meeting.

A proposed two year contract is marked up with redline in the packet based on the direction the Mayor and City Council gave me at the August 5th executive session. Mary has reviewed the proposed contract and said it is fine with her.

The two year contract would grant Mary a $10,000 pay increase for each of the two years, partially to recognize the fact that she was hired at a below market rate in 2010. Thus, her current salary would increase from $95,000 to $105,000 for FY14 and then up to $115,000 for FY15. The City pays employer contributions and benefits for Mary as well, other than medical insurance which she and her husband pay for his insurance plan. As in the last contract, the City will provide Mary $10,000 per year in addition to the salary to offset the cost of medical insurance.

RECOMMENDATION: Staff respectfully recommends the City Council approve a new, two year contract with City Attorney Mary VanBuskirk.

This item is a legislative matter.

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

a) Standing budget item
b) Letter from Whitefish Community Library about library restroom use during Farmers' Market and special events (p. 908)
c) Consideration of approving Landlord's Release and Consent for assignment of lease for WAVE expansion financing (p. 909)

Sincerely,

Chuck Stearns
City Manager

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"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
August 5, 2013
7:10 P.M.

1. CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Mitchell, Sweeney, Anderson, Hildner, Kahle and Hyatt. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Assistant City Manager/Finance Director Knapp, Planning and Building Director Taylor, Public Works Director Wilson, Parks and Recreation Director Cozad, Police Chief Dial, and Fire Chief Kennelly. Approximately 4 people were in attendance.

2. PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Dan Weinberg to lead the audience in the Pledge of Allegiance.

3. **COMMUNICATIONS FROM THE PUBLIC**–(This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments, but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda) None.

4. COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Hildner said the Weed Committee met and discussed weed infested areas and Parks Director Cozad is going to send the information on to those to whom it applies. The Committee has discussed reviewing that Ordinance to tighten it up. He said weed issue awareness was raised through the water bill mailings and there were lots of phone calls; Phil Holmes in Code Enforcement said the first day after the bills went out he received 25 calls, then 15 and 10 on the next two days. There will also be weed examples this week at the Farmer's Market for public information.

Councilor Hildner said the Bike/Pedestrian Path Committee met and the Skye Park Bridge final easement language is being reviewed by the City Attorney. They hope construction will begin next year. He said the Dodger Lane project is moving along on schedule. Both bridges are partially painted – there is more to do. The Committee is working on the Stumptown Inn Trail access easement and they found out a stairway from the new bridge on Hwy 93 W can't be done – that will end up being just a minimal path down to the river. The Safe Routes to School Program is now a competitive process and the application is due in September. He said they need to come up with a park plan for the new park near the roundhouse, and follow with an update to the Park's Master Plan.

Mayor Muhlfeld said he attended the Whitefish Lake Institute fundraiser and they netted close to $32,000. He thanked everyone who attended and donated.

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)

5a. Minutes from the July 15, 2013 Council regular session (p. 25)

5b. Resolution No. 13-13; A Resolution amending Resolution No. 12-15 to extend the duration of the Whitefish Community Wastewater Ad Hoc Committee through December 31, 2014 (p. 33)

Councilor Mitchell offered a motion, seconded by Councilor Anderson, to approve the consent agenda. The motion passed unanimously.

6. PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC) None.

7. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

7a. Consideration of approving a design engineering contract for stormwater projects with Robert Peccia and Associates (p. 35)

Public Works Director Wilson said the Public Works Department issued a public advertisement for Statements of Qualifications from engineering firms interested in our 2013 Storm Drainage Improvements Projects. Staff received responses from six firms and interviewed four. The Public Works Department commenced contract negotiation with the two highest ranked firms, Robert Peccia & Associates, (RPA) and the WGM Group, immediately following interviews.

The scope of work for RPA includes the following for a fee not to exceed $49,200 from the Stormwater Fund:

- Evaluation of drainage needs in the Crestwood area and recommendations for future improvements. Any construction schedule will depend on the scope and cost of recommended improvements. He recommended a way to get the water out of the neighborhood.
- Evaluation of storm drainage flows and impacts on Birch Hill Drive and Parkway Drive, with recommendations for future improvements. Outfalls onto private property north of Parkway Drive are known to impact private property. Any construction schedule will depend on the scope and cost of recommended improvements.
- Evaluation of issues at City Beach related to boat bilge discharge and petroleum contaminants. Tasks will include coordination with regulatory agencies and review of Best Management Practices, leading to recommendations for future improvements. Our goal is to install these improvements no later than the spring of 2014.
- Evaluation of drainage needs for Armory Road in the vicinity of Armory Park, with attention to the condition and maintainability of the downstream storm main crossing Armory Park from south to north. Our goal is to implement recommended improvements in the fall of 2013. The issue is that there are no manholes in the system and it drains a very wet area.

Councilor Mitchell asked about State Park Road and Director Wilson said the pressure for development has slowed down out there and that is on a future project list. Councilor Hyatt said he sat in on the interviews and RPA had some great ideas.

Councilor Hyatt offered a motion, seconded by Councilor Anderson, to approve a design engineering contract for Phase I evaluations of storm drainage improvements with Robert Peccia and Associates, in an amount not to exceed $49,200, for preliminary engineering in the Crestwood, Parkway Drive, City Beach and Armory Park areas. The motion passed unanimously.

7b. Consideration of approving a design engineering contract for stormwater projects with WGM Group (p. 35)

Public Works Director Wilson said the scope of work for WGM Group involves the evaluation of drainage needs along Monegan Road north of JP Road, with tasks including preliminary needs assessment, hydrologic analysis, and evaluation of alternative solutions, public involvement and recommendations for improvements. Staff foresees a contract amendment to enable engineering design in the fall of 2013 and a schedule for construction in 2014, based on the availability of funds. Staff has negotiated a fee not to exceed $25,460 from the Stormwater Fund.

Councilor Hyatt offered a motion, seconded by Councilor Anderson, to approve a design engineering contract for Phase I evaluations of storm drainage improvements with WGM Group, in an amount not to exceed $25,460, for preliminary engineering in the Monegan Road area, north of JP Road. The motion passed unanimously.

Director Wilson said he hopes to be back in a few months with follow up recommendations for some of these projects. Councilor Mitchell asked if they ever thought of draining Monegan Road into the river and Director Wilson said they have to treat it first, but that is a routine process. He said there is a site constraint there, which is one of the challenges.

8. COMMUNICATIONS FROM CITY MANAGER

8a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 38)

Councilor Kahle thanked Chief Kennelly and the Firefighter's Association for the brush truck. Councilor Mitchell asked if there were any excess funds in the Tester grant after the final ESC report and Manager Stearns said when the Council approved the bay door replacement it used up all of the money and some impact fee money. Mayor Muhlfeld said the new Welcome to Whitefish sign looks good and he thanked Public Works for helping to get that done. Mayor Muhlfeld asked and Manager Stearns said he was able to move the permitting tag from MDT so it is less obtrusive. Councilor Mitchell said the sign looks really nice and he also thanked Manager Stearns for fixing the rails at the parking lot on 1st Street & Central Avenue.

8b. Other items arising between July 31st and August 5th

Manager Stearns said last week DNRC approved two planning grant applications. The first grant provides $50,000 for an engineering report for the Stormwater Inflow and Infiltration (I & I) improvement project and will allow the City to apply for a TSEP grant during the next legislative season. In the past, part of the work included slip lining the inside of the pipes. The second grant is for $5,000 for the Whitefish Wastewater Improvement Project, for a preliminary engineering report for a sewer extension project and will also allow the City to apply for a TSEP grant.

He said he sent the Councilors an email today after the City received its Certified Taxable Value from the Department of Revenue; the City's value increased only 2.19%. The Preliminary Budget estimated the growth at 4%, but it is only a $47,465 impact. The Final Budget will reflect the change in a lower year-end cash value unless the Council directs staff otherwise. He said the street light district

assessment will be increased by 10%, but offset by a reduced tax rate so that, hopefully, it is revenue neutral from some.

8c. Consideration of request from WAVE Board of Directors for reimbursement of building permit fees and impact fees for WAVE expansion (p. 43)

Manager Stearns said he wrote a staff report outlining the history and the current issue. He said that Dan Weinberg, one of the founders of the WAVE and Treasurer of the WAVE Board came to see him about the $25,622.06 cost for the building permit and impact fees. Mr. Weinberg and other members of the WAVE Board felt that the January 15, 2004 Agreement meant that all building permit and impact fees would be waived, not just for the initial construction of the original WAVE facility. The WAVE has planned for its second major expansion for the past year. After getting architectural review approval, the building permit and impact fees for this expansion was calculated to be $25,622.06. The start of construction was delayed because of concern over the amount of these permit and impact fees and then whether the agreement between the WAVE and the City provided that the City should be responsible for the fees.

Bart Erickson, 321 Fairway Drive, is on the WAVE Board. He said the Duck Derby is this weekend and he invited them to attend. He said the WAVE was a joint venture with a non-profit group and the City. It is a successful partnership, currently there are 4,836 regular members and 241 30-day memberships as well. There are 95 employees, with 30 full time employees. He said the City helps make this happen. He said Manager Stearns sits on the Board and keeps an eye on the money coming in and out; they take their fiduciary responsibilities very seriously. He then gave the Council a legal argument. He said the original agreement provided a waiver of the impact fees and inspection fees. He said former Attorney John Phelps said he never intended that the waiver of the fees would be ongoing, but the 2006 amendment refers to paragraph 13 of the Master Agreement with respect to improvements. He thinks that it allowed a waiver that is still viable today. He said the 2010 lease agreement contains language in paragraph 6 that says the WAVE will be responsible for all fees and costs. He said the 2010 agreement only applied to the lease, so it doesn't apply to the agreement that applied to the fees. He said the waiver of fees should still apply. He said the City still owns the building. They would be assessed themselves for the fees. He said public raised $500,000 for the initial project and the City only put in about $200,000. He said the WAVE management is required to maintain the facility for the public. Per the agreement the City's Parks and Recreation Department has free use of the facility and the fees for the public are kept as affordable and as reasonable as possible; they give the public a good deal. A scholarship program is available for different levels of financial assistance and is used by about 300 members. They give free swimming lessons to 3rd graders; and the facility is used by the Red Cross for blood drawings; and ski swaps and graduation parties are held at the WAVE. He said no other non-profit is required to do as much as they are required to do for the community and he asked them to consider waiving the fees.

Councilor Sweeney said they make references in this agreement that make it a contractual agreement. He doesn't see any other facility where private funds were used to create the facility and then it was handed to the City for use. He said he would have no problem waiving the impact fees and building fees for this facility. This building was built with private funds and given to the City.

Councilor Hyatt asked and Councilor Mitchell said Smith Field was also built by private funds and turned over to the City. Manager Stearns said making the argument for a legal point of view might not be the best way to look at it. It is not the most important issue. He said equity is a better argument;

he said he can see both sides. There is the aspect that if these entities don't come to the City in advance asking for money for these fees, then they come later and it makes it seem like they are pressuring the City. He said Dan Weinberg thought the waiver of the fees would continue beyond the initial construction as an example of the partnership between the WAVE and the City. He said there is a legitimate argument on equity. He said a few years ago instead of waiving fees the City appropriated money for reimbursement, so it does not set a precedent. He said since they render building inspection services the City should get money for those fees. If they want to reimburse this money then he would take it from the TIF funds because it is in the District and contributes to the economical development of Whitefish. Manager Stearns said he is in a difficult position here because he is also a member of the WAVE Board of Directors because the agreements in the past call for the City Manager to be a WAVE Board member. He would recommend that the City Council agree to reimburse the WAVE Board for the impact fees of $11,611.06 from the Tax Increment Fund for the expansion of the City owned and leased facility, but not reimburse the $14,011.00 cost of the building permit.

Councilor Hildner said he is not clear on the commercial use of that facility. He wondered if those businesses influence the use of the WAVE and the need for expansion. Mr. Erickson said the original agreement with the City provided for sub-leasing to the physical therapy and other businesses that help provide guaranteed revenue. Councilor Hildner asked if the waiver subsidizes the commercial aspect and Mr. Erickson said those rental rates are set based on the market rates. Councilor Hyatt said no facility benefits all of the public. He said it is important to give part of the money back, but not all of it. Councilor Mitchell said he is worried about setting a precedent. He said TIF has picked up impact fees, but not building fees. He would rather see a reimbursement than a waiver. He said many of the people in the TIF area don't use the WAVE and they are asking those people to pay, if they waive the fees. He said he is in favor of reimbursing the impact fee only, as it is recommended in the staff report. Councilor Hyatt said he agreed with Councilor Mitchell. They need to know this is not the last time they will hear this from a non-profit. He said the WAVE is a fantastic amenity for the City, but they need to be careful about setting a precedent for future requests. Councilor Anderson said Sections 17 & 18 in the Master Agreement weights the document towards no waiver of either of the fees. He said the agreement doesn't address this issue at all, so it is really a Council decision. Bart Erickson said in the original 2004 agreement, parts 1-13 are not negated by the 2010 agreement. Councilor Anderson said the expansion is not addressed in this agreement. He said the impact fees are more palatable for reimbursement, but he has a hard time reimbursing the building fees. Councilor Hildner asked and Councilor Anderson said the impact fees are focused on infrastructure and it is well-aligned for TIF money. He said the building permit money isn't very well aligned with TIF money.

Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to reimburse the WAVE Board for the impact fees of $11,611.06 from the Tax Increment Fund for the expansion of the City owned and leased facility, but not reimburse the $14,011.00 cost of the building permit.

Councilor Mitchell asked and Councilor Anderson said he was wondering where that money would come from. Manager Stearns said the TIF money is related to infrastructure. They can use TIF funds for City facilities. Councilor Sweeney said they agreed to waive the impact fees in the initial agreement. He said privately developed facilities that are given to the City should perhaps have fees waived. They shouldn't expect them to pay building fees or impact fees. That is fair and equitable for the City. These facilities enhance the quality of life in the City. They should look at this on a broader basis. Councilor Hyatt said there are 4836 regular members and 241 30-day members. He said the cost is only $2.91 one time for each of the members. He said he talked with Attorney VanBuskirk about the agreements. He said the WAVE is doing a great job, and he supports Councilor Mitchell's motion.

Mayor Muhlfeld said the argument is that the facility was built by philanthropic money and the City owns and maintains it. Mayor Muhlfeld said the Food Bank is being built with 100% private fundraising and the City only reimbursed the impact fees. Councilor Sweeney said the difference is that the City won't own the building. It is a valuable facility for the residents of the City. Councilor Mitchell said the Smith Fields are a City asset, but they paid all of the fees. Councilor Sweeney said he would be happy to waive the fees for Smith Field, too. Councilor Hildner said waiving fees gives him more heartburn than reimbursing fees. He said when the O'Shaughnessy wants to expand they will ask for reimbursement of the fees, too, because they are setting a precedent.

The motion passed 4-2 with Councilors Anderson and Sweeney voting in opposition.

Councilor Hildner asked if they want to do anything about the building permit fees. Mayor Muhlfeld said he thinks it was encapsulated in what they just voted on.

8d. FY13 year-end financial report (p. 96)

Finance Director Knapp reported on FY13 year-end. He said property tax supported funds' final cash balance increased $226,836 which is the first time they haven't had a negative May cash since May of 2009. He said Parks and Recreation required an additional $63,000 transfer from the general fund. Building had a net gain and was able to pay back $59,000 to the General Fund and still retained a higher cash ending balance. Also, two of the three building permits for the High School project have been deposited; Building License and Permits revenue was the highest since FY 2007. The Library Fund is doing well and holding its own. The Fire Union pay increases are not reflected in any of the numbers in this report and are planned for FY14. Ambulance fees net write downs were about 12% lower than the previous two years—Medicare write downs were higher than expected. Water and Sewer charges are 7% and 6% higher respectively, while water and sewer rates were increased by 2.5% in October 2012; the increase in revenue was probably due to higher usage. Solid waste remains healthy despite no rate increase. Planning related fees are collectively about 174% of budget. Impact fees are more than double two years ago which will exceed budget projections and reflects growth. The City's interest earnings are about 1/5 lower than even two years ago. The City reduced debt by 11%.

Councilor Mitchell thanked the Councilors and staff for the year-end cash value of $1.2 million because it was only at about $200,000 when he came on the Council.

9. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

9a. Standing budget item - None.

9b. Discuss upcoming implementation of no parking in bicycle lanes on Baker Avenue (p. 105)

Manager Stearns said staff wanted to make a broader pedestrian area near Kiddie Park. He said that City Clerk Lorang did some research and found that Resolution 03-20 and Ordinance 03-17 state that they can't operate or park a vehicle in any marked bicycle lane in the City. He said those compel staff to mark "No Parking" from 5th Street to the bridge on both sides of Baker Avenue. Councilor Hyatt said that this parking is used heavily during the duck derby. He questioned if they had to take out all of the parking. He said on Second Street they have parking and bike lanes. Manager Stearns said that is different because they have a wider right-of-way. Chief Dial said a lot of people use Riverside Park and they need a better site line to protect pedestrians using the crosswalk. Councilor Mitchell said

he struggles with this. He thinks there are about 10 different venues that need parking. They are losing more parking places downtown, so he would be in favor of doing something near the crosswalk, but not to give up all the parking. The rest of the Council expressed consent for staff to mark this area as no parking.

9c. Consideration of a no parking zone on Idaho Avenue near the intersection with Edgewood Place (p. 109)

Manager Stearns said concern was expressed about the narrow parking area on Idaho Avenue. Chief Kennelly also had concerns about the parking on the grass because catalytic converters can start fires and he suggested that they make this area a non-parking area. He said parking around City Beach is very tight. He said they could consider creating a parking lot on some City property near their trailer parking area, but it will require a retaining wall. They could get an engineering estimate, but it will likely be an expensive project. Mayor Muhlfeld said there were eight trucks with trailers parked on the road and grass this past Sunday. Councilor Mitchell asked if they could gravel the grass area for parking to reduce the fire hazard. He doesn't like that they are reducing parking availability. Manager Stearns said they would have to do some kind of laydown for the curbs, but they can evaluate it. Mayor Muhlfeld said no one is opposed to people parking there, but the fire safety is an issue. Councilor Kahle said he was concerned about the slope and the possibility for liability. He said they need to either make it a parking lot and do according to standards or not do it at all. Director Wilson said there is a water main right through that grassy area, so there is limited ability to flatten it. Chief Dial said they towed two or three vehicles because they were sticking out in the road. He said they need parking down there because it is a mess.

Councilor Kahle offered a motion, seconded by Councilor Hildner, to make a no parking zone on Idaho Avenue near the intersection with Edgewood Place as shown in the packet. The motion passed 5-1 with Councilor Mitchell voting in opposition.

9d. Letter from Flathead Basin Aquatic Invasive Species Workgroup regarding Aquatic Invasive Species efforts (p. 115)

Mayor Muhlfeld said he will bring a full report to the Council in September from the Hungry Horse station.

Councilor Comments:

Councilor Hyatt asked them to buy their ducks. Councilor Anderson said he was hoping for a second motion on the WAVE to allow the City to give financial assistance on both fees as requested. Mayor Muhlfeld said there was some confusion on this motion. He asked and Attorney VanBuskirk said they can bring up a motion to reconsider this item tonight, or at the next meeting. Councilor Mitchell said he'd like to have a discussion about possible solutions for bathrooms at Farmer's Market. He said the library has written a letter about the major use of the bathrooms at the library. Manager Stearns said they are working on designing public restrooms on the outside of the O'Shaughnessy Center. Councilor Mitchell asked and Director Cozad said construction would begin in the fall or the spring. Councilor Mitchell asked and Manager Stearns said the Fire Union just notified him requesting another session of mediation. They are trying to set up a meeting for later in August. He hopes they are willing to settle in mediation and not arbitration. Councilor Mitchell thanked all the other departments

who solved their wage problems. Councilor Hyatt said he will go by the Library tomorrow night from 6-6:30 p.m.

Mayor Muhlfeld said he received messages about floating businesses on Whitefish Lake. He suggested they ask staff to look into restricting commercial and retail sales out on the lake. He would like to direct staff to look into whose authority it is to regulate commercial sales out on the lake. Councilor Mitchell asked and Director Cozad said he is more concerned for those who comply with rules. Mayor Muhlfeld said DNRC and FWP have authority on the lake and the City has annexed it to the low water mark, so the question is who has authority to address these businesses. Councilor Kahle said he thinks it is a good idea, but they need to be careful to distinguish between retail businesses and boat dock maintenance businesses. Mayor Muhlfeld agreed and said it is the commercial and retail sales he is concerned about. Councilor Hyatt said there are fishing guides, too. Councilor Hildner said they ought to have something in place by boating season next year. The Councilors all agreed.

10. 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 to Executive Session at 8:54 p.m.

11. **EXECUTIVE SESSION – CONTRACT AND PAY FOR CITY ATTORNEY -** Pursuant to §2-3-203(3) MCA, the presiding officer may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceeds the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

Mayor Muhlfeld and Councilors Mitchell, Sweeney, Anderson, Hildner, Kahle and Hyatt were present. City Staff present were City Manager Stearns and City Attorney VanBuskirk. The meeting adjourned at 9:30 p.m.

_____
Mayor Muhlfeld

_____
Jane Latus Emmert, Recording Secretary

Attest:

_____
Necile Lorang, City Clerk

JAMES HILL
WHITEFISH LAKE LAKESHORE PERMIT
MINOR VARIANCE AMENDMENT
STAFF REPORT #WLV-12-W39A
AUGUST 5, 2013

Owner:	James D. Hill
Mailing Address:	1308 20th Ave. S Lethbridge, AB T1KIE9
Applicant/Contractor:	Bruce Boody Landscape Architect
Mailing Address:	301 2nd Street, Suite 1B Whitefish, MT 59937
Telephone Number:	(406) 862-4755
Property Legal Description:	Lot 9, Resthaven, in Section 10, Township 31N, Range 22W
Property Address:	2726 Plaza Road
Lake:	Whitefish Lake
Lake Frontage:	47' per application, 48' per Assessor's data. GIS scales at 52.6'. No plat was available.
Project Description:	Amend existing variance permit to include replacement of stairs

Discussion:

Background: The applicant currently has a variance permit that is still considered open as the permit was issued in November 2012. Staff notes that the variance allowed for the removal and replacement of the stairs. After meeting with the applicant and reviewing the permit, it was evident that the removal and replacement were intended for the existing staircase to be reinstalled not reconstructed. Additionally, the applicant is requesting to change the material of the stringers.

The existing stairs were removed as one piece during construction of an engineered retaining wall. When the stairs were reinstalled they had lost some stability and aging of the structure was evident. Due to the engineering involved with the wall, the proposed stairs will be made of steel which is lighter than wood and will reduce the amount of anchoring needed for placement and overall load onto the recently installed wall.

Proposal: The applicant is requesting to replace the existing wooden stair stringers and steel runners with a steel powder coated staircase. The proposed stairs and handrail are an exact replacement of the square footage for the existing stairs.

Frontage and allowable constructed area: The property has approximately 47 feet of lake frontage The allowable constructed area based on 8 square feet per lineal

foot of frontage is 376 square feet. The application as submitted requests a total of 374.11 square feet of constructed area

Existing Constructed Area: This property has an existing deck of 228.5 sq ft, concrete vault of 22.64 sq ft, wood stairs at 65.37 sq ft, and a retaining wall totaling 374.11 sq ft in the Lakeshore Protection Zone.

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: 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 3,000.79'.

Stairway

2. The dimensions of 65.37 square feet of constructed area for the staircase 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.

3. 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.

4. The powder coated steel stringers and runners may be painted brown or green by the manufacturer prior to installation.

5. The steps shall have a maximum width of four feet (4') and shall be designed to provide access only.

6. 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.

7. The natural protective armament of the lakebed and lakeshore shall be preserved wherever possible.

8. The work authorized under this permit shall be completed in substantial compliance with the methods and materials described within the application.

9. 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.

10. If lake siltation occurs, work will be immediately halted and the City of Whitefish Planning Department shall be contacted.

11. Temporary storage of equipment or construction materials in the lakeshore protection zone is prohibited.

12. Prior to the start of any construction activity, an effective siltation barrier shall be installed at the lakeshore protection zone boundary. The barrier shall be designed and constructed to prevent silt and other debris from the construction site entering the lakeshore protection zone, and shall be maintained until such a time as permanent erosion control and site stabilization are established on the property.

13. 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.

14. All work shall be done when the lake is at low pool and the construction site is dry.

Report by: Nikki Bond

JAMES HILL
WHITEFISH LAKE LAKESHORE PERMIT
MINOR VARIANCE AMENDMENT
STAFF REPORT #WLV-12-W39A
JULY 10, 2013

Owner:	James D. Hill
Mailing Address:	1308 20th Ave. S Lethbridge, AB T1KIE9
Applicant/Contractor:	Bruce Boody Landscape Architect
Mailing Address:	301 2nd Street, Suite 1B Whitefish, MT 59937
Telephone Number:	(406) 862-4755
Property Legal Description:	Lot 9, Resthaven, in Section 10, Township 31N, Range 22W
Property Address:	2726 Plaza Road
Lake:	Whitefish Lake
Lake Frontage:	47' per application, 48' per Assessor's data. GIS scales at 52.6'. No plat was available.
Project Description:	Amend existing variance permit to include replacement of stairs

Discussion:

Background: The applicant currently has a variance permit that is still considered open as the permit was issued in November 2012. Staff notes that the variance allowed for the removal and replacement of the stairs. After meeting with the applicant and reviewing the permit, it was evident that the removal and replacement were intended for the existing staircase to be reinstalled not reconstructed. Additionally, the applicant is requesting to change the material of the stringers.

The existing stairs were removed as one piece during construction of an engineered retaining wall. When the stairs were reinstalled they had lost some stability and aging of the structure was evident. Due to the engineering involved with the wall, the proposed stairs will be made of steel which is lighter than wood and will reduce the amount of anchoring needed for placement and overall load onto the recently installed wall.

Proposal: The applicant is requesting to replace the existing wooden stair stringers and steel runners with a steel powder coated staircase. The proposed stairs and handrail are an exact replacement of the square footage for the existing stairs.

Frontage and allowable constructed area: The property has approximately 47 feet of lake frontage The allowable constructed area based on 8 square feet per lineal

foot of frontage is 376 square feet. The application as submitted requests a total of 374.11 square feet of constructed area

Existing Constructed Area: This property has an existing deck of 228.5 sq ft, concrete vault of 22.64 sq ft, wood stairs at 65.37 sq ft, and a retaining wall totaling 374.11 sq ft in the Lakeshore Protection Zone.

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

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

Recommended Conditions of Approval:

1. 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'.

Stairway

2. The dimensions of 65.37 square feet of constructed area for the staircase 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.

3. 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.

4. The powder coated steel stringers and runners may be painted brown or green by the manufacturer prior to installation.

5. The steps shall have a maximum width of four feet (4') and shall be designed to provide access only.

6. 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.

7. The natural protective armament of the lakebed and lakeshore shall be preserved wherever possible.

8. The work authorized under this permit shall be completed in substantial compliance with the methods and materials described within the application.

9. 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.

10. If lake siltation occurs, work will be immediately halted and the City of Whitefish Planning Department shall be contacted.

11. Temporary storage of equipment or construction materials in the lakeshore protection zone is prohibited.

12. Prior to the start of any construction activity, an effective siltation barrier shall be installed at the lakeshore protection zone boundary. The barrier shall be designed and constructed to prevent silt and other debris from the construction site entering the lakeshore protection zone, and shall be maintained until such a time as permanent erosion control and site stabilization are established on the property.

13. 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.

14. All work shall be done when the lake is at low pool and the construction site is dry.

Report by: Nikki Bond

Hill Property

Whitefish Lakeshore Construction Permit Application
Amendment to Minor Variance Permit 'WLV-12-W39'

Owner:
Hill Property
2726 Plaza Road
Whitefish, MT 59937

Date Submitted:
6/25/2013

Prepared By:
Bruce Boody Landscape Architect, Inc.
301 E. 2nd St.
Whitefish, MT 59937
(406) 862-4755ph

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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 (NAVAD 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 James D. Hill
Mail
1308 20th Ave. S.
City,
Lethbridge, AB T1KIE9 Canada
Project address (if other than above):
2726 Plaza Road, Whitefish, MT 59937

APPLICANT (If Other Than Owner)

Name Bruce Boody Landscape Architect, Inc. Phone 406.862.4755
Mail Address 301 2nd St Suite1B
City,
State, Zip Whitefish, MT 59937

How many feet of the lake frontage do you own?	Legal Description (available from annual property tax notice)			
	Lot/Tract#:	Section:	Township	Range:
47LF	Lot 9 Rest Haven Deed 273	S9	T31N	R22W

CONTRACTOR:

PHONE#: 406.862.9507

Mail Address:

FEES:

Administrative Permit (no committee meeting) Administrative Permit (w/ committee meeting)	$75 $255
Standard Permit ***(Activity is defined as a separate component or project that by itself would require a permit)***	$350 base fee (1 activity) $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

WLP-12-W39A

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.

SEE ATTACHED

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.

SEE ATTACHED

4. 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?

SEE ATTACHED

5. The following Project Information must be included.

Is VICINITY MAP attached? __**YES**_____
Is SITE PLAN attached? __**YES**_____
Is PROJECT DRAWING attached? __**YES**_____
Are at least 3 PHOTOS of work site attached? __**YES**_____

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, rock walls, 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.

Bruce Boody 06/25/13
Owners Signature (May be signed by applicant but authorization letter from owner must be attached.) Date:

Bruce Boody AIA
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.

Lakeshore Application Description of Existing Conditions and Proposed Work

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).

This application proposes an amendment to the existing Lakeshore Permit Variance 'WLV-12-W39'. This amendment proposes replacement of the existing wood and steel stairway components, addition of metal handrails and installation of a structural concrete footing below grade. The 32" wide stairway is located on a very steep slope that was failing. The slope was stabilized by the installation of an H-Pile and precast concrete retaining wall as part of the permit referenced above. Specifically, the existing wood stringers are rotting and require replacement. However, replacing the stringers with wood will place more force and weight on the existing H-Pile wall, or alternately installing additional footings will cause significant disturbance to the steep slope. As part of this amendment the wood stringers will be replaced with steel of the same dimensions, to reduce the overall weight of the stairway and thus reduce the amount of anchoring to the slope and/or wall. The existing steel treads will be replaced with powder-coated steel-grate treads. The existing wood handrail will be replaced with a metal handrail, and one added to the other side of the stairs. All steel will be powder-coated Sherwin Williams 'Houseplant-SW 6727' offsite, and be allowed to dry prior to installation within the lakeshore protection zone. A concrete footing will be installed below grade, at the top of the slope. The proposed stairway and all components will not exceed the existing dimensions/impervious constructed area, and will not disturb the existing steep slope.

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.

The replacement of the stairway will have no negative environmental impacts. Straw wattles and silt fences will be installed prior to the digging of concrete footings. Please refer to the Project Plan for locations of BMP's.

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.

Previous Lakeshore Permits on file:

Existing Items	Date Constructed	Constructed Area
Deck	Unknown	= 228.54 sq. ft.
Wood Stairs	Unknown	= 65.37 sq. ft.
Concrete Vault	Unknown	= 22.64 sq. ft.
Waterline Replacement	2009-Permit #WLP-09-W27	N/A
H-Pile/Precast Conc. Ret. Wall	2012-Permit #WLV-12-W39	= 57.6 sq. ft.
Total Impervious Constructed Area:		= 374.15 sq. ft.

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

N/A

Lakeshore Activity Calculations

Bruce Boody Landscape Architecture, Inc.

Square Footage Calculations within Lakeshore Protection Zone:

Total Allowable Impervious Constructed Area: 47 LF (Shoreline) x 8 sq. ft. = 376 sq. ft.

Existing Impervious Constructed Area Per Permit:	
Existing Deck (to remain)	**228.50 sq. ft.**
Existing H-Pile & Precast Concrete Panel Wall (to remain)	**57.60 sq. ft.**
Existing Concrete Vault (to remain)	**22.64 sq. ft.**
Existing Wood Stairs & Steel Stairs (to remain)	**65.37 sq. ft.**
Existing Total:	**374.11 sq. ft.**

Proposed Impervious Constructed Area:	
Existing Deck (to remain)	**228.50 sq. ft.**
Existing H-Pile & Precast Concrete Panel Wall (to remain)	**57.60 sq. ft.**
Existing Concrete Vault (to remain)	**22.64 sq. ft.**
Proposed Wood & Steel Stairs	**65.37 sq. ft.**
Proposed Total:	**374.11 sq. ft.**

Existing Lakeshore Photos:

Bruce Boody Landscape Architecture, Inc

Photo #1: Existing Stairs

Photo #2: Existing Deteriorated Wood Stringers

Photo #3: Existing Metal Treads

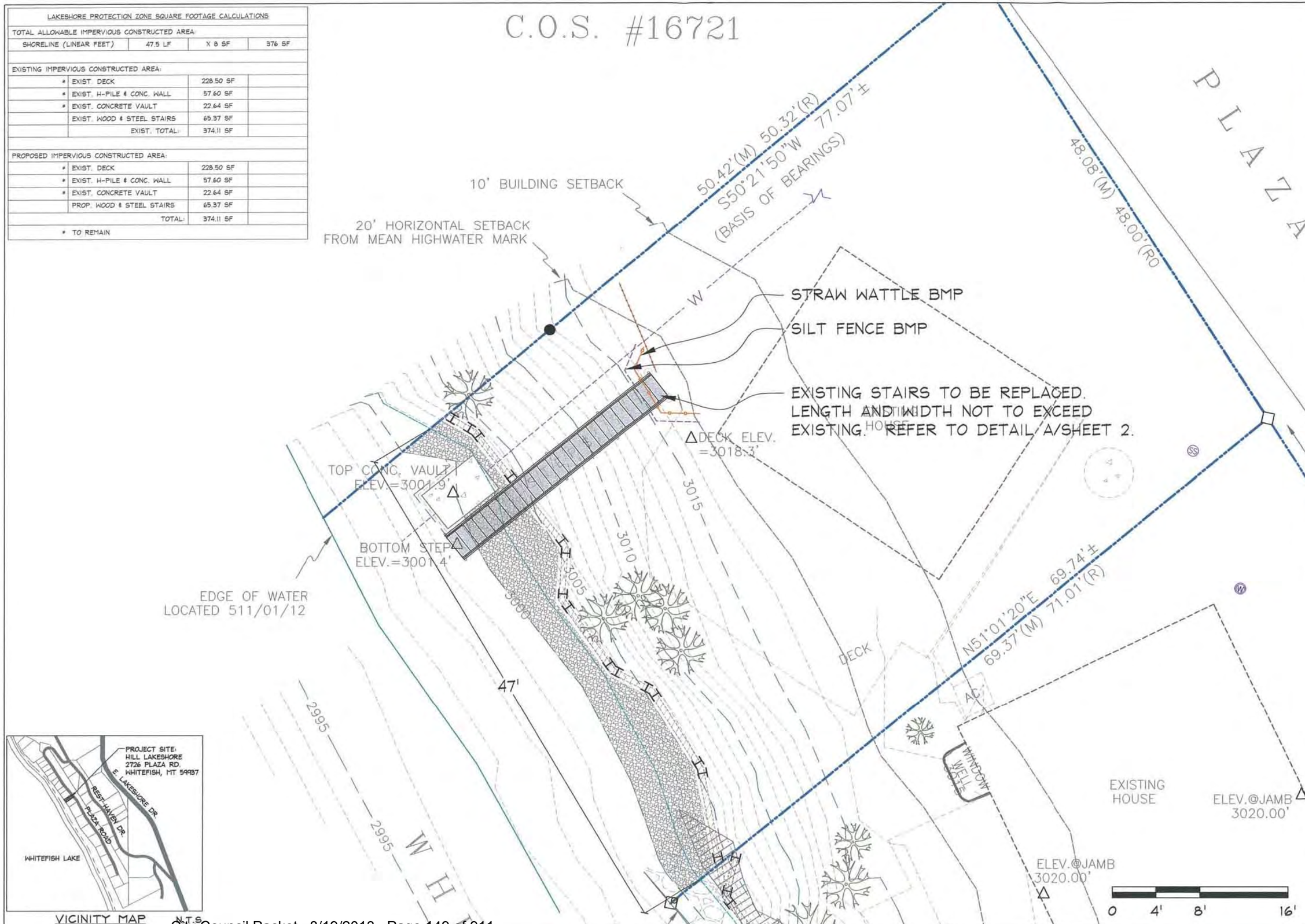
I hereby authorize Bruce Boody Landscape Architect, Inc. to act on our behalf as applicant in all matters regarding my Whitefish, Blanchard, and Lost Coon Lake Lakeshore Construction Permit Application.

Signature

JAMES HILL
Print Name

25 JUNE 2013
Date

LAKESHORE PROTECTION ZONE SQUARE FOOTAGE CALCULATIONS			
TOTAL ALLOWABLE IMPERVIOUS CONSTRUCTED AREA:			
SHORELINE (LINEAR FEET)	47.5 LF	X 8 SF	376 SF
EXISTING IMPERVIOUS CONSTRUCTED AREA:			
*	EXIST. DECK	228.50 SF	
*	EXIST. H-PILE & CONC. WALL	57.60 SF	
*	EXIST. CONCRETE VAULT	22.64 SF	
	EXIST. WOOD & STEEL STAIRS	65.37 SF	
	EXIST. TOTAL:	374.11 SF	
PROPOSED IMPERVIOUS CONSTRUCTED AREA:			
*	EXIST. DECK	228.50 SF	
*	EXIST. H-PILE & CONC. WALL	57.60 SF	
*	EXIST. CONCRETE VAULT	22.64 SF	
	PROP. WOOD & STEEL STAIRS	65.37 SF	
	TOTAL:	374.11 SF	
* TO REMAIN			



BRUCE BOODY Landscape Architect Inc.
201 Second Street
Suite 1b
Whitefish, MT
59937
phone 406 862-6788
fax 406 862-9773
bruce@bruceboodyinc.com

SURVEY BY:
SAM CORDI
REGISTERED LAND SURVEYOR
974 COLORADO AVE.
P.O. BOX 323
WHITEFISH, MT 59937
PH: (406) 862-9977

Revisions:

HILL PROPERTY
LOT 9 REST HAVEN DEED 273
2726 PLAZA ROAD
WHITEFISH, MT 59937
SEC9, T31N, R22W

NORTH

SCALE: 1/8"= 1'-0"
DATE: 06/25/13
JOB #: 12-38

LAKESHORE APPLICATION VICINITY MAP, CALCULATIONS & SITE PLAN

SHEET 6 OF 7

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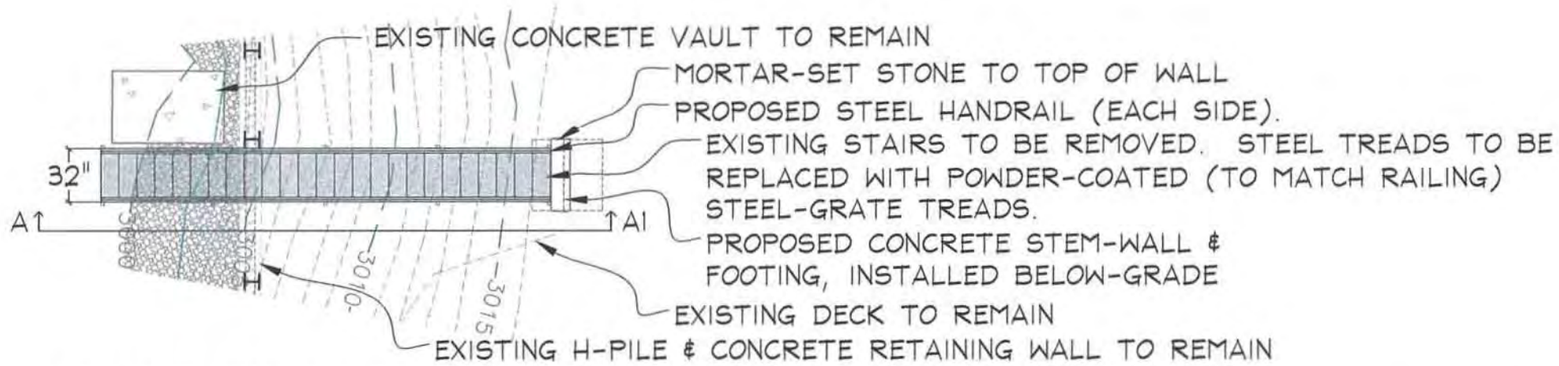

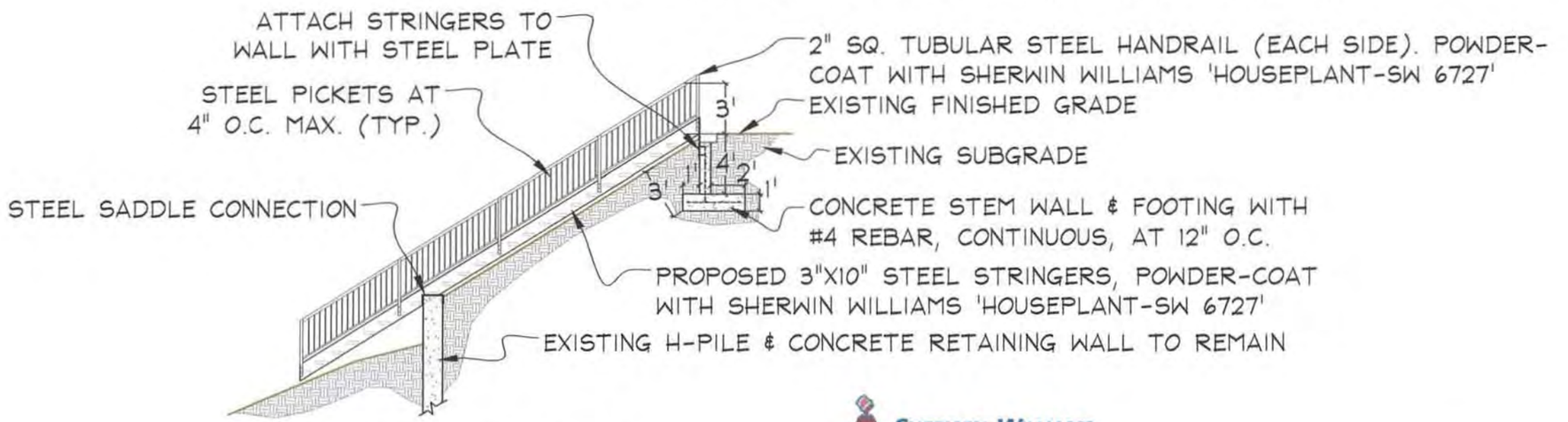

SECTION 'A-A1'

(A) STAIRWAY DETAIL

1/8" = 1'-0"

SHERWIN-WILLIAMS.

COLOR DETAILS

SW6727 HOUSEPLANT Interior/Exterior	**RGB VALUE** R: 80 G: 118 B: 62
COLLECTION	
COLOR FAMILIES Color Family Greens	**LRV** 15
	HEX VALUE #50763E

BRUCE BOODY Landscape Architect Inc.
201 Diamond Street Suite 3A Whitefish, MT 59937
phone: 406 862-4793 fax: 406 862-4793 bruce@bruceboody.com

SURVEY BY:
SAM CORDI
REGISTERED LAND SURVEYOR
974 COLORADO AVE.
P.O. BOX 523
WHITEFISH, MT 59937
PH: (406) 862-9977

Revisions:

HILL PROPERTY
LOT 9 REST HAVEN DEED 273
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WHITEFISH, MT 59937
SEC9, T31N, R22W

SCALE: 1/8"= 1'-0"
DATE: 06/25/13
JOB #: 12-38

LAKESHORE APPLICATION PROJECT PLAN/ STAIR SECTION

SHEET 7 OF 7

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DARREN PAYLOR
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-13-W23
JULY 10, 2013

Owner:	Darren Paylor
Mailing Address:	91 Commercial Court Calgary, AB CAN T3Z2A6
Telephone Number:	406.862.5138
Applicant:	Bruce Boody Landscape Architect, Inc
Mailing Address:	301 2nd Street Suite 1B Whitefish, MT 59937
Telephone Number:	406.862.4755
Contractor:	Malmquist Construction
Mailing Address:	335 Spokane Avenue Whitefish, MT 59937
Property Legal Description:	Lot 43, Whitefish Lake Summer Homes, Addition 1, Amended in Section 14, Township 31N, Range 22W
Property Address:	2452 Birch Glen Road
Lake:	Whitefish Lake
Lake Frontage:	98.17' per survey using straight-line method as outlined in WCC 13-1-5 Lakeshore Frontage Definition. 106' per plat of Whitefish Lake Summer Homes
Project Description:	Installation of Stone Steps and Path, Removal of Existing Rock Walkway, Replacement of a Waterline, Installation of a 671.48 square foot EZ Dock & Shore Station, and Buoy Installation

Discussion:

Proposal: The applicant is requesting the removal of an existing rock walkway (34.81 square feet) and subsequent replacement with a 4' wide dry-set stone walkway and steps (totaling 90.15 square feet). The permit requests the installation of a F-shaped EZ Dock and shore station (671.48 square feet). The permit also includes replacement of a waterline and installation of a buoy.

Frontage and allowable constructed area: The property is eligible for 785.36 square feet of constructed area based on 98.17' of lake frontage per the straight line measurement.

Existing Constructed Area: The property currently has 58.09 square feet of constructed area within the lakeshore protection zone consisting of rock walkway and a non-conforming shed/pump house. The rock walkway will be removed and replaced. The proposed constructed area after the installation of the stone pathway, steps, dock, shore station and buoy is 761.63 square feet.

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'.

Dock Conditions:

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.

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 sections 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 & Pathway

15. 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.

16. The steps shall have a maximum width of four feet (4') and shall be designed to provide access only.

17. Clean, washed gravel may be used in setting the steps but cannot be used to modify existing terrain.

18. 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.

Buoy

19. A buoy will only be permitted if placement will not cause a potential safety hazard or interfere with navigation and recreation.

20. The buoy shall be at least 12 inches in diameter and constructed of plastic or dense foam which is light-colored or reflective for maximum visibility. Logs, wood, or metal barrels are prohibited.

21. The buoy shall be suitably anchored to the lake bottom to avoid drift. The anchor shall be clean, solid, non-polluting material such as concrete, rock or steel blocks.

22. The line between the buoy and the anchor shall be cable, galvanized chain or weighted nylon/polypropylene rope (to prevent floating).

23. The buoy and anchor shall be placed within 100 feet of the mean annual high water line. The anchors for the buoy shall be clean, solid, non-polluting materials.

24. No boat or other watercraft shall be anchored overnight without having also obtained a permit for a mooring buoy meeting the Lakeshore standards thereof and it must be anchored so as to meet the standards and regulations of the Montana Department of Fish, Wildlife, and Parks.

25. Only one buoy or boat anchor is allowed per common waterfront property ownership. "Common waterfront property ownership" shall be defined as multiple contiguous lots under one family or related ownership, including fractional ownership in a corporation, partnership or other legal entity.

Waterline Replacement

26. The waterline and power cable conduit shall be located as proposed in the application. Under no circumstances shall the waterline be located closer than 10 feet from either riparian property boundary line.

27. During excavation, only the minimum amount of material necessary to lay the line and power cable conduit shall be removed from the trench.

28. Any rock laying over the proposed trench shall be removed prior to excavation and saved. After refilling the trench, said rock shall be restacked over the top to serve as a protective measure to inhibit washing and erosion.

29. All material excavated from the trench shall be replaced back into the trench as backfill. Any material which is not replaced back into the trench shall be completely removed from the lakeshore protection zone.

30. A trenching machine may extend its bucket or digger into the lake to extend the trench below low water line of the lake. At no time shall the wheels of any vehicle come in contact with the lake.

31. That portion of the waterline which is not buried and does lie exposed on the bottom of the lakeshore shall be weighted to prohibit floatation or snagging. No waterline shall lie on top of or be attached to a floating dock or raft.

32. A waterline using a submersible pump shall be installed in accordance with the State Uniform Plumbing and Electrical Codes. Conduit is strongly recommended for the power cable to prevent damage by ice/rocks.

33. The work authorized under this permit shall be completed in substantial compliance with the methods and materials described within the application.

34. 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.

35. Temporary storage of vehicles, trailer, equipment or construction materials in the lakeshore protection zone is prohibited.

36. If lake siltation occurs, work will be immediately halted and the City of Whitefish Planning Department shall be contacted.

37. 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.

38. 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.

39. 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.

40. 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.

41. The natural protective armament of the lakebed and lakeshore shall be preserved wherever possible.

42. 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

DARREN PAYLOR
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-13-W23
JULY 10, 2013

Owner:	Darren Paylor
Mailing Address:	91 Commercial Court Calgary, AB CAN T3Z2A6
Telephone Number:	406.862.5138
Applicant:	Bruce Boody Landscape Architect, Inc
Mailing Address:	301 2nd Street Suite 1B Whitefish, MT 59937
Telephone Number:	406.862.4755
Contractor:	Malmquist Construction
Mailing Address:	335 Spokane Avenue Whitefish, MT 59937
Property Legal Description:	Lot 43, Whitefish Lake Summer Homes, Addition 1, Amended in Section 14, Township 31N, Range 22W
Property Address:	2452 Birch Glen Road
Lake:	Whitefish Lake
Lake Frontage:	98.17' per survey using straight-line method as outlined in WCC 13-1-5 Lakeshore Frontage Definition. 106' per plat of Whitefish Lake Summer Homes
Project Description:	Installation of Stone Steps and Path, Removal of Existing Rock Walkway, Replacement of a Waterline, Installation of a 671.48 square foot EZ Dock & Shore Station, and Buoy Installation

Discussion:

Proposal: The applicant is requesting the removal of an existing rock walkway (34.81 square feet) and subsequent replacement with a 4' wide dry-set stone walkway and steps (totaling 90.15 square feet). The permit requests the installation of a F-shaped EZ Dock and shore station (671.48 square feet). The permit also includes replacement of a waterline and installation of a buoy.

Frontage and allowable constructed area: The property is eligible for 785.36 square feet of constructed area based on 98.17' of lake frontage per the straight line measurement.

Existing Constructed Area: The property currently has 58.09 square feet of constructed area within the lakeshore protection zone consisting of rock walkway and a non-conforming shed/pump house. The rock walkway will be removed and replaced. The proposed constructed area after the installation of the stone pathway, steps, dock, shore station and buoy is 761.63 square feet.

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

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

Recommended Conditions of Approval:

1. 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'.

Dock Conditions:

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.

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 sections 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 & Pathway

15. 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.

16. The steps shall have a maximum width of four feet (4') and shall be designed to provide access only.

17. Clean, washed gravel may be used in setting the steps but cannot be used to modify existing terrain.

18. 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.

Buoy

19. A buoy will only be permitted if placement will not cause a potential safety hazard or interfere with navigation and recreation.

20. The buoy shall be at least 12 inches in diameter and constructed of plastic or dense foam which is light-colored or reflective for maximum visibility. Logs, wood, or metal barrels are prohibited.

21. The buoy shall be suitably anchored to the lake bottom to avoid drift. The anchor shall be clean, solid, non-polluting material such as concrete, rock or steel blocks.

22. The line between the buoy and the anchor shall be cable, galvanized chain or weighted nylon/polypropylene rope (to prevent floating).

23. The buoy and anchor shall be placed within 100 feet of the mean annual high water line. The anchors for the buoy shall be clean, solid, non-polluting materials.

24. No boat or other watercraft shall be anchored overnight without having also obtained a permit for a mooring buoy meeting the Lakeshore standards thereof and it must be anchored so as to meet the standards and regulations of the Montana Department of Fish, Wildlife, and Parks.

25. Only one buoy or boat anchor is allowed per common waterfront property ownership. "Common waterfront property ownership" shall be defined as multiple contiguous lots under one family or related ownership, including fractional ownership in a corporation, partnership or other legal entity.

Waterline Replacement

26. The waterline and power cable conduit shall be located as proposed in the application. Under no circumstances shall the waterline be located closer than 10 feet from either riparian property boundary line.

27. During excavation, only the minimum amount of material necessary to lay the line and power cable conduit shall be removed from the trench.

28. Any rock laying over the proposed trench shall be removed prior to excavation and saved. After refilling the trench, said rock shall be restacked over the top to serve as a protective measure to inhibit washing and erosion.

29. All material excavated from the trench shall be replaced back into the trench as backfill. Any material which is not replaced back into the trench shall be completely removed from the lakeshore protection zone.

30. A trenching machine may extend its bucket or digger into the lake to extend the trench below low water line of the lake. At no time shall the wheels of any vehicle come in contact with the lake.

31. That portion of the waterline which is not buried and does lie exposed on the bottom of the lakeshore shall be weighted to prohibit floatation or snagging. No waterline shall lie on top of or be attached to a floating dock or raft.

32. A waterline using a submersible pump shall be installed in accordance with the State Uniform Plumbing and Electrical Codes. Conduit is strongly recommended for the power cable to prevent damage by ice/rocks.

33. The work authorized under this permit shall be completed in substantial compliance with the methods and materials described within the application.

34. 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.

35. Temporary storage of vehicles, trailer, equipment or construction materials in the lakeshore protection zone is prohibited.

36. If lake siltation occurs, work will be immediately halted and the City of Whitefish Planning Department shall be contacted.

37. 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.

38. 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.

39. 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.

40. 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.

41. The natural protective armament of the lakebed and lakeshore shall be preserved wherever possible.

42. 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

I hereby authorize Bruce Boody Landscape Architect, Inc. to act on our behalf as applicant in all matters regarding my Whitefish, Blanchard, and Lost Coon Lake Lakeshore Construction Permit Application.

Signature

WOODROW DARREN PAYLOR (KARCHASE PARTNERSHIP)

Print Name

JULY 1/2013

Date

Paylor Property

Whitefish Lakeshore Construction Permit Application

Owner:
Darren Paylor
2452 Birch Glen Rd.
Whitefish, MT 59937

Date Submitted:
7/2/2013

Prepared By:
Bruce Boody Landscape Architect, Inc.
301 E. 2nd St.
Whitefish, MT 59937
(406) 862-4755ph

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Shore Station Cut Sheet 8

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 (NAVAD 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 Darren Paylor Ph. 406.862.5138 (home)
Mail
91 Commercial Court
City,
State, Zip Calgary, Alberta, CAN T3Z2A6
Project address (if other than above):
2452 Birch Glen Rd., Whitefish, MT 59937

APPLICANT (If Other Than Owner)

Name Bruce Boody Landscape Architect, Inc. Phone 406.862.4755
Mail Address 301 2nd St Suite1b
City,
State, Zip Whitefish, MT 59917

How many feet of the lake frontage do you own?	Legal Description (available from annual property tax notice)			
	Lot/Tract#:	Section:	Township	Range:
98.17LF	Lot 43 (Whitefish Lake Summer Homes Addition 1, Amended)	S14	T31N	R22W

CONTRACTOR: Malmquist Construction (Casey Malmquist) PHONE#: 406.862.7846
caseym@malmquist.com
Mail Address: 335 Spokane Ave., Whitefish, MT 59937

FEES:

Administrative Permit (no committee meeting) Administrative Permit (w/ committee meeting)	$75 $255
Standard Permit ***(Activity is defined as a separate component or project that by itself would require a permit)***	$350 base fee (1 activity) $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

WLP-13-W23

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.

SEE ATTACHED

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.

SEE ATTACHED

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

N /A

5. The following Project Information must be included.

Is VICINITY MAP attached? __**YES**_____
Is SITE PLAN attached? __**YES**_____
Is PROJECT DRAWING attached? __**YES**_____
Are at least 3 PHOTOS of work site attached? __**YES**_____

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, rock walls, 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.

Bruce Boody ASLA 07/01/13
Owners Signature (May be signed by applicant but authorization letter from owner must be attached.) Date:

Bruce Boody
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.

Lakeshore Application Description of Existing Conditions and Proposed Work

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).

Lakeshore Activity #1:
The project proposes to remove an existing rock walkway (34.81sq. ft.) within the Lakeshore Protection Zone. The proposed improvements include the construction of a 4' wide dry-set stone walkway and stairs within the LPZ (90.15sq. ft.).

Lakeshore Activity #2:
There is an existing pump house and lake water line that is to be removed (23.28sq. ft.). Activity #2 proposes the installation of a water line and submersible pump in Whitefish Lake. The water line will run to the proposed residence, and have the associated equipment located in the mechanical room. The water line will be installed in a trench, and will not be visible above grade. Excavated soils from the trench will be used as backfill, and any excess soils will be deposited outside of the LPZ.

Lakeshore Activity #3:
Activity #3 proposes the installation of a dock (671.48sq. ft.) by EZ Docks, and Shore Station. Please refer to Shore Station Cut Sheet, page 8 of this application. The Shore Station will be powered by a solar powered battery pack.

Lakeshore Activity #4:
Activity #4 proposes the installation of a buoy. The buoy will be centered between the riparian boundaries, and located within 100' from annual mean high water elevation.

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.

As a result of this work, we anticipate no negative environmental 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.

Previous Lakeshore Permits on file:

Existing Items	Date Constructed	Constructed Area
Existing Rock Stairs	Unknown	= 34.81 sq. ft.
Existing Pump House/Vault	Unknown	= 23.28 sq. ft.
Total Existing Impervious Constructed Area:		= 58.09 sq. ft.

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

N/A

Lakeshore Activity Calculations

Bruce Boody Landscape Architecture, Inc.

Square Footage Calculations within Lakeshore Protection Zone:

Total Allowable Impervious Constructed Area: 98.17 LF (Straight Line Measurement) x 8' = 785.36 sq. ft.

Existing Impervious Constructed Area:

Existing Pump House/Vault*	**23.28 sq. ft.**
Existing Rock Walkway*	**34.81 sq. ft.**
Existing Total:	**58.09 sq. ft.**

***To Be Removed**

Proposed Impervious Constructed Area:

Proposed Dock	**671.48 sq. ft.**
Proposed Stone Stairs	**90.15 sq. ft.**
Proposed Total:	**761.63 sq. ft.**

Total Impervious Area: 761.63 sq. ft.

Existing Lakeshore Photos:

Bruce Boody Landscape Architecture, Inc

Photo #1: Existing Lakeshore Looking South

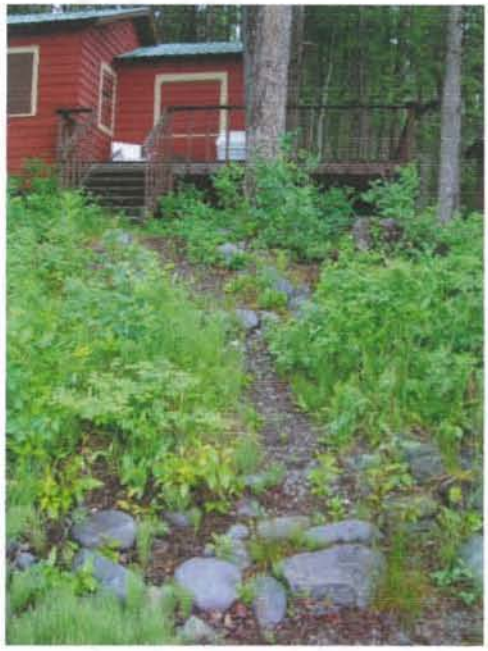


Photo #2: Existing Rock Walkway

Photo #3: Existing Pump House & Water Line

Photo #4: Existing Water Line on Lakeshore

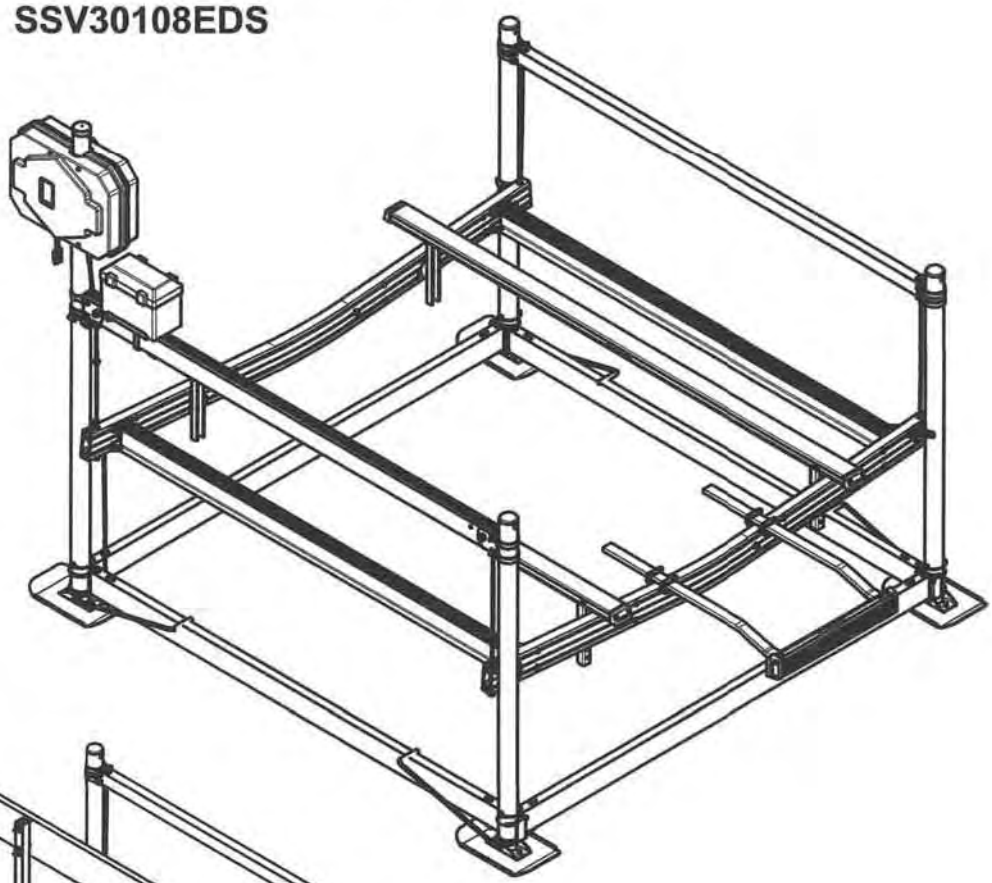
Photo #5: Existing Trees to be Protected

ShoreStation® | *The original since 1959*

SSV30108EDS, SSV30108EDSDW, SSPV30108EDS, & SSPV30108EDSDW

Your SHORESTATION Aluminum Boat Lift is designed to give years of dependable service. Following the enclosed instructions will insure you that your hoist is properly assembled.

SSV30108EDS



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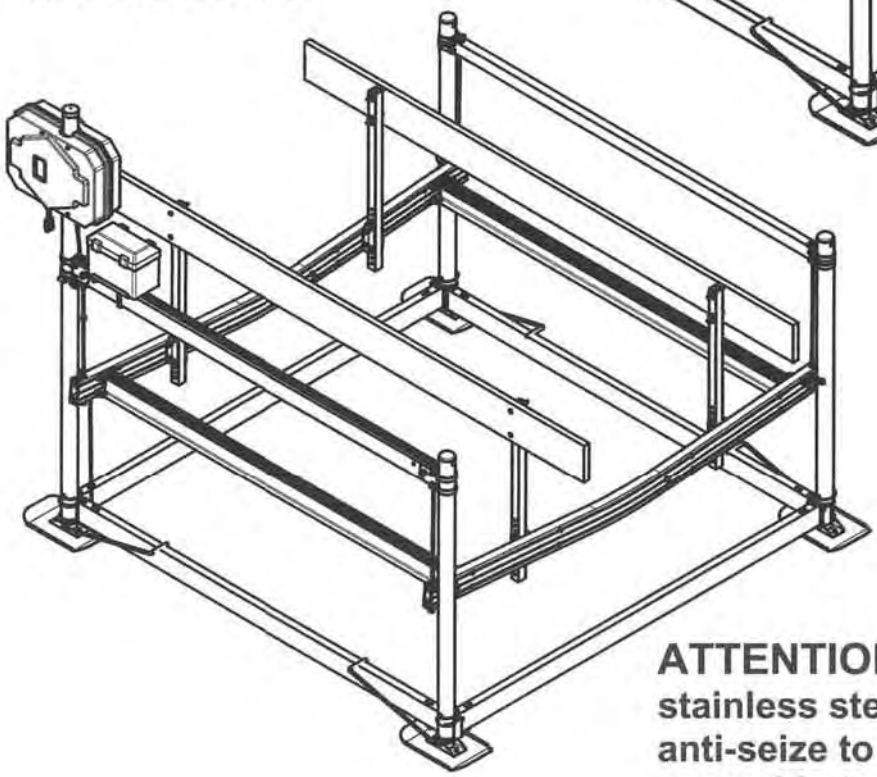
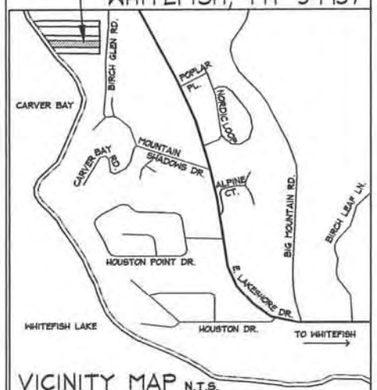
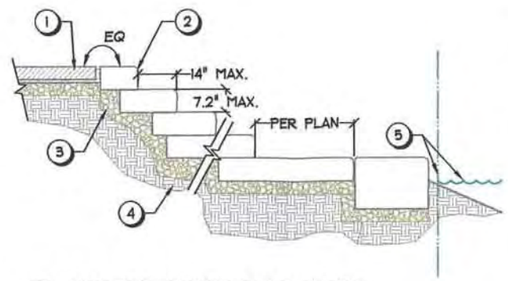


ATTENTION: This Boat Lift uses stainless steel fasteners. <u>ALWAYS</u> apply anti-seize to fastener threads before assembly to prevent galling or seizing.

PROJECT SITE:
PAYLOR PROPERTY
2452 BIRCH GLEN RD.
WHITEFISH, MT 59937



VICINITY MAP N.T.S.



(A) DRY-SET STONE SLAB STEPS
NOT TO SCALE

DETAIL LEGEND

SYM.	DESCRIPTION
1	ADJACENT PAVING & SUBGRADE PER PLAN
2	OVERSIZE STONE SLAB STEP (4' WIDE MAX.). STONE TO MATCH COLOR & STYLE OF STONE RETAINING WALLS.
3	1" GRAVEL LEVELING COURSE (NO FINES), MIN. NEEDED FOR LEVELING, COMPACTED TO 95% (TYP.)
4	EXISTING UNDISTURBED COMPACTED SUBGRADE
5	PUBLISHED AVERAGE HIGH WATER ELEVATION=3000.79.

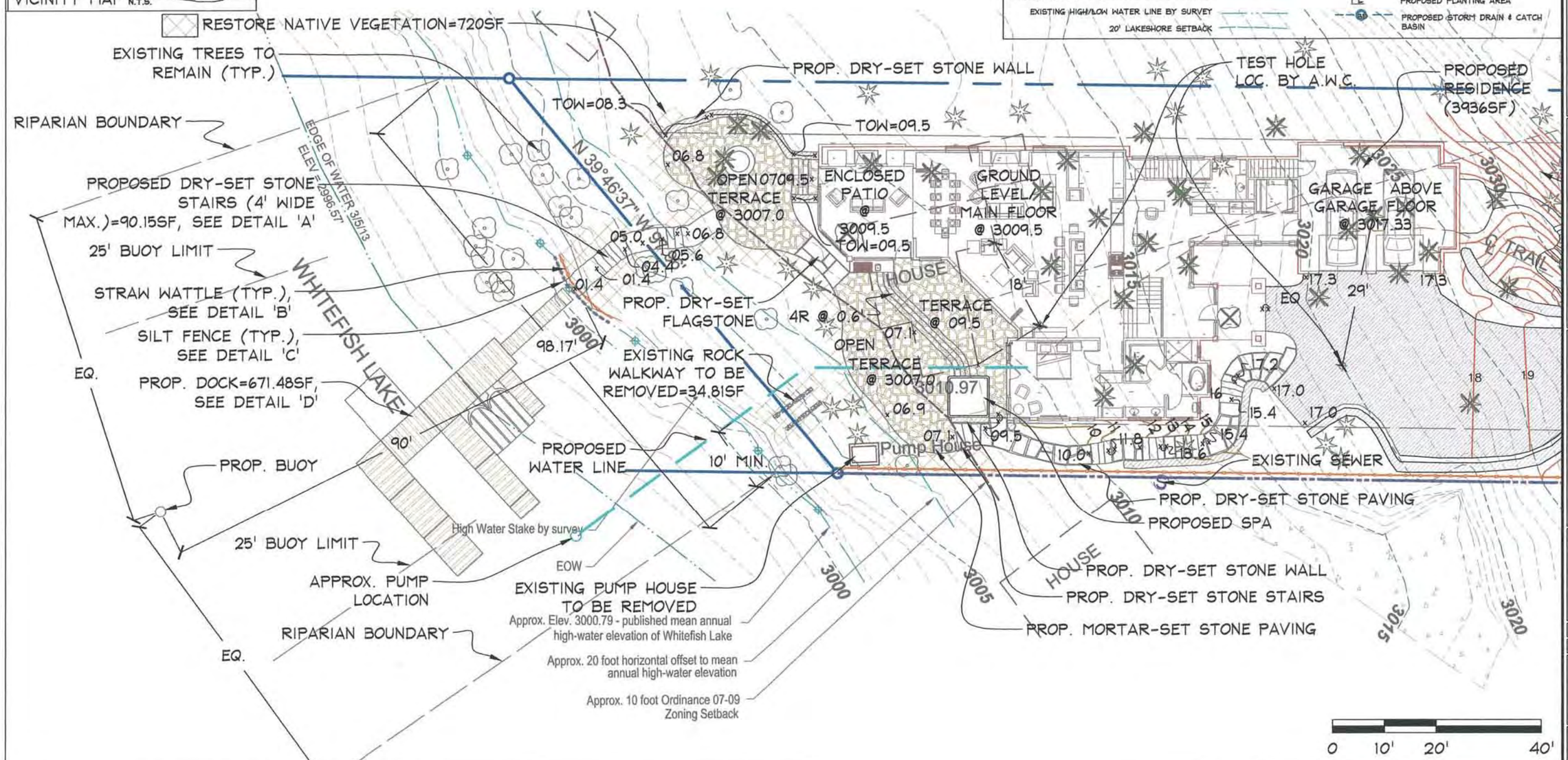
LEGEND

EXISTING

- EXISTING PROPERTY LINE BY SURVEY
- EXISTING SETBACK LINE BY SURVEY
- EXISTING EASEMENT LINE BY SURVEY
- EXISTING INDEX CONTOUR BY SURVEY
- EXISTING CONTOUR BY SURVEY
- EXISTING CENTERLINE OF ROAD BY SURVEY
- EXISTING EDGE OF ROAD/GRAVEL BY SURVEY
- EXISTING DECK LINE BY SURVEY
- EXISTING BUILDING LINE BY SURVEY
- EXISTING TREE BY SURVEY (8" DF)
- EXISTING TREE BY SURVEY TO BE REMOVED (8" DF)
- EXISTING UTILITIES
- EXISTING EDGE OF LAKE/SHORE LINE BY SURVEY
- EXISTING HIGH/LOW WATER LINE BY SURVEY
- 20' LAKESHORE SETBACK

PROPOSED

- PROPOSED CONTOUR
- 90 X PROPOSED SPOT ELEVATION
- PROPOSED PAVED/ASPHALT DRIVE
- PROPOSED MULCHED TRAIL
- PROPOSED LARGE MORTAR-SET FLAGSTONES
- PROPOSED DRYSET OVERSIZED ROCK RETAINING WALL
- PROPOSED CONCRETE WALL WITH MORTOR-SET STONE
- PROPOSED BUILDING LINE w/ OVERHANG
- PROPOSED LAWN LINE
- PL PROPOSED PLANTING AREA
- ST PROPOSED STORM DRAIN & CATCH BASIN



BRUCE BOODY
Landscape Architect Inc.
302 Second Street
Suite 1b
Whitefish, MT
59937
phone 406 863-9783
fax 406 863-9733
bruce@bruceboody.com

SURVEY BY:
F & H LAND SURVEYING, INC.
144 SECOND STREET E.
SUITE 201
P.O. BOX 114
WHITEFISH, MT 59937
(406) 862-2386

Revisions:

PAYLOR PROPERTY
2452 Birch Glen Rd. Lot 4B
Whitefish Lake Summer Homes
Addition 1 Amd, S14, T31, R22
Whitefish, MT

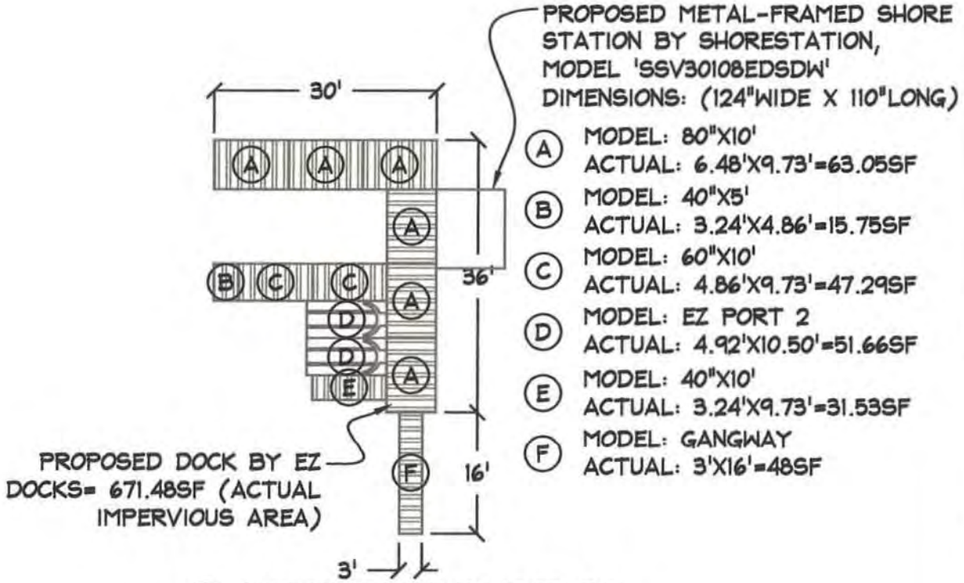
NORTH
SCALE: 1"=20'
DATE: 07/02/13
JOB #: 13-05

LAKESHORE APPLICATION SITE PLAN

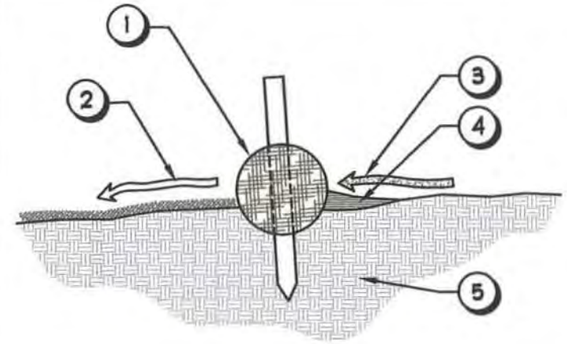
SHEET 6 OF 8

Z:\2013\Projects\13-05 Paylor\13-05 Drawings\13-05 Lakeshore\13-05-Lakeshore.dwg, 20 sc Site Plan, 11X17, 7/1/2013 3:45:14 PM

LAKESHORE PROTECTION ZONE SQUARE FOOTAGE CALCULATIONS			
TOTAL ALLOWABLE IMPERVIOUS CONSTRUCTED AREA:			
SHORELINE (LINEAR FEET)	98.17 LF	X 8 SF	785.36 SF
EXISTING CONSTRUCTED AREA:			
	EXIST. PUMP HOUSE/VAULT	23.28 SF	
	EXIST. ROCK WALKWAY	34.81 SF	
	EXISTING TOTAL:	58.09 SF	
PROPOSED IMPERVIOUS CONSTRUCTED AREA:			
	PROPOSED STONE STAIRS	90.15 SF	
	PROPOSED DOCK	671.48 SF	
	PROPOSED WATER LINE	N/A	
	PROPOSED BUOY	N/A	
	PROPOSED IMPERVIOUS TOTAL:	761.63 SF	



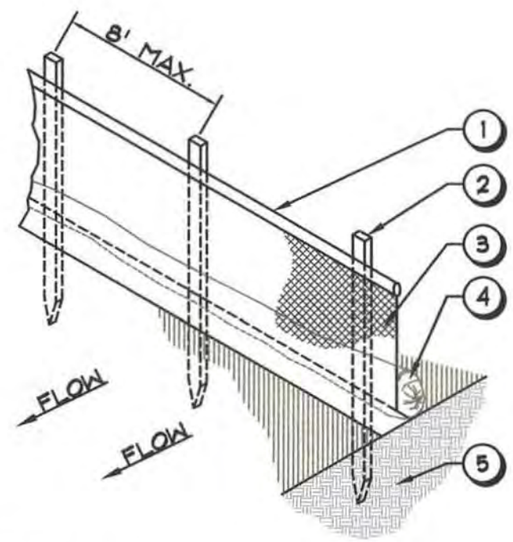
D PROPOSED DOCK ENLARGEMENT
NOT TO SCALE



B STRAW WATTLE
NOT TO SCALE

DETAIL LEGEND

SYM.	DESCRIPTION
1	STRAW WATTLE, STAKED & ENTRENCHED, 2" MIN. BURY
2	FILTERED RUNOFF
3	SEDIMENT LADEN RUNOFF
4	COMPACTED SOIL TO PREVENT PIPING
5	EXISTING UNDISTURBED SUBGRADE



DETAIL LEGEND

SYM.	DESCRIPTION
1	PROVIDE 1" TUCK WITH ROPE IN THE HEM
2	FENCE POSTS SHALL BE ROUGH OR FINISHED 2" X 4" (NOM.); 2 ½" DIA. WOOD; SCHED 40 STEEL PIPE; OR 1.33 LB/FT MIN. STANDARD "T" OR "U" SECTION STEEL. FENCE POSTS SHALL BE 42" MIN. IN LENGTH, DRIVEN 18" MIN. INTO GROUND.
3	SILT FENCE FABRIC, SEE NOTES
4	INSTALL STRAW WATTLES ON UPHILL SIDE OF FENCE, SEE DETAIL A, THIS SHEET
5	EXISTING UNDISTURBED SUBGRADE

NOTES:

1. SILT FENCE FABRIC TO BE FASTENED SECURELY TO STEEL FENCE POST BY USE OF WIRE TIES OR HOG RINGS (3 FASTENERS PER POST). FOR WOODEN POSTS, FASTENERS SHALL BE NO. 17 GAUGE STAPLES (¾" WIDE X ½" LONG), SPACED EVENLY AT 5 PER POST OR NO. 14 GAUGE NAILS (1" LONG WITH ¾" BUTTON HEAD) SPACED EVENLY AT 4 PER POST.
2. ENDS OF INDIVIDUAL ROLLS OF FABRIC SHALL BE SPLICED TOGETHER ONLY AT A SUPPORT POST WITH A MINIMUM 6" OVERLAP.
3. ECO BERM OR FILTERSOXX IS RECOMMENDED AS A PREFERRED OPTION TO BE USED IN PLACE OF SILT FENCING.

C SILT FENCE
NOT TO SCALE

BRUCE BOODY Landscape Architect Inc.

SURVEY BY:
F & H LAND SURVEYING, INC.
144 SECOND STREET E.
SUITE 201
P.O. BOX 114
WHITEFISH, MT 59937
(406) 862-2886

Revisions:

PAYLOR PROPERTY
2452 Birch Glen Rd. Lot 48
Whitefish Lake Summer Homes
Addition 1 Amd, S14, T31, R22
Whitefish, MT

SCALE: N/A
DATE: 07/02/13
JOB #: 13-05

LAKESHORE APPLICATION PROJECT PLAN

SHEET 7 OF 8

WHITEFISH LAKESHORE PROTECTION COMMITTEE
MINUTES OF JULY 10, 2013

The meeting was called to order at 5:58pm by Chairman Herb Peschel.

MEMBERS PRESENT:

- Greg Gunderson, Jeff Jensen, Ron Hauf, Sharon Morrison Herb Peschel, Scott Ringer and Joe Malletta. Nikki Bond of the Whitefish Planning Office was also present.

MEMBERS ABSENT: Dennis Konapatzke, excused

ADDITIONS/CORRECTIONS to TONIGHT'S AGENDA:

- Update from Nikki Bond on status of two violations.

GENERAL PUBLIC COMMENT: <none>

ADOPTION of MINUTES from LAST MEETING:

- Minutes of June 12, 2013 were reviewed with Ron Hauf moving to adopt; Jeff Jensen seconded. All in favor and motion carried.

DISCUSSION

WLV-12-W39A – James Hill – Amend Current Variance to Replace Stairs

[Present: Bruce Boody, Applicant]

Discussion:

Nikki Bond reviewed the Staff Report for the committee, explaining that this is an amendment to an existing (permitted) variance. The existing wooden stairs are proposed to be replaced with steel. It was noted that this is not an after-the-fact-permit, as the new construction has not yet been done.

Motion:

- Ron Hauf moved to accept Application #WLV-12-W39A as submitted, subject to the conditions detailed in the Planner's staff report. Sharon Morrison seconded. No further discussion. All in favor and motion carried.

WLP-13-W23 – Darren Paylor – Stone Steps, Path, Waterline, Dock, Shore Station & Buoy

[Present: Bruce Boody, Applicant]

Discussion:

Nikki Bond reviewed the Staff Report for the committee. There was no further discussion.

Motion:

- Scott Ringer moved to accept Application #WLP-13-W23 as submitted, subject to the conditions detailed in the Planner's staff report. Ron Hauf seconded. No further discussion. All in favor and motion carried.

WLP-13-W24 – Dale McGarvey – Gangway Replacement

[Present: Dave Stephens, Applicant]

Discussion:

DRAFT

Nikki Bond reviewed the Staff Report for the committee, noting that the property owner has a non-conforming dock that is far in excess of allowable constructed surface area; however, it is grandfathered under the regulations. Due to its grandfathered status, the wooden dock was resurfaced last year without permit. Members discussed how application of the regulations differs between grandfathered docks and other structures that have been built in the lakeshore zone, and Nikki read the section pertaining to it from the regulations. Sharon Morrison stated her opinion that the regulations are clearly unconstitutional in this manner, as there is not a reasonable basis why docks should be treated differently than other structures.

Dave Stephens stated that he and Mr. McGarvey have worked with the adjoining property owner to establish an amenable location for placement of the dock in the center of the property. This application requests replacement of two existing wooden gangway pieces with an EZ Dock gangway.
Motion:

- Greg Gunderson moved to accept Application #WLP-13-W24 as submitted, subject to the conditions detailed in the Planner's staff report. Jeff Jensen seconded. No further discussion. Six in favor and motion carried. (Note that Sharon Morrison recused herself from the vote due to her close personal friendship with the property owner.)

DISCUSSION:
By-laws Discussion
Prior to tonight's meeting, Sharon Morrison emailed her latest draft of proposed by-laws to Chairman Herb Peschel and Planner Nikki Bond. The Chair stated that he felt they were very simple and straightforward, however members expressed their desire to review the final draft prior to voting on adoption. Nikki will forward them to all members, and action was postponed to the August meeting.

Sharon noted that the only difference from the previous draft was the inclusion of the specific statutes that pertain to the regulations.

Violation Update
Don Harring: Installed two buoys without permit last summer, and was contacted by the City to remove them. The buoys have been reinstalled again this year. The City has sent a certified letter requiring removal. As this is the second instance of violation, the case will immediately be forwarded to the city attorney for prosecution if not removed. Non-compliance includes a $500/day fine.

Sharon Morrison noted that she does not believe the city can hand down a $500/day fine because the lakeshore permitting process must follow state statute; the fine is in excess of statute. Nikki Bond cited Section 13.4.5.a of the regulations where the process is defined, noting that the City Attorney has reviewed the legality of the regulations and signed off on them.

Westridge Development (Matt Moran):
Mr. Moran replaced a stairway in the lakeshore without a permit. When contacted by the Planning Office, he stated that he had called a WLPC member and was told a permit was not required. An after-the-fact permit has been submitted and will be on the agenda in August.

DRAFT

Members agreed that, in the future, questions regarding lakeshore regulations and the permitting process be redirected to the Planning Office.

ADJOURNMENT
Meeting was adjourned at 6:34pm

NEXT MEETING

August 14, 2013 * 6:00pm
Whitefish Planning & Building Office
510 Railway Street – Whitefish, MT

DRAFT

July 3, 2013

The Glacier Hockey Association (GHA) would like to appoint Murray Craven as representative on the ice rink advisory committee. He will be replacing Josh Steele. Mr. Craven resides at 2810 Resthaven Drive, Whitefish MT. 59937.

_____, Murray Craven, GHA president

_____, Andy Hergesheimer, Rec. Facilities manager

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RESOLUTION NO. 13-____

A Resolution of the City Council of the City of Whitefish, Montana, approving a Special Recreation Use License with the Montana Department of Natural Resources and Conservation with respect to the Spencer Trail Network, and authorizing the execution of documents.

WHEREAS, following two years of study and public input, in 2004 the City of Whitefish with the Montana Board of Land Commissioners and Flathead County adopted the Whitefish Area School Trust Lands Neighborhood Plan (Neighborhood Plan), which set the goal of developing a sound land-use plan for the 13,000 plus acres of Trust Lands surrounding Whitefish, and identified the Spencer Mountain Subarea for recreational uses; and

WHEREAS, A Trail Runs Through It Master Plan (Master Plan) contemplated a 55-mile recreational loop trail and identified a variety of recreational uses with varying levels of difficulty for the Spencer Mountain segment including mountain biking, running, hiking, hunting and fishing, horseback riding, cross-country skiing, and snowshoeing, linking the Spencer Mountain Subarea to a network of trails, with access points and parking at three possible informal trailheads; and

WHEREAS, in order to carry out the goals of the Neighborhood Plan and Master Plan to secure in perpetuity public access, conservation and recreational use of the unique and popular recreation areas of Lion Mountain and Beaver Lake, on November 5, 2012, by Resolution No. 12-38, the City Council approved the terms of the Deed of Public Recreation Use Easement held by the City as Grantee, for the purchase for full market value with donated funds held by Whitefish Legacy Partners and accepted the Public Recreation Trail Easement from Two Bear Properties of Whitefish, LLC, on behalf of the City; and

WHEREAS, following the City Council approval of the Deed of Public Recreation Use Easement and acceptance of the easement, staff of the Department of Natural Resources and Conservation (DNRC), Whitefish Legacy Partners, Flathead Fat Tires, Inc., and the City began negotiations of the terms of a license for the Spencer Mountain Subarea as contemplated by the parties' Neighborhood Plan and Master Plan to include the Spencer Mountain connector trail, technical trail features, and improvements through the Spencer Mountain State Trust Lands as part of the Whitefish Trail; and

WHEREAS, the Spencer Mountain Subarea has historical trails and improvements with varying levels of difficulty, including technical trail features for experienced bicyclists; and

WHEREAS, as a result of such negotiations, a Spencer Trail Network Special Recreation Use License (SRUL) has been prepared for the City Council's review and approval, providing a ten-year SRUL for the purpose of authorizing licensed activities for the public's use on existing trail of approximately 16 miles in length within a 16-foot wide corridor, new trail construction of approximately 1.2 miles in length, decommissioning existing trail and technical trail features, and constructing, and maintaining trails, technical trail features, trailheads, parking areas, signage and other improvements, referred to as the "Spencer Trail Network"; and

WHEREAS, the DNRC has indicated that it is willing to issue its Spencer Trail Network SRUL to the City and authorize licensed activities, subject to the terms of the SRUL; and

WHEREAS, in order to meet the goals and objectives of the Neighborhood Plan, Whitefish Legacy Partners has agreed to include the Spencer Trail Network and its licensed activities authorized by the SRUL in its development and implementation of the Recreational Trails Program; and

WHEREAS, the Flathead Fat Tires, Inc., organization has indicated its willingness to enter into an agreement with the City as the trail system managers for the planned bicycling features on behalf of the City, and provide the necessary labor, materials and equipment to decommission, construct, and maintain the trails and technical trail features for experienced bicyclists, as authorized by the SRUL; and

WHEREAS, at a lawfully noticed public hearing on August 19, 2013, the Whitefish City Council reviewed a written staff report dated August 7, 2013, invited public input, and approved the proposed SRUL, attached as Exhibit "1"; and

WHEREAS, the Spencer Trail Network SRUL is for the public benefit, consistent with Montana law, the well-being of the Whitefish community and the public, and in the best interests of the City of Whitefish.

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

Section 1: The Spencer Trail Network SRUL, attached as Exhibit "1", is hereby approved.

Section 2: The Spencer SRUL attached hereto as Exhibit "1" is hereby approved, and staff is authorized to make additional changes to Exhibit "1" if such changes are consistent with the implementation of the Whitefish Neighborhood Plan and the A Trail Runs Through It Master Plan.

Section 3: The City Mayor or City Manager is authorized to execute the Spencer Trail Network SRUL with the DNRC and negotiate and execute the contemplated agreement with Flathead Fat Tires, Inc., as the trail system managers for the technical trail features, on behalf of the City, any agreement with the Whitefish Legacy Partners, as well as any other documents related thereto as may be necessary to implement the Spencer Trail Network SRUL, on behalf of the City.

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

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES & CONSERVATION (DNRC)
SPECIAL RECREATION USE LICENSE # 305XXXX

The STATE OF MONTANA, acting through the Montana Department of Natural Resources and Conservation (hereinafter "Licensor") whose billing address is P.O. Box 201601, 1625 Eleventh Avenue, Helena, MT 59620-1601 and whose field operations address is the Kalispell Unit, 655 Timberwolf Pkwy, Suite. 2, Kalispell, MT 59901, hereby grants to the CITY OF WHITEFISH (hereinafter "Licensee") a SPECIAL RECREATION USE LICENSE (hereinafter "SRUL") to occupy and use lands administered by Licensor, subject to all of the terms and conditions hereof, and pursuant to Mont. Code Ann. §§70-16-302, 77-1-802, 77-1-202, 77-1-203, and 77-1-204, and Admin. R. Mont. 36.25.136 and 36.25.162.

Exhibits to this SRUL include the following, all of which are incorporated herein by reference:

Exhibit A (A-1 and A-2): Maps of Licensed Area and Licensed Activity

Exhibit B: Proposed Site Plan of Twin Bridges Parking Area

Exhibit C: Spencer Trail Network Free Ride Trail Guidelines

Exhibit D: Contact List

Exhibit E: South Spencer Parking Area

In accepting this SRUL, Licensee acknowledges that it agrees to the following terms and conditions:

1. LICENSEE

The City of Whitefish, Montana
P.O. Box 158
Whitefish, Montana 59937

2. DESCRIPTION

A license is a contract by which the Licensor conveys an interest in state lands for a specific term and fee, and for a use other than that for which the land is classified. This SRUL is granted for a secondary use on classified forest land, pursuant to Mont. Code Ann. §§77-1-401(2), for the purpose of licensed activities listed herein and as depicted on Exhibit A including but not limited to: maintaining, and installing signage on, existing trail and features of approximately 16 miles in length within a proposed 16-foot wide corridor, widened as necessary to accommodate ride-arounds and fall zones; granting access to decommission specific trails; authorizing the construction of approximately 1.2 miles of new trail, and improvement and use of two parking lots. The licensed trail network, trailheads, and parking areas are collectively referred to as the "Spencer Trail Network" (hereinafter "licensed area"). The SRUL mileage will be adjusted annually as necessary to define the trail network. Issuance of this SRUL does not prohibit general recreational use of state lands that have not

EXHIBIT 1

been closed pursuant to Admin. R. Mont. 36.25.150 or Admin. R. Mont. 36.25.152. The Licensor's intention in issuing this license is specifically to reduce the unauthorized installation and/or construction of trails, technical trail features, and/or other unauthorized improvements in the licensed area.

3. DURATION.

A. This SRUL shall take effect upon signature of the Licensee and Licensor and remain in effect for ten (10) years from that date or unless earlier terminated or modified by mutual agreement of the parties or unless canceled as provided herein for good and sufficient reasons prior to that date. A license year is March 1st of each year through February of the following year (e.g., the 2014 license year runs from March 1, 2013 through February 28, 2014); fractional license years at the beginning and end of the SRUL period will be prorated as applicable.

B. Parties contemplate additional licensed activities may be undertaken after completion of the timber sales under a subsequent land use authorization; however, neither party is obligated to initiate or authorize additional licensed activities not otherwise authorized by this SRUL and/or legally authorized. If the Licensee has not breached this SRUL, Licensee may apply for a land use authorization. If the Licensee applies for a subsequent land use authorization, then Licensee must provide Licensor at least one year's written notice to allow Licensor to determine and conduct the appropriate level of review, including but not limited to for potential conflicts with resource management activities, determining whether or not a new authorization should be issued and/or determining if conditions need to be revised or adapted in order to address resource management damage and/or other environmental review and/or compliance issues, including Montana Environmental Policy Act (MEPA).

C. Licensor and Licensee anticipate that if there is a subsequent land use authorization, the terms and conditions of the SRUL may be altered as a result of the conditions existing after the timber sale closure and the potential for longer-term improvements.

D. Prior to renewal of this SRUL the Licensor reserves the right to review and adjust the annual rental rate, as deemed necessary, to assure full market rental value of both the land and recreational use-permitted access authorized under this SRUL are received.

E. Subject to Licensee having complied with the terms of this SRUL and as long as doing so is in the best interest of the State, Licensor agrees to support Licensee's application for the granting of any easement by the Montana Board of Land Commissioners over segments of the licensed area covered by this SRUL if Licensee desires to purchase such easement(s). Any such purchase shall be based on full market value of the easement at the time it is granted.

4. RENTAL & RECREATION USE FEE.

Rental for the licensed area will be cumulatively assessed as follows:

A. Base (Recreation Use) Fee: Upon acceptance of this SRUL, the Licensee agrees to pay the Licensor an annual fee as set forth in this paragraph to compensate the trusts for the recreational unique users authorized by this SRUL. For portions of the term of this SRUL during license years 2013-2015, Licensee shall pay an annual fee of $4,500, subject to proration under Section 3.A. On or before February 28, 2014, Licensor and Licensee will work in good faith to develop a mutually agreeable methodology for determining the number of unique trail users without state general recreation use licenses in the licensed area over the term of this license for the purpose of establishing an accurate base fee to be applied ("Methodology") at a rate of $7.00 per unique user. The results of the Methodology will be applied annually to determine the base fee for license year 2016 and thereafter. Methodology will include a trend analysis and other components mutually agreed upon. If the parties are not able to agree upon and complete the Methodology by January 1, 2014, the Kalispell Unit Manager or higher authority in Licensor's organization and an elected official of the Licensee shall promptly meet to work in good faith to determine the Methodology. Each party reserves the right to have other personnel from its own organization to attend, assist, and participate in this escalated Methodology resolution process. If the parties do not agree on the Methodology in time to determine the adjusted base fee for license year 2016, the base fee shall automatically and without further notice increase by ten percent (10%) each license year for which a Methodology is not agreed upon and completed in time to determine the adjusted base fee.

If at any time Licensee proposes to charge admission to trail users, the program for same must be approved by Licensor prior to implementation, in order to insure that it includes (but is not limited to) appropriate trust compensation being received by Licensor and Licensee submitting an accurate accounting of users and fees associated with the SRUL. Should an admission program be implemented, Licensor reserves the right to perform an audit or review.

B. Trail Corridor Fee: The Licensee agrees to pay the Licensor rental of: **$200.00 per mile** annually for all trail corridors as depicted in Exhibit A. Any road used as trail corridor under this SRUL is subject to this trail corridor fee. If Licensee requests authorization for additional trails, assessment will begin on the date that the corridor's use is approved by Licensor.

C. Acreage Fee: Trail-related amenities including but not limited to parking lots, shelters, kiosks, restrooms, and waste receptacles will be authorized and assessed for under an acreage

calculation as follows: Beginning upon acceptance of this SRUL, and for the term of this SRUL, the Licensee agrees to pay the Licensor an annual rental for the area occupied and reserved for the parking area and/or trailhead amenities; provided, however, that rental for any parking area or trailhead amenity shall be reduced on a pro-rata basis for periods during which Licensor closes access to such parking area or trailhead amenity due to logging operations or non-emergency administrative purposes. The annual rental fee is calculated by dividing the appraised value at the time of SRUL issuance ($8,498 per acre) by the number of square feet per acre (43,560), multiplied by the rate of 6% to determine a rate per square foot. The annual fee is currently calculated as $.01171 per square foot for those areas occupied and reserved for the parking area and/or trailhead amenities. The gross annual rate shall be prorated on a per-day basis for the first partial license year ("Year 1"), and then assessed at full annual value for the subsequent years.

D. Decommissioning: The fee charged the Licensee will grant access to closed trails for the purpose of decommissioning activities.

E. Should Licensor cancel and revoke this SRUL in whole or in part, Licensee shall not be entitled to a refund of rentals, except as provided in Section 26.G.

5. LICENSED ACTIVITY.

This SRUL is granted to the Licensee for the purposes of generating revenue for the trust beneficiaries and authorizing the Licensee to provide public recreational opportunities consistent with the terms and conditions set forth in this SRUL. Licensee is specifically authorized to implement those specific items outlined in the "Trail Management Plan" clause of this section. The Technical Trail Features on trails depicted on Exhibit A are referred to herein as "TTFs." Licensee is authorized to maintain, reclaim, and use existing parking area and future log landing and other activities authorized in this SRUL. Licensee may employ and/or rely on volunteer services of others but it is the Licensee's responsibility to cover its employees and volunteers authorized by Licensee to fulfill the terms of the SRUL with workers' compensation to the extent required under Montana law and to provided them with copies of Trust Lands Information handouts for volunteers. All licensed activities are subject to the terms and stipulations set forth in this SRUL. Only those trails depicted as "connector," "free-ride," and/or "new constructed" trails in Exhibit A are authorized for use under this SRUL.

Specific licensed activities include:

A. Existing Twin Bridges Parking Area: The Licensee is specifically authorized to maintain, reclaim, and use the existing Twin Bridges Parking Area as depicted in Exhibit B, unless

otherwise authorized by Licensor. As authorized in this SRUL and as depicted in Exhibit B, to Licensor's satisfaction, Licensee must:

1) Effectively block off current parking areas that occur within the streamside management zone (50 feet from the nearby stream that drains into Spencer Lake) and within the Twin Bridges Road right-of-way (30 feet from the centerline of Twin Bridges Road) using materials such as boulders in conjunction with signage indicating the closure of said parking areas.
2) Revegetate within 50' of the lake and its outflow stream, after having obtained any applicable required permits including but not limited to lakeshore protection zone construction permits and/or Streamside Management alternative practices permits. Any soil disturbance activities within 50 feet of surface water, beyond what is listed below, will also require the prior and/or onsite approval of the Licensor (with reasonable notice).
3) Fill current potholes and shape and blade to establish proper drainage for a parking area.
4) Install a sediment fence until reclaimed area is sufficiently vegetated.
5) Perform weed spraying/pulling adjacent to parking areas.
6) If necessary, obtain an approach permit from the appropriate agency to access Twin Bridges Road.
7) Install wildlife-resistant litter receptacles and service regularly.
8) Complete the above-listed activities before Licensee provides the first certification under Section 5.E for any portion of the licensed area.

B. **<u>North Spencer Lake Timber Sale Log Landing Parking Area:</u>** The Licensee is specifically authorized to use, outside of the timber sale operating season, the log landing that will be constructed as a part of the North Spencer Lake Timber Sale and located near the existing Twin Bridges Parking Area. Activities associated with the log landing are subject to stipulations of this SRUL and to Licensor's prior approval of Licensee's proposed parking area site plan and use schedule. The Licensee will be assessed for acreage associated with the log landing once it is constructed and used under the terms of this SRUL.

To Licensor's satisfaction, Licensee must:

1) Abide by appropriate restrictions during timber sale operations.
2) Resurface the landing with materials approved by the Licensor once North Spencer Lake Timber Sale operations are complete.
3) Install drainage structures and features approved by the Licensor for the parking area and the jump-up road leading to the log landing.
4) Perform weed spraying/pulling adjacent to this parking area after Licensor's obligation for weed spraying for the timber sale is completed.

C. <u>South Spencer Trail Network Parking Area</u>

1) Fill current potholes and shape and blade to establish proper drainage for a parking area.
2) Install wildlife-resistant litter receptacles and service regularly.
3) Perform weed spraying/pulling adjacent to parking area after Licensor's obligation for weed spraying for the timber sale is completed.
4) Because this parking area is a secondary land use, timber sale activity will take precedence over parking area use during the annual timber sale operating seasons of November 1 through March 15. Licensor and Licensee will coordinate implementation to minimize negative impacts to either activity.

D. <u>Trail Construction, Relocation, and Reconstruction</u>

1) Unless authorized by the Trail Management Plan (TMP) as provided in this section, detailed plans and timing for proposed trail construction, relocation, and/or reconstruction must be submitted for review and approval by Licensor.
2) Activities authorized under this SRUL must not occur where timber sale activities are in progress, unless otherwise authorized by Licensor. As authorized by the TMP, relocating, decommissioning trails, and providing ride-arounds will be a construction, relocation, and reconstruction priority.
3) Clearing for new trails (tread) will occur in a narrow swath (approximately 4 feet wide).
4) Clearing the trail corridor of non-merchantable woody debris, brush and branches to a width of up to ten feet and a height of up to ten feet above the underlying ground may occur without Licensor's authorization. Licensee will notify orally Licensor of any merchantable timber across the trails (greater than 8" in diameter, measured 4 ½ feet from the ground on a standing green tree) prior to removing same and Licensor will promptly provide direction on removal of the timber.
5) Drainage must be maintained at all times on the trails.
6) Grass seed mix prescribed for the timber sales will be used for trail cut-slopes and wasted material. Depositing waste material within a draw is prohibited. Additionally, wasted material will be spread out thinly and not be placed in a location that could facilitate erosion to a draw.
7) Following timber harvest, Licensee will share cleaning up and/or rebuilding trails affected by potential harvests, to satisfaction mutually agreeable to both Licensee and Licensor, commensurate with its licensed use with other licensees and authorized users.

8) Trail construction, relocation, and reconstruction activities that involve ground disturbance may be limited to dry conditions as determined by Licensor.
9) Licensee's trail construction, reconstruction, and relocation are subject to Section 16 ("IMPROVEMENTS") of this agreement.

E. <u>Technical Trail Feature (TTF) Construction, Relocation, and Reconstruction:</u>
Licensee shall provide written certification to Licensor as trails and TTFs ("TTFs" include but are not limited to the approach [transition zone from trail to feature], the TTF structure [see Guidelines], the fall zone [see Guidelines], and the landing zone [transition from feature to trail]) are initially constructed, as authorized in this SRUL. The certification shall be signed by an authorized representative of Licensee. Licensor shall have the right, but not the obligation, to inspect the TTFs and trail at any time during the term.

F. <u>Trail Management Plan:</u> Licensee is authorized to implement the following activities ("Trail Management Plan"):
The following Trail Management Plan ("TMP") sets forth the order and activities for which trail and TTF construction, reconstruction, decommissioning, and maintenance are authorized. These activities are meant to be implemented in conjunction with other terms and conditions of this SRUL as well as the Spencer Trail Network Free Ride Guidelines ("Guidelines") document ("Exhibit C").

Projects below are listed in approximate order of priority. The order in which the below work is performed may be altered at Licensee's discretion so long as the two top priority trails and their related TTFs are completed first (numbers 2 and 3, below). Trails and TTFs will be closed until the Licensee provides written certification as required in 5E to the Licensor. Specific TTFs may be closed, thus enabling a trail to be reopened where ride-arounds exist or are constructed. Nothing in this document precludes the closing of a trail or TTF in the licensed area or if not constructed or maintained as authorized in this SRUL. Work and maintenance on the Spencer area trails will be performed as follows:

1) **<u>Install appropriate signage:</u>** As authorized in this SRUL, the Licensee will install signage at licensed area parking lots and trailheads and on all trails encompassed by the SRUL. This includes signs as authorized in this SRUL, or in the alternative, temporary signs designating a trail or feature as "closed." The existing Twin Bridges Parking Area and signage may be

temporary in nature given the anticipated construction of the North Spencer Lake Timber Sale Log Landing Parking Area as provided in Section 5. B.

2) **Maple Syrup (upper and lower) (Trail 5 on Exhibit A-2):** Maple Syrup includes several small wooden bridges to reconstruct as authorized in this SRUL. Fall zones appropriate to the TTFs as described in the Trail Guidelines will also be constructed. The trail includes several steep pitches where drainage and erosion issues will be addressed in consultation with the Licensor. This may include water bars, channeling, installing armoring, or re-routing. The trail also has a section of braided trail at the bottom of "upper" Maple Syrup. An adequate "primary" route will be selected, and alternate "braids" will be decommissioned and revegetated. The bottom of Maple Syrup will be re-routed, which is discussed in the "Otter Pop" section below.
3) **Otter Pop (Trail 3 on attached Exhibit A-2):** A portion of Otter Pop outside the licensed area currently trespasses onto private property. The old section of trail on State land will be decommissioned. The new section of trail will be built in a manner that is consistent with the "advanced" designation for the trail. Otter Pop also features several sections of braided trail. The "primary" trail will remain open, while braids will be decommissioned and revegetated. The trail also has several wooden features that will be removed. These features will be replaced with wooden or dirt features as authorized in this SRUL. Some wooden features may be braced or otherwise reconstructed as authorized in this SRUL. Fall zones will be created around the various TTF's on the trail. The dead-end spur trail depicted on Exhibit A will also be decommissioned and revegetated, and the associated TTF dismantled. A reroute at the bottom of Otter Pop and Maple Syrup will be constructed. Otter Pop currently "T's" into lower Maple Syrup, and both trails then funnel into the skidder trail that runs to the parking lot. Maple Syrup and Otter Pop will be rerouted as shown on the attached map. The re-routed portion of the trail will be consistent with the "intermediate" difficulty of Maple Syrup. It is anticipated that this section will be built with soil moving machinery, the use of which is subject to Licensor's prior written approval.
4) **East Side Connector Trail Trespass (Trail "WT" on Exhibit A-1):** A portion of the Connector Trail northwest of the Whitefish Rifle and Pistol Club trespasses on private property. This section will be re-routed by Licensee onto land administered by the Licensor and the old section on State land will be decommissioned.
5) **Decommission "Steep" skidder trail from parking lot:** The Skidder Trail that runs directly up the fall line from the existing Twin Bridges Parking Area will be decommissioned by the Licensor at the time the log landing/new parking area is created and after a replacement trail with more satisfactory grade and drainage is constructed.

6) **Decommission "No Bikes" (Trail 12 on Exhibit A-2):** The "No Bikes" trail that runs to the fishing access point on Spencer Lake will be decommissioned and revegetated to Licensor's satisfaction by the Licensee.
7) **Build re-route on Lookout trail (Trail 9 on Exhibit A-2):** A re-route involving a number of switchbacks will be built on the "Lookout" trail that leads to the upper most point of the free ride trail system. The purpose of this re-route is to address the steep and heavily eroded trail that currently exists. Upon completion of this re-route, the old trail will be decommissioned and revegetated to Licensor's satisfaction.
8) **Flow Factory (Trail 4 and 4a on Exhibit A-2):** TTFs found on Flow Factory will need to be brought into compliance. It is anticipated that this will primarily involve dirt and rock work, as there are relatively few wooden features on this trail. The bottom portion of Flow Factory features a steep, eroded trail that will need re-routing. It is envisioned that this re-route will not occur until phase 2 due to anticipated logging in the area.
9) **Spooky Pete's (Trail 2 on Exhibit A-2):** Spooky Pete's features numerous wood features that will need to be modified and/or reconstructed as authorized in this SRUL. All TTFs have prominent and well developed ride-arounds. As such, individual TTFs may be closed rather than closing the trail in its entirety. Prior to opening the trail, some ride-arounds and fall zones may be cleared. Also, some unavoidable bridges will be modified and/or reconstructed as authorized in this SRUL prior to the opening of any portion of the trail. Some steep sections will require attention to drainage. Water bars, channeling, or rock armoring may be used. A small re-route at the bottom intersection with the East Side road will be constructed to minimize trail user conflicts. This re-route should be completed prior to opening the trail.
10) **Recess (Trail 6 on Exhibit A-2):** TTFs found on Recess will be modified and/or reconstructed as authorized in this SRUL. Aside from some clearing for fall zones, it is anticipated that this will primarily involve dirt and rock work, as there are relatively few wooden features on this trail. The bottom portion of Recess features a steep, eroded trail that will be re-routed. The timing of the new construction and decommissioning will be coordinated with the timber sale to take advantage of favorable conditions where impacts to the new trail will be minimized. Temporary drainage features should be built on this steep section to minimize erosion pending the re-route.
11) **Malice in Plunderland (Trail 1 on Exhibit A-2):** TTFs, ride-arounds, and fall zones found on Malice in Plunderland will be constructed as authorized in this SRUL. Numerous wooden features will be braced and/or reconstructed. Once ride-arounds are constructed, the trail may be opened with individual TTFs remaining closed pending completion of construction. The bottom portion of the trail will require a substantial re-route and must stay at least 50' from

Spencer Lake and its outflow. This trail will, as best as possible, maintain the "expert" character of Malice in Plunderland. Ride-arounds will be built when necessary as authorized in this SRUL. The trail will lead to the area of the log landing that is anticipated to be built above the current parking lot and trailhead. It is anticipated that this section will be built using soil moving machinery, however the use of such equipment is subject to Licensor's written approval. Once the re-route is completed, the bottom portion of Malice in Plunderland will be decommissioned.

12) **Connector Trail New Construction (Trail "WT" on A-1):** There are approximately .75 miles of new construction on the West Side Connector Trail to be completed by the Licensee. Construction will be performed to Licensors' satisfaction and coordinated with the North and South Spencer Timber Sale activities to take advantage of the earliest and most favorable window of opportunity.

G. Signage

1) All signs and locations for signage are subject to the Guidelines. Proposed sign formats will be submitted to Licensor for approval prior to posting.

   For the licensed area and licensed activity the signs shall include language addressing the following points:

   a) Identify the Licensee and managing entity as the City of Whitefish including contact information.
   b) Identify the land as State Trust Lands managed by Licensor and including Licensor's logo and contact information as supplied by Licensor.
   c) Applicable recreational use regulations, including but not limited to the requirement that recreational use outside of the licensed trail corridors requires a General Recreation Use License.
   d) Applicable restrictions for motorized and non-motorized use of the licensed area.
   e) Trail etiquette to minimize conflicts among the different uses.
   f) Which trails, according to Licensor, are best suited for horse, biking, free-riding, and hiking;
   g) Skill levels for various trails.
   h) Use of the licensed area is at the user's own risk.
   i) How to reduce the risk of spreading noxious weeds.
   j) Advise users that any unauthorized trail feature construction and/or unauthorized trail construction will jeopardize future trail opportunities on State Trust Lands.
   k) Fire risk, fire-safe practices, and fire prevention opportunities.

l) Requirements to control dogs (encouraging leashing).

m) Awareness of potential threats to wildlife such as littering and proper disposal of wildlife attractants ("pack it in, pack it out").

n) Inherent risks of recreating in areas of abundant wildlife and minimizing potential for disturbance and human-wildlife conflicts.

o) Information on local nesting loons.

p) Any other requirements consistent with this SRUL.

2) Donation Placards: Licensee may provide limited recognition for specific trail donors/sponsors by installing approved placards at authorized locations. Placards shall not exceed 5" x 8" in size, and only one placard shall be installed per location. Licensee shall design placard to blend tastefully with natural surroundings, and all placards shall be consistent in color, design, and font with no logos, pictures, photos, or business trademarks depicted. Placard design and placement is subject to prior approval by Licensor.

3) Seasonal trail marking signs must be removed as soon as conditions reasonably allow.

H. <u>Maps and Marketing Materials:</u> Licensee will provide Licensor with prior notification of maps and marketing materials produced by Licensee before using Licensor's name or logo.

I. <u>New Trail Construction:</u> Licensee is responsible to construct new trail to applicable IMBA standards (with the exception of trail tread width) as well as Licensor's applicable specifications.

J. <u>Trail Use</u>

1) Licensee, its employees and volunteers while performing work on behalf of Licensee hereunder must abide by Licensor's restrictions and area closures as posted by the Licensor.
2) Licensor may require Licensee to limit use during wet periods to reduce resource impacts.
3) Licensee will take reasonable efforts to prevent unauthorized trail features and/or unauthorized trail construction as well as trail "braiding," and/or trespassing connecting to licensed trails in the licensed area. In the event that such unauthorized construction occurs that is directly related to the licensed use, Licensee will take reasonable efforts, subject to Licensor's approval, to remediate.
4) Licensee will not unreasonably obstruct or impede valid authorizations and/or uses.
5) Licensee will provide wildlife/bear resistant containers at the Twin Bridges trail head and south parking lot, and require trail users to "pack it in, pack it out" in all other licensed areas.

6) Licensee will take reasonable efforts to encourage dog owners to restrain their dogs within the licensed area to reduce the disturbance to wildlife species and minimize the fragmentation of forested habitats.

K. Monitoring and Maintenance:

1) **Trails (Excluding TTFs):** Licensor reserves the right to require Licensee, along with other Licensees and based upon their respective usage in causing resource damage in the licensed areas, to share in the maintenance of shared trails and Licensor's required relocation and reconstruction of drainage structures to prevent resource damage created by sloughing or erosion. If maintenance efforts fail to stem resource damage, Licensor reserves the right to require Licensees to relocate and/or close affected portions of the licensed area for any use consistent with Section 7 ("RESERVATIONS") and Section 26 ("SPECIAL STIPULATIONS"). Those trails used exclusively by Licensee must be maintained by the Licensee.
2) **Improvements (excluding TTFs):** Licensee will maintain parking areas, related improvements, and signage to keep them in good working condition, per the terms of this SRUL.

6. AMENDMENTS.

Any changes to this SRUL, including but not limited to any proposed expansion, reduction or re-location of the trail system, addition of improvements or other amendment to the activities licensed within this SRUL not requiring MEPA review must be requested by Licensee in writing a minimum of six months prior to the proposed change and/or amendment. This notice is intended to allow the Licensor to determine and conduct the appropriate level of review, including but not limited to MEPA review and rental adjustment prior to the applicable license year's billing cycle. Amendments not requiring MEPA review may not require similar advance notice, but must be set forth in a written amendment to this SRUL.

7. RESERVATIONS.

A. This SRUL is not an exclusive land use authorization. Licensor reserves all rights and interests to the land under this SRUL other than those specifically granted by this SRUL, including but not limited to forest management, emergency response, access, land use authorizations (including the issuance of other licenses for different uses at the Licensor's discretion), and administrative activities. Licensor also specifically reserves administrative rights to access for fire emergencies and/or land management activities. Licensor reserves the right to require Licensee along with

other Licensees and authorized users to share in the expenses based upon their respective usage to relocate portions of the trail system to minimize conflicts with land management activities subject to the following:

B. Licensor will make reasonable effort to give six months' notice to Licensee of all pending management activities affecting licensed activities. If an authorization is proposed with fewer than six months' notice, upon Licensor's receipt of request, Licensor will make every reasonable effort to promptly notify Licensee.

C. Licensee will be invited to participate in the MEPA review to develop a solution that minimizes impacts to licensed activities while meeting Trust Land Management goals.

1) Licensor reserves the right to close or require mitigation on trails that are poorly located or otherwise contribute to potential resource damage or resource impacts.
2) If Licensee desires to temporarily use portable sanitation facilities, it must obtain Licensor's approval. If Licensor grants approval, such temporary use must be conducted pursuant to all applicable local, state and federal laws and regulations. Whether such use is temporary or permanent, Licensee must obtain the necessary sanitation facility permits, and use of the sanitation facilities must be consistent with all applicable local, state and federal laws and regulations, and consistent with conditions Licensor deems necessary to ensure resource protection. All requests by Licensee for the installation of permanent sanitation facilities will be treated by Licensor as a request pursuant to Section 16 herein.

8. RESCUE AND EVACUATIONS.

Nothing herein shall obligate, nor be construed to obligate, either Licensee or Licensor to conduct, administer, or be financially responsible for any rescue or evacuation activities of any party.

9. RIGHT TO ENTRY.

Representatives of the State Historical Society of the State of Montana shall at all reasonable times, upon written notification to Licensor and Licensee prior to entry, have the right to enter into and upon the licensed area for the purpose of carrying out the duties assigned the Historical Society by the State Antiquities Act, Mont. Code Ann. §§ 22-3-421 through 22-3-442.

10. UNLAWFUL USE.

If any part of the licensed area under this SRUL is used, or use is affirmatively authorized by Licensee for any purpose contrary to the terms of this SRUL, the laws of the State of Montana or the United States, such unlawful use shall, at the discretion of Licensor, constitute a material breach of,

and sufficient reason for the cancellation of this SRUL, according to the procedure contained in Section 17.

11. LAWS AND RULES.

Licensee agrees to comply with all applicable State, federal, and local laws and regulations in effect at the date of this SRUL or which may from time to time be adopted and do not impair the obligations of this SRUL and do not deprive Licensee of any rights recognized by law.

12. TRANSFERABILITY AND EXTENT.

This is non-transferable, and may only be used by the Licensee for the purpose for which it is issued and is only valid for the lands described herein. All covenants and agreements herein set forth between the parties hereto shall extend to and bind their successors, and legal representatives.

13. FIRE PREVENTION AND SUPPRESSION.

Lands specified herein shall be kept free of all fire hazards. Licensee agrees to take all reasonable precautions to prevent and suppress wildland fires. Licensee accepts full responsibility, financial and otherwise, for fires caused solely by Licensee's negligent or willful conduct.

14. CULTURAL RESOURCES.

The Licensee will not disturb, remove or destroy, or affirmatively authorize the disturbance, removal or destruction, of any cultural, archeological, historical or paleontological resources on these lands. Should any of the above listed resources be found within the licensed area during the term of the SRUL, all activities and uses surrounding the resources shall cease upon notification by Licensor. The Licensor will contact the Licensor's Archeologist to investigate the resources and to develop any stipulations if necessary to avoid, minimize, or mitigate impacts to said resources.

15. ACCESS.

A. Licensor's Access: Representatives of Licensor shall have the right to enter into and upon the licensed area and all parts thereof for the purpose of including but not limited to fire emergencies, land management and/or inspecting and examining uses thereof.

B. Licensee's Access: Licensee's access, and public's right to access pursuant to this license, to state land outside the licensed area by other than already established legal means, is not implied, guaranteed or authorized by issuance of this SRUL. Licensee's legal right of access to licensed area through private, federal or other lands is not implied, guaranteed or authorized by issuance of

this SRUL. Such access from private, federal, or other lands must be secured by the Licensee. When proposing a trail to Licensor which is directly or physically connected to the licensed area across private, Federal, State or other lands, Licensee will provide Licensor copies of such rights of access during planning and design stages in accordance with Section 6.

C. Road use, whether motorized or non-motorized, upon State land is restricted to those roads which have been designated and/or posted open or specifically authorized by the Licensor for use by the Licensee under the terms of and subject to the conditions of this SRUL. Such designation or approval applies only to that portion of the road located on state lands. Licensee's motorized off-road use and motorized use of non-designated or non-approved roads is strictly prohibited unless pre-approved by the Licensor.

16. IMPROVEMENTS (EXCLUDING TTFS).

Improvements not specifically authorized herein will not be allowed without written approval of Licensor. Unless authorized by 5.F. ("Trail Management Plan"), detailed plans and timing for proposed construction, relocation, and/or reconstruction of improvements must be submitted for review and approval by Licensor.

Nothing in this SRUL, including but not limited to Licensee's activities as authorized in this SRUL and Licensor's authorization of an activity and/or improvement, should be construed as insurance that these activities and/or improvements are structurally sound, that these activities and/or improvements will withstand environmental forces acting upon them, and/or they will accomplish their intended purposes.

Licensee may not transfer or assign ownership of improvements to any third party without Licensor's prior approval.

17. RIGHTS AND IMMUNITIES.

In consideration of the terms and conditions of this SRUL, Licensor and Licensee rely upon all of the rights and immunities against liability to the fullest extent of state law, as amended, and any successor provisions, and any other applicable provisions of law, including, but not limited to, Montana Code Ann. Title 27, Chapter 1, Part 7 (limitation on liability in sport or recreational opportunity); Mont. Code Ann. Title 70, Chapter 16, Part 3 (restriction on liability of landowner for recreation) and Montana Code Ann. Title 2, Chapter 9 (limitation on governmental liability for damages in tort). The Licensee shall indemnify Licensor with respect to the Licensee's authorized activities and uses under

this SRUL to the extent Licensee would otherwise be liable under Montana law in the absence of this contractual indemnification.

18. LIMITATION OF AUTHORITY.

Other than for the purposes specifically described in this SRUL, Licensee agrees that it does not, and shall not, claim at any time any interests or estate of any kind or extent whatsoever in the licensed area by virtue of this SRUL or its occupancy or use hereunder.

19. SURRENDER AND TERMINATION.

A. Licensee may surrender and relinquish this SRUL in whole or part, by providing written notification of such fact to Licensor no less than thirty (30) days prior to the effective date of such action or expiration of this SRUL. Such surrender and relinquishment will not entitle Licensee to any refund of any rental or recreation use fee paid and/or exemption from payment of other compensation presently due Licensor and shall be subject to Section 20 ("RECLAMATION OF THE LAND").

B. Licensor shall have the power and authority to cancel this SRUL for any of the following causes: fraud; misrepresentation; or concealment of facts by Licensee relating to the issue of this SRUL, which if known would have prevented its issue in the form or to Licensee; failure by Licensee to comply with, or abide by, each and all of the provisions hereof; or for any other reason provided by law. For violations that relate to immediate resource damage, or to public health, welfare and safety, Licensor may terminate the SRUL pursuant to procedure provided in Admin. R. Mont. 36.25.121(2). For all other violations, Licensor shall provide Licensee with written notice of grounds that may lead to cancellation of the SRUL and provide Licensee with 30 days to eliminate or cure the possible grounds for cancellation. If Licensee eliminates or cures the possible grounds for cancellation within the 30 day period, this SRUL will remain in force. If Licensee fails to eliminate or cure the possible grounds for cancellation, Licensor may elect to proceed with cancellation using the procedure provided in Admin. R. Mont. 36.25.121(2). Licensee agrees to peaceably yield possession of this licensed area upon proper termination of this SRUL.

Continued unauthorized installation and/or construction of trails, trail features, and/or other unauthorized improvements in the licensed area may jeopardize renewal of this license.

20. RECLAMATION OF THE LAND.

Upon termination or other surrender and relinquishment of this SRUL by Licensee, cancellation of this SRUL by Licensor, or upon final expiration of the SRUL, Licensee shall pay for at full or fair-market value (if not previously purchased) and, unless otherwise agreed by the parties, remove all trees that have been impacted by TTF installation, fully dismantle all TTFs, and return the remaining licensed area to a condition similar to that which existed prior to issuance of this license. Such reclamation shall include, but not be limited to, the elimination of all trace of disturbances, compaction, and movement of construction equipment used by licensee. The Licensee shall secure, fill, or cover any open foundation and any other excavations of the licensed area to Licensor's satisfaction. When any action requires ground disturbance, all soil materials shall be salvaged, safeguarded from loss due to wind or water erosion or machinery activity, and shall be re-seeded with a grass seed mixture approved by the Licensor-and replaced on all disturbed areas. If Licensee fails to remove and/or demolish its improvements to Licensor's satisfaction as required herein, Licensor shall provide Licensee a 30-day written notice with a detailed list and explanation of what additional work is necessary. If Licensee fails to complete the work as requested within the 30 days, Licensee shall be liable for costs incurred by the Licensor for removal and/or demolition of same. If reclamation is not completed prior to the expiration of this SRUL, a subsequent short-term land use authorization may be necessary to facilitate Licensee's continued access to complete the work.

21. MAINTENANCE, REPAIRS, AND UTILITIES.

The Licensee shall, when applicable:

A. Pay all permits and inspection fees imposed by governmental authorities; Licensee will copy Licensor on all applications and/or permits.

B. Pay all maintenance, repair, and utility fees.

C. Endeavor to keep the licensed area neat and orderly and keep the licensed area free of garbage and excess construction material.

22. REMOVAL OF TIMBER.

Licensee shall not cut, remove, use, secure TTFs to, or destroy any timber or standing trees in the licensed area and shall not authorize any other person to cut, use, remove, or destroy any downed or standing live or dead timber, unless such person is first authorized in writing by Licensor to do so. Any trees (standing or downed) that are cut during the trail construction or maintenance process shall be purchased at full-market value by the Licensee. In addition, by November 30, 2013, Licensor will inventory all trees

affected by TTFs and assess their value. By July 1, 2014, Licensee shall purchase at full-market value all trees in the licensed area damaged by TTFs prior to the effective date of this SRUL.

23. NOXIOUS WEEDS.

Licensee will participate along with other licensees and authorized users in controlling any noxious weeds introduced by Licensee's activity on state-owned land to the extent of Licensee's usage. The Licensor must approve Licensee's method of control. The minimum requirement is a spring treatment of weeds in the trail corridors, parking areas and trailheads to the extent of usage along with other licensees and authorized users during the rosette stage by a certified applicator. To the extent required by law, the Licensee shall comply with the Montana County Noxious Weed Management Act, §§ 7-22-2101, *et seq.*, MCA.

24. MOTORIZED USE STIPULATIONS.

A. Motorized access will be restricted to limit damage to roads, spread of weeds, and to limit loss of snags and coarse woody debris to reduce disturbance to wildlife. Off-road vehicle use is prohibited unless specifically authorized by the Licensor, in writing.

B. Licensee's use of motorized vehicles off of any roads and on closed roads is prohibited unless Licensor otherwise authorizes use in writing.

C. Motorized access for the purpose of constructing the trail, including the transport of equipment and supplies necessary to support the construction work, will be allowed only upon approval of the Licensor's Kalispell Unit Manager.

D. Similar motorized access for the purpose of maintaining and repairing the trail may, under extraordinary circumstances, be allowed upon approval of the Licensor's Kalispell Unit Manager.

25. WEATHER CONDITIONS.

Licensor reserves the right to restrict or preclude any surface activity during periods of adverse weather, and other conditions which may contribute to accelerated erosion, fire hazard, disruption of seasonal wildlife, or any other condition that, in the opinion of Licensor, may have an adverse effect on State-owned land.

26. SPECIAL STIPULATIONS.

A. The use of fireworks is prohibited.

B. The existing Twin Bridges parking area does not have adequate room to support those activities normally associated with special events.

C. Licensee is not under any circumstances authorized to permit or sublicense commercial use of the trail.

D. Licensor reserves the right to require Licensee, along with other licensees, to share in the maintenance of one-quarter mile, up to the South Spencer Trail Network Parking Area, of "Rifle Range Road," based upon their respective usage, per an annual maintenance plan approved by Licensor. Licensee will endeavor to cooperate with any road users' association that may be formed to maintain this road. Maintenance includes but is not limited to weed management.

E. When forest management activities are scheduled that may impact the SRUL corridor, DNRC will take reasonable precautions within the scope of the logging process to avoid unnecessary damage within the trail corridor.

F. If unanticipated issues associated with the activities authorized in this SRUL arise, additional conditions as necessary to resolve such issues may be imposed at a later date. In addition, Licensor retains the right to modify any stipulation or condition of this SRUL if it becomes necessary to protect threatened or endangered species or their habitat. Licensor will determine if those additional conditions warrant further environmental review.

G. Licensor shall advise Licensee, in writing, of any problems or issues (including temporary closures) that arise concerning any parking lots, trailheads, and/or other related amenities, in the licensed area, in order to insure open and effective communication and to enable Licensee to take prompt corrective action, if appropriate. Any temporary closure shall not extend for more than 30 days, unless Licensee agrees in writing to extend the closure. If Licensor determines that a temporary closure is necessary, Licensor shall immediately provide Licensee with a written notice of closure and a detailed statement of the reasons justifying the closure. Licensee may, during the temporary closure, take steps to address or cure the reasons given by Licensor for the closure. The parties shall cooperate in good faith to allow Licensee to effectively address or cure the reasons given for the closure. If Licensor determines that the closure is necessary for greater than 30 days, and Licensee has not agreed in writing to extend the closure, then Licensor may proceed to terminate the SRUL as provided in Section 19, ("SURRENDER AND TERMINATION"), and Licensee will be reimbursed for fees paid, pro-rated as of effective termination date, unless termination is for sufficient cause as provided for in Section 19.B.

H. Licensee will conduct at least one public review meeting per year in order to maintain good relations, minimize conflicts, maintain existing recreation opportunities and provide the best possible user experience. This meeting may be combined with other similar meetings required of Licensee under any other authorization issued by Licensor. Licensee will send timely written announcements to Licensor, and those fellow licensees, and neighboring landowners, lessees, and residents for which Licensor has provided Licensee names and addresses in advance of the meeting as well as provide public notice. Licensee will also initiate and conduct at least one

meeting per year with Licensor, anticipated to occur shortly after the public meeting or some other mutually agreed upon date, to promote clear communication and discuss any issues related to the licensed area and to review the City's records of maintenance and construction work, which are available to Licensor at any mutually agreeable time. Licensor will schedule an annual meeting with Licensee and other licensees and authorized users to coordinate shared maintenance responsibilities where applicable.

Licensee will make reasonable efforts to educate users that any illegal features and/or trails constructed on state land may jeopardize future trail opportunities on state trust lands.

27. DEFINITIONS.

TRAIL DECOMMISSIONING as used in this document means restoring trail corridor back to its natural, pre-trail state and/or as prescribed by the Licensor, including but not limited to mechanical ripping, revegetating, and installation of barriers to prevent new unauthorized use. Immediate initial measures to close a trail as required by the SRUL preparatory to decommissioning include signage, and obstruction (such as boulders and/or slash and debris).

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS STATE LAND USE LICENSE THIS

_____ DAY OF _____ YEAR.

LICENSOR	LICENSEE
_____	_____
Department of Natural Resources and Conservation	Charles C. Stearns, City Manager City of Whitefish

By: _____
Stephen J. Frye, Area Manager
Northwestern Land Office

Staff Report

To: Mayor John M. Muhlfeld
City Councilors

From: Karl Cozad, Director Parks, Recreation and Community Services
Mary VanBuskirk, City Attorney

Re: Resolution to Approve the Spencer Trail Network
Special Recreational Use License (SRUL)

Date: August 13, 2013

Introduction

The review and consideration of the proposed Spencer Trail Network Special Recreation Use License (Spencer Trail Network SRUL) comes before the City Council for its approval by the attached Resolution. The Spencer Trail Network of the Whitefish Trail (Spencer Trail Network) is the next trail segment proposed for the Whitefish Trail through a SRUL with the Department of Natural Resources and Conservation (DNRC). As contemplated by the 2004 Whitefish Area Trust Lands Neighborhood Plan (Neighborhood Plan), and the 2006 A Trail Runs Through It Master Plan (Master Plan), the Spencer Trail Network offers a wide variety of recreational uses, with a variety of difficulty levels from moderate to difficult, and serves as a connection to existing and new trail systems.

Current Report

In 2003, the Whitefish community, Montana Board of Land Commissioners, DNRC, Flathead County, and the City of Whitefish began a public process to establish a broad range of goals and policies for a sound land-use plan for the 13,000 plus acres of trust lands surrounding Whitefish. Through these efforts, the Neighborhood Plan was developed in November 2004. The Neighborhood Plan called for preserving the public's access to the Spencer Mountain Segment of the Whitefish Trail as "an important community objective". Neighborhood Plan, p. 25.

The Spencer Mountain Subarea (Spencer) provides approximately 2,740 acres of timbered and rolling terrain. As contemplated by the Neighborhood Plan, Spencer would be managed by the DNRC as a timber and recreational asset for a minimum of the next ten years to allow the community to develop and submit a proposal to the DNRC to generate revenue to the State Trust Lands and for protection of the majority of the land area for public access and recreation usage. If the community and the DNRC can show substantial progress (i.e., over 1,000 acres have been protected or substantial income has been generated), the DNRC would commit to an additional ten years to work with the community to protect the remainder. Neighborhood Plan, p. 26.

The trails in Spencer were described as "popular for a variety of recreational uses" with the trails having "a difficulty level of moderate to difficult for pitch and tread". Master Plan, p. 8. The Master Plan identified the proposed trail in Spencer as a recreational use for mountain biking, running, hiking, hunting and fishing, horseback riding, cross-country skiing, and snowshoeing. Master Plan, p. 25. Due to its varied terrain, the Spencer area offered a range of difficulty levels of moderate to difficult to offer a variety of recreational uses to a wide range of users based on the physical design of the trail, depending on the natural features, volume of traffic on the trail and the types of activity. The Spencer area offered the possibility for a more challenging technical challenge for a wide range of recreational uses and users. Master Plan, p. 26.

In the development of the Master Plan, the Planning Committee expanded its membership to include interested Whitefish community participants, who organized themselves as Flathead Gateway Partners (now known as Whitefish Legacy Partners), and representatives from the U.S. Forest Service, the U.S. Fish and Wildlife Service, and the Montana Department of Fish, Wildlife & Parks.

Also, as contemplated by the Neighborhood Plan and Master Plan, the responsibilities for the care and maintenance of the Spencer area will be shared with the community and recreationalists.

By a Memorandum of Understanding dated July 6, 2011, the Whitefish Legacy Partners and City agreed to develop and implement the Recreational Trails Program, an annual work plan to meet the goals and objectives of the Neighborhood Plan. Three funds have been established, two of which are endowed funds established at the Whitefish Community Foundation (the Whitefish Trail System Support Fund with the purpose of providing a permanent revenue stream to support the basic operations, maintenance and management of the Whitefish Trail system and the Legacy Lands Transaction Fund with the purpose to purchase trail easements, leases, or development rights on key area land transactions) The third fund, the Whitefish Trail Grant Fund, is managed by the City and disbursed to fund basic planning, design and construction costs.

Two committees were also established by the July 6, 2011 MOU. The Legacy Lands Advisory Committee has four members with two members appointed by Whitefish Legacy Partners and two Councilors or a Councilor and Mayor appointed by the City Council. The Whitefish Trail Operations Committee has two current members of the Legacy Lands Advisory Committee (one City appointee member and one WLP appointee member), the City Director of Parks and Recreation, or designee, and the Executive Director of WLP, or designee.

In addition, for the Spencer Trail Network, Flathead Fat Tires, Inc., a Montana corporation since October 2005 currently seeking non-profit status, has volunteered to serve as the trail system managers for the bicycling "free ride" features with a high degree of difficulty, to be located on the north end of the Spencer Trail system. As trail system managers, Flathead Fat Tires will assume responsibility for building, maintaining and decommissioning structures, and trails and trail improvements, as required under the terms of the Spencer SRUL. Through the International Mountain Bicycling Association, the Flathead Fat Tires will provide primary and noncontributory liability insurance coverage on the Spencer trail features, naming the City as an additional named insured, in amounts not less than $750,000 per occurrence and 1.5 million dollars policy aggregate. All trail and technical trail features will be constructed and maintained as authorized in the SRUL.

Trailhead parking was another challenge initially raised in the Master Plan and addressed in the SRUL. Master Plan, Trail System, p. 9. Following the completion of the Spencer timber harvests, the DNRC and the City anticipate the log landings used in the timber harvest will provide parking lot opportunities for the trailhead. There are three existing informal sites for trailhead parking: (1) Twin Bridges at US 93 and Twin Bridges Road, temporary trailhead depicted on Exhibit "B", attached to the Spencer Trail Network SRUL, (2) the South parking lot located off a DNRC dirt road that currently serves the Whitefish rifle range, South Spencer Connector depicted on Exhibit "E", attached to the Spencer Trail Network SRUL, and (3) the northern Twin Bridges log landing created for the timber harvest.

One key concern for the parties was the potential for liability as the Whitefish Trail grows and trail features such as the bicycle technical trail features are added as licensed activities. As the trail usage expands and the trail system includes more difficult level recreational use, the potential for the number of claims may increase. In response, the DNRC and the City agreed to rely on Montana law protections:

> In consideration of the terms and conditions of this SRUL, Licensor and Licensee rely upon all the rights and immunities against liability to the fullest extent of state law, as amended, and any successor provisions, and any other applicable provisions of law, including, but not limited to, Montana Code Ann. Title 27, Chapter 1, Part 7 (limitation on liability in sport or recreational opportunity); Mont. Code Ann. Title 70, Chapter 16, Part 3 (restriction on liability of landowner for recreation) and Montana Code Ann. Title 2, Chapter 9 (limitation on governmental liability for damages in tort). The Licensee shall indemnify Licensor with respect to the Licensee's authorized activities and uses under this SRUL to the extent Licensee would otherwise be liable under Montana law in the absence of this contractual indemnification.

These statutory protections shift responsibility to the person who participates in the recreational opportunity provided by the DNRC's license to the City. The participant assumes the inherent risks, and is legally responsible for all injury or property damage. Neither the City nor the DNRC is required to make the licensed area safe. No duty of care is owed with respect to the condition of the licensed area, unless the actions constitute willful or wanton misconduct. No assurances are made to the participant that the licensed area is safe for any purpose.

The City anticipates reaching an agreement with Flathead Fat Tires following the Council's consideration and approval of the Spencer Trail Network SRUL to memorialize Flathead Fat Tires' agreement to act as the trail system managers and provide liability insurance to cover their members and volunteers while working on the trail improvements as well as the construction and maintenance of the trail and trail improvements.

Financial Requirement

None, except for City Councilor John Anderson's time and staff time negotiating the terms of the SRUL these past nine months. Mayor Muhlfeld, Councilors John Anderson and Frank Sweeney serve on the Whitefish Legacy Partners and Whitefish Trail Operations Committee. Karl Cozad as Parks & Recreation Director is the City's designated contact for the Whitefish Trails and a member of the Whitefish Trail Operations Committee.

By the terms of the MOU-3 between the City and Whitefish Legacy Partners, and draft MOU between the City and Flathead Fat Tires, although the City may choose to assist the Whitefish Trail, the City is not required to contribute funds to the Whitefish Trail's construction, maintenance or operation. Should the City decide to contribute funds, it may do so only with specific City Council approval.

For volunteers working on the Whitefish Trail, the City presently covers its volunteers with Workers' Compensation coverage through the Montana Municipal Interlocal Authority (MMIA). In the past, the City has covered this additional expense for workers' compensation coverage for volunteers working on the Whitefish Trail. Should a personal injury or property damage claim related to the Whitefish Trail be made against the City, the City's costs of defense may increase, causing its membership insured pool premiums to increase for defending Whitefish Trail claims. If the City is faced with increasing premiums due to the Whitefish Trail, a new MOU with Whitefish Legacy Partners may need to be reached to cover these increased costs, if any, to the City's costs of providing liability coverage through the MMIA.

Recommendation

Staff respectfully recommends that the City Council adopt the attached Resolution which approves the proposed Spencer Trail Network SRUL with the DNRC, and authorize the City Mayor or the City Manager to execute the Spencer Trail Network SRUL and an agreement with Flathead Fat Tires, Inc., as the trail system manager for the free ride activities authorized under the SRUL, and any other document necessary to implement the Spencer Trail Network SRUL.

Recommended Motion:

> I move the adoption of Resolution No. 13-___, a resolution to approve the proposed Spencer Trail Network Special Recreation Use License with the DNRC and authorize the City Mayor or the City Manager to execute the Spencer Trail Network SRUL, an agreement with Flathead Fat Tires, Inc., as well as any other necessary document for the Spencer Trail Network SRUL on behalf of the City.

Respectfully submitted,

Karl Cozad

Mary VanBuskirk

Attachments:
1. Special Recreation Use License #305XXXX (Exhibit 1) and Attachments (Exhibit A-1 through Exhibit E)
2. July 6, 2011 Memorandum of Understanding between Whitefish Legacy Partners and City
3. Proposed draft Memorandum of Understanding between Flathead Fat Tires and City
4. Whitefish Legacy Lands map implementing the Whitefish Neighborhood Plan

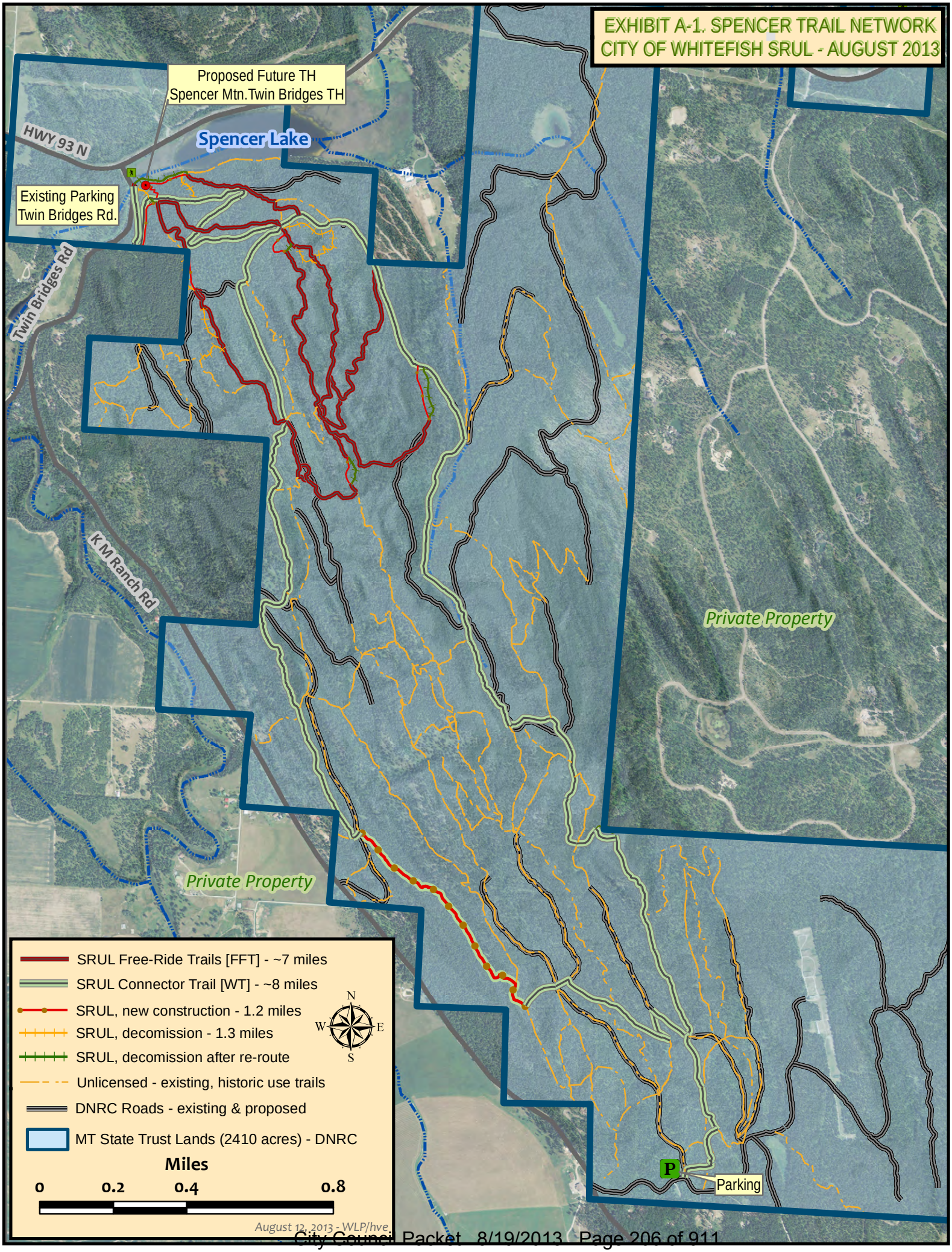
EXHIBIT A-1. SPENCER TRAIL NETWORK
CITY OF WHITEFISH SRUL - AUGUST 2013
Proposed Future TH
Spencer Mtn.Twin Bridges TH
Spencer Lake
HWY 93 N
Existing Parking
Twin Bridges Rd.
Twin Bridges Rd
K M Ranch Rd
Private Property
Private Property
Parking
SRUL Free-Ride Trails [FFT] - ~7 miles
SRUL Connector Trail [WT] - ~8 miles
SRUL, new construction - 1.2 miles
SRUL, decomission - 1.3 miles
SRUL, decomission after re-route
Unlicensed - existing, historic use trails
DNRC Roads - existing & proposed
MT State Trust Lands (2410 acres) - DNRC
Miles
0
0.2
0.4
0.8
N
W
E
S
August 12, 2013 - WLP/hve

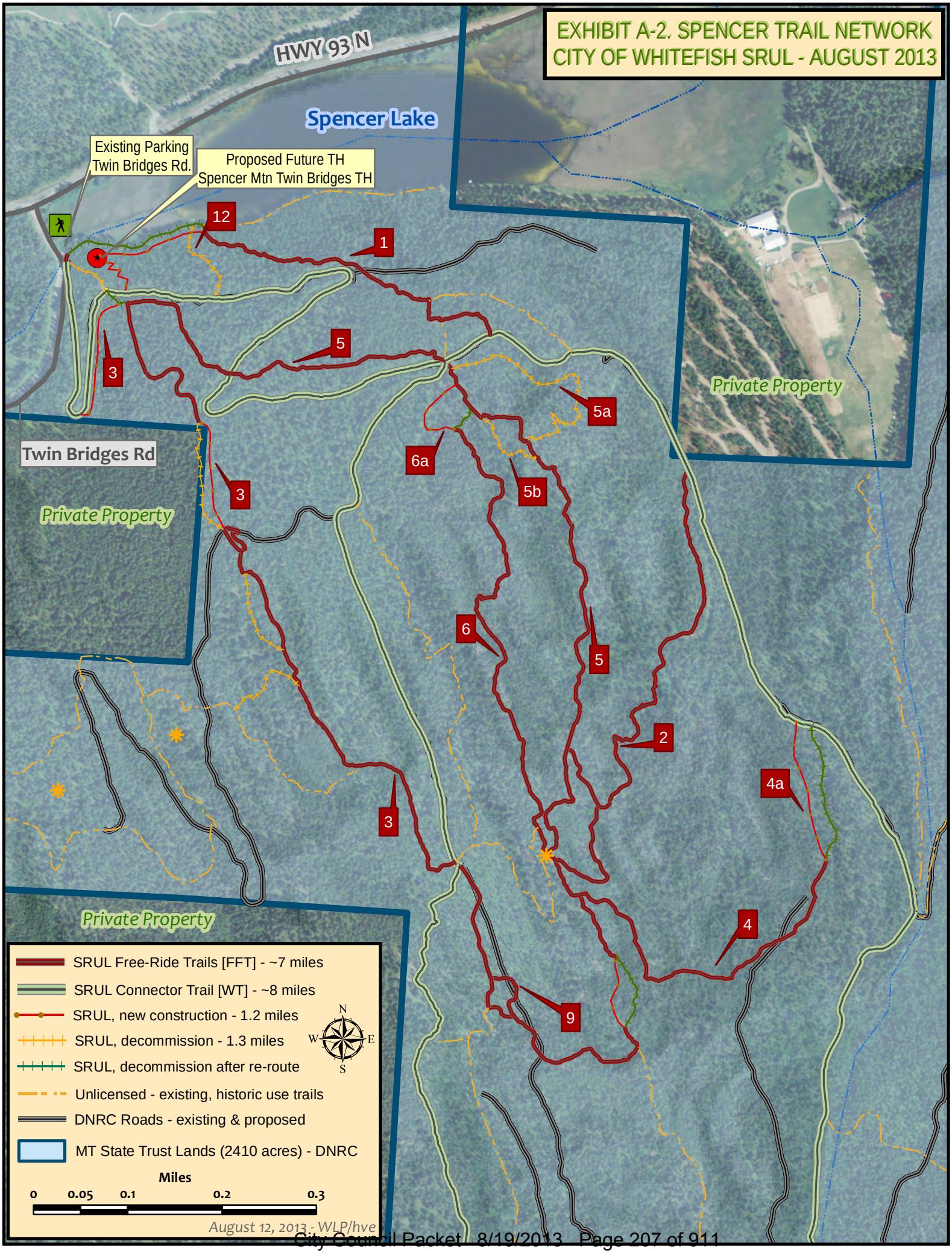
EXHIBIT A-2. SPENCER TRAIL NETWORK
CITY OF WHITEFISH SRUL - AUGUST 2013
HWY 93 N
Spencer Lake
Existing Parking
Twin Bridges Rd.
Proposed Future TH
Spencer Mtn Twin Bridges TH
Twin Bridges Rd
Private Property
Private Property
Private Property
12
1
5
3
5a
6a
5b
3
6
5
2
4a
3
4
9
SRUL Free-Ride Trails [FFT] - ~7 miles
SRUL Connector Trail [WT] - ~8 miles
SRUL, new construction - 1.2 miles
SRUL, decommission - 1.3 miles
SRUL, decommission after re-route
Unlicensed - existing, historic use trails
DNRC Roads - existing & proposed
MT State Trust Lands (2410 acres) - DNRC
N
W
E
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Miles
0
0.05
0.1
0.2
0.3
August 12, 2013 - WLP/hve

EXHIBIT L

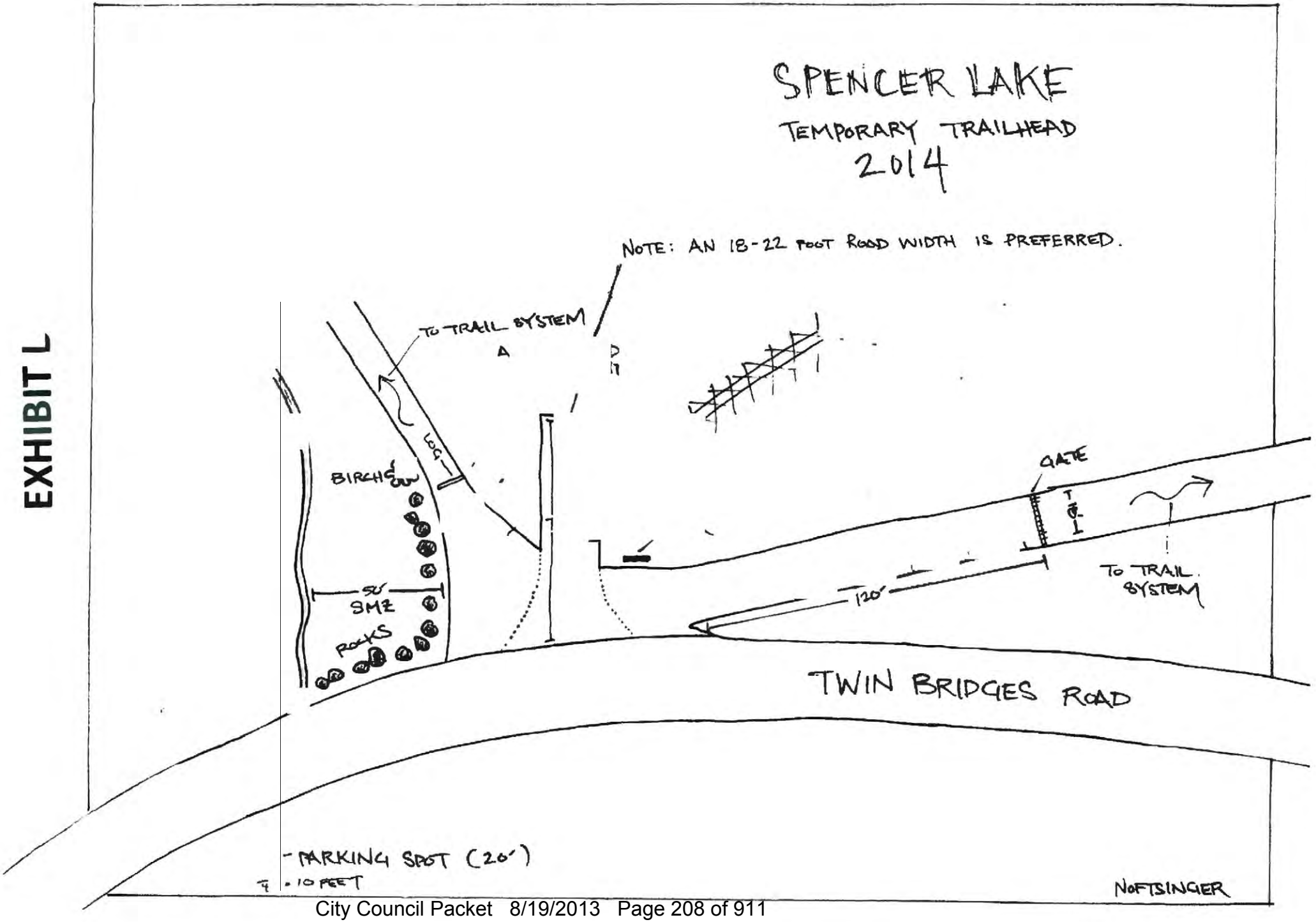

SPENCER LAKE
TEMPORARY TRAILHEAD
2014
NOTE: AN 18-22 FOOT ROAD WIDTH IS PREFERRED.
TO TRAIL SYSTEM
A
LOG
BIRCHES
50'
SMZ
ROCKS
GATE
120'
TO TRAIL SYSTEM
TWIN BRIDGES ROAD
PARKING SPOT (20')
10 FEET
NOFTSINGER

EXHIBIT C

SPENCER LAKE FREERIDE TRAIL GUIDELINES

INTRODUCTION

The Spencer Lake area trails have been in existence for some time, predominantly as unauthorized trails and Technical Trail Features ("TTFs") developed by users. These trails are located on land held in trust by the State of Montana for the purpose of generating revenue for public schools, and are managed accordingly by the Department of Natural Resources and Conservation (the "DNRC"). The primary user groups are hikers, mountain bikers, and equestrians. Several trails (the "Trails"), as designated in the Spencer Lake Freeride Trail Management Plan (the "Management Plan"), will be maintained and overseen by The City of Whitefish, and all goals, policies, and agreements contained therein are incorporated into this document.

The Special Recreational Use License (SRUL) is entered into with the intention of authorizing the Trails in an effort to allow for continued free ride use in the Spencer Lake area, while at the same time addressing environmental, and maintenance concerns. This document is intended to provide Guidelines for Trails and technical trail features (TTFs) that are most frequently used by the free ride biking community. These Guidelines only intended to govern the trails incorporating TTF's that are referenced in the SRUL. These Guidelines are established, in part, in accordance with the provisions of Mont. Code Ann. § 70-16-301 *et seq*. All users of the Trails do so "without any assurance from the landowner that the property is safe for any purpose." All users of the Trails are required to use the Trails and TTFs in a manner that is coordinate with their skill and ability level. These Guidelines are adopted with the knowledge that the Trails exist in a natural environment and that changing Trail conditions may render Trails and/or TTF's unrideable or unsafe at certain times. It is the obligation of trail users to assess conditions and make decisions appropriately. These are adopted in an attempt to mitigate certain risks and improve safety to the extent that is reasonably feasible. However, the implementation of these Guidelines should not in any way be construed as an assurance of the safety of the Trails or the TTFs. Further, this document is not intended to have general or programmatic applicability, but is intended to apply solely to the contractual relationship set forth in the SRUL.

This document will set forth Guidelines by which the Trails will be maintained and improved. The Trails often incorporate TTFs, which require significant maintenance and oversight. TTFs are natural or man-made obstacles or options in the trail or alongside the trail that are intended for mountain bike use and require bike handling skills to ride. They range from easy (such as a 4" rollable drop in the trail or a 3 ft. wide ladder bridge to ride over) to expert (such as a steep rock chute to roll down, a 6" wide ladder bridge to cross, or a 12" high rock step-up to climb up onto). This document is designed to set forth design and construction Guidelines and maintenance Guidelines for such features in order to fulfill the obligations set forth in the SRUL.

The purpose of this document is to provide Guidelines for the Spencer Freeride Trails, while maintaining the existing character of the trails that made them popular. The purpose is also to provide DNRC with the means to manage this use within the context of its overall mission for these lands which is forest management and revenue

production. This document attempts to provide standardized criteria for a recreational experience that is appropriate for public trails on public lands while at the same time recognizing the recreational value of the Trails and TTFs as they presently exist. These Guidelines will apply not only to the maintenance of the existing Trails, but also to the construction of any additional trails that may be built in the future under this land use authorization.

This document is drafted with the recognition that use of the Trails carries inherent risks to the user that can be minimized, but not eliminated. The goal in developing these Guidelines is to warn Trail users of potential hazards and to establish skill level recommendations for individual Trails and TTFs. It is recognized that the activities contemplated by these Guidelines have been taking place in an unlicensed manner in this area for over a decade. By approving these Trails and adopting these Guidelines, the goal is to minimize uncontrolled freeride trail building by providing the Spencer Freeride Trails for these recreational pursuits, while minimizing unnecessary hazards associated therewith, and making this use compatible with other recreational uses and DNRC's forest management activities.

PRIORITIES

Priorities for implementation of this plan are as follows:

1. Incorporate Guidelines to existing Trails and TTFs by order of priority.
2. Maintain Trails and TTFs to Guidelines.
3. Prevent unauthorized trail or TTF construction in licensed area where possible. Initiate efforts for the removal of unauthorized trails / TTF construction.
4. Provide notice to trial users regarding trail difficulty levels so that users may independently exercise judgment and the needed caution regarding which trails to use.

DESIGN FLEXIBILITY

Trails are inherently terrain dependant, and thus a certain level of flexibility is required in developing trail Guidelines. The Trails will be maintained, as closely as possible, in their present, mapped locations. However, it is acknowledged that, at times, it may be necessary to include re-routes of trails or the movement of TTFs. As such, conditions on the ground and materials will determine the exact Trail routing and TTF locations in such situations. Trails will be routed and built according to the Guidelines and specifications described in this document. If DNRC deems that unacceptable resource damage is occurring, it reserves the right to require trail work that may include maintenance or reconstruction to correct the situation. DNRC also may require re-location and decommissioning of problem trail segments.

INCORPORATION OF WHISTLER and IMBA GUIDELINES and STANDARDS

This document is, in large part, based on pre-existing standards and Guidelines. Notably, the "Whistler Trail Standards" provided by the Resort Municipality of Whistler were used as a base for these Guidelines. The Whistler standards are specifically recognized as being relevant to freeride mountain bike trails such as those being licensed here. While the Whistler standards are not a perfect fit for this trail system, they were used to provide many Guidelines in drafting these Guidelines. The International Mountain Bike Association ("IMBA") has also promulgated a series of Guidelines, relative to bike parks and freeriding

(http://www.imba.com/resources/freeriding) including "How to Design Challenging Trails", which are incorporated by reference into this document.

If the Guidelines set forth herein are inconsistent with the Whistler or International Mountain Bike Association standards referenced above, these Guidelines shall be deemed controlling.

RISK ASSESSMENT

The following is a description of the key risk assessment techniques and practices that should be used when maintaining and constructing the Trails from IMBA Guidelines. Trails are built and maintained according to established Trail and TTF Guidelines (described herein). Trails and both natural and manmade TTFs must be durable, and designed to moderate the risk of injury when riders fail to negotiate them properly.

- Emphasize Skill Instead of Consequence.
- Provide Options and "Ride-Arounds." When building challenging TTFs, offer easier alternate routes that avoid the feature whenever possible. Don't build advanced technical challenges on trails designed for beginners or intermediates unless they have a ride-around. Offer opportunities for all skill levels.
- Build skill "Gateway Filters." Entrances to difficult trails and TTFs should be made challenging (as difficult as the most challenging mandatory part of the trail or TTF). These gateways will cause inexperienced riders to dismount early, before the TTF is high above the ground where the rider is more likely to be injured should a fall occur. This will reduce the risk of less skilled riders attempting a trail or feature that is beyond their ability. By contrast, wide or easy entrances leading to high or narrow exposed features should be avoided.
- Provide appropriate Fall Zones. Attempt to clear hazards from areas where riders are likely to land from a fall.
- Build "Choke Points." Narrow, difficult and very visible TTFs will slow riders down before a higher risk area. Choke points are built close to the ground with fall zones in case of a fall.
- Design Proper Flow into trails. When possible, avoid abrupt transitions from open and flowing to tight and technical.
- Reduce Surprise. Provide clear site lines and don't surprise trail users with unexpected technical trail features. Challenging trails should be properly signed.
- Make sure that people can see technically challenging trail sections well in advance. The most difficult section of a TTF will be made visible from the entry. By placing the difficult section in view, the rider can make an informed decision before they may get into difficulty with a TTF that may be beyond their ability.
- Mark trails and TTFs according to established Sign Guidelines. Trailhead signs can provide general information about trails and features, but their highest priority is to alert riders to the difficulty level and technical challenges on the trail ahead.

DIFFICULTY LEVELS

The following describes the difficulty rating system used in this document. It describes the general riding experience provided and the types of skills required for each difficulty level.

These ratings are used in setting forth the classification of the Trails. Many of the Trails were in existence at the time these Guidelines were adopted, and thus these

classifications were applied retroactively. The Trails exist in a natural environment, and while reasonable efforts are made to maintain the Trails to these Guidelines, natural conditions may affect the Trails in such a way that the obstacles encountered and difficulty of the Trails may change without notice (e.g., trees and/or branches in the trail due to blowdown).

The ratings included herein describe the general types of features to be included on a trail for a given ability level. Trails and the specific features included thereon should be built and maintained in accordance with these ratings. The ratings described herein are relative to one another and may be different from ratings used in other locations. An intermediate trail under these Guidelines may be more or less difficult than intermediate trails found outside of the Spencer recreation area.

Novice (Green Circle)

- Easiest trails; minimum rider skill required.
- Users need to be competent bicycle riders with experience on basic dirt trails and wide natural surface trails such as the Whitefish Trail
- Gentle climbs and easily avoidable obstacles such as rocks, roots and potholes.
- Beginners will find challenges.
- Wide trails with good traction and easy turns.
- Gentle climbs and descents.
- Unavoidable TTFs are easy (such as small roll-able rocks and wide, low to the ground bridges).
- More difficult TTFs are easily avoidable (more difficult TTF will be an optional route off of the main trail, or the TTF will have an easy ride-around option)
- No drops, no jumps and no obstacles with consequences for lack of speed

Intermediate (Blue Square)

- More difficult trails / more challenging riding with moderate slopes and or obstacles, possibly on a narrow trail with mixed traction.
- Users need to be competent bicycle riders and have significant mountain bike experience on singletrack trails such as those found at the Pig Farm Trails.
- Narrower trails with possibility of poor traction and tight switchbacks.
- Steeper climbs and descents.
- Unavoidable TTFs are more difficult (such as roll-able rock drops and roll-able logs, wide bridges, wide log rides, wide teeter totters and small jumps).
- Most difficult TTFs are easily avoidable.
- Small jumps and drops, however no “gap” jumps or drops.
- No jumps with consequence for lack of speed.

Advanced (Black Diamond)

- Very difficult trails providing a challenging riding experience.
- Could include a mixture of steep climbs and descents, loose trail surfaces, numerous difficult obstacles to avoid or jump over, drop-offs and sharp corners. Some sections may be easier to walk.
- Requires significant riding experience and fitness.
- Very narrow trails with the possibility of poor traction, loose trail surfaces, and steeply banked turns.
- Steep climbs and descents.
- Unavoidable TTFs are most difficult (such as narrow elevated bridges and teeter-totters, steep chutes, rock faces, rocky terrain and wall rides)

- Some TTFs may require mandatory “air” (such as drop-offs that are too high to roll, or gap jumps that cannot be rolled).

Expert (Double Black Diamond)

- The most difficult trail classification. Expert trails should only be attempted by highly skilled riders. These trails are intended to provide a challenge for the most experienced riders.
- Exceptional rider skills and balance are essential to clear challenging obstacles or jumps.
- Expert level TTFs must have rollable options or ride-arounds. The use of gateways is of paramount importance for these features.
- Ride-arounds may incorporate “Advanced” level features.
- Trails are intended for primarily downhill traffic.
- Trails will often include Steep descents with sharp transitions
- Trails may include elevated features, many connected features such as rhythm sections that may require speed and/or momentum to successfully negotiate, and frequent mandatory air, including large gap jumps and large drops.
- Difficulty exceeds Advanced due to height, widths and exposure

ENVIRONMENTAL GUIDELINES

The benefits of a trail network for recreational use must be balanced with the desire of protecting our natural environment and maintaining site productivity for forest management. The parties are actively pursuing environmental sustainability, which can be described as a condition where we use only as much of nature’s resources that can be replenished indefinitely. Trail construction must strive for minimal impact on our natural surroundings. Trails, TTFs, and trailheads (trail facilities) that adversely impact the environment will not only have a low aesthetic value, but also incur a high maintenance cost. Trail facilities should be designed with consideration for the specific environment and intended use. All intrusions into the environment have some degree of impact. However, these impacts can be minimized to balance the need for a recreational experience with the impact on the surrounding environment. As many of the Trails already exist, these Guidelines will be used when maintaining and improving the Trails, re-routing the Trails, and for any construction of new Trails that may occur.

General Guidelines include, but are not limited to, the following:

- Avoid sensitive or fragile archaeological or historic sites.
- Deactivate shortcuts by obstructing access with rocks, branches, fallen trees or new plantings. Provide signs, explaining trail closure rationale.
- Avoid building trails in community watersheds.
- Avoid exposing roots or cover exposed roots where possible.
- Trail placement should avoid hazard areas such as steep ravines, bluffs, cliffs, embankments, hazardous trees, snags, undercut stream banks, etc. as may be appropriate for the Trail’s difficulty.
- Assess the impacts of trail use on wildlife species.
  Avoid critical habitat of rare or fragile plant species. If there are fragile plant communities next to the trail, delineate the trail edges by using logs or rocks.
- Avoid unstable slopes, erosion-prone soil and shallow rooted trees with high wind-throw potential.

- Avoid trail routing that encourages users to take shortcuts where an easier route or interesting feature is visible. If an interesting feature exists, where feasible locate the trail to provide the desired access to the trail user. Use landforms or vegetation to block potential shortcut routes. Alter the shortcut route if it is superior to the original route.
- Live trees will not be cut without authorization. Cutting of live or dead trees must be approved by DNRC in advance, and approval may be withheld at DNRC's discretion.
- Route trails on bedrock or hard packed surfaces and avoid organic materials.
- Use set cobblestones in sensitive areas and steep descents to minimize trail erosion.
- Use downed Western Red Cedar, Larch or old tight-ringed Douglas Fir for construction material when possible due to their resistance to rot. All such use is subject to prior authorization from DNRC.

These Guidelines are adopted with the understanding that they are applied to an existing trail network, and that the existing trails were not necessarily built using best practices to minimize erosion and other ecological concerns. The potential ecological and environmental impacts include (but are not limited to) soil displacement and erosion, damage to vegetation, weed infestation, and water quality issues. Over time and with increased use, ecological and environmental issues may arise that require mitigating techniques to be employed on the Trails. These techniques may include rock armoring, installation of water bars, and/or re-routing the Trail. Either party may raise environmental or ecological issues with the Trails, thereby initiating a review process to assess the implementation of potential mitigating techniques. It is envisioned that this will be an ongoing process, and is necessary to preserve the Trail system in a sustainable manner.

Drainage

Trails should be constructed so as to maximize drainage and avoid standing water or persistent wetness in the Trail tread. Where possible, Trails should be designed and graded so as to shed water, and where necessary, water bars should be utilized to direct the water away from the Trail. Primary drainage concerns include steep, straight Trails that tend to become rutted from use and water runoff.

Use Of Machinery

The use of machinery for future projects will be at the sole discretion of DNRC and shall be evaluated on a case by case basis. In the event the use of machinery is approved, additional guidelines may be established for such use. For any machinery that may be used in the future, limited access Trails that penetrate sensitive areas should be constructed manually with materials and equipment that can be easily transported by small work crews. Low impact construction techniques should be employed such as small underinflated, rubber tired vehicles, and construction pads, platforms or cranes. Prefabricated structures that can be manually assembled on site should be used, if necessary.

Mitigation Measures

If resource damage caused by mountain bikes is located, determine the reasons it is occurring and take measures to correct the situation. Consider hardening trails, installing water bars, using seasonal closures, relocating the trail, or recommending

alternate routes. Inform riders of the problem and suggest measures they can take to correct the situation. All proposed reroutes or substantial changes in the trail must be approved by DNRC.

TRAIL GUIDELINES

The following describes the guidelines that will be followed for construction and maintenance of Trails and TTFs where possible.

Trail Armoring

Where possible, trail segments that are prone to ruts and erosion from riding will be armored using natural rock, concrete or wood materials. Additional trail armoring may also be used in high impact areas. For example:

- TTF take-offs and landings
- Banked turns (berms)
- 1-man rocks, sandstone pavers or logs may be used as a trail border

TECHNICAL TRAIL FEATURE GUIDELINES

TTFs are natural or man-made obstacles or options in the trail or alongside the trail that require bike handling skills to ride. They range from easy (such as a 4” roll-able drop in the trail or a 3 ft. wide ladder bridge to ride over) to expert (such as a steep rock chute to roll down, a 6” wide ladder bridge to cross, or a 12” high rock step-up to climb up onto).

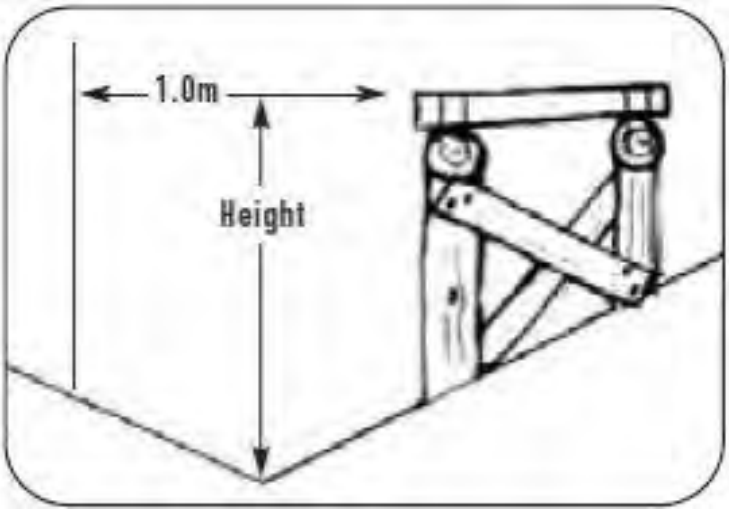
Strength and Stability

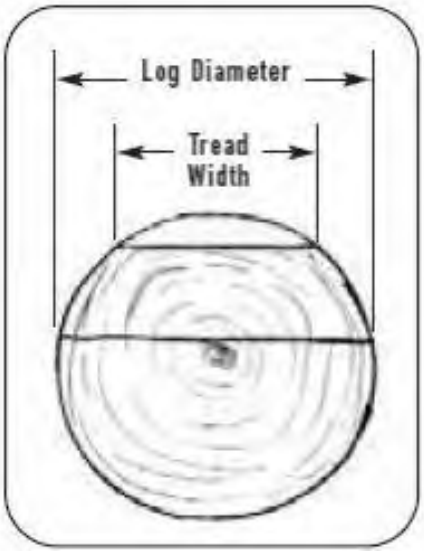
All TTF structures should be built and finished to minimize potential injury to a falling rider colliding with the structure, its supports or other nearby obstacles. The TTF must be capable of supporting a centered vertical load of 450 lbs (three adults) and a horizontal load of a 180 lbs adult leaning against the constructed feature with less than 2 inches of displacement.

TTF Height And Width

A TTF’s difficulty depends greatly on the maximum height and minimum width of the TTF. Maximum height and minimum width are dependent on the TTF’s difficulty. As the height increases, the risk of injury in the case of a fall increases.

TTF height is measured vertically from the feature’s deck (riding surface) to the lowest point within 3’ adjacent to the feature. Tread Width is the amount of flat rideable surface. The following shows an example of the TTF height and width measurements:





Bridges exceeding maximum height guidelines may require alternate methods such as railings. Note: width of handlebars may be as wide as 35 inches.

Materials should be selected, installed and maintained for durability, strength, riding predictability, aesthetics and environmental acceptability. Select wood that is resistant to decay.

The following materials will be used for TTF construction:

- Stringers: logs, split wood, or dimensional lumber. Posts: logs, split wood, treated posts or dimensional lumber.
- Footings: concrete or rock (2-4”cobble +5/8”- crushed)
- Bridge Decking: dimensional lumber or split wood rungs (see below for preferences)
- Other Decking (Riding Surface) materials: split logs, flattened logs or dimensional lumber planks

Special attention should be given to abutments and places where the TTF touches the ground. In critical areas, untreated wood should generally not touch the ground directly. Use of foundation materials such as rock, or concrete footings is encouraged in such critical areas. Untreated wood may touch the ground in areas that are easily replaced if rot becomes an issue and in areas where the rider transitions from the natural trail bed onto the TTF. Particular attention should be paid to these interfaces during inspection so that rotted wood can be replaced before it becomes a hazard.

The choice of bridge decking material depends on the probability of it getting wet. Split wood has the advantages of a grippy surface and natural look, but dimensional lumber is easier to work with. The following is a partial list in order of preference:

- Split Cedar (most rot resistant, grippy surface, natural look, splits very easily)
- Larch (high strength, grippy surface, rot resistance, natural look, can be difficult to split)
- Split Douglas Fir (high strength, rot resistance, grippy surface, natural look, but difficult to split)
- Dimensional lumber (easiest material to work with)
- Split Pine or Spruce (grippy surface, natural look, splits easily, but less rot resistant)

- Split Hemlock / Alpine Fir (lowest strength and rot resistance, but has a natural look and splits easily – acceptable, but rungs should be thicker and should be taken from older slower growing trees)

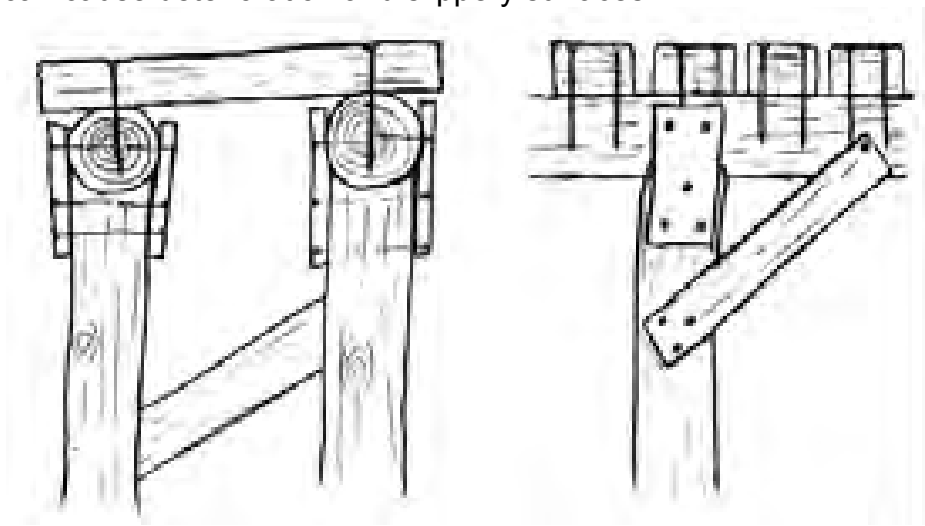
Slippery surfaces such as pressure treated lumber or dimensional lumber should have an anti-slip surface such as diamond wire mesh or roofing material applied to it.

Construction Practices

Cross bracing of vertical members is required. Also, TTFs should not be mounted to living trees because nailing to live trees is harmful to the tree and render them unmerchantable. Notwithstanding the foregoing, certain existing TTFs are already attached to live trees. In certain circumstances, the most feasible option may be to keep those TTFs attached to those standing trees. DNRC reserves the right to authorize such use of trees on a case by case basis, and such use will involve compensating DNRC due to rendering the trees unmerchantable.

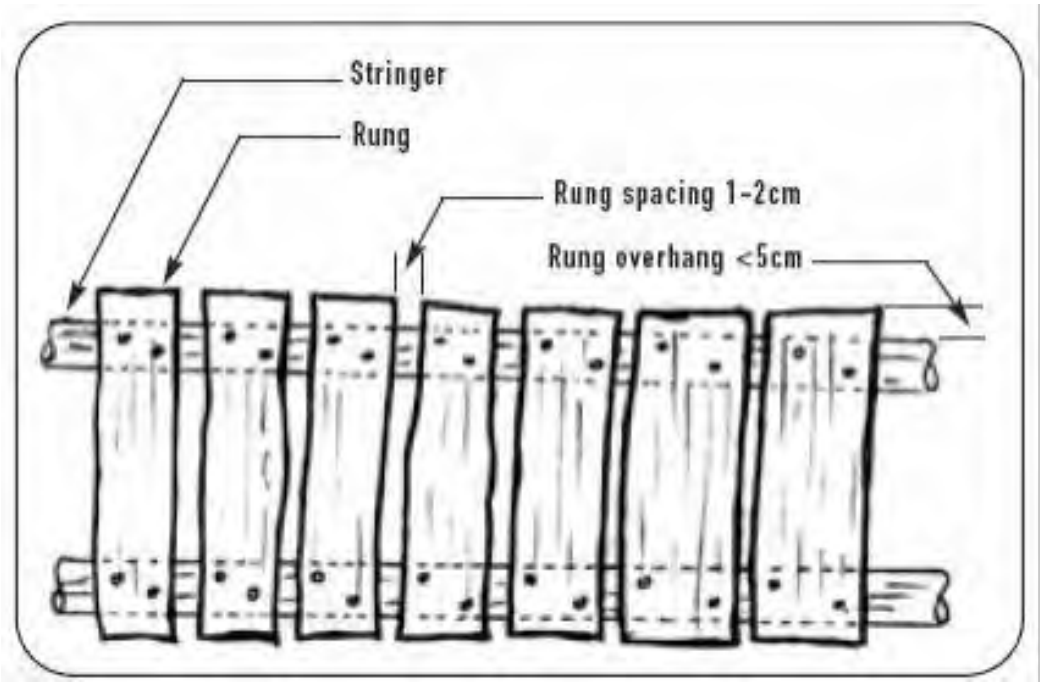
The preferable method of joining members together is nuts and bolts, the second choice is screws and the last method is ardox nails. Ensure two-thirds of the nail or screw length penetrates the stringer. Loading on member should be done in such a way as not to rely exclusively on the shear strength of the joining method. (see figure below)

Wooden features should be stronger and more stable than the the greatest anticipated force and weight. Use cross and diagonal bracing. The strength of the TTF shouldn't rely on the shear strength of the fasteners. The approach to the TTF should be on dry stable ground to help prevent water and mud from being carried onto the wood which can cause deterioration and slippery surfaces.



Bridge Rung Spacing

Deck rungs must be placed tightly so that children will not catch their feet between rungs, arms will not fit between rungs and dogs will use bridges. An appropriate spacing between rungs is 1 inch to promote drainage of water and mud. Rungs should not overhang stringers by more than 2 inches (see figure below).

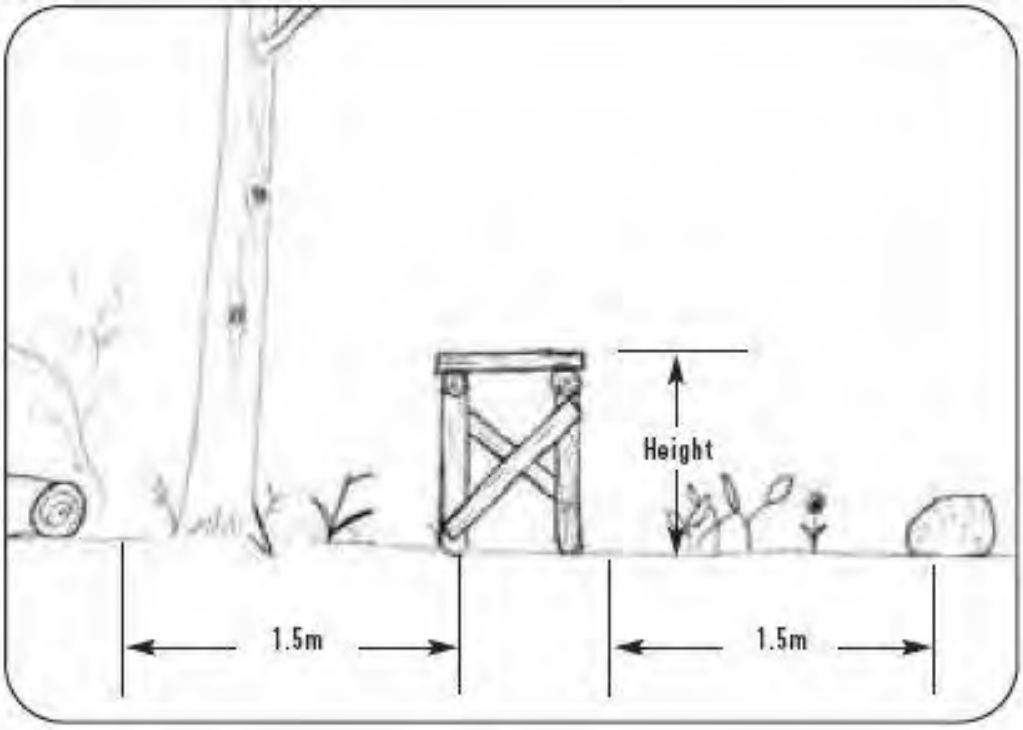


Bridge Surfacing
It is recommended that wood surfaces, particularly those with a slope exceeding 10°, have an applied anti-slip surface. The exception being split wood, having a rough surface finish. Recommended methods are expanded diamond lath or rolled roofing material. Chicken wire, although popular, is not durable.

FALL ZONES

The Fall Zone is the area adjacent to a TTF that the rider may deviate into should they fail to negotiate the TTF. Included in the fall zone are the sides of the trail, the bottom of descents and the outside of corners. Risk of injury may be reduced with careful review of the area surrounding the trail. Potential causes of injury are branches or stumps and roots that are not cut flush with the tree or the ground, rocks and debris as well as the TTF itself if it has not been finished to acceptable guidelines. Mountain biking has certain risks that cannot be completely eliminated, and TTFs, particularly advanced TTFs, may increase that risk. All Trail users are expected to pay attention to signage and proceed with caution. Trail users are also expected to inspect the Trails and TTFs prior to using them so as to assess any potential hazards or risks that may exist.

Fall zones should be cleared of significant hazards to a minimum of 3’ on all sides of the TTF up to 12” high and 4.5’ on both sides for TTFs that are 12” and higher (see figure below).



Clearing fall zones includes but is not limited to:

- Cutting or digging out any sharp objects
- Trimming tree branches to branch collar or shoulder
- Covering of hazards is another option if material such as rotten logs, bark, mulch, dirt etc. is available. (Areas where falls are frequent may need re-covering).
- Dulling of sharp points or edges of exposed rocks

The fall zone should not be cleared of all foliage, since the purpose of Fall Zone Guidelines is to minimize the chance of injury should a fall occur. Replanting of the fall zone with a durable species may be considered.

The primary focus for fall zone clearing should be in the trails rated More Difficult where a rider is learning how to ride TTFs and their falling skills may not be perfected. The extent of the clearing of fall zones should consider the likelihood and manner in which a fall may occur. Clearing fall zones will generally not include moving large rocks or the removal of live trees. The purpose of clearing fall zones is to address hazards that can be reasonably mitigated, not to remove all potential hazards along the Trails.

RIDE AROUNDS

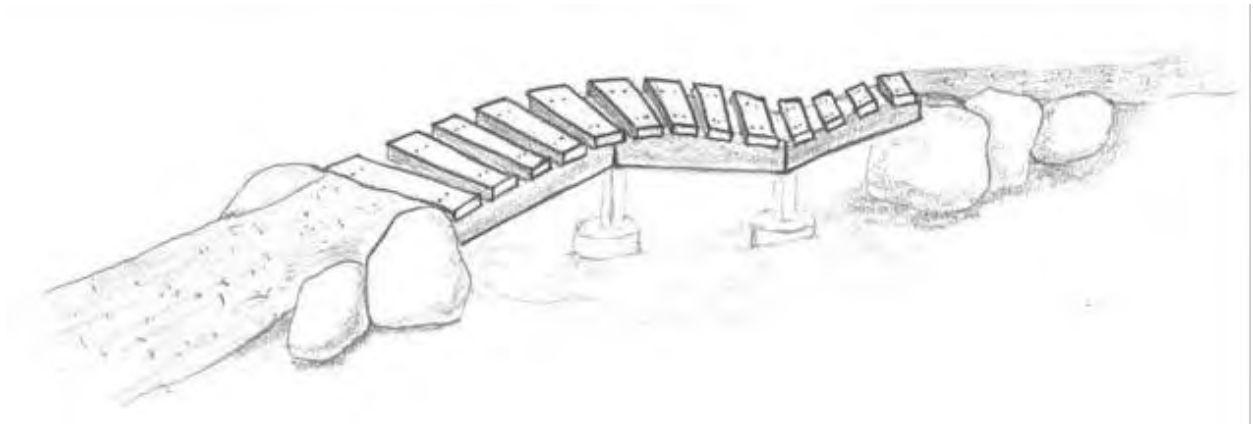
Non-rollable TTFs, and TTFs that exceed the marked difficulty of the Trail on which they are located must have a ride around. The ride around must be rollable and the difficulty of the ride around may not exceed the difficulty rating of the Trail on which it is located. For instance, if an advanced feature is found on an intermediate trail, an intermediate ride around must be available.

GUIDELINES FOR SPECIFIC FEATURES

The following Guidelines are applicable to Novice, Intermediate, Advanced, and Expert trails, as indicated below.

Ladder Bridges

Ladder bridges were first used to allow trail users to cross wet areas. Now, they are a common and popular TTF that require certain skills to cross successfully.



Key Not-to-Exceed Specs:

	Novice	Intermediate	Advanced	Expert
Deck Height	< 2 feet	< 4 feet	< 8 feet	<15 feet
Deck Width	> 3 feet	> 2 feet	> 1/4 deck height	At least 20" wide
Bisecting angle between connected sections	Large enough to easily allow transition without wheel lifting techniques	Large enough to easily allow transition without wheel lifting techniques	Tight turn - may require wheel lifting techniques	Tight turn - may require wheel lifting techniques

Skinnies

Skinnies are narrow elevated wooden structures for developing and practicing balance. Balance is a key skill required to negotiate very narrow trail passages and/or trails with exposure to dangerous falls. Skinnies are similar to bridges, but are intended to be more challenging to ride.

Key Not-to-Exceed Specs:

	Novice	Intermediate	Advanced	Expert
Deck Height	N/A	< 2 feet	< 4 feet	<8 feet
Deck Width	N/A	> 8 inches	> 1/6 deck height	At least 6"
Bisecting angle between connected sections	N/A	N/A - straight only	Any turn may require wheel lifting techniques	Any turn may require wheel lifting techniques

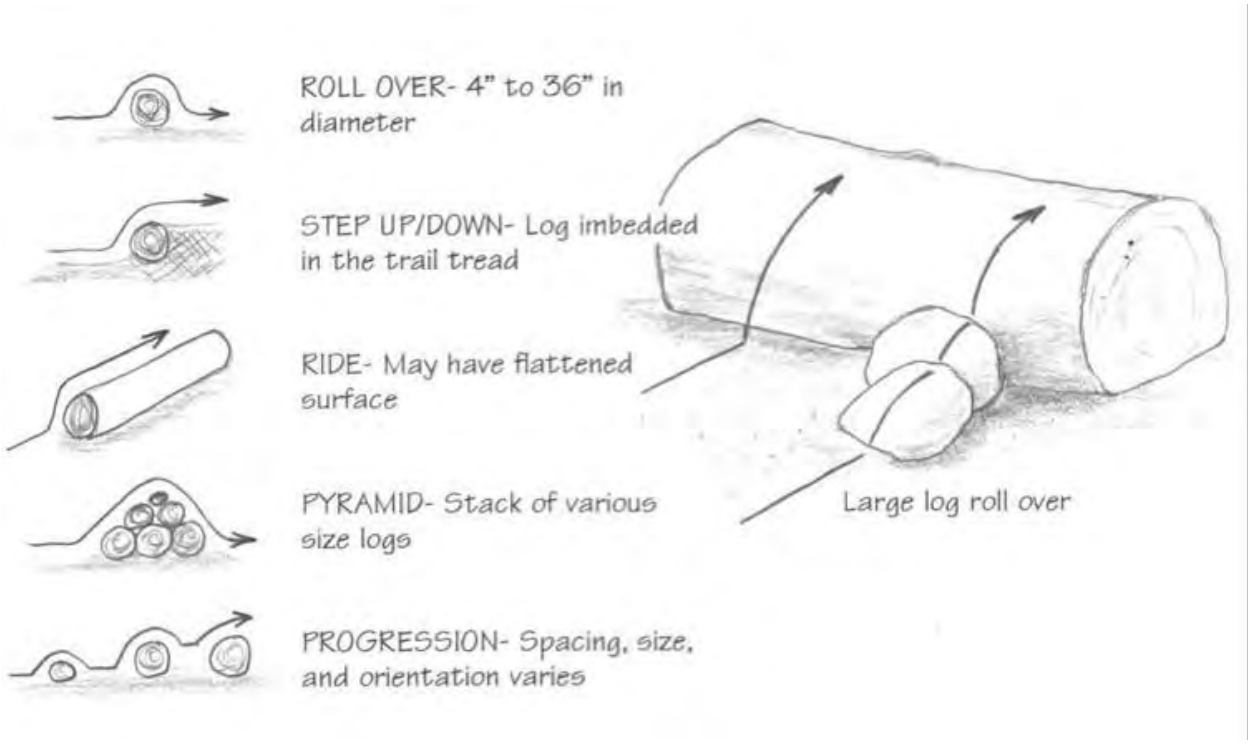
Log Rides

Log rides, like skinnies, are used to build and practice balance skills. They may have a narrow rounded riding surface (unaltered), a narrow flat surface etched in the top, or the log may be split in half providing a wider flat riding surface. Logs may be left lying on the ground or elevated by boulders, posts or log rounds with saddle notch joints ("Lincoln Log" joints). Log rides should conform to the same specifications as skinnies, but

intermediate log rides may include deck widths of less than 8" for surfaces that are elevated less than 15."

Other Log Features

Logs are a common natural feature on Trails. TTFs incorporating logs are an acceptable means of addressing logs on Trails, and may be favorable to removal of the logs.



Key Not-to-Exceed Specs:

- Rollovers, step-ups and step-downs: <3 ft. high
- Pyramids (log stacks): < 4 ft. high

Steep Rolls

Steep rolls are a common feature on technical and advanced Trails. These steep rolls are generally of a shorter duration, and therefore are not considered in evaluating the grade of the Trails. The steepness and length of a roll will increase with the difficulty rating of a trail. The pitch and length of the roll will largely depend on the entrance, exit, and surface material of the trail. Steep rolls may be up to 70 degrees on Expert trails.

Drops

Drops may be natural or man-made. The deck height is the height from the end of the deck to the ground. The distance to the landing slope and the angle of the landing slope are determined by a number of factors including the location of the drop, the speed at which a rider will approach the drop, and turns or obstacles that may exist after the drop. Intermediate level drops should be rollable.

Key Not-to-Exceed Specs:

	Novice	Intermediate	Advanced	Expert
Deck Height	N/A	< 2 feet	< 6 feet	<12 feet
Deck Width	N/A	> 2 feet	> 1/2 deck height	At least 18”
Take off Slope	N/A	0% (flat) to 10%	-10% to 30%	+/- 40%

Take off slopes that exceed 30% are considered dirt jumps and should be built according to dirt jump specifications.

Landing slopes should be built appropriately for the size of the drop. Landing slopes should be at least 1.5 bike lengths long. Larger drops require steeper landing slopes. Landing slopes will also be affected by the distance of the gap to the landing. The larger the gap, the shallower the landing slope should be.

Dirt Jumps

The size and dimensions of dirt jumps are dependent on the location of the jump and the intended skill level of the Trail. Dirt jumps on Intermediate trails should be table tops or should otherwise be rollable. Steeper jumps actually slow down riders, so can be used as choke points in a dirt jump flow line. Other types of dirt jumps are Step-Downs (has lower angle take-off and a lower elevation sloped landing), and Step-Ups (where the rider jumps up to a surface higher than the lip/top of the take off). Dirt jumps should be consistent with the character of the trail. Steep dirt jumps should not be included on trails that generally consist of shallow dirt jumps. All dirt jumps should be at least 2.5 feet wide.
Dirt jump height and steepness will depend on the intended trajectory for the jump as well as the intended distance to be travelled. While the specific height and steepness of dirt jumps will largely depend on the situation found on the trail, the following guidelines should be used. The below numbers are guidelines only, and are not intended to be strictly adhered to, for the reasons set forth herein. The gaps specified are assuming flat ground with moderate speed. Downhill situations where more speed is carried into the jump may require longer gaps, and uphill situations may require shorter gaps. All jumps on intermediate jumps must be rollable. Generally, shallower jumps are easier than steeper jumps.

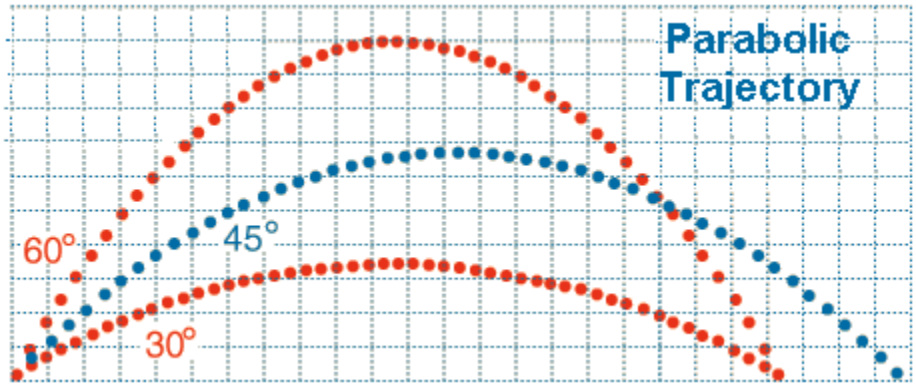
Easy Intermediate: 3 feet tall, 30 degree take off, 8-10 foot gap.

Intermediate: 4 feet tall, 45 degree take off, 10-12 foot gap.

Advanced Intermediate : 4 feet tall, 50-55 degree take off, 10-12 foot gap

Advanced (shallow angle): 5-6 feet tall, 45 degree take off, 16-20 foot of gap
Advanced (steep angle): 5-6 feet tall, 55 degree take off, 12-16 foot gap.

Expert: 6-7 feet tall, 60-70 degree take off, 16+ foot gap.



Dirt jump landings should be at least 1.5 bike lengths long. For step ups, the landing will generally be less steep than the take off. For step downs, the landing will generally be steeper than the take off.

In a rhythm section, the distance from one landing to the next take off should be at least 1.5 times the gap of the jump.

SIGN GUIDELINES

Signs are a necessary component of trail management. Signs provide the rider with general information about the dangers and inherent risks of the recreational trail features. DNRC will approve all signage and their location. In order to retain the "primitive" aesthetic of Spencer Lake, signs visible from main trails will be simple, natural posts with arrows, difficulty icons and numbers that correspond with the main sign at the Twin Bridges parking lot.

The current parking area by Twin Bridges will have an entry sign with a trail map, IMBA Rules Of The Trail, and detailed trail information, including descriptions with the name, character, intent and level of difficulty of the trail (See Appendix XX). The sign will also inform cyclists that any trailwork performed beyond what is allowed in the Special Recreation Use License is illegal and will jeopardize future Freeride opportunities on DNRC land. Recreationalists will be reminded that a general recreation usepermit fee is required for access to state lands outside the Whitefish Trail and Spencer Freeride trail corridor. A brief history of Montana School Trust Lands and the cooperative relationship between the DNRC and recreational stakeholders will be included.

Primary Trailhead Signs

Trailhead signs as necessary will inform the rider of the trail technical difficulty and conditions expected.

Signs at the trailhead displays trail information such as:

- Topographical map of area
- Trail length
- Trail elevation gain / loss

- Trail difficulty ratings
- Explanation of Trail difficulties
- Cautionary notes (i.e. Trails may be more difficult when wet)
- Acceptable trail user groups
- IMBA rules of the trail
- Ride on open trails only
- Leave no trace
- Never spook animals
- FFT web and other contact information for maintenance concerns or how to get involved.
- Background information on the surrounding area and trails
- Bulletin board
- Fire Danger and who to call in case of emergency

Individual Trailhead Signs
These signs are to be located at the entrance(s) of a particular trail to provide the user with the information necessary to make an informed and educated decision whether to proceed or not.

Individual Trailhead Signs display information about a specific trails such as:
Map locator number
Trail name
Difficulty rating
Trail length (distance to next landmark)
Accepted users / restricted users
A written explanation of what the user may encounter on the trail
Alert to and quantity of higher difficulty alternative route NTFs/TTFs if present
Conditions subject to change
Inspect TTFs prior to riding
Trail profile

DEFINITIONS

A-Frame – two ramps (approach and exit) placed together with no level section at the apex. Typically used to bridge deadfall across the trail.
Armoring – lining the trail bed with durable materials to resist erosion.
Berm – built up bank on the outside of a corner to improve cornering.
Boardwalk – a raised walkway made of boards; used to traverse sensitive areas; similar to bridge.
Bridge – a structure that is built above and across a river or other obstacle allowing passage across or over obstacle.
Coffin Jump – a jump constructed from material excavated from behind the jump, leaving a hole.
Danger – likely to cause harm or result in injury.
Dirt Jump – A jump with a positively sloped takeoff and a negatively sloped landing constructed of dirt, rocks, and /or logs, intended to allow bikes to become airborne. Dirt Jumps can be Gap Jumps, Table Tops, Step Downs, or Step Ups.
Drop – a drop in the trail, possibly at the end of a log or off a rock; may require a technique depending on the vertical drop and/or the angle of descent. Drops are generally not Rollable.

Exposure – placing a rider in the position or location that an error in balance or maneuvering may result in an injury; for example, a narrow bridge above rocks, would be exposure and the greater the elevation of the bridge above the rocks the greater the level of exposure.
Face – the steep exposed side of a rock.
Fall-Away – a drop-off which incorporates a turn in the trail.
Freeride A category of mountain biking that places an emphasis on skilled maneuvers, difficult descents, jumps, and drops.
Gap Jump – two ramps placed back to back with a space between them, the rider must travel with enough velocity to cross the space and land on the second ramp.
Gateway – a qualifier placed before a trail or TTF; for example, a 2x4 placed before an elevated bridge or a difficult corner. If the rider can successfully negotiate the more difficult gateway, then they will likely be able to negotiate the TTF.
Ladder – a TTF with rungs attached to sides (stringers) made of wood. May function similarly to a bridge, but a Ladder may be inclined at steeper angles (see Roll Over).
Logjam – a pile of logs placed near perpendicular to trail to make a ramp, usually placed in front of and behind deadfall to ease passage.
Machine Built – constructed with the use of an excavator or other such motorized equipment.
Mandatory Air – a TTF requiring a wheelie drop or other advanced technique to exit due to a steep or undercut exit.
Manual – technique used to lift the front end of a bike up without the use of a pedal stroke; can be used off mandatory airs, etc.; generally requires more forward momentum than a wheelie drop.
Ramp – any inclined structure, typically used as an approach to or exit from a TTF. A ramp can also be a jump.
Rhythm Section – series of gap jumps placed end to end. Most technical form of jumping due to skill, timing, technique and failure consequence.
Rollable – a section that can be ridden without requiring higher-level rider skills; for example, an elevated bridge intersection/corner that can be ridden without having to hop and rotate, or a small Drop that can be ridden without both wheels leaving the ground.
Roll Over – usually a rock that gets steeper the farther the rider advances, to the point where stopping may not be an option and the rider must continue despite not being prepared for what's ahead.
Skinny A narrow riding surface, often times a tree or bridge, that is elevated above the normal trail grade.
Step Down – A jump where the landing is at a significantly lower elevation than the take off. A Step Down may be similar to a Drop-Off in some circumstances.
Step Up – A jump where the landing is at a significantly higher elevation than the take off.
Table Top – A jump composed of a take off ramp and a landing ramp, wherein the space between the ramps is filled with dirt, wood structures, or other such ridable materials such that the jump can be "jumped" or rolled without leaving the ground
Teeter-Totter – a TTF consisting of a long plank balanced on a central support for riders to cross over, providing an
down motion as the rider passes over the pivot.
Tongue – a steep ramp on the exit of a TTF, often as an easier alternative to mandatory air.
Tread – the traveled surface of the trail.

TTF – Technical Trail Feature – an obstacle on the trail requiring negotiation, the feature can be either man made or natural, such as an elevated bridge or a rock face respectively.

Wheelie Drop – technique used to pedal off drops-off or logs with the back wheel landing before the front wheel.

EXHIBIT D

CONTACT LIST

Contact Information for the Spencer Trail Network:

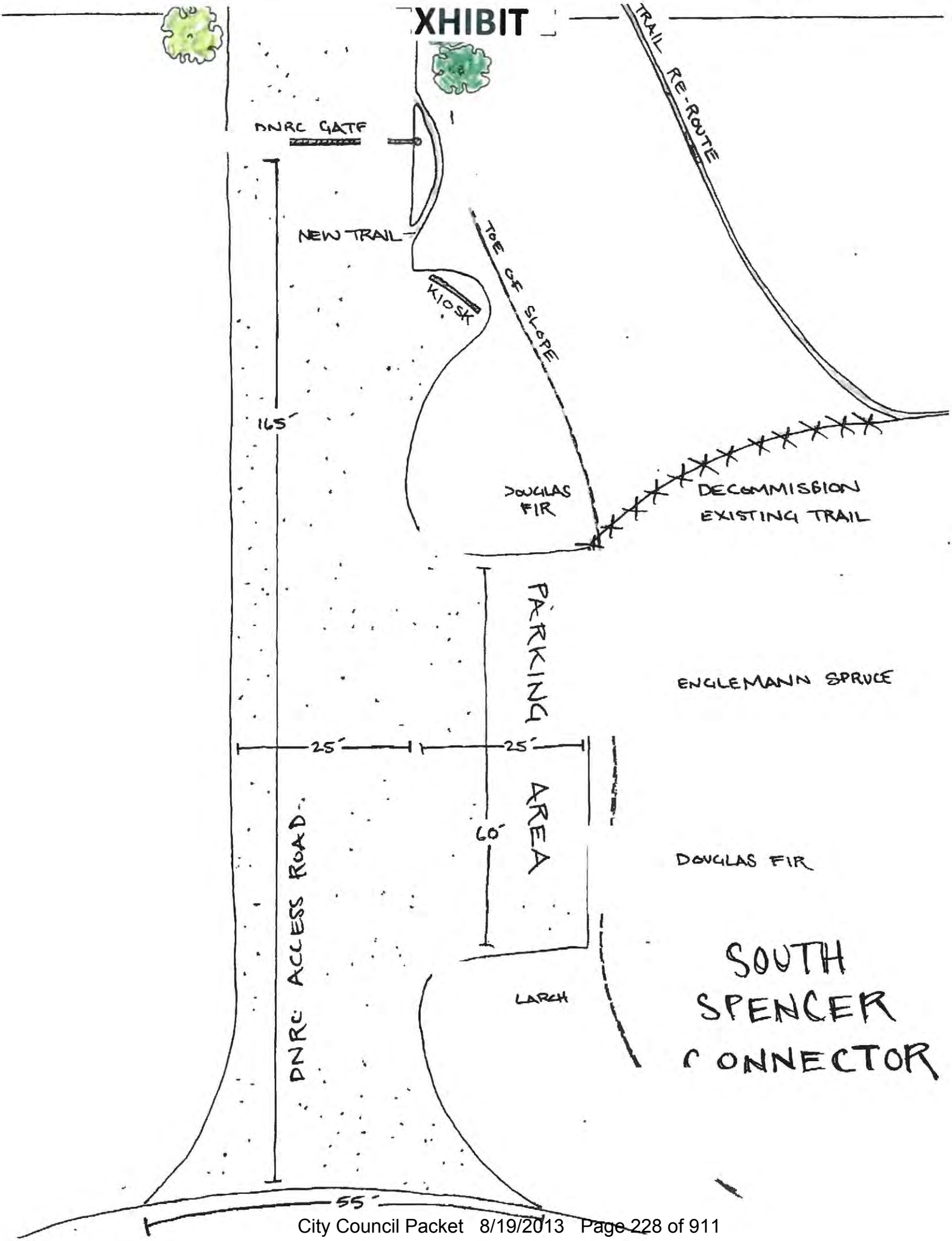
City of Whitefish:

Parks, Recreation and Community Services Director:	Karl Cozad	406-863-2471	parksadm@cityofwhitefish.org
Whitefish Legacy Partners:	Heidi Van Everen	406-862-3880	info@whitefishlegacy.org
Flathead Fat Tires:	Erin Bodman	406-529-5300	info@flatheadfattires.com

DNRC – Kalispell Unit:

Land Use Planner:	Anne Shaw Moran	406-751-2274	asmoran@mt.gov
Forest Management Supervisor:	Pete Seigmund	406-751-2266	pseigmund@mt.gov
Area Operations Manager:	Greg Poncin	406-751-2263	gponcin@mt.gov

XHIBIT


TRAIL RE-ROUTE
DNRC GATE
NEW TRAIL
TOE OF SLOPE
KIOSK
165'
DOUGLAS FIR
DECOMMISSION EXISTING TRAIL
PARKING AREA
ENGLEMANN SPRUCE
25'
25'
60'
DOUGLAS FIR
DNRC ACCESS ROAD
LARCH
SOUTH SPENCER CONNECTOR
55'

MEMORANDUM OF UNDERSTANDING

This Agreement, entered into this 6th day of July, 2011 by and between the City of Whitefish, a municipal corporation ("City"), and Whitefish Legacy Partners, Inc. ("WLP"), a Montana nonprofit corporation, with respect to the following facts:

A. In November 2004, the City, State of Montana (by and through the Montana Board of Land Commissioners) and Flathead County, adopted the Whitefish Area Trust Lands Neighborhood Plan (Neighborhood Plan) with respect to certain State Trust Lands near the City.

B. The City and WLP (fka Flathead Gateway Partners) have entered multiple agreements since 2005 to accomplish the purposes outlined in the Neighborhood Plan, the most prominent of which has been the development of the Whitefish Trail (fka "Trail Runs Through It").

C. In September 2008, the City and WLP/FGP authorized the establishment of an advisory "Steering Committee" comprised of two WLP-appointed members and two City-appointed members. The committee was charged with overseeing the development of the first phase of the Whitefish Trail (Lion Mountain to Beaver Lake Road), maintaining the City's Land Use License for the Trail with the State of Montana, and developing land conservation strategies on state and other lands. The first phase of the Whitefish Trail system was completed in 2010.

D. Since the primary task of the "Steering Committee" has been completed, the parties seek to reorganize the current committee structure with the Legacy Lands Advisory Committee, as proposed.

E. In December 2008, City, WLP and Michael Goguen entered a supplemental Agreement outlining parties' commitments and obligations Mr. Goguen agreed to donate funds to achieve the objectives of the Neighborhood Plan, including but not limited to trail construction and maintenance; and acquiring conservation and recreation easements, or other interests. The funds were to be held by the City and disbursed subject to the approval of City and WLP, and were to be turned over by the City to a foundation dedicated to accomplishing the conservation/recreation objectives of the Neighborhood Plan. In addition, the parties agreed to earmark one million dollars to pay for conservation/recreation related transactions on State Trust Lands.

F. Instead of establishing a new foundation, WLP and City wish to use the philanthropic products and services available through the Whitefish Community Foundation, to carry out of the intent of the donor and best achieve the objectives of the December 2008 Agreement.

G. The parties now desire to take steps necessary to invest the donated funds with Whitefish Community Foundation and to establish a public/private advisory committee to achieve the revenue generating, conservation, and recreation purposes of the Neighborhood Plan.

NOW THEREFORE, WLP and City agree as follows:

1. Allocation of Funds. City and WLP agree to establish and allocate the necessary fund(s) to accomplish the following objectives:

a. **Whitefish Trail System Support Fund:** This endowed fund will be established at the Whitefish Community Foundation with the purpose of providing a permanent annual revenue stream to support basic operations, maintenance and management of the Whitefish Trail system.

b. **Legacy Lands Transaction Fund:** This separate, segregated fund of at least one million dollars will be established at the Whitefish Community Foundation. The purpose of this fund is to cover costs associated with short term, long term and permanent recreation and conservation based transactions on key area lands. These transactions may include the purchase of trail easements, leases, or the purchase of development rights.

c. **Whitefish Trail Grant Fund:** The primary purpose of this allocation of funds is to ensure adequate funds are available to pay for basic planning, design, and construction costs through the term of the Recreational Trails Program (RTP) matching grant awarded in 2010 to WLP for the grant period of 2011 - 2014. The fund will be managed by the City of Whitefish and funds will be disbursed subject to the approval of City and WLP. At the expiration of the term of the RTP grant, the parties will decide how to allocate remaining funds, if any.

2. Legacy Lands Advisory Committee. City and WLP agree to revise the purpose, mission, and name of the Steering Committee, in order to implement other aspects of the Neighborhood Plan. The Steering Committee shall now be known as the "Legacy Lands Advisory Committee."

a. **Purpose:** To advise and assist City and WLP in achieving the recreation, conservation, and revenue goals of the Neighborhood Plan.

b. **Composition:** The City and WLP will each appoint two members to the Legacy Lands Advisory Committee. The City Council will appoint the City's two members who may be the Mayor and one Councilor or two Councilors. The WLP shall appoint the WLP's two members from its Board of Trustees.

c. **Responsibilities:**

i. Develop and implement an annual work plan, approved by City and WLP, to achieve the goals and objectives of the Neighborhood Plan.

ii. Assist in the development and implementation of the Neighborhood Plan, and sub-plans, including the "Trail Runs Through It" Master Plan, and the proposed Beaver/Spencer/Swift Forest, Recreation and Conservation Management Plan.

iii. Engage the technical expertise from their respective staffs and the Montana Department of Natural Resources and Conservation, Montana Fish, Wildlife & Parks and other key stakeholders in its process.

iv. Advise and assist with strategies, proposals and transactions to implement other land conservation goals of the Neighborhood Plan and to protect watershed values for Whitefish.

v. Oversee and provide input on the planning, design, construction and management of the Whitefish Trail and related recreation facilities.

vi. Review and consider proposed projects within the Neighborhood Plan area.

vii. Meet monthly and establish a regular meeting day/date each month; making decisions by a majority vote of at least three of its members. All meetings shall be open to the public as provided by Montana law.

viii. Develop and adopt Legacy Lands Advisory Committee's working rules, policies and operating guidelines to define respective responsibilities among the public and private partners, with a clearly-defined method of resolving disputes between partner members.

ix. Partner members have no authority to obligate any partner to the expenditure of funds or to enter binding contractual obligations without the express, prior written consent of all partner members.

x. Legacy Lands Advisory Committee may form other standing and ad hoc working committees.

3. Whitefish Trail Operations Committee. Legacy Lands Advisory Committee will establish a four member Whitefish Trail Operations Committee (WTOC) made up of two current members of the Legacy Lands Advisory Committee (one City appointee and one WLP appointee), the City Director of Parks & Recreation, and the Executive Director of WLP, or its designee.

a. **Purpose:** The purpose of the WTOC will be to oversee the Whitefish Trail and advise and inform the Legacy Lands Advisory Committee on the planning, design, construction and management of the Whitefish Trail and related recreation facilities.

b. **Meetings:** The WTOC will meet monthly and establish a regular meeting day/date each month; making its decisions by a majority vote of at least three of its members. All meetings shall be open to the public as provided by Montana law.

4. Transaction Partnership: City and WLP will continue its long-standing cooperative venture which optimizes the unique attributes each entity brings toward accomplishing the goals of the Neighborhood Plan.

a. **City Contribution:** The City's primary contribution to the Legacy Lands and Whitefish Trail projects shall be in the form of legal status as a municipality under Montana law, time, non-financial resources, and the professional talents of its staff. The City's standing as a municipal entity provides stability, predictability and access to public sector resources. The City may, but is not required to, contribute funds to the Legacy Lands/Whitefish Trail effort. No funds will be contributed by the City without specific City Council approval. The City shall be the primary applicant in any pre-application or application filed with the Montana Department of Natural Resources and Conservation to develop the Whitefish Trail or to conserve state trust lands. The City shall be responsible for providing appropriate public notice and conducting any necessary public hearings.

b. **WLP Contribution:** WLP shall also contribute the time and professional talents of its board, officers, and agents. In furtherance of such fundraising efforts, WLP shall at all times maintain its qualification with the Internal Revenue Service as a Section 501(c)(3) tax-exempt entity.

c. **Public/Private Collaboration:** City and WLP will develop a partnership agreement outlining the roles and responsibilities of each party in achieving the conservation and recreation objectives of the Neighborhood Plan.

5. 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.

6. Counterparts. This Agreement may be executed in one or more identical counterparts, all of which shall together constitute one and the same instrument when each party has signed one such counterpart.

7. Entire Agreement. This Agreement contains the entire agreement of the parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein.

8. Governing Law. The construction of this Agreement, and the rights and liabilities of the parties hereto, shall be governed by the laws of the State of Montana.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement on the date set forth above.

CITY OF WHITEFISH	WHITEFISH LEGACY PARTNERS, INC.
By: _____	By: _____
Charles C. Stearns, City Manager	Lindsay Akey, Chair

MEMORANDUM OF UNDERSTANDING

This Agreement, entered into this _____ day of _____, 2013, by and between the City of Whitefish, a municipal corporation ("City"), and Flathead Fat Tires, Inc. ("FFT"), a Montana corporation, with respect to the following facts:

A. In _____, 2013, the City entered into a Special Recreation Use License #_____ (the "SRUL"). The SRUL secures public recreational access for certain trails in the Spencer Lake area, as depicted in the SRUL. Per the SRUL, the City, as the Licensee, is charged with certain maintenance, upkeep, and construction requirements.

B. The City entered into the SRUL with the support of FFT and with the understanding that FFT would provide for the maintenance and construction of the "freeride" trails within the licensed area.

C. The City and FFT wish to memorialize their agreement and understanding with respect to each parties' obligations under the SRUL.

NOW THEREFORE, FFT and City agree as follows:

1. Allocation of Funds. City and FFT will establish and allocate the necessary private fund(s) to accomplish objectives and requirements set forth in the SRUL. The parties agree and acknowledge that other private sources or non-profit organizations such as Whitefish Legacy Partners, Inc. will contribute to such funding. All financial obligations related to the Spencer Trail Network, including but not limited to trail and trail facility construction, maintenance, decommissioning, and improvements, shall be paid for via such private funding.

2. Maintenance of Trails. The parties agree that FFT shall be responsible for ongoing maintenance, construction, improvement, and decommissioning of freeride trails, as described in the SRUL for the duration of the SRUL. Employees, volunteers, and agents of FFT may receive coverage under the City's worker's compensation policy while performing said work, but the City shall have no responsibility under this MOU to provide such coverage.

3. City Contribution. The City's primary contribution to the *Spencer Trail Network* and Whitefish Trail projects shall be in the form of legal status as a municipality under Montana law, time, non-financial resources, and the professional talents of its staff. The City's standing as a municipal entity provides stability, predictability and access to public sector resources. The City may, but is not required to, contribute funds to the *Spencer Trail Network/*Whitefish Trail effort. No funds will be contributed by the City without specific City Council approval. The City shall be the primary applicant in any pre-application or application filed with the Montana Department of Natural Resources and Conservation to develop the *Spencer Trail Network/*Whitefish Trail or to conserve state trust lands. The City shall be responsible for providing appropriate public notice and conducting any necessary public hearings.

4. Insurance. FFT shall maintain in good standing general liability insurance, with primary and non-contributory coverage, including contractual and personal injury coverage, in amounts not less than $750,000 per occurrence and $1,500,000 policy aggregate, issued by a reliable company or companies. The City shall be included as an additional or named insured to include thirty (30) days notice of cancellation or non-renewal.

5. Designation of Contacts. Both parties shall designate certain contact persons that shall serve as the City's and FFT's respective obligations hereunder.

6. Necessary Acts. Each party to this Agreement will perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

7. Counterparts. This Agreement may be executed in one or more identical counterparts, all of which shall together constitute one and the same instrument when each party has signed one such counterpart.

8. Entire Agreement. This Agreement contains the entire agreement of the parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein.

9. Governing Law. The construction of this Agreement, and the rights and liabilities of the parties hereto, shall be governed by the laws of the State of Montana.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement on the date set forth above.

CITY OF WHITEFISH	FLATHEAD FAT TIRES, INC.
By: _____	By: _____
Charles C. Stearns, City Manager	Erin Bodman, President

WHITEFISH LEGACY LANDS

PLACES WORTH PROTECTING

IMPLEMENTING THE WHITEFISH NEIGHBORHOOD PLAN

Developed Recreation System:

Easement Area

- Whitefish Trail and Trailheads - 20+ miles
- 2012 Permanent Public Recreation Use Easement (Beaver Lakes, Skyles, Lion Mtn. - 1520 acres)
- Proposed Trails and Trailheads - ~5 miles

Recreation Licenses

- The Whitefish Trail and Trailheads - 15 miles
  Lupfer, Swift Creek & Spencer Mountain Trails
- Spencer Mountain FreeRide Trails - 7 miles

Conservation:

- Areas with Conservation Restrictions - 1585 acres

SWIFT CREEK State Trust Lands 2930 acres

STILLWATER State Trust Lands 1020 acres

Swift Creek Whitefish Trail Recreation License - ~3 miles

Conservation Easement 570 acres [Flathead Land Trust]

Luper Whitefish Trail Recreation License - ~4 miles

LUPFER State Trust Lands 660 acres

BEAVER LAKES State Trust Lands 4210 acres

2012 Donated Trail Easement

2012 Beaver Land Bank 580 acres

Beaver Easement - 1191 acres

2008 Goguen Land Exchange 435 acres

2009 Donated Trail Easement

The Whitefish Trail Easement Area - ~20 miles

BEAVER/SKYLES State Trust Lands 600 acres

Skyles Easement - 278 acres

Lion Mtn. Easement - 51 acres

Spencer Mtn. FreeRide Trails Special Rec. Use License - ~7 miles

Spencer Mtn. Whitefish Trail Special Rec. Use License - ~8 miles

SPENCER MTN. State Trust Lands 2450 acres

Haskill Basin Neighborhood Plan Subarea [high quality wildlife & watershed values]

KM Ranch and Happy Valley Neighborhood Plan Subareas

Whitefish Lake

Whitefish Mountain Resort

Whitefish

Flathead National Forest

Private Land

Stillwater River

Whitefish River

Swift Creek

Lazy Creek

Anchor Creek

Bear Creek

King Creek

Smith Lake

Smith Creek

Brush Creek

Eagle Creek

Hell Roaring Creek

Boyle Lake

Thornburg Lake

Woods Lake

Dollar Lake

Rainbow Lake

Murray Lake

Little Beaver Lake

Beaver Lake

Beaver Creek

Bootjack Lake

Skyles Lake

Spencer Lake

Lost Coon Lake

Blanchard Lake

Haskill Creek

Lower Whitefish Rd.

Del Rey Rd.

E. Lakeshore Dr.

Big Mtn. Rd.

Reservoir Rd.

Beaver Lake Rd.

Farm to Market Rd.

HWY 93 N

HWY 93 S

HWY 40

E. Edgewood

Twin Bridges Rd.

K M Ranch Rd.

Lodgepole Rd.

Karrow Ave.

WT Swift Creek Trailhead

WT Lupfer Trailhead

WT Beaver Lakes Trailhead

WT Skyles Connection

WT Lion Mtn. Trailhead

WT Spencer Mtn. Trailhead

WT South Spencer

Future Whitefish Trail Connection Swift Creek to Big Mountain via Taylor Creek Rd.

Possible Whitefish Trail Connection Swift Creek to Whitefish Mtn. Resort

Future Whitefish Trail Connection Beaver Lakes to Swift Creek

Montana School Trust Lands

United States Forest Service

City of Whitefish

City of Whitefish Parks

Existing and Proposed City Trails

Historic Trails

Miles 0 0.5 1 2

May 2013, Whitefish Legacy Partners/hve

WLP Mission Statement

Whitefish Legacy Partners is a non-profit organization whose community-minded vision is to ensure conservation, recreation and stewardship on the lands around Whitefish for future generations.

About Whitefish Legacy Partners

Whitefish Legacy Partners is a 501c3 non-profit organization with a mission of permanently protecting important public lands adjacent to Whitefish Lake, as well as creating high quality recreation opportunities including the Whitefish Trail.

Our Work

Whitefish Legacy Partners is working to carry out the community vision outlined in the 2004 Whitefish Neighborhood Plan for the 13,000 acres of State Trust Lands surrounding Whitefish. The hallmarks of the plan are to conserve and provide public recreation areas, open space, clean water, wildlife habitat, and viewsheds while generating revenue for the trust beneficiaries.

WLP works with government agencies to craft innovative ways to achieve conservation, recreation, and revenue generation objectives in these areas. The Whitefish Trail is WLP's anchor project- currently, 22 miles of trail has been provided for hikers, bikers, runners, skiers, and equestrians with plans for 30+ miles of trails to be built over the next five years.

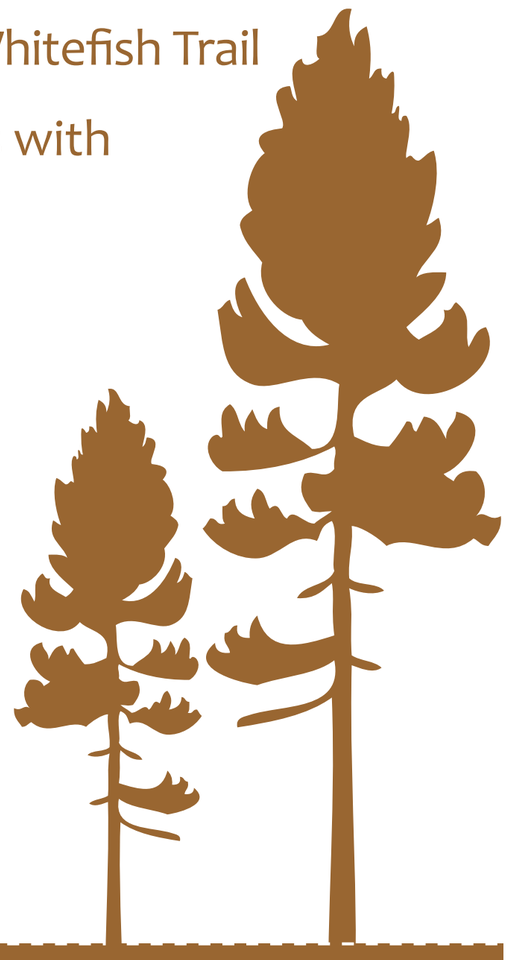
The Board of Directors

The WLP board is made up of a diverse group of community members who bring experience in leadership, conservation and fiscal responsibility to the table. WLP is working in partnership with the Montana Department of Natural Resources and Conservation; Montana Fish, Wildlife and Parks; the City of Whitefish; Flathead County; the US Forest Service; and hundreds of volunteers. Together we are taking steps to achieve the goals set forth by the community in 2004.

Whitefish Legacy Partners and the City of 7 ÈÉÔÅÆÉÓÈ

ACCOMPLISHMENTS

- 22 miles of trail – Lion Mountain, Skyles, Beaver Lakes, Lupfer and Swift Creek
- 4.5 miles NEW trail in 2013 – Woods Lake
- 6 trailheads – Lion Mountain, Skyles Connection, Beaver Lakes, Beaver North Connection, Lupfer, and Swift Creek
- 1 NEW trailhead in 2013 – Woods Lake Trailhead
- Received largest Recreational Trails Program (RTP) grant in Montana history: $500,000, 2011 -2014
- First Trail Grand Opening in 2010 – 'It's ON!' the Whitefish Trail
- Established endowment for Whitefish Trail maintenance in perpetuity
- Established Bike Patrol in 2011 and Ambassador Program in 2012
- Informative website – www.WHITEFISHLEGACY.org
- Continued major community support through local events, volunteer opportunities, and community enjoyment of the Whitefish Trail
- 2012 precedent-setting land trasactionsto support public access and continued forest management in perpetuity
- Cultivated support for public recreation and conservation with private landowners
- Legacy Lands Capital Campaign – Places Worth Protecting
- Offered numerous educational events for local schools and the greater community
- Successful relationships with governmental agencies and user groups
- Bolstered Whitefish's economy with the advent of a recreational asset: the Whitefish Trail
- Created innovative methods to provide Montana's schools and universities with more money than ever
- Created a legacy for the Whitefish community



Whitefish Legacy Partners • 406.862.3380 • www.whitefishlegacy.org

Legacy Lands

City Council

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

August 13, 2013

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

Mayor Muhlfeld and Councilors:

Request to Extend the Preliminary Plat for Ramsey Lakeview (WPP 07-20)

Request/Background:
This office is in receipt of a letter from Michael Collins, on behalf of Mountain Properties of Montana llc, requesting a 24-month extension for the Ramsey Lakeview preliminary plat. The Ramsey Lakeview preliminary plat is a 4-lot (2 townhouses) subdivision on 0.63 acres at 502 Ramsey Avenue. Attached to this report are the conditions of approval and the preliminary plat map.

The preliminary plat was approved by the Whitefish City Council on September 4, 2007. In 2010, the Council granted an extension, as provided for the in subdivision regulations in place at the time, until September 4, 2011. On June 6, 2011, the Council granted an additional 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires September 4, 2013.

Current Report:
This subdivision is located within the city limits and is zoned WR-2 (Two Family Residential District). Upon review of the file, issues raised during the public hearing process included:

- *Flag Lots and Through Lots.* It was determined that this particular lot was a 'through lot' and by definition already two lots. It was also determined that the prohibition on flag lots adjacent to one another was only for lots that accessed off the same street and not off different streets, such as this project.
- *Fraser Avenue as a Street for Access.* There was some question as to whether or not Fraser Avenue was a public right-of-way or an alley. It was determined that it is a public street and eligible for primary access. Ten-feet of right-of-way is required to be dedicated on Fraser Avenue. A review of the feasibility of expanding Fraser Avenue to the east is also included.
- *Storm Water Run-Off.* A previously approved 3-lot subdivision had an engineered storm water plan and there were concerns that the additional lot might cause run-off problems. The original approved storm water plan anticipated considerable

impervious area that would be adequate for the proposed subdivision. Any changes to the plan would require additional review by city staff.

- *Emergency Vehicle Access.* Due to the flag lot development and narrowness of Fraser Avenue, there was concern that an emergency vehicle would have difficulty accessing the units. There was a condition placed on the plat to obtain approval from the Fire Marshal prior to final plat.

Change in Standards:
Since 2007, when this project received preliminary plat, certain regulations have been amended including the Subdivision Regulations. Below is a summary of items that changed and are pertinent to this preliminary plat:

- Lot 1A has some portions of the building envelope that exceed 10%, requiring a geotechnical reconnaissance to determine whether or not further geotechnical review is warranted (§12-4-10). A geotechnical investigation report was not a requirement for the application in 2007. There is adequate area to build a unit on a slope of less than 10% and this lot is a considerable distance from any water.

- While the issue of flag lots was resolved with this particular subdivision, the topic of flag lots was addressed in the subdivision regulations. The new regulations provide more options to use flag lots with a well-designed project. The new regulations would not have prohibited this particular project.

Public Comment
A notice was mailed to adjacent land owners within 300-feet of the preliminary plat on July 30, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on July 31, 2013. As of the writing of this report, six letters/emails have been received by neighbors. They cite the following concerns: traffic on Fraser Avenue, maintenance of the property, has had adequate time to complete subdivision and shouldn't be given any more time, privacy, noise, density, shared driveway, snow removal, parking, pedestrian traffic, drainage, topography and decrease in property values.

Recommendation:
Staff recommends the Council **approve** the request to extend the Ramsey Lakeview preliminary plat for 24 months, expiring on September 4, 2015 based on the following findings of fact:

Finding 1: The 4-lot preliminary plat was approved by the Council on September 4, 2007. In 2010, the Council granted an extension, as provided for the subdivision regulations at the time, until September 4, 2011. On June 6, 2011, the Council granted an additional 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires September 4, 2013.

Finding 2: No other development or third party will be harmed if the preliminary plat is extended.

Finding 3: A legal notice was placed in the *Whitefish Pilot* on July 31, 2013 and public notice was mailed to property owners within 300-feet on July 30, 2013. As of the writing of this report, six letters have been received.

Sincerely,

Wendy Compton-Ring, AICP
Senior Planner

Att: Extension Request Letter, 7-19-13
Conditions of approval, 9-24-07
Preliminary plat map, 1-23-07
Legal Notice, *Whitefish Pilot*, 7-31-13
Adjacent Landowner Notice, 7-30-13
Public Comment, Angel Dominguez, 8-12-13
Public Comment, John E & Janice M Moore, 8-12-13
Public Comment, Fred Ost, 8-11-13
Public Comment, Larry and Annette Cook, 8-12-13
Public Comment, MaiBritt & Joe Bennett, 8-12-13
Public Comment, Diana Tague, 8-12-13

c/w/att: Necile Lorang, City Clerk

c/w/o/att: Michael Collins, PO Box 4026 Whitefish, MT 59937

July 19, 2013

Ms. Wendy Compton-Ring
Senior Planner
City of Whitefish
Box 158
Whitefish, MT 59937

Dear Ms. Compton-Ring

RE: Request for Extension of Preliminary Plat for Ramsey Lakeview Subdivision (WPP-07-20)

At this time I would like to request a two year extension for the Ramsey Lakeview Subdivision (WPP-07-20). It is encouraging that the local real estate economic situation appears to be improving. In March our engineering firm began preparing our final engineering drawings for City and MT DEQ review and approval.

As part of this process we have two situations that will require some additional time to address. The first issue involves the storm water drainage system that was installed by the original developer, Mr. Fred Grant. Evidently Mr. Grant installed some of the system under lands that he did not place in an easement. We are in the process of working through this oversight with the City and the two lot owners to the North of our property.

The other situation involves our three neighbors to the East of our property. One of the neighbors approached us in June and has expressed interest in coordinating sewer and water services. We view this new situation as potentially very positive, both for us, the neighbors to the east and the City. Since these neighbors are currently in the County, if we can coordinate the extension of services and they hook up, then they would need to agree to future annexation into the City.

Please find attached our check for the application extension fees. If you have any questions about this request for extension, or you need any additional information please contact me.

Sincerely,

Michael Collins

Michael Collins
Mountain Properties of Montana LLC

Exhibit A
Ramsey Lake View Subdivision
WSPP-07-20
Whitefish City Council Approved
September 4th, 2007

1. Except as amended by these conditions, the development of the subdivision shall be in substantial conformance with the approved preliminary plat and labeled as "approved plans" by the city council.

2. That any new improvements (water, sewer, roads, street lights, sidewalks, driveways, etc.) within the subdivision shall be designed and constructed by a licensed engineer and in accordance with the City of Whitefish's design and construction standards and the Whitefish Subdivision Regulations. All infrastructure shall be sized to accommodate future growth. The Public Works Director shall approve the design prior to new construction.

3. That a Certificate of Subdivision Approval be obtained from the Department of Environmental Quality and written approval by the Whitefish Public Works Department approving the water and sewage treatment facilities for the subdivision.

4. All noxious weeds, as described by Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner.

5. That a note shall be placed on the face of the final plat requiring house numbers be posted on the house in a clearly visible location.

6. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the Public Works and Planning/Building Department. The plan shall include, but may not necessarily be limited to, the following:
    - Dust abatement and control of fugitive dust.
    - Hours of construction activity.
    - Noise abatement.
    - Control of erosion and siltation.
    - Routing for heavy equipment, hauling, and employees.
    - Construction office siting, staging areas for material and vehicles, and employee parking.

- Measures to prevent soil and construction debris from being tracked onto public roadways, including procedures remove soil and construction debris from roadways as necessary.
- Detours of vehicular, pedestrian, and bicycle traffic as necessary.
- Notation of any street closures or need to work in public right-of-way.

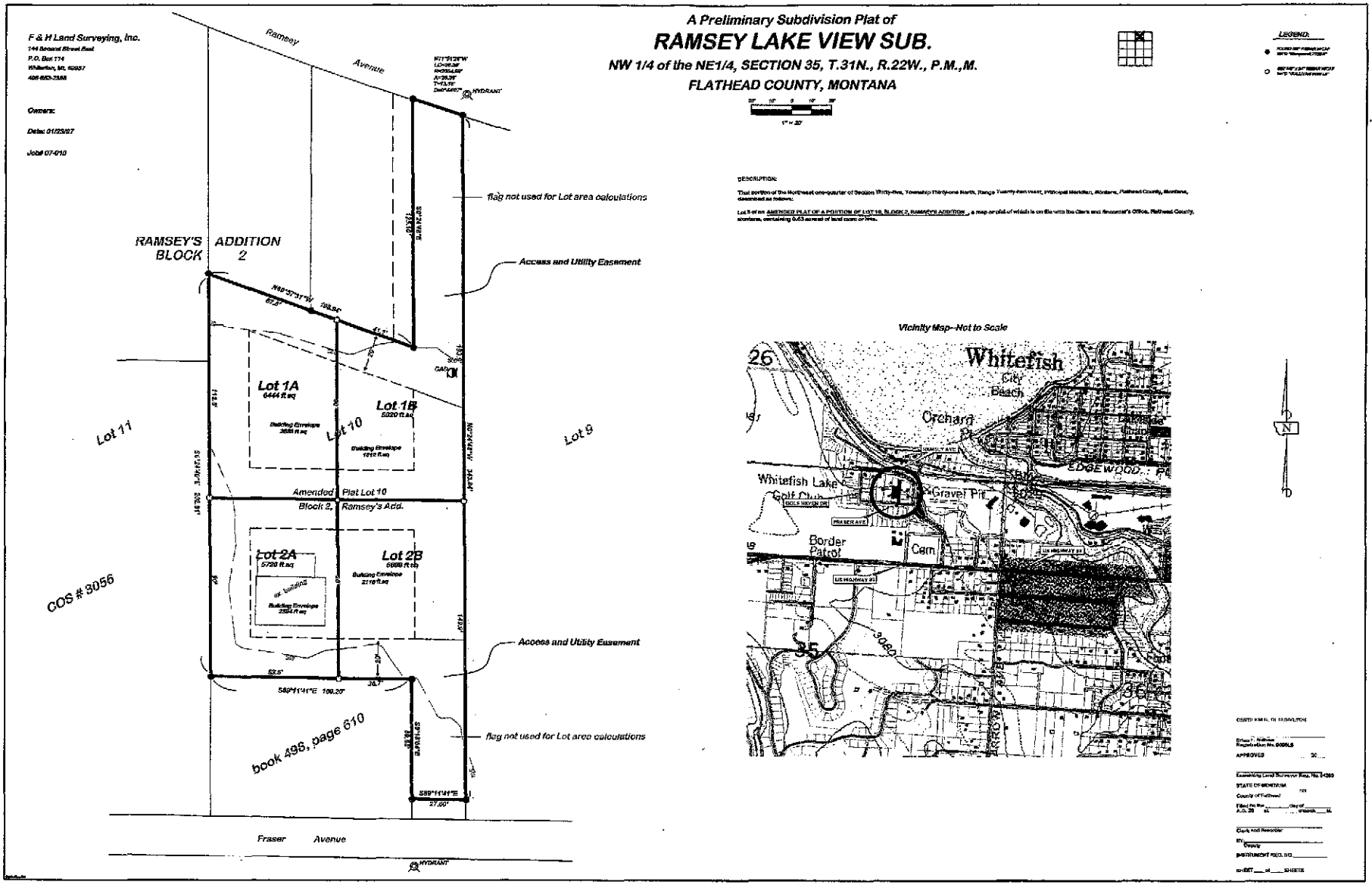
7. That development comply with the Whitefish Fire Department standard conditions for approval. A letter shall be obtained from the Whitefish Fire Marshal stating that all of the required improvements comply with applicable fire codes and conditions of approval.

8. An easement shall be granted for the installation and maintenance of the city services for sewer and water along the eastern boundary of the property to link Ramsey Avenue with Fraser Avenue. The width of the easement shall be determined by an agreement with Public Works.

9. That a mail facility shall be provided by the developer and approved by the local post office.

10. An additional 10 feet of right-of-way shall be dedicated along Frasier Avenue.

11. City staff will consider the possibility of widening Frasier Avenue from the subject property eastward to Ramsey Avenue at the developer's expense, if staff determines it feasible.


A Preliminary Subdivision Plat of
RAMSEY LAKE VIEW SUB.
NW 1/4 of the NE1/4, SECTION 35, T.31N., R.22W., P.M.,M.
FLATHEAD COUNTY, MONTANA
F & H Land Surveying, Inc.
Owners:
Date: 01/25/07
Job# 07-010
Ramsey Avenue
HYDRANT
RAMSEY'S BLOCK 2 ADDITION
flag not used for Lot area calculations
Access and Utility Easement
Lot 1A
Lot 1B
Lot 10
Lot 11
Lot 9
Amended Plat Lot 10
Block 2, Ramsey's Add.
Lot 2A
Lot 2B
COS # 3056
Access and Utility Easement
flag not used for Lot area calculations
book 495, page 610
Fraser Avenue
HYDRANT
LEGEND:
DESCRIPTION:
Vicinity Map--Not to Scale
Whitefish
City Beach
Orchard
Whitefish Lake Golf Club
Gravel Pit
Border Patrol
Cem
EDGEWOOD
APPROVED
STATE OF MONTANA
County of Flathead
Clerk and Recorder
INSTRUMENT REC. NO.

TO: office@whitefishpilot.com

PLEASE PUBLISH THE FOLLOWING LEGAL NOTICE ONCE ON July 31st

PLEASE BILL: City of Whitefish

Do not publish above this line

WHITEFISH CITY COUNCIL
NOTICE OF PUBLIC HEARING

At the regular meeting of the Whitefish City Council on Monday, August 19, 2013 at 7:10 pm, the Council will hold a public hearing on the item listed below. The Council meets in Whitefish City Council Chambers, Whitefish, Montana.

1. A request by Michael Collins, on behalf of Mountain Properties of Montana llc, for a 24-month extension to the Ramsey Lakeview preliminary plat. The property is located 502 Ramsey Avenue. Between Ramsey and Fraser Avenue and can be described as Lot 3, Amended Plat of a Portion of Lot 10, Block 2, Ramsey's Addition in 26-31-22. (WPP 07-20) Compton-Ring

Documents pertaining to these agenda items are available for review at the Whitefish Planning & Building Department, 510 Railway Street, Whitefish, Montana 59937 during regular business hours. Inquiries are welcomed. Interested parties are invited to attend the hearing and make known their views and concerns. Comments, in writing, may be forwarded to the Whitefish Planning & Building Department at the above address prior to the hearing or via email: *wcompton-ring@cityofwhitefish.org*. For questions or further information regarding this request, phone 406-863-2410.

WHITEFISH CITY COUNCIL
John Muhlfeld, Mayor

PO Box 158 Whitefish, MT 59937 (406) 863-2410 Fax (406) 863-2409

Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that Michael Collins, on behalf of Mountain Properties of Montana llc, is requesting a 24 month extension to the Ramsey Lakeview preliminary plat. This subdivision consists of 4-lots (2-townhouses) on 0.63 acres and is located between Ramsey and Fraser Avenues. The property is undeveloped and is zoned WR-2 (Two-Family Residential District). The preliminary plat was approved by the Whitefish City Council in September 4, 2007 and received an extension until September 4, 2013.

You are welcome to provide comments on the project. Comments can be in written or email format. The City Council will hold a public hearing and take final action for the request on:

Monday, August 19, 2013
7:10 p.m.
Whitefish City Council Chambers, City Hall
402 E. Second Street, Whitefish MT 59937

On the back of this flyer is the approved preliminary plat. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at wcompton-ring@cityofwhitefish.org. Comments received by the close of business on Monday, August 12, 2013, will be included in the packets to Councilors. Comments received after the deadline will be summarized to Councilors at the public hearing.

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

Wendy Compton-Ring

From: Angel Dominguez <angel_rose@me.com>
Sent: Monday, August 12, 2013 9:55 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Citizen Feedback - Request for Ramsey Lake View Preliminary Plat Extension

Wendy,

Please reply to let me know you have received, as the input is due by close of business today. I appreciate all your help.
thank you.

angel

****

My name is Angel Dominguez, and I reside at 510 Ramsey Ave, Whitefish, adjacent to the Ramsey Lakeview lot.

The request for an extension should be denied for the following reasons:

1. Encroachment upon existing structures The placement of 4 homes on this space encroaches upon multiple neighbors. The most disconcerting is that there are 3 rows of townhomes (6 homes total) that are bordered by two streets (Fraser and Ramsey). This is setting new precedence, as nowhere else in the neighborhood are 3 rows of townhomes jammed in between two streets. The closeness of the structures encroach on existing property. Alleys are being represented as streets. Please respect existing property owners' requests.

2. Poor Planning - Twice Denied by City Planners of Whitefish City Planners are utilized by the City of Whitefish to provide expertise and guidance on project feasibility and recommend whether proposals should be approved or denied. The primary focus should be on development that enhances the City of Whitefish and the surrounding neighborhood. On two different occasions, 3/15/07 and 6/21/07, the Whitefish Planning Board denied that this project should go forward. Denial was based on factors that included public safety, road access, water runoff/drainage, building footprints, and requiring sewer stubs to adjacent properties. These concerns are still present with many of the surrounding neighbors, and concensus from many of the adjacent neighbors is that the City Planners advice should have been heeded both times.

3. Decrease in Property Value
I am extremely concerned that Lots 1A and 1B will figuratively be "on top" of our townhome, because of the closeness to the property line and height allowed, and will result in a decrease of our property value. Our townhome was purchased in August of 2007, just before the economy and housing market had a serious meltdown. Shouldn't future development work to increase the desirability of the neighborhood, not decrease? I believe development should occur on the lot, but careful thought and concern for existing neighbors and a layout that would work to increase property value should be incorporated.

4. Inconsistent with neighborhood surroundings and layout

Utilizing data provided by Flathead County's website, the average ratio of SFLA (Square Foot Living Area) to Market Land was 17%. This includes all lots for which data was available for Ramsey Avenue, Fraser Avenue, Golf Haven Drive, and Masters Court. Michael Collins claimed at the City Council meeting on Sept 7 2007, that the "development of his property is in line with the Ackerman and Grant development". I disagree. The layout of the Ackerman and Grant townhomes were planned to respect each homeowners privacy. Homeowners are not on "top of one another". The Ackerman townhomes face the Fraser side of the street and there are single family homes on the other side that face Ramsey Avenue. By designing them in this fashion, the homes are well placed, there is plenty of room for all occupants, without unnecessary crowding. With respect to the Grant townhome, when originally conceived, the Ramsey Lake View plat was originally for one (1) single family residence (reference Meeting Minutes Whitefish Planning Board 21 June 2007), again providing for one set of homes facing either street, and no crowding of homes involved. The development of Ramsey Lake View lots will be about 2 times the average ratio of SFLA to Market Land for all lots in the area.

5. Invasion of privacy
Lot 1A and Lot 1B will be directly facing both the master bedrooms and junior master bedroom downstairs. This is unwanted, unneeded, and unnecessary. The peace and privacy I now enjoy as a citizen of Whitefish will change dramatically, as my entire back yard and bedrooms will now be visible to Lots 1A and 1B.

6. Drainage and Soil Stability Concerns
I am concerned that the sloping terrain and significant drop in elevation, coupled with the closeness and proximity of Lots 1A and 1B to the 508/510 Ramsey property line will create problems that should be avoided.

7. Safety Concerns & Traffic
Fraser Avenue is already facing increased traffic from the recently added back parking lot created for the Golf Course. None of this existed back in 2007, and has not been taken into account. I would ask that Fraser avenue be reassessed. Two cars cannot pass at the same time without one stopping to the side to let the other pass. It was never our understanding that 4 homes would be wedged in this lot.

8. Noise Levels
Increased noise levels given the density of homes.

In conclusion, I thank you for your attention to this matter. I have noticed the City of Whitefish has an organization chart which shows the "Citizens of Whitefish" at the top of the chart, with all offices (Mayor, Judges, Park Board, Attorneys, Police Chief, Fire and Park Board) reporting to said "Citizens of Whitefish". The citizens today are asking that you make decisions for the benefit of those people you represent, rather than the interests of developers that have not done due diligence in creating a blueprint that is well thought out, enhances the surroundings, and is good for both the City and surrounding neighbors alike. Please don't ignore the requests of citizens that are already part of the community, and will be forced to live with the decisions we make at these meetings. Please give careful thought and consideration to creating a community that truly benefits everyone, not just approving because developers want to build. Require due diligence, please. Don't settle for anything less.

thank you,
Angel Dominguez

John and Janice Moore
940 Birch Point Drive
Whitefish, MT 59937

August 8, 2013

Whitefish Planning Department
P. O. Box 158
Whitefish, MT. 59937

RE: Michael Collins, Mountain Properties of Montana llc
Extension of the Ramsey Lakeview preliminary plat

Whitefish City Council:

Kindly refer to the copy of the notice we recently received on the request of Michael Collins for a 24 month extension to the Ramsey Lakeview preliminary plat. This subdivision consists of 4-lots (2 townhouses) on .63 acres and is located between Ramsey and Fraser Avenues.

It was a mistake to approve it in the first place and it certainly should not be granted an extension. This plat has no room for emergency vehicles if needed, no room for parking of the residents and is just too crowded in a subdivision with single family residences. Whitefish does not need to be crowding townhouses into neighborhoods. We don't disagree with townhouses, but they need room for parking and lawns to fit into the neighborhood.

Sincerely,

John E. Moore

John E. and Janice M. Moore

Janice M Moore

08-12-13 A11:54 IN

08-12-13 P02:24 IN

Aug. 11, 2013

To: City of Whitefish Councillors,

Reference – the request for a 2 year extension to the Ramsey Lakeview Plat and proposed development by Michael Collins.

I – Fred Ost. oppose the extension regarding Collin's Ramsey Lakeview Plat and development plan –

Since 2007 the Whitefish Golf Course has built a parking lot for approximately 47 vehicles – The majority of these vehicles and supply trucks now use Fraser Ave, as well as some vehicles from the front parking area.

Fraser ave is a one lane road and has a blind turn on to Ramsey ave. This is an accident waiting to happen –

We do not need any added traffic from a so call subdivision.

The 0.63 acres is full of tall grass, various weeds, large rocks and brush. Collins has never taken care of this property! Further more - Collins does not care or have concern regarding the people that live in this area.

Collins has had 7 years to improve this property and has done nothing !!!

Why should he be entitled to an extension for another 2 years?

We say NO!

Fred Ost - Margie Ost

Wendy Compton-Ring

From:	l1cook@telus.net
Sent:	Monday, August 12, 2013 3:19 PM
To:	wcompton-ring@cityofwhitefish.org
Subject:	Michael Collins request for 24 month extension to Ramsey Lakeview Plat

To: City of Whitefish Planning Department and City Councillors

Re: Larry and Annette Cook; owners of 508 Ramsey Ave, are opposed to the Michael Collins request for a 24 month extension to the Ramsey Lakeview Plat and proposed development plan.

We have the following questions/concerns pertaining to Michael Collins 24 month extension to Ramsey Lakeview Plat request and the proposed development:

1. PRIVACY/ENCROACHMENT: Poor planning of the proposed development leaves NO privacy in our back yard and back deck and master bedroom. The steep slope of the land puts the "2" North townhouses " right on top of us" looking down into our property. The single family homes East and West of our house are set back considerably and do not encroach on our privacy. No other homes in our community encroach upon their neighbors privacy as this proposed development will. The noise and traffic will be increased considerably and will definitely infringe on our privacy.

2. DRAINAGE/SLOPE: Due to proximity of the north units, will there be a retaining wall built to ensure ground stability and proper drainage due to the steep grade? We need to see confirmation that the proposed development plans do not exceed the current storm water drainage plan approved for the property, which is 19,400 square feet of impervious surface.

3. DENSITY: The houses along Ramsey and Fraser Avenues are considerate of existing neighbors privacy, allowing for a quiet and well established community feeling. This is something we admire in the City of Whitefish planning. We understand that previously City Planners turned down the proposed development twice and recommended this to City Council. Unfortunately, over-development won out. The proposed 4 townhouses do not complement the surrounding community of Ramsey/Fraser and do not follow the lay out of the existing homes.

4. TRAFFIC: Currently, we park on the easement which joins our driveway. Having 4 families accessing the narrow roadways could certainly lead to traffic congestion/problems, and pose a considerable safety issue, as 2 normal size vehicles can barely pass without touching on the narrow road. The grade of the road is steep as you enter from Ramsey Ave. which could certainly cause problems in Winter with access to the North units. Also where will the build up of heavy snowfall road removal be put and who is responsible for roadway snow removal? Currently, we remove our own roadway snowfall.

5. PARKING: With the possibility of up to "8" or more vehicles (4 units X 2 cars), what is the layout for parking? Also, how are units 1A and 2A going to access their units? Will their roadway encroach further onto our privacy? Where are we suppose to park our vehicles and any guest vehicles?

6. HISTORY of proposed development. As we stated above, It was our understanding that the planning committee had turned down the proposed development twice before so what changed in order for the proposal to pass?

7. LACK OF PROPERTY MAINTENANCE: Michael Collins has neglected to keep his property maintained. The weeds are 2-4 feet high and this certainly has posed a noxious weed problem for all surrounding neighbors trying to maintain yards. The dense weeds have been a fire hazard and are an eyesore to the community. In the 4 years that we have owned 508 Ramsey, only ONCE have we seen someone mow the property. This is a another reason that Michael Collins does not deserve to have an extension awarded to his proposed development plan.

8. PURCHASING PROPERTY: We purchased our home in April 2010 and were on the understanding there would be development on the proposed site BUT there there would be either be a single home or 1 town home similar to 508/510 Ramsey but certainly NOT 4 units. If there is still an option, we are interested in purchasing the proposed property at fair market value from Michael Collins?

Since 2007, our neighbors have voiced their concerns over the proposed "4" unit development to little or no avail. It appears to us the developer is NOT coming in to enhance the existing community but rather just looking to profit by building "4" units. We hope the developer will look at building no more than 2 units to keep in the spirit of respecting the open space and privacy which is enjoyed by us and our neighbors.

In closing, we hope that our concerns will be given serious consideration and invite the City Council Members to physically review the existing community and the proposed "4" units on the proposed site.
We wish to maintain the" community feel" that the City of Whitefish has so graciously tried to maintain.

We look forward to attend the public hearing on August 19, 2013.
We would appreciate a confirmation E-mail that this E-mail has been received.

Sincerely,

Larry and Annette Cook

Wendy Compton-Ring

From: MaiBritt Bennett <maibritt406@yahoo.com>
Sent: Monday, August 12, 2013 4:31 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Mountain Properties of MT Extension Request

Dear Mr. Mayor and City Council Members,

My name is MaiBritt Bennett and my husband and I live at 416 Ramsey Avenue; which is in the county. Due to serious problems with our house's foundation, roof, etc. we have decided to tear down our existing house and build a new house in its place. We are now required to be annexed into the City of Whitefish and connect to sewer.

In 2007 my husband and I fought the Mountain Properties (Ramsey Lakeview) project next door to us because we thought the density was inappropriate for our neighborhood. In 2007 during the time the Mountain Properties project was before the City-County Planning Board and the City Council we offered Mike Collins $250,000 for the property, he turned the offer down, we then asked him to name his price, and he turned down this offer also. We are still very interested in purchasing this property.

My husband and I still think that putting two duplexes on .63 acres is too dense of a development for our neighborhood; however we have been negotiating with Mike Collins to share in the costs of extending the sewer lines for both our projects. We do this because the Mountain Properties project seems to be a foregone conclusion and cost sharing with Mike Collins is financially beneficial to my husband and me.

Thank you for your time,

MaiBritt & William "Joe" Bennett
416 Ramsey Avenue
Whitefish
260-3036

Wendy Compton-Ring

From: Diana T <dtague510@gmail.com>
Sent: Monday, August 12, 2013 4:29 PM
To: wcompton-ring@cityofwhitefish.org
Subject: RE: Request for Ramsey Lakeview preliminary plat extension

RE: Request for Ramsey Lakeview preliminary plat extension

As owner and resident of 510 Ramsey Avenue property, I appreciate the opportunity to comment on the Ramsey Lakeview Subdivision's request for preliminary plat extension. Thank you for this opportunity to comment at this time.

I was not notified or made aware of the prior Public Hearings (Sept 2007). I became the owner of public record in August 2007. Prior to purchase, I did inquire (June 2007) of the plans for the property behind my property and was told by Martin McGrew, at that time a Ramsey Ave resident and chairman of the Planning Board, that the city would not permit multifamily subdivision on this site. The basis of his opinion was that the lot configuration did not meet with the 'character' of Whitefish and Fraser Ave did not meet city street standards. Clearly the City Council disagreed with the Planning Board and in a split vote decided to approve.

I agree with Mr. Collins that there is an encouraging improvement of the local economic and real estate markets. (We both purchased prior to the economic turmoil 2008.) However, I wish to voice a concern over the approval of another extension. Six (6) years is a generous period of time to analyze and resolve any outstanding requirements in development of this property. Does the City Council wish to continue to proceed with extensions that allows 8 years without review of planning factors, assessment of Whitefish City services and urban planning?

It is a matter of public record that the Planning Board, City Council members and neighborhood residents are concerned with public safety and traffic on Ramsey & Fraser Avenues. It is my personal perception that although winter months are slower, the summer months and all major holidays have seen the following.

· 1) Increased traffic created as neighborhood & families mature, in part due to more drivers and cars added per household (also boats, jet skis, RVs, trailers, etc.). The tourist economy in Whitefish has the typical seasonal population increase on weekends, holidays, etc.

· 2) Fraser Ave width at the entrance to the property. Note the pictures included which indicate two small vehicles can not pass on this road.

3) Whitefish Golf Course has increased parking on their back lot, adding traffic that enters and exits onto Fraser Ave.

· 4) Increased commercial traffic – City services and commercial service deliveries, etc.

· 4) Pedestrian traffic – Pedestrians share the road on Fraser & Ramsey Avenues.

I share the concerns of many of my Ramsey and Fraser Avenues neighbors:

· Drainage, topology/geology – The Ramsey Lakeview Subdivision has a north downward grade to Ramsey Ave with an abrupt drop to street level at Lot 1's north boundary.

· Privacy encroachment – Whitefish City has a 35 foot height restriction. Reviewing the topology of the preliminary plat, my understanding is that Lot 1 could potential place its structure 15 yards behind my townhouse structure and rise up to approximately 45 feet above my backyard elevation.

I could not find any proposed subdivision layout and architecture/topology site usage plans except the crude "building envelope". "Waterfall" developments (every house is looking over the top and down and over their neighbor's property is out of character for Whitefish.

· Island of High Density – The design of seven lots and the small parcel off Fraser are stacked back to back with only three lots (508 Ramsey, 510 Ramsey, and the Fred Ost lot) directly adjoining a street is out of character for Whitefish. The fact that it is surrounded by County lots, and other county properties such as the cemetery and golf course accentuates the "out of character" density. Are plans to absorb these Country home lots over time? Is there a 'master plan' for services (water, sewer, infiltration, etc.) and urban 'health'?

Sincerely,

Diana Tague

ps. photos will be sent shortly....

SUBARU
OUTBACK
3.6R
MONTANA
BAR694

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RESOLUTION NO. 13-__

A Resolution of the City Council of the City of Whitefish, Montana, amending the 2013 Fiscal Year annual budget by a Bike & Pedestrian Path Fund Balance appropriation of $4.64 to Bike & Pedestrian Path Fund, and amending the budget by a TIF Bond Debt Fund Balance appropriation of $2,253.00 to TIF Bond Debt Fund, for the 2013 fiscal year commencing July 1, 2012.

WHEREAS, in order to consider amendments to the City's 2013 fiscal year annual budget as allowed by the Local Government Budget Act, Sections 7-6-4001, *et seq.*, MCA, the City scheduled a public hearing before the Whitefish City Council to be held at 7:10 p.m. on Monday, August 19, 2013; and

WHEREAS, prior to such hearing, a notice of the type required by Section 7-6-4021, MCA, was published twice as required by Section 7-1-4127, MCA, in the Legal Notices Section, in the *Whitefish Pilot*, August 7 and August 14, 2013; and

WHEREAS, at a lawfully noticed public hearing on August 19, 2013, the Whitefish City Council conducted a hearing for the purpose of amending the 2013 fiscal year annual budget, received staff reports, invited public input and considered all written comments received prior to the hearing for the following amendments:

- Appropriating $4.64 from the Bike & Pedestrian Path Fund Balance to the Bike & Pedestrian Path Fund to close it.

- Appropriating $2,253.00 from the TIF Bond Debt Fund Balance to the TIF Bond Debt Fund to recognize bond premium and costs amortized over life of loan higher than budget.

WHEREAS, upon completion of the public hearing, the City Council approved the transfers and amendments to the 2013 fiscal year budget, and as allowed by Section 7-6-403, MCA, and authorized the Assistant City Manager/Finance Director to transfer appropriations between items within the same fund and make other transfers.

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

Section 1: The Assistant City Manager/Finance Director is authorized and directed to transfer appropriations between items within the same fund and to amend the 2013 Fiscal Year Annual Budget as follows:

A. Appropriate Bike & Pedestrian Path Fund Balance Funds in the amount of $4.64 to the Bike & Pedestrian Path Fund, to close it.

B. Appropriate TIF Bond Debt Fund Balance Funds in the amount of $2,253.00 to the TIF Bond Debt Fund, to recognize bond premium and costs amortized over life of loan higher than budget.

Section 2: The City's 2013 Fiscal Year Annual Budget, with the amendments and clarifications described immediately above, is hereby ratified, re-adopted and amended consistent with this Resolution.

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

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

Staff Report

To: Mayor John Muhlfeld and City Councilors

From: Rich Knapp, Assistant City Manager/Finance Director

Date: August 19, 2013

Re: FY 2013 Budget Amendments

Introduction/History

The table below describes all expenditures and transfers that did not have or exceeded FY 2013 budget authority and require budget amendments as allowed by Montana law MCA Sections 7-6-4006(4) and 7-6-4021.

Current Report

To	From	Amount	Justification
2991-430255-820 Bike & Ped Path	Bike & Ped Path Balance	$4.64	Transferred remaining cash out of fund to close it
3110-490200-552 TIF Bond Debt Fund	TIF Bond Debt Fund Balance	$2,253	Recognition of bond premium & costs amortized over life of loan higher than budget. **Non-cash expense**.

Recommendation

Staff recommends the City Council approve the FY 2013 budget amendments.

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FISCAL YEAR 2013 - 2014 RESOLUTIONS

RESOLUTION NO. 13-___: Accepting and approving the Municipal Budget for the City of Whitefish for the 2014 Fiscal Year Commencing July 1, 2013, in its final form.

RESOLUTION NO. 13-___: Determining the property tax mills to be levied on all taxable property within the corporate limits of the City of Whitefish; and levying and assessing all special improvement assessments on all real estate within the corporate limits of the City of Whitefish, Montana.

RESOLUTION NO. 13-___: Assessing a tax on each lot or parcel of land in Street Maintenance District as follows: Per lot assessment of $83.00 for residential lots, regardless of size, located within subdivisions that maintain a network of private streets; per lot assessment of $109.50 for residential lots having a frontage of 50 feet or less, and $140.00 for commercial/multi-family lots having a frontage of 50 feet or less; front foot assessment of $2.19 per foot for residential lots in excess of 50 feet, with a maximum assessment of $328.50; or a front foot assessment of $2.80 per front foot for commercial/multi-family lots in excess of 50 feet, with a maximum assessment of $1,120.00.

RESOLUTION NO. 13-___: Levying a tax upon all real estate in Special Improvement Lighting District No. 1 at the rate of $0.20 per front foot in residential area.

RESOLUTION NO. 13-___: Levying a tax upon all real estate in Special Improvement Lighting District No. 4 at the rate of $1.10 per front foot in the business area.

RESOLUTION NO. 13-___: Assessing for Parkland and Greenway Maintenance District.

RESOLUTION NO. 13-___: Assessing for Stormwater Maintenance District.

RESOLUTION NO. 13-___: Assessing for parking improvements (Special Improvement District No. 155).

RESOLUTION NO. 13-___: Assessing for sewer/water improvements on Pack Rat Lane (Special Improvement Water/Sewer District No. 158).

RESOLUTION NO. 13-___: Assessing for improvements on JP Road (Special Improvement District No. 166).

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

RESOLUTION NO. 13-____

A Resolution of the City Council of the City of Whitefish, Montana, accepting and approving the municipal budget for the City of Whitefish for the 2014 fiscal year commencing July 1, 2013, in its final form.

WHEREAS, in conformity with the provisions of the Local Government Budget Act, §7-6-4001, *et seq*., MCA, the City of Whitefish, prepared a preliminary budget for the 2014 fiscal year commencing July 1, 2013; and

WHEREAS, at the lawfully noticed public hearing on June 17, 2013, the City Manager's proposed budget was reviewed and approved as the preliminary budget by the Whitefish City Council; and

WHEREAS, in order to adopt the 2014 fiscal year final annual budget and increase the amount of ad valorem tax revenue in excess of the property tax revenues of the previous year as allowed by §§7-6-4030 and 15-10-203, MCA, the City scheduled a public hearing before the Whitefish City Council to be held at 7:10 pm on August 19, 2013; and

WHEREAS, prior to such hearing, notices of the type required by §§7-6-4021 and 15-10-203, MCA, were published twice in the *Whitefish Pilot*, on August 7 and August 14, 2013, as required by §7-1-4127, MCA, in the Legal Notices Section, and as required by §15-10-203(2), MCA, advertised in a place where legal notices and classified advertisements do not appear; and

WHEREAS, at a lawfully noticed public hearing on August 19, 2013, the Whitefish City Council conducted a hearing for the purpose of adopting the final budget for the 2014 fiscal year with an increase of 1.69 percent in property tax revenues because of an increase in the 2013 certified taxable valuation, received staff reports, invited public input and considered all written comments received prior to the hearing; and

WHEREAS, following the public hearing, the City Council determined it would be in the best interests of the City of Whitefish and its inhabitants to approve the 1.69 percent increase in the amount of property tax revenues and adopt the 2014 fiscal year budget.

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

Section 1: The municipal budget for the City of Whitefish, Montana, for the 2014 fiscal year beginning July 1, 2013, as prepared and submitted to the City Council at its August 19, 2013, Council meeting, which budget is incorporated herein as if set forth verbatim, is hereby accepted and adopted as the final municipal budget for the City of Whitefish, Montana, as permitted by §7-6-4030, MCA.

Section 2: The City Council hereby authorizes the appropriations contained in the final budget to defray the expenses or liabilities for the 2014 fiscal year.

Section 3: The City Council hereby establishes legal spending limits at the level of detail as contained in the final budget.

Section 4: As permitted by §7-6-4031(1), MCA, the City Manager and/or the Assistant City Manager/Finance Director are hereby authorized to transfer appropriations between items within the same fund.

Section 5: As permitted by §7-6-4031(2), MCA, the City Manager and/or the Assistant City Manager/Finance Director are hereby authorized to amend and adjust the annual budget appropriations throughout the budget period, as necessary, as provided in §§7-6-4006(3) and 7-6-4012, MCA.

Section 6: The City Clerk is hereby directed to certify a copy of this Resolution to the County Assessor and the County Clerk and Recorder of Flathead County, Montana, to be collected by the Treasurer, as provided by law.

Section 7: The effective date of this Resolution is July 1, 2013, the beginning of the City's 2014 fiscal year, 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 19TH DAY OF AUGUST, 2013.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

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

RESOLUTION NO. 13-____

A Resolution of the City Council of the City of Whitefish, Montana, (1) determining the property tax mills to be levied on all taxable property within the corporate limits of the City of Whitefish, and (2) levying and assessing all Special Improvement assessments and other assessments on real estate within the Districts.

WHEREAS, in conformity with the provisions of the Local Government Budget Act, §7-6-4001, *et seq*., MCA, the City of Whitefish, Montana, prepared a preliminary budget for the 2014 fiscal year commencing July 1, 2013; and

WHEREAS, at the lawfully noticed public hearing on June 17, 2013, the City Manager's proposed budget was reviewed and approved as the preliminary budget by the Whitefish City Council; and

WHEREAS, in order to adopt the 2013 fiscal year final annual budget and increase the amount of ad valorem tax revenue in excess of the property tax revenues of the previous year as allowed by §§7-6-4030 and 15-10-203, MCA, the City scheduled a public hearing before the Whitefish City Council to be held at 7:10 p.m. on August 19, 2013; and

WHEREAS, prior to such hearing, notices of the type required by §§7-6-4021, 7-6-4031, and 15-10-203, MCA, were published twice in the *Whitefish Pilot*, on August 7 and August 14, 2013, as required by §7-1-4127, MCA, in the Legal Notices Section, and as required by §15-10-203(2), MCA, advertised in a place where legal notices and classified advertisements do not appear; and

WHEREAS, at a lawfully noticed public hearing on August 19, 2013, the Whitefish City Council conducted a hearing for the purpose of adopting the final municipal budget for the City of Whitefish for the 2014 fiscal year with an increase of 1.69 percent in property tax revenues because of increased taxable valuation, determining the property tax mills to be levied on all taxable property within the corporate limits of the City of Whitefish, Montana, and levying and assessing all special improvement assessments and other assessments on real estate within the Districts, received staff reports, invited public input and considered all written comments received prior to the hearing; and

WHEREAS, upon completion of the public hearing, the City Council determined it would be in the best interests of the City and its inhabitants to approve the 2014 fiscal year budget, increase 1.69 percent in property tax revenues from increased valuation, levy the property tax mills, and levy and assess all special improvement assessments and other assessments.

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

Section 1: A mill levy of 10 mills on the dollar of assessed valuation of all taxable property within the City of Whitefish, Montana, identified as the permissive medical levy, is hereby approved to be used to pay the increased costs of group health insurance premiums for employees, for the fiscal year commencing July 1, 2013, and such mills are hereby levied on the assessed valuation of all taxable property within the corporate limits of the City of Whitefish, Montana.

Section 2: A mill levy of 24 mills on the dollar of assessed valuation of all taxable property within the City of Whitefish, Montana, identified as the 24 hours per day fire protection and ambulance services levy, is hereby approved to be levied for the fiscal year commencing July 1, 2013, and such mills are hereby levied on the assessed valuation of all taxable property within the corporate limits of the City of Whitefish, Montana.

Section 3: The mill levy for the City taxes to be raised for all municipal purposes other than the permissive medical levy, the 24 hours per day fire protection and ambulance services levy, described above, for the fiscal year commencing July 1, 2013, shall be 117.174 mills on the dollar of assessed valuation of all taxable property within the City of Whitefish, Montana, and that said amount is hereby levied and assessed upon all taxable property within the corporate limits of the City of Whitefish, Montana.

Section 4: The total mill levy for the City of Whitefish shall be 151.174 mills, consisting of the total of the mills identified in Sections 1, 2, and 3 above.

Section 5: From the total mill levy of 151.174 mills, and in accordance with §3-3-8, Whitefish City Code, there shall be a Resort Tax rebate reflected on the property tax bills of City property owners. Twenty-five percent (25%) of the Resort Tax revenues derived in the prior fiscal year, the amount of $693,432.00, shall be used for property tax reduction. This reduction is equivalent to a credit to the taxpayer of 31.369 mills for the City's 2013 fiscal year, resulting in an effective net mill levy equaling 119.805 mills.

Section 6: An electronic listing of the total assessments for all special improvement assessments and other assessments levied against each lot or parcel of land within the Districts which has been prepared by the City Clerk and is maintained in the office of the City Clerk, is by this reference made a part hereof as fully as if set forth verbatim herein. Said special improvement assessments and other assessments are hereby levied and assessed against each lot as shown therein and shall be submitted to Flathead County Information Technology to be collected with County taxes. Such

special improvement assessments and other assessments hereby levied shall become delinquent at 6:00 o'clock p.m., November 30, 2013, and shall thereafter bear penalties and interest provided by law.

Section 7: As permitted by §7-6-4031(1), MCA, the City Manager and/or the Assistant City Manager/Finance Director are hereby authorized to transfer appropriations between items within the same fund.

Section 8: The City Clerk is hereby directed to certify a copy of this Resolution to the County Assessor and the County Clerk and Recorder of Flathead County, Montana, to be collected by the Treasurer, as provided by law.

Section 9: The effective date of this Resolution is July 1, 2013, the beginning of the City's 2014 fiscal year, 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 19TH DAY OF AUGUST, 2013.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

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

RESOLUTION NO. 13-____

A Resolution of the City Council of the City of Whitefish, Montana, levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Street Maintenance District to defray the costs of street improvements.

WHEREAS, the City Council of the City of Whitefish, has previously created the Street Maintenance District for the purpose of conducting street maintenance, and has provided the method of assessing all lots or parcels of land, located within such district; and

WHEREAS, after the proper and lawful notice was published and given, a hearing was held before the Whitefish City Council on August 19, 2013, at which public comment was received and objections received to the final adoption of a Resolution levying and assessing a tax on each lot or parcel of land in such district; and

WHEREAS, having determined that it is in the best interests of the City of Whitefish, and its inhabitants, to impose an assessment to defray the costs of street maintenance improvements, and having determined that the proposed formula is the most appropriate and equitable;

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: There is hereby levied and assessed a tax upon all real property in the Street Maintenance District in the total amount of $819,436.69 to cover the cost of the improvements therein; that the name of the owner of each lot, a description of each lot or parcel of land within the Street Maintenance District and the amount of the tax levied against each lot shall be as shown on the electronic schedule marked as assessment for the Street Maintenance District submitted to Flathead County Information Technology to be collected with County taxes; which by this reference is made a part hereof as fully as if set forth verbatim herein.

Section 3: The formula upon which the assessments are based is as follows:

A. A per lot assessment of $83.00 for residential lots, regardless of size, located within subdivisions that collectively maintain a network of private streets, with primary access from those privately maintained streets. Such subdivisions include but are not limited to Grouse Mountain, Suncrest, and Iron Horse. No front foot assessment will apply;

OR

B.1. A per lot assessment of $109.50 for residential lots, having a frontage of 50 feet or less, with primary access from publicly maintained streets, and $140.00 for commercial/multi-family lots having a frontage of 50 feet or less. All lots within the City that front on or have primary access from a City street fit within this category;

AND

B.2. A front foot assessment of $2.19 per front foot for residential lots, applied to frontage in excess of 50 feet, with a maximum assessment of $328.50 (corresponding to 150 feet of frontage); or a front foot assessment of $2.80 per front foot for commercial/multi-family lots, applied to frontage in excess of 50 feet, with a maximum assessment of $1,120.00 (corresponding to 400 feet of frontage).

Section 4: The City Clerk is hereby directed to certify a copy of this Resolution to the County Assessor and the County Clerk and Recorder of Flathead County, Montana, to be collected by the Treasurer, as provided by law.

Section 5: It is the intention of the City of Whitefish that the definition of "maintenance" as defined in §7-12-4401(2), MCA, shall be construed as broadly as is lawfully possible by a charter city with self-governing powers, to include all activities reasonably determined by the City to be necessary in connection with the maintenance of public streets and roads, including but not limited to sprinkling, graveling, oiling, chip sealing, seal coating, overlaying, treating, general cleaning, sweeping, flushing, snow removal, leaf and debris removal, the operation, maintenance, and repair of traffic signal systems, the repair of traffic signs, the placement and maintenance of pavement markings, curb and gutter repair, and sidewalk repair.

Section 6: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof, but shall be retroactive to July 1, 2013, the beginning of the City's 2014 fiscal year.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 19TH DAY OF AUGUST, 2013.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

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

RESOLUTION NO. 13-____

A Resolution of the City Council of the City of Whitefish, Montana, levying and assessing a tax upon all real estate in Special Improvement Lighting District No. 1 in the City of Whitefish, Montana, to defray the cost of improvements in said Special Improvement Lighting District.

WHEREAS, the City Council of the City of Whitefish, Montana, has previously created Special Improvement Lighting District No. 1 and provided for the method of assessing all lots and parcels of land therein benefited by such lighting; and

WHEREAS, after the proper and lawful notice was published and given, a public hearing was held before the Whitefish City Council on August 19, 2013, at which public comment was received and objections received to the final adoption of a Resolution levying and assessing a tax on each lot or parcel of land in such district; and

WHEREAS, having determined that it is in the best interests of the City of Whitefish, and its inhabitants, to impose an assessment to defray the costs of street lighting, and having determined that the proposed formula is the most appropriate and equitable;

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: The total cost and expense of all Special Improvements in said Special Improvement Lighting District No. 1 of the City of Whitefish, Montana, is hereby fixed at the sum of $76,336.84.

Section 3: A Special Assessment against all real property within the confines of the Residential area of the City of Whitefish, Montana, at the rate of $0.20 per front foot, for the purpose of maintenance of the street lights in the Residential area, is hereby imposed and levied.

Section 4: The aforementioned amounts of taxes are hereby levied and assessed against each lot within the boundaries of said Special Improvement Lighting District No. 1

of the City of Whitefish, Montana, as shown by the electronic schedule marked as assessment for Special Improvement Lighting District No. 1 and submitted to Flathead County Information Technology to be collected with County taxes and hereto and by this reference made a part hereof as fully as if set forth verbatim herein.

Section 5: The City Clerk is hereby directed to certify a copy of this Resolution to the County Assessor and the County Clerk and Recorder of Flathead County, Montana, to be collected by the Treasurer, as provided by law.

Section 6: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof, but shall be retroactive to July 1, 2013, the beginning of the City's 2014 fiscal year.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 19TH DAY OF AUGUST, 2013.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

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

RESOLUTION NO. 13-____

A Resolution of the City Council of the City of Whitefish, Montana, levying and assessing a tax upon all real estate in Special Improvement Lighting District No. 4 in the City of Whitefish, Montana, to defray the cost of improvements in said Special Improvement Lighting District.

WHEREAS, the City Council of the City of Whitefish, Montana, has previously created Special Improvement Lighting District No. 4 and provided for the method of assessing all lots and parcels of land therein benefited by such lighting; and

WHEREAS, after the proper and lawful notice was published and given, a public hearing was held before the Whitefish City Council on August 19, 2013, at which public comment was received and objections received to the final adoption of a Resolution levying and assessing a tax on each lot or parcel of land in such district; and

WHEREAS, having determined that it is in the best interests of the City of Whitefish, and its inhabitants, to impose an assessment to defray the costs of street lighting, and having determined that the proposed formula is the most appropriate and equitable;

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: The total cost and expense of all Special Improvements in said Special Improvement Lighting District No. 4 of the City of Whitefish, Montana, is hereby fixed at the sum of $60,984.70.

Section 3: A Special Assessment against all real property within the confines of the Business Area of the City of Whitefish, Montana, at the rate of $1.10 per front foot, for the purpose of maintenance of the street lights in the Business Area, is hereby imposed and levied.

Section 4: The aforementioned amounts of taxes are hereby levied and assessed against each lot within the boundaries of said Special Improvement Lighting District No. 4

of the City of Whitefish, Montana, as shown by the electronic schedule marked as assessment for Special Improvement Lighting District No. 4 and submitted to Flathead County Information Technology to be collected with County taxes and hereto and by this reference made a part hereof as fully as if set forth verbatim herein.

Section 5: A copy of this Resolution shall be certified to the County Assessor and the County Clerk and Recorder of Flathead County, Montana, as required by law, and that this assessment shall be collected by the County Treasurer of said County as provided by law.

Section 6: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof, but shall be retroactive to July 1, 2013, the beginning of the City's 2014 fiscal year.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 19TH DAY OF AUGUST, 2013.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

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

RESOLUTION NO. 13-____

A Resolution of the City Council of the City of Whitefish, Montana, levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Parkland and Greenway Maintenance District.

WHEREAS, the City Council of the City of Whitefish, Montana, has previously created the Parkland and Greenway Maintenance District, and has provided the method of assessing all lots or parcels of land located within such district; and

WHEREAS, after the proper and lawful notice was published and given, a hearing was held before the Whitefish City Council on August 19, 2013, at which public comment was received and objections received to the final adoption of a Resolution levying and assessing a tax on each lot or parcel of land in such district; and

WHEREAS, having determined that it is in the best interests of the City of Whitefish, and its inhabitants, to impose an assessment to defray the costs of maintaining, preserving, and caring for trees, public parks and open space land, and irrigation systems, and paying costs incidental thereto.

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: There is hereby levied and assessed a tax upon all real property in the Parkland and Greenway Maintenance District in the total amount of $181,632.42 to cover the costs of the maintenance required therein; that the name of the owner of each lot, a description of each lot or parcel of land within the Parkland and Greenway Maintenance District and the amount of the tax levied against each lot shall be as shown on the electronic schedule marked as assessment for the Parkland and Greenway Maintenance District submitted to Flathead County Data Processing to be collected with County taxes; which by this reference is made a part hereof as fully as if set forth verbatim herein.

Section 3: The formula upon which the assessments are based is as follows:

A. A per lot assessment of $21.19 for residential lots, regardless of size, located within subdivisions that collectively maintain a network of private streets, with primary access from those privately maintained streets. Such subdivisions include but are not limited to Grouse Mountain, Suncrest, and Iron Horse. No front foot assessment will apply;

OR

B.1. A per lot assessment of $21.19 for residential lots, having a frontage of 50 feet or less, with primary access from publicly maintained streets, and $40.00 for commercial/multi-family lots having a frontage of 50 feet or less. All lots within the City that front on or have primary access from a City street fit within this category;

AND

B.2. A front foot assessment of $0.4238 per front foot for residential lots, applied to frontage in excess of 50 feet, with a maximum assessment of $63.57 (corresponding to 150 feet of frontage); or a front foot assessment of $0.80 per front foot for commercial/multi-family lots, applied to frontage in excess of 50 feet, with a maximum assessment of $320.00 (corresponding to 400 feet of frontage).

Section 4: The City Clerk is hereby directed to certify a copy of this Resolution to the County Assessor and the County Clerk and Recorder of Flathead County, Montana, to be collected by the Treasurer, as provided by law.

Section 5: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof, but shall be retroactive to July 1, 2013, the beginning of the City's 2014 fiscal year.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 19TH DAY OF AUGUST, 2013.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

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

RESOLUTION NO. 13-____

A Resolution of the City Council of the City of Whitefish, Montana, levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Stormwater Improvement and Maintenance District.

WHEREAS, the City Council of the City of Whitefish, Montana, has previously created the Stormwater Improvement and Maintenance District, and has provided the method of assessing all lots or parcels of land located within such district; and

WHEREAS, after the proper and lawful notice was published and given, a hearing was held before the Whitefish City Council on August 19, 2013, at which public comment was received and objections received to the final adoption of a Resolution levying and assessing a tax on each lot or parcel of land in such district; and

WHEREAS, having determined that it is in the best interests of the City of Whitefish, and its inhabitants, to impose an assessment to defray the costs of the types of maintenance and capital improvements identified in Resolution No. 06-42, and having determined that the proposed formula is the most appropriate and equitable;

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: There is hereby levied and assessed a tax upon all real property in the Stormwater Improvement and Maintenance District in the total amount of $64,090.95; that the name of the owner of each lot, a description of each lot or parcel of land within the Stormwater Improvement and Maintenance District and the amount of the tax levied against each lot ($12.53 per lot or parcel) shall be as shown on the electronic schedule marked as assessment for the Stormwater Improvement and Maintenance District submitted to Flathead County Information Technology to be collected with County taxes; which by this reference is made a part hereof as fully as if set forth verbatim herein.

Section 3: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof, but shall be retroactive to July 1, 2013, the beginning of the City's 2014 fiscal year.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 19TH DAY OF AUGUST, 2013.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

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

RESOLUTION NO. 13-____

A Resolution of the City Council of the City of Whitefish, Montana, levying and assessing a tax on each lot or parcel of land in said City lying within the boundaries of Special Improvement Parking District No. 155 to defray the cost of creation of said District and of the improvements therein.

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

Section 1: There is hereby levied and assessed a tax plus interest at 8.00% amortized over twenty (20) years with semiannual payments upon all real property in Special Improvement Parking District No. 155, as identified on Exhibit "A", attached hereto and incorporated by reference, in the total amount of $25,064.88 to cover the cost of creation of said district and the making of improvements therein; that a list of each lot or parcel of land within said Special Improvement District, and the amounts of said tax levied against each lot shall be as shown on the electronic schedule marked as assessment for SID No. 155 and submitted to Flathead County Information Technology to be collected with County taxes and which by this reference is made a part hereof as fully as if set forth verbatim herein, the assessment for each lot or parcel of land in the district bordering or abutting upon the street whereon or wherein the improvements are to be made to be assessed in proportion to the lineal feet abutting or bordering the same and/or for that part of the whole cost which its assessable area bears to the assessable area of all benefited lots or parcels in the district.

Section 2: The City Clerk is hereby directed to certify a copy of this Resolution to the County Assessor and the County Clerk and Recorder of Flathead County, Montana, to be collected by the Treasurer, as provided by law.

Section 3: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof, but shall be retroactive to July 1, 2013, the beginning of the City's 2014 fiscal year.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 19TH DAY OF AUGUST, 2013.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

CITY OF WHITEFISH
Assessment Detail 2013

9438 SID 155 - PARKING

Tax ID

0000955	0744221	0975491
0001550	0756460	0975865
0004461	0770750	0975888
0008740	0789725	0976968
0013988	0792215	0977414
0025830	0818650	0977676
0039000	0837350	0977772
0062601	0857810	0977773
0079877	0865990	0977779
0102710	0865995	0978374
0123150	0878150	0980186
0126715	0880875	0980187
0135610	0882150	0981980
0136040	0890170	0982130
0152365	0891400	0982131
0162050	0897100	0982132
0195800	0913301	S003737
0233890	0924100	
0234040	0924700	
0247961	0931620	
0250000	0934050	
0254015	0966000	
0359001	0969414	
0369926	0971026	
0395039	0972050	
0405005	0972167	
0407720	0972551	
0412350	0972552	
0430700	0972553	
0444176	0972554	
0465600	0972555	
0484010	0972557	
0486301	0972558	
0500193	0972559	
0514300	0972560	
0517901	0972561	
0561651	0972562	
0565300	0972563	
0600341	0973203	
0618450	0973204	
0618500	0973205	
0685101	0973206	
0686354	0973715	
0686800	0973716	
0687126	0973717	
0688158	0973718	
0699933	0974096	
0708950	0974097	
0710376	0974098	
0714600	0974099	
0724240	0974241	

EXHIBIT "A"

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

RESOLUTION NO. 13-____

A Resolution of the City Council of the City of Whitefish, Montana, levying and assessing a tax on each lot or parcel of land in said City lying within the boundaries of Special Improvement Water/Sewer District No. 158 (Pack Rat Lane) to defray the cost of creation of said District and of the improvements therein.

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

Section 1: There is hereby levied and assessed a tax plus interest at 8.00% amortized over twenty (20) years with semiannual payments upon all real property in Special Improvement District No. 158, as identified on Exhibit "A", attached hereto and incorporated herein by reference, in the total amount of $10,482.12, to cover the cost of creation of said district and the making of improvements therein; that the amount of taxes are hereby levied and assessed against each lot within the boundaries of said Special Improvement District No. 158 of the City of Whitefish, Montana, as shown on the electronic schedule marked as assessment for Special Improvement District No. 158 and submitted to Flathead County Information Technology to be collected with County taxes; which by this reference is made a part hereof as fully as if set forth verbatim herein.

Section 2: The City Clerk is hereby directed to certify a copy of this Resolution to the County Assessor and the County Clerk and Recorder of Flathead County, Montana, to be collected by the Treasurer, as provided by law.

Section 3: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof, but shall be retroactive to July 1, 2013, the beginning of the City's 2014 fiscal year.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 19TH DAY OF AUGUST, 2013.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

CITY OF WHITEFISH
Assessment Detail 2013

9436 SID 158 - PACKRAT WATER/SEWER

Tax ID				
0004197	25-31-22	TR 7GC		
0141975	25-31-22	TR 6A		
0414000	25-31-22	TR 7HAB		
0474650	GLENWOOD PARK	B 1/LOT 6		
0536950	GLENWOOD PARK	B 1/LOT 8 &		
0602900	GLENWOOD PARK	B 1/LOT 3		
0729020	GLENWOOD PARK	LOT 1 & S		
0816350	25-31-22	TR 5H		
0978265	25-31-22	TRACT 7HAD		

EXHIBIT "A"

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

RESOLUTION NO. 13-____

A Resolution of the City Council of the City of Whitefish, Montana, levying and assessing a tax on each lot or parcel of land lying within the boundaries of Special Improvement District No. 166 (JP Road) to defray the cost of creation of said District and of the improvements therein.

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

Section 1: There is hereby levied and assessed a tax plus interest amortized over 20 years with semiannual payments upon all real property in Special Improvement District No. 166, as identified on Exhibit "A", attached hereto and incorporated herein by reference, in the total amount of $107,226.82 to cover the cost of creation of said district and the making of improvements therein; that the amount of taxes are hereby levied and assessed against each lot within the boundaries of said Special Improvement District No. 166 of the City of Whitefish, Montana, as shown on the electronic schedule marked as assessment for Special Improvement District No. 166 and submitted to Flathead County Information Technology to be collected with County taxes; which by this reference is made a part hereof as fully as if set forth verbatim herein.

Section 2: The City Clerk is hereby directed to certify a copy of this Resolution to the County Assessor and the County Clerk and Recorder of Flathead County, Montana, to be collected by the Treasurer, as provided by law.

Section 3: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof, but shall be retroactive to July 1, 2013, the beginning of the City's 2014 fiscal year.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 19TH DAY OF AUGUST, 2013.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

CITY OF WHITEFISH

Assessment Detail 2013

JP ROAD SID

0004241	0007615	0009813	0010162	0010349	0010615	0010670
0005169	0007616	0009814	0010163	0010350	0010616	0010671
0005977	0007617	0009815	0010164	0010351	0010617	0010673
0005978	0007618	0009816	0010165	0010352	0010618	0010674
0005979	0007619	0009817	0010166	0010353	0010619	0010675
0005980	0007620	0009818	0010167	0010354	0010620	0010676
0005981	0007621	0009819	0010168	0010355	0010621	0010677
0005982	0007622	0009820	0010169	0010356	0010622	0010678
0005983	0007623	0009821	0010170	0010358	0010623	0010680
0005984	0007625	0009822	0010172	0010359	0010624	0010681
0005985	0007913	0009823	0010174	0010362	0010625	0010682
0005986	0007914	0009824	0010175	0010363	0010626	0010683
0005987	0007915	0009825	0010176	0010372	0010627	0010685
0005988	0007916	0009826	0010177	0010373	0010628	0010686
0005989	0007917	0009827	0010178	0010374	0010629	0010687
0005990	0007918	0009828	0010179	0010375	0010630	0010688
0005991	0007919	0009830	0010180	0010376	0010631	0010689
0005992	0007920	0009831	0010181	0010377	0010632	0010690
0006064	0007921	0009832	0010182	0010378	0010633	0010691
0006086	0007922	0009833	0010183	0010379	0010634	0010692
0006642	0007923	0009967	0010184	0010380	0010635	0010693
0006643	0007924	0009968	0010185	0010381	0010636	0010694
0006644	0007925	0009969	0010186	0010383	0010637	0010695
0006949	0007926	0009970	0010187	0010384	0010638	0010696
0006951	0007927	0010127	0010188	0010385	0010639	0010697
0006952	0007928	0010128	0010189	0010386	0010640	0010698
0006953	0007929	0010129	0010190	0010387	0010641	0010699
0006954	0007930	0010131	0010191	0010578	0010642	0010701
0006955	0007931	0010132	0010192	0010586	0010643	0010703
0006956	0007932	0010134	0010193	0010587	0010644	0010704
0006957	0007933	0010135	0010194	0010588	0010645	0010705
0006958	0007934	0010136	0010195	0010589	0010646	0010706
0006959	0007935	0010137	0010196	0010590	0010647	0010707
0006960	0007936	0010138	0010197	0010591	0010649	0010709
0006961	0007937	0010139	0010198	0010592	0010651	0010710
0006962	0007939	0010143	0010199	0010594	0010652	0010717
0006963	0007940	0010144	0010200	0010595	0010653	0010719
0006964	0007941	0010145	0010201	0010596	0010654	0010720
0007121	0007942	0010146	0010202	0010597	0010655	0010721
0007602	0007943	0010147	0010203	0010598	0010656	0010723
0007603	0007944	0010148	0010204	0010599	0010657	0010725
0007604	0007945	0010149	0010205	0010601	0010658	0010727
0007605	0007946	0010151	0010206	0010604	0010659	0010728
0007606	0007947	0010152	0010338	0010605	0010660	0010729
0007607	0009804	0010153	0010339	0010606	0010661	0010730
0007608	0009805	0010154	0010341	0010607	0010662	0010731
0007609	0009806	0010155	0010342	0010609	0010664	0010732
0007610	0009808	0010156	0010343	0010610	0010665	0010733
0007611	0009809	0010157	0010344	0010611	0010666	0010734
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EXHIBIT "A" - Page 2 of 2

CITY OF WHITEFISH
NOTICE OF BUDGET INCREASE
FROM PROPERTY TAXES

The City of Whitefish intends to budget an increase in revenue from property taxation by 1.69%, because of the increase in the 2013 certified taxable valuation. The City does not intend to increase last year's net mill levy rate of 120.40 mills.

All concerned persons are invited to attend a public hearing on budgeting the increased property tax revenue, to be held on August 19, 2013, 7:10 p.m., City Council Chambers, Whitefish City Hall, 402 E. 2nd Street, Whitefish, Montana.

A decision on budgeting the increased property tax revenue will be made after considering comments made at this hearing.

For further information, please contact Rich Knapp, Assistant City Manager/Finance Director, (406) 863-2405. Copies of the proposed 2014 fiscal year budget are on file in the City Clerk's Office, 418 E. 2nd Street, Whitefish, Montana, and on the City's website: http://www.whitefish.govoffice.com/.

Budget Summary by Main Revenue Source
City of Whitefish Final Budget
Fiscal Year 2014

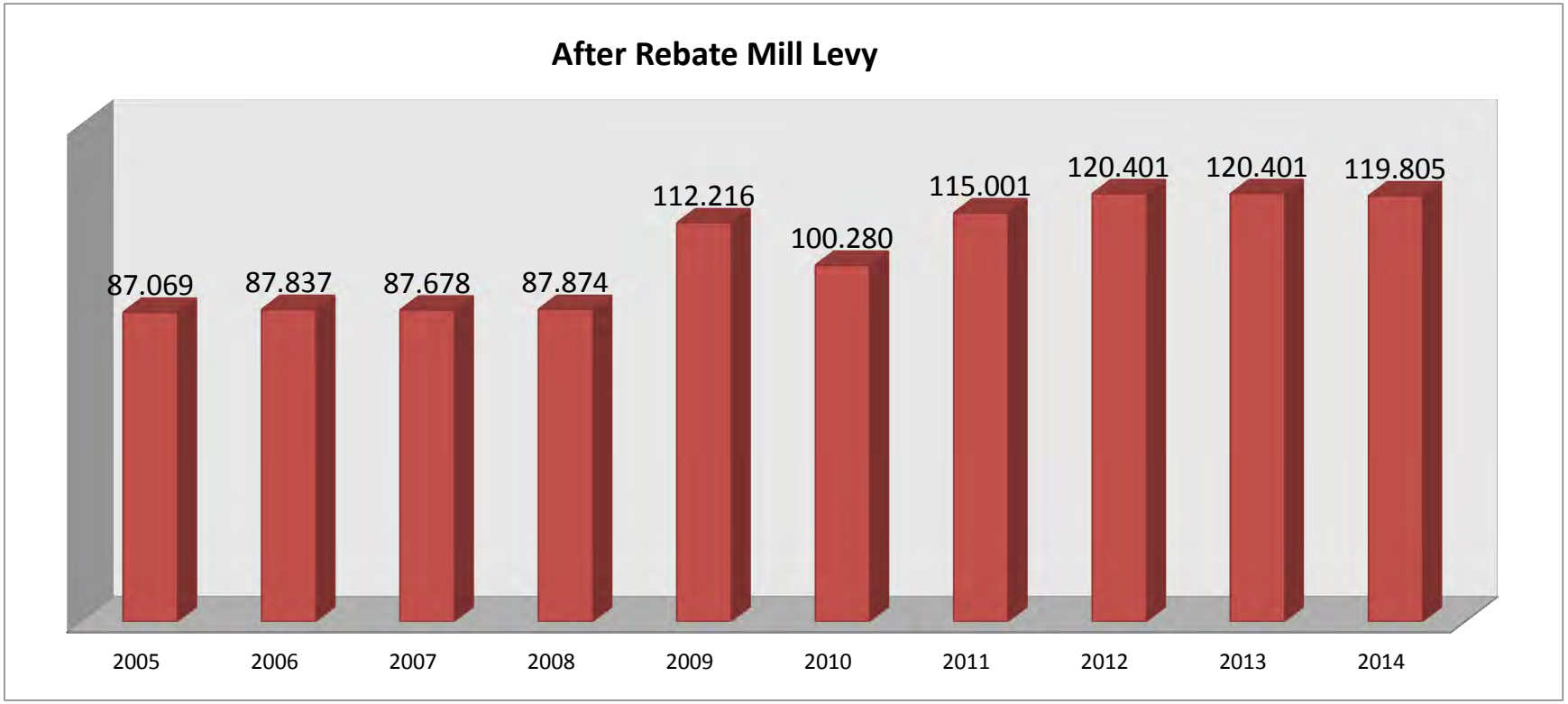
8/9/2013

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
4		Resources								Requirements				
5–7	Fund	Beginning Available Cash	Revenue	Transfers	Total	Personal Services	Materials & Services	Capital Outlay	Transfers	Debt Service	Conting.	Total Approp Budget	Ending Available Cash	Total Approp. & Unapprop
9	**Property Tax Supported Funds:**													
10	General	737,438	3,288,323	693,432	4,719,193	622,553	286,122	53,000	3,057,371	-	10,000	4,029,046	690,148	4,719,193
11	Library	23,758	184,011	34,371	242,141	145,212	61,084	-	-	-	3,500	209,796	32,345	242,141
12	Law Enforcement	71,627	371,581	1,845,000	2,288,209	1,719,345	490,400	35,800	-	-	-	2,245,545	42,663	2,288,209
13	Fire & Ambulance	525,018	3,092,162	575,000	4,192,180	2,088,093	805,870	995,000	-	17,000	-	3,905,963	286,216	4,192,180
14	Bldg Codes	7,823	341,500	-	349,323	295,235	41,575	-	-	-	-	336,810	12,513	349,323
15	Parks/Rec	(90,162)	1,071,165	603,000	1,584,003	824,468	574,042	145,000	-	30,000	10,000	1,583,510	493	1,584,003
16	**Total**	1,275,503	8,348,742	3,750,803	13,375,048	5,694,906	2,259,093	1,228,800	3,057,371	47,000	23,500	12,310,670	1,064,378	13,375,048
17												Change in Cash	$ (211,125)	
18						Total Operating Budget =		7,953,999			Ending Cash as a % of Budget		11.5%	
19	**Other Tax, Fee & Assessment Supported Funds:**													
20	Resort Tax	2,153,554	1,936,000	-	4,089,554	-	-	2,305,000	733,232	-	-	3,038,232	1,051,322	4,089,554
21	Tax Inc Dist	2,059,195	4,961,882	-	7,021,077	220,850	1,721,800	1,522,000	2,046,986	-	300,000	5,811,636	1,209,441	7,021,077
22	Street Fund	1,044,448	1,326,257	-	2,370,705	704,036	648,379	378,534	-	-	50,000	1,780,949	589,756	2,370,705
23	Street Lighting #1	63,951	76,707	-	140,658	21,092	44,600	30,000	-	-	-	95,692	44,966	140,658
24	Street Lighting #4	66,370	61,235	-	127,605	21,092	77,229	30,000	-	-	-	128,321	(716)	127,605
25	Impact Fees	363,318	128,500	-	491,818	-	-	491,818	-	-	-	491,818	-	491,818
26	Sidewalk	126,832	750	-	127,582	-	-	127,582	-	-	-	127,582	-	127,582
27	Stormwater	1,225,220	63,280	-	1,288,500	-	47,267	526,500	-	-	-	573,767	714,733	1,288,500
28	**Total**	7,102,888	8,554,611	-	15,657,499	967,070	2,539,275	5,411,434	2,780,218	-	350,000	12,047,997	3,609,502	15,657,499
31	**Enterprise Funds:**													
32	Water	1,516,495	2,956,700	-	4,473,195	887,116	722,471	1,301,050	-	543,450	-	3,454,087	1,019,108	4,473,195
33	Wastewater	879,651	3,741,200	-	4,620,851	834,840	835,003	2,066,800	-	297,575	-	4,034,218	586,633	4,620,851
34	Solid Waste	75,324	748,170	-	823,494	71,565	666,980	-	-	-	-	738,545	84,949	823,494
35	**Total**	2,471,471	7,446,070	-	9,917,541	1,793,521	2,224,454	3,367,850	-	841,025	-	8,226,850	1,690,691	9,917,541
38	**Other Funding Source Funds:**													
39	Cty Hall Reserve	2,027,194	8,000	250,000	2,285,194	-	-	400,000	-	-	-	400,000	1,885,194	2,285,194
40	US93/2nd St TIGER	-	134,000	-	134,000	-		134,000	-	-	-	134,000	-	134,000
41	Housing Authority	4,573	645,000	-	649,573	-	649,573	-	-	-	-	649,573	-	649,573
42	WF Trail Construct	82,560	101,500	-	184,060	-		172,000	-	-	11,500	183,500	560	184,060
43	Park Dev	109,148	256,900	39,800	405,848	-	22,483	366,600	-	-	-	389,083	16,765	405,848
44	TIF Debt Svc	3,125,331	10,000	1,796,986	4,932,317	-	-	-	-	1,784,824	-	1,784,824	3,147,493	4,932,317
45	Victim/Wit	230	15,000	-	15,230	-	15,000	-	-	-	-	15,000	230	15,230
46	Misc. S.I.D.	145,368	138,720	-	284,088	-	-	-		111,600	-	111,600	172,488	284,088
47		5,494,404	1,309,120	2,086,786	8,890,310	-	687,056	1,072,600	-	1,896,424	11,500	3,667,580	5,222,729	8,890,309
49	**Total**	16,344,266	25,658,543	5,837,589	47,840,397	8,455,497	7,709,877	11,080,684	5,837,589	2,784,449	385,000	36,253,097	11,587,300	47,840,397

City of Whitefish
Mill Value and Tax Levy
History

8/9/2013

Fiscal Year	Total Market Value	Newly Taxable Value	Mill Value		HB 124 Mills Levied	Health Insur Mills	Gross Mills Levied	Resort Tax Relief	Net Mills Levied	Fire & Amb Mills	Total Mills Levied	Distibution of Property Tax Levy: General	Library	Fire Pension	Fire/Amb	Total Property Tax Revenue
	a	*b*	*c*	*d*	*e*	*f*	*g* (e+f)	*h*	*i* (g+h)	*j*	*k* (i+j)	*l*	*m*	*n*	*o*	*p* (c x k)
2002	$ 331,297,444	$1,543,904	$ 9,521.589	16.1%	97.90		97.90	-28.63	69.267		69.267					$ 659,532
2003	$ 376,926,297	$1,171,218	$ 10,540.581	11%	106.40	4.81	111.21	-26.43	84.782		84.782	$ 851,489		$ 42,162		$ 893,652
2004	$ 438,821,953	$1,688,291	$ 12,324.709	17%	106.40	4.81	111.21	-24.07	87.139		87.139	$1,024,664		$ 49,299		$1,073,963
2005	$ 496,460,096	$1,042,687	$ 13,398.957	9%	106.40	4.81	111.21	-24.14	87.069		87.069	$1,113,038		$ 53,596		$1,166,634
2006	$ 577,691,081	$1,438,400	$ 15,023.975	12%	107.40	3.81	111.21	-23.37	87.837		87.837	$1,259,565		$ 60,096		$1,319,661
2007	$ 676,545,891	$1,121,030	$ 16,608.044	11%	105.68	5.53	111.21	-23.53	87.678		87.678	$1,389,728		$ 66,432		$1,456,160
2008	$ 755,263,708	$1,812,408	$ 18,512.556	11%	105.68	5.53	111.21	-23.34	87.874		87.874	$1,552,722		$ 74,050		$1,626,772
2009	$ 789,392,160	$1,029,224	$ 19,499.520	5.3%	108.75	2.46	111.21	-22.99	88.216	24	112.216	$1,642,172		$ 77,998	$ 467,988	$2,188,158
2010	$ 888,143,474	$1,238,391	$ 20,103.083	3%	108.75	2.46	111.21	-23.29	87.920	12.36	100.280	$1,687,048		$ 80,412	$ 248,474	$2,015,935
2011	$ 952,357,384	$ 563,091	$ 20,434.118	2%	115.40	2.46	117.86	-22.54	95.321	19.68	115.001	$1,866,064		$ 81,736	$ 402,143	$2,349,944
2012	$1,022,102,349	$ 710,377	$ 21,287.796	4%	116.33	6.08	122.41	-26.01	96.401	24	120.401	$1,852,060	$114,954	$ 85,151	$ 510,907	$2,563,072
2013	$1,090,881,100	$ 522,087	$ 21,631.411	1.6%	117.966	6.08	124.05	-27.65	96.401	24	120.401	$1,881,954	$116,810	$ 86,526	$ 519,154	$2,604,444
2014	$1,164,900,282	$ 307,117	$ 22,105.761	2.2%	117.174	10	127.17	-31.369	95.805	24	119.805	$1,910,048	$119,371	$ 88,423	$ 530,538	$2,648,381
			change from last year		-0.79	3.92		-3.72	-0.60	0.000	-0.596	$ 28,094	$ 2,561	$ 1,897	$ 11,384	$ 43,937
											-0.50%	1.5%	2.2%	2.2%	2.2%	1.69%



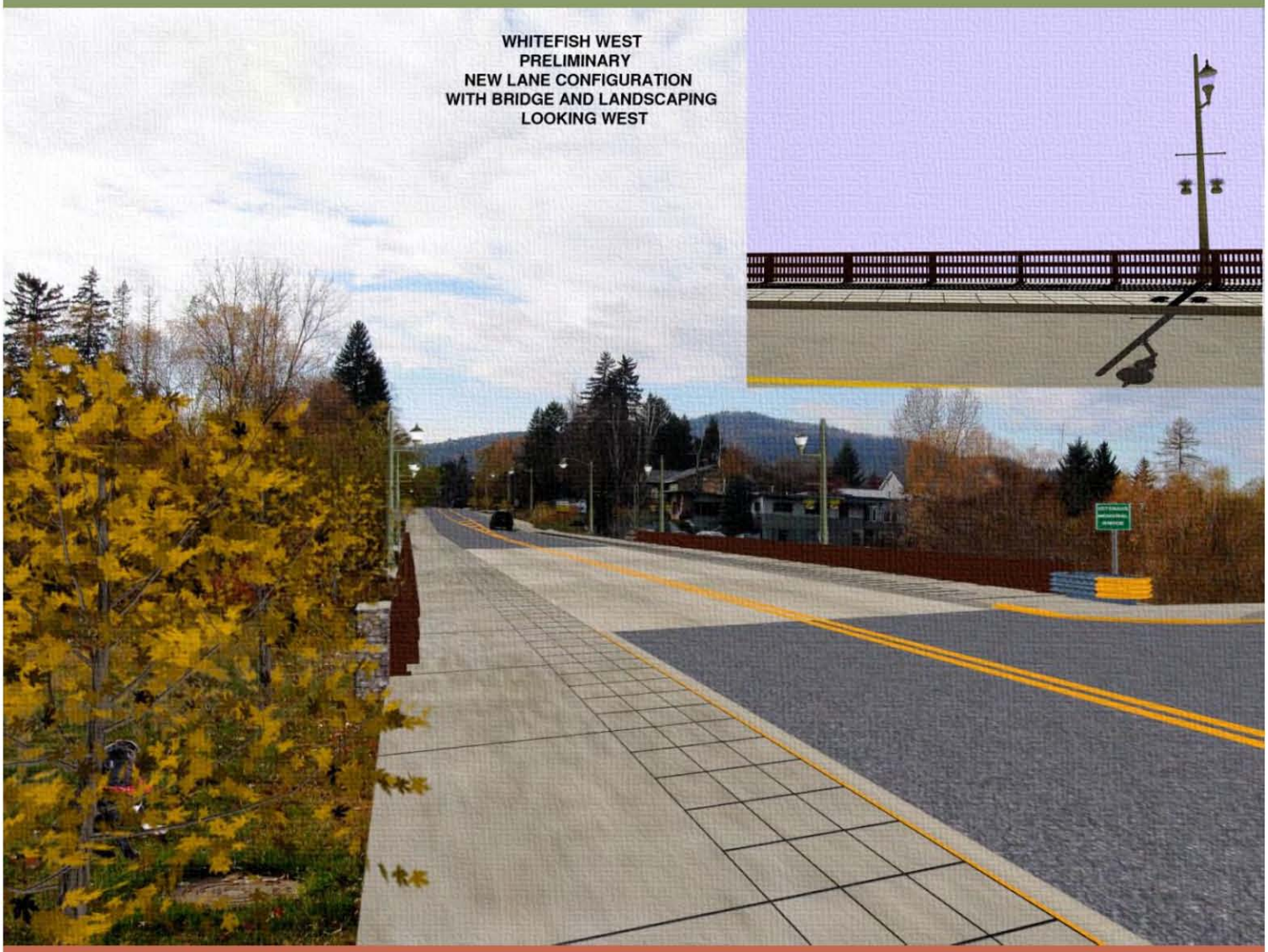
Changes to FY14 Budget Since Preliminary Budget - 7/24/13

	Description of Budget Change	Exp/Rev	Amount Change	Notes
	Overall Budget			
1	Enter 7/1/13 beginning of year cash balances into each fund		varies	Actual cash balances now known, so budget was updated
2	Add 3.7% pay increase for City Manager	Exp		done
3	Added money for Local Government Review election in June, 2014 at primary election	Exp	$2,250	done
4	City Attorney contract	Exp		Leave as budgeted with $10,000 in budget
5	Add 1.7% COLA for municipal judge pay increase	Exp		done
6	Liability & Property Insurance lower. Decreased insurance expense through out funds.	Exp	$75,569	done
7	Revised mill levy and property taxes pursuant to Assessors mill value certification	Rev		
	Other			
8	Placeholder for website development budget - if not completed by staff?	Exp		
9	Increased both Lighting District #1 and #4 rates by 10% and offset with approximate equivalent mill levy decrease	Rev		
10	MWED dues increase from $500 to $1,000	Exp		approved by Council
11	Remodel planning server room to accommodate new planner	Exp	$8,600	done
12	Budget for increase to Chief Dial's salary for 3.7% increase	Exp		done
13	Closed out Bike & Ped fund		$1,837	done
14	Add $25,000 of revenue and expenditures for Parks and Recreation - BNSF donation for river landing park	Rev & Exp		done
15	Added back US93/2nd St TIGER Construction Fund - not complete yet	Rev & Exp	$134,000	done
16	Increased Street Lighting Districts assessments by 10% and lowered property tax mill levy by 0.596 mills to offset	Rev & Exp		
	Public Works			
	See public works changes sheet			
	TIF			
17	Revised Skye Park budget in TIF to reflect other funding sources	Exp		$600k total, $350,700 from other sources in TIF Revenue budget
18	May be able to eliminate FY14 TIF budget for Downtown Master Plan if finished?	Exp	$0	$20k currently in budget
19	May be able to eliminate budget for Wayfinding signs in FY14 if all or mostly finished?	Exp	$0	$10k currently in budget
20	Eliminate Chamber Trolley project as specified project and increase contingency by same $	Exp	$100,000	done
21	Removed Block 46 infrastructure budget in TIF	Exp	$250,000	done
22	Added to Depot Park Phase II budget-total budget $547k	Exp	$147,000	done
23	Added budget for two bulb-outs at 1st and Baker as part of MDT Baker overlay project	Exp	$100,000	done - complicated coordination with parking structure egress -
24	Add to TIF for Char Rygg trail - 930 acct	Exp	$25,000	done
25	Revised taxable valuation pursuant to Assessor certification and increased revenues.			
	Fire			
26	Removed Brush Engine in Fire	Exp	$165,000	done
27	Removed Fire Association contribution	Rev	$70,000	done
28	Reduced amount needed for loan	Rev	$120,000	done
29	WFSA contribution to fire equipment deposited in FY13 – therefore reduced for FY14	Rev	$100,000	Check from WFSA received in June, 2013 instead of in FY14.
30	Carryover amount for Fire union FY13 pay increase - 3.7% retro to 7/1/12	Exp	$38,000	Taken from reserves
31	Revised revenue estimates for assessment districts pursuant to Necile's latest calculations	Rev		done

Public Works - FY14 Final Budget Adjustments

	Description	Preliminary Budget Amount	Additions	Reductions	Recommended Final Budget Amount	Comments
Water						
350	City Beach Boat Sump/Petroleum Capture	10,000		10,000	0	Move this item to Stormwater 930
360	Paint Water Treatment Plant	25,000		20,000	5,000	Most of work completed in FY 13
397	Tree Thinning Fire Safety Match	18,000		8,000	10,000	Bids came in lower than estimated
910	Property Purchase for South Reservoir	150,000		150,000	0	Postpone until FY 2015
930	2nd St Residences Water Main Upgrade	50,000		50,000	0	Able to delay until FY15 due to timing of private development
930	Whitefish West Phase II	0	416,000		416,000	Overlooked in preliminary budget
930	Peregrin Lane Water Services	100,000		50,000	50,000	Bids came in lower than estimated
930	Somers Ave. Reconstruction (design only)	100,000		47,500	52,500	Postpone construciton element until FY 2015
930	Dodger Lane Road Extension	135,000		65,000	70,000	Bids came in lower than estimated
940	Telescoping Lift	6,000		6,000	0	Purchase completed in FY13
	Totals:		***416,000***	***406,500***		
Wastewater						
Revenue						
	DNRC Planning Grants	175,000		20,000	155,000	Amounts updated based on recent notice of grant awards
Expenditures						
350	Nutrient Reduction Plan	0	100,000		100,000	Revenue included but expenditure overlooked in prelimnary budget
934	Whitefish West Phase II	0	743,000		743,000	Overlooked in preliminary budget
934	Cow Creek Sewer Extension	800,000		750,000	50,000	Able to delay until FY15 due to timing of private development
940	Telescoping Lift	6,000		6,000	0	Purchase completed in FY13
943	Whitefish Septic Leachate Mitigation	25,000		25,000	0	Move to Wastewater 350 and rename as Wastewater Committee Consultant / WLI
943	Gavity Main to Reroute JP Road Flow	200,000		125,000	75,000	Funding reduced to provide for design in FY 14 with construction in FY15
943	Waste Receiving Station	150,000		100,000	50,000	Shifting funds to support gravity main project
				125,000		
	Expediture Totals:		***843,000***	***1,131,000***		
Stormwater						
930	Edgewood Place and Texas Ave Improvemetns	150,000		150,000	0	Refocused Priorities
930	Shady River Outfall	30,000		30,000	0	Refocused Priorities
930	Crestwood/Parkway Drainage Improvements	0	100,000		100,000	Refocused Priorities
930	Dodger Lane Road Extension	25,000		3,000	22,000	Bids came in lower than estimated
930	City Beach Boat Ramp - Mitigation for Petroleum	50,000	10,000		60,000	Moving this item over from Water 350
930	Somers Ave. Reconstruction (design only)	0	19,500		19,500	Postpone construciton element until FY 2015
940	Aeration equipment for Riverside Pond	0	15,000		15,000	Overlooked in preliminary budget
	Totals:		***144,500***	***183,000***		
Street						
360	Restored some overlays & chipseal budtet	80,000	170,000		250,000	more money available..prior years' budget $350k
932	Dodger Lane Road Extension	170,000		40,000	130,000	Bids came in lower than estimated
932	Somers Avenue Reconstruction (design only)	100,000		59,250	40,750	Postpone construciton element until FY 2015
940	Telescoping Lift	3,000		3,000	0	Purchase completed in FY13
	Totals:		***0***	***102,250***		
Street - Snow/Ice						
940	De-Icer Unit	5,600		4,136	1,464	To be purchased under State MACI Program - City share clarified by MDT
940	Tank, 10,000 Gallon Poly	7,200		7,200	0	Chose not to purchase

City of Whitefish Montana



Fiscal Year 2014 Adopted Budget

Mayor

John Muhlfeld

City Council

Chris Hyatt

Bill Kahle

Phil Mitchell

John Anderson

Frank Sweeney

Richard Hildner

City Manager

Chuck Stearns

Assistant City Manager/Finance Director

Rich Knapp

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MEMORANDUM

#2013-034

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: FY14 Final Budget Transmittal Message

Date: August 12, 2013

INTRODUCTION

The Fiscal Year 2014 (FY14) City of Whitefish Budget provides budget authority for the services and projects the City anticipates during the upcoming fiscal year, which runs from July 1, 2013 to June 30, 2014. The City budget contains a total of 25 active, self-balancing funds. "Self-balancing" means that resources equal requirements. Each fund exists to provide segregated accounting for specific activities. This message provides a general description of the budget document and the financial plans for the City for the upcoming fiscal year.

FY14 BUDGET MAJOR CHANGES AND ISSUES

With the economy continuing to improve and increasing building permit revenues, the FY14 budget was still difficult to balance. The major points and issues in the FY14 budget are as follows:

- For property tax supported funds, the budget is balanced with a slight reduction in the property tax mill levy. The City Council decided to increase both Street Lighting Districts' assessments by 10% and offset that increase on citizens' property tax bills with a 0.596 reduction to the mill levy. The FY14 mill levy is 119.805 which is a 0.495% reduction to last year's levy of 120.401 mills.
- In property tax supported funds, we are spending down a net $211,125 of the year end cash balance, but most of that is for one time types of expenditures. We are actually projecting to increase the year end cash balances as a % of expenditures from 10.0% in last year's budget to 11.5% for FY14. That increase would translate to a year end FY14 cash balance for property tax supported funds of $1,064,378 compared to our FY13 year end original projection of $898,889. The actual June 30th year end cash balance was $1,275,503.
- The property tax base (mill value) grew only 2.2% from last year's figure of $21,631.411 per mill to $22,105.76. The 2013 Legislature's changes to the tax base should all be reimbursed by the state, but the 2.2% growth is lower than the 4% growth we had

estimated. The lower tax base meant that we had to reduce our year end cash balances by another $50,000.

- The Montana Municipal Interlocal Authority (MMIA), our provider for insurance programs, has announced only a 2.5% increase in premiums for medical insurance and no increases for vision or dental programs. In past labor agreements and practice, the City has paid for the cost of living increase portion (1.7%) and then employees and the City split the remaining percentage increase, 0.8%. That is the basis upon which we continue negotiations and the financial impact to the City is quite small.
- The Police and Public Works unions have Collective Bargaining Agreements in place for both FY14 and FY15. We are still negotiating with the Firefighters union for the FY13 and FY14 contracts and those negotiations are currently in mediation.
- The budget provides funding for a 3.7% pay increase. The cost of living adjustment (COLA) that we use is 1.7% and 3.7% allows resumption of a 2% Step increase.
- This budget provides additional seasonal staffing for the Parks and Recreation Department in the amount of $63,720 plus employer contributions/benefits. Karl Cozad, Parks and Recreation Director, said he preferred the equivalent amount of funding for seasonal employees rather than a year round permanent employee. Part of the $63,720 also provides additional seasonal employees for work on the Whitefish Trail, but this cost is offset by contributions of up to $59,158 for maintenance from the Whitefish Legacy Partners and their maintenance endowment.
- After considering the pros and cons of hiring an additional planner versus contracting for additional planning services, I felt that the hiring of an additional planner is more efficient and effective than contracting for planning services. The cost for a new planner is $76,744 in wages and benefits, plus additional costs for supplies and equipment for an approximate cost of $80,000. When we tallied up the costs for contracting out Hwy 93 South Corridor Plan and Lakeshore work, that total cost would be $95,000. That cost differential plus the flexibility of a staff person to work on a multitude of projects, not just what is in a contractual scope of work, and the institutional knowledge and history that a staff person gains tipped me in favor of recommending that we hire a staff person rather than do contracts for this planning work.
- This budget continues the $300,000 lower Stormwater assessments which the City Council enacted two years ago. The City Council held a work session last year where pay as you go financing of stormwater improvements was compared to debt financing. The City Council decided to wait until more precise engineering costs are known before they decide on a stormwater improvements financing mechanism. The engineering study is currently underway.
- This budget would do some improvements to the current Cemetery by funding an irrigation system ($30,000 one time cost out of cash reserves in General Fund) and providing a columbarium for cremations. This columbarium is self-funded from the sale of columbarium vaults.
- The City Attorney's two year contract ends on June 30, 2013 so the Mayor and City Council need to negotiate a new contract with Mary VanBuskirk. That contract is scheduled for August 19th for approval.
- The City Council still needs to decide whether or not to increase garbage rates by the 3% that our contract with North Valley Refuse/Montana Waste will increase in October.

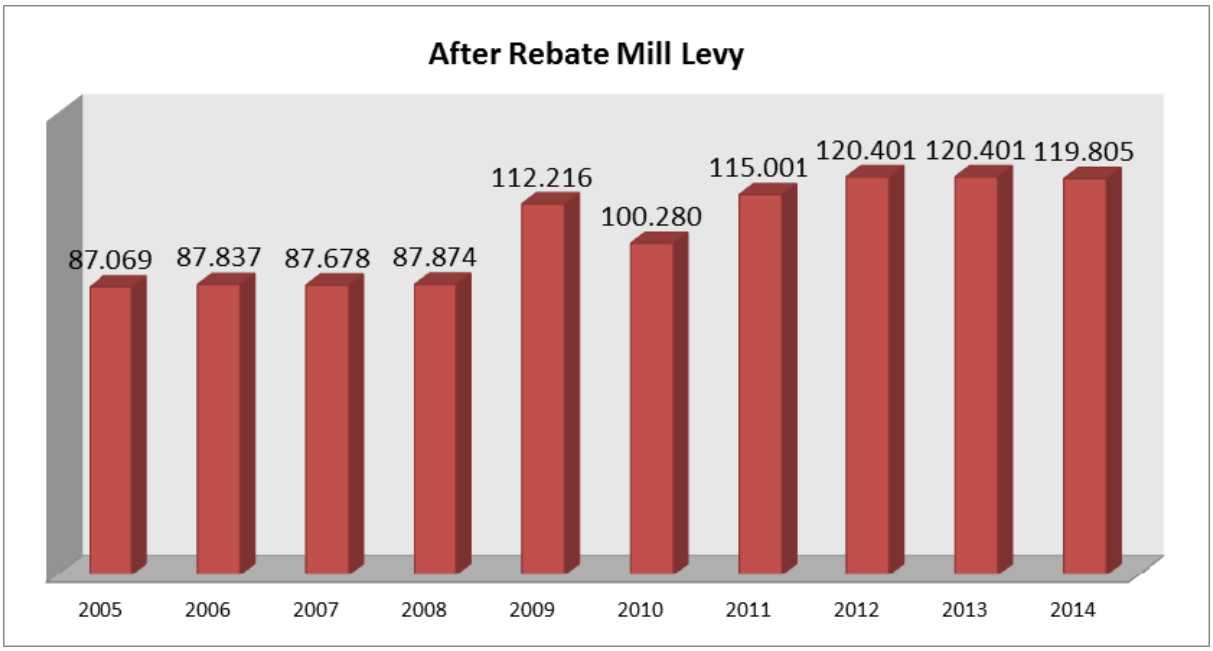
- I think we need to have a discussion about continued subsidies for the Ice Den which are contained in the budget. The budgeted subsidy is $41,769 for FY14 and the actual subsidy in FY13 was approximately $50,000. I believe that we need to increase user rates or shorten the season to close this subsidy. I also worry that we continue to fall behind on capital improvements at the Ice Den.
- I also believe we may need to discuss an increase to our Ambulance Rates.
- The City Council did approve increasing the assessments for both the residential and commercial street lighting districts by 10% for FY14. Those increased assessments are offset by a reduction in the property tax mill levy rate.
- In the FY14 budget, we absorbed the end of our SAFER grant for funding of 6 firefighters which were hired in 2009 and the end of our COPS grant which funded one police officer for the past three years. These two revenue decreases were $78,120 and $36,000 respectively. On the positive side, we successfully integrated all of these positions, both financially and operationally, so both grants were very important and successful.
- Our proposed one time uses of the cash balance for property tax supported funds are:
  1. Cemetery Irrigation system - $30,000
  2. Fire SCBA local matching funds for a possible grant (from WFSA prior $300,000 contribution) - $20,000
  3. Fire Radios for new apparatus - $30,000
  4. Parks Plow Truck - $40,000

  So at least $120,000 of the $211,125 use of the cash balance or reserves is for one time types of expenditures, not ongoing costs.

FY14 BUDGET OVERVIEW

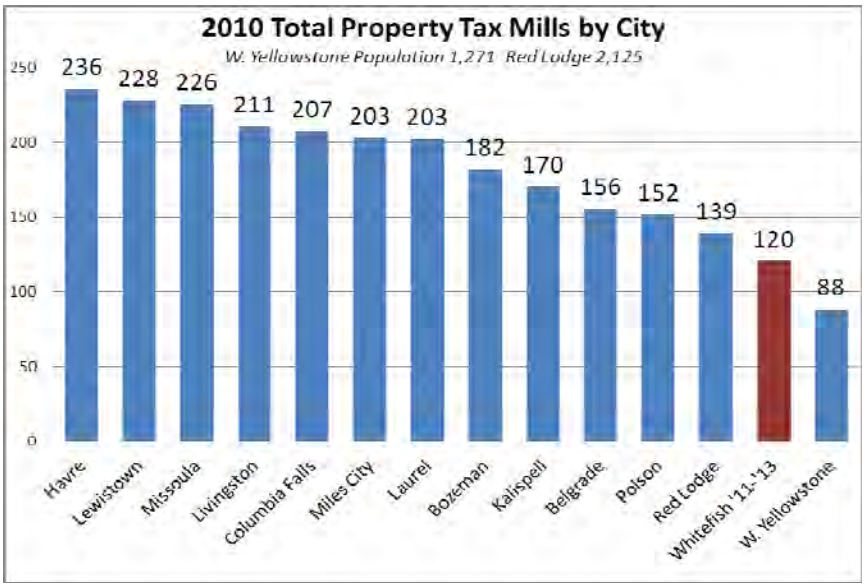
The FY14 proposed budget totals $36,253,097 of transfers and expenditures for all funds as compared to $36,920,853 in FY13, a 1.8% or $667,756 decrease. There are a lot of different factors which affect this figure. Some of these items were discussed above and some will be discussed below.

The chart below shows the trend of our net property tax mills levied in recent years and the slight decrease of 0.596 mills for FY14.



When considering mill rates, it is instructive to compare the City of Whitefish to other Montana cities. Rich Knapp prepared the comparison graphic below. Whitefish has historically had very low property tax mill levy rates because of our Resort Tax rebate for property tax reductions, high property valuations, and maintenance district assessments.

While levy comparisons are of interest, caution should be exercised in not drawing hard conclusions based on such information. Cities use property taxes to support similar, but not always the same mix of public services. For example, some cities support libraries, public transportation and other such services with mill-rate levies while others do not. Some cities have maintenance district assessments and others do not.



Even though the FY14 proposed budget decreases year end cash balances or reserves in the property tax supported funds by $211,125 to $1,064378 it would increase the year end cash balances as a percentage of expenditures from 10% projected year end balance in the FY13 budget to 11.5% of expenditures at the end of FY14. Last year's budget estimated we would end FY13 with a cash balance of $898,889 or 10.0% of expenditures while the actual year end balance was $1,275,503.

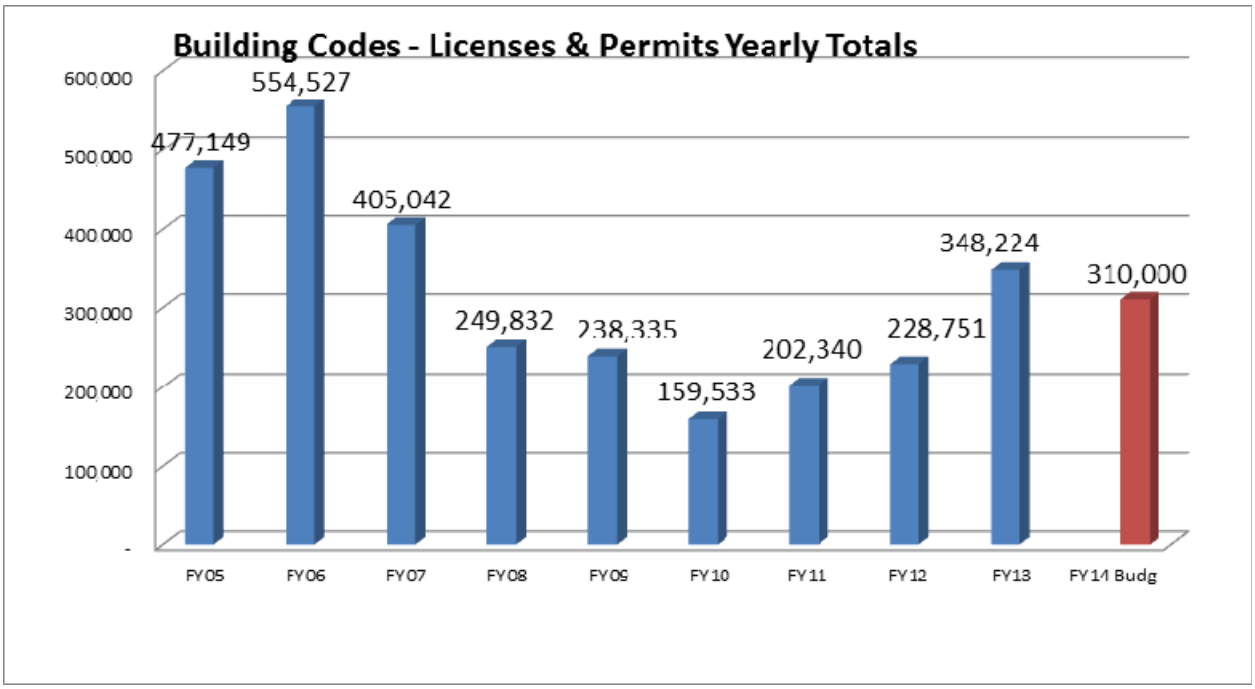
REVENUES

The proposed property tax and assessment changes for FY14 were discussed above.

Total revenues for all 25 budgeted funds are budgeted at $25,658,543 which is $511,433 or 2.03% higher than the FY13 budget. Most of these increases are from additional property tax revenue because of a higher mill value, higher Fire and Ambulance revenues (mostly from new debt), higher Resort Tax revenues, higher Tax Increment Revenues, and higher Water and Wastewater system revenues from the possibility of $1,704,000 of SRF loans to finance projects.

Total General Fund Revenues are projected at $3,288,323 in FY14 which is a $141,294 or a 4.49% increase from last year. Property tax revenues are 1.69% higher because of a higher valuation, the state entitlement reimbursements are expected to increase $16,000, and Planning and Zoning fees are expected to increase by $52,300. Transfers into the General Fund are $95,425 higher than last year because of higher, excess Resort Tax revenues.

The history and budget for total building permit and plan review fees are shown below. The FY14 estimate is the same as FY13 except for excluding the large big building permit for the high school.



Water usage revenues are up by $70,000 which is an increase of 2.99%, but that increase is caused by higher usage in the current year. We have not anticipated a water rate increase in this budget.

Wastewater usage charges are estimated at $2,070,000 or $170,000 or 8.95% more in FY14 – again for the same reasons as the water revenues are estimated higher. We have not anticipated a wastewater rate increase in this budget.

EXPENDITURES

Total proposed appropriations and transfers equal $36,253,097 which is a $667,756 or 1.81% decrease in budget authority as compared to the adopted FY13 Budget of $36,920,853. Property tax supported funds spending is $523,733 or 4.44% higher, Tax Increment Fund appropriations are $520,613 less primarily because of the payment for the high school project being $250,000 less, and spending in the Enterprise Funds of Water, Wastewater, and Solid Waste is $851,046 lower than last year.

Total expenditures and transfers for the General Fund equal $4,029,046 which is a $344,514 or 9.35% increase from the FY13 budget figure of $3,684,532. The biggest increase in this fund is $261,406 of additional transfers for property tax support to Police, Fire, Parks and Recreation and other property tax supported funds. There is an additional position in the Planning area for an incremental cost of approximately $80,000. There are additional seasonal positions in the Parks and Recreation Department as described at the beginning of this memo.

We have outlined major expenditure and capital outlay items in the narrative for each fund, so I will not repeat that information here.

CONCLUSION

This proposed FY14 budget accomplishes a lot in regards to adding staffing or resources to Planning and Parks and Recreation as the City Council has discussed during the past six months. We were able to decrease the property tax mill levy slightly, provide strategic additional staffing, increase the year end cash balance on a percentage of expenditures basis, and provide a 3.7% pay increase.

Rich Knapp again did most of the number crunching, preparation, and review of the FY14 budget. The Department Heads turned in responsible budget requests and are watching their budgets carefully. Special thanks are also extended to Necile Lorang, Administrative Services Director/City Clerk; Vanice Woodbeck, Asst. City Clerk; and Sherri Baccaro, Public Works Assistant for their invaluable help on the budget.

Budget Summary by Main Revenue Source
City of Whitefish Final Budget
Fiscal Year 2014

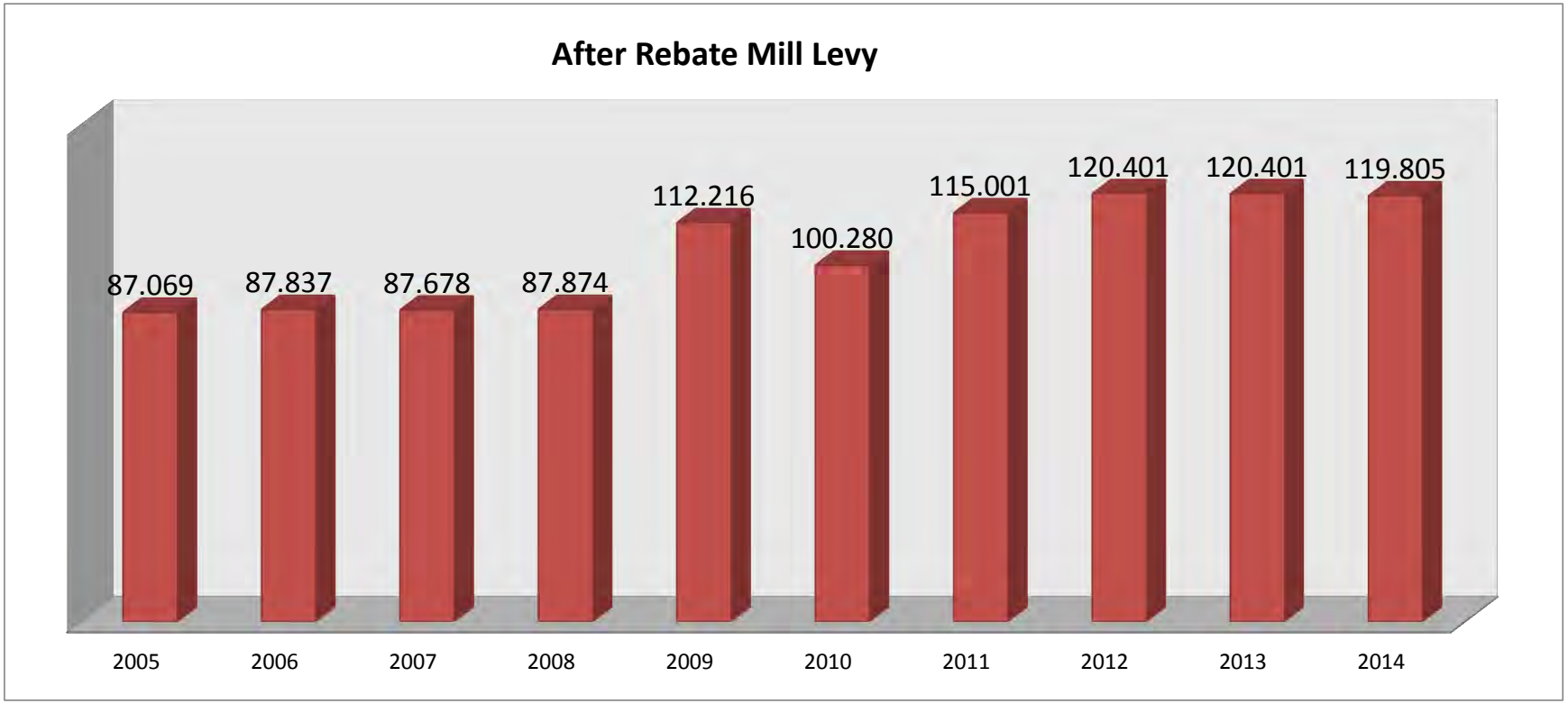
8/13/2013

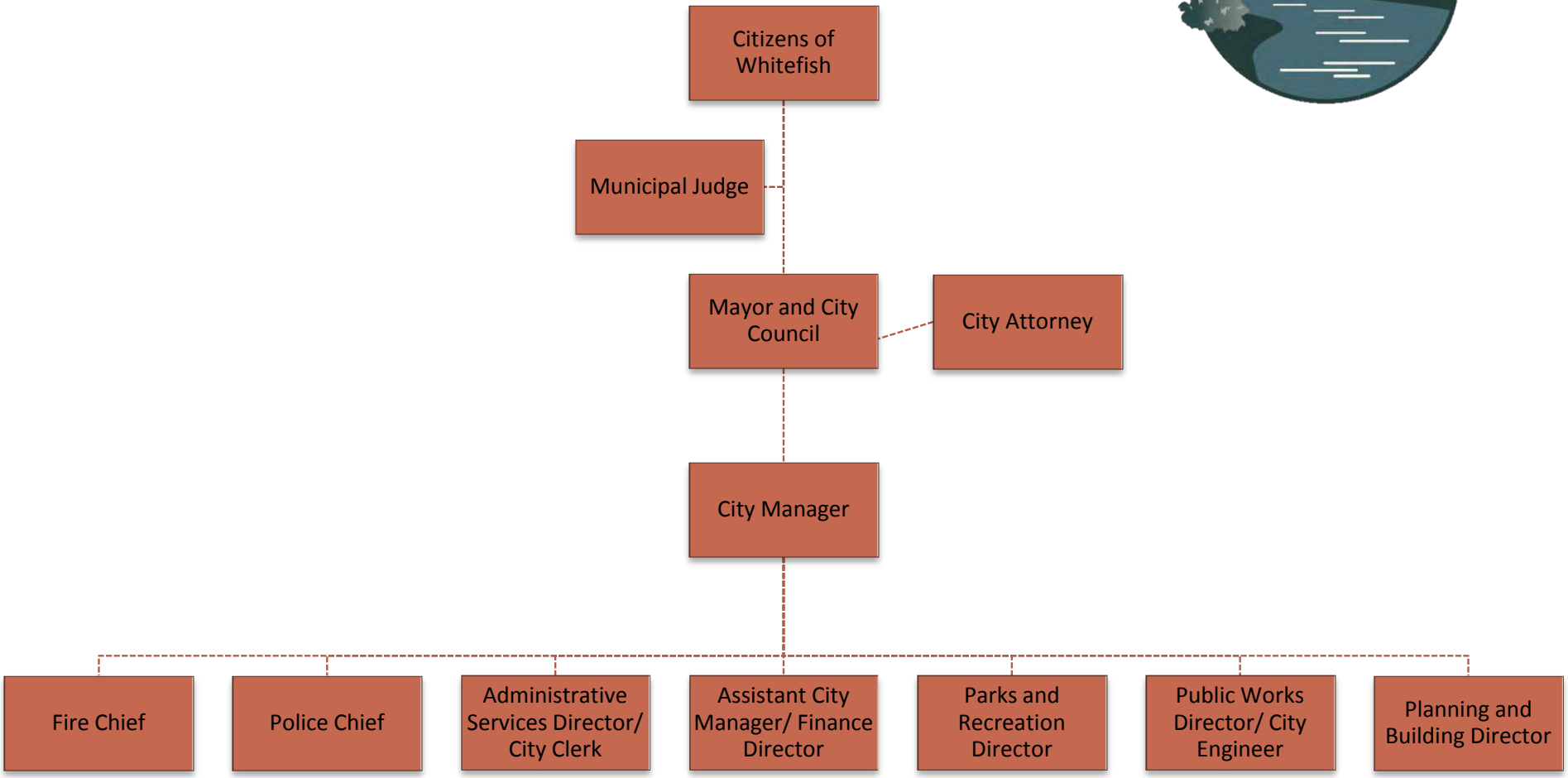
Fund	Beginning Available Cash	Revenue	Transfers	Total	Personal Services	Materials & Services	Capital Outlay	Transfers	Debt Service	Conting.	Total Approp Budget	Ending Available Cash	Total Approp. & Unapprop
	Resources				Requirements								
Property Tax Supported Funds:													
General	737,438	3,288,323	693,432	4,719,193	622,553	286,122	53,000	3,057,371	-	10,000	4,029,046	690,148	4,719,193
Library	23,758	184,011	34,371	242,141	145,212	61,084	-	-	-	3,500	209,796	32,345	242,141
Law Enforcement	71,627	371,581	1,845,000	2,288,209	1,719,345	490,400	35,800	-	-	-	2,245,545	42,663	2,288,209
Fire & Ambulance	525,018	3,092,162	575,000	4,192,180	2,088,093	805,870	995,000	-	17,000	-	3,905,963	286,216	4,192,180
Bldg Codes	7,823	341,500	-	349,323	295,235	41,575	-	-	-	-	336,810	12,513	349,323
Parks/Rec	(90,162)	1,071,165	603,000	1,584,003	824,468	574,042	145,000	-	30,000	10,000	1,583,510	493	1,584,003
Total	1,275,503	8,348,742	3,750,803	13,375,048	5,694,906	2,259,093	1,228,800	3,057,371	47,000	23,500	12,310,670	1,064,378	13,375,048
											Change in Cash	$ (211,125)	
					Total Operating Budget =		7,953,999			Ending Cash as a % of Budget		11.5%	
Other Tax, Fee & Assessment Supported Funds:													
Resort Tax	2,153,554	1,936,000	-	4,089,554	-	-	2,305,000	733,232	-	-	3,038,232	1,051,322	4,089,554
Tax Inc Dist	2,059,195	4,961,882	-	7,021,077	220,850	1,721,800	1,522,000	2,046,986	-	300,000	5,811,636	1,209,441	7,021,077
Street Fund	1,044,448	1,326,257	-	2,370,705	704,036	648,379	378,534	-	-	50,000	1,780,949	589,756	2,370,705
Street Lighting #1	63,951	76,707	-	140,658	21,092	44,600	30,000	-	-	-	95,692	44,966	140,658
Street Lighting #4	66,370	61,235	-	127,605	21,092	77,229	30,000	-	-	-	128,321	(716)	127,605
Impact Fees	363,318	128,500	-	491,818	-	-	491,818	-	-	-	491,818	-	491,818
Sidewalk	126,832	750	-	127,582	-	-	127,582	-	-	-	127,582	-	127,582
Stormwater	1,225,220	63,280	-	1,288,500	-	47,267	526,500	-	-	-	573,767	714,733	1,288,500
Total	7,102,888	8,554,611	-	15,657,499	967,070	2,539,275	5,411,434	2,780,218	-	350,000	12,047,997	3,609,502	15,657,499
Enterprise Funds:													
Water	1,516,495	2,956,700	-	4,473,195	887,116	722,471	1,301,050	-	543,450	-	3,454,087	1,019,108	4,473,195
Wastewater	879,651	3,741,200	-	4,620,851	834,840	835,003	2,066,800	-	297,575	-	4,034,218	586,633	4,620,851
Solid Waste	75,324	748,170	-	823,494	71,565	666,980	-	-	-	-	738,545	84,949	823,494
Total	2,471,471	7,446,070	-	9,917,541	1,793,521	2,224,454	3,367,850	-	841,025	-	8,226,850	1,690,691	9,917,541
Other Funding Source Funds:													
Cty Hall Reserve	2,027,194	8,000	250,000	2,285,194	-	-	400,000	-	-	-	400,000	1,885,194	2,285,194
US93/2nd St TIGER	-	134,000	-	134,000	-		134,000	-	-	-	134,000	-	134,000
Housing Authority	4,573	645,000	-	649,573	-	649,573	-	-	-	-	649,573	-	649,573
WF Trail Construct	82,560	101,500	-	184,060	-		172,000	-	-	11,500	183,500	560	184,060
Park Dev	109,148	256,900	39,800	405,848	-	22,483	366,600	-	-	-	389,083	16,765	405,848
TIF Debt Svc	3,125,331	10,000	1,796,986	4,932,317	-	-	-	-	1,784,824	-	1,784,824	3,147,493	4,932,317
Victim/Wit	230	15,000	-	15,230	-	15,000	-	-	-	-	15,000	230	15,230
Misc. S.I.D.	145,368	138,720	-	284,088	-	-	-		111,600	-	111,600	172,488	284,088
	5,494,404	1,309,120	2,086,786	8,890,310	-	687,056	1,072,600	-	1,896,424	11,500	3,667,580	5,222,729	8,890,309
Total	16,344,266	25,658,543	5,837,589	47,840,397	8,455,497	7,709,877	11,080,684	5,837,589	2,784,449	385,000	36,253,097	11,587,300	47,840,397

City of Whitefish
Mill Value and Tax Levy
History

8/9/2013

Fiscal Year	Total Market Value	Newly Taxable Value	Mill Value		HB 124 Mills Levied	Health Insur Mills	Gross Mills Levied	Resort Tax Relief	Net Mills Levied	Fire & Amb Mills	Total Mills Levied	Distibution of Property Tax Levy General	Library	Fire Pension	Fire/Amb	Total Property Tax Revenue
	a	*b*	*c*	*d*	*e*	*f*	*g* (e+f)	*h*	*i* (g+h)	*j*	*k* (i+j)	*l*	*m*	*n*	*o*	*p* (c x k)
2002	$ 331,297,444	$1,543,904	$ 9,521.589	16.1%	97.90		97.90	-28.63	69.267		69.267					$ 659,532
2003	$ 376,926,297	$1,171,218	$ 10,540.581	11%	106.40	4.81	111.21	-26.43	84.782		84.782	$ 851,489		$ 42,162		$ 893,652
2004	$ 438,821,953	$1,688,291	$ 12,324.709	17%	106.40	4.81	111.21	-24.07	87.139		87.139	$1,024,664		$ 49,299		$1,073,963
2005	$ 496,460,096	$1,042,687	$ 13,398.957	9%	106.40	4.81	111.21	-24.14	87.069		87.069	$1,113,038		$ 53,596		$1,166,634
2006	$ 577,691,081	$1,438,400	$ 15,023.975	12%	107.40	3.81	111.21	-23.37	87.837		87.837	$1,259,565		$ 60,096		$1,319,661
2007	$ 676,545,891	$1,121,030	$ 16,608.044	11%	105.68	5.53	111.21	-23.53	87.678		87.678	$1,389,728		$ 66,432		$1,456,160
2008	$ 755,263,708	$1,812,408	$ 18,512.556	11%	105.68	5.53	111.21	-23.34	87.874		87.874	$1,552,722		$ 74,050		$1,626,772
2009	$ 789,392,160	$1,029,224	$ 19,499.520	5.3%	108.75	2.46	111.21	-22.99	88.216	24	112.216	$1,642,172		$ 77,998	$ 467,988	$2,188,158
2010	$ 888,143,474	$1,238,391	$ 20,103.083	3%	108.75	2.46	111.21	-23.29	87.920	12.36	100.280	$1,687,048		$ 80,412	$ 248,474	$2,015,935
2011	$ 952,357,384	$ 563,091	$ 20,434.118	2%	115.40	2.46	117.86	-22.54	95.321	19.68	115.001	$1,866,064		$ 81,736	$ 402,143	$2,349,944
2012	$1,022,102,349	$ 710,377	$ 21,287.796	4%	116.33	6.08	122.41	-26.01	96.401	24	120.401	$1,852,060	$114,954	$ 85,151	$ 510,907	$2,563,072
2013	$1,090,881,100	$ 522,087	$ 21,631.411	1.6%	117.966	6.08	124.05	-27.65	96.401	24	120.401	$1,881,954	$116,810	$ 86,526	$ 519,154	$2,604,444
2014	$1,164,900,282	$ 307,117	$ 22,105.761	2.2%	117.174	10	127.17	-31.369	95.805	24	119.805	$1,910,048	$119,371	$ 88,423	$ 530,538	$2,648,381
			change from last year		-0.79	3.92		-3.72	-0.60	0.000	-0.596	$ 28,094	$ 2,561	$ 1,897	$ 11,384	$ 43,937
											-0.50%	1.5%	2.2%	2.2%	2.2%	1.69%

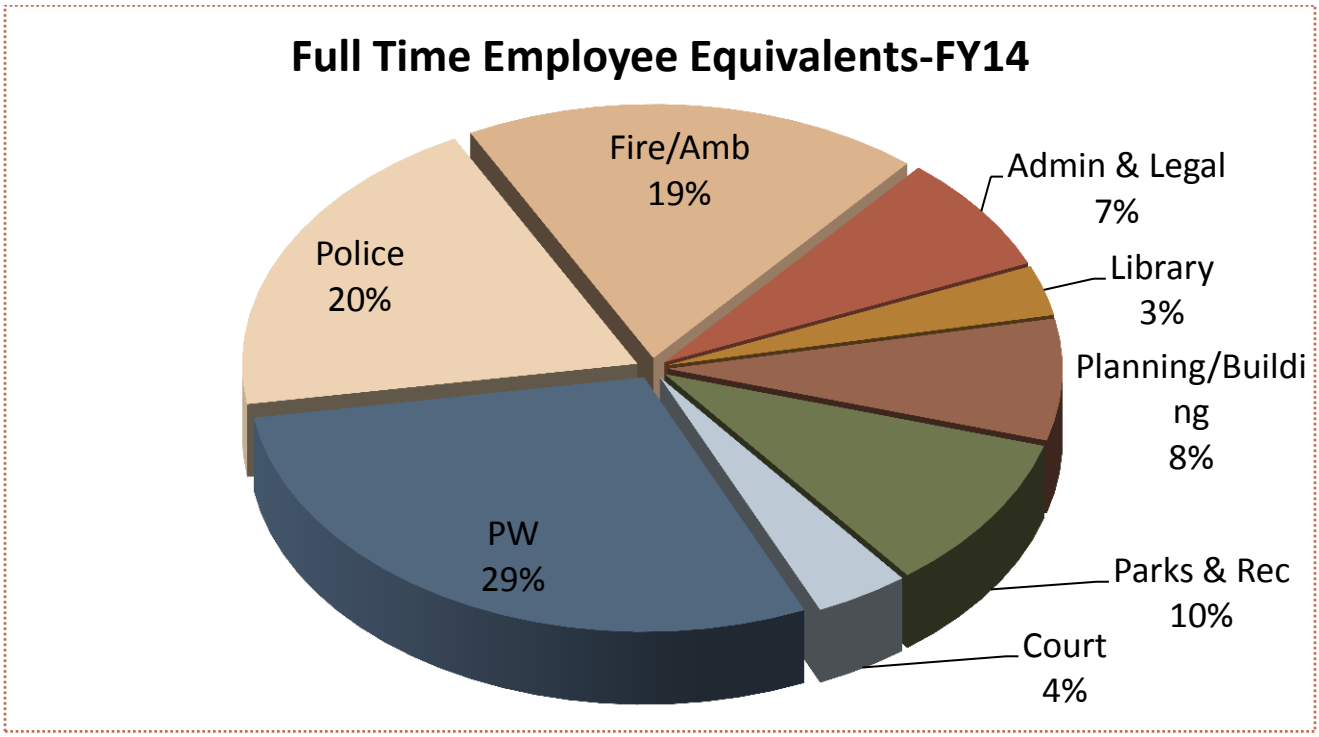



Citizens of Whitefish
Municipal Judge
Mayor and City Council
City Attorney
City Manager
Fire Chief
Police Chief
Administrative Services Director/ City Clerk
Assistant City Manager/ Finance Director
Parks and Recreation Director
Public Works Director/ City Engineer
Planning and Building Director

Staffing

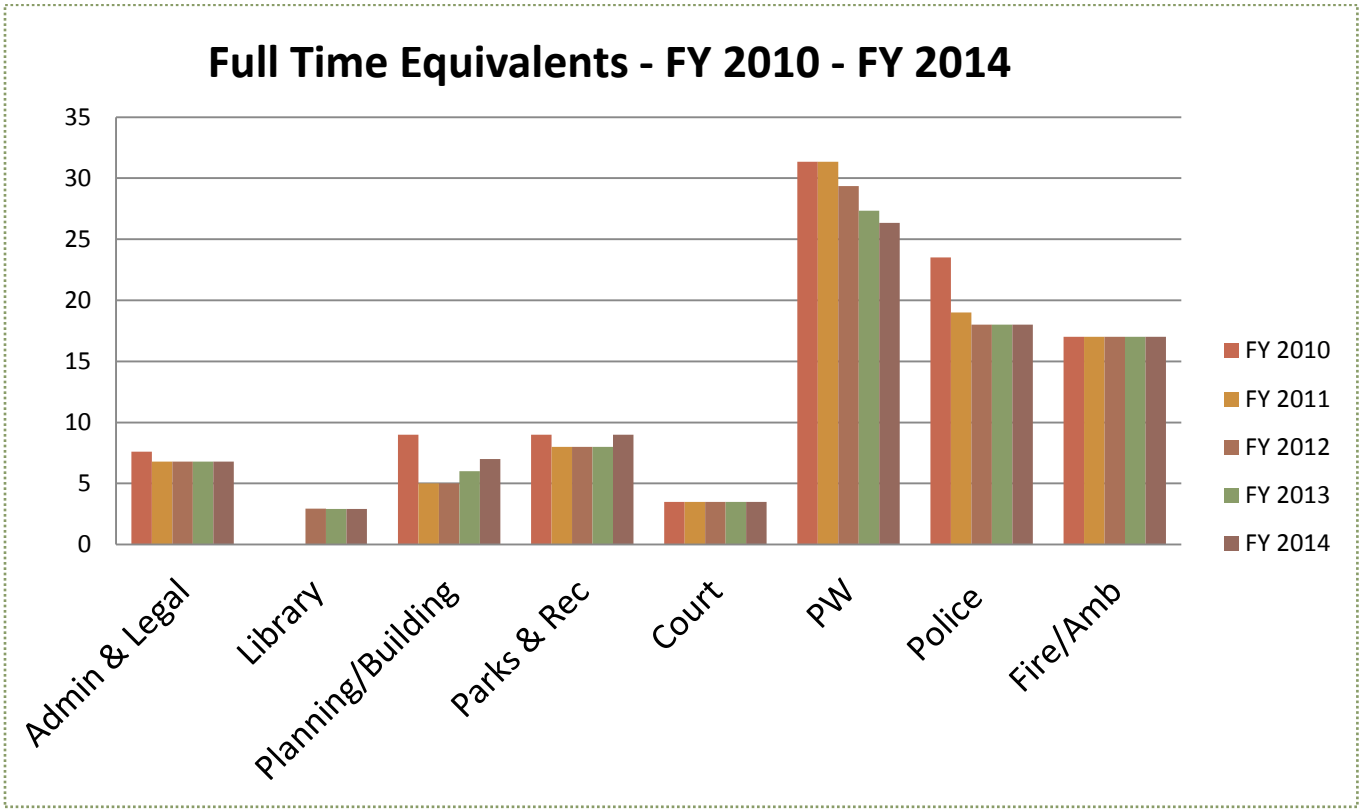
FY 2014

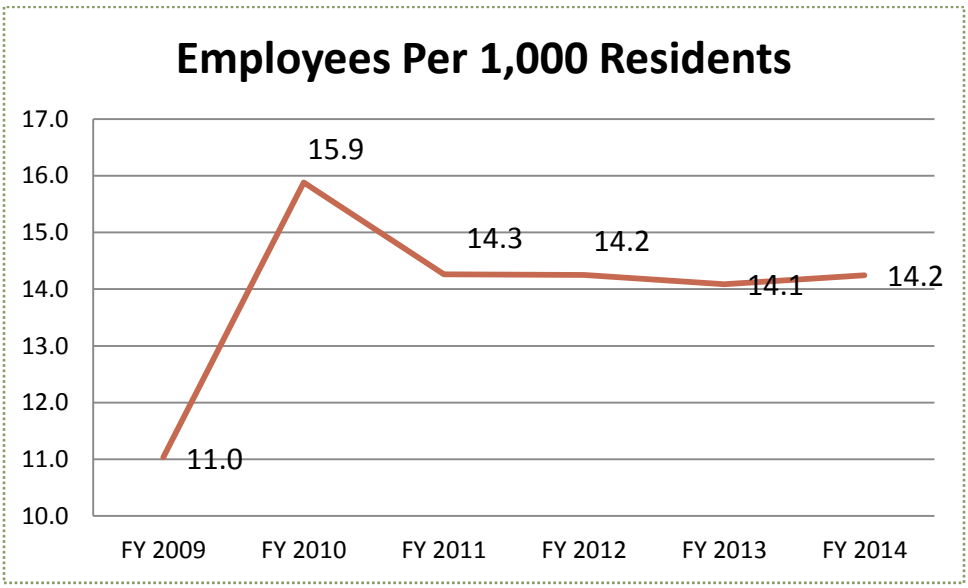
The FY 2014 Budget funds 90.55 full time equivalent employees or 14.2 employees per 1,000 residents. The budgeted payroll expense increased about $394,689 from FY 2013 to FY 2014. Changes in payroll include a 2.5% increase in health premiums, the addition of 1 full time Planner, and an equivalent of one full time employee in Parks. A 1.7% cost of living adjustment and a 2% performance/longevity adjustment is included in this budget. The chart below breaks down full time employees by department.



FY 2014	FT	PT	FTE	per 1,000
Admin & Legal	6	0.8	6.8	1.1
Library	1	1.90	2.9	0.5
Planning/Building	7		7	1.1
Parks & Rec	8	1	9	1.4
Court	3	0.5	3.5	0.6
PW	25	1.35	26.35	4.1
Police	17	1	18	2.8
Fire/Amb	17		17	2.7
	84	6.55	90.55	14.2

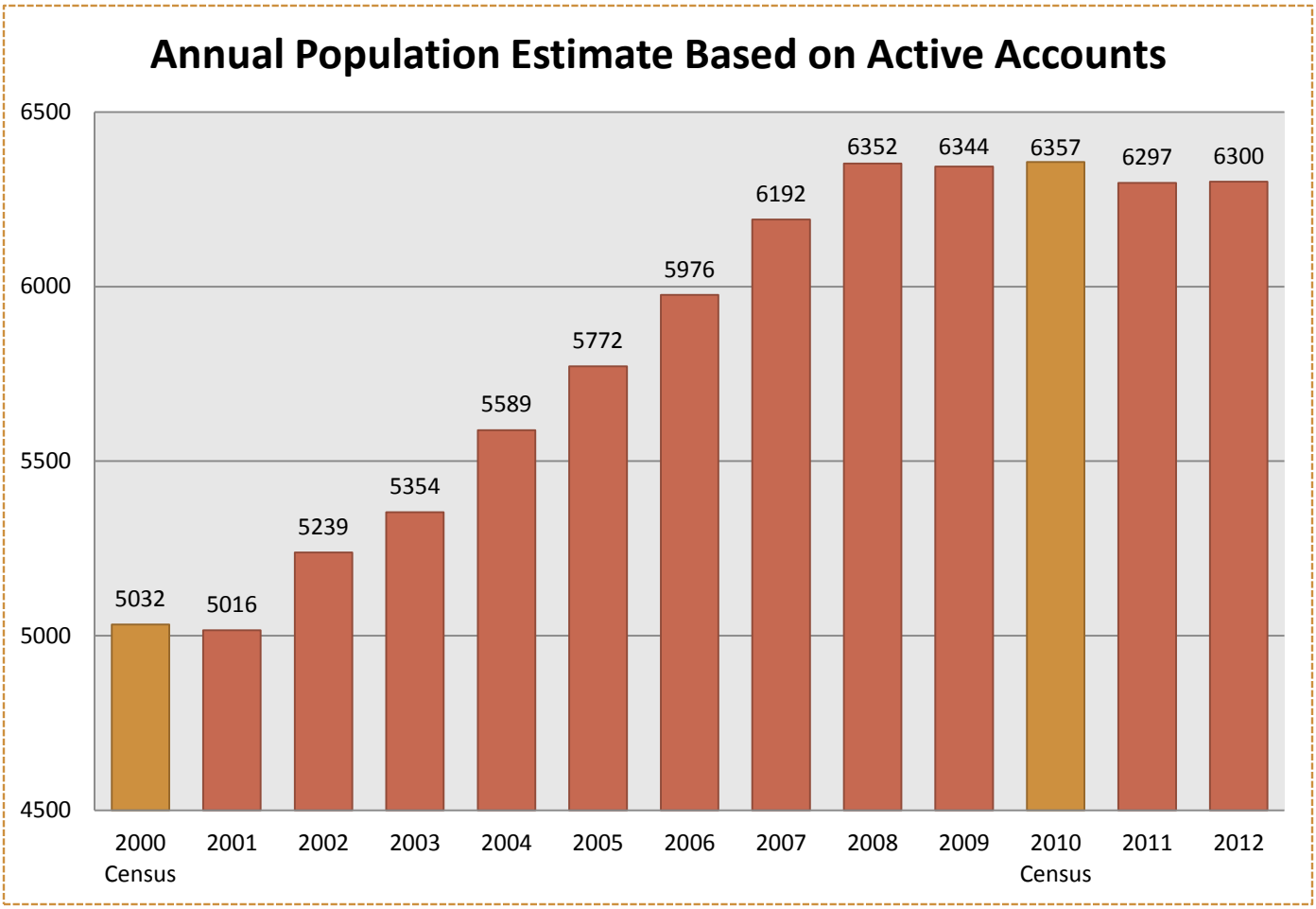
This chart shows the change by department from FY 2010 to FY 2014.





Population

FY 2014



Debt

FY 2014

The City carries debt from revenue bonds and loans from the State Revolving Fund. Revenue bonds are backed by the underlying revenue applicable to the financing.

About half of TIF bond was for the construction of the Emergency Services Center, the rest was a refinancing of previous projects. This loan is backed by and paid for with the tax increment tax revenues. In 2009, the City received an A- and stable rating on this bond issue from Standard and Poor's. The SID 166 bond was for the JP Road construction project and is backed by an assessment within that Special Improvement District.

The water and sewer low interest loans were provided by the State of Montana's revolving fund for construction and upgrades to the water and sewer system. The loans are backed by and paid for through the user fees generated from the water and sewer systems. In November 2012, the city refinanced the water and sewer loans. The lower rates will save the water and sewer funds a combined $760,231 over 20 years. In FY 2013, the city borrowed $140k for improvements to the Ice Den.

The City has no General Obligation bonds.

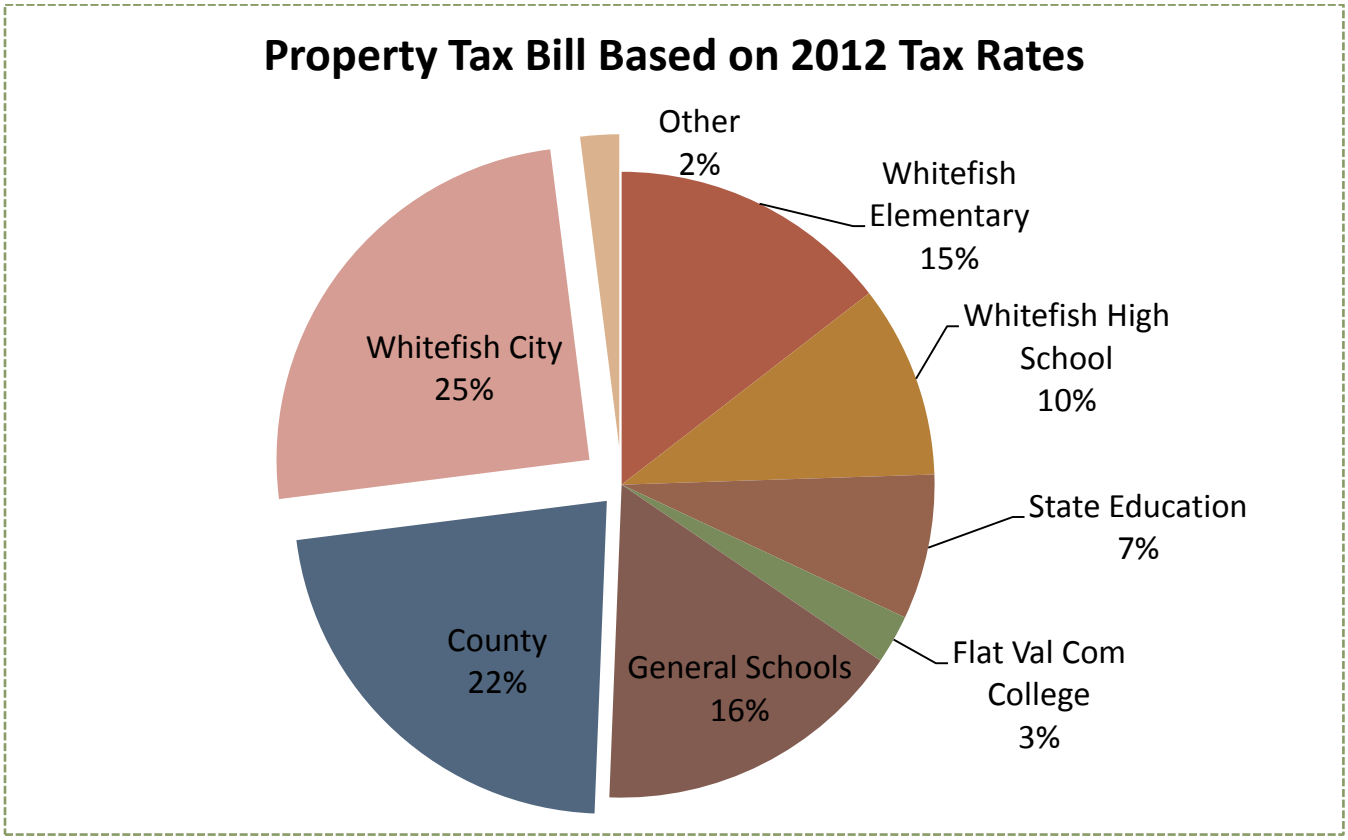
	Original Loan Issue Date	Total Borrowed	Principal 6/30/2013	Current year Payment (p & i)	Rate after Refi
Revenue Bonds					
TIF 2009	7/14/2009	$15,695,000	$12,020,000	$1,783,824	
SID 166	7/1/2006	$1,360,000	$865,000	$110,663	
Loans					
Water 1998	8/7/1998	$400,000	$131,000	$29,740	2.00%
Water 1999	9/3/1999	$5,839,000	$2,234,000	$426,700	2.00%
Water 2006	6/15/2006	$895,835	$651,000	$64,038	2.25%
Water 2007	9/6/2007	$900,000	$628,000	$64,388	2.25%
Water 2009B	10/21/2009	$120,100	$96,000	$6,799	0.75%
Sewer 2002	11/7/2002	$200,000	$97,000	$13,645	2.00%
Sewer 2008A	12/11/2008	$500,000	$350,000	$31,990	2.25%
Sewer 2008B	1/16/2009	$1,711,000	$1,188,000	$122,900	2.25%
Sewer 2009B	2/4/2010	$48,211	$42,000	$2,341	0.75%
Sewer 2011 B	8/1/2011	$340,000	$315,000	$11,312	3.00%
Sewer 2011 C	8/1/2011	$386,000	$336,000	$12,031	3.00%
		$28,395,146	$18,953,000	$2,680,369	

Outstanding Debt History

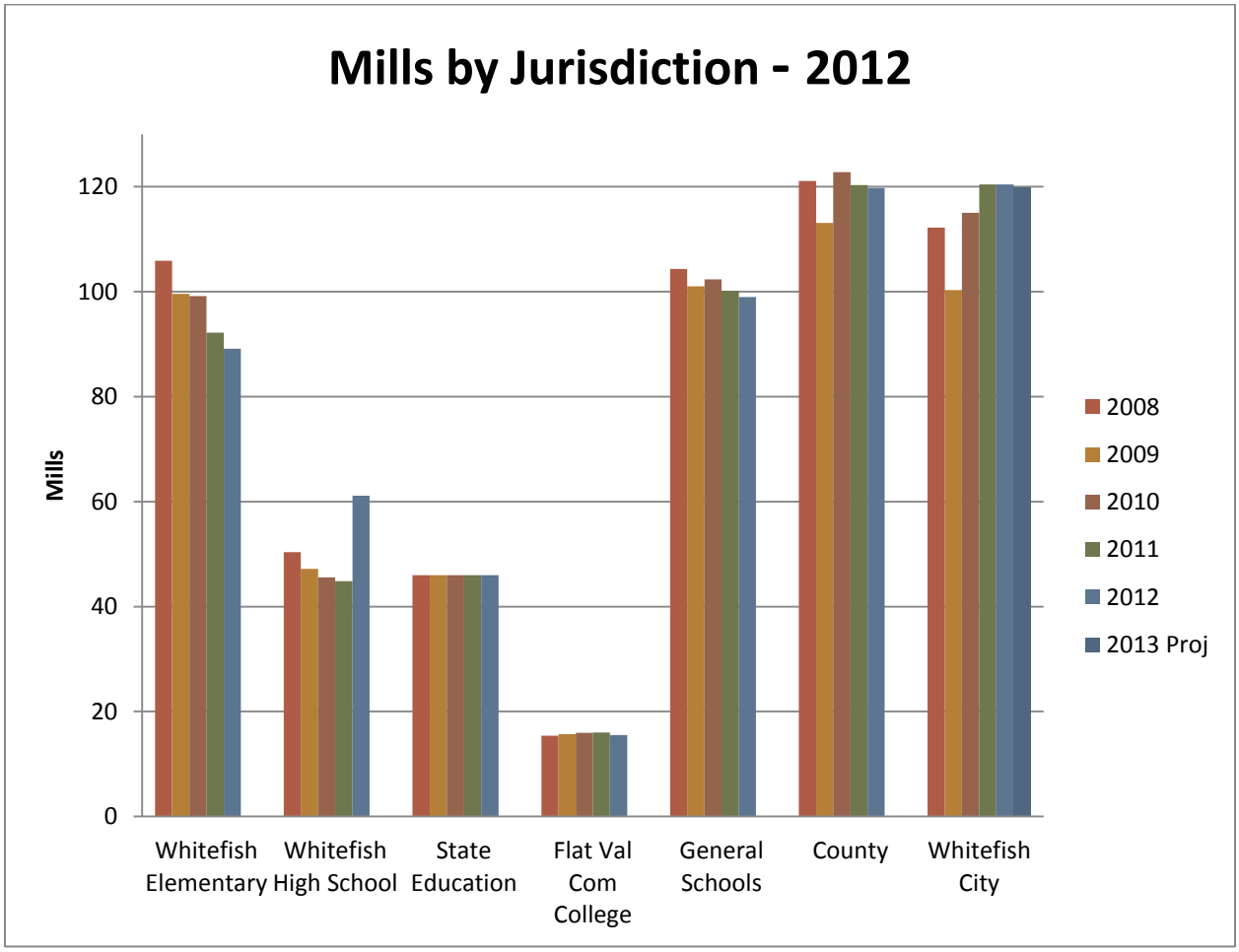
	Rate/TIC	June 30 2013	June 30 2012	June 30 2011
Revenue Bonds				
TIF ESC	4.23%	$12,020,000	$13,285,000	$ 14,510,000
SID166	4.18%	$865,000	$ 935,000	$ 1,005,000
Loans				
Water	~3.85%	$3,740,000	$ 4,261,000	$ 4,676,000
Sewer	~3.65%	$2,328,000	$ 2,788,000	$ 2,171,000
Intercap-Ice Den	1.25%	$140,000		
Total		$ 19,093,000	$21,269,000	$ 22,362,000
	$ Change	$ (2,176,000)	% Change	-10.2%

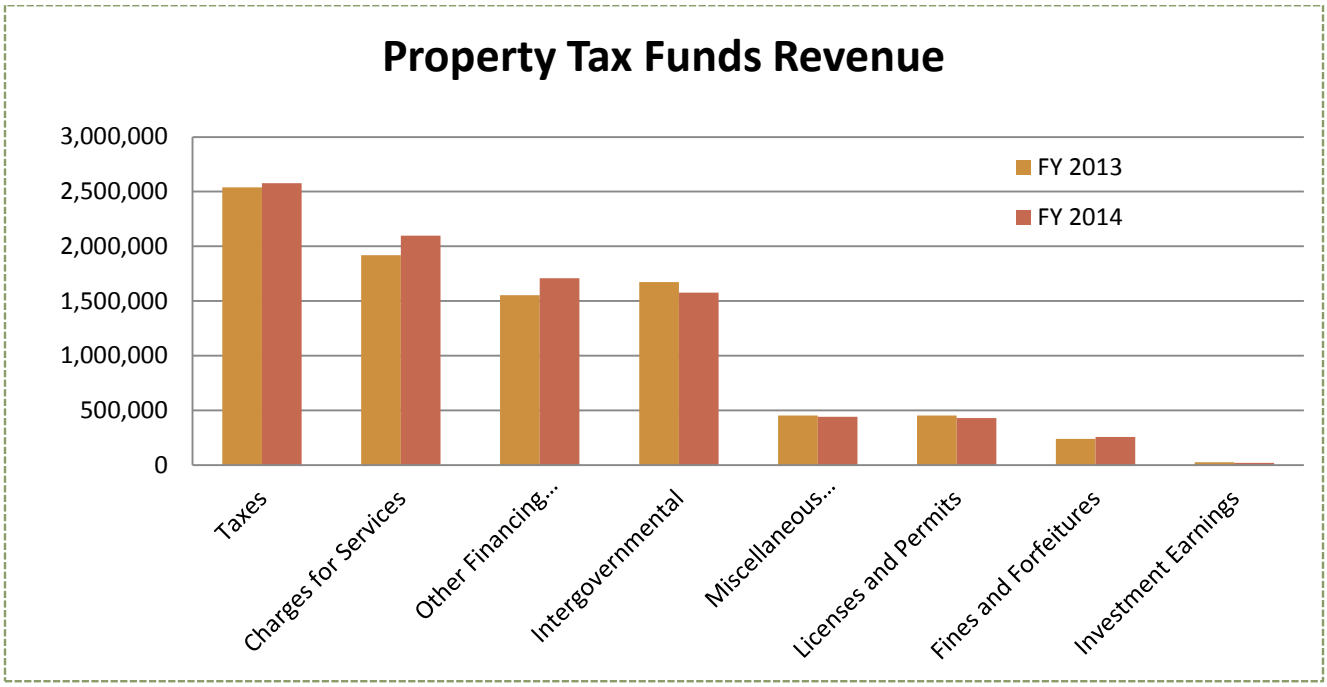
Revenue

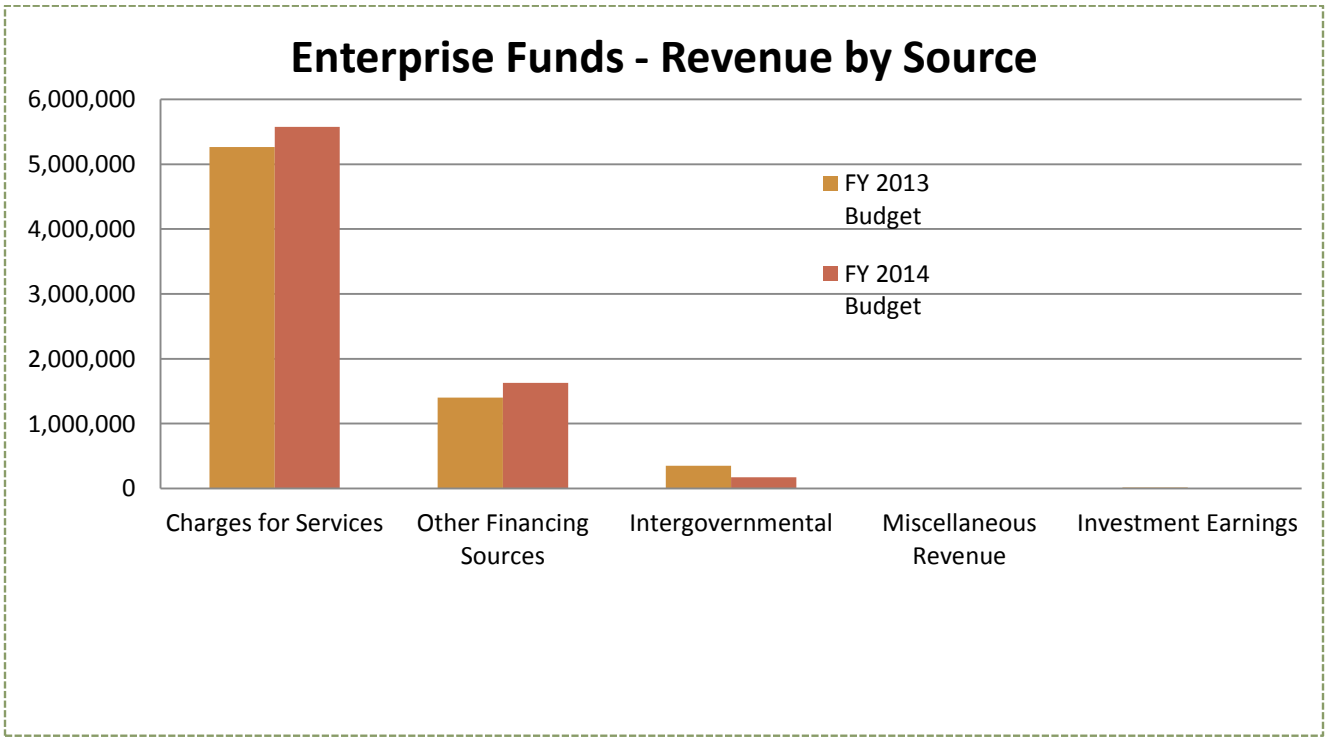
Of the total property tax bill (includes taxes and assessments), the City of Whitefish accounts for 25%. About 50% of a city resident property tax bill goes to education.

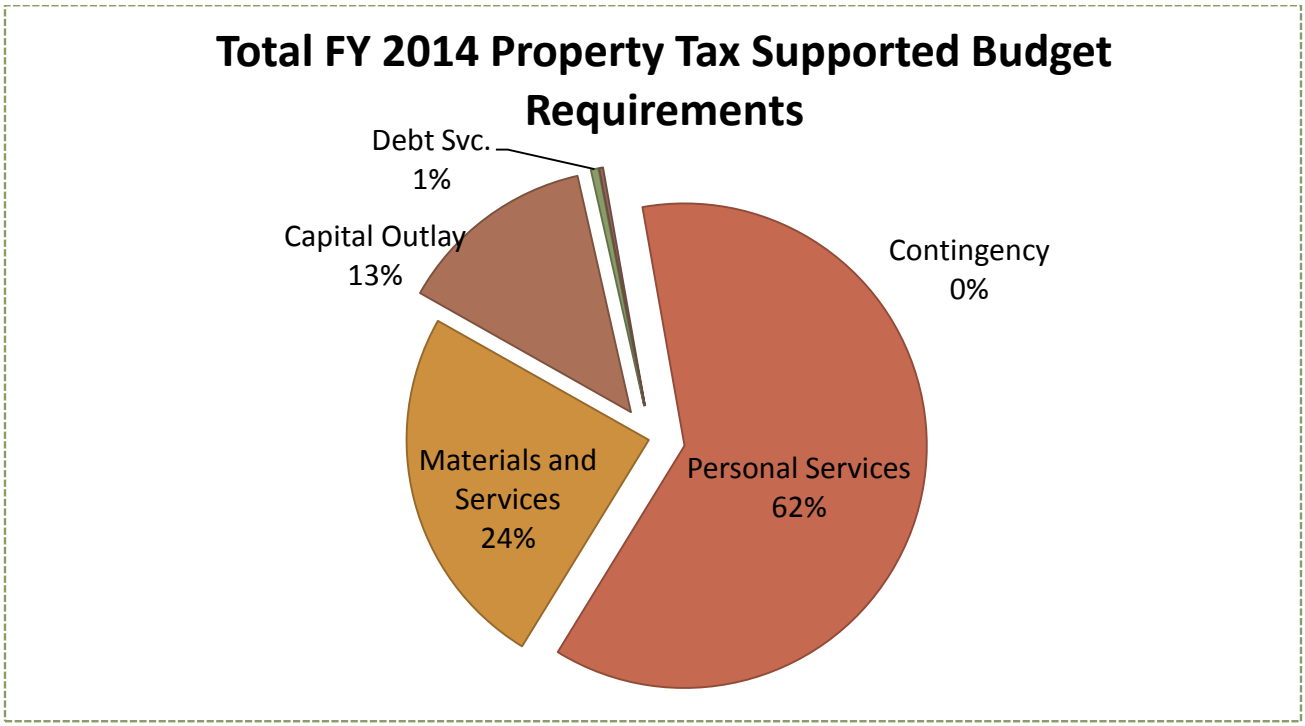


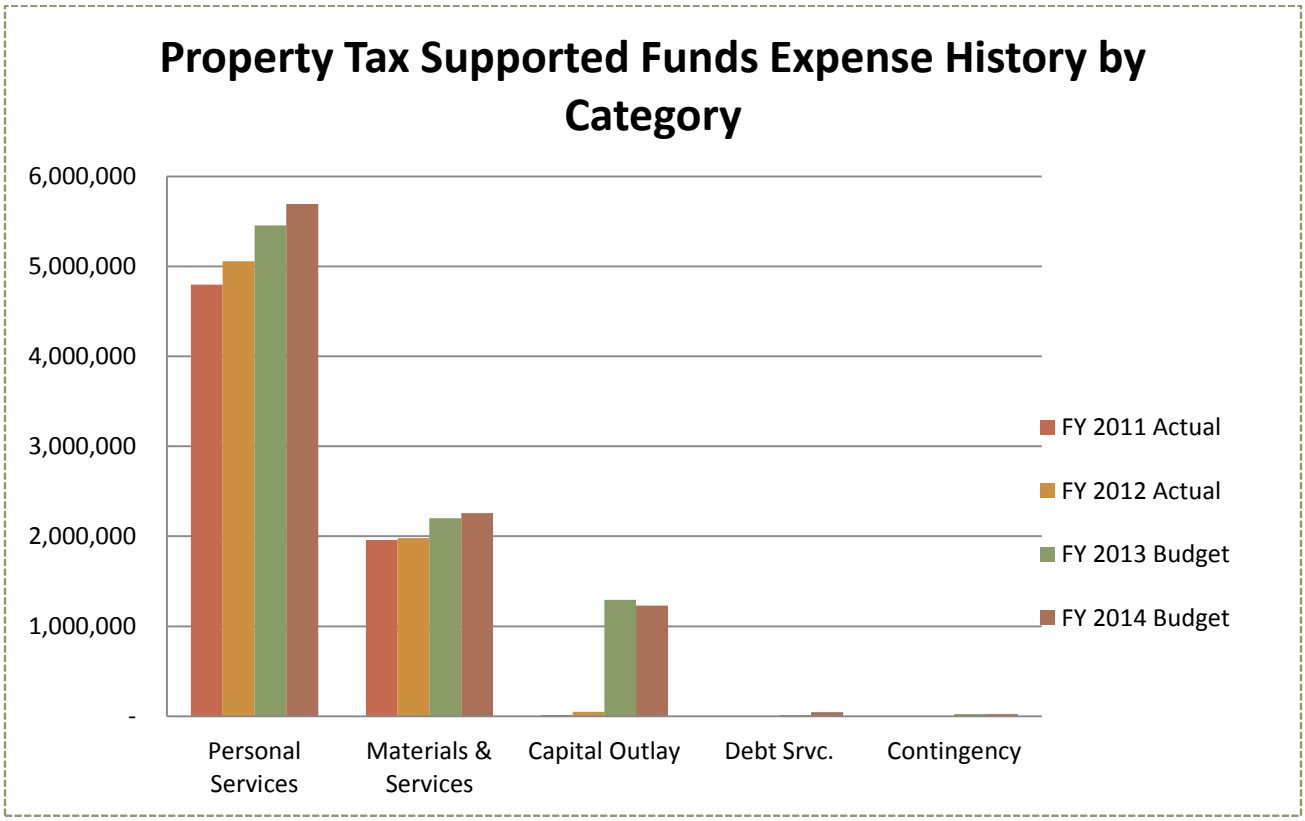
Calendar year 2008 was the first year the city levied the 24 mills for 24/7 coverage for Fire and Ambulance. In 2011, 5.4 library mills were levied by the city instead of the county. The City's 2011 & 2012 levy remained the same and the 2013 mill levy decreased by half a percent.

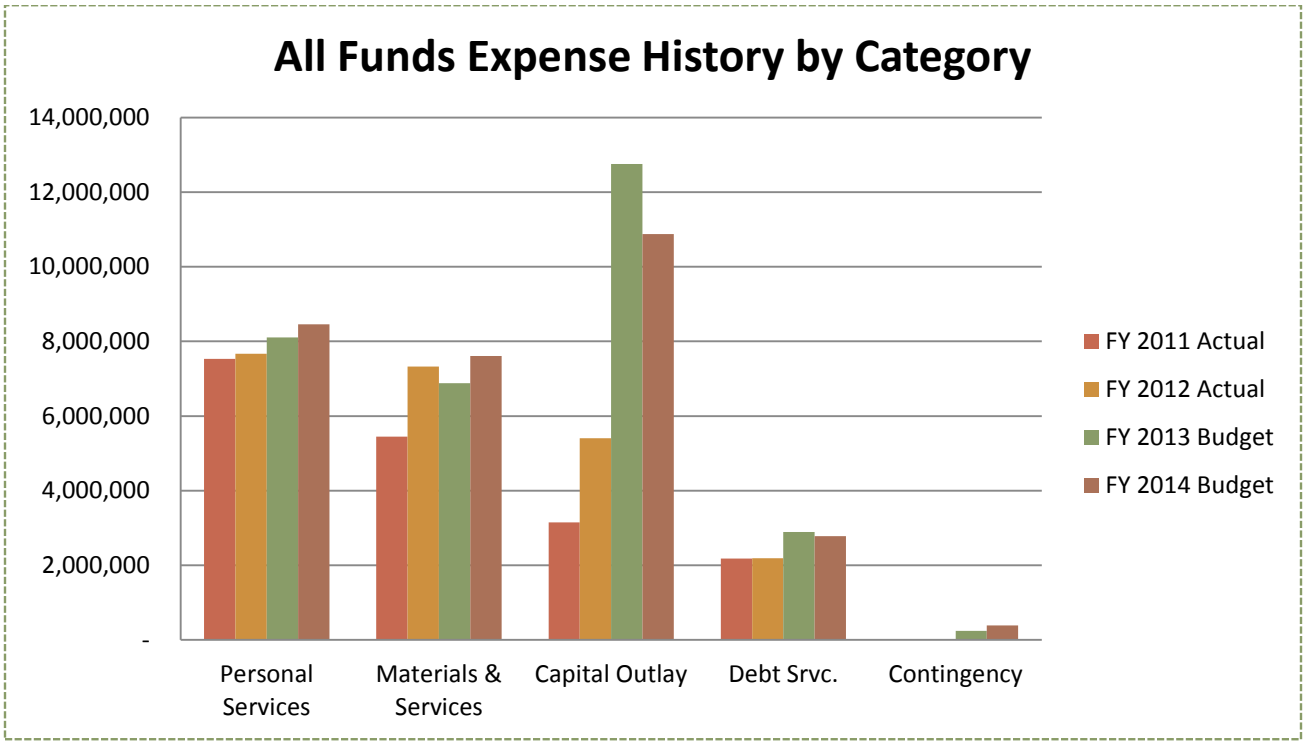


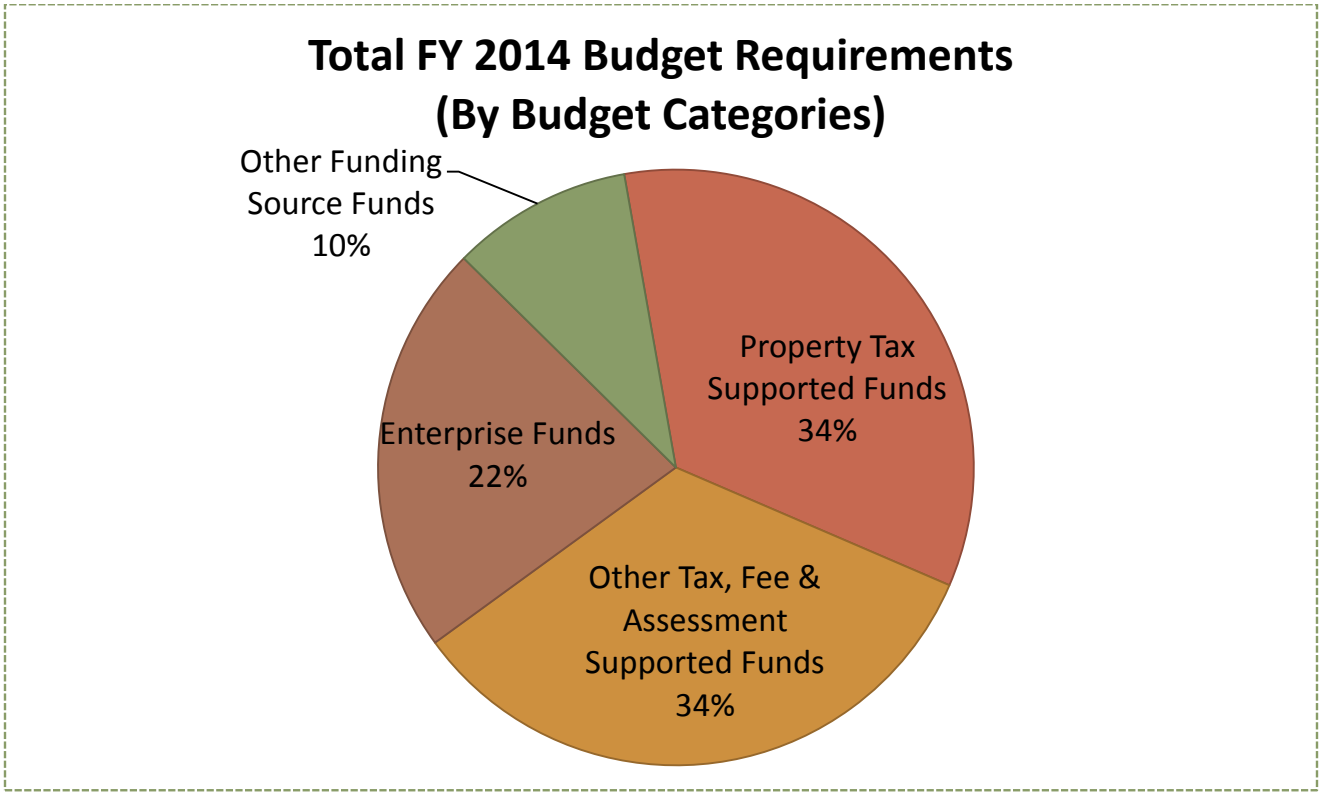

Property Tax Funds Revenue
3,000,000
2,500,000
2,000,000
1,500,000
1,000,000
500,000
0
FY 2013
FY 2014
Taxes
Charges for Services
Other Financing...
Intergovernmental
Miscellaneous...
Licenses and Permits
Fines and Forfeitures
Investment Earnings


Enterprise Funds - Revenue by Source
6,000,000
5,000,000
4,000,000
3,000,000
2,000,000
1,000,000
0
FY 2013 Budget
FY 2014 Budget
Charges for Services
Other Financing Sources
Intergovernmental
Miscellaneous Revenue
Investment Earnings


Total FY 2014 Property Tax Supported Budget Requirements
Debt Svc. 1%
Capital Outlay 13%
Contingency 0%
Materials and Services 24%
Personal Services 62%


Property Tax Supported Funds Expense History by Category
6,000,000
5,000,000
4,000,000
3,000,000
2,000,000
1,000,000
-
Personal Services
Materials & Services
Capital Outlay
Debt Srvc.
Contingency
FY 2011 Actual
FY 2012 Actual
FY 2013 Budget
FY 2014 Budget


All Funds Expense History by Category
14,000,000
12,000,000
10,000,000
8,000,000
6,000,000
4,000,000
2,000,000
-
Personal Services
Materials & Services
Capital Outlay
Debt Srvc.
Contingency
FY 2011 Actual
FY 2012 Actual
FY 2013 Budget
FY 2014 Budget


Total FY 2014 Budget Requirements
(By Budget Categories)
Other Funding Source Funds 10%
Property Tax Supported Funds 34%
Enterprise Funds 22%
Other Tax, Fee & Assessment Supported Funds 34%

General Fund

FY 2014

Purpose

The General Fund provides services and projects that are not typically self-supporting. Services provided by the General Fund are City Court, Administrative Services, Resort Tax Administrative Services, Legal Services, Community Planning, Community Agencies, Cemetery Services, and Non-Departmental functions. Significant transfers of resources are also made from the General Fund to support the Law Enforcement Fund, Fire and Ambulance Fund, Library Fund and the Parks and Recreation Fund. General Fund services generate relatively little or no revenue to off-set their costs. As such, property tax revenue and other "general" income sources are utilized to pay for General Fund expenses.

FY 2014 Objectives

The objective of the General Fund for FY14 is to provide budget authority to provide the above listed services within the City.

Significant or Changed Appropriations during FY14 are:

Item/Project	Amount
Revenue Changes	
• Increased Planning & Zoning fee estimates	$55,000
• Increased Resort Tax Property Tax Relief	$44,299
• Added Cemetery Cremain Niches Revenue	$30,000
Expenditure Changes	
• Employee Classification Study (Admin Services)	$5,000
• Server (Admin Services)	$7,000
• Election (Admin Services)	$10,000
• Hwy 93 S Corridor Study split with TIF-$20k total (Planning)	$10,000
• Hwy 93 S W Corridor Study split with TIF-$40k total (Planning)	$20,000
• Added Planner (Planning)	$75,000
• Irrigation & Cremain Niche (Cemetery Services)	$53,000
• Increased transfers to Park, Police, Fire by 9.3%	$261,406

General Fund Revenue - 1000

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Taxes					
Real Property Taxes	1,841,503	1,877,221	1,847,454	1,839,939	1,875,548
Personal Property Taxes	18,926	25,957	34,500	31,386	34,500
Penalty and Interest	14,968	13,659	14,000	10,428	12,000
In Lieu of Taxes - Housing Auth.		8,363	8,000	4,000	6,500
	$ 1,875,397	**$ 1,925,200**	**$ 1,903,954**	**$ 1,885,753**	**$ 1,928,548**
Licenses and Permits					
Fees in Lieu of Taxes	467	395	400	426	400
Alcohol Bvrg Licenses/Permits	17,701	14,853	14,000	15,423	15,000
Catering License Fees	105	175	200	140	200
General Business License	41,194	40,643	41,000	42,899	41,000
Special Events Permit Fees	1,935	2,605	2,700	3,165	2,700
Animal Licenses	1,074	940	1,000	1,001	1,000
	$ 62,476	**$ 59,611**	**$ 59,300**	**$ 63,054**	**$ 60,300**
Intergovernmental					
Whitefish Theatre Grant	5,744	4,335	9,500	7,631	9,500
Live Card Game Table Permit	2,775	2,625	2,800		2,800
Gambling Machine Permits	18,125	17,300	17,000	18,013	18,000
State Entitlement Distribution	702,833	702,833	729,000	731,356	745,000
	$ 729,477	**$ 727,093**	**$ 758,300**	**$ 757,000**	**$ 775,300**
Charges for Services					
Copies, Maps & Misc.	199	224	200	152	200
Bad Check Service Charges	50	75	100	200	100
Temporary Use/Vendor Fees			500	1,550	1,000
Variance Fee	10,875	1,520	4,000	7,260	7,500
Conditional Use Permit Fees	4,950	12,340	6,000	23,681	17,000
Sign Fee	15,446	11,676	14,000	8,888	12,000
Architectural Review Fee	13,410	7,435	5,000	17,705	15,000
Lakeshore Fee	12,030	9,510	8,000	15,810	11,000
Floodplain	400	600	500	200	500
Critical Area Fee - Inside City	200	50	200	3,020	1,500
Critical Area Fee - Outside City	650	450	1,000	2,100	1,000
Planning Fees	36,898	14,264	30,000	42,959	30,000
Zoning Fees	45,911	48,309	45,000	80,804	70,000
5% Admin Fee for Impact Fees	4,171	5,602	5,000	8,894	5,500
Sale of Cemetery Lots			250		250
Sale of Cemetery Cremain Niches					30,000
Cemetery Burial Fees	3,650	3,600	4,000	4,600	4,000
Weed Control Charges	2,786	510	1,600		1,000
	$ 151,626	**$ 116,165**	**$ 125,350**	**$ 217,823**	**$ 207,550**
Fines and Forfeitures					
Municipal Court Fines	188,534	227,824	220,000	221,586	230,000
Parking Fines	17,963	25,590	17,500	29,220	25,000
Dog Fines	690	1,183	1,000	978	1,000
Defense Attrny Fee Reimburse	310		250	175	250
	$ 207,497	**$ 254,597**	**$ 238,750**	**$ 251,959**	**$ 256,250**

General Fund Revenue - 1000

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Miscellaneous Revenue					
Golf Course Lease Fee	24,952	25,616	25,375	1,706	25,375
Miscellaneous Revenue	12,848	32,871	10,000	26,187	15,000
Contributions & Donations		1,000	1,000		-
	$ 37,870	**$ 59,487**	**$ 36,375**	**$ 27,893**	**$ 40,375**
Investment Earnings					
Investment Earnings	60,785	47,145	25,000	14,944	20,000
	$ 60,785	**$ 47,145**	**$ 25,000**	**$ 14,944**	**$ 20,000**
Other Financing Sources					
Inception of Capital Lease		10,981			
Resort Tax - Tax Relief Transfer	460,574	553,708	598,007	598,007	693,432
SID Revolving Fund Transfer	80,000	-	-		-
	$ 540,574	**$ 564,689**	**$ 598,007**	**$ 598,007**	**$ 693,432**
Total Fund Revenue	**$ 3,665,702**	**$ 3,753,987**	**$ 3,745,036**	**$ 3,816,433**	**$ 3,981,755**
Beginning Available Cash		**$ 170,926**	**$ 506,101**		**$ 737,438**
Total Resources	**$ 3,665,702**	**$ 3,924,913**	**$ 4,251,137**		**$ 4,719,193**

Municipal Court

FY 2014

Purpose

The Municipal Court Division provides for the administration of the Whitefish Municipal Court.

FY 2014 Objectives

The objective of the Municipal Court Division for FY14 is to provide budget authority to operate the Whitefish Municipal Court. Two full time and one part time clerk assist the Municipal Judge in operating the Municipal Court.

General Fund Expenditures - 1000

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Legislative Services					
Operating Supplies/Material			5,600	3,811	3,000
Council Travel & Training	75	400	1,000	564	1,000
Other Purchased Services			4,500	3,053	4,500
Total Legislative Services	**$ 75**	**$ 400**	**$ 11,100**	**$ 7,428**	**$ 8,500**
Municipal Court					
Personal Services					
Salaries	143,083	149,737	149,269	153,892	158,063
Permanent Part Time	3,977	14,452	12,968	13,168	13,260
Overtime	3,142	3,283	3,147	1,977	3,023
Vacation/Sick Accrual			4,860		4,860
Employer Contributions	58,798	61,904	66,292	61,466	69,089
	$ 211,817	**$ 229,376**	**$ 236,536**	**$ 230,503**	**$ 248,295**
Materials and Services					
Office Supplies/Materials	1,710	2,574	2,300	1,498	2,300
Operating Supplies/Material	1,427	1,040	3,000	1,129	3,000
Repair/Maintenance Supplies	916	135	1,100	173	1,100
Communication & Transportation	1,402	1,353	1,400	1,730	1,400
Printing			200		200
Publicity/Subscriptions/Dues	124	105	600	323	600
Utility Services	5,231	4,824	7,000	4,675	7,000
Repair & Maintenance	394	1,733	1,920	3,734	1,920
Travel & Training	3,168	2,091	5,000	4,084	5,000
Other Purchased Services	6,943	2,516	3,762	1,860	3,762
Sub-Judge Contracts	675		1,200	1,144	1,200
Insurance	7,485	7,654	8,207	8,207	6,100
Special Assessments		101	105	101	105
	$ 29,475	**$ 24,126**	**$ 35,794**	**$ 28,658**	**$ 33,687**
Total City Court	**$ 257,433**	**$ 253,502**	**$ 272,330**	**$ 259,161**	**281,982**

Administrative Services Division

FY 2014

Purpose

The Administrative Services Division provides for the general administration of the City. There are five full time employees in Administrative Services, but most of their personnel costs are spread throughout the city's budget in a cost allocation formula.

FY 2014 Objectives

The objective of the General Fund for FY14 is to provide budget authority to provide the above listed services within the City. The City Council approved a resolution on Apr 15, 2013 establishing short term and long term goals for the City and these goals guide the operations and objectives during FY14.

Admin & Legal Cost Allocation

FY 2014

The Administrative Services section of the General Fund Expenditures is allocated to any fund that has a personal services expense. The amount of admin expense allocated to other funds is based off how much salary is allocated to other funds. For example, in FY 2014 7.6% of the total city payroll was administrative services. Therefore 7.6% of any administrative services materials and services expense stayed in the General Fund, and 92.4% was allocated other funds. The table below shows the total number before they were allocated to other funds. In Office Supplies, under the Proposed FY 2014 column, the total budget is $9,000, however, of that $9,000 only $687 or 7.6% will stay in the General Fund—found in next column to the right.

	0.1006	0.0858	0.0781	0.07635	0.0764	
Expenditures	**Actual FY 2010**	**Actual FY 2011**	**Actual FY 2012**	**Budget FY 2013**	**Proposed FY 2014**	**Proposed FY 2014 GF Allocation**
Administrative Services						
Materials and Services						
Office Supplies/Materials	10,236	6,389	8,823	9,000	9,000	687
Operating Supplies/Materials	9,593	6,952	9,923	23,400	19,000	1,451
Repair/Maintenance Supplies	869	3,238	1,041	1,000	1,500	115
Postage & Freight	3,173	5,305	4,814	7,000	6,000	458
Printing	138	289	-	1,000	500	38
Publicity/Subscriptions/Dues	6,482	8,670	7,787	9,000	10,000	764
Utility Services	10,463	26,347	27,218	24,000	27,000	2,062
Professional Services	51,477	34,350	35,999	66,000	41,000	3,130
Repair & Maintenance	5,550	19,630	11,356	11,000	8,000	611
Travel & Training	12,189	5,517	9,330	8,000	8,000	611
Other Purchased Services	9,071	800	10,121	3,000	14,250	1,088
Contracted Workers	9,539	9,640	9,461	11,400	11,400	870
Insurance	7,315	4,276	4,127	4,000	4,000	305
Rent / Lease	-	-		3,800	3,800	290
Special Assessments	1,907	1,613	1,284	1,500	1,300	99
	$ 138,003	**$ 133,015**	**$ 141,285**	**$ 183,100**	**$ 164,700**	**$ 12,579**

Admin & Legal Cost Allocation

FY 2014

Legal Services is also cost allocated. Below are the totals before allocation.

Expenditures	Actual FY 2010	Actual FY 2011	Actual FY 2012	Budget FY 2013	Proposed FY 2014	Proposed FY 2014 GF Allocation
Legal Services						
Materials and Services						
Office Supplies/Materials	988	1,447	2,216	2,202	2,300	176
Operating Supplies/Materials	1,968	5,330	2,162	4,174	2,174	166
Communication & Transportation	242	140	143	551	551	42
Publicity/Subscriptions/Dues	3,940	2,635	1,640	2,202	2,202	168
Utility Services	2,705	2,885	2,122	2,753	2,753	210
Professional Services		2,580	-	12,164	10,000	764
Repair & Maintenance		485	-	-	-	-
Travel & Training	3,944	1,364	1,219	2,138	2,138	163
Other Purchased Services	150		-	1,921	1,000	76
Insurance	641	536	515	1,050	1,050	80
	$ 14,578	**$ 17,402**	**$ 10,017**	**$ 29,155**	**$ 24,168**	**$ 1,845**

CITY OF WHITEFISH – MAYOR AND COUNCIL GOALS
FY14
PREPARED: April 1, 2013

Mayor/Council Short Term Goals (no particular order)	Mayor/Council Longer Term Goals (no particular order)	Mayor/Council Ongoing Goals (no particular order)	Staff Goals (no particular order)
Hwy 93 South Corridor Plan	Code Enforcement improvements	Economic Development – Public-Private Partnerships and targeted business assistance	MDT – Hwy 93 west project
Downtown Parking	Maintenance plans for parks, facilities, and buildings and Riverside Park protection and improvement for erosion	BNSF – cleanup of CECRA site and river, maintain good relationship on all issues	Parks Master Plans
City Hall planning	Whitefish River waterway development and improvement	Whitefish Trail - work with Whitefish Legacy Partners	Explore extent of waivers for utility contracts
Depot Park Phase II Redevelopment – including new restrooms at O'Shaughnessy Center		Water quality improvements and projects (AIS, water rights, City Beach, Stormwater pond improvements)	Long Term Financial Planning and Sustainability
Possible Amendments to sign code		Affordable Housing	Green Initiatives
New Cemetery development			Records Management/Imaging Phase II
Address Aquatic Invasive Species problem			Redesign City website

General Fund Expenditures - 1000

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Administrative Services					
Personal Services					
Salaries	40,725	40,853	41,864	42,241	49,316
Overtime	253	1,031	942	995	1,204
Employer Contributions	14,281	13,879	14,683	14,890	18,665
	$ 55,259	**$ 55,763**	**$ 57,489**	**$ 58,126**	**$ 69,185**
Materials and Services					
Office Supplies/Materials	858		687		687
Operating Supplies/Materials	772		1,787		1,451
Repair/Maintenance Supplies	86		76		115
Communication & Transportation	429		534		458
Printing	172		76		38
Publicity/Subscriptions/Dues	601		687		764
Utility Services	1,287		1,832		2,062
Professional Services	4,290		5,039		3,130
Repair & Maintenance	515		840		611
Travel & Training	858		611		611
Other Purchased Services	257		229		1,088
Contracted Workers	978		870		870
Insurance	472		305		305
Rent / Lease	-		290		290
Special Assessments	167		115		99
Administrative Costs		11,602	-	13,044	-
	$ 11,742	**$ 11,602**	**$ 13,980**	**$ 13,044**	**$ 12,579**
Total Administrative Services	**$ 67,001**	**$ 67,365**	**$ 71,469**	**$ 71,170**	**$ 81,764**

Resort Tax Administrative Services Division

Purpose

The Resort Tax Administrative Services Division provides for the administration of the City's Resort Tax. Ordinance 95-15, the Resort Tax Ordinance, does not allow the use of resort tax collections to pay for the administrative expenses of the tax. Due to this prohibition such expenses are paid from the General Fund.

FY 2014 Objectives

The objective of the General Fund for this budget year is to provide budget authority to provide the above listed services within the City.

Legal Services Division

Purpose

The Legal Services Division provides for the administration of the Legal Services Division and the contract for prosecution services with the Hedman, Hileman and Lacosta Law Firm. The staff City Attorney provides legal support to the City organization in civil matters, including legal consultation, preparation and review of legal documents, and representation in civil matters. The prosecution contract provides for the City's prosecution needs in the City Court. The contract was renewed for two years in February 2011 and again in February 2013.

FY 2014 Objectives

The objective of the General Fund for this budget year is to provide budget authority to provide the above listed services within the City.

General Fund Expenditures - 1000

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Resort Tax Admin Services					
Materials and Services					
Professional Services	8,938	1,947	6,000	6,775	6,000
Total Resort Tax	**$ 8,938**	**$ 1,947**	**$ 6,000**	**$ 6,775**	**$ 6,000**
Prosecution Services					
Materials and Services					
Professional Services	133,494	101,742	98,000	101,742	98,000
Total Prosecution	**$ 133,494**	**$ 101,742**	**$ 98,000**	**$ 101,742**	**$ 98,000**
Legal Services					
Personal Services					
Salaries	9,812	18,700	18,923	21,081	23,000
Part-Time Wages	3,251	6,590	6,706	6,744	6,977
Employer Contributions	3,928	5,920	8,076	6,557	6,938
	$ 16,991	**$ 31,210**	**$ 33,705**	**$ 34,382**	**$ 36,915**
Materials and Services					
Office Supplies/Materials			172		172
Operating Supplies/Materials			326		326
Printing			43		43
Publicity/Subscriptions/Dues			172		172
Utility Services			215		215
Professional Services			950		950
Travel & Training			167		167
Other Purchased Services			150		150
Insurance			172		172
	$ -	**$ -**	**$ 2,366**	**$ -**	**$ 2,366**
Total Legal Services	**$ 16,991**	**$ 31,210**	**$ 36,071**	**$ 34,382**	**$ 39,281**

Community Planning Division

FY 2014

Purpose

The Community Planning Division provides for the development, administration and enforcement of the City's land use, development and zoning regulations and other provisions of the City Code. These functions are performed by the City's Planning and Building Department.

FY 2014 Objectives

The objective of the Community Planning Division for this budget year is to provide budget authority for a broad range of planning activities including review, development and revision of planning regulations, long-range planning, processing land use and development applications, and enforcement of land use, development and zoning regulations and other provisions of the City Code. Due to recent increased building activity this budget includes a new Planner position.

General Fund Expenditures - 1000

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Other General Gvrnmnt Services		**$ 12,759**	**$ 1,000**		**$ -**
Community Planning					
Personal Services					
Salaries	135,997	144,213	153,969	156,353	183,913
Part-Time Wages	3,130	3,295	3,353	3,365	3,488
Employer Contributions	50,039	53,387	61,982	60,309	79,695
	$ 189,166	**$ 200,895**	**$ 219,304**	**$ 220,027**	**$ 267,096**
Materials and Services					
Office Supplies/Materials	1,008	851	2,500	1,783	2,500
Operating Supplies/Materials	2,842	1,610	3,500	1,016	4,500
Repair & Maintenance Supplies	316	424	650	307	650
Communication & Transportation	686	763	1,000	1,028	1,000
Printing			100	402	500
Publicity/Subscriptions/Dues	6,782	4,299	7,300	4,482	7,300
Utility Services	5,984	6,281	6,000	5,259	6,000
Professional Services	2,000	4,973	26,100	4,079	30,000
Repair & Maintenance Services	872	801	4,000	513	9,600
Travel & Training	2,950	3,433	4,500	4,354	4,500
Other Purchased Services	161	225	100	1,094	100
Contract Services	926	7,751	17,396	19,363	10,000
Insurance	7,863	6,122	6,700	6,696	5,300
Lease	2,476	2,476	2,476	413	-
	$ 34,866	**$ 40,112**	**$ 82,322**	**$ 50,892**	**$ 81,950**
Total Community Planning	**$ 224,032**	**$ 241,007**	**$ 301,626**	**$ 270,919**	**$ 349,046**

Community Agencies & Cemetery Services FY 2014

Community Agencies Division

Purpose

The Community Agencies Division provides budget authority to support various community organizations. These include the Eagle Bus Service, Big Mountain SNOW Bus, Golden Agers Community Center, Whitefish Theatre Grant, O'Shaughnessy Center Insurance, and property insurance for The Wave.

FY 2014 Objectives

The objective of the Community Agencies Division for this budget year is to provide budget authority to support various community organizations, as described above.

Cemetery Services

Purpose

The Cemetery Division provides budget authority for the ongoing maintenance of the Whitefish Cemetery. The City operates a 7.0 acre cemetery on Hwy 93 North next to the golf course.

FY 2014 Objectives

The objective of the Cemetery Division this fiscal year is to provide budget authority for the maintenance of the Whitefish Cemetery. The City is pursuing purchasing land for a new Cemetery. The City is budgeting $2,000 for additional water testing on possible sites.

The FY14 budget also includes a budget of $30,000 for a new irrigation system at the current Cemetery which will free up space for a Columbarium – Cremain Niche Wall. There is budgeted expenditures of $23,000 for a Cremain Niche Wall which is offset by a possible $30,000 in revenues.

Cemetery fees were increased in February 2011 to match costs.

General Fund Expenditures - 1000

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Community Agencies					
Materials and Services					
Eagle Bus Service	9,300	9,300	9,300	9,300	9,300
Big Mountain Snow Bus	7,500	7,500	7,500	7,500	7,500
Golden Agers Cmmnty Center	1,250	1,250	1,500	1,500	1,500
Whitefish Theater Grant	10,744	4,266	9,500	7,631	9,500
O'Shaughnessy Center Insrnc	2,902	3,182	3,010	3,009	2,600
WAVE Property Insurance	9,169	9,756	8,350	8,348	7,100
Total Community Agencies	**$ 40,865**	**$ 35,254**	**$ 39,160**	**$ 37,288**	**$ 37,500**
Cemetery Services					
Personal Services					
Salaries	652	687	687	701	726
Overtime	451	78	63	225	82
Employer Contributions	371	226	236	330	254
	$ 1,474	**$ 991**	**$ 986**	**$ 1,256**	**$ 1,062**
Materials and Services					
Operating Supplies	758	74	500	92	500
Repair/Maintenance Supplies	396	1,430	3,000	1,840	3,000
Other Purchased Services		9,719	12,000	6,210	2,000
Insurance	33	48	40	35	40
	$ 1,187	**$ 11,271**	**$ 15,540**	**$ 8,177**	**$ 5,540**
Capital Outlay					
Improvements					**$ 53,000**
Total Cemetery Services	**$ 2,661**	**$ 12,262**	**$ 16,526**	**$ 9,433**	**$ 59,602**
Operating Contingency					
Operating Contingency			10,000		10,000
	$ -	**$ -**	**$ 10,000**	**$ -**	**$ 10,000**
Interfund Loan Transfer Out					
Trans to Other Funds-Building	29,405		-		-
	$ 29,405	**$ -**	**$ -**	**$ -**	**$ -**
Transfers to Other Funds					
Trans to Library Fund		33,370	34,371	34,371	34,371
Trans to Parks and Rec Fund	413,984	478,928	472,000	536,106	603,000
Trans to Law Enforcmnt Fund	1,730,227	1,710,000	1,795,000	1,795,000	1,845,000
Trans to Fire & Ambulance Fund	343,502	434,014	494,594	494,594	575,000
Trans to Ambulance Fund	343,502				
	$ 2,487,713	**$ 2,656,312**	**$ 2,795,965**	**$ 2,860,071**	**$ 3,057,371**
Total Non-Departmental	**$ 2,517,118**	**$ 2,656,312**	**$ 2,805,965**	**$ 2,860,071**	**$ 3,067,371**
Total Expenditures	**$ 3,268,607**	**$ 3,413,760**	**$ 3,659,246**	**$ 3,658,367**	**$ 4,029,046**
Ending Cash Balance (Reserves)		**$ 506,100**	**$ 591,891**		**$ 690,148**
Total General Fund		**$ 3,919,860**	**$ 4,251,137**		**$ 4,719,193**

General Fund Expenditures - 1000

8/13/2013

Expenditures		Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Total General Fund						
Personal Services		474,707	518,235	548,020	544,294	622,553
Materials and Services		260,641	239,213	305,261	254,003	286,122
Capital Outlay		-	-	-	-	53,000
Contingency		-	-	10,000	-	10,000
Transfers		2,517,118	2,656,312	2,795,965	2,860,071	3,057,371
		3,252,466	3,413,760	3,659,246	3,658,367	4,029,046
Personal Services						
	110	330,269	364,712	364,712	374,268	415,018
	111	2,817	-	-	-	-
	112	10,358	23,027	23,027	23,277	23,725
	120	3,846	4,152	4,152	3,197	4,309
	130	-	4,860	4,860	-	4,860
	140	127,417	151,269	151,269	143,552	174,641
Materials and Services						
	210	3,576	3,425	5,659	3,281	5,659
	220	5,799	2,724	14,713	6,048	12,777
	230	1,714	1,989	4,826	2,320	4,865
	310	2,517	2,116	2,934	2,758	2,858
	320	172	-	419	402	781
	330	7,507	4,404	8,759	4,805	8,835
	340	12,502	11,105	15,047	9,934	15,276
	350	148,722	108,661	136,089	112,596	138,080
	360	1,781	2,534	6,760	4,247	12,131
	370	7,051	5,924	11,278	9,002	11,278
	390	7,361	12,460	20,741	12,216	11,600
	397	2,579	7,751	19,466	20,507	12,070
	510	27,924	26,762	26,784	26,295	21,617
	530	2,476	2,476	2,766	413	290
	540	167	205	220	205	204
	730	10,744	4,266	9,500	7,631	9,500
	790	18,050	18,050	18,300	18,300	18,300
Capital Outlay						286,122
	940			-		53,000
Contingency						
	960			10,000		10,000
Transfers						
	820			2,795,965		3,057,371
Total				3,642,351		4,315,167
				(16,895)		286,122

Library Fund

FY 2014

Purpose

Title 22, Chapter 1, Part 3 of the Montana Code Annotated provides for the establishment and laws related to free public libraries. The Whitefish Community Library was created as a City Library via Resolution 10-48 on November 15, 2010 after the City Council had voted to terminate the Interlocal Agreement with the Flathead County Library Board of Trustees for the consolidated county-wide library service. This fund provides for the collection of property taxes, donations, fines and other revenues and the appropriations for the Whitefish Community Library.

FY 2014 Objectives

The objective of the Library Fund for this fiscal year is to provide budget authority for the Whitefish Community Library.

Significant policy issues in the FY14 Budget are:

Item/Project	Amount
Revenue Changes	
• Misc donations, fundraising, & grants	$25,000
• Whitefish Library Association contribution	$26,000
Expenditure Changes	

Library Fund - 2220

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Taxes					
Real Property Taxes		94,246	116,810	113,815	119,371
Personal Property Taxes				1,205	
		$ 94,246	**$ 116,810**	**$ 115,020**	**$ 119,371**
Intergovernmental					
State Aid			610		2,640
		$ -	**$ 610**	**$ -**	**$ 2,640**
Charges for Services					
Library Collections		5,839	7,200	12,125	11,000
		$ 5,839	**$ 7,200**	**$ 12,125**	**$ 11,000**
Miscellaneous Revenue					
Private Gifts and Bequests	55,120	70,512	51,000	40,229	51,000
	$ 55,120	**$ 70,512**	**$ 51,000**	**$ 40,229**	**$ 51,000**
Other Financing Sources					
General Fund Operating Transfer		33,370	34,371	34,371	34,371
		$ 33,370	**$ 34,371**	**$ 34,371**	**$ 34,371**
Total Fund Revenue	**$ 55,120**	**$ 198,128**	**$ 202,791**	**$ 201,745**	**$ 218,382**
Beginning Available Cash		**$ 15,183**	**$ 8,029**		**$ 23,758**
Total Resources		**$ 213,311**	**$ 218,020**		**$ 242,141**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Personal Services					
Salaries	9,355	46,903	46,525	47,672	50,238
Permanent Part Time	2,244	54,093	50,164	52,631	50,904
Overtime		651			1,020
Employer Contributions	5,963	33,226	42,348	36,887	43,050
	$ 17,561	**$ 134,873**	**$ 139,037**	**$ 137,190**	**$ 145,212**
Materials and Services					
Office Supplies/Materials	32,629	1,577	8,600	958	4,600
Operating Supplies	1,335	20,302	7,400	7,640	12,400
Library Materials				164	5,000
Repair & Maintenance Supplies	280	1,068	1,100	1,046	2,300
Communication & Transportation	87	1,338	5,000	3,516	4,000
Publicity, Subscriptions & Dues	1,268	7,724	3,200	1,632	3,300
Utility Services	10,413	14,951	14,640	14,321	13,960
Repair & Maintenance Services	2,339	12,162	2,000	5,867	2,100
Travel & Training	300	1,473	3,000	2,675	3,000
Other Purchased Services	2,242	7,875	360	674	360
Contracted Services	579	524	450	560	810
Insurance	3,593	4,112	6,806	6,806	5,254
Administrative Costs		1,787	4,000	3,338	4,000
	$ 55,065	**$ 74,893**	**$ 56,556**	**$ 49,196**	**$ 61,084**
Operating Contingency			3,500		3,500
		$ -	**$ 3,500**	**$ -**	**$ 3,500**
Total Expenditures	**$ 72,627**	**$ 209,766**	**$ 199,093**	**$ 186,386**	**$ 209,796**
Ending Available Cash		**$ 8,029**	**$ 18,095**		**$ 32,345**
Total Fund		**$ 217,795**	**$ 217,188**	**$ 186,386**	**$ 242,141**

Law Enforcement Fund

FY 2014

Purpose

The Law Enforcement Fund provides the primary financial support for the City Police Department. The Department provides policing services through a staff of 15 sworn officers (including the Chief of Police), and a part-time parking enforcement officer.

FY 2014 Objectives

The objective of the Law Enforcement Fund for this fiscal year is to provide budget authority for the Police Department.

Significant or changed appropriations during FY14 are:

Item/Project	Amount
Revenue Changes	
• The three year COPS grant expired – reduced revenue	$36,000
Expenditure Changes	
• Capital Expense – Fleet replacement (net trade-ins) 1 carryover from FY11	$22,000
• Capital Expense – 3 yr lease Chief truck	$8,300
• 5 Tasers	$3,000

Law Enforcement Fund - 2300

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Intergovernmental					
Traffic Safety Grant			-	10,700	-
DOT Overtime Reimbursement	17,667	17,478	15,000	9,892	15,000
Offset for State Payment to MPORS	248,221	228,800	283,000	279,398	243,128
Reimbursement - Drug TF Overtime		3,158	6,684		7,453
Homeland Security Eqpmnt Grant			-	2,526	-
Drug Task Force Grant	59,932	71,994	65,300	75,567	80,000
COPS Hiring Grant	44,000	68,470	36,000	35,580	-
Dept of Justice Grant				3,034	
MDT Equipment Grant					5,000
	$ 742,948	**$ 389,900**	**$ 410,984**	**$ 416,697**	**$ 355,581**
Charges for Services					
Contract Charges - School Events	450		-		-
	$ 450		**$ -**		**$ -**
Miscellaneous Revenue					
Misc. Law Enforcement Collections	34,757	14,934	16,000	15,098	16,000
Contributions	30,000	1,000		2,500	
	$ 64,757	**$ 15,934**	**$ 16,000**	**$ 17,598**	**$ 16,000**
Other Financing Sources					
General Fund Operating Transfer	1,730,227	1,710,000	1,795,000	1,795,000	1,845,000
	$ 1,730,227	**$ 1,710,000**	**$ 1,795,000**	**$ 1,795,000**	**$ 1,845,000**
Total Fund Revenue	**$ 2,538,382**		**$ 2,221,984**	**$ 2,229,295**	**$ 2,216,581**
Beginning Available Cash		**$ 54,252**	**$ 46,718**		**$ 71,627**
Total Resources			**$ 2,268,702**		**$ 2,288,209**

Law Enforcement Fund - 2300

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Personal Services					
Salaries	985,563	869,890	933,635	951,304	945,493
Part-Time Wages	31,843	33,710	38,990	40,877	37,321
Overtime	52,667	76,318	42,189	60,290	41,194
Reimbursed Overtime			20,000		20,000
Employer Contributions	564,581	370,692	422,962	394,695	432,209
Offset State Pymnt to MPORS	248,221	228,800	283,000	279,398	243,128
	$ 1,882,875	**$ 1,579,410**	**$ 1,740,776**	**$ 1,726,564**	**$ 1,719,345**
Materials and Services					
Office Supplies/Materials	5,694	3,348	6,500	3,694	6,500
Operating Supplies/Materials	48,011	61,998	62,500	59,421	60,300
Repair/Maintenance Supplies	41,399	40,064	55,100	44,481	50,100
Postage & Freight	351	1,059	450	839	1,000
Publicity/Subscriptions/Dues	795	4,856	800	1,206	800
Utility Services	31,535	28,654	34,250	30,261	33,600
Professional Services	4,725	3,077	7,000	5,941	7,000
Repair & Maintenance	28,560	41,225	46,730	38,544	43,000
Travel & Training	6,857	25,158	18,000	11,842	18,000
Other Purchased Services	136,572	140,389	141,070	131,367	140,000
Contracted Workers	26,350	40,894	40,000	56,159	57,000
Insurance	49,297	49,181	44,200	47,893	38,000
Rent	1,200	1,200	1,050	1,200	1,100
Administrative Expense	32,511	29,886	30,000	35,127	34,000
	$ 413,857	**$ 470,989**	**$ 487,650**	**$ 467,975**	**$ 490,400**
Capital Outlay					
Machinery & Equipment	-	36,991	27,500	40,591	35,800
	$ -	**$ 36,991**	**$ 27,500**	**$ 40,591**	**$ 35,800**
Operating Contingency	**$ -**		**$ -**		**$ -**
Total Fund Expenditures	**$ 2,296,732**	**$ 2,087,390**	**$ 2,255,926**	**$ 2,235,131**	**$ 2,245,545**
Ending Available Cash		46,718	12,776		**42,663**
Total Law Enforcement		**$ 2,134,108**	**$ 2,268,702**		**$ 2,288,209**

Victim & Witness Assistance Fund - 2917

FY 2014

Purpose

The Victim and Witness Assistance Fund provides budget authority to comply with Montana House Bill 257, adopted during the 1999 Legislative Session. The bill requires cities to establish a fund to account for a Victim and Witness Assistance Fine to be assessed on those convicted of misdemeanor and felony charges. Funds collected through assessments shall be used to pay restitution and to assist the victims and witnesses of criminal acts.

FY 2014 Objectives

The objective of the Victim and Witness Assistance Fund for this fiscal year is to administer the requirements of the Montana Victim and Witness Assistance Statute.

Crime Victims Assistance Fund - 2917

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Victim & Witness Prgrm Fines		8,616	15,000	8,172	15,000
Total Fund Revenue		**$ 8,616**	**$ 15,000**	**$ 8,172**	**$ 15,000**
Beginning Available Cash			**$ 230**		**$ 230**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2012	Proposed FY 2014
Materials and Services					
Crime Victim's Assistance	7,472	8,616	15,000	8,171	15,000
	$ 7,472	**$ 8,616**	**$ 15,000**	**$ 8,171**	**$ 15,000**
Ending Available Cash			**$ 230**		**$ 230**

Fire and Ambulance Fund

FY 2014

Purpose

The purpose of the Fire and Ambulance Fund is to provide budget authority for the delivery of fire prevention and suppression, rescue services, and ambulance and advanced life support service to the City of Whitefish, the rural fire service area, and surrounding areas.

FY 2014 Objectives

The objective of the Fire and Ambulance Fund for this fiscal year is to provide fire suppression, fire and accident rescue, hazardous materials incident response, fire code enforcement, ambulance and advanced life support service, and community education on related issues.

Significant policy issues in the FY14 Budget are:

- The four years of SAFER grant revenue that helped fund six new firefighters has ended.
- Whitefish fire equipment has aged to point of reducing safety and increasing maintenance costs. This budget anticipates borrowing from the State Intercap Loan program, and soliciting a contribution from the Rural Fire District and the WFSA.

Significant or changed appropriations during FY14 are:

Item/Project	Amount
Revenue Changes	
• Decrease in 5 year SAFER Grant	$78,120
• Loan Proceeds	$875,000
Expenditure Changes	
• Fire – Capital Expense – 2011 AFG Grant match for $200,000 SCBA	$20,000
• Fire – Capital Exp – Structural Pumper ($75k Fire Association , rest debt)	$525,000
• Fire – Capital Expense – Tenders (debt)	$285,000
• Amb – Capital Expense – Cot (debt financed)	$15,000
• Amb – Capital Expense – Ambulance (debt financed)	$150,000

Fire and Ambulance Fund - 2340

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Budget FY 2014
Taxes					
Real Property Taxes	374,389	488,098	512,154	507,114	522,538
Personal Property Taxes	2,074	5,534	7,000	7,935	8,000
	$ 376,463	**$ 493,632**	**$ 519,154**	**$ 515,049**	**$ 530,538**
Licenses and Permits					
Fire Prevention Program Fee	44,375	46,688	82,750	78,141	60,000
Burning Permits	125	175	300	250	300
	$ 44,500	**$ 46,863**	**$ 83,050**	**$ 78,391**	**$ 60,300**
Intergovernmental					
SAFER Grant	188,543	117,045	78,120	58,590	-
Offset for State Pymnt to FURS	331,560	315,627	344,000	326,751	348,123
Countywide Ambulance Assessment	91,965	57,449	60,000	32,138	65,000
	$ 612,068	**$ 490,121**	**$ 482,120**	**$ 417,479**	**$ 413,123**
Charges for Services					
Rural Fire Service Assessment	525,177	225,819	230,000	225,709	230,000
Ambulance Services	846,087	856,552	850,000	891,494	950,000
RescueCare Ambulance Prog	30,258	32,847	31,000	29,651	31,000
	$ 1,401,522	**$ 1,115,218**	**$ 1,111,000**	**$ 1,146,854**	**$ 1,211,000**
Miscellaneous Revenue					
Miscellaneous Income	6,826	61,383	2,200	5,440	2,200
Contributions			140,000	100,000	-
	$ 6,826	**$ 61,383**	**$ 142,200**	**$ 105,440**	**$ 2,200**
Other Financing Sources					
Loan Proceeds			815,000		875,000
General Fund Operating Transf	343,502	434,014	494,594	494,594	575,000
	$ 343,502	**$ 434,014**	**$ 494,594**	**$ 494,594**	**$ 1,450,000**
Total Fund Revenue	**$ 2,784,881**	**$ 2,641,231**	**$ 2,832,118**	**$ 2,757,807**	**$ 3,667,162**
Beginning Available Cash		**$ 515,004**	**$ 471,138**		**$ 525,018**
Restricted Amb. Replacment Bal.			-		-
Total Resources	**$ 2,784,881**		**$ 4,118,256**		**$ 4,192,180**

Fire and Ambulance Fund - 2340

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Fire and Rescue					
Personal Services					
Salaries	369,740	1,039,160	387,170	349,834	413,891
Permanent Part-time	1,566	1,648	1,677	1,686	1,744
Overtime	24,807	155,047	14,000	30,054	23,222
Scheduled Overtime			14,395		7,918
Employer Contributions	147,057	374,833	152,802	139,710	160,493
State Contribution to FURS	120,572	315,627	124,000	114,081	125,324
Other Personal Services	10,337	35,609	8,200	8,870	10,000
	$ 674,079	**$ 1,921,924**	**$ 702,244**	**$ 644,235**	**$ 742,592**
Materials and Services					
Office Supplies/Materials	1,176	4,070	1,000	738	1,000
Operating Supplies/Materials	41,558	46,655	30,300	37,428	61,000
Repair & Maintenance Supplies	27,463	63,709	40,600	23,599	36,000
Communication & Transportation	302	2,945	250	241	250
Publicity/Subscriptions/Dues	1,599	4,556	3,180	2,103	3,900
Utility Services	10,810	35,690	16,600	16,955	15,000
Professional Services	6,607	19,817	8,800	10,262	13,900
Repair and Maintenance	32,251	26,924	10,900	15,273	11,100
Travel & Training	3,288	8,968	4,500	1,912	4,500
Training Services	454	8,493	11,200	6,293	12,250
Other Purchased Services	220	12,772	6,600	6,887	6,900
Insurance	20,933	50,658	24,315	24,313	18,000
Administrative Services	12,680	34,237	12,000	13,905	12,000
	$ 159,341	**$ 319,494**	**$ 170,245**	**$ 159,908**	**$ 195,800**
Capital Outlay					
Equipment	-		925,000	42,905	830,000
	$ -	**$ -**	**$ 925,000**	**$ 42,905**	**$ 830,000**
Total Fire	**$ 833,420**	**$ 2,241,418**	**$ 1,797,489**	**$ 847,048**	**$ 1,768,392**

Fire and Ambulance Fund - 2340

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Ambulance					
Personal Services					
Salaries	647,004	557,522	690,912	652,162	738,830
Overtime	57,740	87,664	38,000	67,461	54,184
Scheduled Overtime			33,587		18,475
Employer Contributions	245,044	209,359	277,019	258,838	291,213
State Contribution to FURS	210,988	220,939	220,000	212,670	222,799
Other Personal Services	22,311	16,836	16,800	25,316	20,000
	$ 1,183,087	**$ 1,092,320**	**$ 1,276,318**	**$ 1,216,447**	**$ 1,345,501**
Materials and Services					
Office Supplies/Materials	2,710	2,170	2,000	1,173	2,000
Operating Supplies/Materials	33,579	26,599	40,400	36,003	40,000
Repair & Maintenance Supplies	31,857	17,054	29,200	23,368	36,000
Communication & Transportation	3,101	1,095	250	1,325	3,100
Publicity/Subscriptions/Dues	3,926	1,547	1,590	3,509	2,000
Utility Services	24,395	19,520	30,000	30,528	35,500
Professional Services	16,529	13,177	19,500	18,562	20,900
Repair and Maintenance	15,834	7,348	11,000	31,065	12,000
Travel & Training	7,398	4,891	2,100	89	2,600
Training Services		3,801	6,550	5,755	7,070
Other Purchased Services	926	8,087	15,400	16,396	16,100
Insurance	31,019	30,302	36,200	36,201	24,000
Administrative Expense	22,817	15,292	22,000	25,344	22,000
	$ 194,091	**$ 151,403**	**$ 216,190**	**$ 229,318**	**$ 223,270**
Debt Service					**$ 17,000**
Accounts Payable Adjustments					
Bad Debt Expense	107,916	109,752	125,000	137,333	135,000
Medicare/Medicaid Adjustment	220,872	230,507	231,000	301,832	231,000
RescueCare Benefits	14,056	15,054	17,000	8,822	16,000
City Resident		1,313	4,800	4,228	4,800
	$ 342,844	**$ 356,626**	**$ 377,800**	**$ 452,215**	**$ 386,800**
Capital Outlay					
Equipment	-		165,000		165,000
	$ -		**$ 165,000**		**$ 165,000**
Contingency			**$ -**		**$ -**
Total Ambulance	**$ 1,720,022**	**$ 1,600,349**	**$ 2,035,308**	**$ 1,897,980**	**$ 2,137,571**
Total Expenditures	**$ 2,553,442**	**$ 3,841,767**	**$ 3,832,797**	**$ 2,745,028**	**$ 3,905,963**
Ending Available Cash		**$ 471,138**	**$ 285,459**		**$ 286,216**
Total Fund		**$ 4,312,905**	**$ 4,118,256**		**$ 4,192,180**

Fire and Ambulance Fund - 2340

8/13/2013

Expenditures		Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Total Fire & Amb Fund						
Personal Services		1,857,166	3,014,244	1,978,562	1,860,682	2,088,093
Materials and Services		353,432	470,897	386,435	389,226	419,070
Debt Service				-	-	17,000
Capital Outlay		-	-	1,090,000	42,905	995,000
Account Payable Adjustment		342,844	356,626	377,800	452,215	386,800
		2,553,442	3,841,767	3,832,797	2,745,028	3,905,963
Personal Services						
	110	1,016,744	1,596,682	1,078,082	1,001,996	1,152,721
	112	1,566	1,648	1,677	1,686	1,744
	120	82,547	242,711	99,982	97,515	103,799
	140	392,101	584,192	429,821	398,548	451,706
	146			344,000	326,751	348,123
	190	32,648	52,445	25,000	34,186	30,000
Materials and Services						
	210	3,886	6,240	3,000	1,911	3,000
	220	75,137	73,254	70,700	73,431	101,000
	230	59,320	80,763	69,800	46,967	72,000
	310	3,403	4,040	500	1,566	3,350
	330	5,525	6,103	4,770	5,612	5,900
	340	35,205	55,210	46,600	47,483	50,500
	350	23,136	32,994	28,300	28,824	34,800
	360	48,085	34,272	21,900	46,338	23,100
	370	10,686	13,859	6,600	2,001	7,100
	380	454	12,294	17,750	12,048	19,320
	390	1,146	20,859	22,000	23,283	23,000
	510	51,952	80,960	60,515	60,513	42,000
	880	35,497	49,529	34,000	39,249	34,000
Debt Service				-	-	17,000
Accounts Payable Adjustments						
	810	107,916	109,752	125,000	137,333	135,000
	811	220,872	230,507	231,000	301,832	231,000
	812	14,056	15,054	17,000	8,822	16,000
	813			4,800	4,228	4,800
Capital Outlay						
	920	-	-	-	-	-
	940	-	-	1,090,000	42,905	995,000
Contingency						
	960	-	-	-	-	-
Total		2,221,882	3,303,367	3,832,797	2,745,028	3,905,963

Building Code Fund

FY 2014

Purpose

The Building Code Program Fund provides budget authority to administer the City's Building Code Program and also contract Building Code services for the City of Columbia Falls. Administration of the Building Codes Program is provided by the Planning and Building Department.

FY 2014 Objectives

The objective of the Building Code Program Fund for this fiscal year is to promote dependable and safe buildings and structures through the implementation and enforcement of the International Building Code, International Plumbing Code, International Mechanical Code, and National Electric Code within the City of Whitefish.

The City had to lay off one building inspector in FY09 and one in FY10 because of greatly reduced building permit activity and revenues. In addition, the City had to lay of a Permit Tech in FY10. The City General Fund lent a total of $460,978 to the Building Code program in FY09, FY10, and FY11 until such time as building activity and building permit revenues rebound.

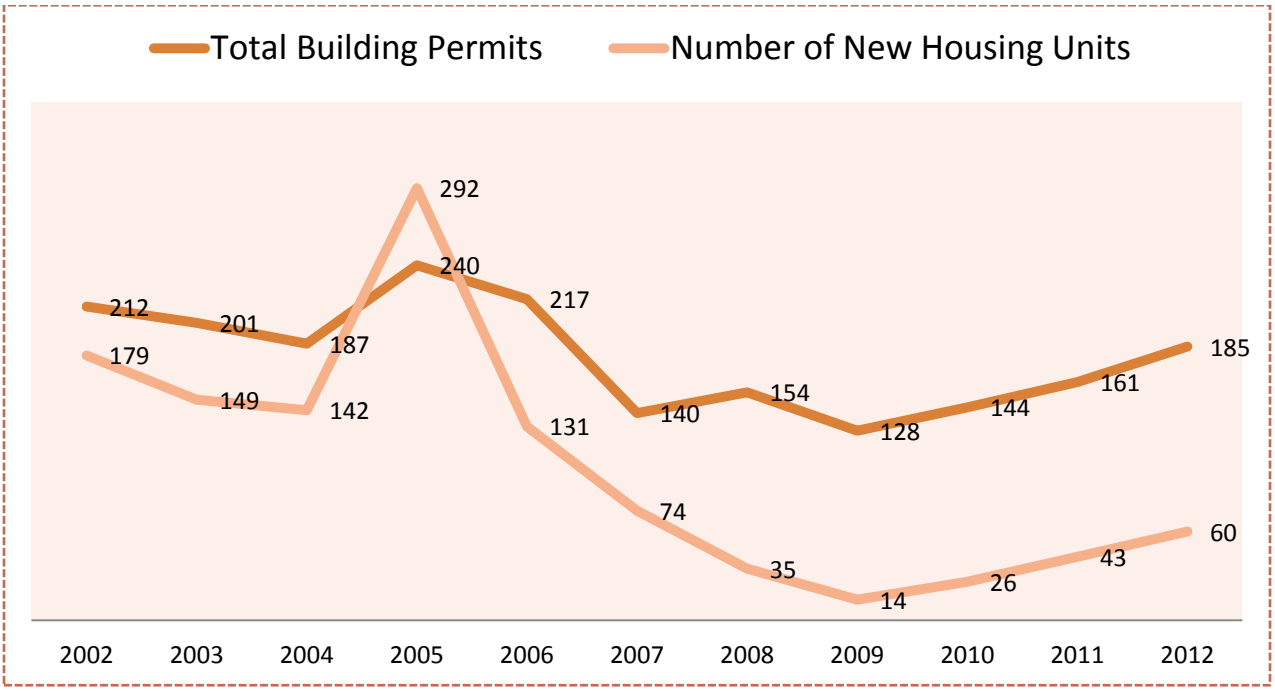
The FY 2013 budget added a new Building Inspector/Code Enforcement officer—60% paid from the Building Fund and 40% from the planning division of the General Fund. The justification was an increased workload, increased building activity, including revenue generated by the new high school. The FY 2014 budget proposes a continuation of increased building activity.

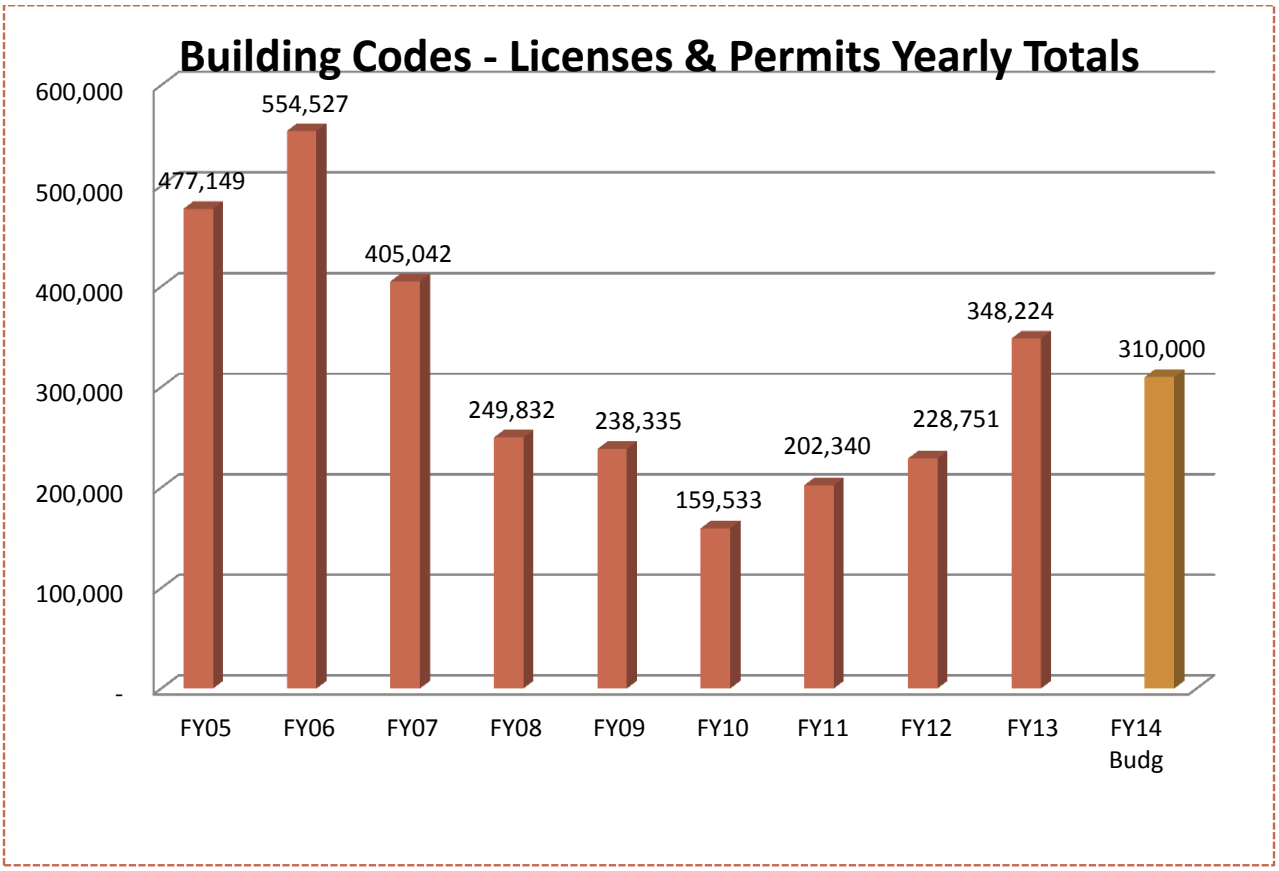
Significant or changed appropriations during FY14 are:

Item/Project	Amount
Revenue Changes	
Expenditure Changes	

Building Code Fund

FY 2014





Building Code Fund - 2394

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Licenses and Permits					
Building Plan Review	71,000	86,610	112,000	134,656	111,500
Building Permits	82,500	84,145	123,000	141,109	122,500
Electrical Permits	20,500	27,428	35,000	33,824	35,000
Plumbing Permits	9,508	13,434	12,000	20,546	12,000
Mechanical Permits	11,581	17,136	29,000	18,091	29,000
	$ 195,089	**$ 228,753**	**$ 311,000**	**$ 348,226**	**$ 310,000**
Charges for Services					
Col. Falls Building Codes Contract	20,241	36,835	26,000	32,175	30,000
	$ 20,241	**$ 36,835**	**$ 26,000**	**$ 32,175**	**$ 30,000**
Miscellaneous Revenue					
Miscellaneous Revenue	13,945	1,232	1,500	957	1,500
	$ 13,945	**$ 1,232**	**$ 1,500**	**$ 957**	**$ 1,500**
Other Financing Sources					
Interfund Loan from General Fund	29,405		-		-
	$ 29,405	**$ -**	**$ -**		**$ -**
Total Fund Revenue	**$ 258,680**	**$ 266,820**	**$ 338,500**	**$ 381,358**	**$ 341,500**
Beginning Available Cash		**$ -**	**$ 961**		**$ 7,823**
Total Resources		**$ 266,820**	**$ 339,461**		**$ 349,323**

Building Code Fund - 2394

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Construction Inspection					
Personal Services					
Salaries	125,715	134,060	170,309	168,014	185,385
Overtime	45	166	-	156	205
Employer Contributions	52,038	57,375	78,151	75,507	83,620
	$ 179,972	**$ 191,601**	**$ 248,460**	**$ 243,677**	**$ 269,210**
Materials and Services					
Office Supplies/Materials	1,041	740	2,000	1,801	2,000
Operating Supplies	3,874	1,821	2,000	1,073	3,000
Repair & Maintenance Supplies	3,453	4,575	6,000	5,295	6,000
Postage & Freight	370	389	350	210	350
Publicity/Subscriptions/Dues	1,155	1,316	1,300	1,718	1,800
Utility Services	5,458	5,763	5,300	5,459	5,300
Professional Services	5,430		2,900	408	2,900
Repair and Maintenance	1,375	3,443	2,100	2,164	2,100
Travel & Training	472	371	4,000	1,189	4,000
Contracted Workers	273		-	4,976	-
Insurance	8,440	7,207	5,703	5,785	5,100
Administrative Expense	4,935	5,018	6,000	6,297	6,000
	$ 36,276	**$ 30,643**	**$ 37,653**	**$ 36,374**	**$ 38,550**
Total Construction Inspection	**$ 216,248**	**$ 222,244**	**$ 286,113**	**$ 280,051**	**$ 307,760**
Columbia Falls Building Codes					
Personal Services					
Salaries	30,792	24,253	23,137	22,405	17,077
Employer Contributions	12,878	11,409	11,545	11,040	8,948
	$ 43,670	**$ 35,662**	**$ 34,682**	**$ 33,445**	**$ 26,025**
Materials and Services					
Operating Supplies/Materials			400		400
Repair & Maintenance Supplies	2,048	2,691	1,900	3,261	1,900
Insurance	1,544	1,285	1,065	1,064	725
	$ 3,592	**$ 3,976**	**$ 3,365**	**$ 4,325**	**$ 3,025**
Total Columbia Falls Contract	**$ 47,262**	**$ 39,638**	**$ 38,047**	**$ 37,770**	**$ 29,050**
Total Fund Expenditures	**$ 263,510**	**$ 261,882**	**$ 324,160**	**$ 317,822**	**$ 336,810**
Ending Available Cash		**$ 4,938**	**$ 15,301**		**$ 12,513**
Total Building Code Fund		**$ 266,820**	**$ 339,461**		**$ 349,323**

Parks, Recreation, & Community Services FY 2014

Purpose

The purpose of the Parks, Recreation and Community Services Fund is to provide the budgetary authority necessary to maintain the parks, trails and property owned by the City, operate community facilities, provide recreational programs, and provide other beautification and community services as needed.

FY 2014 Objectives

The objectives of the Parks, Recreation and Community Services Fund for this fiscal year are to

(1) maintain and, where appropriate, operate various City facilities. These include the Stumptown Ice Den, Mountain Trails Park, Roy Duff Memorial Armory Center, Armory Park, Credit Union Park, City Hall building and grounds, City Beach, Soroptimist Park, Baker Park, Riverside Park, Creekwood Park, Grouse Mountain Park, Memorial Ball Park perimeter, Jack Zerr Fields, Canoe Park, Kay Beller Park, Crestwood Park, Riverwood Park, the Baker/Wisconsin Street Viaduct, S. Baker Avenue right-of-way, W. Edgewood Place right-of-way, property at 2nd and Spokane Avenue, Greenwood Drive property, Central Avenue Medium, and the grounds of the Whitefish Cultural Arts Center, Whitefish Library, and City Wastewater Plant. The Department also maintains the various sections of the Fish Trails" Bicycle and Pedestrian Trails System

(2) provide a series of recreation programs and special events

(3) provide maintenance for boulevard trees and pre-planting administration

(4) maintain the Hwy. 93 right-of-way landscape, and provide weed spraying services on City property and right-of-ways as needed

(5) provide other general beautification and community services as needed

Significant or changed appropriations during FY14 are:

Item/Project	Amount
Revenue Changes	
• Donation for Ice Rink Locker Upgrade	$50,000
• Whitefish Trail Operating Endowment from Whitefish Legacy Partners	$59,158
• BNSF donation for river park landing	$25,000
Expenditure Changes	
• River park landing-offset by BNSF donation	$25,000
• Whitefish Trail Maint-New account to track city expenses to maint WF Trail	$59,158
• Capital Expense-Parks & Prop – Leaf Blower	$5,500
• Capital Expense-Parks & Prop – used 1 ton plow truck	$40,000
• Capital Expense-Ice Rink Locker Upgrade (donation offset)	$55,000
• Capital Expense-Ice Rink Flooring	$10,000
• Capital Expense-Ice Rink New Boiler	$15,000

Parks and Recreation Fund Revenue - 2210

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Licenses and Permits					
Alcohol Consumption Permit	470	490	500	310	500
	$ 470	**$ 490**	**$ 500**	**$ 310**	**$ 500**
Intergovernmental					
Grants	59,759	750	22,000	5,162	30,750
	$ 59,759	**$ 750**	**$ 22,000**	**$ 5,162**	**$ 30,750**
Charges for Services					
Beach Concessions	13,572	17,519	18,500	16,119	18,500
Beach Gazebo Rental	1,473	2,100	2,150	2,015	2,150
Boat Launch Passes	4,342	6,245	7,500	6,455	7,000
Beach Floatation Rentals	1,185	2,615	3,000	2,560	4,000
Hockey Tournaments	28,755	28,121	37,500	41,605	40,000
Ice Rink Admissions	50,212	46,449	55,000	43,044	50,000
Ice Rink Advertising	10,225	10,175	12,500	10,950	22,200
Ice Rink Concessions	25,379	23,670	35,000	22,120	30,000
Ice Rink Pro Shop	19,574	26,278	27,000	22,189	27,000
Ice Rink Rentals	89,486	113,619	129,000	128,770	148,950
Ice Rink Season Passes	30,112	26,799	35,000	27,637	32,000
Ice Skating Lessons	16,194	8,610	19,000	11,289	17,000
After School Program	31,742	38,693	70,680	49,476	82,950
Summer Day Camp	83,875	82,521	109,325	71,688	86,505
Adult Programs	14,091	11,149	24,635	9,622	13,900
Youth Programs	16,671	25,490	44,920	21,691	35,990
Special Events	3,558	4,650	7,000	1,465	7,000
Saddle Club Rental	1,480	2,017	2,500	1,225	2,500
Armory Rental	2,519	7,856	7,000	11,693	8,000
Facility Usage Revenue	2,804	1,850	1,900	5,535	2,400
	$ 447,249	**$ 486,426**	**$ 649,110**	**$ 507,148**	**$ 638,045**
Miscellaneous Revenue					
Miscellaneous Revenue	218	6,525	3,000	20,362	5,000
Program Guide Revenue	11,585	20,221	20,000	9,120	10,000
Greenwys & Prklnd Assessmnt	189,539	187,611	180,000	187,621	185,500
P&I Special Assessmnts	2,090	1,721	1,000	1,286	1,000
Contributions & Donations	9,281	3,480	2,000	1,200	71,000
WF Trail Operating Endowment				12,703	59,158
	$ 212,713	**$ 219,558**	**$ 206,000**	**$ 219,589**	**$ 331,658**
Other Financing Sources					
Op. Transfer from Gen. Fund	413,984	478,928	472,000	536,106	603,000
Loan Proceeds			140,000	69,599	70,212
	$ 413,984	**$ 478,928**	**$ 612,000**	**$ 605,705**	**$ 673,212**
Total Fund Revenue	**$ 1,134,175**	**$ 1,186,152**	**$ 1,489,610**	**########**	**$ 1,674,165**
Beginning Available Cash		**$ 45**	**$ 640**		**$ (90,162)**
Total Resources		**$ 1,186,197**	**$ 1,490,250**		**$ 1,584,003**

Parks & Recreation Fund - 2210

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Bicycle Path Maint. Program					
Personal Services					
Salaries	11,561	6,567	10,735	7,231	11,135
Part-time/Seasonal Wages	680	512	2,925	3,174	4,200
Employer Contributions	4,800	2,719	5,600	3,308	6,135
	$ 17,041	**$ 9,798**	**$ 19,260**	**$ 13,713**	**$ 21,470**
Materials and Services					
Operating Supplies	2,738	3,656	3,000	3,158	3,500
Repair & Maintenance Supplies	4,067	6,659	9,000	3,538	5,000
Publicity/Subscriptions/Dues	467	331	100	138	100
Professional Services				6,064	
Repair & Maintenance Services	2,083	81	1,500		5,000
Insurance	664	748	500	483	500
Rent	2,575	2,652	2,575	2,732	2,575
	$ 12,594	**$ 14,127**	**$ 16,675**	**$ 16,113**	**$ 16,675**
Capital Outlay					
Machinery & Equipment		-	-		-
		$ -	**$ -**		**$ -**
Total Bicycle Path Maint.	**$ 29,635**	**$ 23,925**	**$ 35,935**	**$ 29,826**	**$ 38,145**
Whitefish Trail Maintenance					
Personal Services					
Salaries					3,557
Part-time/Seasonal Wages				4,000	21,815
Employer Contributions				1,167	6,786
	$ -	**$ -**	**$ -**	**$ 5,167**	**$ 32,158**
Materials and Services					
Operating Supplies					1,000
Repair & Maintenance Supplies					1,000
Publicity/Subscriptions/Dues					500
Repair & Maintenance Services					7,000
Travel & Training					500
Insurance					2,000
Rent					15,000
	$ -	**$ -**	**$ -**		**$ 27,000**
Total Whitefish Trail Maint.	**$ -**	**$ -**	**$ -**	**$ 5,167**	**$ 59,158**

Parks & Recreation Fund - 2210

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Parks & Rec Administration					
Personal Services					
Salaries	103,834	108,419	105,403	112,369	106,955
Seasonal	3,132	174		2,063	1,800
Permanent Part-Time	1,566	1,648	1,677	1,686	1,682
Employer Contributions	44,224	38,623	46,514	36,197	46,953
	$ 152,764	**$ 148,871**	**$ 153,594**	**$ 152,315**	**$ 157,390**
Materials and Services					
Office Supplies/Materials	2,208	2,539	2,250	3,627	2,250
Operating Supplies	4,337	2,465	2,750	2,269	2,750
Repair & Maintenance Supplies	177	467	250	2,212	1,000
Postage & Freight	1,104	710	1,200	2,685	1,200
Printing	248	50	300		300
Publicity/Subscriptions/Dues	2,527	1,796	1,200	2,591	2,000
Utility Services	5,464	5,088	3,750	2,928	3,750
Professional Services	11,715		1,000	384	1,000
Repair & Maintenance Services	1,047	1,188	750	2,460	1,500
Travel & Training	393	415	1,000	1,786	1,000
Other Purchased Services	5,881	19,079	15,000	8,183	8,000
Contract Services	916		1,000	769	1,000
Insurance	4,039	4,264	4,550	5,273	3,500
Administrative Expense	9,824	9,506	10,000	10,565	10,000
	$ 49,880	**$ 47,567**	**$ 45,000**	**$ 45,731**	**$ 39,250**
Total Parks and Rec Admin	**$ 202,644**	**$ 196,438**	**$ 198,594**	**$ 198,046**	**$ 196,640**
City Parks & Properties					
Personal Services					
Salaries	113,236	118,101	120,327	120,541	125,195
Part-time/Seasonal Wages	15,756	28,508	26,160	30,922	55,660
Overtime			1,000	246	1,000
Employer Contributions	49,555	52,635	62,757	56,392	72,812
	$ 178,547	**$ 199,244**	**$ 210,244**	**$ 208,101**	**$ 254,667**
Materials and Services					
Office Supplies/Materials	424	548	500	370	500
Operating Supplies	17,711	15,190	12,000	14,877	12,000
Repair & Maintenance Supplies	31,184	35,989	35,100	35,645	41,505
Postage & Freight	29	47	150	806	300
Publicity/Subscriptions/Dues	395	447	350	1,299	350
Utility Services	33,166	33,874	36,000	38,854	40,000
Professional Services			500	150	500
Repair & Maintenance Services	26,171	10,047	15,000	21,452	15,000
Travel & Training	60	1,221	1,500	1,418	6,000
Other Purchased Services	4,566	6,276	5,000	5,970	6,000
Insurance	10,889	10,445	11,340	15,090	12,000
Rent/Lease Expense	1,200	1,236	2,475	1,673	2,600
	$ 125,889	**$ 115,681**	**$ 120,065**	**$ 137,604**	**$ 136,755**
Capital Outlay					
Park Improvements		-	-		25,000
Machinery & Equipment	12,000		27,500	33,356	40,000
	$ 12,000	**$ -**	**$ 27,500**	**$ 33,356**	**$ 65,000**
Total City Parks & Properties	**$ 316,436**	**$ 314,925**	**$ 357,809**	**$ 379,061**	**$ 456,422**

Parks & Recreation Fund - 2210

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Urban Forestry Program					
Personal Services					
Part-time/Seasonal Wages	703	1,180	2,400	3,717	10,920
Employer Contributions	143	184	525	539	2,295
	$ 846	**$ 1,364**	**$ 2,925**	**$ 4,256**	**$ 13,215**
Materials and Services					
Operating Supplies	3,358	1,763	5,250	3,492	8,000
Repair & Maintenance Supplies	3,079	723	2,000	1,119	2,000
Utility Services			1,000		1,000
Professional Services			500	11,040	500
Repair & Maintenance Services	3,058	1,579	3,250	2,241	10,000
Other Purchased Services	500	140	500	217	500
Contract Services	58,353	250	16,000	2,740	
Insurance		35	40	40	110
	$ 68,363	**$ 4,490**	**$ 28,540**	**$ 20,889**	**$ 22,110**
Total Urban Forestry	**$ 69,209**	**$ 5,854**	**$ 31,465**	**$ 25,145**	**$ 35,325**
After School Program					
Personal Services					
Salaries	3,680	2,971	12,074	3,583	21,316
Part-time/Seasonal Wages	4,801	14,745	17,258	24,396	20,142
Employer Contributions	2,055	3,803	8,650	5,490	19,055
	$ 10,536	**$ 21,519**	**$ 37,982**	**$ 33,469**	**$ 60,513**
Materials and Services					
Operating Supplies	1,807	6,583	7,605	4,788	6,988
Communication & Transportation		16	323		2,946
Publicity/Subscriptions/Dues	47	150	538		538
Utility Services				445	
Repair and Maintenance Services			323		108
Contract Services	4,282	7,675	18,640	2,746	7,869
Insurance	329	337	717	717	810
	$ 6,465	**$ 14,814**	**$ 28,684**	**$ 8,696**	**$ 19,259**
Total After School Program	**$ 17,001**	**$ 36,333**	**$ 66,666**	**$ 42,165**	**$ 79,772**

Parks & Recreation Fund - 2210

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Armory Facility					
Personal Services					
Salaries	8,029	6,483	7,798	7,816	-
Employer Contributions	3,054	3,074	5,454	4,873	-
	$ 11,083	**$ 9,557**	**$ 13,252**	**$ 12,689**	**$ -**
Materials and Services					
Office Materials and Supplies	760	285	150		150
Operating Supplies	1,841	5,210	2,200	1,861	2,200
Repair & Maintenance Supplies	712	1,771	1,500	3,142	2,000
Publicity/Subscriptions/Dues			150		150
Utility Services	10,284	10,607	11,000	12,703	12,000
Repair & Maintenance Services	1,551	1,913	3,000	950	3,000
Travel and Training	165		500		500
Insurance	1,562	1,605	1,370	1,368	1,200
Special Assessments	479	479	280	479	500
	$ 17,354	**$ 21,870**	**$ 20,150**	**$ 20,502**	**$ 21,700**
Total Armory Facility	**$ 28,437**	**$ 31,427**	**$ 33,402**	**$ 33,191**	**$ 21,700**
City Beach					
Personal Services					
Salaries and Wages	9,422	9,917	10,093	10,136	10,504
P.T./Seasonal Lifeguard Wages	13,621	16,744	19,000	18,666	19,000
P.T./Seasonal Concession Wages	7,578	9,880	12,000	10,811	12,000
Overtime	32	18	-	261	-
Employer Contributions	7,495	8,166	8,992	9,081	9,359
	$ 38,148	**$ 44,725**	**$ 50,085**	**$ 48,955**	**$ 50,863**
Materials and Services					
Office Materials and Supplies	26	72	250	114	250
Operating Supplies	3,767	5,340	5,100	7,738	5,300
Concessions	8,990	9,112	10,900	9,478	10,900
Repair & Maintenance Supplies	2,822	11,044	4,100	7,363	5,000
Postage & Freight			50		50
Printing, Duplicating, Typing			150	315	150
Publicity, Subscriptions & Dues	85	110	350	85	350
Utility Services	5,693	7,699	6,580	7,007	6,580
Professional Services	400		500		500
Repair & Maintenance Services	3,822	4,195	8,500	9,730	10,500
Travel and Training			550		550
Other Purchased Services	89	433	500	1,069	500
Insurance	1,572	1,629	1,790	1,789	1,400
	$ 27,266	**$ 39,634**	**$ 39,320**	**$ 44,688**	**$ 42,030**
Total City Beach	**$ 65,414**	**$ 84,359**	**$ 89,405**	**$ 93,643**	**$ 92,893**

Parks & Recreation Fund - 2210

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Community Ice Rink Pavilion					
Personal Services					
Salaries and Wages	28,267	29,750	30,280	30,409	31,513
Temporary/Seasonal Wages	48,431	66,973	56,400	72,011	60,000
Part-time wages - LTS Instructors	4,312	5,636	6,200	3,818	6,200
Part-time wages - Concessions	28,682	24,561	21,500	24,949	25,000
Employer Contributions	27,558	29,950	31,875	31,245	31,777
	$ 137,250	**$ 158,115**	**$ 146,254**	**$ 162,432**	**$ 154,490**
Materials and Services					
Office Materials and Supplies	703	307	900	616	1,100
Operating Supplies	15,059	22,799	24,000	18,845	24,000
Concessions	25,551	27,105	23,075	24,625	26,500
Repair & Maintenance Supplies	6,759	13,525	12,000	18,802	13,000
Printing, Duplicating, Typing	513		650	636	650
Public Notices/Subscriptions	4,023	1,924	2,000	3,699	2,000
Utility Services	76,300	86,106	80,000	78,289	80,000
Professional Services		6,097	250		250
Repair & Maintenance Services	7,355	24,792	15,000	16,683	15,000
Travel and Training	388		2,500	358	2,500
Other Purchased Services	6,999	6,078	6,800	9,020	6,000
Insurance	11,247	8,181	8,475	8,475	6,600
	$ 154,897	**$ 196,914**	**$ 175,650**	**$ 180,048**	**$ 177,600**
Debt Service			**$ 15,000**	**$ 7,202**	**$ 30,000**
Capital Outlay					
Building Improvements			10,000	67,308	65,000
Machinery & Equipment			140,000	80,269	15,000
	$ -	**$ -**	**$ 150,000**	**$ 147,577**	**$ 80,000**
Total Ice Rink Pavilion	**$ 292,147**	**$ 355,029**	**$ 486,904**	**$ 497,258**	**$ 442,090**

Parks & Recreation Fund - 2210

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Saddle Club Rental					
Materials and Services					
Operating Supplies	15	58	250	225	250
Repair & Maintenance Supplies	126	713	200	199	700
Utility Services	2,752	3,719	3,500	3,216	4,250
Insurance			50		100
Special Assessments			100		100
Total Saddle Club Rental	**$ 2,893**	**$ 4,490**	**$ 4,100**	**$ 3,640**	**$ 5,400**
Special Events					
Materials and Services					
Operating Supplies	81	640	500		500
Contract Services			6,500		6,500
Total Special Events	**$ 81**	**$ 640**	**$ 7,000**	**$ -**	**$ 7,000**
Adult Programs					
Personal Services					
Salaries and Wages	3,680	2,971	3,574	3,583	677
Temporary/Seasonal Wages	7,057	7,863	6,443	6,496	4,300
Employer Contributions	2,377	2,718	3,300	3,069	1,335
	$ 13,114	**$ 13,552**	**$ 13,317**	**$ 13,148**	**$ 6,312**
Materials and Services					
Operating Supplies	2,350	2,217	4,842	2,418	3,872
Communication & Transportation			277		90
Printing	3		215		161
Publicity/Subscriptions/Dues		150	985		823
Contract Services	1,780	3,894	2,223	1,265	2,223
	$ 4,133	**$ 6,261**	**$ 8,542**	**$ 3,683**	**$ 7,169**
Total Adult Programs	**$ 17,247**	**$ 19,813**	**$ 21,859**	**$ 16,831**	**$ 13,481**

Parks & Recreation Fund - 2210

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Youth Programs					
Personal Services					
Salaries and Wages	9,033	7,293	8,772	8,794	3,722
Temporary/Seasonal Wages	4,265	4,620	7,204	7,962	9,010
Employer Contributions	4,056	4,193	6,136	6,575	4,413
	$ 17,354	**$ 16,106**	**$ 22,112**	**$ 23,331**	**$ 17,145**
Materials and Services					
Operating Supplies	2,146	2,078	7,319	6,472	8,163
Contract Services	2,337	755	12,900	8,786	10,204
Insurance	637	510	520	518	520
	$ 5,120	**$ 3,343**	**$ 20,739**	**$ 15,776**	**$ 18,887**
Total Youth Programs	**$ 22,474**	**$ 19,449**	**$ 42,851**	**$ 39,107**	**$ 36,032**
Summer Camp					
Personal Services					
Salaries and Wages	9,033	7,293	8,772	8,794	8,120
Temporary/Seasonal Wages	29,463	35,492	40,694	33,383	35,357
Employer Contributions	7,903	8,987	13,396	10,236	12,768
	$ 46,399	**$ 51,772**	**$ 62,862**	**$ 52,413**	**$ 56,245**
Materials and Services					
Operating Supplies	3,091	5,031	5,006	5,163	4,408
Communication & Transportation			430		688
Printing	525		1,075	658	
Publicity/Subscriptions/Dues		366	538	36	538
Utility Services				213	
Repair and Maintenance Services			323		323
Contract Services	18,970	18,215	27,632	22,844	25,650
Insurance	1,426	1,905	2,320	2,320	1,600
	$ 22,586	**$ 25,517**	**$ 37,324**	**$ 31,234**	**$ 33,207**
Total Summer Camp	**$ 68,984**	**$ 77,289**	**$ 100,186**	**$ 83,647**	**$ 89,452**
Operating Contingency	**$ -**		**$ 10,000**		**$ 10,000**
Total Expenditures	**$ 1,132,603**	**$ 1,169,971**	**$ 1,486,176**	**$ 1,446,727**	**$ 1,583,510**
Ending Available Cash		**$ 640**	**$ 4,074**		**$ 493**
Total Parks & Recreation Fund	**$ 1,132,603**	**$ 1,170,611**	**$ 1,490,250**		**$ 1,584,003**

Parks & Recreation Fund - 2210

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Total Parks and Rec Fund					
Personal Services	623,082	674,623	731,887	729,988	824,468
Materials and Services	497,521	495,348	551,789	528,604	574,042
Debt Service	-	-	15,000	7,202	30,000
Capital Outlay	12,000	-	177,500	180,933	145,000
	$ 1,132,603	**$ 1,169,971**	**$ 1,486,176**	**$ 1,446,727**	**$ 1,583,510**
Personal Services					
110	299,775	299,765	317,828	313,256	322,694
111	111,156	159,893	159,484	188,123	223,204
112	1,566	1,648	1,677	1,686	1,682
114	54,193	56,821	58,700	58,244	62,200
120	40	1,270	1,000	507	1,000
140	153,220	155,052	193,198	168,172	213,688
Materials and Services					
210	4,121	3,751	4,050	4,727	4,250
220	58,301	73,030	79,822	71,306	82,931
223	34,541	36,217	33,975	34,103	37,400
230	48,926	70,891	64,150	72,020	71,205
310	1,133	773	2,430	3,491	5,274
320	1,383	464	3,078	1,609	1,261
330	7,544	5,274	6,211	7,848	7,349
340	133,659	147,093	141,830	143,655	147,580
350	12,115	6,097	2,750	17,638	2,750
360	45,087	43,795	47,646	53,516	67,431
370	1,006	1,636	6,050	3,562	11,050
390	18,035	32,006	27,800	24,458	21,000
397	86,638	30,789	84,895	39,150	53,446
510	30,939	27,754	31,672	36,072	30,340
530	3,775	3,888	5,050	4,405	20,175
540	479	479	380	479	600
880	9,824	9,506	10,000	10,565	10,000
Contingency	-	-	10,000	-	10,000
Debt Service	-	-	15,000	7,202	30,000
Capital Outlay					
930	-	-	10,000	67,308	90,000
940	-	-	167,500	113,625	55,000

Parkland Acquisition & Development

FY 2014

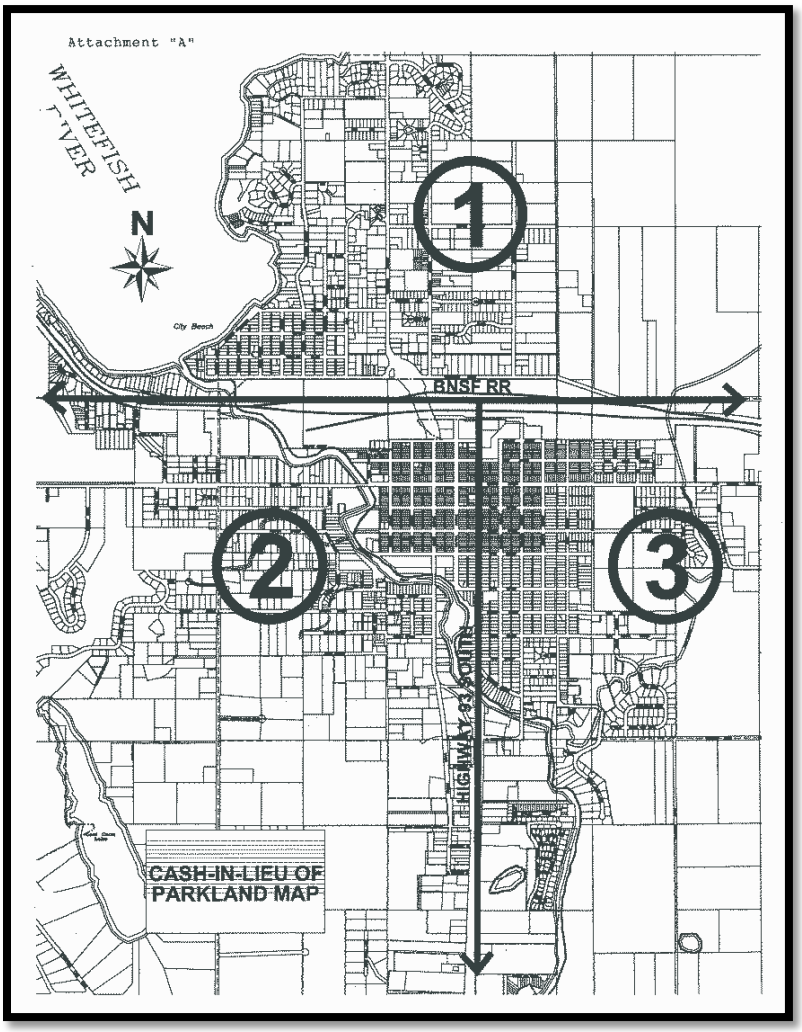
Purpose

The Parkland Acquisition and Development Fund is a capital fund designed to accommodate the purchase of parkland and enable park improvement projects funded through contributions, grants, and payments made in lieu of park land dedication requirements.

Authority for the Parkland Acquisition and Development Fund derives in the Montana Subdivision and Platting Act, specifically Section 76-3-621 (5) MCA. In order to comply with the proximity requirements of the law, the City has designated three quadrants in the City where the funds are spent—Resolution 07-10.

FY 2014 Objectives

The objective of this fund is to track and spend monies for the purchase of parkland and park improvements.



Parkland Acquisition & Development - 2990

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Licenses & Permits					
Other Misc Permits		44,850			
Intergovernmental					
CTEP Project Grant		22,735	256,000		256,000
	$ -	**$ 22,735**	**$ 256,000**		**$ 256,000**
Investment Earnings					
Investment Earnings	1,921	1,015	900	315	900
	$ 1,921	**$ 1,015**	**$ 900**	**$ 315**	**$ 900**
Other Financing Sources					
Proceeds From Cash In-lieu / Dist W	-	-	-		-
Proceeds From Cash In-lieu / Dist N	-	-	-		-
Transfer from Resort Tax			39,800		39,800
	$ -	**$ -**	**$ 39,800**		**$ 39,800**
Total Fund Revenue	**$ 1,921**	**$ 68,600**	**$ 296,700**	**$ 315**	**$ 296,700**
Operating Cash		**$ 112,267**	**$ 92,383**		**$ 86,837**
Cash - District West			**$ 2,323**		$ 2,330
Cash - District North			**$ 19,926**		$ 19,981
Total Resources	**$ 1,921**		**$ 411,332**		**$ 405,848**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Materials and Services					
Professional Services	4,953	5,548	6,000		6,000
Repair & Maintenance Services	10,548	28,001	16,483		16,483
	$ 15,501	**$ 33,549**	**$ 22,483**		**$ 22,483**
Capital Outlay					
Buildings	-		70,000	5,799	70,000
Park Improvements	7,132	5,111			
Trail Improvements	1,050	1,037	296,600		296,600
	$ 8,182	**$ 6,148**	**$ 366,600**	**$ 5,799**	**$ 366,600**
Total Expenditures	**$ 23,683**	**$ 39,697**	**$ 389,083**	**$ 5,799**	**$ 389,083**
Operating Cash	**$ (21,761)**	**$ 92,383**	**$ (0)**		**$ (5,546)**
Cash - District West		$ 2,323	$ 2,323		$ 2,330
Cash - District North		$ 19,926	$ 19,926		$ 19,981
Total Park Acquisition Fund	**$ 1,921**	**$ 132,080**	**$ 411,332**		**$ 405,848**

Whitefish Trail Construction Fund - 4540

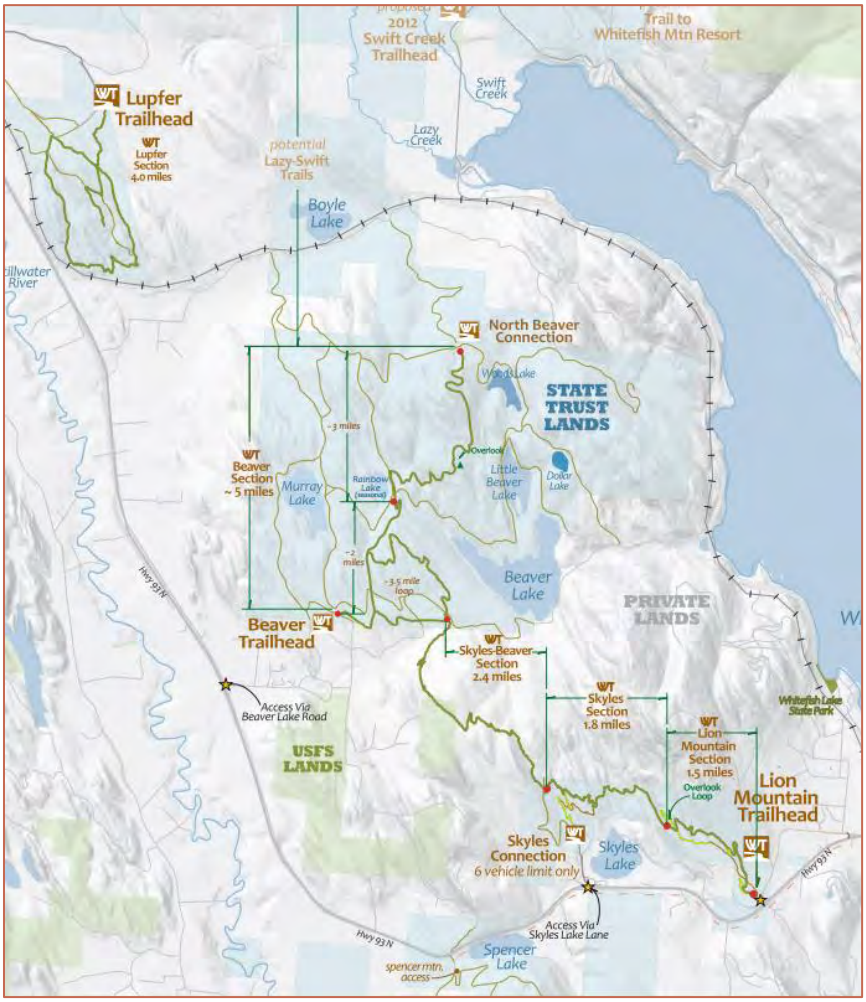
FY 2014

Purpose

The purpose of the Whitefish Trail Construction Fund is to provide budget authority to support efforts to design and construct new portions of Whitefish Trail network. Funds provided to the effort are primarily through private contributions. Local resident Michael Goguen contributed a $3,000,000 donation in 2008 as part of a three way land trade and trail development project. In FY 2012, 1,750,000 were transferred to Whitefish Community Foundation, and $316,351 was transferred to Whitefish Legacy Partners. Maintenance for existing portions of the trail is expensed in the Parks & Rec Fund.

FY 2014 Objectives

The objective of the Whitefish Trail Construction Fund for this fiscal year is to use private donations for acquisition of easements and trail construction work. Work began on the trail in the spring, 2009. It is anticipated that Mr. Goguen's contribution will provide leverage for other grants and donations.



Whitefish Trail Construction - 4540

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Intergovernmental					
Grants					100,000
					$ 100,000
Investment Earnings					
Investment Earnings					1,500
					$ 1,500
Total Fund Revenue					**$ 101,500**
Beginning Available Cash					**$ 82,560**
Total Resources					**$ 184,060**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Capital Outlay					
Trail Construction					172,000
					$ 172,000
Operating Contingency					
Operating Contingency					11,500
					$ 11,500
Total Expenditures					**$ 183,500**
Ending Available Cash					**$ 560**
Total WF Construction Fund					**$ 184,060**

Resort Tax

FY 2014

Purpose

The resort tax is authorized by Section 7-6-1501 MCA and was originally approved by Whitefish voters on November 7, 1995 by a 56%-44% vote. The resort tax was approved for a 20 year term beginning January 1, 1996. At the November 2, 2004 City election, the voters approved an extension of the resort tax until January 31, 2025 by a margin of 2012 to 632. Whitefish's resort tax is a 2% tax on the retail sale of lodging, restaurant and prepared food, alcoholic beverages, ski resort goods and services, and defined luxury items. Whitefish voters allocated the use of the resort tax as follows:

A. *Property tax reduction for taxpayers residing in the city in an amount equal to twenty five percent (25%)of the resort tax revenues derived during the preceding fiscal year;*

B. *Provision for the repair and improvement of existing streets, storm sewers, all underground utilities, sidewalks, curbs and gutters, in an amount equal to sixty five percent (65%) of resort tax revenues derived during the preceding fiscal year;*

C. *Bicycle paths and other park capital improvements in an amount equal to five percent (5%) of the resort tax revenues derived during the preceding fiscal year;*

D. *Cost of administering the resort tax in an amount equal to five percent (5%) per year.*

FY 2014 Objectives

Specific projects appropriated during FY14 are shown below. Additional funds are appropriated in case of cost increases or if other projects are approved during the year.

Item/Project	Amount
Revenue Changes	
• Increased tax collection projections from FY13 budget	$210,000
Expenditures	
• 6th & Geddes Projects & E. 2nd Street remainder	$540,000
• E 2nd Street undergrounding, scrubbing & engineering (FY15 $2.7million)	$400,000
• Riverside Tennis Court Reconstruction	$210,000
• Comprehensive Parks & Rec Master Plan remainder	$10,000
• Memorial Stadium Contribution $50k in FY12 and $25k in FY13 & FY14	$25,000
• Projected increase in Transfer for Property Tax Relief	$18,472
• CTEP Match for Design of 2nd Street Trail	$39,800
• Soroptimist and Memorial Park Equipment	$60,000

Resort Tax

FY 2014

Resort Tax projects funded since 1996:

STREETS:

- Baker Avenue (2nd Street to River)
- Baker Avenue (River to 10th Street)
- Baker Avenue overlay (10th Street to 19th Street)
- 7th Street (Columbia Avenue to Pine Avenue)
- 7th Street (Pine Avenue to street terminus)
- 19th Street overlay (Baker Avenue to Hwy 93)
- Columbia Avenue (River to 7th Street)
- Columbia Avenue (2nd Street to 7th Street)
- Skyles Place (Wisconsin Avenue to Dakota Avenue)
- Lupfer Avenue (Entire length)
- Railway St. (Miles Avenue to O'Brien Avenue)
- Railway St. (Columbia Avenue to Somers Avenue)
- Somers Avenue (Railway Street to 2nd Street)
- Colorado Avenue (Edgewood Drive to Crestwood Court)
- Community-wide sidewalk replacement project - 84 blocks
- 6th St / Geddes-Baker Ave to 3rd Street-In progress
- Central Avenue-Railway to 3rd

Future Projects:

- 6th & Geddes-Complete construction
- East 2nd Street
- West 7th Street
- East Edgewood Place
- Karrow Avenue
- State Park Road

PARKS:

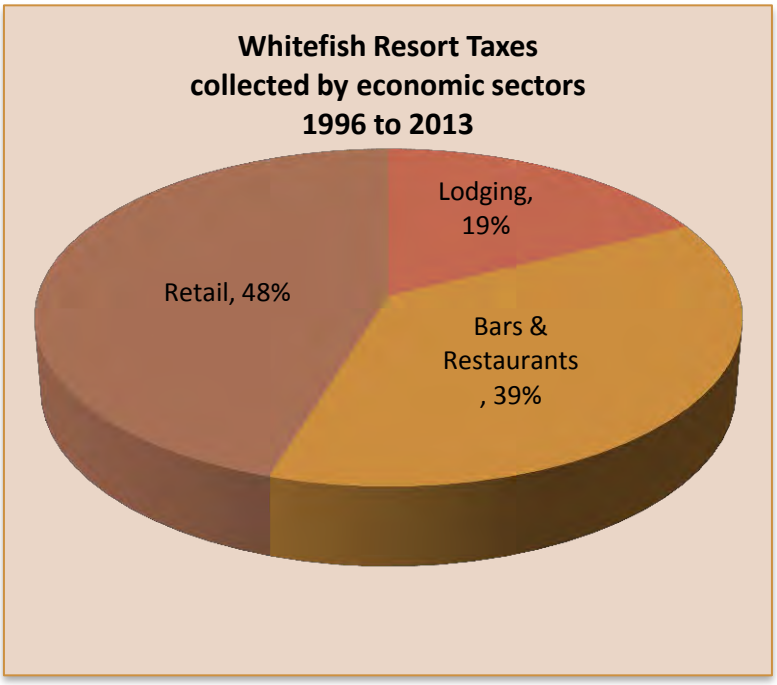
- Riverside Park Bike/Ped Path.
- Baker Street Park Bike/Ped Path.
- Grouse Mnt Park Tennis Court reconstruction.
- Riverside Park Tennis Court improvements.
- Kay Beller Park Construction.
- Memorial Park Basketball Court Resurfacing.
- Baker Park Bike/Ped Path.
- 2nd to Armory Trail
- East Edgewood Trail
- Rocksund/Monegan Trail
- Rocksund Footbridge
- Ice Den Signage
- Donation for New Baseball Stadium

Future Projects:

- Additional Donations for New Baseball Stadium
- Riverside Tennis Court Renovation
- Comprehensive Parks & Rec Master Plan
- Soroptimist and Memorial Park Equipment

Resort Tax Expenditures (Inception through June 2012):

Property tax relief since 1996:	$ 5,867,695
Street improvements since 1996:	$ 12,806,594
Park improvements since 1996:	$ 736,185



Resort Tax Fund - 2100

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Taxes					
Resort Taxes	1,680,394	1,819,283	1,720,000	1,966,426	1,930,000
	$ 1,680,394	**$ 1,819,283**	**$ 1,720,000**	**$ 1,966,426**	**$ 1,930,000**
Investment Earnings					
Investment Earnings	37,616	21,542	15,000	5,528	6,000
	$ 30,000	**$ 21,542**	**$ 15,000**	**$ 5,528**	**$ 6,000**
Total Revenue	**$ 1,580,000**	**$ 1,840,825**	**$ 1,735,000**	**$ 1,971,954**	**$ 1,936,000**
Beginning Cash-Rebate	**$ 460,574**	**$ 553,708**	**$ 598,007**		**$ 693,432**
Beginning Cash-Streets	**$ 1,786,400**	**$ 1,493,523**	**$ 1,411,436**		**$ 1,003,953**
Beginning Cash-Parks	**$ 310,000**	**$ 368,678**	**$ 413,538**		**$ 456,169**
Total Resources		**$ 4,256,734**	**$ 4,157,981**		**$ 4,089,554**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Materials and Services					
Professional Services				23,630	
Capital Outlay					
Street Improvements	1,398,325	1,253,815	2,000,000	1,606,074	2,000,000
Park Development	198	102,035	285,000	25,000	305,000
	$ 1,398,523	**$ 1,355,850**	**$ 2,285,000**	**$ 1,631,074**	**$ 2,305,000**
Other Financing Uses					
Property Tax Relief Transfer	460,574	553,708	598,007	598,007	693,432
Transfer to Park Development Fund	-		39,800		39,800
	$ 460,574	**$ 553,708**	**$ 637,807**	**$ 598,007**	**$ 733,232**
Total Expenditures	**$ 1,859,097**	**$ 1,909,558**	**$ 2,922,807**	**$ 2,252,711**	**$ 3,038,232**
Ending Cash - Rebate	**$ 415,698**	**$ 598,007**	**$ 456,479**		**$ 509,362**
Ending Cash - Streets	**$ 867,594**	**$ 1,411,436**	**$ 598,697**		**$ 328,758**
Ending Cash - Parks	**$ 231,108**	**$ 413,538**	**$ 179,999**		**$ 213,203**
Total Resort Tax Fund	**$ 3,373,497**	**$ 4,332,539**	**$ 4,157,981**		**$ 4,089,554**

Tax Increment Fund

FY 2014

Purpose

Section 7-15-4282 MCA authorizes the use of Tax Increment Financing for Urban Renewal purposes. Resolution 87-3, establishing the Whitefish Urban Renewal Plan, was adopted by the City Council on May 4, 1987. Resolution 87-16, establishing the tax increment provisions of the Urban Renewal Plan, was subsequently adopted by the City Council on July 6, 1987. In accordance with Section 7-15-4292 of the Montana Code, tax increment districts must be terminated 15 years after their creation or at a later date necessary to pay all bonds and related interest for which the tax increment has been pledged. Due to the City's issuance of tax increment bonds in 2000 and 2001, termination of the district is now projected to be July 15, 2020.

FY 2014 Objectives

Significant or changed appropriations during FY14 are:

Item/Project	Amount
Expenditures	
• Downtown Master Plan (Professional Services) remainder	$20,000
• Parking Structure Engineering (Professional Services)	$40,000
• $10k Hwy 93 S Corridor Study $20k Hwy 93 W Study other half planning	$30,000
• Funding for WHA for Railway District BNSF properties (Prof. Services)	$50,000
• Business Rehab Loan Program (Contributions)	$30,000
• Private Development Assistance (Contributions)	$100,000
• Donation to High School (Grants)	$750,000
• Downtown O Shaugnessy Restrooms (Buildings)	$100,000
• Lighting Riverside Park trail (Urban Renewal Projects)	$10,000
• Skye Park Bridge (Urban Renewal) ($350,700 Grant funded)	$600,000
• Depot Park phase II (Urban Renewal)	$547,000
• Way Finding Install (Urban Renewal)	$10,000
• Chamber Trolley (Urban Renewal) $ moved to contingency	$0
• Armory Floor Installation (Urban Renewal)	$30,000
• Reroute Block 46 (Urban Renewal)	$0
• Baker (Marcus & VFW) Bulb-outs (Urban Renewal Contribution)	$100,000
• Char Rigg Trail	$25,000

Tax Increment District Fund - 2310

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Taxes					
Real Property Taxes	3,867,955	3,820,628	4,084,596	4,095,155	4,302,988
Personal Property Taxes	119,064	117,044	120,000	100,869	120,000
Penalty and Interest	40,517	27,254	20,000	15,887	20,000
	$ 4,027,536	**$ 3,964,926**	**$ 4,224,596**	**$ 4,211,911**	**$ 4,442,988**
Intergovernmental					
CTEP					140,000
Baucus Earmark for Trails-SAFETEA-LU			-		210,700
State Entitlement Share	164,660	148,194	148,194	171,325	148,194
	$ 164,660	**$ 148,194**	**$ 148,194**	**$ 171,325**	**$ 498,894**
Miscellaneous Revenue					
Miscellaneous Revenue	125,677	8,423	-	2,186	-
Special Assessments	33,420	26,753	21,000	25,143	20,000
P & I Special Assessments	698	244		94	
Transfer from Impact Fees	1,700	1,264		1,935	
	$ 161,495	**$ 36,683**	**$ 21,000**	**$ 29,358**	**$ 20,000**
Total Revenue	**$ 4,353,691**	**$ 4,149,803**	**$ 4,393,790**	**$ 4,412,594**	**$ 4,961,882**
Beginning Available Cash		**$ 1,986,742**	**$ 2,361,820**		**$ 2,059,195**
Total Resources	**$ 4,353,691**	**$ 6,136,546**	**$ 6,755,610**		**$ 7,021,077**

Tax Increment District Fund - 2310

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Personal Services					
Salaries	132,077	147,738	138,286	141,314	162,578
Part-Time Wages	7,705	4,943	5,030	5,058	1,744
Overtime	1,987	2,868	3,613	1,506	1,993
Employer Contributions	43,913	48,352	48,606	46,789	54,535
	$ 185,682	**$ 203,901**	**$ 195,535**	**$ 194,667**	**$ 220,850**
Materials and Services					
Operating Supplies	392	681	2,000	152	2,000
Repair and Maintenance Services	908	17,754		2,247	
Professional Services	35,900	113,244	100,000	202,724	100,000
Repair and Maintenance Services	6,798	14,372		31,533	
Other Purchased Services	6,373	3,229	30,000	18,516	30,000
Insurance	6,629	5,657	6,385	6,384	4,300
Special Assessments	1,955	6,900			
Contributions		9,798	150,000	20,729	130,000
Grants	42,391		1,000,000	1,000,000	800,000
Administrative Expense	4,748	4,539	5,500	4,662	5,500
	$ 106,094	**$ 176,174**	**$ 1,293,885**	**$ 1,286,947**	**$ 1,071,800**
Intergovernmental Allocations					
School District Residential Rebate	576,028	567,901	590,000	639,246	650,000
	$ 576,028	**$ 567,901**	**$ 590,000**	**$ 639,246**	**$ 650,000**
Transfers					
Trans to ESC Construction	76,337	123,392	125,000	25,773	-
Transfer to TIF Debt Service Fund	1,720,360	1,779,659	1,778,000	1,789,836	1,796,986
Trans to City Hall Const. Res. Fund	250,000	250,000	250,000	250,000	250,000
	$ 2,046,697	**$ 2,153,051**	**$ 2,153,000**	**$ 2,065,610**	**$ 2,046,986**
Capital Outlay					
Land		752,589	-		-
Buildings	11,856		100,000		100,000
Urban Renewal Projects		137,519	1,948,737	441,150	1,422,000
	$ 11,856	**$ 890,108**	**$ 2,048,737**	**$ 441,150**	**$ 1,522,000**
Contingency			50,000		**$ 300,000**
Total Expenditures	**$ 2,926,357**	**$ 3,991,136**	**$ 6,331,157**	**$ 4,627,619**	**$ 5,811,636**
Year end Available Cash		2,361,820	424,453		**$ 1,209,441**
Total Fund		**$ 6,352,956**	**$ 6,755,610**		**$ 7,021,077**

Tax Increment Debt Service Fund - 3110

FY 2014

Purpose

The Tax Increment Debt Service Fund was established pursuant to resolutions related to the sale of the City's Series 2000, 2001 and 2004 Tax Increment Revenue Bonds. The resolutions specify that debt service requirements related to the bond issues be provided for through a special debt service fund. The resolutions also require the establishment of a bond reserve account, which has been provided for in this fund.

The City refinanced the Series 2000, 2001, and 2004 Bonds in order to lower its interest rates in July, 2009 as part of a new bond issue which provided funding of $7,500,000 for the construction of the Emergency Services Center. The City received an A- and stable rating on the 2009 bond issue from Standard and Poor's. The true interest cost on the 2009 bonds is 4.23% compared to the 5.8% - 6.625% interest rate of the 2001 bonds, the 6% interest rate of the 2001 bonds, and the 5.1% interest rate of the 2004 bonds.

In April 2012, the city looked to see if a refinance of the construction portion of TIF bond would save money on interest costs through 2020. Due to call feature, the refinance didn't pencil out.

FY 2014 Objectives

Meet debt service on the 2009 TIF Revenue Bond.

Tax Increment Debt Service Debt - 3110

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Investment Earnings					
Investment Earnings	31,443	21,622	12,000	8,548	10,000
Other Financing Sources					
Transfer from TIF District Fund	1,720,361	1,779,659	1,778,000	1,789,836	1,796,986
Total Fund Revenue	**$ 1,751,804**	**$ 1,801,281**	**$ 1,790,000**	**$ 1,798,384**	**$ 1,806,986**
Dbt Service Reserve		**$ 1,516,343**	**$ 1,537,231**		**$ 1,555,831**
Dbt Reserve		**$ 1,569,500**	**$ 1,569,500**		**$ 1,569,500**
Total Resources		**$ 3,370,781**	**$ 4,896,731**		**$ 4,932,317**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Debt Service					
Amortization of Bond Premium		22,524	22,524	24,777	24,800
Principal	1,185,000	1,225,000	1,265,000	1,265,000	1,305,000
Interest	600,461	564,311	524,000	523,799	478,824
Paying Agent Fees	300	300	1,000	300	1,000
		$ 1,789,611	**$ 1,790,000**	**$ 1,813,876**	**$ 1,809,624**
Total Requirements		**$ 1,789,611**	**$ 1,790,000**	**$ 1,813,876**	**$ 1,784,824**
Dbt Service Reserve		**$ 1,516,343**	**$ 1,537,231**		**$ 1,577,993**
Dbt Reserve		**$ 1,569,500**	**$ 1,569,500**		**$ 1,569,500**

Impact Fee Fund - 2399

FY 2014

Purpose

The City Council adopted Ordinance No. 07-25 authorizing the collection of impact fees on August 6, 2007. The ordinance required the segregation of impact fees from other funds, therefore, this fund provides that segregation for impact fee expenditures other than for enterprise funds such as Water and Wastewater. These areas are Paved Trails, Park Maintenance Building, the Emergency Services Center, City Hall, and Stormwater.

FY 2014 Objectives

The objective of the Impact Fee Fund for this fiscal year is to provide a segregated fund for appropriate impact fee project expenditures. The City has established an Impact Fee Advisory Committee to help monitor the impact fees and advise the City on appropriate expenditures. A five year review of the impact fee calculation took place in FY 2013.

Impact Fees - 2399

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Charges for Services					
Impact Fee - Paved Trails	15,577	18,945	19,000	29,049	23,000
Impact Fee - Park Maint Building	1,036	1,260	1,500	1,932	1,500
Impact Fee - ESC	29,892	42,074	45,000	63,038	45,000
Impact Fee - City Hall	28,311	39,850	45,000	59,705	45,000
Impact Fee - Stormwater	8,606	9,919	12,000	23,525	13,000
	$ 83,422	**$ 112,048**	**$ 122,500**	**$ 177,249**	**$ 127,500**
Investment Earnings					
Investment Earnings	2,482	2,085	2,500	921	1,000
	$ 2,482	**$ 2,085**	**$ 2,500**	**$ 921**	**$ 1,000**
Total Fund Revenue	**$ 85,904**	**$ 114,133**	**$ 125,000**	**$ 178,170**	**$ 128,500**
Beginning Available Cash:		**$ 179,500**	**$ 250,200**		**$ 363,318**
Paved Trails		39,241	58,630		87,883
Park Maint Building		0	0		0
ESC		0	0		0
City Hall		103,703	144,706		204,882
Stormwater		36,556	46,863		70,553
Total Resources		**$ 293,633**	**$ 375,200**		**$ 491,818**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Transfers					
TIF-Park Maint Building			1,510	1,935	1,503
Emergency Services Building			45,302		45,092
City Hall Construction			190,979		250,385
Paved Trails			78,151		111,115
Stormwater Fund			59,258		83,723
Total Expenditures	**$ 110,489**	**$ 43,432**	**$ 375,200**	**$ 1,935**	**$ 491,818**
Total Requirements	**110,489**	**43,432**	**375,200**		**$ 491,818**

Sidewalk Districts Fund - 2992

FY 2014

Purpose

The Sidewalk Districts Fund provides budget authority for construction of community sidewalks resulting from cash-in-lieu fees paid by developments when new construction occurs in established neighborhoods. Funds are segregated into three districts; east, north and west. Projects are undertaken within each district when sufficient funds are available to build substantial lengths of sidewalks.

FY 2014 Objectives

The objective of the Sidewalk Districts Fund for this fiscal year is to accumulate funds for future projects and provide for construction of sidewalks as funds become available.

Sidewalk Districts Fund - 2992 (cash in lieu)

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Investment Earnings					
Investment Earnings	1,914	1,152	1,700	348	750
	$ 1,914	**$ 1,152**	**$ 1,700**	**$ 348**	**$ 750**
Other Financing Sources					
Cash In-lieu - District E		-	-		-
Cash-in-lieu - District W	5,607	-	-		-
Cash-in-lieu - District N		-	-		-
	$ 5,607	**$ -**	**$ -**		**$ -**
Total Fund Revenue	**$ 7,521**	**$ 1,152**	**$ 1,700**	**$ 348**	**$ 750**
Beginning Available Cash			**$ 126,485**		**$ 126,832**
Total Resources		**$ 1,152**	**$ 128,185**		**$ 127,582**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Capital Outlay					
East District Improvements			11,460		11,406
West District Improvements			60,405		60,121
North District Improvements			56,320		56,056
Total Expenditures		**$ -**	**$ 128,185**		**$ 127,582**

City Hall Construction Reserve Fund - 4005

FY 2014

Purpose

The City Hall Construction Reserve Fund was established by Resolution 03-63, which was approved by the City Council on November 17, 2003. The purpose of the fund is to accumulate funds towards construction of new City facilities. The Resolution established a schedule of annual deposits to be transferred into the fund from the Tax Increment District Fund. For the next several years the yearly contribution is set at $250,000 per year.

FY 2014 Objectives

The objective of the City Hall Construction Reserve Fund for this fiscal year is to deposit funds from the Tax Increment District Fund as prescribed in Resolution 03-63 and to support pre-construction activities related to a new city hall.

City Hall Construction Reserve Fund - 4005

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Investment Earnings					
Investment Earnings	20,365	14,823	17,000	5,142	8,000
Other Financing Sources					
Transfer from TIF District Fund	250,000	250,000	250,000	250,000	250,000
Total Revenue	**$ 270,365**	**$ 264,823**	**$ 267,000**	**$ 255,142**	**$ 258,000**
Beginning Available Cash		**$ 1,507,249**	**$ 1,772,073**		**$ 2,027,194**
Total Resources		**$ 1,772,072**	**$ 2,039,073**	**$ 255,142**	**$ 2,285,194**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2012	Proposed FY 2014
Capital Outlay					
City Hall Project	2,451		200,000	20	400,000
Total Expenditures	**$ 2,451**	**$ -**	**$ 200,000**	**$ 20**	**$ 400,000**
Unappropriated		**$ 1,772,072**	**$ 1,839,073**		**$ 1,885,194**
Total Fund		**$ 1,772,072**	**$ 2,039,073**		**$ 2,285,194**

US93/2nd Street Improvement Fund-4310 FY 2014

Purpose

This $3.5 million grant was awarded to the City in February 2010. The project consists of improvements to US-93/2ndStreet in downtown Whitefish between Spokane and Baker Ave. Key elements include a modern, coordinated traffic signal system, the addition of left turn lanes, ADA-compliant crosswalks and parking. The project will also do a curb-to-curb reconstruction of the roadway, during which the city will upgrade sewer and water lines.

Highlights:

- Supports a coordinated plan to improve the vitality of downtown, balancing the need to move significant volumes of traffic with the desire to maintain a pedestrian friendly, traditional small town main street and downtown
- Improves livability with a pedestrian-oriented streetscape
- Eases congestion with a modern traffic signal system
- Increases safety with ADA-compliant crosswalks

FY 2014 Objectives

The objective of the Fund for this fiscal year is to support construction activities related to US93/2nd Street improvement. The project should be completed in FY 2014.

US93/2nd Street - TIGER Grant - 4310

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Intergovernmental Revenues					
TIGER Grant	343,363	2,455,000	570,000	432,564	$ 134,000
Total Revenue	**$ 343,363**	**$ 2,455,000**	**$ 570,000**	**$ 432,564**	**$ 134,000**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Capital Outlay					
US92/2nd Street Project	475,124	2,428,767	570,000	437,319	134,000
Total Expenditures	**$ 475,124**	**$ 2,428,767**	**$ 570,000**	**$ 437,319**	**$ 134,000**
Unappropriated		**$ 26,233**	**$ -**		**$ -**
Total Fund		**$ 2,455,000**	**$ 570,000**		**$ 134,000**

CDBG Homebuyers Assistance Fund - 2945

Purpose

The CDBG Homebuyers Assistance Fund provides budget authority to facilitate a "pass-through" grant for first-time homebuyer assistance in Whitefish. The Community Development Block Grant (CDBG) Program pays grant funds to the City of Whitefish. These funds are then paid to the Whitefish Housing Authority. The Housing Authority administers the program.

FY 2014 Objectives

The objective of the CDBG Homebuyers Assistance Fund for this fiscal year is to facilitate the pass-through of grant dollars to the Whitefish Housing Authority.

Housing Rehabilitation Fund - 2987

Purpose

The Housing Rehabilitation Fund provides budget authority to facilitate the City's Housing Rehabilitation Revolving Loan Program for qualified homeowners and property owners. The program is administered by the Whitefish Housing Authority through an inter-local agreement with the City.

FY 2014 Objectives

The objective of the Housing Rehabilitation Fund for this fiscal year is to comply with Federal requirements to manage the repayment and reuse of rehabilitation loans.

Affordable Housing Fund - 2989

Purpose

The purpose of the Affordable Housing Fund is to provide budget authority to administer the City's voluntary affordable housing cash in-lieu program.

FY 2014 Objectives

The objective of the Affordable Housing Fund for this fiscal year is to administer the affordable housing cash in-lieu program in cooperation with the Whitefish Housing Authority.

The City Council may evaluate options for a mandatory affordable housing program during FY14.

CDBG Homebuyers Assistance Fund - 2945

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Intergovernmental Revenues					
CDBG Community Development Grant			-	11,748	-
CDBG Grant		7,838	100,000	34,839	400,000
Total Revenue		**$ 7,838**	**$ 100,000**	**$ 46,587**	**$ 400,000**
Beginning Available Cash		**-**	**-**		**-**
Total Resources		**$ 7,838**	**$ 100,000**	**$ 46,587**	**$ 400,000**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Economic Development					
Professional Services			-	13,928	-
		$ -	**$ -**	**$ 13,928**	**$ -**
Homebuyers Assistance					
Homebuyers Assistance	16,673		90,000		380,000
Administrative Expense	139,267	7,838	10,000	32,659	20,000
	155,940	**7,838**	**100,000**	**32,659**	**400,000**
Total Expenditures	**$ 155,940**	**$ 7,838**	**$ 100,000**	**$ 46,587**	**$ 400,000**

Housing Rehabilitation Fund - 2987

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Miscellaneous Revenue					
Miscellaneous Revenue			30,000		31,000
		$ -	**$ 30,000**		**$ 31,000**
Investment Earnings					
HOME Loan Repayments	675	615	-	745	5,000
USDA Program Loan Repayments	2,533	1,795	50,000	1,740	10,000
	$ 3,208	**$ 2,410**	**$ 50,000**	**$ 2,485**	**$ 15,000**
Total Fund Revenue	**$ 3,208**	**$ 2,410**	**$ 80,000**	**$ 2,485**	**$ 46,000**
Beginning Available Cash			**$ 2,088**		**$ 4,573**
Total Resources	**$ 3,208**	**$ 2,410**	**$ 82,088**		**$ 50,573**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Materials and Services					
USDA Housing Rehab Projects	1,929	2,719	52,088		40,000
HOME Grant Projects			30,000		9,573
Total Expenditures	**$ 1,929**	**$ 2,719**	**$ 82,088**		**$ 49,573**

Affordable Housing Fund - 2989

(Cash-in-Lieu of Affordable Housing)

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Cash-in-Lieu Payments		1,000	150,000		199,000
Total Revenue		**$ 1,000**	**$ 150,000**		**$ 199,000**
Beginning Available Cash		-	1,000		1,000

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Materials and Services					
Homeowner Assistance			150,000		200,000
Total Expenditures		**$ -**	**$ 150,000**		**$ 200,000**

Commercial & Residential Lighting Districts FY 2014

Purpose

The Residential Lighting District Fund 2400 and the Commercial Lighting District Fund 2410 provides budget authority to provide, maintain, and improve residential and commercial street lighting within the City. The districts are funded through a lighting assessment on property. In 2013, the city raised the lighting assessment 10%. This was the first increase in at least thirty years. To offset the increase, the Council decreased the mill levy by the dollar amount raised by the lighting increase.

FY 2014 Objectives

The objective of the Residential & Commercial Lighting District Funds for this fiscal year is to provide street lighting within residential and commercial areas. Funds are used to pay for electricity used by street lights located in the Residential & Commercial Lighting Districts and to support capital improvement and replacement of system components.

Significant or changed appropriations during FY14 are:

Item/Project	Cost
Expenditure Changes	
• 1 ton 4x4 pickup replace 1992 ford f-350 the bucket truck (split 50/50)	$58,000

Residential Light District Fund - 2400

(Lighting District #1) 8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Miscellaneous Revenue					
Maintenance Assessments	72,697	69,176	66,000	70,732	76,337
Penalties & Interest	789	695	370	687	370
Total Fund Revenue	**$ 73,486**	**$ 69,871**	**$ 66,370**	**$ 71,419**	**$ 76,707**
Beginning Available Cash		**$ 47,283**	**$ 47,283**	**$ 47,283**	**$ 63,951**
Total Resources		**$ 117,154**	**$ 113,653**	**$ 118,702**	**$ 140,658**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Personal Services					
Salaries	12,306	14,819	14,711	15,214	15,519
Overtime	643	380	796	89	336
Employer Contributions	3,826	4,547	4,871	4,711	5,237
		$ 19,746	**$ 20,378**	**$ 20,014**	**$ 21,092**
Materials and Services					
Repair & Maintenance Supplies	10,072	8,177	10,000	2,328	15,000
Utility Services	44,639	44,630	43,000	26,348	27,000
Repair & Maintenance Services		211	1,600	763	1,600
Insurance	259	553	729	729	500
Administrative Costs	446	448	500	492	500
		$ 54,019	**$ 55,829**	**$ 30,660**	**$ 44,600**
Capital Outlay					
Machinery & Equipment			30,000	-	30,000
		$ -	**$ 30,000**	**$ -**	**$ 30,000**
Total Expenditures		**$ 73,765**	**$ 106,207**	**$ 50,674**	**$ 95,692**
Ending Available Cash		**$ 43,255**	**$ 3,418**		**$ 44,966**
Total Fund		**$ 117,020**	**$ 109,625**		**$ 140,658**

Commericial Light District Fund - 2410

(Lighting District #4)

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Miscellaneous Revenue					
Maintenance Assessments	62,552	58,833	57,000	56,471	60,985
Penalties & Interest	729	279	250	274	250
Total Revenue	**$ 63,281**	**$ 59,112**	**$ 57,250**	**$ 56,745**	**$ 61,235**
Beginning Available Cash		**$ 61,361**	**$ 71,063**		**$ 66,370**
Total Resources		**$ 120,473**	**$ 128,313**	**$ 56,745**	**$ 127,605**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Personal Services					
Salaries	12,306	14,819	14,711	15,214	15,519
Overtime	643	380	796	82	336
Employer Contributions	3,826	4,547	4,871	4,658	5,237
	$ 16,775	**$ 19,746**	**$ 20,378**	**$ 19,954**	**$ 21,092**
Materials and Services					
Repair & Maintenance Supplies	9,851	9,845	14,000	3,302	22,000
Utility Services	11,750	15,446	13,000	36,142	42,000
Repair & Maintenance Services	7,964	3,144	10,000	763	12,000
Insurance	256	553	729	729	729
Administrative Costs	446	448	500	492	500
	$ 30,267	**$ 29,436**	**$ 38,229**	**$ 41,428**	**$ 77,229**
Capital Outlay					
Machinery & Equipment			30,000	-	30,000
	$ -	**$ -**	**$ 30,000**	**$ -**	**$ 30,000**
Total Requirements	**$ 47,042**	**$ 49,182**	**$ 88,607**	**$ 61,382**	**$ 128,321**
Ending Available Cash		**$ 71,063**	**$ 39,706**		**$ (716)**
Total Fund	**$ 47,042**	**$ 120,245**	**$ 128,313**		**$ 127,605**

Street Fund

FY 2014

Purpose

The Street Fund provides budget authority to support the operation, maintenance and improvement of the City of Whitefish street and storm drainage systems.

FY 2014 Objectives

The objective of the Street Fund for this fiscal year is to provide street maintenance and improvements for the driving, walking and bicycling public. Typical maintenance activities include street sweeping, asphalt repairs and preventative maintenance, snow & ice removal, and upkeep of traffic signs and markings.

Significant or changed appropriations during FY14 are:

Item/Project	Amount
Expenditures	
• Overlays & Chipseals – Previous two budgets was $350k (Repair & Maint)	$250,000
• Monitoring & Design for Central Ave. Slump & Baker Retaining Wall 10th St	$50,000
Improvement Projects 930	
• Shop Building Expansion (split Str/Wat/Sew)	$8,000
• Birch Point RxR Crossing Quiet Zone	$20,000
• Safe Routes to Schools	$45,820
• Wireless Data & Com System – Mobile Nodes & Interface for (split Str/Wat/Sew)	$16,000
• Dodger Lane Road Extension	$130,000
• Somers Avenue Reconstruction – Overall Design (2nd to 8th Street)	$40,750
Machinery and Equipment 940	
• Loader – Replace 1993 John Deere $131k total (split Street/Water/Sewer)	$40,000
• Pickup, 4x4 (Dump Bed) – Replace 1995 Chevy C30	$32,000

Street Fund - 2110

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Budget FY 2014
Licensess and Permits					
Cable T.V. Franchise Fee	164,217	63,853	70,000	113,819	85,000
Water Utility ROW Fee	107,532	116,551	117,000	105,565	120,500
Wastewater Utility ROW Fee	91,040	96,834	95,000	85,435	103,500
Street Excavation Permit Fees	1,575	1,900	1,000	2,900	1,500
	$ 364,364	**$ 279,138**	**$ 283,000**	**$ 307,719**	**$ 310,500**
Intergovernmental Revenues					
Safe Routes to School		164	92,035	36,337	45,820
Gasoline Tax Apportionment	162,054	146,139	145,709	145,709	146,000
	$ 162,054	**$ 146,303**	**$ 237,744**	**$ 182,046**	**$ 191,820**
Charges for Services					
Plan Review/Const. Oversight Fees			2,000	-	2,000
	$ -	**$ -**	**$ 2,000**	**$ -**	**$ 2,000**
Miscellaneous Revenue					
Miscellaneous Revenue	4,133	8,854	-	15,916	-
Maintenance Assessments	801,208	832,625	797,000	844,062	819,437
Penalties and Interest	10,054	8,350	2,500	5,758	2,500
	$ 815,395	**$ 849,829**	**$ 799,500**	**$ 865,736**	**$ 821,937**
Other Financing Sources					
Interfund Operating Transfer In	22,672	12,303		9,095	
	$ 22,672	**$ 12,303**	**$ -**	**$ -**	**$ -**
Total Fund Revenue	**$ 1,364,485**	**$ 1,287,573**	**$ 1,322,244**	**$ 935,360**	**$ 1,326,257**
Beginning Available Cash	**$ 592,572**	**$ 801,162**	**$ 893,701**		**$ 1,044,448**
Total Resources		**$ 2,088,735**	**$ 2,215,945**		**$ 2,370,705**

Street Fund - 2110

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Budget FY 2014
Street and Alley					
Personal Services					
Salaries	413,987	420,805	342,004	361,855	414,207
Permanent Part Time	30,288	33,564	29,700	32,133	23,981
Overtime	12,228	7,146	7,035	3,194	9,302
Stand By or Call Back Time	10,739	13,320	11,000	13,372	11,000
Employer Contributions	185,097	186,013	164,358	162,334	199,546
	$ 652,339	**$ 660,848**	**$ 554,097**	**$ 572,888**	**$ 658,036**
Materials and Services					
Office Supplies/Materials	2,066	(399)	5,000	1,094	3,000
Operating Supplies/Materials	6,993	23,367	11,000	7,263	12,000
Repair & Maintenance Supplies	115,030	105,287	79,030	83,825	80,700
Communication & Transportation	126	154	1,500	157	1,000
Printing	144		1,500		1,500
Notices, Subscriptions, Dues	938	2,394	5,000	2,884	3,000
Utility Service	12,366	12,840	13,550	11,764	13,550
Professional Services	2,476	6,927	54,100	7,317	98,600
Repair & Maintenance Services	211,236	237,782	380,000	221,355	283,000
Travel & Training	2,165	1,304	6,000	912	6,000
Other Purchased Services	2,521	4,433	5,000	90	10,000
Contract Services	585	262	2,500	199	2,500
Insurance Expense	19,814	21,178	26,500	23,489	26,500
Special Assessments	31,464	27,704	29,043	35,606	28,929
Administrative Expense	15,075	14,669	16,000	14,191	16,000
	$ 422,999	**$ 457,902**	**$ 635,723**	**$ 410,146**	**$ 586,279**
Capital Outlay					
Street Improvements		66,717	167,835	95,388	275,570
Machinery & Equipment	59,912	40,577	65,733	26,347	72,000
	$ 59,912	**$ 107,294**	**$ 233,568**	**$ 121,735**	**$ 347,570**
Operating Contingency					
Operating Contingency			50,000		50,000
	$ -	**$ -**	**$ 50,000**	**$ -**	**$ 50,000**
Total Street and Alley			**$ 1,473,388**	**$ 1,104,769**	**$ 1,641,885**

Street Fund - 2110

3/6/2013 8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Budget FY 2014
Ice and Snow Removal					
Personal Services					
Salaries			30,000	19,484	25,000
Overtime			3,000	1,511	3,000
Stand By or Call Back Time			2,500		2,500
Employer Contributions			14,300	13,726	15,500
	$ -	**$ -**	**$ 49,800**	**$ 34,721**	**$ 46,000**
Materials and Services					
Operating Supplies/Materials			4,000	5,766	6,000
Repair & Maintenance Supplies			32,300	33,423	35,800
Repair & Maintenance Services			7,000	10,329	18,300
Contract Services			2,000		2,000
	$ -	**$ -**	**$ 45,300**	**$ 49,518**	**$ 62,100**
Capital Outlay					
Machinery & Equipment			**$ 94,700**	**$ 26,723**	**$ 30,964**
Total Ice and Snow Removal			**$ 189,800**	**$ 110,962**	**$ 139,064**
Total Expenditures	**$ 1,135,250**	**$ 1,226,044**	**$ 1,663,188**	**$ 1,215,731**	**$ 1,780,949**
Year End Available Cash	**$ 798,406**	**$ 893,701**	**$ 552,757**		**$ 589,756**
Total Street Fund	**$ 1,933,656**	**$ 2,119,744**	**$ 2,215,945**		**$ 2,370,705**

Water Fund

FY 2014

Purpose

The Water Fund provides budget authority to support the operation, maintenance and improvement of the City of Whitefish water system.

FY 2014 Objectives

The objective of the Water Fund for this fiscal year is to supply potable water to City water customers, provide preventative and emergency maintenance for the system as needed.

Significant or changed appropriations during FY14 are:

Item/Project	Amount
Expenditure Changes	
• Professional Services- Water rights legal & analysis	$33,000
• Shop Building Expansion (split Str/Wat/Sew)	$8,500
• HVAC in Chemical Rooms Replacement	$40,000
Improvement Projects 930	
• Raw Water Improvements to Control DDBP (TTHM & HAA5)	$20,000
• Grouse Mnt/Mnt Park Interconnect – Enhance Grid & Eliminate Booster 70% impact fee	$150,000
• Peregrine Lane Water Services	$50,000
• Replace small diameter cast iron mains @ Central Avenue South of 3rd	$150,000
• Whitefish West Water Main Project Ph II	$416,000
• Columbia Avenue Bridge Water Main Upgrade	$150,000
• Dodger Lane Rd Extension – Water Main Extension	$70,000
• Somers Avenue Reconstruction – Overall Design (2nd to 8th Street) & Construction from 7th to 8th	$52,500
• Wireless Data & Com System – Mobile Nodes & Interface for (split Str/Wat/Sew)	$45,000
Machinery and Equipment 940	
• Pickup Truck, 4x4 - Replace 2004 Chevy Colorado (Total $25k,split wtr/swr)	$12,500
• Loader – Replace 1993 John Deere $131k total (split Street/Water/Sewer)	$45,000

Water Fund - 5210

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Budget FY 2014
Intergovernmental Revenues					
RRGL Grant - Haskill Basin Project			100,000		
ARRA Block Grant - Hydro Project			200,000	200,000	
NorthWestern Energy Incentive			5,800		
		$ -	**$ 305,800**	**$ 200,000**	**$ -**
Charges for Services					
5% Admin Fee for Impact Fees	4,667	5,556	4,000	7,030	4,000
Water Usage Charges	2,151,878	2,331,447	2,340,000	2,486,936	2,410,000
Impact Fees - Water	95,149	109,445	75,000	157,333	110,000
Installation Fees	26,840	28,154	25,000	47,817	25,000
Miscellaneous Income	3,837	461,516	35,000	47,745	35,000
Late Fees	42,035	39,025	36,000	34,990	33,000
Plan Review/Const. Oversight Fees	200		2,500	1,250	2,500
	$ 2,324,606	**$ 2,975,143**	**$ 2,517,500**	**$ 2,783,101**	**$ 2,619,500**
Miscellaneous Revenues					
Special Assessments	4,962	4,465	2,000	4,937	2,000
Latecomer Fees			500	200	500
	$ 4,962	**$ 4,465**	**$ 2,500**	**$ 5,137**	**$ 2,500**
Investment Earnings					
Investment Earnings	36,954	27,751	13,000	6,771	700
	$ 36,954	**$ 27,751**	**$ 13,000**	**$ 6,771**	**$ 700**
Other Financing Sources					
SRF Loan Proceeds			840,000		334,000
	$ -	**$ -**	**$ 840,000**		**$ 334,000**
Total Revenue	**$ 2,366,522**	**$ 3,007,359**	**$ 3,678,800**	**$ 2,995,009**	**$ 2,956,700**
Beginning Available Cash	653,867	790,992	1,493,446		764,310
Impact/PIF Balance Beginning	537,352	625,611	729,780		752,185
Dbt Srvice & Dbt Rsrv Balance Beginning			1,011,657		946,138
			$ 3,234,883		**$ 2,462,633**
Total Resources		**$ 3,007,359**	**$ 6,913,683**		**$ 5,419,333**

Water Fund - 5210

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Budget FY 2014
Personal Services					
Salaries	549,858	520,872	511,508	516,106	568,028
Permanent Part Time	21,515	23,666	29,700	23,213	26,815
Overtime	13,749	19,274	26,010	17,745	29,326
Stand By or Call Back	7,023	6,835	9,000	6,655	9,378
Employer Contributions	225,854	211,541	228,390	214,835	253,569
	$ 817,999	**$ 782,188**	**$ 804,608**	**$ 778,554**	**$ 887,116**
Materials and Services					
Office Supplies/Materials	1,708	3,752	7,500	2,637	7,500
Operating Supplies	33,919	35,048	52,900	44,880	56,240
Repair & Maintenance Supplies	115,572	75,998	143,900	92,193	137,025
Postage & Freight	12,889	11,149	13,000	13,368	13,000
Printing	262	352	2,500	226	2,500
Publicity/Subscriptions/Dues	16,345	13,827	15,010	11,502	15,010
Utility Services	89,776	78,449	80,850	81,708	93,050
Professional Services	44,358	50,519	134,600	44,753	102,600
Repair & Maintenance Services	31,277	49,332	50,000	44,074	32,500
Travel & Training	6,176	3,768	9,600	980	9,100
Other Purchased Services	13,709	20,296	11,500	34,440	16,500
Contract Services	579	524	53,000	40,398	45,000
Insurance	42,296	41,839	42,280	39,666	31,000
Rent	7,924		7,725	8,161	7,725
Special Assessments	5,688	8,267	7,555	7,842	7,555
Water Utility ROW Fee	107,532	116,551	117,000	105,565	120,500
Whitefish Lake Institute	5,000	5,000	6,667	6,667	6,667
Administrative Expense	18,767	17,603	19,000	19,183	19,000
	$ 553,777	**$ 532,274**	**$ 774,586**	**$ 598,243**	**$ 722,471**
Total Water Operating	**$ 1,371,776**	**$ 1,314,462**	**$ 1,579,194**	**$ 1,376,797**	**$ 1,609,587**
Capital Outlay					
Buildings			95,600	27,230	59,500
Improvements	113,392	310,787	2,430,600	1,642,342	1,103,500
Machinery and Equipment	31,916	6,174	130,933	59,604	138,050
	$ 145,308	**$ 316,961**	**$ 2,657,133**	**$ 1,729,176**	**$ 1,301,050**
Debt Service					
DNRC Loan Principal	400,000	414,000	590,000	459,000	469,000
DNRC Loan Interest	191,550	176,784	157,333	116,080	74,450
	$ 591,550	**$ 590,784**	**$ 747,333**	**$ 575,080**	**$ 543,450**
Total Expenditures	**$ 2,108,634**	**$ 2,222,207**	**$ 4,983,659**	**$ 3,681,053**	**$ 3,454,087**
Ending Available Cash	**$ 790,497**	**$ 1,493,446**	**$ 401,586**		**$ 345,973**
Ending PIF/Impact Fee Balance	$ 626,109	$ 729,780	$ 516,780		**$ 673,135**
Debt Service Ending Balance		1,011,657	1,011,657		**$ 946,138**
		$ 3,234,883	**$ 1,930,024**		**$ 1,965,246**
Total Water Fund		**$ 5,457,090**	**$ 6,913,683**		**$ 5,419,333**

Wastewater Fund

FY 2014

Purpose

The Wastewater Fund provides budget authority to support the operation, maintenance and improvement of the City of Whitefish wastewater system.

FY 2014 Objectives

The objective of the Wastewater Fund for this fiscal year is to collect and treat the community's wastewater and provide preventative and emergency maintenance for the system as needed.

Significant or changed appropriations during FY14 are:

Item/Project	Amount
Revenue Changes	
• Loan Proceeds – Whitefish West Remainder ($400k) & Phase II ($595k)	$995,000
• Loan Proceeds – Birch Point	$300,000
• Loan Proceeds – WWTP Force Main Reroute Design	$75,000
Improvement Projects 930	
• Gravity Main to Reroute JP Road Flow to Headworks, Design	$75,000
• Treatment Plant – Waste Receiving Station, Site Irrigation 70% impact fee	$50,000
• I&I Mitigation - Field Data Acquisition/Analysis & TSEP Grant Application	$70,000
• Generator - City Beach Liftstation Standby Power	$75,000
• Birch Point Lift Station - Phase I Pump Station Upgrades & Generator	$300,000
• Whitefish West Sewer Main Project Remainder & Phase II	$1,143,000
• Whitefish West – Laidlaw Sewer	$30,000
• Cow Creek Sewer Extension (up to Edgewood Place) initial work	$50,000
• Wireless Data & Com System – Mobile Nodes & Interface for (split Str/Wat/Sew)	$49,000
Machinery and Equipment 940	
• System Modifications for DO Control, Recycle & Heat Retention	$40,000
• Loader – Replace 1993 John Deere $131k total (split Street/Water/Sewer)	$45,000
• Pickup Truck, 4x4 - Replace 2004 Chevy Colorado (Total $25k,split wtr/swr)	$12,500
• Manhole Chimney Repair Equipment	$35,000
• Slurry Pump w/VFD & Alum Percipitate Recycle	$19,000
• TV Camera Tractor – Replace 2007 Aries TR3000	$11,000

Wastewater Fund - 5310

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Budget FY 2014
Intergovernmental Revenues					
Treasure State Endowment Prog	32,409	482,591			
NorthWestern Energy Incentive			17,500		-
DNRC ARRA Grant - Energy Proj.		68,629	28,000	28,000	-
DNRC Planning Grants					155,000
RRGL & WRDA Grants	139,841			12,750	
	$ 172,250	**$ 551,220**	**$ 45,500**	**$ 40,750**	**$ 155,000**
Charges for Services					
5% Admin Fee for Impact Fees	4,290	5,664	5,000	8,587	5,000
Sewer Service Charges	1,820,209	1,937,067	1,900,000	1,900,000	2,070,000
Inspection Fees	435	680	500	1,460	500
Impact Fees - Wastewater	87,496	111,137	87,000	170,870	120,000
Impact Fees - Big Mt.	7,962	7,469	5,000	31,234	10,000
Miscellaneous Income	7,106	1,392	1,000	8,818	1,000
Plan Review/Const. Oversight Fees	200		1,500	1,050	1,500
	$ 1,927,698	**$ 2,063,409**	**$ 2,000,000**	**$ 2,122,019**	**$ 2,208,000**
Miscellaneous Revenues					
Special Assessments	6,685	6,017	1,000	6,632	5,000
Penalties and Interest	263		200	9	200
Contributions & Donations				17,800	
	$ 6,948	**$ 6,017**	**$ 1,200**	**$ 24,441**	**$ 5,200**
Investment Earnings					
Investment Earnings	9,939	11,672	4,500	3,739	3,000
	$ 9,939	**$ 11,672**	**$ 4,500**	**$ 3,739**	**$ 3,000**
Other Financing Sources					
SRF Loan Proceeds	109,593	886,000	560,000		1,370,000
	$ 109,593	**$ 886,000**	**$ 560,000**	**$ -**	**$ 1,370,000**
Total Revenue	**$ 2,226,428**	**$ 3,518,318**	**$ 2,611,200**	**$ 2,190,949**	**$ 3,741,200**
Beginning Available Cash		53,260	495,740		438,965
Impact/PIF Balance Beginning		345,404	448,897		440,686
Debt Service Balance Beginning			450,029		408,670
			$ 1,394,666		**$ 1,288,321**
Total Resources	**$ 2,226,428**	**$ 3,518,318**	**$ 4,005,866**		**$ 5,029,521**

Wastewater Fund - 5310

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Budget FY 2014
Personal Services					
Salaries	587,724	556,677	579,306	559,493	535,032
Permanent Part Time	21,509	23,658	21,874	23,204	26,815
Overtime	16,453	15,736	13,978	14,810	13,463
Stand By or Call Back	8,388	6,835	9,848	6,655	7,606
Employer Contributions	259,740	250,252	287,216	251,953	251,924
	$ 893,814	**$ 853,158**	**$ 912,222**	**$ 856,115**	**$ 834,840**
Materials and Services					
Office Supplies/Materials	1,377	1,985	6,500	1,681	3,000
Operating Supplies	109,108	116,892	83,998	125,238	139,998
Repair & Maintenance Supplies	108,802	55,316	128,385	96,430	114,275
Postage & Freight	13,008	11,108	21,000	13,436	21,000
Printing	262	247	600	226	600
Notices, Subscriptions, Dues	5,445	11,443	8,503	9,191	8,503
Utility Services	112,473	103,096	111,400	89,674	107,400
Professional Services	53,006	48,019	90,200	49,166	200,200
Repair & Maintenance Services	14,768	28,482	50,000	41,696	50,000
Travel & Training	4,219	6,823	11,500	3,277	11,000
Other Purchased Services	124	599	3,000	-	8,000
Contract Services	579	524	2,500	398	2,500
Insurance	40,488	39,597	39,429	37,594	29,000
Land Rental	160	165	5,210	770	5,210
Special Assessments	144	361	150	361	150
State Assessments and Fees			10,500	4,559	3,500
Wastewater Utility ROW Fee	91,040	96,834	95,000	85,435	103,500
Whitefish Lake Institute Grant	5,000	5,000	6,667	6,667	6,667
DEQ SSO Fines/WF Lake Institute	2,000		-		-
Bad Debt Write-Offs			500		500
Administrative Expense	20,607	19,024	20,000	21,596	20,000
	$ 582,610	**$ 545,515**	**$ 695,042**	**$ 587,395**	**$ 835,003**
Total Wastewater Operating	**$ 1,476,424**	**$ 1,398,673**	**$ 1,607,264**	**$ 1,443,510**	**$ 1,669,843**
Capital Outlay					
Buildings			35,600	2,102	19,500
Improvement Projects	11,706	255	30,000	24,876	8,500
Wastewater System	364,122	1,228,587	1,014,990	402,672	1,852,000
Machinery and Equipment	15,950	27,754	175,434	67,317	186,800
	$ 391,778	**$ 1,256,596**	**$ 1,256,024**	**$ 496,967**	**$ 2,066,800**
Debt Service					
Bonded Debt Principal	93,911	117,236	127,000	135,000	232,000
Bonded Debt Interest	77,068	100,542	96,585	72,952	65,575
	$ 170,979	**$ 217,778**	**$ 223,585**	**$ 207,952**	**$ 297,575**
Total Expenditures	**$ 2,039,181**	**$ 2,873,047**	**$ 3,086,873**	**$ 2,148,429**	**$ 4,034,218**
Ending Available Cash	**53,260**	**495,740**	**233,068**		**245,397**
Ending PIF/Impact Fee Balance	345,404	448,897	235,897		341,236
Debt Service Ending Balance		450,029	450,029		408,670
		1,394,666	918,994		$ 995,303
Total Wastewater Fund		**$ 4,267,713**	**$ 4,005,866**		**$ 5,029,521**

Solid Waste

FY 2014

Purpose

The Solid Waste Fund provides budget authority to support contract and administrative services for the solid waste collection program.

FY 2014 Objectives

The objective of the Solid Waste Fund for this budget year is to administer the City's solid waste collection and recycling services contract with North Valley Refuse. The City administers the North Valley Refuse contract, provides customer assistance, monthly billing, alley maintenance, and general administrative support services for the solid waste collection program.

A new North Valley Refuse contract was signed in May 2012 and is valid through October 31, 2016. Three percent rate increases are built in for every year of the contract starting with October 2012. In October 2012, the Council decided not to pass the increased rates to the residents. Despite increasing rates from North Valley Refuse the fund net is close to neutral.

Solid Waste Fund - 5410

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Budget FY 2014
Charges for Services					
Solid Waste Collection Fees	707,795	724,783	744,000	739,782	744,000
Container Charge	2,760	3,070	4,000	4,815	4,000
Miscellaneous Revenue			50	58	50
	$ 710,555	**$ 727,853**	**$ 748,050**	**$ 744,655**	**$ 748,050**
Investment Earnings					
Interest Earnings	163	263	120	194	120
	$ 163	**$ 263**	**$ 120**	**$ 194**	**$ 120**
Total Revenue	**$ 710,718**	**$ 728,116**	**$ 748,170**	**$ 744,849**	**$ 748,170**
Beginning Available Cash		**$ -**	**$ 41,398**		**$ 75,324**
Total Resources		**$ 728,116**	**$ 789,568**		**$ 823,494**

Solid Waste Fund - 5410

8/13/2013

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Budget FY 2014
Personal Services					
Salaries	45,238	47,511	50,286	49,780	51,830
Permanent Part Time	1,561	1,646	1,677	1,685	1,744
Overtime	797	797	1,110	620	661
Employer Contributions	15,615	16,032	17,527	16,585	17,330
	$ 63,211	**$ 65,986**	**$ 70,600**	**$ 68,670**	**$ 71,565**
Materials and Services					
Office Supplies/Materials	332	225	500	199	500
Operating Supplies	400	562	1,000	296	1,000
Repair & Maintenance Supplies	1,835	1,752	5,330	1,402	5,330
Communication & Transportation	12,703	10,923	16,000	12,977	14,000
Printing	118	247	250	154	250
Publicity/Subscriptions/Dues	764	2,241	300	107	300
Utility Services	1,892	1,646	1,700	1,199	1,550
Professional Services	1,525	2,316	150	1,347	150
Repair & Maintenance Services	513	772	800	773	800
Travel & Training			500	66	500
Refuse Hauling Contract	594,758	596,289	639,000	617,592	639,000
Contract Services	145	131	500	100	500
Insurance	2,126	1,907	2,065	2,063	1,550
Bad Debt Write-Offs			150		150
Administrative Expense	1,222	1,464	1,400	1,642	1,400
	$ 618,333	**$ 620,475**	**$ 669,645**	**$ 639,917**	**$ 666,980**
Total Solid Waste Operating	**$ 681,544**	**$ 686,461**	**$ 740,245**	**$ 708,587**	**$ 738,545**
Ending Available Cash	**$ -**	**$ 41,398**	**$ 48,909**		**$ 84,949**
Total Solid Waste Fund		**$ 727,858**	**$ 789,154**	**$ 708,587**	**$ 823,494**

Stormwater

FY 2014

Purpose

The Stormwater Fund provides budget authority to support the operation, maintenance and improvement of the City's stormwater system.

FY 2014 Objectives

The objectives of the Stormwater Fund for this fiscal year is to provide continuing maintenance and improvements for the City's stormwater system, as well as contract services necessary to implement environmental regulations. The Fund is supported by a stormwater utility assessment on all properties within the City.

Significant or changed appropriations during FY14 are:

Item/Project	Amount
Revenue Changes	
• Continued reduction of assessment from $72 to about $12	$300,000
Expenditure Changes	
• Armory Road Culvert Improvement & Locate Outfall (Engineering & Const)	$25,000
• Crestwood/Parkway Drainage Improvements	$100,000
• Riverside Park Stormwater Treatment Pond - Dredge & Install New Stormwater Treatment Filter	$100,000
• Monegan & State Park Road Stormwater Improvements (state Park 80% impact fee)	$200,000
• Dodger Lane	$22,000
• Somers Avenue - Overall Design (2nd to 8th Street)	$19,500
• 4th Street Drainage Improvements	$145,000
• City Beach Boat Ramp - Mitigation for Petroleum Contamination	$60,000

Stormwater Fund - 2525

8/13/2013

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Budget FY 2014
Charges for Services					
Plan Review / Contruction Oversig	4,500	5,700	6,000	7,900	6,000
	$ 4,500	**$ 5,700**	**$ 6,000**	**$ 7,900**	**$ 6,000**
Miscellaneous Revenue					
Maintenance Assessments	146,016	74,489	55,680	65,684	55,680
Penalties and Interest	4,233	2,329	1,600	813	1,600
	$ 150,249	**$ 76,818**	**$ 57,280**	**$ 66,497**	**$ 57,280**
Total Fund Revenue	**$ 154,749**	**$ 82,518**	**$ 63,280**	**$ 74,397**	**$ 63,280**
Beginning Available Cash		**$ 1,057,714**	**$ 1,130,230**		**$ 1,154,667**
Impact Fee Balance Beginning			46,863		70,553
Total Resources		**$ 1,140,232**	**$ 1,193,510**	**$ 74,397**	**$ 1,288,500**

Stormwater Fund - 2525

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Budget FY 2014
Materials and Services					
Office Supplies/Materials			500	-	500
Operating Supplies			5,000	-	5,000
Repair & Maintenance Supplies	358	412	22,500	60	22,500
Postage & Freight			1,000	-	1,000
Printing			500	-	500
Publicity/Subscriptions/Dues		500	1,000	1,751	1,000
Utility Services			500	-	500
Professional Services			-	30	-
Repair & Maintenance Services			5,000	-	5,000
Travel & Training	250	447	2,500	150	2,500
Other Purchased Services	1,500		2,000	97	2,000
Contract Services			100		100
Whitefish Lake Institute Grant	5,000	5,000	6,667	6,667	6,667
	$ 7,108	**$ 6,359**	**$ 47,267**	**$ 8,755**	**$ 47,267**
Capital Outlay					
Improvements		3,974	205,000	41,206	526,500
	$ -	**$ 3,974**	**$ 205,000**	**$ 41,206**	**$ 526,500**
Total Expenditures	**$ 7,108**	**$ 10,333**	**$ 252,267**	**$ 49,961**	**$ 573,767**
Ending Available Cash	**$ 1,057,714**	**$ 1,130,230**	**$ 1,044,744**		**$ 686,680**
Ending Impact Fee Balance		$ 46,863	$ (56,637)		**$ 28,053**
Total Stormwater Fund	**$ 1,064,822**	**$ 1,140,563**	**$ 1,240,373**		**$ 1,288,500**

SID Debt Service Funds

FY 2014

Purpose

The purpose of a Special Improvement District (S.I.D.) Fund is to provide budget authority to collect district assessments and to disperse principle and interest payments on behalf of district property owners and to repay the various City funds for the early retirement of externally-held S.I.D. bonds. S.I.D.s can be formed to address infrastructure needs (i.e. water, sewer, streets, sidewalks, etc.) in specific neighborhoods or areas of the City or on a City-wide basis.

FY 2014 Objectives

The objective of the S.I.D. Fund for this fiscal year is to meet obligations previously incurred to facilitate various community improvement projects.

SID Revolving Fund - 3400

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Miscellaneous Revenue					
Transfer from Other S.I.D. Funds	412				13,760
Investment Earnings	2,641	1,308	1,500	376	500
Total Fund Revenue		**$ 1,308**	**$ 1,500**	**$ 376**	**$ 14,260**
Beginning Fund Balance		**$ 127,921**	**$ 127,921**	**$ 127,921**	**$ 145,368**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Transfers					
Transfers to Other S.I.D. Funds	-		50,000		20,000
Transfer to General Fund	80,000		-		-
		$ -	**$ 50,000**		**$ 20,000**
Total Requirements	**$ -**	**$ 136,686**	**$ 138,186**		**$ 159,628**
Unappropriated Balance		**$ 136,686**	**$ 88,186**		**$ 139,628**

SID 151 Bond Debt - 3502

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Miscellaneous Revenue					
Special Assessments	5,731	4,774	5,000	744	5,000
Penalties and Interest	107	11	50	23	50
Investment Earnings	87	12	10	2	10
Total Fund Revenue	**$ 5,925**	**$ 4,797**	**$ 5,060**	**$ 769**	**$ 5,060**

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Transfers					
Transfers to Other Funds	8,954	4,797	5,060	768	5,060
	$ 8,954	**$ 4,797**	**$ 5,060**	**$ 768**	**$ 5,060**
Unappropriated Balance		0	-		-

SID 154 Bond Debt - 3506

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Miscellaneous Revenue					
Special Assessments	8,626	7,376	8,500	8,262	8,500
Penalties and Interest	237	100	150	54	150
		$ 7,476	**$ 8,650**	**$ 8,316**	**$ 8,650**
Investment Earnings					
Investment Earnings	140	29	50	11	50
	$ 140	**$ 29**	**$ 50**	**$ 11**	**$ 50**
Total Fund Revenue	**$ 140**	**$ 7,505**	**$ 8,700**	**$ 8,327**	**$ 8,700**
Beginning Fund Balance					

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Transfers					
Transfers to Other Funds	13,718	7,506	8,700	8,327	8,700
	$ 13,718	**$ 7,506**	**$ 8,700**	**$ 8,327**	**$ 8,700**
Unappropriated Balance			-		-

S.I.D. 166 FUND - 3545

Revenues	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Miscellaneous Revenue					
Bond Principal & Interest Assessments	124,353	112,725	110,000	105,749	110,000
Penalties and Interest	653	430	600	405	600
	$ 125,007	**$ 113,155**	**$ 110,600**	**$ 106,154**	**$ 110,600**
Investment Earnings					
Investment Earnings	658	226	200	81	100
	$ 658	**$ 226**	**$ 200**	**$ 81**	**$ 100**
Other Financing Sources					
Transfer from Revolving S.I.D.			50,000		20,000
		$ -	**$ 50,000**		**$ 20,000**
Total Fund Revenue	**$ 125,664**	**$ 113,381**	**$ 160,800**	**$ 106,235**	**$ 130,700**
Beginning Fund Balance		-	-		-

Expenditures	Actual FY 2011	Actual FY 2012	Budget FY 2013	Actual FY 2013	Proposed FY 2014
Debt Service					
Principal	75,000	70,000	70,000	70,000	70,000
Interest	48,193	45,268	44,000	42,468	41,000
Paying Agent Fee	300	300	600	300	600
Total Requirements	**$ 123,493**	**$ 115,568**	**$ 114,600**	**$ 112,768**	**$ 111,600**
Unappropriated Balance		**$ (2,187)**	**$ 46,200**	**$ (6,533)**	**$ 19,100**

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

August 13, 2013

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

RE: 2nd Street Residences (WPUD 13-01/WZC 13-01)

Honorable Mayor and Council:

Summary of Requested Action: Will McDonald and Sean Averill on behalf of Community Infill Partners, llc are requesting a rezone and planned unit development (PUD) overlay in order to develop 23 acres into 143 dwelling units. The units are a combination of apartments (92), condominiums (36) and accessory apartments (15). Most units are accessed by a private road network. The applicant is setting aside rental units to be managed by the Whitefish Housing Authority and they are extending Armory Road which will be a dedicated public right-of-way. There are a series of trails and open space areas within the development. The applicant conducted two on-site neighborhood meetings on April 24, 2013 and on June 19, 2013. Both meetings were well-attended by neighbors. During the meetings, the applicant presented the project, provided a tour of the site and answered questions.

The project consists of three parcels with two single family homes. The properties have two zoning classifications. The western parcel is zoned WR-1 (One-Family Residential District) and is proposed to be zoned WR-2 (Two-Family Residential District). The other two parcels are zoned WA (Agriculture District) and they are proposed to be zoned WER (Estate Residential District). All three parcels are proposed to have the PUD overlay. There are two Growth Policy designations on the project. The western parcel has an 'Urban' designation and the other two parcels have a 'Suburban' designation.

Planning Board Action: The Whitefish City-County Planning Board held three public hearings on March 21, 2013, May 16, 2013 and July 18, 2013 to consider the request.[1] Following the first two hearings, the Planning Board tabled action and directed the applicant to listen to the comments made during the hearings and meet with the neighborhood. Following the July hearing, the Planning Board recommended approval of the above referenced rezone, subject to one condition as contained in the staff report and the planned unit development subject to eighteen conditions as contained in the

[1] Staff has included all the previous submittals for reference in order for the Council to fully understand the public comment and review the evolution of the project.

staff report and adopted the staff report as findings of fact (5-1, Vail voting in opposition; Anderson, Smith and Blake were absent). The Planning Board also added the following two conditions of approval and made an additional recommendation for Council consideration:

19. Review the intersection of Armory Road and E 2nd Street with the Public Works Department and shift it to the west. (WCCPB, 7-18-13)

20. Conduct a traffic study that determines if the projected traffic from this development falls within 15% of the traffic projected from WR-1/WER zoning development. (WCCPB, 7-18-13)

The Planning Board also recommended that the Council place Armory Road on a priority list for roadway improvements that would also include sidewalks.

Planning & Building Department Recommendation: Staff recommended approval of the above referenced rezone subject to one (1) condition of approval and planned unit development subject to eighteen (18) conditions set forth in the attached staff report.

Staff is concerned with the two additional conditions recommended by the Planning Board and would recommend the following:

Condition 19:
The Public Works Department has reviewed a concept which would move the north leg of the Armory Road intersection 125-feet west of the existing 'T' intersection. This alignment would present more conflicts for motorists and pedestrians than a typical 4-way intersection and southbound Armory vehicles' headlights would shine directly into an existing home on the south side of E 2nd Street. We believe this configuration would create more problems than it might solve and prefer a condition that directs the developer to work with the Public Works Department to design the safest possible intersection. We recommend Condition #19 should be reworded to state:

19. The applicant, the applicant's engineer and the city Public Works Director shall explore the idea of moving the proposed Armory Road extension to the west and review its implications in order to establish the optimal alignment.

Condition 20:
City staff would recommend eliminating condition #20. The traffic study as part of the application, developed by a Professional Engineer using accepted engineering practices, determined there is adequate capacity on the surrounding roads. The 15% standard chosen by the Planning Board is not based on any recognized criterion and it hasn't been vetted through the public hearing process or reviewed and approved by the City Council.

Armory Road Placed on a Priority List:

The City is currently planning for East 2nd St from the Shareview alley to the BNSF tracks. The City's only source of funds for this type of project is the Resort Tax fund. A priority list for Resort Tax funded street projects was adopted in 1998 and revised in 2011. Armory Road is currently 25 projects out on the priority list. The typical pace of construction has been one project per year, with some projects requiring two years to complete. So given the current schedule of priorities, Armory Road would not be eligible for full reconstruction using Resort Tax funds until sometime after 2035. One funding alternative might be a Special Improvement District (SID), whereby property owners within a defined neighborhood district would carry the cost of design and construction in the form of assessments added to their property taxes over a period of 20 years.

The Resort Tax Monitoring Committee has considered reviewing the Resort Tax street reconstruction priority list over the coming months/winter. This would be an opportune time to propose a higher priority for Armory Road. Interested parties should bear in mind; priorities have typically been set with attention to spreading improvements around the community from one year to the next. East 2nd St will be reconstructed next year, so it seems unlikely an adjusted schedule of priorities will set up Armory Road for major improvements in the immediate future.

The next five projects on the current street reconstruction priority list are East 2nd Street (2014), West 7th Street from Baker to Karrow (2015 and 2016), East Edgewood Place from Colorado Avenue to the east City limits (2017), Karrow Avenue from 2nd St to 7th St (2018) and State Park Road from Hwy 93 to the BNSF tracks (2019 and perhaps 2020). Any proposal to move the Armory Road project up on the priority list would compete against the needs and goals for these neighborhoods, and perhaps others as well.

A suggestion was apparently made to consider a stand-alone path project on Armory Road, without full street reconstruction, and several points come to mind. The funding available for stand-along path projects is much more limited than what is available for full street reconstruction projects and even a stand-alone path project could easily cost over $200,000. When you consider the major improvements planned for East 2nd St next summer, including a bike/ped path from Shareview Alley to Armory Park, as well as the critical need for bike/ped paths in other neighborhoods, it's hard to imagine trail funds being dedicated to second project in this neighborhood right away.

Public Hearing: The public involvement and comment at all three public hearings has been substantial. At the hearings, 50-70 people were in attendance and 14-29 people per hearing testified before the Planning Board. It is difficult to briefly summarize neighborhood concerns in this transmittal as they are vast and varied. All the emails and letters received from the public are attached and should be carefully reviewed by the Council. Generally, the overarching themes of concerns from the neighborhood include: density, project out of character with the neighborhood, product-type (apartments instead of single family homes), traffic (volume, safety and construction

traffic), lack of pedestrian and bicycle facilities on Armory Road, long-term maintenance of the project and concerns with a transient population.

The final minutes for the March and May and the draft minutes for the July Planning Board are attached as part of this packet.

This item has been placed on the agenda for your regularly scheduled meeting on August 19, 2013. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

Wendy Compton-Ring, AICP
Senior Planner

Att: Exhibit A: Recommended Conditions of Approval
Minutes, draft, City-County Planning Board, 7-18-13
Minutes, City-County Planning Board, 5-16-13
Minutes, City-County Planning Board, 3-21-13

Exhibits from 7-8-13 Staff Packet

1. Staff Report – WZC 13-01, 7-11-13
2. Staff Report – WPUD 13-01, 7-11-13
3. E 2nd Street Reconstruction Plan
4. Adjacent Landowner Notice, 6-27-13
5. Advisory Agency Notice, 6-28-13

The following public comments were submitted in response to the March plan:

6. Public Comment, David A Bennetts, 3-4-13
7. Public Comment, Susan Schnee, 3-11-13
8. Public Comment, Rebecca Kauffman, 3-11-13
9. Public Comment, Kristen Choiniere, 3-13-13
10. Public Comment, Walt Chauner, 3-13-13
11. Public Comment, Blaine Platt, 3-13-13

The following were submitted by the applicant for the March Plan (part of the March packet):

12. Application for Rezone and Planned Unit Development, 2-4-13

Public Comment Submitted After the Planning Board Packets Went Out in March:

13. Public Comment, Sarah Dobbins, 3-15-13
14. Public Comment, Tracy Rossi, 3-18-13

15. Public Comment, Kathy Spangenberg, 3-18-13
16. Public Comment, Bobby Young, 3-20-13
17. Public Comment, Reed Trontel, 3-20-13
18. Public Comment, Scott Ringer, 3-20-13
19. Public Comment, Rhonda Kohl, 3-21-13
20. Public Comment, Chris Potts, 3-21-13
21. Public Comment, Alethea Schaus, 3-21-13
22. Public Comment, KK Jense, 3-21-13
23. Public Comment, Craig and Elaine Cook, 3-21-13
24. Petition from E 2nd Street/Wedgewood Lane neighborhood, 3-21-13 (41 signatures)
25. Petition from Armory Road and Willowbrook neighborhood, 3-21-13 (19 signatures)
26. Petition from Armory Road and Willowbrook neighborhood, 3-21-13 (17 signatures)
27. Aerial Maps Handed out during 3-21-13 Planning Board public hearing identifying other areas for multi-family development, 3-21-13

The following public comments were submitted in response to the May plan:

28. Public Comment, Rebecca Kauffman, 5-5-13
29. Public Comment, Susan Schnee, 5-6-13
30. Public Comment, Sherry Palmerton, 5-6-13
31. Public Comment, Jack & Phyllis Quatman, 5-6-13
32. Public Comment, Kathleen McMahon, 5-6-13
33. Public Comment, David Scott, 5-7-13
34. Public Comment, Kelly Davidson, 5-7-13
35. Public Comment, Noah Crouser, 5-8-13
36. Public Comment, Mic Holmes, 5-8-13
37. Public Comment, Michelle Rosette, 5-8-13
38. Public Comment, Velvet Phillips-Sullivan, 5-8-13

The following were submitted by the applicant for the May Planning Board (part of the May packet):

39. Summary of changes to plan, updated elevation, engineering report, traffic report, new phasing plan and new site plan, 5-7-13

Public Comment Submitted After the Planning Board Packets Went Out in May:

40. Public Comment, Richard Menicke, 5-9-13
41. Public Comment, Robert Horne, Jr., 5-9-13
42. Public Comment, Michael Downey and Debbie Dante, 5-9-13
43. Public Comment, Melissa Genovese, 5-9-13
44. Public Comment, Ryan Kann, 5-10-13
45. Public Comment, Scott and Barbara Brant, 5-10-13
46. Public Comment, Bobbie Barrett, 5-10-13

47. Public Comment, Jeff Zerr, 5-13-13
48. Public Comment, Suzi Stagg, 5-13-13
49. Public Comment, Suzi Stagg, 5-13-13
50. Public Comment, Brian Roland, 5-13-13
51. Public Comment, Chris Bernat, 5-14-13
52. Public Comment, Linda Robert of Whitefish Property Management, 5-15-13
53. Public Comment, Lani Smith, 5-15-13
54. Public Comment, Scott Bates, 5-15-13

Items Submitted at the May Planning Board

55. Petition from Armory Road neighborhood (35 signatures)
56. Soils Information and Maps, NRCS
57. Information from the Whitefish Transportation Plan, 2009

The following were submitted by the applicant for the July Planning Board:

58. Summary of changes to the plan, updated elevations, new phasing plan, perspectives and site plan, 6-25-13

The following public comments were submitted in response to the July plan:

59. Public Comment, Scott Bates, 5-18-13
60. Public Comment, Eldon & Karen Maronda, 5-22-13
61. Public Comment, Shelby Powell, 6-11-13
62. Public Comment, Darcy King, 6-25-13
63. Public Comment, Mary Witbrod, 7-2-13
64. Public Comment, Rebecca Kauffman, 7-7-13
65. Public Comment, Susan Schnee, 7-8-13
66. Public Comment, Nancy Tigue, 7-9-13
67. Public Comment, Kathy Spangenberg, 7-10-13

Public Comment Submitted after the Planning Board Packets went out in July:

68. Public Comment, Sherry Palmerton, 7-14-13
69. Public Comment, Steve Thompson, 7-14-13
70. Public Comment, Rebecca Kauffman, 7-14-13
71. Public Comment, Suzi Stagg, 7-15-13
72. Public Comment, Erin Barbee, 7-15-13
73. Public Comment, Phyllis & Jack Quatman, 7-15-13
74. Public Comment, Michael Moffitt, 7-16-13
75. Public Comment, Shelby Powell, 7-16-13
76. Public Comment, Shelby Powell, 7-16-13
77. Public Comment, Rebecca Norton, 7-16-13
78. Public Comment, Scott Fair, 7-18-13
79. Public Comment, Phyllis Quatman, 7-18-13

80. Public Comment, Susan Schnee, 7-18-13
81. Public Comment, Mary Alice Moffitt, 7-18-13
82. Public Comment, Greg & Mary Jo Hennen, 7-18-13

Items Submitted at the July Planning Board
83. Public Comment, Robert Horne, Jr., 7-18-13

The following public comments were received after the July Planning Board meeting:
84. Public Comment, Jim Lockwood, 7-26-13
85. Public Comment, David Bennetts, 8-2-13
86. Public Comment, Kevin Guercio, 8-7-13
87. Public Comment, Scott Bates, 8-12-13
88. Public Comment, Kathy Spangenberg, 8-12-13
89. Public Comment, Cole Blackwell, 8-12-13
90. Public Comment, Kate McMahon, 8-12-13
91. Public Comment, Scott Bates, 8-13-13

c: w/att Necile Lorang, City Clerk

c: w/o att Pine Hill lp/ Wild Rose Knoll lp PO Box 91 Whitefish, MT 59937
Community Infill Partners, llc PO Box 4600 Whitefish, MT 59937
Sands Surveying, Eric Mulcahy, 2 Village Loop Kalispell, MT 59901
Montana Creative, 158 Railway Street Whitefish, MT 59937
RPA, PO Box 5100 Kalispell, MT 59901

Exhibit A
2nd STREET RESIDENCES
WPUD 13-01/WZC 13-01
Whitefish City-County Planning Board
Recommended Conditions of Approval
July 18, 2013

1. Except as amended by these conditions, the development of the planned unit development shall be in substantial conformance with the approved site plan and elevations that govern the general location of buildings, landscaping, building height and improvements and labeled as "approved plans" by the City Council.

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

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

4. Armory Road shall be built to city standards with sidewalks on both sides of the street. The right-of-way dedication and construction of Armory Road and associated utilities shall be completed prior to the issuance of building permits for

Phase 1 unless an alternative schedule is approved by the Public Works Director. (Engineering Standards, Chapter 8; Staff Report, Finding 8)

5. Provide a 15-foot utility easement along the southern property line of Tract 1K and a 5-foot temporary construction easement along the southern property line of Tracts 1D and 1DA. These easements shall be signed and recorded within 30-days of Council approval. (Staff Report, Finding 8)

6. Provide a sewer and water easement from E 2nd Street to the north property line. In addition, the city will need maintenance easements to serve these lines. These easements shall be signed and recorded within 30-days of Council approval. (Staff Report, Finding 8)

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

8. All buildings shall meet Fire Department standards include sprinklering, FDC, alarm panels and utility controls located in close proximity to each building. (IFC)

9. Internal access streets shall meet all Fire Department access requirements, shall be no less than 20-feet, shall be clear of snow for the entire 20-feet and shall be signed for no parking. (Engineering Standards, Chapter 8)

10. Parking for the proposed administrative building, playground area and trails open to the public shall be installed in accordance with the zoning standards. (§11-6-2E)

11. There shall be no parking on the public right-of-way (Armory Road Extension) and the street shall be signed as such. (Engineering Standards, Chapter 8)

12. Architectural Review shall be required for the cottages and the single family condominiums. These buildings will also adhere to the visual variety standard within the Architectural Review Standards, section 6.2.2. (Staff Report, Finding 10)

13. Prior to the first phase, a snow storage plan shall be submitted to the Planning Department for review and approval. Such plan shall ensure storage does not impede emergency access and it is not located within storm water facilities. (Engineering Standards, Chapter 5)

14. Prior to the first phase, submit an overall detailed open space plan. This plan should include a landscaping plan and irrigation with proposed plant materials, a trail plan, details on the various recreation amenities and a maintenance plan. The path shall be constructed of asphalt. (§11-2S-1C; §11-2S3C; Staff Report, Finding 1)

15. Prior to the development of the trail or installation of storm water facilities in the stream/wetland buffer, submit details on their installation. (§11-3-29C; Staff Report, Finding 1)

16. A 5-foot wide sidewalk and 5-foot boulevard with street trees shall be installed the E 2nd Street frontage from the western property line to Armory Road extension. Two pedestrian crossing shall be installed, one at Armory Road and a second crossing to be determined by the Public Works Department in coordination with the E 2nd Street improvements. (Staff Report, Finding 8)

17. Prior to submitting applications for building permits for each phase, a report showing how conditions of approval have been met for each phase shall be submitted to the Planning Department for review and approval and it shall include:
    - Architectural Review approval for all buildings within the phase, including the single family homes with accessory apartments and the picnic shelters
    - Detailed landscaping plan and pedestrian connection plan
    - Tree removal phasing – no tree removal shall occur in any phase until the tree removal plan is approved
    - Review of approved open space plan
    - Agreement with the Whitefish Housing Authority to provide 14 rental units. No more than one unit per apartment building shall be provided and the apartments shall be a variety of types (one, two and three bedroom)
    - Slope verification for those building within 200-feet of the stream/wetland area. If the slopes exceed 10%, a geotechnical report shall be submitted along with the building permit.
    - Infrastructure within each phase shall be fully capable of supporting the development within the phase. Roads shall meet the Fire Department emergency access requirements.
    - Emergency access shall be approved for each building pursuant to the IFC. This includes physical access to within 150-feet of all corners of the building, FDC on each building, Knox box, no parking, and snow plowing.
    - Infrastructure, including streets, water, sewer, hydrants and drainage, for each phase shall be installed and operational prior to the submittal of a building permit. Financial security for other infrastructure/improvements yet to be installed may be approved in order to obtain a building permit.
    - All easements associated with the phase shall be recorded and submitted to the city.
    - No more than two years shall lapse between phases.

18. This approval is valid for 3-years from the date of City Council approval. (§11-2S-9C)

19. <u>Review the intersection of Armory Road and E 2nd Street with the Public Works Department and shift it to the west. (WCCPB, 7-18-13)</u>

20. Conduct a traffic study that determines if the projected traffic from this development falls within 15% of the traffic projected from WR-1/WER zoning. (WCCPB, 7-18-13)

WHITEFISH CITY-COUNTY PLANNING BOARD
MINUTES OF MEETING
JULY 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 Ken Meckel, Mary Vail, Chad Phillips, Ole Netteberg and Greg Gunderson who was seated at 6:05 p.m. Dennis Konapatzke was present via telephone. Rick Blake, Zak Anderson and Diane Smith were absent. Planning Director Taylor and Senior Planner Compton-Ring represented the Whitefish Planning & Building Department. Attorney VanBuskirk represented the City Attorney Department. Approximately 50 people were in the audience.

APPROVAL OF MINUTES

Meckel moved and Vail seconded to approve the June 20, 2013 City minutes of the Whitefish Planning Board as submitted. On a vote by acclamation the motion passed unanimously.

PUBLIC ITEMS NOT ON AGENDA

No one wished to speak.

OLD BUSINESS
COMMUNITY INFILL PARTNERS, LLC ZONING MAP AMENDMENT REQUEST AND PUD OVERLAY REQUEST

A request by William MacDonald and Sean Averill, on behalf of Community Infill Partners llc, for a zoning map amendment to change the zoning designation at 100 Wild Rose Lane from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) and 1500 E 2nd Street from WA (Agriculture District) to WER (Estate Residential District). The development will also include a Planned Unit Development overlay and will consist of 143 units (92 apartments, 16 detached single family home condos with 15 mother-in-law units and 20 attached condos. This is a continuation from the May Planning Board.

STAFF REPORT WZC 13-01/WPUD 13-01

Planner Compton-Ring noted that there are two application requests for this application. There are no changes to the zone change staff report and staff still recommends approval with one condition.

The PUD application was heard in March and continued to May. A revised plan was brought back in May and was tabled again until July. The Planning Board recommended the applicant reduce the density and get rid of the large multi-plex units. The applicant held another neighborhood meeting and presented a revised plan. There is a new phasing plan, the density changed from 174 in March to 143 units in July and eliminated the 16-plex and 8-plex. Now there are 2, 3, 4 and 5-plex buildings. The density will blend across the whole property and there will be 20 condos, 16 detached homes with accessory apartments and the 92 multi-family units.

The multi-family units still have parking, but the parking areas are

now broken into garage style pods. The new design has 68% open space and the buildings are located near the center of the project to protect the trees to the east and the stream to the west. They are maintaining a loop trail system that will be open to the public. There will be an urban design courtyard in the center of the project with some play equipment. They are providing active and passive activity options.

They are continuing to providing 10% affordable housing and the Whitefish Housing Authority will manage it. The applicant will continue to utilize the density bonus. In lieu of sidewalks there are paths throughout the project. The benefits of the project remain the same: 14 rental units for affordable housing, a sewer and water easement, extension of the City right-of-way and providing a sidewalk on East Second Street.

The neighbors received notice of the application and a notice was placed in the paper. She said she has received 15 additional letters after the packet went out. Some letters said it provided needed housing; others had concerns about density, neighborhood noise, extra traffic and safety issues.

This plan is different than the original version. The large multi-plex buildings have been changed to smaller units and about 47% of the units are two-unit structures. The open space along Cow Creek is still protected and the homes along E. Second Street will match the feel of the neighborhood. The multi-unit buildings are set back about 200 feet from E. Second Street.

Buffers are created because the single family detached homes border the project. The density has been reduced to 6.02 dwelling units per acre, which is still more than the 5 acres recommended by staff initially, but better than the first application.

In May and March the applicant talked about providing a sidewalk on E. Second Street and the Ped/Bike Committee did recommend a 5 foot sidewalk along the entire front of the project. Public Works didn't want to see a sidewalk east of Armory Road, because of sight distance issues. As conditioned, Armory Road will be completed with Phase 1. The affordable housing will have 1, 2 and 3 bedrooms units. In the current project there are 15 different buildings with 4 different densities and they will all go through ARC review and adhere to the visual variety standard. Staff is recommending approval subject to the 18 conditions in the staff report.

PUBLIC HEARING

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

Will McDonald gave a presentation of the updates of the project.

He said he and Sean Averill have worked hard with their professionals to address the concerns of the community and the Planning Board.

Aaron Wallace, Montana Creative Architect and Design, showed the lay out of the single family homes versus the rental properties which sit back about 200 feet from the road. The Cow Creek corridor remains open and they tried to preserve the old growth forest. Instead of 8 and 16-plex units they have made those all smaller. He said 59 of the units are one-bedroom units with 600 square feet or less. This property will be a managed property. For someone to own a home and rent out the mother-in-law apartment above the garage they have to live in the main house according to City regulations. He said the rental area will be a pocket neighborhood with small landscaped yards and sidewalks to each home. If they build traditional 50x100 foot lots they could create 89 buildings, but would only have 35% green space. Their proposal has 53 buildings and 68% green space.

Eric Mulcahy, Sands Surveying, said he has been working with the applicants on the zoning. According to the Growth Policy about 6 acres is urban and about 17 acres are suburban residential and zoned WA. They propose changing the zoning on the 6 acres to WR-2. On the eastern property they are proposing WER. They have whittled down the density to try and address neighbor's concerns. The overall density is about 6 units per acre. The subdivision just west of the project is about 4.1 units per acre. They are close in overall density to what is traditional in the downtown. They are using open space to buffer the project and to protect the creek and old growth trees. They did a traffic study that shows an estimated 1,084 trips per day. If they had 92 single family units it would be 920 trips for a traditional neighborhood design. He said East Second Street is being re-designed to lower the hill and a bike/ped path is being placed on the southern edge all the way out to the dog park. He said that the rural road structure is being updated in a project not related to this project.

Sean Averill said the Armory Road Capacity is 3,000-5,000 vehicle trips per day. He said this project is infill. They are close to both schools and the dog park. He said they challenged the architect to design the apartments like single family homes. He said as developers they look to the Growth Policy as their guide and it says, "As Whitefish grows we will provide affordable housing…" They are the only developers who have offered to provide affordable housing yet. He said that goal for affordable housing has been in the Growth Policy since its inception. It also says "We welcome new and infill development that is compatible with the character and qualities of Whitefish." He said he knows they can't please everyone, but they have done their best to work with the community.

Meckel said the pictures of the pocket community look really nice. He said it is one thing to show the pictures, but it is another thing to make it happen. He said Conditions, Covenants & Restrictions (CC&Rs) are an important tool to protect the integrity of the neighborhood.

Scott Elden said there are several processes in place. He said CC&Rs are in place for the management team. He said the architect firm has a mandate to develop and design to these standards. He said every building has to go through the Architectural Review Committee (ARC) process and be slightly different. He said it is a condition that they have to present every building to ARC, so that offers protection for the community. Meckel said sometimes they see people who are not keeping up their places and he wondered how the project would address that problem.

Will McDonald said they will be interviewing a couple of property management groups and this will be a managed rental complex. He said the single family units will be condos and there will be HOA dues and that will be managed as well.

Bob Horne, 151 Wedgewood Lane, said he is an urban planner. He said they are not anti-growth and he wanted everyone to understand that. He said they know this site will develop and they are not against that. They appreciate the developers working with them and holding the two meetings. He said he would love nothing more than to say he could support this project, but it hasn't happened. This PUD and Zone Change are not in compliance with the Growth Policy. It is an area designated suburban residential and is predominately residential. The pocket neighborhood is an urban neighborhood idea, not appropriate here. He said this is spot zoning. There are other places in the community where multi-family units are already zoned and character and scale will not be an issue there. He said he gave them an inventory of 4 sites that could hold this many units. He said they are not pushing the affordable housing problem elsewhere; it is being foisted upon them by the developer. He said the water and sewer easement are not a community benefit.

Phyllis Quatman, 150 Johns Way, addressed the traffic study. She said she submitted a traffic study from the county and the numbers are very different that the applicant's report. She said they are looking at about 554 vehicles/day on Armory Road and 861 on Voerman and about 959 on Dillon Road. She said she didn't think they aggregated those trips. The original traffic impact study cited 1,000 people per day on Armory Road. They are only at 500 right now, so their study must be seriously flawed. She said Second Street traffic goes right by the school and the children are one of her biggest concerns. She said the project could have been 267

bedrooms and they are at 270 now. She said that doesn't say how many people per bedroom. She said they can't guarantee one person per bedroom, so that will increase the traffic. She said she and Jack Quatman have written them a long letter about the legal ramifications. They have to look at the benefit to the surrounding neighborhood, not the whole community. It is to the detriment of the surrounding neighbors.

Rebecca Kauffman, who resides in Colorado, said she owns land that is to the west of the project along Cow Creek. She has lived in ski towns and development is always a difficult thing. Building by exception is usually the biggest mistake. Communities wish they had a Master Plan and stuck to it. She said the landowner and developers are for this project and all the neighbors are opposed to it. She said affordable housing is commendable and she is for it because they need a diverse community. She doesn't think it should be a pawn in this process. She said this property has a lot of water and drainage issues. She said the density is already artificially increased because of Cow Creek. She said this is a wetland area so they have to build on a smaller footprint. She said there are pocket neighborhoods in Durango, CO where she lives, but it is a lot like a walk-up in Brooklyn, which is not in character with the rest of the neighborhood. She said the only people in support are those who stand to gain economically.

Dan Averill, said he is related to Sean Averill, but he is not part of this project. He said he has gone out of his way to create projects that are good for the community and help the tax base and address environmental concerns. He said he hopes the community is as proud of his projects as he is. He said they have to discern between the statement made by the public and the benefits to the community. He said this team has tried to create something that is an asset for the community that addresses low cost housing and rental housing. He said neighbors never want development next door. This project will be an asset to the community and these guys will do a good job.

Jack Quatman, 150 Johns Way, said everything they heard from the proponents is that this is good for the community. He said in Judge Ortley's decision he cites to a Supreme Court Case that says, "The focus should be on the benefits of the proposed project or re-zone to the surrounding neighbors, not to the community at large." He said it might be good for the community, but it is not good for the surrounding neighborhood. He said that is the law in this state.

Kathy Spangenberg, 1665 E. 2nd Street, said she chose Whitefish as a place to live because they didn't have the intense multi-family developments intermingled with family neighborhoods that other towns have. She sent them two letters stating that the developer has made significant revisions, but she still considers it a poor project

for this neighborhood. She said she surveyed her neighborhood from Cow Creek to the railroad tracks on the road to Armory Park on the east, and to Armory Road to the south. There are about 92 residences in about 105 acres. That's about one house per one tenth of an acre without the 24 acres in this project. This project is proposing one residence per .18 tenths of an acre. She reviewed the Growth Policy and Zoning. The Growth Policy said Wild Rose Lane is zoned WR-1/WR-2 and then it is Suburban Residential. She said if they had just the high density it would go from WA to WR-3 and WR-4 and she didn't think they would approve that drastic change. Then she learned about PUDs, but they are also supposed to conform to the Growth Policy, and this proposal doesn't conform. She said a lot of this land can't be developed because of water issues. She said it is close to WR-2 zoning, but there are WR-1 properties between them and that could be considered spot zoning, which is illegal. She doesn't see how this could be approved. She said she was concerned about the precedent it would set for the other properties in the neighborhood. She said the new neighborhood has nice features, but the pocket neighborhood is not appropriate. She used to manage the development and design of systems. She said once they developed a new system she was amazed at how creative people were how they and used things in a way that they were never intended to be used. She said people go way too fast on E Second Street and she has expressed her concerns about when it is re-built. She said if this development goes in and they create a crosswalk at the bottom of the hill it could be dangerous. She is in favor of in-fill, but she considers that the pocket neighborhood is overkill. She asked them to respect the neighbors.

Kelly Davidson, 585 Armory Road, said neighbors and citizens of Whitefish have indicated that they are not in support of this project. This neighborhood is already full of tradesmen and coaches and teachers. They have voiced concerns about water ecology, traffic concerns and density. The Board seems to care whether Mr. Kauffman and the developers get their financial reward. The Board needs to know and communicate to the public how this spot and this spot alone can meet the needs for affordable housing. She asked them to ask the developers what the price will be on the affordable homes and why the zoning has to be changed to high density. She said poor development choices would make this less than a desirable place to live. They are a concerned and passionate community and expect that their concerns will be heard. They are not anti-growth, but they are anti-bad development. They want good projects that benefit the neighborhood and the town. The community is involved in this process, but she said the crowd is smaller because they were treated poorly at the last meeting.

Suzi Stagg, 1306 E. Second Street said the density has barely changed since the last meeting. Just because it looks like the

surrounding neighborhood it doesn't make it fit with the neighborhood. She said the developer has said it wants to work with the neighbors, and they only way to do that is to take the zone change off the table. She said the new E. Second Street project is improving the street beyond this project. She said the developer said the other lots were further from schools, but she didn't understand that logic. She hoped they were going to listen to the public and deny this project.

Melinda Morison, 170 Armory Road, said she has been to every meeting and spoken to the Willowbrook neighborhood and submitted a petition in opposition to this neighborhood. She is still opposed to it. Most of the changes haven't addressed the concerns about traffic, especially on Armory Road. She said the density is still a big problem. She doesn't see this project being developed all at once and they have no guarantee that the single family homes will be built. This is not in compliance with the Growth Policy. The zone change will create spot zoning which is illegal. She understands that this property needs to be developed. She is not against rentals or affordable housing, but why couldn't they be single family homes. She said if the Planning Board approves this then they are subsidizing this developer's project at the expense of her neighborhood. She asked them to deny this project.

Kate McMahon, 151 Wedgewood Lane, said she had concerns about the scale and overall project density. She said the developers made changes and she appreciated their time and efforts. She said there are good features in the project. Her main concern is the underlying WR-2 zoning. The staff report notes that is up to the Planning Board and Council whether this type of density is appropriate. She asked them to consider the testimonies of the neighbors. It is not compatible with the Suburban character of the neighborhood. She said Cow Creek separates this neighborhood from the higher density nearby. She said there is no procedure for a project to automatically revert if the project isn't built within a specific time frame. She said that condition might imply that the WR-2 zoning was specific to just this project, which would be spot zoning. She would love to support this project, but the density is too extreme. If they stuck with the WR-1 zoning she would be happy to endorse this project. The MCA does not state the cost of the land as a reason for changing zoning—that is an agreement between the applicant and landowner. She submitted findings of fact for them to consider for denial: She said that this project is not compatible with the suburban neighborhood, is not in compliance with the Growth Policy and the rezoning to WR-2 does not promote public safety because of increased traffic. The WR-2 zoning would have an adverse effect on the transportation system which didn't evaluate the impact on Pine Avenue and E Second Street. She said WR-2 zoning is not suitable for this site, the soil study shows the entire parcel has severe

development limitations due to the soil. The proposed zoning does not preserve the property values of the neighbors and is inappropriate because it is spot zoning and would create an island of WR-2 and benefit only one landowner. This is special legislation to increase density. She said the Whitefish Zoning Ordinance requires considering the historical and established patterns and this neighborhood has been Suburban residential and no high density has been considered appropriate in this area.

Erin Barbee, 1310 E. Second Street said she has heard a lot about a managed rental community. She said this is the wrong location. She wondered how many emails they received in support versus those who were opposed to this development. She asked them the crowd to stand if they were opposed and a large group stood.

Nancy Tigue, 1319 E. Second Street said she is a concerned citizen. She is opposed to this project even though it is a beautiful design. It is a safety issue for the pedestrians and for those who are driving. The road runs east and west and the sun often blinds her when she drives so she is worried about potential accidents.

Ryan Kann, Birch Drive, said he is a contractor and would love to see this area developed. He would love to be able to increase density when he builds, but the Growth Policy and zoning are there to protect the neighborhood. They need to uphold the Growth Policy and zoning. He is opposed to this design.

David Kauffman, owner of the property, said from 1962-1988 Wildrose Lane was his primary residence. In 1988 they bought the adjacent property, Pine Hills, to preserve the neighborhood from development for at least as long as his parents lived there. He said he tried to change the zoning during the Growth Policy process, but he realized others wanted to control his property and gave up. He said he recognizes the need for neighborhoods to develop. He should not be expected to bear the community re-evaluation of the value of open space, which has changed in the past 20 years. He said his property could have been developed just like Willowbrook. He said his property was annexed by the City. If he was outside the City limits his expectations would be a lot different. He said the Supreme Court allowed them to be annexed and he has paid higher taxes, but not received other benefits. It has been brought up that this property should not be developed to its full potential because it might create a traffic problem. He said if this property was developed in 1988 then the traffic crisis would have come from properties that were developed further out. It isn't fair to penalize this property because he delayed developing it. He said the traffic issue should have been anticipated by professional planners. The developers are working hard to work with the community. He said the tax base increase would be positive for Whitefish. He said the

City initiated the annexation process and they should now be willing to award it full potential for development. He is in favor of this project. He said if someone wants to control their neighborhood when there is a lot for sale then they should step up and buy the vacant lot. He suggested that the people who are strongly motivated to control someone else's property should maybe put a little bit of themselves on the line and buy the property. He suggested that the City could buy it as a park. He said he has never noted a water problem on the portions of the property that are being proposed for development.

RECESS

A 10-minute recess was called.

PUBLIC HEARING

Sean Averill said the single family homes will be built in Phase 1. Will McDonald said the Flathead County Road info shared tonight came from a letter from Phyllis and Jack Quatman that states the daily averages. The typical capacity of the road is 3,000-5,000 trips.

BOARD DISCUSSION

Phillips said the traffic study showed about 164 trips per day difference between single family residential and the plan they are proposing. He wondered if there was a way to confirm those added trips. He would like a comparison between single family residential and this development. Mulcahy said Abelin Traffic Services out of Helena arrived at these numbers based on 150 units and the multi-family versus single-family unit design. He said the overall traffic count was 1,084 trips/day and if they developed the 23 acres at 4 units per acre, which is less than what they are proposing, it would be 92 family units and the that would be about 920 trips per day. That would be a 164 trips less per day. Phillips said it would be nice to substantiate that and see that data. He said he commended the design team for the open space and he commended them for breaking down the density of the buildings. He liked the single family design around the perimeter. He looked at some of the images in the pocket neighborhood and he favored the designs where the porches were an important part of the design. He asked where the pocket neighborhood exists in the site plan. If the trips that are generated by a single family neighborhood are about the same, then he doesn't see the density as an issue. He said many people will use Eagle Transit and their kids can walk to school, so trips may be reduced. He said there are 15 mother-in-law apartments and if that goes up then he thinks the traffic numbers will go down. He thinks they are moving in the right direction.

Meckel asked and Engineer Karin Hilding said E Second Street was reconstructed from Spokane to Larch Avenue in 2001. This project will continue from Larch Avenue over the railroad tracks. The road will go from 22 feet to 26 feet from curb to curb. There will be a bike path along the south side of the road out to the dog park. The road grade is going to improve from 12% to 10.5% which means

about 1.5 feet off the top of the hill and about a foot of fill on the bottom of the hill. She said the Cow Creek bike path winds away from Second Street up to Armory Road. A new section of sidewalk will go over Cow Creek on the south side and a new culvert will be installed.

Aaron Wallace with the design team said the images of the pocket neighborhood are what they want to move toward. He said they didn't have time to work on the details, but they anticipate adding decks and porches. He said there are 15 mother-in-law units and 44 additional one bedroom units of about approximately the same size.

Bob Horne said he was on record at the March hearing and the numbers came right out of the ITE manual. He believes the trip count was low because they are urban numbers where people really do walk downtown or catch public transportation.

Netteberg asked Jack Quatman if he has talked to the county about any proposed improvements to Armory Road and Quatman said when they approached the Roads and Bridges Department staff they hadn't done a traffic study at that point. They said they have no plans to improve that road because they have no money. The road needs to be torn out and re-done, it isn't sufficient for what is out there now. Phyllis Quatman said she called County Commissioner Holmquist and did not get any response.

Nancy Tigue said when they were shown the schematic for single family home development every single lot was filled up and she wondered if that was even possible.

Aaron Wallace said the homes that he placed on the sample single family schematic were all outside of Cow Creek drainage area. Vail asked and Wallace said his design was just an estimate, but even with the current topography they could get 89-92 homes and meet the green space requirements with the setback from Cow Creek.

Kate McMahon said the WER zone requires 20,000 square feet per lot, so unless they went through the PUD process then they wouldn't be able to build that dense.

Netteberg asked and City Engineer Hilding said they've looked at the available right-of-way for Armory Road and they would have to request easements all along there to fit in a bike path.

Vail thanked the audience for attending. She commended the developers. They have made great improvements from the first design, but she still has concerns about changing the current zoning. She asked if they could keep the current zoning and go with single family homes. Averill said the current zoning is WA for when it

was farmed and they looked at the Growth Policy to see what made sense. At first it was all rentals and they've really scaled it all down and he doesn't think they can make it any smaller and still have it work.

Scott Elden said they asked the same question and wondered what would happen if they did a regular subdivision. The Master Plan calls for the kind of housing they are trying to provide. As soon as they go through a subdivision there is the lot expense which makes it hard to provide reasonable, affordable housing. Rentals help provide affordable housing and through the PUD, the planning in the zone gives them a density bonus for the affordable housing units. It takes the extra density to offset the cost for the affordable housing. He said the 15 mother-in-law units could be 3-bedroom homes, but the applicants are pursuing their financing through HUD and this design provides affordable housing.

He explained that the investment group owns the property and the management company manages the property. Will McDonald said they are still figuring out the management company, but they have a letter from WHA about the affordable housing.

Bob Horne said he likes what Scott Elden said. It is scary when they've paid too much for the property. No one has said they want to see a cookie cutter development. They just want to see it developed according to the WER zoning. They object to raising the density to the WR-2 zone. Phillips asked and Horne said the appropriate density should be about 99 units if they use the PUD and get a density bonus for affordable housing. That would be with WER zoning on the east part of the property.

Gunderson asked and Planner Compton-Ring said if they deed 10% to affordable housing they get a specific density bonus. Mulcahy said it is 50%. Gunderson said the City needs and wants affordable housing and the rest of the development has to support that option. If they take away affordable housing, where does that leave the City and is it what they really want. He asked Public Works about the north extension of Armory Road. He said he understands the concerns about the hill. He said a 4-way intersection at the bottom of the hill could be a big concern. He said he was at the Bike/Ped Committee meeting about this bike path in the past. He said downhill bikers may prefer to stay on the road and keep their momentum. Public Works wanted Armory Road to line up. He wondered if they need two entrances. He thought it would be safer to put the entrance further to the west, in the flat area, so it didn't come out at Armory Road. He asked and Hilding said she wasn't in the Public Works discussions about extending Armory Road, but she thinks the long range plan was for connectivity. She thinks Gunderson was making a good point. Gunderson said he would

request that Public Works and the developer look at this design again so the intersection and hill aren't meeting at Armory Road.

Rebecca Kauffman said she is an avid bicyclist and the average speed on a bike path is less than 10 mph and someone who is a speed rider will be on the road going about 15 mph. She said she talked to Sue Ann Grogan with WHA who made it clear that there was no sort of development that precludes including affordable housing.

Netteberg said the City annexed the 24 acres, intending it to be part of the City. He said he was sure it wasn't supposed to be kept as a 24 acre parcel. He reminded the audience that everyone up front was a volunteer and the positions come available quite often and everyone is welcome to put their name on the line and feel the conundrum the Board feels on subjects like this one.

Phillips asked if the traffic engineer study is validated somewhere during the process. Planner Compton-Ring said the Public Works Director has reviewed the traffic study as part of the approval. Phillips asked and Mulcahy said the standard comes from the ITE trip generation manual. When they do a trip generation study they talk about how many projects they have reviewed. They usually do 100s of studies and take the average. That is what Abelin used during their traffic analysis and it is the number accepted by professionals around the country. He said when the traffic engineer initiates the study they interview the Public Works department to make sure their study parameters are correct. He said he has never been through a project where everyone agreed with the projected traffic numbers. He said even if he used Bob Horne's numbers he still came out with about 183, as Mr. Horne proposed. Phillips asked if Public Works has a trip generation maximum limit they allow and Planner Compton-Ring said they look at the road capacity.

Meckel said they look at the overall capacity for the road and this report said this is allowed to have 3,000-5,000 trips/day. Phillips said the county is in control of Armory Road, but wondered how they were going to get a sidewalk there. Planner Compton-Ring said a portion of the Armory Road is in the City. Engineer Hilding said the Parks Board tries to work on bike paths in different areas. She said people could come to that Parks Board and ask that it be improved. Phillips asked how many wanted a sidewalk on Armory Road. Compton-Ring said she met with Public Works in April or May and the City said they wouldn't do just sidewalks, they would need to do the entire road, and it would need to be put on a priority list.

Melinda Morrison said the actual part of Armory road in the City is

narrower even than a county road is supposed to be. Phillips said if they approve this they should have them be on a list for a sidewalk. Planner Compton-Ring said that could be a recommendation to the Council. Gunderson said a lot of people don't know about the Dodger Lane re-build. Hilding said a new road is being constructed to join Second Street to Armory Road. Gunderson said that provides a safe path to Armory Road and will be another connection.

Netteberg thanked Horne for pointing out that having some rentals on the property wouldn't be offensive to the people. He said if they stacked homes between Second Street and the tracks the homes would lose value as they got closer to the railroad tracks, so it makes renting seem reasonable. Vail asked if there was a way to do this with condos and single families instead of an apartment complex. Aaron Wallace said this isn't an apartment complex. They all have individual front doors and entrances. Vail asked and Will McDonald said the rental rate will be set through WHA. He said the other 90% of the units will go through another management group and the $900/unit is weighted based on the number of bedrooms.

Jack Quatman said as the railroad tracks go out of town there are a number of homes adjacent to those railroad tracks. He said they don't have to be told those homes should be used as rentals. Netteberg said the land is less valuable close to the tracks.

Erin Barbee asked who is building across from the Dog Park on Second Street because it is right by the tracks. She said that might be an example of one lot close to the tracks that will not be a rental.

Konopatzke said they are either going to walk the walk or talk the talk about affordable housing. Phillips asked if they could implement a ratio that says if a PUD comes into an existing zone the City will accept a certain percentage over the existing standards. He said he doesn't know what the traffic gain percentage is. He hears the concerns about density and safety. He asked the design team and said if they build more mother-in-law apartments then that would drop the trip count. He said he didn't know how to vote because he didn't have all the information.

MOTION

Konopatzke moved and Gunderson seconded to adopt staff report WPUD 13-01 and WZC 13-01 along with findings of fact and recommend that the City Council approve the Community Infill Partners llc, zoning map amendment and PUD Overlay.

AMENDMENT

Phillips offered an amendment, seconded by Gunderson, to revisit the road and sidewalk on Armory Road to make sure the project is on a City priority list, to review the intersection of E Second Street and Armory Road with Public Works and to do a traffic study that

determines if the projected traffic from this development falls within 15 % of the traffic projected from WR-2 zoning, because he sees the open space as a fair and equitable exchange if the increase is within 15%.

BOARD DISCUSSION

Phillips said he would like to see a parallel plan that allows Armory Road safety, perhaps with a mixed-used path. He would like a professional traffic study that takes the surrounding zone trips for 23 acres and if this development falls within 15% then he thinks that is a fair exchange for the open space. He thinks they need to re-visit the intersection at Armory Road and E Second Street.

Gunderson said he is going to vote in favor of this proposal. He said connectivity, green space and bike paths are important to him and this plan meets those concerns. He said multiple driveways are concerns for bike paths and this development offers a lot of sidewalk and only offers two driveways. He feels that moving the entrance away from Armory is very important. He noted that Mr. Kauffman could go out and cut down old growth trees, but he is protecting them. This proposal locks in the protection of this forest and provides a public trail through this area. He said gravel or soft surfacing can be an appropriate treatment on paths so he thinks a future discussion might be appropriate about the trail width and surfacing.

Will McDonald said he attended the bike/ped meeting and they wanted a 5-foot path, paved, with funding coming from the HOA. Gunderson said a 5-foot path is good, but it is hard to get good compacting for asphalt on a narrow path. It is much easier to maintain gravel paths and it precludes skateboards. He said the sidewalk on Second Street should be paved with concrete, but the nature trail would be better as gravel. Engineer Hilding said they usually require an 8-foot minimum width, so she'd have to look at it. Gunderson said at 8-feet they would need to pave it and he didn't know if an 8-foot trail was appropriate on Cow Creek. Meckel said that might be better off to have the developer work with the Bike/Ped Committee.

Hilding asked and Phillips said they need to address the needs on Armory Road to support the safety and welfare of the public. Meckel agreed with Engineer Hilding and said it is difficult to improve the road. Gunderson said the heart of the issue is that Armory Road can't handle traffic and it is already dangerous. According to the experts Armory Road is operating within its capacity for vehicles. He said perhaps they need a mixed-use path. Gunderson asked if they wanted to ask Public Works to look at prioritizing this road and Hilding said there are roads that are already on the list and she didn't see them being bumped. Hilding said they could look at doing it as a path project. She said they get

some money for bike paths and they might be able to look at getting funding for a stand alone path. She would need to run it past the Bike/Ped Committee. Meckel said he wouldn't mind asking the Council to look at the safety issue.

Dave Kauffman asked how much money has the City taken from the residents in this neighborhood after being annexed. He said they haven't given much return to the neighborhoods. Netteberg said they talked to the builder about not using truck traffic on Armory Road and he wondered how they would address that. Ryan Mitchell, with the design team, said they have to have a haul-route plan approved by Public Works and they try to keep trucks on newer roads and the highway.

Vail asked if they should wait for a vote. Phillips said if it was over 15% then the Council should reduce the density. Vail said they should have all of their ducks in a row before they make a decision like this. Hilding said if Public Works sees there is a feasibility of doing this project then they wouldn't hear until March, which is the state grant announcement time, if they were to get the money for bike paths. Netteberg asked and Averill said after this goes to the City Council they have to go through several conditions. Averill said they could ask the developer to update the traffic study and re-visit the alignment of Armory Road. He said the recommendation for street improvements is a recommendation to the City.

David Kauffman said the City has taken a huge amount of money from this neighborhood and they should come up with the funds. Hilding noted that the City is improving E Second Street and putting in a bike path through that neighborhood. Phillips asked if they could do a special assessment, because this road is so unsafe.

Suzy Stagg said they have the concerns and yet they are about to vote yes. She didn't see how they could vote on it then they clearly need more information.

Vail said what the designers have put together is beautiful, but she isn't comfortable with it yet.

Ryan Mitchell said 15% of the total trips are calculated to go down Armory Road. He said developments move forward in phases – this will not be a fast process. He said they are talking a long time to get things going so he thinks there is time available. He said there is a need on Armory Road, but the development won't add traffic out here for quite a while.

Phillips asked if they could phase the project to the road improvements and Hilding said she doesn't get to help decide what gets funded. She said they can talk to the Bike/Ped Committee and

the City Manager about making this a higher priority, but they can't guarantee when it would happen. She didn't think that phasing would be possible. Planner Compton-Ring said it is ultimately the City Council's decision. Meckel said they've gotten out of their scope. He thinks they are micro-managing here, even if that wasn't Phillips' intent. He said the findings of fact in the staff report are what they have to base their decision on. Phillips said he would like to move this along to be fair to the community and the developer.

VOTE ON AMENDMENT

The amendment passed 5-1 with Meckel voting in opposition.

BOARD DISCUSSION

Meckel said he read the staff report and agrees with what it said. He believes the request is in compliance with the Growth Policy. He has sympathy with how they feel, but he thinks it deserves to pass.

Vail asked and Meckel said he didn't vote for the amendment because it was beyond their scope to dictate a percentage for the traffic study. It is a professional traffic study and one of their findings and he has to accept it. Netteberg said he has sympathy and empathy because he isn't happy about what is next door to him, but he can't do anything about it.

VOTE

The original motion, as amended, passed 5-1 with Vail voting in opposition. (Scheduled for City Council on August 19, 2013.)

HILLTOP PARTNERS, LLC PUD AND PRELIMINARY PLAT REQUEST

Rob Pero, on behalf of Hilltop Partners llc, is requesting a residential Planned Unit Development overlay and a Preliminary Plat in 6.125 acres on a Portion of Lot 2, Askew Subdivision in S12 T30N R22W. The development will consist of a 42-lot townhouse subdivision (21 townhouse buildings). (WPP 13-01/WPUD 13-03)

The applicant requested this project be postponed until a future meeting date.

RECESS

A 5-minute recess was called.

STAFF REPORT WPP 13-01/WPUD 13-03

Planner Compton-Ring reported that this item has been postponed at the request of the applicant.

NEW BUSINESS

None.

GOOD AND WELFARE

1. Matters from Board

Gunderson said the Whitefish Lakeshore Protection Committee is working on by-laws and where their authority comes for decisions. Netteberg said the Cemetery committee can't find a site that perks. They are adding urn storage out at the existing cemetery.

2. Matters from staff

June 3, 2013.)

COMMUNITY INFILL PARTNERS ZONE CHANGE AND WPUD REQUEST

A request by William MacDonald and Sean Averill, on behalf of Community Infill Partners llc, requesting a zoning map amendment to change the zoning designation at 100 Wild Rose Lane from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) and 1500 E 2nd Street from WA (Agriculture District) to WER (Estate Residential District) AND), and WPUD 10-01, a request for a residential Planned Unit Development overlay on 23.789 acres at 100 Wild Rose Lane and 1500 E 2nd Street

STAFF REPORTS WZC 13-01 AND WPUD 10-01

Senior Planner Compton-Ring combined the two items by Community Infill Partners, llc and reported that the first item is a zone change designation at 100 Wild Rose Lane from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) and 1500 E 2nd Street from WA (Agriculture District) to WER (Estate Residential District). The second request is for a residential Planned Unit Development overlay on 23.789 acres at 100 Wild Rose Lane and 1500 E 2nd Street. This is a continuation from the March Planning Board meeting. Not much has changed under the zone change. Both proposed changes are consistent with the underlying zoning. In the staff report, staff suggested re-zoning the properties to the west, but now staff has removed that based on public comments at the public hearing. She said if the PUD expiries staff has added a recommended condition of approval, stating that the zoning will revert from WR-2 back to WR-1. She said they received 15 letters and she had included them for the Board to review. At the public hearing 14 people spoke and 3 petitions were handed in. There were 77 folks who were opposed to the project. The Planning Board expressed concerns and those have been addressed by staff.

The applicant held a public meeting on April 24th and approximately 25 people were in attendance. The applicant created a revised site plan after hearing the concerns of the public and Planning Board. They updated the engineering report and traffic analysis. The revised plan now has 150 units and there is a loop road. Affordable Housing will be 15 units instead of 17 units. They are no longer asking for any exceptions to the sidewalk and street standards. The Public Works Department said the final design of E. 2nd Street would be handled by the City engineering team because of the topography. She said there is adequate open space and public trails. Instead of clubhouse they will not have an administrative office to handle the rentals. The applicant will provide the sewer and water easement as proposed in the previous application.

After the neighborhood meeting staff notified the neighbors and received 10 letters in opposition and those are in the packet. She said the revised site plan has all buildings outside the setback and

buffers. Some folks were concerned about storm water management and water quality. The project will be required to meet City standards for water management. The new plan has single-family homes along Second Street and they are set back from the road to match the character of the neighborhood. She said the multi-family buildings sit back about 240 feet and are buffered by single-family homes on E. Second Street. The new plan density has been reduced to 6.3 units/acre. Staff recommended 5 units/acre, but this new plan offers a much better transition from the single-family homes. The new road layout will be better for emergency access.

Planner Compton-Ring said the Planning Board asked for a more logical connection to the City's trail system and the Bike/Ped Committee reviewed the plan and made a unanimous recommendation for a 5-foot sidewalk and two crossings—one at Armory road and one at the furthest west edge of the property, so staff added those as a condition for approval. The single-family cottages and homes create better variety and options. Staff recommends a condition that the single-family homes and cottages go through ARC review for visual variety standards.

In the staff analysis of zoning deviations they concluded that single-family homes are now adjacent to single-family homes and it is more consistent. Staff recommends approval of both the zone change and CUP with 19 conditions.

Parking will be provided for the administrative building and the public who will use the trails. She said that a plan for installation of a crosswalk at Armory Road will be figured out with the Public Works Department.

Konopatzke asked if they can request a turn lane and Senior Planner Compton-Ring said the Public Works Director said no turn lane will be put in there. It doesn't have enough traffic volume to require a turn lane. Planner Compton-Ring said the right-of-way is very narrow on this road. Konopatzke said he is worried about a bottleneck effect. There will be increased traffic so he thinks the City needs to look at the improvements there. She said there will be some portions of the road that are wider, but it gets narrow as you go up the road. Konopatzke said the City's road improvements need to take into consideration any traffic flow. Compton-Ring said there will be a longer culvert so they can put in a sidewalk right along the street.

PUBLIC HEARING

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

Sean Averill said they have the same engineer who is working on East Second Street and they also asked for a turn lane, but it was

denied at this point. He thanked Planners Taylor and Compton-Ring for all of their work on this project. He said their goal was to reduce the impacts as much as possible. He said they read all the letters and tried to incorporate all the concerns they heard addressed.

Aaron Wallace, Montana Creative, with his associate, Scott Elden, said they addressed a lot of the concerns they heard expressed and they are excited about the new design. He gave a power point presentation showing the layout of the new proposal. He said the open space is larger than the City's Soroptomist Park and they hope to have a community garden and a play area for the residents. He said the multi-family units are somewhat hidden in the center of the development. They will be attractive 2-story structures that tie-in with the other residences. He said they identified a lot of the other multi-family complexes in town and it is dispersed throughout the community and adjacent to all types of residences.

Eric Mulcahy, Sands Surveying, said he is the land use planner. He addressed Growth Policy compliance, spot zoning and traffic. He said part of this property is zoned WR-1 and part is zoned WA and what they are proposing is compatible with the allowed zoning in the Growth Policy. He said spot zoning is defined by a difference of use; the requested use is a small area, and the premise that the change only benefits a few landowners at the expense of the general public. He said the W-ER is less dense than the W-LR zoning. He said their project sits on 23+ acres with 6.3 units/acre. Just to the West is the Hutchinson division to the west and it has 4.1 units/acre so this proposal is just slightly larger. He said they are proposing a PUD overlay and single family, two family and multi-family uses are allowed. The applicant has to provide something and they are proposing 69% open space and 10% of the lots also have to be considered affordable housing for a density bonus. They are requesting 33 additional units and 15 will be deeded as affordable housing in exchange for the density bonus. He said they did a traffic study with Bob Avalon and the impact study said 15% of the traffic will use Armory Road which has 1000 trips/day. This will produce 1,084 trips per day—so, 162 of those would use Armory Road. He said that would be about 12-15 extra vehicle trips per hour. He said every project has new traffic. The applicant has a large piece of vacant land within the City limits, so whatever they do will be have an impact. If they built a traditional neighborhood it would generate about 940 trips per day.

Will MacDonald, Community Infill Partners, agreed that there will be a traffic impact. The applicant is requiring $1000 for every condo that is sold to go into an Armory Road fund. He said that will be $38,000. He said many of the neighbors asked for a traffic sign and they are in support of it. He said they can mandate that their construction traffic stay off Armory Road, and they will do that. He

said Whitefish has no affordable living units, so this will meet a need. He talked to property management businesses and there is a definite need for these products.

Scott Eldon, Montana Creative, said they looked at their development options. They looked at a block and lot style to match the surrounding neighborhoods and it would provide 117 units and 351 bedrooms. He said their proposed project includes 1, 2 and a few 3-bedroom units and will provide 150 units and 255 bedrooms. Their project offers 69% open space versus only 30% with a block and lot style development. He said the multi-family structures will go before the ARC committee and that will preclude large monolith buildings.

Sean Averill said they need to be responsible with how they develop for the greater needs of the community in general.

Phillips commended the applicant for the new design. He suggested the block and lot style because it would have more of a neighborhood feel. He was concerned about the lack of privacy offered in the design. He said they could offer apartments over a garage to increase their number of units, but offer the block and lot design. It would be a better type of apartment to offer. He said he liked where the project was going.

RECESS

A 10-minute recess was called.

PUBLIC HEARING

Kate McMahon, 151 Wedgewood Lane, spoke as a resident and a professional planner. She said the revised plan is an improvement, but she still has some concerns. She submitted a copy of the soils map and said there are development limitations. She said the applicant did not include the suitability of soils in his proposal. She said there are limitations for buildings without basements. She said it should remain as WR-1 zoning. She said the original staff report said there might be a concern about spot zoning, and she agreed. She said the Growth Policy says infill development should be compatible with the existing neighborhood. She said the structural mass should respect the surrounding context and massing structure of the surrounding neighborhood. She said the 8 and 16 unit complexes do not meet the massing of the neighborhood. She said the traffic study did not address the impact or level of service on 2nd Street west of the development. She submitted a copy of the Transportation Plan which says the intersection on Pine Avenue and Second Street is already operating at the maximum level. The traffic study did not analyze whether the level of service will be impacted at this intersection. She asked that they deny the request from WR-1 to WR-2 and direct the applicant to redesign the massive structures.

Bob Horne, 151 Wedgewood Lane, said he is a planning consultant and has over 40 years of experience. He worked on the Growth Policy in 2006 and 2007 and that is why he can tell them the Growth Policy is not being used properly. It is intended to preserve the quality and character of existing neighborhoods, not to cater to those who may move in. He said they can't open one page of the Growth Policy and choose a designation. He said this is not an appropriate location. He said there is a high-density residential zone designation in the City's zoning. He said you want multi-family close to employment, schools and services. He said there is tremendous potential in areas already zoned for high-density. They agree that the product type is needed, but wonder why it hasn't been developed in areas already zoned for it. He doesn't remember anyone in the neighborhood saying that they wanted to see a lot and block design. He said he has heard people say they want to see it built to a bulk and scale that respects their existing neighborhoods. He suggested that they replace the large multi-family units with single family units. He said this proposal will create a spot zone because none of the neighbors want to re-zone from WR-1 to WR-2. He said the criteria for spot zoning states that it benefits one owner at the expense of the surrounding landowners. He sees no reason for public health, safety and welfare to change the zoning. He cautioned that it was possible that re-zoning the westerly 7 acres may constitute spot zoning. He said he said traffic engineers often forget to look at pedestrians. They analyze the road, but neglect to look at bicycle and pedestrian safety. He read an email from Rebecca Kauffman, who said this is not a family project. She said her brother, David, Jr., is the only one family member who is part of the project.

Velvet Phillips-Sullivan, 1637 E. Second Street said she was on the Council when David Kauffman brought a proposed zone change and the Council rejected it. The Growth Policy is a huge, community project. She voted against the zone change because it didn't respect the integrity of the neighborhood, and that still holds true today. She said she appreciates the protection of the trees, but she thinks the multi-family building is a con. It's hidden, but it doesn't mean it isn't a con. She asked them to consider all the time and input that went into the Growth Policy.

Susan Schnee, 1405 E. Second Street said her main concern, other than the density, is the traffic consideration. She said it is a blind spot, so it is a dangerous road to add additional density.

Suzy Stagg, 1306 E. 2nd Street, said she has lived there a long time, before other developments came in. She didn't oppose them because they made sense. She said density and traffic increases are a concern. She said the project doesn't fit the neighborhood.

Melinda Morrison, 170 Armory Road, said she attended the neighborhood meeting and appreciated the developer's attempts to create more single-family housing. She said this development is scheduled for several phases and the apartments will be built first. There is no guarantee that they will build the rest. She was concerned about spot-zoning and said it is their job to prevent it. She urged them to deny this request.

Jack Quatman, 150 John's Way, said they own a home in the donut and come with a different perspective. They are affected by what the City does, but they can't vote for those people. He said on the Planning Board, there are County representatives and they should represent the concerns of the donut people. He said at the last meeting there was a suggestion that the Armory Road people be included in public meetings, but they weren't invited to the neighborhood meeting. He said that this zone change was turned down in the past because it was not compatible with the neighborhood. He said the Traffic Impact Study (TIS) said there would be no significant impact on Armory Road, but he believes more than 15% of the applicants will use it because it is an easy escape from downtown stop-lights, students, schools and traffic. The County will complete an independent study by the end of May. He said Armory Road is only 24-feet wide, there are no sidewalks and there are deep ditches to handle water run-off. He said the County said they have no money to repair that road (past the Armory) and the City won't repair it because it isn't their road. He said the offer for $1000/condo comes to $38,000 and that will only pave a small portion of the road. He said they can't enforce construction trucks remaining off Armory Road. The Flathead County Bridge and Roads representative said that big trucks can't make the turn at Second Street and Spokane Avenue, so no matter what they say the trucks will probably use Armory Road. He said if they approve this project there is no way to mitigate the construction traffic impact. He said there will be a lot of impact to City services and schools. He urged them to deny this project.

Sarah Fitzgerald, 148 Wedgewood Lane, said they purchased this property recently and she diligently researched the planning documents. She said she relies on the Board to protect her interests and comply with the existing planning documents. She said she is giving 1,700 feet of her land to build a bike path and in return they will destroy her land value. She asked them to deny the change.

Chris Bernat, 119 Wedgewood Lane, spoke in opposition of the project and said it was too dense. She said a dense project will destroy the character of the community.

Scott Brant, 1658 Second Street East, said he supports may of the statements regarding the change of zoning. He is most concerned

about the number of cars that will enter onto Second Street every day. He said 150 units means at least 300 cars and more likely it would be 400 cars. He said they are proposing 100's of vehicles pulling out at the base of the dangerous, slippery Second Street hill. He said they can't have a stop sign at the bottom of Second Street, especially in the winter. He asked them to have the developers re-consider this design.

Mick Holmes, 170 John's Way, said he also lives in the donut. He presented a petition from neighbors and walkers who are in opposition. He said the traffic impact is huge. This project is not in character with the neighborhood. He recommended opposing this proposal.

Ted Tveit, 156 Armory Road, said he has lived their 70 years. He has no problem with Willow Brook, and it would be fine if this design was like Willow Brooks, but he cannot support big, massive apartments. He said kids who go to Muldown will come through Willow Brook and cut across his property to get home. He would appreciate if they denied this proposal.

Nancy Tighe, 1319 E. Second Street, said she watches the traffic on Second Street and too many pedestrians and bikers don't use the bike path. She asked them to consider everyone's health and safety.

Phyllis Quatman, 150 John's Way, said this is the Whitefish City County Planning Board and they represent a community. She said people are upset because they weren't consulted, especially those who are in the donut. She said there is a compromise possible here. She said it undermined people's confidence when they heard the Board and staff comments that make it seem like this project came in the back door. She asked them to hold a community meeting and to take their input.

Sharon Wood, 100 Armory Road, said they built in 2007 and are right across from this development. She said they wanted to retire here, but they are now re-considering. She said they are opposed to this project and she asked them to re-consider.

Dave Bennetts, 1489 E. 2nd Street, said he isn't opposed to the property being developed, but he would ask that it be re-designed with single family homes. He agreed with a lot of the other comments and asked them to deny.

JD Hughes, 5015 Second Street East, said if he owned the property he'd want to get what he could get out of it, too. He asked them who they are representing and what kind of town they want. He is sure there are other proposals. He thought it would be good to put the cemetery out there. He would like to check out their track record

and put up a bond that it will be developed with a far better plan and more details. He said the real question is what type of town they want here. He asked them to look at a bigger picture. He thanked them for their time and service. He asked them for a much more detailed plan for this project. He'd like to see Kauffman's get a fair deal, but he asked them to dig deep into their conscience on this.

Steve Sullivan, 1637 Second Street, said he had to laugh when someone suggested a stop down at the bottom of the hill on Second Street. He said no one from the neighborhood is excited about this project. He said the developers are hired to tell them that there will be minimal impact, but that's not true. He asked them to reject this plan. It is too darn big.

David Scott, 130 Armory Road, agreed with his neighbors. He has a lot of young professional friends who need homes, but they want a yard and single-family homes.

Bill Flint, 1323 E. Second Street, said he walks across that field and along the tracks and it can be very wet. He questioned the drainage on this property. He said the applicant said there is high density in other areas of the town, but there is limited access to this proposed development so it will put a lot of traffic on Second Street and Armory Avenue. He said most people want a single-family home in a residential area. He said if they build the large apartment complexes first, and then they don't fill, what will happen and what will the City do.

Mike Downey, said he lives off Armory Road, and has concerns about over-development, transient populations, strains on City services, loss of habitat, and excess traffic. He said there needs to be a safety analysis. The developer should have to notify people further than 150 feet beyond the development. He said there are concerns about the start and completion dates of the project. He said after they approve projects he wondered if the Planning Board every looked back at it and thought they should have looked at it more carefully. He said KCFW said this project was already approved. He asked if there were any people in favor of this project.

Ross Pickert, 1035 Park Avenue, said he has family who lives on Second Street. He said this doesn't match the zoning and he questioned whether they should allow a PUD. He said the Growth Policy needs to be respected.

Scott Bates, 155 Armory Road, said he is a retired forester and has a soft spot for wildlife. There is a lot of wildlife in this open field and people moved here to avoid the urban density.

Anita Flint, 1323 E. Second Street, said Willow Brook is beautiful

and maybe they should look at that design. She is opposed to multi-family dwellings.

Sybil Hughes, 2nd and Armory Road, concurred with what was said tonight. She said they don't like traffic congestion so that is why they moved back to Whitefish. She said it is important for the government to enforce laws. High density creates large problems.

Ryan Kann, 120 Birch Drive, spoke in opposition to the project, especially due to the density. He said this project doesn't work well with this neighborhood.

Rebecca Norton, 530 Scott Avenue, said no one has spoken in favor of this project. She asked them to re-visit it. She has never liked spot zoning or PUDs because it affects people who have invested in a neighborhood. She asked them to turn this proposal down and keep working on it.

Kelly Davidson, 585 Armory Road, said she lives in the donut. She has faith in the elected officials, but she worries about this project. She is worried about the effect on the community as a whole. The cons are greater than the pros listed in the staff report. She said they don't need something this dense. It would be a sad day for one person to get what they want over the needs of everyone else in the community.

David Kauffman, 100 Wild Rose Lane, said he lives in the donut and feels their pain. He said if he hadn't purchased this property in the late 1980's it would already be developed. It would look similar to Willow Brook. He bought the property to preserve the neighborhood and he remembers when there were no homes up there. He didn't expect to be penalized when he chose to develop the property. He said there is only one road that comes out of the high density area on Wisconsin Avenue. He said he appreciates all the perspectives, but those who leapfrogged out further down the road don't want to see his property change. He said this development group has done a great job of showing that what they're trying to do is more efficient than if it was a conventional development. He said 10 years ago the City forcibly annexed this property against many protests. If they weren't annexed he would understand if they didn't want infill, but he thinks they are entitled to infill. The City raised their taxes, but didn't provide any services. Now, he'd like to provide in-fill. He said he is the sole owner of this property. He said if they check the court records, his sisters sued his parent's 10 years ago and received a large sum of money, but don't contribute to his parent's support at all. He said if this had been developed earlier then this wouldn't be an issue. The houses would already be there. He said he maintained the neighborhood for 20 years, but he feels he is entitled to fair market value for this property

today.

Netteberg asked Kauffman and he said this property gets hayed every year.

Netteberg asked if the applicant was amenable to changes and Sean Averill said they are talking about breaking up the massing of the multi-family units.

PUBLIC HEARING

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

RECESS

A 10-minute recess was called.

BOARD DISCUSSION

Netteberg said they are an advisory board. They are appointed and accept the challenge to represent the entire community, including the donut. He is dedicated to giving back to his community. A nerve was touched when someone asked, "What kind of a town do we want to live in?" He said he has been called hostile and told he doesn't care for this town. His family has 5-generations in Whitefish. He said he cares about his community. He cares about their concerns, but he also cares about the concerns of people on the other side of town where they want to send a high-density development. He said they are thinking about what will be. He said someone asked who wants to live in these apartments and he said maybe his grandson will, because it is all they can afford.

Meckel asked if there was a way to condition the project that the houses on the outer perimeter are built first and Planner Compton-Ring said a lot of the phasing has to do with the phasing of the infrastructure. She said the current phasing shows that there will be single family houses on the front and then the project will move to the back.

Phillips said someone made a comment about back door politics. He said his comments come from his own experience. He hasn't talked to anyone on the development team. He supports 5-5.2 units/acre and that is equivalent to the density if they built single family houses. This would make it a more viable project. He said the developers have to finish the project or they won't make any money on it. He would support 5-5.2 units/acre. He sees the win-win. He agrees with the public that this style of apartments creates more crime. He likes where it is going, but isn't ready to support it as it is right now.

Konopatzke said he hears the public expressing concerns about traffic on Second Street. He said whether this project goes or doesn't go, there will be increased traffic on Second Street. He said the Council needs to task the City engineer with improving Second Street regardless of any development. He said he is in favor of this

development. The City needs affordable housing and the Council needs to decide whether they will walk their talk. He said they need to improve traffic flow and improve these streets. Blake said he likes that the developers took what they heard and worked on it. Blake said he is a big advocate of the donut. He said they have a catch-22. The City wants in-fill, but the neighborhood wants to punish the landowner for following the City rules. He said the truck traffic will be a problem for the donut people on Armory Road. He said Kauffman protected that property 20 years ago and now he is being penalized. He said Whitefish has sued the donut twice in the past 5 years and now the donut people are feeling the impact of a property owner wanting to develop his property according to City standards.

MOTION

Blake moved and Phillips seconded to table staff reports WZC 13-01, for Community Infill Partners llc, who are requesting a zoning map amendment to change the zoning designation at 100 Wild Rose Lane from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) and 1500 E 2nd Street from WA (Agriculture District) to WER (Estate Residential District), and WPUD 10-01, a request for a residential Planned Unit Development overlay on 23.789 acres at 100 Wild Rose Lane and 1500 E 2nd Street, for 60 days.

BOARD DISCUSSION

Netteberg said someone said it would be nice to build another Willow Brook, but current standards wouldn't allow it. Netteberg asked what the taxes will be on that land when it is built out. The applicant said taxes will be $150,000-200,000/year. Netteberg said that is significant. Netteberg said they appreciate that the public has faith in them, and likewise, they have a lot of faith in their City planners. He said someone asked what they will gain, but they will gain growth. He said Lin Akey even said, "They need to grow." The City needs to grow or it will stagnate. Netteberg addressed the issue of the cemetery suggestion and said the City can't afford the property for the cemetery. Netteberg said the word, "developer," is not a dirty word.

Konopatzke asked and Phillips suggested they nix the complexes and come back with smaller units so it feels like a residential neighborhood. Phillips said the Board can't mandate design.

VOTE

The motion to table passed 5-1 with Konopatzke voting in opposition. (Scheduled for City Council on June 3, 2013.)

NEW BUSINESS

Work Session on Sign Code (continued from April 2013)

Konopatzke said the Sign Ordinance has been worked on and there have been some bumps in the road. He said it is important to see where they have the issues. He said if they get input from the

support that request.

Staff finds that the conditions for granting relief from the code set forth in Section 12-2-5C are met or are not pertinent. Staff recommended the Board adopt the findings contained in staff report WSV 13-01 and recommend to the Whitefish City Council that the variance for Northern Light West, Phase 2 be granted subject to 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.

Meckel asked and Planner Compton-Ring said there have not been any significant design changes.

PUBLIC HEARING

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

Dan Graves, Winter Sports, Inc. said this 10 lot subdivision is a vital asset to the resort and the delay is because of the economic climate. He said single family lot homes are the hardest hit. He said Phase 1 was 18 lots, approved in 2007 and they have only sold two of those lots so far. He said Elk Highlands adjoins them and is in similar situation. He said WSI has spent the last 10 years digging out of debt caused largely by real estate issues. He said they need to spend money on visitor amenities and upgrades. He said this land is still a valuable asset to the company. He said they have 500 employees who provide good quality service to their customers and they want to keep bringing in customers and be able to keep their employees.

PUBLIC HEARING

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

MOTION

Meckel moved and Vail seconded to adopt staff report WZV 13-01as findings-of-fact and recommend to the Whitefish City Council to approve the Whitefish Mountain Resort variance request 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 the conditions in the staff report.

VOTE

The motion passed unanimously. (Scheduled for City Council on April 15, 2013.)

COMMUNITY INFILL

William MacDonald and Sean Averill, on behalf of Community Infill

PARTNERS, LLC ZONING MAP AMENDMENT REQUEST

Partners llc, are requesting a zoning map amendment to change the zoning designation at 100 Wild Rose Lane from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) and 1500 E 2nd Street from WA (Agriculture District) to WER (Estate Residential District).

STAFF REPORT WZC 13-01

Senior Planner Compton-Ring reported that Community Infill has two items tonight, one request for a rezone and one for a PUD and with the Board's approval she presented them together. She said that the applicant is requesting a zone change on three parcels. One parcel (Tract 1K) is proposed to be rezoned lot from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District). The other two parcels (Tracts 1D and 1DA) are proposed to be rezoned from WA (Agricultural District) to WER (Estate Residential District). All three parcels front on E 2nd Street and are located within the city limits. The purpose of rezoning the properties is to facilitate the proposed Planned Unit Development (WPUD 13-01) to develop a multi-family project. The PUD application accompanies the rezone request.

Purpose of WR-2: The WR-2 district is intended for residential purposes to provide for one-family and two-family homes in an urban setting connected to all municipal utilities and services.

The properties are currently being used for two single family homes and some agricultural purpose. There are three properties – one is zoned WR-1 and two are zoned WA. The Growth Policy identifies the westerly parcel as Urban Residential and the two easterly parcels as Suburban Residential.

The applicant is proposing a Planned Unit Development to overlay three existing parcels on E 2nd Street. The application, once the rezoning is complete, will blend the densities of the two zoning designations (WR-2 and WER) across the entire 23 acres. The applicant is proposing 164 apartments in 17 buildings, nine condominiums in three buildings and one single family home. The existing home off Wild Rose Lane will be retained as the one single family home and the other existing single family home fronting onto E 2nd Street will be removed with the project. The overall density of the project is 7.3 dwelling units per acre.

The units will mostly be served by internal private driveways with surface parking and carports. An extension of Armory Road will be developed as a new public right-of-way into this project. The public right-of-way will enter the property, go north and then turn to the east property line in order to serve future development to the east. The applicant is proposing an 8-foot sidewalk on one side of the road.

The project has approximately 71% open space areas throughout the

development. Buildings are clustered in a manner to protect large areas of open space. There are a series of pedestrian trails throughout the development connecting the buildings to each other and to the public streets. The applicant is also proposing a club house, community garden, children's play equipment and other outdoor amenities.

The applicant is taking advantage of density bonuses by providing an affordable housing component. Ten percent of the project will be deed restricted rental units for moderate income families. The applicant has entered into a Letter of Intent with the Whitefish Housing Authority to manage the 17 units.

Finally, the applicant is providing both a sewer and a water easement from E 2nd Street to the north edge of their property. The city has planned for a number of years to extend a sewer main along Cow Creek and under the BNSF tracks in order to gravity flow wastewater for a large portion of the city north of the tracks. In addition, the applicant is proposing to provide a water easement through the center of the project in the event the city should want to loop the water system.

Zoning Deviations. The PUD request includes the following zoning deviations:

- Density Increase and Blending the Density across the Project. The PUD chapter permits an applicant to increase the density provided a minimum 10% of the project is set aside for affordable housing meeting the needs for 'moderate income' families. (§11-2S-3B) The purpose of the PUD permits flexibility in development design, including the blending of the densities across a project if it results in a better design. (§11-2S-1)
- Type of Housing. While the purpose and intent of the WR-2 and WER require single family (or two-family in the case of the WR-2), the PUD chapter permits a variety of residential uses including multi-family. (§11-2S-2)
- Off-Street Parking. The applicant is proposing 2.22 parking spaces per unit where the standard is 2.33 spaces per multi-family unit. (§11-6-2A) Overall the parking provided is 387 spaces where the standard would require 414 spaces.
- Roads. The applicant is proposing private streets to serve the apartments. Along the public right-of-way, they are proposing an 8-foot path on one side of the road as opposed to sidewalks on both sides. (Engineering Standards, Section 8, Streets)
- Pedestrian Ways. In lieu of constructing sidewalks along the private streets, the applicant is proposing a series of paths that loop throughout the project and connect the buildings to each other and the public rights-of-way.

- Drainage. The applicant is proposing a Low Impact Development approach to stormwater by not including curb and gutter. They are proposing to use swales and depressions and detention areas to treat and convey stormwater.

Benefits Provided. In exchange for the above described zoning deviations, the applicant is providing the following benefits:

- Affordable Housing for Whitefish Housing Authority management – 17 rental units
- Sewer Easement from E 2nd Street to north edge of property
- Water Easement from E 2nd Street to north edge of property
- Extension and construction of 60-foot public right-of-way

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on March 1, 2013. A notice was mailed to advisory agencies on March 1, 2013. A notice was published in the *Whitefish Pilot* on March 6, 2013. Six letters have been received and are attached as exhibits. Three are in support of the project and three are opposed to the project and have the following concerns:

- Project is not consistent with the primarily single family residential neighborhood
- Don't accept project just to get affordable housing
- Water quality in Cow Creek
- Noise
- Traffic
- Other areas of town are identified for high density residential
- Recognize adjacent agricultural uses
- Garbage
- Ongoing maintenance of the project

This request is reviewed in accordance with the Whitefish City-County Growth Policy and the City of Whitefish Zoning Regulations.

<u>Title 11, Chapter 2 – Zoning Districts:</u>
The property is proposed to be zoned WR-2 (Two-Family Residential District) and WER (Estate Residential District). The WR-2 district is intended for residential purposes to provide for one-family and two-family homes in an urban setting connected to all municipal utilities and services. The WER district is a residential district intended to provide for single-family, large tract or estate development. These areas will typically be found in suburban areas, generally serviced by municipal sewer and water lines.

The Planned Unit Development district is intended to encourage flexible land use development by allowing development based upon a comprehensive, integrated and detailed plan rather than upon

specific requirements applicable on a lot by lot basis. The development, according to the Purpose and Intent of the PUD chapter, provides the following benefits, as applicable:

A. Preserve and/or enhance environmentally sensitive areas of the site. Cow Creek runs along western property boundary of Tract 1K. In addition, there are wetlands associated with the creek. The applicant is proposing to protect the stream and associated wetlands with buffers and setbacks that meet the Water Quality Protection (WQP) regulations. The buffer required is 125-feet for multi-family and 100-feet for single family residential. (§11-3-29C(1)) Most of the proposed buildings are outside the buffer with the exception of one portion of one of the multi-family buildings. It would appear from the submitted site plan that there is adequate space to move the building outside the buffer and setback. Staff will recommend this condition. Also, nearly the entire existing home is within the buffer. Within the WQP regulations, one is able to average the buffer across the project. This means that the buffer can be narrower in some areas provided it is larger in other areas so the overall buffer square footage remains the same and the buffer is no less than 50% of the standard buffer in the reduced locations. (§11-3-29C(5)) There appears to be adequate space for this to occur. Within the buffer they are proposing to construct a pedestrian trail, which is permitted through the WQP. Staff proposes the details of the buffer averaging and the trail construction be a condition of approval. Staff also recommends the trail be constructed of asphalt and not dirt or gravel in order to prevent erosion. There are buildings within 200-feet of water, but the slopes do not appear to exceed 10%. This will be verified at the building permit. If a building within 200-feet of water is constructed on a slope of 10% or more, a geotechnical letter will need to be supplied along with the building permit.

The eastern portion of the property slopes up toward the east and the far eastern third of the lot is forested. Healthy trees outside the building footprint, parking and drive lanes will be retained.

B. Preserve crucial wildlife habitat and/or daily or seasonal migration corridors. There are no mapped crucial wildlife habitat and/or daily or seasonal migration corridors on this site. It is likely that deer and other animals travel through the property to and from Cow Creek. The preservation of buffers and other open area helps to maintain these patterns.

C. Provide usable open space. According to the application, there is 70% of the property left in open space. Throughout the open space, there are pedestrian trails that connect the buildings to each other and to the city's trail system. The applicant is also proposing a club house, community garden, volleyball courts, children's play equipment and a series of 'outdoor nodes' that include benches and barbeques. The remainder of the open space will be left in a natural state to maintain its rural appearance near the center of the project and a number of trees will be retained toward the east of the project in order to retain its wooded appearance. Staff will recommend phasing open space amenities to maintain usability of the open space as the project is being constructed.

D. Preserve and protect the character and qualities of existing neighborhoods. By clustering the buildings, significant open space areas are being protected – especially along Cow Creek and associated wetlands and the wooded areas. The design of the buildings lend to a rural feel of the project. The integration of bike paths into the design of the project will complement the existing and proposed city paths.

While the applicant is attempting to integrate the project into the neighborhood, the reality is that the neighborhood is predominately single family and the project is at the maximum density allowed using the affordable housing density bonus. The PUD chapter does permit attached multi-family, but it may not be appropriate in all areas. The Planning Board and Council will need to determine if this level of density and residential type is appropriate for this area.

E. Make efficient use of infill property. The project is surrounded by urban and suburban-scale development. The project is served by a public right-of-way and all public services and facilities are available for the project. It is within walking distance to the schools, town and city trails/parks. One could make a case that maximizing the unit count in the development is making efficient use of infill property.

F. Provide effective buffers or transition between potentially incompatible uses of land. As described earlier in this report, the predominate land use in this neighborhood is single family detached units. There are a few multi-family units scattered in the near vicinity, but not immediately nearby. The project is buffered to the west by Cow Creek and the require Water Quality Protection buffers and setbacks. Development is setback nearly 195-feet from the

west property line. The buildings along E 2nd Street are setback approximately 50-feet from the edge of the right-of-way. Buildings along the east are setback 15-feet, which is the underlying zoning side yard setback. Throughout the development, there are a number of trees proposed to be retained in order to maintain the wooded appearance of the project and buffer it from adjoining properties. This includes wooded areas along E 2nd Street and to the east and north.

This is a fairly subjective standard. It would appear that the buffer along the west, the tree retention and the topography of the site are adequately buffering the project from incompatible uses. In order to better buffer the development from the south, staff recommends landscaping be installed along E 2nd Street and the setback along E 2nd Street be increased. However, another method of transitioning could be to reduce the density of the project overall, adjacent to areas of predominately single family uses or from the Suburban land use to the Urban land use. The applicant has not chosen to use this method. Staff would recommend the overall density of the project be reduced, as a better transition between the WLR zoning (3 dwelling units per acre) to the more urban designation to the west of nearly 7 dwelling units per acre. The Planning Board could certainly consider this as a design option to fulfill this requirement.

G. Facilitate street continuity and connectivity, and attractive high quality streetscapes. The project includes an extension of the Armory Road right-of-way. The public right-of-way will enter the property, go north and then turn to the east property line in order to serve future development to the east. They are proposing an 8-foot shared bike path/sidewalk in lieu of sidewalks on both sides of the road. This new road extension will provide additional street connectivity for future development of property to the east in an area that lacks a grid system. The Public Works Director said this hasn't gone through final review and modifications may be required. As this is a public right-of-way, staff is not in support of this variance request and staff has an expectation that the road will be built to all city standards including a sidewalk on both sides of the street, street lights, street trees and a landscaped boulevard.

The other accesses are dead-end private streets with surface parking and carports. These private roads do not connect with one another. Staff will recommend that the middle drive connect with the western drive in order to provide additional connectivity and better emergency access. In addition staff will recommend that a connection between the

eastern pod of development and the middle drive be explored. There is a significant elevation drop as one goes from the east of the property to the west and there may not be a way to connect these two areas and meet the required maximum slope for streets, but staff would like the applicant to explore this option with the public works and fire departments.

In order to further provide connectivity of the project and emergency access, staff recommends the private roads within the development be connected. Because of the possibility of future expansion, Armory Road shall be designed to meet all city standards including sidewalks on both sides.

H. Provide pedestrian and bicycle facilities and encourage transportation alternatives. The proposed trail system within the project connects all the buildings to the main roads and to E 2nd Street, which has a trail/sidewalk system connecting to the schools and other areas of town. The city intends to rebuild E 2nd Street from Cow Creek east to the train tracks during 2013-14. The reconstruction will include a pedestrian/bike path on the south side of E 2nd Street to the Armory Park facilities. (See Attached Exhibit 3) The 2nd Street Apartments are well suited to take advantage of these improvements to connect it to Armory Park to the east. As part of this project, the city needs to obtain utility and temporary construction easements to facilitate its reconstruction. Staff will recommend these as part of the conditions of approval.

The site plan shows a trail crossing mid-block near the existing Wild Rose Lane. Staff will recommend a condition that this crossing be moved to the intersection of E 2nd Street and Armory Road, as a better, safer location.

The applicant is extending Armory Road into the project and is proposing an 8-foot sidewalk on one side. Staff is not in support of this variance request and recommends the road be designed with the standard street section with sidewalks on both sides of the street.

The project is providing trails throughout the project that also connect to the city's trail system in order to encourage alternative modes of transportation. The project is located near schools, parks, city trails/sidewalks and downtown. Staff finds the project is providing pedestrian and bicycle facilities in order to encourage transportation alternatives. E 2nd Street is being rebuilt during 2013-14 and this project will benefit from these improvements. The city needs

additional easements along the frontage of this project in order to facilitate the redevelopment of E 2nd Street.

I. Provide affordable housing. In order to get the density bonus, a minimum of 10% of the project is required to be set aside meeting the needs for 'moderate income' families. The applicant has entered into a Letter of Intent with the Whitefish Housing Authority to manage 17 rental apartments. The Letter has stipulated that 10% of the housing will occur in each phase and they will be a combination of one, two and three bedroom units. Staff will further condition the project that at least one type of apartment (one, two or three bedroom) will be set aside per phase and no more than one unit per building will be designated per phase. The purpose of these conditions are to ensure that a variety of product-type will be available for the Whitefish Housing Authority and that they will be spread throughout the development.

J. Provide a variety of residential product type while avoiding a monotonous and institutional appearance. The project is providing four different building types: 4-plex, 8-plex and 16-plex apartment buildings and tri-plex condos. There is also one single family house that will remain. The applicant will be required to obtain Architectural Review for all the buildings and show how their proposal meets the above-described criterion.

K. The Growth Policy designates Tract 1K as Urban and the proposed WR-2 zoning is consistent with this designation. The Growth Policy description for this designation describes a residential designation that defines the traditional neighborhoods near downtown Whitefish. Residential unit types are mostly one and two-family, but townhomes and lower density apartments and condominiums are also acceptable in appropriate locations using the PUD. Densities generally range from 2 to 12 units per acre. Zoning includes WLR, WR-1, andWR-2.

The project complies with the Whitefish City-County Growth Policy. Both the Urban and Suburban land use designations recognize higher densities and the use of multi-family residential product-types through the use of the PUD, especially when coupled with clustering and open space preservation. The Growth Policy supports infill development before expansion of urban boundaries, supports non-motorized transportation and providing affordable housing.

Staff has concerns with the overall density of the project. As the application shows, the maximum number of units is being proposed for the property. While this may be acceptable in certain areas of town, this area is predominately single family with a more suburban density. At the same time, this property is very close to the schools, parks and the downtown. There are not a lot of areas located as close to these facilities available for development as this one. The other areas zoned for High Density development are either located too far from the schools and downtown or are already developed. These areas include: south of the high school, adjacent to the post office, north of the viaduct and adjacent to the hospital. High density areas should be placed near the core of town with ample opportunity to use alternative modes of transportation, close to schools – so this may be an ideal location for this type of use, but it certainly is a controversial location. Also, the project is developing property within the city limits with access to public services and facilities as opposed to expanding into valuable rural areas. Through the development of the Growth Policy the public overwhelmingly favored infill projects over expanding the city's urban boundaries.

The Planning Board needs to weigh the pros and cons of the project – on one hand the applicant will be providing benefits to further the goals of the city including affordable housing, the extension of utilities and a much needed right-of-way to further the development of a better transportation circulation system on the north side of E 2nd Street. On the other hand, the density is great and the use vastly different than the immediate neighborhood.

Staff believes it would be fair to discuss the matter of density and make a recommendation to the Council to reduce the overall density of the project. This would enable to the benefits of the project to move forward and allow the project to better fit into the neighborhood. Staff recommends a density of no greater than 5 dwelling units per acre as a better transition between the Suburban zoning of 3 dwelling units per acre to the east to the more Urban designation of up to 7 dwelling units per acre to the west. Staff would recommend no more than 5 units/acre and it would fit between the other designations that allow 3 or 7 dwelling units per acre.

Type of Housing.

As described earlier in this report, the PUD permits one to request attached multi-family as a product type. With a reduced density and larger setbacks and buffering, perhaps this product type will fit better into a neighborhood that is predominately single family.

Off-Street Parking.

The zoning requires 2 parking spaces per unit plus one space for every three units for guest parking. This would require 414 parking spaces. The applicant is proposing 387 parking spaces which equates to approximately 2.22 parking spaces per unit. Staff is not concerned with this particular request, as it is fairly close to the zoning standard. Staff is, however, concerned with the lack of parking for the proposed club house, children's play area and community garden. Staff recommends parking be installed for these facilities and perhaps the parking can be shared between the uses.

Staff recommends approval subject to the conditions in the staff report.

PUBLIC HEARING

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

Will McDonald, said he and his partner Sean Averill are here for their project on Second Street. There is a shortage of rental housing in Whitefish, especially affordable housing. The intent is to keep the Whitefish work force in the City. He said he knows of successful professionals who cannot find a place to live. He said they are going to provide quality housing and leave a lot of open space. This project is the best development option; they will leave fields and views. He presented a slide show of the project. He said there is not a good supply of rental housing in Whitefish. There is a need for family, young professional, work force and affordable housing. This project will generate about 75 jobs and a tax base of $250,000 that will be put back into the community.

Scott Elden, 444 O'Brien, Montana Creative, said he and Aaron Wallace, the other designer feel a great sense of responsibility for developing this spot. He said he lived in this neighborhood and most of the homes in that neighborhood are rentals. He said the idea of infill with rentals is a good idea. He said the condo units are 130 feet back from the roadway. They clustered the housing to maintain three north/south corridors. The other option would be to have 60-80 single family homes with individual driveways and lots. They looked at Orchard Gardens in Missoula and a place in Minnesota to get ideas and they used elements from those designs to achieve a lot of open space. One section, 5.5 acres, is being considered for a conservation easement. He said they want to respectfully keep the view corridor as best they can. He said they have three sizes of buildings which creates an interesting buildingscape. The larger structures are to the back of the property so there is no massive structure on Second Street. He said the conditions in the staff report are amenable to the applicants. He said the developers want to offer mixed housing opportunities within each building to create 177 units. They could reduce the density and retain the same number of

bedrooms, but after talking with the Housing Authority they decided to keep the variety of options.

Will McDonald said 5.5 acres will be a public park. There is a 2 acre viewing area that is a park and 2.6 acre lot up in the trees will be parkland. He said the sewer system will be over $800,000 and this development will share that cost with the City. There is a City water easement on the property in case the City can extend under the railroad tracks in the future. The trail systems links into the City's trail system and will be open to the public. He said they have a road that will swing onto E. Second street and will alleviate some of the traffic issue concerns.

Eric Mulcahy, Sands Surveying, said Planner Compton-Ring did an excellent job explaining the zoning and existing Growth Policy designation. There proposed zoning is in compliance with the Growth Policy and that determined the amount of density they proposed.

Sean Averill said they are fine with the conditions staff proposed. He said the density mix serves the needs of the community. Whitefish needs affordable housing and density is the key. It is expensive and so far no one has provided that yet in Whitefish. You can lower the density, but increase the massing. Apartment density is different than suburban density. Multi-family apartment projects with clustered development can help with in-fill needs in Whitefish. He showed 57 units and 42 units in similar sized chunks on the map of surrounding residential communities. He said just because it is affordable housing doesn't mean it has to be cheap or something the neighbors need to worry about. They feel this is a model for future communities. It is growth that fits the community. It is a cluster community with open space. That meets the needs for workforce housing, affordable housing, young professional housing and family housing.

PUBLIC HEARING

Paul McElroy, 945 Colorado Avenue, said he has two adult kids who would like to live and stay in Whitefish, but it is difficult to find quality housing. He said he thinks these guys will do a good project.

Sue Ann Grogan, Whitefish Housing Authority, spoke in favor of the affordable housing portion of the neighborhood. She thanked the developers for their interest in keeping affordable rentals in the neighborhood. She said the developer could have made a payment in lieu of units. This is close to schools and downtown, so this is a good fit for affordable housing. The housing stock in Whitefish is limited and studies cite a need for low income rentals. Current lower income individuals are paying more than 30% of their income in rent. She said there are very few new rentals for the income

levels WHA serves. She said the WHA supports the creation of new, affordable housing units.

Dave Kauffman, said he grew up at 100 Wild Rose Lane. His folks purchased that house in 1962 and it has changed much in 70 years. In 1989 he purchased the adjacent property and his motivation was to preserve the neighborhood. He didn't want to see the neighborhood get slice and diced. He knew it would have to get developed down the road. He said over the years he has considered what kind of development should go here. He wanted it to be developed without changing the flavor of the neighborhood. He said traditional, single family dwellings would change the nature of the neighborhood. This is good infill. He said there was one letter than questioned his participation. He said he is just the property owner who will be selling the property. Over all the years that he has lived there and provided the viewscape he's never had anyone offer to pay for taxes and maintenance. He said everyone has opinions but they're not willing to back it up with their wallet.

Bob Horne, urban planning consultant, said he submitted a petition signed by 41 people on behalf of Wedgewood Lane and Second Street neighborhoods. He said he spoke with dozens of people and not one person said that property should not be developed. People want it to be something they could welcome into the neighborhood. He asked them to consider that this development does not comply with the zoning. He said the zoning is used to justify 173 apartment units which is not consistent with suburban residential. He said there is a guide in the land use section which says SR is for lower density, predominately single family. He said affordable housing may be needed, but there are other affordable types they might need more. He read from the affordable need report which indicates 88% of the respondents preferred small, single family homes under 1200 square feet. He said if they need more apartments there are other locations that are more appropriate because they are closer to shopping and employment. Staff has asked for consolidated zoning on E 2nd Street. He suggested they leave the property to the west WR1 and part of this property WR2. This would lower the allowed density to 104 units instead of 175. He said there are other scenarios. He said WR2 zoning to the east will have drainage issues.

Melinda Morrison, 170 Armory Road, spoke in opposition. She said they have lived there for 10 years, renting for the first three years. She said they like the rural nature of the neighborhood. Armory is very narrow and there are no sidewalks. Traffic goes slow and people stop and talk. She said adding this many apartments will impact the traffic. Her husband asked the traffic guard at Central School about traffic on Second Street and she was surprised at the idea because traffic is already intense. She said Cow Creek flows

through their backyard and she is concerned about the health of the creek. They don't know who will own or maintain the apartments. She doesn't have a good feeling about the developer's prior actions on Wisconsin Avenue. She and her husband aren't opposed to the property being developed, but they are opposed to it being developed like this. This is a suburban, rural neighborhood. It doesn't achieve the standards of good planning. The staff suggestion to reduce the density still allows 115 units and that is too dense. She said they submitted a petition of the overwhelming number of people in the neighborhood in opposition.

Jack Quatman, said they live on Armory Road, in the donut. He said they own 5 acres and it is an area that is zoned for 20 acres. They wanted to split off one acre so their daughter can move out there, but they were told no because it didn't match the nature of the neighborhood, but now there is this proposal. He said there will be over 300 cars in this unit. Construction traffic will come down Armory Road and it will affect the safety of the passenger traffic that uses it. He said because they are in the donut they have no voice. He said the traffic engineer didn't look beyond the boundaries of the City and ignoring the donut will keep the City in litigation. He said the staff report was warped and he asked them to give them a voice, hear what they have to say, and turn down the project.

Steve Thompson, 5 Fir Avenue, said he supports what Bob Horne said. He said this level of density is out of character with the neighborhood. He said it is a good place for development, but he doesn't like this sort of development. He said his property would be subject to re-zoning, and according to page 6 staff talked to neighbors on Fir Avenue, but he and his neighbors just found out about the proposed change today. He said his property can't connect onto City sewer. He thinks they can do something more in keeping with the character of the neighborhood.

Steve Lorch, 168 Armory Road, said he is a land use planner by profession and he was surprised to find out that land that is designated as suburban could be rezoned from AG to Estate Residential. To have it developed at apartments at twice the density in the underlying zone was surprising to him. He doesn't think this is consistent with the growth policy. It calls for single family homes or townhouses. He has concerns about the density, compatibility with neighborhood, use of apartments in the estate residential zone. He said the PUD district needs to be looked at. The PUD as a tool is getting twisted so that developers can avoid the Growth Policy. It concerns him that staff is rezoning neighboring properties to avoid spot zoning.

Michael Downing, on Hueth Lane, said he is opposed to this type of

development on this property. He said this land could mean up to 300-400 people and this could be a transient population. This land was designated as a wetland. He said run-off will be an issue which will affect Cow Creek. He said it is a wildlife corridor. Armory Road is already busy with the parks and recreation amenities along Armory Road. There will be additional light pollution and an additional crime rate with the transient population. He said Dr. Hope once said they are losing green and open spaces to greed over over-development.

Rod Samdahl, 12 Willowbrook, Chairman of the Architectural Committee said he takes objection to the comments that they don't have any open space at Willowbrook. He said 2nd Street has a steep hill that comes toward the entrance of this subdivision and will be dangerous. He is opposed to the density. He thinks single family density is fine. He said transient housing tends to turn a little bit seedy over time. He said they get a lot of noise down Cow Creek from Second Street and he would hate to see this kind of density. It doesn't fit.

Scott Grant, 1658 2nd Street East, said he has lived there 36 years. He isn't surprised that this property will be developed, but the density is his concern. Everything to the east of the City is primarily single-family. He said he thinks Scott Elden is a great designer, but they don't need this much density. He said he is opposed to this design.

Mike Maddock, 195 Armory Road, said the infrastructure is poor out on Armory Road and traffic has increased significantly in the last 4 years. He said he knows this is not sacred ground and there needs to be developments. He thinks the Averills have done good projects, but he isn't sure this is the right spot.

Nancy Tighe, 1319 E. Second Street, said there is definitely quality in the project and she commended the developers. However, she said the quality of her life is not being considered when they look at 137 renters. She urged them to find a better place for this project.

Kelly Davidson, 585 Armory Road, said they bought out there and spent extra money to be away from high density traffic. They like the rural feel. She respects the right to develop. She doesn't appreciate the lack of respect because many people didn't get letters about the development. She said all of the arguments in favor of this seem to be completely disingenuous. She said there are other land choices and other options. She thinks single family dwellings would fit in this neighborhood. She would rather have a typical community and lawns. She said they said the park will be open to the public, but they can't say that—they don't know who will be in charge of it after they finish the development. She doesn't like that

they are trying to block the appearance with buffers. She said it doesn't make sense to do this and she asked them to deny.

RECESS

A 5-minute recess was called.

BOARD DISCUSSION

Anderson thanked everyone for coming. He said the character of the neighborhood is always important. He said he heard comments that there are plenty of other places, or that people don't want it next to their house. It just pushes it onto the next person's property. He said affordable housing is a key component because there are young people who live here. He said if people are paying up to 30% of their income for rent that is pretty dramatic. He said these are the people who cook their food, fix the cars, teach the kids skiing and they are an important part of the community and yet some are calling them transients and seedy. He said it is a beautiful piece of property. The applicants think they are fitting the needs of the community. He is in support of the project, mostly because of the affordable housing, help with the sewer and water easements and the extension of the public right-of-way. He said that because one of the applicants is his partner in Montana Ski Company, he will recuse himself.

Vail said 10% is affordable housing, but she wondered what the approximately rent would be for the remaining 160 units. Shawn Averill said there is a mix of 4-plex and 6-plex units. He is trying to create a mix of demographics and it will be market driven. He said with the density they have it will be more affordable. Will McDonald said the WHA report said acceptable rents were between $330-1180 and right now their weighted rent for the whole project is $900. They are looking at 600-1200 square feet for 1,2 and 3 bedroom units. Vail said a minimum wage earner can't afford $900/month. He said the 10% will be managed by WHA. Smith asked who is managing the apartments and Sean Averill said this is a commitment they are making into the town and they will manage it themselves. He said there is no plan to sell it off. Smith asked the hours and amenities of the clubhouse and he said he didn't know the details yet. He said it will be a safe property. Smith asked about security, lighting and laundry facilities. Aaron Walsh, Montana Creative, said each unit has a washer and dryer. Each has an individual entry door off the street. Vail said she heard them say the parks will be open for the community, but she questioned where they will park. Aaron Walsh said the parking is in front of the units themselves and there are two spaces per unit. One is under a car port and one is in front of the unit. He said there is no additional parking for the parks or visitors yet, so they need to address that issue. Blake said there are 4-5 phases over 3 years and wondered if they could complete it within that time frame. Sean Averill said that is their plan. Phillips commended the team for establishing a conservation easement for Cow Creek and their efforts for stubbing

in a future water and sewer connection for the City. He said the concerns are about the pride of ownership of potential renters. He suggested a designer named Duany. They might look at the possibility of smaller houses with mother-in-law rentals attached. He said this type of complaint isn't new across the country. Also, to minimize trips onto Second Street they could create more of a loop around with a courtyard space. He said they could create more porch type units along Second Street. He appreciated their work and asked them to bend it to meet the needs of the community.

Meckel asked if staff could address the issue that there are more areas that could be built out. Building Director Taylor said there are existing high density areas and re-development could occur in any of those areas. High density is supposed to be located close to schools and downtown, but there is currently little high density in walking distance to the schools. There aren't many properties close to the schools with room for a development like this. Meckel asked and Director Taylor said there might be increased police/fire visits to areas with affordable housing, but they could ask the Police Department. He said the WHA spreads out their units rather than concentrating them which makes a better blend. Phillips said vandalism is decreased if the apartments have windows onto the common areas. Smith said the developers did a great job, but she is sympathetic to the folks who are concerned about the density issue. She said she is also a donut person so she was sympathetic with Jack Quatman's concerns. She thinks it is easy to overlook the impact on the donut people. She can't ask them to take another hit. She would love to find a way where the City and County could have a good working relationship, but it hasn't happened yet. She has to stand up for the folks in the donut who live on Armory Road. Blake said he also represents the donut. He thinks apartments are a good answer for neighbors to the railroad. He urged them to reach out past 150 feet and talk to those on the Armory and see if they can get on the same page.

Netteberg said he is sympathetic to the concerns expressed by the neighbors, but he is also sympathetic to Dave Kauffman who has owned this property for a long time. It is hard to listen to other people come up with great ideas for your property. It sticks in his craw. He has heard people say he should leave his property like it is so other people can drive by and enjoy it.

Averill asked if this could be tabled so the creative staff could come back with a re-design after listening to the concerns of the public.

MOTION Blake moved and Phillips seconded to table the PUD and zoning map amendment requests to change the zoning designation at 100 Wild Rose Lane from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) and 1500 E 2nd Street from WA

(Agriculture District) to WER (Estate Residential District), until the May Planning Board meeting.

BOARD DISCUSSION

Gunderson said he shares the concerns about the density and he likes the staff recommendation to reduce density. He is concerned that this plan is a little too conceptual. There are differences between the maps and Rose Lane is moved 150 feet from one to another. The road and bike path slope looks to exceed 16% and it would not be ADA friendly. He has concerns about how the path system connects to paths for downtown or schools. The Bike/Ped committee addresses the issue of this steep hill and the dangers inherent when the road is slippery. He said if they want to add sidewalks it has to fall to local taxpayers or the developer. He said his personal feeling is that they have to have complete connectivity on the north side of Second Street down to Larch Street intersection. He said he loves the conservation easement. He said in the northeast corner where the trees are, it is the largest grove of old ponderosa trees in the City. That is, unfortunately, where one of the buildings is going to go. He thinks they will lose all the old pines with this density. He would have a hard time voting for that.

Netteberg commended the developer for listening to the public. He said many of the people who spoke tonight are along Armory Road. He uses that cut across himself. Vail said she thinks it is a beautiful project. She thought what Phillip said about some smaller cottage homes by the street would be nice and apartments by the back would be nice.

VOTE

The motion to table passed unanimously.

BOARD DISCUSSION

Vail said the creek in the backyard is pretty neat in Willowbrook and suggested they consider that kind of design. Netteberg noted that the setback would be much greater with the City's new standards.

COMMUNITY INFILL PARTNERS, LLC PLANNED UNIT DEVELOPMENT REQUEST

William MacDonald and Sean Averill, on behalf of Community Infill Partners llc, are requesting a residential Planned Unit Development overlay on 23.789 acres at 100 Wild Rose Lane and 1500 E 2nd Street (described as Tracts 1K, 1DA and 1D in S32 T31N R21W). The development will consist of 164 apartments, 9 condominiums and retaining the existing single family home on Wild Rose Lane.

STAFF REPORT WPUD 13-01

Senior Planner Compton-Ring included this report with the zone amendment report.

MOTION

This item was tabled until the May Planning Board meeting.

NEW BUSINESS

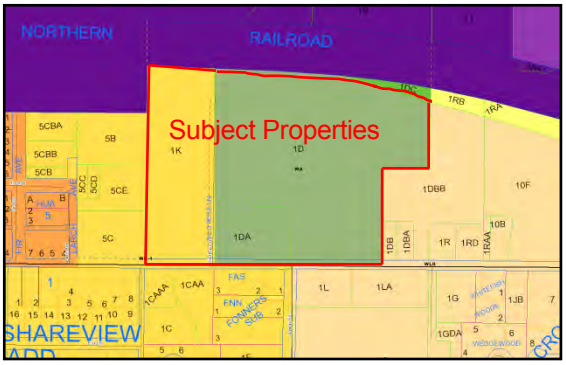
None.

2nd STREET APARTMENTS
ZONE CHANGE
STAFF REPORT WZC 13-01
JULY 11, 2013

A report to the Whitefish City-County Planning Board and the Whitefish City Council regarding a request by William MacDonald and Sean Averill on behalf of Community Infill Partners llc to rezone three parcels from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) and WA (Agricultural District) to WER (Estate Residential District) at 100 Wild Rose Lane and 1500 E 2nd Street. This request is scheduled before the Whitefish City-County Planning Board for public hearing on Thursday, July 18, 2013 at 6:00 PM. A recommendation will be forwarded to the City Council for a subsequent public hearing on Monday, August 19, 2013 at 7:10 PM. Both hearings will be held in the Whitefish City Council Chambers.

PROJECT SCOPE

The applicant is requesting a zone change on three parcels. One parcel (Tract 1K) is proposed to be rezoned from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District). The other two parcels (Tracts 1D and 1DA) are proposed to be rezoned from WA (Agricultural District) to WER (Estate Residential District). All three parcels front on E 2nd Street and are located within the city limits.



The purpose of rezoning the properties is to facilitate the proposed Planned Unit Development (WPUD 13-01) to develop a mixed single family/multi-family project. The PUD application accompanies the rezone request.

Purpose of WR-2: The WR-2 district is intended for residential purposes to provide for one-family and two-family homes in an urban setting connected to all municipal utilities and services.

	WR-2 (proposed zoning)	**WR-1 (existing zoning)**
Minimum lot area:	6,000 s.f. for single family 7,200 s.f. for duplex	10,000 s.f.
Front yard setback:	25 feet	25 feet
Side yard setback:	10 feet	10 feet
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	40% maximum	35% maximum

Purpose of WER:	A residential district to provide for single-family, large tract or estate development. These areas will typically be found in suburban areas, generally serviced by municipal sewer and water lines.

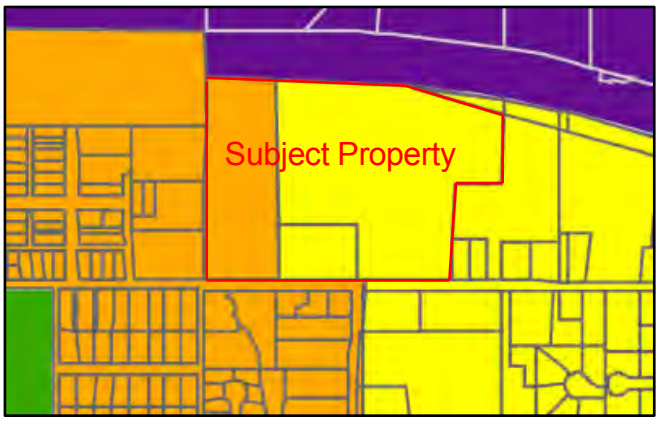
	WER (proposed zoning)	**WA (existing zoning)**
Minimum lot area:	20,000 s.f.	15 acre
Front yard setback:	25 feet	50 feet
Side yard setback:	15 feet	20 feet
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	30% maximum	20% maximum for 2 acres or less; 10% maximum for 2 acres or more

A. Property Owner:
Wild Rose Knoll lp
Pine Hill lp
PO Box 91
Whitefish, MT 59937

Applicant:
Community Infill Partners llc
William MacDonald and Sean Averill
PO Box 4600
Whitefish, MT 59937

B. Location and Size:
The subject properties are located on E 2nd Street north of the E 2nd Street and Armory Road intersection. The properties can be legally described as Tract 1K, 1D and 1DA in Section 32, Township 31N, Range 21W, P.M.M., Flathead County, Montana. They are 23.789 acres in size.

C. Existing Land Use, Zoning and Growth Policy Designation:
The properties are currently being used for two single family homes and some agricultural purpose. There are three properties – one is zoned WR-1 and two are zoned WA. The Growth Policy identifies the westerly parcel as Urban Residential and the two easterly parcels as Suburban Residential.



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

North:	BNSF	WI	Planned Industrial

	Railway		
South:	Residential	WLR/WR-1	Suburban/Urban Residential
East:	residential	WLR	Suburban Residential
West	Residential	WR-1	Urban Residential

E. Public Notice:

For the March public hearing, six letters were received and are attached as exhibits. Three were in support of the project and three were opposed to the project and had the following concerns:

- Project is not consistent with the primarily single family residential neighborhood
- Don't accept project just to get affordable housing
- Water quality in Cow Creek
- Noise
- Traffic
- Other areas of town are identified for high density residential
- Recognize adjacent agricultural uses
- Garbage
- Ongoing maintenance of the project

For the May public hearing, ten letters in opposition to the project were received and had the following concerns:

- What happens to the zone change if the PUD and project don't come to fruition;
- The proposed zoning designation not appropriate for the property due to soil limitations and presence of critical areas;
- The revised plan increases the number of people by adding single family units;
- Concerns with stormwater management – quality and quantity;
- Overall lack of innovation;
- Cause expansion of development to the western lot?
- Little change in the project … still high density;
- Not consistent with the neighborhood – preserve and protect the character of neighborhood;
- Other areas in town for this type of development;
- Affordable housing should not be a political pawn;
- Garbage management;
- Questioned the traffic analysis;
- Safety for pedestrians and bicyclists on Armory Road with increased traffic;
- Maintenance of Armory Road, a County road;
- Spot zoning;
- Denial by city of a less intensive project (NOTE: Staff was unable to locate either a request for development or its denial)
- Community impact;

- 16-plex and 8-plex out of character and scale with neighborhood;
- Infill should complement the neighborhood;
- Congestion;
- Detract from property values;
- Growth policy indicates respecting character and scale of neighborhoods – 16-plex and 8-plex don't;
- Loss of quality of life; and
- Not complying with Growth Policy

The Planning Board held a 2nd public hearing on May 16, 2013 as a continuation from the March public hearing. The Board heard from 29 people – one person in favor of the request and 28 against the project or with concerns about the project. The person is support of the project cited:

- The project being infill; and
- The property being protected with a rural character for 20 years.

People not in support of the application were concerned about:

- Questions regarding soils suitability for development
- Not in support of the rezone request to WR-2
- Infill development isn't compatible with the existing neighborhoods
- 8- and 16-plex buildings are out of scale with neighborhood
- Traffic (Pine Avenue and E 2nd Street intersection, Armory Road, Armory and E 2nd Street intersection)
- Traffic Safety (blind spots, construction traffic, dangerous street, slippery hill
- Growth Policy being used improperly – intended to preserve quality and character of existing neighborhoods
- Not an appropriate location for multi-family
- Spot zoning
- Traffic study didn't look at pedestrian and bicycle safety
- No Council support for zone change of this property in the past
- Directed Planning Board to consider all the time and input into Growth Policy
- Density
- Trusts the city to protect interests
- Support single family homes instead of multi-family
- Drainage
- Over-development
- Transient population
- Strain on City services
- Loss of habitat, wildlife
- Use of the PUD as a tool for development

In addition, a petition with 35 signatures in opposition to the project was provided to the Planning Board. Other handouts at the hearing included soils information and a page from the city's transportation plan.

After the neighborhood meeting and a revised site plan was submitted to our office, a new public notice was mailed out on June 27, 2013 and a legal was placed in the *Whitefish Pilot* on July 3, 2013. In addition, a notice was provided to advisory agencies on June 28, 2013. As of the writing of this report eight letters – one in support and six in opposition, which are attached, with the following comments:

- Lack of housing choices – needed project
- Traffic: increased in volume and hazards;
- Opposed to multifamily in a single family zone;
- Safety;
- Increased cost of infrastructure, policing, snowplowing;
- Loss of peacefulness in the neighborhood;
- Concerns with construction traffic;
- Density;
- Opposed to the zone change to WR-2;
- Other areas in town for this type of development;
- Requesting too many zoning deviations;
- Project out of character with the neighborhood;
- Revisions haven't addressed on-going concerns from the neighborhood

F. Utilities

Sewer:	City of Whitefish
Water:	City of Whitefish
Solid Waste:	North Valley Refuse
Electric:	Flathead Electric Co-op
Phone:	Centurylink
Police:	City of Whitefish
Fire:	City of Whitefish
Roads:	City (also proposing private streets)

REVIEW AND FINDINGS OF FACT:

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

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

A. Made in Accordance with a Growth Policy.

The Growth Policy designates the three parcels with two different Land Use designations. The boundary between the Urban and Suburban land use falls down the center of this project. Tract 1K has an Urban designation and Tracts 1D and 1DA have a Suburban designation.

The Urban designation is consistent with the WLR, WR-1 and WR-2 zoning categories. The Suburban designation is consistent with the WCR, WSR and WER zoning categories.

Finding 1: The proposed zone change is in accordance with the Growth Policy designations of Urban and Suburban.

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

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

Finding 2: Zoning and other city standards will secure safety from fire, panic and disaster at the time of development.

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

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

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

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

Water and sewer will be extended into the project and the schools and parks are nearby. A new public right-of-way will be extended into the project to facilitate a future transportation network on the north side of E 2nd Street.

Finding 4: The property is located inside city limits and is served by all public services and facilities.

E. Reasonable Provision of Adequate Light and Air.

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

Finding 5: Zoning and other city standards will prevent the overcrowding of the land.

F. The Effect on Motorized and Nonmotorized Transportation Systems.

The property is located in the city limits and is served by a public street – E 2nd Street. As part of the PUD application, a new city right-of-way is proposed that would extend Armory Road to the north and then turn to the east where there are large undeveloped properties. As part of the entire application, a Traffic Impact Study was conducted. The Traffic Engineer found that the amended application will

have a decrease in daily trips from the previous proposal. The Addendum notes that the changes will not affect any of the overall conclusions or recommendations from the earlier TIS. A question raised at the March Planning Board was the impacts to Armory Road. The report identifies 15% of the total traffic will use Armory Road and the design of the road is able to handle this traffic.

Opportunities for reduced vehicular dependence are readily available with the sidewalk and city trail system nearby and fronting on this project. Further, the proximity of schools, the downtown and nearby city parks will promote less car dependence.

Finding 6: The project will significantly increase the density from the current development. According to the Traffic Impact Study, the project will have little impact on the surrounding road system. The total daily traffic is reduced with this proposal and 15% of the total traffic will use Armory Road. The property is located near schools, parks, trails and downtown.

G. Promotion of Compatible Urban Growth.

This project is considered infill, as it is served by public services and facilities and is surrounded by residential development. The proposed project density is higher than the immediate surrounding neighborhoods, but not inconsistent with densities closer to the school. It is within walking distance to the schools, downtown and parks.

The zone change itself is compatible with the surrounding neighborhoods. One could say that the current zoning – especially the Agricultural District is not consistent within a neighborhood of urban and suburban densities.

Finding 7: The property is served by public services and facilities. The property is within walking distance to the schools, downtown and city park and trail facilities. The property is surrounded by urban and suburban-scale residential development. The zoning is consistent with the adopted Growth Policy designating the boundary between Urban and Suburban.

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

The character of the district is predominately single family with urban-sized lots to the west and larger, more suburban-sized lots to the east. There are scattered multi-family projects throughout the district. This area is near the downtown, schools, parks and the city's trail system.

The character of this development will be greatly changed from a rural pastoral appearance to a multi-family development. The applicant has designed the project to better blend into the neighborhood by placing single family homes along the perimeter of the project and placing multi-family structures within the center of the project. Considerable open space is being preserved and buffering along the east

and west side of the project. Review through both the PUD and Architectural Review will also consider the character of the district.

Finding 8: There is consideration to the character of the district with the proposed project. Further consideration to the character of the district will occur during review of the PUD application and any future architectural review applications.

I. Conserving the Value of Buildings.

The project will be required to obtain Architectural Review approval in order to compliment the neighborhood. The existing historic home will remain as part of the project.

Finding 9: This criterion is subjective at best. However, it is permissible for the Board to consider testimony from nearby residents as prima facie evidence of adverse impact.

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

These properties have remained in a rural-type usage while development has grown up around them. There are public services and facilities and it makes sense to provide urban-scale development in town as opposed to expanding into rural areas. These properties are near schools, shopping and the city's parks and trail system which makes them suited to urban densities.

Finding 10: The zone change encourages orderly growth and is considered infill.

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

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

RECOMMENDATION

It is recommended that the Whitefish City-County Planning Board Report adopt staff report WZC 13-01 findings of fact and recommend to the Whitefish City Council the map amendment be **approved** subject to the following condition:

1. If the associated Planned Unit Development isn't constructed within its approval timeframe and expires, the WR-2 zoning shall revert back to the WR-1 zone.

2ND STREET RESIDENCES
STAFF REPORT
PLANNED UNIT DEVELOPMENT; WPUD 13-01
JULY 11, 2013

A report to the Whitefish City-County Planning Board and the Whitefish City Council regarding a request by William MacDonald and Sean Averill on behalf of Community Infill Partners llc for a Planned Unit Development (PUD) to develop a multi-family/condominium project. A public hearing is scheduled before the Whitefish City-County Planning Board on July 18, 2013 and a subsequent hearing is set before the City Council on August 19, 2013.

BACKGROUND

The Planning Board first held a public hearing on this matter on March 21, 2013. At the public hearing the Board heard from fourteen members from the public – three in favor of the application and eleven against the project or with concerns about the project. People in support of the application cited:

- the need for this type of project;
- the incorporation of affordable rentals; and
- good design.

People not in support of the application were concerned about:

- the project not complying with the zoning and Growth Policy;
- the need for small single family homes for affordable housing in the community and not rentals;
- the rezone to WR-2;
- the project not being consistent with the rural nature of the neighborhood;
- additional pedestrians, bicyclists and vehicles using Armory Road which has a rural design Armory Road;
- water quality in Cow Creek;
- long-term maintenance of the rentals;
- the density being out of character with the neighborhood;
- the PUD tool being used inappropriately;
- impact on wildlife;
- light pollution;
- crime associated with transient population;
- noise;
- it being the right project in the wrong location; and
- efforts to buffer the project from the neighborhood instead of integrating it.

In addition, a petition with 41 signatures was provided to the Planning Board.

The Planning Board then made a motion to table the project until May in order for the applicant to consider the comments from the public and conduct neighborhood outreach. The applicant held a neighborhood meeting on April 24th on the property.

Approximately 25 people were in attendance at the meeting. The applicant provided an overview of the revised site plan and answered questions. The applicant then provided a walking tour of the property that showed the various locations of the proposed buildings.

The Planning Board held a 2nd public hearing on May 16, 2013 as a continuation from the March public hearing. The Board heard from 29 people – one person in favor of the request and 28 against the project or with concerns about the project. The person is support of the project cited:

- The project being infill; and
- The property being protected with a rural character for 20 years.

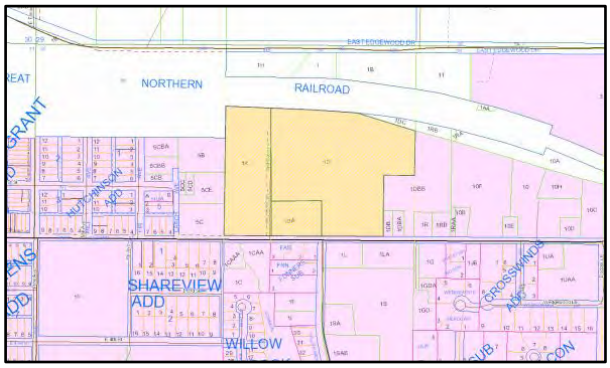
People not in support of the application were concerned about:

- Questions regarding soils suitability for development
- Not in support of the rezone request to WR-2
- Infill development isn't compatible with the existing neighborhoods
- 8- and 16-plex buildings are out of scale with neighborhood
- Traffic (Pine Avenue and E 2nd Street intersection, Armory Road, Armory and E 2nd Street intersection)
- Traffic Safety (blind spots, construction traffic, dangerous street, slippery hill
- Growth Policy being used improperly – intended to preserve quality and character of existing neighborhoods
- Not an appropriate location for multi-family
- Spot zoning
- Traffic study didn't look at pedestrian and bicycle safety
- No Council support for zone change of this property in the past
- Directed Planning Board to consider all the time and input into Growth Policy
- Density
- Trusts the city to protect interests
- Support single family homes instead of multi-family
- Drainage
- Over-development
- Transient population
- Strain on City services
- Loss of habitat, wildlife
- Use of the PUD as a tool for development

In addition, a petition with 35 signatures in opposition to the project was provided to the Planning Board. Other handouts at the hearing included soils information and a page from the city's transportation plan.

The Planning Board made a motion to table the project until the July meeting in order for the applicant to consider the comments from the public and offer revisions to the plan. It was suggested they eliminate the complexes and come back with smaller units

so it feels more like a residential neighborhood. Other suggestions included reducing the overall density of the project.



The applicant held another neighborhood meeting on June 19th on the property. Approximately 20 people were in attendance at the meeting. The applicant provided an overview of the revised site plan and answered questions.

As a follow-up to the public hearing and the neighborhood meeting, the applicant has revised the project to address the concerns raised by the Board and the public. New information submitted includes a written summary of changes, a new site plan, revised elevations for the multi-family buildings and elevations for the new single family homes and a new phasing plan.

Summary of Project Changes.

	Total Units	Density (dwelling units per acre)	Apartments	Attached Condos	Detached Condos
MARCH	174	7.31	164	9	1
MAY	150	6.31	112	9	29
JULY	143	6.22	92	20	16 (15 with mother in-law apts.)

The revised plan eliminates buildings with 16- and 8-plex buildings. The existing single family home will remains and the buildings now proposed are:

- 2-unit (34 buildings: 47.6% of the total units – 22 will be condominiums for sale, fifteen of which are single family homes with accessory apartments);
- 3-unit (5 buildings: 10.5% of the total units);
- 4-unit (11 buildings: 30.8% of the total units); and
- 5-unit (3 buildings: 10.5% of the total units).

The full project scope is described below.

I. PROJECT SCOPE

The applicant is proposing a Planned Unit Development to overlay three existing parcels on E 2nd Street. The application, once the rezoning is complete, will blend the densities of the two zoning designations (WR-2 and WER) across the entire 23 acres. The applicant is proposing 143 units – 92 apartments in 29 buildings, twenty

attached condominiums in nine buildings, and sixteen single family homes with fifteen accessory apartments. The existing home off Wild Rose Lane will be retained as one of the detached single family home condominiums and the other existing single family home fronting onto E 2nd Street will be removed with the project. The overall density of the project is 6.02 dwelling units per acre.

Multi-family units will be served by internal private driveways with surface and covered parking. An extension of Armory Road will be developed as a new public right-of-way into this project. The public right-of-way will enter the property, go north and then turn to the east property line in order to serve future development to the east. The final design of the road will be determined with the Public Works Department to find the most suitable alignment.

The project has approximately 68% open space areas throughout the development. Buildings are clustered in a manner to protect large areas of open space. There are a series of pedestrian trails throughout the development connecting the buildings to each other and to the public streets. The applicant is also proposing an administrative office for management of the rentals and other outdoor amenities, including a playground area, a courtyard area and a series of covered picnic shelters in the open space areas.

The applicant is taking advantage of density bonuses by providing an affordable housing component. Ten percent of the project will be deed restricted rental units for moderate income families. The applicant will entered into a Letter of Intent with the Whitefish Housing Authority to manage the 14 units.

The public will have access to the pathway system throughout the open space areas and there is a parking area adjacent to the Administrative Building for the public to park in order to access the trails.

Finally, the applicant is providing both a sewer and water easement from E 2nd Street to the north edge of their property. The city has planned for a number of years to extend a sewer main along Cow Creek and under the BNSF tracks in order to gravity flow wastewater for a large portion of the city north of the tracks. In addition, the applicant is proposing to provide a water easement through the center of the project in the event the city should want to loop the water system.

Zoning Deviations. The PUD request includes the following zoning deviations:

- Density Increase and Blending the Density across the Project. The PUD chapter permits an applicant to increase the density provided a minimum 10% of the project is set aside for affordable housing meeting the needs for 'moderate income' families. (§11-2S-3B) The purpose of the PUD permits flexibility in development design, including the blending of the densities across a project if it results in a better design. (§11-2S-1)
- Type of Housing. While the purpose and intent of the WR-2 and WER require single family (or two-family in the case of the WR-2), the PUD chapter permits a variety of residential uses including multi-family. (§11-2S-2)

- Roads. The applicant is proposing private streets to serve the apartments and condominiums.
- Pedestrian Ways. In lieu of constructing sidewalks along the private streets, the applicant is proposing a series of paths that loop throughout the project and connect the buildings to each other and the public rights-of-way.
- Drainage. The applicant is proposing a Low Impact Development approach to stormwater by not including curb and gutter. They are proposing to use swales and depressions and detention areas to treat and convey stormwater.

Benefits Provided. In exchange for the above described zoning deviations, the applicant is providing the following benefits:

- Affordable Housing for Whitefish Housing Authority management – 14 rental units
- Sewer Easement from E 2nd Street to north edge of property
- Water Easement from E 2nd Street to north edge of property
- Extension and construction of 60-foot public right-of-way
- Sidewalk along the north side of E 2nd Street the entire length of the project
- Public access to the pathway system

A. Owner:

Pine Hill lp
Wild Rose Knoll lp
PO Box 91
Whitefish, MT 59937

Applicant:

Community Infill Partners, llc
Attn: William MacDonald and Sean Averill
PO Box 4600
Whitefish, MT 59937

Technical Assistance:

Sands Surveying
2 Village Loop
Kalispell, MT 59901

Montana Creative
158 Railway Street
Whitefish, MT 59937

Robert Peccia & Associates
PO Box 5100
Kalispell, MT 59901

B. Location:

The subject properties are located on E 2nd Street north of the intersection with Armory Road. The properties are located at 100 Wild Rose Lane and 1500 E 2nd Street and can be legally described Tracts 1K, 1D and 1DA in Section 32, Township 31N, Range 21W, P.M.M., Flathead County.

C. Existing Land Use and Zoning:

The properties are developed with two single-family homes and a large field being used for agricultural purposes. The current zoning is WR-1 (One Family

Residential District) and WA (Agricultural District). If the rezone is approved, the properties will be zoned WR-2 (Two-Family Residential District) and WER (Estate Residential District).

D. Adjacent Land Uses and Zoning:

North:	BNSF	WI
West:	residential	WR-1
South:	residential	WR-1/WLR
East:	residential	WLR

E. Utilities:

Sewer:	City of Whitefish
Water:	City of Whitefish
Stormwater:	on-site or new city system, if possible
Solid Waste:	North Valley Refuse
Gas:	Northwestern Energy
Electric:	Flathead Electric Co-op
Phone:	CenturyLink
Police:	City of Whitefish
Fire:	City of Whitefish
Schools:	Whitefish School District #44

F. Public Notice:

For the March public hearing, six letters were received and are attached as exhibits. Three were in support of the project and three were opposed to the project and had the following concerns:

- Project is not consistent with the primarily single family residential neighborhood
- Don't accept project just to get affordable housing
- Water quality in Cow Creek
- Noise
- Traffic
- Other areas of town are identified for high density residential
- Recognize adjacent agricultural uses
- Garbage
- Ongoing maintenance of the project

For the May public hearing, we received ten letters in opposition which are attached as exhibits. The following concerns were identified:

- The revised plan increases the number of people by adding single family units;
- Concerns with stormwater management – quality and quantity;
- Overall lack of innovation;
- Cause expansion of development to the western lot?
- Little change in the project … still high density;

- Not consistent with the neighborhood – preserve and protect the character of neighborhood;
- Other areas in town for this type of development;
- Affordable housing should not be a political pawn;
- Garbage management;
- Questioned the traffic analysis;
- Safety for pedestrians and bicyclists on Armory Road with increased traffic;
- Maintenance of Armory Road, a County road;
- Spot zoning;
- Denial by city of a less intensive project (NOTE: Staff was unable to locate either a request for development or its denial)
- Community impact;
- 16-plex and 8-plex out of character and scale with neighborhood;
- Infill should complement the neighborhood;
- Congestion;
- Detract from property values;
- Growth policy indicates respecting character and scale of neighborhoods – 16-plex and 8-plex don't;
- Loss of quality of life; and
- Not complying with Growth Policy

After the neighborhood meeting on June 19, 2013, a revised site plan was submitted to our office, a new public notice was mailed out on June 27, 2013 and a legal was place in the *Whitefish Pilot* on July 3, 2013. In addition, a notice was provided to advisory agencies on June 28, 2013. We received eight letters – one in support and six in opposition, which are attached, with the following comments:

- Lack of housing choices – needed project
- Traffic: increased in volume and hazards;
- Opposed to multifamily in a single family zone;
- Safety;
- Increased cost of infrastructure, policing, snowplowing;
- Loss of peacefulness in the neighborhood;
- Concerns with construction traffic;
- Density;
- Opposed to the zone change to WR-2;
- Other areas in town for this type of development;
- Requesting too many zoning deviations;
- Project out of character with the neighborhood;
- Revisions haven't addressed on-going concerns from the neighborhood

II. REVIEW AND FINDINGS

This request is reviewed in accordance with the Whitefish City-County Growth Policy and the City of Whitefish Zoning Regulations.

Title 11, Chapter 2 – Zoning Districts:
The property is proposed to be zoned WR-2 (Two-Family Residential District) and WER (Estate Residential District). The WR-2 district is intended for residential purposes to provide for one-family and two-family homes in an urban setting connected to all municipal utilities and services. The WER district is a residential district intended to provide for single-family, large tract or estate development. These areas will typically be found in suburban areas, generally serviced by municipal sewer and water lines.

The Planned Unit Development district is intended to encourage flexible land use development by allowing development based upon a comprehensive, integrated and detailed plan rather than upon specific requirements applicable on a lot by lot basis. The development, according to the Purpose and Intent of the PUD chapter, provides the following benefits, as applicable:

A. Preserve and/or enhance environmentally sensitive areas of the site. Cow Creek runs along western property boundary of Tract 1K. In addition, there are wetlands associated with the creek. The applicant is proposing to protect the stream and associated wetlands with buffers and setbacks that meet the Water Quality Protection (WQP) regulations. The buffer required is 100-feet for single family residential. (§11-3-29C(1)) All of the proposed buildings are outside the buffer with the exception of the existing single family home which is nearly entirely within the buffer. Within the buffer they are proposing to construct a pedestrian trail, which is permitted through the WQP. Staff proposes the details of the trail construction be a condition of approval. Staff also recommends the trail be constructed of asphalt and not dirt or gravel in order to prevent erosion. There are buildings within 200-feet of water, but the slopes do not appear to exceed 10%. This will be verified at the building permit. If a building within 200-feet of water is constructed on a slope of 10% or more, a geotechnical letter will need to be supplied along with the building permit.

In addition, the applicant is proposing to either place the storm water facility in the buffer area, as the property drains toward the stream naturally or connect to the new city storm water system as part of the update to E 2nd Street. This discussion will need to occur with the Public Works Department, as this project and the E 2nd Street project move along. According to the WQP regulations, storm water facilities may be located in the outer 25% of buffers provided that no other location with less impact is feasible and impacts are mitigated.

Comments received from the public and brought up at the previous public hearing, raised concerns about storm water management: water quality and quantity. This project will be required, as all development projects, to submit an engineered storm water plan and meet the city standards for quality and quantity.

If additional concerns remain, the Planning Board and Council could consider conditions that would require the applicant to enhance the riparian areas along Cow Creek, as it is currently being used as pasture land.

The eastern portion of the property slopes up toward the east and the north eastern third of the lot is forested. The revised plan continues to maintain the area with the large trees on the top of the hill as open space and location for the pathway system. In addition, healthy trees outside the building footprint, parking and drive lanes will be retained.

Finding 1: The property includes Cow Creek and associated wetlands. A path is proposed along the buffer, which is permitted in the Water Quality Protection (WQP) regulations. The project is meeting the requirements of the WQP regulations. An engineered storm water management plan will be submitted to the city for review and approval. Areas of trees on the eastern part of the property are being preserved in an open space area. Other trees outside the buildings, drives and parking areas will be preserved to the extent possible.

B. Preserve crucial wildlife habitat and/or daily or seasonal migration corridors. There are no mapped crucial wildlife habitat and/or daily or seasonal migration corridors on this site. It is likely that deer and other animals travel through the property to and from Cow Creek. The preservation of buffers and other open areas help to maintain these patterns.

Finding 2: The preservation of buffers and other open areas help to maintain the travel patterns of neighborhood wildlife.

C. Provide usable open space. According to the application, there is 68% of the property left in open space – defined as those areas not encumbered with streets and buildings. Throughout the open space, there are pedestrian trails that loop around the entire project, connects the buildings to each other and connects to the city's trail system. The applicant is also proposing amenities, including a playground area and courtyard. There are also a series of covered picnic shelters in the open space areas. The remainder of the open space will be left in a natural state to maintain its rural appearance and a number of trees will be retained toward the east of the project in order to retain its wooded appearance.

Staff will recommend phasing open space amenities to maintain usability of the open space as the project is being constructed.

Finding 3: The project is providing several amenities throughout the open space in order to meet the 'usability' criteria. Both active and passive recreation opportunities are being proposed. The project has 68% open space, which exceeds the 30% PUD requirement.

D. Preserve and protect the character and qualities of existing neighborhoods. The latest revised plan is considerably different than the two earlier versions. The very large multi-plex buildings have been replaced with smaller buildings with a reduced overall massing than the earlier plans. The buildings are one to one and half stories tall with a classic Whitefish historic home look. The buildings include:

- 2-unit (34 buildings: 47.6% of the total units – 22 will be condominiums for sale, fifteen of which are single family homes with accessory apartments);
- 3-unit (5 buildings: 10.5% of the total units);
- 4-unit (11 buildings: 30.8% of the total units); and
- 5-unit (3 buildings: 10.5% of the total units).

Significant open space areas are still being protected along Cow Creek and associated wetlands and the wooded areas along the eastern portion of the property.

The redesigned site plan maintains the single family homes along the E 2nd Street frontage in order to better match the historic residential neighborhoods to the south and west. These homes are setback from the road and each other in a typical downtown lot dimension, but without the actual lot lines. The proposed design of the single family homes and multi-family buildings are more in keeping with the classic homes in the neighborhoods to the west. New elevations for the multi-family buildings are included with the proposal.

The multi-family buildings are setback 200-feet from the edge of pavement and are buffered by the single family detached structures that are more in keeping with the character and qualities of the surrounding neighborhood.

The integration of bike paths into the design of the project that are proposed to be open to the public will complement

the existing and proposed city paths.

As was brought up at previous public hearings and in the public comments, the PUD chapter does permit attached multi-family; however, the Planning Board and Council will need to determine if this level of density and residential type is appropriate for this area.

Finding 4: Buildings are clustered in order to preserve open space. Trees and the buffer along the stream are being retained in order to protect the character of the neighborhood. The design of the single family homes and multi-family buildings will have a historic Whitefish appearance to compliment the neighborhood. The perimeter of the development surrounded by the single family detached homes is more in keeping with the character and qualities of the surrounding neighborhood.

E. Make efficient use of infill property. The project is surrounded by urban and suburban-scale development. The project is served by a public right-of-way and all public services and facilities are available for the project. It is within walking distance to the schools, town and city trails/parks.

Finding 5: The property is considered infill, as it is surrounded by urban and suburban development, it is served by all public services and facilities and offers a variety of residential product type.

F. Provide effective buffers or transition between potentially incompatible uses of land. As described earlier in this report, the predominate land use in this neighborhood is single family detached units. There are a few multi-family units scattered in the near vicinity, but not immediately nearby. The project is buffered to the west by Cow Creek and the required stream buffers and setbacks. Development is setback nearly 200-feet from the west property line. The single family homes along E 2nd Street are setback 30 to 180-feet from the edge of the right-of-way. The closest building along the east is setback 20-feet, which is greater than the proposed underlying zoning side yard setback. The multi-family structures are over 200-feet from the E 2nd Street right-of-way.

Throughout the development, there are a number of trees proposed to be retained in order to maintain the wooded appearance of the project and buffer it from adjoining properties. This includes wooded areas along E 2nd Street and to the east and north.

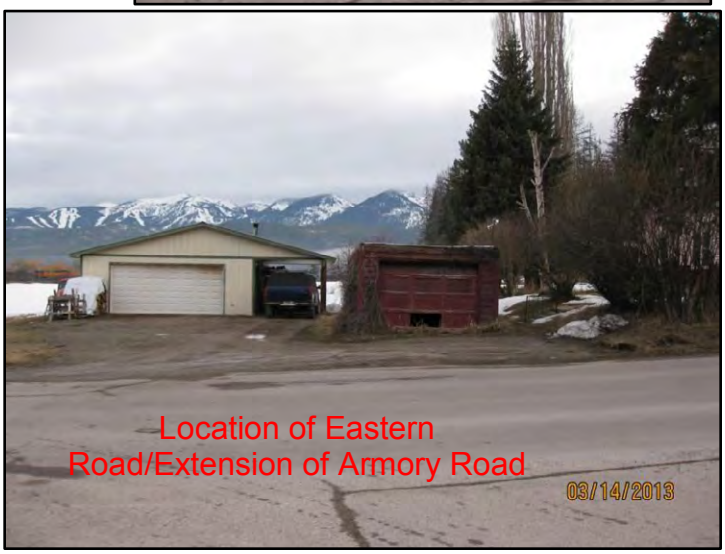
The buffer along the west, the tree retention and the topography of the site are adequately buffering the project from incompatible uses. In addition, the applicant is proposing single family detached homes along the perimeter of the project as a transition between the existing single family neighborhoods and the multi-family in the center of the project. The new plan density has been reduced to 6.02 dwelling units per acre, which is still more than the 5 dwelling units per

acre recommended by staff in March. However, staff did also recommend utilizing a method of transitioning density across the project so areas that are predominately single family are adjacent to single family. This is the method the applicant has undertaken to transition between this project and the surrounding areas. Staff remains satisfied with this approach.

Finding 6: Through the preservation of the existing healthy trees, the stream/wetland buffer and a row of single family homes between the street and the multi-family buildings, the applicant is transitioning between potentially incompatible uses. Staff finds the full standard of 'effective transitioning between incompatible uses' is being met, as there is consideration for placing less density adjacent to predominately single family uses/zones.

G. Facilitate street continuity and connectivity, and attractive high quality streetscapes. The project includes an extension of the Armory Road right-of-way. The public right-of-way will enter the property, go north and then turn to the east property line in order to serve future development to the east. This new road extension will provide additional street connectivity for future development of property to the east in an area that lacks a grid system.

The other roads within the development will be privately owned and maintained. There are two accesses onto E 2nd Street and the main circulation is a loop through the center of the project connecting to E 2nd Street in two places. This loop system will have the effect of dispersing traffic onto E 2nd Street and provide better emergency access. At the east-end of the Armory Road extension is a dead-end, the only one within the project.



The streetscape is designed with single family homes lining the street, which compliments the traditional neighborhoods to the west of this project. The applicant is proposing classic Whitefish designed buildings to complement the

neighborhood.

Finding 7: The applicant is extending a public right-of-way, Armory Road, fronting single family homes along E 2nd Street, and designing classic bungalow appearing homes in order to maintain high quality streetscapes. The internal roadway is a loop in order to further provide connectivity within the project and emergency access. The Armory Road extension will meet all city street design standards.

H. Provide pedestrian and bicycle facilities and encourage transportation alternatives. The proposed trail system within the project connects all the buildings to the main roads within the development and to E 2nd Street, which has a trail/sidewalk system connecting to the schools and other areas of town. According to the application, these trails will be open to the public. Parking will be provided by the administration building for ease of access for the residents and those members of the public accessing the trails.

A topic that was brought up at the March Planning Board was providing additional and more logical pedestrian and bicycle connections from this project to the city's system and traveling west – toward the schools and downtown. It was noted that someone living closer to Cow Creek would not travel to the east to the Armory Road intersection in order to go west to the school, but would cross E 2nd Street where ever is closer to their destination regardless of safe passage.

As described in the May report, staff met with the Pedestrian and Bicycle Committee on May 6, 2013 to review the proposed public paths with public access within the development and talk about the concern raised at the March meeting regarding pedestrian/bicycle access on the north side of E 2nd Street. At the May meeting, the Committee agreed with the need for parking internal to the development to serve the public and they made a unanimous recommendation that a 5-foot sidewalk with a 5-foot planter strip be constructed along the entire frontage of the project, as required by the city's engineering standards, and that at least two crossings be made to the south side of the project in logical locations (Armory Road and the western boundary of the project where it would line up with the shared bike/pedestrian sidewalk on the south side of E 2nd Street). The crossing of the creek could match the sidewalk proposed on the south side of the road with the installation of a longer, larger culvert.

The Public Works Department has subsequently considered this proposal and they do not want to see the sidewalk continued to the east of Armory Road extension as they are concerned with the lack of a safe crossing at the eastern boundary. PW staff would prefer to see pedestrians and bicyclists use the Armory Road/E 2nd Street crossing or the crossing further to the west. Staff will recommend this condition.

The city intends to rebuild E 2nd Street from Cow Creek east to the train tracks during 2013-14. The reconstruction will include a pedestrian/bike path on the south side of E 2nd Street to the Armory Park facilities and a sidewalk on the south side of the street crossing Cow Creek. The construction of this sidewalk is being facilitated by the city installing a new, longer culvert as part of the E 2nd Street project to widen the roadway. The 2nd Street Apartments are well suited to take advantage of these improvements to connect it to Armory Park to the east.

As part of this project, the city needs to obtain utility and temporary construction easements to facilitate its reconstruction. Staff will also recommend these as part of the conditions of approval.

The applicant is extending Armory Road into the project which will also include a sidewalk on both sides of the street. This extension will help to facilitate future connectivity for future development to the east. The timing of the road development and its design will be worked out with the Public Works Department. Staff does not want to see the construction and dedication of the road to occur over separate phases, as we want to see the road constructed in a cohesive manner. Staff will recommend a condition of approval that the right-of-way dedication and construction of Armory Road be completed with the first phase of the project unless an alternative schedule is coordinated with the Public Works Department.

Finding 8: The project is providing trails throughout the project that also connect to the city's trail system in order to encourage alternative modes of transportation. The project is located near schools, parks, city trails/sidewalks and downtown. Staff finds the project is providing pedestrian and bicycle facilities in order to encourage transportation alternatives. The installation of a sidewalk on the north side of the road to Armory Road will increase connectivity. The Pedestrian and Bicycle Committee support the addition of a sidewalk on the north side of E 2nd Street. E 2nd Street is being rebuilt during 2013-14 and this project will benefit from these improvements. The city needs additional easements along the frontage of this project in order to facilitate the redevelopment of E 2nd Street. The right-of-way dedication and construction of Armory Road shall occur with the first phase of the project to ensure a cohesive public road project.

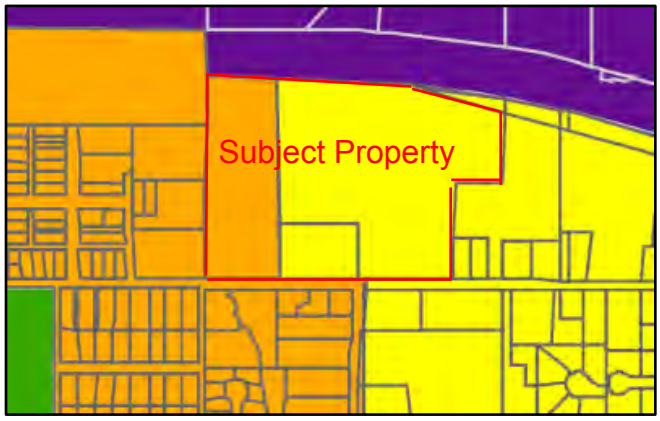
I. Provide affordable housing. In order to get the density bonus, a minimum of 10% of the project is required to be set aside meeting the needs for 'moderate income' families. The applicant will enter into a Letter of Intent with the Whitefish Housing Authority to manage 14 rental apartments. There are now only two phases with apartments to rent, staff will condition the project that a combination of one, two and three bedroom units will be provided and no more than one unit per building will be permitted. The purpose of these conditions are to ensure that a variety of product-type will be available for the Whitefish Housing Authority and that they will be spread throughout the development.

Finding 9: In order to obtain the maximum density bonus permitted through the PUD chapter, 10% affordable housing is being provided with 14 rental units. A letter of intent will be entered into with the Whitefish Housing Authority. A variety of unit types is stipulated and should be located throughout the development.

J. Provide a variety of residential product type while avoiding a monotonous and institutional appearance. The project has increased their product type from four different buildings in March to six different buildings in May to fifteen different buildings with four different densities: 5-plex, 4-plex, tri-plex, and duplex that also include single family homes with accessory apartments. There is also one single family house that will remain. The Architectural Review standards, Section 6.2.2., speak specifically to projects with more than one multi-family structure:

> "In any development containing more than one multi-family and/or townhouse structure, the Architectural Review Committee shall review building plans for such structures to assure that there is visual variety in exterior appearance from other multi-family structures in the same development. The primary objective of this standard is to avoid visual monotony among multi-family structures while encouraging a common high quality design theme. The intent of these requirements is to create variety and visual interest among all units in a development containing multi-family structures. All design elements can be utilized to create a substantially varied exterior appearance, including but not limited to: color (although by itself is not sufficient to create substantial difference in exterior appearance); texture; materials; orientation on the site; rooflines; design; height; mass; scale; shape and form."

The applicant will be required to obtain Architectural Review for all the multi-family buildings and show how their proposal meets the above-described criterion. Because the project is being designed as a whole neighborhood with a PUD, staff will recommend a condition of approval that the single family homes and cottages also obtain Architectural Review approval and adhere to 'visual variety' standard.



Finding 10: The 2nd Street Apartments will consist of fifteen different building types. All the buildings in this project will all be required to obtain Architectural Review, including the single family condominiums. Architectural Review Standards require multiple multi-family developments to vary their appearance in order to avoid a 'cookie-cutter' appearance.

K. Compliance with and/or implementation of the growth policy. The Growth Policy designates Tract 1K as Urban and the proposed WR-2 zoning is consistent with this designation. The Growth Policy description for this designation describes a residential designation that defines the traditional neighborhoods near downtown Whitefish. Residential unit types are mostly one and two-family, but townhomes and lower density apartments and condominiums are also acceptable in appropriate locations using the PUD. Densities generally range from 2 to 12 units per acre. Zoning includes WLR, WR-1, and WR-2.

The Growth Policy designates Tracts 1D and 1DA as Suburban Residential and the proposed WER zoning is consistent with this designation. The Growth Policy description for this designation describes "lower density residential areas at the periphery of the urban service. The residential product type is predominantly single-family, but cluster homes and low-density townhomes that preserve significant open space are also appropriate. Densities range from one unit per 2 ½ acres to 2.5 units per acre, but could be higher through the PUD. Zoning districts include WCR, WER, and WSR. Cluster residential that preserves considerable open space, allows for limited agriculture, maintains wildlife habitat is encouraged."

The Growth Policy also identifies infill as a priority, the protection of critical areas, the development of affordable housing and supports non-motorized transportation.

Finding 11: The project complies with the Whitefish City-County Growth Policy. Both the Urban and Suburban land use designations recognize higher densities and the use of multi-family residential product-types through the use of the PUD, especially when coupled with clustering and open space preservation. The Growth Policy supports infill development before expansion of urban boundaries, supports non-motorized transportation and providing affordable housing.

Amendments – §11-7-12E:

The following considerations from §11-7-12E are intended to guide both the Planning Board and the City Council when considering an amendment to the official zoning map.

Considerations from §11-7-12E	Staff Report Section Reference/Comments
Zoning Regulations Must Be:	
Made in Accordance with a Growth Policy	See Section II.K.
Designed to:	
Secure safety from fire and other dangers	The Whitefish Fire Department has preliminarily reviewed the project. Adequate access and other Fire Department issues are being included as conditions of approval and will also be reviewed at the time of building permit.

Considerations from §11-7-12E	Staff Report Section Reference/Comments
Promote public health, public safety and general welfare	See above – in addition, the Building Department will review all new structures through the building permit process.
Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements	See Section I.E.
In the adoption of zoning regulations, the city shall consider:	
Reasonable provision of adequate light and air	All zoning setbacks and lot coverage are being met, no deviations to these standards are being requested.
The effect on motorized and non-motorized transportation systems	See Section II.G., H.
Promotion of compatible urban growth	See Section II.D.
The character of the district and its particular suitability of the property for the particular uses	See Section II.D.
Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and	This criterion is subjective at best. However, it is permissible for the Board to consider testimony from nearby residents as prima facie evidence of adverse impact. This proposal only applies to the subject property, and sets no binding precedent for any other zone change or PUD proposal.
That historical uses and established uses patterns and recent change in use trends will be weighed equally and consideration not be given one to the exclusion of the other.	The Planning Board and the City Council should consider the historical and established use patterns, including trends, when making a decision on the project. See Section II.D.

III. STAFF ANALYSIS OF ZONING DEVIATIONS.

Density Increase and Blending the Density Across the Property.

In the March staff report, staff was concerned with the overall density of the project as the project provided the maximum number of units for the property. The density was reduced in May and further reduced with this most recent plan; however, it is still at an overall higher density than adjacent neighborhoods. The design continues to place single family homes adjacent to single family homes and the density transitions from the east to the west more consistent with the zoning and Growth Policy.

As was described in March, this area is predominately single family with a more suburban density. At the same time, this property is very close to the schools, parks and the downtown. There are not a lot of areas located as close to these facilities

available for development such as this. The other areas zoned for High Density development are either located too far from the schools and downtown or are already developed. These areas include: south of the high school, adjacent to the post office, north of the viaduct and adjacent to the hospital. High density areas should be placed near the core of town with ample opportunity to use alternative modes of transportation, close to schools – so this may be an ideal location for this type of use, but it continues to be a controversial location. Also, the project is developing property within the city limits with access to public services and facilities as opposed to expanding into valuable rural areas. Throughout the development of the Growth Policy the public overwhelmingly favored infill projects over expanding the city's urban boundaries.

The Planning Board needs to weigh the pros and cons of the project – on one hand the applicant will be providing benefits to further the goals of the city including affordable housing, the extension of utilities and a much needed right-of-way to further the development of a better transportation circulation system on the north side of E 2nd Street. On the other hand, the density is still higher and the use more intensive than the immediate neighborhood.

Type of Housing.

The amended plan has been redesigned to place single family homes along the perimeter of the project with accessory apartments. The multi-family structures, which are permitted by the PUD regulations, are located within the center of the project and they consist of 2-units (34 buildings total: 47.6% of the total units – 12, of which will be located in the center of the building); 3-units (5 buildings: 10.5% of the total units – 3 of which will be located in the center of the building); 4-units (11 buildings: 30.8% of the total units); and 5-units (3 buildings: 10.5% of the total units). This redesign better fits into the neighborhood that is predominately single family.

Roads/Pedestrian Paths/LID Drainage.

The applicant is proposing to construct private roads to serve the apartments. Staff has no concerns with this proposal. They are also proposing detached paths throughout the development opposed to sidewalks along the private streets. Staff thinks this is a great way to make the open space areas more usable, connect the buildings to one another and to the open space amenities. The Low Impact Development drainage design has been used in other developments and is still required to meet all the city's engineering standards – it isn't a lower standard of treatment, simply a different manner of treating storm water as opposed to using curbs, gutters and culverts.

IV. RECOMMENDATION

It is recommended that the Whitefish City-County Planning Board adopt the findings of fact in staff report WPUD 13-01 and recommend to the Whitefish City Council that the Planned Unit Development for 2nd Street Apartments at Whitefish be **approved** subject to the following conditions of approval and that the deviations to the zoning be granted:

1. Except as amended by these conditions, the development of the planned unit development shall be in substantial conformance with the approved site plan and

elevations that govern the general location of buildings, landscaping, building height and improvements and labeled as "approved plans" by the City Council.

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

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

4. Armory Road shall be built to city standards with sidewalks on both sides of the street. The right-of-way dedication and construction of Armory Road and associated utilities shall be completed prior to the issuance of building permits for Phase 1 unless an alternative schedule is approved by the Public Works Director. (Engineering Standards, Chapter 8; Staff Report, Finding 8)

5. Provide a 15-foot utility easement along the southern property line of Tract 1K and a 5-foot temporary construction easement along the southern property line of Tracts 1D and 1DA. These easements shall be signed and recorded within 30-days of Council approval. (Staff Report, Finding 8)

6. Provide a sewer and water easement from E 2nd Street to the north property line. In addition, the city will need maintenance easements to serve these lines. These

easements shall be signed and recorded within 30-days of Council approval. (Staff Report, Finding 8)

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

8. All buildings shall meet Fire Department standards include sprinklering, FDC, alarm panels and utility controls located in close proximity to each building. (IFC)

9. Internal access streets shall meet all Fire Department access requirements, shall be no less than 20-feet, shall be clear of snow for the entire 20-feet and shall be signed for no parking. (Engineering Standards, Chapter 8)

10. Parking for the proposed administrative building, playground area and trails open to the public shall be installed in accordance with the zoning standards. (§11-6-2E)

11. There shall be no parking on the public right-of-way (Armory Road Extension) and the street shall be signed as such. (Engineering Standards, Chapter 8)

12. Architectural Review shall be required for the cottages and the single family condominiums. These buildings will also adhere to the visual variety standard within the Architectural Review Standards, section 6.2.2. (Staff Report, Finding 10)

13. Prior to the first phase, a snow storage plan shall be submitted to the Planning Department for review and approval. Such plan shall ensure storage does not impede emergency access and it is not located within storm water facilities. (Engineering Standards, Chapter 5)

14. Prior to the first phase, submit an overall detailed open space plan. This plan should include a landscaping plan and irrigation with proposed plant materials, a trail plan, details on the various recreation amenities and a maintenance plan. The path shall be constructed of asphalt. (§11-2S-1C; §11-2S3C; Staff Report, Finding 1)

15. Prior to the development of the trail or installation of storm water facilities in the stream/wetland buffer, submit details on their installation. (§11-3-29C; Staff Report, Finding 1)

16. A 5-foot wide sidewalk and 5-foot boulevard with street trees shall be installed the E 2nd Street frontage from the western property line to Armory Road extension. Two pedestrian crossing shall be installed, one at Armory Road and a second crossing to be determined by the Public Works Department in coordination with the E 2nd Street improvements. (Staff Report, Finding 8)

17. Prior to submitting applications for building permits for each phase, a report showing how conditions of approval have been met for each phase shall be submitted to the Planning Department for review and approval and it shall include:
    - Architectural Review approval for all buildings within the phase, including the single family homes with accessory apartments and the picnic shelters
    - Detailed landscaping plan and pedestrian connection plan
    - Tree removal phasing – no tree removal shall occur in any phase until the tree removal plan is approved
    - Review of approved open space plan
    - Agreement with the Whitefish Housing Authority to provide 14 rental units. No more than one unit per apartment building shall be provided and the apartments shall be a variety of types (one, two and three bedroom)
    - Slope verification for those building within 200-feet of the stream/wetland area. If the slopes exceed 10%, a geotechnical report shall be submitted along with the building permit.
    - Infrastructure within each phase shall be fully capable of supporting the development within the phase. Roads shall meet the Fire Department emergency access requirements.
    - Emergency access shall be approved for each building pursuant to the IFC. This includes physical access to within 150-feet of all corners of the building, FDC on each building, Knox box, no parking, and snow plowing.
    - Infrastructure, including streets, water, sewer, hydrants and drainage, for each phase shall be installed and operational prior to the submittal of a building permit. Financial security for other infrastructure/improvements yet to be installed may be approved in order to obtain a building permit.
    - All easements associated with the phase shall be recorded and submitted to the city.
    - No more than two years shall lapse between phases.

18. This approval is valid for 3-years from the date of City Council approval. (§11-2S-9C)

TO: Karin Hilding
FROM: Brandon Theis
SUBJECT: 12103.000 – East Second Street
Proposed Roadway Profile Grade
DATE: February 27, 2013

Dear Karin,

This memo will discuss the roadway profile grade for the East Second Street "hill" that is located east of Armory Road.

The current hill has a grade of ~ 12%. During the Preliminary Engineering design, we had proposed a grade of 9.00%. We felt that this would be desirable and it would also meet the criteria in Table 8-1 of the City of Whitefish Engineering Standards, "Road Design Standards for Local Subdivision Streets", which states that the maximum grade for a collector street is 8.00% and 9.00% for a local street.

Reducing the grade of the roadway from ~12% to something less will result in a fill at the bottom of the hill and a cut at the top of the hill.

As we are now working on the Final Engineering design, we have been designing the driveways that are existing and connect to East Second Street. It is always best to design the driveways to have grades equal to what was existing or flatter.

Below is a table that summarizes our findings with a new roadway that has a 9.00% grade:

Table 1.1 – Driveway Grades with 9.00% Roadway Profile Grade.

Driveway Location	Existing Grade	Proposed Grade	Cut/Fill at Driveway
Hughes (east driveway)	9.60%	11.80%	2.65-feet (Fill)
Hecimovich	2.30%	10.00%	2.70-feet (Cut)
Nelson	5.60%	13.00%[1]	2.40-feet (Cut)
Ulvin	10.00%	8.00%[2]	4.00-feet (Cut)

[1]A 13.00% grade can be obtained if 27 linear feet of driveway, located on private property, is regraded.
[2]A proposed grade of 8.00% has been requested by Mr. Ulvin. An 8.00% grade can required if site grading extends 60-feet onto the private property.

It is clear that there are some concerning driveway grades. Once we discovered these issues, we re-designed the roadway to better match the existing driveways. In order to achieve this, the "hill" on East Second Street would need to be steepened to have a grade of 10.5%. Below is a table that summarizes our findings with a new roadway that has a 10.50% grade:

Table 1.2 – Driveway Grades with 10.5% Roadway Profile Grade.

Driveway Location	Existing Grade	Proposed Grade	Cut/Fill at Driveway
Hughes (east driveway)	9.60%	10.00%	2.00-feet (Fill)
Hecimovich	2.30%	2.30%	0.10-feet (Fill)
Nelson	5.60%	7.00%[1]	0.30-feet (Cut)
Ulvin	10.00%	8.00%[2]	2.90-feet (Cut)

[1]A 7.00% grade can be obtained if 17 linear feet of driveway, located on private property, is regraded.
[2]A proposed grade of 8.00% has been requested by Mr. Ulvin. An 8.00% grade can required if site grading extends 50-feet onto the private property.

RPA is requesting that you approve our recommendation to design East Second Street with a 10.5% grade on the "hill". We do acknowledge that this does not meet the requirements of Table 8-1 of the City of Whitefish Engineering Standards, "Road Design Standards for Local Subdivision Streets", but when we are reconstructing existing roadways, with existing driveways and buildings we sometimes need some design deviations. Per AASHTO, per Exhibit 6-8 Maximum Grades for Urban Collectors a 10.5% grade is acceptable for a Rolling Terrain with a Design Speed of 30 mph. Below is Exhibit 6-8:

	Metric								US Customary								
	Maximum grade (%) for specified design speed (km/h)								Maximum grade (%) for specified design speed (mph)								
Type of terrain	30	40	50	60	70	80	90	100	20	25	30	35	40	45	50	55	60
Level	9	9	9	9	8	7	7	6	9	9	9	9	9	8	7	7	6
Rolling	12	12	11	10	9	8	8	7	12	12	11	10	10	9	8	8	7
Mountainous	14	13	12	12	11	10	10	9	14	13	12	12	12	11	10	10	9

Note: Short lengths of grade in urban areas, such as grades less than 150 m [500 ft] in length, one-way downgrades, and grades on low-volume urban collectors may be up to 2 percent steeper than the grades shown above.

Exhibit 6-8. Maximum Grades for Urban Collectors

Designing this roadway with a 10.5% maximum grade will not only meet AASHTO, it will also greatly improve the adjacent driveway grades, reduce the amount of cuts and fills and reduce the impacts to adjacent private properties.

We are currently working diligently on this design and are requesting that a decision be made by the City on this topic as quickly as possible.

As you review this information, please do not hesitate to contact us if you have any questions. If needed, we can meet at your convenience to review the proposed change to the roadway profile grade.

Sincerely,

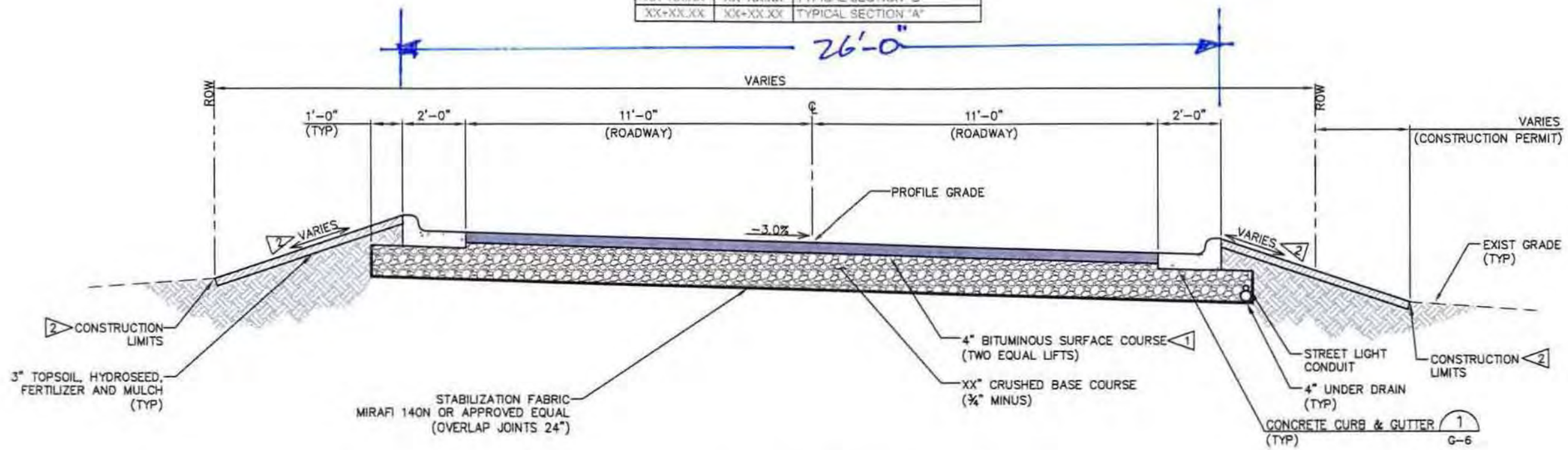
Brandon

TYPICAL SECTION INFORMATION TABLE

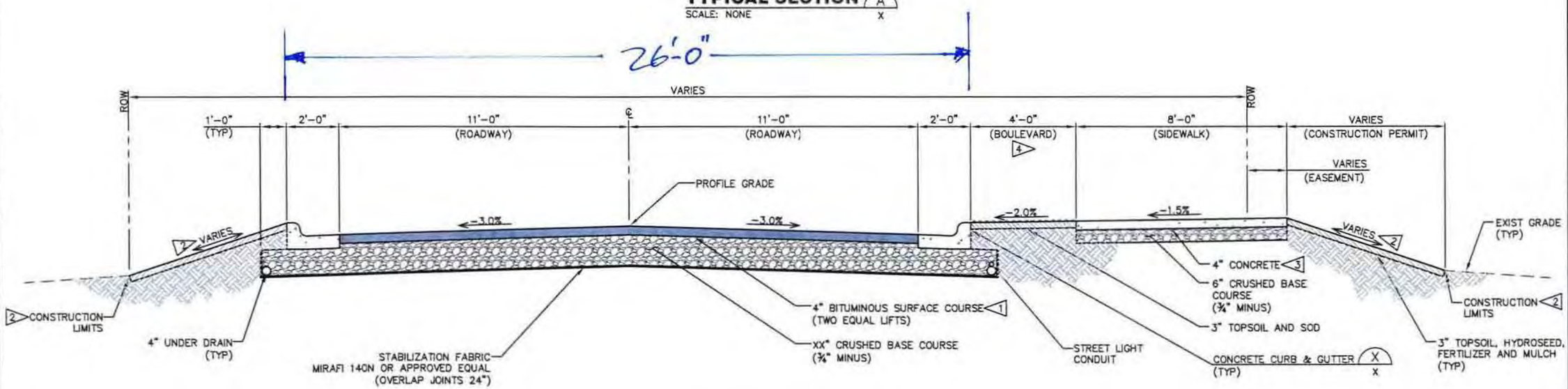
STATION FROM	STATION TO	DESCRIPTION
XX+XX.XX	XX+XX.XX	SEE INTERSECTION DETAILS
XX+XX.XX	XX+XX.XX	TYPICAL SECTION "A"
XX+XX.XX	XX+XX.XX	TYPICAL SECTION "B"
XX+XX.XX	XX+XX.XX	SEE INTERSECTION DETAILS
XX+XX.XX	XX+XX.XX	TYPICAL SECTION "B"
XX+XX.XX	XX+XX.XX	SEE INTERSECTION DETAILS
XX+XX.XX	XX+XX.XX	TYPICAL SECTION "B"
XX+XX.XX	XX+XX.XX	SEE INTERSECTION DETAILS
XX+XX.XX	XX+XX.XX	TYPICAL SECTION "B"
XX+XX.XX	XX+XX.XX	TYPICAL SECTION "A"

NOTES:

1. TACK COAT TO BE PLACED BETWEEN ASPHALT LIFTS.
2. SEE CROSS SECTIONS FOR SLOPING REQUIREMENTS AND CONSTRUCTION LIMITS.
3. CONCRETE SHALL INCLUDE THE USE OF FIBER MESH (0.75 POUNDS PER CUBIC YARD OF CONCRETE).
4. BOULEVARD WIDTH MAY VARY DEPENDING ON TOPOGRAPHY, UTILITIES, EASEMENTS, PERMITS, ETC...



TYPICAL SECTION A
SCALE: NONE



TYPICAL SECTION B
SCALE: NONE

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RPA

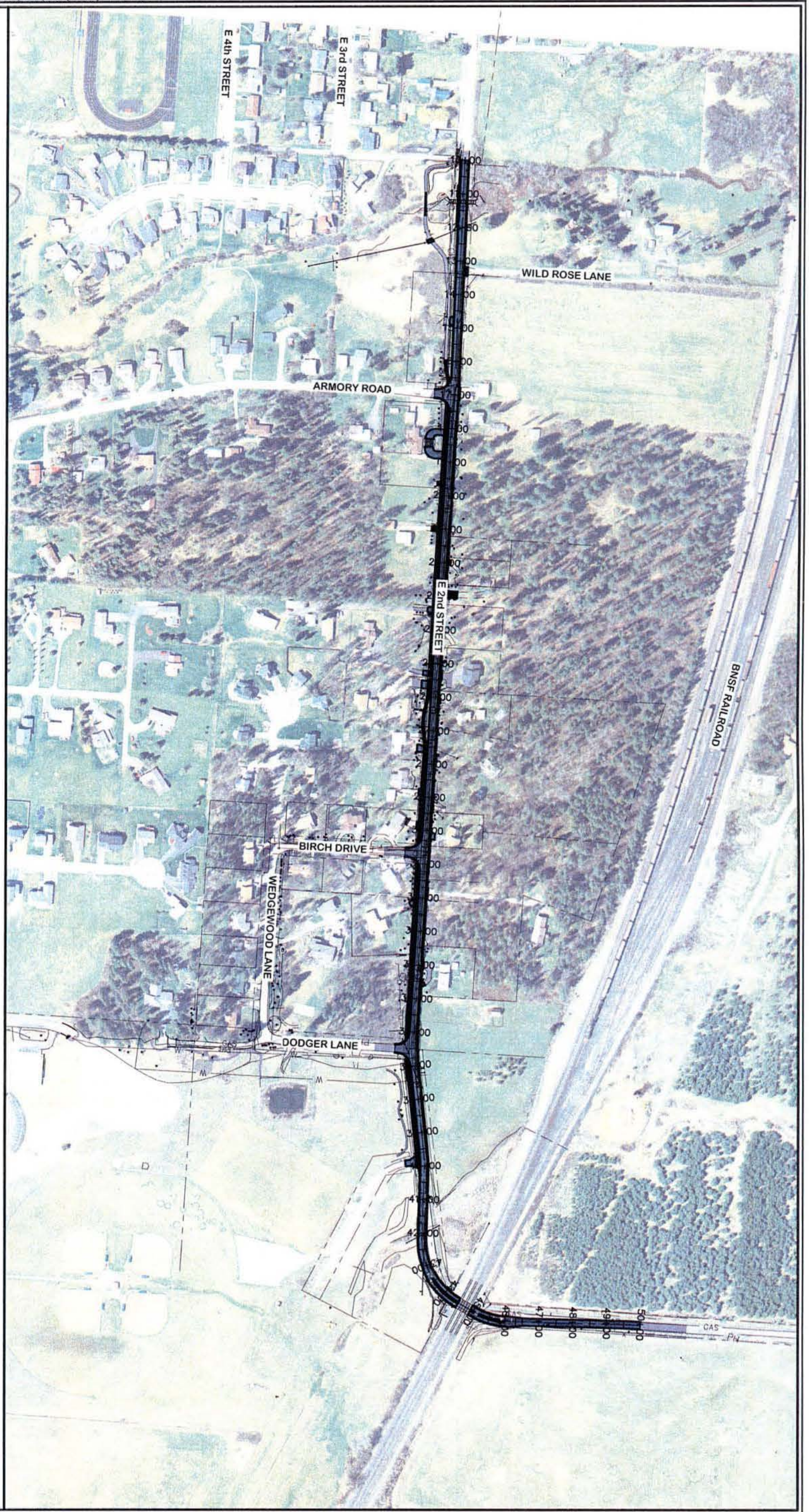
SYM	REVISION	BY	APPR.	DATE
	PRELIMINARY NOT FOR CONSTRUCTION			

B.THEIS DESIGNED BY | JUNE 2013 DATE
M.ROGERS DRAWN BY | 12103.000 PROJECT NO.
R.MITCHELL CHECKED BY | General_ESS FILE

PROJECT TITLE: **EAST SECOND STREET RECONSTRUCTION PROJECT** *Whitefish, Montana*

SHEET TITLE: **TYPICAL SECTIONS**

SHEET **G-4**



SHEET	SHEET TITLE	PROJECT TITLE					
C2-1	ROADWAY OVERVIEW	EAST SECOND STREET RECONSTRUCTION PROJECT *Kalispell, Montana*	B.THEIS DESIGNED BY	JUNE 2013 DATE	SYM	REVISION	BY / APPR / DATE
			M. ROGERS DRAWN BY	12103.000 PROJECT NO.		PRELIMINARY NOT FOR CONSTRUCTION	
			R. MITCHELL CHECKED BY	Roadway_ESS FILE			

RPA

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

Public Notice of Proposed Land Use Action – *2nd Revised Plan*

The City of Whitefish would like to inform you that William MacDonald and Sean Averill, on behalf of Community Infill Partners llc, are requesting two land use actions at 100 Wild Rose Lane and 1500 E 2nd Street (Tracts 1K, 1DA and 1D in S32 T31N R21W). First, a zoning map amendment to change the zoning designation at 100 Wild Rose Lane from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) and 1500 E 2nd Street from WA (Agriculture District) to WER (Estate Residential District). Second, a residential Planned Unit Development overlay across the entire 23.789 acres will consist of 143 units (92 apartments, 16 detached single family home condos with 15 mother-in-law units and 20 attached condos). (WZC 13-01 & WPUD 13-01)

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

Thursday, July 18, 2013
6:00 p.m.
Whitefish City Council Chambers, City Hall
402 E. Second Street, Whitefish MT 59937

The City-County Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on Monday, August 19, 2013 at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a map of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, July 8, 2013, will be included in the packets to the Planning Board members. Comments received after the deadline will be summarized to the Planning Board members at the public hearing.

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

Wendy Compton-Ring

From: Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>
Sent: Friday, June 28, 2013 12:21 PM
To: 'Anne Moran (asmoran@mt.gov)'; Ashley Keltner (a.keltner@flathead.coop); 'Ben DeVall'; Bill Dial (bdialw1@bresnan.net); 'BJ Grieve'; Cal Scott (cscott@flathead.mt.gov); Christina L Schroeder (christina.l.schroeder@usace.army.mil); 'Chuck Curry (ccurry@flathead.mt.gov)'; Columbia Falls Fire Department (cffire@centurytel.net); 'Dave Lawrence (dlawrence@skiwhitefish.com)'; Dennis Oliver (doliver@mt.gov); 'Doug Schuch (douglas.schuch@bnsf.com)'; 'Eric Smith (eric.smith@northwestern.com)'; Gary Engman (gengman@mt.gov); Gary Krueger (gkrueger@flathead.mt.gov); Ginger Kauffman (gingerk@flatheadcd.org); 'James Freyholtz (jfreyholtz@mt.gov)'; 'Joe Page' (jpage@cityofwhitefish.org); 'John Wilson'; 'Judy Williams (juwilliams@mt.gov)'; Karen Reeves; 'Kate Cassidy (kcassidy@flathead.mt.gov)'; Kate Orozco (orozcok@wfps.k12.mt.us); 'Kuennen, Norman'; 'Lisa Timchak (latimchak@fs.fed.us)'; 'Lorch, Steve'; 'Lynn Zanto (lzanto@mt.gov)'; 'Marcia Sheffels (msheffels@flathead.mt.gov)'; 'Mark Baumler (mbaumler@mt.gov)'; 'Mark Deleray (mdeleray@mt.gov)'; North Valley Refuse (nvr@centurytel.net); 'Pamela Holmquist (pholmquist@flathead.mt.gov)'; 'Patti V (pattiv@flathead.mt.gov)'; Paul Nicol (pnicol@flathead.mt.gov); 'Pris, Jeremy'; 'Rita Hanson (for Whitefish Water & Sewer District)'; 'Steve Kilbreath (skilbreath@mt.gov)'; 'Steve Kvapil (steve.j.kvapil@usps.gov)'; 'Stickney, Nicole'; SueAnn Grogan (sgrogan@cityofwhitefish.org); 'Tom Kennelly'; Tony.Hirsch@Centurylink.com; 'Traci Sears '; Virgil Bench (vbench@cityofwhitefish.org); 'Whitefish Parks and Recreation'
Cc: David Taylor
Subject: July City-County Planning Board Notice
Attachments: 7-2013_PB meeting.pdf

Attached please find the notice for the July Planning Board.

Wendy Compton-Ring, AICP
Senior Planner
City of Whitefish
406-863-2418

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

Date: July 26, 2013

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish City-County Planning Board will be held on Thursday, August 15, 2013 at 6:00 pm. During the meeting, the Board will hold public hearings on the items listed below. Upon receipt of the recommendation by the Planning Board, the Whitefish City Council will also hold subsequent public hearing for items 1, 2 and 3 on Tuesday, September 3, 2013 and items 4 and 5 on Monday, September 16, 2013. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

1. Marty Beale on behalf of Eighth Street llc is proposing to develop a tri-plex and a professional office on a single parcel. The property is developed with a single family home and is zoned WR-3 (Low Density Multi-Family Residential District). The property is located at 118 W 2nd Street and can be legally described as the east half of Lot 6, Block 1 Grandview Addition. (WCUP 13-08) Compton-Ring

2. Kevin and Melinda Johnson are proposing to construct a guest house. The property is developed with a single family home and is zoned WSR (Suburban Residential District). The property is located at 815 Delrey Rd and can be legally described as Tract 3D in Section 5 Township 31N Range 22W P.M.M., Flathead County. (WCUP 13-09) Compton-Ring

3. Neil Stuber and Corrie Colbert, on behalf of Hurraw! Balm llc, are proposing to temporarily expand their Home Occupation business until January 2014 when their permanent facility is finished. This home occupation will temporarily exceed the area limitation and the number of nonfamily member employees standards. The property is located at 103 Dakota Avenue and is zoned WR-2 (Two-Family Residential District). The property can be legally described as Lot 7, Block 12, Whitefish Townsite in Section 25 Township 31N Range 22W, P.M.M., Flathead County. (WCUP 13-10) Compton-Ring

4. A request by the City of Whitefish to amend the Subdivision Regulations and Zoning Regulations as they pertain to the 2013 Legislative changes to the Montana State Subdivision and Platting Act. (WSUB 13-01/WZTA 13-01) Compton-Ring

5. A request by the City of Whitefish to amend the Whitefish Growth Policy to incorporate a Park Master Plan. (WGPA 13-01) Taylor

David A. Bennetts
1489 E 2nd St
Whitefish, MT 59937
406-471-4312

Whitefish Planning Department
PO Box 158
Whitefish, MT 59937

March 4, 2013

To whom it may concern,

I would like to oppose both of the proposed land use actions affecting 100 Wild Rose Ln and 1500 E 2nd St. The following comments are in response to the proposed zoning map amendment changes and the planned unit development affecting Wild Rose Ln and East Second St.

Just because the applicants want to develop their property, does not mean the city of Whitefish should compromise the integrity of our neighborhoods by allowing zoning map amendments or making changes to existing neighborhoods for PUD's. The applicants knew when they purchased the property what the zoning designations were, and should not be allowed to change them in order to develop the property, especially when the proposed development is not in conformity with the existing neighborhood.

I hope the city-county planning board will consider these comments when making their recommendation to the Whitefish City Council:

1. The neighborhood along east 2nd St, travelling east, from the Spokane and 2nd St intersection to the RR crossing is already primarily single family housing. The Planned Unit Development of adding 164 apartments and 9 condos does not fit the character of this neighborhood, and may not fit the character of Whitefish in general.

EXHIBIT

16

2. The proposed zoning map amendment for 100 Wild Rose Ln should not be changed from One Family Residential District to the Two Family Residential District. I would think it would be more appropriate to remain as a One-Family Residential District, again as most of the neighborhood is already made up of single family residences.

3. The proposed zoning map amendment for 1500 E 2nd St should not be changed from Agriculture District to Estate Residential District. Again, as the neighborhood is primarily single family residences, it would seem there are more appropriate locations for condos, townhouses and/or apartments.

Again, I urge to you to reject both of the proposed land use actions at 100 Wild Rose Ln and 1500 E 2nd St.

Thank you for the chance to comment on these proposals. I look forward to attending both the City-County Planning Board hearing on March 21, as well as the April 15 Whitefish City Council public hearing.

Sincerely,

David A Bennetts

Wendy Compton-Ring

From: Susan Schnee <schnee@aboutmontana.net>
Sent: Monday, March 11, 2013 4:50 PM
To: wcompton-ring@cityofwhitefish.org
Subject: FW: averill development on second st.

From: Susan Schnee [mailto:schnee@aboutmontana.net]
Sent: Monday, March 11, 2013 4:24 PM
To: 'wcompton-ring@cityofwhitefis.org'
Subject: averill development on second st.

To the Planning Board Members and Whitefish Planning Department,

I don't know why, but I just received this in the mail today, so I'm under the wire to get this in.

My first thought after seeing this mailing/proposal was: YOU'VE GOT TO BE KIDDING.

But obviously not.

Moving a SMALL TOWN right next to Cow Creek will certainly need some good planning and mitigation to prevent flooding downstream, oily runoff, traffic congestion/accidents on Second St, pedestrian/auto accidents on Second St., damage/pollution to the water table/wetlands, site/noise pollution and every other problem associated with moving a SMALL TOWN onto that site.

I know the Whitefish Planning Dept. will do their job to mitigate as much damage as possible, but will the Planning Board follow their recommendations or will they choose to ignore/change findings of fact as they have in the past?

I expect there will be a lot of opposition to building a MacDonald/ Averillville on the outskirts of Whitefish.

Susan Schnee
1405 East Second St
Whitefish, MT 59937
406-863-9856

EXHIBIT
7

=======
Email scanned by PC Tools - No viruses or spyware found.
(Email Guard: 9.0.0.909, Virus/Spyware Database: 6.21060)

11 March 2013

Whitefish City-County Planning Board
Whitefish Planning & Building Department
PO Box 158
510 Railway Street
Whitefish, MT 59937

Dear Whitefish City-County Planning Board Members:

This letter is to provide our comments about the proposed land use changes by William MacDonald and Sean Averill, on behalf of Community Infill Partners, LLC at 100 Wild Rose Lane and 1500 East Second Street in Whitefish. My sister, Elizabeth Harmon, and I own the neighboring property to west, between Cow Creek and Larch Avenue. We both grew up at 100 Wild Rose Lane and although we do not live in Whitefish at this time we continue to visit family and friends frequently in addition to trips for business.

Late last week we received the two page notice for the proposed land use changes on the above properties. We endeavored to learn more details of the proposed development but could not find anything available online and also did not receive a call back from the Planning & Building Department by the comment submission deadline prior to the March 21st meeting. While we have many questions and will continue to follow up with the City, these comments reflect our reading of the notice and a limited amount of additional information.

First we would like to thank Board members for their time volunteering for this important City Board. The work is demanding and we appreciate the effort you put towards a successful community for all involved. We hope you review proposals like this one as if they were in right next door to your own house or property.

We write in opposition to the requested zoning change as proposed. The greater neighborhood has changed and grown over the years. The changes are mostly from an agricultural use to smaller lots with single family homes and perhaps a duplex or two in the mix. We realize it is unrealistic to think that the properties in this zoning request would remain agricultural and we are not opposing all development. Rather, we believe it is unrealistic that these lots, as some of the last undeveloped areas in the neighborhood should gain approval for a radical zoning change to support a high density housing project in an area of single family homes on sizeable acreages.

As mentioned above, developing the properties is not the issue; the density, type of development and impact on the surrounding landowners are the issues. According to the Planning & Building Department website, there are plans for high density residential areas in the north and south sections of town. Those high density zones are not close to fully developed. If they were at capacity, that situation might drive demand for more areas for high density residential development.

From the Planning & Building Department flier this proposed zoning change may contain some proportion of Affordable Housing. We realize this is a critical issue in many western resort towns and support the inclusion of Affordable Housing with any development request in an appropriate manner, but not as an excuse to radically change the characteristic of a whole neighborhood with a high density

EXHIBIT 8

housing project. Our time in Park City, UT; Bend, OR; Jackson Hole, WY and Durango, CO provides a familiarity with affordable housing issues and a variety of successful and unsuccessful approaches. The Whitefish Housing Authority study underscores the need for Affordable Housing in Whitefish and some solutions. What is not clear is the progress made since the Whitefish Housing Authority published the study, but, we hope this Board considers the data and lessons learned elsewhere in considering this high density housing development request.

While we support that a private landowner can develop their property, we do not support development in a way that benefits them and penalizes all their neighbors and adds costs to the City budgets. To summarize our concerns as neighboring landowners:

- The proposed zoning change is large and negatively impacts the entire neighborhood and quality of life.
    - Increasing traffic on limited infrastructure, e.g., sidewalks and narrow streets.
    - The developer estimated vehicle increase is 175-400+ vehicles in the development which drastically changes the traffic flow on East 2nd Street. The majority of the traffic will flow through an intersection of East 2nd Street and Armory Road which is at the bottom of a hill and "blind" for westbound traffic on East 2nd Street.
    - Many runners, bicyclists, students and others use East 2nd Street. As a narrow street there isn't room for two lanes of heavy traffic plus those additional uses.
    - We applaud the City's previous work with the development of a pathway along the south side of East 2nd Street and hope the work will continue to improve safe access for non-motorized traffic in this corridor.
- A development which benefits only Community Infill Partners, Wild Rose Knoll and Pine Hill at the expense of all other landowners in the neighborhood.
    - Dropping neighboring property values by inserting a high density housing project in a traditional single family home neighborhood.
    - Visual and physical impact of a housing project on the neighborhood and existing infrastructure.
- As landowners with property for pasturing livestock:
    - This proposal brings a "nuisance" to the existing land use within the surrounding neighborhood. High density housing brings many people to a small area which has a creek and livestock adjacent to the development. These types of interfaces have their own liability and safety concerns.
    - This proposed development has strong characteristics which would negatively impact Cow Creek water quality. Maintaining water quality is critical to the continued use of our property. We presume the proposed development will hook into City sewer.
    - Garbage handling facilities for the large community are not clear, but we hope that the proposed project includes facilities and provisions which prevent the scattering of garbage by the wind and wild animals.
- Adequate and ongoing ownership and operation of the development?
    - From the limited information available, the ongoing roles of the developer and landowner are not clear.
    - Given our previous experience with the owners of Wild Rose Knoll and Pine Hill in a landlord situation we will raise concerns about the future viability of the proposed development. We took ownership of two rental properties (i.e., 101 Larch Avenue, 4125 Hwy 40 West) which were under their management control for at least 10 years. The houses on both properties had to be razed because they did not meet City and

County codes and were pretty much unlivable. The history of poor basic maintenance and continued lack of attention to the properties is the source of our ongoing viability concern. With a much larger number of units to care for in addition to obligations with an unrelated full time jobs is there a future problem waiting to happen.

We will follow up with the Planning & Building Department with our additional questions including:

- Has this project requested, applied for, or received any assistance from the City or County as part of this development proposal?
- Is the City or County incented in any way to accept this proposal from Community Infill Partners?
- What is the impact to the City or County in terms of police support, infrastructure (e.g., traffic light, widening East 2nd Street)
- What is the impact to Cow Creek water quality due to increased urban stormwater effluent from the parking lots and developed areas? Livestock and wildlife uses this water source for drinking water at this location and others downstream.
- What, if any, City infrastructure changes would be required to support this proposed development?
- Is there a traffic corridor study associated with this proposed development?

Best Regards,

Rebecca Kauffmar
970-764-7171

received 8.13.13

Dear Planning Office,

I am a 24 year old student and full time employee at two locations in Whitefish MT. I love this town's beauty, ambience, location and tranquility. Whitefish has so much to offer to new and old residents alike except suitable housing.

It took me over 6 months to find a suitable place to live, rental properties are for lack of words plain dingy. It was important to me and my family living back East that I lived in a clean, brightly lit, safe and affordable apartment. Craigslist was the only resource for housing in the Whitefish area along with Five Star Rentals, Whitefish Property Management, The Land Lord, all in which offer almost nothing. I would highly advise anyone to put themselves in my shoes, and take a minute to look around at the sights IV listed and see for your selves the lack housing available for someone of my social status.

Housing is a major concern for all people, as the wellbeing of a community is reflected in its people enjoying a certain standard of living. Residential and neighborhood satisfaction is an important indicator of housing quality and condition, which affects individuals' quality of life. Housing for all in any community is very crucial in order to ensure social economic stability and to promote community and national development.

As I prepare to leave the community I grew to love, it is my hope that you welcome those individuals with experience, concerns, comments, suggestions, questions, advice and above all the sincere desire to contribute to the overall betterment of this wonderful thriving community.

I would like it to be in the public record that I'm fully in support of the new apartments!

Sincerely,

Kristen Choiniere

EXHIBIT

9

Wendy Compton-Ring

From: Walt Chauner <waltc@bigmountainclub.com>
Sent: Wednesday, March 13, 2013 9:42 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Less expensive housing

I like this idea! Whitefish needs this!

Walt Chauner
Big Mountain Club
406-253-4266

EXHIBIT

10

Wendy Compton-Ring

From: Blaine Platt <bcplatt76@gmail.com>
Sent: Wednesday, March 13, 2013 10:15 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Proposed future housing near WF High School.

Attn: Wendy

To whom it may concern;

I would like this letter to serve as support for the proposed housing/apartment project in the Whitefish High School area.
I would like it to be referenced as part of the public record for the Community Infill Partners LLC proposal on 2nd St.
I am a professional in the medical field where I have to travel frequently between Missoula and Whitefish.
I have had to move my Whitefish residence over 3 times in the past 5 years due to various housing issues and the lack of professional apartment/condo facilities in the Whitefish area.
I will be facing the very same situation in the following months as I look to find a suitable, affordable yet higher end housing that suits my needs.
There are currently a few different apartment/condo complexes in the area that fit these higher standards but they all have lengthy waiting lists at best.
From what I've heard of their plans for this project are as follows;

- A rural feel to the design
-75% open space
-10% affordable housing
-Intricate public trails system
-community gardens and amenities

Please approve this project.
This complex will greatly benefit the growing community as well as benefit the medical community.
There are numerous professionals in my same field that are facing the same lack of housing in the Whitefish area.

Respectfully,

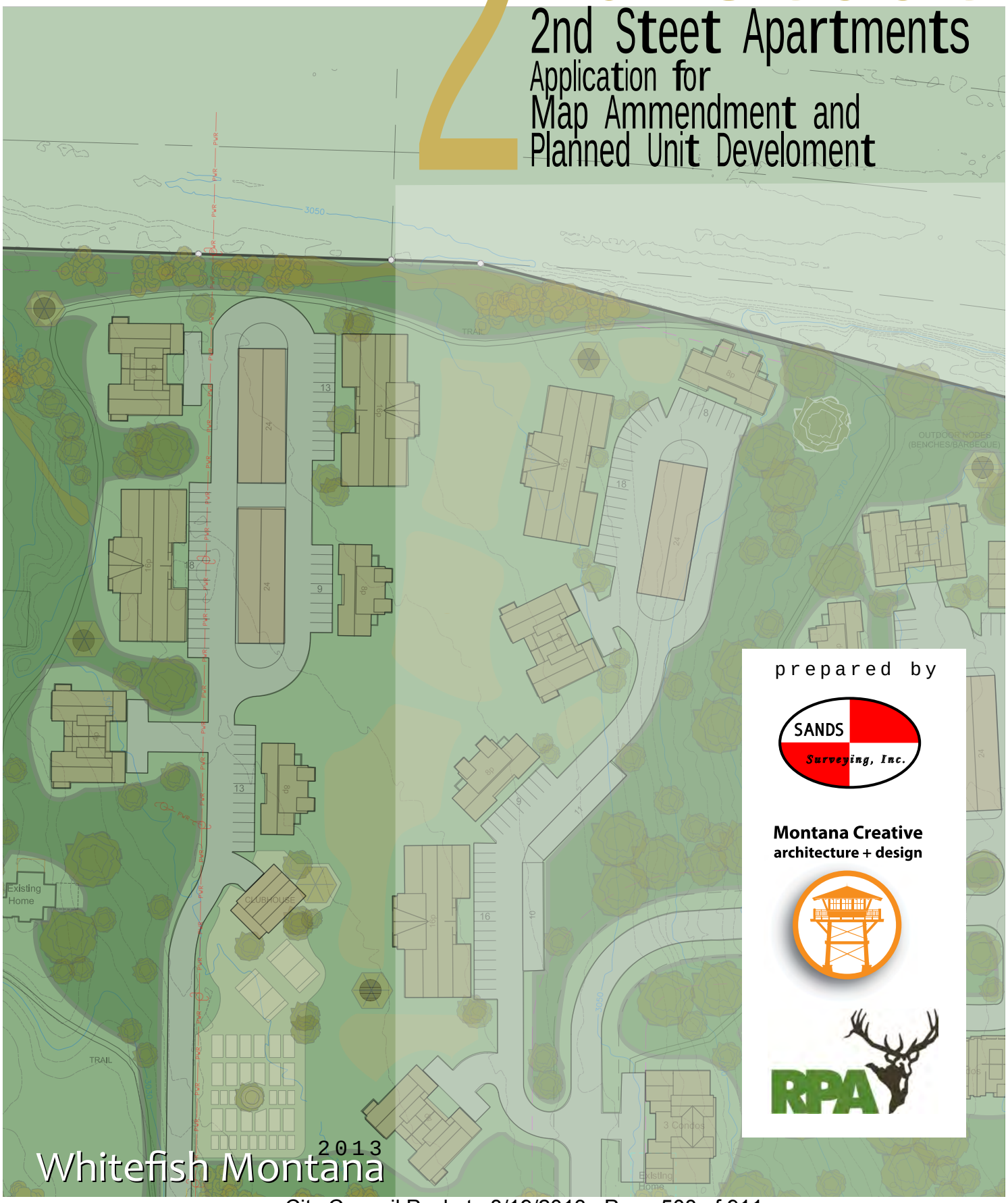
Blaine Platt
bcplatt76@gmail.com
(406)407-1994

EXHIBIT
11

2nd steet

2nd Steet Apartments

Application for Map Ammendment and Planned Unit Develoment



prepared by

SANDS
Surveying, Inc.

Montana Creative
architecture + design

RPA

2013
Whitefish Montana

Zoning Map Amendment Application

Adjacent Land Owners List

Title Report

PUD Application and Draft CC&R's

Architectural Plans/Elevations

Phasing Plan

Letter of Intent and Needs Ltr. –
Whitefish Housing Authority and
Community Infill Partners, LLC

Preliminary Engineering Report

Traffic Impact Study

Cow Creek Wetland Delineation

Maps – Vicinity, landscaping, tree
preservation, floodplain, and draft COS

Map – PUD

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__$3,880.00_____ (See current fee schedule)

NAME OF APPLICANT: __Community Infill Partners, LLC. Attn: William MacDonald and Sean Averill_____

MAIL ADDRESS: _P.O. Box 4600_____

CITY/STATE/ZIP: __Whitefish, MT 59937_____ PHONE: _(406) 871-7787 (Will)

E-Mail (Optional; not for official notification.) will@kotaenterprisesllc.com_____

INTEREST IN PROPERTY: __Contract to purchase_____

PLEASE COMPLETE THE FOLLOWING:

A. Address of the property: _100 Wild Rose Lane, Whitefish_____

B. Legal Description: (Subdivision Name, Lot & Block and/or Tract Number (Section, Township, Range) __Assessor's Tracts 1K, 1D, and 1DA in Section 32, T31N, R21W, P.M.M., Flathead County

(Attach sheet for metes and bounds)

C. Land area in zone change (ac) __23.789 Acres_____

D. The present zoning of the above property is: _WR-1 (One Family Residential and WA (Agricultural)

E. The proposed zoning of the above property is: _WR-2 (Two Family Residential and WER (Estate Residential)

F. State the changed or changing conditions that make the proposed amendment necessary:

For many years, urban development has spread to east of the Whitefish downtown neighborhoods to eventually surround the Kauffman property. Yet, the Kauffman's continued to hay the field and feed his horses preserving a large undeveloped holding within the City Limits of Whitefish. The City of Whitefish will begin a significant upgrade of East Second Street in 2014 and those improvements will occur immediately in front of the

subject property. The East Second Street improvements include upgrades to sewer and water service and the extension of the Bike/Pedestrian paths. The City of Whitefish has invested substantially in the Armory Park and the new Bike/Ped path will connect the park to the schools and the downtown area. Given that urban densities and urban services surrounding the property, the Agricultural zoning designation no longer seems appropriate.

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 providing a location for the development of new, clean, and safe apartment structures for rent within the Whitefish Community. A repeated concern of the Whitefish community is that there are few affordable places for people to rent that work in the retail/service industries of Whitefish. Many of the existing apartments within the City are aging and in need of care while at the same time rents for these places are increasing. Increasing rents are forcing some employees of Whitefish businesses to commute from Columbia Falls or Kalispell to secure more affordable rents.

The subject property is annexed in the City of Whitefish at present and is served by City water, Police, Fire, and Schools. East Second Street is classified as a "collector" and the City has made improvements to the street west of the proposed development to the intersection with Spokane Avenue. Beginning in 2014, the City will improve East Second Street through to Edgewood.

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 approximately one and a half miles from the subject zone change. New water mains are proposed for the East Second Street reconstruction and the PUD application for the subject site includes plans for extending water and fire hydrants into the property.

A portion of the property is forested with stands of large ponderosa pines. The clustering provides a two-fold benefit by allowing the development to establish

defensible space around the units but also protecting large numbers of trees and the visual benefits.

There is a small ribbon of floodplain located along Cow Creek on the west end of the project. The proposed PUD places all units on top of the bank and well outside of the 100-year floodplain.

The property is currently served by the Whitefish Police Department which is located in the same structure as the Fire Department and would be able to provide a quick response to emergencies at the subject property.

C. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements:

The subject property is located along East Second Street. East Second Street is a collector that provides direct access to the downtown as well as local schools and other services. Second Street is set for significant upgrades in 2014 which will not only facilitate vehicles but also pedestrians and utilities. Along with this zone change application, the applicants have submitted a PUD application showing roads, pedestrian paths, and preliminary sewer/water plans for the subject property. If approved, the property will connect and extend the City of Whitefish's sewer and water mains into the development to service the units. The applicants are also providing easements and connections for sewer, water and road facilities to be extended beyond the borders of the project. The Whitefish Elementary, Middle, and High schools are all within walking distance of the property. Currently there is a bike/pedestrian path on the south side of East Second Street that leads to the High and elementary school and the path system connects with sidewalks and bike paths that lead to Central school located as Second and Spokane. With the Second Street upgrades, the bike/ped path will be extended along East Second Street to connect with the Armory Park system.

D. Provide reasonable provision of adequate light and air:

The proposed zone change also accompanies a proposed PUD application for the subject property. The Zone Change and PUD cover 23.789 acres of land most of which is currently open in either hay or forest. The PUD plan shows building,

road, and parking covering 6.892 acres of the property or 29% and this leaves 16.897 acres or 71% of the property in open space. The proposed open space includes the Cow Creek drainage, a large swath of the hay field (to be converted to grass, and good portion of the forested area.

Although the proposed zone change and PUD will facilitate the development of multi-family residences, the fact that the proposed land use is attached and clustered allows the developer to preserve the large areas of open space. The proposed zoning Map Amendment will provide reasonable provisions for light and air.

E. Effect motorized and nonmotorized transportation systems:

As part of the of the PUD submittal, the applicants provide a Traffic Impact Study (TIS) to analyze the vehicle trip generation, level of service pre and post development, trip dispersal, and provide recommendations to mitigate potential impacts on the transportation system. In summary, the TIS conclude that the trips generated by the proposed project will not degrade the level of service existing at the affected roads or intersections. The TIS does recommend that the project provide a cross walk on East Second Street between the proposed project pedestrian paths and the existing bike path on the south side of East Second. The second recommendation is to plan for and provide a location that could be used as a bus stop for a future City transit system.

F. Promote compatible urban growth:

The west 6.875 acres are currently zoned R-1 (One Family Residential). Just one property west of the subject property is the WR-2 (Two-Family Residential) zoning classification that is being requested on the 6.875 acres. The eastern 16.914 acres are currently zoned WA (Agricultural) with a 15 acre minimum lots zone. This WA zone is surrounded by R-2, R-1, WLR, and WI all of which support urban densities according to the Whitefish Growth Policy. We are proposing WER on the 16.914 acres to comply with the Suburban Residential Growth Policy Designation rather than the WLR which abuts the property directly to the east. The proposed overall density of the development is 7.3 units per acre which is similar to that of the traditional single family neighborhoods located on Kalispell, Columbia, and Somers Avenues. Therefore, the proposed zoning does promote compatible densities within the context of nearby neighborhoods.

G. Consider the character of the district and its particular suitability for particular uses:

Although there is little or no multi-family development in the immediate proximity of the proposed zone change and PUD, the size of the property lends itself to the proposed use by providing room to cluster and preserve large areas of open space. In addition, the clustering of the multi-family units promotes large buffers from neighboring uses. The subject property is also close to downtown businesses, schools, parks, and other services. Residents of the proposed development will have a convenient option to walk or ride a bike to work, school or play.

H. Protect and conserve the value of buildings:

The proposed zoning and PUD will preserve the value of buildings by clustering the density in a manner that creates large buffers and open space areas. The City of Whitefish has an Architectural Review Ordinance that allows the City to review building plans prior to construction for compliance with the City's design objectives.

I. Encourage the most appropriate use of land throughout the jurisdictional area:

Multi-family development should be located near services such as schools and shopping and also adjacent to a good transportation network to support the higher concentration of residents. The Whitefish Growth Policy Map dedicates a large area in the historic residential core of Whitefish for multi-family development. However if one was to develop multi-family in this core area as suggested by the Growth Policy Map, large numbers of historic homes would have to be flattened to make room for the building foot print and associated parking. This runs counter to other goals of the Whitefish Growth Policy that encourage preservation of these neighborhoods. The Kauffman property is uniquely situated in that it is close to all of the amenities and services but was never platted into small urban lots. The subject property is well suited for multi-family housing and will have less impact than if multi-family units were developed in the core area just south of downtown.

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 multi-family development in the southern core of the downtown and north of the viaduct along Wisconsin. Although these aresa may be a good location for Multi-Family development, the south core area is also an area of historic single family residences. The alternative site proposed with this application set can help the City meet the goals of providing affordable housing for rent without demolishing a block of historic housing stock. Because the Kauffman property remained rural and let the City grow up around it, this large tract of land can accommodate both development and open space to help bridge the gap between historical use and current trends.

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

APPLICATION PROCESS

APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A discussion with the Planning & Building Director or designated member of staff **is highly recommended**. Among topics to be discussed are: Master Plan or Growth Policy compatibility with the application, compatibility of the proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed application form.

C. Application fee per current fee schedule, made payable to the City of Whitefish.

D. The application must be accepted as complete by the City staff **forty five (45) days prior** to the date of the planning board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled.

E. Application Contents:

1. Petition for zone change signed by the real property owners representing at least 65% of the land area for which the change in zoning classification is sought.

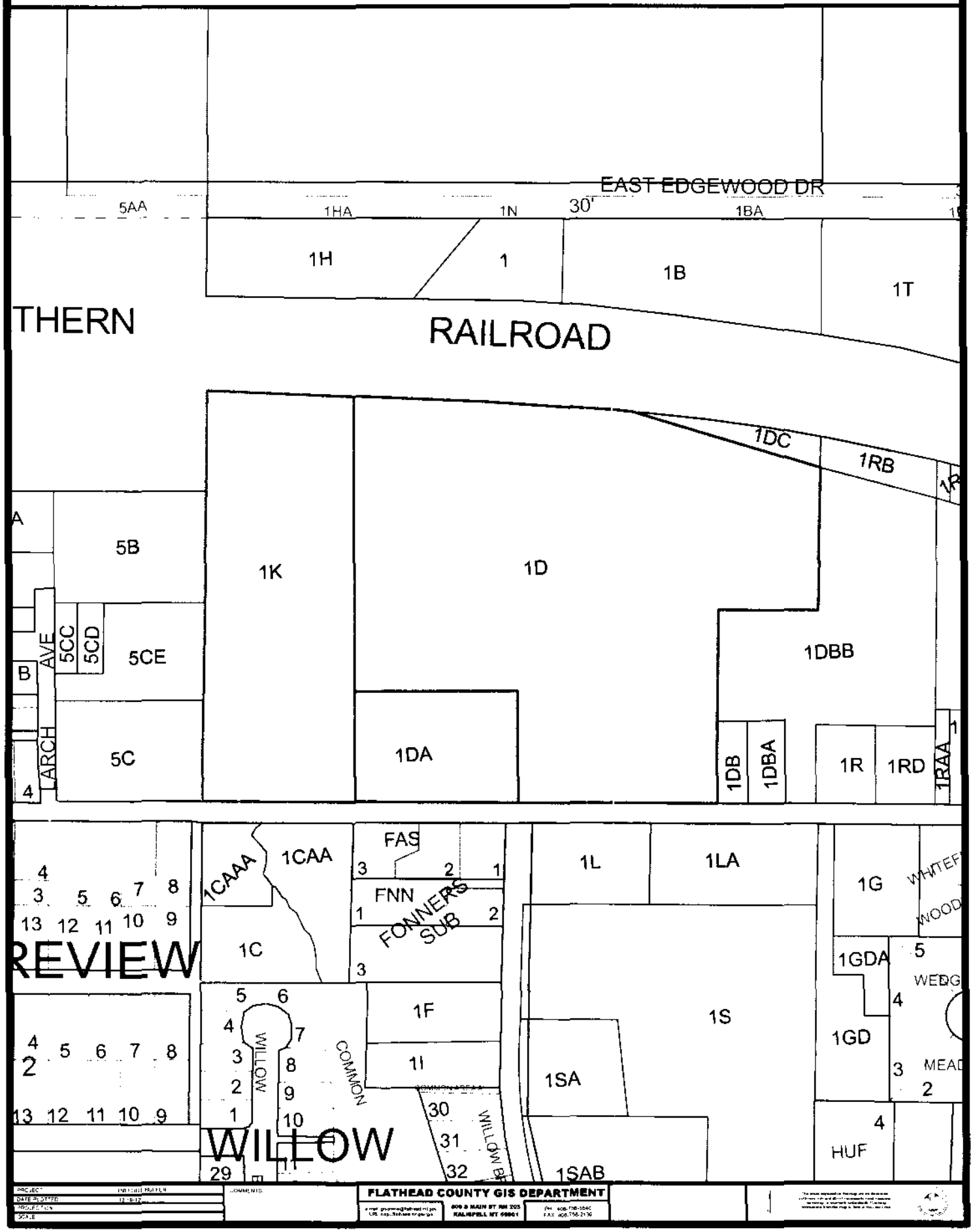
2. A map showing the location and boundaries of the property.

3. Adjoining Property Owners List from Flathead County GIS Department.

4. A title report, ownership report or zoning report of the subject property.

TRACTS 1D, 1DA, 1K IN S32 T31N R21W PMM

150 FOOT OWNERSHIP



TRACTS 1D, 1DA, 1K IN S32 T31N R21W PMM

150 FOOT OWNERSHIP LIST

ASSRNO	Name	Address	TRACT_ID	Rec_Code
0004500				
	NELSON, CAROL R			
		1590 E 2ND ST WHITEFISH MT 59937		
			3121X32-XXX-1DB	1M
0004550				
	NELSON, CAROL R			
		1590 E 2ND ST WHITEFISH MT 59937		
			3121X32-XXX-1DBA	1M
0009400				
	SCHNEE, SUSAN			
		1405 E 2ND ST WHITEFISH MT 59937		
			3121X32-XXX-1C	1M
0233050				
	ULVIN, RYAN			
		196 JOHNS WAY WHITEFISH MT 59937		
			3121X32-XXX-1DBB	1M
0256321				
	FLINT FAMILY TRUST			

ASSRNO	Name	Address	TRACT_ID	Rec_Code
		AD% WFSH CREDIT PO BOX 1239 WHITEFISH MT 59937		
			3121X32-SHV-7-BLK1	1M
			3121X32-SHV-8-BLK1	1M
0349650				
	HECIMOVICH, CAROL H AKA CAROL			
		PO BOX 851 WHITEFISH MT 59937		
			3121X32-XXX-1LA	1M
0362200				
	PINE HILL LP			
		PO BOX 91 WHITEFISH MT 59937		
			3121X32-XXX-1D	1M
			3121X32-XXX-1DA	1M
0378200				
	HUGHES REVOCABLE TRUST, JD & SIBYL			
		1515 E 2ND ST WHITEFISH MT 59937		
			3121X32-XXX-1L	1M
0431051				
	WILD ROSE KNOLL LP			
		PO BOX 91 WHITEFISH MT 59937		
			3121X32-XXX-1K	1M
0431260				
	PHIHOP INC			

ASSRNO	Name	Address	TRACT_ID	Rec_Code
		AD% REBECCA KAUFFMAN 30 TANGLEWOOD DR DURANGO CO 81301		
			3121X32-XXX-5B	1M
			3121X32-XXX-5C	1M
			3121X32-XXX-5CE	1M
0500014				
	BENNETTS, DAVID			
		1489 E 2ND ST WHITEFISH MT 59937		
			3121X32-FAS-2	1M
	LE BLEU, CHERI			
		1489 E 2ND ST WHITEFISH MT 59937		
			3121X32-FAS-2	21
0500015				
	RATCHYE, JEFFREY L & MELINDA			
		1481 E 2ND ST WHITEFISH MT 59937		
			3121X32-FAS-3	1M
0505270				
	COUSER, NOAH J & MEGAN R			
		119 LUPFER AVE APT 3 WHITEFISH MT 59937		
			3121X32-FNN-2	1M
0969391				
	WOOD, BRIAN A & SHARON K			
		100 ARMORY RD WHITEFISH MT 59937		

ASSRNO	Name	Address	TRACT_ID	Rec_Code
			3121X32-FAS-1	1M
0981389				
	BALDRIDGE, SUMMERFIELD C & JULIE			
		PO BOX 607 WHITEFISH MT 59937		
			3121X32-FNN-1	1M
E000569				
	CITY OF WHITEFISH			
		PO BOX 158 WHITEFISH MT 59937		
			3121X32-XXX-1CAAA	1M
E000982				
	CITY OF WHITEFISH			
		PO BOX 158 WHITEFISH MT 59937		
			3121X32-XXX-1CAA	1M

PLAT ROOM RECORDATION CHANGES TO ASSRNO MAILING TABLE

Recordation Number:

Brief Legal Description: 3121X32-XXX-Railroad

Assr Number:

NAME: Burlington Northern Santa Fe

ADDRESS	CITY	STATE	ZIPCODE	Description
2500 Lou Menk Dr	Fort Worth	TX	76131	

Flathead Co. Plat Room
800 S. Main Room 105
Kalispell, Mt. 59901

Approved 12/21/12

Sterling Title Services

ZONING REPORT

ORDER NO.: **CG-54166**

TO: **Sands Surveying, Inc.**

DATE: **December 26, 2012 at 8:00am**

RE: **Wild Rose Knoll, L.P.**
Pine Hill, LP, a Montana limited partnership

FEE: **$150.00**

"Protecting You is Our Business"

211 South Main Street • P.O. Box 73
Kalispell, Montana 59903
Phone: (406) 752-7000 • Title Fax: (406) 752-7207
Escrow Fax: (406) 257-5663

307 Spokane Avenue • Suite 101
P.O. Box 4730
Whitefish, Montana 59937
Phone: (406) 862-7000 • Fax: (406) 862-7036

www.sterlingtitleservices.com • E-mail: info@sterlingtitleservices.com

The assurances referred to on the face page are:

According to Sterling Title Services' property records relative to the following described real property (but without examination of the Company records maintained and indexed by name):

WILD ROSE KNOLL, L.P. PROPERTY:
A tract of land in the Northeast Quarter of the Northwest Quarter of Section 32, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana, particularly described as follows:
Beginning at the Southwest corner of said Northeast Quarter of the Northwest Quarter; thence
North to the Southerly boundary of the right-of-way of the Great Northern Railway; thence
Easterly along the Southerly boundary of said railroad right-of-way, a distance of 300 feet, more or less, to the West line of the county road, as said county road is now located; thence
South along the West boundary of said county road to its intersection with the South line of said Northeast Quarter of the Northwest Quarter; thence
West to the Place of Beginning.

EXCEPTING rights of way from public roads deeded to Flathead County.

PINE HILL, LP PROPERTY:
All that part of the NE¼NW¼ of Section 32, Township 31 North, Range 21 West, described as follows:
Beginning at a point a distance of 594.20 feet South of the North Quarter corner common to Sections 29 and 32; thence
South a distance of 308.50 feet to a point; thence
West a distance of 208.70 feet to a point; thence
South a distance of 417.40 feet to a point;thence
West a distance of 781.30 feet, measured along the Northerly boundary of the County Road; thence
North a distance of 912.80 feet, more or less to the Southerly boundary of the Great Northern Railway right-of-way; thence

Southeasterly along said Southeasterly boundary of the Great Northern Railway right-of-way a distance of 1010.00 feet, more or less to the Easterly boundary of the NE¼NW¼, which is the Point of Beginning.

The last recorded instruments purporting to transfer title to said real property is:

Warranty Deed:
Dated: May 5, 2005
Grantor: David V. Kauffman and Ruth E. Kauffman
Grantee: Wild Rose Knoll, L.P.
Recorded: May 6, 2006 as Document #199815308040, Official Records of Flathead County, Montana.

QuitClaim Deed:
Dated: July 9, 2004
Grantor: David V. Kauffman, Jr. and Anita L. Kauffman, husband and Wife
Grantee: Pine Hill, LP, a Montana limited partnership
Recorded: July 9, 2004 as Document #20419115360, Official Records of Flathead County, Montana.

This report is based on a search of our tract indexes of the records of the Flathead County Courthouse. This is not a title or ownership report and no examination of the title to the aforementioned real property has been made. No liability beyond the amount paid for this report is assumed for this reason. Sterling Title Services is not responsible beyond the amount paid for this report in connection with any errors and/or omissions contained herein. No examination has been made of the records of Sterling Title Services maintained and indexed by name, nor has an examination been made regarding matters affecting any deed(s) of trust or mortgage(s) shown in this Zoning Report, or other matters which may affect any such deed(s) of trust or mortgage(s). No report is made regarding any liens, claim of lien, defects or encumbrances other than those specifically set forth in this report. If this report was requested by reference to a *street address,* no assurances or

guarantees are made that the aforementioned real property is the same as the address provided to Sterling Title Services. No examination has been made with respect to the identity of the party named in the last recorded instrument purporting to transfer title to the aforementioned real property, or with respect to the validity, legal effect or priority of any matter reflected in this report.

If you are interested in additional services or title insurance coverage, or questions about additional services available, please contact Sterling Title Services at 752-7000 or visit our website at www.sterlingtitleservices.com.

Thank you for your continued business.

Report prepared by:

Tracy J. Martin

Tracy J. Martin
Sterling Title Services

(2)

FM-38180

2005126 12/70

WARRANTY DEED

S

THIS INDENTURE, made this 5 day of May 2005, between **DAVID V. KAUFFMAN AND RUTH E. KAUFFMAN** Party of the First Part and **WILD ROSE KNOLL, L.P.** of PO Box 91 Whitefish, MT 59937, Party of the Second Part.

APPROVED 5/6/05 0431051

WITNESSETH, that the said Party of the First Part, for and in consideration of the sum of TEN DOLLARS ($10.00) and other good and valuable consideration to it in hand paid by the said Party of the Second Part, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the said Party of the Second Part, and to their heirs and assigns, forever, all that certain lot, piece, or parcel, of land situate, lying and being in the County of Flathead, State of Montana, and particularly described as follows, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

SUBJECT TO any and all easements, covenants, reservations or restrictions of record.

TOGETHER with all and singular the hereinbefore described premises together with all tenements, hereditaments, and appurtenances, thereto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest; right of dower and right of homestead, possession, claim, and demand whatsoever, as well in law as in equity, of the said Party of the First Part, of, in or to the said premises, and every part and parcel thereof, with the appurtenances, thereto belonging, TO HAVE AND TO HOLD, all and singular the above mentioned and described premises, together with appurtenances, unto the said Party of the Second Part and to their heirs and assign, forever.

And the said Party of the First part and its heirs do hereby covenant that they will forever WARRANT and DEFEND all right, title and interest in and to the said premises and the quiet and peaceable possession thereof, unto the said Party of the Second Part, their heirs and assigns, against the acts and deeds of the said Party of the First Part and all and every person or persons, whomsoever, lawfully claiming or to claim the same.

David V Kauffman MD
DAVID V. KAUFFMAN MD

Ruth E Kauffman
RUTH E. KAUFFMAN

STATE OF MONTANA)
): ss.
County of Flathead)

On this 5th day of May 2005, before me, the undersigned Notary Public for the State and County aforesaid, personally appeared DAVID V. KAUFFMAN and RUTH E. KAUFFMAN, 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 official seal, the day and year in this certificate first above written.

BRIDGET KALLOCH NOTARIAL SEAL STATE OF MONTANA

BRIDGET KALLOCH
NOTARY PUBLIC-MONTANA
(Seal) Residing at Kalispell, Montana
My Comm. Expires March 17, 2008

Bridget Kalloch
Notary Public for the State of Montana
Residing at Kalispell, MT
My Commission Expires: 3-17-08

2005126 12170

EXHIBIT A

FILE NO.: FM-38180

A tract of land in the Northeast Quarter of the Northwest Quarter of Section 32, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana, particularly described as follows:

Beginning at the Southwest corner of said Northeast Quarter of the Northwest Quarter; thence
North to the Southerly boundary of the right-of-way of the Great Northern Railway; thence
Easterly along the Southerly boundary of said railroad right-of-way, a distance of 300 feet, more or less, to the West line of the county road, as said county road is now located; thence
South along the West boundary of said county road to its intersection with the South line of said Northeast Quarter of the Northwest Quarter; thence
West to the Place of Beginning.

EXCEPTING rights of way for public roads deeded to Flathead County.

SUBJECT TO:
County road rights-of-way not recorded and indexed as a conveyance in the office of the Clerk and Recorder pursuant to Title 70, Chapter 21, M.C.A.

Ordinance No. 04-21 by the City Council of the City of Whitefish for annexation recorded December 28, 2004, as Doc. No. 2004-363-09460, records of Flathead County, Montana.

RETURN TO: WILD ROSE KNOLL
PO BOX 91
WHITEFISH, MT 59937

STATE OF MONTANA COUNTY OF FLATHEAD) SS
RECORDED IN THE RECORDS OF FLATHEAD COUNTY, STATE OF MONTANA
AT THE REQUEST OF FCTS
5/16 2005 @ 12:17 O'CLOCK $ 12 — .00 PAID
PAULA ROBINSON, CLERK AND RECORDER BY
DEPUTY Kay Clarke
RETURN
DOCUMENT # 2005126 12170

2004191 15360

0362200

APPROVED 79-04 CDH

QUITCLAIM DEED

FOR VALUABLE CONSIDERATION, the receipt of which is acknowledged, the undersigned,

David V. Kauffman, Jr., and Anita L. Kauffman, husband and wife,

hereby grants to

Pine Hill, LP, a Montana limited partnership, whose mailing address is P.O. Box 91, Whitefish, Montana 59937.

real property in Flathead County, Montana, described as follows:

All that part of the NE1/4NW1/4 of Section 32, Township 31 North, Range 21 West, described as follows:

Beginning at a point a distance of 594.20 feet South of the North Quarter corner common to Sections 29 and 32; thence
South a distance of 308.50 feet to a point; thence
West a distance of 208.70 feet to a point; thence
South a distance of 417.40 feet to a point; thence
West a distance of 781.30 feet, measured along the Northerly boundary of the County Road; thence
North a distance of 912.80 feet, more or less, to the Southerly boundary of the Great Northern Railway right-of-way; thence
Southeasterly along the said Southeasterly boundary of the Great Northern Railway right-of-way a distance of 1010.00 feet, more or less, to the Easterly boundary of the NE1/4NW1/4, which is the Point of Beginning.

TO HAVE AND TO HOLD unto the Grantee, its successors and assigns, forever.

Dated: July 9, 2004.

David V. Kauffman, Jr.

Anita L. Kauffman

STATE OF MONTANA)
:ss
County of Flathead)

This instrument was acknowledged before me on this 9TH day of July, 2004, by David V. Kauffman, Jr. and Anita L. Kauffman.

CHARYLE BOULTON NOTARIAL SEAL

Signature
Printed CHARYLE BOULTON
Notary Public for the State of Montana
Residing at: COLUMBIA FALLS
My commission expires: 3/14/2006

STATE OF MONTANA
County of Flathead
RECORDED AT THE REQUEST OF Anita Kauffman
THIS 09 DAY OF July, 2004 AT 3:36 O'CLOCK AND
RECORDED IN THE RECORDS OF FLATHEAD COUNTY, STATE OF MONTANA.

FEE $ 6.00 PD.

(Flathead County Clerk and Recorder)

RECEPTION NO. 2004191 15360

(Deputy Clerk)

RETURN TO Anita Kauffman
P.O. Box 91 Whitefish, MT 59937

Options | Inquiry | **Overview** | Unpaid Taxes | Tax History | Tax Bill | Disclaimer

Email: Email Report

Active Header Year: 13 Assessor: 0431051 SD: 74

Names :
1M WILD ROSE KNOLL LP

Addresses:
Mailing Address
PO BOX 91
WHITEFISH MT 59937

Physical Address
100 WILD ROSE LN
WHITEFISH MT 59937

Legal Descriptions
Record #01 Sec:32 Twp:31 Rng:21
Description:TR 1K IN NE4NW4
Acres: 6.20
No value record was found for Assrno/Year

Options | Inquiry | Overview | **Unpaid Taxes** | Tax History | Tax Bill | Disclaimer

Penalty & Interest calculated thru 12/31/2012 Pay Bill(s) Assr: 0431051

Year	SD	Inst	Taxbill	Date Due	Tax Amt	Penalty	Interest	Total Due
2012	74	2	201243012	5/31/13	1826.48	0.00	0.00	1826.48
				Total due	1826.48	0.00	0.00	1826.48

Options | Inquiry | Overview | Unpaid Taxes | **Tax History** | Tax Bill | Disclaimer

Assr: 0431051

Year	SD	Inst	Taxbill	Date Due	Date Paid	Tax Amt	Void/Abate	Pen/Int	Total Paid
2012	74	2	201243012	5/31/13	Not Paid	1826.48			
2012	74	1	201243012	11/30/12	11/30/12	1826.54			1826.54
2011	74	2	201157948	5/31/12	06/06/12	1766.66			1766.66
2011	74	1	201157948	11/30/11	12/01/11	1766.70			1766.70
2011	74	2	201142881	5/31/12	Voided	0.00	1813.10		
2011	74	1	201142881	11/30/11	Voided	0.00	1813.15		
2010	74	2	201042771	5/31/11	06/06/11	1760.81			1760.81
2010	74	1	201042771	11/30/10	11/29/10	1760.86			1760.86
2009	74	2	200942477	6/1/10	06/04/10	1683.07			1683.07
2009	74	1	200942477	11/30/09	12/09/09	1683.10			1683.10
2008	74	2	200841626	5/31/09	06/02/09	1669.30			1669.30
2008	74	1	200841626	11/30/08	12/03/08	1669.33			1669.33
2007	74	2	200740293	5/31/08	06/11/08	1541.69			1541.69
2007	74	1	200740293	11/30/07	12/03/07	1541.72			1541.72
2006	74	2	200638855	5/31/07	06/06/07	1519.69			1519.69
2006	74	1	200638855	11/30/06	12/05/06	1519.71			1519.71
2005	74	2	200537432	5/31/06	06/12/06	1464.31			1464.31
2005	74	1	200537432	11/30/05	12/02/05	1464.33			1464.33
2004	44	2	200427169	5/31/05	05/10/05	1101.26			1101.26
2004	44	1	200427169	11/30/04	11/16/04	1101.29			1101.29
2003	44	2	200326587	5/31/04	06/08/04	1063.66			1063.66
2003	44	1	200326587	11/30/03	11/19/03	1063.68			1063.68
2002	44	2	200226108	5/31/03	06/09/03	949.36			949.36
2002	44	1	200226108	11/30/02	11/08/02	949.39			949.39
2001	44	2	200125848	5/31/02	05/24/02	922.78			922.78
2001	44	1	200125848	11/30/01	12/05/01	922.79			922.79
2000	44	2	200025501	5/31/01	05/31/01	877.26			877.26
2000	44	1	200025501	11/30/00	12/06/00	877.28			877.28
1999	44	2	9925731	5/31/00	06/06/00	928.32			928.32
1999	44	1	9925731	11/30/99	12/08/99	928.33			928.33
1998	44	2	9825311	5/31/99	06/08/99	974.46			974.46
1998	44	1	9825311	11/30/98	12/07/98	974.46			974.46
1997	44	2	9724883	5/31/98	06/04/98	979.35			979.35
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]			[illegible]

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SD  ASSRNO  REC      NAME/ADDRESS/PROPERTY DESCRIPTION                CITY/STATE/ZIP                                    TOTAL    TAX BILL
            CODE    CAT COD CATEGORY TYPE           QUANTITY MARKET VALUE TAX RATE  TAXABLE VALUE SPEC                TAX AMOUNT   NUMBER

        First  installment due 11/30/2012 . . . . . . . . . . . . . . . . . . . . . . . . . . . . .          936.62
        Second installment due 05/31/2013 . . . . . . . . . . . . . . . . . . . . . . . . . . . . .          936.57
                                                                                                                          1,873.19  201243011
74  0431051 1M   WILD ROSE KNOLL LP
            4M       PO BOX 91
                     WHITEFISH MT 59937
            4P       100 WILD ROSE LN
                     WHITEFISH MT 59937
            50       FND 9401 7851 SEQ 00 WFSH LT 1            TRAY
            50       FND 9411 7851 SEQ 00 WFSH CITY STREETS    TRAY
            50       FND 9413 7851 SEQ 00 WFSH PRK/GRNWY MNT 1 TRAY
            50       FND 9414 7851 SEQ 00 WFSH STRMWTR IMP&MNT TRAY
            50       FND 9504 5410 SEQ 00 COUNTY LAND FILL     TRAY
                           RESID UNITS   1.00   COMM'L UNITS   0.00
            50       FND 9505 7564 SEQ 00 STATE FORESTER       TRAY
            61       TR 1K IN NE4NW4                                                  323121
            71  L        22010 CITY/TOWN LOTS            6.20       85,949 X  2.6300 =      2260.45       07429332202250000
            71           35010 IMPS ON RES CITY/TOW      0.00      124,897 X  2.6300 =      3284.79       07429332202250000
        Type of Property            Market Value        Taxable Value
         Real Estate                      85,949            2,260.45
         Buildings                       124,897            3,284.79
                                    -------------      ----------------
        Totals                           210,846            5,545.24

        Breakdown of Consolidated Levy and Tax -
           100 CONSOLIDATED          0.067160        372.41   200 STATE - UNIVERSITY   0.006000          33.27
           300 GENERAL SCHOOLS       0.098970        548.81   400 STATE - SCHOOL AID   0.040000         221.81
          1000 FLAT VAL COM COLLEGE  0.014700         81.51   800 WHITEFISH HI SCHOOL  0.061140         339.04
          4200 WFSH CITY ELEM 74     0.089120        494.19  9028 SHERIFF              0.036700         203.51
          9029 CO PERM MED LEVY      0.005000         27.73  9030 NOXIOUS WEEDS        0.001850          10.26
          9031 COUNTYWIDE MOSQUITO   0.001000          5.55  9032 911 GENER OBLIG BOND 0.002300          12.75
          9033 FVCC PERMIS MED LEVY  0.000820          4.55  9052 BOARD OF HEALTH      0.005750          31.89
          9174 WHITEFISH CITY        0.117966        654.15  9176 RESORT TAX RELIEF   -0.027645        -153.30
          9180 WF PERM MED LEVY      0.006080         33.71  9182 WF FIRE / AMBULANCE  0.024000         133.09

        Total Consolidated Levy and Tax        (Total Taxable Value X 0.550911)                      3054.93

        Special Taxes or Fees 1st Installment
          9085 SOIL & WATER CONSERV  0.001580          4.38  9095 WF COUNTY WATER DIST 0.001280           1.45
          9401 WFSH LT 1             0.000000         29.70  9411 WFSH CITY STREETS    0.000000         164.25
          9413 WFSH PRK/GRNWY MNT 1  0.000000         31.79  9414 WFSH STRMWTR IMP&MNT 0.000000           6.27
          9504 COUNTY LAND FILL      0.000000         40.37  9505 STATE FORESTER       0.000000          20.86

        Special Taxes or Fees 2nd Installment
          9085 SOIL & WATER CONSERV  0.001580          4.38  9095 WF COUNTY WATER DIST 0.001280           1.44
          9401 WFSH LT 1             0.000000         29.70  9411 WFSH CITY STREETS    0.000000         164.25
          9413 WFSH PRK/GRNWY MNT 1  0.000000         31.78  9414 WFSH STRMWTR IMP&MNT 0.000000           6.26
          9504 COUNTY LAND FILL      0.000000         40.36  9505 STATE FORESTER       0.000000          20.85

        Total Special Taxes or Fees . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .      598.09

        Total Consolidated Tax and Special Taxes or Fees. . . . . . . . . . . . . . . . . . . . . .     3653.02
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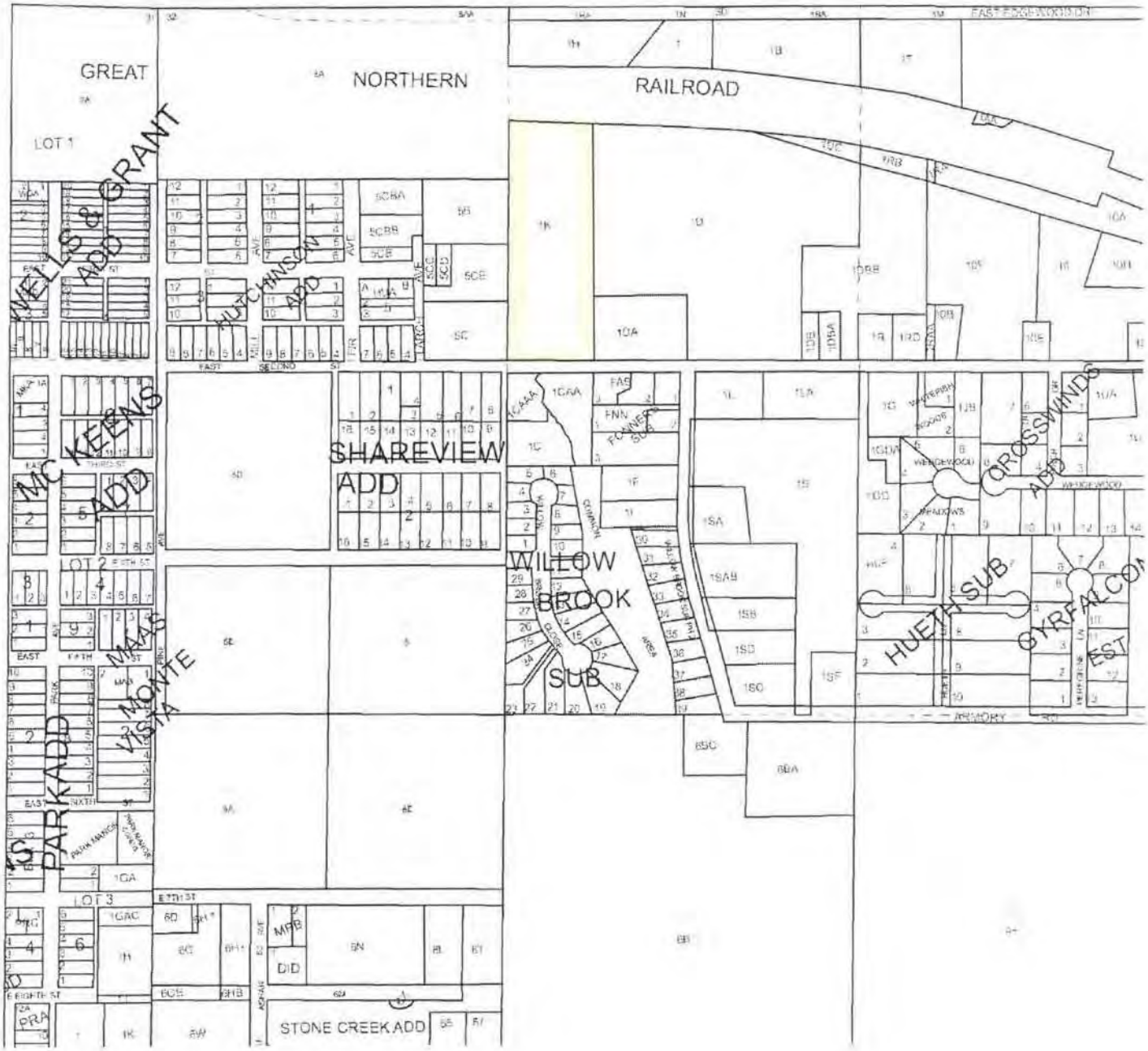
32-31-21
Not to Scale



Options | Inquiry | **Overview** | Unpaid Taxes | Tax History | Tax Bill | Disclaimer

Email: Email Report

Active Header Year: 13 Assessor: 0362200 SD: 74

Names :
1M PINE HILL LP

Addresses:
Mailing Address
PO BOX 91
WHITEFISH MT 59937

Physical Address
1500 E 2ND ST
WHITEFISH MT 59937

Legal Descriptions
Record #01 Sec:32 Twp:31 Rng:21
Description:TR 1D & 1DA IN NE4NW4
Acres: 18.01
No value record was found for Assrno/Year

Options | Inquiry | Overview | **Unpaid Taxes** | Tax History | Tax Bill | Disclaimer

Penalty & Interest calculated thru 12/31/2012 Pay Bill(s) Assr: 0362200

Year	SD	Inst	Taxbill	Date Due	Tax Amt	Penalty	Interest	Total Due
2012	74	2	201242814	5/31/13	2123.08	0.00	0.00	2123.08
				Total due	2123.08	0.00	0.00	2123.08

Options | Inquiry | Overview | Unpaid Taxes | **Tax History** | Tax Bill | Disclaimer

Assr: 0362200

Year	SD	Inst	Taxbill	Date Due	Date Paid	Tax Amt	Void/Abate	Pen/Int	Total Paid
2012	74	2	201242814	5/31/13	Not Paid	2123.08			
2012	74	1	201242814	11/30/12	11/30/12	2123.13			2123.13
2011	74	2	201157947	5/31/12	06/06/12	1974.93			1974.93
2011	74	1	201157947	11/30/11	12/01/11	1974.98			1974.98
2011	74	2	201142683	5/31/12	Voided	0.00	2061.61		
2011	74	1	201142683	11/30/11	Voided	0.00	2061.66		
2010	74	2	201042572	5/31/11	06/06/11	1902.32			1902.32
2010	74	1	201042572	11/30/10	11/29/10	1902.39			1902.39
2009	74	2	200942278	6/1/10	06/04/10	1695.80			1695.80
2009	74	1	200942278	11/30/09	12/09/09	1695.82			1695.82
2008	74	2	200841426	5/31/09	06/02/09	1529.11			1529.11
2008	74	1	200841426	11/30/08	12/03/08	1529.14			1529.14
2007	74	2	200740094	5/31/08	06/11/08	1440.43			1440.43
2007	74	1	200740094	11/30/07	12/03/07	1440.46			1440.46
2006	74	2	200638657	5/31/07	06/06/07	1448.39			1448.39
2006	74	1	200638657	11/30/06	12/05/06	1448.41			1448.41
2005	74	2	200537234	5/31/06	06/12/06	1427.93			1427.93
2005	74	1	200537234	11/30/05	12/02/05	1427.96			1427.96
2004	44	2	200426944	5/31/05	06/07/05	1063.36			1063.36
2004	44	1	200426944	11/30/04	12/03/04	1063.39		30.29	1093.68
2003	44	2	200326360	5/31/04	12/03/04	1057.10		83.11	1140.21
2003	44	1	200326360	11/30/03	12/08/03	1057.11			1057.11
2002	44	2	200225880	5/31/03	06/06/03	978.68			978.68
2002	44	1	200225880	11/30/02	12/10/02	978.69		22.25	1000.94
2001	44	2	200125620	5/31/02	12/10/02	914.34		66.62	980.96
2001	44	1	200125620	11/30/01	12/11/01	914.35		21.03	935.38
2000	44	2	200025273	5/31/01	05/31/01	829.00			829.00
2000	44	1	200025273	11/30/00	11/29/00	829.01			829.01
1999	44	2	9925502	5/31/00	06/16/00	844.13		23.81	867.94
1999	44	1	9925502	11/30/99	11/30/99	844.15			844.15
1998	44	2	9825080	5/31/99	05/28/99	776.91			776.91
1998	44	1	9825080	11/30/98	12/01/98	776.92			776.92
1997	44	2	9724650	5/31/98	06/02/98	773.91			773.91
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]			[illegible]

```
SD  ASSRNO  REC      NAME/ADDRESS/PROPERTY DESCRIPTION              CITY/STATE/ZIP                                  TOTAL    TAX BILL
            CODE    CAT COD CATEGORY TYPE          QUANTITY MARKET VALUE TAX RATE  TAXABLE VALUE SPEC          TAX AMOUNT   NUMBER

         9085 SOIL & WATER CONSERV 0.001580         2.28  9095 WF COUNTY WATER DIST 0.001280          0.87
         9401 WFSH LT 1            0.000000         4.50  9411 WFSH CITY STREETS    0.000000         54.75
         9413 WFSH PRK/GRNWY MNT 1 0.000000        10.59  9414 WFSH STRMWTR IMP&MNT 0.000000          6.26
         9504 COUNTY LAND FILL     0.000000        40.36

        Total Special Taxes or Fees . . . . . . . . . . . . . . . . . . . . . . . . . . . . .       239.26

        Total Consolidated Tax and Special Taxes or Fees. . . . . . . . . . . . . . . . . . .      1834.14

        First  installment due 11/30/2012 . . . . . . . . . . . . . . . . . . . . . . . . . .       917.09
        Second installment due 05/31/2013 . . . . . . . . . . . . . . . . . . . . . . . . . .       917.05
                                                                                                              1,834.14  201242813
------------------------------------------------------------------------------------------------------------------------------------
74  0362200 1M    PINE HILL LP
            4M        PO BOX 91
                      WHITEFISH MT 59937
            4P        1500 E 2ND ST
                      WHITEFISH MT 59937
            50        FND 9401 7851 SEQ 00 WFSH LT 1             TRAY
            50        FND 9411 7851 SEQ 00 WFSH CITY STREETS     TRAY
            50        FND 9413 7851 SEQ 00 WFSH PRK/GRNWY MNT 1  TRAY
            50        FND 9414 7851 SEQ 00 WFSH STRMWTR IMP&MNT  TRAY
            50        FND 9504 5410 SEQ 00 COUNTY LAND FILL      TRAY
                            RESID UNITS   1.00   COMM'L UNITS   0.00
            50        FND 9505 7564 SEQ 00 STATE FORESTER        TRAY
            61        TR 1D & 1DA IN NE4NW4                                                 323121
            71  L         22010 CITY/TOWN LOTS          18.01       186,198 X  2.6300 =      4897.00        07429332202010000
            71            35010 IMPS ON RES CITY/TOW     0.00        59,664 X  2.6300 =      1569.16        07429332202010000
        Type of Property           Market Value        Taxable Value
         Real Estate                    186,198             4,897.00
         Buildings                       59,664             1,569.16
                                  -------------     ----------------
        Totals                          245,862             6,466.16

       Breakdown of Consolidated Levy and Tax -
          100 CONSOLIDATED         0.067160       434.27   200 STATE - UNIVERSITY   0.006000        38.80
          300 GENERAL SCHOOLS      0.098970       639.96   400 STATE - SCHOOL AID   0.040000       258.65
         1000 FLAT VAL COM COLLEGE 0.014700        95.05   800 WHITEFISH HI SCHOOL  0.061140       395.34
         4200 WFSH CITY ELEM 74    0.089120       576.26  9028 SHERIFF              0.036700       237.31
         9029 CO PERM MED LEVY     0.005000        32.33  9030 NOXIOUS WEEDS        0.001850        11.96
         9031 COUNTYWIDE MOSQUITO  0.001000         6.47  9032 911 GENER OBLIG BOND 0.002300        14.87
         9033 FVCC PERMIS MED LEVY 0.000820         5.30  9052 BOARD OF HEALTH      0.005750        37.18
         9174 WHITEFISH CITY       0.117966       762.79  9176 RESORT TAX RELIEF   -0.027645      -178.76
         9180 WF PERM MED LEVY     0.006080        39.31  9182 WF FIRE / AMBULANCE  0.024000       155.19

        Total Consolidated Levy and Tax       (Total Taxable Value X 0.550911)                     3562.28

        Special Taxes or Fees 1st Installment
         9085 SOIL & WATER CONSERV 0.001580         5.11  9095 WF COUNTY WATER DIST 0.001280          3.14
         9401 WFSH LT 1            0.000000        70.20  9411 WFSH CITY STREETS    0.000000        164.25
         9413 WFSH PRK/GRNWY MNT 1 0.000000        31.79  9414 WFSH STRMWTR IMP&MNT 0.000000          6.27
         9504 COUNTY LAND FILL     0.000000        40.37  9505 STATE FORESTER       0.000000         20.86

        Special Taxes or Fees 2nd Installment
         9085 SOIL & WATER CONSERV 0.001580         5.11  9095 WF COUNTY WATER DIST 0.001280          3.13
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SD  ASSRNO  REC      NAME/ADDRESS/PROPERTY DESCRIPTION                CITY/STATE/ZIP                                    TOTAL     TAX BILL
            CODE    CAT COD CATEGORY TYPE           QUANTITY MARKET VALUE TAX RATE  TAXABLE VALUE SPEC                TAX AMOUNT   NUMBER

         9401 WFSH LT 1             0.000000          70.20  9411 WFSH CITY STREETS    0.000000          164.25
         9413 WFSH PRK/GRNWY MNT 1 0.000000          31.78  9414 WFSH STRMWTR IMP&MNT 0.000000            6.26
         9504 COUNTY LAND FILL      0.000000          40.36  9505 STATE FORESTER       0.000000           20.85

        Total Special Taxes or Fees . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .         683.93

        Total Consolidated Tax and Special Taxes or Fees. . . . . . . . . . . . . . . . . . . .        4246.21

        First  installment due 11/30/2012 . . . . . . . . . . . . . . . . . . . . . . . . . . . .        2123.13
        Second installment due 05/31/2013 . . . . . . . . . . . . . . . . . . . . . . . . . . . .        2123.08
                                                                                                                        4,246.21  201242814
-----------------------------------------------------------------------------------------------------------------------------------------------
74  0363850 1M   REED, DOUGLAS T & NICOLE M
            4M       520 SOMERS AVE
                     WHITEFISH MT 59937
            4P       520 SOMERS AVE
                     WHITEFISH MT 59937
            50       FND 9401 7851 SEQ 00 WFSH LT 1            TRAY
            50       FND 9411 7851 SEQ 00 WFSH CITY STREETS    TRAY
            50       FND 9413 7851 SEQ 00 WFSH PRK/GRNWY MNT 1 TRAY
            50       FND 9414 7851 SEQ 00 WFSH STRMWTR IMP&MNT TRAY
            50       FND 9504 5410 SEQ 00 COUNTY LAND FILL     TRAY
                        RESID UNITS   1.00   COMM'L UNITS   0.00
            61       WFSH LAND CO ADD 1 AMD L3&4BLK4             3                                  363122
            71           22010 CITY/TOWN LOTS            0.13       50,504 X  2.6300 =       1328.25        07429236177130000
            71           35010 IMPS ON RES CITY/TOW      0.00       85,222 X  2.6300 =       2241.33        07429236177130000
        Type of Property            Market Value        Taxable Value
         Real Estate                      50,504             1,328.25
         Buildings                        85,222             2,241.33
                                    -------------      ----------------
        Totals                            135,726             3,569.58

       Breakdown of Consolidated Levy and Tax -
          100 CONSOLIDATED          0.067160         239.74   200 STATE - UNIVERSITY   0.006000          21.42
          300 GENERAL SCHOOLS       0.098970         353.28   400 STATE - SCHOOL AID   0.040000         142.78
         1000 FLAT VAL COM COLLEGE 0.014700          52.47   800 WHITEFISH HI SCHOOL  0.061140         218.24
         4200 WFSH CITY ELEM 74     0.089120         318.12  9028 SHERIFF              0.036700         131.00
         9029 CO PERM MED LEVY      0.005000          17.85  9030 NOXIOUS WEEDS        0.001850           6.60
         9031 COUNTYWIDE MOSQUITO   0.001000           3.57  9032 911 GENER OBLIG BOND 0.002300           8.21
         9033 FVCC PERMIS MED LEVY 0.000820           2.93  9052 BOARD OF HEALTH      0.005750          20.53
         9174 WHITEFISH CITY        0.117966         421.09  9176 RESORT TAX RELIEF   -0.027645         -98.68
         9180 WF PERM MED LEVY      0.006080          21.70  9182 WF FIRE / AMBULANCE  0.024000          85.67

        Total Consolidated Levy and Tax        (Total Taxable Value X 0.550911)                       1966.52

        Special Taxes or Fees 1st Installment
         9085 SOIL & WATER CONSERV 0.001580           2.82  9401 WFSH LT 1            0.000000           3.91
         9411 WFSH CITY STREETS     0.000000          54.75  9413 WFSH PRK/GRNWY MNT 1 0.000000          10.60
         9414 WFSH STRMWTR IMP&MNT 0.000000           6.27  9504 COUNTY LAND FILL     0.000000          40.37

        Special Taxes or Fees 2nd Installment
         9085 SOIL & WATER CONSERV 0.001580           2.82  9401 WFSH LT 1            0.000000           3.91
         9411 WFSH CITY STREETS     0.000000          54.75  9413 WFSH PRK/GRNWY MNT 1 0.000000          10.59
         9414 WFSH STRMWTR IMP&MNT 0.000000           6.26  9504 COUNTY LAND FILL     0.000000          40.36
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32-31-21
Not to Scale

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

APPLICATION FOR PLANNED UNIT DEVELOPMENT

FEE ATTACHED $5349.00 **(See current fee schedule)**

PROJECT NAME Second Street Apartments

1. NAME OF APPLICANT: Community Infill Partners, LLC. Attn: William MacDonald and Sean Averill
2. MAIL ADDRESS: P.O. Box 4600
3. CITY/STATE/ZIP: Whitefish, MT 59937 PHONE: (406) 871-7787 (Will)
4. E-mail (Optional; not for official notifications.) will@kotaenterprisesllc.com

NAME AND ADDRESS OF OWNER IF DIFFERENT THAN APPLICANT:

5. NAME: Pine Hill LLP and Wild Rose Knoll, LP
6. MAIL ADDRESS: P.O. Box 91
7. CITY/STATE/ZIP: Whitefish, MT 59937 PHONE: _____
8. E-mail (Optional)_____

TECHNICAL ASSISTANCE: Sands Surveying, Inc

MAIL ADDRESS: 2 Village Loop

CITY/STATE/ZIP: Kalispell, MT 59901 PHONE: (406) 755-6481

E-mail (Optional) eric@sandssurveying.com

TECHNICAL ASSISTANCE: Montana Creative

MAIL ADDRESS: 158 Railway Street

CITY/STATE/ZIP: Whitefish, MT 59937 PHONE: (406) 862-8152

E-mail (Optional) awallace@mt-creative.com

TECHNICAL ASSISTANCE: Robert Peccia and Associates

MAIL ADDRESS: P.O. Box 5100

CITY/STATE/ZIP: Kalispell, MT 59903-5100 PHONE: (406) 752-5025

E-mail (Optional) ryan@rpa-hln.com

If there are others who should be notified during the review process, please list those.

Check One:

X Initial Planned Unit Development proposal

___ Amendment to an existing Planned Unit Development

A. Property Address: 100 Wild Rose Lane, Whitefish

B. Total Area of Property: 23.789 Acres

C. Legal description including section, township & range: Assessor's Tracts 1K, 1D, & 1DA in Section 32, T31N, R21W, P.M.M., Flathead County

D. The present zoning of the above property is: WR-1 and WA with a proposed Zone Change to WR-2 and WER

E. Please provide the following information in a narrative format with supporting plans, drawings, renderings, photos, or other format as needed:

a. An overall description of the goals and objectives for the development of the project.

The proposed Second Street Apartment project will create 164 apartments; nine condominium units; and one house, the existing Kauffman house located on the bank of Cow Creek. The apartments are proposed in a combination of one, two, and three bedroom units. The goal of the project is to provide quality rental apartment units in the City of Whitefish. Rents in Whitefish have been on the rise, even during this time of recession, and persons working in the service and retail industries of Whitefish are having a hard time finding decent rental housing in the City.

The applicants are utilizing the density bonus provisions of the PUD standards and as such are working with the Whitefish Housing Authority to provide 17 rent regulated, moderate income affordable units. A Letter of Intent is included with this application and outlines the commitment for the Affordable Housing Units and how they will be preserved into the future.

The Kauffman property provides a nice open setting with views of Big Mountain and the Whitefish Range as a backdrop. The overall design goal of the project is to cluster the development in such a way as to preserve these vistas and the sense of open space. The project leaves 71% of the property (16.89 acres) in open space with view corridors north to the Whitefish Range. The foreground along East Second Street is also largely left open so that the public continues to enjoy the open character of the site. The clustering also allows the development to preserve large sections of the ponderosa pine forest on the eastern third of the property.

Cow Creek runs along the western boundary of the development. The project is designed to comply and generally exceed the requirements of the Whitefish Critical Areas Regulations. The development preserves the vast majority of the creek bottom and banks along the creek in open space.

Within the open space, the developers plan to create a space for a Community Garden. The garden space will allow the residents of the apartments to grow their own produce and allow their children to learn where some of their food comes from. A play area will be established within the open space area to provide recreation facilities on-site particularly for young children.

The City of Whitefish has been working for a number of years to get a sewer easement along the Cow Creek drainage so that the City can construct a second main connecting the north side of the BN Tracks to the Sewer Treatment Plant south of the City on Monegan Road. The Cow Creek connection will allow the City to gravity flow wastewater for a large portion of the city north of the tracks thereby reducing the need for sewer lift stations. The applicants will grant the Easement to the City with the PUD approval for this project. This easement will benefit the City and the development.

The applicants propose granting a utility easement at the end of the middle spur road for a water line extension should the City want to loop water mains north of the BN Tracks. There is potential that this connection could improve water circulation and provide duplication should a main line need repair.

At the request of the Whitefish Staff, Armory road will be extended through the project and provide connection to the vacant property to the East. This connection will allow the City to grid a circulation system in this area north of Second Street as it continues to develop.

The Kauffman House has been an architectural gem in the City of Whitefish since its construction in the 1930's. The applicants propose

the perseveration of this Tudor style house on its own tract of property saving the mature vegetation surrounding the home. The applicants will preserve the option of selling the house and surrounding acre with a deed restriction that the home cannot be demolished or the land further subdivided. The applicants are however reserving a second option of keeping the house to use as a community center for the development and possible the public while still preserving all of the wonderful features of the house.

b. In cases where the development will be executed in phases, please include a phasing plan.

The project is proposed with the ability to be developed into six phases. However, the phases could be combined to speed the development process should market conditions or other factors dictate. The applicants Civil Engineer and the City Public Works Department will coordinate the specifics of what infrastructure is required for each phase.

The applicants propose constructing the first phase of the development within a year of securing PUD approval. The following phases will be complete within four to six months of the previous phase. However market and finance conditions can influence this timing.

See Attached Phasing Map

c. The extent to which the plan deviates from zoning, subdivision regulations and/or "Standards for Design and Construction" (public works standards). The standards that may be deviated from through the approval of a Planned Unit Development are listed in section 11-2S-5.A. Please describe the public benefit for such departures including how they further the intent and purpose of the Planned Unit Development as set forth in Sec. 11-2S-1.

Density Bonus- The PUD standards allows for a density bonus when 10% of the total number of units are "set aside for affordable housing". The applicants have entered into a "Letter of Intent" with the Whitefish Housing Authority to provide 17 units of affordable rental units meeting the need of moderate income families. Providing long term affordable housing units within the City of Whitefish has long be a goal as it provided many benefits to the community by providing homes for the service providers like teachers and fireman as well as lift operators and waitresses. Providing quality affordable housing and rental units also provides opportunity for a more economically diverse community.

Density Table:

Zoning	Acreage	Permitted Density	Permitted Density with bonus for

			"Affordable Housing"
WR-2	6.875	12 units/ acre = 83 units	18 units/acre = 124 units
WER	16.914	2 units per acre = 34 units	3 units/acre = 51 units
Total	23.789	117 units	175 units

When combining the two zoning designations on the property, the over all density works out to 7.3 unit per acre. The historic neighborhoods of Whitefish consist of lots of 50-feet by 130-feet which calculate out to just over six units per acre. Therefore, the overall density of the Second Street Apartments is very similar to the older single family neighborhoods in town.

Multi-Family Attached Dwellings – the underlying WR-2 and WER zoning classifications do not allow multi-family structures. However, the PUD provisions (11-2S-2A) does allow for a combination of residential types. By allowing the multi-family structures, the applicants are able to cluster the density and keep 71% of the site in open space. This could not be accomplished with traditional single family detached units on individual lots.

Parking – The Whitefish Zoning Ordinance (11-6-2.A) Residential, Multi Family requires 2.3 spaces per unit (Two for the unit and the1/3 for guest parking). The proposed development will meet the parking standards for the nine condominiums, which have a two car garage and parking in the driveway, and the house which has ample parking. Parking for the apartment building falls short of providing all the guest parking for the apartments. There are 164 apartments proposed and the regulations will require 382 parking spaces. The proposed site plan shows 347 parking spaces for the apartments (The four-plex units have a one car garage for each unit and one outside space), which is 35 spaces short of providing all the guest spots. Were are requesting the deviation to the guest parking because 96 of the apartment units are one bedroom which typically generates less traffic and parking need. Although there is room within the project to provide additional parking spaces, the applicants have an objective of trying to preserve as much open space as possible for the aesthetic benefits, as well as, water quality benefits.

Roads – As with most apartment complexes, the access roads and parking lots are privately owned and maintained and as the property is not being subdivided, there is no dedication of right-of-way. The roads will be built to 20-foot asphalt width with two foot compacted gravel shoulders, All corner radiuses will meet the City standards. A 20-foot utility easement will provide access to sewer and water mains. Apartment buildings typically integrate parking into the access system so that parking spaces can be located closer to the units they serve. The parking lot driving isle access would be problematic for the city to

maintain if these were to be public streets. There is no public benefit in having these roads and parking lots maintained by public tax dollars.

The Armory Road extension through to its intersection with the neighboring property on the east will meet the requirements of the Whitefish Public Works Standards and will be dedicated as a public street. As the Armory Road extension provides connection to undeveloped properties to the east, there is public benefit to having this road dedicated to the City and constructed to City standards.

Pedestrian ways - Walks and a pedestrian path system will replace traditional sidewalks on both sides of the private roads. A project with 71% open space lends itself to a path system which provides benefit to the residents by separating pedestrians and automobile traffic. The path system also works well with the drainage system based on a "Low Impact Design". The detached bike/ped path is also proposed for the Armory Road extension, so rather than sidewalks on each side of Armory Road extension, there will be an eight-foot detached bike and pedestrian path.

Drainage – For the private road system that serves the apartment buildings and parking, the applicant proposes vegetated swale, water quality depressions, and detention ponds to transport and treat stormwater run-off. The proposal varies from the curb and gutter system required of new public streets. Because the site has plenty of elevation variations and lots of open space, the softer approach to stormwater management will work well for this site while addressing water quality. (See Second Street Apartments, Preliminary Engineering Report.)

d. The nature and extent of all open space in the project and the provisions for maintenance and conservation of the common open space; assess the adequacy of the amount and function of the open space in terms of the land use, densities, and dwelling types proposed in the plan.

The proposed development creates 174 units on 23.789 acres for a gross density of 7.3 units per acres. The density and the associated infrastructure is clustered in a manner that preserves 16.89 acres (71%) of the project in open space. The open areas include most of the Cow Creek drainage, large sections of the hay field, and large portion of the forested area on the eastern third of the property. The diverse nature of the property affords the opportunity to conserve lands through the different design approach. We believe that the multi-family clustered approach creates the greatest benefit in preserving open space on the subject property

e. The manner in which services will be provided such as water, sewer, storm water management, schools, roads, traffic management, pedestrian access, recreational facilities and other applicable services and utilities.

The property is located along East Second Street within the City limits of Whitefish. East Second Street is a collector street that provides direct access to the downtown, public schools, and other essential services for future residents. East Second Street is set for significant upgrades in 2014 which will not only facilitate vehicles but also pedestrians and utilities. A Traffic Impact Study (TIS) was prepared for this project to understand traffic impacts on the existing street system and neighborhood. The TIS analyzes traffic generation, trip distribution, service function of intersection, and provides recommendations to mitigate impacts. The Second Street Apartment TIS states the project will have little impact on the affected streets and will not change the level of service for the intersection. The TIS does recommend a cross walk from the project to East Second Street bike path and provide a bus stop location for future bus transit.

If approved, the property will connect to and extend the City of Whitefish's sewer and water mains into the development to service the units. As mentioned previously in this report, the developers of the project will also grant easement through the property to facilitate overall efficiency improvements of the City's sewer and water system.

The Whitefish Elementary, Middle and High schools are all within walking distance of the property. Currently there is a bike/ped path on the south side of East Second Street that leads to the High school, Muldown elementary school, and Central school located at Second and Spokane. With the East Second Street upgrades, the bike/ped path will be extended east to connect with the Armory Park system.

The Second Street Apartment complex will offer a club house and a park area providing some recreation opportunities on site. The park area will include a play ground equipment and volleyball courts. The proposed walking path system will allow residents to walk for exercise as well as walk to the East Second Street path system and on into downtown. The City's Armory Park is located approximately ¼ mile east of the proposed subdivision.

f. The relationship of the planned development upon the adjacent and surrounding neighborhoods. Specifically address any potential adverse impacts and how they may be avoided or effectively mitigated.

The property is bordered on the North by the Burlington North Railroad (Zoned I-1, Industrial); on the South by single family residential uses

(Zoned WR-1 and WLR, One-Family Residential); on the east by single family residential and vacant tracts (Zoned WLR, One-Family residential); and on the West by vacant lands and single family residential (Zoned WR-1 and WR-2, one and two family residential). The proposed development consisting of 23.78 acres offers a unique ability to develop multi-family residential uses in an area that is dominated by single family uses and buffer these different uses through, setback, open space and existing vegetation.

g. How the plan provides reasonable consideration to the character of the neighborhood and the particular suitability of the property for the proposed use.

Although much of the surrounding neighborhood consist of single family residential use, the Kauffman property is ideal for clustering density to preserve open space and protect much of the natural amenities such as the views of the Whitefish Range, the Cow Creek area, and the ponderosa pine forest on the property. The overall density of 7.3 units per acre is not much more that the single family development of Somers and Park Avenues to the west.

h. How the development plan will further the goals, policies and objectives of the Whitefish Growth Policy.

The Land Use Element of Whitefish Growth Policy specifically provides the Zoning Classifications that comply with the land use category depicted on the Future Land Use Map. The Second Street Apartment property is split between two land use categories: the Urban Residential (Orange) on the western 6.875 acres and the Suburban Residential (Yellow) on the eastern 16.914 acres. According to the Land Use Element, properties designated Urban can have zoning of WLR, WR-1, and WR-2 and comply with the Growth Policy. Properties designated Suburban Residential can have zoning of WCR, WSR, and WER, and comply with the Growth Policy. The proposed underlying zoning of WR-2 and WER both comply with the respective Land Use Element categories.

The Housing Element offers two goals for housing that would support the proposed development:
Goal 5A. Ensure an adequate supply and variety of housing product types and densities, at affordable prices, to meet the needs of Whitefish's existing and future workforce, and for senior citizens.
Goal 5B. Maintain a social and economic diversity of Whitefish through affordable housing programs that keep citizens and members of the workforce from being displaced.
The Housing Element also addresses the conflicting needs and wants of residents in the City of Whitefish. The Growth Policy states that a diversity of housing is needed and that there should be affordable

housing but it should not be in existing residential neighborhoods or on the outskirts of town.

The proposed Second Street Apartments project and its location on the Kauffman property may reconcile these conflicting community issues as the project will not displace and destroy existing housing inventory. The project will preserve the neighborhood character by providing 71% open space/buffering thereby addressing the compatibility item. Although large in acreage with a rural feel, the property is close to schools and the downtown giving future residents the ability to walk or ride a bike to work or school on the City's Bike/Ped path system located on East Second Street.

i. If affordable housing is a component of the project, describe how the project is implementing the standards in Section 11-2S-3.B.

The applicants propose meeting the provisions of 11-2S-3.B. by providing 17 apartment units for moderate income households, which is 10% of the total units of the project. The applicants worked with the Whitefish Housing Authority to draft up and sign a Letter of Intent which allows the Housing Authority to manage the 17 units for qualified persons.

The signed Letter of Intent between the Whitefish Housing Authority and the Community Infill Partners, LLC is included with this PUD application.

j. Submit site plans, drawings and schematics with supporting narratives where needed that include the following information:

(1). Total acreage and present zoning classifications;
(2). Zoning classification of all adjoining properties;
(3). Density in dwelling units per gross acre;
(4). Location, size, height and number of stories for buildings and uses proposed for buildings;
(5). Layout and dimensions of streets, parking areas, pedestrian walkways and surfacing;
(6). Vehicle, emergency and pedestrian access, traffic circulation and control, including pedestrian and bikeway linkages to existing and/or proposed trails beyond project boundaries;
(7). Location, size, height, color and materials of signs;
(8). Location, height, and material of fencing and/or screening;
(9). Location and type of landscaping;
(10). Location and type of open space and common areas;
(11). Proposed maintenance of common areas and open space;
(12). Property boundary locations and setback lines

(13). Special design standards, materials and / or colors;
(14). Proposed schedule of completion and phasing of the development, if applicable;
(15). Covenants, conditions and restrictions (CC&Rs);
(16). Any other information that may be deemed relevant and appropriate to allow for adequate review.

See attached maps and drawings

If the Planned Unit Development involves the division of land for the purpose of conveyance, a preliminary plat shall be prepared in accordance with the requirements of the subdivision regulations.

Please note that the approved final plan, together with the conditions and restrictions imposed, shall constitute the zoning for the district. No building permit shall be issued for any structure within the district unless such structure conforms to the provisions of the approved plan.

The signing of this application signifies that the aforementioned information is true and correct and grants approval for Whitefish Planning & Building staff to be present on the property for routine monitoring and inspection during review process.

_____ _____

(Applicant Signature) (Date)

_____

Print Name

APPLICATION PROCESS

APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A discussion with the planning director or designated member of staff must precede filing of this application. Among topics to be discussed are: Master Plan or Growth Policy compatibility with the application, compatibility of proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed application form.

C. Application fee per schedule, made payable to the City of Whitefish. See current fee schedule.

D. A bona fide legal description of the subject property and a map showing the location and boundaries of the property.

E. Adjoining Property Owners List from Flathead County GIS Department.

Please consult the with staff of the Whitefish Planning & Building Department for submittal dates and dates for the Planning Board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled. The application must be accepted as complete forty-five (45) days prior to the scheduled Planning Board meeting.

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
SECOND STREET APARTMENTS PROJECT

THE UNDERSIGNED, Community Infill Partners, LLC, a Montana limited liability company (herein referred to as "Developer") of 1399 Wisconsin Avenue, Whitefish, MT 59937, hereby encumbers and restricts the real property situated in Flathead County, Montana, legally described as Assessor's Tracts 1K, 1D, & 1DA in Section 32, T31N, R21W (herein referred to as the "Property"), with this Declaration of Covenants, Conditions and Restrictions (referred to herein as the "Declaration"), and declares that the real property shall at all times be owned, held, used and occupied subject to the provisions contained in this Declaration from and after the date this document is recorded with the Flathead County Clerk and Recorder's office. The property shall not be used, nor shall any activities be conducted on it, that are in violation of this Declaration.

ARTICLE I
Purpose

Section 1.1 Purposes. The purposes of this Declaration are to ensure that the Property is developed to ensure appropriate use and improvement of each lot within the Property; to ensure the enjoyment of the open space and the use of all recreational amenities; to prevent the construction of inappropriate structures; to provide for the establishment of a homeowners association to properly manage the Property and enforce this Declaration (herein referred to as the "Association"); and to provide for a mechanism for assessments to be levied and collected for the maintenance of the private roads within the Property.

ARTICLE II
Covenants

Section 2.1 Uses of Tracts. No lot shall be used except as follows: Tract ____ may only be used for one single family residence. Tract ____ may only be used for nine condominium units. Tract ____ may only be used for a total of 164 apartment or condo units.

Section 2.2 Maintenance. Every structure once constructed on a lot shall be kept in the same condition as at the time of its initial construction, excepting normal wear and tear. All structures shall be preserved and of pleasant appearance by maintaining paint, stain or sealer as needed. If any structure is damaged in any way, the owner shall, with due diligence, rebuild, repair and restore the structure to its appearance and condition prior to the casualty.

Section 2.3 Address Identification. Each structure is required to have an

address sign. The address sign shall be clearly visible from the adjoining roadway at all times.

Section 2.4 Outdoor Lights. No external lighting is permitted except as may be authorized in writing by the Association. Christmas seasonal decorative lighting may be allowed subject to such rules and restrictions as the Association may set forth.

Section 2.5 Landscaping. All landscaping shall be installed and maintained only as approved in writing by the Association. No owner may change any surface water drainage patterns without the written approval of the Association.

Section 2.6 Vehicles. No recreational vehicles, trailers, trucks exceeding one-ton capacity, unsightly, wrecked or inoperable vehicles, boats, recreational vehicles, including four-wheelers, snowmobiles, motorcycles, or equipment shall be parked or allowed to remain upon any of the Property unless placed in a garage or screened from view. No vehicle shall be parked upon or encroach upon any common areas. No outdoor maintenance (including oil changes), service, rebuilding, dismantling, painting, or repair work shall be performed. No outdoor car washing shall be permitted on any lot.

Section 2.7 Utilities. All utility service lines, whether for power, telephone, or otherwise, shall be installed underground. All necessary utility easements shall be provided.

Section 2.8 Easements for Utilities, and The Water System. The Developer and the Association shall have an easement to use any parts of the Property for the purpose of installing and maintaining any utilities lines, all of which shall be installed underground.

Section 2.9 Sewer System. No individual sewage disposal system shall be permitted on any lot. All lots shall be connected to the City of Whitefish sewer system. This service shall be supplied and utilized subject to the current rules and regulations for the City of Whitefish Water and Sewer Utilities, and to any municipal resolutions and ordinances as made effective by the Whitefish City Council from time to time.

Section 2.10 No Business Use. No professional business, manufacture, trade or commercial activity may be conducted on the premises. No activities of the Developer or its agents, successors, or assigns relating to sales or leasing activities shall be considered to be in violation of this Section.

Section 2.11 Signs. No signs shall be allowed except for Developer signs or bona fide signs advertising a premises for sale or lease.

Section 2.12 Fuel Tanks. No fuel tanks above or below ground are allowed.

Section 2.13 Antennas, Satellites, Clotheslines, and Poles. No antennas, large satellite dish receivers, transmitters, security alarms, clotheslines or similar devices shall

be erected on any building or rooftop. Satellite dish receivers 24" in diameter or less are permitted; the dish shall be located out of view, screened by design features, fences or landscaping as approved by the Association.

Section 2.14 Storage. No unsightly items may be stored in view from any other portion of the Property. Firewood shall be stored in a storage shed or stored out of view.

ARTICLE III
Animals, Birds, and Pets

Section 3.1 Pets Permitted. No poultry, birds (except inside pet birds, which must be kept inside a home), pigs or other livestock or animals shall be kept or raised. Notwithstanding the foregoing, cats, dogs, or other small household pets, may be kept at the single family residence located on Tract _____, and may be allowed in the condominiums and apartments if allowed by the condominium association and the apartment owner respectively.

Section 3.2 Pet to Remain Within Owner's Property. All dogs must be leashed, fenced or otherwise confined to the Tract and not allowed loose at any time outside the property owner's own premises. If any pet goes outside of the owner's property, the owner of the pet is responsible for any damages or liability caused by the pet and must clean up after the pet. Leashes are required on dogs at all times and in all areas of subdivision, except for dogs contained in fenced yards.

Section 3.3 Pet Noise. No property owner shall have or keep any dog that barks or whines on a regular or continuous basis, or any other pet that creates an ongoing disturbance for any adjoining or neighboring property owner.

ARTICLE IV
Removal of Waste, Property Appearance and Upkeep

Section 4.1 No Offensive Activity. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which is or which may become an annoyance or nuisance to the neighborhood or any adjoining property owner.

Section 4.2 Lots to be Maintained. Each Owner shall be responsible to maintain all structures on such Owner's lot in a manner consistent with its original design, including painting, repair, landscaping, and removing trash and debris. No outside burning will be permitted except for outdoor barbecues. Each lot at all times shall be kept in a clean, sightly and in a wholesome condition. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any lot so that the same are visible from any neighboring lot or any street or any open space. All garbage left outside for pick-up or delivery shall be properly contained and secured.

Section 4.3 Landscape Maintenance. All landscaping shall be maintained and shall not be allowed to become unsightly. All weeds, including any noxious weeds, shall be eradicated or controlled and all property owners shall comply fully with Montana laws regarding the control or eradication of noxious weeds. All noxious weeds must be physically removed by the property owners to prevent the spread of noxious weeds in the area.

Section 4.4 Garbage and Refuse Disposal. No garbage, refuse, rubbish, trash or cuttings shall be deposited on any street, lot or any common area. All garbage, refuse, trash and cuttings shall be kept in approved covered containers at all times and any such covered container shall be kept within designated locations except for scheduled collections No junk automobiles are allowed.

ARTICLE V
Common Properties

Section 5.1 Common Properties. Common Properties means the property which is subject to this Declaration that is shown on any plat of the property as roads, easements, parks, common areas, open space or open area and other property intended for the common use, benefit and enjoyment of the owners and such other persons as may be permitted to use the Common Properties under the terms of this Declaration or any agreement with the Association.

Section 5.2 Maintenance of Common Properties. The Homeowners Association shall maintain the open space portions of the Common Properties, so they will be an attractive and useful amenity for the owners The Homeowners Association shall also be responsible for managing and maintaining the shared roads within the Property.

Section 5.3 Easement Over All Common Properties. The owners shall have an easement for use and enjoyment of all of the Common Properties, subject to such rules and regulations as the Homeowners Association may develop from time to time, and also subject to the rights reserved to Developer and the reserved rights of any third parties with respect to the Common Properties.

Section 5.4 Retained Easement for Roads and Utilities. Developer hereby reserves and shall have an easement for access and utility purposes over all of the private roads, Utility Easement areas, and other Common Properties.

Section 5.5 Road Maintenance. The private roads within the Property shall be maintained, repaired, or replaced as needed by the Association, including plowing of snow and recoating pavement. The roads shall be maintained in good condition to allow year-round access to the Property. During the "Period of Developer Control" no gates, other impediments, or signage may be placed on any roads without the prior written consent of Developer. The Homeowners Association may elect to landscape and/or

maintain portions of the road right-of-way not actually used for road purposes.

Section 5.6 Property Taxes. It is acknowledged that, for property tax purposes, Flathead County and the State of Montana may allocate to each lot a fractional, proportional portion of the value attributable to the Common Properties. By accepting a deed to a lot the owner agrees to this mechanism for property taxation and agrees to pay a proportional share (as allocated by Flathead County and the State of Montana) of the taxes attributable to the value of the Common Properties, while at the same time allowing the Homeowners Association to administer and control the Common Properties.

Section 5.7 Approval of Developer. During the "Period of Developer Control" no construction of improvements shall take place within the Common Properties nor shall any other changes or alterations be made to the Common Properties or the uses within the Common Properties without the prior written consent of the Developer.

Section 5.8 Insurance on Common Area. The Homeowners Association shall maintain the following types of insurance: property insurance, liability and comprehensive fidelity to the extent that such insurance is reasonable and available, considering the availability, cost and risk coverage provided by such insurance, and the cost of such coverage shall be included in the budget and shall be paid by the Homeowners Association as a common expense.

ARTICLE VI
Homeowners Association

Section 6.1 Membership in the Association. The members of the Homeowners Association shall consist of the owners of each Tract of land within the Property, as well as the owners of each condominium unit. Each owner covenants and agrees that he/she will automatically be and will remain a member of the Association so long as the property owner retains any ownership interest in any Tract or condominium located within the Property. By accepting the conveyance of the property, the owner binds themself to abide by this Declaration, the Articles of Incorporation and Bylaws of the Association, and the reasonable rules and regulations of the Association, which may be adopted by the Board of Directors from time to time. Upon sale of a Tract, the membership associated with that Tract shall be deemed automatically transferred from the former owner to the purchaser. Such transfer shall not relieve the former owner of any obligations incurred by such former owner prior to the transfer. For the purposes of membership in the Association, the purchaser under any contract for deed notice of which is recorded in the real estate records of Flathead County, Montana, shall be considered the owner.

Section 6.2 Membership Dues. Membership dues for the Homeowners Association are estimated at $_____ per calendar year. Dues will be calculated on a pro-rated basis. The dues will be evaluated yearly and are subject to change.

Section 6.3 Voting. The Owner(s) of each Tract shall be entitled to a single vote in the Association for each Tract owned. When more than one person holds an interest in any lot, all such persons shall be members of the Association. The vote for such lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any lot.

Section 6.4 Bylaws. The bylaws of the Association shall govern the conduct of meetings of the members of the Association, the Board of Directors and other aspects of the operation of the Association not addressed in this Declaration.

Section 6.5 Management During Period of Developer Control. The "Period of Developer Control" shall mean the period beginning on the date this Declaration is first recorded in the office of the Clerk and Recorder of Flathead County, Montana, and ending on the date on which the Developer has sold 80% of the Tracts within the Property and the Developer has notified the Association in writing that the Developer has determined that no additional property shall be added to the development. During the Period of Developer Control, Developer may appoint, remove and replace from time to time any or all of the Directors and Officers of the Association. Each member of the Association gives the Developer an irrevocable proxy for this purpose. If Developer so elects, Developer may from time to time relinquish, either on a temporary or permanent basis, the right to appoint all or a portion of the Directors and Officers of the Association; provided that any such relinquishment shall be expressed in writing to the Association. The Period of Developer Control may be reinstated or extended by agreement between Developer and the Association upon such terms and conditions as the parties agree.

Section 6.6 Assessments. Each property owner (except the Developer, as to Tracts owned by the Developer and not yet sold) agrees to pay to the Association such annual dues and assessments as the Board of Directors shall determine. Such dues and assessments may include amounts for operation of the Association, payment of taxes and insurance on Common Properties, Common Properties maintenance, utilities, and snow removal, a fund for acquisition or replacement of capital improvements, legal and accounting fees, reasonable reserves and any and all other matters determined to be appropriate by the Association for the benefit of the owners and approved or assessed in accordance with the applicable rules and procedures of the Association. The Association dues and assessments shall be the same for each lot of the Subdivision, except as follows: If the Board of Directors determines in good faith that a portion of dues and assessments benefit fewer than all the Tracts, such portion shall be assessed only against the benefited Tracts.

Section 6.7 Developer's Responsibility for Assessments.
Notwithstanding the foregoing, the Developer, although a member of the Association, shall not be responsible at any time for payment of the Assessments with respect to Tracts owned by the Developer. The foregoing shall include all Association dues and assessments, except that Developer shall pay its pro-rated share of property taxes assessed against Common Properties within the Subdivision. Developer's share of the property taxes shall be calculated based on the number of Tracts owned by Developer as

of the date each property tax payment is payable. Also, the Developer shall at all times pay all expenses of maintaining the Tracts that it owns, including any improvements located thereon.

Section 6.8 Collection of Assessments. Assessments shall be the personal responsibility of the owners of each Tract. In addition, assessments shall be a lien on each Tract. Failure to pay assessments will result in a lien being filed by the Board of Directors, which shall describe the Tract, state the amount of the unpaid assessment and the date of such assessment. If any assessment is not paid when due, the assessment shall accrue interest at fifteen percent (15%) per annum until paid (or such other rate as the Board of Directors may establish from time to time). A Tract owner whose Tract is subject to lien must pay the assessment, interest, and costs for preparation of the lien and lien release, and all recording/filing fees before the lien is released. The Association is empowered to initiate any legal action to enforce payment of any past-due assessments, dues, or fees including an action to foreclose any lien on a Tract. This lien may also be foreclosed in the manner of foreclosure for mortgages. In the event of litigation, the prevailing party shall be entitled to attorney's fees and costs. The voting rights of an owner whose assessments are delinquent shall be suspended during the period of delinquency.

Section 6.9 Priority of Lien for Assessment. The lien of the assessments will be superior to and prior to any homestead exemption provided now or in the future by the laws of the State of Montana, and to all other liens and encumbrances except the following:

a. Liens and encumbrances recorded before the date of the recording of this Declaration.

b. Liens for property taxes and other governmental assessments or charges made superior by statute.

c. The lien for all sums unpaid on a First Mortgage, as defined below.

A "First Mortgage" is a mortgage, deed of trust, trust indenture, contract for deed, or other similar financial encumbrance granted by an Owner to secure a debt, (1) which is recorded in the office of the Clerk and Recorder of Flathead County, Montana, before the date of filing of a written lien statement for delinquent assessments, (2) which encumbers a Tract, and (3) which is first in priority among all such mortgages, deeds of trust, trust indentures or other similar financial encumbrances. There can only be one First Mortgage with respect to a Tract. Any First Mortgagee who acquired title to a Tract by virtue of foreclosing the First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchase at a foreclosure sale of the First Mortgage, will take the Tract free of any claims for unpaid assessments, interest, late charges, costs, expenses, and attorney's fees against the lot which accrue prior to the time such First Mortgagee or purchaser acquires title to the Tract.

All other persons who hold or who may in the future hold a lien or encumbrance of any type not described in subsection a., b. or c., will be deemed to consent that their lien or encumbrance will be subordinate to the Association's future liens for assessments, interest, late charges, costs, expenses and attorney's fees, as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

Section 6.10 Protection of First Mortgage. No violation or breach of, or failure to comply with, any provision contained in this Declaration and no action to enforce any such provision shall affect defeat, render invalid or impair the lien of any First Mortgage on any property taken in good faith and for value and perfected by recording in the Office of the Clerk and Recorder of Flathead County, Montana, prior to the time of recording in said office of a written lien statement for delinquent assessments. No violation, breach, failure to comply or action to enforce this Declaration shall affect, defeat, render invalid or impair the title or interest of the holder of any First Mortgage or result in any liability, personal or otherwise, of any such holder or purchaser. Any purchaser upon foreclosure shall, however, take subject to his Declaration.

Section 6.11 Statement of Status of Assessments. On written request, the Association will furnish to an owner or their designee or to any mortgagee a statement setting forth the amount of unpaid assessments then levied against the Tract in which the owner, designee or mortgagee has an interest. The information contained in such statement, when signed by an officer, director or agent of the Association, will be conclusive upon the Association, the Board of Directors, and every owner as to the person or persons to whom such statement is issued and who rely on it in good faith.

Section 6.12 Liability. Neither the Developer, the Association, nor their respective members, directors, employees nor agents shall be responsible for any actions taken by any of the Tract owners.

Article VIII
Duration and Amendment

Section 8.1 Duration of Declaration. The provisions of this Declaration are intended to be easements and covenants running with the land, and are intended to be perpetual, except as amended or terminated as provided below. If any provision contained in this Declaration is subject to the laws or rules sometimes referred to as the rule against perpetuities or the rule prohibiting unreasonable restraints on alienation, such provisions shall continue and remain in full force and effect for the period of 21 years following the death of the last to die of the initial members of the Board of Directors of the Homeowner's Association and the then living children of initial Directors, or until the provisions contained in this Declaration are amended or terminated as provided below, whichever first occurs.

Section 8.2 Amendment after Period of Developer Control. After the Period

of Developer Control, this Declaration may be amended or repealed as provided in this Section. Any amendment shall require the consent of the owners of sixty percent (60%) of the Tracts. Such consent may be evidenced by written consent or by vote at a regular or special meeting of the members of the Homeowner's Association, or by a combination of written consents and votes. If such consent is received, the Association shall then record in the records of Flathead County, Montana, a document stating the action taken, together with a sworn statement certifying that the required consent was received.

Section 8.3 Unilateral Amendment By Developer. At any time before or after the Period of Developer Control, so long as Developer owns a Tract, Developer may unilaterally amend this Declaration (1) if such amendment is solely to comply with applicable law or correct a technical or typographical error, (2) if such amendment does not adversely alter any substantial rights of any owner or mortgagee, or (3) in order to meet the guidelines or regulations of a lender or insurer including, but not limited to, the Federal National Mortgage Association, Department of Housing and Urban Development, Federal Home Loan Mortgage Corporation, the Federal Housing Administration or the Veterans Administration or any similar agency. Such amendments shall not require approval of any Owners.

Article IX
General Provisions

Section 9.1 Effect of Provisions of Declaration. Each provision contained in this Declaration, and any agreement, promise, covenant, and undertaking to comply with each provision contained in this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision contained in this Declaration: (a) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any real property within the Property is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument; (b) shall, by virtue of acceptance of any right, title or interest in any real property within the Property by an owner of the Association, be deemed accepted, ratified, adopted and declared as a personal covenant of such owner or the Association, as the case may be, and, as a personal covenant, shall be binding on such owner or the Association and such owner's or Association's respective heirs, personal representatives, successors and assigns; (c) shall be deemed an equitable servitude, running, in each case, as a burden with and upon the title to each parcel of real property within the Property; and (d) shall be deemed a covenant, obligation and restriction secured by a lien binding, burdening and encumbering the title to each parcel of real property within the Subdivision.

Section 9.2 Enforcement and Remedies. Each provision contained in this Declaration shall be enforceable by the Association, by the Developer or by any owner who has first made written demand on the Association to enforce such provision and (30) days have lapsed without appropriate action having been taken by the Association. Any enforcement action may be by a proceeding for such relief as may be provided at law or in equity, including but not limited to a temporary or permanent injunction and/or a suit

or action to recover damages. Such action may be brought against any person(s) violating or threatening to violate a provision of this Declaration. None of the remedies, which are stated in this Declaration are intended to be exclusive, and all parties shall have all such remedies as may be provided by law.

Section 9.3 Limited Liability. Neither the Developer, the Association, or their respective members, officers, directors, employees or agents, shall be liable to any part for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

Section 9.4 Successors and Assigns. Except as otherwise provided herein, the provisions contained in this Declaration shall be binding upon and shall inure to the benefit of Developer, the Association, and each owner and their respective heirs, personal representatives, successors and assigns. Developer may assign some or all of its rights under this Declaration to a third party by a written instrument specifically referring to such rights recorded in the records of Flathead County, Montana. Such instrument may specify the extent and portion of the rights or interests as a Developer, which are being assigned in which case the initial Developer shall retain all other rights of Developer.

Section 9.5 Severability. Invalidity or unenforceability of any provision contained in this Declaration, in whole or in part shall, not affect the validity or enforceability of any other provision of this Declaration.

Section 9.6 Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any provision of this Declaration.

Section 9.7 Construction. When necessary for proper construction, the masculine of any word used in any provisions contained in this Declaration shall include the feminine or neuter gender, and the singular the plural, and vice versa.

Section 9.8 No Waiver. Failure to enforce any provision contained in this Declaration on any one or more occasions shall not operate as a waiver of any such provision or of any other provision of this Declaration.

Section 9.9 Attorneys' Fees. In the event of a dispute arising under any provision contained in this Declaration, the prevailing party shall be entitled to its reasonable cost and attorneys' fees incurred.

DATED this _____ day of _____, 2013

Community Infill Partners, LLC

By:_____
Sean Averill, Manager

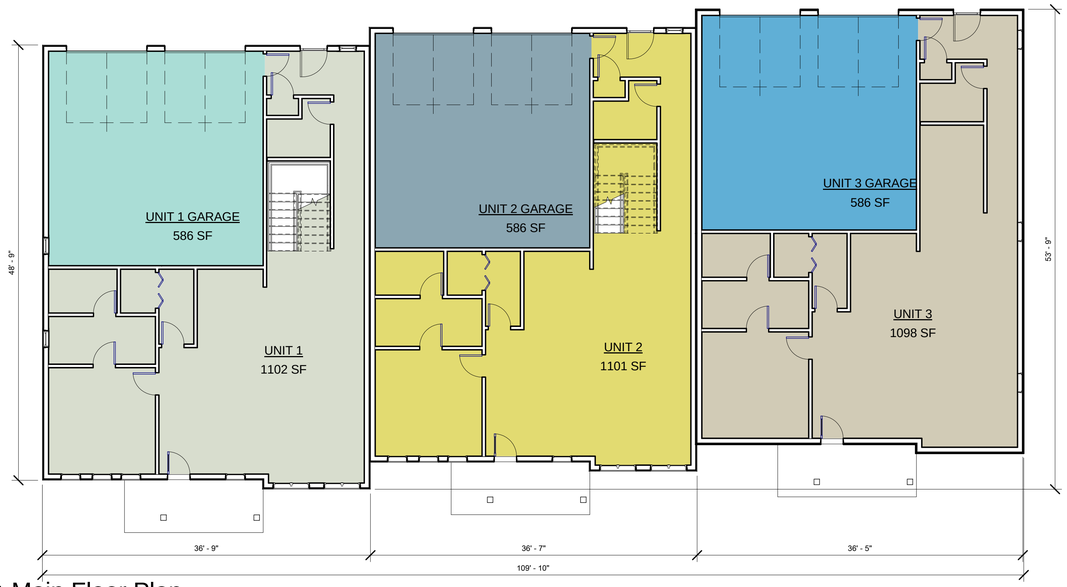
STATE OF MONTANA)
:ss
County of Flathead)

On this _____ day of _____, 2013 before me, the undersigned, a Notary Public for the State aforesaid, personally appeared Sean Averill, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that such person executed the same in such person's authorized capacity as Manager of Community Infill Partners, LLC, 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 first above written.

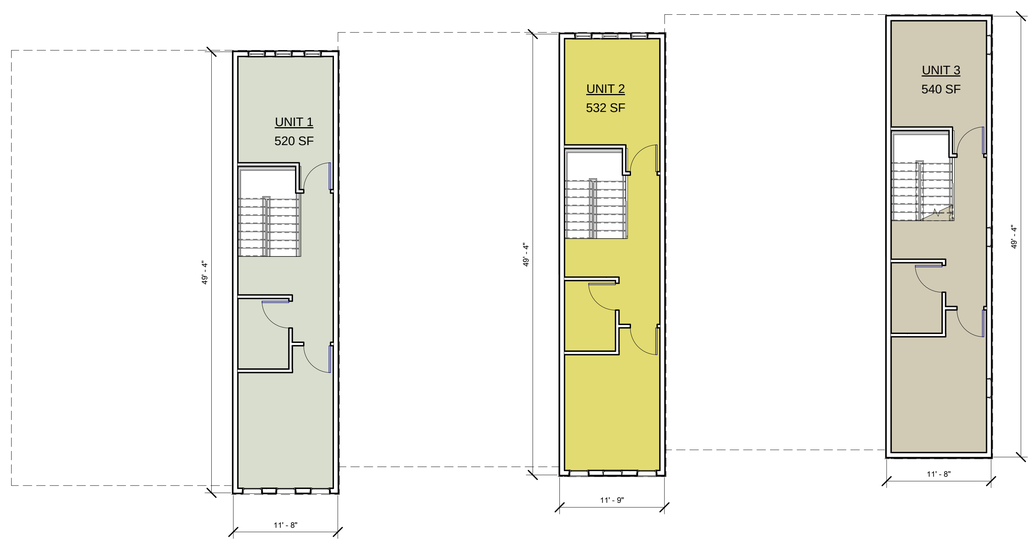
_____
Notary Public for the State of Montana

_____
Print or type name
Residing at: _____
Commission Expires: _____



1 / A2.1 Main Floor Plan
1/8" = 1'-0"

Area
UNIT 1
UNIT 1 GARAGE
UNIT 2
UNIT 2 GARAGE
UNIT 3
UNIT 3 GARAGE



2 / A2.1 Upper Floor Plan
1/8" = 1'-0"

Area
UNIT 1
UNIT 1 GARAGE
UNIT 2
UNIT 2 GARAGE
UNIT 3
UNIT 3 GARAGE

FLOOR PLANS

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly registered architect under the laws of the State of Montana, practicing in Whitefish, Montana.

12-22

Date: 1.30.13

Reg. No. 2932

AARON J. WALLACE

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Project Number:	12-22
Date:	1.30.13
Drawn By:	AJW/JL
Checked By:	AJW
Revisions:	

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FAX# 406.862.8153

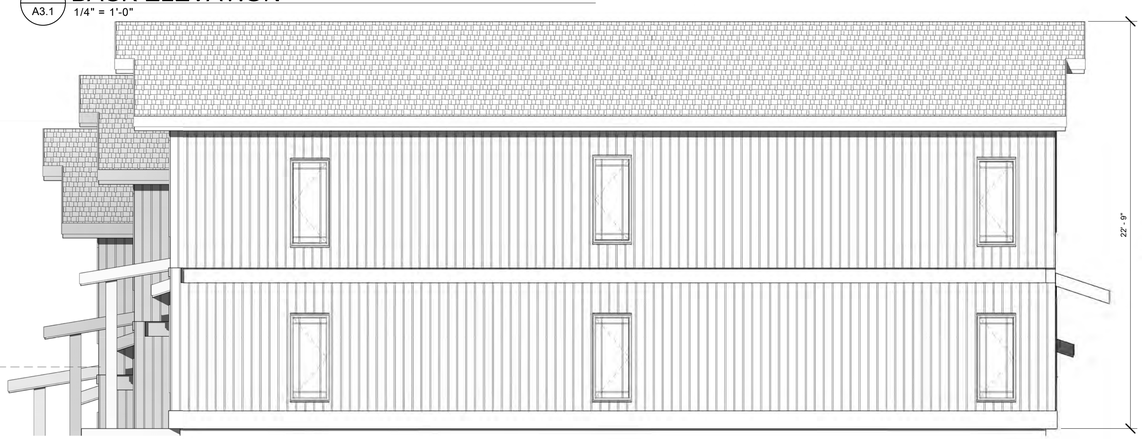
2ND STREET APARTMENTS -
3PLEX CONDO

WHITEFISH, MT

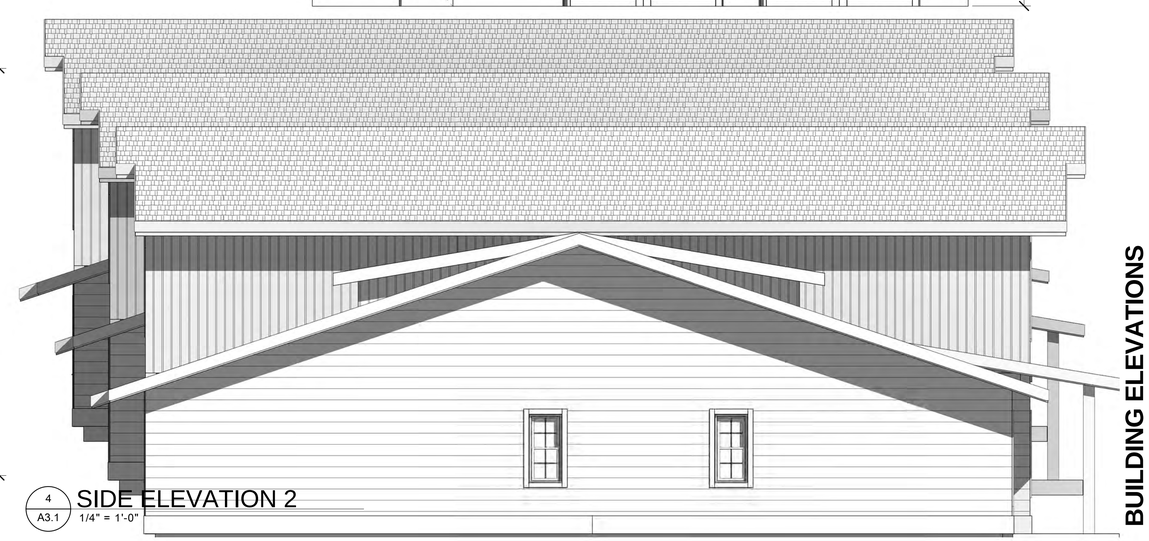
A2.1

2 A3.1 FRONT ELEVATION
1/4" = 1'-0"

3 A3.1 BACK ELEVATION
1/4" = 1'-0"



1 A3.1 SIDE ELEVATION
1/4" = 1'-0"



4 A3.1 SIDE ELEVATION 2
1/4" = 1'-0"

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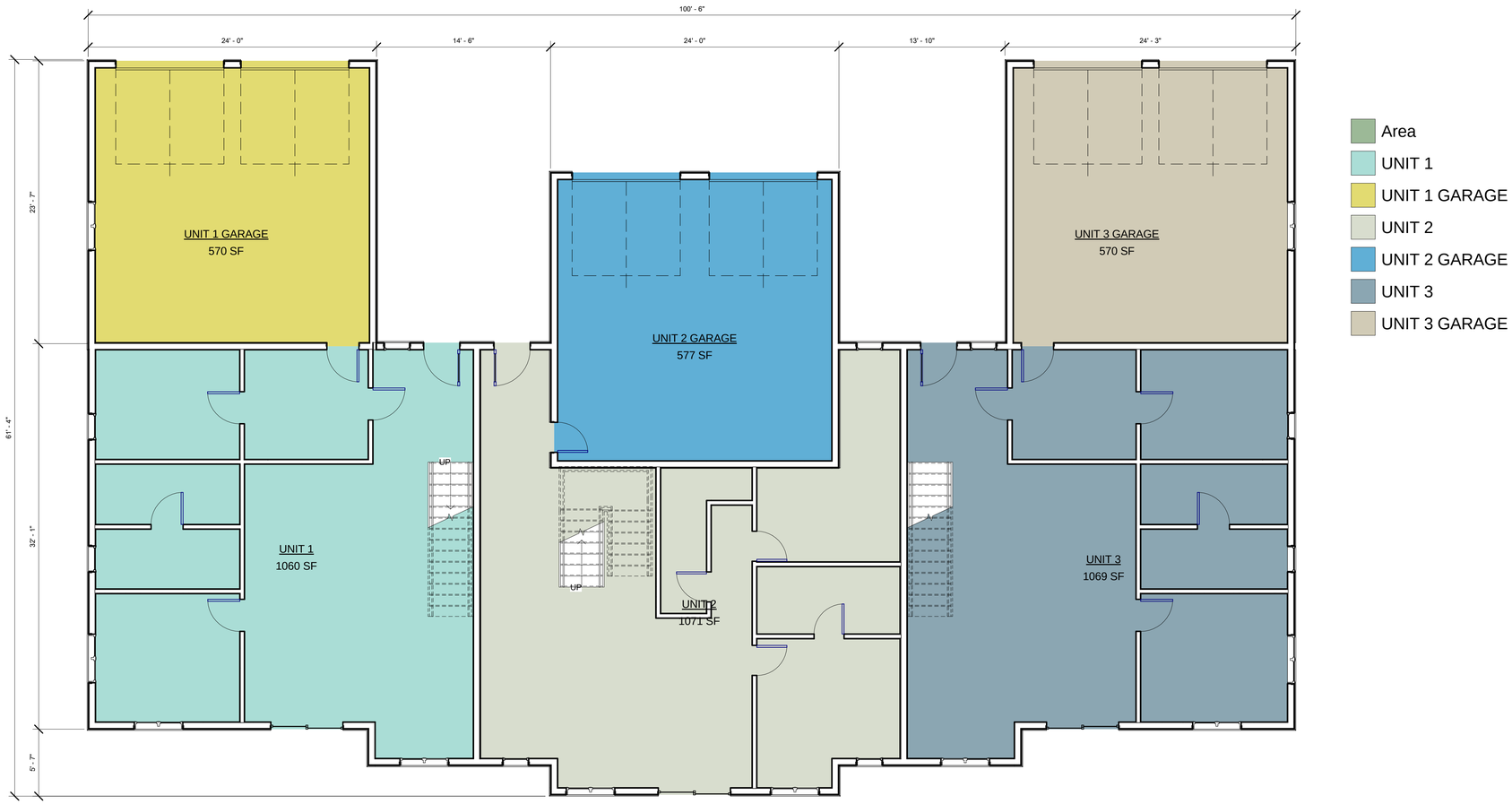
BUILDING ELEVATIONS

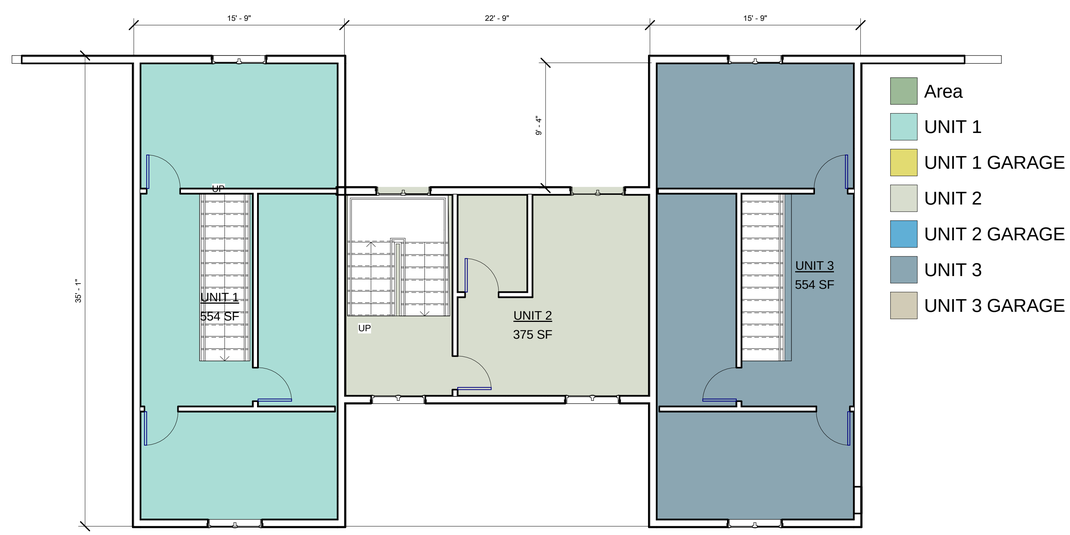
2ND STREET APARTMENTS -
3PLEX CONDO

WHITEFISH, MT

A3.1



1 A2.1 Main Floor Plan
3/16" = 1'-0"



2 A2.1 Upper Floor Plan
3/16" = 1'-0"

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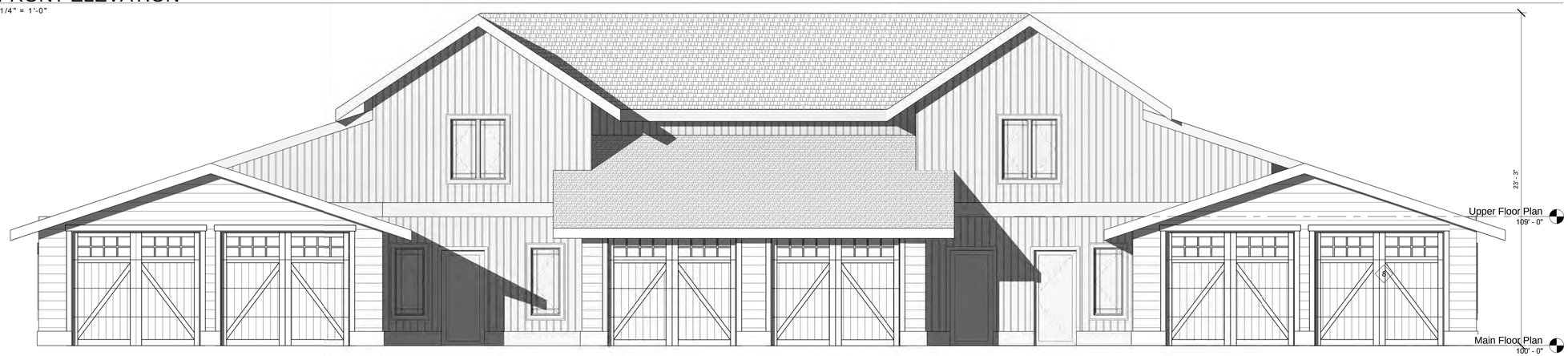
FLOOR PLANS

2ND STREET APARTMENTS - 3 PLEX CONDO VERSION 2

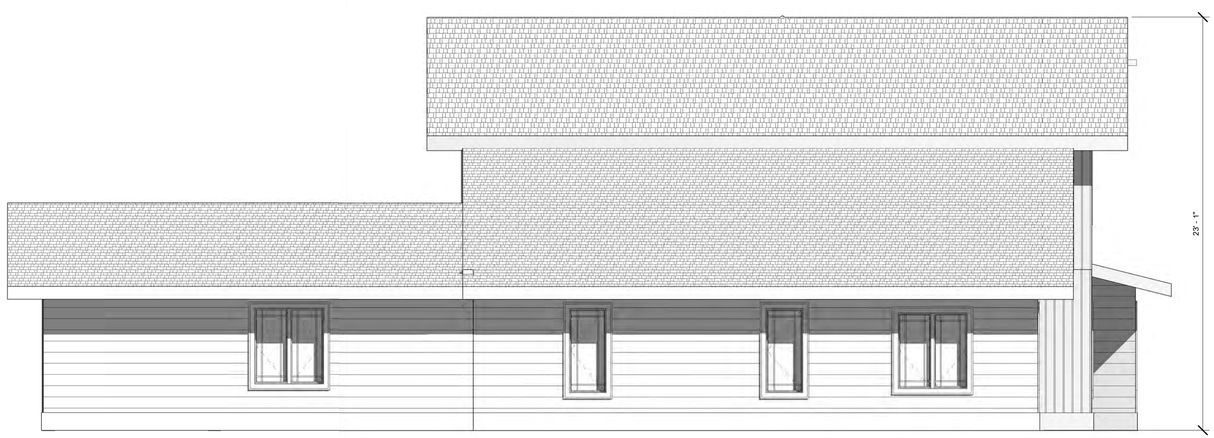
WHITEFISH, MT

A2.1

1 / A3.1 FRONT ELEVATION
1/4" = 1'-0"



2 / A3.1 BACK ELEVATION
1/4" = 1'-0"



3 / A3.1 SIDE ELEVATIONS
1/4" = 1'-0"

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BUILDING ELEVATIONS

2ND STREET APARTMENTS - 3 PLEX CONDO VERSION 2

WHITEFISH, MT

A3.1

1 A2.1 Main Floor Plan
3/16" = 1'-0"

2 A2.1 Upper Floor Plan
3/16" = 1'-0"

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FLOOR PLANS

2ND STREET APARTMENTS - 4 PLEX

WHITEFISH, MT

A2.1

2 A3.1 FRONT ELEVATION
1/4" = 1'-0"

1 A3.1 BACK ELEVATION
1/4" = 1'-0"

4 A3.1 SIDE ELEVATIONS
1/4" = 1'-0"

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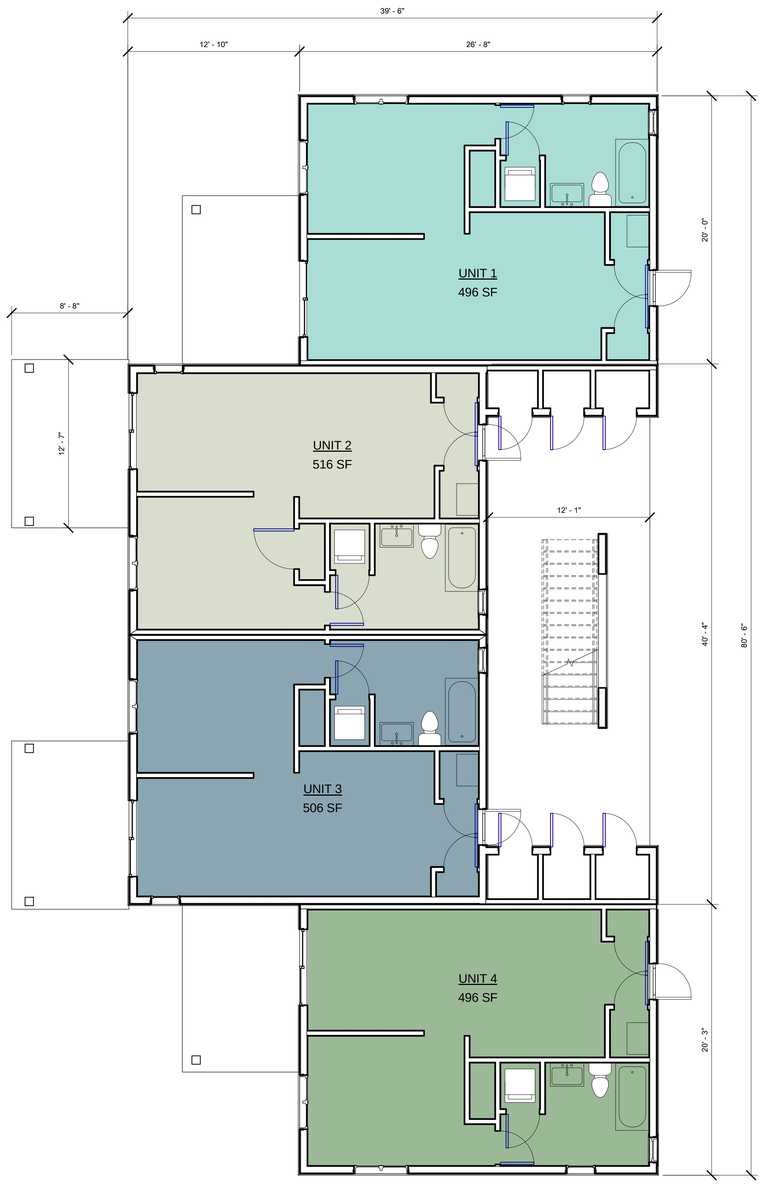
BUILDING ELEVATIONS

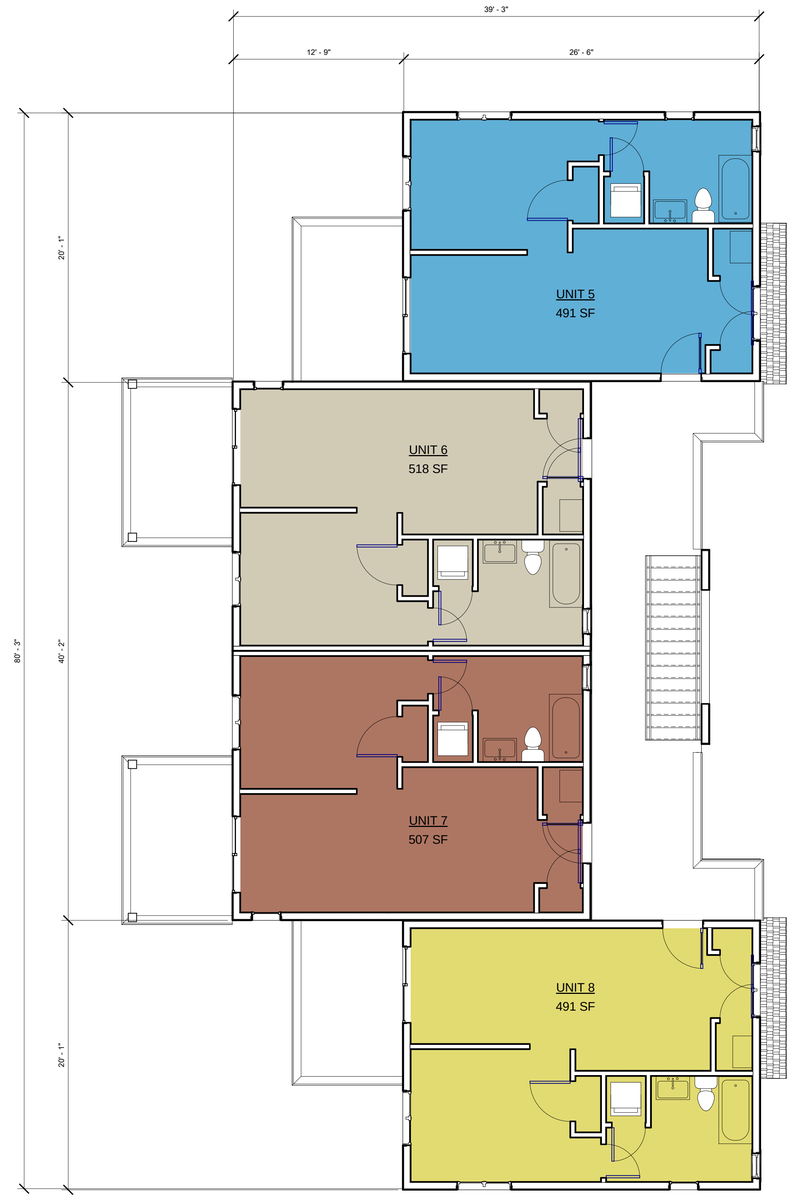
2ND STREET APARTMENENTS - 4 PLEX

WHITEFISH, MT

A3.1



1 A2.1 Main Floor Plan
3/16" = 1'-0"



2 A2.1 Upper Floor Plan
3/16" = 1'-0"

UNIT 1
UNIT 2
UNIT 3
UNIT 4
UNIT 5
UNIT 6
UNIT 7
UNIT 8

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12-22

Date: 1.30.13

Reg. No. 2932

AARON J. WALLACE

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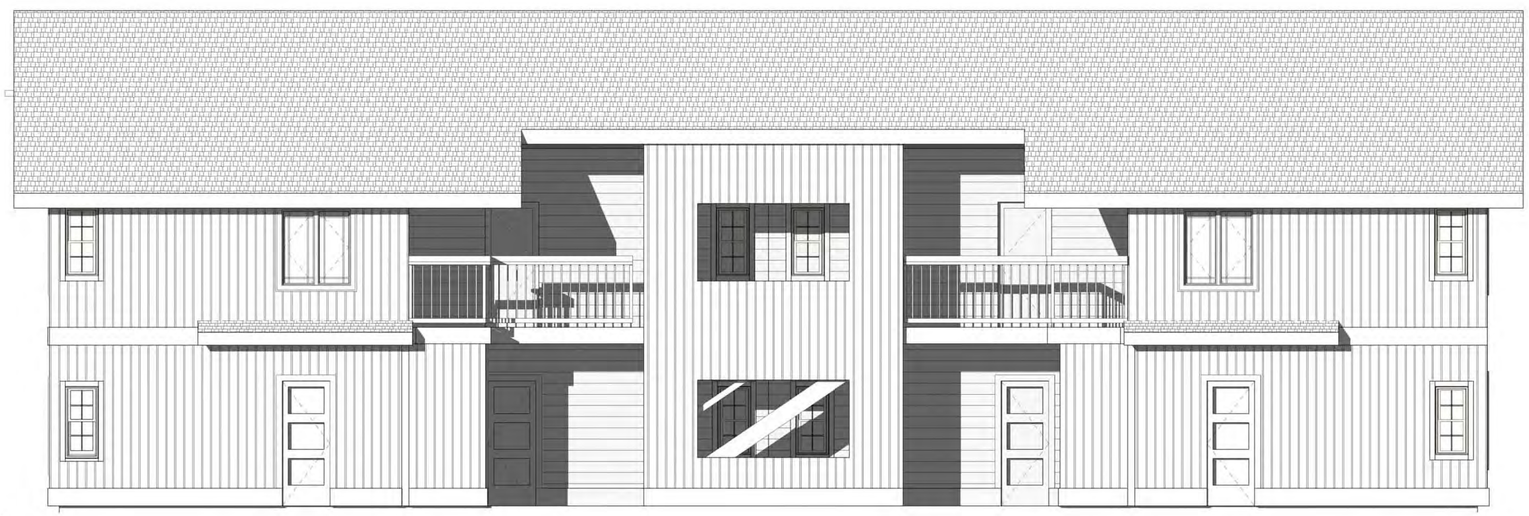
FLOOR PLANS

2ND STREET APARTMENTS - 8 PLEX

WHITEFHIS, MT

A2.1

3 A3.1 FRONT ELEVATION
1/4" = 1'-0"



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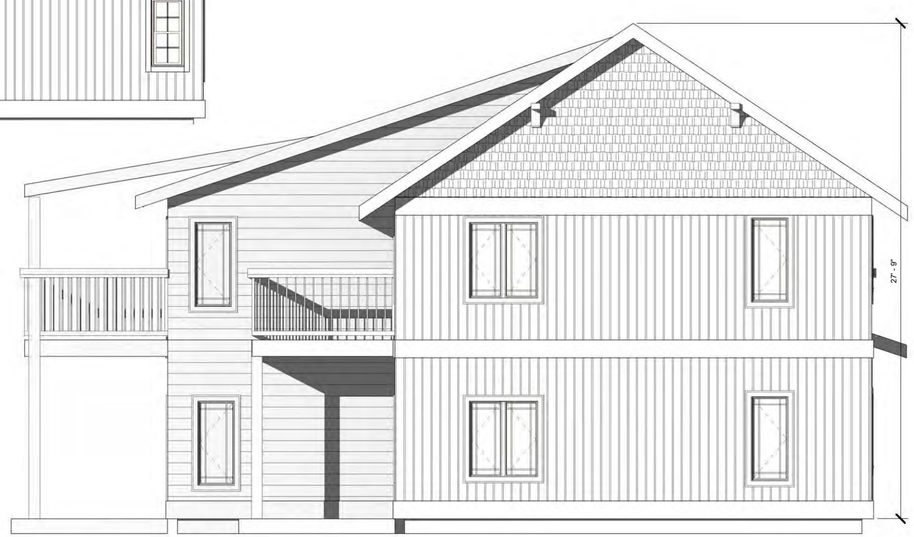

2 A3.1 SIDE ELEVATIONS
1/4" = 1'-0"

BUILDING ELEVATIONS

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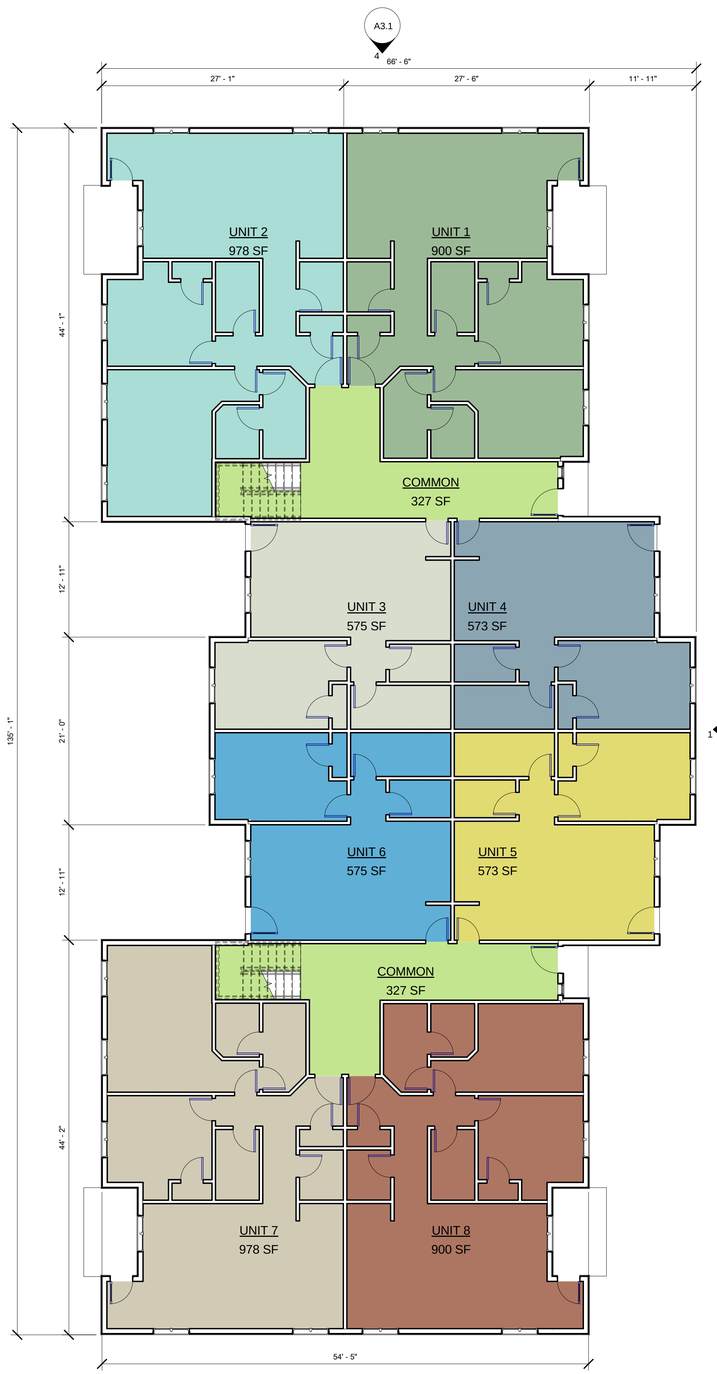
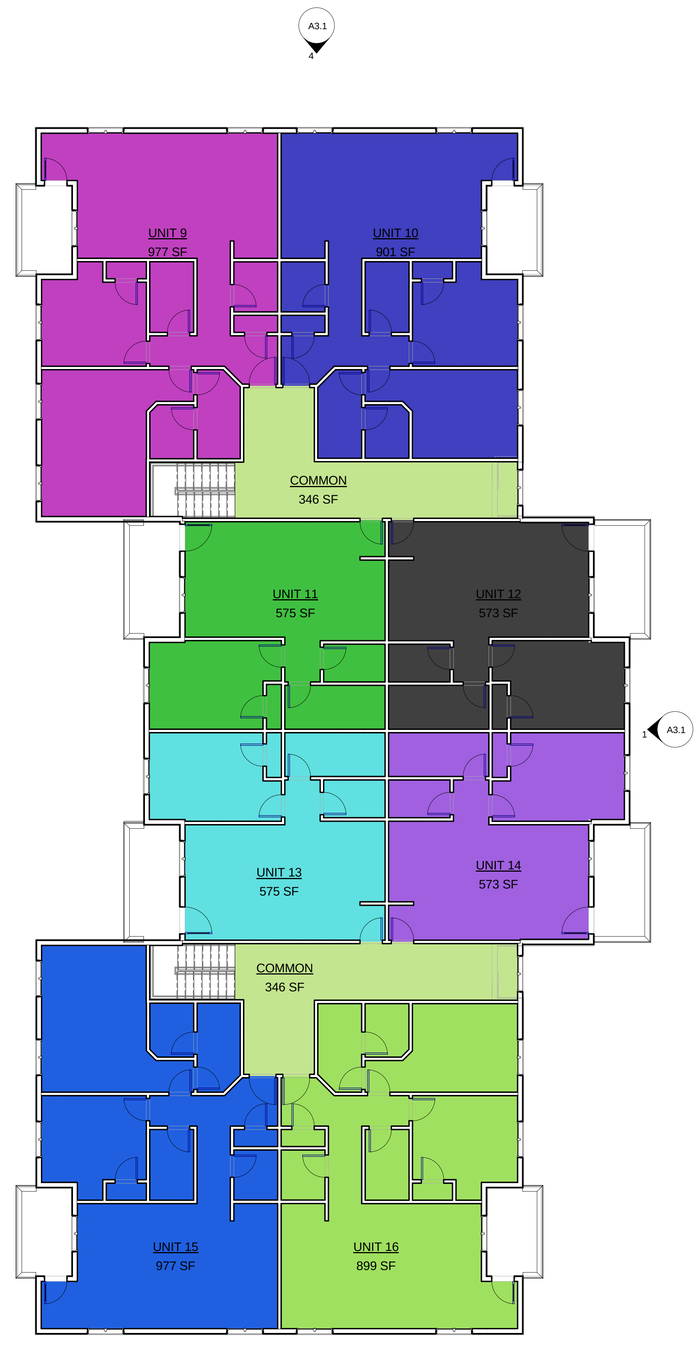
2ND STREET APARTMENTS - 8 PLEX

WHITEFHIS, MT

A3.1



4 A2.1 Main Floor Plan
1/8" = 1'-0"



1 A2.1 Upper Floor Plan
1/8" = 1'-0"

- COMMON
- UNIT 1
- UNIT 2
- UNIT 3
- UNIT 4
- UNIT 5
- UNIT 6
- UNIT 7
- UNIT 8
- UNIT 9
- UNIT 10
- UNIT 11
- UNIT 12
- UNIT 13
- UNIT 14
- UNIT 15
- UNIT 16

- COMMON
- UNIT 1
- UNIT 2
- UNIT 3
- UNIT 4
- UNIT 5
- UNIT 6
- UNIT 7
- UNIT 8
- UNIT 9
- UNIT 10
- UNIT 11
- UNIT 12
- UNIT 13
- UNIT 14
- UNIT 15
- UNIT 16

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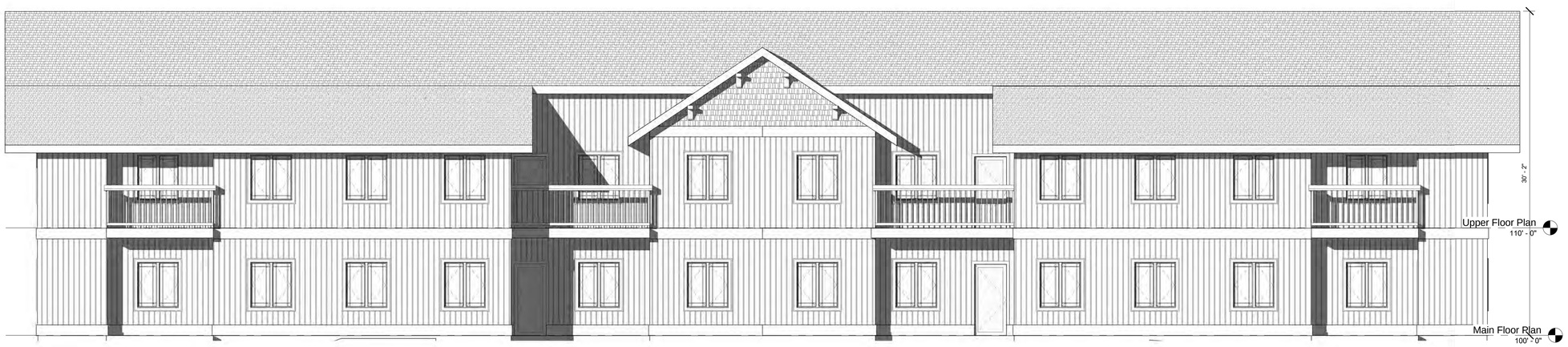
2nd Street Apartments - 16 PLEX

WHITEFISH, MT

FLOOR PLANS

A2.1

1 / A3.1 BACK ELEVATION
3/16" = 1'-0"



2 / A3.1 FRONT ELEVATION
3/16" = 1'-0"

3 / A3.1 SIDE ELEVATION
3/16" = 1'-0"

4 / A3.1 SIDE ELEVATION 2
3/16" = 1'-0"

BUILDING ELEVATIONS

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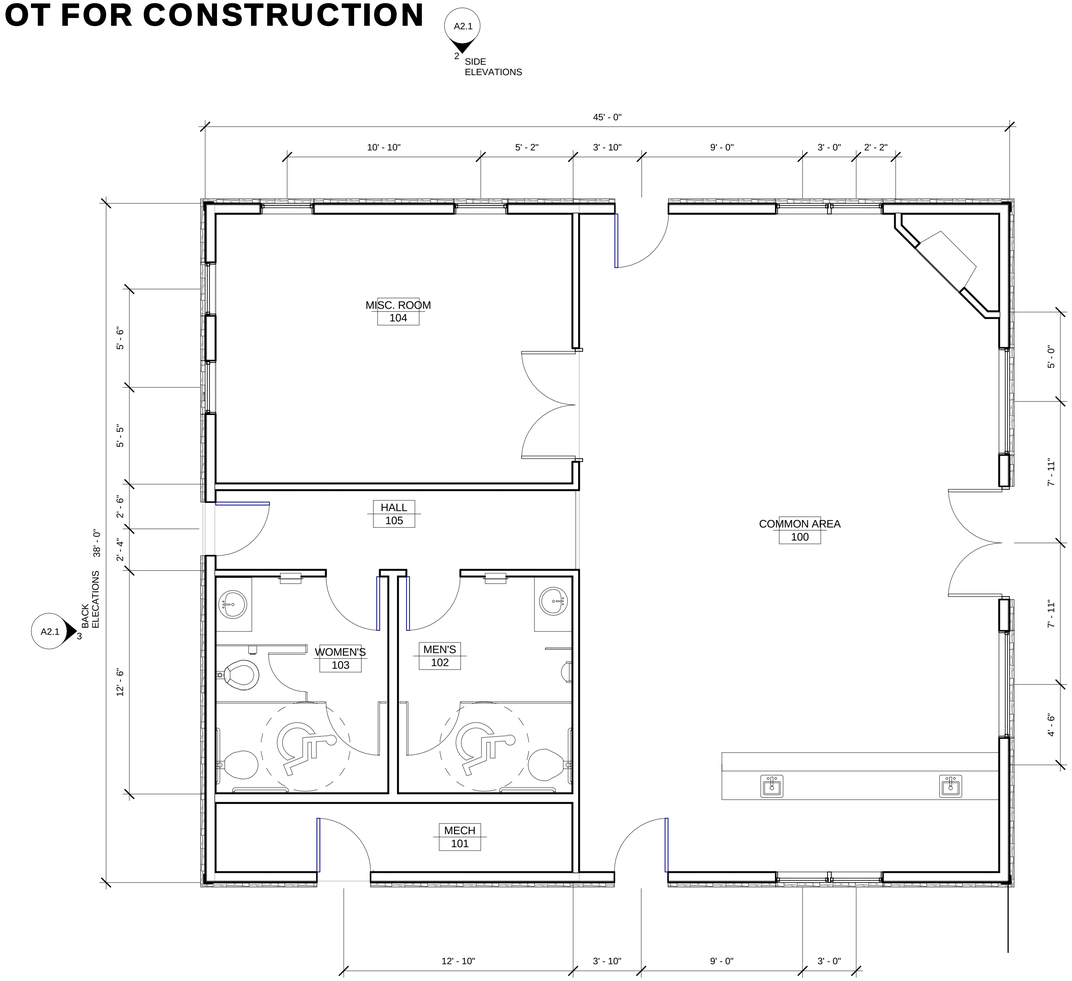
2nd Street Apartments - 16 PLEX

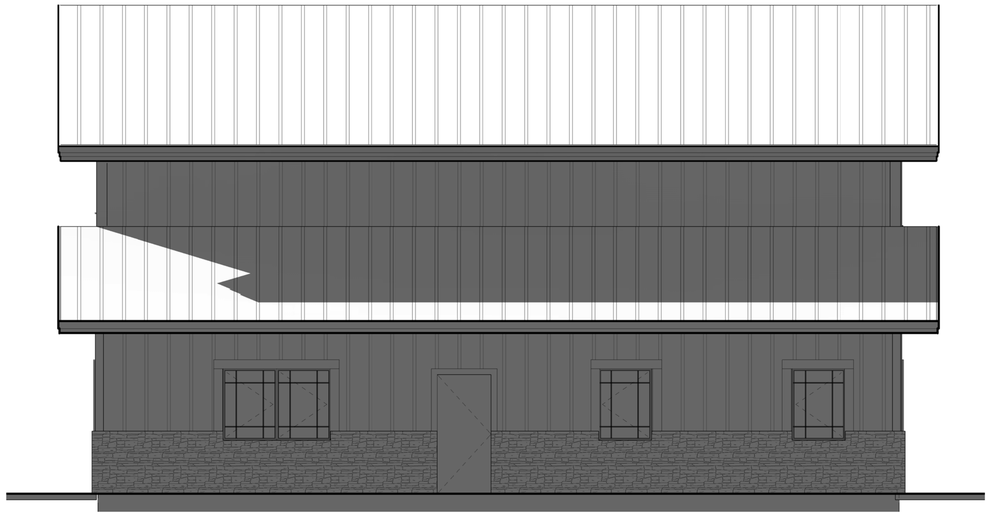
WHITEFISH, MT

A3.1

NOT FOR CONSTRUCTION

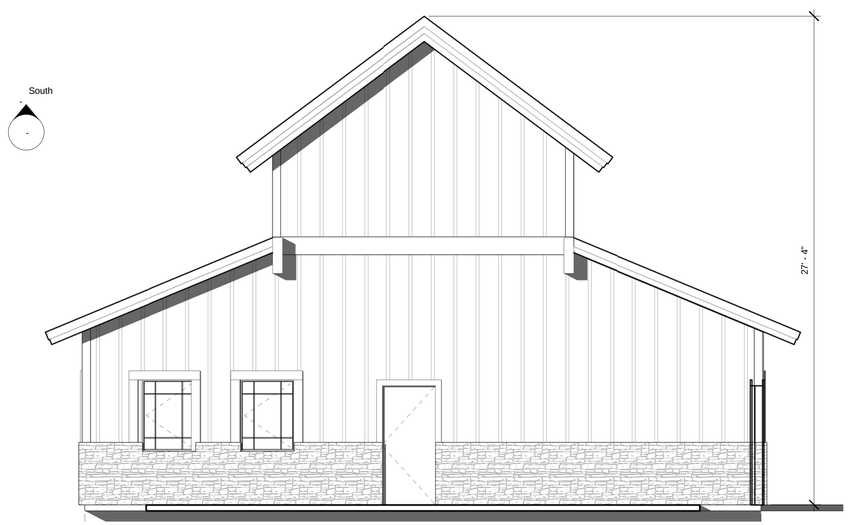


1 A2.1 FLOOR PLAN
1/4" = 1'-0"

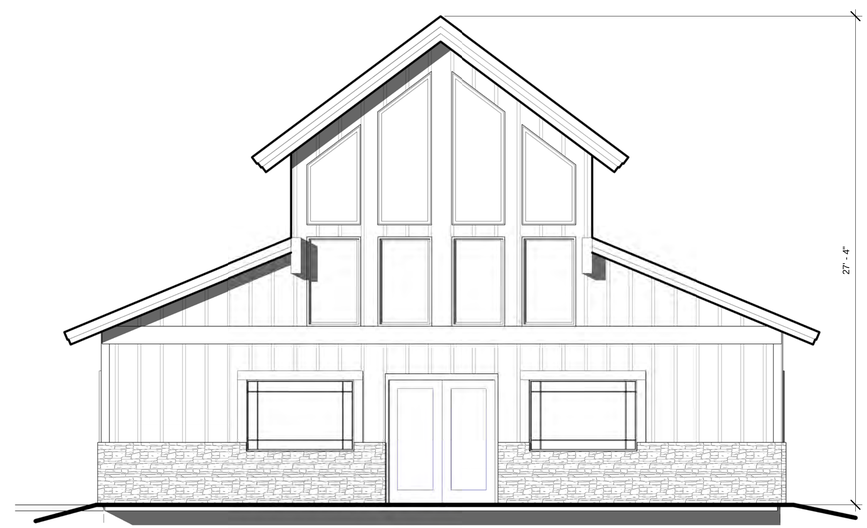


2 A2.1 SIDE ELEVATIONS
1/4" = 1'-0"

FRONT ELEVATION 4 A2.1



3 A2.1 BACK ELECATIONS
1/4" = 1'-0"



4 A2.1 FRONT ELEVATION
1/4" = 1'-0"

FLOOR PLAN AND ELEVATIONS

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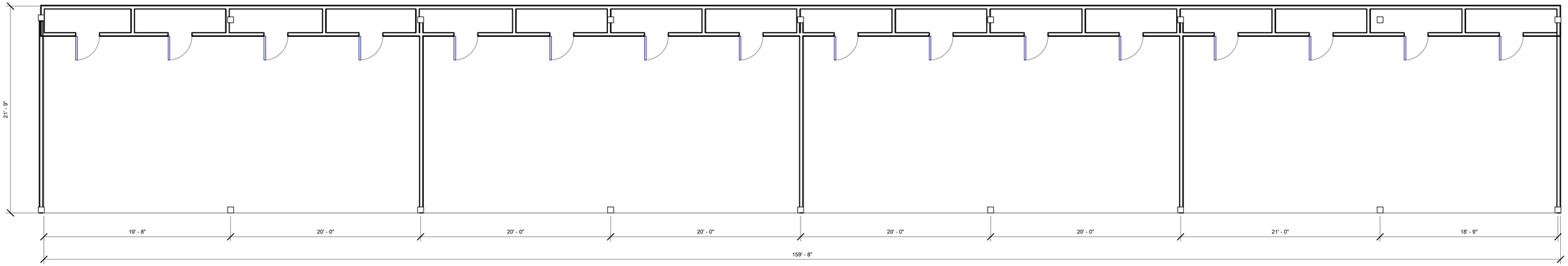
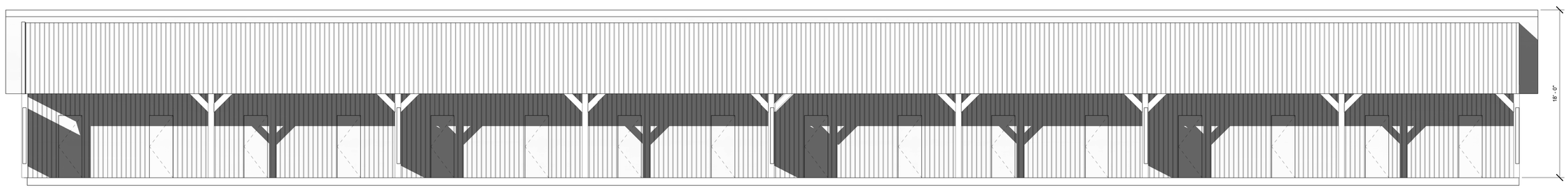
2ND STREET APARTMENTS - CLUBHOUSE

WHITEFISH, MONTANA

A2.1



1 / A2.1 FLOOR PLAN
3/16" = 1'-0"



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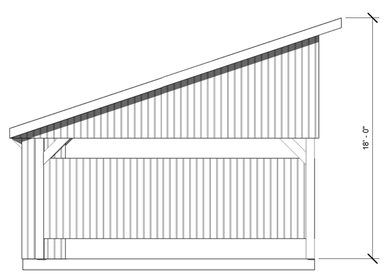
3/16" = 1'-0"



3 / A2.1 SIDE ELEVATION
3/16" = 1'-0"

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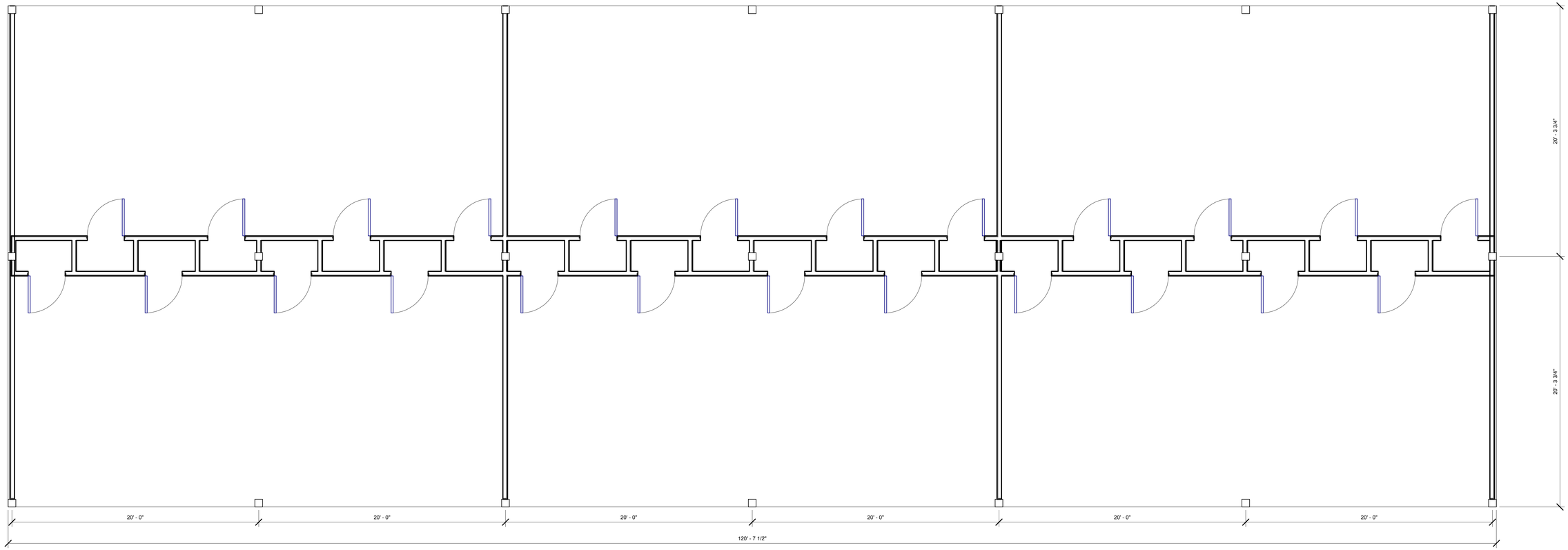
PLANS AND ELEVATIONS

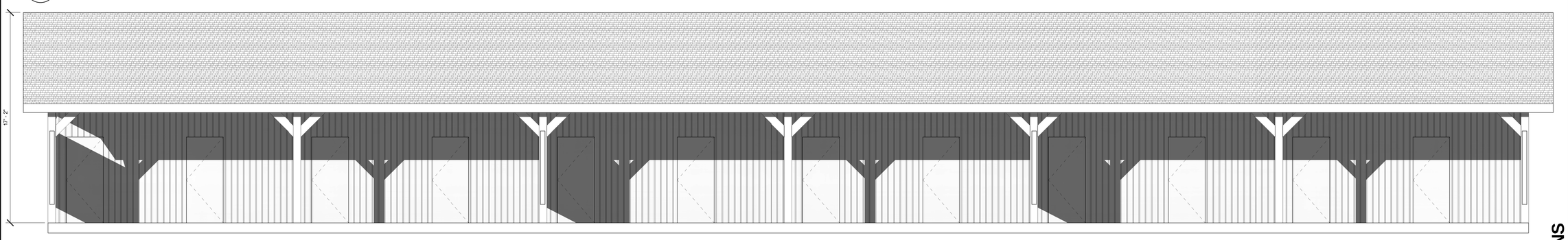
2ND STREET APARTMENTS - 16 UNIT CARPORT

WHITEFISH, MT

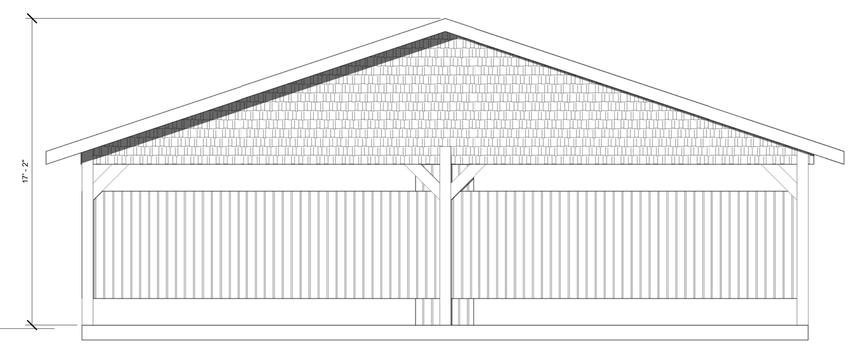
A2.1



1 A2.1 24 CARPORT FLOOR PLAN
1/4" = 1'-0"



2 A2.1 FRONT/BACK ELEVATIONS
1/4" = 1'-0"



3 A2.1 SIDE ELEVATIONS
1/4" = 1'-0"

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FLOOR PLAN AND ELEVATIONS

2ND STREET APARTMENTS - 24 UNIT CARPORT

WHTIECISH, MT

A2.1

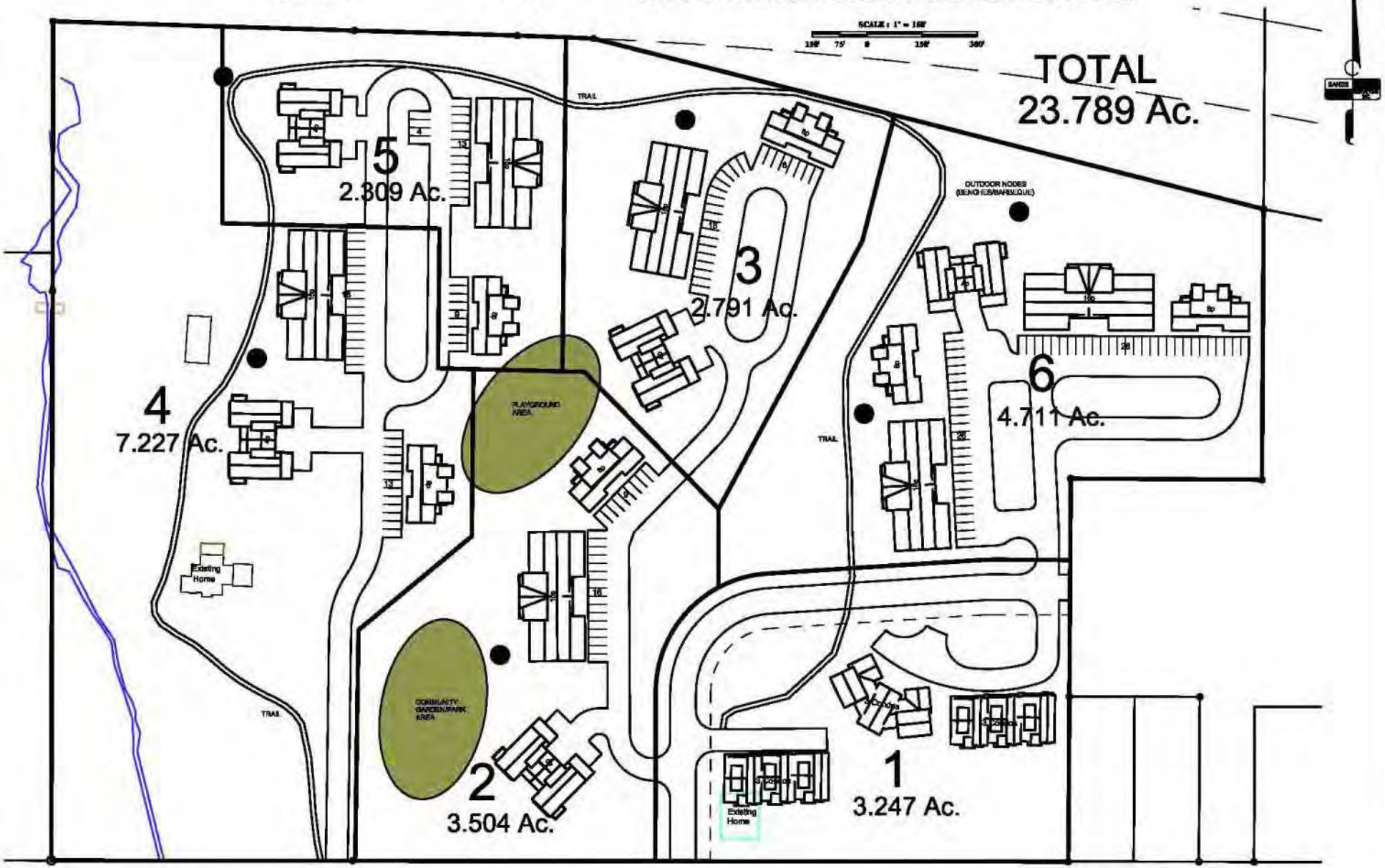
By: SANDS SURVEYING, Inc.
2 Village Loop
Kalispell, MT 59901
(406) 755-6481

JOB NO: 392601
DATE: JANUARY 24, 2013
REVISED: JANUARY 29, 2013
FOR: WILL MacDONALD
SEAN AVERILL

OWNERS: WILD ROSE KNOLL, LP
PINE HILL, LP

PHASING PLAN for:
SECOND STREET APARTMENTS

IN NE1/4NW1/4 SEC.32, T.31N., R.21W., P.M.,M., FLATHEAD COUNTY, MT



The Whitefish Housing Authority
PO Box 1237, 402 East 2nd Street, Whitefish, MT 59937
Phone: 862-4143 Fax: 862-4165
sgrogan@cityofwhitefish.org

February 4, 2013

Will McDonald
Community Infill Partners, Inc.
100 Wild Rose Lane
Whitefish, MT 59937

RE: Affordable Housing Needs in Whitefish, Montana

Will,

Thank you for your interest in creating affordable rental units in Whitefish.

The Whitefish Housing Authority manages two affordable housing programs in Whitefish:

- The Mountain View Manor is a 50 unit public housing apartment complex that serves low income senior and disabled households earning up to 80% of the area median income (AMI), currently $31,050 for a single person household. While we do have current vacancies this winter, it is not typical. The Mountain View Manor is generally fully leased and we maintain a wait list of 20-40 households. Average rent including utilities is $321 a month and maximum rent is $604.
- The Housing Choice Voucher Program aids very low income households earning no more than 50% of AMI which is currently $19,400 per year for a single person household. The Housing Choice Voucher Program subsidizes the rent at privately owned rentals. With only 16 vouchers and very low turnover, the Program has a wait list over two years long.

In 2012, the Whitefish Housing Authority commissioned a housing study to identify the need for affordable housing in Whitefish. The housing study found extreme demand for rental assistance and notes the extreme demand for affordable rentals for families. The study recommends that the housing authority seek funding for and support the development of housing for the low income. The 2012 study did not quantity the need, but the WHA 2009 Market Analysis and Housing Plan calls for the creation of a minimum of nine new rental units each year. To my knowledge no new affordable rental units have been created in Whitefish since 2009.

Affordable rents for the targeted population range from approximately $320 to $1110 depending upon family size and income. The housing study noted a need for affordable rentals and high demand for the affordable rentals that we do have. In addition, the existing affordable rental units tend to be our oldest housing stock with higher utility costs due to their age and condition. Affordable rent includes utilities. There is a need for new, more efficient rental units.

The rental neighborhood proposed by Community Infill Partners, Inc. will aid in the creation of much needed new affordable rentals. The neighborhood is close to town, shopping and schools. The housing authority supports this development for the creation of affordable rentals and the inclusion of the affordable units alongside the market rate units in this fantastic location.

Signed,

SueAnn Grogan
Executive Director

The Whitefish Housing Authority
PO Box 1237, 402 East 2nd Street, Whitefish, MT 59937
Phone: 862-4143 Fax: 862-4165
sgrogan@cityofwhitefish.org

Letter of Intent

Developer: Community Infill Partners, LLC

Manager: Whitefish Housing Authority

Property Address: 100 Wild Rose Lane, Whitefish, MT

Community Infill Partners, LLC (hereafter "CIP") intends to develop a Planned Unit Development containing 164 apartment units, 9 condominium units, and 1 single family residence at the above-referenced address in the City of Whitefish, Montana. The apartments will be a mix of one, two, and three bedroom units. CIP intends to dedicate 17 of the apartment units to affordable housing (hereafter the "Affordable Housing Units"). The Affordable Housing Units will comply with Title 11-2S-3 of the Montana City Code. It is likely that the project will be built in phases, in which case 10% of the apartment units in each phase will be dedicated as Affordable Housing Units.

Whitefish Housing Authority (hereafter "WHA") intends to manage the Affordable Housing Units, and will set rents based on the Fair Market Rents established by the Department of Housing and Urban Development (hereafter "HUD"). Alternatively, another entity may be substituted in place of WHA if reasonably necessary to comply with HUD requirements for funding or managing the project. In the event that HUD is not involved in the project, the rents for the Affordable Housing Units will comply with the affordable rental rates established by WHA, and will be evaluated on an annual basis.

The Affordable Housing Units will be established by a recorded deed restriction, which will provide that 10% of the apartment units will be Affordable Housing Units for fifteen years from the date a certificate of occupancy is issued by the City of Whitefish. The Affordable Housing Units will be a mix of one, two, and three bedroom units, in approximately the same ratio as those various sized units will exist in each phase of the development. The deed restriction will contain an enforcement mechanism which will provide that, in the event the property owner does comply with the affordable rent requirements, the pro-rata amount of the $8,000 cash in lieu payment per unit will be owed to the City of Whitefish. The enforcement mechanism will be worded such that the 1/15th of the $8,000 per unit cash in lieu payment will be forgiven for each year that each Affordable Housing Unit complies with the affordable housing deed restriction.

The purpose of this Letter of Intent is to confirm to the Whitefish Planning Board and the Whitefish City Council that WHA is in favor of this project and intends to manage the Affordable Housing Units. WHA will enter into a management agreement with CIP prior

to final plat. All terms in the management agreement are to be determined, and will be based on reasonable industry standards.

Community Infill Partners, LLC

By:_____ Date:_____

Sean Averill, Manager

Whitefish Housing Authority

By:_____ Date:_____

SueAnn Grogan, Executive Director

Signed,

SueAnn Grogan
Executive Director

Second Street Apartments
Whitefish Infill Partners, LLC

Whitefish, Montana
February 1, 2013

PRELIMINARY ENGINEERING REPORT

Prepared By

Ryan E. Mitchell, PE, PLS
Civil Engineer

Date 2-1-13

ROBERT PECCIA & ASSOCIATES

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Helena, MT 59604
(406) 447-5000
(406) 447-5653 FAX

P.O. Box 5100
102 Cooperative Way, Suite 300
Kalispell, MT 59903
(406) 752-5025
(406) 752-5024 FAX

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Whitefish, Montana

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APPENDICES

APPENDIX A – UTILITY LAYOUT AND PHASING OVERVIEW
APPENDIX B – USDA SOILS MAP

1.1 Introduction and Purpose

This preliminary engineering report is intended to supplement the Planned Unit Development (PUD) application for the Second Street Apartments Project.

The proposed development will consist of remodeling one existing single family residence, developing 9 condominiums and 164 apartments. The condominiums will be built upon three footprints. The apartments will be built upon 17 footprints. It is anticipated that there will be a total of 100 one bedroom apartments, 54 two bedroom apartments and 10 three bedroom apartments. The apartment buildings will vary in size and have from 4 apartments to 16 apartments per building. The site work will include a new public street, private streets, paved parking areas, water main extensions, sewer main extensions, water services, sewer services, and storm water facilities. The proposed development is planned to be constructed in six (6) phases. **See Utility Plan & Phasing Overview in Appendix A.**

The purpose of this report is to give the reader a basic understanding of the existing and proposed water, sewer and storm drainage systems and the impacts the proposed new improvements will have on those facilities. This report is formatted to address the requirements of both the City of Whitefish and the Montana Department of Environmental Quality.

This preliminary engineering report does not include any detailed analysis or design recommendations, but rather is intended to provide a basis for future design engineering and give the reader a basic understanding of the existing and proposed utilities.

1.2 General Information

A. Existing Water Works, Wastewater and Storm Drainage Facilities

1. Water Works

   The existing water supply system is identified as PWSID MT0000357, City of Whitefish and is located in Whitefish, Montana. The system is classified as a "Public Water System". The system consists of various water sources, chlorination buildings, storage facilities and distribution piping.

   The proposed water distribution system for the Second Street Apartments Project connects to the City of Whitefish's water distribution system. Upon the completion of the project, any new mains installed will be owned and operated by the City of Whitefish.

2. Wastewater Facilities

Sewage collection and treatment for the area is provided by the City of Whitefish wastewater collection system and treatment plant.

The proposed sewer collection system for the Second Street Apartments Project will connect to the City of Whitefish's sewer collection system. All wastewater from the project will flow from the buildings to new collection mains, in sewer services. The wastewater will travel through the new collection system to the City's existing collection system and then to the City's wastewater treatment plant. Upon completion of the project, any new mains installed will be owned and operated by the City of Whitefish.

3. Storm Drainage Facilities

There are no existing storm drainage facilities on or near the project. Cow Creek runs north-south along the western boundary of the project.

Storm drainage for the project will include surface drainage, grass lined swales, water quality ponds and a storm water detention pond. The storm drainage facilities will be designed to meet the City of Whitefish requirements. All treated storm water will be discharged to East Second Street. East Second Street is planned to be reconstructed in 2014, where a new storm drainage system will be installed. The Second Street Apartment project will connect to that system.

B. Identification of the Area Served

The project site is located along the north side of East Second Street, approximately between Cow Creek and Armory Road. The "Project", consists of developing a mixed-use apartment and condominium development on 24 acres of land.

The proposed development will consist of remodeling one existing single family residence, developing 9 condominiums and 164 apartments. The condominiums will be built upon three footprints of coupled units. The apartments will be built upon 17 footprints. There will be a total of 100 one bedroom apartments, 54 two bedroom apartments and 10 three bedroom apartments. The apartment buildings will vary in size and have from 4 apartments to 16 apartments per building. The site work will include new private streets, paved parking areas, water main extensions, sewer main extensions, water services, sewer services, and storm water facilities. The proposed development is planned to be constructed in six (6) phases.

C. Name and Mailing Address of the Developer

Community Infill Partners, LLC
Attn: Sean Averill, Managing Member
PO Box 4600
Whitefish, MT 59937

2.1 Extent of Water Works System

A. Description of the Nature and Extent of the Area to be Served

The area currently being served is part of the community of Whitefish. The proposed improvements will provide water for approximately one single family residence, 9 condominiums and 164 apartments on approximately 24 acres.

B. Provisions for Extending the System to Include Additional Facilities

It is proposed that new 8" PVC water mains be extended and looped through the proposed development. Since the project is planned to be constructed in six (6) phases, there will be several temporary "dead-ends". The fully developed site will have new mains looped internally and will be looped by connecting to the existing water main in East Second Street at Wild Rose Lane and at Armory Road. Upon full build-out, the system will include two capped "dead-end" segment that will be available for future development of adjacent properties to the east. Also, a portion of the main located within the Armory Road extension could be used to extend water service across the BNSF tracks, if an easement is granted to the City by the developer.

The new main on private property will be owned, operated and maintained by the City as it will be placed within a 20' wide utility easement, granted to the City by the developer. The new main within the public streets will be owned, operated and maintained by the City

C. Appraisal of Future Requirements for Service

There are no known specific future requirements for water service that would have an impact on the proposed project. The project is bound on the north by the BNSF railroad tracks and the west by Cow Creek. There are properties to the east that could be developed and as such there is a "connection" planned for adjacent properties to the east for future connection.

2.2 Alternate Plans

If the City of Whitefish opposes the idea of extending city owned, operated and maintained water mains throughout the development, the Developer will have to install private services/mains. These private services and mains could be smaller than the minimum 8" diameter main required by the City, but will need to be evaluated in detail to ensure that the required fire flow is provided.

The exact layout and configuration of the water distribution system will need to be determined in conjunction with meetings with the City of Whitefish Public Works Department.

2.3 Site Conditions

The project site is located along the north side of East Second Street, between Cow Creek and Armory Road. There are two (2) existing houses and associated outbuildings located upon the property.

2.4 Water Use Data

A. Estimated Population which will be served by the System

The proposed improvements will provide water for approximately one single family residence, 9 condominiums and 164 apartments on approximately 24 acres.

B. Water Consumption –Domestic

Below is a summary of the design flow conditions for the entire development:

Useage: Mixed Use Development

Source	Quantity
House	1
Condominiums	9
Apartments	164

Flow Data: Per DEQ 4, Chapter 5

Source	Quantity	Unit	Flow/Unit	Total Flow
House	1	DU	300	300
Condominium	9	DU	300	2,700
Apartments:				
1 Bedroom	100	DU	150	15,000
2 Bedroom	54	DU	225	12,150
3 Bedroom	10	DU	300	3,000
		Total Average Flow=		33,150 gpd
				1,381.3 gph
				23.0 gpm

Peak Hourly Flow: Per DEQ-2, Figure 1

Peak Factor =	4.5
Average Flow =	23.0 gpm
Peak Hourly Flow =	103.5 gpm

C. Water Consumption –Irrigation

The development will have some irrigated landscape areas, but at this preliminary stage the number of areas and size of the areas are unknown. Any identified irrigated landscaped areas will be included in the Final Engineering Report and the water system will be designed to accommodate the additional flows required by irrigation.

Water Service Line Sizing

A detailed analysis will be completed and included in the Final Engineering Report to determine the maximum peak demand and thus the size required for the water service and meter for all the buildings utilizing AWWA M22, Sizing Water Service Lines and Meter.

This work cannot be completed until the exact layout and configuration of the water distribution system is established.

2.5 Fire Flow Requirements

Once the project is preliminarily approved, and a final layout is established, the Engineer will meet with the City of Whitefish Fire Department to review hydrant locations and perform an analysis for flows from any existing and proposed fire hydrants.

This analysis will help determine the size of any water mains to provide the required fire flows and maintain at least 20 psi of system pressure.

2.6 Sewage System Availability

As indicated previously, sewage treatment is provided by the City of Whitefish treatment plant. No significant changes in the amount of water use or impacts to the wastewater treatment system are expected as a result of this project.

2.7 Sources of Water Supply

There are no additional sources of water supply included as part of this project. All water will be supplied by the City of Whitefish.

2.8 Proposed Treatment Processes

Not applicable, the project is connecting to the City of Whitefish public water supply.

2.9 Waste Disposal

Not applicable, the project is connecting to the City of Whitefish public water supply.

2.10 Automation

Not applicable, the project is connecting to the City of Whitefish public water supply.

2.11 Financing

Financing for the proposed project will be provided from private funding sources.

2.12 Future Extensions

The proposed project plans to have two (2) “dead-end” main stubbed-out for future connection to the adjacent property to the east. Additionally, if the City and the Developer can agree on utilizing the main extension in Armory Road to provide future water supply to the north side of the BNSF railroad, there could be a future extension at this location. These are the only future extensions that gave been evaluated.

3.1 Extent of Wastewater System

A. Description of the Nature and Extent of the Area to be Served

The area currently being served is part of the community of Whitefish. The proposed improvements will provide water for approximately one single family residence, 9 condominiums and 164 apartments on approximately 24 acres.

B. Provisions for Extending the System to Include Additional Facilities

It is proposed that new sanitary sewer mains, with manholes, will be extended through the proposed development. The new mains will consist of two (2) trunk lines. The first trunk line will be extended up the Armory Road extension and collect waste water from the building accessed via this roadway network. The second trunk line will be either extended up Wild Rose Lane and collect wastewater from buildings accessed via Wild Rose Lane or connect to the City's Cow Creek Sewer Project. This needs to be discussed between the City and the Developer.

The sewer system will include two (2) capped "dead-end" segments that will be available for future development of adjacent properties to the east. Additionally, the City's wastewater conveyance piping is proposed to be extended to the east within East Second Street as part of a City project and will provide opportunities, if needed, to connect additional facilities.

The new main on private property will be owned, operated and maintained by the City as it will be placed within a 20' wide utility easement, granted to the City by the developer. The new main within public streets will be owner, operated and maintained by the City.

C. Appraisal of Future Requirements for Service

There are no known specific future requirements for wastewater conveyance that would have an impact on the proposed project.

3.2 Problem Defined

There is no current wastewater system that services the western half of the project area. The City's collection system is approximately 500 feet away from the property, on the south side of East Second Street, just east of Cow Creek. This collection main is part of a larger system that incorporates much of the surrounding area. Sewage collection and treatment for the area is provided by the City of Whitefish wastewater collection system and treatment plant.

All wastewater from the Facility will flow thru either new or existing sewer mains. The

new mains will connect to the proposed sewer mains included in the City of Whitefish's East Second Street Reconstruction Project or the Cow Creek Sewer Project.

NOTE: The City has developed plans to construct a sewer trunk line across the project site. The project is named the Cow Creek Sewer Project. There may be some opportunities for the City and the Developer to work together and install only one sewer main along the western edge of this development to serve both the western half of the development plus serve the future service area for the Cow Creek Sewer Project. This opportunity needs to be discussed in detail between the City and the Developer.

3.3 Design Considerations

The proposed improvements will collect wastewater from approximately one single family residence, 9 condominiums and 164 apartments on approximately 24 acres.

Per DEQ Circular 4, Chapter 5, Wastewater Flow we have estimated the amount of wastewater generated by each type/size of dwelling unit. The calculations below assume that we can get approval to adjust the wastewater flows for the planned one and two bedroom units.

Usage: Mixed Use Development

Source	Quantity
House	1
Condominiums	9
Apartments	164

Flow Data: Per DEQ 4, Chapter 5

Source	Quantity	Unit	Flow/Unit	Total Flow
House	1	DU	300	300
Condominium	9	DU	300	2,700
Apartments:				
1 Bedroom	100	DU	150	15,000
2 Bedroom	54	DU	225	12,150
3 Bedroom	10	DU	300	3,000
		Total Average Flow=		33,150 gpd
				1,381.3 gph
				23.0 gpm

Peak Hourly Flow: Per DEQ-2, Figure 1

Peak Factor =	4.5
Average Flow =	23.0 gpm
Peak Hourly Flow =	103.5 gpm

Sewer Service Line Sizing

The minimum size for a sewer service per the City of Whitefish is a 4" diameter sewer service for each residential unit. The capacity for a 4" diameter service and found the following:

4" Pipe @ 2% Grade
Maximum Flow (individual service) = 169 gpm > 103.5 gpm OK.

The 4" sewer service pipe will have adequate capacity, but the final sewer service sizing will be determined by the plumbing contractor for each building. Cleanouts will be installed at all bends to assist in cleaning.

3.4 Impact on Existing Wastewater Facilities

The proposed improvements will add a Peak Hourly Flow of 103.5 gpm to the existing wastewater facilities. A detailed analysis will need to be completed to evaluate the impact that this proposed development will have on the existing wastewater facilities, depending of the final layout and configuration of the sewer collection system. It is anticipated that the City's wastewater treatment plant will be capable of handling the additional flows.

3.5 Project Description

The Second Street Apartments Project consists of installing new sewer collection mains, manholes and service lines in order to service the project.

3.6 Design Criteria

The engineering design criteria that will be used for this project are the MDEQ Circular 2 and Circular 4, and the City of Whitefish Engineering Standards, February 2009. All improvements will be designed to meet these requirements.

3.7 Site Information

An existing 12" sewer line, with manholes, is in-place approximately 500 feet south of the project, along the east side of Cow Creek.

3.8 Environmental Impacts

The proposed project will have no adverse environmental impacts in regards to sanitary sewer, since all wastewater flows will be collected by the City and treated at the City's wastewater treatment plant. The project will remove and eliminate two (2) existing septic system that are currently serving the two existing residences.

4.1 Extent of Stormwater System

The current site is an approximate 24 acre area with a mixture of forest and pasture land. Currently there are two homes and several outbuildings on the site. The proposed stormwater system will consist of roadway collection and conveyance, water quality depressions, grading, grass lined swales, and one or more detention ponds with outlet structures.

4.2 Site Information

The project site is located in Whitefish, Montana. The project site is located along the north side of East Second Street, approximately between Cow Creek and Armory Road. The "Project", consists of developing a mixed-use apartment and condominium development on 24 acres of land.

The existing site is largely vacant and has been historically used for two - single family residences. Existing soils per the National Recourses Conservation Service (NRCS) are primarily: Ab – Alluvial land, well drained; Hf – Half Moon soils, 12 to 45 percent slopes; De – Depew silty clay loam, 0 to 3 percent slopes; Ws – Whitefish cobbly silt loam, 7 to 12 percent slopes. See **Appendix B** for detailed Soils Map information.

4.3 Basin Information

The existing site was delineated and reviewed. The basin, for the most part flows to the west and drains to Cow Creek. The basin extends to the east, beyond the boundaries of this project approximately 300-feet. The basin is bound on the north by the BNSF railroad and the south by East Second Street.

It is proposed that the developed site will have two (2) drainage basins, one for the western roadway (Wild Rose Lane) and one for the eastern roadway (Armory Road extension).

<u>Stormwater Conveyance:</u> In general, the bulk of the stormwater collected on the site will be conveyed by roadway ditches and culverts. In areas near or around the parking lots and buildings, some underground piping will be installed to collect roof leader runoff and parking lot runoff. Some grass line swales are also proposed to convey water from the roadside ditches to the detention ponds. The proposed typical section for this project is shown in Section 5 of this report. See **Appendix A** for stormwater plan.

<u>Stormwater Pre-Treatment:</u> In areas near or around the parking lots, water quality depressions will be constructed. These areas will serve as snow storage areas in the winter. The water quality depressions will outfall to roadside ditches and culverts. The roadside ditches and grass lined swales will also provide stormwater pre-treatment.

<u>Detention and Post-Treatments:</u> All roadside ditches and grass lined swales will

terminate at a detention pond. The detention ponds will be sized to detain the 10-year storm event. The detention ponds will have an overflow structure that will bypass flows larger than the 10-year event. For events less than or equal to the 10-year event, the ponds will release water at the predevelopment rate.

Stormwater Outfall: There are two options for stormwater outfall on this project. The first is to directly discharge the water to Cow Creek. The second is to discharge to the proposed East Second Street storm main that is planned for construction in 2014.

NOTE: The City has development plans to construct a new storm main along East Second Street in 2014. The storm system will discharge to Cow Creek, but will be treated through a hydrodynamic separator, an existing manmade wetland outfall area, or both prior to creek discharge. By connecting the proposed development to the proposed storm main there will likely be a water quality increase in stormwater being discharged to Cow Creek. This opportunity needs to be discussed in detail with the City and the Developer.

Due to the proposed phasing of this project, the storm water systems will not all be completed at the same time. The phasing plan will need to include detail analysis for the entire site so that detention ponds, water quality ponds and swales can be sized accordingly. In addition to this, the first and second phases of the development may be completed prior to the completion of the East Second Street Reconstruction Project. If the project is approved for connection to the East Second Street storm drainage system, the interim solution may be to discharge to the existing northern ditch line of East Second Street.

A detailed analysis and the design of these improvements will be completed at a later date.

4.4 Wetland Analysis

The site includes Cow Creek along the western edge of the property. There is a substantial area of delineated wetlands adjacent to Cow Creek. The proposed project does not include any impacts to the delineated wetland areas.

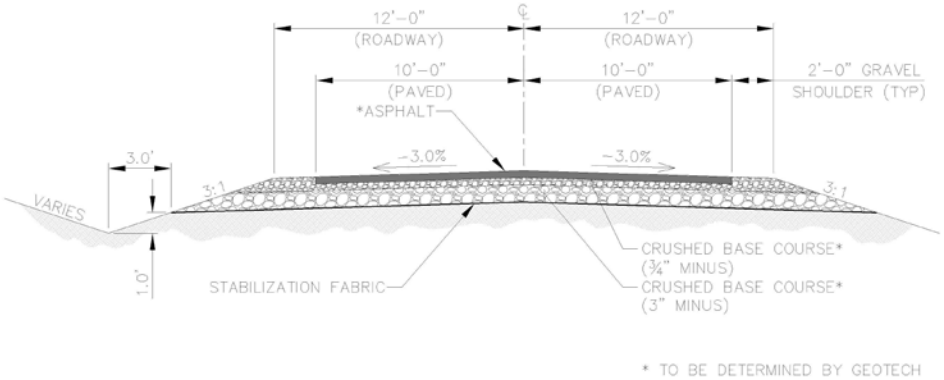
4.5 Down-Gradient Analysis

Further analysis of the site, once the final layout is determined, will be completed to determine the pre-vs-post development run-off and the sizing of the detention ponds. The detention ponds will be located in the northwestern quadrants of the Wild Rose Land/East Second Street intersection and the Armory Road/East Second Street intersection. There may be an opportunity to only have one detention pond for the project. If only one pond is constructed, it would be located in the northwestern quadrant of the Wild Rose Lane/East Second Street intersection.

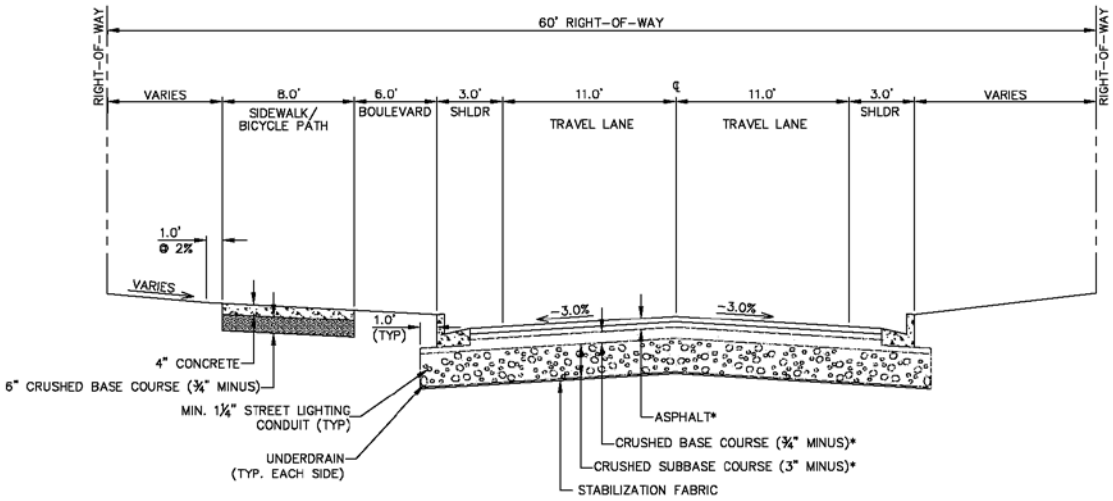
5.1 Streets

The current site is a mixture of forest and pasture land with sloping terrain to the northwest and west. The site has slopes varying from 2% to 18%.

The roadway layout is shown in Appendix A. The proposed roadway system will consist of a public roadway with a "urban" typical section and private roadways with a "rural" typical section with roadside ditches. Below are the proposed typical sections:



Typical Section – Private Road



Typical Section – Public Road

All proposed roadways will be private, with the exception of the Armory Road extension, which will extend north from the intersection of Armory Road and East 2nd Street and then turn east to intersect the easterly boundary of the project. All roadways will be designed with a longitudinal slope of 9% or less. No on-street parking will be allowed on

the streets. Parking areas will be provided for the units. The roadway approaches onto East Second Street will not exceed 5% for a distance of at least 60 feet. All temporary "dead-ends", due to phasing, and the permanent "dead-ends" will have approved turn-a-rounds constructed with less than a 5% grade. An emergency access way, with approved break-a-way gate will be constructed between the condos in Phase 2 and the apartments in Phase 6.

A geotechnical investigation of the site is recommended to determine the soil conditions and to calculate the required surfacing thicknesses for the roadway.

6.1 Additional Information – Project Requirements

Excavation/Right of Way Permit: The Owner will need to secure an excavation/right-of-way permit from the City of Whitefish Public Works Department.

Grading Permit: The Owner will need to secure a grading permit from the City of Whitefish Public Works Department.

Plan Review and Construction Oversight Worksheet: The Owner will need to complete and submit the Plan Review and Construction Oversight Worksheet to the City of Whitefish Public Works Department.

Water Main Extension Approval: The Owner will need to obtain approval of any water main extension from the MDEQ and the City of Whitefish prior to construction.

Sewer Main Extension Approval: The Owner will need to obtain approval of any sewer main extensions from the MDEQ and the City of Whitefish prior to construction.

Erosion Control Plans Approval: The Owner will need to develop and obtain approval of an Erosion Control Plan from the City of Whitefish prior to construction.

General Permit for Storm Water Discharges Associated with Construction Activities: The Owner will need to secure a permit from DEQ for construction-related disturbance of one or more acres.

APPENDIX A – UTILITY LAYOUT AND PHASING OVERVIEW

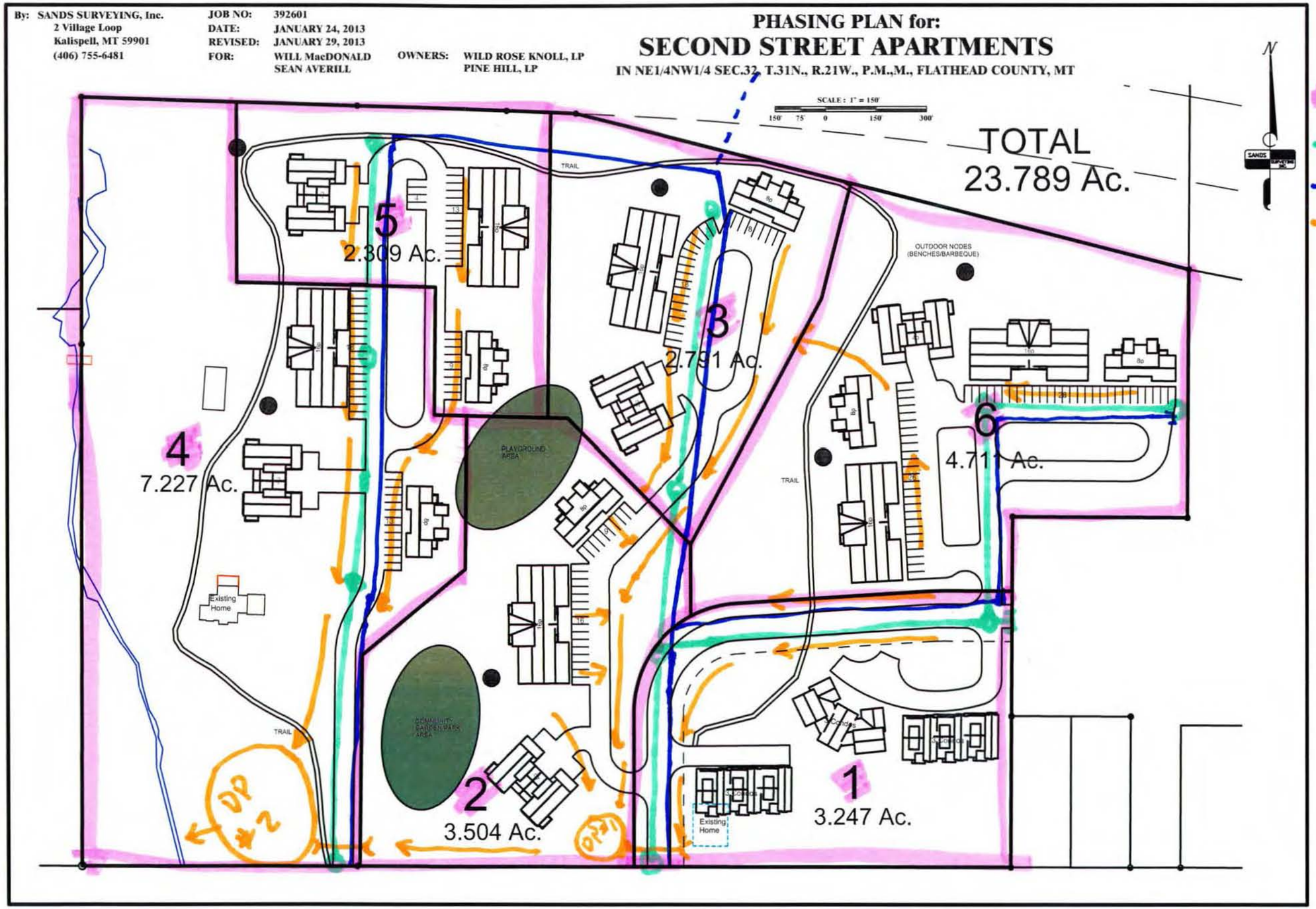
By: SANDS SURVEYING, Inc.
2 Village Loop
Kalispell, MT 59901
(406) 755-6481

JOB NO: 392601
DATE: JANUARY 24, 2013
REVISED: JANUARY 29, 2013
FOR: WILL MacDONALD
SEAN AVERILL

OWNERS: WILD ROSE KNOLL, LP
PINE HILL, LP

PHASING PLAN for:
SECOND STREET APARTMENTS

IN NE1/4NW1/4 SEC.32, T.31N., R.21W., P.M.,M., FLATHEAD COUNTY, MT



= PHASES
= SEWER MAIN
= WATER MAIN
= STORM WATER FLOW

2-1-13
REM

APPENDIX B – USDA SOILS MAP

(Second Street Apartments)

Map Scale: 1:4,060 if printed on A size (8.5" x 11") sheet.

N

Meters: 0 50 100 200 300

Feet: 0 200 400 800 1,200

USDA Natural Resources Conservation Service

Web Soil Survey
National Cooperative Soil Survey

1/15/2013
Page 1 of 3

MAP LEGEND

Area of Interest (AOI)

Area of Interest (AOI)

Soils

Soil Map Units

Special Point Features

Blowout

Borrow Pit

Clay Spot

Closed Depression

Gravel Pit

Gravelly Spot

Landfill

Lava Flow

Marsh or swamp

Mine or Quarry

Miscellaneous Water

Perennial Water

Rock Outcrop

Saline Spot

Sandy Spot

Severely Eroded Spot

Sinkhole

Slide or Slip

Sodic Spot

Spoil Area

Stony Spot

Very Stony Spot

Wet Spot

Other

Special Line Features

Gully

Short Steep Slope

Other

Political Features

Cities

Water Features

Streams and Canals

Transportation

Rails

Interstate Highways

US Routes

Major Roads

Local Roads

MAP INFORMATION

Map Scale: 1:4,060 if printed on A size (8.5" × 11") sheet.

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for accurate map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: http://websoilsurvey.nrcs.usda.gov
Coordinate System: UTM Zone 11N NAD83

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Upper Flathead Valley Area, Montana
Survey Area Data: Version 10, Jan 5, 2012

Date(s) aerial images were photographed: 8/5/2005; 8/26/2005

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Upper Flathead Valley Area, Montana (MT617)			
Map Unit Symbol	**Map Unit Name**	**Acres in AOI**	**Percent of AOI**
Ab	Alluvial land, well drained	10.9	13.8%
De	Depew silty clay loam, 0 to 3 percent slopes	21.4	27.1%
Ha	Half Moon silt loam, 0 to 3 percent slopes	1.8	2.3%
Hf	Half Moon soils, 12 to 45 percent slopes	2.1	2.7%
Wr	Whitefish cobbly silt loam, 0 to 7 percent slopes	7.4	9.4%
Ws	Whitefish cobbly silt loam, 7 to 12 percent slopes	35.1	44.4%
Wv	Whitefish gravelly silt loam, 0 to 7 percent slopes	0.2	0.2%
Totals for Area of Interest		**78.9**	**100.0%**

abelin traffic services

Traffic Impact Study
Second Street Apartments
Whitefish, Montana

Prepared For:

KOTA Enterprises, LLC
P.O. Box 4600
Whitefish, MT 59937

February, 2013

130 South Howie Street
Helena, Montana 59601
406-459-1443

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Second Street Apartments
Traffic Impact Study
Whitefish, Montana

A. EXECUTIVE SUMMARY

The Second Street Apartments will have little impact on the surrounding road system. All nearby intersections will continue to function at acceptable levels of service and no additional improvements will be required at any area intersections to improve roadway capacity. It is recommended that the developers include a location along the frontage with Second Street or Armory Road for the construction of a designated bus pull-out for a possible future Whitefish transit service. It is also recommended that the developers provide a connection between the development's internal trail network to the Second Street Trail and include a pedestrian crosswalk across Second Street.

B. PROJECT DESCRIPTION

This document studies the possible effect on the surrounding road system from a proposed 24-acre residential development located north of East Second Street on the eastern edge of the City of Whitefish, Montana. The document also identifies any traffic mitigation efforts that the development may require. The property would be developed to include up to 174 single and multi-family residential units.

C. EXISTING CONDITIONS

The proposed development property currently consists of a 24-acre parcel of undeveloped land located north of East Second Street. The areas surrounding the development site include a variety of residential homes on the edge of the City of Whitefish. The Burlington Northern Santa Fe railroad tracks are located just to the north of the site. See **Figure 1** for a location map of the proposed development.

Adjacent Roadways

East Second Street is an east/west collector route that extends east from Highway 93 at Spokane Avenue. The road has a 44-foot urban cross-section from Spokane Avenue to Pine Avenue and a posted speed limit of 25 MPH. West of Pine Avenue the road narrows to a 30-foot urban cross-section to Larch Avenue and then narrows to a 24-26 foot rural cross-section continuing east. The road extends east over the Burlington Northern Santa Fe railroad tracks and ends at an intersection with Edgewood Drive. The roadway currently carries 2,900 V.P.D. (Vehicles per Day) near Spokane Avenue and 2,000 V.P.D. near Armory Road. The road provides access to several schools and parks as well as a variety of urban residential

homes.

Armory Road is a two-lane north/south collector route which connects East Second Street with Voerman Road. The road has a paved width of 24 foot and provides access to a variety of rural residential homes. The posted speed limit is 25 MPH. The road carries approximately 1,000 VPD.

Wild Rose Lane is currently a private driveway which provides access to one residence north of Second Street. The road has a gravel surface and a width of 18-20 feet. Wild Rose Lane currently carries approximately 10 vehicles per day.

Figure 1- Proposed Development Site

Traffic Counts

In January 2013 Abelin Traffic Services (ATS) collected vehicle use information at locations around the proposed development site. This included peak-hour turning movement counts at the intersection of Second Street and Armory Road. Additional 24-hour hose count data was collected along Second Street west of Armory Road. The raw traffic data is included in **Appendix A** of this report.

The raw data collected for this project was adjusted for seasonal variation in accordance with the data collected from MDT's annual count station located on US Highway 2, 1.3 miles west of Kalispell (Station A-24). This count station data indicated that data collected in January is approximately 84% of the AADT (Average Annual Daily Traffic) volume in this area.

Traffic data was also collected for Second Street from the Montana Department of Transportation which maintains annual count information east of Spokane Avenue (Station 15-4A-26). The historic data for this location is presented in **Table 1**. It is notable that the trend over the last ten years along East Second Street is an overall decrease in traffic volumes. Traffic volumes on this section of roadway have decreased by 600 vehicles per day in the last ten years. Flat or negative traffic growth is consistent with trends on many roadways within the Flathead Valley over the last ten years.

Table 1 – Historic Traffic Data

Location	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Second Street Between Somers and Columbia	3,640	NA	NA	3,640	3,510	3,390	3,290	2,920	3,090	3,080	2,900

Level of Service

Using the data collected for this project, ATS conducted a Level of Service (LOS) analysis at area intersections. This evaluation was conducted in accordance with the procedures outlined in the Transportation Research Board's *Highway Capacity Manual (HCM) - Special Report 209* and the Highway Capacity Software (HCS) version 5.3. Intersections are graded from A to F representing the average delay that a vehicle entering an intersection can expect. Typically, a LOS of C or better is considered acceptable for peak-hour conditions.

Table 2 shows the existing 2013 LOS for the AM and PM peak hours without the traffic from the Second Street Apartments. The LOS calculations are included in **Appendix C**. The analysis shows that the intersection of Second Street and Armory Road is currently operating at an acceptable level of service and has considerable reserve capacity.

Information included in the *Whitefish Transportation Plan* indicates that the other intersections along East Second Street are currently operating at LOS B or C except for the intersection of Second Street and Spokane Avenue which is experiencing higher levels of peak-hour delay. The intersection of Second Street and Spokane Avenue was identified in the Transportation Plan for lane and signalization upgrades (MSN-1) which should address this problem.

Table 2 – 2013 Level of Service Summary

	AM Peak Hour		PM Peak Hour	
Intersection	**Delay (Sec.)**	**LOS**	**Delay (Sec.)**	**LOS**
Second Street & Armory Road*	10.1	B	10.1	B

*Northbound/Southbound Side Street LOS and Delay

Traffic volumes along East Second Street are well within the functional limits of a two-lane road. It is generally considered that a two-lane urban roadway can carry approximately 12,000 V.P.D. and stay within its operational limits. Second Street East currently carries less than 3,000 V.P.D. As a comparison, Baker Avenue and Spokane Avenue currently carry approximately 8,000 V.P.D.

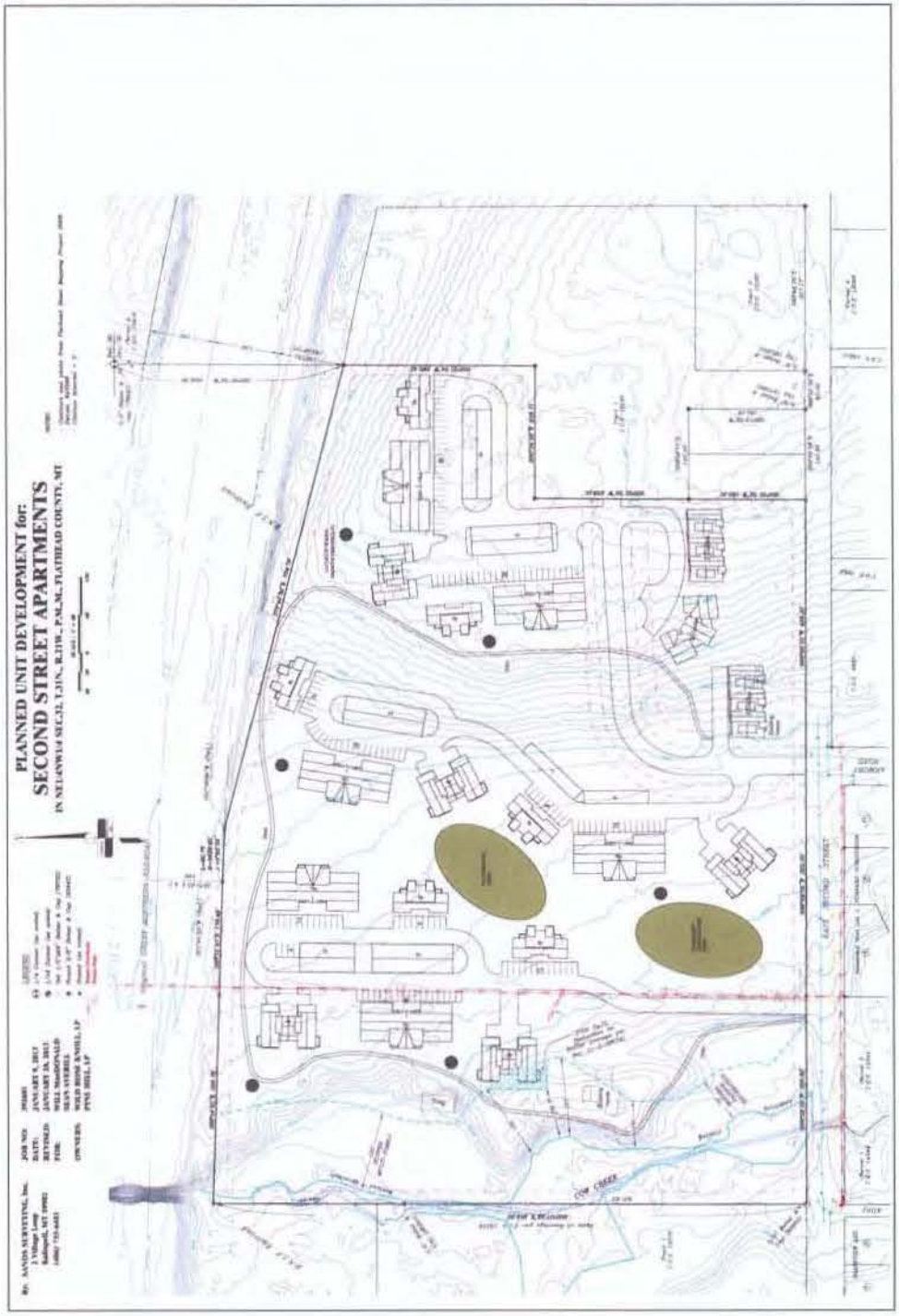
The eastern end of Second Street was identified in the *Whitefish Transportation Plan* as an area of high potential growth and may carry large volumes of traffic by 2030. The construction of high-density residential units in this area is consistent with the anticipated growth patterns.

Robert Peccia & Associates is currently preparing plans for the reconstruction of Second Street. Presently the plans include a full reconstruction of Seconds Street from the end of the existing urban sections to the Burlington Northern Santa Fe railroad tracks. From Larch Avenue to Dodger Lane the road will be constructed with and urban cross-section and a 26-foot paved surface. Past Dodger Lane the road will transition to a rural cross-section with a 26-foot paved surface. The pedestrian trail on the south side of Second Street will be extended from Armory Road to Hugh Rogers Park. Construction is expected to begin in the spring of 2014.

CRASH DATA

ATS contacted the Montana Department of Transportation to collect crash statistics for East Second Street near the proposed development site for the last ten years to determine crash trends within this area. All crash records for East Second Street from Park Avenue to Edgewood Place were obtained to determine if there are any high-crash locations within this area. The data from MDT indicated that only one vehicle crash occurred in the urban portion of Second Street. This crash involved a collision with a parked car. Another eight crashes occurred around the Burlington Northern Santa Fe railroad crossing near the east end of Second Street and near the intersection with Edgewood Place. All of these crashes were single vehicle run-off-the road or rollover crashes and all involved alcohol, careless driving, or inattentive driving. No roadway deficiencies were listed as contributing factors in any of the recorded crashes.

Figure 2 – Proposed Development



D. PROPOSED DEVELOPMENT

The current development proposal for this site includes 24 acres of undeveloped land north of Second Street just east of Cow Creek which would be developed into a residential subdivision. The development would include up to 173 multi-family residential units including 164 apartments and nine condominium units. The development would also include one single-family residential home. Access to the site would be provided through Wild Rose Lane road and a new northern approach at Armory Road. The extension of Armory Road would curve to the east and connect with the property's eastern boundary for a possible future road connection when and if the adjacent properties become developed. This extension of Armory Road will include a 28 foot urban cross-section with curb and sidewalks. The development plans include a pedestrian trail which will extend around the property and connect with Armory Road and Second Street. The development would be constructed in six phases over the next two years starting with Phases 1-3 around the extension of Armory Road. Phases 4 and 5 would be accessed through Wild Rose Lane. Phase 6 is located in the northeast corner of the property and would be accessed through Armory Road. Full build-out of the property is expected by 2015 depending on market conditions. The Second Street Apartments site plan is shown in **Figure 2**.

E. TRIP GENERATION AND ASSIGNMENT

ATS performed a trip generation analysis to determine the anticipated future traffic volumes from the proposed development using the trip generation rates contained in *Trip Generation* (Institute of Transportation Engineers, Seventh Edition). These rates are the national standard and are based on the most current information available to planners. A vehicle "trip" is defined as any trip that either begins or ends at the development site. ATS determined that the critical traffic impacts on the intersections and roadways would occur during the weekday morning and evening peak hours. According to the ITE trip generation rates, at full build-out the proposed development would produce 89 AM peak hour trips, 108 PM peak hour trips, and 1,172 daily trips. The trip generation rates and totals are shown in **Table 3**.

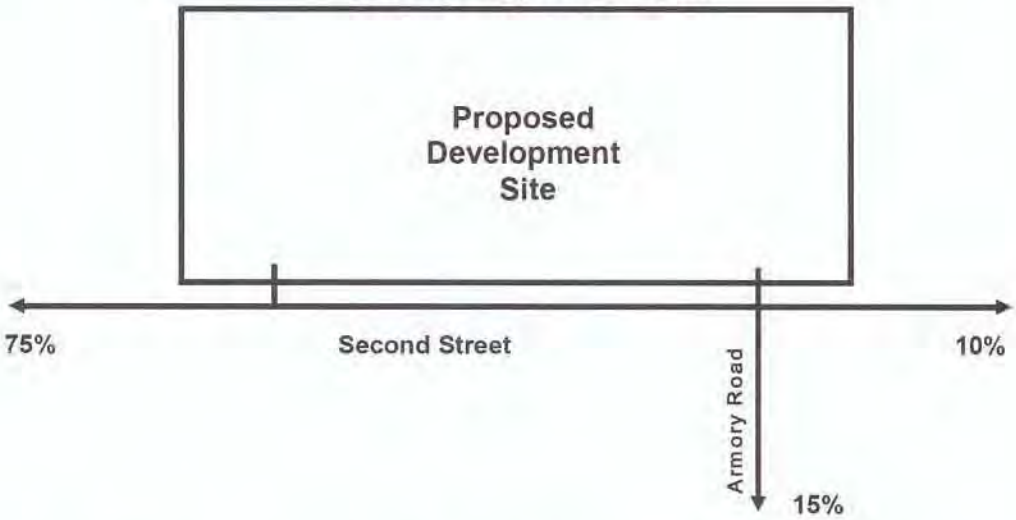
Table 3 - Trip Generation Rates

Land Use	Units	AM Peak Hour Trip Ends per Unit	Total AM Peak Hour Trip Ends	PM Peak Hour Trip Ends per Unit	Total PM Peak Hour Trip Ends	Weekday Trip Ends per Unit	Total Weekday Trip Ends
Single Family Residential	1	0.75	1	1.01	1	9.57	10
Condominiums	9	0.44	4	0.52	5	5.86	53
Apartments	165	0.51	84	0.62	102	6.72	1,109
TOTAL			**89**		**108**		**1,172**

F. TRIP DISTRIBUTION

The traffic distribution and assignment for the proposed subdivision was based upon the existing ADT volumes along the adjacent roadways and the peak-hour turning volumes. It is expected that 75% of traffic would use Second Street to the west, 15% would use Armory Road to the south, and 10% would use Second Street to the east. Traffic is expected to distribute onto the surrounding road network as shown on **Figure 3**.

Figure 3 – Trip Distribution



G. TRAFFIC IMPACTS OUTSIDE OF THE DEVELOPMENT

Using the trip generation and trip distribution numbers, ATS determined the future Level of Service for the area intersections. The anticipated intersection LOS with the Second Street Apartments is shown in **Tables 4**. These calculations are based on the projected model volumes included in **Appendix B** of this report. **Table 4** indicates that the Second Street Apartments will have little impact on the surrounding road system and no specific improvements will be required to increase roadway capacity.

The Second Street Apartments will increase traffic volumes on the surrounding roadways, but all roads will remain will within the functional limits for two-lane roads. Traffic volumes on Second Street to the west of the site will increase by approximately 900 VPD, and traffic volumes to the east will increase by approximately 100 VPD. Traffic volumes on Armory Road will increase by approximately 200 VPD. It should be noted that the increase in traffic volumes along Second Street due to this project will bring traffic volumes back near the historic averages experienced around the year 2000 when the traffic volumes along East Second Street where 3,600 VPD.

Table 4 –Level of Service Summary
With the Second Street Apartments

	AM Peak Hour		PM Peak Hour	
Intersection	**Delay (Sec.)**	**LOS**	**Delay (Sec.)**	**LOS**
Second Street & Armory Road*	11.5/9.7	B/A	11.8/9.7	B/A
Second Street & Wild Rose Lane	9.9	A	9.6	A

*Northbound/Southbound Side Street LOS and Delay

H. IMPACT SUMMARY & RECOMMENDATIONS

The Second Street Apartments will have little impact on the surrounding road system. All nearby intersections will continue to function at acceptable levels of service and no additional improvements will be required at any area intersections to improve roadway capacity. It is recommended that the developers include a location along the frontage with Second Street or Armory Road for the construction of a designated bus pull-out for a possible future Whitefish transit service. It is also recommended that the developers provide a connection between the development's internal trail network to the Second Street Trail and include a pedestrian crosswalk across Second Street.

APPENDIX A

Traffic Data

Basic Volume Report: 2ND ST

Station ID : 2ND ST
Info Line 1 : ATS
Info Line 2 : UNICORN #5
GPS Lat/Lon :
DB File : 2ND ST.DB

Last Connected Device Type : Unic-L
Version Number : 1.50
Serial Number : 99216
Number of Lanes : 1
Posted Speed Limit :

Lane #1 Configuration

#	Dir.	Information	Volume Mode	Volume Sensors	Divide By 2	Comment
1.		NB	Normal	Axle	Yes	

Lane #1 Basic Volume Data From: 16:00 - 01/22/2013 To: 15:59 - 01/23/2013

Date	DW	0000	0100	0200	0300	0400	0500	0600	0700	0800	0900	1000	1100	1200	1300	1400	1500	1600	1700	1800	1900	2000	2100	2200	2300	Total
012213	T																	195	177	181	111	82	53	34	20	853
012313	W	6	4	2	2	3	2	16	36	73	177	92	63	126	96	98	71									867
Month Total		6	4	2	2	3	2	16	36	73	177	92	63	126	96	98	71	195	177	181	111	82	53	34	20	1720
Percent :		0%	0%	0%	0%	0%	0%	1%	2%	4%	10%	5%	4%	7%	6%	6%	4%	11%	10%	11%	6%	5%	3%	2%	1%	
ADT :		6	4	2	2	3	2	16	36	73	177	92	63	126	96	98	71	195	177	181	111	82	53	34	20	1720

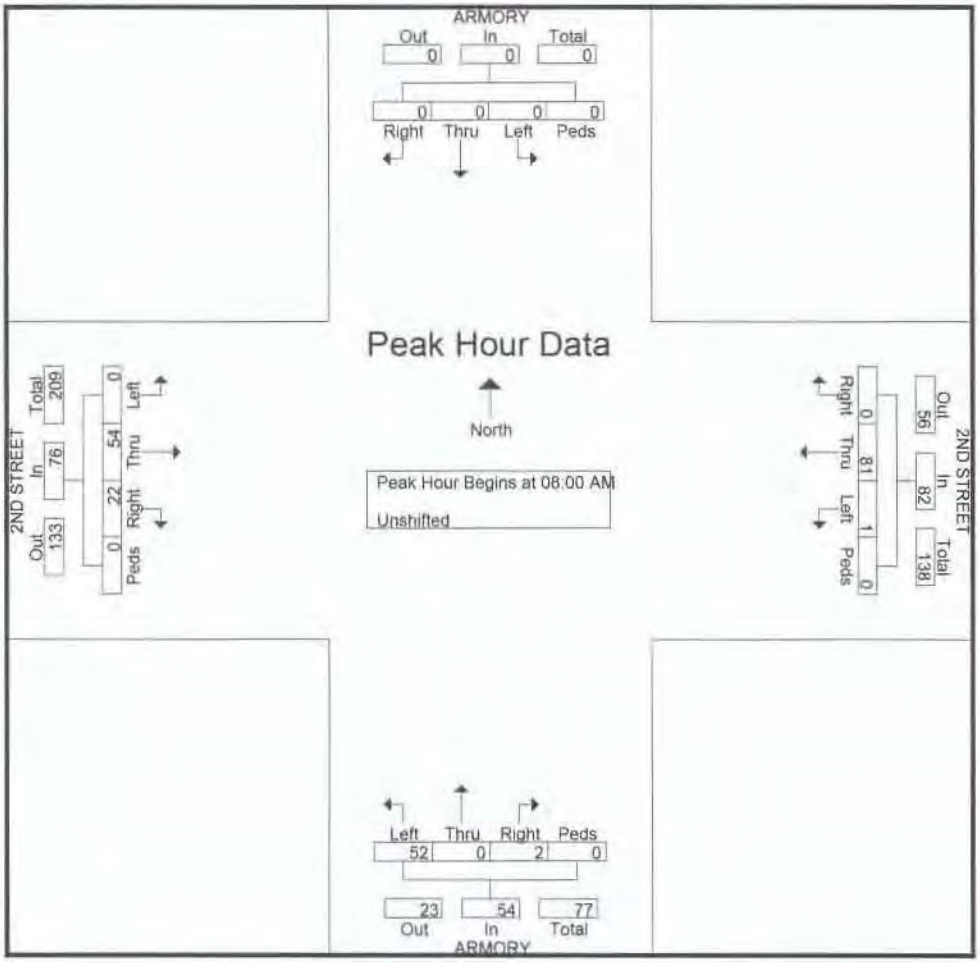
	Sun	Mon	Tue	Wed	Thu	Fri	Sat
DW Totals :	0	0	853	867	0	0	0
# Days :	0.0	0.0	0.3	0.7	0.0	0.0	0.0
ADT :	0	0	2559	1301	0	0	0
Percent :	0%	0%	50%	50%	0%	0%	0%

	Total	Percent
Weekday (Mon-Fri) :	1720	100%
ADT :	1720	
Weekend (Sat-Sun) :	0	0%
ADT :	0	

Abelin Traffic Services
130 S. Howie Street
Helena, MT 59601

File Name : armoryam
Site Code : 00000000
Start Date : 1/23/2013
Page No : 2

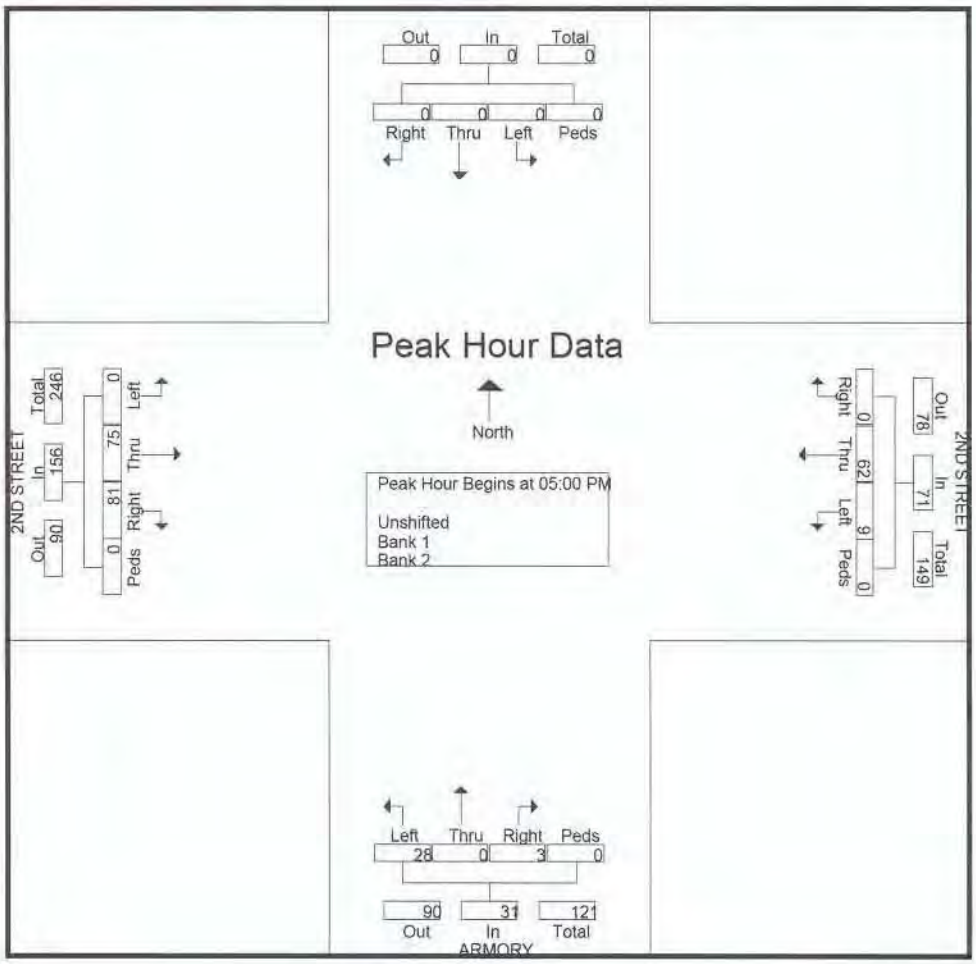
	ARMORY Southbound					2ND STREET Westbound					ARMORY Northbound					2ND STREET Eastbound					
Start Time	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	Int. Total
Peak Hour Analysis From 07:00 AM to 08:45 AM - Peak 1 of 1																					
Peak Hour for Entire Intersection Begins at 08:00 AM																					
08:00 AM	0	0	0	0	0	0	14	0	0	14	1	0	14	0	15	2	5	0	0	7	36
08:15 AM	0	0	0	0	0	0	28	1	0	29	1	0	22	0	23	7	19	0	0	26	78
08:30 AM	0	0	0	0	0	0	20	0	0	20	0	0	8	0	8	7	19	0	0	26	54
08:45 AM	0	0	0	0	0	0	19	0	0	19	0	0	8	0	8	6	11	0	0	17	44
Total Volume	0	0	0	0	0	0	81	1	0	82	2	0	52	0	54	22	54	0	0	76	212
% App. Total	0	0	0	0		0	98.8	1.2	0		3.7	0	96.3	0		28.9	71.1	0	0		
PHF	.000	.000	.000	.000	.000	.000	.723	.250	.000	.707	.500	.000	.591	.000	.587	.786	.711	.000	.000	.731	.679



Abelin Traffic Services
130 S. Howie Street
Helena, MT 59601

File Name : armorypm
Site Code : 00000000
Start Date : 1/22/2013
Page No : 2

	Southbound					2ND STREET Westbound					ARMORY Northbound					2ND STREET Eastbound					
Start Time	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	Int. Total
Peak Hour Analysis From 04:00 PM to 05:45 PM - Peak 1 of 1																					
Peak Hour for Entire Intersection Begins at 05:00 PM																					
05:00 PM	0	0	0	0	0	0	17	0	0	17	1	0	5	0	6	20	21	0	0	41	64
05:15 PM	0	0	0	0	0	0	11	2	0	13	1	0	8	0	9	18	15	0	0	33	55
05:30 PM	0	0	0	0	0	0	13	2	0	15	0	0	7	0	7	15	22	0	0	37	59
05:45 PM	0	0	0	0	0	0	21	5	0	26	1	0	8	0	9	28	17	0	0	45	80
Total Volume	0	0	0	0	0	0	62	9	0	71	3	0	28	0	31	81	75	0	0	156	258
% App. Total	0	0	0	0		0	87.3	12.7	0		9.7	0	90.3	0		51.9	48.1	0	0		
PHF	.000	.000	.000	.000	.000	.000	.738	.450	.000	.683	.750	.000	.875	.000	.861	.723	.852	.000	.000	.867	.806

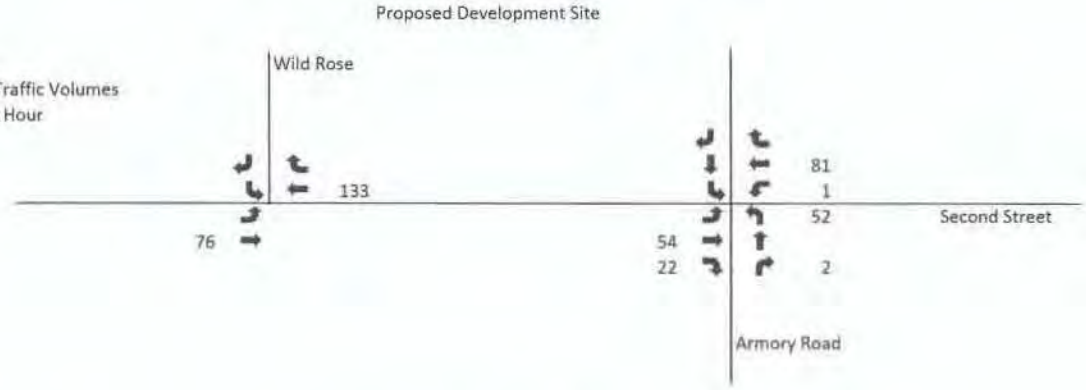


APPENDIX B

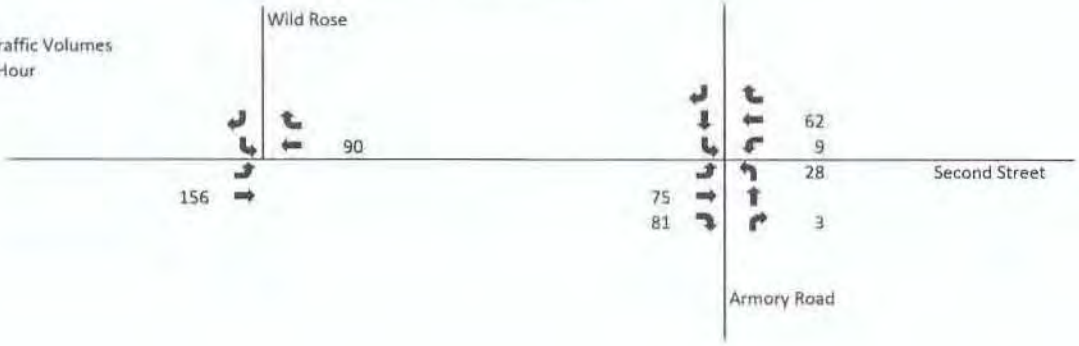
Traffic Model

Second Street Apartments
Whitefish Montana
Traffic Impact Study

Existing Traffic Volumes
AM Peak Hour



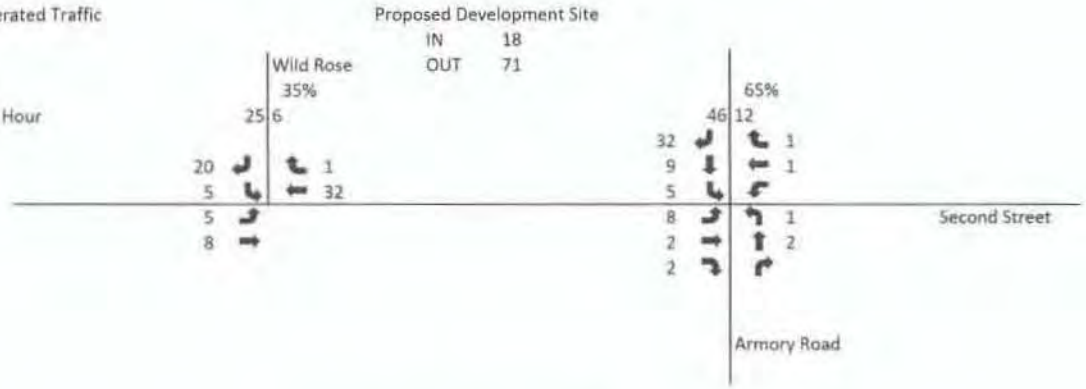
Existing Traffic Volumes
PM Peak Hour



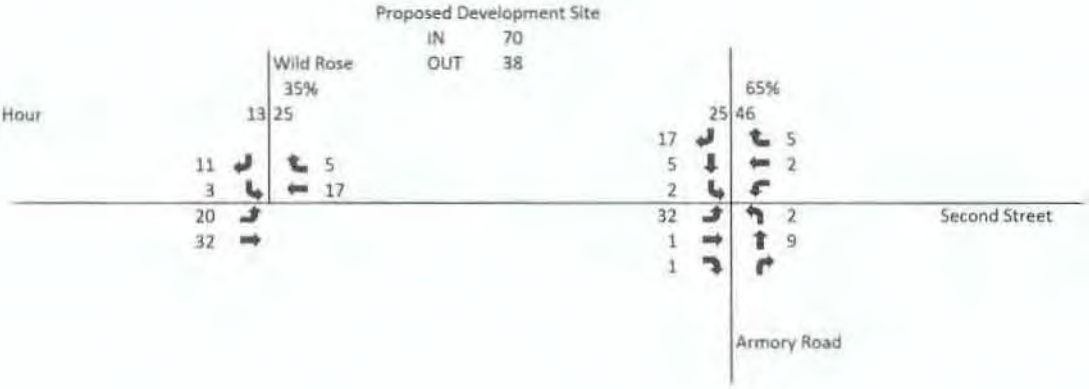
Second Street Apartments
Whitefish Montana
Traffic Impact Study

Site Generated Traffic

Model
AM Peak Hour



Model
PM Peak Hour



Second Street Apartments
Whitefish Montana
Traffic Impact Study

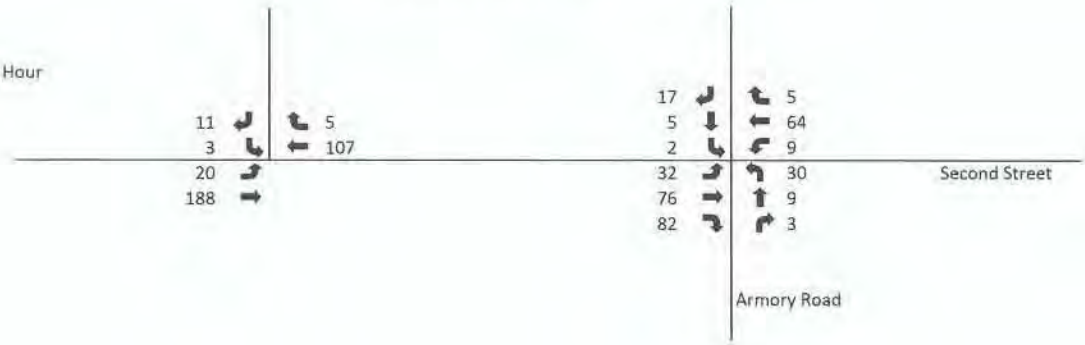
Total Traffic with Whitefish Apartments

Proposed Development Site

AM Peak Hour

Proposed Development Site

PM Peak Hour



APPENDIX C

LOS Calculations

TWO-WAY STOP CONTROL SUMMARY

General Information		Site Information	
Analyst	RLA	Intersection	2nd & Armory
Agency/Co.	Abelin Traffic Services	Jurisdiction	City of WF
Date Performed	1/29/2013	Analysis Year	2013
Analysis Time Period	AM Peak Hour		

Project Description *Second Street Apartments*

East/West Street: *2nd Street*	North/South Street: *Armory Road*
Intersection Orientation: *East-West*	Study Period (hrs): *0.25*

Vehicle Volumes and Adjustments

Major Street	Eastbound			Westbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume (veh/h)		54	22	1	81	
Peak-Hour Factor, PHF	1.00	0.70	0.70	0.70	0.70	1.00
Hourly Flow Rate, HFR (veh/h)	0	77	31	1	115	0
Percent Heavy Vehicles	0	--	--	0	--	--
Median Type	Undivided					
RT Channelized			0			0
Lanes	0	1	0	0	1	0
Configuration			TR	LT		
Upstream Signal		0			0	

Minor Street	Northbound			Southbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume (veh/h)	52		2			
Peak-Hour Factor, PHF	0.60	1.00	0.60	1.00	1.00	1.00
Hourly Flow Rate, HFR (veh/h)	86	0	3	0	0	0
Percent Heavy Vehicles	0	0	0	0	0	0
Percent Grade (%)		0			0	
Flared Approach		N			N	
Storage		0			0	
RT Channelized			0			0
Lanes	0	0	0	0	0	0
Configuration		LR				

Delay, Queue Length, and Level of Service

Approach	Eastbound	Westbound	Northbound			Southbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration		LT		LR				
v (veh/h)		1		89				
C (m) (veh/h)		1495		788				
v/c		0.00		0.11				
95% queue length		0.00		0.38				
Control Delay (s/veh)		7.4		10.1				
LOS		A		B				
Approach Delay (s/veh)	--	--	10.1					
Approach LOS	--	--	B					

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TWO-WAY STOP CONTROL SUMMARY

General Information		Site Information	
Analyst	RLA	Intersection	2nd & Armory
Agency/Co.	Abelin Traffic Services	Jurisdiction	City of WF
Date Performed	1/29/2013	Analysis Year	2013
Analysis Time Period	PM Peak Hour		

Project Description Second Street Apartments

East/West Street: 2nd Street	North/South Street: Armory Road
Intersection Orientation: East-West	Study Period (hrs): 0.25

Vehicle Volumes and Adjustments

Major Street	Eastbound			Westbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume (veh/h)		75	81	9	62	
Peak-Hour Factor, PHF	1.00	0.81	0.81	0.70	0.70	1.00
Hourly Flow Rate, HFR (veh/h)	0	92	99	12	88	0
Percent Heavy Vehicles	0	--	--	0	--	--
Median Type	Undivided					
RT Channelized			0			0
Lanes	0	1	0	0	1	0
Configuration			TR	LT		
Upstream Signal		0			0	

Minor Street	Northbound			Southbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume (veh/h)	28		3			
Peak-Hour Factor, PHF	0.86	1.00	0.86	1.00	1.00	1.00
Hourly Flow Rate, HFR (veh/h)	32	0	3	0	0	0
Percent Heavy Vehicles	0	0	0	0	0	0
Percent Grade (%)		0			0	
Flared Approach		N			N	
Storage		0			0	
RT Channelized			0			0
Lanes	0	0	0	0	0	0
Configuration		LR				

Delay, Queue Length, and Level of Service

Approach	Eastbound	Westbound	Northbound			Southbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration		LT		LR				
v (veh/h)		12		35				
C (m) (veh/h)		1395		745				
v/c		0.01		0.05				
95% queue length		0.03		0.15				
Control Delay (s/veh)		7.6		10.1				
LOS		A		B				
Approach Delay (s/veh)	--	--	10.1					
Approach LOS	--	--	B					

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TWO-WAY STOP CONTROL SUMMARY

General Information		Site Information	
Analyst	RLA	Intersection	2nd & Armory
Agency/Co.	Abelin Traffic Services	Jurisdiction	City of WF
Date Performed	1/29/2013	Analysis Year	With 2nd Street Apts
Analysis Time Period	AM Peak Hour		

Project Description: Second Street Apartments

East/West Street: 2nd Street | North/South Street: Armory Road

Intersection Orientation: East-West | Study Period (hrs): 0.25

Vehicle Volumes and Adjustments

Major Street	Eastbound			Westbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume (veh/h)	8	56	24	1	82	1
Peak-Hour Factor, PHF	0.70	0.70	0.70	0.70	0.70	0.70
Hourly Flow Rate, HFR (veh/h)	11	80	34	1	117	1
Percent Heavy Vehicles	0	--	--	0	--	--
Median Type	Undivided					
RT Channelized			0			0
Lanes	0	1	0	0	1	0
Configuration	LTR			LTR		
Upstream Signal		0			0	

Minor Street	Northbound			Southbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume (veh/h)	53	2	2	5	9	32
Peak-Hour Factor, PHF	0.60	0.60	0.60	0.70	0.70	0.70
Hourly Flow Rate, HFR (veh/h)	88	3	3	7	12	45
Percent Heavy Vehicles	0	0	0	0	0	0
Percent Grade (%)		0			0	
Flared Approach		N			N	
Storage		0			0	
RT Channelized			0			0
Lanes	0	1	0	0	1	0
Configuration		LTR			LTR	

Delay, Queue Length, and Level of Service

Approach	Eastbound	Westbound	Northbound			Southbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	LTR	LTR		LTR			LTR	
v (veh/h)	11	1		94			64	
C (m) (veh/h)	1483	1488		650			837	
v/c	0.01	0.00		0.14			0.08	
95% queue length	0.02	0.00		0.50			0.25	
Control Delay (s/veh)	7.4	7.4		11.5			9.7	
LOS	A	A		B			A	
Approach Delay (s/veh)	--	--	11.5			9.7		
Approach LOS	--	--	B			A		

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TWO-WAY STOP CONTROL SUMMARY

General Information		Site Information	
Analyst	RLA	Intersection	2nd & Armory
Agency/Co.	Abelin Traffic Services	Jurisdiction	City of WF
Date Performed	1/29/2013	Analysis Year	With 2nd Street Apts
Analysis Time Period	PM Peak Hour		

Project Description Second Street Apartments

East/West Street: 2nd Street | North/South Street: Armory Road

Intersection Orientation: East-West | Study Period (hrs): 0.25

Vehicle Volumes and Adjustments

Major Street	Eastbound			Westbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume (veh/h)	32	76	82	9	64	5
Peak-Hour Factor, PHF	0.81	0.81	0.81	0.70	0.70	0.70
Hourly Flow Rate, HFR (veh/h)	39	93	101	12	91	7
Percent Heavy Vehicles	0	--	--	0	--	--
Median Type	Undivided					
RT Channelized			0			0
Lanes	0	1	0	0	1	0
Configuration	LTR			LTR		
Upstream Signal		0			0	

Minor Street	Northbound			Southbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume (veh/h)	30	9	3	2	5	17
Peak-Hour Factor, PHF	0.86	0.86	0.86	0.70	0.70	0.70
Hourly Flow Rate, HFR (veh/h)	34	10	3	2	7	24
Percent Heavy Vehicles	0	0	0	0	0	0
Percent Grade (%)		0			0	
Flared Approach		N			N	
Storage		0			0	
RT Channelized			0			0
Lanes	0	1	0	0	1	0
Configuration		LTR			LTR	

Delay, Queue Length, and Level of Service

Approach	Eastbound	Westbound	Northbound			Southbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	LTR	LTR		LTR			LTR	
v (veh/h)	39	12		47			33	
C (m) (veh/h)	1508	1391		578			795	
v/c	0.03	0.01		0.08			0.04	
95% queue length	0.08	0.03		0.26			0.13	
Control Delay (s/veh)	7.5	7.6		11.8			9.7	
LOS	A	A		B			A	
Approach Delay (s/veh)	--	--	11.8			9.7		
Approach LOS	--	--	B			A		

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TWO-WAY STOP CONTROL SUMMARY

General Information		Site Information	
Analyst	RLA	Intersection	2nd & Wild Rose
Agency/Co.	Abelin Traffic Services	Jurisdiction	City of WF
Date Performed	1/29/2013	Analysis Year	With 2nd Street Apts
Analysis Time Period	AM Peak Hour		

Project Description	Second Street Apartments
East/West Street: 2nd Street	North/South Street: Wild Rose Lane
Intersection Orientation: East-West	Study Period (hrs): 0.25

Vehicle Volumes and Adjustments

Major Street	Eastbound			Westbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume (veh/h)	5	84			165	1
Peak-Hour Factor, PHF	0.70	0.70	0.70	0.70	0.70	0.70
Hourly Flow Rate, HFR (veh/h)	7	120	0	0	235	1
Percent Heavy Vehicles	0	--	--	0	--	--
Median Type	Undivided					
RT Channelized			0			0
Lanes	0	1	0	0	1	0
Configuration	LT					TR
Upstream Signal		0			0	

Minor Street	Northbound			Southbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume (veh/h)				5		20
Peak-Hour Factor, PHF	0.60	0.60	0.60	0.70	0.70	0.70
Hourly Flow Rate, HFR (veh/h)	0	0	0	7	0	28
Percent Heavy Vehicles	0	0	0	0	0	0
Percent Grade (%)		0			0	
Flared Approach		N			N	
Storage		0			0	
RT Channelized			0			0
Lanes	0	0	0	0	0	0
Configuration					LR	

Delay, Queue Length, and Level of Service

Approach	Eastbound	Westbound	Northbound			Southbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	LT						LR	
v (veh/h)	7						35	
C (m) (veh/h)	1343						765	
v/c	0.01						0.05	
95% queue length	0.02						0.14	
Control Delay (s/veh)	7.7						9.9	
LOS	A						A	
Approach Delay (s/veh)	--	--				9.9		
Approach LOS	--	--				A		

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TWO-WAY STOP CONTROL SUMMARY

General Information		Site Information	
Analyst	RLA	Intersection	2nd & Wild Rose
Agency/Co.	Abelin Traffic Services	Jurisdiction	City of WF
Date Performed	1/29/2013	Analysis Year	With 2nd Street Apts
Analysis Time Period	PM Peak Hour		

Project Description	Second Street Apartments
East/West Street: 2nd Street	North/South Street: Wild Rose Lane
Intersection Orientation: East-West	Study Period (hrs): 0.25

Vehicle Volumes and Adjustments

Major Street	Eastbound			Westbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume (veh/h)	20	188			107	5
Peak-Hour Factor, PHF	0.81	0.81	0.81	0.70	0.70	0.70
Hourly Flow Rate, HFR (veh/h)	24	232	0	0	152	7
Percent Heavy Vehicles	0	--	--	0	--	--
Median Type	Undivided					
RT Channelized			0			0
Lanes	0	1	0	0	1	0
Configuration	LT					TR
Upstream Signal		0			0	

Minor Street	Northbound			Southbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume (veh/h)				3		11
Peak-Hour Factor, PHF	0.86	0.86	0.86	0.70	0.70	0.70
Hourly Flow Rate, HFR (veh/h)	0	0	0	4	0	15
Percent Heavy Vehicles	0	0	0	0	0	0
Percent Grade (%)		0			0	
Flared Approach		N			N	
Storage		0			0	
RT Channelized			0			0
Lanes	0	0	0	0	0	0
Configuration					LR	

Delay, Queue Length, and Level of Service

Approach	Eastbound	Westbound	Northbound			Southbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	LT						LR	
v (veh/h)	24						19	
C (m) (veh/h)	1433						799	
v/c	0.02						0.02	
95% queue length	0.05						0.07	
Control Delay (s/veh)	7.6						9.6	
LOS	A						A	
Approach Delay (s/veh)	--	--	9.6					
Approach LOS	--	--	A					

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COPY

COW CREEK UTILITY MAIN PROJECT WETLAND DELINEATION REPORT

Whitefish, MT

Prepared for:
City of Whitefish
418 E. 2nd Street
Whitefish, MT 59937

Prepared by:
Calypso Ecological Consulting, LLP
P.O. Box 5438
Whitefish, MT 59937

June 2007

RECEIVED
JUL 30 2007

CALYPSO ECOLOGICAL CONSULTING, LLP

P.O. Box 5438
Whitefish, MT 59937

Calypso bulbosa

July 27, 2007

Robert Peccia and Associates
Attn: Ryan E. Mitchell, PE, PLS
100 Cooperative Way
Suite 200
Kalispell, MT 59903

Dear Mr. Mitchell,

Enclosed is a copy of the wetland delineation report for the City of Whitefish Eastside Utility Improvements Project. As per receipt of the 404 Permit signatures from the City of Whitefish today, we also sent a copy of the wetland delineation report, 404 Permit and construction drawings from your firm to the Army Corps of Engineers.

If you have any questions or concerns, please call or email. Thank you for contacting us to work on this project.

Sincerely,

Jennifer Hintz
Ecologist
Calypso Ecological Consulting, LLP
P.O. Box 5438
Whitefish, MT 59937
jhintz@calypsoeco.net
406-270-7028

COW CREEK UTILITY MAIN PROJECT WETLAND DELINEATION REPORT

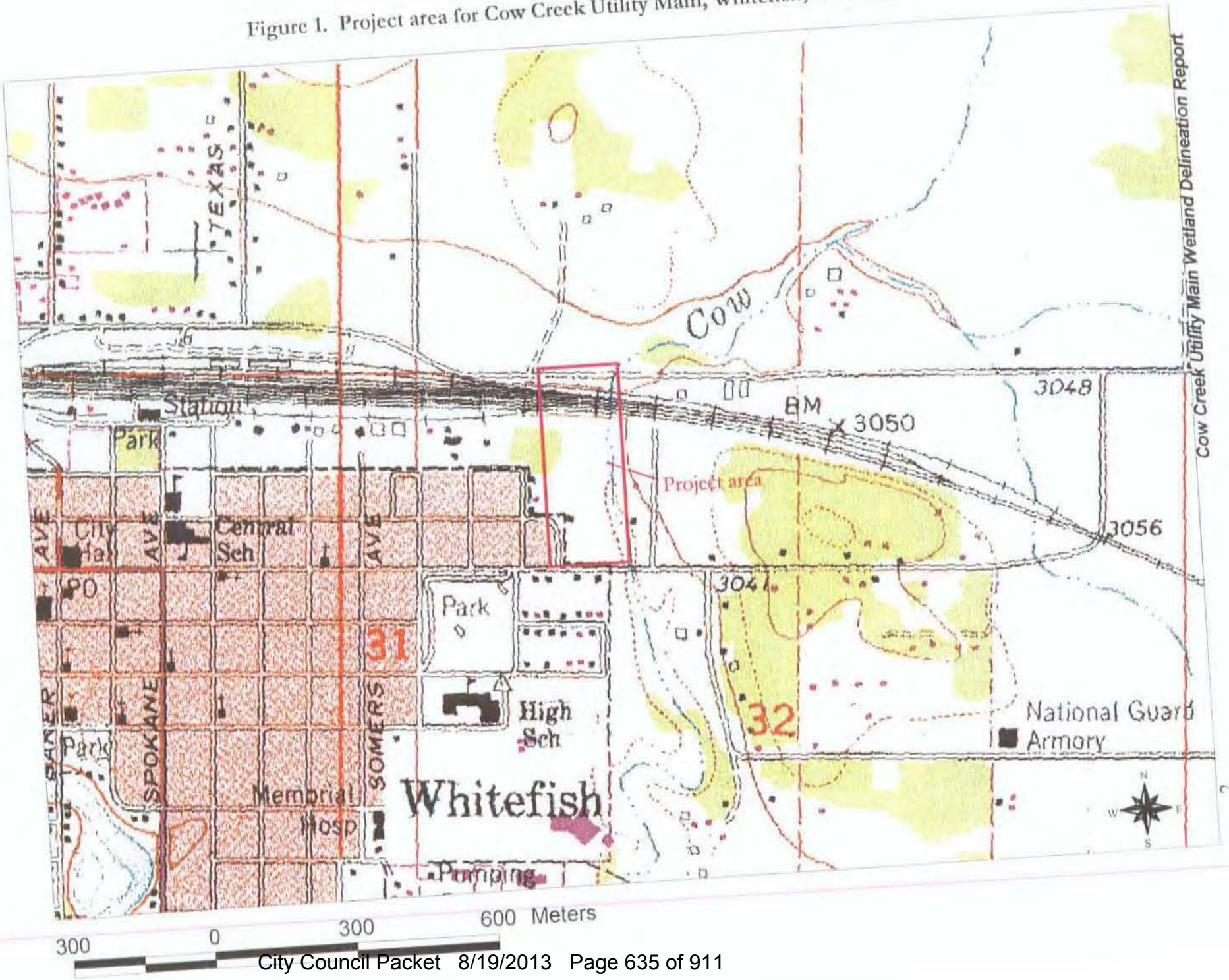
Whitefish, MT

Prepared for:
City of Whitefish
418 E. 2nd Street
Whitefish, MT 59937

Prepared by:
Calypso Ecological Consulting, LLP
P.O. Box 5438
Whitefish, MT 59937

June 2007

Figure 1. Project area for Cow Creek Utility Main, Whitefish, Montana.



2.2 Waters of the U.S. definition

According to the ACOE rules, waters of the United States generally include: waters which were or could be used for interstate or foreign commerce; all interstate waters including interstate wetlands; all other waters including intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use or degradation of which could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the U.S.; tributaries of aforementioned waters; territorial seas; and wetlands adjacent to aforementioned waters (other than wetlands).

2.3 Regulatory Jurisdiction

According to 33 CFR 328.4c, the limits of jurisdiction in non-tidal waters are as follows: (1) in the absence of adjacent wetlands, the jurisdiction extends to the ordinary high water mark, or; (2) when adjacent wetlands are present, the jurisdiction extends beyond the ordinary high water mark to the limit of the adjacent wetlands; and (3) when the water of the United States consists only of wetlands the jurisdiction extends to the limit of this wetland.

Non-jurisdictional or isolated wetlands are identified using the same criteria but these wetlands do not have a connection to waters of the United States consisting of continuous wetland area or a stream with identifiable bed and banks. Currently, there are federal legal uncertainties concerning the jurisdiction of isolated wetlands making preliminary jurisdictional determinations difficult. Final jurisdictional determination should be made by ACOE personnel.

3.0 METHODS

Topographic maps, aerial photographs, and soil survey data were obtained and reviewed prior to conducting the wetland delineation. Wetlands were then delineated in the field on June 7, 2007. The delineation focused on the east side of Cow Creek, where the sewer line construction is proposed. However, the entire wetland boundary within the project area was delineated.

Routine methodology protocols were used as outlined in the 1987 ACOE Wetland Delineation Manual (US-ACOE, 1987) and as clarified in a March 1992 memo (US-ACOE, 1992). Routine wetland determination data forms were completed at six locations along three transects: each transect had one plot located in the wetland area and a companion plot located in the adjacent upland area. The locations of these wetland observation points are marked on the field map. Wetland boundaries were flagged, numbered and positions were marked with a handheld GPS unit for production of the field map. The wetland boundary was subsequently formally surveyed by Robert Peccia and Associates. The wetland boundaries delineated by the handheld GPS are indicated on the attached map in Appendix A. Representative photographs of the site are provided in Appendix B and ACOE wetland determination forms are included in Appendix C.

shrub vegetation, emergent wetland vegetation as well as lawn and horse pasture dominated by non-native grasses. Cow Creek, a perennial stream, runs through the property. The creek is relatively narrow throughout the area, measuring approximately 13 meters across in the widest area, and less than a meter across in other areas. The study area contains two existing culverts. On the South side, a culvert runs under 2nd Street, allowing Cow Creek to continue flowing to the South. On the North side, a culvert runs under the railroad tracks, north of which the wetland is ponded.

The site soils are mapped as Alluvial land, well drained (NRCS, 2007). These soil-mapping units typically support wet meadows of coarse grasses, shrubs and perennial forbs, and generally consist of sandy material that has been deposited recently near streams (USDA, 1960). Flooding occurs frequently in areas with this soil type, but it is not listed as a hydric soil. Between floods, these areas are reported as well drained except in the lowest depressions.

4.2 Hydrology

Wetland hydrology is supplied by Cow Creek, a narrow perennial stream that flows South through the wetland. Wetland plots were located along the edges of the wetland, and surface water from the creek was not observed in these plots, but free water within 12" of the surface, the major portion of the root zone, was present in all wetland plots, meeting the primary hydrology criteria of soil saturation.

Drainage patterns were additionally observed eroded into the soil in plot 1-2, where seasonal inundation from Cow Creek obviously occurs throughout this shrubland. Free water was observed at 11 inches below the surface in this plot. Coupled with the presence 100% hydrophytic vegetation and with several obligate plant species present, strong wetland hydrological evidence was present in this plot. Plot 2-2 was located primarily in a mowed lawn, which reduced the probability of observing other hydrological indicators. However, free water was observed at 12 inches in this plot. Additionally, this plot was located only a few feet from standing water. Drift lines were present in plot 3-2, with old vegetative matter entangled in aboveground vegetation. Free water was observed at 3 inches below the surface in this plot, clearly indicating wetland hydrology. Non-wetland plots showed no evidence of wetland hydrology indicators.

The area that was delineated as a wetland is connected to waters of the United States consisting of a stream with identifiable bed and banks. Wetland hydrology is being provided mostly by Cow Creek that flows within the wetlands.

4.3 Soils

Soils in five of the six plots were found to be hydric, which does not support the existing soil survey in these cases. Soils along most of the Cow Creek corridor were mapped as Alluvial land (well drained), a non-hydric soil type. The only plot not found to have hydric soil was located directly adjacent to Edgewood Drive, with a very rocky, gravelly subsurface layer, perhaps an artifact of road bed construction.

of the wetland, but these shrublands often extended to areas of standing water. This plot was dominated by the shrubs *Cornus sericea*, and *Alnus incana*, and in the understory, *Veronica americana* and *Equisetum arvense* dominated. *Lysichiton americanum*, an obligate wetland plot, was present throughout the area, although it was not dominant in this plot. One-hundred percent of the vegetation in this plot was determined to be hydrophytic.

Plot 2-2 was dominated mostly by the facultative exotic grass species *Poa pratensis* and *Phleum pretense*, since it was at the edge of a mowed lawn. *Carex utriculata* and *Scirpus microcarpus* co-dominated and were more representative of the adjacent inundated wetland at the edge of the flowing creek. Although this area has been mowed as part of the land owner's lawn, there remains 60% hydrophytic vegetation in this plot, meeting the hydrophytic vegetation criteria. One foot closer to the stream is dominated by the sedge species listed above, with the addition of the obligate wetland sedges *Carex stipata* (owl-fruit sedge) and *Carex bibbii* (Bebb's sedge), qualifying even more strongly as a wetland.

Plot 3-2 represented the disturbed edge of the wetland adjacent to Edgewood Avenue. The overstory was dominated by *Cornus sericea* and *Populus tremuloides* (quaking aspen), with an understory of *Equisetum arvense* and the exotic grasses *Bromus inermis* and *Poa pratensis*. Although several more upland species were encountered in this plot, such as *Rosa woodsii* (woods rose) and *Amelanchier alnifolia* (service-berry), they were not dominant. Hydrophytic vegetation requirements were met, with 80% of the dominant species being hydrophytic.

Vegetation in the non-wetland plots were dominated by exotic grasses. *Poa pratensis*, *Phleum pretense*, *Bromus inermis*, and *Dactylis glomerata* (orchard grass) dominated these plots, with a strong presence of *Taraxacum officinale* (dandelion) and *Plantago major* (common plantain). These plots were located in either mowed lawn or along a disturbed roadside.

5.0 CONCLUSION

Two wetland areas, connected by an under railroad culvert, were delineated at the project site (Appendix A). The southern wetland surrounding Cow Creek between 2nd Avenue and the railroad tracks, measured 6,210 m^2 or 1.53 acres. The northern wetland, a ponding of Cow Creek between the north side of the rail road tracks and Edgewood Drive, measured 2.906 m^2 or 0.72 acres. The wetland hydrology, vegetation, and soils at this wetland site are summarized below. Routine Wetland Determination forms are included in Appendix C. This wetland is connected to waters of the United States consisting of a stream with identifiable bed and banks. The wetland should be recognized as jurisdictional using these criteria, however, the Army Corps of Engineers will make the final determination of jurisdictional status for this wetland area.

W1 – Emergent Wetland

Wetland W1 is a portion of a larger wetland complex extending beyond the project area. Cow Creek, a perennial stream, runs through the wetland complex as well as through the project area. This wetland is dominated by shrubs and herbaceous wetland vegetation. Wetland hydrology is provided mostly by Cow Creek. Wetland hydrology was evident

7.0 REFERENCES

Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States. FWS/OBS-79/31. U.S.D.I. Fish and Wildlife Services. Washington, D.C.

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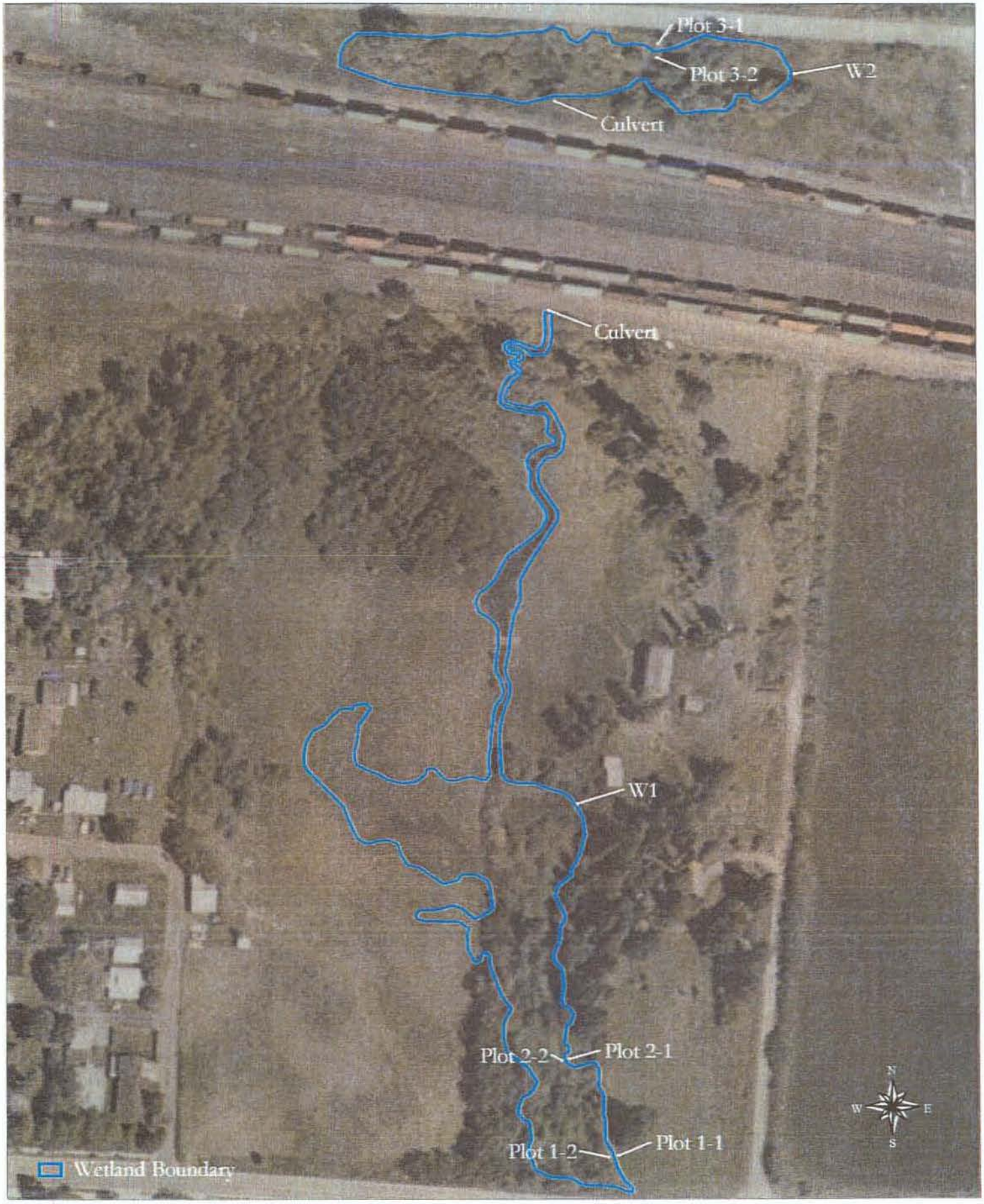
US Army Corps of Engineers. 1987. *Corps of Engineers Wetlands Delineation Manual.* US Army Corps. Washington, DC.

USDA Soil Conservation Service. 1960. *Soil Survey, Upper Flathead Valley Area Montana.*

USDI Fish & Wildlife Service. 1988. *National List of Plant Species that Occur* in *Wetlands: Northwest (Region 9).* Biol. Rpt. 88 (26.9). 89p.

USDI Fish & Wildlife Service. 1994. 1993 Supplement to National List of Plant Species that Occur in Wetlands: Northwest (Region 9). Supp. Biol. Rpt. 88.

Appendix A. Wetland Delineation for Cow Creek Sewer Project, Whitefish, Montana, June 7, 2007.



30 0 30 60 Meters

Appendix B
Photos

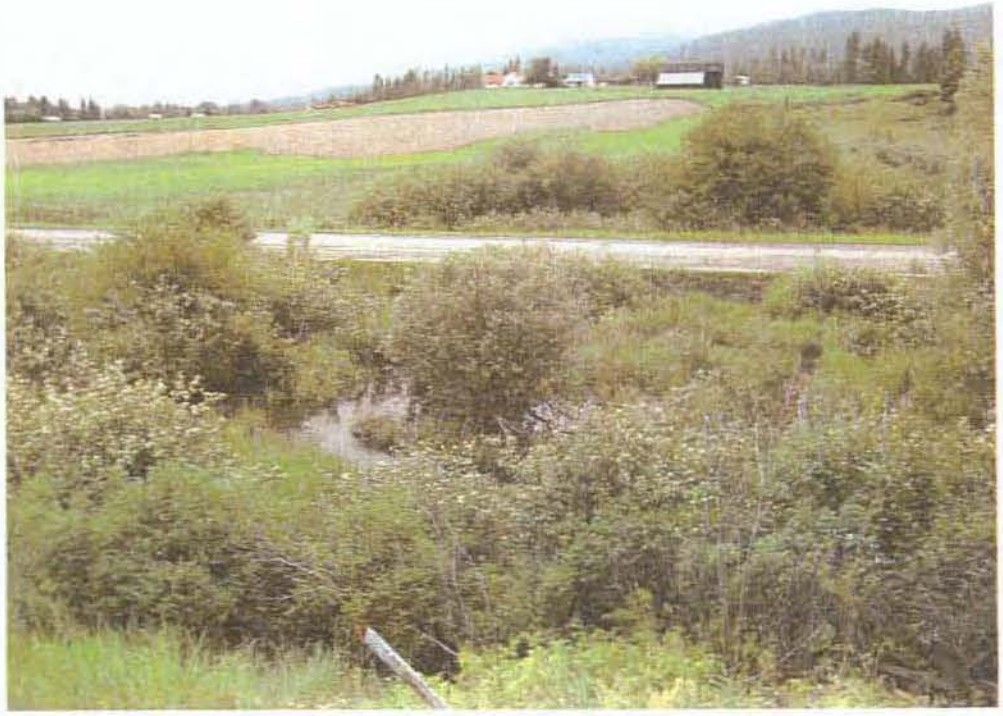
Plots 1-1 and 1-2 (W1).

Plots 2-1 and 2-2 (W1).

Plots 3-1 and 3-2 (W2).

W1: Interior herbaceous wetland with
Typha latifolia, *Carex atrioulata* and *Lysichiton americanum*

North end of W1 : Cow Creek with pasture border.



W2 (Ponded wetland) between railroad tracks and Edgewood Avenue

Appendix C

ACOE Wetland Delineation Forms

Cow Creek Utility Main Project
Whitefish, MT

Routine Wetland Determination

DATA FORM

1987 Corps Wetland Delineation Manual)

Project/Site:	Cow Creek North	Date:	6/7/07
Applicant/owner:	City of Whitefish	County:	Flathead
Investigator(s):	J. Asebrook, J. Hintz	State:	Montana
		S/T/R:	32/31N/21W

Do normal circumstances exist on the site?	X Yes	☐ No	Community ID: POAPRA h.t.
Is the site significantly disturbed (atypical situation)?	☐ Yes	x No	Transect ID: 1
Is the area a potential problem area?	☐ Yes	x No	Plot ID: 1
Explanation of atypical or problem area:			

VEGETATION (For *strata, indicate T = tree; S = shrub; H = herb; V = vine)

Dominant Plant Species	*Stratum	% cover	Indicator	Dominant Plant Species	*Stratum	% cover	Indicator
Taraxacum officinale	H		FACU				
Poa pratensis	H		FAC				
Phleum pretense	H		FAC-				
Plantago major	H		FACU+				

HYDROPHYTIC VEGETATION INDICATORS:

% of dominants OBL, FACW, & FAC: ¼ = 25% FAC-Neutral Test: 0:3

Hydrophytic vegetation present? ☐ Yes x No

Rationale for decision/Remarks: Does not meet hydrophytic vegetation requirement of greater than 50% of dominant species being OBL, FACW or FAC. This plot is located in a mowed lawn.

HYDROLOGY

Is it the growing season? x Yes ☐ No	Water Marks: ☐ Yes x No on	Sediment Deposits: ☐ Yes x No
Based on: ☐ Soil temp (record temp) X Other (explain): soil survey	Drift Lines: ☐ Yes x No	Drainage Patterns: ☐ Yes x No
Depth of inundation: N/A	Oxidized Root (live roots) Channels <12in.: ☐ Yes x No	Local Soil Survey: ☐ Yes x No
Depth to free water in pit: >16 inches	FAC Neutral: ☐ Yes x No	Water-stained Leaves: ☐ Yes x No
Depth to saturated soil: > 16 inches		
Check all that apply & explain below: ☐ Stream, lake or gage data x Aerial photographs ☐ Other	Other (explain):	

Wetland hydrology present? ☐ Yes x No

Rationale for decision/remarks: No wetland hydrology parameters were present.

SOILS

Map Unit Name (Series and Phase) : Alluvial Land, well drained

Drainage Class: well drained

Field observations confirm mapped type? ☐ Yes x No

Taxonomy (subgroup) Typic Ustifluvents

Profile Description

Depth (inches)	Horizon	Matrix color (Munsell moist)	Mottle colors (Munsell moist)	Mottle abundance size and contrast	Texture, concretions, structure, etc.
0 – 8 "		10YR 3/2	None	N/A	Silty clay loam
8 – 16+ "		10YR 3/2	10YR 5/1	Few, fine, faint	Silty clay loam
			10YR 5/6	Few, fine, faint	

Hydric Soil Indicators: (check all that apply)

- ☐ Histosol
- ☐ Histic Epipedon
- ☐ Sulfidic Odor
- ☐ Aquic Moisture Regime
- ☐ Reducing Conditions
- ☐ Gleyed or Low-Chroma (=1) matrix
- X Matrix chroma ≤ 2 with mottles
- ☐ Mg or Fe Concretions
- ☐ High Organic Content in Surface Layer of Sandy Soils
- ☐ Organic Streaking in Sandy Soils
- ☐ Listed on National/Local Hydric Soils List
- ☐ Other (explain in remarks)

Hydric soils present? x Yes ☐ No

Rationale for decision/Remarks: Hydric soil indicators were present. This may reflect relict soils from an earlier water regime, or seasonal inundation that is not present long enough to support hydrophytic vegetation.

Wetland Determination

Hydrophytic vegetation present?	☐ Yes	x No
Hydric soils present?	x Yes	☐ No
Wetland hydrology present?	☐ Yes	x No
Is the sampling point within a wetland?	☐ Yes	x No

Rationale/Remarks: This plot represents the edge of a non-wetland. Hydric soils were present, but hydrophytic vegetation and wetland hydrology were not present.

NOTES:

Revised 4/97

Routine Wetland Determination

DATA FORM

1987 Corps Wetland Delineation Manual)

Project/Site:	Cow Creek North	Date:	6/7/07
Applicant/owner:	City of Whitefish	County:	Flathead
Investigator(s):	J. Asebrook, J. Hintz	State:	Montana
		S/T/R:	32/31N/21W

Do normal circumstances exist on the site?	X Yes	☐ No	Community ID:	CORSTO h.t.
Is the site significantly disturbed (atypical situation)?	☐ Yes	x No	Transect ID:	1
Is the area a potential problem area?	☐ Yes	x No	Plot ID:	2
Explanation of atypical or problem area:				

VEGETATION (For *strata, indicate T = tree; S = shrub; H = herb; V = vine)

Dominant Plant Species	*Stratum	% cover	Indicator	Dominant Plant Species	*Stratum	% cover	Indicator
Alnus incana	S		FACW				
Cornus sericea	S		FACW				
Veronica americana	H		OBL				
Equisetum arvense	H		FAC				

HYDROPHYTIC VEGETATION INDICATORS:

% of dominants OBL, FACW, & FAC: 4/4 = 100% FAC-Neutral Test: 3:0

Hydrophytic vegetation present? x Yes ☐ No

Rationale for decision/Remarks: Meets hydrophytic vegetation requirement of greater than 50% of dominant species being OBL, FACW or FAC. This plot is located adjacent to a stream. *Lysichiton americanum* (OBL), though not dominant, is present throughout this area, often not in standing water.

HYDROLOGY

Is it the growing season? x Yes ☐ No	Water Marks: ☐ Yes x No on	Sediment Deposits: ☐ Yes x No
Based on: ☐ Soil temp (record temp) X Other (explain): soil survey	Drift Lines: ☐ Yes x No	Drainage Patterns: x Yes ☐ No
Depth of inundation: N/A	Oxidized Root (live roots) Channels <12in.: ☐ Yes x No	Local Soil Survey: ☐ Yes x No
Depth to free water in pit: 11 inches	FAC Neutral: x Yes ☐ No	Water-stained Leaves: ☐ Yes x No
Depth to saturated soil: 10 inches		
Check all that apply & explain below: ☐ Stream, lake or gage data x Aerial photographs ☐ Other	Other (explain):	

Wetland hydrology present? x Yes ☐ No

Rationale for decision/remarks: Wetland hydrology parameters were met, with soil saturation present within the major portion of the root zone. This plot is at the edge of the wetland.

SOILS

Map Unit Name (Series and Phase) : Alluvial Land, well drained

Drainage Class: well drained

Field observations confirm mapped type? ☐ Yes x No

Taxonomy (subgroup) Typic Ustifluvents

Profile Description

Depth (inches)	Horizon	Matrix color (Munsell moist)	Mottle colors (Munsell moist)	Mottle abundance size and contrast	Texture, concretions, structure, etc.
0 – 11 "		10YR 2/1	None	N/A	Silty clay loam
11 - 16+ "		10YR 5/1	10YR 5/6	Few, fine, faint	Silty clay loam

Hydric Soil Indicators: (check all that apply)

- ☐ Histosol
- ☐ Histic Epipedon
- ☐ Sulfidic Odor
- ☐ Aquic Moisture Regime
- ☐ Reducing Conditions
- X Gleyed or Low-Chroma (=1) matrix
- X Matrix chroma ≤ 2 with mottles
- ☐ Mg or Fe Concretions
- ☐ High Organic Content in Surface Layer of Sandy Soils
- ☐ Organic Streaking in Sandy Soils
- ☐ Listed on National/Local Hydric Soils List
- ☐ Other (explain in remarks)

Hydric soils present? x Yes ☐ No

Rationale for decision/Remarks: Hydric soil indicators were present, containing a low chroma matrix (1) with mottles.

Wetland Determination

Hydrophytic vegetation present?	x Yes	☐ No
Hydric soils present?	x Yes	☐ No
Wetland hydrology present?	x Yes	☐ No
Is the sampling point within a wetland?	X Yes	☐ No

Rationale/Remarks: Positive indicators for all three wetland parameters were met. This plot represents the edge of a wetland.

NOTES:

Revised 4/97

Routine Wetland Determination

DATA FORM

1987 Corps Wetland Delineation Manual)

Project/Site:	Cow Creek North	Date:	6/7/07
Applicant/owner:	City of Whitefish	County:	Flathead
Investigator(s):	J. Asebrook, J. Hintz	State:	Montana
		S/T/R:	32/31N/21W

Do normal circumstances exist on the site?	X Yes	☐ No	Community ID:	POAPRA h.t.
Is the site significantly disturbed (atypical situation)?	☐ Yes	x No	Transect ID:	2
Is the area a potential problem area?	☐ Yes	x No	Plot ID:	1
Explanation of atypical or problem area:				

VEGETATION (For *strata, indicate T = tree; S = shrub; H = herb; V = vine)

Dominant Plant Species	*Stratum	% cover	Indicator	Dominant Plant Species	*Stratum	% cover	Indicator
Taraxacum officinale	H		FACU				
Poa pratensis	H		FAC				
Phleum pretense	H		FAC-				

HYDROPHYTIC VEGETATION INDICATORS:

% of dominants OBL, FACW, & FAC: 1/3 = 33% FAC-Neutral Test: 0:2

Hydrophytic vegetation present? ☐ Yes x No

Rationale for decision/Remarks: Does not meet hydrophytic vegetation requirement of greater than 50% of dominant species being OBL, FACW or FAC. This plot is located in a mowed lawn.

HYDROLOGY

Is it the growing season? x Yes ☐ No	Water Marks: ☐ Yes x No on	Sediment Deposits: ☐ Yes x No
Based on: ☐ Soil temp (record temp) X Other (explain): soil survey	Drift Lines: ☐ Yes x No	Drainage Patterns: ☐ Yes x No
Depth of inundation: N/A	Oxidized Root (live roots) Channels <12in.: ☐ Yes x No	Local Soil Survey: ☐ Yes x No
Depth to free water in pit: >16 inches Depth to saturated soil: > 16 inches	FAC Neutral: ☐ Yes x No	Water-stained Leaves: ☐ Yes x No
Check all that apply & explain below: ☐ Stream, lake or gage data x Aerial photographs ☐ Other	Other (explain):	

Wetland hydrology present? ☐ Yes x No

Rationale for decision/remarks: No wetland hydrology parameters were present.

SOILS

Map Unit Name (Series and Phase) : Alluvial Land, well drained

Drainage Class: well drained

Field observations confirm mapped type? ☐ Yes ☐ No

Taxonomy (subgroup) Typic Ustifluvents

Profile Description

Depth (inches)	Horizon	Matrix color (Munsell moist)	Mottle colors (Munsell moist)	Mottle abundance size and contrast	Texture, concretions, structure, etc.
0 – 10"		10YR 3/2	None	N/A	Silty clay loam
10 - 16+"		10YR 5/1	10YR 5/6	Few, fine, faint	Silty clay loam

Hydric Soil Indicators: (check all that apply)

- ☐ Histosol
- ☐ Histic Epipedon
- ☐ Sulfidic Odor
- ☐ Aquic Moisture Regime
- ☐ Reducing Conditions
- X Gleyed or Low-Chroma (=1) matrix
- X Matrix chroma ≤ 2 with mottles
- ☐ Mg or Fe Concretions
- ☐ High Organic Content in Surface Layer of Sandy Soils
- ☐ Organic Streaking in Sandy Soils
- ☐ Listed on National/Local Hydric Soils List
- ☐ Other (explain in remarks)

Hydric soils present? x Yes ☐ No

Rationale for decision/Remarks: Hydric soil indicators were present, containing a low chroma matrix with mottles. This may reflect relict soils from an earlier water regime, or seasonal inundation that is not present long enough to support hydrophytic vegetation.

Wetland Determination

Hydrophytic vegetation present?	☐ Yes	x No
Hydric soils present?	x Yes	☐ No
Wetland hydrology present?	☐ Yes	x No
Is the sampling point within a wetland?	☐ Yes	x No

Rationale/Remarks: This plot represents the edge of a non-wetland. Hydric soils were present, but hydrophytic vegetation and wetland hydrology were not present.

NOTES:

Revised 4/97

Routine Wetland Determination

DATA FORM

1987 Corps Wetland Delineation Manual)

Project/Site:	Cow Creek North	Date:	6/7/07
Applicant/owner:	City of Whitefish	County:	Flathead
Investigator(s):	J. Hintz, J. Asebrook	State:	Montana
		S/T/R:	32/31N/21W

Do normal circumstances exist on the site?	X Yes	☐ No	Community ID:	CORSTO h.t.
Is the site significantly disturbed (atypical situation)?	☐ Yes	x No	Transect ID:	2
Is the area a potential problem area?	☐ Yes	x No	Plot ID:	2
Explanation of atypical or problem area:				

VEGETATION (For *strata, indicate T = tree; S = shrub; H = herb; V = vine)

Dominant Plant Species	*Stratum	% cover	Indicator	Dominant Plant Species	*Stratum	% cover	Indicator
Scirpus microcarpus	H		OBL				
Poa pratensis	H		FAC				
Phleum pretense	H		FAC-				
Taraxacum officinale	H		FACU				
Carex utriculata	H		OBL				

HYDROPHYTIC VEGETATION INDICATORS:

% of dominants OBL, FACW, & FAC: 3/5 = 60% FAC-Neutral Test: 2:2

Hydrophytic vegetation present? x Yes ☐ No

Rationale for decision/Remarks: Meets hydrophytic vegetation requirement of greater than 50% of dominant species being OBL, FACW or FAC. This plot is located on the edge of a mowed lawn. One foot closer to the west is a streambank dominated by *Scirpus microcarpus* and *Carex utriculata*. Other species present include *Ranunculus repens* (FACW), *Carex stipata* (OBL) and *Carex bebbii* (OBL).

HYDROLOGY

Is it the growing season? x Yes ☐ No	Water Marks: ☐ Yes x No on	Sediment Deposits: ☐ Yes x No
Based on: ☐ Soil temp (record temp) X Other (explain): soil survey	Drift Lines: ☐ Yes x No	Drainage Patterns: ☐ Yes x No
Depth of inundation: N/A	Oxidized Root (live roots) Channels <12in.: ☐ Yes x No	Local Soil Survey: ☐ Yes x No
Depth to free water in pit: 12 inches	FAC Neutral: ☐ Yes x No	Water-stained Leaves: ☐ Yes x No
Depth to saturated soil: 11 inches		
Check all that apply & explain below: ☐ Stream, lake or gage data x Aerial photographs ☐ Other	Other (explain):	

Wetland hydrology present? x Yes ☐ No

Rationale for decision/remarks: Wetland hydrology parameters were met, with soil saturation present within the major portion of the root zone. This plot is at the edge of the wetland.

SOILS

Map Unit Name (Series and Phase) : Alluvial Land, well drained

Drainage Class: well drained

Field observations confirm mapped type? ☐ Yes x No

Taxonomy (subgroup) Typic Ustifluvents

Profile Description

Depth (inches)	Horizon	Matrix color (Munsell moist)	Mottle colors (Munsell moist)	Mottle abundance size and contrast	Texture, concretions, structure, etc.
0 – 7 "		10YR 3/2	None	N/A	Silty clay loam
7 - 16+ "		10YR 3/2	10YR 5/6	Few, fine, faint	Silty clay loam

Hydric Soil Indicators: (check all that apply)

- ☐ Histosol
- ☐ Histic Epipedon
- ☐ Sulfidic Odor
- ☐ Aquic Moisture Regime
- ☐ Reducing Conditions
- ☐ Gleyed or Low-Chroma (=1) matrix
- X Matrix chroma ≤ 2 with mottles
- ☐ Mg or Fe Concretions
- ☐ High Organic Content in Surface Layer of Sandy Soils
- ☐ Organic Streaking in Sandy Soils
- ☐ Listed on National/Local Hydric Soils List
- ☐ Other (explain in remarks)

Hydric soils present? x Yes ☐ No

Rationale for decision/Remarks: Hydric soil indicators were present, containing a low chroma matrix with mottles.

Wetland Determination

Hydrophytic vegetation present?	x Yes	☐ No
Hydric soils present?	x Yes	☐ No
Wetland hydrology present?	x Yes	☐ No
Is the sampling point within a wetland?	X Yes	☐ No

Rationale/Remarks: This plot represents the edge of a wetland. Positive indicators for all three wetland parameters were met.

NOTES:

Revised 4/97

Routine Wetland Determination

DATA FORM

1987 Corps Wetland Delineation Manual)

Project/Site:	Cow Creek North	Date:	6/7/07
Applicant/owner:	City of Whitefish	County:	Flathead
Investigator(s):	J. Hintz	State:	Montana
		S/T/R:	32/31N/21W

Do normal circumstances exist on the site?	X Yes	☐ No	Community ID:	BROINE h.t.
Is the site significantly disturbed (atypical situation)?	☐ Yes	x No	Transect ID:	3
Is the area a potential problem area?	☐ Yes	x No	Plot ID:	1
Explanation of atypical or problem area:				

VEGETATION (For *strata, indicate T = tree; S = shrub; H = herb; V = vine)

Dominant Plant Species	*Stratum	% cover	Indicator	Dominant Plant Species	*Stratum	% cover	Indicator
Bromis inermis	H		NI				
Poa pratensis	H		FAC				
Dactylis glomerata	H		FACU				

HYDROPHYTIC VEGETATION INDICATORS:

% of dominants OBL, FACW, & FAC: 1/3 = 33% FAC-Neutral Test: 0:2

Hydrophytic vegetation present? ☐ Yes x No

Rationale for decision/Remarks: Does not meet hydrophytic vegetation requirement of greater than 50% of dominant species being OBL, FACW or FAC. This plot is located on a disturbed roadside. Other species present: *Symphoricarpos albus* (FACU), *Rosa woodsii* (FACU), *Amelanchier alnifolia* (FACU), *Taraxacum officinale* (FACU) and *Equisetum arvense* (FAC).

HYDROLOGY

Is it the growing season? x Yes ☐ No	Water Marks: ☐ Yes x No on	Sediment Deposits: ☐ Yes x No
Based on: ☐ Soil temp (record temp) X Other (explain): soil survey	Drift Lines: ☐ Yes x No	Drainage Patterns: ☐ Yes x No
Depth of inundation: N/A	Oxidized Root (live roots) Channels <12in.: ☐ Yes x No	Local Soil Survey: ☐ Yes x No
Depth to free water in pit: >16 inches Depth to saturated soil: > 16 inches	FAC Neutral: ☐ Yes x No	Water-stained Leaves: ☐ Yes x No
Check all that apply & explain below: ☐ Stream, lake or gage data x Aerial photographs ☐ Other	Other (explain):	

Wetland hydrology present? ☐ Yes x No

Rationale for decision/remarks: No wetland hydrology parameters were present, with no soil saturation within the major portion of the root zone.

SOILS

Map Unit Name (Series and Phase) : Alluvial Land, well drained

Drainage Class: well drained

Field observations confirm mapped type? ☐ Yes ☐ No

Taxonomy (subgroup) Typic Ustifluvents

Profile Description

Depth (inches)	Horizon	Matrix color (Munsell moist)	Mottle colors (Munsell moist)	Mottle abundance size and contrast	Texture, concretions, structure, etc.
0 – 4 "		10YR 3/1	None	N/A	Silty clay loam
4 – 16+ "		10YR 5/3	10YR 5/6	Common, fine, distinct	Silty clay loam with abundant rock and gravel

Hydric Soil Indicators: (check all that apply)

- ☐ Histosol
- ☐ Histic Epipedon
- ☐ Sulfidic Odor
- ☐ Aquic Moisture Regime
- ☐ Reducing Conditions
- ☐ Gleyed or Low-Chroma (=1) matrix
- ☐ Matrix chroma ≤ 2 with mottles
- ☐ Mg or Fe Concretions
- ☐ High Organic Content in Surface Layer of Sandy Soils
- ☐ Organic Streaking in Sandy Soils
- ☐ Listed on National/Local Hydric Soils List
- ☐ Other (explain in remarks)

Hydric soils present? ☐ Yes x No

Rationale for decision/Remarks: Hydric soil indicators were not present.

Wetland Determination

Hydrophytic vegetation present?	☐ Yes	x No
Hydric soils present?	☐ Yes	x No
Wetland hydrology present?	☐ Yes	x No
Is the sampling point within a wetland?	☐ Yes	x No

Rationale/Remarks: No indicators for hydrophytic vegetation, wetland hydrology or Hydric soils were present. This plot is located on a disturbed roadside.

NOTES:

Revised 4/97

Routine Wetland Determination

DATA FORM

1987 Corps Wetland Delineation Manual)

Project/Site:	Cow Creek North	Date:	6/7/07
Applicant/owner:	City of Whitefish	County:	Flathead
Investigator(s):	J. Hintz	State:	Montana
		S/T/R:	32/31N/21W

Do normal circumstances exist on the site?	X Yes	☐ No	Community ID:	POPTRE/CORSTO h.t.
Is the site significantly disturbed (atypical situation)?	☐ Yes	x No	Transect ID:	3
Is the area a potential problem area?	☐ Yes	x No	Plot ID:	2
Explanation of atypical or problem area:				

VEGETATION (For *strata, indicate T = tree; S = shrub; H = herb; V = vine)

Dominant Plant Species	*Stratum	% cover	Indicator	Dominant Plant Species	*Stratum	% cover	Indicator
Bromus inermis	H		NI				
Poa pratensis	H		FAC				
Cornus sericea	S		FACW				
Populus tremuloides	T		FAC+				
Equisetum arvense	H		FAC				

HYDROPHYTIC VEGETATION INDICATORS:

% of dominants OBL, FACW, & FAC: 4/5 = 80% FAC-Neutral Test: 2:0

Hydrophytic vegetation present? x Yes ☐ No

Rationale for decision/Remarks: Meets hydrophytic vegetation requirement of greater than 50% of dominant species being OBL, FACW or FAC. Although there are other more upland species here, including *Rosa woodsii* (FACU) and *Amelanchier alnifolia* (FACU), they are not dominant species.

HYDROLOGY

Is it the growing season? x Yes ☐ No	Water Marks: ☐ Yes x No on	Sediment Deposits: ☐ Yes x No
Based on: ☐ Soil temp (record temp) X Other (explain): soil survey	Drift Lines: x Yes ☐ No	Drainage Patterns: ☐ Yes x No
Depth of inundation: N/A	Oxidized Root (live roots) Channels <12in.: ☐ Yes x No	Local Soil Survey: ☐ Yes x No
Depth to free water in pit: 3 inches Depth to saturated soil: 2 inches	FAC Neutral: x Yes ☐ No	Water-stained Leaves: ☐ Yes x No
Check all that apply & explain below: ☐ Stream, lake or gage data x Aerial photographs ☐ Other	Other (explain):	

Wetland hydrology present? x Yes ☐ No

Rationale for decision/remarks: Wetland hydrology parameters were met, with soil saturation present within the major portion of the root zone, as well as the presence of drift lines, with old vegetative matter entangled in aboveground vegetation.

SOILS

Map Unit Name (Series and Phase) : Alluvial Land, well drained

Drainage Class: well drained

Field observations confirm mapped type? ☐ Yes x No

Taxonomy (subgroup) Typic Ustifluvents

Profile Description

Depth (inches)	Horizon	Matrix color (Munsell moist)	Mottle colors (Munsell moist)	Mottle abundance size and contrast	Texture, concretions, structure, etc.
0 – 5"		10YR 2/1	None	N/A	
5 - 16+"		10YR 3/1	10YR 4/2	Common, medium, distinct	Silty clay loam

Hydric Soil Indicators: (check all that apply)

- ☐ Histosol
- ☐ Histic Epipedon
- ☐ Sulfidic Odor
- ☐ Aquic Moisture Regime
- ☐ Reducing Conditions
- X Gleyed or Low-Chroma (=1) matrix
- X Matrix chroma ≤ 2 with mottles
- ☐ Mg or Fe Concretions
- ☐ High Organic Content in Surface Layer of Sandy Soils
- ☐ Organic Streaking in Sandy Soils
- ☐ Listed on National/Local Hydric Soils List
- ☐ Other (explain in remarks)

Hydric soils present? x Yes ☐ No

Rationale for decision/Remarks: Hydric soil indicators were present, containing a low chroma matrix (1) with mottles.

Wetland Determination

Hydrophytic vegetation present?	x Yes	☐ No
Hydric soils present?	x Yes	☐ No
Wetland hydrology present?	x Yes	☐ No
Is the sampling point within a wetland?	X Yes	☐ No

Rationale/Remarks: Strong positive indicators for all three wetland parameters were met. This area receives water from a culvert under the railroad tracks to the south. Additionally, it is directly adjacent to a paved road, which may provide runoff.

NOTES:

Revised 4/97

2nd Steet Apartments - Proposed Land Use Outline

Montana Creative
architecture + design

406 862 - 8152

- Existing Mature Trees
- Pavillion / BBQ
- Existing Rusion Olive Redbark Dog Wood & Similar
- Parked Native Forest Trees and Bed
- Maintained Resisdential Grasses and Plantings
- Clubhouse Grounds & Community Garden
- Playground
- Native and Tall Grasses

N

SCALE : 1/32" = 60'

60' 30' 0 60' 120'

- 1/4 Corner (as noted)
- 1/16 Corner (as noted)
- Set 1/2"x24" Rebar & Cap (7975S)
- Found 5/8" Rebar & Cap (9344S)
- Found (as noted)

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

JOB NO: 392601
DATE: FEBRUARY 1, 2013
FOR: WILL MacDONALD
SEAN AVERILL
OWNERS: WILD ROSE KNOLL, LP
PINE HILL, LP

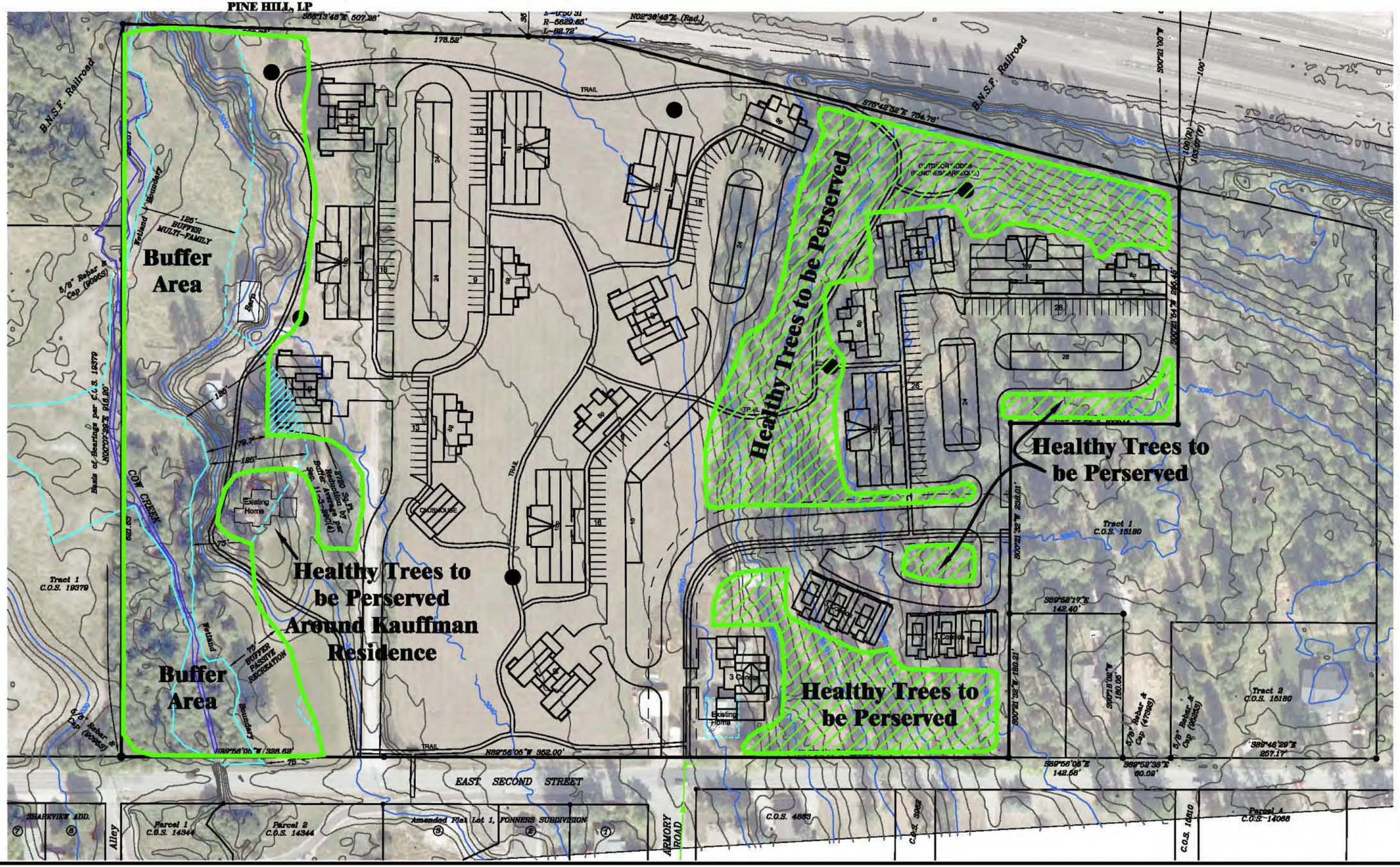
TREE PRESERVATION PLAN for:
SECOND STREET APARTMENTS

IN NE1/4NW1/4 SEC.32, T.31N., R.21W., P.M.,M., FLATHEAD COUNTY, MT

SCALE : 1" = 120'

120' 60' 0 120' 240'

N

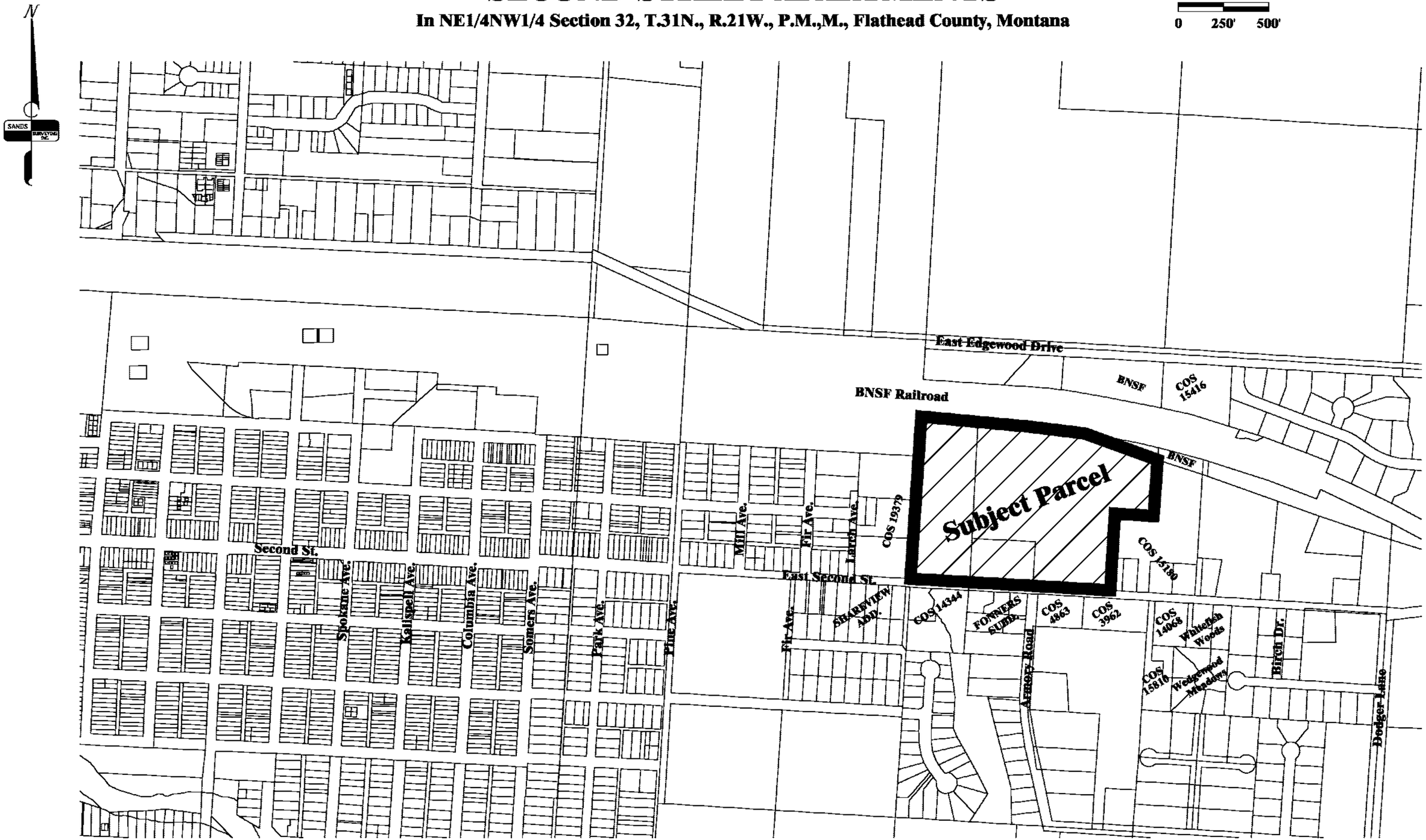


Vicinity Map for:
SECOND STREET APARTMENTS

In NE1/4NW1/4 Section 32, T.31N., R.21W., P.M.,M., Flathead County, Montana

SCALE : 1" = 500'

0 250' 500'



Project: 392601

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

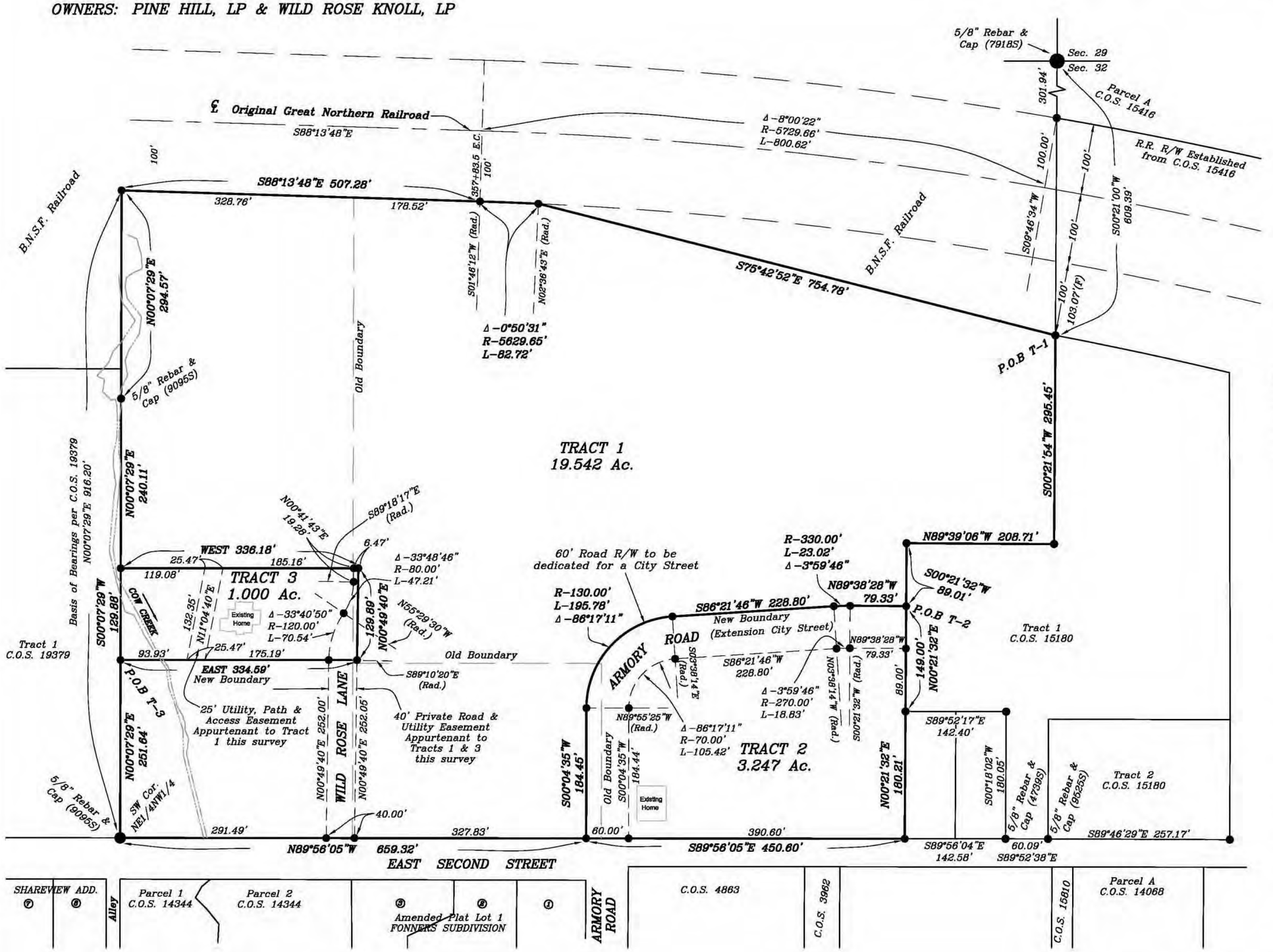
CERTIFICATE OF SURVEY

in NE1/4NW1/4 SEC. 32, T.31N., R.21W., P.M.,M., FLATHEAD COUNTY, MONTANA

JOB NO: 392602 (in 392601.dwg)
DATE: FEBRUARY 1, 2013
COMPLETED DATE: / /
FOR: WILL MacDONALD
SEAN AVERILL
OWNERS: PINE HILL, LP & WILD ROSE KNOLL, LP

SCALE : 1" = 100'
100' 50' 0 100' 200'

PURPOSE: BOUNDARY LINE ADJUSTMENT



LEGEND:
- 1/4 Corner (as noted)
- 1/16 Corner (as noted)
- Set 1/2"x24" Rebar & Cap (7975S)
- Found 5/8" Rebar & Cap (7681S)
- Found (as noted)

CERTIFICATE OF SURVEYOR

THOMAS E. SANDS 7975S

APPROVED: _____, 201__

EXAMINING LAND SURVEYOR
REG. No. 5428S

STATE OF MONTANA)
COUNTY OF FLATHEAD) SS

FILED ON THE ___ DAY OF _____, 201__
AT _____, PAID FEE _____

CLERK & RECORDER

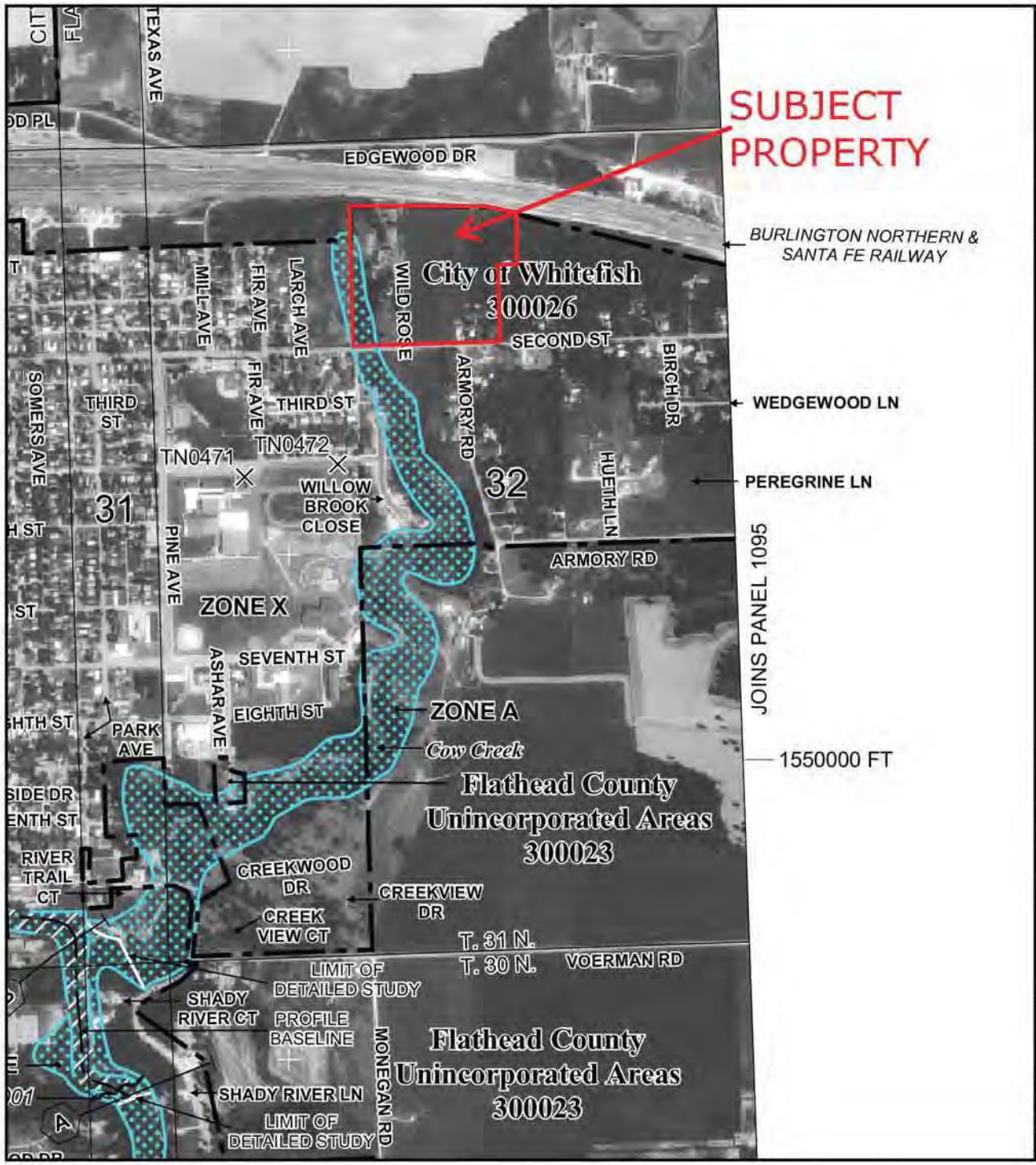
BY _____
DEPUTY

INSTRUMENT REC. No. _____

PRELIMINARY

SHEET 2 OF 2 SHEETS

CERTIFICATE OF SURVEY No._____



MAP SCALE 1" = 1000'

500 0 1000 2000 FEET

NFIP

NATIONAL FLOOD INSURANCE PROGRAM

PANEL 1090G

FIRM

FLOOD INSURANCE RATE MAP

FLATHEAD COUNTY, MONTANA AND INCORPORATED AREAS

PANEL 1090 OF 3525

(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
FLATHEAD COUNTY	300023	1090	G
WHITEFISH, CITY OF	300026	1090	G

Notice to User: The **Map Number** shown below should be used when placing map orders; the **Community Number** shown above should be used on insurance applications for the subject community.

MAP NUMBER
30029C1090G

EFFECTIVE DATE

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

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

JOB NO: 392601
DATE: JANUARY 9, 2013
REVISED: JANUARY 31, 2013
FOR: WILL MacDONALD
SEAN AVERILL
OWNERS: WILD ROSE KNOLL, LP
PINE HILL, LP

PLANNED UNIT DEVELOPMENT for:
SECOND STREET APARTMENTS

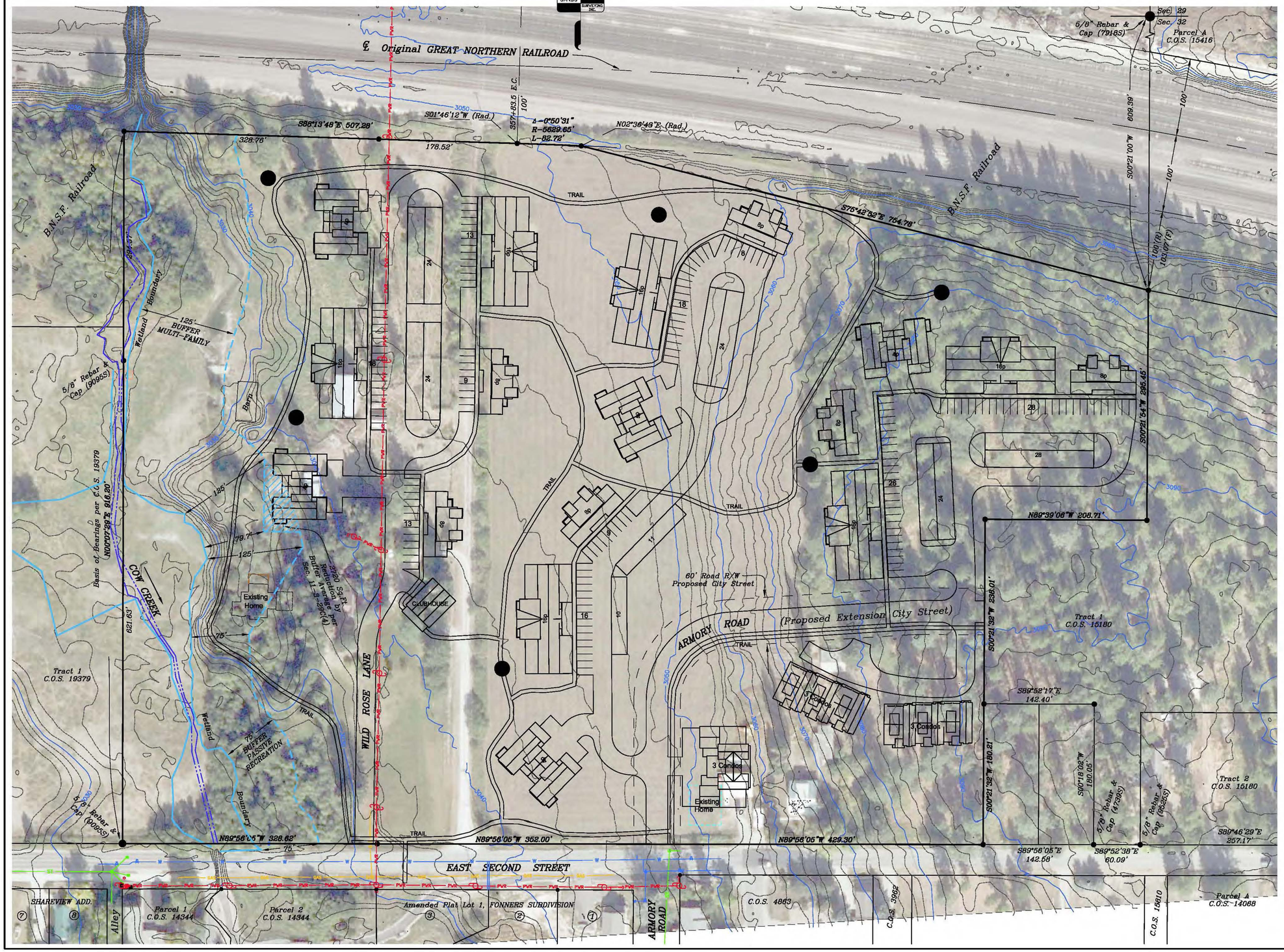
IN NE1/4NW1/4 SEC.32, T.31N., R.21W., P.M.,M., FLATHEAD COUNTY, MT

SCALE : 1" = 60'

60' 30' 0 60' 120'

Montana Creative
architecture + design
Montana Creative
158 Railway St.
Whitefish, MT 59937
406.862-8152 / 406.862-8153 (fax)

RPA
Robert Peccia & Associates, Inc.
102 Cooperative Way, Suite 300
Kalispell, MT 59901
406.752-5025 / 406.752-5024 (fax)



NOTES:

- Contours and photo from Flathead Basin Mapping Project 2009
- Datum: NAVD88
- Contour Interval = 2'

LEGEND:

- 1/4 Corner (as noted)
- 1/16 Corner (as noted)
- Set 1/2"x24" Rebar & Cap (7975S)
- Found 5/8" Rebar & Cap (9344S)
- Found (as noted)
- Power Pole
- Natural Gas Line
- Power Overhead
- Sanitary Sewer
- Storm Sewer
- Water Main
- Outdoor Nodes (Benches/Barbeque)
- Cow Creek
- Wetland Boundary (by RPA)
- Buffer from Wetland Boundary
- 5' Pedestrian Trails
- 24' Asphalt Road Surface (28' on Armory Road Extension)
- Open Parking Spaces (with Number of Spaces)
- Covered Parking Spaces (with Number of Spaces)

Acreage Table:

Buildings (Excludes Covered Parking)	114,752 sq.ft.	2.634 Ac.	6.892 Ac.
Roads (Asphalt)	124,340 sq.ft.	2.854 Ac.	29%
Parking (Open & Covered)	61,187 sq.ft.	1.404 Ac.	
Open Space	735,970 sq.ft.	16.897 Ac.	71%
Total	1,036,249 sq.ft.	23.789 Ac.	

Density Table by Zoning Classification:

Zoning	Acreage	Permitted Density	Permitted Density w/bonus for Affordable Housing
WR-2	6.875	12 units/acre = 83 units	18 units/acre = 124 units
WER	16.914	2 units/acre = 34 units	3 units/acre = 51 units
Total	23.789	117 units	175 units

Unit Count Summary

Unit Counts:

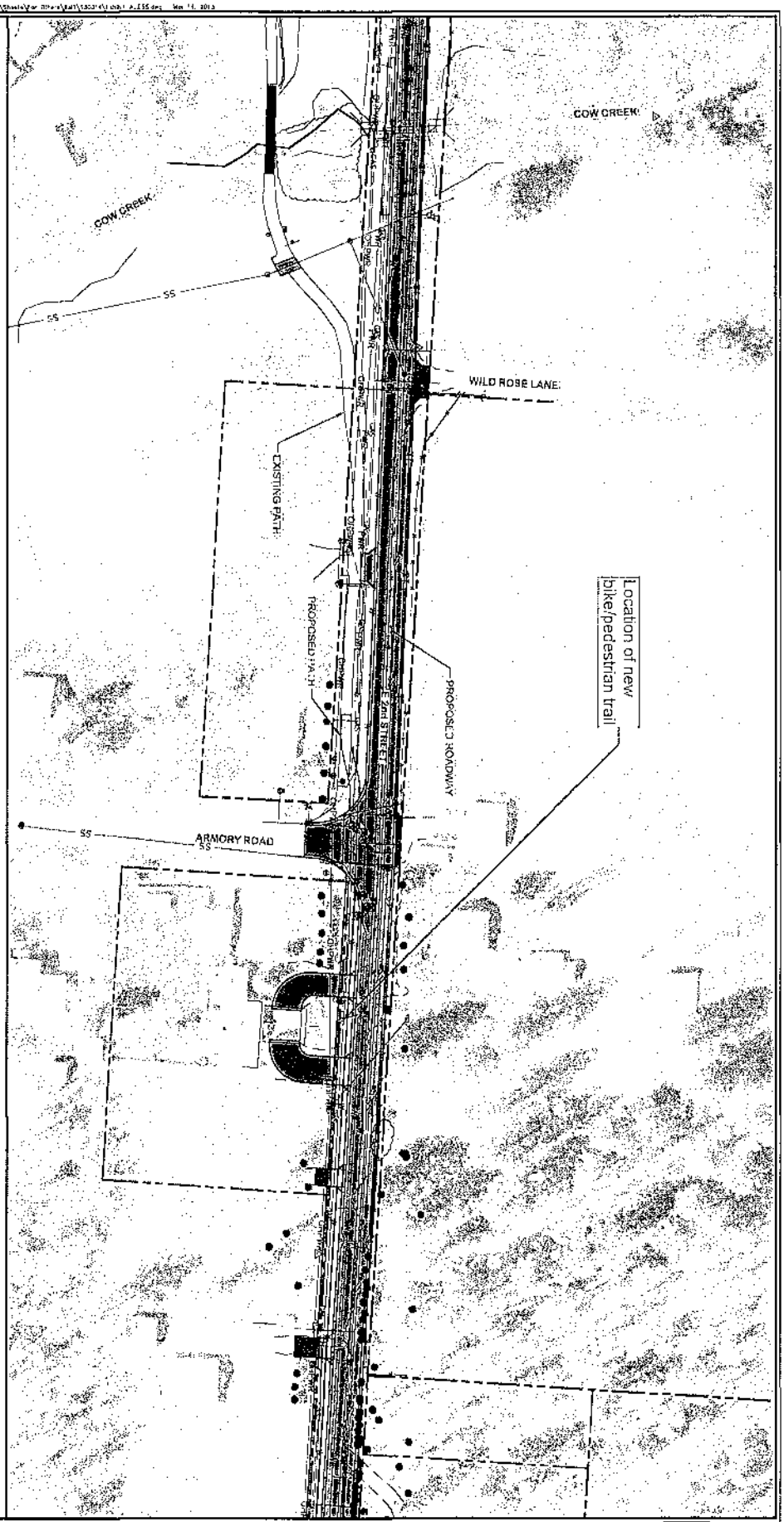
1 Bedroom Apt.:	96 Units
1 Bedroom Apt.:	58 Units
1 Bedroom Apt.:	10 Units
Subtotal:	164 Units
Condominiums:	9 Units
House:	1 Units
Total:	174 Units

Parking Table:

Required by Use	No. of Units	Required Parking	Parking Shown
Multi-Family Apts. 2.33/unit	164	382	347
Multi-Fam. Condos. 2.33/unit	9	30	36
House	1	2	4
Total	174	414	387

SHEET 1 OF 1 SHEETS

EXHIBIT 3



SHEET	SHEET TITLE	PROJECT TITLE						
A	PROPOSED E 2nd STREET IMPROVEMENTS	EAST SECOND STREET RECONSTRUCTION PROJECT *Whitefish, Montana*	B. TIBBS DESIGNED BY	MARCH 2013 DATE	SYM	REVISION	BY	APPR.	DATE
			M. ROGERS DRAWN BY	12-03-00 PROJECT NO.					
			SUBMITTED BY	EXHIBIT A_ESS FILE					

RPA

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

Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that William MacDonald and Sean Averill, on behalf of Community Infill Partners llc, are requesting two land use actions at 100 Wild Rose Lane and 1500 E 2nd Street (Tracts 1K, 1DA and 1D in S32 T31N R21W). First, a zoning map amendment to change the zoning designation at 100 Wild Rose Lane from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) and 1500 E 2nd Street from WA (Agriculture District) to WER (Estate Residential District). Second, a residential Planned Unit Development overlay across the entire 23.789 acres for 164 apartments, 9 condominiums and retaining the existing single family home on Wild Rose Lane. (WZC 13-01 & WPUD 13-01)

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

Thursday, March 21, 2013
6:00 p.m.
Whitefish City Council Chambers, City Hall
402 E. Second Street, Whitefish MT 59937

The City-County Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on Monday, April 15, 2012 at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a map of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, March 11, 2013, will be included in the packets to the Planning Board members. Comments received after the deadline will be summarized to the Planning Board members at the public hearing.

EXHIBIT 4

mailed 3-1-13

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

Wendy Compton-Ring

From: Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>
Sent: Friday, March 01, 2013 8:50 AM
To: 'Anne Moran (asmoran@mt.gov)'; Ashley Keltner (a.keltner@flathead.coop); 'Ben DeVall'; Bill Dial (bdialw1@bresnan.net); 'BJ Grieve'; Cal Scott (cscott@flathead.mt.gov); Christina L Schroeder (christina.l.schroeder@usace.army.mil); 'Chuck Curry (ccurry@flathead.mt.gov)'; Columbia Falls Fire Department (cffire@centurytel.net); 'Dale Lauman (dlauman@flathead.mt.gov)'; 'Dave Lawrence (dlawrence@skiwhitefish.com)'; Dennis Oliver (doliver@mt.gov); 'Doug Schuch (douglas.schuch@bnsf.com)'; 'Eric Smith (eric.smith@northwestern.com)'; Gary Engman (gengman@mt.gov); Ginger Kauffman (gingerk@flatheadcd.org); 'James Freyholtz (jfreyholtz@mt.gov)'; 'John Wilson'; 'Judy Williams (juwilliams@mt.gov)'; Karen Reeves; 'Kate Cassidy (kcassidy@flathead.mt.gov)'; Kate Orozco (orozcok@wfps.k12.mt.us); 'Kuennen, Norman'; 'Lisa Timchak (latimchak@fs.fed.us)'; 'Lorch, Steve'; 'Lynn Zanto (lzanto@mt.gov)'; 'Marcia Sheffels (msheffels@flathead.mt.gov)'; 'Mark Baumler (mbaumler@mt.gov)'; 'Mark Deleray (mdeleray@mt.gov)'; North Valley Refuse (nvr@centurytel.net); 'Pamela Holmquist (pholmquist@flathead.mt.gov)'; 'Patti V (pattiv@flathead.mt.gov)'; 'Peter Steele (psteele@flathead.mt.gov)'; 'Pris, Jeremy'; 'Rita Hanson (for Whitefish Water & Sewer District)'; 'Steve Kilbreath (skilbreath@mt.gov)'; 'Steve Kvapil (steve.j.kvapil@usps.gov)'; 'Stickney, Nicole'; SueAnn Grogan (sgrogan@cityofwhitefish.org); 'Tom Kennelly'; Tony.Hirsch@Centurylink.com; 'Traci Sears '; Virgil Bench (vbench@cityofwhitefish.org); 'Whitefish Parks and Recreation'
Cc: David Taylor
Subject: March City-County Planning Board
Attachments: 3-2013_PB meeting.pdf

Attached please find the Whitefish City-County Planning Board notice for March.

Wendy Compton-Ring, AICP
Senior Planner
City of Whitefish
406-863-2418

EXHIBIT
5

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

Date: March 1, 2013

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish City-County Planning Board will be held on Thursday, March 21, 2013 at 6:00 pm. During the meeting, the Board will hold public hearings on the items listed below. Upon receipt of the recommendation by the Planning Board, the Whitefish City Council will also hold subsequent public hearings on Monday, April 15, 2013. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

1. Whitefish Mountain Resort, on behalf of Winter Sports Inc., is requesting 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. (WFP 08-64) Compton-Ring

2. William MacDonald and Sean Averill, on behalf of Community Infill Partners llc, are requesting a zoning map amendment to change the zoning designation at 100 Wild Rose Lane from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) and 1500 E 2nd Street from WA (Agriculture District) to WER (Estate Residential District). These properties can be described as Tracts 1K, 1DA and 1D in S32 T31N R21W. (WZC 13-01) Compton-Ring

3. William MacDonald and Sean Averill, on behalf of Community Infill Partners llc, are requesting a residential Planned Unit Development overlay on 23.789 acres at 100 Wild Rose Lane and 1500 E 2nd Street (described as Tracts 1K, 1DA and 1D in S32 T31N R21W). The development will consist of 164 apartments, 9 condominiums and retaining the existing single family home on Wild Rose Lane. (WPUD 13-01) Compton-Ring

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

David A. Bennetts
1489 E 2nd St
Whitefish, MT 59937
406-471-4312

Whitefish Planning Department
PO Box 158
Whitefish, MT 59937

March 4, 2013

To whom it may concern,

I would like to oppose both of the proposed land use actions affecting 100 Wild Rose Ln and 1500 E 2nd St. The following comments are in response to the proposed zoning map amendment changes and the planned unit development affecting Wild Rose Ln and East Second St.

Just because the applicants want to develop their property, does not mean the city of Whitefish should compromise the integrity of our neighborhoods by allowing zoning map amendments or making changes to existing neighborhoods for PUD's. The applicants knew when they purchased the property what the zoning designations were, and should not be allowed to change them in order to develop the property, especially when the proposed development is not in conformity with the existing neighborhood.

I hope the city-county planning board will consider these comments when making their recommendation to the Whitefish City Council:

1. The neighborhood along east 2nd St, travelling east, from the Spokane and 2nd St intersection to the RR crossing is already primarily single family housing. The Planned Unit Development of adding 164 apartments and 9 condos does not fit the character of this neighborhood, and may not fit the character of Whitefish in general.

EXHIBIT

16

2. The proposed zoning map amendment for 100 Wild Rose Ln should not be changed from One Family Residential District to the Two Family Residential District. I would think it would be more appropriate to remain as a One-Family Residential District, again as most of the neighborhood is already made up of single family residences.

3. The proposed zoning map amendment for 1500 E 2nd St should not be changed from Agriculture District to Estate Residential District. Again, as the neighborhood is primarily single family residences, it would seem there are more appropriate locations for condos, townhouses and/or apartments.

Again, I urge to you to reject both of the proposed land use actions at 100 Wild Rose Ln and 1500 E 2nd St.

Thank you for the chance to comment on these proposals. I look forward to attending both the City-County Planning Board hearing on March 21, as well as the April 15 Whitefish City Council public hearing.

Sincerely,

David A Bennetts

Wendy Compton-Ring

From: Susan Schnee <schnee@aboutmontana.net>
Sent: Monday, March 11, 2013 4:50 PM
To: wcompton-ring@cityofwhitefish.org
Subject: FW: averill development on second st.

From: Susan Schnee [mailto:schnee@aboutmontana.net]
Sent: Monday, March 11, 2013 4:24 PM
To: 'wcompton-ring@cityofwhitefis.org'
Subject: averill development on second st.

To the Planning Board Members and Whitefish Planning Department,

I don't know why, but I just received this in the mail today, so I'm under the wire to get this in.

My first thought after seeing this mailing/proposal was: YOU'VE GOT TO BE KIDDING.

But obviously not.

Moving a SMALL TOWN right next to Cow Creek will certainly need some good planning and mitigation to prevent flooding downstream, oily runoff, traffic congestion/accidents on Second St, pedestrian/auto accidents on Second St., damage/pollution to the water table/wetlands, site/noise pollution and every other problem associated with moving a SMALL TOWN onto that site.

I know the Whitefish Planning Dept. will do their job to mitigate as much damage as possible, but will the Planning Board follow their recommendations or will they choose to ignore/change findings of fact as they have in the past?

I expect there will be a lot of opposition to building a MacDonald/ Averillville on the outskirts of Whitefish.

Susan Schnee
1405 East Second St
Whitefish, MT 59937
406-863-9856

EXHIBIT
7

=======
Email scanned by PC Tools - No viruses or spyware found.
(Email Guard: 9.0.0.909, Virus/Spyware Database: 6.21060)

11 March 2013

Whitefish City-County Planning Board
Whitefish Planning & Building Department
PO Box 158
510 Railway Street
Whitefish, MT 59937

Dear Whitefish City-County Planning Board Members:

This letter is to provide our comments about the proposed land use changes by William MacDonald and Sean Averill, on behalf of Community Infill Partners, LLC at 100 Wild Rose Lane and 1500 East Second Street in Whitefish. My sister, Elizabeth Harmon, and I own the neighboring property to west, between Cow Creek and Larch Avenue. We both grew up at 100 Wild Rose Lane and although we do not live in Whitefish at this time we continue to visit family and friends frequently in addition to trips for business.

Late last week we received the two page notice for the proposed land use changes on the above properties. We endeavored to learn more details of the proposed development but could not find anything available online and also did not receive a call back from the Planning & Building Department by the comment submission deadline prior to the March 21st meeting. While we have many questions and will continue to follow up with the City, these comments reflect our reading of the notice and a limited amount of additional information.

First we would like to thank Board members for their time volunteering for this important City Board. The work is demanding and we appreciate the effort you put towards a successful community for all involved. We hope you review proposals like this one as if they were in right next door to your own house or property.

We write in opposition to the requested zoning change as proposed. The greater neighborhood has changed and grown over the years. The changes are mostly from an agricultural use to smaller lots with single family homes and perhaps a duplex or two in the mix. We realize it is unrealistic to think that the properties in this zoning request would remain agricultural and we are not opposing all development. Rather, we believe it is unrealistic that these lots, as some of the last undeveloped areas in the neighborhood should gain approval for a radical zoning change to support a high density housing project in an area of single family homes on sizeable acreages.

As mentioned above, developing the properties is not the issue; the density, type of development and impact on the surrounding landowners are the issues. According to the Planning & Building Department website, there are plans for high density residential areas in the north and south sections of town. Those high density zones are not close to fully developed. If they were at capacity, that situation might drive demand for more areas for high density residential development.

From the Planning & Building Department flier this proposed zoning change may contain some proportion of Affordable Housing. We realize this is a critical issue in many western resort towns and support the inclusion of Affordable Housing with any development request in an appropriate manner, but not as an excuse to radically change the characteristic of a whole neighborhood with a high density

EXHIBIT 8

housing project. Our time in Park City, UT; Bend, OR; Jackson Hole, WY and Durango, CO provides a familiarity with affordable housing issues and a variety of successful and unsuccessful approaches. The Whitefish Housing Authority study underscores the need for Affordable Housing in Whitefish and some solutions. What is not clear is the progress made since the Whitefish Housing Authority published the study, but, we hope this Board considers the data and lessons learned elsewhere in considering this high density housing development request.

While we support that a private landowner can develop their property, we do not support development in a way that benefits them and penalizes all their neighbors and adds costs to the City budgets. To summarize our concerns as neighboring landowners:

- The proposed zoning change is large and negatively impacts the entire neighborhood and quality of life.
    - Increasing traffic on limited infrastructure, e.g., sidewalks and narrow streets.
    - The developer estimated vehicle increase is 175-400+ vehicles in the development which drastically changes the traffic flow on East 2nd Street. The majority of the traffic will flow through an intersection of East 2nd Street and Armory Road which is at the bottom of a hill and "blind" for westbound traffic on East 2nd Street.
    - Many runners, bicyclists, students and others use East 2nd Street. As a narrow street there isn't room for two lanes of heavy traffic plus those additional uses.
    - We applaud the City's previous work with the development of a pathway along the south side of East 2nd Street and hope the work will continue to improve safe access for non-motorized traffic in this corridor.
- A development which benefits only Community Infill Partners, Wild Rose Knoll and Pine Hill at the expense of all other landowners in the neighborhood.
    - Dropping neighboring property values by inserting a high density housing project in a traditional single family home neighborhood.
    - Visual and physical impact of a housing project on the neighborhood and existing infrastructure.
- As landowners with property for pasturing livestock:
    - This proposal brings a "nuisance" to the existing land use within the surrounding neighborhood. High density housing brings many people to a small area which has a creek and livestock adjacent to the development. These types of interfaces have their own liability and safety concerns.
    - This proposed development has strong characteristics which would negatively impact Cow Creek water quality. Maintaining water quality is critical to the continued use of our property. We presume the proposed development will hook into City sewer.
    - Garbage handling facilities for the large community are not clear, but we hope that the proposed project includes facilities and provisions which prevent the scattering of garbage by the wind and wild animals.
- Adequate and ongoing ownership and operation of the development?
    - From the limited information available, the ongoing roles of the developer and landowner are not clear.
    - Given our previous experience with the owners of Wild Rose Knoll and Pine Hill in a landlord situation we will raise concerns about the future viability of the proposed development. We took ownership of two rental properties (i.e., 101 Larch Avenue, 4125 Hwy 40 West) which were under their management control for at least 10 years. The houses on both properties had to be razed because they did not meet City and

County codes and were pretty much unlivable. The history of poor basic maintenance and continued lack of attention to the properties is the source of our ongoing viability concern. With a much larger number of units to care for in addition to obligations with an unrelated full time jobs is there a future problem waiting to happen.

We will follow up with the Planning & Building Department with our additional questions including:

- Has this project requested, applied for, or received any assistance from the City or County as part of this development proposal?
- Is the City or County incented in any way to accept this proposal from Community Infill Partners?
- What is the impact to the City or County in terms of police support, infrastructure (e.g., traffic light, widening East 2nd Street)
- What is the impact to Cow Creek water quality due to increased urban stormwater effluent from the parking lots and developed areas? Livestock and wildlife uses this water source for drinking water at this location and others downstream.
- What, if any, City infrastructure changes would be required to support this proposed development?
- Is there a traffic corridor study associated with this proposed development?

Best Regards,

Rebecca Kauffman
970-764-7171

received 8.13.13

Dear Planning Office,

I am a 24 year old student and full time employee at two locations in Whitefish MT. I love this town's beauty, ambience, location and tranquility. Whitefish has so much to offer to new and old residents alike except suitable housing.

It took me over 6 months to find a suitable place to live, rental properties are for lack of words plain dingy. It was important to me and my family living back East that I lived in a clean, brightly lit, safe and affordable apartment. Craigslist was the only resource for housing in the Whitefish area along with Five Star Rentals, Whitefish Property Management, The Land Lord, all in which offer almost nothing. I would highly advise anyone to put themselves in my shoes, and take a minute to look around at the sights IV listed and see for your selves the lack housing available for someone of my social status.

Housing is a major concern for all people, as the wellbeing of a community is reflected in its people enjoying a certain standard of living. Residential and neighborhood satisfaction is an important indicator of housing quality and condition, which affects individuals' quality of life. Housing for all in any community is very crucial in order to ensure social economic stability and to promote community and national development.

As I prepare to leave the community I grew to love, it is my hope that you welcome those individuals with experience, concerns, comments, suggestions, questions, advice and above all the sincere desire to contribute to the overall betterment of this wonderful thriving community.

I would like it to be in the public record that I'm fully in support of the new apartments!

Sincerely,

Kristen Choiniere

EXHIBIT

9

Wendy Compton-Ring

From: Walt Chauner <waltc@bigmountainclub.com>
Sent: Wednesday, March 13, 2013 9:42 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Less expensive housing

I like this idea! Whitefish needs this!

Walt Chauner
Big Mountain Club
406-253-4266

EXHIBIT

10

Wendy Compton-Ring

From: Blaine Platt <bcplatt76@gmail.com>
Sent: Wednesday, March 13, 2013 10:15 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Proposed future housing near WF High School.

Attn: Wendy

To whom it may concern;

I would like this letter to serve as support for the proposed housing/apartment project in the Whitefish High School area.
I would like it to be referenced as part of the public record for the Community Infill Partners LLC proposal on 2nd St.
I am a professional in the medical field where I have to travel frequently between Missoula and Whitefish.
I have had to move my Whitefish residence over 3 times in the past 5 years due to various housing issues and the lack of professional apartment/condo facilities in the Whitefish area.
I will be facing the very same situation in the following months as I look to find a suitable, affordable yet higher end housing that suits my needs.
There are currently a few different apartment/condo complexes in the area that fit these higher standards but they all have lengthy waiting lists at best.
From what I've heard of their plans for this project are as follows;

- A rural feel to the design
-75% open space
-10% affordable housing
-Intricate public trails system
-community gardens and amenities

Please approve this project.
This complex will greatly benefit the growing community as well as benefit the medical community.
There are numerous professionals in my same field that are facing the same lack of housing in the Whitefish area.

Respectfully,

Blaine Platt
bcplatt76@gmail.com
(406)407-1994

EXHIBIT

Wendy Compton-Ring

From: Sarah Dobbins <sarah@twre.com>
Sent: Friday, March 15, 2013 11:12 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Averill/MacDonald Support

Dear Wendy,

I would like to let you know I am support of the apartment building development purposed to you by Sean Averill and Will MacDonald. I have lived and loved the Whitefish area for over 12 years and have been a homeowner for almost 10. I have seen friends in the area struggle to find decent living near the city center and I believe that added affordable housing for all ages is necessary element in making a community thrive. I sincerely believe that the intention of the development is to create a rural feel and preserve open space. There are purposed trails and amenities for residence to help them enjoy the wonderful town, too.

Please let me know if you have any questions and don't hesitate to contact me.

Montana best,

Sarah Dobbins
(406)261-1749 cell
Sarah@TWRE.com

Wendy Compton-Ring

From: Sarah Dobbins <sarah@twre.com>
Sent: Friday, March 15, 2013 11:12 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Averill/MacDonald Support

Dear Wendy,

I would like to let you know I am support of the apartment building development purposed to you by Sean Averill and Will MacDonald. I have lived and loved the Whitefish area for over 12 years and have been a homeowner for almost 10. I have seen friends in the area struggle to find decent living near the city center and I believe that added affordable housing for all ages is necessary element in making a community thrive. I sincerely believe that the intention of the development is to create a rural feel and preserve open space. There are purposed trails and amenities for residence to help them enjoy the wonderful town, too.

Please let me know if you have any questions and don't hesitate to contact me.

Montana best,

Sarah Dobbins
(406)261-1749 cell
Sarah@TWRE.com

EXHIBIT
13

Wendy Compton-Ring

From: Tracy Rossi <Tracy@twre.com>
Sent: Monday, March 18, 2013 8:18 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Proposed future housing

Attn: Wendy

To whom it may concern:

I would like this letter to serve as support for the proposed housing/apartment Community Infill Project in the Whitefish High School Area.

When I first moved to Whitefish I struggled with finding a nice, affordable place to live. It seemed everywhere I went there was a line of people before and after me waiting to see the same place I wanted. Often times the properties were out of my price range and I felt like I would need to have a roommate just to make things work.

Now that I am a Realtor in Whitefish I have people ask me all the time for rentals. I direct them where to look and most often these people have already searched everywhere I have told them without much luck.

From what I have been told, the plans for the project are as follows:
* A rural feel to the design
* 75% open space
* 10% affordable housing
* Intricate public trails system
* Community gardens and amenities

Please approve this project, Whitefish has the need for affordable housing with our growing community. I feel this project will be beneficial economically for the growth of our community.

Respectfully,

Tracy Rossi

Tracy Rossi

EXHIBIT
14

03-18-13 A11:08 IN

March 15th, 2013

City-County Planning Board
C/o Whitefish City Planning Department
PO Box 158
Whitefish, MT 59937

03- 15 A11:09 IN

Dear City-County Planning Board,

Unfortunately I will be out of town March 21st and will not be able to attend your next planning board meeting, so I am writing this letter to express my opposition to the approval of the 2nd Street Apartments project and corresponding zoning change. I am not opposed to development at this location; I am opposed to this kind of development.

The surrounding neighborhoods are zoned WR1 and WLR and are predominately single family residential. In fact in the neighborhoods east of Cow Creek adjoining 2nd Street E and Armory Street there are 92 residences, all of which are single family residences, with the exception of 1 non conforming 4plex. The majority of the residences are on oversized lots, with a large amount of open space. If there is a zone change from WA the change allowed should be to single family residential preferably with WLR zoning, to maintain the current characteristic of the area. Allowing a change to multifamily would be non-conforming with the existing neighborhoods and would dramatically change the character of this area.

According to the City of Whitefish Growth Policy, this area is designated on the growth map as suburban residential. This would allow for 3-4 residences per acre. Through the use of a PUD the developer is proposing a density of 7-8 residences per acre. The proposed density of 174 units would virtually triple the number of residences east of Cow Creek. Further they are planning for the majority of these residences to be apartments for rent. This is a total variance from the existing neighborhoods and out of place in this location.

I reside at 1665 2nd Street E in a one member household. I make at least 4 trips per day from my house to other locations. The traffic study uses estimates of 5.86 trips/day for a condo and 6.72 trips/day for an apartment. I think this estimate is low. Even if these estimates are accurate this is a tremendous increase in volume over existing traffic levels.

In Summary, I believe that this is the wrong type of development for this property. I respectfully request that you vote to preserve the character and quality of our neighborhood and deny this project as currently proposed.

Sincerely,

Kathy Spangenberg

Kathy Spangenberg
1665 2nd Street E
Whitefish, MT 59937

EXHIBIT
15

Wendy Compton-Ring

From: Bobby Young <Bobby@montanabuild.com>
Sent: Wednesday, March 20, 2013 9:46 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Public record support letter

Wendy,

I am in support of the proposed apartment project for Community Infill Partners,LLC. Not only does it address the need for rental housing "AND" affordable rental housing the design fits well within our resort community. It has amenities that people who want to live in a resort town desire.

I own rental property in Whitefish and this project addresses a dire need that we are currently facing. What a great opportunity that someone is stepping up and bringing such a unique and needed project for you to consider.

Bobby Young
566 Labrie Dr.
Whitefish, MT

Please place this e-mail as part of the public record for Community Infill Partners proposal.

EXHIBIT
116

Wendy Compton-Ring

From: rtrontell@gmail.com on behalf of Reed Trontel <reed@redcaboosefrozenyogurt.com>
Sent: Wednesday, March 20, 2013 5:35 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Planning Meeting

Hello Wendy, this is Reed from the Red Caboose in Whitefish. I know Sean and Will are proposing an apartment complex tomorrow night and I wanted to send my thoughts, as I am unable to make the meeting.

As a business owner, I think this is a good thing for Whitefish business owners. The folks that will end up living there will potentially shop and dine in Whitefish, which will be good for everyone. I do think the road situation would have to be handled in the right way, but I know that would be part of the process if the project moves forward. The projects that the Averill's are involved in are always done with excellence, so there is no doubt that this would be handled in the same way.

Thanks very much,

Reed

--

Reed Trontel / Owner
Red Caboose Frozen Yogurt + Coffee
Phone: 406.471.8692
Email: reed@redcaboosefrozenyogurt.com

EXHIBIT
17

March 20, 2013

Ole Netteberg
Chairman
Whitefish City-County Planning Board

Dear Ole and Board,

I wanted to share with you my perspective on the proposed housing development on 2nd street. I am acutely aware of the need for affordable housing in Whitefish for our staff members. The Lodge is a major employer in town. During the summer months we employ approximately 300 people. The majority of our associates earn minimum wage. If they want to live in Whitefish, these staff members typically team up with several others in order to rent a place as a group. A large portion of our staff commutes from places as far away as Eureka and Olney. Our associates spend a significant portion of their discretionary income on gasoline, even when they carpool. They can't afford to live where they are because of the commuting costs, however, they also can't afford to live here.

We need an additional housing option for our staff, one which would allow them to live closer to their work. We have a great staff and I want them all to have the option to live in Whitefish and become members of our community. This proposed housing development will address the need of many of our workers and also many others, therefore I am in favor of the project.

Sincerely

Scott W Ringer
CFO

EXHIBIT
18

The Lodge at Whitefish Lake 1380 Wisconsin Ave Whitefish MT 59937

Wendy Compton-Ring

From: Rhonda Kohl <Rhonda@twre.com>
Sent: Thursday, March 21, 2013 2:51 PM
To: wcompton-ring@cityofwhitefish.org
Cc: Sean Averill
Subject: Please submit my email as part of the public record for the Community Infill Partners LLC proposal on 2nd St.

Importance: High

To whom it may concern:

I am voicing my support for the proposed mixed use apartments phased in over 6 phases on around 25 acres of land in Whitefish. This will definitely address the rental housing need the town currently faces. I have had numerous experiences trying to assist clients and friends find suitable, affordable rentals with very little success. I think this project is long overdue for Whitefish and I fully support it. Please submit my email as part of the public record for the Community Infill Partners LLC proposal on 2nd St.

Sincerely,

Rhonda Kohl

Rhonda Kohl
Broker

Trails West Real Estate
Exclusive Affiliate of Christies International Real Estate
1380 Wisconsin Avenue
Whitefish, MT 59937
c: 406.250.5849
o: 406.862.4900 / tf: 866.862.4900
e: Rhonda@TWRE.com
www.trailswestrealestate.com
www.christiesinternationalrealestate.com

EXHIBIT
19

Wendy Compton-Ring

From: Chris Potts <CPotts@proofresearch.com>
Sent: Thursday, March 21, 2013 1:25 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Housing Availability

Greetings Mrs. Compton-Ring,
I am writing to you in regards to the matter of the shortage of affordable rental housing units within the Whitefish Metro area. I am in charge of administration for a company located near Whitefish and as such have been from time to time responsible for finding temporary housing for my new employees who have relocated to the whitefish area from other parts of the country. I have found it extremely difficult to find anything in the Whitefish area that is both suitable and affordable for single or small families. This makes it very difficult to attract new employees to my company and retain those recently hired. Several of my most recent hires are finding it most difficult to find rental units. I am writing to you as I have heard that you may be able to help me convey my concern and the concerns of other businesses in this area to develop more rental properties to address this need. If I can provide any more information regarding my concerns, please feel free to contact me at the numbers below. Thank you for your time.

Sincerely,

Chris Potts
VP of Finance and Admin
CPotts@proofresearch.com

PROOF Research™
10 Western Village Lane
Columbia Falls, Montana 59912
(406) 756-9290 o
(970) 314-5325 c
www.proofresearch.com
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EXHIBIT
20

March 21, 2013

Whitefish Planning Board
418 E. 2nd Street, Whitefish, MT 59937
Attn: Wendy Compton-Ring and David Taylor

Dear Wendy and David;

I write in support of the proposed 2nd Street Apartments project, proposed by Community Infill Partners.

I currently work with Montana Creative Architecture + Design in Whitefish. From this standpoint, I understand an aim of the project as providing more attractive and affordable housing well-situated in relation to downtown and the schools.

I write perhaps more however from the standpoint of a currently single mother of two young children, renting an older home in the nearby neighborhood. I was raised in the Flathead Valley; my parents purchased property west of town in the 1970's and still reside in and contribute to the area. I have returned after years living in communities around the west – such as Tucson, AZ; Ashland, OR; southern Utah; northern California; Bozeman and Missoula, and owning a home in Lakeside, MT. In all instances, I noticed the effect that availability and quality of housing had on the community's tenor. The most thriving have been those with a variety of housing that is inclusive of different age groups, income levels, and aesthetic tastes.

Since returning to Whitefish in 2010 to raise my children, I have experienced first-hand the slim pickings in affordable and quality housing in Whitefish. And as both a parent and a professional who is invested long-term in the Whitefish community, I see a current and ongoing need for this kind of development. Housing that is clean, safe, efficient, close to downtown and the schools, and surrounded by green space and walking trails is highly desirable for young families and professionals.

I believe the density offered by the 2nd Street project offers the area a balance of varied square footage units and open space to maintain vital wildlife corridor, riparian zone protection, aesthetic balance, and human well-being. I know that were I again in housing transition either as a renter or homeowner, the 2nd Street area would be an attractive option. I know several individuals, couples, and families that would presently benefit from, and bring benefit to, such a neighborhood. Overall, I believe the 2nd Street Apartments project will be an important contributor to a sustainable and inclusive Whitefish community.

Regards and thank you for your time!

Alethea Schaus
312 Park Avenue, Whitefish, MT
alethea@celebratecreative.com
406-890-3171

EXHIBIT
21

Wendy Compton-Ring

From: KK Jense <kk@proofresearch.com>
Sent: Thursday, March 21, 2013 12:47 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Places

Hello Wendy,
I am writing a quick note to you for my support of the new or any new development in the area. As a new comer to the area it's been a nightmare for me and my family to find place to live that's not 20 miles outside whitefish. It's also been very challenging for our company to find places for our new hires to live. Please consider local businesses when it comes to your decision.

Thank You,
KK Jense
President/Founder
Proof Research ™

EXHIBIT
22

March 21, 2013

Planning Department

City of Whitefish

Attention : Wendy Compton-Ring

You have before the City of Whitefish a PUD overlay that is requesting apartments to be built. This application has been made by Will MacDonald and Sean Averill.

I would appreciate my letter below of support be included with the community input.

I have lived and raised my family here in Whitefish over the past 21 years. I have had businesses and developed a working knowledge of the area. It is with great enthusiasm that I support the approval of this PUD. Both of my children, my parent , as well as my wife and I, have seen the need for these units first hand. My son and daughter have made careers and live in the Whitefish community. Their struggle to find quality affordable housing has not gone without notice by my wife and I. The choices , as you well know, are slim and none for clean affordable apartment living. The current apartments available are old and in need up formal updating. Witness that the Alpha apartments, rather than be torn down have been cleaned up and rent well. The single family housing for young adults is all but nonexistent here and the advent of new units such as the ones proposed, is being met in my circle of friends with enthusiasm. Witness to these facts is that the local property management businesses are screaming for more rentals to supply the demand. We need them and they will provide an opportunity for many of the current residents to stay in our city.

Once in awhile there comes along an infill project that can be met with excitement and has all of the beneficial traits needed for approval.

I am encouraging all of the councilors and city administrators to support this proposal.

Thank you,

Craig and Elaine Cook

EXHIBIT
23

03-21-13 A11:52 IN

Honorable Mayor and Town Council
Members of the WF City-County Planning Board

March 17, 2013

We, the undersigned residents of the East Second Street/Wedgewood Lane neighborhood, wish to respectfully express our opposition and concerns about the proposed multi-family development of the Kaufman property. The Kaufmans have been good neighbors and valuable members of the Whitefish community, and we have always known that their Second Street property would someday develop. However, we always thought that it would develop in a manner that is consistent, and in turn respectful, of our neighborhood. Specifically, we find the following characteristics of the proposed development to be potentially detrimental to our neighborhood:

- **Density:** 174 apartment units will create a huge impact on our neighborhood. At 7.3 du/ac, the density is not terribly high by multi-family standards, but our neighborhood is developed at 3 to 3.5 du/ac.
- **Product type:** Two-story apartments are the wrong product type for our area. While this may be a needed product type in the community, there are ample areas in Whitefish that are already suitably zoned to develop apartments, and that are closer to shopping and employment than the subject property.
- **Traffic impacts:** The TIS filed with the application indicates this project will generate 1,176 trips per week day, increasing traffic on Second St. by over 50%. Plus, because of low generation rates used, the impacts projected in the TIS may be low.
- **Growth Policy:** Neither the proposed zoning (WR-2), product type, or density are consistent with the existing WF Growth Policy, which designates the subject property "suburban residential" and calls for densities of around 2.5 du/ac.

1. Robert Horne, Jr. R Horne Jr 151 Wedgewood Ln
2. Kathleen McMahon Kathleen McMahon 151 Wedgewood Ln.
3. Neal Buffington Neal Buffington 148 Wedgewood Ln.
4. SARAH P. FITZGERALD 148 WEDGEWOOD LN
5. JAY DEKUSHA 103 WOODLEWOOD LN
6. Bob Genovese 83 Wedgewood
7. Scott Fair 135 Birch Dr. WF
8. Phyllis Fair Phyllis Fair 135 Birch Dr.

EXHIBIT 24

9. ROBERTA BARRETT Roberta S. Barrett 125 Birch Drive
10. RYAN KANN R S/K 120 BIRCH DRIVE
11. SUZANNE KANN 120 Birch Drive
12. Jennifer L. Perry 1675 2ND ST. E.
13. BRYAN PERRY 1675 2ND ST E
14. Scott Brant 1659 2ND ST E.
15. Barb Brant Barb Brant 1658 2nd St E.
16. Morgan James Morgan James 1643 2nd St E.
17. Thomas Dupree Thomas Dupree 1641 2nd ST E.
18. Jennifer Stormes 1630 2nd St. E.
19. Carol H. Hecimovich Carol H. Hecimovich 1585 2nd St. E.
20. Charlie LaChance 1670 2nd St E
21. MICAELA LACHANCE 1670 2ND ST. EAST.
22. Melissa Genovese Melissa Genovese 83 Wedgewood Ln.
23. Kristy Tveidt Kristy Tveidt 96 Wedgewood Lane
24. CAROL R. Nelson Carol R. Nelson 1590 E. 2nd St
25. Sharon Wood Sharon Wood 100 Armory Rd.
26. Brian Wood 100 Armory Rd.
27. Kaxie Wood 100 Armory Rd.
28. Noah Couser Noah Couser 128 Armory Rd.
29. Megan Couser Megan Couser 128 Armory Rd
30. Lyle BARNES Lyle Barnes 125 Armory Rd
31. Chevi LeBleu 1489 E 2nd St.

32. David Bennetts [illegible] 1489 E 2nd St
33. Ben Stormes II [illegible] 1630 2nd St East
34. Melinda Ratchye [illegible] 1481 2nd St East
35. Sibyl Hughes [illegible] 1515 2nd Street E.
36. Alissa LaChance [illegible] 1646 East 2nd St
37. Darcy Schellinger [illegible] 159 Wedgewood Ln
38. J.D. HUGHES [illegible] 1515 2nd St. E
39. Pam Saunders [illegible] 91 Wedgewood Ln
40. WYATT GAIKOWSKI [illegible] 82 Wedgewood Ln.
41. Yuko Gaikowski [illegible] 82 Wedgewood Ln.
42.
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ATTN: Wendy Compton
WF. Planning dept

Honorable Mayor and Town Council
Members of the WF City-County Planning Board

March 17, 2013
Signatures collected by Bruce & Melinda Morison

We, the undersigned residents of the Armory Road and Willowbrook neighborhoods, wish to respectfully express our opposition and concerns about the proposed multi-family development of the Kauffman property. The Kauffmans have been good neighbors and valuable members of the Whitefish community, and we have always known that their Second Street property would someday develop. However, we always thought that it would develop in a manner that is consistent, and in turn respectful, of our neighborhood. Specifically, we find the following characteristics of the proposed development to be potentially detrimental to our neighborhood:

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03-21-13 P12:35 IN

1.	[illegible]	Neela Morris	10 Willow Brook Wf
2.	[illegible]	Todd Garrett	1 Willow Brook Wf
3.	[illegible]	Holda Frizelle	2 Willowbrook Wf
4.	[illegible]	Brad Rickgeway	8 Willow brook Wf
5.	[illegible]	DAN BROWN	6 Willow Brook
6.	[illegible]	DAVID THOMAS	#5/4 Willowbrook Close
7.	[illegible]	Andrew Matulionis	27 Willowbrook
8.	[illegible]	Mitch Wilson	15 Willowbrook
9.	[illegible]	Carol A. Smith	25 Willowbrook Close

EXHIBIT 25

10. KATY MENDOZA Katy Mendoza 22 WILLOWBROOK
11. Nick Mendoza 22 Willowbrook
12. DANNA Schultz Danna Schultz 16 Willowbrook
13. Darlene Bee Darlene Bee 14 Willowbrook
14. Benny Bee Jr BENNY BEE JR 14 Willowbrook
15. Lisa Kalbfleisch 13 Willow Brook
16. John Kalbfleisch Jr 13 Willow Brook
17. Laura Kochis Laura Kochis 12 Willowbrook
18. Jake Kemm JAKE KEMM 1160 ARMORY ROAD
19. Nicole Kemm Nicole Kemm 1160 ARMORY ROAD
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32.

Honorable Mayor and Town Council
Members of the WF City-County Planning Board

March 17, 2013

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1. Yuri Kozicky 174 Armory Rd
2. Dan Kelley 185 Armory Rd wfish
3. Dee Kelley 185 Armory Rd wFish
4. 195 Armory Rd
5. Don Carlson 175 Armory Rd.
6. NIKKI CARLSON 175 ARMORY RD,
7. Carrie Sood 166 Armory Rd.
8. Bruce Morison 170 Armory Rd
9. Steve Lorch 168 Armory

EXHIBIT 26

10.		Suzanne Davis	148 Armory Rd, WF 59937
11.		Sarah Scott	130 Armery Rd WF 59937
12.		Melinda C Morison	170 Armory Rd, WF
13.		David Scott	130 Armory Rd, WF 59937
14.		Greg Hennen	178 Armory Rd WF
15.		Mary Jo Hennen	178 Armory Rd WF
16.		Kerin S. Gayner	172 Armory, WF
17.		Evelyn Branine	172 Armory WF
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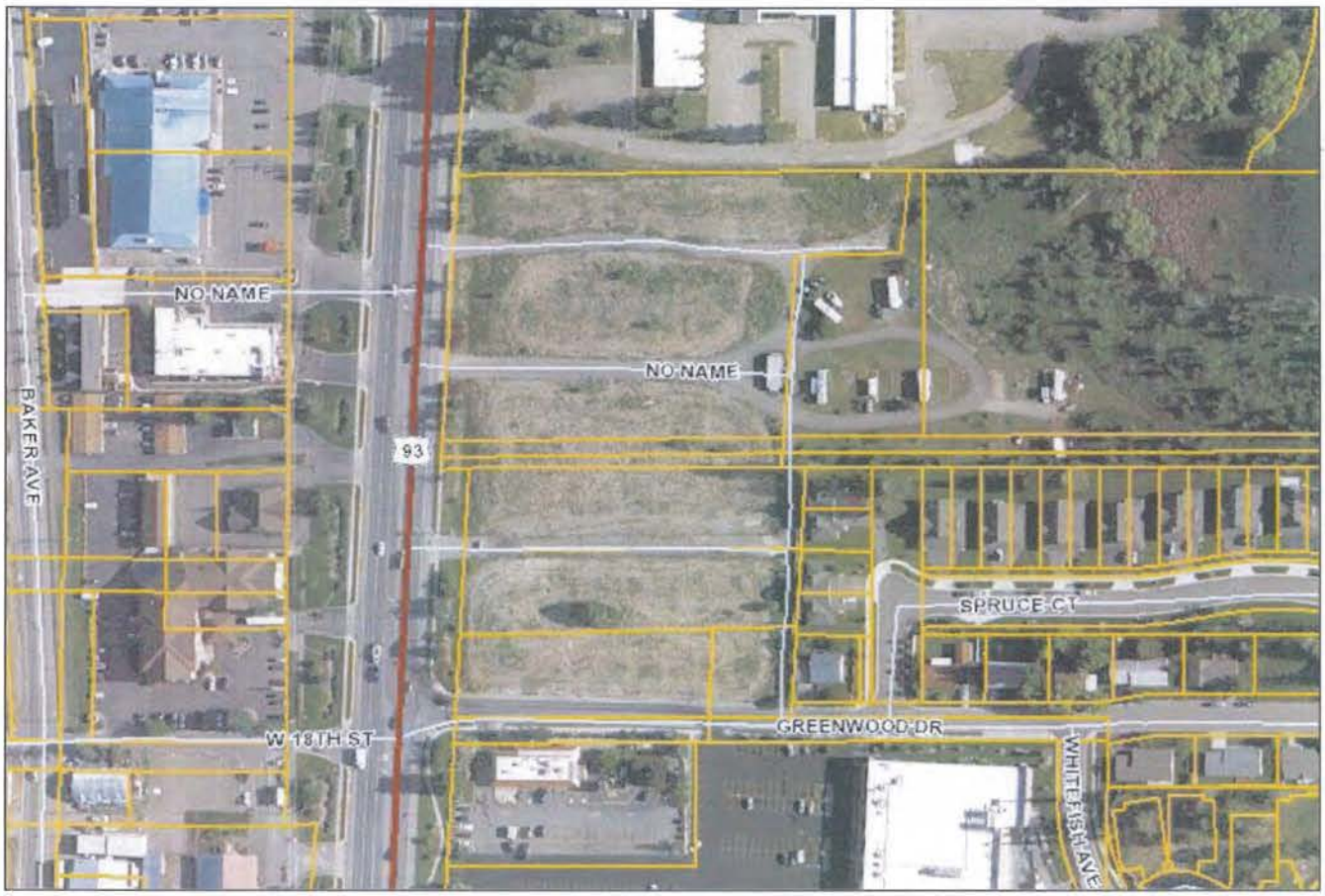

Former MHP north of McDonald's

EXHIBIT
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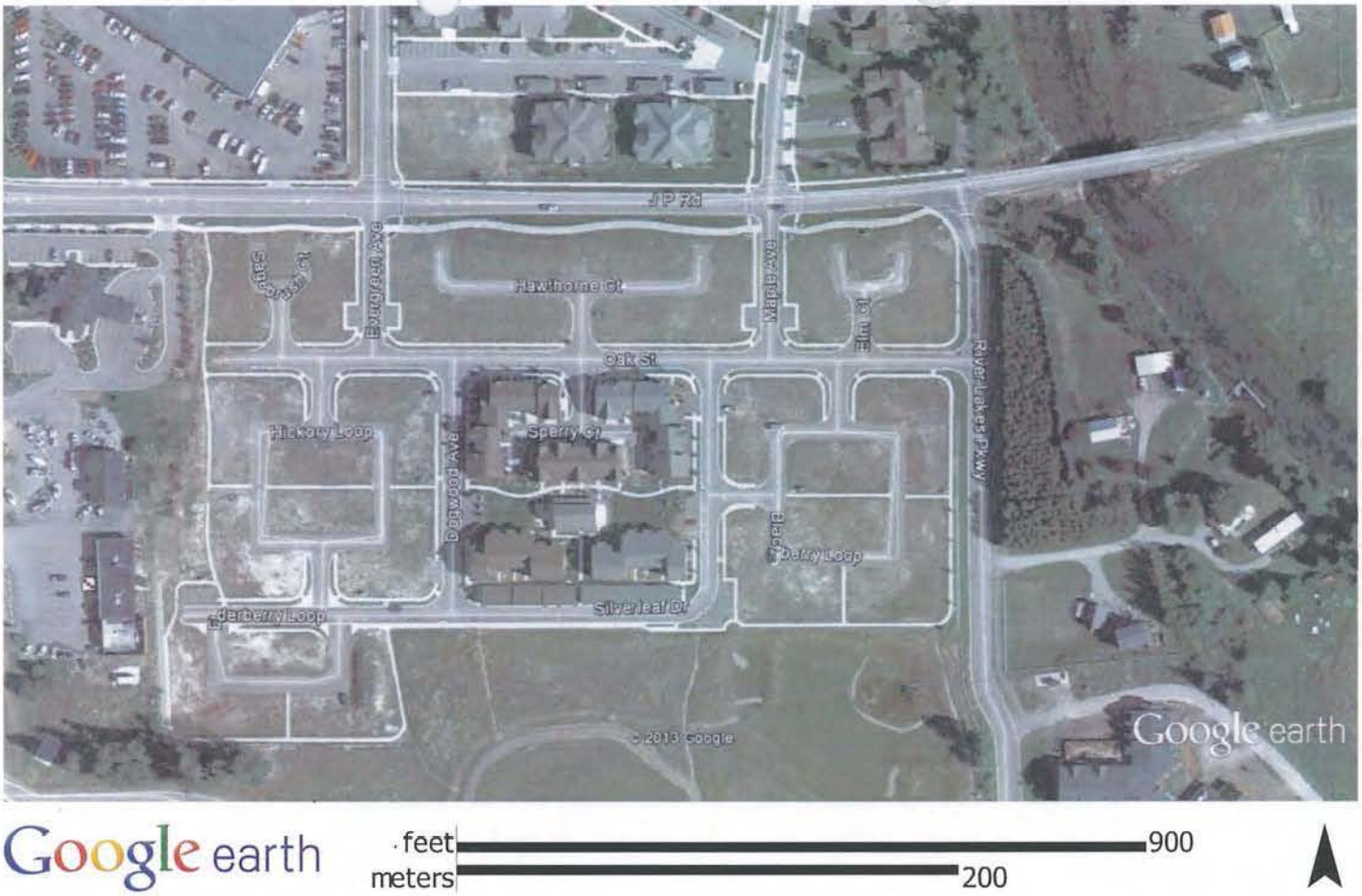
ARIELLE WAY
SHILOH AVE
J P RD
EVERGREEN AVE
HAWTHORNE CT
MAPLE AVE
ELM CT
OAK ST
RIVER LAKES PKWY

Riverwood



Deer Creek

(Formerly The Views)

Property immediatel east of subject property
proposed to rezoned to WR-2

5 May 2013

Whitefish City-County Planning Board
Whitefish Planning & Building Department
PO Box 158
510 Railway Street
Whitefish, MT 59937

Dear Whitefish City-County Planning Board Members:

This letter is our second regarding the Second Street Apartments and provides additional comments on the revised site plan and proposed land use changes by William MacDonald and Sean Averill, on behalf of Community Infill Partners, LLC at 100 Wild Rose Lane and 1500 East Second Street in Whitefish. My sister, Elizabeth Harmon, and I own the neighboring property to west, between Cow Creek and Larch Avenue.

Again, we would like to thank Board members for their time volunteering for this important City Board. The work is demanding and we appreciate the effort you put towards a successful community for all involved. And, again, we hope you review proposals like this one as if they were in your neighborhood or right next door.

Since the original submission we had a chance to review the materials provided by the developers, including the revised site map for the proposed land use changes on the above properties. We were disappointed to learn that not a much changed from the first iteration of the plan to address ours and other neighbor's concerns about density, type of development and negative impact on the surrounding landowners. As before, we write in opposition to the requested zoning change as proposed and revised for review in this upcoming meeting.

We are not opposed to development of the property in line with the surrounding neighborhood. However, we still believe it is not appropriate that these lots, as some of the last undeveloped areas in the neighborhood should gain approval for a significant spot-zoning change to support a high-density housing project in an area of single-family homes on sizeable acreages. While we support that a private landowner can develop their property, we do not support development in a way that benefits the developer/landowner while penalizing all their neighbors and adding costs to the City budgets.

Our concerns as neighboring landowners:

- The proposed zoning change and proposed development density is significantly different from the surrounding neighborhood, negatively impacts the entire neighborhood and negatively impacts the quality of life.
    - The density reduction offered by the Developers is cursory and not enough to alter the negative impacts of the proposal.
    - The revised proposal significantly increases traffic on limited infrastructure, e.g., a single street for a large feeder area.
        - The developer estimated vehicle increase is 175-400+ vehicles in the development which drastically changes the traffic flow on East 2nd Street. The

EXHIBIT 28

majority of the traffic will flow through an intersection of East 2nd Street and Armory Road which is at the bottom of a hill and "blind" for westbound traffic on East 2nd Street.

- According to the Planning & Building Department website, there are plans for high density residential areas in the north and south sections of town. In addition, there are other developed high-density housing projects in Whitefish which are not close to capacity. The developers mention the need for the proposed housing but do not acknowledge the existing excess of similar housing in Whitefish.
- The Whitefish Housing Authority study underscores the need for Affordable Housing in Whitefish. What is not clear is that there are also other ways to gain Affordable Housing while developing the property in a manner consistent with the surrounding neighborhood. We applaud the City's effort with affordable housing, but do not believe it should be the political pawn to pass a development proposal such as this one, that is not in line with existing zoning or the surrounding neighborhood.

- The beneficiaries of this proposed development are Community Infill Partners, Wild Rose Knoll and Pine Hill at the expense of all other landowners in the neighborhood. While we don't care if they benefit, it should not be at neighbors expense.
  - Dropping neighboring property values by inserting a high density housing project in a traditional single family home neighborhood.
  - Visual and physical impact of a housing project on the neighborhood and existing infrastructure. We do not mean the impact to the view of the mountains, but rather the negative view of a housing project in a neighborhood with mostly single family homes.

- The proposed zoning change by the Whitefish Planning office staff to also zone our property for the same high density type of development. <u>We strongly oppose the Planning Office recommendation to change our zoning to high density!</u>
  - Call a spade a spade. This is a request for spot zoning and should be considered as such. Expanding the zoning request in order to make it appear appropriate is just a second hit to our property values and those of landowners on Fir Avenue if this proposal is to pass.
  - High density zoning for properties with a high percentage of wetlands such as ours just maximizes the stormwater flow and pollution from the developed properties into Cow Creek. Our property is probably one of the least likely to be a good match for high density zoning.

- As landowners with property for pasturing livestock:
  - The revised proposal would increase the amount of impermeable surface for the project and hence increase the stormwater runoff which would negatively impact Cow Creek water quality. Maintaining water quality is critical to the continued use of our property and others downstream.
  - Any additional runoff will add to the seasonal and other flooding on our property. The culvert under East 2nd Street is not adequate to handle current flows and hasn't been for years. Additional flows have the effect of backing the water up onto our property because the north part of our lot is the lowest area in that part of the drainage.
  - This proposal brings a "nuisance" to the existing land use within the surrounding neighborhood. High density housing rather than the existing zoning brings many more people to a small area which has a creek and livestock adjacent to the development. These types of interfaces have their own liability and safety concerns.

- Garbage handling facilities for the large community are not clear, but we hope that the proposed project includes facilities and provisions which prevent the scattering of garbage by the wind and wild animals.

Best Regards,

Rebecca Kauffman
970-764-7171

Wendy Compton-Ring

From: Susan Schnee <schnee@aboutmontana.net>
Sent: Monday, May 06, 2013 8:49 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Second Street Apartments Revised

Planning and Building Department

I would like to comment on the revised plan for the Second Street housing project.

Even though the unit count has decreased, the bedroom/capacity increased from about 388 people in the first version to almost 600 in the second due to the huge increase in "cottages" and "detached single family condos". Having heard the majority of concerned citizens argue against the density of the first plan, I was unpleasantly surprised to see that the developers came back with a huge increase in per person density.

I haven't seen any plans for how the huge amount of water that will be displaced by the proposed 7 acres of asphalt and buildings (runoff and storm water) nor how this is to be treated before running into Cow Creek. Nor have I seen anything innovative about this proposed development, just a plan to maximize profits.

How about solar panels on all the carports. How about landscaping that eschews grass and all the herbicides that are used to "kill weeds" (which don't) that will run into the creek and groundwater. How about community gardens. How about paving blocks instead of asphalt on anything anywhere near the creek.

I believe the design team can come up with something a lot more innovative and still allow the developers to make their money.

As the first property owner downstream from this deveopment I naturally have concerns about being flooded, the traffic impact, the noise, the degredation of the water, and the density if this is allowed to come to fruition as proposed.
I have purposely not put in a lawn and have only native plants and grasses on my property, nor do I use any herbicides as my property abuts the creek. The previous landowner built the garage way too close to the creek (before the setbacks were passed, which I support) and so I nervously watch the creek reach the tops of the banks each spring. I fear with the proposed development, it will obviously affect the ability of the land to absorb a lot of the water and it will increase the flooding potential downstream, unless designed differently.

Most important. I also have concerns with the most certain development of the pasture to the west. I see no mention of this anywhere, but these developers will most certainly come before you again after this one with a proposal to develop that site as well.

I would most certainly like you to take this into consideration as well.

Thank you for your consideration and your excellent hard working crew.

Susan Schnee
1405 East Second Street
Whitefish, MT 59937
406-863-9856

EXHIBIT
29

May 6, 2013

Dear Whitefish City-County Planning Board Members:

I am one of the three land owners that border the west of Kauffman's land and I am sending this letter to voice my opinion in opposition of the proposed 2nd Street Apartment construction and especially the zone changes being recommended.

I found myself blindsided by this entire proposal until 3/13, a day before the City-County Planning Board meeting, when I was informed of the plan by my neighbor. I have had surveyors in my back yard while I was at work but yet no one mentioned to me that my property was being considered to be re-zoned to a high density area to accommodate this.

I know that you have heard from many others in the surrounding neighborhood of the adverse impact this endeavor would cause such as the traffic congestion, noise pollution, dust pollution, water quality, eliminating the habitat corridor, just to name a few. I firmly agree with all of those talking points but I would also like to add how I would be affected personally.

I have lived at 29 Fir Ave since 1991 and have raised my daughters here. I have worked extremely hard to improve my home and the lot it sits on since my divorce in 2002. In my mind the biggest asset I have is my location and the privacy. I had always figured a large development would never be allowed 'in my back yard' because of the wetlands. Apparently I didn't know whom I'd be up against in that battle.

I know I won't always have the horse pasture as my back yard view but please do not approve this high density project in our peaceful neighborhood. I beg of you to preserve and protect the character and quality of our existing neighborhood. There is other land available in Whitefish for that sort of development. I sincerely hope that I do not become another one of the Whitefish locals that has been pushed out of town by big money developers. Please take this plea into consideration. I cannot afford to see the value of my home depreciate at this stage of my life.

Respectfully Yours,

Sherry Palmerton

EXHIBIT
30

May 6, 2013

Members of the Whitefish City-County Planning Board
Members of the Whitefish City Council

To whom it may concern:

We live on Armory Road at 150 Johns Way, in the "doughnut." We've lived on this acreage since 1999 and appreciate the tranquil, rural nature of the area. From our five acres, we enjoy beautiful views of Big Mountain, the presence of abundant wildlife, along with our privacy and peace.

The 2nd Street Apartments not only threaten the quiet use and enjoyment of our property, they pose irreparable harm to our community. We attended the March City-County Planning Board Meeting, spoke out on certain issues, and now wish to memorialize our concerns in writing.

TRAFFIC IMPACT STUDY: The current proposal contemplates 150 units with 300+ vehicles traveling on 2nd Street and Armory Road several times per day. The Traffic Impact Study [TIS] included with the application concludes these additional vehicles will have little impact on either East 2nd Street or Armory Road.

First, the TIS, using statistics based on unidentified research results, claims that East 2nd Street currently carries 2,900 Vehicles Per Day [VPD] near Spokane, 2,000 VPD near Armory Road, and **1,000 VPD** on Armory Road itself. It is noteworthy that MDOT has never done a traffic study on Armory Road, the nearest study coming from East Second and Spokane.

Second, from our house, where one of us works daily and therefore can observe traffic, the TIS estimate that 1,000 vehicles travel our road daily is absurd. One hundred, possibly, 1,000, not a chance unless a special event occurs, like skijoring.

In fact, the TIS people spent **two 15 minute** periods on January 29, 2013 performing traffic counts at the intersection of East 2nd and Armory during the morning and afternoon peak travel times. They found that during 8:00 a.m. - 8:45 a.m. a total of 77 vehicles turned onto, or off of, Armory Road. During the period 5:00 p.m. - 5:45 p.m. a total of 121 cars turned on or off Armory Road. Presumably most of these morning and afternoon vehicles were the same, driven by commuters.

Using other data, the TIS concludes that when built out, the 2nd Street Apartments will produce an **additional 1,172 daily trips**, 900 which will go west on 2nd Street, 100 that will go east on 2nd Street, and 200 that will use Armory Road, thereby **doubling the number of vehicles on Armory Road every day.**

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These numbers likely do not reflect the real volume of traffic increases for either East 2nd Street or Armory. The TIS states, "It is notable that the **trend** over the last 10 years along East 2nd Street is an overall **decrease in traffic volumes**. Traffic volumes have **decreased by 600 vehicles per day in the last 10 years**.

Query how the study concludes the development will have little impact on these two roads when it dumps an additional 1,200 car trips per day onto the roadways.

Other concerns with respect to Armory Road, which the developers admit in their application "provides connection to undeveloped properties to the east," include:

1. Public Safety: This "two lane north/south collector route which connects East 2nd to Voerman," while providing access to a variety of rural residential homes, currently has a paved width of only 24 feet, barely enough room for a car to pass a pedestrian. Even with the present 25-35 mph speed limit, the multitude of walkers, bikers, and joggers along Armory's 4-mile-loop compete with vehicles for space to maneuver down the road. Doubling the number of cars will only create an additional safety hazard for both pedestrians, bikers, and drivers.

2. Cost of Road Repair and Maintenance: Who assumes the cost of maintaining Armory Road once we double the number of vehicles using it? This area is part of the "doughnut," perhaps still within the city's planning jurisdiction, but paid for by all residents of Flathead County. Has anyone asked the County Commissioners whether or not they will authorize additional funds for maintenance of Armory, Voerman, and Dillon Roads, which will be heavily impacted by the 2nd Street Apartments?

3. Construction Vehicles and Related Road Damage: If the 2nd Street Apartments are approved, what financial cost will arise from every construction vehicle and piece of heavy equipment that will travel daily to the site, for years, from Highway 40, up Dillon, to Voerman, and then on Armory? Who will pay for it? And more importantly, how will that affect the TIS' conclusion that the development will have 'little impact' on Armory Road residents?

4. EQUAL PROTECTION: The Whitefish City Planning Office recommends approving this development, including allowing spot zoning to accomplish it. However, when we applied to the City to partition off 1-2 acres of our 5 acres so our daughter and son-in-law could build a home, the City denied that request. Both our daughter and son-in-law work in Whitefish, our daughter grew up here, yet we cannot parcel off some land that would enable them to live here and start their family.

As "doughnut" denizens, we are especially concerned that the City of Whitefish would approve such a huge development that will impact our roads and quality of life without our ability to vote on it. Moreover, to allow a zoning variance for the developers while denying those of us in the doughnut the ability to parcel our properties is patently unfair. As everyone knows, these

issues form the basis of the current and ongoing litigation between the city and county. Approving the 2nd Street Apartments will only fuel additional litigation.

AFFORDABLE HOUSING: The developers stated that each apartment would rent for approximately $900 and up. That seems pretty steep for those in town working for minimum wage. Our daughter and son-in-law certainly couldn't afford that amount, and they both work here.

SPOT ZONING: The developers request a zoning change in the area so they can build a multi-family development, yet acknowledge that the area's historic use is for Single Family Residences. They further admit the Growth Policy Map focuses multi-family development for the southern core of downtown and north of the viaduct on Wisconsin, not on East Second Street.

COMMUNITY IMPACT: The developers claim that 400+ more residents crammed into an apartment complex with only one entrance and exit (discounting Wild Rose Lane which appears to be for the exclusive use of nine condo owners) will not impact police, fire, water, and sewer. Such a claim should be backed by a study and some reliable statistics before this project is approved.

Finally, 1,200+ vehicle trips daily from that development, assuming that figure is accurate, results in a massive increase in traffic on East 2nd Street, where our kids walk to school, parents commute with kids, and pedestrians and bikers navigate their way to town. Add to this ice, snow, and inclement weather and nothing short of chaos will result. This issue has not been addressed in the application, except to aver that there will be little impact in these areas. Such a claim seems disingenuous at best.

For all the reasons stated above, we respectfully request that you deny the application for the 2nd Street Apartments.

Sincerely,

Jack and Phyllis Quatman
150 Johns Way
Whitefish

May 6, 2013

Kathleen McMahon
151 Wedgewood Ln.
Whitefish, Mt 59937

Whitefish City – County Planning Board
418 E. 2nd Street
PO Box 158
Whitefish, MT 59937

Re: 2nd Street Apartments Map Amendment and Planned Development

To: Chair & Members of the Planning Board

I am writing to express my opposition to the 2nd Street Apartments map amendment and Planned Unit Development. My opposition to the project is based on the revised plan that was presented at a neighborhood meeting hosted by Community Infill Partners on April 24th. While the revised plan is an improvement over the original submittal, I believe the apartment buildings, (indicated on the plan as 8-plex and 16-plex rentals) are out of character with the surrounding neighborhood in terms of density, bulk and scale. I do not oppose the proposed single-family homes, cottage homes or tri-plex residential units. Additionally, I do not feel that WR-2 zoning is appropriate for this area. Specifically my concerns include the following.

1. **The property referred to as "Tract 1K" is not suitable for WR-2 zoning.**

The applicant is requesting two zoning map amendments:

- Rezone approximately 6 acres for the most westerly parcel (referred to as Tract 1k) from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District).
- Rezone approximately 18 acres (parcels (Tract 1D and 1DA) from WA (Agricultural District) to WER (Estate Residential District).

I do not object to the request for the zone chance for the parcels (Tract 1D and 1DA) from WA to WER. **I do object to the zone change of parcel known as Tract 1K from W1 to W2.**

It is important for the Planning Board to evaluate the application for the map amendment independent of the proposed PUD. Should the proposed PUD not go forward or be modified, the underlying WR-2 zoning for Tract 1k will remain in place. As a land use planner with over 30 years of experience, I have witnessed many projects that did not proceed as originally proposed. Reasons include inability to get financing, business partnerships dissolve, death or illness of an applicant, changes in the real estate market and any number of unforeseen causes. The recent economic downturn is indicative of the risks that are inherent in developing property. The underlying zoning runs with the land and is key to determining community character. Consequently, careful consideration of the underlying zoning district is necessary.

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One of the criteria for rezoning is whether the property is suitable for the proposed uses. According to the USDA Soil Survey, the entire property that is proposed for WR-2 zoning is rated as having "severe limitations" due to the incapacity of the soil to support a load without movement. (See attached map.) Issues with this particular parcel include flooding, depth to saturated zone and shrink-swell characteristics. The soil reports also notes that steep slopes and the topography of the parcel presents additional constraints to development. The applicant even acknowledged these limitations at the April 24 neighborhood meeting and consequently is limiting development to an area along the eastern edge of the parcel that can accommodate small cottages. Given these development constraints, this parcel is simply not suitable to be rezoned to the higher density WR-2 zoning district. It is most suitable for low density residential development.

2. Rezoning to R-2 would constitute spot zoning .

The "Staff Report WZC 12-01", dated March 14, 2013 states that, "the resulting rezone will include an 'island' of WR-2 surrounded by WR-1 zoning on the west and south sides" and could constitute spot zoning." The staff recommends that the city initiate a rezoning action for the properties to the west in order to avoid a spot zoning claim. In making this recommendation, staff did not consult with the properties owners of the adjacent land. These properties owners have submitted comments that they are **opposed** to rezoning their land from WR-1 to WR-2. Additionally, the staff recommendation to rezone these properties did not include any evaluation of the appropriateness of WR-2 zoning for the parcels west of the project. A large portion of the adjacent property to the west has the same severe development limitations as the subject property. Given the opposition of the adjacent land owners to having their properties rezoned and given the development limitations, WR-2 zoning is not justified for the properties adjoining the proposed 2nd Street Apartment projects. Without this rezoning, the proposed WR-2 zoning for Tract 1K would create an island of zoning that is out of character with the neighborhood, would benefit only one land owner and would constitute spot zoning.

3. The is not in conformance with the Growth Policy

The Growth Policy does classify the westerly six acres know as Tract 1k as an "Urban" area. This district does list WR-2 as an acceptable zoning district within this classification. The Growth Policy description for an "Urban" area, however, states the following:

> "Residential unit types are mostly one and two-family, but town homes and lower density apartments and condominiums are also acceptable in appropriate locations using the PUD."

Clearly, the proposed 16-plex units do not meet the description of "lower density apartments" and therefore do not conform to the intent of the Growth Policy for an area classified as "Urban". Additionally, the Growth Policy provides guidance for in-fill development in existing neighborhoods:

> "5. Protect and preserve the special character, scale, and qualities of existing neighborhoods while supporting and encouraging attractive, well-designed, neighborhood compatible infill development."

The density, mass and scale of the proposed 8-plex and 16-plex apartment buildings are not compatible with the existing neighborhood. The surrounding neighborhood is comprised of a mix of small single-

family homes that are primarily one-story, ranch, and split levels with a few two-story homes. The proposed PUD would allow for potential three-story apartment buildings that would tower over the existing neighborhood. The 16-plex buildings are especially out of context with the surrounding structures. According to the American Planning Association, Planning and Urban Design Standard, "The structural mass should respect the surrounding context and take design cues from the generally smaller and more articulated massing found in structures (in the surrounding neighborhood) to help reduce any perceived context issues regarding size."

The staff report notes that there is some multi-family in the neighborhood. The existing multi-family on 2nd Ave., however, is a two-story 4-plex that does not compare in scale to the 8-plex and 16-plex structures that are proposed as part of this 2nd Street Apartment proposal. A combination of 3-plex and 4-plex units would be more in context with the density and scale of the surrounding the neighborhood.

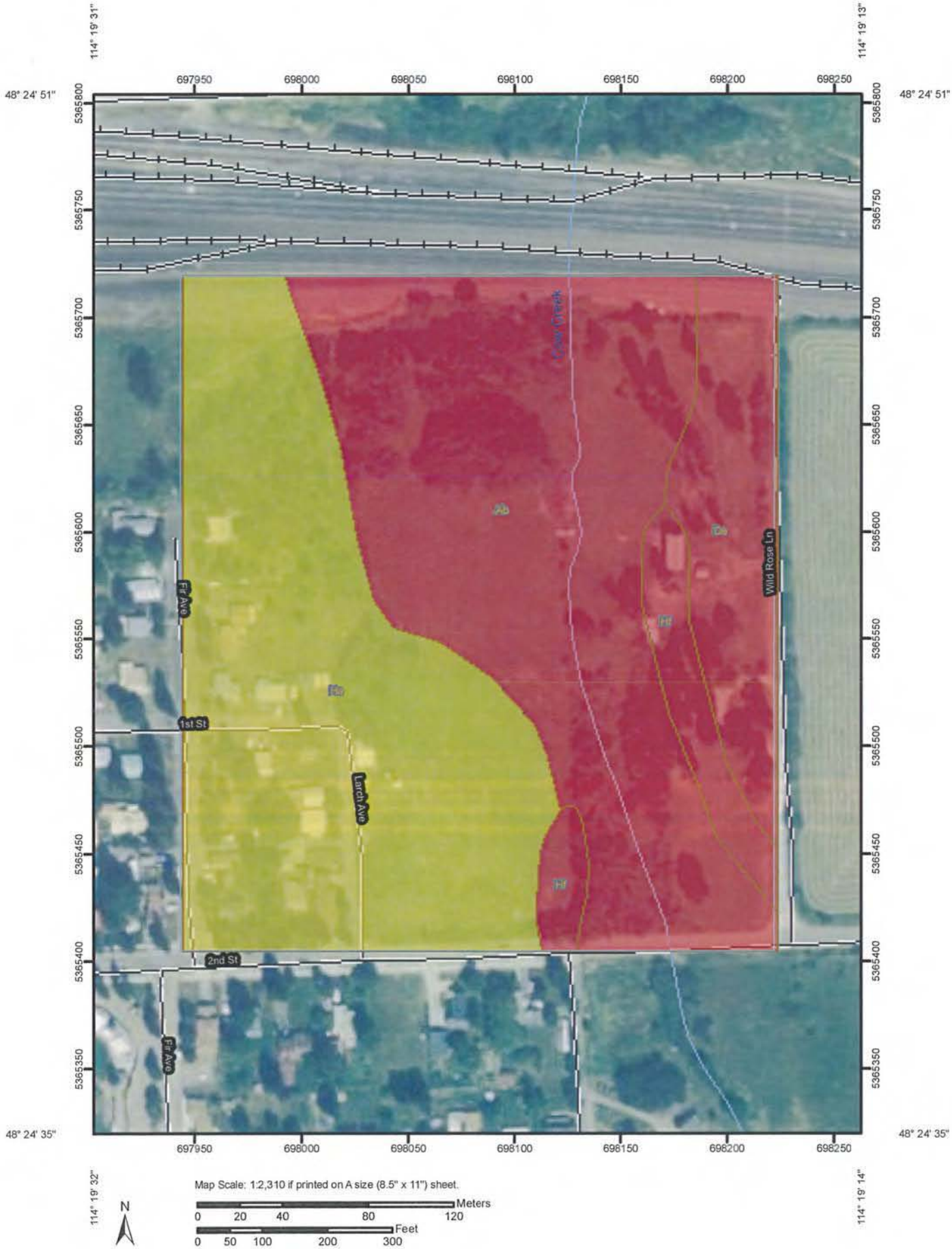
Conclusion

In summary, I would ask the Planning Board to recommend denial of the request to rezone Tract 1k to WR-2 and recommend that the applicant redesign the apartment complexes to reflect the density allowed with the WR-1 zoning with product types that would be more in scale and context with the surrounding neighborhood.

Please note that this letter reflects my concerns as a resident of the neighborhood as well as my professional opinion as a land use planner with a Bachelor's Degree in Urban and Regional Planning from the University of Illinois and over 30-years of professional experience. Thank you for consideration of these comments.

Sincerely,

Kathleen McMahon


114° 19' 31"
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Fir Ave
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48° 24' 35"
114° 19' 32"
114° 19' 14"
Map Scale: 1:2,310 if printed on A size (8.5" x 11") sheet.
N
Meters
0 20 40 80 120
Feet
0 50 100 200 300

MAP LEGEND

Area of Interest (AOI)

Area of Interest (AOI)

Soils

Soil Map Units

Soil Ratings

Very limited

Somewhat limited

Not limited

Not rated or not available

Political Features

Cities

Water Features

Streams and Canals

Transportation

Rails

Interstate Highways

US Routes

Major Roads

Local Roads

MAP INFORMATION

Map Scale: 1:2,310 if printed on A size (8.5" × 11") sheet.

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for accurate map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: http://websoilsurvey.nrcs.usda.gov
Coordinate System: UTM Zone 11N NAD83

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Upper Flathead Valley Area, Montana
Survey Area Data: Version 10, Jan 5, 2012

Date(s) aerial images were photographed: 8/5/2005

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Dwellings Without Basements

Dwellings Without Basements— Summary by Map Unit — Upper Flathead Valley Area, Montana (MT617)						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
Ab	Alluvial land, well drained	Very limited	Alluvial land (90%)	Flooding (1.00)	9.2	42.5%
De	Depew silty clay loam, 0 to 3 percent slopes	Very limited	Depew (90%)	Shrink-swell (1.00)	2.4	10.9%
Ha	Half Moon silt loam, 0 to 3 percent slopes	Somewhat limited	Half Moon (90%)	Shrink-swell (0.50)	8.9	41.0%
Hf	Half Moon soils, 12 to 45 percent slopes	Very limited	Half Moon (40%)	Too steep (1.00)	1.2	5.6%
				Shrink-swell (0.50)		
			Half Moon (40%)	Too steep (1.00)		
				Shrink-swell (0.50)		
Totals for Area of Interest					**21.7**	**100.0%**

Dwellings Without Basements— Summary by Rating Value		
Rating	Acres in AOI	Percent of AOI
Very limited	12.8	59.0%
Somewhat limited	8.9	41.0%
Totals for Area of Interest	**21.7**	**100.0%**

Description

Dwellings are single-family houses of three stories or less. For dwellings without basements, the foundation is assumed to consist of spread footings of reinforced concrete built on undisturbed soil at a depth of 2 feet or at the depth of maximum frost penetration, whichever is deeper.

The ratings for dwellings are based on the soil properties that affect the capacity of the soil to support a load without movement and on the properties that affect excavation and construction costs. The properties that affect the load-supporting capacity include depth to a water table, ponding, flooding, subsidence, linear extensibility (shrink-swell potential), and compressibility. Compressibility is inferred from the Unified classification of the soil. The properties that affect the ease and amount of excavation include depth to a water table, ponding, flooding, slope, depth to bedrock or a cemented pan, hardness of bedrock or a cemented pan, and the amount and size of rock fragments.

The ratings are both verbal and numerical. Rating class terms indicate the extent to which the soils are limited by all of the soil features that affect the specified use. "Not limited" indicates that the soil has features that are very favorable for the specified use. Good performance and very low maintenance can be expected. "Somewhat limited" indicates that the soil has features that are moderately favorable for the specified use. The limitations can be overcome or minimized by special planning, design, or installation. Fair performance and moderate maintenance can be expected. "Very limited" indicates that the soil has one or more features that are unfavorable for the specified use. The limitations generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures. Poor performance and high maintenance can be expected.

Numerical ratings indicate the severity of individual limitations. The ratings are shown as decimal fractions ranging from 0.01 to 1.00. They indicate gradations between the point at which a soil feature has the greatest negative impact on the use (1.00) and the point at which the soil feature is not a limitation (0.00).

The map unit components listed for each map unit in the accompanying Summary by Map Unit table in Web Soil Survey or the Aggregation Report in Soil Data Viewer are determined by the aggregation method chosen. An aggregated rating class is shown for each map unit. The components listed for each map unit are only those that have the same rating class as listed for the map unit. The percent composition of each component in a particular map unit is presented to help the user better understand the percentage of each map unit that has the rating presented.

Other components with different ratings may be present in each map unit. The ratings for all components, regardless of the map unit aggregated rating, can be viewed by generating the equivalent report from the Soil Reports tab in Web Soil Survey or from the Soil Data Mart site. Onsite investigation may be needed to validate these interpretations and to confirm the identity of the soil on a given site.

Rating Options

Aggregation Method: Dominant Condition

Wendy Compton-Ring

From: David Scott <dscott@kcfw.com>
Sent: Tuesday, May 07, 2013 4:24 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Second Street Apartments

To Planning Staff and Board,

I am writing this letter in opposition to the proposed development on Second Street across Second from Armory road on Dave Kauffman Jr's property. I write this not because I don't want to see this property developed. I write this because the City of Whitefish as spent a lot of time and money on the City of Whitefish Growth Plan. In this growth plan it is discussed at length how developments must respect the character and scale of existing neighborhoods. I don't feel that 16 plex and 8 plex apartment buildings fit in the character and scale of the east second street community or the armory road community directly to the south. These communities mostly consist of single family homes on a normal sized city lot or larger lots in many cases.

I understand the need for apartments in Whitefish but we already have multiple developments around town that are already zoned properly and shovel ready for development. Do we need to create another high density zone in Whitefish that will be half built out? I also wonder about the rezoning being requested for the properties to the west of the proposed development (to avoid spot zoning) and if those property owners are aware and want this same higher density rezoning. If we are to rezone all of these areas, (say in 10 years) can the roads and services as currently provided handle the additional residents.

The third thing I am curious about is the traffic impact not only on 2nd street (approx 1100 trips/day) but on Armory Road (approx 200 trips/day). In 2008 the MDOT estimated around 500 trips/day on armory road. This development alone would nearly double the number of trips on Armory every single day. Is the city, and then the county prepared for the additional cost in maintenance? Armory road has no shoulders and a high number of pedestrians already on it that make it unsafe. As for 2nd Street, this is a main corridor for our kids to walk to and from the various schools and after school activities. What additional safety measures will be put in place for the 1100 additional cars that will be using it.

Again I want to state that I am not in opposition to this property being developed in the same character and scale as the surrounding neighborhoods. But if we let this one through, where do we stop in that part of town. There is a lot of larger chunks of acreage that could be developed in high density if we set this precedence. So I am asking you to please deny this request for a changing of zoning and keep the character of my neighborhood intact.

Thanks for your time.
David Scott
130 Armory Road
406-260-5671

EXHIBIT
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Wendy Compton-Ring

From: Kelly Davidson <kelly@aboutmontana.net>
Sent: Tuesday, May 07, 2013 9:10 AM
To: wcompton-ring@cityofwhitefish.org
Subject: second street apartments

My name is Kelly Davidson and I am writing to you to encourage the planning board to decline the application for zoning change at the intersection of second street and Armory. There is no good reason to change the zoning to something that does not fit in the area. There are other parcels that have zoning appropriate for that project and there are better locations for that project. Changing the zoning in this way makes no sense and does not benefit anyone but the developer. The proposed project has density that it is way too high for the area and the traffic resulting from that project would greatly diminish the rural feel of the neighborhood as well as increase the already troubling safety issues of Armory road and that intersection in particular. In addition, the majority of the people affected by this project and the traffic associated withit are in the donut and have no voice on the planning commission as well as the city council. Please consider these issues.

Thank you

Kelly Davidson
585 Armory Road

EXHIBIT
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Wendy Compton-Ring

From: noahcouser@gmail.com on behalf of Noah Couser <noah@noahcouser.com>
Sent: Wednesday, May 08, 2013 8:38 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Proposed 2nd Street Development

Wendy,
I wanted to share my thoughts/concerns about this project, and hopefully get this to you with enough time to get into the packet of comments that goes before the board.

As an Armory Road resident, I have three major concerns with this proposed development. I am not opposed to this parcel being developed, but I am opposed to the extent of this proposal for these reasons:

1) The impact this proposed development will have on traffic and pedestrian safety along 2nd street and Armory Road is my main concern. Introducing this number of vehicles to an area of town that is heavily used by pedestrians is a danger, especially provided the lack of sidewalks along that part of 2nd street and the proximity to parks and schools. The lack of investigation of the impact of this development on the traffic on Armory Road and 2nd Street seems like an oversight to me. We've only lived on Armory for 8 months now, and it doesn't take that long to see the sheer numbers of people using the roads to get to the dog park, Edgewood, the skate park, or other residential areas. Throw in another 100-300 cars leaving and coming around a similar time, and you have an absolute nightmare.

2) This area of town was zoned how it is currently is for a reason. It is a residential area, and putting this high density development right in the middle of a beautiful neighborhood compromises the entire personality of the area. There are many places that this development could go in town, and if the city re-zones this parcel, what's to stop the guy down the road from doing the same? Do you make an exception for this group of developers, but close the door to anyone else who wants to do something similar with a sizable piece of property in Whitefish? We bought and built in this particular area of town because of it's feel and personality, and are frustrated with the thought of it changing so drastically.

3) The number of units in this proposed development is too high. Most people could live with the project without the 16 plexes and the 8 plexes, but nearly tripling the occupancy of the neighborhood with one residential development is too much. For traffic, for noise, for view...for all the reasons people choose to invest or not invest in an area of real estate, this proposed development would drive down the quality of life that we enjoy in this part of town.

I hope that the board would consider my concerns, and the concerns of my fellow neighbors objectively, and would welcome any of them to come sit on my porch for an afternoon and really take in the amount of activity on our roads and the beauty and the serenity that makes our area one of the nicest spots in town.

Thanks,
Noah Couser
128 Armory Road, Whitefish

--
Noah Couser

EXHIBIT
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Wendy Compton-Ring

From: Patty and Mic Holmes <patmic@centurytel.net>
Sent: Wednesday, May 08, 2013 7:19 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Community Infill Zone Change and PUD

I'm writing to oppose the requested zone change at 1500 E 2nd Street from WA to WER. I'm also opposed to the PUD associated with the zoning request.

- Large apartment complexes, such as the proposed 8 and 16-plex units, are not in keeping with the existing neighborhood.
- The proposed zoning change amounts to spot zoning.
- Several property owners within the donut area have been denied requests to split ownerships into 1+ acre single family housing lots. They have been told that the increased density is not in keeping with existing neighborhoods. This proposed development is of a density significantly higher than the prior requested splits. How can one owner be denied a request for lower density and another granted a request for much higher densities?
- Safety Concerns.
    - This project would introduce a significant amount of additional traffic at the intersection of E 2nd Street and Armory Rd. The intersection lies at the bottom of a steep and dangerous hill.
    - Armory Road is used by lots of walkers and bikers. The road is narrow, has no shoulder and has two 90 degree blind curves. The road has safety issues with its present traffic load. The additional traffic created by the PUD will significantly increase the safety risks along Armory Rd.

Mic Holmes
170 Johns Way

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Wendy Compton-Ring

From: Michelle Madland <mmmadland@yahoo.com>
Sent: Wednesday, May 08, 2013 12:58 PM
To: wcompton-ring@cityofwhitefish.org

Hello,

As a home owner on Peregrine Lane off of Armory near 2nd street, I'd like to voice my strong opposition to the proposed development of the land just north of east 2nd street, south of the railroad. While some development cannot be contested, the plan to build so many apartments and house so many people in such a small space will undoubtedly impact our already congested roadways and detract from our property values.

May I ask who the developer is? I know that Tina Anderson owns some property in that general area. As I have personally had business dealings w/Tina, my opinion of her overall ethics is extremely low. Should it turn out that she (or anyone related to her) is the developer, I will find it necessary to become very active in efforts to halt this project; she is not to be trusted.

Thank you for your time,
Michelle Rosette
406.579.6324

EXHIBIT
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Wendy Compton-Ring

From: Velvet Phillips-Sullivan <velvet59937@yahoo.com>
Sent: Wednesday, May 08, 2013 8:47 AM
To: Wendy Compton-Ring; Necile Lorang; Whitefish Pilot editorial
Subject: Proposed Subdivision for East Second Street

To Whom it May Concern,
I am writing this letter in response to the proposed development on East Second Street on the Kauffman land. When I was on the Whitefish City Council David Kauffman came to the council requesting a zone change for that land. At the time the council voted against the zone change. I voted against the zone change for a couple of reasons but the main reason was that the zoning change he was requesting was not in alignment with the Whitefish Master Plan. As you may or may not be aware, the process of drafting and approving the Master Plan is an extensive years long process that involves input from the community, nieghborhood meetings and several public hearings. The Whitefish Master Plan is a guiding document for growth in the community and according to the most recent Master Plan, there were several areas within the community where the density Kauffman and the developers are requesting is allowed but the area where this develpment is proposed is not within those areas. When Kauffman came to the council he was denied a zoning change and the Master Plan was one of the reasons. If my memory is correct traffic concerns and concerns about Cow Creek were also cited as reasons to not allow this zoning change. Allowing a zoning change that increases density sets a precedence and the council must understand the implications of that. There were several neighborhoods that were completely changed for the worst in my opinion because of increased density and the fact that the concerns of the neighbors were not addressed. One of the main criteria in deciding whether a develpment should be allowed in a pre-existing neighborhood is whether or not said development threatens the integrity of a neighborhood. In my oppinion this proposed development threatens the integrity of the neighborhood, will lead to traffic that the infrastructure can't support and because of all of the proposed pavement could threaten the health of Cow Creek.
I know there will be people who will say I am a NIMBY because this development is in my neighborhood. However, just to set the record straight our house is on the market and we will most likely be moving out of this neighborhood. Most of the people in the neighborhood understand that that piece of property will eventually be developed. All that I ask as a current member of this neighborhood, but also as a member of this community that this property be developed in accordance with the current zoning and the Master Plan. My experience on the council has taught me that, even though it is impossible to forsee all of the consequences of development the developers that worked with and honored the concerns of the neighbors, the zoning, the Master Plan and of course the wellbeing of the land are the ones that standout and make this such a shining community.
Sincerely,
Velvet Phillips-Sullivan
Former Whitefish City Council member

EXHIBIT
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Second Street Apartment

Changes proposed to the Site Plan
May 3, 2013

As a result of the Public Hearing comment and Planning Board comment at the meeting of March 21, 2013 along with public comments received from a neighborhood meeting held on-site April 24, 2013; numerous changes are proposed in the attached Second Street Apartments Site Plan. The following list is a summary of the changes

Density
To address the comments about density, the applicants proposed lowering the unit count from 174 units (164 apartments, 9 attached condominiums and 1 single family house) to 150 units (112 apartments, 9 attached condominiums, and 29 single family detached residences)

Unit Mix/Transition
To address the land use transition and pride in ownership issues raised by the public, 28 single family detached units are proposed along with the existing Kauffman house for a total of 29 single family detached units. The single family detached units are located along second street and the east and west perimeters. These detached units will be for-sale products in either a condominium ownership or a subdivided lot of which a subdivision application would follow.

Open space
One item people liked about the original proposal was the open space which was 71% of the property. As single family detached units are more land intensive than attached multi-family units, the open space percentage did drop slightly. The proposed open space is at 69%.

Forest
The public and Planning Board indicated that they wanted more of the forest preserved than the open hay field. To reduce the impact on the old growth forest on the east side of the project, much of the density was removed from that area which now leaves significant forest acreage undisturbed.

Circulation/road systems
To address the connectedness of the project, the extensions of Wild Rose Lane and Armory Road were looped together providing circulation options.

On-site management
To address the concern of management and safety, the club house was eliminated from the proposal and replaced with an administrative building for a third party property management firm to utilize for regular business hours and 24 hour emergency maintenance of the on-site apartment units.

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Phasing
Although not a concern with the original application, the proposed design will be constructed in four phases rather than the five phases originally proposed.

Affordable Housing
Originally, we proposed to provide 10% of the units within the PUD as affordable units "defined by the City's PUD provisions" and a partnership with the Whitefish Housing Authority. The applicants still proposed the 10% affordable housing units however as the density is reduced from 174 to 150, the affordable units will decrease from 17 to 15 units. The units will still be dispersed through the multi-family apartment units within the project but not the single family units.

Park and Community Garden amenities
The project will have pedestrian paths throughout, a tot-lot in the open space between the apartments and a place for a community garden near the apartments. This is similar to what was previously proposed just a slightly different configuration.

Conservation Easements
The applicants proposed placing some of the larger open space areas like the wooded area and the Cow Creek frontage into a conservation easement. At this point in time the applicants have not approached any of the Montana Conservation Easement organizations and as with all easements; the organization has to agree to accept an easement. In the event, that applicants cannot find an organization that would accept the easement, a deed restriction could be created and recorded on the property that would accomplish many of the same protections (prohibit further development, protect trees and riparian areas) that a conservation easement would provide.

Pedestrian Paths and Sidewalks
The applicants propose paths throughout the project and along the north side of Second Street between Armory and Wild Rose Lane. We will work with the Whitefish Public Works Department to place crosswalks at the appropriate location along Second Street. We are proposing a preliminary path system with the PUD knowing that we will work with the city during development to place it in locations that avoid trees and provides the optimum connectivity. As with the first submittal, all paths common areas in the project are open to the public.

In the prior submittal, the applicants requested a pedestrian path on one side of the Armory Road Extension. With the new submittal, sidewalks are proposed on both sides of the Armory Road Extension.

Parking
In the first submittal, we requested a deviation in the parking requirements by providing 2.2 parking spaces per multi-family unit rather than the 2.3 spaces require. With the new proposal, we are complying with the 2.3 parking spaces per unit required in the zoning regulations.

Wetland Buffer/Setback
As with the first submittal, the proposal provided substantially more buffer than was required by the Critical Area Regulations. However, the first design did utilize a small amount of buffer averaging in confined area to accommodate the design. The new submittal does not request or require any buffer averaging.

Road Right-of-ways and Pavement Widths
The rights-of-ways and pavement widths are essentially the same with the new as with the old.

Public Benefits
With the exception of the affordable housing units which decreased from 17 to 15 because of the reduction in overall density, all of the public benefits described in the first rendition of the site plan are proposed with the current site plan.

abelin traffic services

May 6, 2013

Will MacDonald
KOTA Enterprises, LLC
P.O. Box 4600
Whitefish, MT 59937

RE: Whitefish Apartments Traffic Impact Study Addendum

Dear Will,

It has my understanding that you have chosen to redesign the Whitefish Apartment PUD to incorporate some of the recommendations from the Whitefish Planning Board. The new plan for the site includes a different overall layout with internal road connections and a different mix of residential homes. The new plan includes 29 single-family homes, 9 condominium units, and 112 apartments for a total of 150 units. This is a decrease of 23 residential units from the previously proposed 173 units on the property.

Using the new proposed site layout ATS evaluated the overall trip generation rates for the new proposal. Based on the trip generation rates for this site plan the property will produce 83 AM peak hour trips, 103 PM peak hour trips, and 1,084 daily trips. This is a decrease from the 1,172 daily trips for the previous proposal. The trip generation rates and totals are shown in **Table 1.** This slight decrease in the overall trip generation rates for the property will not affect any of the overall conclusions or recommendations contained in the February 2013 Traffic Impact Study prepared for this project.

Table 1 - Trip Generation Rates

Land Use	Units	AM Peak Hour Trip Ends per Unit	Total AM Peak Hour Trip Ends	PM Peak Hour Trip Ends per Unit	Total PM Peak Hour Trip Ends	Weekday Trip Ends per Unit	Total Weekday Trip Ends
Single Family Residential	29	0.75	22	1.01	29	0.64	278
Condominiums	9	0.44	4	0.52	5	0.67	53
Apartments	112	0.51	57	0.62	69	0.65	753
TOTAL	**150**		**83**		**103**		**1,084**

Based on comments from area residents expressed during the March 23rd Whitefish Planning Board meeting, there is a concern that the traffic from the Second Street Apartments is going to have a major impact on Armory Road. The concern is that most of the traffic from the Second Street Apartments will use Armory Road as a primary route and that Armory Road cannot handle this additional traffic. However, the available traffic data for this area does not support this conclusion.

Abelin Traffic Services spent several hours monitoring traffic at the intersection of Armory Road and Second Street to develop an understanding of how the existing traffic in this area uses these roadways. This data was used to develop the over Trip Distribution from the proposed development site contained in Section F of the traffic study. The Traffic Impact Study assumed that only 15% of the traffic from the

130 South Howie Street
Helena, Montana 59601
406-459-1443

Second Street Apartments would use Armory Road, a conclusion which is supported by the existing traffic data. The current traffic patterns in this area indicate that a majority of the morning traffic flows from Armory Road and the eastern leg of Second Street onto the western leg of Second Street in the morning. In the evening this flow pattern reverses with the majority of traffic flowing from the west leg of Second Street to the east leg of Second Street and to Armory Road. It is also noteworthy that only a very small percentage (5%) of traffic which uses the eastern leg of Second Street comes from or goes to Armory Road. There is no reason to believe that the traffic from the Second Street Apartments will use these roads any differently than the existing road users. Based on this information, the 15% assumed usage rate of Armory Road from the Second Street Apartments is reasonable for this project. The raw traffic volume data is included in the appendix material for the original traffic study.

The Traffic Impact Study also concludes that the overall traffic impacts along Armory Road will be minimal. As stated in the report, Armory Road currently carries approximately 1,000 Vehicles Per Day which will increase to approximately 1,200 Vehicles Per Day with the added traffic from the Whitefish Apartments. This is still a comparatively low volume of traffic for this type of road and the increase of 20% is minimal. Background traffic volume growth in Whitefish alone will cause a 20% increase in traffic volumes along Armory Road within the next 5 to 10 years regardless of the construction of the Whitefish Apartments.

Sincerely,

Bob Abelin, P.E.
Abelin Traffic Services, Inc

Second Street Apartments
Whitefish Infill Partners, LLC

Whitefish, Montana
May 6, 2013

PRELIMINARY ENGINEERING REPORT (REVISED)

Prepared By

Ryan E. Mitchell, PE, PLS
Civil Engineer

Date 5-6-13

MONTANA
RYAN E. MITCHELL
13988-ES
LICENSED
PROF. ENGINEER - LAND SURVEYOR

5-6-13

RPA
ROBERT PECCIA & ASSOCIATES

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Whitefish, Montana

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1.1 Introduction and Purpose

This preliminary engineering report is intended to supplement the Planned Unit Development (PUD) application for the Second Street Apartments Project.

The proposed development will consist of remodeling one existing single family residence, developing 12 single family residences, 16 cottages, 9 condominiums and 112 apartments. The condominiums will be built upon four footprints. The apartments will be built upon 10 footprints. The apartment buildings will be either an 8-plex apartment or a 16-plex apartment building. The site work will include a new public street, private streets, paved parking areas, water main extensions, sewer main extensions, water services, sewer services, and storm water facilities. The proposed development is planned to be constructed in four (4) phases. **See Utility Plan & Phasing Overview in Appendix A.**

The purpose of this report is to give the reader a basic understanding of the existing and proposed water, sewer and storm drainage systems and the impacts the proposed new improvements will have on those facilities. This report is formatted to address the requirements of both the City of Whitefish and the Montana Department of Environmental Quality.

This preliminary engineering report does not include any detailed analysis or design recommendations, but rather is intended to provide a basis for future design engineering and give the reader a basic understanding of the existing and proposed utilities.

1.2 General Information

A. Existing Water Works, Wastewater and Storm Drainage Facilities

1. Water Works

   The existing water supply system is identified as PWSID MT0000357, City of Whitefish and is located in Whitefish, Montana. The system is classified as a "Public Water System". The system consists of various water sources, chlorination buildings, storage facilities and distribution piping.

   The proposed water distribution system for the Second Street Apartments Project connects to the City of Whitefish's water distribution system. Upon the completion of the project, any new mains installed will be owned and operated by the City of Whitefish.

2. Wastewater Facilities

   Sewage collection and treatment for the area is provided by the City of Whitefish wastewater collection system and treatment plant.

The proposed sewer collection system for the Second Street Apartments Project will connect to the City of Whitefish's sewer collection system. All wastewater from the project will flow from the buildings to new collection mains, in sewer services. The wastewater will travel through the new collection system to the City's existing collection system and then to the City's wastewater treatment plant. Upon completion of the project, any new mains installed will be owned and operated by the City of Whitefish.

3. Storm Drainage Facilities

There are no existing storm drainage facilities on or near the project. Cow Creek runs north-south along the western boundary of the project.

Storm drainage for the project will include surface drainage, grass lined swales, water quality ponds and a storm water detention pond. The storm drainage facilities will be designed to meet the City of Whitefish requirements. All treated storm water will be discharged to East Second Street. East Second Street is planned to be reconstructed in 2014, where a new storm drainage system will be installed.

B. Identification of the Area Served

The project site is located along the north side of East Second Street, approximately between Cow Creek and Armory Road. The "Project", consists of developing a mixed-use apartment and condominium development on 24 acres of land.

The proposed development will consist of remodeling one existing single family residence, developing 12 single family residences, 16 cottages, 9 condominiums and 112 apartments. The condominiums will be built upon four footprints. The apartments will be built upon 10 footprints. The apartment buildings will be either an 8-plex apartment or a 16-plex apartment building. The site work will include a new public street, private streets, paved parking areas, water main extensions, sewer main extensions, water services, sewer services, and storm water facilities. The proposed development is planned to be constructed in four (4) phases.

C. Name and Mailing Address of the Developer

Community Infill Partners, LLC
Attn: Sean Averill, Managing Member
PO Box 4600
Whitefish, MT 59937

2.1 Extent of Water Works System

A. Description of the Nature and Extent of the Area to be Served

The area currently being served is part of the community of Whitefish. The proposed improvements will provide water for approximately 13 single family residences, 16 cottages, 9 condominiums and 112 apartments on approximately 24 acres.

B. Provisions for Extending the System to Include Additional Facilities

It is proposed that new 8" PVC water mains be extended and looped through the proposed development. Since the project is planned to be constructed in four (4) phases, there will be several temporary "dead-ends". The fully developed site will have new mains looped internally and will be looped by connecting to the existing water main in East Second Street at Wild Rose Lane and at Armory Road. Upon full build-out, the system will include a capped "dead-end" segment that will be available for future development of the adjacent property to the east. Also, a portion of the main located within the Armory Road extension could be used to extend water service across the BNSF tracks, if an easement is granted to the City by the developer.

The new main on private property will be owned, operated and maintained by the City and it will be placed within a 20' wide utility easement, granted to the City by the developer. The new main within the public streets will be owned, operated and maintained by the City

C. Appraisal of Future Requirements for Service

There are no known specific future requirements for water service that would have an impact on the proposed project. The project is bound on the north by the BNSF railroad tracks and the west by Cow Creek. There are properties to the east that could be developed and as such there is a "connection" planned for adjacent properties to the east for future connection.

2.2 Alternate Plans

There are no alternate plans for providing public water supply to this development.

2.3 Site Conditions

The project site is located along the north side of East Second Street, between Cow Creek and Armory Road. There are two (2) existing houses and associated outbuildings located upon the property.

2.4 Water Use Data

A. Estimated Population which will be served by the System

The proposed improvements will provide water for approximately 13 single family residences, 16 cottages, 9 condominiums and 112 apartments on approximately 24 acres.

B. Water Consumption –Domestic

Below is a summary of the design flow conditions for the entire development:

Usage: Mixed Use Development

Source	Quantity
House (Single Family)	13
Cottages	16
Condominiums	9
Apartments	112
Total =	150

Flow Data: Per DEQ 4, Chapter 5

Source	Quantity	Unit	Flow/Unit	Total Flow
House	13	DU	300	3,900
Cottages	16	DU	300	4,800
Condominium	9	DU	300	2,700
Apartments:				
1 Bedroom	56	DU	150	8,400
2 Bedroom	56	DU	225	12,600
		Total Average Flow=		32,400 gpd
				1,350 gph
				22.5 gpm

Peak Hourly Flow: Per DEQ-2, Figure 1

Peak Factor =	4.5
Average Flow =	22.5 gpm
Peak Hourly Flow =	101.3 gpm

C. Water Consumption –Irrigation

The development will have some irrigated landscape areas, but at this preliminary stage the number of areas and size of the areas are unknown. Any identified irrigated landscaped areas will be included in the Final Engineering Report and the water system will be designed to accommodate the additional flows required by irrigation.

Water Service Line Sizing

A detailed analysis will be completed and included in the Final Engineering Report to determine the maximum peak demand and thus the size required for the water service and meter for all the buildings utilizing AWWA M22, Sizing Water Service Lines and Meter.

This work cannot be completed until the exact layout and configuration of the water distribution system is established.

2.5 Fire Flow Requirements

Once the project is preliminarily approved, and a final layout is established, the Engineer will meet with the City of Whitefish Fire Department to review hydrant locations and perform an analysis for flows from any existing and proposed fire hydrants.

This analysis will help determine the size of any water mains to provide the required fire flows and maintain at least 20 psi of system pressure.

2.6 Sewage System Availability

As indicated previously, sewage treatment is provided by the City of Whitefish treatment plant. No significant changes in the amount of water use or impacts to the wastewater treatment system are expected as a result of this project.

2.7 Sources of Water Supply

There are no additional sources of water supply included as part of this project. All water will be supplied by the City of Whitefish.

2.8 Proposed Treatment Processes

Not applicable, the project is connecting to the City of Whitefish public water supply.

2.9 Waste Disposal

Not applicable, the project is connecting to the City of Whitefish public water supply.

2.10 Automation

Not applicable, the project is connecting to the City of Whitefish public water supply.

2.11 Financing

Financing for the proposed project will be provided from private funding sources.

2.12 Future Extensions

The proposed project plans to have one (1) "dead-end" main stubbed-out for future connection to the adjacent property to the east. Additionally, if the City and the Developer can agree on utilizing the main extension in Armory Road to provide future water supply to the north side of the BNSF railroad, there could be a future extension at this location. These are the only future extensions that gave been evaluated.

3.1 Extent of Wastewater System

A. Description of the Nature and Extent of the Area to be Served

The area currently being served is part of the community of Whitefish. The proposed improvements will provide water for approximately 13 single family residences, 16 cottages, 9 condominiums and 112 apartments on approximately 24 acres.

B. Provisions for Extending the System to Include Additional Facilities

It is proposed that new sanitary sewer mains, with manholes, will be extended through the proposed development. The new mains will connect to a manhole that is planned to be constructed with the East Second Street Reconstruction project, just west of Wild Rose Lane. The sewer collection system will extend from this point to collect sanitary sewer from the development. The northern most section of the sewer main within the Wild Rose Extension will need to be assessed in the future. If the Cow Creek Sewer Project does get constructed, then the "cottages" planned in Phase 3 could possible connect their services to this line. This needs to be discussed between the City and the Developer.

The sewer system will include one (1) capped "dead-end" segment that will be available for future development of the adjacent property to the east. Additionally, the City's wastewater conveyance piping is proposed to be extended to the east within East Second Street as part of a City project and will provide opportunities, if needed, to connect additional facilities.

The new main on private property will be owned, operated and maintained by the City and it will be placed within a 20' wide utility easement, granted to the City by the developer. The new main within public streets will be owner, operated and maintained by the City.

C. Appraisal of Future Requirements for Service

There are no known specific future requirements for wastewater conveyance that would have an impact on the proposed project.

3.2 Problem Defined

There is no current wastewater system that services the western half of the project area. The City's collection system is approximately 500 feet away from the property, on the south side of East Second Street, just east of Cow Creek. This collection main is part of a larger system that incorporates much of the surrounding area. Sewage collection and treatment for the area is provided by the City of Whitefish wastewater collection system and treatment plant.

All wastewater from the Facility will flow thru either new or existing sewer mains. The new mains will connect to the proposed sewer mains included in the City of Whitefish's East Second Street Reconstruction Project or the Cow Creek Sewer Project.

NOTE: The City has developed plans to construct a sewer trunk line across the project site. The project is named the Cow Creek Sewer Project. There may be some opportunities for the City and the Developer to work together and install only one sewer main along the western edge of this development to serve both the western half of the development plus serve the future service area for the Cow Creek Sewer Project. This opportunity needs to be discussed in detail between the City and the Developer.

3.3 Design Considerations

The proposed improvements will collect wastewater from approximately one single family residence, 9 condominiums and 164 apartments on approximately 24 acres.

Per DEQ Circular 4, Chapter 5, Wastewater Flow we have estimated the amount of wastewater generated by each type/size of dwelling unit. The calculations below assume that we can get approval to adjust the wastewater flows for the planned one and two bedroom units.

Flow Data: Per DEQ 4, Chapter 5

Usage: Mixed Use Development

Source	Quantity
House (Single Family)	13
Cottages	16
Condominiums	9
Apartments	112
Total =	150

Flow Data: Per DEQ 4, Chapter 5

Source	Quantity	Unit	Flow/Unit	Total Flow
House	13	DU	300	3,900
Cottages	16	DU	300	4,800
Condominium	9	DU	300	2,700
Apartments:				
1 Bedroom	56	DU	150	8,400
2 Bedroom	56	DU	225	12,600
		Total Average Flow=		32,400 gpd
				1,350 gph
				22.5 gpm

Peak Hourly Flow: Per DEQ-2, Figure 1

Peak Factor =	4.5
Average Flow =	22.5 gpm
Peak Hourly Flow =	101.3 gpm

Sewer Service Line Sizing

The minimum size for a sewer service per the City of Whitefish is a 4" diameter sewer service for each residential unit. The capacity for a 4" diameter service and found the following:

4" Pipe @ 2% Grade
Maximum Flow (individual service) = 169 gpm > 101.3 gpm OK.

The 4" sewer service pipe will have adequate capacity, but the final sewer service sizing will be determined by the plumbing contractor for each building. Cleanouts will be installed at all bends to assist in cleaning.

3.4 Impact on Existing Wastewater Facilities

The proposed improvements will add a Peak Hourly Flow of 101.3 gpm to the existing wastewater facilities. A detailed analysis will need to be completed to evaluate the impact that this proposed development will have on the existing wastewater facilities, depending of the final layout and configuration of the sewer collection system. It is anticipated that the City's wastewater treatment plant will be capable of handling the additional flows.

3.5 Project Description

The Second Street Apartments Project consists of installing new sewer collection mains, manholes and service lines in order to service the project.

3.6 Design Criteria

The engineering design criteria that will be used for this project are the MDEQ Circular 2 and Circular 4, and the City of Whitefish Engineering Standards, February 2009. All improvements will be designed to meet these requirements.

3.7 Site Information

An existing 12" sewer line, with manholes, is in-place approximately 500 feet south of the project, along the east side of Cow Creek.

3.8 Environmental Impacts

The proposed project will have no adverse environmental impacts in regards to sanitary sewer, since all wastewater flows will be collected by the City and treated at the City's wastewater treatment plant. The project will remove and eliminate two (2) existing septic system that are currently serving the two existing residences.

4.1 Extent of Stormwater System

The current site is an approximate 24 acre area with a mixture of forest and pasture land. Currently there are two homes and several outbuildings on the site. The proposed stormwater system will consist of roadway collection and conveyance, water quality depressions, grading, grass lined swales, and one or more detention ponds with outlet structures.

4.2 Site Information

The project site is located in Whitefish, Montana. The project site is located along the north side of East Second Street, approximately between Cow Creek and Armory Road. The "Project", consists of developing a mixed-use single family, condominium and apartment development on 24 acres of land.

The existing site is largely vacant and has been historically used for two - single family residences. Existing soils per the National Recourses Conservation Service (NRCS) are primarily: Ab – Alluvial land, well drained; Hf – Half Moon soils, 12 to 45 percent slopes; De – Depew silty clay loam, 0 to 3 percent slopes; Ws – Whitefish cobbly silt loam, 7 to 12 percent slopes. See **Appendix B** for detailed Soils Map information.

4.3 Basin Information

The existing site was delineated and reviewed. The basin, for the most part flows to the west and drains to Cow Creek. The basin extends to the east, beyond the boundaries of this project approximately 300-feet. The basin is bound on the north by the BNSF railroad and the south by East Second Street.

It is proposed that the developed site will have a single drainage basin. All proposed developed flow will go to the southwest corner of the property and discharge to Cow Creek.

Stormwater Conveyance: In general, the bulk of the stormwater collected on the site will be conveyed by roadway ditches and culverts. In areas near or around the parking lots and buildings, some underground piping will be installed to collect roof leader runoff and parking lot runoff. Some grass line swales are also proposed to convey water from the roadside ditches to the detention ponds. The proposed typical section for this project is shown in Section 5 of this report. See **Appendix A** for stormwater plan.

Stormwater Pre-Treatment: In areas near or around the parking lots, water quality depressions will be constructed. These areas will serve as snow storage areas in the winter. The water quality depressions will outfall to roadside ditches and culverts. The roadside ditches and grass lined swales will also provide stormwater pre-treatment.

Detention and Post-Treatments: All roadside ditches and grass lined swales will terminate at a detention pond. The detention ponds will be sized to detain the 10-year storm event. The detention ponds will have an overflow structure that will bypass flows larger than the 10-year event. For events less than or equal to the 10-year event, the ponds will release water at the predevelopment rate.

Stormwater Outfall: There are two options for stormwater outfall on this project. The first is to directly discharge the water to Cow Creek. The second is to discharge to the proposed East Second Street storm main that is planned for construction in 2014.

NOTE: The City has development plans to construct a new storm main along East Second Street in 2014. The storm system will discharge to Cow Creek, but will be treated through a hydrodynamic separator, an existing manmade wetland outfall area, or both prior to creek discharge. By connecting the proposed development to the proposed storm main there will likely be a water quality increase in stormwater being discharged to Cow Creek. This opportunity needs to be discussed in detail with the City and the Developer.

Due to the proposed phasing of this project, the storm water systems will not all be completed at the same time. The phasing plan will need to include detail analysis for the entire site so that the detention pond, water quality ponds and swales can be sized accordingly.

A detailed analysis and the design of these improvements will be completed at a later date.

4.4 Wetland Analysis

The site includes Cow Creek along the western edge of the property. There is a substantial area of delineated wetlands adjacent to Cow Creek. The proposed project does not include any impacts to the delineated wetland areas.

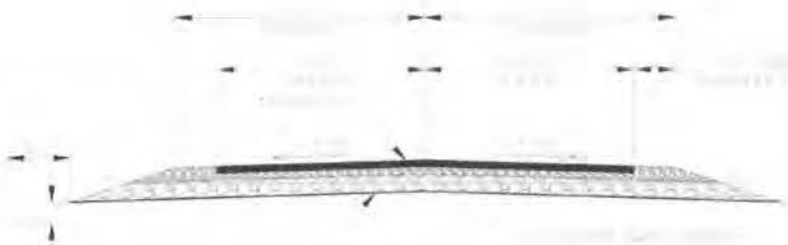
4.5 Down-Gradient Analysis

Further analysis of the site, once the final layout is determined, will be completed to determine the pre-vs-post development run-off and the sizing of the detention pond. The detention pond will be located in the northwestern quadrants of the Wild Rose Land/East Second Street intersection.

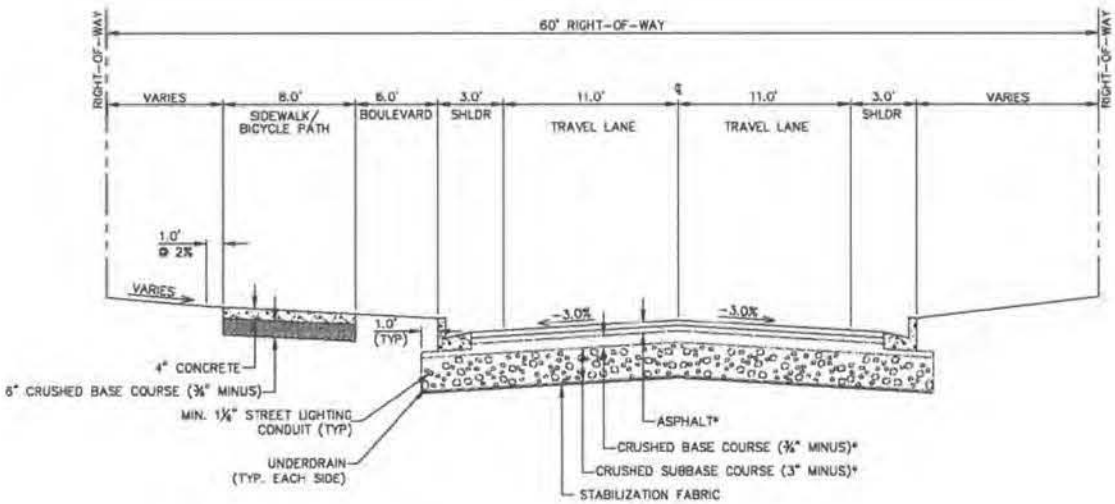
5.1 Streets

The current site is a mixture of forest and pasture land with sloping terrain to the northwest and west. The site has slopes varying from 2% to 18%.

The roadway layout is shown in **Appendix A**. The proposed roadway system will consist of a public roadway with a "urban" typical section and private roadways with a "rural" typical section with roadside ditches. Below are the proposed typical sections:



Typical Section – Private Road



Typical Section – Public Road

All proposed roadways will be private, with the exception of the Armory Road extension, which will extend north from the intersection of Armory Road and East 2nd Street and then turn east to intersect the easterly boundary of the project. All roadways will be designed with a longitudinal slope of 9% or less. No on-street parking will be allowed on

the streets. Parking areas will be provided for the units. The roadway approaches onto East Second Street will not exceed 5% for a distance of at least 60 feet. All temporary "dead-ends", due to phasing, and the permanent "dead-ends" will have approved turn-a-rounds constructed with less than a 5% grade.

A geotechnical investigation of the site is recommended to determine the soil conditions and to calculate the required surfacing thicknesses for the roadway.

6.1 Additional Information – Project Requirements

Excavation/Right of Way Permit: The Owner will need to secure an excavation/right-of-way permit from the City of Whitefish Public Works Department.

Grading Permit: The Owner will need to secure a grading permit from the City of Whitefish Public Works Department.

Plan Review and Construction Oversight Worksheet: The Owner will need to complete and submit the Plan Review and Construction Oversight Worksheet to the City of Whitefish Public Works Department.

Water Main Extension Approval: The Owner will need to obtain approval of any water main extension from the MDEQ and the City of Whitefish prior to construction.

Sewer Main Extension Approval: The Owner will need to obtain approval of any sewer main extensions from the MDEQ and the City of Whitefish prior to construction.

Erosion Control Plans Approval: The Owner will need to develop and obtain approval of an Erosion Control Plan from the City of Whitefish prior to construction.

General Permit for Storm Water Discharges Associated with Construction Activities: The Owner will need to secure a permit from DEQ for construction-related disturbance of one or more acres.

APPENDIX A – UTILITY LAYOUT AND PHASING OVERVIEW

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

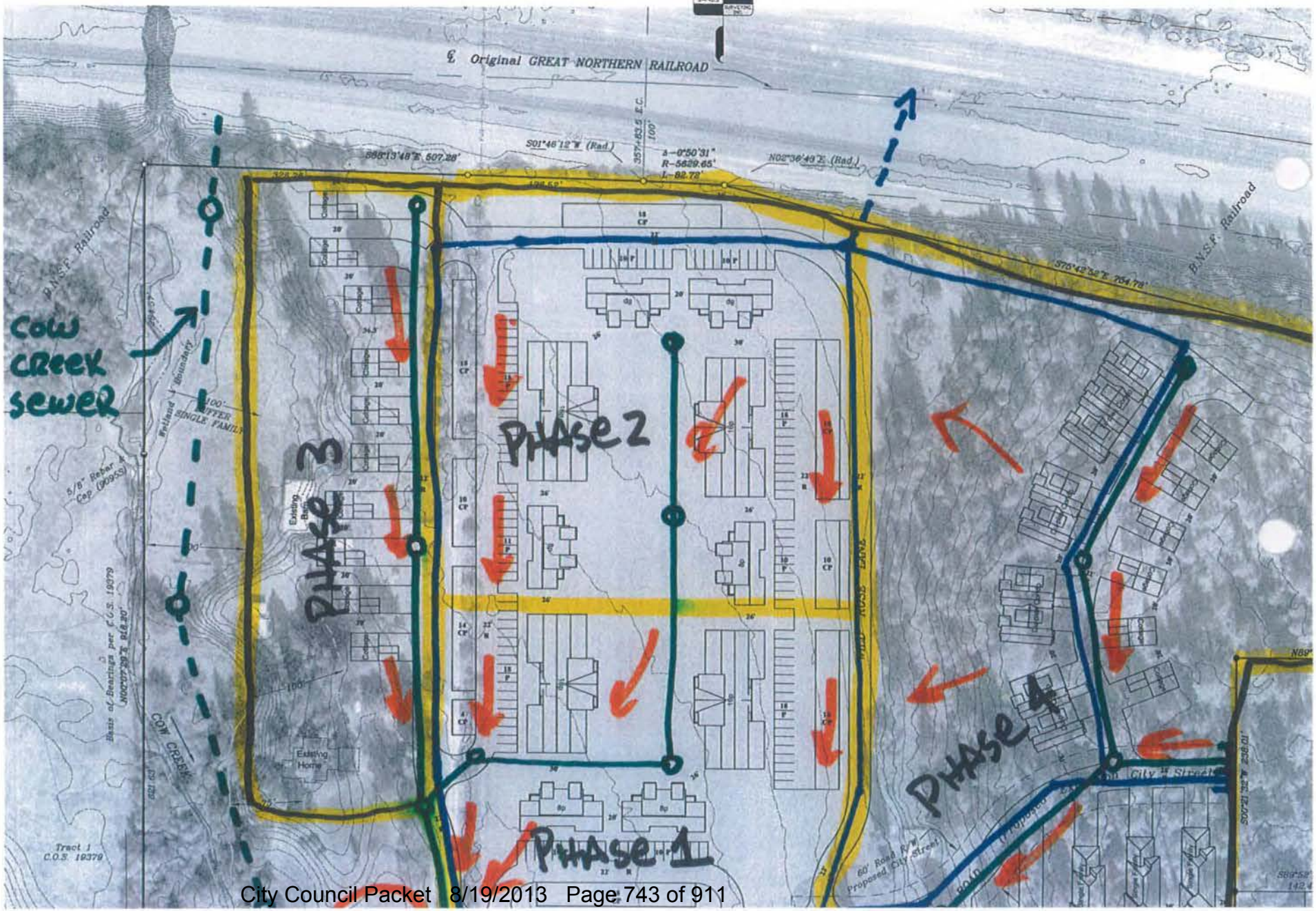
JOB NO: 392601
DATE: APRIL 25, 2013
REVISED: APRIL 30, 2013
FOR: WILL MacDONALD
SEAN AVERILL
OWNERS: WILD ROSE KNOLL, LP
PINE HILL, LP

PLANNED UNIT DEVELOPMENT for:
SECOND STREET APARTMENTS

IN NE1/4NW1/4 SEC.32, T.31N., R.21W., P.M.,M., FLATHEAD COUNTY, MT

SCALE: 1" = 60'

60' 30' 0 60' 120'



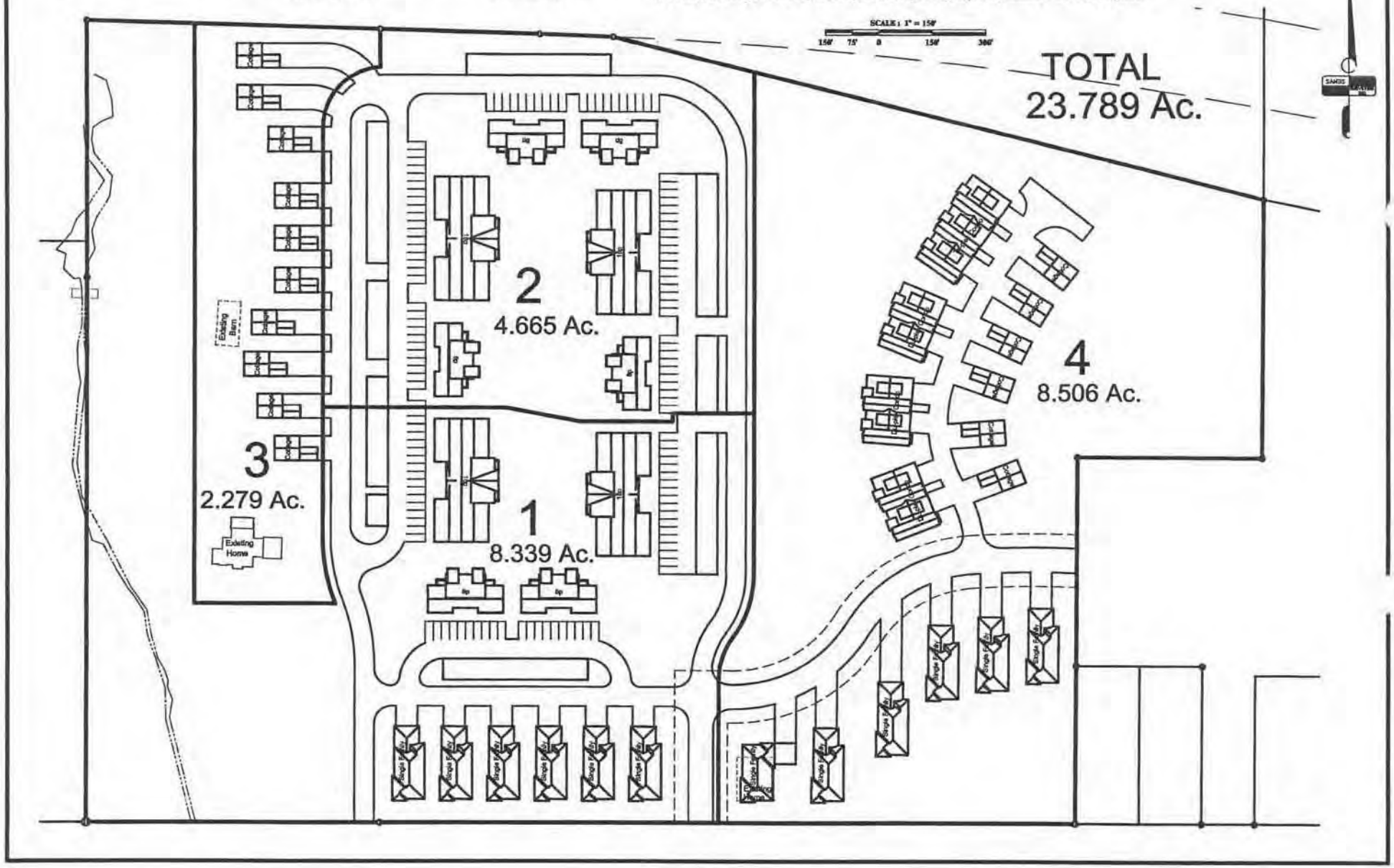
By: SANDS SURVEYING, Inc.
2 Village Loop
Kalispell, MT 59901
(406) 755-6481

JOB NO: 392601
DATE: APRIL 25, 2013
REVISED: MAY 1, 2013
FOR: WILL MacDONALD
SEAN AVERILL

OWNERS: WILD ROSE KNOLL, LP
PINE HILL, LP

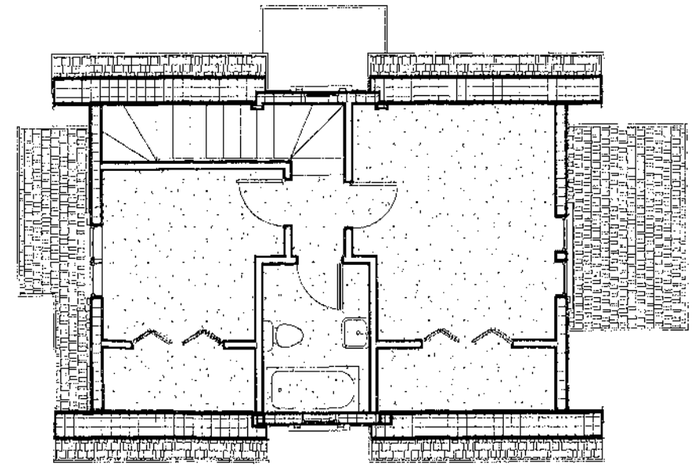
PHASING PLAN for:
SECOND STREET APARTMENTS

IN NE1/4NW1/4 SEC.32, T.31N., R.21W., P.M.,M., FLATHEAD COUNTY, MT

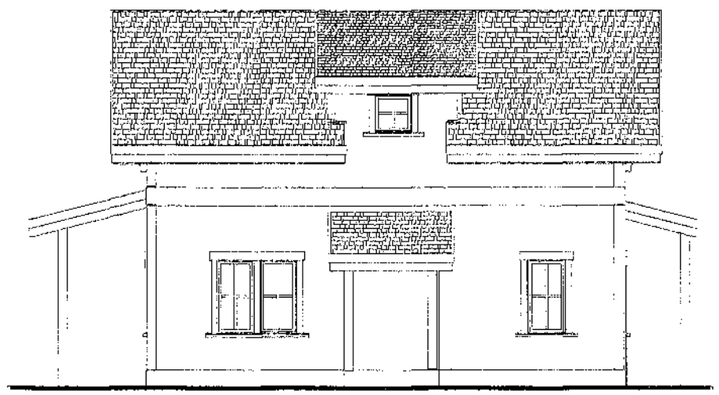


6 PUD EAST
1/8" = 1'-0"

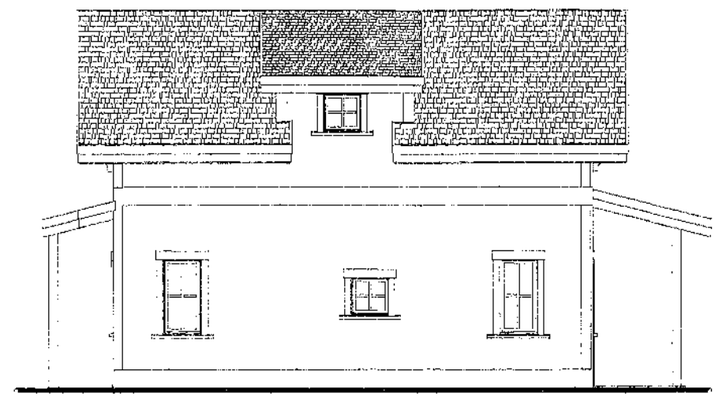
7 PUD WEST
1/8" = 1'-0"



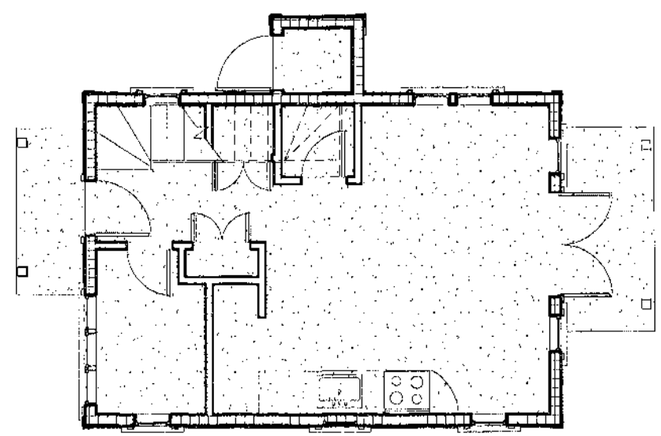
2 PUD SECOND FLOOR
1/8" = 1'-0"



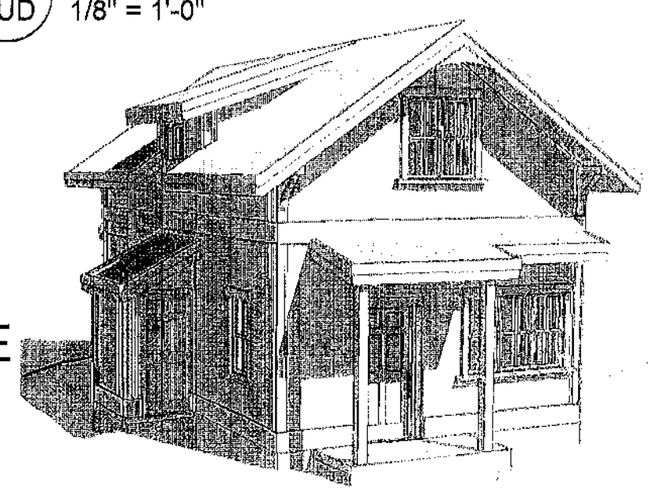
4 PUD NORTH
1/8" = 1'-0"



5 PUD SOUTH
1/8" = 1'-0"



1 PUD FIRST FLOOR
1/8" = 1'-0"



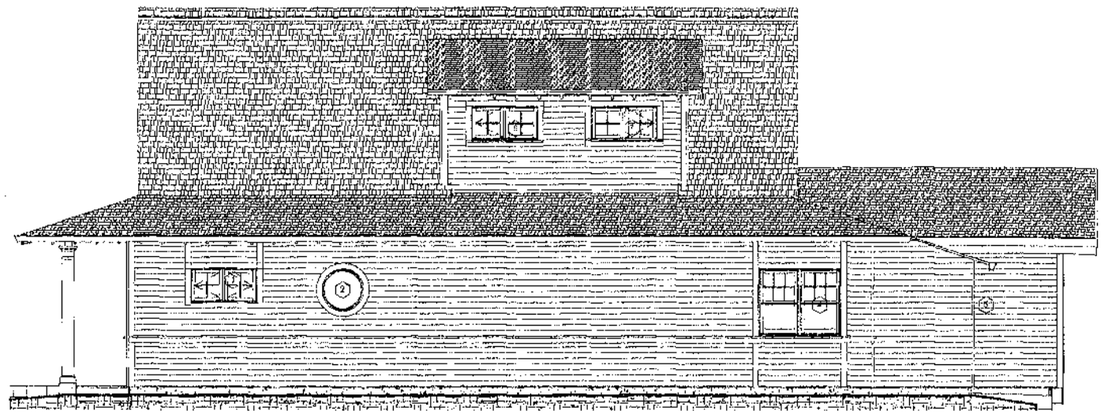
3 PUD PERSPECTIVE

2ND STREET APARTMENTS

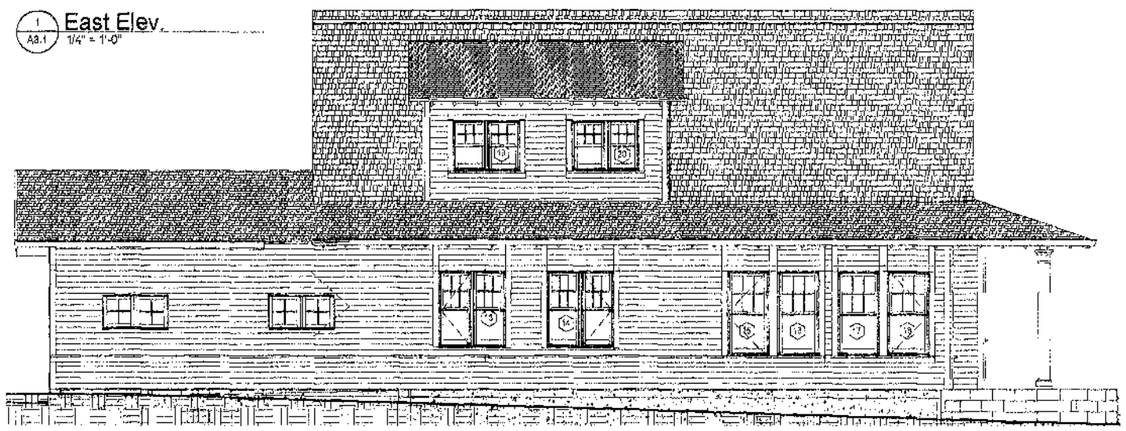
WHITEFISH, MT

COTTAGES

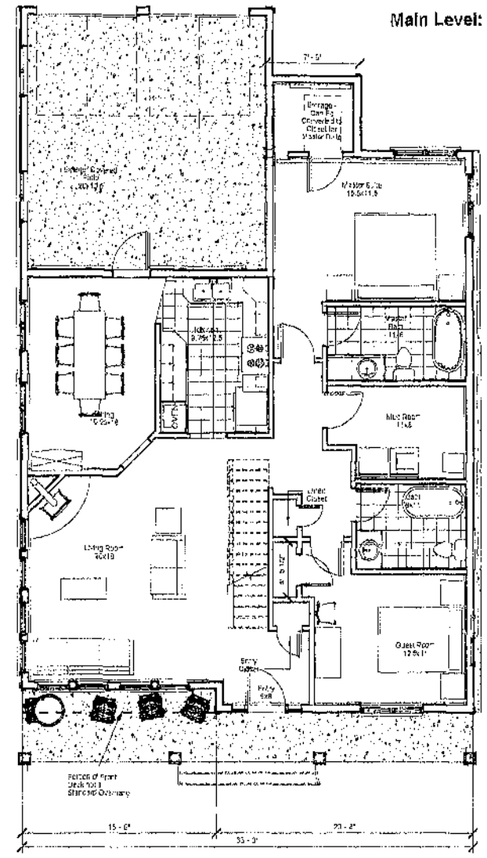
5.1.13



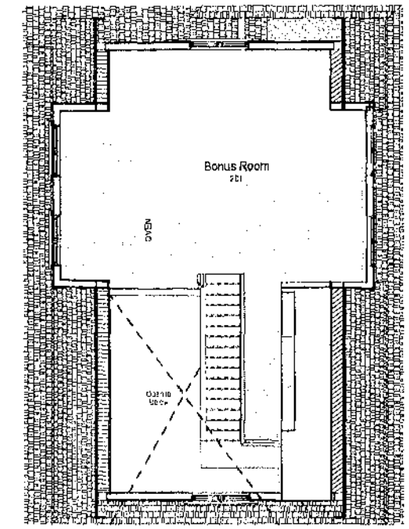
1 A3.1 East Elev.
1/4" = 1'-0"



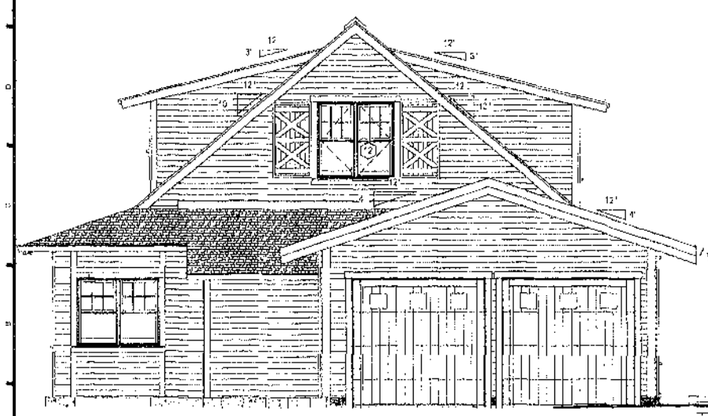
2 A3.1 West Elev.
1/4" = 1'-0"



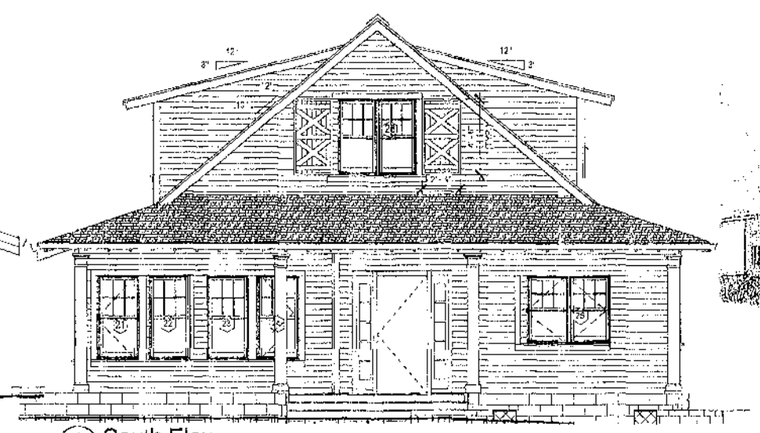
6 A3.1 Concept Plan - Main
3/16" = 1'-0"



7 A3.1 Concept Plan - Upper
3/16" = 1'-0"



3 A3.1 North Elev.
1/4" = 1'-0"



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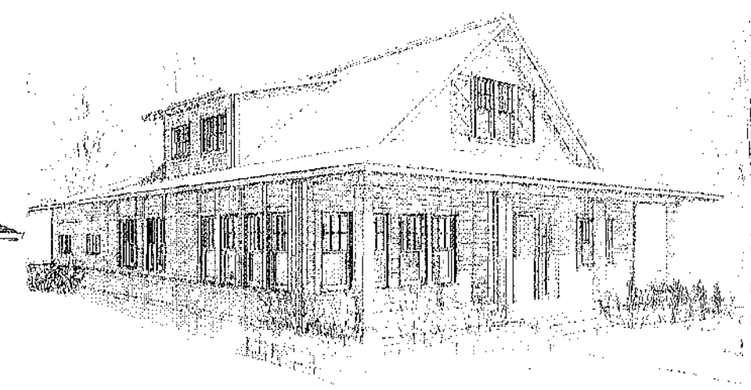
1/4" = 1'-0"



8 A3.1 PERSPECTIVE

Single Family Residence

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly licensed Architect under the laws of the State of Montana pertaining to Architects, Montana.

Reg. No. 2833 Date 04.22.13
AARON J. WALLACE

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Project Number	12-09
Date	04.22.13
Drawn By:	RN
Checked By:	A.J.W.
Revisions	

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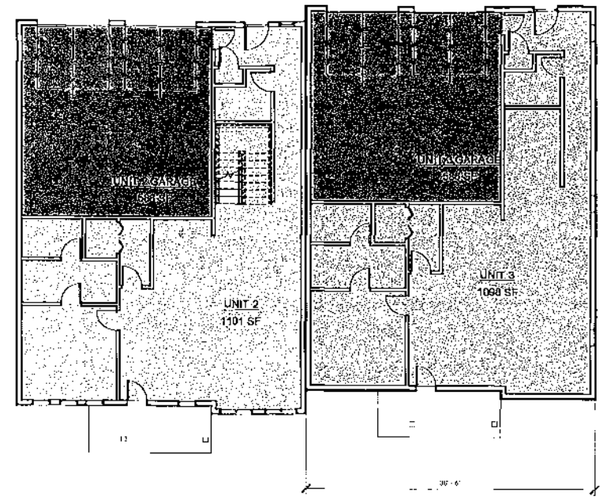
SINGLE FAMILY RESIDENCE

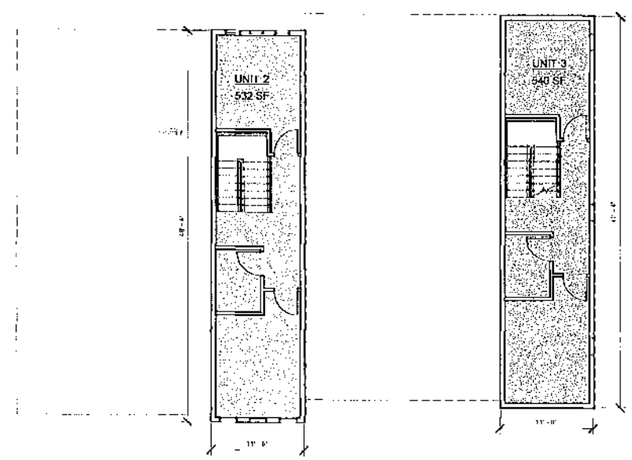
Whitefish, MT

A3.1



1 A2.1 Main Floor Plan
1/8" = 1'-0"

Area
UNIT 1
UNIT 1 GARAGE
UNIT 2
UNIT 2 GARAGE
UNIT 3
UNIT 3 GARAGE



2 A2.1 Upper Floor Plan
1/8" = 1'-0"

Area
UNIT 1
UNIT 1 GARAGE
UNIT 2
UNIT 2 GARAGE
UNIT 3
UNIT 3 GARAGE

FLOOR PLANS

2ND STREET APARTMENTS -
3PLEX CONDO

WHITEFISH, MT

A2.1

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12-22

Reg No. 2832
Date 1.2.13
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Project Number:	12-22
Date:	1.2.13
Drawn By:	A.WALL
Checked By:	AJW
Revisions	

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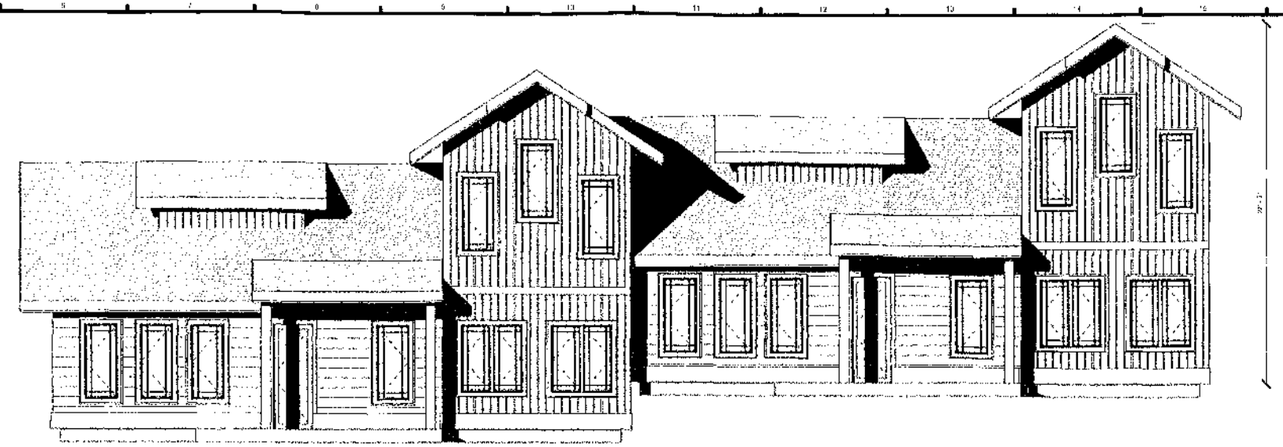
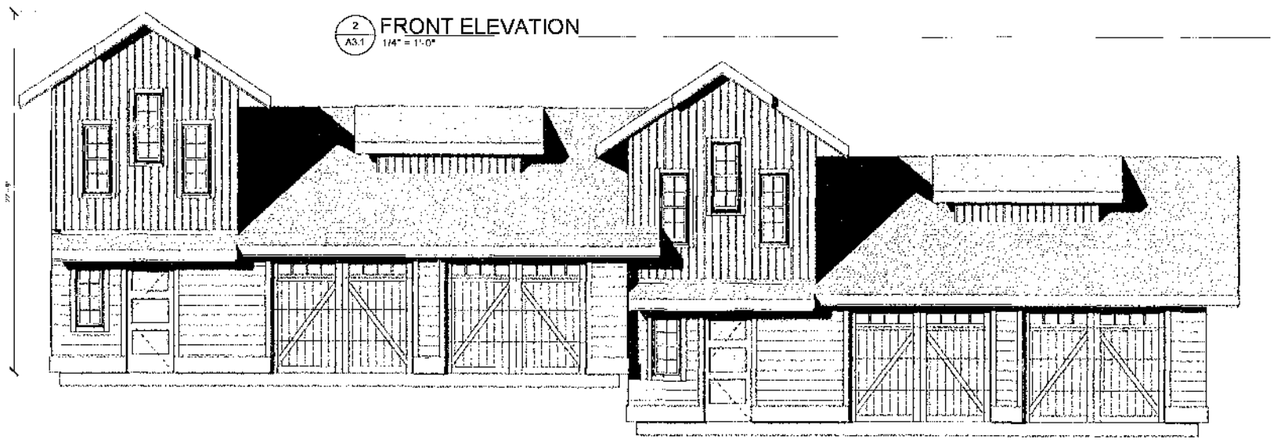
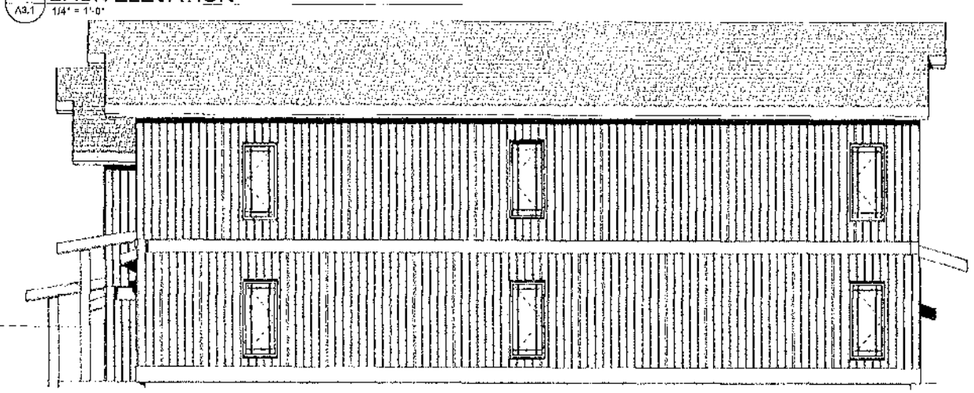


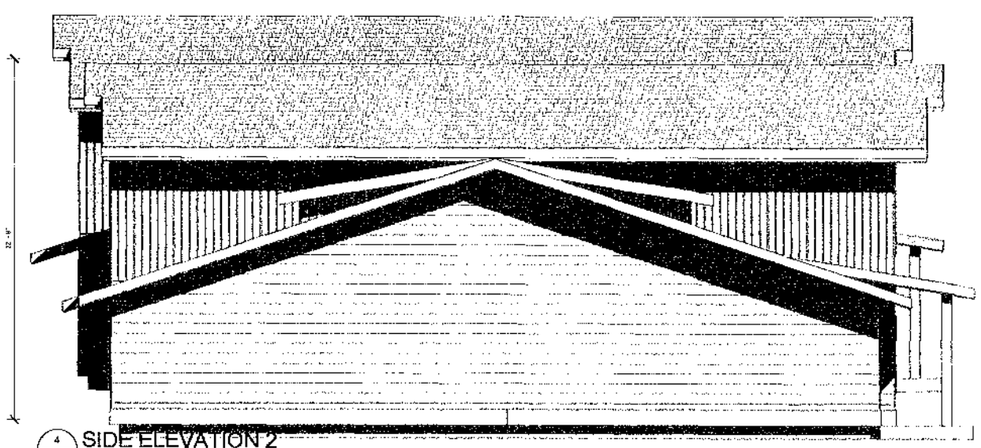
2 A3.1 FRONT ELEVATION
1/4" = 1'-0"



3 A3.1 BACK ELEVATION
1/4" = 1'-0"



1 A3.1 SIDE ELEVATION
1/4" = 1'-0"



4 A3.1 SIDE ELEVATION 2
1/4" = 1'-0"

I hereby certify that this document was prepared by me or under my direct supervision and that I am a duly registered architect under the laws of the State of Montana effective at the time of signature.

12-22
Date: 1.30.13
Reg. No. 5892
AARON J. WAY, AIA

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Project Number:	12-22
Date:	1.30.13
Drawn By:	AJW
Checked By:	AJW
Revisions	

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BUILDING ELEVATIONS

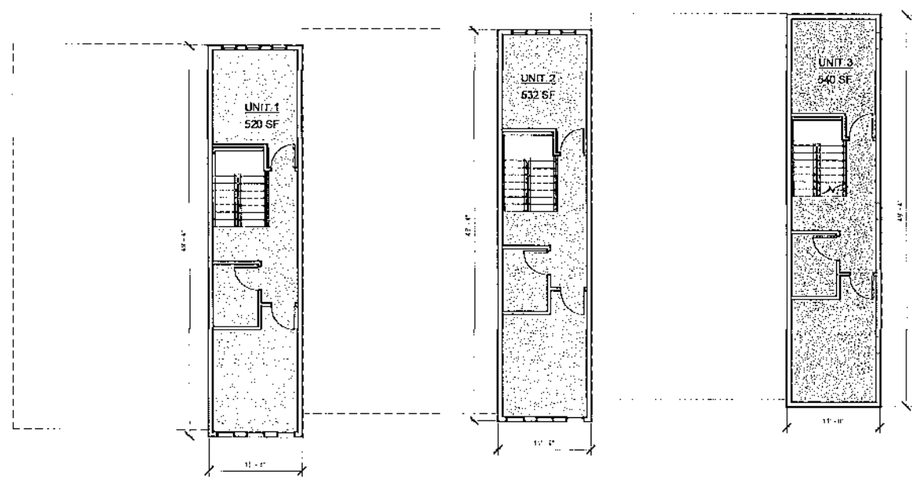
2ND STREET APARTMENTS -
3PLEX CONDO

WHITEFISH, MT

A3.1

1 / A2.1 Main Floor Plan
1/8" = 1'-0"

Area
UNIT 1
UNIT 1 GARAGE
UNIT 2
UNIT 2 GARAGE
UNIT 3
UNIT 3 GARAGE



2 / A2.1 Upper Floor Plan
1/8" = 1'-0"

Area
UNIT 1
UNIT 1 GARAGE
UNIT 2
UNIT 2 GARAGE
UNIT 3
UNIT 3 GARAGE

FLOOR PLANS

2ND STREET APARTMENTS - 3PLEX CONDO

WHITEFISH, MT

A2.1

12-22

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Project Number:	12-22
Date:	1.30.13
Drawn By:	A.W.J.
Checked By:	A.W.
Revisions:	

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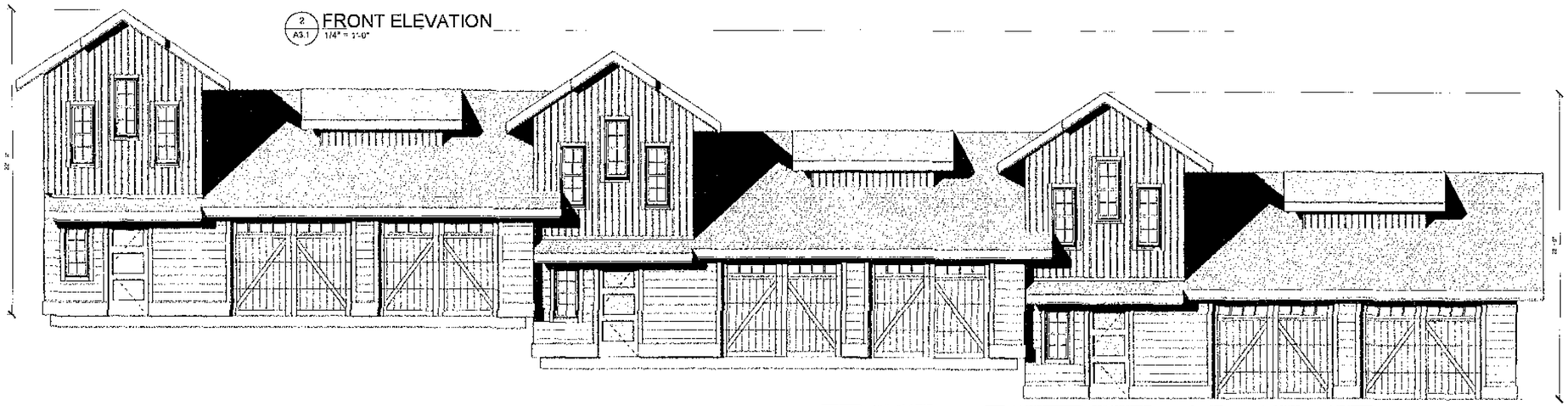
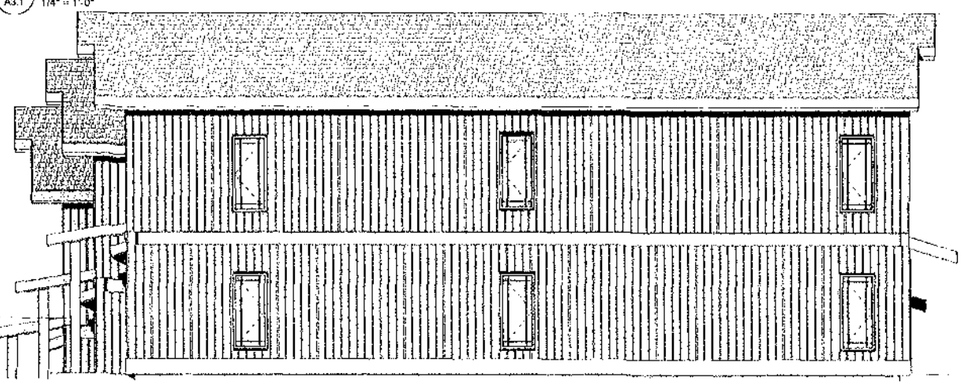
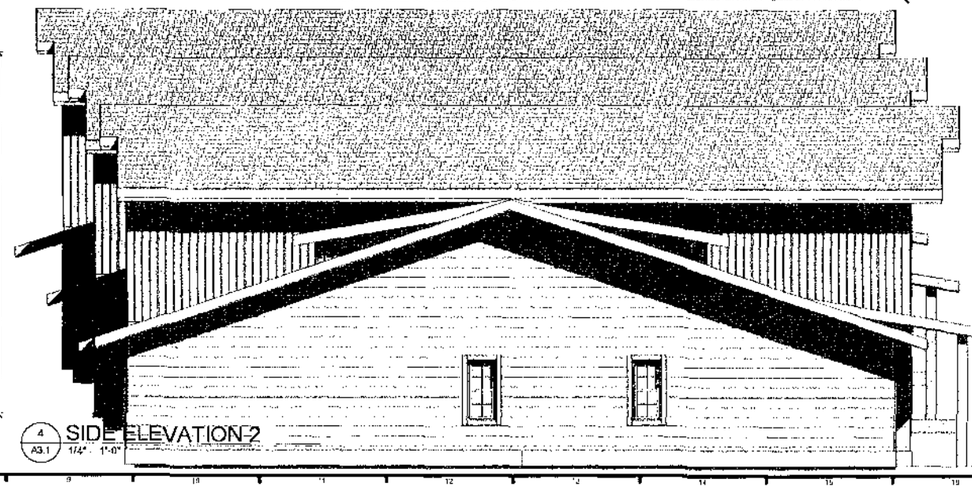
2 A3.1 FRONT ELEVATION
1/4" = 1'-0"



3 A3.1 BACK ELEVATION
1/4" = 1'-0"



1 A3.1 SIDE ELEVATION
1/4" = 1'-0"



4 A3.1 SIDE ELEVATION 2
1/4" = 1'-0"

BUILDING ELEVATIONS

2ND STREET APARTMENTS - 3PLEX CONDO

WHITEFISH, MT

A3.1

12-22

Date: 1.30.13

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Project Number:	12-22
Date:	1.30.13
Drawn By:	AJW
Checked By:	AJW
Revisions	

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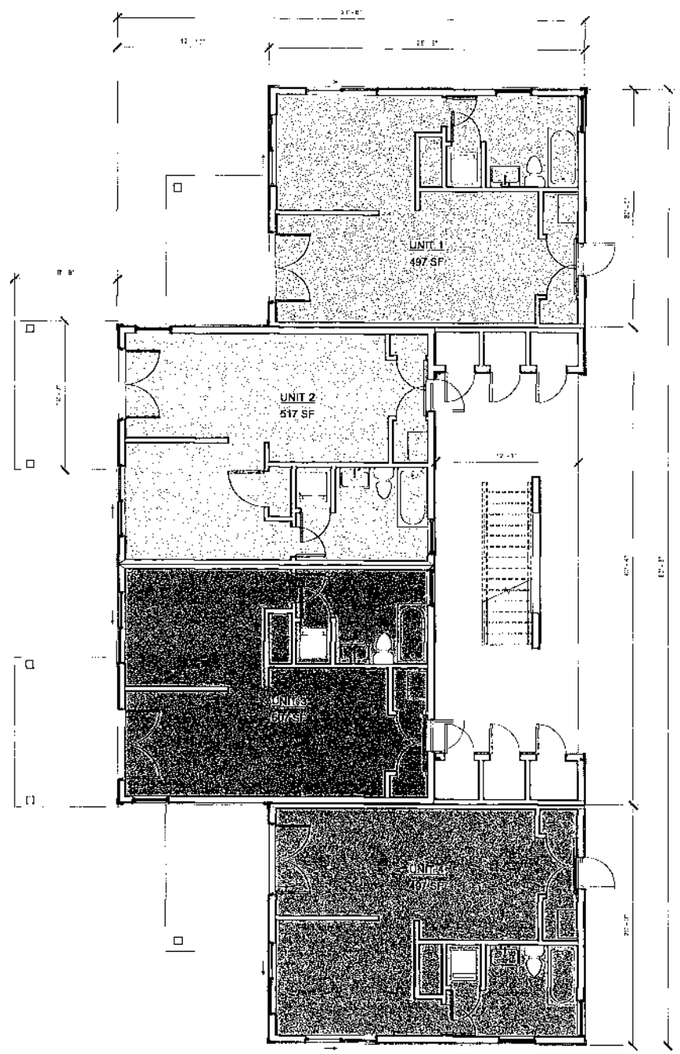
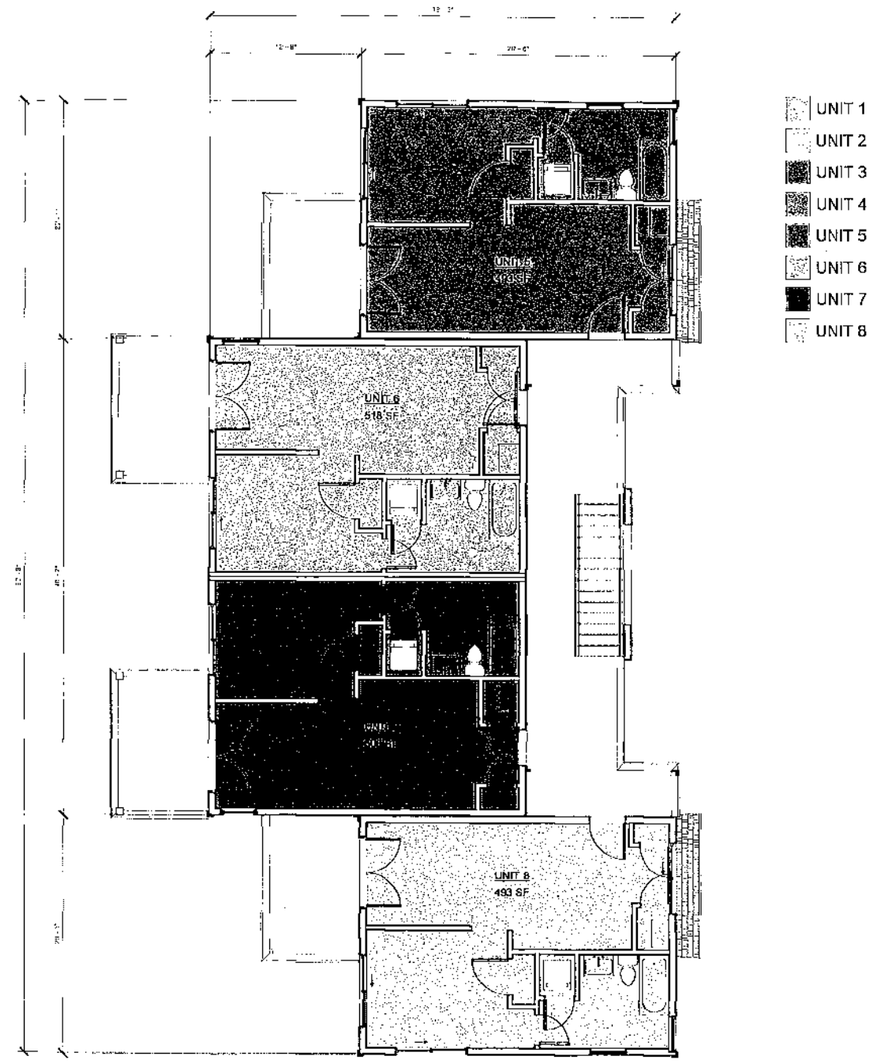


1 A2.1 Main Floor Plan
3/16" = 1'-0"



2 A2.1 Upper Floor Plan
3/16" = 1'-0"

FLOOR PLANS

2ND STREET APARTMENTS - 8 PLEX

WHITEFISH, MT

A2.1

12-22

Date 1.30.13

Project Number 12-22

Date 1.30.13

Drawn By A.WILL

Checked By A.W

Revisions

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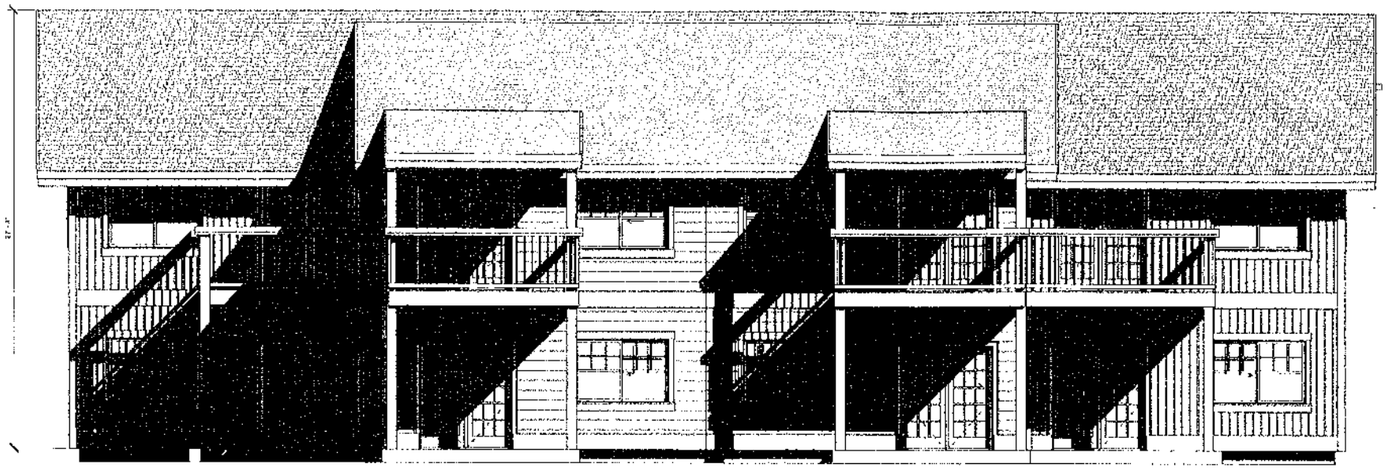
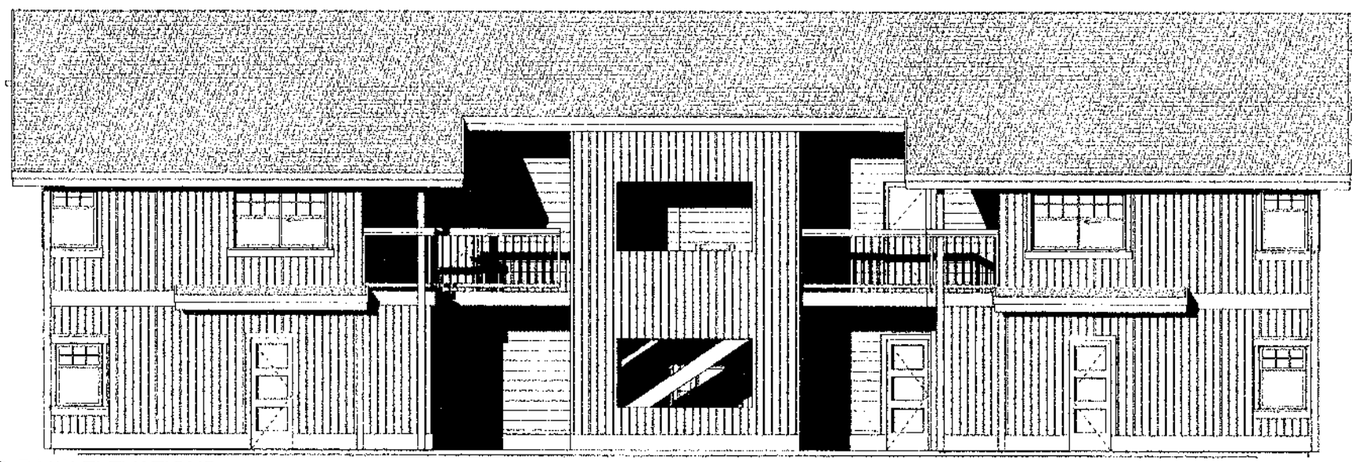


3 A3.1 FRONT ELEVATION
1/4" = 1'-0"



1 A3.1 BACK ELEVATIONS
1/4" = 1'-0"

2 A3.1 SIDE ELEVATIONS
1/4" = 1'-0"

BUILDING ELEVATIONS

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12-22

Sept. 12, 2012 — June 7, 2013

MARION, WALLACE

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Checked By:	AJW
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2ND STREET APARTMENTS - 8 PLEX

WHITEFISH, MT

A3.1

1 / A7.1 3D View 1

Perspectives

2ND STREET APARTMENTS - 8 PLEX

WHITEFISH, MT

A7.1

12-22

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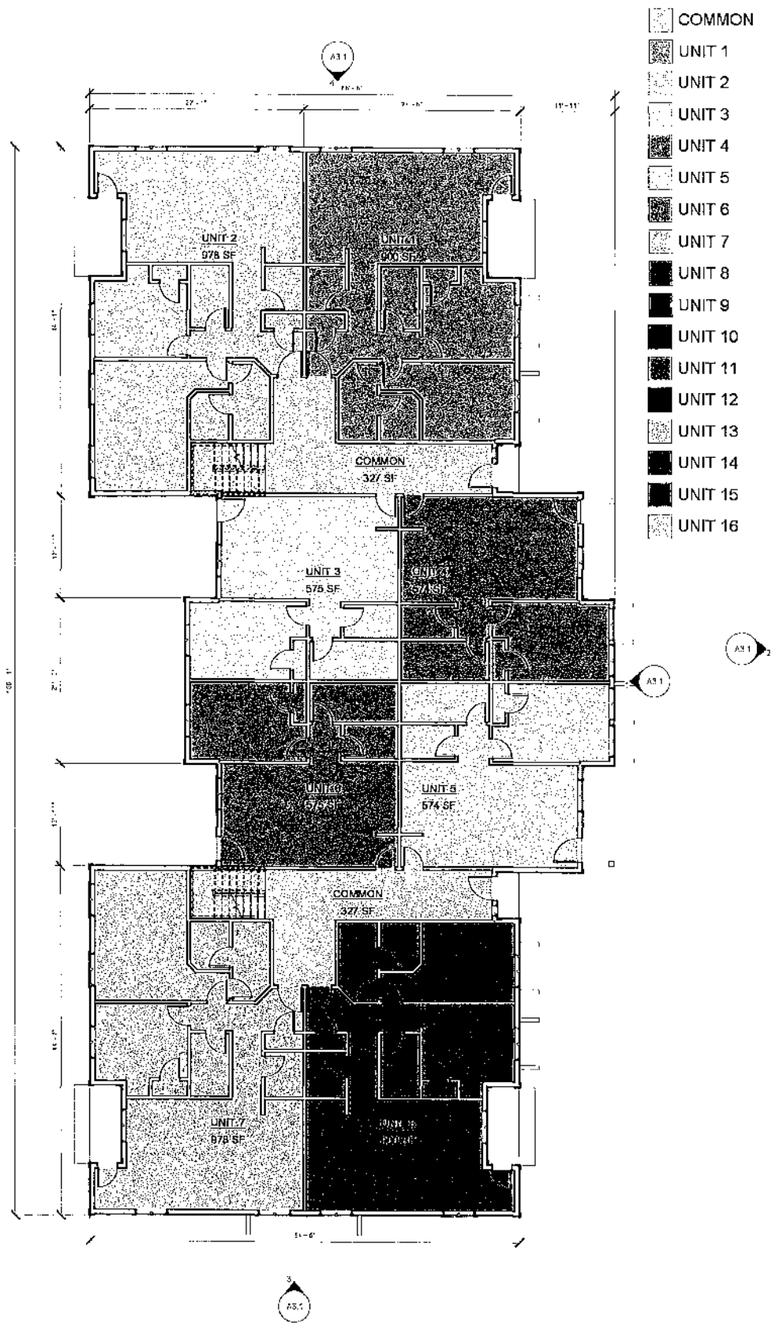
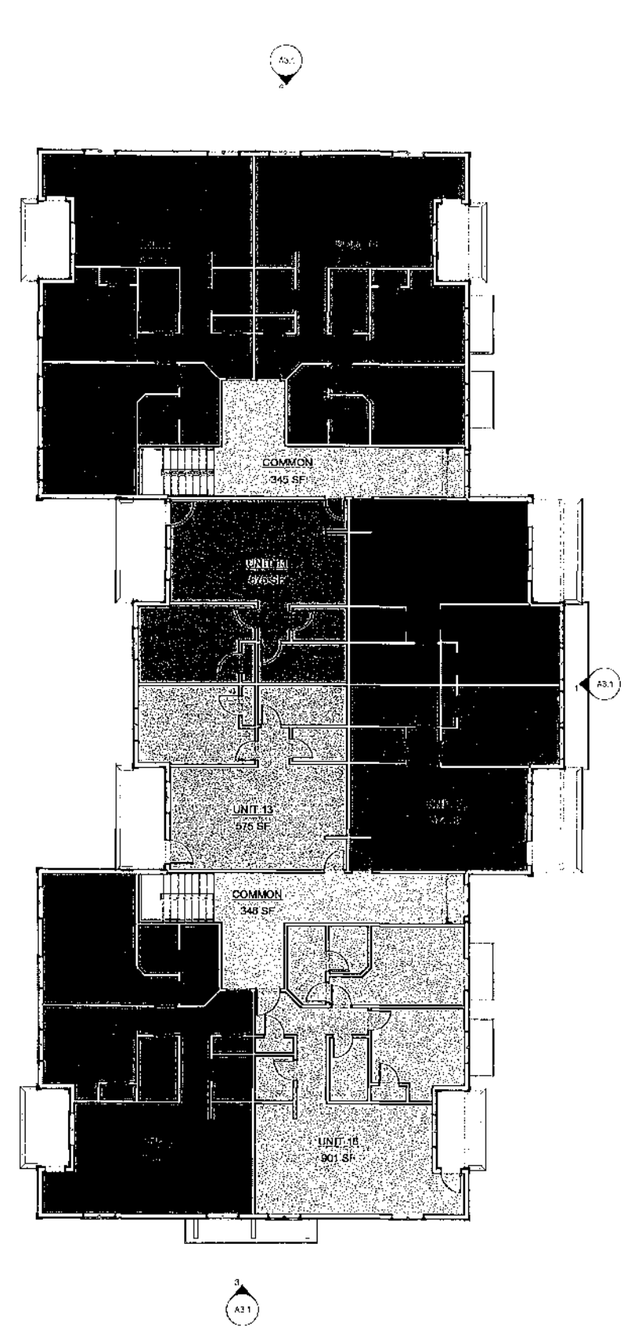
Project Number	12-22
Date	4.30.13
Drawn By	Author
Checked By	Checker
Revisions	08/06/13



4 A2.1 Main Floor Plan
1/8" = 1'-0"



1 A2.1 Upper Floor Plan
1/8" = 1'-0"

FLOOR PLANS

2nd Street Apartments - 16 PLEX

WHITEFISH, MT

A2.1

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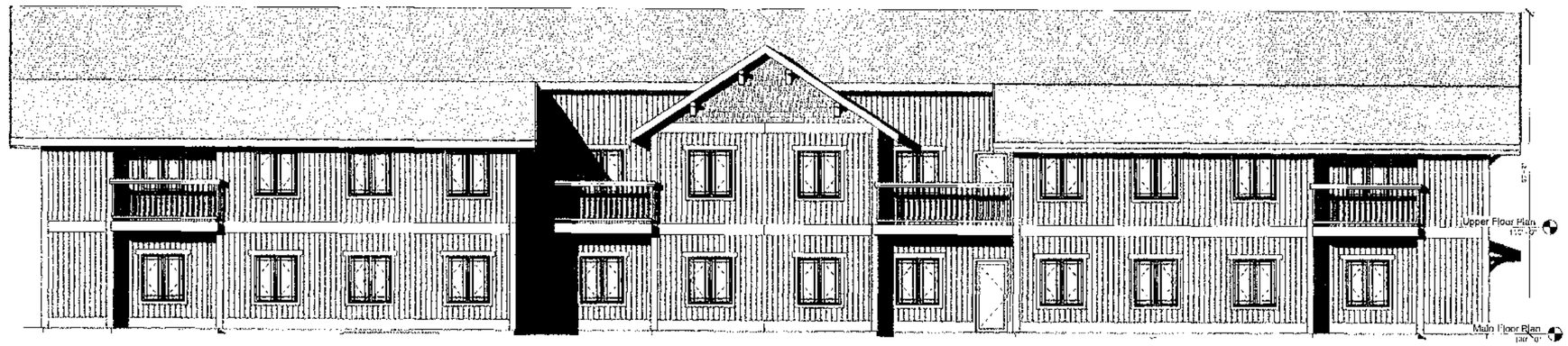
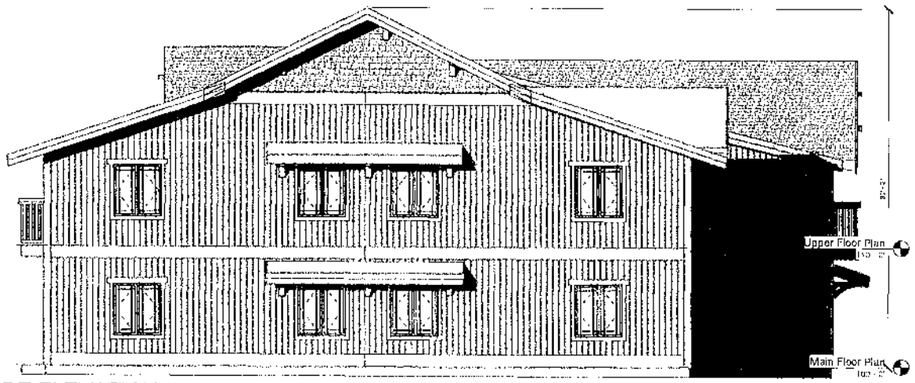
Project Number: 12-22
Date: 1-30-13
Drawn By: AARON
Checked By: AW
Revisions:

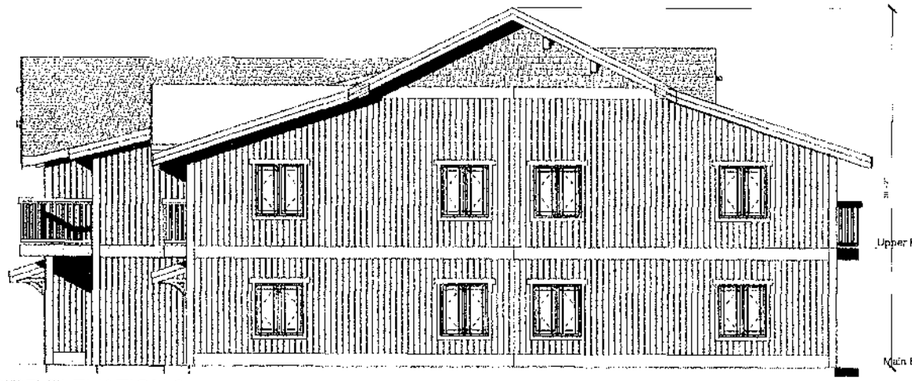
BACK ELEVATION



FRONT ELEVATION



SIDE ELEVATION



SIDE ELEVATION 2

BUILDING ELEVATIONS

12-22

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2nd Street Apartments - 16 PLEX

WHITEFISH, MT

A3.1

3D View 1

Perspectives

2nd Street Apartments - 16 PLEX

WHITEFISH, MT

A7.1

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Drawn By:	Author
Checked By:	Checker
Revisions	05/03/11

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FAX 406 862 8193

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

JOB NO: 392601
DATE: MAY 1, 2013
FOR: WILL MacDONALD
SEAN AVERILL
OWNERS: WILD ROSE KNOLL, LP
PINE HILL, LP

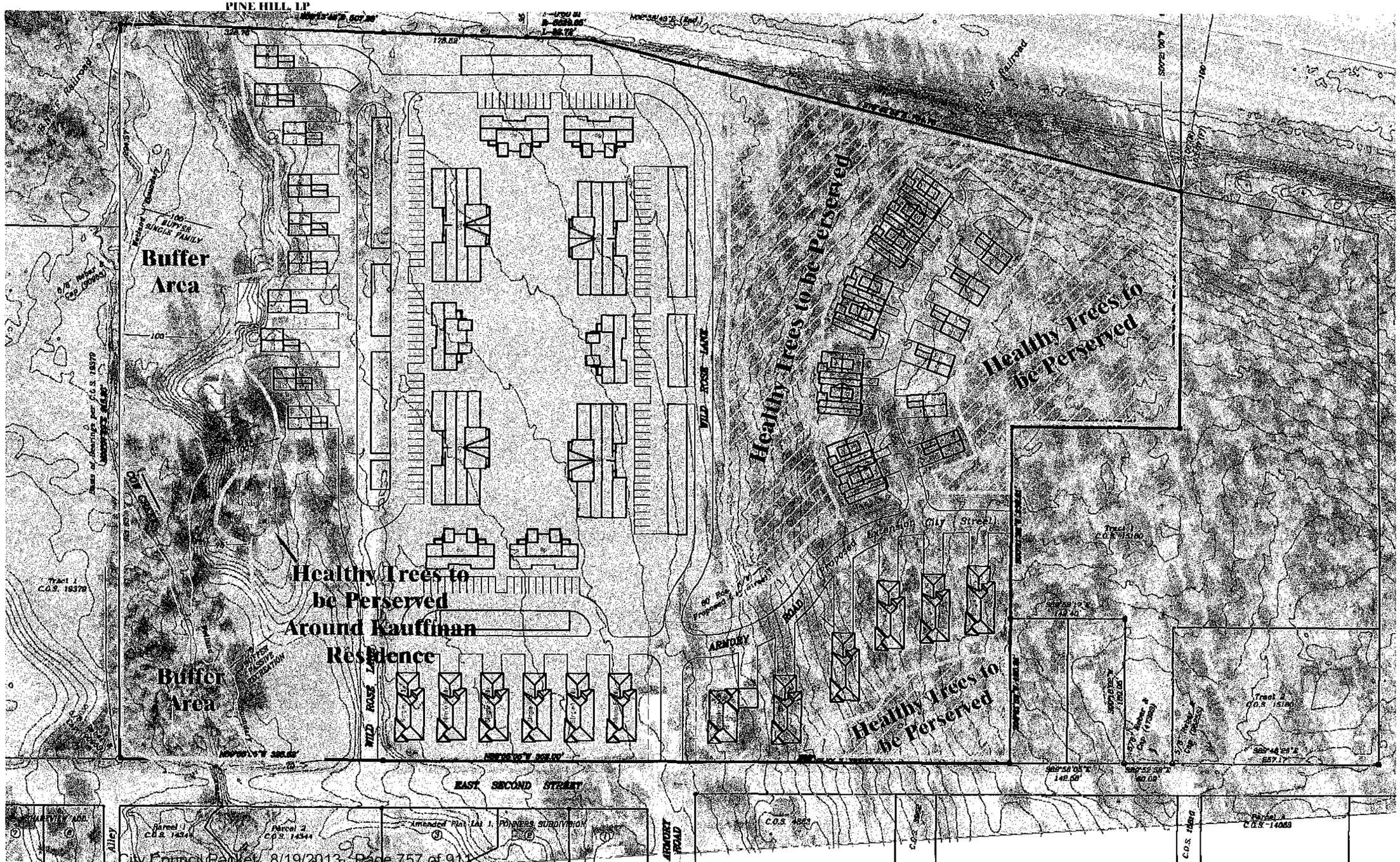
TREE PRESERVATION PLAN for:
SECOND STREET APARTMENTS

IN NE1/4NW1/4 SEC.32, T.31N., R.21W., P.M.,M., FLATHEAD COUNTY, MT

SCALE : 1" = 120'

120' 60' 0 120' 240'

N



Wendy Compton-Ring

From: Richard Menicke <rmenicke@gmail.com>
Sent: Thursday, May 09, 2013 2:38 PM
To: wcompton-ring@cityofwhitefish.org
Cc: Jen Asebrook; Richard Menicke
Subject: Planned development at Armory and East Second Street

I am writing to voice my concern regarding the planned development at the intersection of Armory Rd and East 2nd Street in Whitefish. **My primary concern is safety.** Safety related to family-oriented patterns (kids walking/biking to schools, playing at Memorial Park, friends walking the Armory "loop") and how those activities and patterns of movement would be adversely affected by increased vehicle volumes primarily on East 2nd Street but also on Armory. What is the developer's safety plan for the additional traffic volume?

Has any **traffic analysis** been conducted by the developer or the City to assess the number of vehicles per day the development would add to East 2nd Street? Likely times those coming from the development would be passing by Pine Ave on East 2nd Street (where school-based traffic is already congested) as those residents make their way to either downtown or US 93 South? Has the City truly consider the safety implications of these traffic loads for our community's children? Does the City really want this potential for conflict between vehicles and children making their way to school?

I have two young children who walk or ride their bikes to school every day from our home at the intersection of East 2nd Street and Pine. My 3rd grade son, after being told countless times, often does not look up when crossing the East 2nd Street. Bad parenting perhaps, but the law of probability would say that you put more cars on that road and his chances of getting hit by a car increase.

When I first read of the development plan instinct said 'that is not congruent with this Whitefish neighborhood's character'. I still feel this way. I am curious to know if current **City zoning** supports this type of development; or if the zoning on that land must be changed to accommodate the proposed development. If the latter is true, then my instinct is worth something.

Seems to me **viewsheds and open space** are important in planning for the future of the town. I encourage your office to hold onto that idea; the viewshed of Big Mountain as one enters Whitefish at the Armory Rd and East 2nd Street intersection is a special hello from area's natural assets that provide immense economic value to our community.

Again, I encourage your comprehensive assessment of the planned development to include these items I've mentioned. My personal desire is that the proposed site is determined to not be feasible and that affordable and dense housing can still be added to our community as the demand necessitates and the zoning and community allow

Thank you for the opportunity to be heard.

Richard Menicke
1042 East Second Street
Whitefish residence since March 2000
860-9630 home
871-3375 cell

EXHIBIT
4D

Robert Horne, Jr., AICP
151 Wedgewood Lane
Whitefish, MT 59937
(406) 250-6632

Whitefish City-County Planning Board
P.O. Box 158
Whitefish, MT 59937

May 9, 2013

Re: Second St. Apartments zone change and PUD applications

Dear Planning Board Members:
Please accept this report for the record as testimony on the two applications referenced above. This report was put together through many e-mails, phone calls, discussions, and meetings among the many concerned and caring residents of the Wedgewood Lane, Second St., and Armory Road neighborhoods. To the best of my ability, this report is a consensus position of these many fine and caring people. While we commend the applicants for holding a neighborhood meeting on site on April 24, and for revising their original plan, we remain opposed to this development. Specifically, we object to this project for on the following grounds:

- It is overly dense and will adversely impact our neighborhoods
- It is not consistent with the adopted Growth Policy
- The zone change is ill-advised and may constitute improper spot zoning
- The multi-family structures are incompatible with the scale and character of our neighborhoods
- Other areas of Whitefish are already planned and zoned and are better suited to multi-family rental/employee housing than is the subject property
- The traffic impact study submitted with the applications considers only capacity and levels of service and ignores bicycle and pedestrian safety, especially on Armory Road
- There are identified, needed housing types that can be developed on the subject property in a manner this is respectful to the surrounding neighborhoods.

We provide detailed discussion and analyses on all of these points below;

1. **Growth Policy compliance:** We respectfully disagree with staff that this proposal conforms to the Whitefish Growth Policy. The analysis conducted by staff to conclude that the Second St. Apartments proposal is consistent with the Growth Policy is as follows:

   The Urban designation is consistent with the WLR, WR-1 and WR-2 zoning categories. The Suburban designation is consistent with the WCR, WSR and WER zoning categories.

EXHIBIT
41

However, zoning district designations alone do not determine consistency with the Growth Policy. On page 48, the Growth Policy states:

Another factor that can threaten community character is development that is out of scale with surrounding neighborhood.

And on page 62:

As new neighborhoods emerge through future development, Whitefish residents have expressed a desire that they be **consistent in character and quality with existing neighborhoods.** (Emphasis added.)

Clearly, development can and often is out of scale with its surroundings regardless of zoning, and the Growth Policy points to several examples of this. It is our contention that this project IS out of scale with the surrounding neighborhoods, and therefore, **does not comply with the Growth Policy.**

The Growth Policy describes the "Urban" land use designation as follows:

Urban: This is generally a residential designation that defines the traditional neighborhoods near downtown Whitefish, but it has also been applied to a second tier of neighborhoods both east of the river and in the State Park Road area. Residential unit types are mostly one and two-family, but town homes and **lower density apartments and condominiums are also acceptable in appropriate locations using the PUD.** (Emphasis added.)

We submit that this is NOT an appropriate location for multi-family units, both in terms of scale and character and the fact that there are far better locations in the community for this type of housing. The location issue will be examined in greater detail below.

It is also interesting to note that approximately 71% of the subject property is designated "Suburban Residential" by the Growth Policy. The description of Suburban Residential is:

Suburban Residential: Lower density residential areas at the periphery of the urban service area generally fall under this designation on the Future Land Use Map. The residential product type is predominantly single-family, but cluster homes and low-density town homes that preserve significant open space are also appropriate. Densities range from one unit per 2 ½ acres to 2.5 units per acre, but could be higher through the PUD. Zoning districts include

WCR, WER, and WSR. **Cluster residential that preserves considerable open space, allows for limited agriculture, maintains wildlife habitat is encouraged.** (Emphasis added.)

We would note that nowhere in this description is there a mention of 8 and 16-unit buildings, yet that is what is being proposed. In fact, the multi-family core at the center of the project is proposed to be built at a density of approximately 15.4 du/ac. Furthermore, we submit that what is proposed **is not** the "cluster" development anticipated by the Growth Policy, and certainly does not contain "71% open space" as claimed by the applicant and staff.

Finally, it should be noted that the Growth Policy also includes a "High Density Residential" land use designation, which reads in part:

High Density Residential: Multi-family residential, mostly in the form of apartments, condominiums, and townhomes, are accounted for by this designation. **Areas designated for High Density Residential development are mostly near the downtown and along major transportation routes.** (Emphasis added.)

Once again, we would contend that the subject property **does not** meet this locational criteria, and that will be discussed in greater detail later in this report.

2. **Rezoning is inappropriate:** Again we must respectfully disagree with staff. The westerly 6.875 acres of the subject property is part of a wide-spread and entirely viable WR-1 zoning district, as the official zoning map clearly shows. Except to justify higher densities on the subject property, there is no public health, safety, or general welfare reasoning for rezoning these properties from WR-1 to WR-2.

   We find staff's suggestion that they be directed to proceed with rezoning of properties to the west of the subject property to be ill-advised and presumptuous. The **owners** of the properties in question **were not consulted** before staff made this suggestion in their report for the March 21 public hearing. Since that staff report was made public, all property owners in the area except for one (who has not been contacted) have stated that **they do not wish to have their properties rezoned to WR-2.** In addition, portions of this property have development limitations similar to those on the west side of the subject property, which are so severe that the applicants are leaving this area in open space. A photo of the Kauffman sisters' property (adjacent to the subject property on the west) taken in the spring of 2009 is provided below.

This photo shows property directly west of the subject property. Portions of it are flood prone and have high ground water levels, making development problematic.

Furthermore, one of the property owners in this area was told by the City Public Works Director that due to "engineering reasons", sewer service is not available to his property. As that owner wrote in a recent e-mail, "So that also casts into doubt the wisdom of allowing increased density on my property."

Finally, if the westerly 6.875 acres of the subject property is rezoned to WR-2, the result may be a spot zone. In Montana, the criteria for spot zoning come from the Supreme Court decision in *Little v. Flathead County* and were reaffirmed in *Boland v. City of Great Falls.* Those criteria are:

1. The requested use is significantly different from the prevailing use in the area.

2. The area in which the requested use is to apply is rather small, however, this factor is more concerned with the number of separate landowners benefited by the requested change than it is with the actual size of the area benefited.

3. The requested change is more in the nature of special legislation. **In other words, it is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public.** (Emphasis added.)

Based upon these criteria, we conclude that it is entirely possible that rezoning the westerly 6.875 acres of the subject property from WR-1 to WR-2 could reasonably constitute improper spot zoning.

3. **Traffic study has not addressed safety concerns:** The TIS submitted with the Second St. Apartments application deals with street capacity and regales us with the fact that level of service (LOS) analyses have been prepared according to the Transportation Research Board's *Highway Capacity Manual (HCM).* (It also uses some of the lowest trip generation rates I have ever seen employed in a traffic study.) But what it does not do is

discuss the impacts of site generated traffic on pedestrian and bicycle safety----especially on Armory Road.

Site generated traffic assigned to Armory Road is expected to increase total trips by 20%----from approximately 1,000 to 1,200 trips per day. But Armory Road has no sidewalks, no bike path, is only 24 feet in width with ditches on both sides, and has an almost 90 degree bend approximately ¼ mile south of Second St. This is anecdotal, but Armory Road is not only used by recreational walkers and cyclers, it is also used by school children from the homes along Armory and from the Heuth Lane and Peregrine Lane areas. We feel strongly that some assessment of safety must be made before any project of this magnitude is allowed to proceed.

4. **Phasing/Subsequent plan amendments:** At the neighborhood meeting of April 24 held on site by the applicant team, the developer identified the multi-family development in the center of the project as Phase 1. Phase 2 was identified as the single-family homes along the Second St. frontage. The developer also discussed projected rent levels and price points for the single-family homes, which ran from the high $200k to the low $300k. However, in a mixed product type/density project, it is not uncommon at all that once the multi-family component is constructed and operating, the lower density, higher priced product becomes less attractive to buyers. Financing can become difficult and the price points that are counted on in the project pro forma may not be attained. We have been advised by a prominent and knowledgeable local realtor that this scenario is entirely possible.

   Our concern is that the proposed project is planned not for eventual construction, but for eventual amendment. We fear that once the apartments are built and operating, the single-family and cottage homes will indeed become less viable in the market, and that the developer will be back before the City to amend the PUD site plan. When that happens, and we believe it to be highly likely, the requested amendment will be for a product and density "more compatible with the existing multi-family and with better acceptance in the market", meaning even higher densities. And given the presence of the multi-family housing, the amendment will be difficult for the City to deny. This in turn will tend to set precedent and developers will eye other vacant and partially developed properties in the neighborhood for more multi-family housing opportunities.

   To those of us concerned about this project, our neighborhoods are our home-----and not a cash cow for multi-family developers.

5. **Better suited multi-family sites already exist in WF:** At the March 21 public hearing, we presented for the record descriptions and aerial photos of properties which are already zoned and planned (PUD or plat as appropriate) for multi-family development. Such areas include:
   a. Deer Creek (formerly The Views)
   b. Properties north of JP Road along Arielle Way, Lena Joy, and Shiloh Ave.
   c. Two properties immediately north of River Lakes Parkway
   d. Property south of the pond next to the mall.

e. Several properties in the south Hwy. 93 corridor zoned WB-2 (which is a commercial zone that allows multi-family housing).

All of these sites have locational advantages for multi-family employee housing over the subject property:

- They are located closer to commercial services (truly walking distance)
- Closer to potential employment
- Better access to public transportation both to Whitefish Mountain and intercity transportation

Given these locational advantages, why are these properties not being targeted by multi-family developers? Why have they not been developed? The primary reason is the asking price for the land is more than s developer wants to pay. It is far less expensive to take a residential property in an established neighborhood, put it under contract, then go to the city and ask for the multi-family entitlements. This is a money making formula for the developer and property owner, but a losing proposition for the neighborhood.

6. **Other housing types are needed in the community:** The applicants contend that multi-family rental housing, affordable to service sector employees, is needed in the Whitefish community. As people who are also members of this community, we do not dispute that. However, there are many different housing needs within the community, and the need for multi-family rental housing does not mean that this particular product can or should be located where it will create harmful impacts to established neighborhoods. We applaud the introduction of single-family homes and cottage homes (also a needed product in the community) into the revised PUD site plan, and would encourage the developer to expand that product offering and eliminate the large, bulky multi-family structures.

   Consider too this response from a survey conducted in conjunction with a 2008 housing needs assessment for the Whitefish Housing Authority (this is the needs assessment currently up on the Authority's web site):

   "Only 33.6% of renters responded that there was a shortage of rental properties."

   In related survey questions, 74.1% of renters responded that "rents are too high"; 48.3% responded that "costly rental deposits" was a barrier to renting; 57.8% cited restrictions on pets as a rental barrier. **Therefore, we respectfully suggest that supply alone may not be the major factor** in providing rental housing to meet the needs of employees, but that pricing and management practices may also contribute to the problem.

   As indicated above, smaller single-family homes are also a needed product type in Whitefish. Note this response from the same survey:

   69.4% of homeowners indicated that they intend to sell their larger home and buy a smaller home in the next five to ten years.

   Consider too that when respondents were asked to rank the housing types most needed in Whitefish, they listed "for sale smaller homes in general" and "for sale homes under

1,200 square feet" as Nos. 1 and 2 respectively. "Apartments, two-three bedroom" came in at No. 8.

7. **Alternative to the proposed development:** No one in the group of concerned neighbors is of the opinion that the Kaufman property should remain undeveloped in perpetuity. Throughout the one public hearing and all the neighborhood discussions and meetings, Whitefish citizens concerned about the size, density, scale, and impacts of the proposed development have been clear and consistent: **develop the Kauffman property in harmony with the neighborhoods that we live in and love**. But what does that mean? The specific suggestions made by the neighbors are discussed in No. 6 above: small single-family detached homes and cottage homes. These are needed and marketable product types in our community and are consistent with the scale and character of our neighborhoods. **As a viable alternative to the current proposal, we respectfully suggest that the WR-1 zoning on the westerly 6.875 acres remain, and that the PUD site plan be once again revised to provide for a mixture of single-family detached, cottage homes, and similar attached and/or semi-attached single family products, all at significantly lower densities than what is being proposed.**

Summary: This letter has presented more than ample evidence that the proposed zone change and PUD site plan are not compatible with the surrounding neighborhoods, are not consistent with the Whitefish Growth Policy, and should not be approved in their current form. We urge you to reject the zone change and advise the applicants to withdraw the PUD site plan and formulate a project with a density and product types that respect the surrounding established neighborhoods.

Respectfully submitted on behalf of and with the remarkable and heart felt cooperation, consultation, caring, and assistance of my many wonderful neighbors,

Robert Horne, Jr., AICP

Wendy Compton-Ring

From:	mdowney <mdowney@bresnan.net>
Sent:	Thursday, May 09, 2013 5:19 PM
To:	wcompton-ring@cityofwhitefish.org
Subject:	Opposition to zoning for Community Infill Partners
Importance:	High

My name is Michael Downey and my wife Debbie Dante have lived in Whitefish for over 40 years. I have lived off of Armory Road on Hueth lane for 20 years. I am opposed to the project for reasons listed below:

1. Over population in one area.
2. Increase population that need services.
3. Need for more city services, water,drainage, police, snow plowing, fire department, medical, schools.
4. Demographic transient population.
5. Land is designated as agricultural and wet lands. Home to certain birds, wildlife.
6. Armory Road already too busy with traffic, skate park,doggy park, bike trail, music events, ski joring.
7. Increase crime rates. Do we have enough police personnel to enforce?
8. No other large housing project in the area.
9.Cannot change landscape wildlife habitat by a new zoning code.
10. The late Chet Hope said at a city council meeting we are losing site of what Whitefish should be as a community.We don't need sprawling subdivision.We should focus on preserving the Last Special Place.

Thank you for your time and consideration.
Michael W. Downey
Debbie Dante

EXHIBIT
42

Wendy Compton-Ring

From: Melissa Genovese <mbgenovese@bresnan.net>
Sent: Thursday, May 09, 2013 10:03 PM
To: wcompton-ring@cityofwhitefish.org
Subject: 2nd St. Housing Proposal

Dear Whitefish City Council Planning Board:

Please accept this letter in regards to the proposed 2nd St. Apartment zone change and PUD application. We are one of the neighbors that Robert Horne, Jr. spoke of in his letter submitted to you for consideration. We wholeheartedly agree with the positions and opinions stated in that letter. We absolutely want what is in the best interest of the residents of Whitefish, not those in position to make significant financial gains. It is agreed that the land should be developed, but only in accordance with the current zoning, in consideration of the surrounding community and natural land restrictions (ie. flood zone, high water table), and the safety of our citizens.

Thank you for your consideration.

Sincerely,

Melissa Genovese, DVM
Bob Genovese, DVM
Mason Genovese
Olivia Genovese

EXHIBIT
43

Wendy Compton-Ring

From: Ryan Kann <kanncraftedhomes@gmail.com>
Sent: Friday, May 10, 2013 2:38 PM
To: wcompton-ring@cityofwhitefish.org
Subject: 2nd street apartments

Hello Wendy,
my name is Ryan Kann. I live on birch drive in whitefish. I am very opposed to this apartment development on 2nd street. I feel that this area has the highest population of children of anywhere in town. All the schools are located in that area and I understand the traffic down second street going past all the schools will increase more than 1000 cars a day. As well as armory road already being a dangerous and heavily used pedestrian route will at least double the traffic and the risk of accidents with hikers, bikers, and runners along that route. I also don't believe this is an acceptable way to continue growth in this area. There are a number of other areas around town that already have the correct zoning and would accomidate that heavy flow of traffic. This is not what I believe anyone in this town would be in favor of if they were aware of the impact this has on our community.
Thank you
Ryan Kann

EXHIBIT
44

Scott and Barbara Brant
1658 Second St. East
Whitefish, MT 59937
(406) 862-5356
thebrants@bresnan.net

Whitefish City-County Planning Board
P.O. Box 158
Whitefish, MT 59937

May 10,2013

Re: Second St. Apartments zone change and PUD applications

Dear Planning Board Members:

We are residents of East Second Street and have lived at the same address since 1976, 37 years. We have a few observations and comments regarding the proposal to change zoning and subsequently seek approval for a development of mixed family housing in the Kaufman meadow on East Second Street.

We ask you to consider the following points:

- The proposed development is out of character with the existing neighborhoods
- The net gain in traffic is inappropriate for the conditions of East Second Street and Amory Road.

EXISTING CHARACTER OF NEIGHBORHOOD

We understand and support the right of David Kaufman to develop his property and as nice as it's been to have a scenic, rural feel in our area because of his hay meadow, we have always assumed that it would be developed into residential housing. However we do not support the size, scale, nor the character of the proposed development.

The overwhelming majority of residences from east of the High School are single family dwellings. Aside from a single 4-plex at the top of the hill on East Second Street all dwellings are single family homes. We do not feel that the proposed development fits within the character of the existing and surrounding neighborhoods. The majority of the planned units are 4, 8 and 16-plex multi-family structures. A multi-family apartment complex is out of place for the character of the surrounding neighborhoods.

EXHIBIT
45

TRAFFIC DENSITY

The proposal was originally planned for over 170 living units. The revised proposal is for over 150 units. We assume that for each living unit there will be a minimum of 2 cars per unit. That is over 300 cars which we also assume will be driven daily. That means 300 cars pulling out on to East Second Street every morning and many cars, multiple times a day.

We did a little survey of parking spaces on Central Street from the railroad depot south to 4th street (one block south of main downtown). There were 100 parking spaces on each side of Central. 200 spaces total. We did this count to get an idea of how many potential cars would be coming to and from the development every day. They would fill up all the parking spots on Central and still need 100 more spaces to accommodate them all.

The main proposed intersection is an extension of Armory north across East Second Street. The intersection is at the bottom of the hill going east up Second. This hill is dangerous in the winter and we have seen cars and semi's stalled and stuck in icy conditions trying to go up or come down the hill. Now add 300 cars to the mix and we feel the density of the proposal is too high for the existing conditions.

We know that other neighbors have other concerns and that you will have been given much more detailed observations that what we have mentioned. These are our most salient objections. Please consider them and request that the developer provide you with a proposal that is in keeping with the size, scale and character of the existing neighborhoods.

Sincerely,

Scott and Barbara Brant
1658 Second St. E.
Whitefish

Wendy Compton-Ring

From: Bobbie Barrett <barrett@bresnan.net>
Sent: Friday, May 10, 2013 3:41 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Kaufman Property Proposed Development

Whitefish Planning Board:

Please consider the communication of Robert Horne as a thorough and professional document reflecting the concerns of Wedgewood Lane, Second Street, Armory Road, and Birch Drive residents. Having lived on Birch Drive for 28 years, I have experienced only one development in this area which was the single family, Meadows homes that were built on Hans Englekey's property. Fortunately, that development has had little impact on a 1970's neighborhood where kids play daily in and around streets.

The density, traffic, zoning, ground water, and soil quality issues that are documented by Mr. Horne reflect serious concerns about the proposed development. Please keep in mind that once one goes up that very steep little hill, (which gets very slick), there are families with young children who must come down that Second Street hill daily to access all schools. It is inconceivable to me how the proposed plan can be made safe. I also notice overhead power lines that are not sanctioned in the Master Plan. Several years ago, we closed schools because a spring storm downed the lines and we were afraid for the safety of our children walking to schools.

The visual effect of a "Where's Waldo" mess of chimneys and rooftops in this pastoral setting where deer are grazing and we can see THE MOUNTAIN every day, is not what we want our neighborhood to be.

Thank you for consideration of the aesthetics and extraneous quality of life issues of this project that are of deep concern to many people. I am sorry I will be out of town for your meeting.

Sincerely,
Bobbie Barrett
125 Birch Drive
Whitefish, MT 59937
730-2718

EXHIBIT
46

Wendy Compton-Ring

From: Jeff Zerr <jeffreyjzerr@gmail.com>
Sent: Monday, May 13, 2013 12:29 PM
To: wcompton-ring@cityofwhitefish.org
Cc: Robert Horne
Subject: Second St. Apartments

Ms. Compton-Ring,

I'm a part time resident, property owner and landlord on east Second St., and I'm concerned about the proposed development just east of me at the Kauffman property. I'm just learning the details of the proposal, but I'm concerned that the scope of the development is out of step with the current character of our neighborhood, and will lead to a significant increase in travel along Second Street, which is already over-utilized. As you know, it is the main traffic corridor between downtown Whitefish and these eastern neighborhoods, so the density is high and I believe the average speed of this traffic to be well in excess of the posted 25 mph speed limit.

I have read Robert Horne's excellent report on the proposal, and share his concerns about the density and character of this development. A change in zoning of this or adjacent properties should not be required to develop it in accord with the current low-density character of the neighborhood. Placing a large, high density development in a remote corner of the community, far from the highway and amenities, doesn't seem to be a very good idea. It will have a negative impact on the current and future residents of east Second Street, and the community as a whole.

Sincerely,

Jeff Zerr, Co-Owner
1208/1210 E. Second St.
125 Mill Ave. (adjacent rental)
862-2237 (res.)
249-4287 (cell)

EXHIBIT
47

Wendy Compton-Ring

From: Jay and Suzi Stagg <thestaggs@gmail.com>
Sent: Monday, May 13, 2013 4:36 PM
To: wcompton-ring@cityofwhitefish.org
Cc: kelly davidson
Subject: Armory/2nd street zone change

I have lived on East 2nd Street near Memorial Field for about 20 years now. I understand that change is inevitable and have seen a lot of it in this town over the years. I am not opposed to things changing as long as it is within reason. The proposed zoning change where 2nd Street meets Armory is not a change I would consider reasonable.

When I heard that there was a traffic analysis saying that local traffic would not be impacted by the proposed complex it was laughable. Let me guess, the folks that want to build the complex had it done by someone they chose. Most families have more than one vehicle these days. It is not unreasonable to say that there could be 200-300 cars that come along with the people that will live in the new complex. Please tell me how about several hundred car trips up and down east 2nd street (the most direct route) or on the Armory loop can not affect traffic?! The whole project effects many more than those who live directly by it. There are many, many children (mine included) and adults that bike or walk on this road and the Armory loop on a daily basis. What about their safety? Don't just tell me that traffic is not affected, explain it to me. I want to know exactly how whoever did the analysis came to that conclusion.

Neither Willowbrook nor Creekwood were a part of this neighborhood when I moved in. I didn't oppose those because what was proposed made sense with the amount of property they were being built on. The sheer number of units proposed for this project is way out of line.

I hope that the Planning Department listens to the concerns of people that genuinely care about their neighborhood and the safety of the people who use it. It would be sad if they listened instead to one greedy person who is oblivious to what this neighborhood needs or wants.

Thank you.
Suzi Stagg
1306 East 2nd Street

EXHIBIT
48

Wendy Compton-Ring

From: Jay and Suzi Stagg <thestaggs@gmail.com>
Sent: Monday, May 13, 2013 5:05 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Armory/2nd Street

Sorry to bother you again. I was just informed that the developer was supposed to meet with local residents about this project. I live a block away (200 ft?) and was never contacted about any meeting. The developer clearly is not doing what he says he will do.
Suzi Stagg

EXHIBIT
49

Wendy Compton-Ring

From: Brian Roland <bproland@gmail.com>
Sent: Monday, May 13, 2013 9:45 PM
To: wcompton-ring@cityofwhitefish.org
Subject: 2nd St./Armory Rd.

Dear Ms. Compton-Ring,

I'm writing this email to voice my opposition to the proposed "complex" on East Second St.
It worries me that developers may be able to push through zoning changes that do not fit the neighborhood and do not follow the adopted growth policy.
As a new homeowner in the area I see the amount of people that use Armory Road to walk and bike. Many of the pedestrians are children going to and from the skate park, dog walkers and women pushing strollers. It seems very fishy to me that the traffic analysis submitted states there will be no impact on local traffic.
I hope and believe that the Whitefish Planning Department will do what is best for the city and the community and vote No for the Second St. Complex.

Sincerely,

Brian Roland

EXHIBIT
50

Wendy Compton-Ring

From: Chris Bernat <cbernat@cyberport.net>
Sent: Tuesday, May 14, 2013 11:29 AM
To: wcompton-ring@cityofwhitefish.org
Subject: 2nd Street Development Project

Dear City Council,

I am opposed to such a large density of housing being put into our neighborhood. High density housing should be broken up and placed at different locations around town, not just in one area. It will degrade the neighborhood and is not consistent with the neighborhood.

Thanks,

Christine Bernat
119 Wedgewood Ln.
Whitefish, MT 59937

EXHIBIT
51

whitefish
property management

May 15th 2013

Re: Proposed apartment/Condo development on 2nd Street

To Whom It May Concern:

My name is Linda Roberts and owner of Whitefish Property Management. My husband and I bought the business 3 years ago. We manage 188 properties; about 150 are long term rentals.

Our current inventory of available single-family homes is 2, with the median rental rate of a 2 bedroom home at $ 950.00/month. And our current inventory of multi-family units is 3 with the median rental rate at $600.00/month.

As you can see, our supply is very limited, exceeding demand. I have many potential tenants who cannot find adequate housing here in Whitefish.

I believe the developers of this project are putting much thought and consideration into the impact (or lack of impact) of the community and holding their standard high. We should applaud the addition of this quality complex to our community.

Please feel free to call me for any questions.

Linda Roberts
Owner

EXHIBIT
52

505 East Second Street • Whitefish, Montana 59937 • (406) 863-4651 • fax (406) 863-4655 • www.whitefishvacation.com

Wendy Compton-Ring

From: Lani Smith <milana.justine@gmail.com>
Sent: Wednesday, May 15, 2013 2:26 PM
To: wcompton-ring@cityofwhitefish.org
Subject: 2nd Street Apartments

Ms. Compton-Ring,
I am writing to you in favor of the 2nd Street Apartments. I am a Flathead Valley native and recently moved back after living in Florida and Oregon for the past 8 years.
I have been looking for housing in Whitefish for the past 6 months and have been disappointed in what is available. As a single, young working woman there are not many options available for rentals. There are very high end rentals and there are rentals that are much more affordable, but I would not feel safe living in alone.
I spend a lot of my working time as well as my personal time in Whitefish and would love to be able to have some options to find affordable housing in a safe and esthetically appealing location. From what I have seen from the proposals of the 2nd street apartments, they would offer just that.
I hope that you will take into consideration the benefits of a complex like the second street apartments for not only young professionals like myself, but also for families looking for an affordable and safe option for rentals.
Thank you for taking the time to listen to and consider my comments,
Milana Smith

EXHIBIT
53

Wendy Compton-Ring

From: Scott Bates <s.bates1990@yahoo.com>
Sent: Wednesday, May 15, 2013 9:49 PM
To: wcompton-ring@cityofwhitefish.org; s.bates1990@yahoo.com
Subject: 2nd East/Armory Housing Development

Hi Wendy, I would like to express my concerns about the large housing development proposed on the 24 acre Kaufman property at the junction of 2nd Avenue East and Armory Road.
I have lived and own a house at 155 Armory Road for 23 years and am retired. We raised both of boys in the Whitefish School District and are solid, full time tax paying members of the Whitefish Community. I just got back from vacation and heard about the planned development from my neighbors. No one that I have talked to supports it.

1. This development would be a tremendous impact to the amount of traffic and public safety on 2nd Avenue East and on Armory Road. This development has potential to increase the daily traffic on Armory Road and 2nd Avenue East by 342 cars if every apartment resident has two cars. This will greatly increase traffic safety hazard for school kids attending Muldoon Elementary, the Middle School and Whitefish High School. There isn't enough downtown parking as is. Armory Road isn't wide enough for two cars to pass each other when someone is walking or biking on Armory Road. One of the cars has to stop and let the walkers or bikers pass the other car before they can proceed. Armory Road is a very popular exercise and recreational section of Whitefish. I see people walking or riding their bikes all day long in front of my house and I walk my dogs on Armory Road three to four times a week. Whitefish people appreciate the country feel of walking on Armory Road. Don't let anyone ruin the feeling of the reason why people have moved to Whitefish and stayed. Keep the Agriculture zoning areas the way the are.

2. The Whitefish Master Plan states that this area should remain Zoned for Agriculture.

3. There would be an increase in the noise level and crime for the full time residents from partying from part time residents that just come to Whitefish to ski and party.

4. I drive or walk by the Kaufman hayfield proposed for development just about everyday. I live three houses down from the field. This spring I've seen tom turkeys strutting in this field in front of the rest of the flock, whitetail deer eating the first green up of grass in the field, a red fox pouncing on the mice in the field and I know that there is an occasional cougar that usually passes through this area at night because I've seen their tracks. This is prime wildlife habitat and building there will destroy more of their habitat. I love those wild animals and it's one of the main reasons that we live where we do. Don't allow someone to make money at the expense of destroying the neighborhood because of greed.

Thanks for hearing my concerns. See you at the meeting tomorrow night.
Sincerely,
Scott Bates

EXHIBIT
54

submitted @ 5.16.13 Planning Board mtg.

Honorable Mayor
City Council and
Members of the Whitefish City Planning Department.

We, the undersigned residents of Armory Road, and the surrounding area, wish to respectfully express our opposition and concerns about the proposed multi-family development of the Kauffman property at the intersection of Armory Road and 2nd Street. Although we understand that this land will be developed, it is our belief that this project would be detrimental to our community and that the zoning change requested is not consistent with the Whitefish growth policy.

This project has too high of density for the area. The surrounding area is nearly all single family homes and has a rural feel. This zoning is not appropriate for the area.

There are other parcels of land that are zoned appropriately for this project and there is no need to add more.

This project will increase traffic in the area that will create safety issues. It only has one entrance for the majority of the residents at an intersection that is frequently used by bikers and pedestrian and many children.

Printed name	Signature	Address
1. Kelly Davidson	Kelly Davidson	585 ARMORY RD.
2. RYAN ULVIN	Ryan Ulvin	196 JOHNS WAY
3. Ted Tuesch	Ted Tuesch	156 Armory Rd
4. JACKSON YATES	Jackson Yates	660 ARMORY RD
5. Brett Miller	Brett Miller	577 Armory Rd.
6. BRETT Miller	Brett Miller	655 Armory Rd.
7. Debbie Dante	DEBBIEDANTE	140 Hueth LANE
8. Michael Downey	Michael Downey	140 Hueth LANE
9. Richard Menicke	[illegible]	1042 2nd St E
10. Malinda Goldhirsch	MALINDA GOLDHIRSCH	1664 ARMORY RD
11. Brian Roland	[illegible]	100 Hueth Ln.
12. Morgan Bell	Morgan Bell	100 Hueth Ln

EXHIBIT 55

We, the undersigned residents of Armory Road, and the surrounding area, wish to respectfully express our opposition and concerns about the proposed multi-family development of the Kauffman property at the intersection of Armory Road and 2nd Street. Although we understand that this land will be developed, it is our belief that this project would be detrimental to our community and that the zoning change requested is not consistent with the Whitefish growth policy.

This project has too high of density for the area. The surrounding area is nearly all single family homes and has a rural feel. This zoning is not appropriate for the area.

There are other parcels of land that are zoned appropriately for this project and there is no need to add more.

This project will increase traffic in the area that will create safety issues. It only has one entrance for the majority of the residents at an intersection that is frequently used by bikers and pedestrian and many children.

Printed name	Signature	Address
13. MELISSA YATES	Melissa Yates	660 ARMORY RD WHITEFISH
14. Mic Holmes	[illegible]	170 Johns Way
15. Scott Smith	Scott Smith	209 Peregrine Lane
16. Lori Penzi	Lori A. Penzi	575 Armory Rd.
17. Louis Penzi	Louis Penzi	575 Armory Rd.
18. Rick Yates	Richard Yates	660 Armory
19. Benjamin Polley	[illegible]	221 Rogers Road C. Falls
20. Dabney Langellier	[illegible]	1046 4th St
21. Barbara Lewis	Barbara Lewis	670 Armory Rd WF
22. Suzi Stagg	Suzi Stagg	1306 E. 2nd St. WF
23. Bridjett Miller	Bridjett J. Miller	577 Armory Rd.
24. Dylan Parr	[illegible]	655 Armory Rd.
25. Patty Holmes	P. J. Holmes	170 Johns Way

We, the undersigned residents of Armory Road, and the surrounding area, wish to respectfully express our opposition and concerns about the proposed multi-family development of the Kauffman property at the intersection of Armory Road and 2nd Street. Although we understand that this land will be developed, it is our belief that this project would be detrimental to our community and that the zoning change requested is not consistent with the Whitefish growth policy.

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This project will increase traffic in the area that will create safety issues. It only has one entrance for the majority of the residents at an intersection that is frequently used by bikers and pedestrian and many children.

Printed name	Signature	Address
26. KARIN BATES	Karin Bates	155 ARMORY
27. Scott Bates	A. Scott Bates	155 Armory Rd.
28. JON Bates		155 Armory Rd.
29. Brett Bates		155 Armory Rd.
30. Lynnde Trivett		154 Arm Rd
31. Anita Flint		1323 E 2nd St
32. Bill Flint		"
33. JEFF ZERR		1208 E. 2nd St.
34. Richard Menicke		1042 2nd St E
35. NANCY TIGUE	Nancy Tigue	1319 E. 2nd St.
36.		
37.		

Dwellings Without Basements—Upper Flathead Valley Area, Montana

submitted @ 5-16-13 Planning Board mtg.

Map Scale: 1:2,310 if printed on A size (8.5" x 11") sheet.

N

Meters: 0 20 40 80 120

Feet: 0 50 100 200 300

EXHIBIT 5b

USDA Natural Resources Conservation Service

Web Soil Survey
National Cooperative Soil Survey

5/6/2013
Page 1 of 1

MAP LEGEND

Area of Interest (AOI)

Area of Interest (AOI)

Soils

Soil Map Units

Soil Ratings

Very limited

Somewhat limited

Not limited

Not rated or not available

Political Features

Cities

Water Features

Streams and Canals

Transportation

Rails

Interstate Highways

US Routes

Major Roads

Local Roads

MAP INFORMATION

Map Scale: 1:2,310 if printed on A size (8.5" × 11") sheet.

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for accurate map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: http://websoilsurvey.nrcs.usda.gov
Coordinate System: UTM Zone 11N NAD83

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Upper Flathead Valley Area, Montana
Survey Area Data: Version 10, Jan 5, 2012

Date(s) aerial images were photographed: 8/5/2005

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Dwellings Without Basements

Dwellings Without Basements— Summary by Map Unit — Upper Flathead Valley Area, Montana (MT617)						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
Ab	Alluvial land, well drained	Very limited	Alluvial land (90%)	Flooding (1.00)	9.2	42.5%
De	Depew silty clay loam, 0 to 3 percent slopes	Very limited	Depew (90%)	Shrink-swell (1.00)	2.4	10.9%
Ha	Half Moon silt loam, 0 to 3 percent slopes	Somewhat limited	Half Moon (90%)	Shrink-swell (0.50)	8.9	41.0%
Hf	Half Moon soils, 12 to 45 percent slopes	Very limited	Half Moon (40%)	Too steep (1.00)	1.2	5.6%
				Shrink-swell (0.50)		
			Half Moon (40%)	Too steep (1.00)		
				Shrink-swell (0.50)		
Totals for Area of Interest					**21.7**	**100.0%**

Dwellings Without Basements— Summary by Rating Value		
Rating	Acres in AOI	Percent of AOI
Very limited	12.8	59.0%
Somewhat limited	8.9	41.0%
Totals for Area of Interest	**21.7**	**100.0%**

Description

Dwellings are single-family houses of three stories or less. For dwellings without basements, the foundation is assumed to consist of spread footings of reinforced concrete built on undisturbed soil at a depth of 2 feet or at the depth of maximum frost penetration, whichever is deeper.

The ratings for dwellings are based on the soil properties that affect the capacity of the soil to support a load without movement and on the properties that affect excavation and construction costs. The properties that affect the load-supporting capacity include depth to a water table, ponding, flooding, subsidence, linear extensibility (shrink-swell potential), and compressibility. Compressibility is inferred from the Unified classification of the soil. The properties that affect the ease and amount of excavation include depth to a water table, ponding, flooding, slope, depth to bedrock or a cemented pan, hardness of bedrock or a cemented pan, and the amount and size of rock fragments.

The ratings are both verbal and numerical. Rating class terms indicate the extent to which the soils are limited by all of the soil features that affect the specified use. "Not limited" indicates that the soil has features that are very favorable for the specified use. Good performance and very low maintenance can be expected. "Somewhat limited" indicates that the soil has features that are moderately favorable for the specified use. The limitations can be overcome or minimized by special planning, design, or installation. Fair performance and moderate maintenance can be expected. "Very limited" indicates that the soil has one or more features that are unfavorable for the specified use. The limitations generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures. Poor performance and high maintenance can be expected.

Numerical ratings indicate the severity of individual limitations. The ratings are shown as decimal fractions ranging from 0.01 to 1.00. They indicate gradations between the point at which a soil feature has the greatest negative impact on the use (1.00) and the point at which the soil feature is not a limitation (0.00).

The map unit components listed for each map unit in the accompanying Summary by Map Unit table in Web Soil Survey or the Aggregation Report in Soil Data Viewer are determined by the aggregation method chosen. An aggregated rating class is shown for each map unit. The components listed for each map unit are only those that have the same rating class as listed for the map unit. The percent composition of each component in a particular map unit is presented to help the user better understand the percentage of each map unit that has the rating presented.

Other components with different ratings may be present in each map unit. The ratings for all components, regardless of the map unit aggregated rating, can be viewed by generating the equivalent report from the Soil Reports tab in Web Soil Survey or from the Soil Data Mart site. Onsite investigation may be needed to validate these interpretations and to confirm the identity of the soil on a given site.

Rating Options

Aggregation Method: Dominant Condition

Component Percent Cutoff: *None Specified*

Tie-break Rule: Higher

submitted @ 5-16-13 Planning Board

Using the above guidelines, peak hour traffic volume and turning movement data collected in 2007, and calculation techniques for two-way stop controls and all-way stop controls, the LOS for notable unsignalized intersections in the study area was calculated. The results of these calculations are shown in **Table 2-8**. The intersection LOS is shown graphically in **Figure 2-8** and **Figure 2-9**.

Table 2-8: 2007 LOS (Stop-Controlled Intersections)

INTERSECTION	AM	PM	INTERSECTION	AM	PM
Ashar Avenue & 7th Street	A	B	Pine Avenue & 7th Street	B	B
Baker Avenue & 4th Street	B	D	Spokane Avenue & 1st Street	A	A
Baker Avenue & 5th Street	B	C	Spokane Avenue & 4th Street	C	C
Baker Avenue & 7th Street	B	C	Spokane Avenue & 5th Street	C	D
Baker Avenue & 10th Street*	B	B	Wisconsin Avenue & Colorado Avenue*	B	C
Baker Avenue & 13th Street*	B	C	Wisconsin Avenue & Denver Street*	B	C
Baker Avenue & 15th Street*	B	B	Wisconsin Avenue & Glenwood Road*	B	B
Columbia Avenue & 7th Street	B	B	Wisconsin Avenue & Reservoir Road*	B	C
Fir Avenue & 2nd Street	B	B	Wisconsin Avenue & Skyles Place*	B	C
Fir Avenue & 4th Street	B	B	Wisconsin Avenue & Woodside Lane*	C	C
Kalispell Avenue & 2nd Street	C	C	U.S. Highway 93 & Blanchard Lake Road	B	B
Karrow Avenue & 7th Avenue	A	A	U.S. Highway 93 & JP Road**	C	C
Pine Avenue & 2nd Street	C	C	U.S. Highway 93 & Karrow Avenue	B	D
Pine Avenue & 4th Street	B	B	U.S. Highway 93 & State Park Road	B	C

* *Intersections not counted by RPA.*
** *Note that JP Road was signalized in 2008 after turning movement count data was collected by RPA for the Transportation Plan.*

Of these intersections, the LOS analyses reveal that three unsignalized intersections are currently functioning at LOS D or lower during the PM peak hour. These intersections include: Baker Avenue and 4th Street, Spokane Avenue and 5th Street, and U.S. Highway 93 and Karrow Avenue.

EXHIBIT 57

Second Street Residences

Changes proposed to the Site Plan
June 24, 2013

As a result of the second Public Hearing with the Whitefish Planning Board held on May 16th, along with public comments received from a second neighborhood meeting held on-site June 19, 2013; additional changes are proposed in the attached Second Street Apartments Site Plan. The following list is a summary of the changes

Density

Density is an issue with the neighborhood. After the first public hearing and neighborhood meeting, the applicants lowered the unit count from 174 units (164 apartments, 9 attached condominiums and 1 single family house) to 150 units (112 apartments, 9 attached condominiums, and 29 single family detached residences). When we went back to Planning Board density and scale of building was again raised as the overriding issue. The applicants now propose 143 units (92 apartments, 20 attached condominium units, 16 single family homes, and 15 mother-in-law units that go with the new single family units)

Unit Mix/Transition

To address the land use transition and pride in ownership issues raised by the public at the Planning Board hearings, single family detached units were proposed along with the existing Kauffman house for a total of 16 single family detached units. The single family detached units are located along Second Street and eastern perimeter. These detached units will be for-sale products in either a condominium ownership or a subdivided lot of which a subdivision application would follow. This same concept follows into this latest concept as it was viewed favorably by the public.

Mass and Scale

Mass and scale was raised as an issue in the May Planning Board hearing. The public objected to the 16 and 8-unit apartment buildings proposed in the first two proposals. The applicant amended the design to eliminate the 16 and 8-plex apartment buildings and replaced them with two, three, four unit, and five unit complexes. There are only three of the 5-flex structures. In addition to the scale, mass was reduced by making these primarily ones story to one and a half story buildings.

Open space

One item people liked about the original proposal was the open space which was 71% of the property. As single family detached units are more land intensive than attached multi-family units, the open space percentage did drop slightly. The proposed open space is at 68% of the June submittal.

EXHIBIT
58

Forest
At the first public hearing back in March and Planning Board indicated that they wanted more of the forest preserved than the open hay field. To reduce the impact on the old growth forest on the east side of the project, much of the density was removed from that area which now leaves significant forest acreage undisturbed. This is unchanged in this June resubmittal

Circulation/road systems
To address the connectedness after the first Public hearing March, the extensions of Wild Rose Lane and Armory Road were looped together providing circulation options.

On-site management
To address the concern of management and safety, the club house was eliminated from the proposal and replaced with an administrative building for a third party property management firm to utilize for regular business hours and 24 hour emergency maintenance of the on-site apartment units. This was done after the first public hearing in March.

Phasing
Although not a concern with the original application, the proposed design will be constructed in four phases rather than the five phases originally proposed.

Affordable Housing
Originally, we proposed to provide 10% of the units within the PUD as affordable units "defined by the City's PUD provisions" and a partnership with the Whitefish Housing Authority. The applicants still proposed the 10% affordable housing units however as the density is reduced from 174 to 150 to 143, the affordable units will decrease from 17 to 14 units. The units will still be dispersed through the multi-family apartment units within the project but not the single family units.

Park
The project will have pedestrian paths throughout, a tot-lot in the open space between the apartments. This is similar to what was previously proposed just a slightly different configuration. The community garden concept was eliminated with this latest proposal, however if the residents of the project want a community garden, there is room on the site to develop one.

Conservation Easements
The applicants proposed placing some of the larger open space areas like the wooded area and the Cow Creek frontage into a conservation easement. At this point in time the applicants have not approached any of the Montana Conservation Easement organizations and as with all easements; the organization has to agree to accept an easement. In the event, that applicants cannot find an organization that would accept the easement, a deed restriction could be created and recorded on the property that would accomplish many of the same protections (prohibit further development, protect trees and riparian areas) that a

conservation easement would provide. There is no change in this element from the second submittal to the third.

Pedestrian Paths and Sidewalks
The applicants propose paths throughout the project and along the north side of Second Street between Armory and Wild Rose Lane. We will work with the Whitefish Public Works Department to place crosswalks at the appropriate location along Second Street. We are proposing a preliminary path system with the PUD knowing that we will work with the city during development to place it in locations that avoid trees and provides the optimum connectivity. As with the first submittal, all paths common areas in the project are open to the public.

In the prior submittal, the applicants requested a pedestrian path on one side of the Armory Road Extension. With the second submittal, sidewalks were proposed on both sides of the Armory Road Extension. With this third submittal, a sidewalk is proposed on the north side of Second Street as proposed by the Bike/Ped Path Committee and conditioned by staff in the second PUD review.

Parking
In the first submittal, we requested a deviation in the parking requirements by providing 2.2 parking spaces per multi-family unit rather than the 2.3 spaces require. With the new proposal, we are complying with the 2.3 parking spaces per unit required in the zoning regulations. The latest proposal has 356 parking spaces for the 143 units or 2.48 spaces per unit.

Wetland Buffer/Setback
As with the first submittal, the proposal provided substantially more buffer than was required by the Critical Area Regulations. However, the first design did utilize a small amount of buffer averaging in confined area to accommodate the design. The latest submittals does not request or require any buffer averaging.

Road Right-of-ways and Pavement Widths
The rights-of-ways and pavement widths are essentially the same with the new as with the old.

Public Benefits
With the exception of the affordable housing units which decreased from 17 to 14 because of the reduction in overall density, all of the public benefits described in the first rendition of the site plan are proposed with the current site plan.

TIS

The will be little change to the TIS. The reduction in units will translate to slightly ;less traffic but the recommendation of the TIS will not change.

Utilities

The utility alignments do not change with this latest submittal and therefore revised preliminary utility plans are not necessary with this latest proposal.

Tree Preservation

As the bulk of the changes occur in the area of the existing hay field, there is no proposed change to the tree preservation plan. As much if not more of the forested area will be preserved, particularly in the south east corner along Second Street where units were removed with this latest proposal.

1 A2.1 PERSPECTIVE FROM SOUTHEAST
12" = 1'-0"

EXAMPLES OF A POCKET NEIGHBORHOOD

EXAMPLES OF A POCKET NEIGHBORHOOD

EXAMPLES OF A POCKET NEIGHBORHOOD

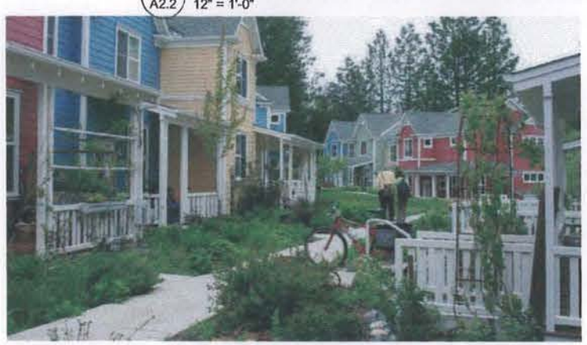
EXAMPLES OF A POCKET NEIGHBORHOOD

2ND STREET RESIDENCES

Whitefish, MT

IMAGES

1 A2.2 PERSPECTIVE FROM SOUTHWEST
12" = 1'-0"



EXAMPLES OF A POCKET NEIGHBORHOOD

EXAMPLES OF A POCKET NEIGHBORHOOD

EXAMPLES OF A POCKET NEIGHBORHOOD

EXAMPLES OF A POCKET NEIGHBORHOOD

2ND STREET RESIDENCES

IMAGES

Whitefish, MT

FROM 2ND STREET

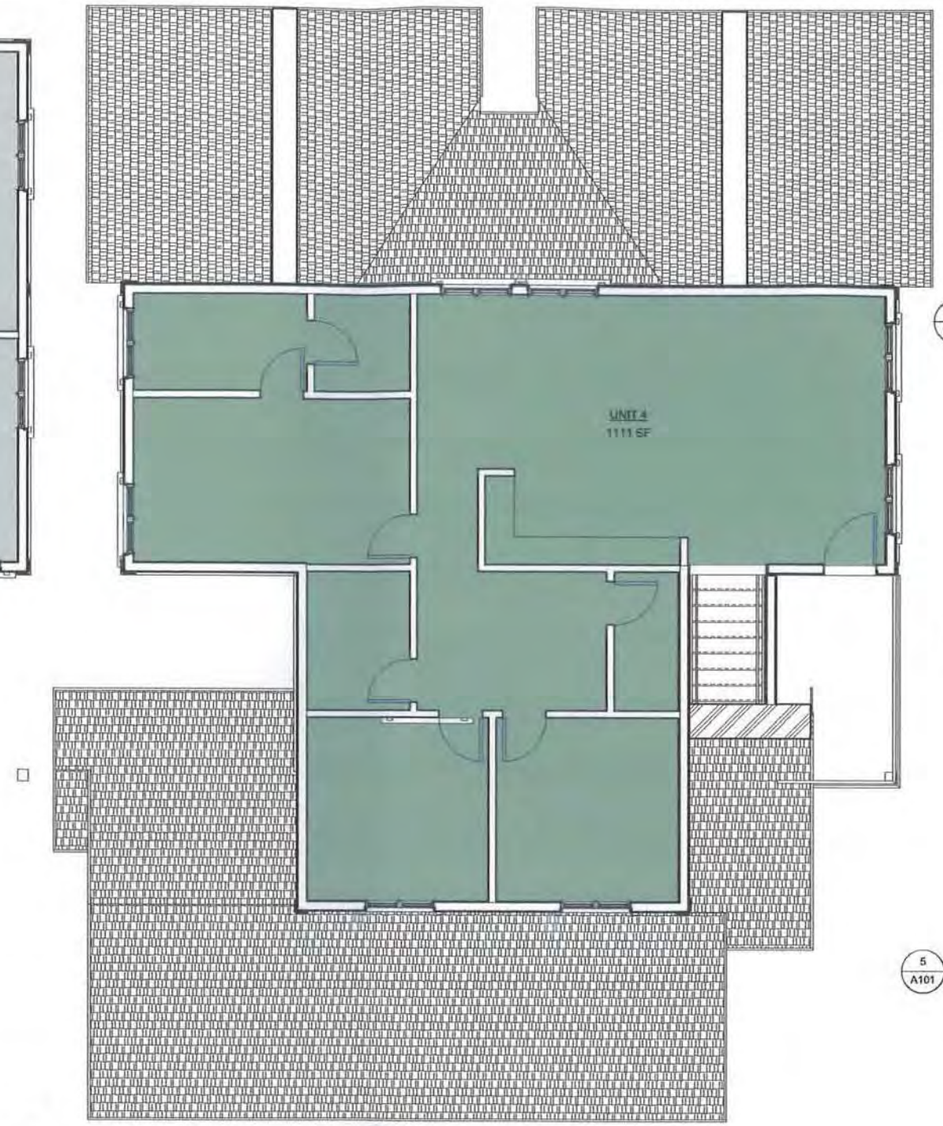
FROM ARMORY

2ND STREET RESIDENCES

IMAGES

Whitefish, MT

1 A101 Level 1
1/4" = 1'-0"



2 A101 Level 2
1/4" = 1'-0"

3 A101 ELEVATION 1
1/8" = 1'-0"

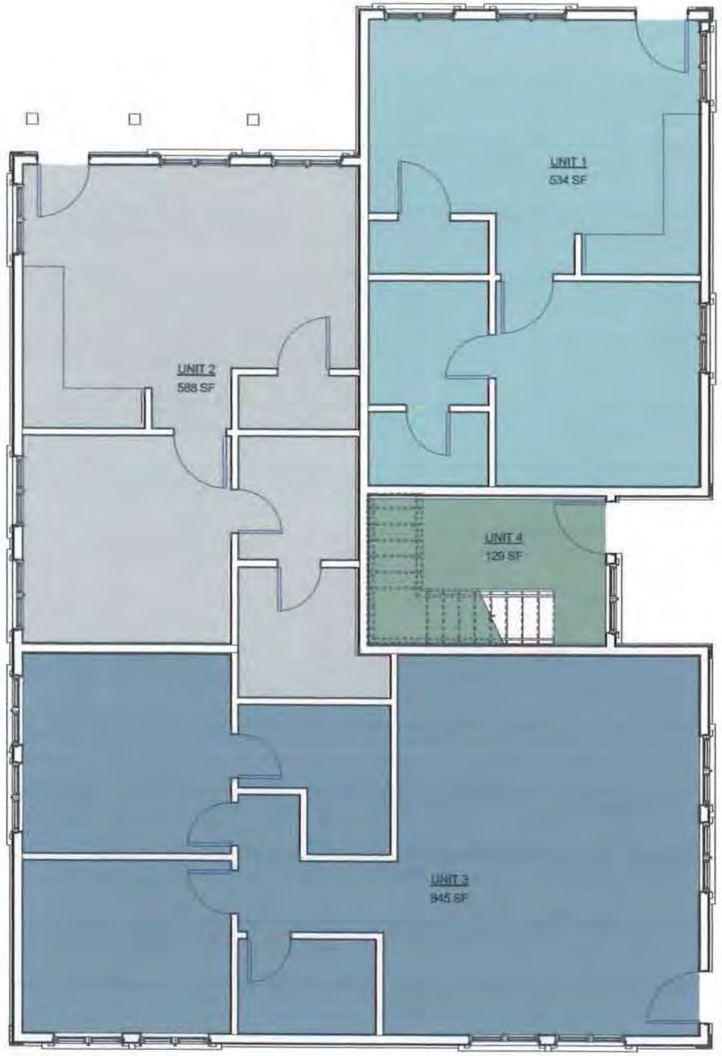
4 A101 ELEVATION 2
1/8" = 1'-0"

5 A101 ELEVATION 3
1/8" = 1'-0"

6 A101 ELEVATION 4
1/8" = 1'-0"

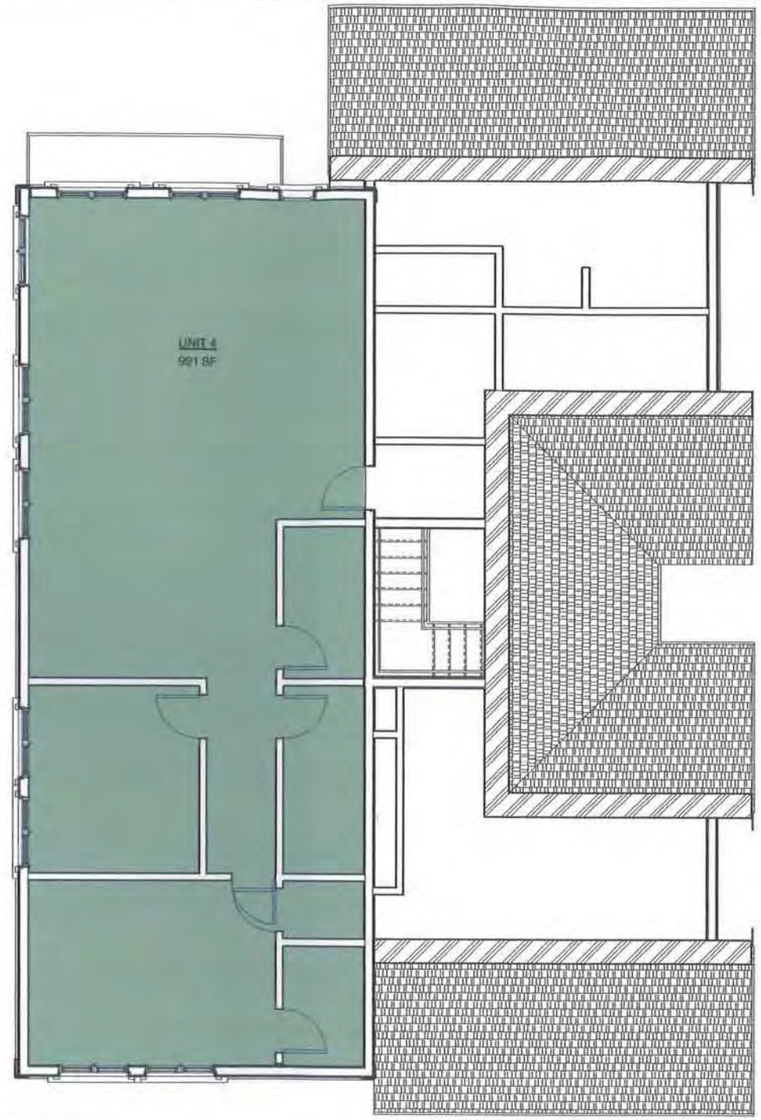
2ND STREET RESIDENCES - BUILDING A

PLANS & ELEVATIONS



1 A101 Level 1
1/4" = 1'-0"

UNIT 1
UNIT 2
UNIT 3
UNIT 4



2 A101 Level 2
1/4" = 1'-0"

3 A101 ELEVATION 1
1/8" = 1'-0"

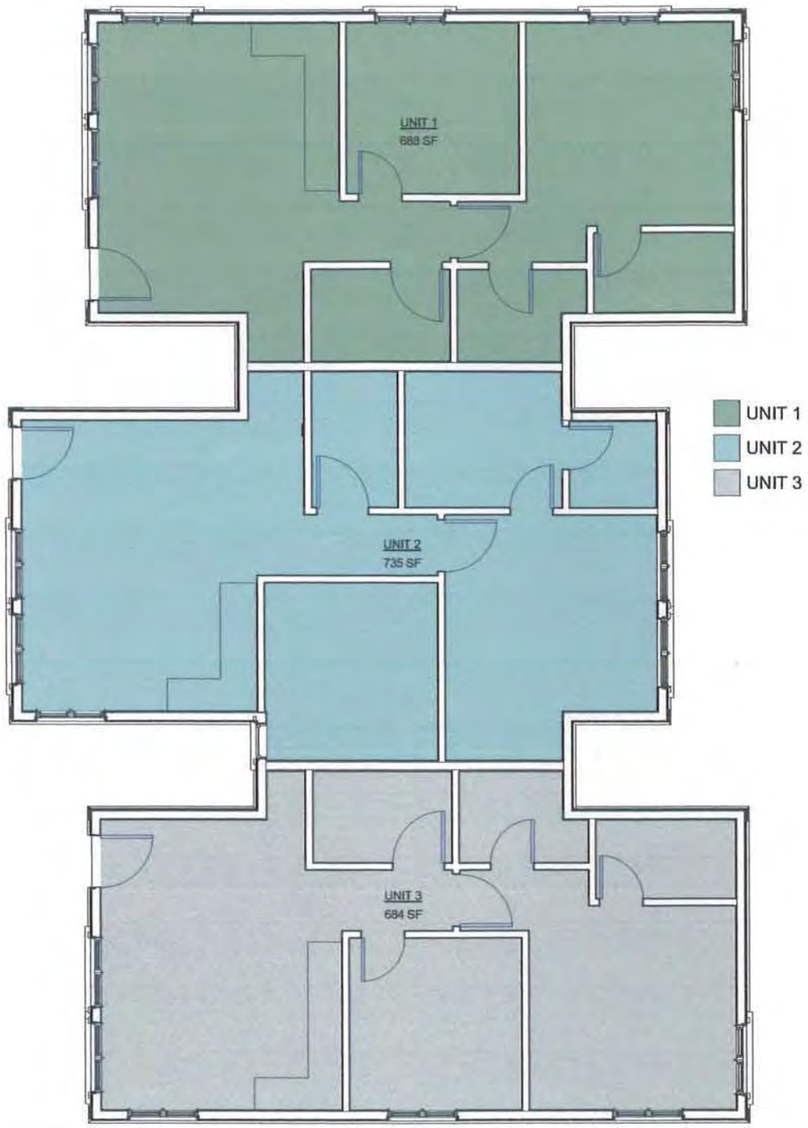
4 A101 ELEVATION 2
1/8" = 1'-0"

5 A101 ELEVATION 3
1/8" = 1'-0"

6 A101 ELEVATION 4
1/8" = 1'-0"

2ND STREET RESIDENCES - BUILDING B

FLOOR PLANS & ELEVATIONS

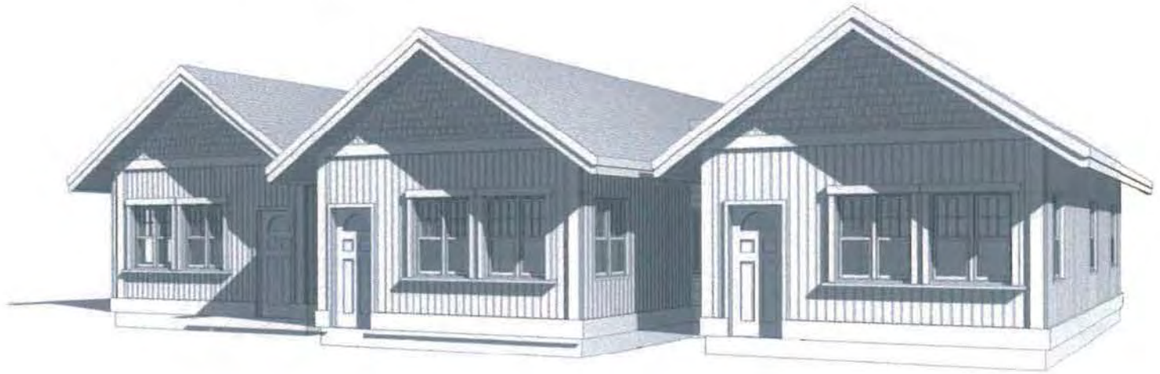


1 A101 Level 1
1/4" = 1'-0"

2 A101 ELEVATION 1
1/8" = 1'-0"

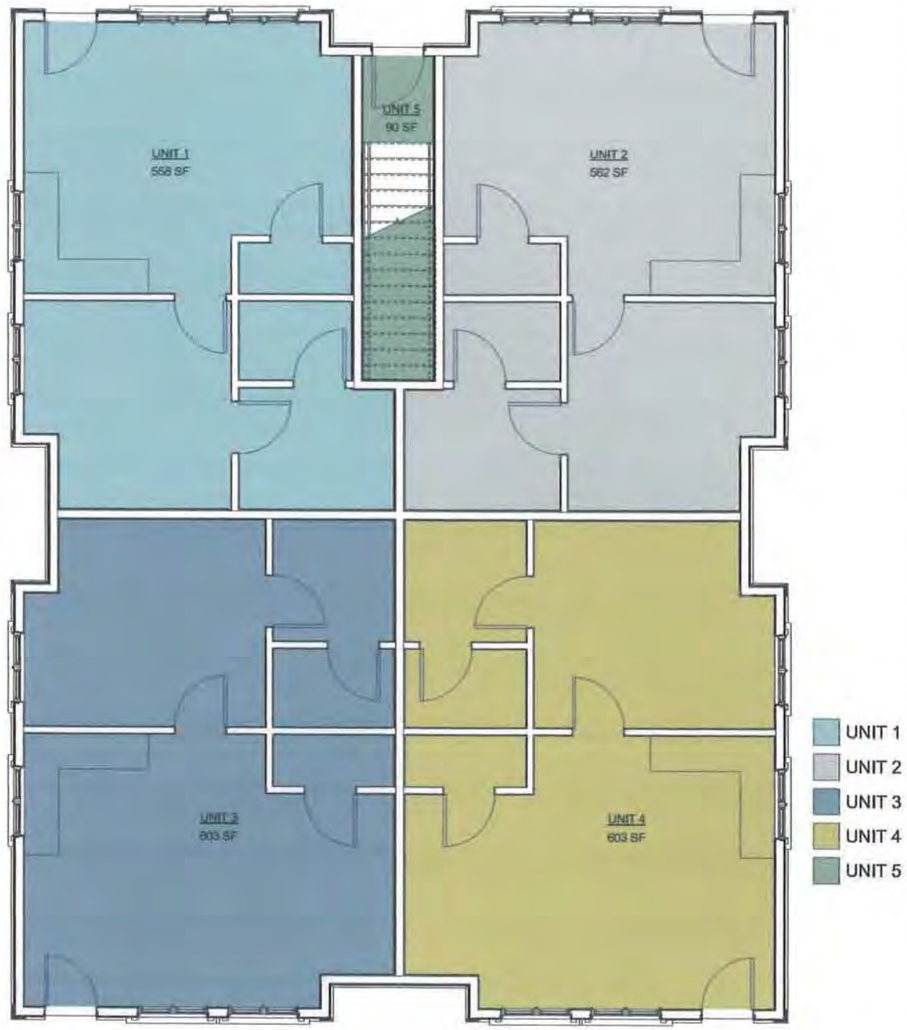
3 A101 ELEVATION 2
1/8" = 1'-0"

4 A101 ELEVATION 3
1/8" = 1'-0"



2nd STREET RESIDENCES - BUILDING C

PLANS & ELEVATIONS



1 A101 Level 1
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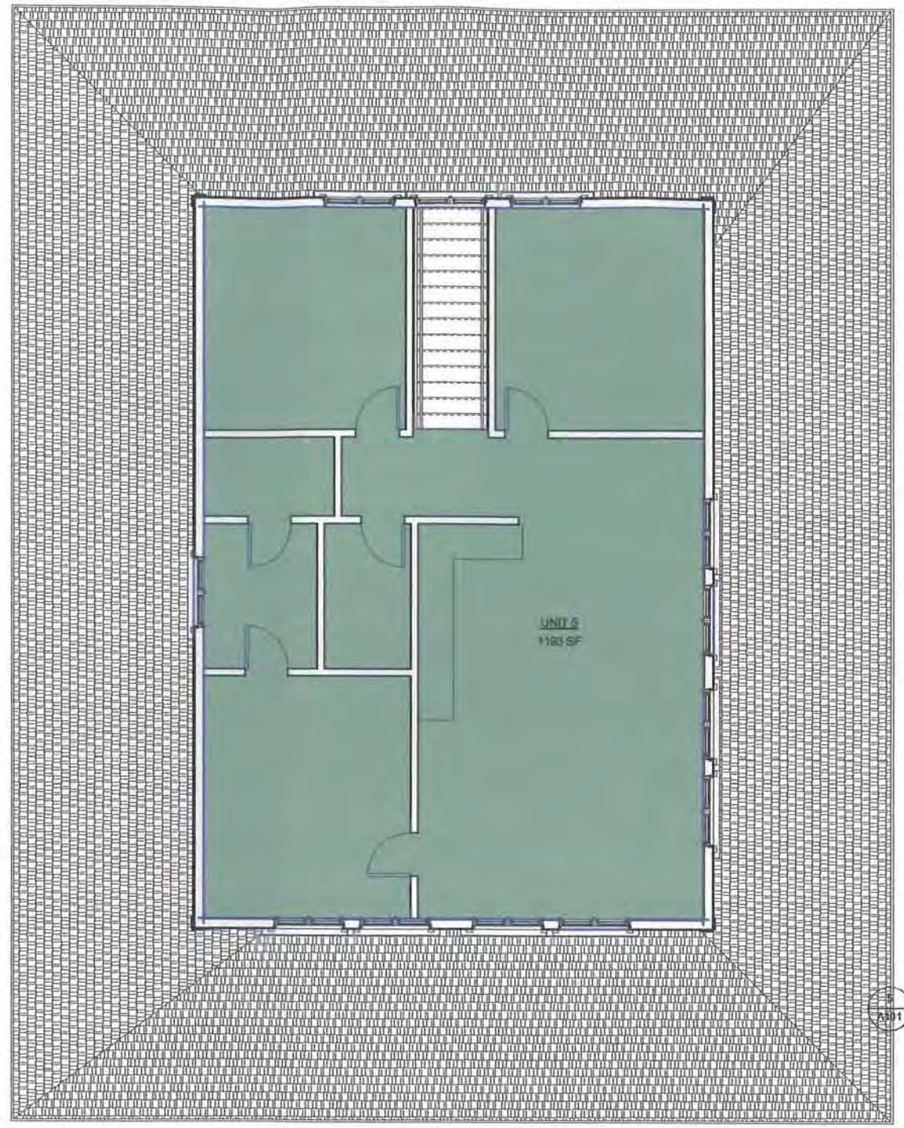


2 A101 Level 2
1/4" = 1'-0"

3 A101 ELEVATION 1
1/8" = 1'-0"

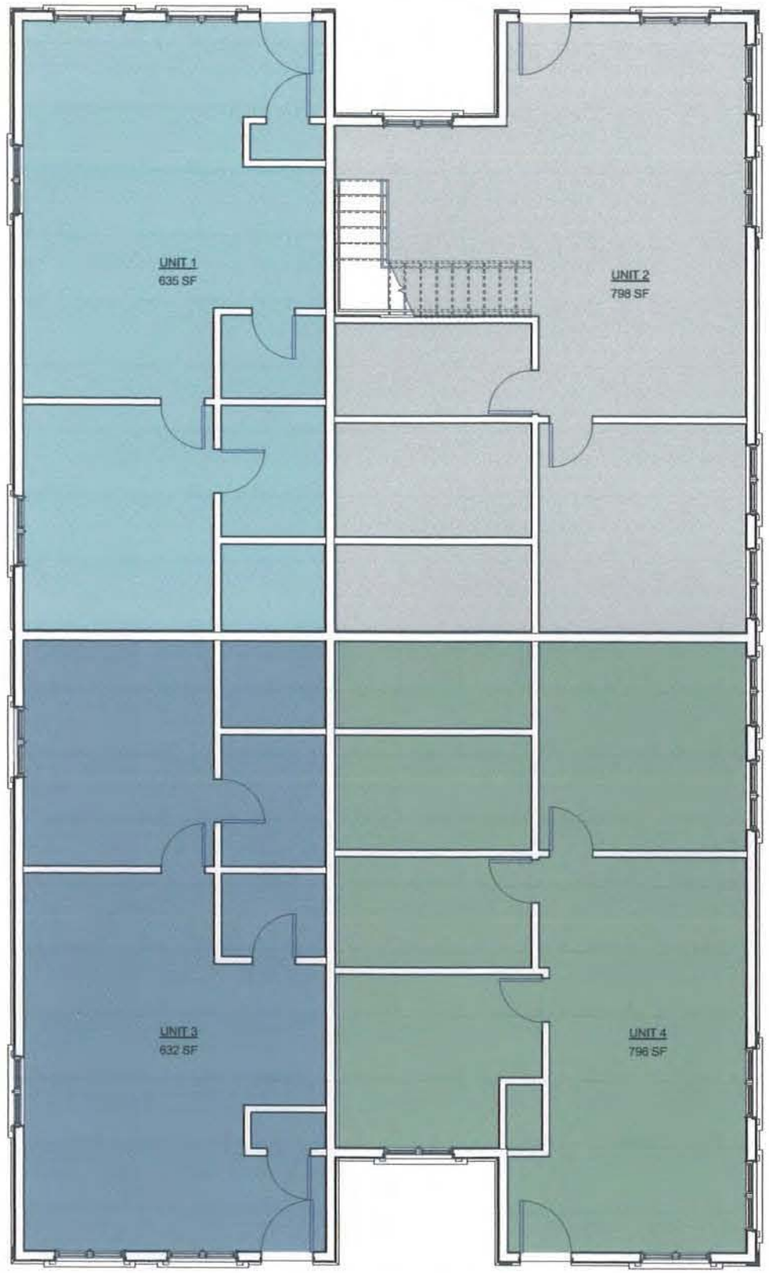
4 A101 ELEVATION 2
1/8" = 1'-0"

5 A101 ELEVATION 3
1/8" = 1'-0"

6 A101 ELEVATION 4
1/8" = 1'-0"

2ND STREET RESIDENCES - BUILDING D

PLANS & ELEVATIONS



1 A101 Level 1
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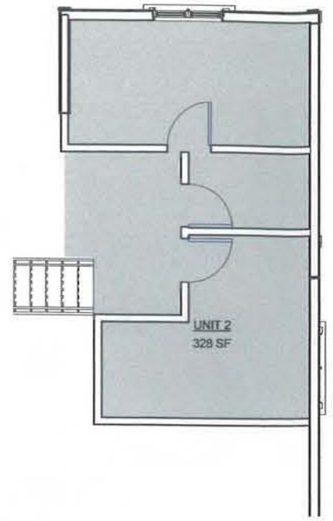
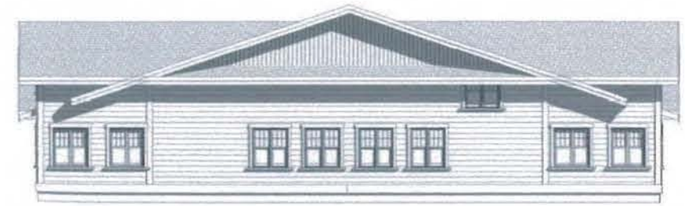


2 A101 Level 2
1/4" = 1'-0"

BUILDING F HAS ONLY 1 BEDROOM ON SECOND FLOOR

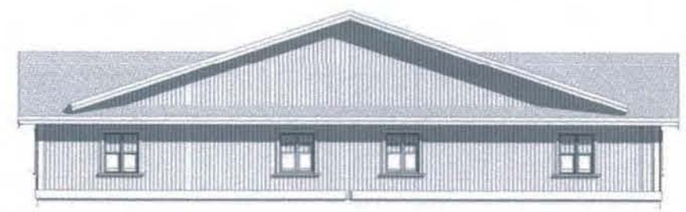
- UNIT 1
- UNIT 2
- UNIT 3
- UNIT 4



3 A101 ELEVATION 1
1/8" = 1'-0"

4 A101 ELEVATION 2
1/8" = 1'-0"

6 A101 ELEVATION 4
1/8" = 1'-0"

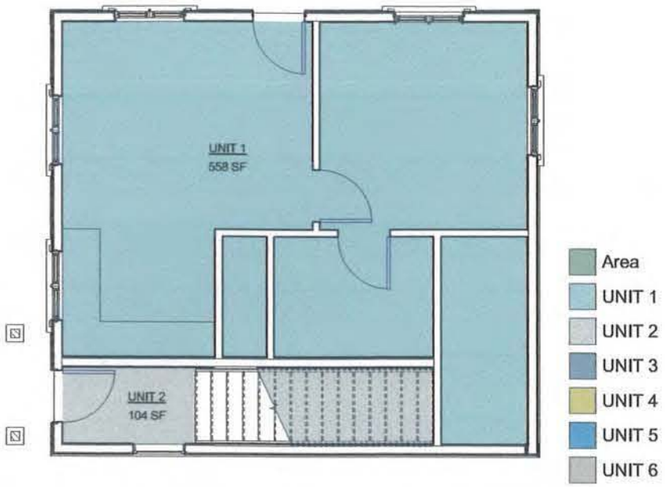


5 A101 ELEVATION 3
1/8" = 1'-0"

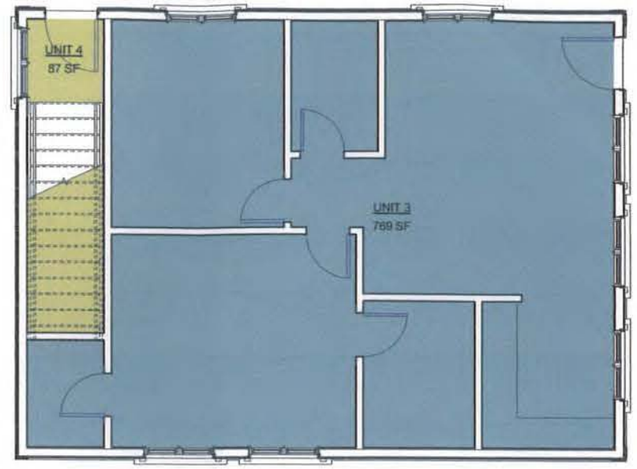
2ND STREET RESIDENCES - BUILDINGS E&F

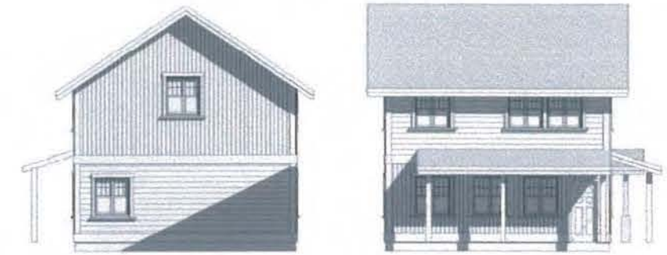
PLANS & ELEVATIONS

BUILDING G

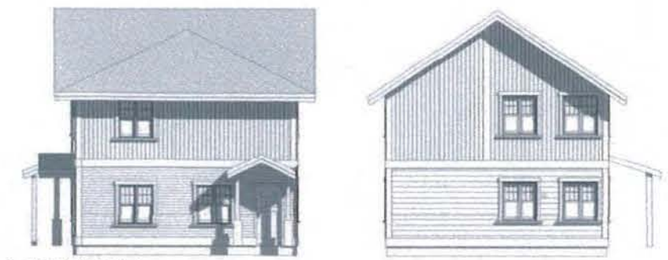


BUILDING H



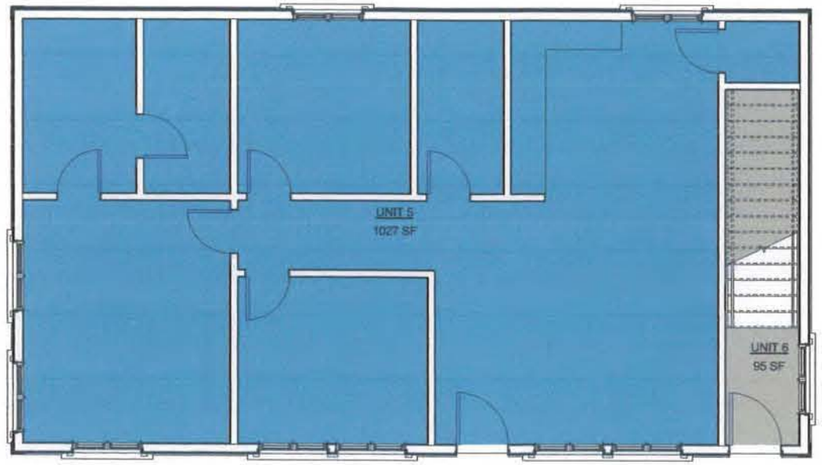


3 A101 ELEVATION 2
1/8" = 1'-0"

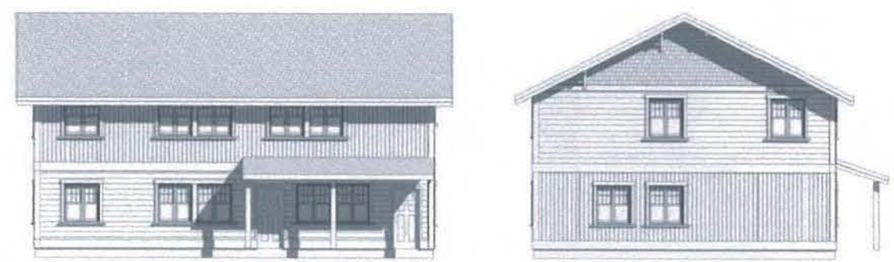


5 A101 ELEVATION 4
1/8" = 1'-0"

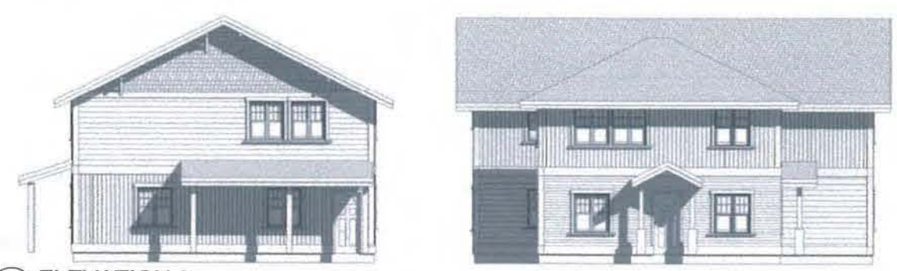
BUILDING I



1 A101 Level 1
1/4" = 1'-0"



2 A101 ELEVATION 1
1/8" = 1'-0"

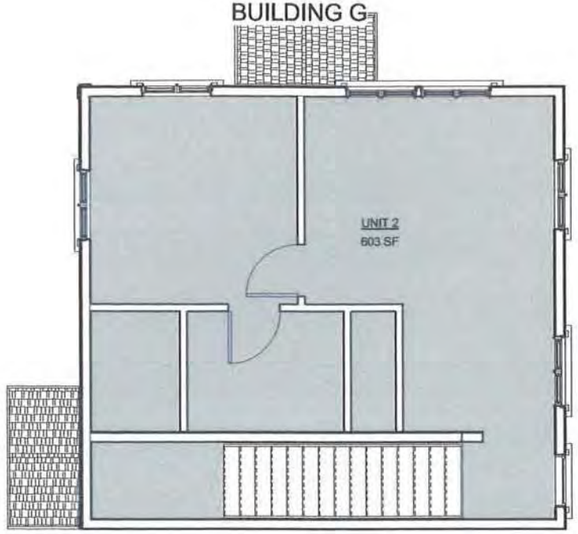


4 A101 ELEVATION 3
1/8" = 1'-0"

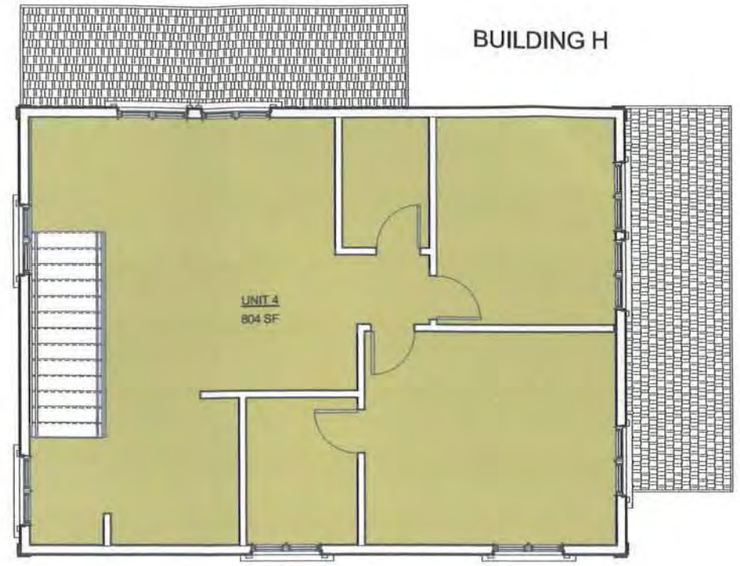
2ND STREET RESIDENCES - BUILDINGS G, H, I

FIRST FLOOR PLANS & ELEVATIONS

BUILDING G

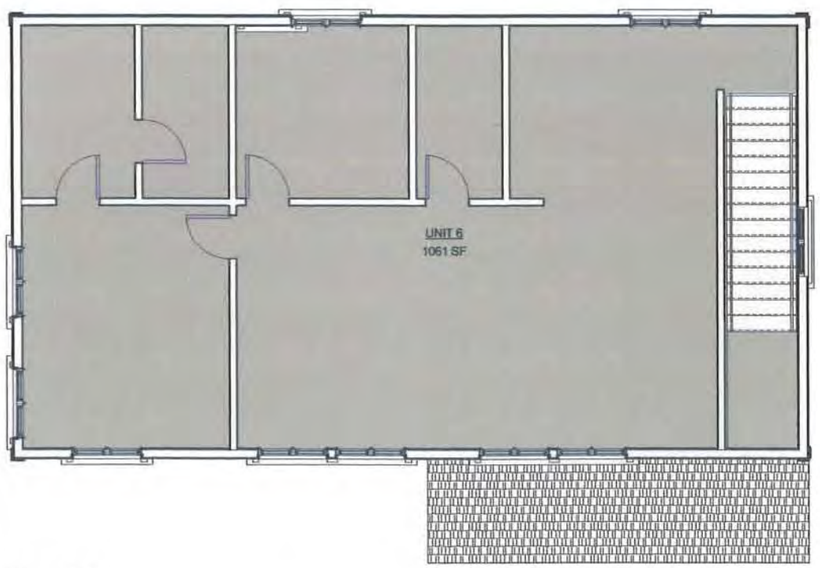


BUILDING H



- Area
- UNIT 1
- UNIT 2
- UNIT 3
- UNIT 4
- UNIT 5
- UNIT 6

BUILDING I

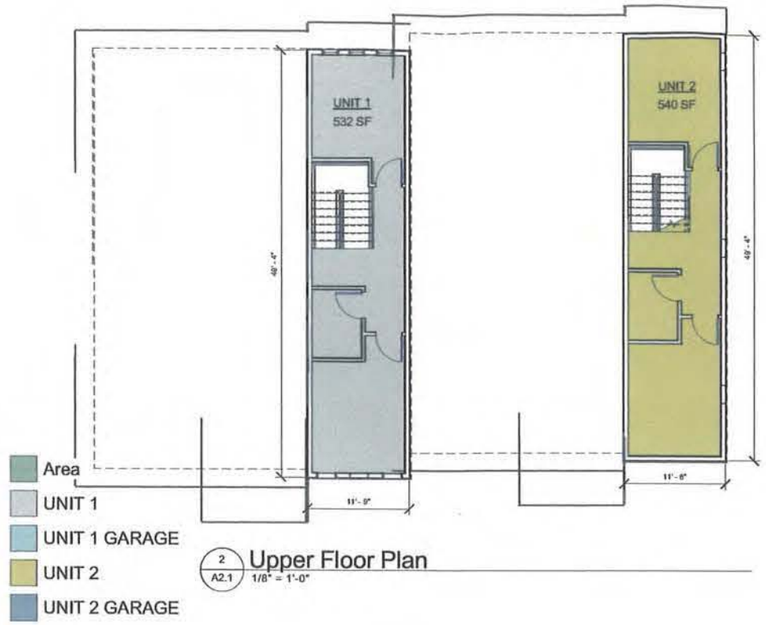


1 A102 Level 2
1/4" = 1'-0"

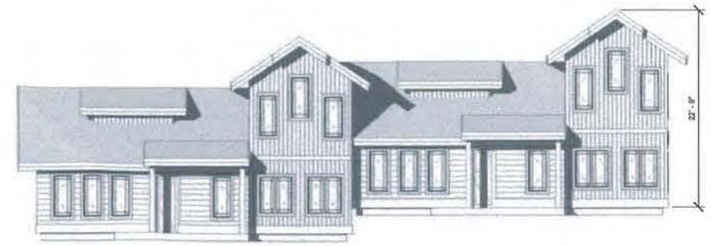
2ND STREET RESIDENCES - BUILDINGS G, H, I

SECOND FLOOR PLANS & IMAGE

1 A2.1 Main Floor Plan
1/8" = 1'-0"

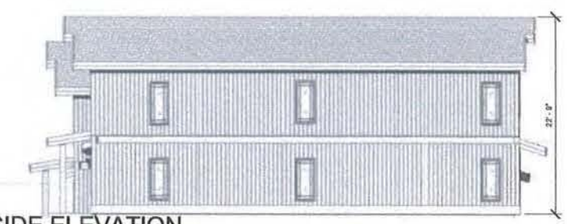


2 A2.1 Upper Floor Plan
1/8" = 1'-0"



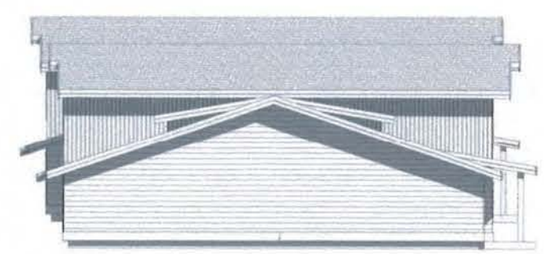
4 A2.1 FRONT ELEVATION
1/8" = 1'-0"

3 A2.1 BACK ELEVATION
1/8" = 1'-0"



5 A2.1 SIDE ELEVATION
1/8" = 1'-0"

7 A2.1 3D View 1



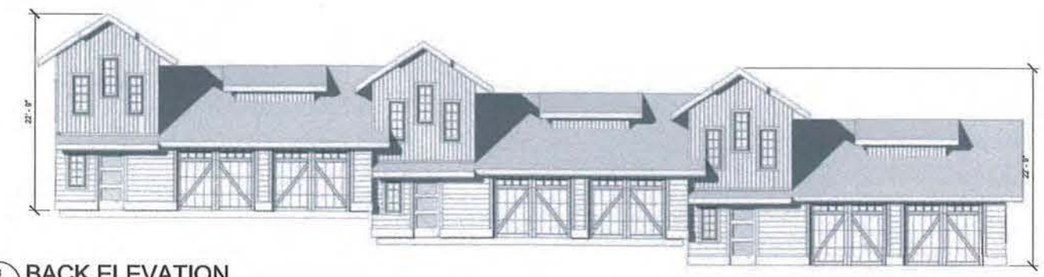
6 A2.1 SIDE ELEVATION 2
1/8" = 1'-0"

2ND STREET RESIDENCES - BUILDING K

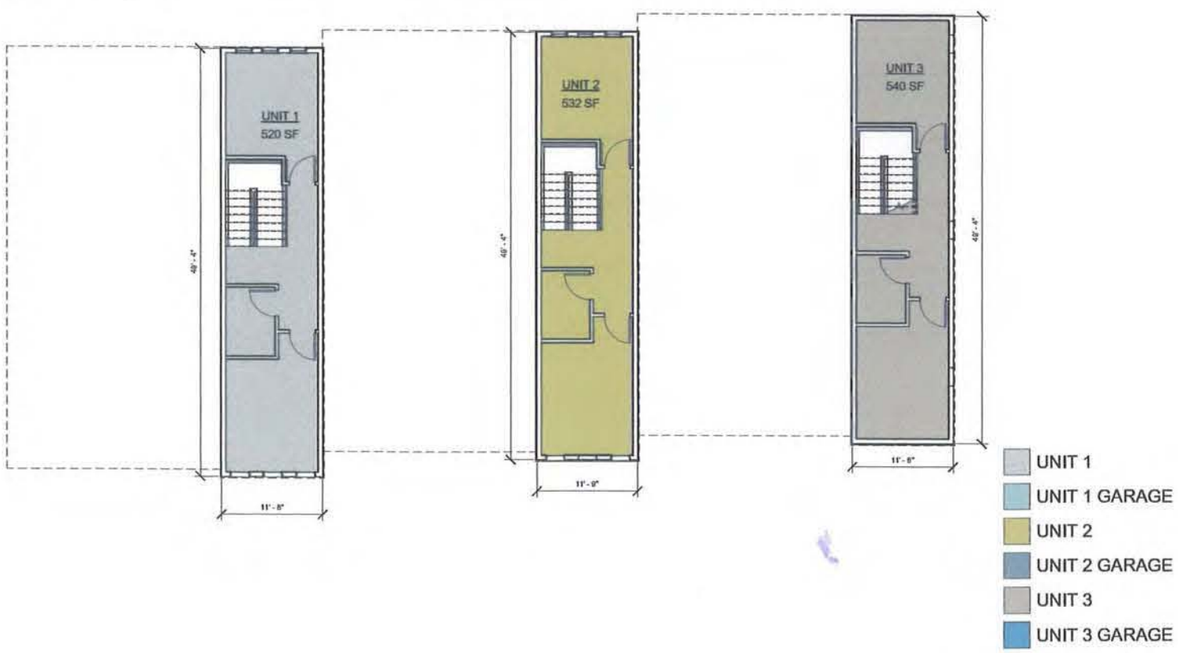
FLOOR PLANS & ELEVATIONS

5 A3.1 Main Floor Plan
1/8" = 1'-0"

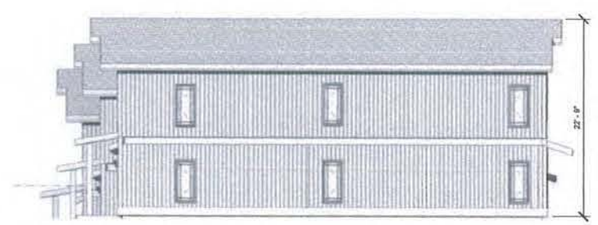
2 A3.1 FRONT ELEVATION
1/8" = 1'-0"



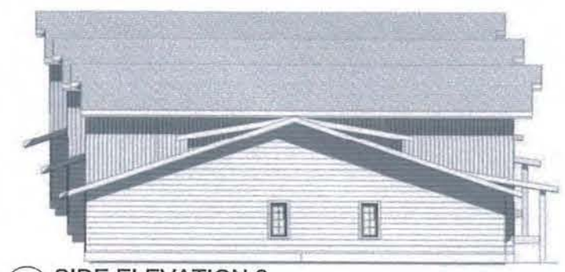
3 A3.1 BACK ELEVATION
1/8" = 1'-0"



6 A3.1 Upper Floor Plan
1/8" = 1'-0"



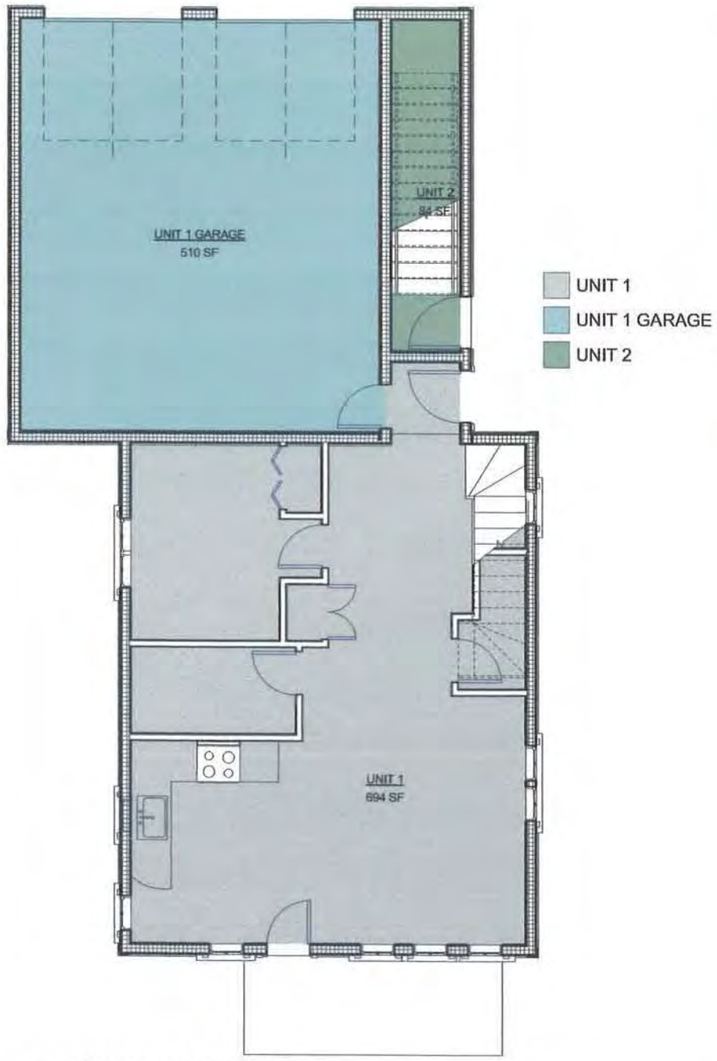
1 A3.1 SIDE ELEVATION
1/8" = 1'-0"



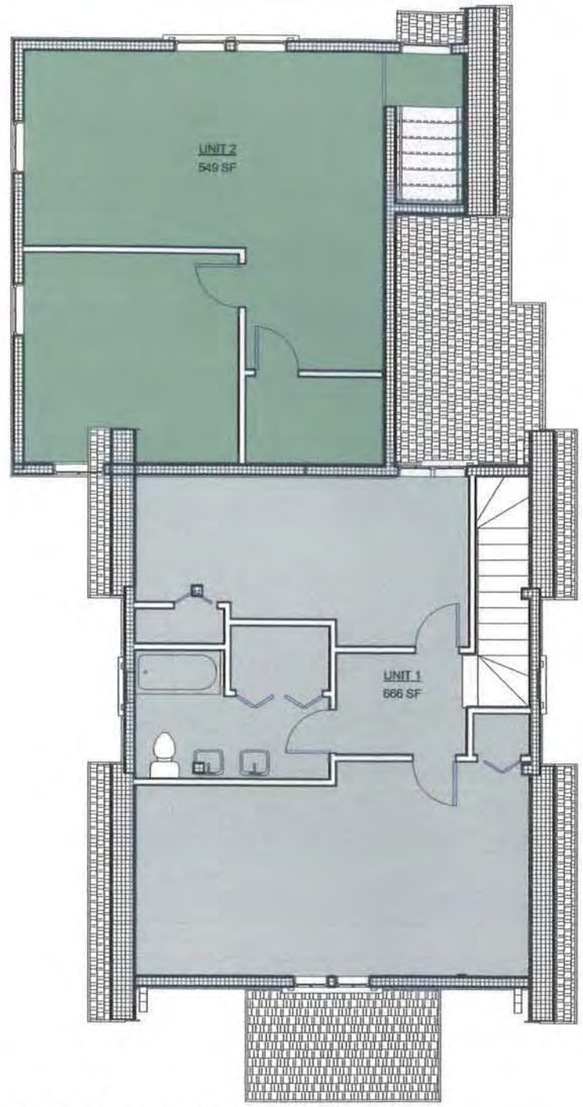
4 A3.1 SIDE ELEVATION 2
1/8" = 1'-0"

2ND STREET RESIDENCES - BUILDING M

PLANS & ELEVATIONS



1 PUD FIRST FLOOR PLAN
1/4" = 1'-0"



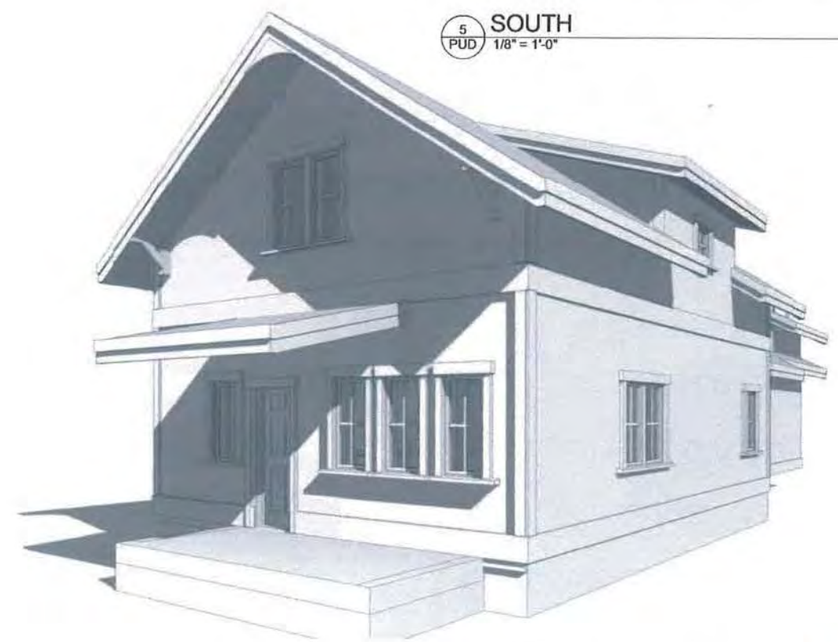
2 PUD SECOND FLOOR PLAN
1/4" = 1'-0"

6 PUD EAST
1/8" = 1'-0"

7 PUD WEST
1/8" = 1'-0"

4 PUD NORTH
1/8" = 1'-0"

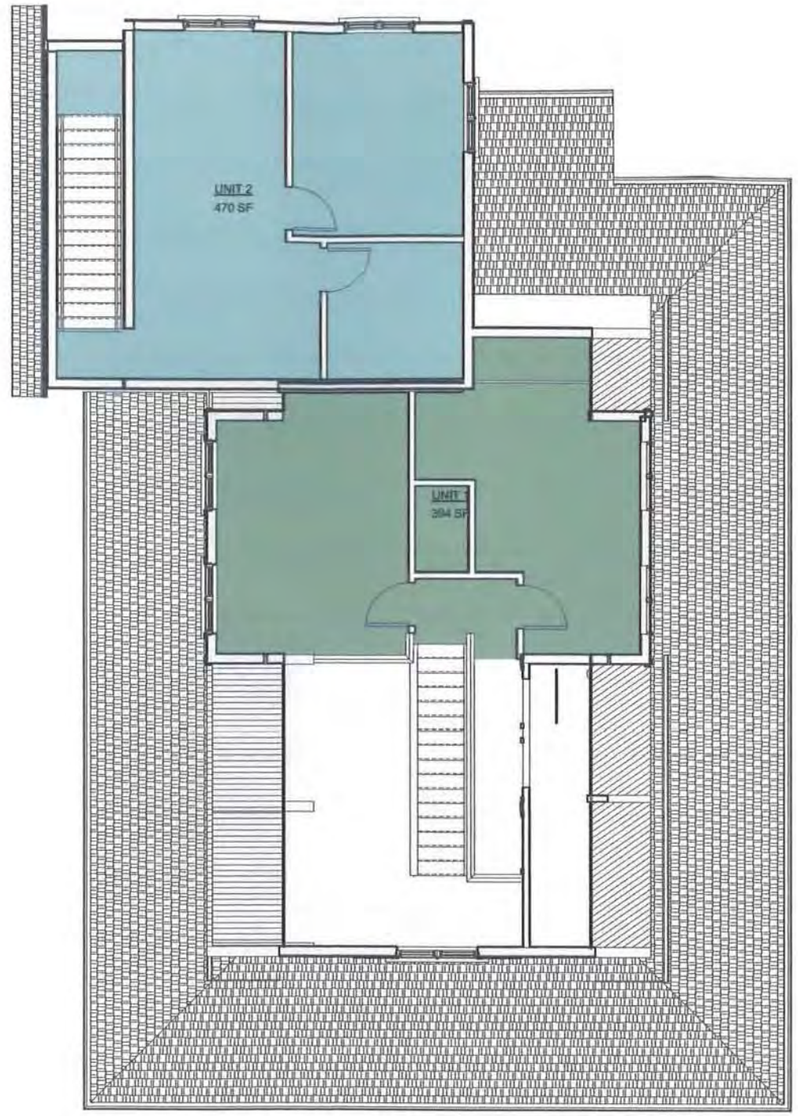
5 PUD SOUTH
1/8" = 1'-0"



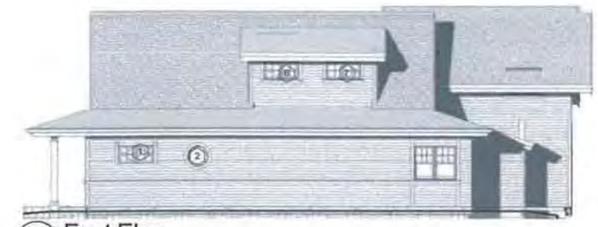
2ND STREET RESIDENCES - BUILDING L

PLANS & ELEVATIONS

5 A3.1 Main Floor
1/4" = 1'-0"



7 A3.1 Upper Floor
1/4" = 1'-0"



1 A3.1 East Elev.
1/8" = 1'-0"

2 A3.1 West Elev.
1/8" = 1'-0"

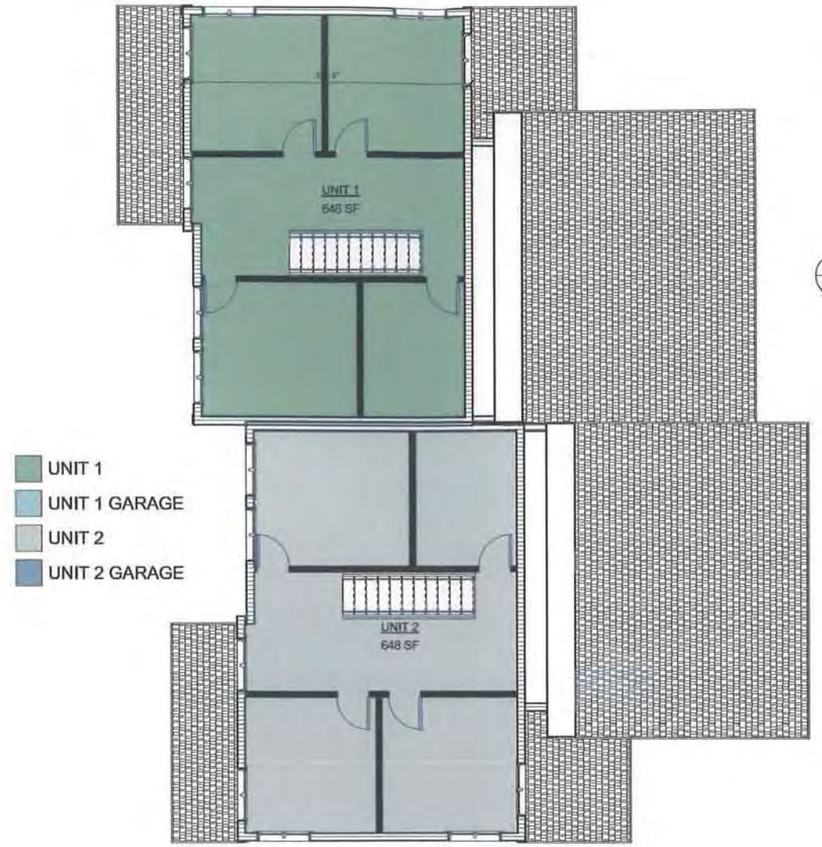
3 A3.1 North Elev.
1/8" = 1'-0"

4 A3.1 South Elev.
1/8" = 1'-0"

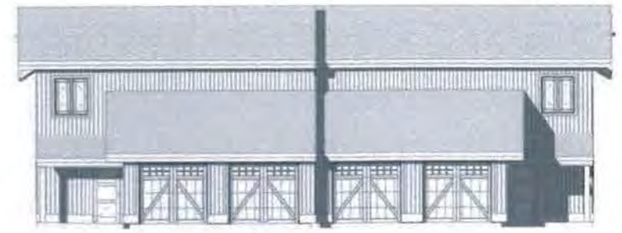
2ND STREET RESIDENCES - BUILDING M

PLANS & ELEVATIONS

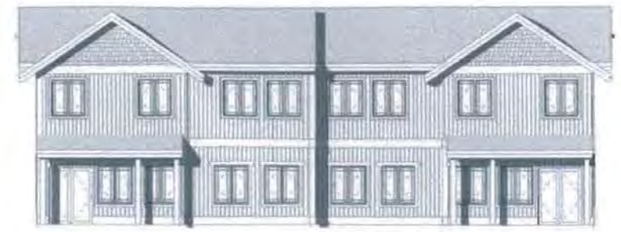
1 A2.1 Main Floor Plan
3/16" = 1'-0"



2 A2.1 Upper Floor Plan
3/16" = 1'-0"



4 A2.1 BACK ELEVATION
1/8" = 1'-0"



5 A2.1 FRONT ELEVATION
1/8" = 1'-0"

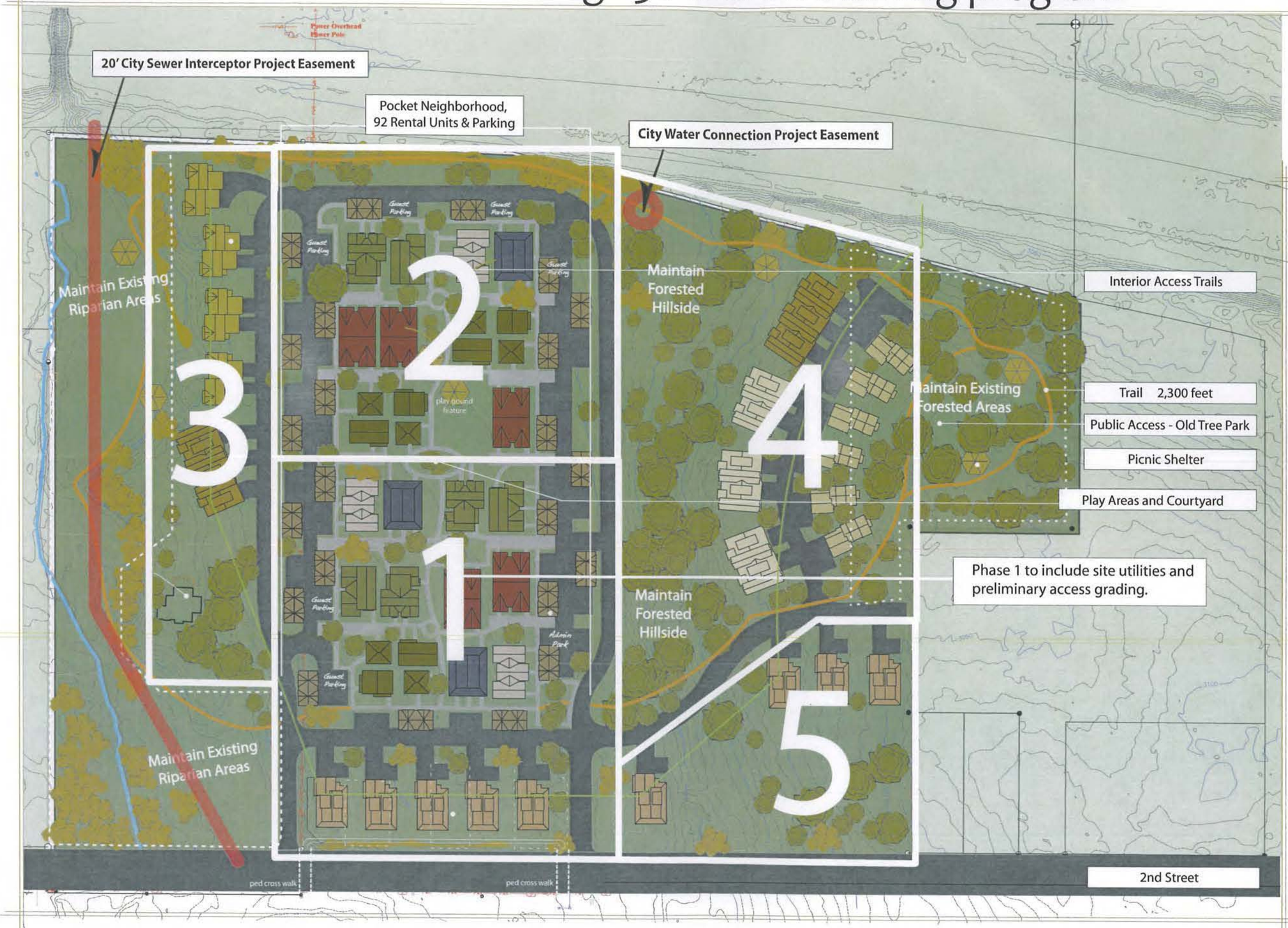
6 A2.1 SIDE ELEVATIONS
1/8" = 1'-0"

3 A2.1 3D View 1

2ND STREET RESIDENCES - BUILDING N

FLOOR PLANS & ELEVATIONS

2nd Street Residences - Phasing - 36 month building program



Montana Creative
architecture + design
406 862 - 8152

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

RPA
Robert Peccia & Associates, Inc.
102 Cooperative Way, Suite 300
Kalispell, MT 59901
406.752-5025 / 406.752-5024 (fax)

SCALE : 1/2" = 60'
60' 30' 0 60' 120'

1/4 Corner (as noted)
1/16 Corner (as noted)
Set 1/2"x24" Rebar & Cap (7975S)
Found 5/8" Rebar & Cap (9344S)
Found (as noted)

Wendy Compton-Ring

From: Scott Bates <s.bates1990@yahoo.com>
Sent: Saturday, May 18, 2013 7:51 AM
To: wcompton-ring@cityofwhitefish.org; s.bates1990@yahoo.com
Subject: Fw: 2nd East/Armory Housing Development

Wendy, Whitefish City Planning Dept., Whitefish City Council
After attending the planning board meeting on May 16th I have some major concerns for the proposed 2nd Street/Armory Road Development. First of all, I was disappointed in the developers proposal of not addressing an inadequate road system and public safety on 2nd Avenue East and Armory Road to handle their proposed development to all that use that road including school kids. I was underwhelmed by their proposal. Public safety is the most important aspect of any project.
I serve on the Command and General Staff as a Safety Officer on a National Incident Management Team that travels all over the USA and the world to suppress wild fires and help out with national disasters. Our team went to Hurricane Sandi last fall and I was in charge of the public safety of the twenty six fire crews (over 500 people) that cut the downed trees on public roads and turnpikes in New Jersey to get the power back on in the state of New Jersey. As you can imagine there were many public hazards to our fire fighters there, including heavy urban traffic. My job is to prevent accidents by addressing our daily operations and to either mitigate hazards as we identify them and if we can't mitigate it immediately, we abort the operation before it even starts. Public safety is the most important aspect of our job. It trumps all other operations. We don't jeopardize the safety of our firefighters or public safety. They are someone's sons and daughters and their loved ones are counting on us to bring them back home safely after we complete our mission. I have been a public safety officer for over forty years and have investigated a lot of fatalities and accidents that could have been prevented. I am a public safety officer professional and could testify in a court of law as an expert witness.

The 2nd Avenue East/Armory Road project is dead in the water until the public safety issues with the inadequate road system on 2nd Avenue East and Armory Road are fixed! This project should not be approved or even considered until these roads are widened, made safer and a public road safety transportation plan has been written and approved! This transportation system will take a lot of money and years to correct. You can't just tweek it and proceed with this project. I am professionally disappointed that the proposed project has even made it this far. Please don't open yourselves up for an inattentive school child to get killed on this inadequate transportation system for this proposed project on 2nd Avenue East and Armory Road or another lawsuit.
Lastly I appreciate the opportunity to comment and know and appreciate the thankless tough job that you people do. Thank you. We are in the same business. Please make the right decision on this project and reject it. Wendy, please forward this email and make sure that it makes it to all of the fore addressed people. Thanks.
Sincerely,
Scott Bates, Command and General Staff Safety Officer, Bob Fry's Northern Rockies National Incident Management Team
155 Armory Road

EXHIBIT
59

----- Forwarded Message -----
From: Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>
To: 'Scott Bates' <s.bates1990@yahoo.com>
Sent: Thursday, May 16, 2013 9:28 AM
Subject: RE: 2nd East/Armory Housing Development

Thank you for your comments. They will be forwarded onto the Planning Board and Council for their consideration.

Wendy Compton-Ring

From: Karen Maronda <emarfam@xplornet.com>
Sent: Wednesday, May 22, 2013 12:02 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Armory road condos

We live in the Willowbrooke area and live and walk on the paths and roads near Armory Road and 2nd Ave. . We are opposed to the development of any muliti family units in a R1 zoned community such as ours! We bought in this area because it was all zoned R1 which was very quiet and now this!! We are totally against this surprise development and don't want it to go foreword like everyone else in our community! The traffic will be horrendous on that narrow road and possibly another 600 + people will only add to the hazard!
R1 means R1 and the carrot on a stick of more tax dollars should not turn the heads of our city representatives wanting an easy tax dollar- not only will this upset our serene lifestyle but you must also think of increased infrastructure costs- policing - traffic- snowplow demands and the inherent problems that these high density developments bring with them !!
Thank you for your attention in this most serious matter.
Eldon and Karen Maronda - #19 Willowbrooke Close - Whitefish Montana 59937

Sent from my iPad

EXHIBIT
60

Wendy Compton-Ring

From: Necile Lorang <nlorang@cityofwhitefish.org>
Sent: Tuesday, June 11, 2013 9:36 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Fw: Please consider...

----- Original Message -----
From: Shelby Powell
To: nlorang@cityofwhitefish.org
Sent: Tuesday, June 11, 2013 9:29 AM
Subject: Please consider...

Dear Mayor Muhlfeld and Council Members,

I am writing this letter as I sit on my porch swing in front of my house on East Second Street. The traffic can be very busy in the mornings, when everyone is going to school, but we don't mind that hustle and bustle at all, and after nine o'clock, all is quiet and very little traffic goes by. East Second Street is a busy road, but still has such a sense of a peaceful residential street, with children playing in their front yards, birds chirping and bikers and walkers strolling by.

This morning however, school is out and there must be some construction going on somewhere nearby, because one after another big noisy trucks and other giant construction vehicles keep rushing by at an extremely fast speed, stirring up dust and debris as they thunder by.

I say this because I am so concerned about the housing development being proposed at the intersection of East Second Street and Armory. That would be disastrous to the close knit feel of these neighborhoods. Please don't allow this to happen. Zoning for single family housing is there for a reason. Let's keep the zoning rules in place and not allow them to be changed.

We understand there is a Hotel that may be built on the corner of Second and Spokane that is in the works. We have no problem with that, it's downtown....but anything other than homes east of that hotel becomes a threat to our uniquely intimate and close to town, quiet neighborhoods. Please protect what makes downtown Whitefish a perfect place to live. Don't let a cluster of apartments plopped down in the middle of our neighborhoods happen. Don't let 2nd Street become a dump truck speedway. Please don't change the zoning laws to allow this. Please stand firm on the rules and policies already put in place. Preserving the integrity of our small little town is so important.

Thank you so much for your time,
Shelby Powell
806 E. 2nd Street

www.stumptownartstudio.org
www.shelbievaughn.etsy.com

EXHIBIT
61

Wendy Compton-Ring

From: Darcy King <darcyqking@gmail.com>
Sent: Tuesday, June 25, 2013 1:11 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Regarding the proposal/development of the 2nd Street Apartments

Wendy Compton-Ring
Senior Planner
City of Whitefish
P.O. Box 158
Whitefish, MT 59937

Darcy Q. King
5850 Rabe Road
Columbia Falls, MT 59112

Dear Ms. Compton-Ring,

I am writing to show my support and approval for the proposed apartments off of 2nd Street and to ask that this letter of support please be made part of the public record. I was born and raised in the Flathead Valley, however, moved to Arizona for 10 years. Due to an unforeseen tragedy, I was forced to move back home with my two young children.

Arizona has much to offer in the way of safe, charming, and affordable housing. I was positive that the Valley would be able to deliver the same. As a young, single mother working in Whitefish, I am now incredibly discerning on my housing selection. My family and I are currently living with my parents, and due to the lack of opportunity are forced to continue to do so.

I have been looking for a place to call our own for over 3 months now, and at this point in time am severely disappointed with our options, or should I say lack thereof. The housing I've found that is affordable is not a place that I would ever allow my children to live. As a single mother, I am looking for a place that offers safety. stability, as well as a multiple amenities. Whitefish, for both myself, and for my children is my number one choice to live, but at this point in time either due to a restriction with finances, or in general, unavailability, we are unable to make the transition. My son will starting the 1st grade this fall, and if the proposal is approved would expectantly be completed within a year. He would be able to attend Whitefish by the 2nd grade, and my hope is that both of my children will be able to complete their education in Whitefish. If I find a place that is suitable, which this complex would be, I would be able to establish and provide a wonderful home for my family until my children have graduated.

From what I have been able to gather, this proposal/project will offer everything that I am looking for and then some. I have talked with several others who are facing the same dilemma as myself and are currently "stuck" because of the lack of options available in the valley. I feel this would not only be advantageous for the Whitefish community, but the Flathead Valley in general.

Thank you for taking the time to review my opinion and I sincerely hope this proposal is something that you will consider moving forward with. It will not only benefit myself, but many others as well who are looking for acceptable, affordable housing.

Kind Regards,

EXHIBIT
62

Darcy Q. King

Wendy Compton-Ring

From: Imagination Station <whitefishtoys@montanasky.com>
Sent: Tuesday, July 02, 2013 11:54 AM
To: wcompton-ring@cityofwhitefish.org
Subject: subdivision by Kaufmans's on 2nd

Wendy, I understand that you are the one to whom I should e regarding the proposed development on Second Street. As a business person I'm usually for development; however, in this case I feel there would be an overload of traffic on Second. Living in Haskill Basin, I cross the tracks daily either via 2nd or the Viaduct. The hill on Second is already dangerous enough with cars, bikers and dog walkers. Even with proper sidewalks, 2nd just isn't built for that much traffic. Please consider recommending further reduction in density of the proposed development. Thanks, Mary Witbrod Imagination Station

EXHIBIT
63

7 July 2013

Whitefish City-County Planning Board
Whitefish Planning & Building Department
PO Box 158
510 Railway Street
Whitefish, MT 59937

Dear Whitefish City-County Planning Board Members:

This letter is to provide our comments concerning the multiple revisions to the original site plan and proposed land use changes by William MacDonald and Sean Averill, on behalf of Community Infill Partners, LLC at 100 Wild Rose Lane and 1500 East Second Street in Whitefish.

We have seen the latest revision by Mr. MacDonald and Mr. Averill and still have a number of comments we would like to pass along to the Planning Board Members.

There has been a good amount of dialog between the developers and the neighborhood since the last meeting. However, for all the dialog which has taken place, there is a single issue which Mr. MacDonald and Mr. Averill have avoided despite the very consistent feedback from the entire neighborhood. That issue is the proposed zoning change to a high density zoning for the entire development area. While they have reshuffled the types of buildings and locations, the density has not changed. Their lack of response would only leave us to believe that development of this parcel must not work financially for them without the high density zoning.

The neighborhood's issue, and our key issue is THE PROPOSED HIGH DENSITY ZONING CHANGE. Unfortunately, the high-density zoning has the greatest negative impact to all neighborhood landowners, the City and all City taxpayers. Like the rest of the neighbors, we DO NOT HAVE AN ISSUE WITH DEVELOPMENT if it is in line with the City's own Master Plan and the rest of the neighborhood. If the density is consistent with the neighborhood, most of the other issues either go away or are much more manageable.

The positive aspects of the project such as the Affordable Housing, do not require the high density zoning change and can be achieved in other ways while still developing the land in a manner consistent with the rest of the neighborhood.

Our issues and questions remain the same as in our last letter dated 5 May 2013. We write in opposition to the amended proposal.

Regards,

Rebecca Kauffman

Rebecca Kauffman
For PHIHOP, Inc.
970-764-7171

EXHIBIT
64

Wendy Compton-Ring

From: Susan Schnee <schnee@aboutmontana.net>
Sent: Monday, July 08, 2013 4:49 PM
To: wcompton-ring@cityofwhitefish.org
Subject: second st apts

To the planning board:
I have received the revised plan for the 2nd st apts. Proposed development by averill/macdonald and see that nothing has been changed as far as density goes. There are still issues with the developer asking for an entitlement (virtually a gift of hundreds of thousands of dollars) by asking that the land be rezoned for a much higher density. They could have purchased land zoned for that, but they have decided to purchase land at a lower price and ask for a zone change, at the expense of the surrounding land owners and city taxpayers.
There are still the huge issues of traffic, road safety, and increases in city services that have not been addressed, again. There are plenty of areas available in Whitefish for this type of development which are zoned for this purpose. This is not one of them.
Susan Schnee
1405 East Second St

EXHIBIT
65

Wendy Compton-Ring

From: nancy tigue <nancymt@montanasky.net>
Sent: Tuesday, July 09, 2013 8:56 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Proposed Second Street "residences'

Dear Wendy,

I live at 1319 East Second St. I have owned my home since 1993.
I am most concerned that this proposed development on Second St is even being considered acceptable by any planning commission.
Mr Kaufman and the intended buyers of the property under consideration must seek several zoning changes that will drastically change safety and environment of our neighborhood. d
This a quiet residential area with each homeowner very conscious of the heavy pedestrian,dog and vehicle traffic already presently a daily hazard. This section Second Street is very narrow and dangerous at present. The proposed density of the 'residences" will add tremendously to the potential for accidents.
I am not against change but this is exponentially out of proportion and detrimental to a predominantly single family neighborhood. The proposed 'residences ' are to be primarily rental units thus potentially lacking care and pride of individual home ownership by creating a transient population.
I urge the city to prevent the propose zone changes that would permit high density development so out of character with its surroundings.
My hope is that our city leaders will be loyal to the majority of us long time citizens already committed to Whitefish's best interest and quality of life.

SIncerely,
Nancy Tigue

EXHIBIT
66

July 10, 2013

City-County Planning Board
C/o Whitefish City Planning Department
PO Box 158
Whitefish, MT 59937

Dear City-County Planning Board,

I sent a letter to you in March when the 2nd Street Apartments project was originally proposed. In that letter, I indicated that I was not opposed to development at this location; but that I was opposed to the kind of development that was being proposed. It is now four months later and although the developer has changed the name of the project to the 2nd Street Residences and made several revisions to its planned development, in essence they are still proposing the same type of development and I am still opposed to it for the same reason I was initially. It is the **wrong** type of development for this location.

The surrounding neighborhoods are zoned WR1 and WLR and are predominately single family residential. In the neighborhoods between Cow Creek and the railroad tracks on 2nd Street E and on Armory Street to Armory Park there are 92 residences, all of which are single family residences, with the exception of 1 non conforming 4plex. The majority of the residences are on oversized lots, with a large amount of open space. The developer originally proposed a development of 175 residences; now they are proposing a development of 143 residences. They have added some single family residences but the majority of the residences are still multifamily and mostly apartments. To do this project as currently proposed, will still require a zone change to allow for multiple family housing. Allowing a change of this type would be non-conforming with the existing neighborhoods and would dramatically change the character of this area. If there is a zone change allowed it should be only to allow for single family residential preferably with WLR zoning, to maintain the current characteristics of the area.

According to the City of Whitefish Growth Policy, this area is designated on the growth map as suburban residential. This would allow for 3-4 residences per acre. Through the use of a PUD and the aforementioned zone change, the developer is now proposing a density of 5-6 residences per acre. The proposed density of 143 units would increase the number of residences east of Cow Creek over 150%. This plan is a total variance from the existing neighborhoods and out of place in this location. There are other areas in the City that are designated for this type of development in the Growth Policy and already zoned for multifamily housing of this type. Why isn't the developer utilizing the available land in these areas for their proposed development instead of trying to change the definition of the 2nd Street parcels to meet their needs? How can this type of change even be considered without also requiring an amendment to the Growth Policy? To allow this type of development here is to ignore the Growth Policy as established by the Citizens and City of Whitefish.

I reside at 1665 2nd Street E in a one member household. I make at least 4 trips per day from my house to other locations. The traffic study uses estimates of 5.86 trips/day for a condo and 6.72

EXHIBIT
67

trips/day for an apartment. I think this estimate is low. Even if these estimates are accurate this is a tremendous increase in volume over existing traffic levels. The extension of Armory St into the sub division, along with the increased traffic from the subdivision will transform the Armory Street intersection with E 2nd Street into a major hub with an associated increase in safety issues. Although the City already has plans in motion to reengineer 2nd Street, I wonder if they can handle the increased traffic. In addition, I am unaware of any plans for modifications to Armory Street by the City or County. The increased traffic will affect both residents of the city and the county, especially in the surrounding neighborhoods

In Summary, even though the developer has modified its plan, it is still basically the same plan, with the same issues, none of which have been addressed in a meaningful way. To cater to the developer and accommodate their wishes when they do not have to live with the consequences of this development as the local residents of our neighborhood, city and county do would be inappropriate. I still believe that this is the wrong type of development for this property. I respectfully request that you vote to deny this request and preserve the character and quality of our neighborhood.

Sincerely,

Kathy Spangenberg
1665 2nd Street E
Whitefish, MT 59937

Whitefish City-County Planning Board
c/o City Planning Department
P.O. Box 158
Whitefish, MT 59937

Re: Properties west of Second Street Residences

Dear Planning Board members:

We, the undersigned, are owners of property located generally along Larch and Fir avenues and generally west of Cow Creek. Some of these properties lie immediately west of the "Kauffman property", for which the 143-unit Second Street Residences is now being proposed.

All of our properties are zoned WR-1 (One-Family Residential District). As you may recall, when the original plan for the then Second Street Apartments was submitted, the Whitefish City Planning staff requested that they be directed to "rezone" our properties to WR-2 (Two-Family Residential District). It is our understanding that the city planners' request served only to justify the zone change from WR-1 to WR-2 that the developers of Second Street Residences are requesting for the westerly 6.875 acres of the subject property. That rezoning only serves to artificially raise the allowable density on the entire property about the 99 units allowed by current zoning (assuming that the area of the subject property zoned WA is rezoned to WER in compliance with the Whitefish Growth Policy) . We are already on record as **opposing** the rezoning of our properties as well as the rezoning of the 6.875 acres of the subject property. **(We do not oppose the rezoning of the remainder of the subject property from WA to WER.)** While we were pleased to hear that the City has dropped the idea of rezoning our properties, we would simply like to reaffirm our opposition for the record.

As for the developers' proposed zone change from WR-1 to WR-2, we are concerned that by artificially raising the density all across the subject property, our properties---as well as the entire neighborhood----will be negatively impacted. This zone change benefits only the developer to the detriment of our properties and the neighborhood, and is therefore, improper and illegal spot zoning according to Montana law. We urge the Planning Board to reject this proposed zone change, and allow the developers to pursue a plan with lower density (up to 99 units on the entire 24 acres) and residential product types that are more compatible with the surrounding neighborhoods.
Respectfully submitted,

Sherry Palmerton

Steve Thompson, Sean and Brooke Hard, Rebecca Kauffman, Betsy (Kauffman) Harmon

July 14, 2013

Whitefish City-County Planning Board
c/o City Planning Department
P.O. Box 158
Whitefish, MT 59937

Re: Properties west of Second Street Residences

Dear Planning Board members:

Alongside the individuals copied on this letter, I own property at 5 Fir Avenue, west of Cow Creek and west of the "Kauffman property" where the 143-unit Second Street Residences is now being proposed.

All of our properties are zoned WR-1 (One-Family Residential District). As you may recall, when the original plan for the then Second Street Apartments was submitted, the Whitefish City Planning staff requested that they be directed to "rezone" our properties to WR-2 (Two-Family Residential District). It is our understanding that the city planners' request served only to justify the zone change from WR-1 to WR-2 that the developers of Second Street Residences are requesting for the westerly 6.875 acres of the subject property. That rezoning only serves to artificially raise the allowable density on the entire property about the 99 units allowed by current zoning (assuming that the area of the subject property zoned WA is rezoned to WER in compliance with the Whitefish Growth Policy) . We are already on record as **opposing** the rezoning of our properties as well as the rezoning of the 6.875 acres of the subject property. **(We do not oppose the rezoning of the remainder of the subject property from WA to WER.)** While we were pleased to hear that the City has dropped the idea of rezoning our properties, we would simply like to reaffirm our opposition for the record.

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Respectfully submitted,

Steve Thompson

Steve Thompson, 5 Fir Ave., Whitefish

Cc: Sherry Palmerton, Sean Hard and Brooke Bohannon, Rebecca Kauffman, Betsy (Kauffman) Harmon

Whitefish City-County Planning Board
c/o City Planning Department
P.O. Box 158
Whitefish, MT 59937

14 July 2013

Re: Properties west of Second Street Residences

Dear Planning Board members:
We, the undersigned, are owners of property located generally along Larch and Fir avenues and generally west of Cow Creek. Some of these properties lie immediately west of the "Kauffman property", for which the 143-unit Second Street Residences is now being proposed.

All of our properties are zoned WR-1 (One-Family Residential District). As you may recall, when the original plan for the then Second Street Apartments was submitted, the Whitefish City Planning staff requested that they be directed to "rezone" our properties to WR-2 (Two-Family Residential District). It is our understanding that the city planners' request served only to justify the zone change from WR-1 to WR-2 that the developers of Second Street Residences are requesting for the westerly 6.875 acres of the subject property. That rezoning only serves to artificially raise the allowable density on the entire property about the 99 units allowed by current zoning (assuming that the area of the subject property zoned WA is rezoned to WER in compliance with the Whitefish Growth Policy) . We are already on record as **opposing** the rezoning of our properties as well as the rezoning of the 6.875 acres of the subject property. **(We do not oppose the rezoning of the remainder of the subject property from WA to WER.)** While we were pleased to hear that the City has dropped the idea of rezoning our properties, we would simply like to reaffirm our opposition for the record.

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Respectfully submitted,

Rebecca Kauffman

cc: Steve Thompson, Sherry Palmerton, Sean Hard, Betsy (Kauffman) Harmon

Wendy Compton-Ring

From: Jay and Suzi Stagg <thestaggs@gmail.com>
Sent: Monday, July 15, 2013 12:24 PM
To: Wendy Compton-Ring
Subject: Fwd: Letter to the Editor Receipt

Hi Wendy.

Here is a copy of a letter that I wrote to the Editor of the Whitefish Pilot regarding the 2nd Street Apartment Project. Could you please pass it along to the Board?

Thank you.
Suzi Stagg

---------- Forwarded message ----------
From: **Jay and Suzi Stagg** <thestaggs@gmail.com>
Date: Mon, Jul 15, 2013 at 12:20 PM
Subject: Fwd: Letter to the Editor Receipt
To: Erin Barbee <lenabarbee@yahoo.com>

What do you think?

---------- Forwarded message ----------
From: <editor@whitefishpilot.com>
Date: Mon, Jul 15, 2013 at 12:13 PM
Subject: Letter to the Editor Receipt
To: thestaggs@gmail.com

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| |
| Letter to the Editor Receipt |
| |
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Thank you, suzi, for your letter.

Tracking ID: 3f9458cf0a2ea7a

Contact Information:

First Name: suzi
Last Name: stagg
Address: 1306 east second street
City: whitefish

State: mt
Zip Code: 59937
Phone: 862-4079
Email: thestaggs@gmail.com

Letter to Whitefish Pilot:

When I attended the May Planning Board meeting to express concerns over the 2nd Street Apartments I was relieved to see that so many other Whitefish residents had the same concerns.

The folks that spoke against the project did so in a respectful, well thought out manner. At the end of the meeting the speakers were told that they sounded "anti-development".

Some recent letters in the Pilot also labeled the 2nd street neighborhood residents as anti-growth and development.

Let me make something clear. I, along with many residents, are not at all opposed to homes being built that fit in with the current zoning. We are aware that more affordable housing is needed. We are opposed to the zoning change required for this project to happen. The change could be considered spot zoning. If the planning board votes to recommend this change in zoning they will be setting a dangerous precident. If they deviate this much from the City Growth plan we will eventually end up with a very dis-jointed and poorly thought out town.

We need to make sure we grow our community in a responsible, carefully thought out manner. If you agree, please attend the July 18th planning board meeting so that you are well informed about what is going on in your town.

I am NOT anti-growth and development. What I am is PRO Whitefish.

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Letters to the Editor Form sent from www.flatheadnewsgroup.com

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Wendy Compton-Ring

From:	Erin Barbee <lenabarbee@yahoo.com>
Sent:	Monday, July 15, 2013 2:57 PM
To:	wcompton-ring@cityofwhitefish.org
Subject:	Second Street Apartments
Attachments:	Wendy Compton-Ring Letter 7-2013.docx

Hi Wendy,

Attached please see my letter of opposition to the proposed apartment complex on East Second Street. A similar letter of mine ran in the Daily InterLake and the Whitefish Pilot last week. This letter includes the fact that none of us in the community are anti-growth or anti-development and that we do understand this property will be developed in some way. The issue on hand is the fact that a zoning change is being requested for this property when there are already other areas already zoned for this type of housing in Whitefish.

Another big concern is the amount of traffic that East Second Street already handles. This topic has been minimized by the developers.

It's hard to understand how this project is cohesive with the surrounding neighborhood. I live on the last city block of town which is between Fir & Larch. Once you head East towards the Dog Park, the look and feel of the houses on Second Street is different from those city blocks in town. They are on more wooded property and have more land around them. How is a 143 unit apartment complex similar in any way?

Thank you,

Erin Barbee
lenabarbee@yahoo.com

Apartment Complex Wrong Fit for Whitefish Neighborhood

It's called the 2nd Street Residences, a refreshing name change from 2nd Street Apartments, as it was presented to us at the last neighborhood meeting. Why the name change? Could it be to make it more palatable? Residences certainly sounds better than apartments, which is what the vast majority of these units will be. Aptly named efficiencies or mother-in-law's take the last count up to 118 of them, and that's not counting the condos.

This proposed land development project will put 143 housing units----including 3, 4, and 5-unit buildings----on less than 24 acres in a quiet single-family neighborhood. Ninety-two units, plus parking and garages, will be crammed into the Kauffman meadow on the north side of 2nd Street. For every property owner, there will be two renters, which means that this development will have to have an on-site property manager during the day.

It will add over 1,000 vehicle trips per day in the East 2nd Street-Armory Road area.

To accomplish all of this, the developers are requesting a rezoning for part of their property that could well constitute improper "spot zoning".

We, the Whitefish residents who own homes and raise families in the surrounding neighborhoods, have told the developers and the Whitefish City-County Planning Board that:

- The proposed development is out of scale and inconsistent with the character of our neighborhoods.
- That the proposed zone change---which serves only to increase the possible development density---is improper and inconsistent with the surroundings.
- That the proposed development is not consistent with the Whitefish Growth Policy.
- That ours are already socially and economically diverse working class neighborhoods.
- That Armory Road, which will experience significant increases in traffic volumes as a result of this project, is a school route, but has no sidewalks or a bike lane.
- That 2nd Street is already heavily traveled as a result of bus traffic during the school year, along with visitors to the WAG Dog Park, skate park & Armory facility, Whitefish airport, both baseball fields on Armory & E. 2nd Street, not to mention the current construction traffic in the area from the high school. Also, Dodger Lane is under construction that will now allow additional access from Armory Road to East 2nd Street.
- There is already land that is planned and zoned for probably **hundreds** of multi-family units between downtown Whitefish and Hwy 40, and that our neighborhood need not be sacrificed for potential "employee housing". (Yes, it is always less costly to tie up land in a neighborhood, then ask the city to rezone it for you, than it is to purchase land that is zoned for multi-family in the first place.)

We have repeatedly told the developers and Planning Board about these and other potential problems. We have told them in two public hearings, at two on site meetings with the developers, in petitions with over 80 signatures, and in countless e-mails. Not only are the developers and Board not hearing us, but the Whitefish city administration is actually recommending to the Planning Board that this absurdity be **approved**!

We would like to remind people that we HAVE NOT been and still ARE NOT anti-growth or anti-development. Yes, this piece of property will be developed and we are not objecting to it being developed it as it is currently zoned. And yes, of course affordable housing is needed in Whitefish. Yes, there is a shortage of rentals, both of which should be built where that area is currently zoned for that type of housing.

So, we need help. The developers, Planning Board, and the City are all tired of hearing from us. But if you too think it is extremely unfair and shortsighted to sacrifice a desirable and stable single-family neighborhood for multi-family housing that can and should be built elsewhere, even if you don't live in our area, please call or e-mail the City Planning Department and tell the Planning Board what you think. Send your e-mailed comments to Senior Planner, Wendy Compton-Ring at wcompton-ring@cityofwhitefish.org. Wendy will make sure that the Planning Board receives your comment by the next public hearing on **Thursday, July 18.** Or, phone the Planning Department at 863-2410.

Or better yet, come to the meeting on July 18 and tell them yourself. This is the wrong fit for this part of town and every business owner, resident and person that we've spoken with who is invested in Whitefish agrees. This is a bigger issue than it just being in our backyard. We appreciate your help, and besides, your neighborhood may be next.

Thank you,

Erin Barbee

July 15, 2013

To the Members of the City-County Planning Board:

This is our second letter regarding the proposed 2nd Street Apartment development. Since the Board last met, and we last wrote, our local District Court issued a game-changing legal decision, *Citizens for a Better Flathead v. Board of County Commissioners, DV-12-010C, July 5, 2013.*

In essence, the Court focused on **three areas** where the County Commissioners abused their discretion, thus resulting in the Court's reversal of their rezoning decision.

First, the Commissioners violated the statute requiring that any zoning designation "... must be guided by and give consideration to..." the policy and pattern of development adopted by the Growth Policy. §76-1-601(1), MCA.

The Whitefish Growth policy specifically addresses how we, the residents and doughnut people, want our community to develop. In the Vision Statement, we declared, "We will preserve and enhance our ... **traditional neighborhoods** that make our community special." Moreover, "... residents expressed a strong dislike for higher density housing that would overburden existing services and facilities and/or would **not be compatible with existing neighborhoods."**

Our Growth Policy's Development and Density section, pages 62-63, raised the issue, *how and at what densities should new developments be planned for Whitefish?*

The answer: Whitefish residents expressed their desire that [new neighborhoods] be consistent in character and quality with existing neighborhoods. Visioning session participants were most clear in expressing a dislike for relatively high density housing that they felt "is not Whitefish," citing the Monterra project as inappropriate. Finally, residents agreed that **higher density product types must respect the character and scale of existing neighborhoods and cannot over-tax facilities and services.**

At every meeting before this Board, in every petition and letter, the local residents, to the person, have objected to the 2nd Street development and the zoning change required to facilitate it because it is out of character and scale with the existing traditional neighborhood, it presents huge traffic and safety issues to pedestrians and bicyclists, and will greatly add to our tax burden to provide increased services, fire, and police. Thus, in light of this new legal ruling, the Board must consider the Whitefish Growth Policy and in so doing, deny this project.

Second, the District Court reversed the Commissioners' zoning decision and map change because **they failed to consider public comments and failed to address those comments.** Those comments criticized the Commissioners for failing to

comply with the county's long range planning documents, alleged that the new zoning constituted "spot zoning", and expressed concern that the new zoning designation would create strip commercial and business development.

The District Court cites to the "Wolford" decision, in which the Commissioners relied on a Planning Office Report prepared **before** over 4,000 public comments were received. In the 2nd Street Development case, the Whitefish City Planning Department prepared their recommendation of the project with no input from our community.

Thus far, at every meeting, other than the developers and the landowner, no one has spoken out in favor of this development, while hundreds of affected residents have spoken out against it. In this latest District Court ruling, the Court concluded that the Commissioners' blatant disregard of public comment is unsupportable and required, along with other errors, reversal of the Commissioners' zoning decision. Likewise, we ask the Board to consider and incorporate our stated concerns and deny this development.

Third, the District Court held that the zone change constituted **Spot Zoning**, looking at three criteria, (1) The requested use is significantly different from the prevailing use in the immediate area; (2) The area in which the requested use is to apply is small; and (3) The request is akin to special legislation in that it is to the benefit of a few and contrary to the zoning in the immediate area.

The immediate area that the Commissioners rezoned was initially zoned suburban residential and that designation was part of the Flathead County Growth Policy's long range planning in that area.

Likewise, the Kauffman property, as contemplated by the Whitefish Growth Policy's Future Land Use Map, is now and should remain suburban residential. Suburban residential means "the residential product type is predominantly **single-family, but cluster homes, and low density town homes that preserve significant open space are also appropriate."** As noted by many others, the 2nd Street Apartments, with their proposed 150+ units, and thousands of daily car trips to and from town, DO NOT COMPLY with the prevailing use of the neighborhood.

Further, the area the Commissioners rezoned comprised a total of 63 acres owned by 6 owners. **The District Court held that only a small number of landowners would benefit from the change in zoning, to the detriment of the surrounding landowners.**

Thus, the District Court held that the Commissioner's zone change constituted illegal spot zoning because it appeared to be special legislation benefitting a few land owners to the detriment of the surrounding land owners, the latter comprising many ranchers and farmers. Citing a Montana Supreme Court ruling, the District Court noted the inquiry "should be focused on the benefits of the proposed rezone

to surrounding land owners, **not the benefit - financial or otherwise - that would accrue from the proposed development.**"

In the case before this Board, there is ONE landowner and a mere 24 acres involved. There is NO discernible benefit for the rezone that would accrue to us, the neighboring residents. Benefits accrue ONLY to Mr. Kauffman and the developers. Therefore, this Board must deny this development.

To do otherwise, to approve this development, will surely result in exactly the same outcome for the City of Whitefish when this matter is litigated. Rezoning the land to allow the developers to build such an enormous, high-density project that fails to conform to the existing traditional neighborhood, against the legitimate concerns of virtually every neighbor in the vicinity, is unsustainable. It fails to comply with the Growth Policy, it constitutes spot zoning, and failure to **listen to us**, the residents of Whitefish and the doughnut, will constitute an abuse of discretion that must be voided by a court.

Thank you for you time and consideration.

Sincerely,

Phyllis and Jack Quatman

Wendy Compton-Ring

From: Michael Moffitt <michaelmoffitt@gttsmarketing.com>
Sent: Tuesday, July 16, 2013 8:56 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Proposed Apartments on 2nd street

As a resident of Whitefish I wish to voice my deep concern over the massive apartment project that the City appears to be driven to pursue, despite the strong opposition from almost all of the residents in both the immediate area and elsewhere in our city. I have taken the time to acquaint myself with the facts surrounding this development and this just does not make sense for Whitefish. I am a strong champion for Whitefish when projects benefit us all, but this one makes no sense and will irreparably harm the character and vitality of a portion of our town that has managed to maintain a wonderful mix of charm and well maintained single family homes in quiet surroundings for many decades.
The density level of this plan does not fit at all with who and what we are. I am very familiar with the neighborhood in question and this project is totally out of character for this area.
I request that you and the rest of the Planning Department ask yourselves the simple and straightforward question: Is this what you want Whitefish to become? Large clusters of high density apartment buildings, where owners are replaced by renters, where established neighborhoods are replaced by cookie cutter rows of apartments that add nothing to the character and special qualities that distinguish Whitefish from countless other towns across America?

Respectfully,

Michael A. Moffitt
Whitefish, MT

Wendy Compton-Ring

From: Necile Lorang <nlorang@cityofwhitefish.org>
Sent: Tuesday, July 16, 2013 11:32 AM
To: wcompton-ring@cityofwhitefish.org
Subject: Fw: 2nd Street Housing Proposal

----- Original Message -----
From: Shelby Powell
To: nlorang@cityofwhitefish.org
Sent: Tuesday, July 16, 2013 10:56 AM
Subject: 2nd Street Housing Proposal

Dear Whitefish City Council,

Please, please, please do not allow the proposed units on East 2nd Street to be built. It will ruin the entire integrity of one of Whitefish's most historic downtown neighborhoods. There are plenty of wide open spaces elsewhere for affordable housing to be built. How about Hwy. 93 instead? I can't even imagine the freeway that 2nd Street will turn into with hundreds of more cars racing back and forth everyday. It will be a nightmare.
Please respect the zoning laws put in place years ago, and for good reason. Fight for what is right. This proposal is a travesty to allow.

Why should we, the people have to spend so much of our time battling this? Why has this proposal even been considered in the first place. Please, Just say No.
Zoning laws were put in place to protect homeowners, provide security for the future and to prevent unnecessary developing of land that does not fit the character of surrounding neighborhoods already established.

I realize progress is inevitable, but that is why zoning laws are written and need to be honored. These units can be built off Hwy 93 on wide open land.
Over 100 housing units on a small parcel of land is not a good fit. It will be a sad day for all if written laws are overturned and this atrocity is allowed to happen. Please fight for your community and be a voice for the many.
Do what is right. Thanks so much for listening,

Shelby Powell

www.stumptownartstudio.org

Wendy Compton-Ring

From: Chuck Stearns <cstearns@cityofwhitefish.org>
Sent: Tuesday, July 16, 2013 11:41 AM
To: 'David Taylor'; 'Wendy Compton-Ring'
Cc: 'Necile Lorang'
Subject: FW: 2nd Street Housing

From: Shelby Powell [mailto:thepowells@bresnan.net]
Sent: Tuesday, July 16, 2013 10:53 AM
To: cstearns@cityofwhitefish.org
Subject: 2nd Street Housing

Dear Chuck,

Please, please, please do not allow the proposed units on East 2nd Street to be built. It will ruin the whole integrity of one of Whitefish's most historic downtown neighborhoods. There are plenty of wide open spaces elsewhere for affordable housing to be built. How about Hwy. 93 instead? I can't even imagine the freeway that 2nd Street will turn into with hundreds of more cars racing back and forth everyday. It will be a nightmare.
Please respect the zoning laws put in place years ago, and for good reason. Fight for what is right. This proposal is a travesty to allow.

Why should we, the people have to spend so much of our time battling this? Why has this proposal even been considered in the first place. Please, Just say No.
Zoning laws were put in place to protect homeowners, provide security for the future and to prevent unnecessary developing of land that does not fit the character of surrounding neighborhoods already established.

I realize progress is inevitable, but that is why zoning laws are written and need to be honored. These units can be built elsewhere on wide open land.
Over 100 housing units on a small parcel of land is not a good fit. It will be a sad day for all if written laws are overturned and this atrocity is allowed to happen. Please fight for your community and be a voice for the many.
Thanks so much for listening,

Shelby Powell

www.stumptownartstudio.org

Wendy Compton-Ring

From: Rebecca Norton <rannenorton@yahoo.com>
Sent: Tuesday, July 16, 2013 7:12 PM
To: Wendy Compton-Ring
Cc: chuck stearns
Subject: Kaufman property

Wendy. Please add my comments to the packet. I will try to attend the meeting on Thursday at 6, but may not be able to do so.

1. While I appreciate the developer's work on mitigating the visual impacts of this level of density, it is still too many people living in too little space for this location. The traffic concerns me. The effect on Cow Creek concerns me. And the precedent set to spot-zone and allow a zoning change against overwhelming public outcry and opposition concerns me. We are one community, and the profit goals of a group of individual investors should not in any way harm the rest of us. This project's density would devalue the surrounding homesites, especially given how peaceful and safe it is currently.

2. I would like to see a plan for the site that is based on the current zoning. To my knowledge that has not been shown to the public. I realize that this is a strategy employed to "sell" a project, (over-build, they'll say no, so we come back with a smaller overbuild, and it won't look so bad...), but the public deserves the right to look at what they would be giving away if the zone change and the PUD were allowed. This might be reasonable, or it might still be too dense, but until the public sees what it would look like, we won't know, because the primary job of any public servant, or board, is primarily and ethically to do the "will of the people". The city has established a Growth Policy and zoning that allows those who are part of the Whitefish community to have some assurance that what they are buying into will have lasting and consistent value. Staying with what this property is currently zoned for would be legal, and may be more acceptable to the neighbors.

3. The public is unable to view the presentation by the applicants to the City-County Board at the time of the presentation because the projection is towards a side wall, the room is packed and few people can get up and go stand against the opposite wall to see what is being presented, and this is unfair to the public. We have open meeting laws for this reason--the public is supposed to have the same access to documents and visuals as the governing board that is deciding the issue, so that they might give comment and steer the public process accordingly. For the purpose of this meeting, which you should expect a full house for, I'd am asking for the city staff to look at a way where everyone who attends has access to the same information visually as the City-County Planning Board. This allows us all to give public comment based on the most current and accurate information, vs. missing out on anything. Perhaps you could have TV monitors set up on both sides of the room? Or centralize the screen so everyone can see it? To me it's creating a handicap when the public is by law supposed to have access to all that is presented into the public record. Not everyone will have time to go to the planning dept. or read through the packet before they show up. Their only chance to study what is being presented might be that night during the presentation by the applicants. And if I'm not mistaken, all public comment is given after the developer presents their proposal, so if the public can't see what is actually being presented, it's not a fair public process. Perhaps Chuck could ask those folks who gave us the voting devices when we had the city hall discussion at the O'Shaunessy? Maybe they have an interim solution until we can build this into the new city hall.

4. I am opposed to this project as presented. I do not think that the city council will approve it as it stands. I'd prefer that it gets worked out at the City-County Planning Board level until it is at an acceptable level of density for all concerned. And if they are unwilling to work with the current zoning then I would deny it as it stands. It's just too upsetting to the people whose lives will be most adversely impacted to be the right direction for our community to take.

Respectfully,
Rebecca Norton

530 Scott Avenue
Whitefish

Wendy Compton-Ring

From: Scott Fair <Scott@power-pole.com>
Sent: Thursday, July 18, 2013 6:42 AM
To: 'wcompton-ring@cityofwhitefish.org'
Cc: 'nlorang@cityofwhitefish.org'
Subject: Proposed 2nd Street-Armory Road development

Wendy,

As a 10 year resident of Birch Drive, I would like to officially and strongly oppose the proposed "2nd Street Apartments". Spot zoning this parcel against the will of virtually all of the surrounding neighbors, and at a density drastically out of character with the surrounding properties would be a travesty. This would benefit only the developer, at the expense of the citizens of Whitefish. Infill and affordable housing can, and should be accomplished through development of existing, properly zoned parcels.

Our neighborhood was annexed into the City 8 or 9 years ago. We have dutifully paid our taxes and have been supportive and productive citizens of Whitefish. We now ask for our elected officials to represent our wishes. Please stop this unwanted and undesirable project.

Respectfully,

Scott Fair

JL Marine Systems, Inc
9010 Palm River Rd
Tampa, Florida 33619
P: 813-689-9932
F: 813-689-8883
scott@power-pole.com

Learn more about the Power-Pole® shallow water anchor at www.power-pole.com

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Wendy Compton-Ring

From: Phyllis Quatman <quatmanp@gmail.com>
Sent: Thursday, July 18, 2013 7:57 AM
To: wcompton-ring@cityofwhitefish.org
Subject: New Traffic Study Counts as of today
Attachments: 2nd Street Apts - NEW STATISTICS ON TRAFFIC FROM FLATHEAD COUNTY ROADS AND BRIDGES.docx

Hi, Wendy,

Please forward these to the Board. They just became available to me yesterday.

Thanks,

Phyllis Quatman

NEW STATISTICS ON TRAFFIC FROM FLATHEAD COUNTY ROADS AND BRIDGES

The developers' Traffic Impact Study claims that East 2nd Street currently carries 2,900 Vehicles Per Day [VPD] near Spokane, 2,000 VPD near Armory Road, and **1,000 VPD** on Armory Road itself.

We asked Flathead County Roads and Bridges (Karen, Jim – 758-5790) to do a current traffic count, which they conducted during the week of June 6, 2013 through June 13, 2013. These are the results:

Armory Road 150' east of the ballfields:

Daily Average =	**578**
Weekly Average =	**3,453**

Armory Road 125' north of Voerman:

Daily Average =	**554**
Weekly Average =	**3,321**

Voerman Road 50' west of Dillon

Daily Average =	**861**
Weekly Average =	**5,166**

Voerman Road 150' west of Monegan Road

Daily Average =	**1,015**
Weekly Average =	**6,091**

Dillon Road 125' north of Highway 40

Daily Average =	**959**
Weekly Average =	**5,753**

This study shows that for Armory Road residents, the traffic is HALF of what the developers calculated. Thus, the impact for us, the doughnut residents, would DOUBLE what they've predicted.

Phyllis and Jack Quatman

Wendy Compton-Ring

From: Susan Schnee <schnee@aboutmontana.net>
Sent: Thursday, July 18, 2013 1:34 PM
To: nlorang@cityofwhitefish.org
Cc: wcompton-ring@cityofwhitefish.org
Subject: Second Street development

Wendy,
I would like to officially and strongly oppose the proposed 2nd Street Apartments. This constitutes spot zoning for financial gain of the developer and land owner and at the expense of current landowners. Virtually every landowner in the surrounding neighborhood opposes this development at this density. Creekwood and Willow Brook Close are developments that fit the zoning and are appropriate uses for this parcel. Infill and affordable housing can, and should be accomplished through development of EXISTING, properly zoned parcels.
The developer's reconfiguration has not dropped density one iota, if you count the number of people that could be housed in this development.
I ask the planning board and elected officials to represent the wishes of the surrounding property owners and please stop this undesirable, costly (to taxpayers and the city) and unwanted project.

Susan Schnee
1405 East Second St
Whitefish, MT 59937

Wendy Compton-Ring

From: Mary Alice Moffitt <maryalice.moffitt@gmail.com>
Sent: Thursday, July 18, 2013 1:49 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Re: Proposed Apartments on 2nd street

I'm writing as a Whitefish resident who is seriously concerned about the residential project that will again be considered at the public hearing tonight. I am very much against the proposed 2nd street apartment complex. The area proposed does not lend itself to this type of development, especially with the density that is planned, The nearby schools and children walking &/or biking to/from school, especially with no walking nor bike paths, should be a major consideration as should be the increased traffic this development will cause. It seems very wrong to change the zoning of the city in order to accommodate this project. Thank you for passing this along.
Mary Alice Moffitt

On Tue, Jul 16, 2013 at 8:56 AM, Michael Moffitt <michaelmoffitt@gttsmarketing.com> wrote:
As a resident of Whitefish I wish to voice my deep concern over the massive apartment project that the City appears to be driven to pursue, despite the strong opposition from almost all of the residents in both the immediate area and elsewhere in our city. I have taken the time to acquaint myself with the facts surrounding this development and this just does not make sense for Whitefish. I am a strong champion for Whitefish when projects benefit us all, but this one makes no sense and will irreparably harm the character and vitality of a portion of our town that has managed to maintain a wonderful mix of charm and well maintained single family homes in quiet surroundings for many decades.
The density level of this plan does not fit at all with who and what we are. I am very familiar with the neighborhood in question and this project is totally out of character for this area.
I request that you and the rest of the Planning Department ask yourselves the simple and straightforward question: Is this what you want Whitefish to become? Large clusters of high density apartment buildings, where owners are replaced by renters, where established neighborhoods are replaced by cookie cutter rows of apartments that add nothing to the character and special qualities that distinguish Whitefish from countless other towns across America?

Respectfully,

Michael A. Moffitt
Whitefish, MT

Wendy Compton-Ring

From: Greg Hennen <Greg.Hennen@chrobinson.com>
Sent: Thursday, July 18, 2013 3:54 PM
To: wcompton-ring@cityofwhitefish.org
Subject: 2nd St Apartments

Wendy,

I am all for developing this property as it is currently zoned. I oppose the Spot Zoning the developer is requesting. If this passes, it will cost the taxpayers of Whitefish thousands of dollars, as I am sure this will end up in court. I feel the members of the Planning Board should do their job and vote this proposal down.

Regards,

Greg and Mary Jo Hennen

Greg Hennen | Supervisor
Whitefish, MT Office

C.H. Robinson
[illegible]
greg.hennen@chrobinson.com www.chrobinson.com

****
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C.H. Robinson Worldwide, 14701 Charlson Road, Eden Prairie, MN, USA
****

handed out at the meeting 7.18.13

Robert Horne, Jr., AICP
151 Wedgewood Lane
Whitefish, MT 59937
(406) 250-6632

1. **We are NOT "anti-growth"!** We know that this site will develop and we are not against that, we just want to see growth that respects our neighborhood.

2. **This PUD and zone change ARE NOT in conformance with the Growth Policy.** Over 71% of this site will be zoned WER and is designated "Suburban Residential" in the Growth Policy. The "pocket neighborhood" is a great concept----but it is a **highly urban** concept and is **totally inappropriate** for this area.

3. The proposed rezoning of the westerly 6.875 acres of this property is **improper spot zoning** pure and simple.

4. **There are MANY other places in the community where multi-family housing can be developed, and in all of these locations, scale and character will NOT be the issue that it is with the Kauffman property! Here is an inventory of six sites that could conservatively accommodate 445 to 475 multi-family units.** Now, I don't know if any of this property is for sale and what price the seller wants and if this developer wants to pay that price, but, **that is NOT the neighborhood's problem! We are NOT obligated to sacrifice our diverse, working class neighborhood for development that has been planned AND zoned to go elsewhere.**

5. **We are NOT pushing the affordable housing problem elsewhere. Rather, it is being brought to us by the property owner and the developers.**

6. **If the land currently planned and zoned to allow development of affordable housing isn't producing enough affordable housing, then let's have that discussion. But let's have it at a community level in the context of amending the Growth Policy. One ad hoc spot zone and a PUD that doesn't conform to the Growth Policy, and that jeopardizes a neighborhood that is an asset to the community is no way to address this problem.**

Name: Deer Creek (formerly The Views Condominiums)
Zoning: WB-2/PUD
Status: Approved as a condominium PUD in 2005. Only about 29 units and clubhouse constructed in one "pod".
Potential additional development: 139 units

While The Views was approved (and partially constructed) as a condo complex, it is very likely that the PUD could be amended for rental apartments, especially in one or more of the three northerly pods. Fifty condo units are shown on the approved plan for the three north pods, but given the size of the apartment units proposed in the Second Street Residences, more than 50 units could be expected to be built. The three northerly pods are bordered on the north (across JP Road) by commercial, multi-family residential, and single-family attached. Neighborhood scale and character will not be an issue as it is with the Kauffman property, and the developers could easily build the 8 and 16-unit structures that were proposed in the first two plans.

Evergreen Ave
Hawthorne Ct
Maple Ave
Elm Ct
Oak St
Sperry Ct
Dogwood Ave
Hickory Loop
Blackberry Loop
Silverleaf Dr
Mulberry Loop
River Lakes Pkwy
No Name

Name: Morrison Trust property (US Hwy 93 frontage)
Zoning: Approximately 5-acre highway frontage is zoned WB-2, which allows multi-family residential.
Status: Vacant; no recent development proposals
Development Potential: At 18 to 20 units per acre, this property could accommodate approximately 90 to 100 units.

This property is far enough south down the Hwy 93 corridor that its viability for quality retail commercial is questionable. However, it is still located sufficiently close to shopping, entertainment, potential employment, and public transportation for it to be an excellent multi-family residential site. On this property too, scale and neighborhood character will not be development issues, and 8 and 16-unit structures could be built.

Park Knoll Ln
93

Name: Riverwood Park
Zoning: WR-1/PUD
Status: Approximately 29 town home lots remain vacant.
Development Potential: One area of this property along the east side of Shiloh Road below the small pond, which is approximately 1.4 acres in size, could accommodate 16 town home units. However, this plat could likely be modified for one or two multi-family structures.

Shiloh Ave
Arielle Way

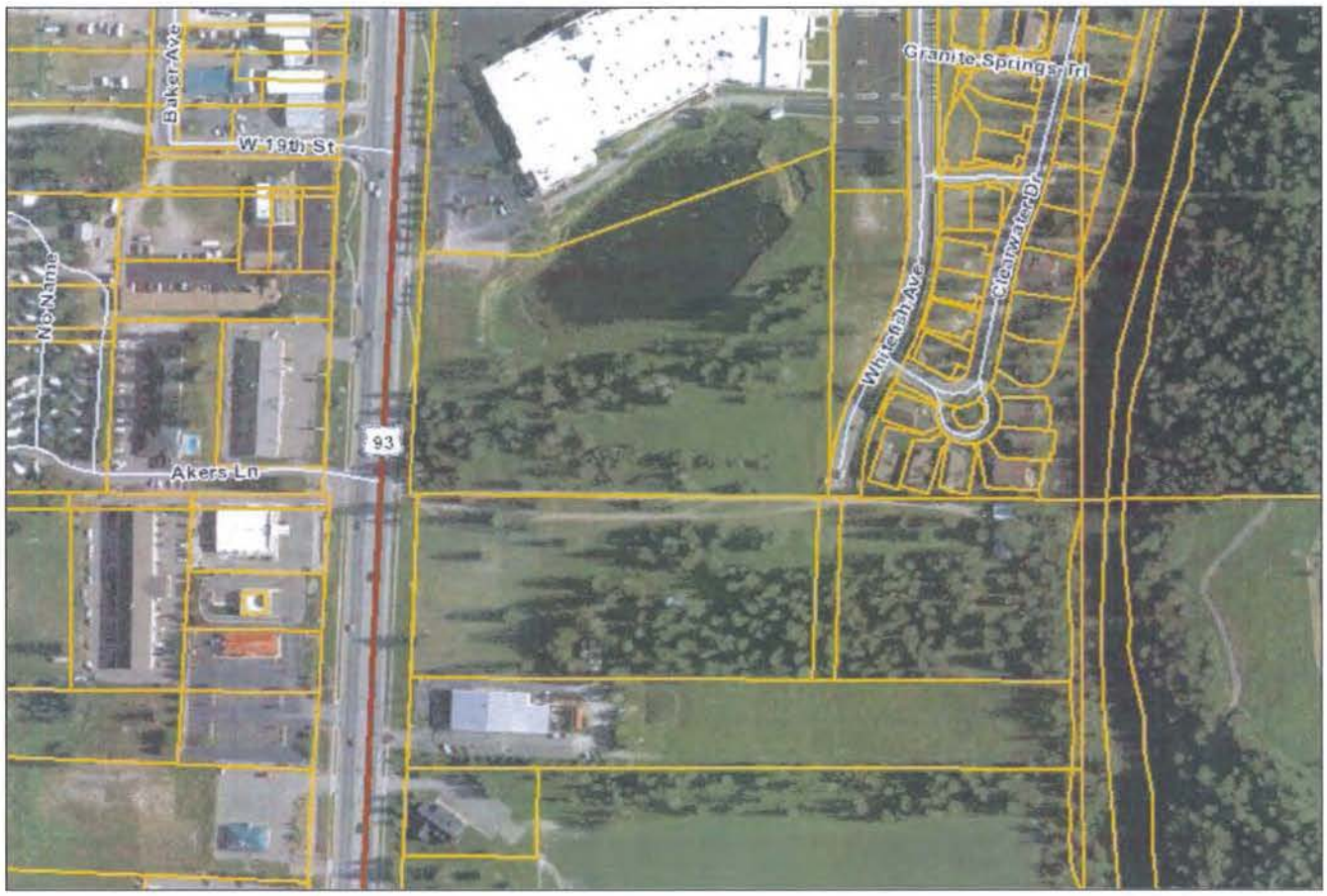
Name: Riverwalk of Whitefish
Zoning: WR-1/PUD
Status: Partially developed as 8-unit condo buildings.
Development Potential: Three additional 8-unit buildings may be constructed, but they would probably be limited to condo units. Making these units available to rent at market rates, or, to turn their management over to the Housing Authority, would be at the discretion of the owner.

Arielle Way
Shiloh Ave
J P Rd
Evergreen Ave
Hawthorne Ct
Maple Ave
River Lakes Pkwy

Name: Dalen Trust land
Zoning: WB-2 (front) and WR-1 (rear)
Status: One tract of approximately 4.7 acres with one house and accessory buildings along Hwy 93 immediately south of the Dalen Dental Clinic; otherwise vacant.
Development Potential: If the entire 4.7 acres were to be developed as rental/affordable/employee apartments similar to what is proposed at the Second Street Residences, densities could range from 16 to 20 units per acre, yielding from 75 to 94 total dwelling units. This property is bounded by a tire and auto service center on the north, the Whitefish River on the east, Hwy 93 on the west, and an automobile dealership and single-family attached on the south. Scale and character of development are very unlikely to be issues on this site, and it should be capable of accommodating 8 and 16-unit structures.

93
Lenna Joy Dr
Park Knoll Ln
Shiloh Ave

Name: Schumacher Interests/Stevens Trust
Zoning: WB-1 and WR-1
Status: Vacant. A mixed use PUD was approved for all or a portion of this property in about 2006 or 2007.
Development Potential: There are two properties that comprise 14.61 acres, approximately 12 of which are buildable. Most of the property is zoned WB-2, therefore, allowable density under the PUD will be quite high. Plus, character and scale should not be issues on this site, which is bounded on the north by the Mountain Mall, on the west by Hwy 93, and east by an extension of Whitefish Ave, a portion of which the developer will have to construct. Total multi-family development potential is approximately 180 units.


Baker Ave
W 19th St
No Name
Akers Ln
93
Granite Springs Trl
Whitefish Ave
Clearwater Dr

Wendy Compton-Ring

From: James Lockwood <jimlockwood@centurytel.net>
Sent: Friday, July 26, 2013 9:55 AM
To: wcompton-ring@cityofwhitefish.org
Subject: FW: 2nd Street Apartment Proposal

Wendy,
I just realized you did not get the below email because I left out the dash. So I am resending it as I see this is still ongoing discussion. It is important that
you know that it is not just the immediate neighborhood people who are concerned with the scope of this project and its impact on everyone who uses E 2nd Street.

Best Regards,

Jim Lockwood ☺

From: James Lockwood [mailto:jimlockwood@centurytel.net]
Sent: Friday, July 12, 2013 12:22 PM
To: 'wcomptonring@cityofwhitefish.org'
Subject: FW: 2nd Street Apartment Proposal

Dear Wendy,
I could not agree more with the July 9, 3013 Daily Interlake Letter to the Editor from Erin Barbee regarding the proposed complex currently under
review for the East 2nd street and Armory location. .

I have a Whitefish address and own a vacation rental condo in Whitefish. Even though I live on 25 acres 8 miles out of town, I am at Whitefish Animal Group (WAG) dog park literally every day for two reasons. One, I am on the WAG board (President), and find myself and much of the board at the park most every day. The second reason is the same as so many others who do not live right in town. My dogs love the social interaction the WAG park provides. Consequently,
I travel through town on East 2nd Street to the WAG park on a daily basis.

Many people use the WAG dog park, the skate board facility, both baseball fields on Armory & 2nd, the Armory building and the small private airfield. Consequently, East 2nd Street already has a great deal of traffic, particularly during the Winter Carnival Horse Ski Joring, and the various WAG events, not to mention all of the activities at the ball fields, to include several concerts. On those occasions, the traffic and parking becomes grid locked, beginning at the intersection of 2nd Street and Armory.

When you add all of this to the mix of the new bike/jogging path improvements on East 2nd Street and the construction that is opening up Dodger Lane to connect Armory Road to East 2nd Street, this area will see even more foot, bike and vehicle traffic. Worse, during the winter months, the hill at the intersection of East 2nd Street and Armory is a constant hazard because when icy, people often cannot stop when proceeding down the hill, so they cruise right past the Armory Road intersection which would also be the exact location of the entrance where these 143 new housing units is proposed. When one considers that each of these units will entail several occupants, most all of which will have at least one vehicle, we are looking at adding several hundred drivers to what is already a somewhat volatile situation.

Neither I, or people I have talked to about this, are anti-development, but for the reasons set out above, we agree that the idea of adding 143 housing units to this particular location should never have gotten past the first proposal to the planning board and the Whitefish city administration. I understand the planning board has recommended approval of this project, for reasons not made clear to the public, other than increased tax base. I don't think the general public has any idea of what is being proposed here because if they did, I do not believe they would support the magnitude of this project at the proposed location.

Jim Lockwood
4715 Hwy 93 W
Whitefish, MT 59937
406/862-7760

received
8/2/13

David A. Bennetts
1489 E 2nd St
Whitefish, MT 59937
406-471-4312

Whitefish City Council
PO Box 158
Whitefish, MT 59937

July 22, 2013

Mayor and Councilmen,

I would like to you to oppose both of the proposed land use actions affecting 100 Wild Rose Ln and 1500 E 2nd St. The following comments are in response to the proposed zoning map amendment changes and the planned unit development affecting Wild Rose Ln and East Second St.

I submitted a letter of opposition to the Whitefish Planning board in March, and since have attended the subsequent two Planning board meetings in May and June. I also attended both of the applicants' on site meetings. While I applaud the applicants' efforts to meet the needs of affordable housing, they are not meeting the neighborhoods concerns. These concerns are public safety on East Second St and Armory Rd, as well as having high density multi-family housing in a single family neighborhood. The applicants knew when they purchased the property what the zoning designations were, and should not be allowed to change them in order to develop the property in their proposed manner, especially when the proposed development is not in conformity with the existing neighborhood.

I hope the city council will consider these comments when making their decision:

1. The neighborhood along east 2nd St, travelling east, from the Spokane and 2nd St intersection to the RR crossing, is already single family housing. The Planned Unit Development of adding 92 apartments and 20 condos does not fit the character of this neighborhood. The density is much too high for this neighborhood. I don't understand how city staff, in their

March staff report, and subsequent reports, would recommend a density of 5 dwelling units per acre and then give their approval for the current proposal of 6 dwelling units per acre. I guess if staff considers the proposed blended zoning of WR-2 and WER they could come up with that recommendation, but the whole development hinges on the WR-2 designation. This obviously poses the spot zoning issue, where there is no WR-2 adjacent to the Wild Rose Ln parcel.

2. The proposed zoning map amendment for 100 Wild Rose Ln should not be changed from One Family Residential District to the Two Family Residential District. I would think it would be more appropriate to remain as a One-Family Residential District, again as the neighborhood is already made up of single family residences. This sounds like "spot" zoning, and meets at least two of the three tests to be considered spot zoning. I would like to know if this is the case, as it could/would then be challenged legally. Is this what the city wants, another legal court case with the public being against another action of the City of Whitefish over a development that doesn't fit the character of the existing neighborhood and also where the development could be located in other areas of town that are already zoned for this type of development?

3. The proposed zoning map amendment for 1500 E 2nd St could be changed from Agriculture District to Estate Residential District. Again, as the neighborhood is primarily single family residences, this zoning designation seems appropriate for this parcel of land. However to change the zoning only to allow the PUD that the applicant is proposing does not justify changing the zoning designation on that account alone. Again it would seem there are more appropriate locations for condos, townhouses and/or apartments. I think someone at the planning board meeting in June said there were six other potential areas for this type of development located in areas of town that are already zoned for multi-family housing.

I would also like to comment on the actions of the Planning Board. I have not attended any of these meetings prior to this proposal, but I have to say that I feel the board did not do the citizens of Whitefish any service or you for that matter. I often felt like I was being lectured and being looked down upon by the Chairman because I was anti-development. I realize these folks are volunteers, but to have them decide the fate of a project and neighborhood seems to be more of an issue for paid professionals rather than a board of volunteers. I would go further and say when a controversial project comes before the Planning Board, that the board immediately forwards the proposal on to the council for deliberations, as I feel like the Planning Boards' discussion did not

address any of the concerns raised by the public. Only at the July 19 meeting did Mary Vail vote NO because she felt like there were still too many unanswered questions. The amendments proposed to their recommendation were confusing and should have been addressed before sending this on to council.

This then leads me to our City Staff recommending a project of this magnitude in an area where multi-family housing does not exist. It seems like the city staff would address the neighbors' concerns when making the recommendation of approval, and I fail to see that the city staff had the best interests of the citizens of Whitefish in mind, when making their recommendation to the board and ultimately to you, the City Council. If they did, then they would not have recommended approval.

Now after four months this proposal comes before you. Everyone one will restate their arguments either for or against this proposed zoning change and PUD, It seems very inefficient when all of this has been gone over, and here we are again, waiting for a decision to decide the fate of the East Second St neighborhood. Will you approve the applicants request, deny it or send it back to the planning board for revision? Four months was plenty of time for the applicants to try and address the concerns of the neighborhood, and they were not able to, because this type of development is not appropriate for this neighborhood. Please deny both the zoning change from WR-1 to WR-2, as well as the high density PUD.

Thank you for the chance to comment on these proposals. I am not able to attend the August 19 Whitefish City Council public hearing, so I ask that my comments be submitted for the record.

Again, I urge to you to reject both of the proposed land use actions at 100 Wild Rose Ln and 1500 E 2nd St.

Sincerely,

David A Bennetts, Cheri LeBleu, Henry Bennetts, Samantha Bennetts

Wendy Compton-Ring

From: Keven Guercio <keven@twre.com>
Sent: Wednesday, August 07, 2013 4:11 PM
To: wcompton-ring@cityofwhitefish.org
Subject: 2nd street Infill Development

I have employee's constantly telling me at Caseys about their difficulty to find affordable rental units. I think this is a great development Wendy. I've looked at the plan and I believe its well thought out.
I support it.

Keven Guercio
Trails West Real Estate
Christies Great Estates
Cell 406-250-7847
Office 406- 862-4900
Fax 406-862-4950
keven@twre.com

To the Mayor and Whitefish City Council
Some Reasons Not To Pass The 2nd Ave Street Apartment/Dwelling Development

I'm a safety officer on a National Incident Management Team for wildfire management and disaster management. At the present time we are on two hour call and with the high fire danger, I doubt that I will be around to attend the City Council Meeting on August 19th, so I'm writing my concerns to you in a letter. Please distribute it to the mayor and all of the council members before the August 19th City Council Meeting. Thanks.

1. Using the reasoning of 10 affordable (the price of $900/month was stated as a possible affordable monthly price by one of the developers) apartments out of 143 as a reason to pass this development is just a political ploy by the developer to try and win City Council and public support. Please don't fall for this ploy as an excuse to pass this dense development in a neighborhood where this type of development doesn't fit. Providing affordable housing for service workers in a resort town has always been a problem because 2-4 people end up cramming into a $900-$1700/mo. apartment just to pay their rent because of low minimum wages. In reality, a lot of these people would probably qualify for a lower income housing subsidy rent. Ten, $900/mo. Apartments aren't going to solve the low minimum wage or affordable housing problem in Whitefish.

2. There have been people from this neighborhood who have testified in the public meetings that they have spent their life savings on their dream homes on the premise that the Whitefish Master Growth Plan would be followed and that is why they built their dream home in this neighborhood. They put their faith in their Whitefish City government, its integrity and its responsibility to follow the publicly reviewed and approved Whitefish Master Growth Plan and not spot zone.

3. The size and type of this development shows a complete lack of respect for the people living in this single family dwelling neighborhood.

4. The neighborhood shouldn't be forced into this type of development to maximize the profits of the developer at the sacrifice of the neighborhood.

5. There are already other areas in Whitefish and on Big Mountain that are zoned for apartments and would fit this type of development better.

6. Where is the public safety plan for a huge increase in traffic in this area? Even with a new downtown parking garage, this development would exacerbate the downtown parking problem again. The 2nd street hill isn't safe now for large truck traffic from a new development or the additional 1000+ daily vehicle trips it would produce. Moving the proposed apartment/housing development ingress and egress road a little to the west of the hill on 2nd Street will not the decrease the huge traffic increase from the development. A shuttle system from the apartment complex would probably cost more than it would reduce vehicle traffic and would eventually have to be subsidized by the city. The traffic counts that are being done on Armory, Voerman and Dillon Roads won't reflect the 2-3 service workers with cars that will probably be crowded into the $900/month affordable apartments or more expensive apartments in order to pay for the rent either. Road projects always take more time (two to three

years) and cost more money that was originally planned. For public safety, write a public safety plan for the public to review and complete the planned 2nd Street E. road improvements first before any more development. I can't find where the public safety problem has never been adequately addressed or mitigated. Please don't take a chance on a lawsuit from an accident or a child fatality.

8. Developers should be held more accountable for paying their fair share of impact fees too. There is some public doubt that this has always happened. I would suggest making this more transparent to the public.

9. Traffic, noise and crime would increase with this type of development and some of my neighbors are concerned that their kids would be more exposed to drugs. Apartments in a ski town have tendency to attract more of a "party" crowd. This doesn't fit the single family dwelling neighborhood.

10. We have a sense of Whitefish community pride in our neighborhood and we are here to stay and raise our kids and pay property taxes, including resort taxes. We are part of the stability of the community. Let us keep our pride in our neighborhood. This type of large development will lower the property values in our neighborhood too.

11. A soils exhibit for the proposed development area and the problems with soils was presented by Kate from the audience to the Whitefish Planning board at the May 18th public meeting. There is a reason why sump pumps are common in the full basements, septic systems didn't work very well in this area and there is almost always a good hay crop without any irrigation in the hayfield that's proposed for development. Surface water has trouble percolating through the clay part of the soil profile. The poor porosity clay soils in the soil profile and the high perched water and ground water could create surface run off problems for a large development in this area. Or even possibly with the additional lower density of housing units that area is presently zoned for. The engineering report states that development would improve drainage of the area, but just walking through the area, it appears that even with storm drains and using the Kauffman house and lawn as a Best Management Practice buffer strip area adjacent to Cow Creek, some of the contaminated surface run off from this proposed denser development could end up draining downhill to the lowest point which is Cow Creek, the Whitefish River and eventually the Flathead River/ Lake System.

12. The area proposed for development is a wildlife life habitat area for turkey, pheasants, deer, fox that live in this area year round and an occasional cougar(I've seen their tracks in the snow) that pass through this area. Cow Creek and the conifer strip on the hillside to the east is a wildlife travel corridor. This is visible on Google Earth or while riding up Big Mountain on chair #1 and looking back at Whitefish. An increase of a 1000+ vehicle use trips would equate to more deer/vehicle collisions too. A lot of people enjoy seeing the wildlife and it is one of the reasons they moved to this area and like this neighborhood. These animals would be displaced and this wildlife habitat and travel corridors lost forever. The developers proposed buffer strip wildlife travel corridors are inadequate.

13. This area in general and the hayfield proposed for development has an still has a country, rural or open field feel to it and that feeling would be lost forever with this large development. That is why it was zoned agriculture or for single family dwellings. Thanks for reading and weighing my concerns.

received
8-12-13
City Clerk Office

August 7, 2008

Whitefish City Council
PO Box 158
Whitefish, MT 59937

Dear Council Members,

I am writing you this letter because I will be out of the country and unable to attend the Public Hearing August 19th for the 2nd Street Residences. I was very disappointed that the City-County Planning Board approved this project at their last meeting and I am writing to you to urge you to vote against it. I feel that approving this project which does not conform to the Whitefish Growth Policy designation of Suburban Residential for this area would set a dangerous precedent for our neighborhood and for the City at large.

From the beginning when this project was first proposed as the 2nd St Apartments I have been opposed to it because of the proposed density and dwelling types. Although the project has been refined and many improvements made over the original proposal, it still includes density and dwelling types that are inappropriate for this location. I want to be clear, I have no opposition to this location being developed, but the development needs to be compatible with the surrounding neighborhoods and the growth policy designation for this area.

The existing neighborhoods are zoned WR1 and WLR (see Appendix A attached) and are predominately single family residences. On E 2nd Street between Cow Creek and the railroad tracks and on Armory between E 2nd St and Armory Park there are 92 residences, all of which are single family dwellings with the exception of one non conforming 4plex. The majority of the residences are on oversized lots, with a large amount of open space. In the Whitefish Growth Plan, the Future Land Use Map (on page 76) clearly shows this area to be designated as Suburban Residential. In addition the Development Potential Map (on page 75) indicates a potential of 68 additional units for this entire area (not just the 3 parcels included in this proposal), with a predominant zoning of WLR.

The developer originally proposed a development of 175 residences, all apartments. Now they are proposing a development of 143 residences. They have added some single family residences (all except one have an accessory apartment), condos and the remainder in what is being called a "pocket neighborhood" are 92 rental units. So in effect the overwhelming majority of the proposed residences are high density multi family. This proposed density would increase the number of residences east of Cow Creek 150%. This type of development is non-conforming with the surrounding single family neighborhoods and the growth policy designation for the area. It would dramatically change the character of this area.

The density proposed in the pocket neighborhood portion of the project would normally require WR3 or WR4 zoning if it was being developed without benefit of a PUD. In order to be able to include this high density component in this proposal, the parcel (1K)

must be rezoned to WR2 and that density applied to the remaining parcels. The proposed rezoning of this parcel skips over adjoining parcels zoned WR1 and in effect results in spot zoning purely for the purpose of increasing the density that can be used for this proposed PUD. This appears to me to be a blatant attempt to circumvent the Growth Policy and manipulate the PUD process to provide for high density development in an area where it is not planned for and where it does not belong.

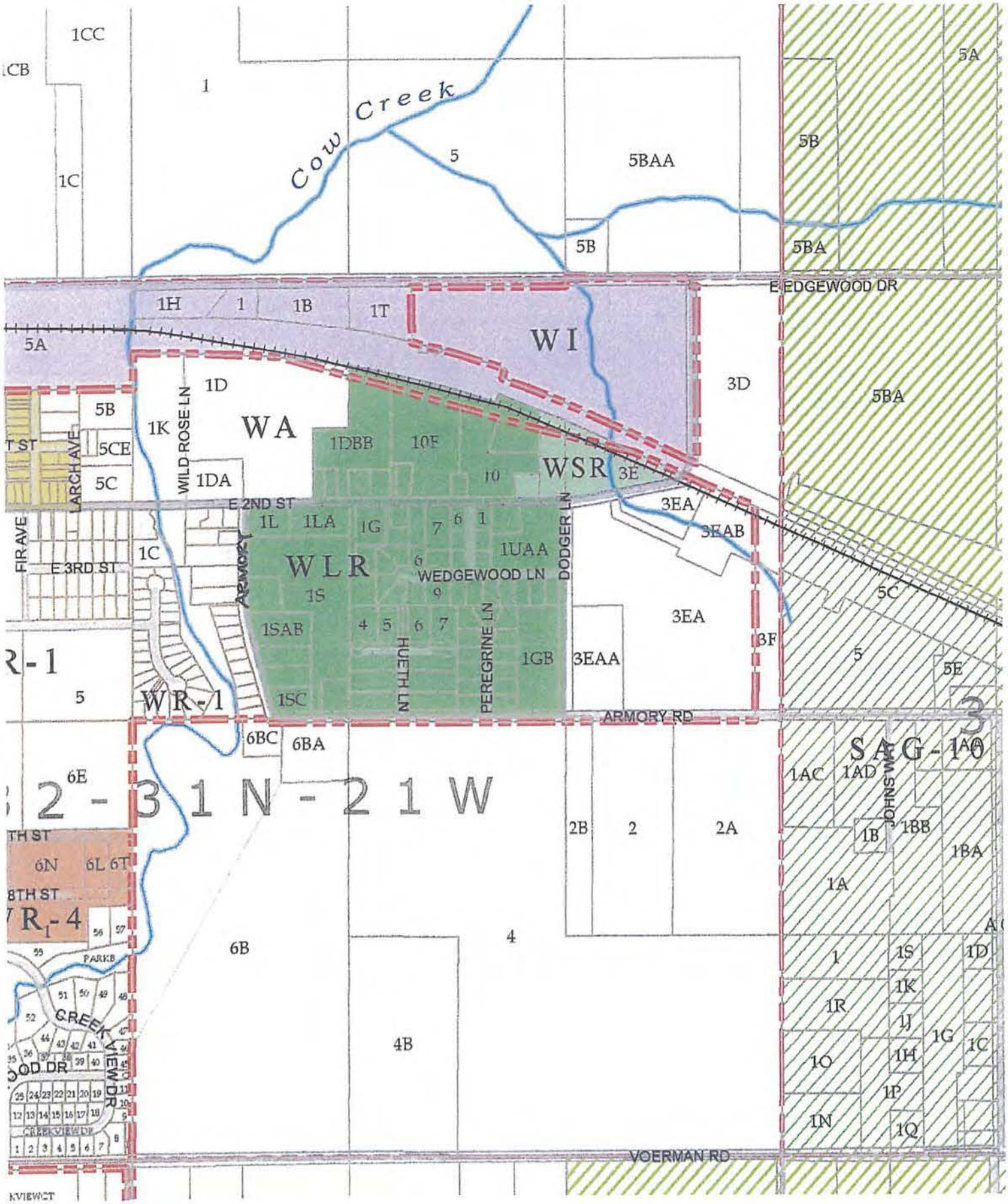
There are many areas in the city that have already been designated for High Density Residential development through the Growth Planning process and are already zoned for it. To approve this zone change request and corresponding PUD for this location would set precedence that the Growth Plan as currently established by the citizens of and the City of Whitefish can be ignored. There are many other parcels in this area that could be subject to development in the future (see appendix B). If this development is allowed at this location without an amendment to the Growth Policy, how could future developments of the same nature be denied in locations nearby. If the Growth Policy can be ignored in this part of town, why should it be adhered to anywhere in the city?

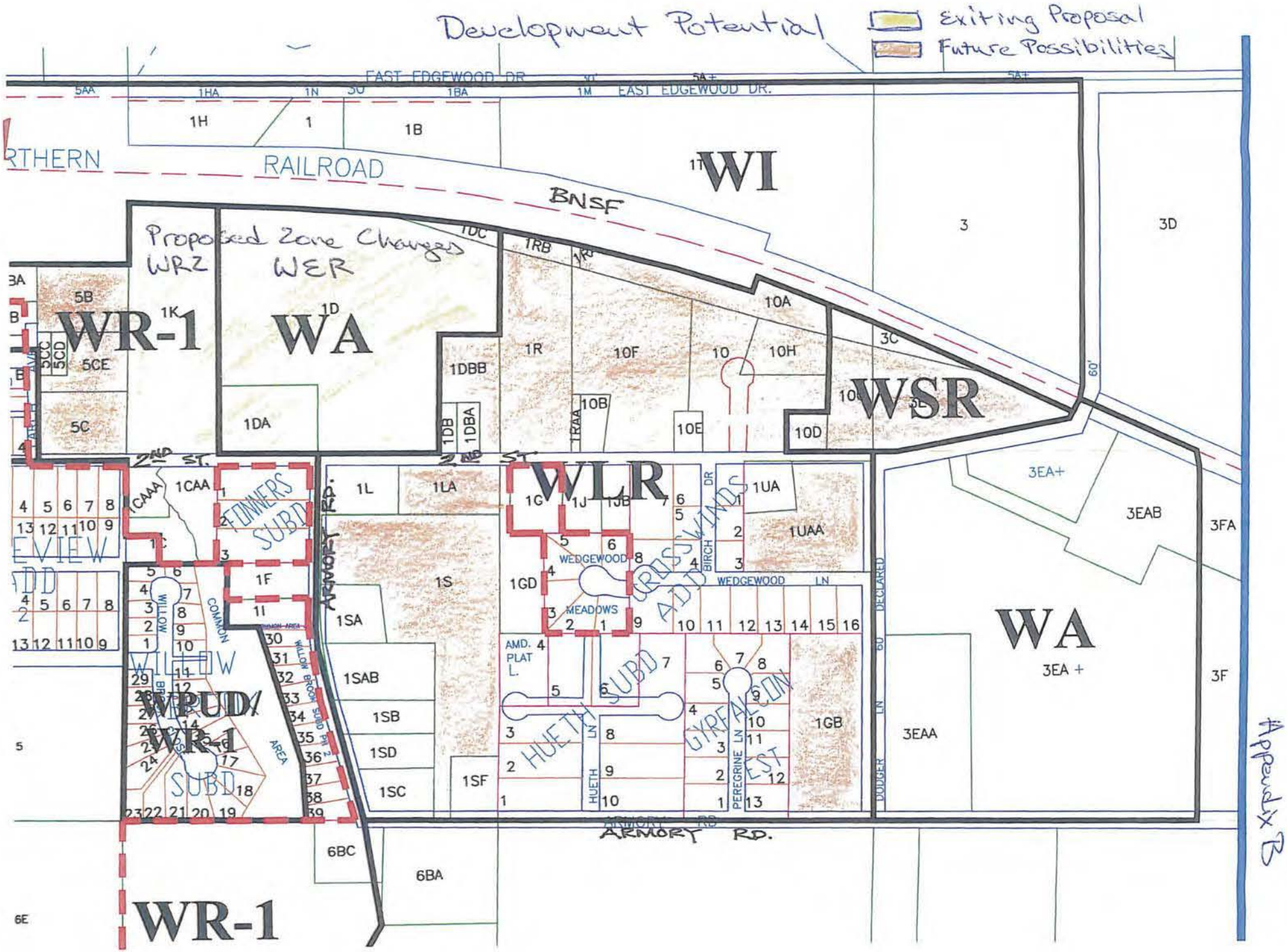
I respectfully request that you honor the Growth Policy Planning process and preserve the character of our neighborhood and vote against this project.

Sincerely,

Kathy Spangenberg
1665 2nd St E
Whitefish. MT 59937

Appendix A
Existing Zoning




Development Potential
Exiting Proposal
Future Possibilities
EAST EDGEWOOD DR
EAST EDGEWOOD DR.
RTHERN RAILROAD
BNSF
WI
Proposed Zone Changes
WRZ
WER
WR-1
WA
WSR
WLR
WPUD/WR-1
WR-1
WA
2ND ST.
ARMORY RD.
ARMORY RD.
FONNERS SUBD
WILLOW VIEW SUBD
HUETH SUBD
GYRFALCON EST
CROSSWINDS ADD
WEDGEWOOD
WEDGEWOOD LN
MEADOWS
BIRCH DR
DECLARED
DOUGER LN
PEREGRINE LN
HUETH LN
WILLOW BROOK SUBD PH 2
COMMON AREA
AMD. PLAT L.
3EA+
3EAB
3EA +
3EAA
3FA
3F
3D
3C
1H
1
1B
1K
1D
1DA
1DBB
1DB
1DBA
1R
10F
10
10H
10A
10B
10E
10D
5B
5CC
5CD
5CE
5C
1CAA
1F
1I
1L
1LA
1S
1SA
1SAB
1SB
1SD
1SC
1SF
1G
1J
1JB
1GD
1UA
1UAA
1GB
6BC
6BA
Appendix B

BLACKWELL enterprises
PREMIER BUILDING SYSTEMS

RESIDENTIAL ~ COMMERCIAL ~ STEEL

UNITED STATES ~ CANADA

August 5th 2013

Dear City Council,

My name is Cole Blackwell and I am writing to you in support of the proposed 2nd Street Residences.

I live in Whitefish and I own a building company based in Whitefish and as an employer here I realize the importance and need for quality rental housing in our city. I know a number of business persons including owners and employees, that want to live in Whitefish but cannot find any livable rental units. Whitefish's inventory is not only old and outdated, but also almost entirely rented, which forces many professionals to live in Kalispell and Colombia Falls where there is vacancy and newer built rental units. I even have clients that purchase homes to live in while theirs is being built as they cannot find anything temporarily to rent.

I also understand that this project will include 14 affordable rental units that will be managed by the Whitefish Affordable Housing Authority. I think this is great and these developers are providing an important product that is needed with these 14 units. Many people do not realize the costs associated to building and as a builder, I do, and these developers are taking on great costs to provide a product that this city desperately needs – affordable housing – and typically municipalities will offer up density bonuses to get this product type built.

The location of this project seems ideal as well, with its location within city limits and its close proximity to the middle and high school, along with child care. If I were in the position of requiring a rental and as a father of three, it would be very beneficial if my children could walk to school not only for convenience but for safety. In what I have read about this project and my knowledge of Whitefish's zoning ordinances, this project conforms to the policies set forth by the city of Whitefish and will provide a product that the community needs – quality rental housing.

Regards,

Cole Blackwell

August 12, 2013
Kathleen McMahon
151 Wedgewood Ln.
Whitefish, Mt 59937

Whitefish City – County Planning Board
418 E. 2nd Street
PO Box 158
Whitefish, MT 59937

Re: 2nd Street Apartments Map Amendment and Planned Development

To: Honorable Mayor & Members of the City Council

I am writing to express my opposition to the 2nd Street Apartments map amendment and Planned Unit Development. Specifically my concerns include the following.

1. No objection to WER Zoning

The applicant is requesting two zoning map amendments.

- Rezone approximately 6 acres for the most westerly parcel (referred to as Tract 1k) from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District).
- Rezone approximately 18 acres (parcels (Tract 1D and 1DA) from WA (Agricultural District) to WER (Estate Residential District).

I do not object to the request for the zone chance for the parcels (Tract 1D and 1DA) from WA to WER.

2. Rezoning Request Should be Evaluated Independent of PUD

Please note that it is important for the Council to evaluate the application for the map amendment independent of the proposed PUD. Should the proposed PUD not go forward or be modified, the underlying WR-2 zoning for Tract 1k will remain in place. As a land use planner with over 30 years of experience, I have witnessed many projects that did not proceed as originally proposed. Reasons include inability to get financing, business partnerships dissolve, death or illness of an applicant, changes in the real estate market and any number of unforeseen causes. The recent economic downturn is indicative of the risks that are inherent in developing property. The underlying zoning runs with the land and is key to determining community character. Consequently, careful consideration of the underlying zoning district is necessary.

In response to this concern, staff has recommended that recommended as a condition of approval that the WR-2 zoning revert to WR-1 if the project isn't constructed within the proposed timeframe. As I understand the Montana Code Annotated, there is no procedure for a property to automatically revert to a previous zoning district. The only way to change the zoning is to go through a public hearing process and I think it is highly unlikely that a future City Council would downzone a property once the zoning has been granted. I also think there is an argument that such a condition for a property to revert

to the original zoning indicates that the underlying zoning is not appropriate and that granting the WR-2 zone is" special legislation" which is one of the test for spot zoning.

3. The property referred to as "Tract 1K" is not suitable for WR-2 zoning.

One of the criteria for rezoning is whether the property is suitable for the proposed uses. According to the USDA Soil Survey, the entire parcel that is proposed for WR-2 zoning is rated as having "severe limitations" due to the incapacity of the soil to support a load without movement. (See attached map.) Issues with this particular parcel include flooding, depth to saturated zone and shrink-swell characteristics. The soil reports also notes that steep slopes and the topography of the parcel presents additional constraints to development. The applicant even acknowledged these limitations at the April 24 neighborhood meeting and consequently is limiting development to an area along the eastern edge of the parcel that can accommodate small cottages. Given these development constraints, this parcel is simply not suitable to be rezoned to the higher density WR-2 zoning district. It is most suitable for low density residential development.

4. Proposed Density is Significantly Different than the Established Land Use Pattern

The applicant has stated that the proposed density is similar to urban neighborhoods west of the development. I would ask City Council to consider that Cow Creek is a distinctive physical feature that clearly separates the urban area to the west from the larger lot suburban area where this development is located. Cow Creek, along with the surrounding vegetation and topography, creates a noticeable boundary between the urban and suburban/rural neighborhoods. The project is located in an established suburban/rural area and this is the land use pattern that should be considered when evaluating the project.

5. Rezoning to R-2 would constitute spot zoning.

The "Staff Report WZC 12-01", dated March 14, 2013 states that, "the resulting rezone will include an 'island' of WR-2 surrounded by WR-1 zoning on the west and south sides and could constitute spot zoning." The Montana Supreme Court has established a three part test for determining spot zoning. I submit that rezoning parcel Tract 1k to WR-2 zoning meets all three tests

- Test 1: The rezoning is significantly different from the prevailing land use. The rezoning would create an island of WR-2 zoning. Additionally, WR-2 zoning would double the allowable density for this parcel. This density is significantly different from the prevailing suburban/rural land use where the project is located.
- Test 2: The area to be rezoned to WR-2 is small in area at only 6.875 acres and would benefit only **one** land owner.
- Test 3: The requested change is "special legislation" because the parcel has severe development limitations that restrict potential buildable area and the purpose of the request for rezoning is solely to increase the allowable density for a PUD on adjacent land. If the subject property was suitable for WR-2 zoning, there would be no need to attach a condition of approval that the property reverts to WR-1 zoning if the PUD is not developed. Additionally the requested change is special legislation because it does not conform to the Growth Policy. (See analysis below)

6. The Proposed Rezoning to WR-2 IS NOT in Conformance with the Growth Policy

The Future land use map in the Growth Policy does classify the westerly six acres know as Tract 1k as an "Urban" area. This district does list both WR-1 and WR-2 as zoning districts that may be appropriate for parcels with this classification. For further guidance on which of these two districts should be applied for Tract 1k, the Growth Policy also includes a "Development Potential Map" on pg. 75 of the Growth Policy. This map indicates the zoning and projected number of housing units for in-fill lots. The subject property is labeled as Parcel #15 on the map. The accompanying table on pg. 75 indicates that Parcel 15 is **WR-1 zoning**. (See attachment.)

Additionally, the Growth Policy states:

> "**5.** Protect and preserve the special character, scale, and qualities of existing neighborhoods while supporting and encouraging attractive, well-designed, neighborhood compatible infill development."

The existing density in the neighborhood is 3 to 4 lots per acre. The maximum density allowed under WR-2 zoning ranges from 12 to 18 units per acre and is three to four times the density of the adjacent land use. This density is double what would be allowed with the existing zoning and is not in character with the surrounding neighborhood which is comprised of suburban residential lots and has a rural character. The proposed WR-2 zoning is not compatible with the neighborhood and established land use patterns.

7. Proposal Would Generate Significantly Higher Traffic than a Traditional Neighborhood Design

At the Planning Board public hearings the applicant testified that if the property was developed as a traditional neighborhood without the PUD, they could plat 92 single-family lots that would generate 920 average daily trips. The applicant noted that since the traffic study for the proposed project estimates 1,084 trips per day there is only a difference of 164 trips between the PUD and a traditional subdivision. **This contention is very misleading.** The 92 lot lay-out is based on a lot size of about 7,000 square feet. The minimum lot size for the WER district, which the applicant has requested for the easterly 19 acres of the site, is 20,000 square feet. A lot layout using the minimum lot size of 20,000 square feet would result in approximately 44 single family units. Even if the property were developed with the maximum units allowed under a PUD with WR-1 zoning, the difference in traffic generation is still significant (See table below)

	# of Dwelling Units	Average Daily Traffic
Traditional Grid Subdivision	44	440
Proposed PUD	143	1,084
PUD with WR-2 original proposal	173	1,172
PUD with WR-1 (Maximum units allowed)	99	566

* Note: Assumes product mix of 16 single-family homes, 20 condos and 44 multi-family

8. The Traffic Impact Study did not Adequately Address All Impacts

The TIS contained an analysis of Level of Service for the intersection of Amory Road and 2nd street and the access points to the subdivision. It also briefly addressed the capacity of 2nd street and Armory Road. **The TIS did not address pedestrian safety issues on Armory Road.** It also did not address the impact to intersections on 2nd street west of the development. Table 2-8 in the Transportation Plan indicates that the intersection of Pine Ave. & 2nd street is currently operating at a level of service C. (See Attached) This is the minimal level of service that is considered acceptable. This intersection is used by school children going to Muldown Elementary School and the high school. The proposed development will add up to 900 cars per day traveling through this intersection yet there is no analysis in the TIS on the possible impacts to pedestrian safety and levels of service.

9. Findings of Fact

In consideration of the testimony that has been provided at the three public hearings before the Planning Board and the evidence that has been submitted by residents of the neighborhood, I would ask that the Council deny the request to **rezone the property from WR-1 to WR-2** and I submit the following findings of fact to support this recommendation.

1. The rezoning to WR-2 would double the allowable density and is not compatible with the suburban-rural character and qualities of the surrounding neighborhood and is not compatible infill development.

2. The rezoning request is not in made in accordance with the Growth Policy which states, "Protect and preserve the special character, scale, and qualities of existing neighborhoods while supporting and encouraging attractive, well-designed, neighborhood compatible infill development."

3. The rezoning to WR-2 is not compatible with the Development Potential Map on pg. 75 of the Growth Policy which indicates this parcel as WR-1.

4. The rezoning to WR-2 does not promote the public health, public safety and general welfare because the increase in allowable density will significantly increase traffic on Armory Road and will have adverse impact on pedestrian safety.

5. The rezoning to WR-2 has an adverse impact on the transportation system because the Transportation Plan indicates that the intersection of Pine Ave. & 2nd street is currently operating at a level of service C. This is the minimal level of service that is considered acceptable. The proposed development will add up to 900 cars per day traveling through this intersection yet there is no analysis in the TIS on the possible impacts to pedestrian safety and levels of service at this intersection.

6. The rezoning to WR-2 would have an adverse impact on the character of the district because it introduces urban densities in an area that is suburban and rural in nature.

7. The WR-2 zoning district is not particularly suitable for this parcel because according to the USDA Soil Survey, the entire property proposed for WR-2 zoning is rated as having "severe

limitations" due to the incapacity of the soil to support a load from development and issues of flooding, depth to saturated zone and shrink-swell characteristics. The soil reports also notes that steep slopes and the topography of the parcel presents additional constraints to development.

8. The proposed rezoning does not conserve the value of buildings because the surrounding property owners have offered testimony that the increase density resulting from the WR-2 zoning would have an adverse impact on property values.

9. The proposed rezoning does not encourage the most appropriate use of land because it constitutes spot zoning according to the three part test established by the Montana Supreme Court.

10. The historical and established use patterns have been suburban/rural in this area and there are no recent changes in use trends in the neighborhood that would support the rezoning.

I want to emphasize that I am not opposed to development of the property. Affordable housing on in-fill property is desirable and can be accomplished in a manner that is compatible with the neighborhood. While the applicant has indicated that the requested density is necessary due to land costs, the price that is paid for the land is a matter of negotiation between the applicant and the land owner and is not one of the criteria for evaluating a map amendment according to the MCA.

In conclusion, I respectfully request that the City Council deny the request to rezone Tract 1k to WR-2 zoning.

Sincerely,

Kathleen McMahon
151 Wedgewood Ln.
Whitefish, MT 59937
406-863-9255

114° 19' 31"
114° 19' 13"
48° 24' 51"
697950
698000
698050
698100
698150
698200
698250
5365800
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Dave Creek
Ab
Ibe
Ibf
Ibb
Ibr
Fir Ave
1st St
Larch Ave
2nd St
Wild Rose Ln
48° 24' 35"
114° 19' 32"
114° 19' 14"
N
Map Scale: 1:2,310 if printed on A size (8.5" x 11") sheet.
Meters
0 20 40 80 120
Feet
0 50 100 200 300

MAP LEGEND

Area of Interest (AOI)

Area of Interest (AOI)

Soils

Soil Map Units

Soil Ratings

Very limited

Somewhat limited

Not limited

Not rated or not available

Political Features

Cities

Water Features

Streams and Canals

Transportation

Rails

Interstate Highways

US Routes

Major Roads

Local Roads

MAP INFORMATION

Map Scale: 1:2,310 if printed on A size (8.5" × 11") sheet.

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for accurate map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: http://websoilsurvey.nrcs.usda.gov
Coordinate System: UTM Zone 11N NAD83

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Upper Flathead Valley Area, Montana
Survey Area Data: Version 10, Jan 5, 2012

Date(s) aerial images were photographed: 8/5/2005

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Dwellings Without Basements

Dwellings Without Basements— Summary by Map Unit — Upper Flathead Valley Area, Montana (MT617)						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
Ab	Alluvial land, well drained	Very limited	Alluvial land (90%)	Flooding (1.00)	9.2	42.5%
De	Depew silty clay loam, 0 to 3 percent slopes	Very limited	Depew (90%)	Shrink-swell (1.00)	2.4	10.9%
Ha	Half Moon silt loam, 0 to 3 percent slopes	Somewhat limited	Half Moon (90%)	Shrink-swell (0.50)	8.9	41.0%
Hf	Half Moon soils, 12 to 45 percent slopes	Very limited	Half Moon (40%)	Too steep (1.00)	1.2	5.6%
				Shrink-swell (0.50)		
			Half Moon (40%)	Too steep (1.00)		
				Shrink-swell (0.50)		
Totals for Area of Interest					**21.7**	**100.0%**

Dwellings Without Basements— Summary by Rating Value		
Rating	Acres in AOI	Percent of AOI
Very limited	12.8	59.0%
Somewhat limited	8.9	41.0%
Totals for Area of Interest	**21.7**	**100.0%**

Description

Dwellings are single-family houses of three stories or less. For dwellings without basements, the foundation is assumed to consist of spread footings of reinforced concrete built on undisturbed soil at a depth of 2 feet or at the depth of maximum frost penetration, whichever is deeper.

The ratings for dwellings are based on the soil properties that affect the capacity of the soil to support a load without movement and on the properties that affect excavation and construction costs. The properties that affect the load-supporting capacity include depth to a water table, ponding, flooding, subsidence, linear extensibility (shrink-swell potential), and compressibility. Compressibility is inferred from the Unified classification of the soil. The properties that affect the ease and amount of excavation include depth to a water table, ponding, flooding, slope, depth to bedrock or a cemented pan, hardness of bedrock or a cemented pan, and the amount and size of rock fragments.

The ratings are both verbal and numerical. Rating class terms indicate the extent to which the soils are limited by all of the soil features that affect the specified use. "Not limited" indicates that the soil has features that are very favorable for the specified use. Good performance and very low maintenance can be expected. "Somewhat limited" indicates that the soil has features that are moderately favorable for the specified use. The limitations can be overcome or minimized by special planning, design, or installation. Fair performance and moderate maintenance can be expected. "Very limited" indicates that the soil has one or more features that are unfavorable for the specified use. The limitations generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures. Poor performance and high maintenance can be expected.

Numerical ratings indicate the severity of individual limitations. The ratings are shown as decimal fractions ranging from 0.01 to 1.00. They indicate gradations between the point at which a soil feature has the greatest negative impact on the use (1.00) and the point at which the soil feature is not a limitation (0.00).

The map unit components listed for each map unit in the accompanying Summary by Map Unit table in Web Soil Survey or the Aggregation Report in Soil Data Viewer are determined by the aggregation method chosen. An aggregated rating class is shown for each map unit. The components listed for each map unit are only those that have the same rating class as listed for the map unit. The percent composition of each component in a particular map unit is presented to help the user better understand the percentage of each map unit that has the rating presented.

Other components with different ratings may be present in each map unit. The ratings for all components, regardless of the map unit aggregated rating, can be viewed by generating the equivalent report from the Soil Reports tab in Web Soil Survey or from the Soil Data Mart site. Onsite investigation may be needed to validate these interpretations and to confirm the identity of the soil on a given site.

Rating Options

Aggregation Method: Dominant Condition

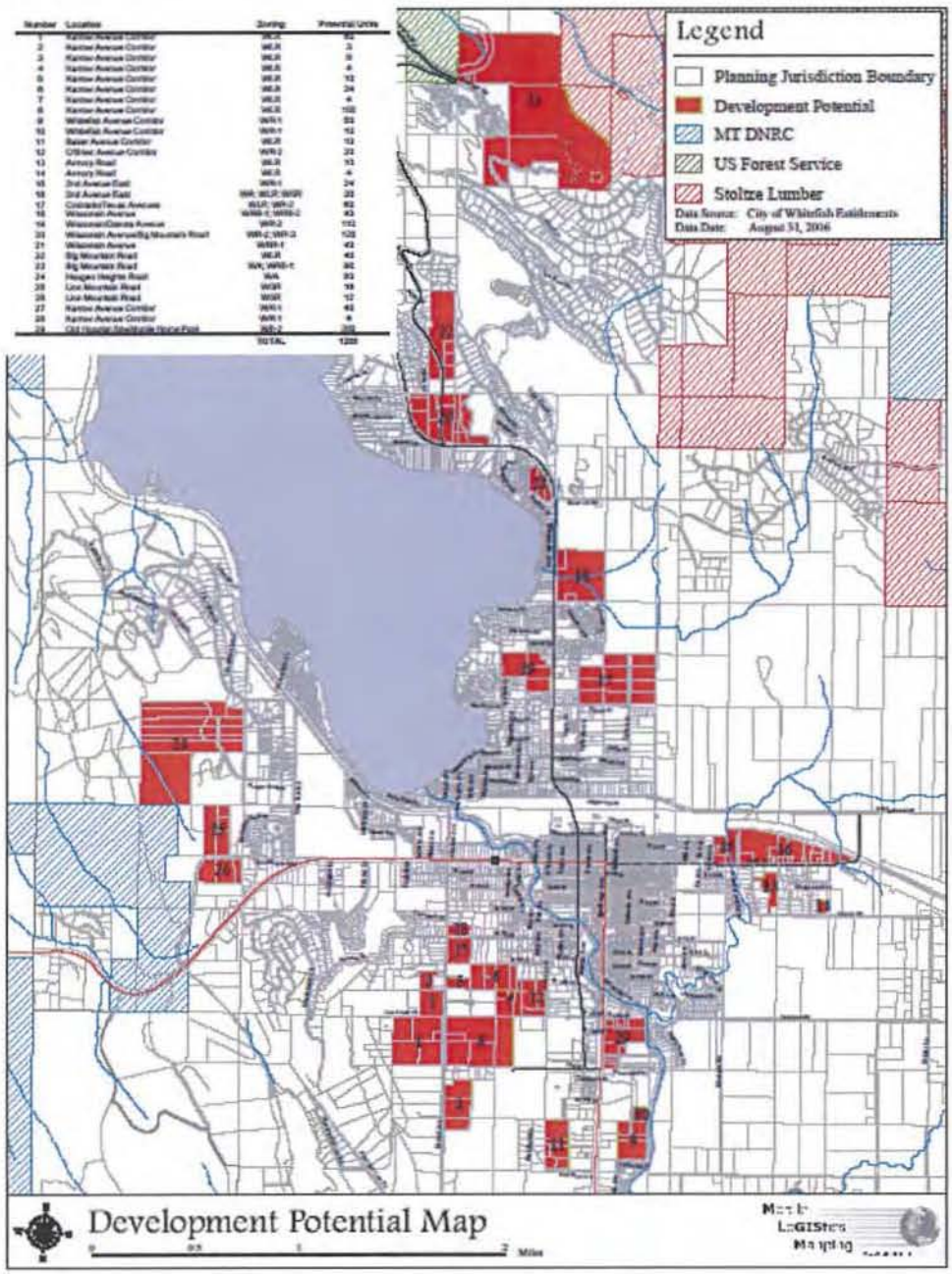
Table 2-8: 2007 LOS (Stop-Controlled Intersections)

INTERSECTION	AM	PM	INTERSECTION	AM	PM
Ashur Avenue & 7th Street	A	B	Pine Avenue & 7th Street	B	B
Baker Avenue & 4th Street	B	D	Spokane Avenue & 1st Street	A	A
Baker Avenue & 5th Street	B	C	Spokane Avenue & 4th Street	C	C
Baker Avenue & 7th Street	B	C	Spokane Avenue & 5th Street	C	D
Baker Avenue & 10th Street*	B	B	Wisconsin Avenue & Colorado Avenue*	B	C
Baker Avenue & 13th Street*	B	C	Wisconsin Avenue & Denver Street*	B	C
Baker Avenue & 15th Street*	B	B	Wisconsin Avenue & Glenwood Road*	B	B
Columbia Avenue & 7th Street	B	B	Wisconsin Avenue & Reservoir Road*	B	C
Fir Avenue & 2nd Street	B	B	Wisconsin Avenue & Sigles Place*	B	C
Fir Avenue & 4th Street	B	B	Wisconsin Avenue & Woodside Lane*	C	C
Kalispell Avenue & 2nd Street	C	C	U.S. Highway 93 & Blanchard Lake Road	B	B
Karrow Avenue & 7th Avenue	A	A	U.S. Highway 93 & JP Road**	C	C
Pine Avenue & 2nd Street	C	C	U.S. Highway 93 & Karrow Avenue	B	D
Pine Avenue & 4th Street	B	B	U.S. Highway 93 & State Park Road	B	C

* *Intersections not counted by BPA.*

** *Note that JP Road was signalized in 2008 after turning movement count data was collected by BPA for the Transportation Plan.*

Development Potential Map



received
8-13-13
City Clerks Office

To the Mayor and Whitefish City Council
Some Reasons Not To Pass The 2nd Ave Street Apartment/Dwelling Development

I'm a safety officer on a National Incident Management Team for wildfire management and disaster management. At the present time we are on two hour call and with the high fire danger, I doubt that I will be around to attend the City Council Meeting on August 19th, so I'm writing my concerns to you in a letter. Please distribute it to the mayor and all of the council members before the August 19th City Council Meeting. Thanks.

1. Using the reasoning of 10 affordable (the price of $900/month was stated as a possible affordable monthly price by one of the developers) apartments out of 143 as a reason to pass this development is just a political ploy by the developer to try and win City Council and public support. Please don't fall for this ploy as an excuse to pass this dense development in a neighborhood where this type of development doesn't fit. Providing affordable housing for service workers in a resort town has always been a problem because 2-4 people end up cramming into a $900-$1700/mo. apartment just to pay their rent because of low minimum wages. In reality, a lot of these people would probably qualify for a lower income housing subsidy rent. Ten, $900/mo. Apartments aren't going to solve the low minimum wage or affordable housing problem in Whitefish.

2. There have been people from this neighborhood who have testified in the public meetings that they have spent their life savings on their dream homes on the premise that the Whitefish Master Growth Plan would be followed and that is why they built their dream home in this neighborhood. They put their faith in their Whitefish City government, its integrity and its responsibility to follow the publicly reviewed and approved Whitefish Master Growth Plan and not spot zone.

3. The size and type of this development shows a complete lack of respect for the people living in this single family dwelling neighborhood.

4. The neighborhood shouldn't be forced into this type of development to maximize the profits of the developer at the sacrifice of the neighborhood.

5. There are already other areas in Whitefish and on Big Mountain that are zoned for apartments and would fit this type of development better.

6. Where is the public safety plan for a huge increase in traffic in this area? Even with a new downtown parking garage, this development would exacerbate the downtown parking problem again. The 2nd street hill isn't safe now for large truck traffic from a new development or the additional 1000+ daily vehicle trips it would produce. Moving the proposed apartment/housing development ingress and egress road a little to the west of the hill on 2nd Street will not the decrease the huge traffic increase from the development. A shuttle system from the apartment complex would probably cost more than it would reduce vehicle traffic and would eventually have to be subsidized by the city. The traffic counts that are being done on Armory, Voerman and Dillon Roads won't reflect the 2-3 service workers with cars that will probably be crowded into the $900/month affordable apartments or more expensive apartments in order to pay for the rent either. Road projects always take more time (two to three

years) and cost more money that was originally planned. For public safety, write a public safety plan for the public to review and complete the planned 2nd Street E. road improvements first before any more development. I can't find where the public safety problem has never been adequately addressed or mitigated. Please don't take a chance on a lawsuit from an accident or a child fatality.

8. Developers should be held more accountable for paying their fair share of impact fees too. There is some public doubt that this has always happened. I would suggest making this more transparent to the public.

9. Traffic, noise and crime would increase with this type of development and some of my neighbors are concerned that their kids would be more exposed to drugs. Apartments in a ski town have tendency to attract more of a "party" crowd. This doesn't fit the single family dwelling neighborhood.

10. We have a sense of Whitefish community pride in our neighborhood and we are here to stay and raise our kids and pay property taxes, including resort taxes. We are part of the stability of the community. Let us keep our pride in our neighborhood. This type of large development will lower the property values in our neighborhood too.

11. A soils exhibit for the proposed development area and the problems with soils was presented by Kate from the audience to the Whitefish Planning board at the May 18th public meeting. There is a reason why sump pumps are common in the full basements, septic systems didn't work very well in this area and there is almost always a good hay crop without any irrigation in the hayfield that's proposed for development. Surface water has trouble percolating through the clay part of the soil profile. The poor porosity clay soils in the soil profile and the high perched water and ground water could create surface run off problems for a large development in this area. Or even possibly with the additional lower density of housing units that area is presently zoned for. The engineering report states that development would improve drainage of the area, but just walking through the area, it appears that even with storm drains and using the Kauffman house and lawn as a Best Management Practice buffer strip area adjacent to Cow Creek, some of the contaminated surface run off from this proposed denser development could end up draining downhill to the lowest point which is Cow Creek, the Whitefish River and eventually the Flathead River/ Lake System.

12. The area proposed for development is a wildlife life habitat area for turkey, pheasants, deer, fox that live in this area year round and an occasional cougar(I've seen their tracks in the snow) that pass through this area. Cow Creek and the conifer strip on the hillside to the east is a wildlife travel corridor. This is visible on Google Earth or while riding up Big Mountain on chair #1 and looking back at Whitefish. An increase of a 1000+ vehicle use trips would equate to more deer/vehicle collisions too. A lot of people enjoy seeing the wildlife and it is one of the reasons they moved to this area and like this neighborhood. These animals would be displaced and this wildlife habitat and travel corridors lost forever. The developers proposed buffer strip wildlife travel corridors are inadequate.

13. This area in general and the hayfield proposed for development has an still has a country, rural or open field feel to it and that feeling would be lost forever with this large development. That is why it was zoned agriculture or for single family dwellings. Thanks for reading and weighing my concerns.

Scott Bates
155 Armory Road

DM&L Datsopoulos, MacDonald & Lind, P.C.
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Fax: 406.543.0134

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Milton Datsopoulos
Dennis E. Lind
William K. VanCanagan
Rebecca L. Summerville
David B. Cotner
Darla J. Keck
⅄Terance P. Perry
Molly K. Howard
Phil McCreedy
Trent N. Baker
Peter F. Lacny
Joseph R. Casillas
George H. Corn
Kyle C. Ryan
Sherine D. Fernando
Nathan G. Wagner

Ronald B. MacDonald [1946-2002]

⅄ Also admitted in Massachusetts

August 13, 2013

Sent via US Mail and email [nlorang@cityofwhitefish.org]
Whitefish City Council
City Council Chambers.
PO Box 158
Whitefish, MT 59937

RE: Infill Partners, LLC (William MacDonald & Sean Averill)
2nd Street Apartments-Zone Change and Planned Unit Development

Our File No.: 09-21379-003

Dear Council Members:

Please be advised that this law firm represents Infill Partners, LLC with regard to the application for Zone Change and Planned Unit Development presently scheduled for public hearing before the City Council on August 19, 2013 at 7:10 P.M. in the Whitefish City Council Chambers.

I am writing for purposes of providing you with a legal opinion with regard to whether the proposed zoning change constitutes spot zoning under applicable Montana law. The answer to this question is an unequivocal "no", and in the discussion set forth above, I will provide to you the substantial legal support for this conclusion.

As you know, the Applicant is requesting a zone change on three (3) parcels. One parcel (Tract 1K) is proposed to be rezoned from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District). The other two parcels (Tracts 1D and 1DA) are proposed to be rezoned from WA (Agricultural District) to WER (Estate Residential District). All three parcels front on E 2nd Street and are located within the city limits.

As you know, the purpose of rezoning the properties is to facilitate the proposed Planned Unit Development (WPUD 13-01) to develop a mixed singe family/multi-family project. The WR-2 district is intended for residential purposes to provide for one-family and two-family homes in an urban setting connected to all municipal utilities and services. The WER is a residential district designed to provide for single-family, large tract or estate development. These areas will typically be found in suburban areas, generally serviced by municipal sewer and water lines.

The subject property is surrounded by single-family residential neighborhoods. The property is located inside the city limits and is served by all public services and facilities and is "compatible with the surrounding neighborhoods". (Staff Report WZC-13-01 dated July 11, 2013, page 7.) The subject property is considered "infill" as it is served by public services and facilities and is surrounded by residential development. (Staff Report WZC-13-01 dated July 11, 2013, page 7.)

As you know, the City Planning staff concluded that the proposed zone change is in conformance with the Growth Policy which promotes public interest, health, comfort and general welfare. (See Staff Report WZC 13-01 dated July 11, 2013, page 6.)

In Little v. Board of County Comm'rs the Montana Supreme Court identified three factors that enter into a determination of whether illegal spot zoning exists in any zoning action:

a. the proposed use is significantly different from the prevailing use in the area;

b. the area in which the requested use is to apply is rather small from the perspective of concern with the number of separate landowners benefited from the proposed change; and,

c. the change is special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public.

Usually all of these factors must exist for the "spot" zoning to constitute unlawful spot zoning. (Little v. Board of County Comm'rs. 193 Mont. 334; 631 P. 2d 1282 1282; 1981 Mont. LEXIS 784 (1981)).

The primary factor is a. above and where the proposed use is similar to the prevailing use in the area, the zoning change has always been up held.

The burden of demonstrating that a particular zoning amendment is illegal "spot zoning" rests with the party attacking the ordinance. (McQuillan, *Municipal Corporations* 3rd Edition Revised, Vol. 8, Section 25.89).

In the Little case, the requested use of the tract of land was for commercial development of a shopping center. The land was surrounded by a medium density residential area. The Court held that the request for a commercial development of a regional shopping center in the middle of a residential subdivision "is significantly different from the prevailing residential use in the surrounding area." (Little, at pg. 1291)

It is significant to note that the requested zoning change was not in compliance with the Growth Policy or master plan for the area which established that the area be zoned for residential use. (Little, at pg. 1292) The planning board had no meaningful input into the requested zoning change. "This statutory scheme requires the county commissioners to obtain maximum input from the planning board..." (Little, at pg. 1293) "The vital role given the planning boards by these statutes cannot be undercut by giving the governing body the freedom to ignore the product of these boards, the master plan. We hold that the governmental unit, when zoning, must substantially adhere to the master plan." (Little, at pg. 1293)

In the majority of its decisions following Little, the Montana Supreme Court has continued to rely upon the three factors and has found specific spot zoning to be legal.

a. North 93 Neighbors, Inc. v. Bd. Of County Comm'rs, 2006 MT 132; 332 Mont. 327; 137 P. 3d 557; 2006 Mont. LEXIS 228. In this case, the commissioners approved a zoning change for a large suburban shopping mall. The Supreme Court found that the surrounding properties were largely commercial, including several large box retailers so that the requested use did not differ significantly from the prevailing use in the area and that the zoning amendment "comported with the county growth policy". (North 93 Neighbors, at pg. 558)

b. Lake County First v. Polson City Council, 2009 MT 322; Mont. 489; 218 P. 3d 816; 2009 Mont. LEXIS 470. In this case, the city council granted a zoning change from low density residential to highway commercial to support a large commercial store. The Montana Supreme Court held that there was no spot zoning for the reasons that (i) commercial use was a more appropriate classification for the property because it was next to the highway and surrounded on three sides by highway commercial zoning (ii) the zoning change complied with the master plan and (iii) the staff report addressed each criteria in detail and the council considered the planning department's report, comments and recommendations. (Lake County First, at. Pg. 817.)

c. Boland v. City of Great Falls, 275 Mont. 128; 910 P. 2d 890; 1996 Mont. LEXIS 17 (1996). The facts of the Boland case are very similar to the facts presented by the case at hand. The subject property was located in an area zoned as a residential

district for use by single-family residents and other permitted uses. The property had never been used for single-family residences but was surrounded by single-family residential neighborhoods. The developer sought a change in zoning in order to construct a condominium development on the subject property. The Montana Supreme Court analyzed the three factors and held no spot zoning. In rendering its decision, the Court stated, "while the maximum density level will be twenty-nine percent higher than if the property were developed solely as single family detached residences, it is important to note that the residential zone permits town houses as a conditional use. We conclude that the proposed condominium project is essentially residential in nature and not significantly different from the prevailing use in the area. Therefore, the first prong of the Little test is not satisfied."

The Supreme Court also analyzed the second and third elements of the test and noted that "since none of the surrounding landowners have been granted permission to build condominiums on their property, plaintiffs argue that rezoning the property benefits only the condominium developer. We determine that the plaintiff's viewpoint is too narrow in its scope." The Court found that the project created significant benefits to the public and not just to the developer.

d. Citizen Advocates for a Livable Missoula, Inc. v. City Council, 2006 MT 47; 137 P. 3d 557; 2006 Mont. LEXIS 228. Special District rezoning proposal for West Broadway Safeway in Missoula did not constitute illegal spot zoning, for the reason that the benefit was not conferred at the expense of the general public. The zoning proposal for the Safeway facility (i) was not significantly different from prior uses, (ii) was in compliance with the neighborhood plan for the area and (iii) the health of Safeway was deemed to be in the public interest.

In a minority of decisions, the Supreme Court has found illegal spot zoning where the zoning changes substantially conflicted with the prevailing land use in the area, failed to comply with requirements of growth policies and were predominantly at the expense of the general public or surrounding land uses.

a. Greater Yellowstone Coalition, Inc. v. Bd. of County Commiss'rs, 2001 MT 99; 305 Mont. 232; 25 P. 3d 168; 2001 Mont. LEXIS 119. This case involved a proposed zoning change for a high intensity business and residential development adjacent to Yellowstone Park including bars, gasoline service stations, laundromats, motels, multi-family dwellings, restaurants, retail stores, signs, RV parks storage unit facilities, marinas, single family homes and guest ranches. No commercial development previously existed in the area. The proposed zoning change violated the

specific goals and objectives of the Development Plan for the area which restricted commercial development to existing businesses and threatened the natural environment.

b. Plains Grains L.P. v. Bd. of County Comm'rs, 2010 MT 155; 357 Mont. 61; 238 P. 3d 332; 2010 Mont. LEXIS 238. The case involved a 668 acre rezoning of agricultural land to heavy industrial to allow for the construction of an industrial power facility which was out of character with existing agricultural land uses in the vicinity.

c. Citizens for a Bette Flathead v. Board of County Comm'rs, Eleventh Judicial District, Flathead County, Montana Cause No. DV-12-010C (decided July 1, 2013, Judge Ortley- Kalispell). Six property owners with 12 parcels sought zoning change to allow expansion of business uses in an area which historically had been preserved for agricultural land limiting commercial development and urban sprawl. The Court found that the zoning proposal (i) was inconsistent with the surrounding agricultural uses, (ii) was not compatible with the existing Growth Policy or with the suburban residential growth plans for the area and that (iii) the proposal had received no comprehensive review or consideration by the planning board or the commissioners.

Clearly, there is a common theme among these various Montana Supreme Court decisions. These decisions turn on the following critical factors:

a. Whether the zoning change is significantly different from prevailing uses in the area;

b. In each and every decision, the proposed use has either been readily identified as compatible (proposed residential use for a residential area) or in stark contrast to the existing use (high intensity commercial development in a surrounding residential area or industrial power plat in a surrounding agricultural area);

c. The proposed zoning change was contrary to or violated the growth policy, master plan or neighborhood plan for the area;

d. The proposed zoning change received little consideration from the planning department or planning board with regard to impacts to the area and mitigation; and,

e. The proposed zoning change conferred a benefit to the developer but no benefit to the general public or surrounding landowners.

In a number of the recent Supreme Court decisions, the doctrine of "public benefit" is a critical component to the analysis. In 83 Am. Jur. 2d, *Zoning and Planning*, Section 149 addresses the "public good or benefit test providing:

> "What appears to be spot zoning may be legal where the rezoning is for the public good. On the other hand, where a zoning ordinance which zones a parcel of land is shown to be unreasonable and unrelated to the public health, safety, or welfare, it constitutes invalid spot zoning. Thus, a relevant consideration in determining whether purported spot zoning is valid is whether the ordinance or proposed amendment provides a public benefit."

There is no illegal spot zoning with regard to the proposed development for the following clear and unequivocal reasons:

a. The proposed use is consistent with the prevailing residential use in the area. The subject property is surrounded by residential development. The property is located inside the city limits and is served by all public services and facilities and is "compatible with the surrounding neighborhoods." (Staff Report, WZC 13-01, July 11, 2013, pg. 7) The project is considered "infill" as it is served by public services and facilities and is surrounded by residential development. (Staff Report, pg. 7)

b. The Staff Report confirms that the proposed zone change is in conformance with the Growth Policy which promotes public interest, health, comfort and general welfare. (Staff Report, pgs. 5 and 6)

c. There is thorough consideration to the character of the district with the proposed zoning change. (Staff Report, pg. 8).

d. The proposed zone change and PUD have undergone extensive review to incorporate necessary impact mitigation measures. The project has been subjected to a myriad of neighborhood meetings; the site plan has been revised multiple times; density was significantly reduced and transitioned across the property so areas that are predominately single family are adjacent to single family. (Staff Report, Planned Unit Development; WPUD 13-01, July 11, 2013) The conditions to final approval are extensive and carefully considered.

e. The project provides substantial benefits to the public.

The subject property clearly provides substantial benefits to the public which are addressed in detail and with specificity in the PUD Staff Report and are summarized on page 5. (83 Am. Jur. 2d *Zoning and Planning,* Section 149).

These substantial public benefits include the following:

a. The project preserves and enhances environmentally sensitive areas of the site. (PUD Staff Report, pg. 8);

b. The project provides buffers and open areas to preserve wildlife seasonal migration corridors. (PUD Staff Report, pg. 9);

c. The project provides substantial, useable open space. In fact, 68% of the project is left in open space which exceeds the 30% PUD requirement. (PUD Staff Report, pgs. 9 and 10);

d. The project preserves and protects the character and qualities of existing neighborhoods. (PUD Staff Report, pg. 10);

e. The project facilities street continuity and connectivity and attractive high quality streetscapes and includes an extension of the Armory Road right-of-way. This new road extension will provide additional street connectivity for future development of property to the east in an area that lacks a grid system. (PUD Staff Report, pg. 12);

f. The project provides trails throughout the development that connect to the city's trail system in order to encourage alternative methods of transportation. The project provides additional easements to the City along the frontage of the project in order to facilitate the re-development of 2nd street including:

(i) Sewer Easement from E. 2nd Street to north edge of the property;

(ii) Water Easement from E. 2nd Street to north edge of the property;

(iii)Water Easement from E. 2nd Street to north edge of the property;

(iv)extension and construction of 60 foot public right-of-way;

(v) sidewalk along the north side of E. @n Street the entire length of the project; and,

(vi) public access to the pathway system. (PUD Staff Report, pgs. 5 and 13);

g. The project provides affordable housing for the Whitefish Housing Authority. (PUD Staff Report, pgs. 13 and 14)

For the reasons set forth above, it is abundantly clear that there is no spot zoning presented by the pending Application.

We respectfully recommend that the Whitefish City Council approve the Application pursuant to the recommendations contained in the Staff Reports.

Respectfully Submitted,

DATSOPOUOLOS, MACDONALD & LIND, P.C.

William K. VanCanagan, Esq.

WKV/lec

cc: Infill, LLC
Attn: Mr. Sean Averill (via email)
Mr. William MacDonald (via email)

Ms. Mary VanBuskirk, City Attorney (via email)

To whom it may concern,

I have lived in the Flathead Valley for 6 years and have always desired to live in Whitefish, which has the reputation of the premier spot to live in the Flathead Valley. The lack of affordable housing has prevented me from being close to the culture and lifestyle I enjoy. I spend most of my time in the Whitefish area as I am involved in multiple community activities and do a lot of my outdoor recreation there. I am the premier demographic for Whitefish: 25, single and active. So why does the city's housing situation not appeal to people my age? It is not the lack of available rentals it is the affordability. Looking at rental ads two out of twenty posted are under $700 a month, while most are around $1000. Affordable does not mean cheap, grungy or run down. Whitefish has an issue to address with affordable housing and I am in total support of the new apartments and think they will be a great asset to the community's growth. The city appeals to the younger demographic and the housing should as well. Please make my letter part of the public record.

Thank You,

Charene Herrera

To Whom It May Concern:

I am composing this letter to voice my opposition to the construction of the 2nd Street Residences to be built on the Kaufman Meadow on the north side of Second Street. In addition to being incongruous with the current personality of the neighborhood, I believe this proposed development does unnecessary damage to our endeared neighborhood.

The completion of this development will have a detrimental effect on surrounding property values and could potentially rob homeowners of the valuable equity they have stored in their homes. Given the recent gains in the national housing market, it would be irresponsible for the council to offset this progress by implementing an unpopular, and possibly illegal, development plan.

Moreover, the development will pave the way for a substantial increase in traffic in an area that has already seen a steady rise in traffic due to various additions and the side effects of construction. This development will bring ancillary traffic to an area without sidewalks or bike lanes and will lead to a dangerous environment for children and other residents of the neighborhood.

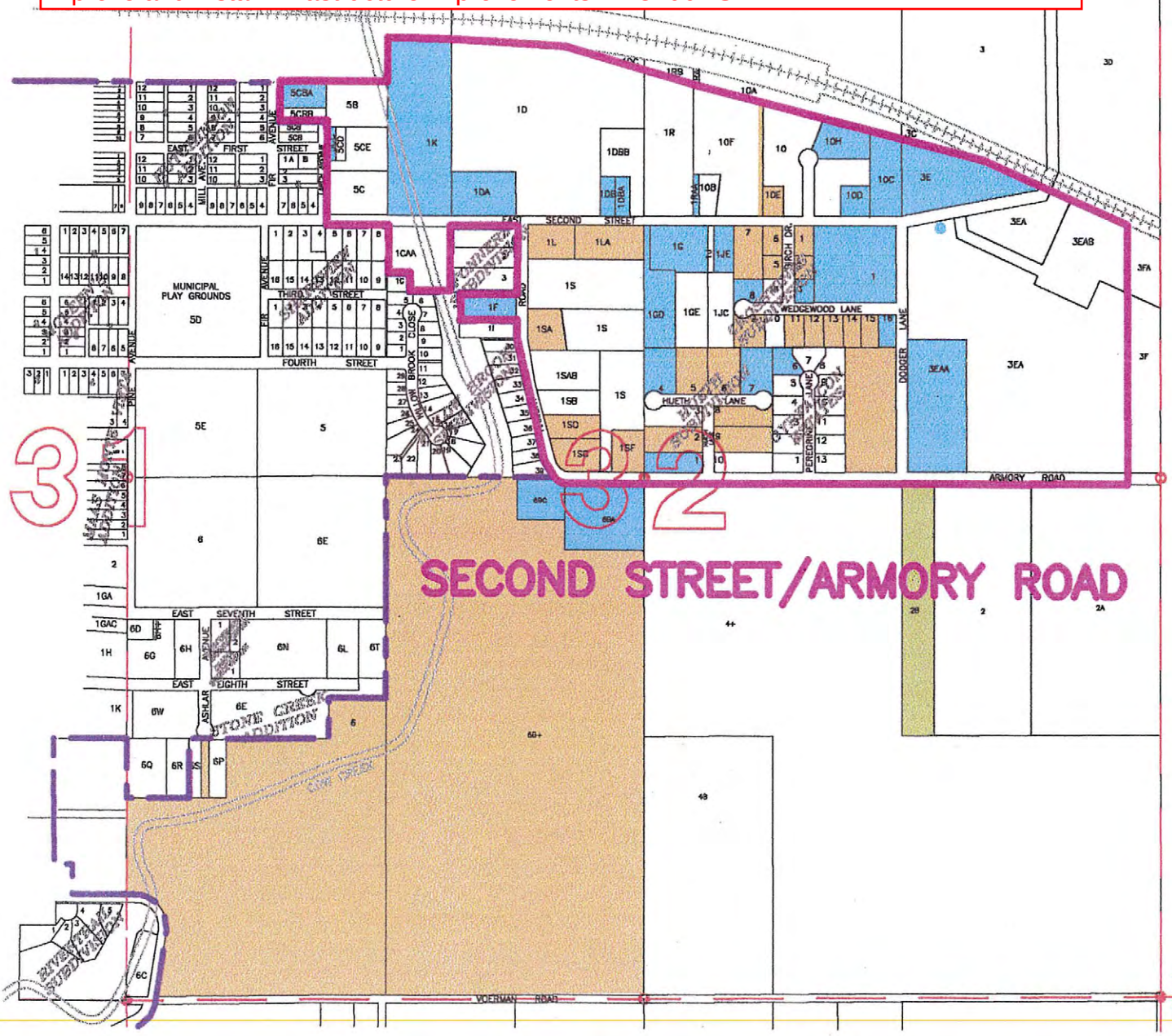
Furthermore, the spot zoning of the current plot of land violates the City of Whitefish's Growth Policy and will undoubtedly result in extensive and costly litigation will the Whitefish taxpayer stuck footing the bill. Now is not the time for needless lawsuits and increased government spending to defend such lawsuits.

I am not against the development of the Kaufman property! I am opposed of the spot zoning request and the high density development that is proposed in this neighborhood. It is for the forgoing reasons that I strongly oppose this development of the Kaufman Meadow and I thank you for your time.

Regards,

Concerned Armory Road / Willow Brook Residents

I am putting this page in the packet as this 1998 annexation, along with others, was challenged in court and not effective until 12-30-2004. When county properties that are not designed to City subdivision standards are annexed, there is sometimes an expectation that city services will be extended to them at no cost. When rural properties such as this are annexed, because improvements such as sidewalks, curbs, gutters, etc were not required of the developer, the purchase price was lower than if those improvements were required. Therefore, in areas with deficient infrastructure, a Special Improvement District with assessments on the property owner is the fairest method to improve and install infrastructure improvements. Chuck S



CITY LIMITS
PROPOSED ANNEXATION BOUNDARY
LOT WITH SEWER SERVICE
LOT WITH WATER SERVICE
LOT WITH WATER AND SEWER SERVICE

EXHIBIT D

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MANAGER REPORT

August 14, 2013

CEMETERY WORK

After years of not much new work occurring at the City Cemetery, it seemed that everything was going on last week. May Lawn and Home Care began installing the new irrigation system last week. This work was earlier than we expected because they got pulled off of another job and had a two week opening. They expect to finish most of their work this week, but it will still be a while before we can connect and operate the new underground sprinkler system because Flathead Electric is going to install a new power pole and we have to get a plumber to hook up the meter.

Public Works crews and I also worked at the Cemetery last Thursday to straighten and shore up the shed that is out there and we also dug and poured the pad for the Columbarium monument to hold cremation ashes. The Columbarium is 10,000 pounds, so it needed a concrete pad reinforced with rebar and with four piers going three feet down into the ground. A picture below shows the Public Works crew digging the piers within the concrete frame near the shed. Once the budget is approved, we will order the Columbarium.

RESORT TAXES

Resort Tax collections for June were up by 19% or $33,680 compared to June, 2012. However, June, 2012 was low in collections compared to prior Junes, probably reflecting that an annual

payment for golf memberships was collected in May, 2012 rather than in June, 2012. For the full fiscal year of FY13, Resort Tax collections were 10.3% or $187,301 higher than the prior year, so FY13 was a very good year for collections. There is a chart of recent monthly trends in the packet.

BABIAK LAKESHORE PERMIT LAWSUIT SETTLEMENT

After many years of effort by City Attorneys, staff, and the City Council, I signed the settlement agreement in the Babiak Lakeshore Permit settlement this week. The terms of the settlement agreement require confidentiality, but we are allowed to disclose that this matter was resolved to the mutual satisfaction of the Parties involved and in accordance with the terms of the agreement.

SUMMARY OF BUILDING PERMIT AND IMPACT FEE REVENUES FROM HIGH SCHOOL PROJECT

The final building permit for the high school project was issued last month. I thought the City Council would be interested in the summary of building permit fees, impact fees, and other costs for the high school project, so I compiled all three permits in my summary comparison sheet. The total of building permit, impact, and other fees was $172,121.07. A chart showing all of the fees is included with this packet.

CITY HALL ARCHITECTURAL RESPONSES

We received 10 responses to our Request for Qualifications for the City Hall architectural work. The responses were from:

Phillips Architecture and Planning, Inc.
MacArthur, Means, and Wells, Architects
Mosaic Architectur-Planning-Design
Montana Creative Architecture + Design
Montana Architects, Inc.
Oz Architects/John Constenius
Locati Architects
Collaborative Design Architects
CTA Architects/Engineers
Schutz Foss Architects, P.C.

The City Hall Steering Committee is going to meet on September 10 to rank and review the proposals.

MEETINGS

BID working group (8/14) – This working group will meet on Wednesday, 8/14 to continue working on the boundaries and parameters for a conceptual proposal for an assessment district for parking structure O&M costs.

UPCOMING SPECIAL EVENTS

Whitefish Lake Triathlon – Sunday, 8/18 at 7:30 a.m. at City Beach
Friends and Family Fun Run – NVH, Smith Fields, JP Road – Saturday 8/24 at 7:30 a.m.
Snow Bus Brew Fest in Depot Park – Saturday, 8/24 at 3:00 p.m.

REMINDERS

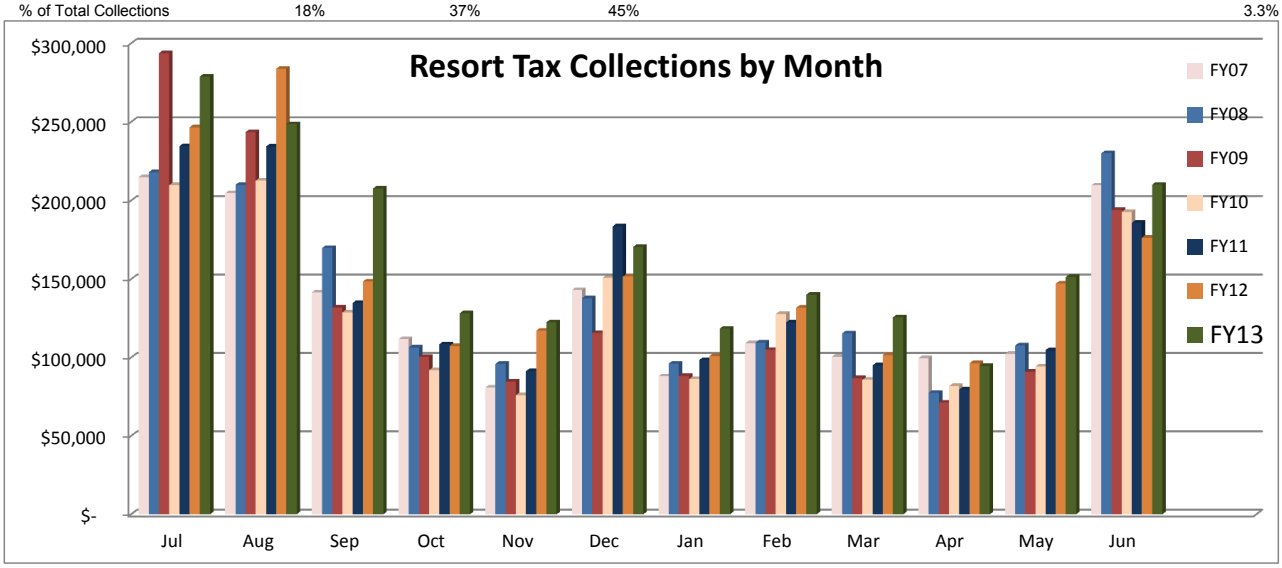
City Hall closed on Monday, September 2nd for Labor Day; City Council meeting will be Tuesday, September 3rd.

Respectfully submitted,

Chuck Stearns
City Manager

Resort Tax Report
Reported in the Month Businesses Paid Tax

Month/Year	Lodging	Bars & Restaurants	Retail	Collected	% Chng Mnth to Pr Yr Mnth	% Chng Quarter to Pr Yr Quarter	Interest	Total
Jun-08	32,153	63,937	134,039	230,129			3,057	233,186
Jun-09	26,321	58,912	108,931	194,165	-16%	-14.2%	1,991	196,156
Apr-10	8,034	34,568	39,245	81,847	15%		2,729	84,576
May-10	11,509	39,248	43,587	94,344	4%		14,872	109,216
Jun-10	33,916	64,480	94,426	192,822	-1%	3.5%	982	193,804
Total FY10	**$ 245,171**	**$ 563,798**	**$ 730,393**	**$ 1,539,362**	Compared to Prv Yr		**$ 53,679**	**$ 1,593,041**
FY09 vs FY10	-9.0%	-4.1%	-2.6%	-4.2%	or	-4.2%	TaxableSalesFY10	$ 81,019,064
						$ (67,489)		
Apr-11	7,571	35,595	36,466	79,633	-3%		1,407	81,040
May-11	12,083	47,608	45,096	104,788	11%		1,386	106,174
Jun-11	27,106	60,935	97,797	185,838	-4%	0.3%	1,377	187,215
Total FY11	**$ 274,688**	**$ 651,321**	**$ 747,615**	**$ 1,673,624**	Compared to Prv Yr		**$ 38,004**	**$ 1,711,629**
FY10 vs FY11	12.0%	15.5%	2.4%	8.7%	or	8.7%	TaxableSalesFY11	$ 88,085,492
						$ 134,262		
Jul-11	56,106	90,212	100,325	246,642	5%		$ 979	$ 247,621
Aug-11	85,621	91,408	106,860	283,889	21%		7,833	291,722
Sep-11	28,154	58,830	61,535	148,519	10%	12.4%	593	149,112
Oct-11	17,944	45,919	43,610	107,473	-1%		496	107,969
Nov-11	14,351	39,054	63,758	117,162	28%		479	117,641
Dec-11	16,531	51,195	84,000	151,726	-17%	-1.9%	526	152,252
Jan-12	10,032	44,089	46,905	101,026	3%		515	101,541
Feb-12	14,585	56,427	60,780	131,793	8%		578	132,371
Mar-12	11,008	42,952	47,682	101,643	7%	5.9%	557	102,200
Apr-12	9,353	39,367	47,657	96,377	21%		610	96,987
May-12	15,461	51,207	80,526	147,194	40%		6,993	154,187
Jun-12	35,584	68,403	72,472	176,460	-5%	13.4%	625	177,085
Total FY12	**$ 314,731**	**$ 679,063**	**$ 816,110**	**$ 1,809,903**	Compared to Prv Yr		**$ 20,785**	**$ 1,830,688**
FY11 vs FY12	15%	4%	9%	8%	or	8.1%	TaxableSalesFY12	$ 95,258,076
						$ 136,279		
Jul-12	69,418	94,341	115,149	278,908	13%		$ 643	$ 279,551
Aug-12	53,361	92,463	102,812	248,636	-12%		444	249,080
Sep-12	57,000	77,503	73,232	207,734	40%	8.3%	533	208,267
Oct-12	24,519	54,631	49,137	128,288	19%		434	128,722
Nov-12	8,099	40,326	74,122	122,547	5%		393	122,941
Dec-12	15,490	66,046	88,956	170,492	12%	11.9%	363	170,855
Jan-13	13,152	51,930	53,396	118,478	17%		413	118,891
Feb-13	18,023	55,180	66,995	140,198	6%		405	140,603
Mar-13	16,171	56,231	53,318	125,720	24%	14.9%	465	126,185
Apr-13	10,105	42,230	42,325	94,660	-2%		427	95,087
May-13	19,009	52,303	80,090	151,402	3%			
Jun-13	41,222	74,833	94,085	210,140	19%	8.6%		
Total FY13	**$ 345,570**	**$ 758,018**	**$ 893,617**	**$ 1,997,205**	YTD Compared to Last Year		**$ 4,520**	**$ 1,640,183**
YTD vs Last Year	9.8%	11.6%	9.5%			10.3%		
FY13 % of Collections	17%	38%	45%			$ 187,301	TaxableSalesFY13	$ 105,116,040
Grand Total	**$ 3,970,579**	**$ 8,400,838**	**$ 10,223,061**	**$ 22,594,479**			**$ 747,488**	**$ 19,510,104**
% of Total Collections	18%	37%	45%				3.3%	Average *i* since '96



Total Taxable Sales Since 1996	$ 1,189,183,079
Total Collected	$ 23,783,662
5% Admin	$ 1,189,183
Public Portion	$ 22,594,479

BUILDING INSPECTION AND IMPACT FEE SUMMARIES - STIMULUS AND OTHER PROJECTS
Prepared: 8/13/2013

Project Address	Permit #	Valuation	Type of Project	Building Permit Fees	Building Fees As a % of Valuation	Paved Trails	Park Maint Building	ESC Building	New City Hall Fee	Water	Sewer	Stormwater	5% Water Admin	5% Sewer Admin	5% City Admin	Total Impact Fees	Impact Fees As a % of Valuation	Latecomers Water	Latecomers Sewer	Refuse Container Fee	Water Meter	Water Meter Inspection	Other	Total Other Fees	Total City Fees
																$0.00								$0.00	$0.00
High School 2013 - First Permit	8372	$625,000	High School - Gymnasium Rehab	$7,043.00		$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00				$0.00	$0.00	$0.00		$0.00	$7,043.00
High School 2013 - Second Permit	8376		High School - Excavation & utilities	$17,276.00		$0.00	$0.00	$0.00	$0.00	$2,138.04	$1,177.82	$0.00	$106.90	$58.89	$0.00	$3,481.65		$0.00	$0.00	$0.00	$3,513.38	$20.00		$3,533.38	$24,291.03
High School 2013 - Third Permit	8384		High School - Building	$77,554.00		$0.00	$0.00	$30,924.78	$29,297.16	$0.00	$0.00	$0.00	$0.00	$0.00	$3,011.10	$63,233.04		$0.00	$0.00	$0.00	$0.00	$0.00		$0.00	$140,787.04
High School Totals				$101,873.00		$0.00	$0.00	$30,924.78	$29,297.16	$2,138.04	$1,177.82	$0.00	$106.90	$58.89	$3,011.10	$66,714.69		$0.00	$0.00	$0.00	$3,513.38	$20.00		$3,533.38	$172,121.07

CITY ATTORNEY AGREEMENT

THIS AGREEMENT is entered into as of the _____ day of _____, 2013~~0~~, by and between the CITY OF WHITEFISH, a municipal corporation ("CITY") and MARY VAN BUSKIRK ("CITY ATTORNEY"), with respect to the following:

1. Employment: The CITY hereby hires the CITY ATTORNEY and the CITY ATTORNEY accepts employment with the CITY, upon the terms and conditions set forth herein.

2. Duties: The CITY ATTORNEY shall work full time for the CITY as its City Attorney, and shall perform those duties outlined in the Municipal Charter and Code, and in the attached Whitefish City Attorney position description. Although the CITY ATTORNEY may perform incidental legal services for family or friends or perform pro bono legal services, the CITY ATTORNEY shall not maintain a regular private practice. The CITY ATTORNEY shall serve as the director of the CITY's Legal Services Department, the duties of which shall include monitoring the existing prosecuting attorney contract. She shall be responsible for the handling of all civil legal matters for the CITY unless the CITY specifically employs other counsel for a particular civil matter. On a day-to-day basis, the CITY ATTORNEY shall meet those legal needs and address those priorities identified by the City Manager, and shall work closely with and assist the City Manager, as the representative of the City Council. If the CITY employs, in the future, an in-house prosecuting attorney, the CITY ATTORNEY shall be responsible for providing general supervision to such prosecuting attorney. The CITY ATTORNEY shall perform such other services as the City Council or the City Manager may determine from time to time. The CITY ATTORNEY shall perform such services with due diligence and in the best interests of the CITY. The CITY ATTORNEY'S typical work week shall consist of five days, Monday through Friday.

3. Additional Duties: The CITY ATTORNEY shall endeavor to maintain and improve her professional competence by all available means including subscription to and reading of appropriate periodicals, maintenance of membership in appropriate professional organizations (including the State Bar of Montana), and attendance at professional meetings at the local and state level, with prior City Council approval. Expense of such subscriptions, memberships and attendance is to be borne by the CITY, subject to prior City Council approval. Any of such expenses contained in an approved budget shall be considered to have been approved by the City Council.

4. Relations with the Public: The CITY ATTORNEY acknowledges that the position of City Attorney is a position of high visibility before the public. The CITY ATTORNEY shall conduct herself before the public, both during and outside of regular working hours, in a manner that reflects favorably upon the CITY ATTORNEY and the CITY.

5. Term of Agreement: This Agreement shall be effective immediately upon signing by both parties. The term of this Agreement shall be for ~~one~~ two years, beginning July 1, 2013~~0~~, and continuing through June 30, 2015~~1~~. The term of this Agreement may be extended by the parties, as described in Paragraph 10. This Agreement may be terminated in accordance with the provisions of Paragraphs 7 and 9 hereof.

6. Compensation: So long as this Agreement is in effect, the CITY ATTORNEY shall receive the following compensation:

A. Salary: As compensation for the proper and satisfactory performance of all duties to be performed by the CITY ATTORNEY hereunder, the CITY shall pay to the CITY ATTORNEY a base salary of $~~7~~105,000.00 per year, beginning on July 1, 2013~~0~~, payable in arrears and retroactive to July 1,2013, less required deductions for state and federal withholding tax, social security, PERS, and other such employee taxes or employee benefit deductions. Such yearly salary shall be paid

incrementally over twenty-six pay periods during the year. ~~If the term of the CITY ATTORNEY'S employment is extended for~~ For the ~~a~~ second year, ~~then~~ the CITY shall pay to the CITY ATTORNEY a base salary of $~~8~~115,000.00 per year during the second year, beginning on July 1, 2014~~1~~. ~~If the term of the CITY ATTORNEY'S employment is extended for a third year, then the CITY shall pay to the CITY ATTORNEY a base salary of $95,000.00 per year during the third year, beginning on July 1, 2012.~~ Any compensation for terms, if any, beyond June 30, 2015~~3~~, shall be negotiated by the parties.

B. Vacation: The CITY ATTORNEY shall be entitled to 20 working days of annual vacation with pay, exclusive of holidays, all of which shall accrue upon the execution of this Agreement, and may be taken at any time during the year; provided, however, that the CITY ATTORNEY shall coordinate her vacation plans with the City Manager, to ensure that her absence will not disrupt CITY operations.

C. Holidays: The CITY ATTORNEY shall be entitled to the same paid holidays as are provided to other CITY employees.

D. Health, Dental and Vision Insurance: The CITY ATTORNEY has elected to purchase all necessary health, dental and vision insurance benefits through a separate policy, and does not desire to receive such benefits through the CITY. In order to enable the CITY ATTORNEY to do so, the CITY shall compensate the CITY ATTORNEY an additional $10,000.00 per year, over and above the salary described in Paragraph 6A, which amount shall be paid to the CITY ATTORNEY in increments over the twenty-six (26) pay periods in each year.

E. Life Insurance: The CITY shall provide to the CITY ATTORNEY the same policy of life insurance that is provided to all other CITY employees.

F. Sick Leave: The CITY ATTORNEY shall be entitled to the same number of days of paid sick leave per year as is provided to other CITY employees and

according to State law, and the CITY ATTORNEY shall be able to use such sick leave days in the same manner as other CITY employees.

G. Pension: The CITY shall contribute into the Montana PERS system at the same percentage as other CITY employees.

H. Reimbursement of Expenses: The CITY shall reimburse the CITY ATTORNEY for all actual and necessary expenses incurred by the CITY ATTORNEY within the scope of employment and while representing the CITY.

I. Fidelity Bond: The CITY shall bear the full cost of any fidelity and other bonds required of the CITY ATTORNEY under State law or the Municipal Code.

J. Liability Insurance: The CITY shall provide liability insurance for the CITY ATTORNEY, as included within the City's existing policy with the Montana Municipal Interlocal Authority.

7. Termination of Agreement by CITY: The parties acknowledge that the CITY ATTORNEY serves at the pleasure of the City Council, and the CITY ATTORNEY'S employment may be terminated, without cause, in the sole discretion of the City Council, subject to the terms of this Agreement.

8. Severance Compensation: In the event that the CITY ATTORNEY is terminated by the City Council, is asked to resign, or the position abolished, the CITY shall pay to the CITY ATTORNEY severance compensation equal to six months' salary. In her discretion, the CITY ATTORNEY may elect to receive such compensation in a lump sum or in bi-weekly or monthly installments. In addition to such severance compensation, the CITY ATTORNEY shall be eligible for reimbursement of accrued vacation or sick leave, as provided by State law.

9. Termination of Agreement by the CITY ATTORNEY: The CITY ATTORNEY may terminate this Agreement by voluntary resigning from employment, provided that the CITY ATTORNEY gives at least sixty days prior notice in writing. In the event that the CITY ATTORNEY voluntarily terminates this Agreement, she shall not

be entitled to any severance compensation, but shall be eligible to receive compensation for accrued vacation and sick leave, as provided by State law.

10. Performance Review: ~~After the CITY ATTORNEY has been employed for a period of approximately five and one-half months, t~~The City Council shall conduct an annual performance review of the CITY ATTORNEY, which review shall be completed ~~within 30 days~~before June 30th of each respective year. The City Council shall use the review format described in Paragraph 11. At the conclusion of such performance review, the City Council shall provide its conclusions to the CITY ATTORNEY in writing. The City Council's written conclusions must indicate whether the overall review is positive or negative. If the overall review is negative, then the term of the CITY ATTORNEY'S employment shall not be extended, and such employment shall terminate on June 30, 2014~~1~~. If the overall review is positive or if the review is not completed within 30 days, then the term of the CITY ATTORNEY'S employment shall ~~be extended~~ continue for an additional year, through June 30, 2015~~2~~.

~~If the term of the CITY ATTORNEY'S employment is extended for a second year, then after the CITY ATTORNEY has served for a period of seventeen and one-half months, the City Council shall conduct a performance review of the CITY ATTORNEY, which review shall be completed within thirty days. The City Council shall use the review format described in Paragraph 11. If the overall review is negative, then the term of the CITY ATTORNEY'S employment shall not be extended, and such employment shall terminate on June 30, 2012. If the overall review is positive or if the review is not completed within 30 days, then the term of the CITY ATTORNEY'S employment shall be extended for an additional year, through June 30, 2013.~~

Nothing herein shall prevent the City Council from conducting more frequent performance reviews of the CITY ATTORNEY.

11. Format of Performance Review: In order to conduct a review of the CITY ATTORNEY'S performance, the City Council shall appoint a committee, consisting of

Formatted: Superscript

three Councilors, assisted by the City Manager. The City Council shall use as a standard the Whitefish City Attorney position description developed prior to beginning the City Attorney hiring process, a copy of which position description is attached hereto at Exhibit "A." The Council committee shall interview the City Manager as well as those department heads having the greatest contact with the CITY ATTORNEY. The Council committee shall request that all Councilors, including those on the committee, fill out a written evaluation, using the position description as a standard, and a consistent numerical scoring system, and submit those evaluations to the committee. The Council committee shall then prepare a preliminary evaluation, which it shall present to the CITY ATTORNEY, in order to receive her response and feedback. After meeting with the CITY ATTORNEY, the Council committee shall then prepare a final written evaluation, for approval by the City Council. Upon approval by the City Council, the final written evaluation shall be provided to the CITY ATTORNEY.

All written evaluations, notes, and other materials shall be considered confidential, and shall not be made available to the public, unless the CITY ATTORNEY requests that they be made available to the public. All meetings and interviews conducted by the City Council committee shall be considered confidential, and shall not be open to the public, unless the CITY ATTORNEY requests that they be open to the public. All meetings of the City Council with respect to the CITY ATTORNEY'S evaluation shall be conducted in closed session, unless the CITY ATTORNEY requests that they be conducted in open session.

12. Non-Assignability: Neither this Agreement, nor any interest herein, shall be assigned or transferred by either party.

13. Entire Agreement: This Agreement contains the entire agreement of the parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between the parties

hereto relating to the subject matter contained in this Agreement which are not fully expressed herein. The provisions of this Agreement may be waived, altered, amended or repealed in whole or in part only upon the written consent of all parties to this Agreement.

14. Governing Law: The construction of this Agreement, and the rights and liabilities hereto, shall be governed by the laws of the State of Montana.

15. Forum: Any litigation to enforce or interpret the provisions of this Agreement or the parties' rights and liabilities arising out of this Agreement, or the performance hereunder shall be maintained only in Flathead County, Montana District Court.

CITY ATTORNEY	CITY OF WHITEFISH
By: _____	By: _____
Mary VanBuskirk	John M. Muhlfeld, Mayor

MEMORANDUM

#2013-035

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – Consideration of a two year employment contract extension for City Attorney Mary VanBuskirk

Date: August 12, 2013

Introduction/History

Earlier this year, the Mayor and City Council asked Chris Hyatt, Bill Kahle, and me to work on a recommendation for a contract extension for City Attorney Mary VanBuskirk. Chris, Bill, and I met on May 30th and they asked me to do some additional research. After receiving that research, Chris and Bill were to discuss options for a contract extension and pay increase with the other elected officials. The Mayor and City Council then met in executive session after the August 5th City Council meeting.

Current Report

A proposed two year contract is marked up with redline in the packet based on the direction the Mayor and City Council gave me at the August 5th executive session. Mary has reviewed the proposed contract and said it is fine with her.

Financial Requirement

The two year contract would grant Mary a $10,000 pay increase for each of the two years, partially to recognize the fact that she was hired at a below market rate in 2010. Thus, her current salary would increase from $95,000 to $105,000 for FY14 and then up to $115,000 for FY15. The City pays employer contributions and benefits for Mary as well, other than medical insurance which she and her husband pay for his insurance plan. As in the last contract, the City will provide Mary $10,000 per year in addition to the salary to offset the cost of medical insurance.

Recommendation

Staff respectfully recommends the City Council approve a new, two year contract with City Attorney Mary VanBuskirk.

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August 2, 2013

TO; Whitefish City Council and Whitefish Park and Recreation Board Members

FROM: Whitefish Community Library Board Members

RE: Depot Park Events and Library Restroom Use – Invitation To Visit

Since mid-June Whitefish has hosted a number of great events at Depot Park. In addition to the weekly Farmers Market events, we have just recently experienced the Barbeque Cook-off. From our perspective all of these have been well received by visitors and locals alike. Both the event organizers and the Parks staff have done a commendable job in hosting these events.

As each of these events has taken place, the Whitefish Library has experienced significant numbers of the public crossing over from the park and using the library restroom facilities. This takes place, even when the events have provided porta-potties at locations in the park. Evidently, there is some percentage of the public who do not want to use the porta-potties and are willing to leave the event and seek out more traditional restroom facilities. In an interesting twist, many of the farmer market participants seem to know that the library closes at 6:30 on Tuesday, so there is usually a wave of restroom patrons that arrive in the last few minutes so that they can do their business at the library. While the library wants to be a community player, we don't feel we should be expected to be staying open later and using our supplies to meet the growing needs of the events taking place in Depot Park.

In the next couple weeks we would like to invite any of the Council or Park Board members to come and visit the library on a Tuesday evening. If you can come by between 6:00 and 6:30 we are confident you will see the large number of event patrons making their trip to the Library restrooms. Or, you are also invited to come by when a major event is taking place in the Park, such August 9-11, Huckleberry Days or August 24, SNOW Bus event.

We would welcome the opportunity to participate in any post event review efforts at the end o the summer season, or in the ongoing planning for Depot Park. We firmly believe that if there are going to be events in the Park, then the necessary services for these events should be provided at the Park. The City should not be expecting surrounding businesses/ facilities to provide the necessary services to meet these crowd generating events.

If you have any questions or would like to consider future options, please feel free to contact us. Our Library Director, Joey Kositzky will be happy to walk you around the library.

LANDLORD'S RELEASE AND CONSENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
	08-07-2013	08-01-2028	017127500013 0	1E1 / 543	WC05655	617	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "***" has been omitted due to text length limitations.

Borrower: WHITEFISH COMMUNITY AQUATIC & HEALTH CENTER
1250 BAKER AVENUE
WHITEFISH, MT 59937-2952

Lender: Glacier Bank
Whitefish Office
319 Second St East
PO Box 220
Whitefish, MT 59937

THIS LANDLORD'S RELEASE AND CONSENT is entered into among WHITEFISH COMMUNITY AQUATIC & HEALTH CENTER ("Borrower"), whose address is 1250 BAKER AVENUE, WHITEFISH, MT 59937-2952; Glacier Bank ("Lender"), whose address is Whitefish Office, 319 Second St East, PO Box 220, Whitefish, MT 59937; and CITY OF WHITEFISH, A MUNICIPAL CORPORATION ("Landlord"), whose address is P. O. BOX 158, WHITEFISH, MT 59937. Borrower and Lender have entered into, or are about to enter into, an agreement whereby Lender has acquired or will acquire a security interest or other interest in the Collateral. Some or all of the Collateral may be affixed or otherwise become located on the Premises. To induce Lender to extend the Loan to Borrower against such security interest in the Collateral and for other valuable consideration, Landlord hereby agrees with Lender and Borrower as follows.

COLLATERAL DESCRIPTION. The word "Collateral" means certain of Borrower's personal property in which Lender has acquired or will acquire a security interest, including without limitation the following specific property:

Commercial Blanket Lien including but not limited to all weight equipment, computers, telephones, televisions, sound systems; all inventory, equipment, accounts (including but not limited to all health-care-insurance receivables), chattel paper, instruments (including but not limited to all promissory notes), letter-of-credit rights, letters of credit, documents, deposit accounts, investment property, money, other rights to payment and performance, and general intangibles (including but not limited to all software and all payment intangibles); all oil, gas and other minerals before extraction; all oil, gas, other minerals and accounts constituting as-extracted collateral; all fixtures; all timber to be cut; all attachments, accessions, accessories, fittings, increases, tools, parts, repairs, supplies, and commingled goods relating to the foregoing property, and all additions, replacements of and substitutions for all or any part of the foregoing property; all insurance refunds relating to the foregoing property; all good will relating to the foregoing property; all records and data and embedded software relating to the foregoing property, and all equipment, inventory and software to utilize, create, maintain and process any such records and data on electronic media; and all supporting obligations relating to the foregoing property; all whether now existing or hereafter arising, whether now owned or hereafter acquired or whether now or hereafter subject to any rights in the foregoing property; and all products and proceeds (including but not limited to all insurance payments) of or relating to the foregoing property.

BORROWER'S ASSIGNMENT OF LEASE. Borrower hereby assigns to Lender all of Borrower's rights in the Lease, as partial security for the Loan. The parties intend that this assignment will be a present transfer to Lender of all of Borrower's rights under the Lease, subject to Borrower's rights to use the Premises and enjoy the benefits of the Lease while not in default on the Loan or Lease. Upon full performance by Borrower under the Loan, this assignment shall be ended, without the necessity of any further action by any of the parties. This assignment includes all renewals of and amendments to the Lease or the Loan, until the Loan is paid in full. No amendments may be made to the Lease without Lender's prior written consent, which shall not be unreasonably withheld or delayed.

CONSENT OF LANDLORD. Landlord consents to the above assignment. If Borrower defaults under the Loan or the Lease, Lender may reassign the Lease, and Landlord agrees that Landlord's consent to any such reassignment will not be unreasonably withheld or delayed. So long as Lender has not entered the Premises for the purpose of operating a business, Lender will have no liability under the Lease, including without limitation liability for rent. Whether or not Lender enters into possession of the Premises for any purpose, Borrower will remain fully liable for all obligations of Borrower as lessee under the Lease. While Lender is in possession of the Premises, Lender will cause all payments due under the Lease and attributable to that period of time to be made to Landlord. If Lender later reassigns the Lease or vacates the Premises, Lender will have no further obligation to Landlord.

LEASE DEFAULTS. Both Borrower and Landlord agree and represent to Lender that, to the best of their knowledge, there is no breach or offset existing under the Lease or under any other agreement between Borrower and Landlord. Landlord agrees not to terminate the Lease, despite any default by Borrower, without giving Lender written notice of the default and an opportunity to cure the default within a period of sixty (60) days from the receipt of the notice. If the default is one that cannot reasonably be cured by Lender (such as insolvency, bankruptcy, or other judicial proceedings against Borrower), then Landlord will not terminate the Lease so long as Landlord receives all sums due under the Lease for the period during which Lender is in possession of the Premises, or so long as Lender reassigns the Lease to a new lessee reasonably satisfactory to Landlord.

DISCLAIMER OF INTEREST. Landlord hereby consents to Lender's security interest (or other interest) in the Collateral and disclaims all interests, liens and claims which Landlord now has or may hereafter acquire in the Collateral. Landlord agrees that any lien or claim it may now have or may hereafter have in the Collateral will be subject at all times to Lender's security interest (or other present or future interest) in the Collateral and will be subject to the rights granted by Landlord to Lender in this Agreement.

ENTRY ONTO PREMISES. Landlord and Borrower grant to Lender the right to enter upon the Premises for the purpose of removing the Collateral from the Premises or conducting sales of the Collateral on the Premises. The rights granted to Lender in this Agreement will continue until a reasonable time after Lender receives notice in writing from Landlord that Borrower no longer is in lawful possession of the Premises. If Lender enters onto the Premises and removes the Collateral, Lender agrees with Landlord not to remove any Collateral in such a way that the Premises are damaged, without either repairing any such damage or reimbursing Landlord for the cost of repair.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement: This Agreement shall extend to and bind the respective heirs, personal representatives, successors and assigns of the parties to this Agreement. The covenants of Borrower and Landlord respecting subordination of the claim or claims of Landlord in favor of Lender shall extend to, include, and be enforceable by any transferee or endorsee to whom Lender may transfer any claim or claims to which this Agreement shall apply. Lender need not accept this Agreement in writing or otherwise to make it effective. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana. If Landlord is other than an individual, any agent or other person executing this Agreement on behalf of Landlord represents and warrants to Lender that he or she has full power and authority to execute this Agreement on Landlord's behalf. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is in writing and signed by Lender. Without notice to Landlord and without affecting the validity of this Consent, Lender may do or not do anything it deems appropriate or necessary with respect to the Loan, any obligors on the Loan, or any Collateral for the Loan; including without limitation extending, renewing, rearranging, or accelerating any of the Loan indebtedness.

AMENDMENTS. This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

NO WAIVER BY LENDER. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Landlord, shall constitute a waiver of any of Lender's rights or of any of Landlord's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

SEVERABILITY. If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code:

Agreement. The word "Agreement" means this Landlord's Release and Consent, as this Landlord's Release and Consent may be amended or modified from time to time, together with all exhibits and schedules attached to this Landlord's Release and Consent from time to time.

Borrower. The word "Borrower" means WHITEFISH COMMUNITY AQUATIC & HEALTH CENTER and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Collateral. The word "Collateral" means all of Borrower's right, title and interest in and to all the Collateral as described in the Collateral Description section of this Agreement.

Landlord. The word "Landlord" means CITY OF WHITEFISH, A MUNICIPAL CORPORATION, and is used for convenience purposes only. Landlord's interest in the Premises may be that of a fee owner, lessor, sublessor or lienholder, or that of any other holder of an interest in the Premises which may be, or may become, prior to the interest of Lender.

Lease. The word "Lease" means that certain lease of the Premises, dated _____, between Landlord and Borrower..

Lender. The word "Lender" means Glacier Bank, its successors and assigns.

Loan. The word "Loan" means any and all loans and financial accommodations from Lender to Borrower whether now or hereafter existing, and however evidenced.

Note. The word "Note" means the Note dated August 7, 2013 and executed by WHITEFISH COMMUNITY AQUATIC & HEALTH CENTER in the principal amount of $3,424,266.46, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.

Premises. The word "Premises" means the real property located in FLATHEAD County, State of Montana, commonly known as 1250 BAKER AVENUE, WHITEFISH, MT 59937.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.

BORROWER AND LANDLORD ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS LANDLORD'S RELEASE AND CONSENT, AND BORROWER AND LANDLORD AGREE TO ITS TERMS. THIS AGREEMENT IS DATED AUGUST 7, 2013.

BORROWER:

WHITEFISH COMMUNITY AQUATIC & HEALTH CENTER

By:_____
VICKI HILL, President of WHITEFISH COMMUNITY AQUATIC & HEALTH CENTER

By:_____
DANIEL WEINBERG, Treasurer of WHITEFISH COMMUNITY AQUATIC & HEALTH CENTER

LANDLORD:

CITY OF WHITEFISH, A MUNICIPAL CORPORATION

By:_____
CHUCK STEARNS, CITY MANAGER of CITY OF WHITEFISH, A MUNICIPAL CORPORATION

LENDER:

GLACIER BANK

X_____
Authorized Officer

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DRAFT

From City lease of WAVE document

the initial lease term began on February 1, 2005. The rental terms and related lease terms applicable to the option terms shall be identical to the terms contained herein.

18. Exclusive Use. While leasing from the City the Nonprofit shall have exclusive use of the land, the Wave and related improvements, and shall be entitled to reasonably limit, control and schedule use of the Wave in a manner that it deems appropriate, subject to the goals and restrictions set forth herein. In limiting, controlling and scheduling the use of the Wave the Nonprofit shall not unlawfully discriminate against any individual or group. The Nonprofit shall be entitled to use the Wave for its own fundraising activities or for other community fundraising activities, so long as it does so without unlawful discrimination against any individual or group.

19. No Assignment. The lease of the land, the Wave and related improvements by the City to the Nonprofit shall not be assigned without the prior written approval of the City Council. The Nonprofit may sublet portions of the Wave only as set forth in paragraphs 3 and 4.

20. Non-Profit Qualification. Through the entire term of the lease to the Nonprofit of the land, the Wave and related improvements, the Nonprofit shall remain a non-profit corporation, qualified as such under § 501(c)(3) of the Internal Revenue Code. The failure to maintain qualification as a non-profit corporation under § 501(c)(3) of the Internal Revenue Code shall be considered a material breach of this Agreement; provided, however, that if because of changes in federal tax law it becomes impossible for the Nonprofit to maintain qualification under § 501(c)(3), then it shall not be considered a material breach.