CITY COUNCIL WORK SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
TUESDAY, SEPTEMBER 3, 2013, 5:00 to 7:00 PM

1. Call to Order

2. 5:00 – 5:50 p.m. – Update on feasibility of Business Improvement District or other assessment district for parking structure operations and maintenance (O&M) costs

3. 5:50 – 6:50 - Discuss petitioning Montana Fish, Wildlife & Parks to restrict motorized watercraft from a portion of the Whitefish River and designate a portion of the Whitefish River as Montana's first urban non-motorized waterway (see documents in Public Hearing portion of regular agenda)

4. Public Comment

5. Adjournment

MEMORANDUM

#2013-037

To: Mayor John Muhlfeld
City Councilors

From: Chuck Stearns, City Manager

Re: Business Improvement District (BID) or other assessment district for Parking Structure O&M costs – update and request for direction/concurrence

Date: August 28, 2013

On May 20, 2013, the City Council, on a 4-3 vote with the Mayor breaking a 3-3 tie, approved the following motion:

> *Mayor Muhlfeld said there is a motion on the floor to approve structured parking with a city hall, and in parallel staff will research and bring back whether the feasibility for a BID by the September 3, Council Meeting. Staff has indicated it wouldn't be a completed BID at that time but they would bring back a proposal with parameters for the creation of a BID.*

A BID/Assessment District working group was formed to research and work on concepts for such a district. The working group consists of the following members:

Dave Boye –	Chamber of Commerce representative
Marcus Duffey -	Chamber of Commerce representative
Dale Reisch -	Heart of Whitefish representative
Chris Schustrom -	Heart of Whitefish representative
Necile Lorang -	City staff – Administrative Services Director/City Clerk
Rich Knapp -	City staff – Assistant City Manager/Finance Director
Chuck Stearns -	City Staff – City Manager

The working group met three times (July 22, August 2, August 14) , to discuss and analyze the various options for assessment districts and the parameters for such a district. They also reviewed and commented on this memo. The primary issues are discussed below.

Types of Assessment Districts

There appear to be three types of assessment districts that would work for parking structure O&M costs. Four different options were reviewed, but only three appear to be viable. The four types of assessment districts and their attributes are described in an attached chart.

The working group decided to focus on the Special Improvement District (SID) (7-12-4101 et. seq. MCA) for the following reasons:

- Many downtown Whitefish businesses are familiar with an SID because there is currently a parking SID (SID#155) in effect.
- One or two people felt that, because the City Council initiated the construction of the parking structure, the City Council, not the business owners, should initiate the assessment district.
- Rather than requiring a petition from 60% or 100% of the business owners to initiate the district, a SID does not require a petition to initiate it. The City Council can initiate the district.
- Affected property owner can prevent the district if property owners bearing more than 50% of the cost protest the creation of the district.
- The SID laws allow the off-street parking method of assessment such as was done with SID #155 (see attachment for assessment variables allowed by 7-12-4165 MCA)

The working group would like direction or concurrence from the City Council on the method of assessment to pursue.

Annual cost of O&M for parking structure

The working group began discussion of the annual cost estimates for the O&M of the new parking structure. I presented information from Kimley – Horn and Associates that annual O&M costs might be in the $100,000 to $125,000 range (see attachment in packet - $492 per space per year cost). Chris Schustrom disagreed with that estimated level of cost because other parking structures in Montana do not spend nearly that level for annual O&M costs. He cited information gathered from Missoula, Bozeman, Billings, and the National Parking Maintenance Manual:

Missoula downtown structure - $24,000 - $36,000 annual O&M costs for 265 space structure

Bozeman - $146 per space per year for O&M –multiplied by the number of spaces in our proposed structures (216 -244) would equal $31,536 - $25,624.

Billings – they aggregate costs for 3 structures – probably $30,000 - $50,000 for a similar structure

National Parking Association – 2001 study of one structure - $147/space per year therefore $31,752 - $35,868 for a structure of 216-244 spaces.

Crandall Arambula – they felt $250/space/year for maintenance would be upper limit, therefore $54,000 - $61,000.

After discussion, the working group felt comfortable in the range of $50,000 to $75,000 which would include a reserve for replacement of $10,000 to $15,000 per year (i.e. for an elevator or

other high-cost item). However, the annual O&M costs could change once we are in design for a parking structure and once it opens and is operating.

Leasing of some spaces and lease revenue

The working group also discussed revenues that could be generated from leased spaces. Leased spaces make up a large part of the occupancy of parking structures researched in Missoula, Bozeman, and Billings. We are all in agreement that any lease revenue from the parking structure should be used to pay for annual O&M costs of the parking structure and thereby reduce the assessment on property owners. Depending on the extent and fee for the leased parking spaces, the lease revenue could pay for a significant portion of the annual O&M and reserve cost.

It is quite possible that the number of spaces to be leased will fluctuate in the future. A goal of any new parking structure is obtain a high amount of use as soon as possible so people are accustomed to using the parking structure. Leased spaces can help achieve high use, especially early on. Then later, as there is more demand for retail parking, the number of leases might be reduced.

Our lease experience in the 3rd and Central lot and in the old lot at 2nd and Spokane was as follows:

3rd and Central – four 24 hour spaces and thirteen 12 hour spaces. Our rate initially was $20 per month for the 12 hour spaces and $25 per month for the 24 hour spaces.

2nd and Spokane – four 24 hour spaces and twenty-six 12 hour spaces. Lease rates were the same.

When we rebuilt the 2nd and Spokane lot, the City Council declined to do any leases in the rebuilt lot, leaving it just for retail parking. The 3rd and Central lot was turned into retail only parking while Central Avenue was re-built to offset the loss of some on street parking on Central. When the Central Avenue project was completed, the City Council has declined, so far, to restore any lease spots in the 3rd and Central lot.

During the reconstruction of Central Avenue, initially we moved the leased spaces to the temporary parking lot at Block 46 (Third and Spokane). However, the City Council at the same time, decided to increase the lease rate from $20 to $40 per month for a 12 hour space and from $25 to $50 per month for a 24 hour space. After one quarter, everyone stopped leasing the spaces in that lot because it was further away from their business, the rate increase, and the fact that there was plenty of free parking in the same parking lot.

Prior to the change, all of the spaces in the 3rd and Central lot were leased and there was a waiting list. Typically all of the spaces at the 2nd and Spokane lot were leased, but there was more turnover and no waiting list.

It is always good to lease the top level of any parking structure to ensure that this level gets used. If we started out leasing the top two levels of the parking structure and left the bottom level for retail, in one design that would mean leasing 135 spaces. The other design (City Hall on Baker) has 190 spaces on levels 2 and 3 with only 43 on level 1, so we likely want more retail spaces than 43.

For example, if we leased 135 spaces initially for $40 per month, that would equal $64,800 of annual revenue, which could pay all of the O&M. If we only leased 70 spaces initially, that would equal $33,600 of annual revenue, leaving $36,400 for the assessments. Of course in any leasing scheme, we might have a higher cost for the covered spaces and a lower cost for the roof top spaces. Also, it is likely that City Hall employee parking might be on the top level and that will be 40-50 spaces of lease revenue.

At least one member of the committee is concerned that there may not be enough demand for leased spaces, so we may not attain the revenues discussed above.

Boundaries of Assessment District

The working group looked at assessment boundaries primarily using circles with a radius from the center of the parking structure as that was the method used for the SID #155 Downtown Parking SID. However, that parking SID had three lots with 5 levels of assessment for each of the three lots, so its formulation was very complex. The working group also looked at going block by block, but we felt that using circles resulted in an assessment that was less likely to be challenged as being unfair or arbitrary. Whether a lot was included in the SID 155 tiers depended on whether more than 50% of the lot was inside a respective circle, which seems fair.

The working group evaluated circles with a radius from the center of the parking structure of 300 feet, 600 feet, 660 feet (1/8th mile corresponding to Crandall and Arambula retail planning circle), 900 feet, 1200 feet, and 1320 feet (1/4 mile corresponding to Crandall and Arambula retail planning circle). After considering many factors, the working group's consensus was to begin by using two circles of 660 foot radius and 1,320 foot radius. See the attached map.

These two circles were felt to represent the very direct beneficiaries of a parking structure (660 foot radius) and the less direct beneficiaries (1,320 feet). Within those circles, we would exclude assessing any single family and duplex residential units. Whether to assess multi-unit complexes as a commercial use is still under consideration and requires some more research. We would likely use the Department of Revenue classification differences as guidance for those types of property. Any BNSF properties outside of City limits would not be assessed.

When to begin assessments

The working group also discussed when to begin assessments. Obviously a district could be formed before the parking structure is built, but we would not want to or be able to assess

property for O&M until the structure is open and operating. That will depend on a construction schedule which is not yet available.

Based on preliminary discussions with a handful of downtown property owners who were involved with the creation of SID #155, the Heart of Whitefish feels that, because the Downtown Parking SID #155 assessments end after the fall 2015 assessments, it could be acceptable to downtown businesses to begin any new assessment on or after the fall 2016 assessments. With the end of assessments for the construction of the SID #155 parking lots, those businesses could then more easily afford to continue some level of assessment, even if it were increased. It seems that this timing would also work as I doubt a parking structure would be built and opened before January of 2016. The current assessments on properties for SID #155 are typically between $200 and $300 annually. The working group also agreed that it will be important to keep downtown business/property owners informed of this process so as to avoid any misunderstanding of what is being proposed.

Summary and request for concurrence and direction

Before we formulate a concept with specific assessment levels or a range of levels to go to businesses with, we need some guidance and direction on many of the above issues.

1. Assessment District – ok with proceeding with a SID instead of BID and pursue assessment method similar to SID #155 with using variables in 7-12-4165 MCA?
2. Estimates of O&M annual costs to focus on - okay with range of $50,000 to $75,000 including a reserve of $10,000 to $15,000?
3. Clarification of what percentage of O& M costs would be assessed? –
4. Lease revenue – what assumptions should we use for lease revenue?
5. Boundaries – is the Council okay with two tiers of boundaries at 660 feet and 1,320 feet for two tiers of assessments? How different are the assessment levels between the two tiers?
6. When to begin assessments?
7. Can the City Hall committee continue on process to select an architect and bring a architectural and engineer design contract forward for consideration?
8. Does the City Council want to do any polling of businesses?

Parking O&M Assessment Options
8/26/2013

Type of District	Statutory Authorization	Assessment Options	Who Initiates	Duration	Other Aspects
Business Improvement District	7-12-1101 et. seq. MCA	Area, per lot, taxable valuation, square footage and flat fee	Initiated by a petition of owners of more than 60% of the area of the property proposed for inclusion in district	Not more than 10 (ten) years at a time	Creates a separate board to run district Protest above 50% prevents it
Special District	7-11-1001 et. seq. MCA	Area, per lot, taxable valuation lineal front footage, vehicle trips mill levy or any combination	Initiated by petition of 40% of registered voters or 40% of owners of real property	Determined in petition	Definition excludes parking districts, BID's, SID's, so did not pursue
Off Street Parking Improvement District	7-14-4701 et. seq. MCA	Area, taxable value, equal amount, lineal front footage, utility service connections, off-street parking options (7-12-4165)	Petition from 100% of real property owners in district	Determined in petition	Can issue bonds
Special Improvement District	7-12-4101 et. seq. MCA	Area, taxable value, equal amount, lineal front footage, utility service connections, off-street parking options (7-12-4165)	City Council initiates by Resolution of Intention	cannot exceed 20 years	Protest from property owners bearing more than 50% of the cost of proposed work prevents it

Montana Code Annotated 2011

7-12-4102. Authorization for creation of special improvement districts -- petition for creation. (1) The city or town council may:

(a) create special improvement districts, designating them by number;

(b) extend the time for payment of assessments levied upon the districts for district improvements for a period not exceeding 20 years or, if refunding bonds are issued pursuant to 7-12-4194, for a period not exceeding 30 years;

(c) make the assessments payable in installments; and

(d) pay all expenses of whatever character incurred in making the improvements with special improvement warrants or bonds.

(2) Whenever the public interest or convenience requires, the city council may:

(a) create special improvement districts for acquiring by purchase, building, constructing, or maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water;

(b) create special improvement districts for acquiring by purchase or building and constructing municipal swimming pools and other recreation facilities;

(c) create special improvement districts and order the whole or a portion, either in length or width, of one or more of the streets, avenues, alleys, or places or public ways of the city:

(i) graded or regraded to the official grade;

(ii) planked or replanked;

(iii) paved or repaved;

(iv) macadamized or remacadamized;

(v) graveled or regraveled;

(vi) piled or repiled;

(vii) capped or recapped;

(viii) surfaced or resurfaced;

(ix) oiled or reoiled;

(d) create special improvement districts and order the acquisition, construction, or reconstruction within the districts of:

(i) sidewalks, crosswalks, culverts, bridges, gutters, curbs, steps, parkings (including the planting of grassplots and setting out of trees);

(ii) sewers, ditches, drains, conduits, and channels for sanitary or drainage purposes, with outlets, cesspools, manholes, catchbasins, flush tanks, septic tanks, connecting sewers, ditches, drains, conduits, channels, and other appurtenances;

(iii) waterworks, water mains, and extensions of water mains;

(iv) pipes, hydrants, and hose connections for irrigating purposes;

(v) land, structures, and appliances for fire protection;

(vi) tunnels, viaducts, conduits, subways, breakwaters, levees, retaining walls, bulkheads, and walls of rock or other material to protect them from overflow or injury by water;

(vii) the opening of streets, avenues, and alleys and the planting of trees on the streets, avenues, and alleys;

(e) create special improvement districts and order the construction or reconstruction in, over, or through property or rights-of-way owned by the city of:

(i) tunnels, sewers, ditches, drains, conduits, and channels for sanitary or drainage purposes, with necessary outlets, cesspools, manholes, catchbasins, flush tanks, septic tanks, connection sewers, ditches, drains, conduits, channels, and other appurtenances;

(ii) pipes and hose connections for irrigating and hydrants and appliances for fire protection;

(iii) breakwaters, levees, retaining walls, and bulkheads; and

(iv) walls of rock or other material to protect the streets, avenues, lanes, alleys, courts, places, public ways, and other property in the city from overflow by water;

(f) create special improvement districts to make monetary advances or contributions to aid in the construction of additional natural gas and electric distribution lines and telecommunications facilities in order to extend those public utility services;

(g) create special improvement districts and order work to be done that is considered necessary to improve the whole or a portion of the streets, avenues, sidewalks, alleys, places, or public ways, property, or right-of-way of the city;

(h) create special improvement districts to acquire and improve by purchase, gift, bequest, lease, or other means land to be designated as public park or open-space land;

(i) create special improvement districts for the conversion of overhead utilities to underground locations in accordance with 69-4-311 through 69-4-314;

(j) create special improvement districts for the purchase, installation, maintenance, and management of alternative energy production facilities; and

(k) maintain, preserve, and care for any of the improvements authorized in this section.

(3) The city governing body may order and create a special improvement district upon the receipt of a petition to create a special improvement district that contains the consent of all of the owners of property to be included in the district.

(4) The city governing body may order and create special improvement districts covering projects abutting the city limits and include properties outside the city when the special improvement district abuts and benefits that property. Properties within the proposed district boundaries outside the city may not be included in the special improvement district if, under the assessment methodology provided in the resolution of intention, the owners of lots, tracts, or parcels outside the city representing not less than 40% of the total projected assessments against properties outside the city protest the creation of the special improvement district. The property outside the city must be treated in a similar manner as to improvements, notices, and assessments as the property inside the city limits. A joint resolution of the city and county must be passed agreeing to the terms of the

special improvement district prior to passing the resolution of intention or the resolution creating the special improvement district. A copy of the resolution of intention and the resolution creating the special improvement district must be provided to the county commissioners upon the passage of the respective resolutions.

History: (1)En. Subd. 80, Sec. 5039, R.C.M. 1921; amd. Sec. 1, Ch. 115, L. 1925; amd. Sec. 1, Ch. 20, L. 1927; re-en. Sec. 5039.79, R.C.M. 1947; amd. Sec. 11, Ch. 234, L. 1971; Sec. 11-982, R.C.M. 1947; (2)En. Sec. 2, Ch. 89, L. 1913; amd Sec. 1, Ch. 142, L. 1915; amd. Sec. 1, Ch. 175, L. 1919; re-en. Sec. 5226, R.C.M. 1921; re-en. Sec. 5226, R.C.M. 1935; amd. Sec. 1, Ch. 32, L. 1961; amd. Sec. 1, Ch. 206, L. 1965; Sec. 11-2202, R.C.M. 1947; R.C.M. 1947, 11-982, 11-2202(part); (3)En. Sec. 2, Ch. 342, L. 1981; amd. Sec. 27, Ch. 665, L. 1985; amd. Sec. 1, Ch. 116, L. 1987; amd. Sec. 5, Ch. 449, L. 1989; amd. Sec. 1, Ch. 54, L. 1991; amd. Sec. 2, Ch. 250, L. 1993; amd. Sec. 4, Ch. 591, L. 2001; amd. Sec. 2, Ch. 93, L. 2007; amd. Sec. 1, Ch. 163, L. 2007.

Provided by Montana Legislative Services

Montana Code Annotated 2011

7-12-4165. Assessment of costs -- offstreet parking option. (1) When the purpose of the assessment is for the establishment and/or improvement of offstreet parking as provided in this section, the city council or commission shall assess, against the real property specifically benefited by the offstreet parking facilities, the cost of the developments involved in proportion to the benefits received by each benefited tract of land within said district.

(2) In determining the benefit to be received by each parcel of land, the council or commission shall consider:

(a) the relative distance of the parking facility from each parcel of land within the area of the special improvement district;

(b) the relative needs of parking spaces for each parcel of land located within the boundaries of said district, either as established by the city zoning ordinance, if any, or otherwise, with relation to the use of said parcel;

(c) the assessed value of each parcel within said district;

(d) the square footage of each parcel within said district as it relates to the whole;

(e) the square footage of floorspace in any improvements on the parcel and the various uses of such floorspace;

(f) the availability of existing onsite parking space on any parcel of land within the district.

History: En. Sec. 14, Ch. 89, L. 1913; re-en. Sec. 5238, R.C.M. 1921; amd. Sec. 1, Ch. 163, L. 1925; re-en. Sec. 5238, R.C.M. 1935; amd. Sec. 1, Ch. 39, L. 1955; amd. Sec. 1, Ch. 330, L. 1971; amd. Sec. 1, Ch. 85, L. 1973; R.C.M. 1947, 11-2214(part); amd. Sec. 40, Ch. 665, L. 1985.

Provided by Montana Legislative Services

The amount recommended for maintenance reserve set-asides vary by the age of the facilities. The table below provides some general guidelines:

Age of Deck	*Cost*	100
0-10 years	$75-$200/space/year	
10-20 years	$300-$400/space/year	
20+ years	$500/space/year	

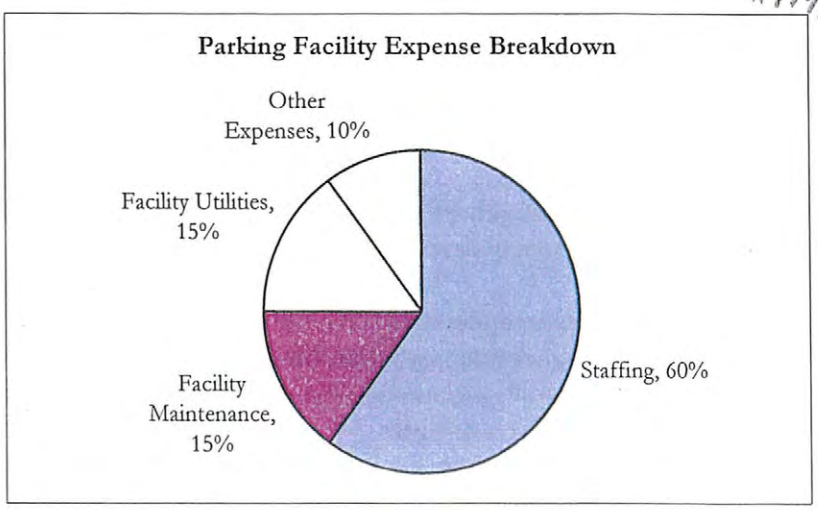
Expenses by Major Category

The table below breaks down typical parking garage operating expenses by major categories:

Expense Item	Expense Range (per space)	
Labor	$230 - $350	100
Maintenance	$30 - $100	100
Utilities	$50 - $100	100
Other Expenses	$40 - $60	60
Management Fee/Overhead	$25 - $50	
Insurance	$7 - $25	25
Marketing	$5 - $7	7
Total Range	**$387 - $692**	492

Note: Assumes traditional exit cashier facility. Does not include security. $492 X 233 spaces = $114,636

Maintenance costs are identified in the $30 - $100 annual cost per space range or approximately 15% of annual operating expense costs.



36 31 22

SCALE 1" = 400'

THIS MAP IS PREPARED ONLY FOR THE ADMINISTRATIVE USE OF FLATHEAD COUNTY AND IS NOT NECESSARILY AN ACCURATE REPRESENTATION OF THE LOCATION OR EXISTENCE OF TRACTS OF RECORD, THEIR BOUNDARIES OR EASEMENTS AND ROADWAYS.

92 L.7 B.2 GOJENDES TR ADD 1
RET. L.14, 13 W8' B.2 RIVERVIEW ADD
RETRACE L.19-23 B.33 WFSH
RETRACE L.12,13 B.2 RIVERVIEW ADD
RETRACE L.16,17 B.54 WFSH
RET. N150' L.9 B.2 GOJENDES TR
5BE,5BEA,5BEAA,5BEAB,5J,5HA BDY ADJ
RETRACE L.8,9,10,11 E6' B.38 WFSH
RETRACE L.5, 6, N2 7 B.40 WFSH
PT L.11,12 RIVERSIDE IMP CO AC
5FAA, 5FAAA
RETRACE L.1,2,3,9,10,11,12 B.11
/ERSIDE ADD
L.3,7,8 B45 WFSH & RETRACE L.9
D PLAT L.9,10 B.45 WFSH
L.3 B.2 WFSH LAND CO ADD 1
RIVERVIEW ADD W62.3' L.8 B.6
RIVERSIDE IMP CO AC POR. L.9
RET.BLK.1 GOJENDES EX W 275'
RET. L.12,13 B.2 RIVERSIDE ADD
L.1,5,6 B.1 NORTHS SUB S. WFSH
RETRACE L.8,9,10 B.53 WFSH
RETRACE L.4 B.7 RIVERSIDE ADD
RETRACE L.23, 24 B.59 WFSH
RETRACE L.23 B.37 WFSH
RETRACE L.19-22 B.59 WFSH
RETRACE L.19 B.37 WFSH
RET. POR L.7,8 B.1 RIVERSIDE ADD
RET.N LINE L.7 B.3 RIVERSIDE ADD
RETRACE L.1-4 B.5 S WFSH
RETRACE L.3 B.25 WFSH
RET.L.2 B.7 WFSH LAND CO ADD 1
RET. L.1 2,3 BLK.2 RIVERVIEW
RETRACE L.3 B.1 RIVERVIEW ADD
RETRACE L.1,2 B.3 RIVERVIEW ADD
RETRACE L.1 B.2 SOUTH WFSH
RETRACE L.11,12 B.53 WFSH
RETRACE L.14 B.2 RIVERSIDE ADD,
AMD L.15 B.2 RIVERSIDE ADD
RET. L.8 B.3 SOUTH WFSH ADD 1
RET. L1,2,3,4 B.4 RIVERSIDE ADD
RETRACE L.1 B.1 RIVERVIEW ADD
RET. E50' & W L.1,2,3 & L.9,10,11,
& VAC ALLEY B.11 RIVERSIDE ADD
3AE
RETRACE L.2 B.1 RIVERVIEW ADD
RETRACE 5BA
RETRACE LINE 8A, 8AD,
:, 8AB, 8AA, 3D
RETRACE 1CE
RETRACE L.1 E90', L.2&3,
E2 B.1 SOUTH WFSH ADD 1
RETRACE PTN L.23, 24, 25
.38 WFSH
RETRACE 6A, 8AA, 7C, 7AA
RETRACE 1ABCA
RETRACE L.14&15 B.50 WHITEFISH
RETRACE L.8 B.3 RIVERSIDE ADD
5B BDY ADJ
RETRACE L.10, 11 B.49 WHITEFISH
RETRACE L.12, B.6 RIVERSIDE ADD &
B.2 WTCSACT 1ST ADD
L. 13 PTN RIVERSIDE IMP. CO. AC. ESMT
RETRACE L.15-18 B. 38 WHITEFISH
RETRACE PT B.38-39&42-44 WHITEFISH
RETRACE PT B.53 WHITEFISH
RETRACE L.4&2, 5-8 B.68 WHITEFISH
RETRACE L15,16 B51 WHITEFISH
RETRACE L.6 S22.5' & L.7 B.39 WFSH
RETRACE L.1,2,3 B. 47 WFSH
RETRACE L.11&12 B.14 RIVERSIDE ADD
RETRACE L.1,2 & ABD ST B.58 WFSH
RETRACE L.8 BLK.25 WFSH
RETRACE L.3 BLK.8 WFSH ADD 1
RETRACE L.4 B.5 WFSH LAND CO ADD 1
RETRACE LINE
RETRACE W2 L.7 B.5 RIVERVIEW ADD TO WF
RETRACE L2-4 W18', L2-4 E22' OF W40' WF
RETRACE L.1&2 B.6 RIVERVIEW ADD TO WF
RETRACE 2G, 2DC
RETRACE L.1 B.38 WFSH
RETRACE L.18, 19, 20 B.49 WFSH
RETRACE 2, 5G
RETRACE & EASEMENT L.2, 3, 4N50'
B.4 RIVERSIDE ADD
RETRACE L.11 B.3 WELLS GRANT ADD
RETRACE 6AA
B0B, 5BGA, 5BGBA, 5BGAA FT
RETRACE L.5 & 6 B.12 RIVERSIDE ADD
RETRACE W60'L.8B.4 MCKEENS SUB
RETRACE L.8 WFSH LAND 1ST ADD
RETRACE L.2, B.12 RIVERSIDE ADD
RETRACE LINE OF E100' OF S175
L.13 B.57 WFSH
RETRACE L.12-18 B.3
TR.9, B.2 RIVERSIDE ADD WF
RETRACE L.1 RESUB L7,9, B5 RIVERSIDE ADD
RETRACE L.20-24 B.51 WFSH

Crandall Arambula suggestion to have assessment district circles from center of retail district so as any future parking lots are added, the circles would not have to be adjusted

For documents related to the work session item on petitioning Montana Fish, Wildlife & Parks to restrict motorized watercraft from a portion of the Whitefish River and designate a portion of the Whitefish River as Montana's first urban non-motorized waterway, please refer to the documents in the packet under the regular agenda item as a Public Hearing.

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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 Tuesday,
September 3, 2013, at **7:10 p.m.** at City Hall, 402 East Second Street.

Ordinance numbers start with 13-06. Resolution numbers start with 13-26.

1) CALL TO ORDER

2) PLEDGE OF ALLEGIANCE

3) PRESENTATION – Annual reading of Resolution No. 08-34 – Family Day – A day to eat dinner with your children – September 23, 2013 (p. 32)

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 19, 2013 Council regular session (p. 34)
   b) Consideration of approving application from Houston Point Homeowners for Whitefish Lake Lakeshore Variance (#WLV-13-W28) at Houston Drive to Variance to add 24 square feet/8' feet in length to existing gangways on 4 docks at a private marina to extend the length of the existing docks to 78 feet and subject to 10 conditions (p. 58)
   c) Consideration of approving application from Westridge Investments, LLC for Whitefish Lake Lakeshore Permit (#WLP-13-W25) at 2454 Birch Glen Road for replacement of wooden stairs subject to 6 conditions (p. 92)
   d) Consideration of approving application from State of Montana for Whitefish Lake Lakeshore Permit (#WLP-13-W30) at the Montana State Park on State Park Road to replace the public boat launch subject to 16 conditions (p. 106)
   e) Consideration of application for final plat approval – Papp subdivision – 2 lot re-subdivision of Lot 42 Mountain Park subdivision (p. 119)

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 13-___; A Resolution to approve a petition to the Montana Department of Fish, Wildlife & Parks to restrict motorized watercraft from a portion of the Whitefish River and designate a portion of the Whitefish River as Montana's first urban non-motorized waterway (p. 145)
b) Consideration of an application from Marty Beale for a Conditional Use Permit for a professional office and tri-plex at 118 W. 2nd Street subject to 11 conditions (p. 152)
c) Consideration of an application from Kevin and Melinda Johnson for a Conditional Use Permit for a guest house at 815 Delrey Road subject to 6 conditions (p. 191)
d) Consideration of an application from Corrie Colbert and Neil Stuber for a Conditional Use Permit for a temporary expansion of a Home Occupation Permit for Hurraw Lip Balm at 103 Dakota Avenue subject to 3 conditions (p. 229)
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. 243)
f) Ordinance No. 13-___; An Ordinance approving the East 2nd Street Multi-Family/Condominium Planned Unit Development (PUD) overlay (1st Reading) (p. 246)

8) COMMUNICATIONS FROM CITY MANAGER
a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 813)
b) Other items arising between August 28th and September 3rd

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS
a) Standing budget item
b) Letter from Nicholas Chickering regarding proposed annexation of Whitefish Summer Lake Homes Addition #1 lots, some of which are on Jennings Lakeside Road (p. 817)

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 28, 2013

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

Mayor Muhlfeld and City Councilors:

Tuesday, September 3, 2013 City Council Agenda Report

There will be a work session at 5:00 p.m. on the assessment 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 19, 2013 Council regular session (p. 34)
b) Consideration of approving application from Houston Point Homeowners for Whitefish Lake Lakeshore Variance (#WLV-13-W28) at Houston Drive to Variance to add 24 square feet/8' feet in length to existing gangways on 4 docks at a private marina to extend the length of the existing docks to 78 feet and subject to 10 conditions (p.58)
c) Consideration of approving application from Westridge Investments, LLC for Whitefish Lake Lakeshore Permit (#WLP-13-W25) at 2454 Birch Glen Road for replacement of wooden stairs subject to 6 conditions (p. 92)
d) Consideration of approving application from State of Montana for Whitefish Lake Lakeshore Permit (#WLP-13-W30) at the Montana State Park on State Park Road to replace the public boat launch subject to 16 conditions (p. 106)
e) Consideration of application for final plat approval – Papp subdivision – 2 lot re-subdivision of Lot 42 Mountain Park subdivision (p. 119)

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

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

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

a) Resolution 13-___; A Resolution to approve a petition to the Montana Department of Fish, Wildlife & Parks to restrict motorized watercraft from a portion of the Whitefish River and designate a portion of the Whitefish River as Montana's first urban non-motorized waterway (p. 145)

City Attorney Mary VanBuskirk prepared the Resolution in consultation with Council member Richard Hildner. Richard Hildner also prepared some reasons for the resolution and that, along with maps, are in the packet.

RECOMMENDATION: Staff respectfully recommends the City Council consider the testimony at the public hearing and decide whether to approve A Resolution to approve a petition to the Montana Department of Fish, Wildlife & Parks to restrict motorized watercraft from a portion of the Whitefish River and designate a portion of the Whitefish River as Montana's first urban non-motorized waterway.

This item is a legislative matter.

b) Consideration of an application from Marty Beale for a Conditional Use Permit for a professional office and tri-plex at 118 W. 2nd Street subject to 11 conditions (p. 152)

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

Summary of Requested Action: Marty Beale on behalf of the Eighth Street llc is requesting approval of a Conditional Use Permit to have multiple primary uses on one lot – a professional office and triplex at 118 W 2nd Street. The property is currently developed with a single family home. The property is zoned WR-3 (Low Density Multi-family Residential District). The Whitefish Growth Policy designates this property as "High Density Residential".

Planning Board Action: The Whitefish City-County Planning Board met on August 15, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with ten (10) conditions as contained in the staff report and adopted the staff report as findings of fact. (Blake, Konapatzke and Smith were absent) In addition, the Planning Board added one condition:

11. The applicant shall obtain a 310 permit from the Flathead Conservation District.

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with ten (10) conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the hearing. The draft minutes for this item are attached as part of this packet.

There is a full staff report and other documents in the packet.

RECOMMENDATION: Staff respectfully requests that the City Council, after considering public testimony, the Planning Board recommendation, and the staff recommendation, approve a Conditional Use Permit for a professional office and tri-plex at 118 W. 2nd Street subject to 11 conditions.

This item is a quasi-judicial matter.

c) Consideration of an application from Kevin and Melinda Johnson for a Conditional Use Permit for a guest house at 815 Delrey Road subject to 6 conditions (p. 191)

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

Summary of Requested Action: Bruce Boody on behalf of Kevin and Melinda Johnson is requesting approval of a Conditional Use Permit to have a guest house at 815 Delrey Road. The property is currently developed with a single family home that will become the guest house. The property is zoned WSR (Suburban Residential District). The Whitefish Growth Policy designates this property as "Suburban Residential".

Planning Board Action: The Whitefish City-County Planning Board met on August 15, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with six (6) conditions as contained in the staff report and adopted the staff report as findings of fact. (Blake, Konapatzke and Smith were absent)

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

Public Hearing: No one spoke at the hearing. The draft minutes for this item are attached as part of this packet.

There is a full staff report and other documents in the packet.

RECOMMENDATION: Staff respectfully requests that the City Council, after considering public testimony, the Planning Board recommendation, and the staff recommendation, approve a Conditional Use Permit for a guest house at 815 Delrey Road subject to 6 conditions.

This item is a quasi-judicial matter.

d) Consideration of an application from Corrie Colbert and Neil Stuber for a Conditional Use Permit for a temporary expansion of a Home Occupation Permit for Hurraw Lip Balm at 103 Dakota Avenue subject to 3 conditions (p. 229)

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

Summary of Requested Action: Neil Stuber and Corrie Colbert on behalf of Hurraw! Balm llc are requesting approval of a Conditional Use Permit to temporarily allow an expanded home occupation at 103 Dakota Avenue. The property is currently developed with a single family home. The property is zoned WR-2 (Two-Family Residential District). The Whitefish Growth Policy designates this property as "Urban Residential".

Planning Board Action: The Whitefish City-County Planning Board met on August 15, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with three (3) conditions as contained in the staff report and adopted the staff report as findings of fact. (Blake, Konapatzke and Smith were absent)

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with three (3) conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the hearing. The draft minutes for this item are attached as part of this packet.

There is a full staff report and other documents in the packet.

RECOMMENDATION: Staff respectfully requests that the City Council, after considering public testimony, the Planning Board recommendation, and the staff recommendation, approve a Conditional Use Permit for a temporary expansion of a Home Occupation Permit for Hurraw Lip Balm at 103 Dakota Avenue subject to 3 conditions.

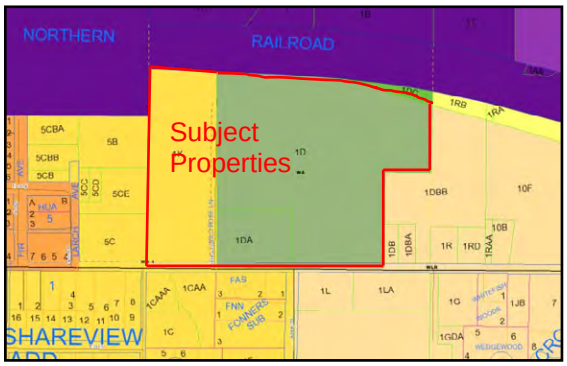
This item is a quasi-judicial matter.

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. 243)

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.

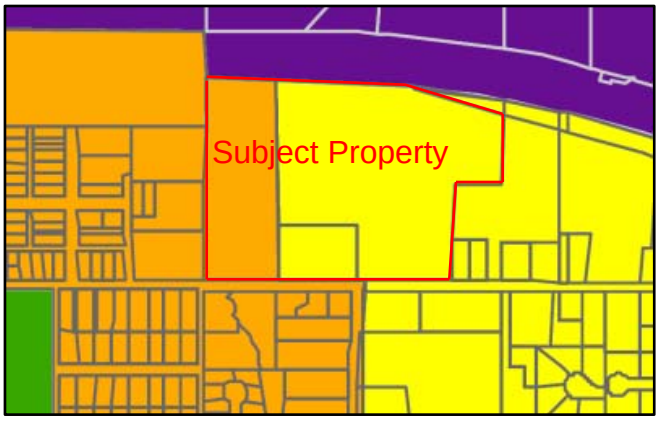
	WER (proposed zoning)	**WA (existing zoning)**
Minimum lot area:	20,000 s.f.	15 acre
Front yard setback:	25 feet	50 feet
Side yard setback:	15 feet	20 feet
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	30% maximum	20% maximum for 2 acres or less; 10% maximum 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. There are also the questions from the Mayor and City Council after the public hearing and the staff and applicant's responses to the questions.

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. 246)

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)

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

[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.

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.

In the packet, there are also the questions from the Mayor and City Council after the public hearing and the staff and applicant's responses to the questions.

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. 813)
b) Other items arising between August 28th and September 3rd.

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

a) Standing budget item
b) Letter from Nicholas Chickering regarding proposed annexation of Whitefish Summer Lake Homes Addition #1 lots, some of which are on Jennings Lakeside Road (p. 817)

Sincerely,

Chuck Stearns
City Manager

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

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RESOLUTION NO. 08-34

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, PROCLAIMING THE FOURTH MONDAY OF EVERY SEPTEMBER AS "FAMILY DAY – A DAY TO EAT DINNER WITH YOUR CHILDREN™."

WHEREAS, the use of illegal and prescription drugs and the abuse of alcohol and nicotine constitute the greatest threats to the well-being of America's children; and

WHEREAS, thirteen years of surveys conducted by The National Center on Addiction and Substance Abuse ("CASA") at Columbia University have consistently found that the more often children and teenagers eat dinner with the families the less likely they are to smoke, drink and use illegal drugs; and

WHEREAS, frequent family dining is associated with lower rates of teen smoking, drinking, illegal drug use and prescription drug abuse; and

WHEREAS, the correlation between frequent family dinners and reduced risk for teen substance abuse is well documented; and

WHEREAS, parents who are engaged in their children's lives – through such activities as frequent family dinners – are less likely to have children who abuse substances; and

WHEREAS, family dinners have long constituted a substantial pillar of family life in America;

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

Section 1: The Fourth Monday of every September is proclaimed as:

"Family day – a Day to Eat Dinner with Your Children™."

and Whitefish citizens are urged to recognize and participate in its observance.

Section 2: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 2ND DAY OF SEPTEMBER, 2008.

MICHAEL JENSON, MAYOR

ATTEST:

Necile Lorang, City Clerk

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WHITEFISH CITY COUNCIL MINUTES
August 19, 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, Senior Planner Compton-Ring, Public Works Director Wilson and Parks and Recreation Director Cozad. Approximately 90 people were in attendance.

2. PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked City Attorney VanBuskirk to lead the audience in the Pledge of Allegiance.

3. PRESENTATION – Update on the Whitefish High School project – Dow Powell

Dow Powell, the School District's Representative for the construction of the Whitefish High School said fall sports are underway and there are no locker rooms yet, but the gym is completed. The new cardio and weight room are outfitted with lockers, but no showers at this time. Away teams will use the Middle School locker room. The east side of the High School will be re-paved so the entrances will be completed before school starts. The A and B wings are moving along well. They anticipate roof trusses going up in September and hope to have it dried-in by winter time. They met with the Architectural Control Committee (ARC) about the foyer review. The design was tabled for further design modifications and they will be in front of the ARC again in September. The budget oversight committee met to get a report and toured the project. He said they didn't budget correctly for the building permit because they didn't know about the $63,000 for impact fees. He said they have a shortfall that has grown by about $24,000 from change orders. The good news is that they have a full price offer on the Independent School. There is a contingency that the buyer must be able to get a conditional use permit, but it is a positive step forward. The school will still have the lot next door which they will also sell. This will help to balance the budget. He said a group of folks, led by Bayard Dominick, met to discuss the launch of a fundraising project.

Councilor Mitchell said he thinks they are about $300,000 short in the budget and Dow Powell said they are about $270,000 short. Councilor Mitchell asked and Powell said the redesign is factored into these numbers. He said there have been 5 change orders since February and have affected the budget by about $40,000. Councilor Mitchell asked and Powell said Bayard Dominick is helping with the fundraising, but his contract with the project is completed.

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**)**

Mayor Muhlfeld asked the public to keep their comments succinct due to the length of the agenda tonight. No one wished to speak.

5. COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Hyatt said the Park Board did not meet this week due to a lack of quorum.

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

6a. Minutes from the August 5, 2013 Council regular session (p. 127)

6b. Consideration of approving application from James D. Hill for Whitefish Lake Lakeshore 6c. Variance (#WLV-12-W39A) at 2726 Plaza Road to amend existing variance permit to include replacement of stairs subject to 14 conditions (p. 135)

6c. 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)

6d. Confirmation of Glacier Hockey Association's appointment of Murray Craven as their representative to the Ice Rink Advisory Committee (p. 177)

Councilor Anderson offered a motion, seconded by Councilor Hildner, to approve the consent agenda. The motion passed unanimously.

Councilor Hildner asked to have a motion to reconsider the WAVE request to waive fees added to the agenda, after the public hearings.

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

7a. Resolution No. 13-14; 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)

Parks and Recreation Director Cozad said they have been working on this for a number of months with the Flathead Fat Tires, DNRC and Whitefish Legacy Partners. It is a key piece to the Whitefish Neighborhood Plan and Whitefish Trail plan. Councilor Mitchell asked if the DNRC approves this resolution and Director Cozad said they have been very involved and did approve it.

Mayor Muhlfeld opened the Public Hearing.

Peter Costain, 1210 O'Brien Avenue, said he is a Board member of Flathead Fat Tires and congratulated the cooperative efforts on this project. They are integrating community built infrastructure into an existing system. The data from the International Mountain Biking Association shows that mountain bikes are a demographic group that matches the demographics of skiers and

golfers. He said Whitefish Mountain Resort has invested a large chunk of money in the free ride trails, too, and cyclists are a worthy group to cater to.

Fred Jones, 10 Tides Way, and Chairman of the Whitefish Legacy Partners Board, said this recreation license has been a 10 year project to protect the recreation benefits in the Spencer Mountain area. He said the City's involvement has been critical and has brought credibility to the whole project; they have been the perfect ally in these efforts. The City has helped resolve the concerns about liability and worked with the DNRC. He thanked all of the people for their efforts in this project. He thanked the DNRC for thinking outside the box. He thanked Attorney VanBuskirk, Councilor Anderson and Parks and Recreation Director Cozad for going above and beyond for this project.

Dave Skinner, former resident of Whitefish, said he couldn't find a packet on the website. He said the committee doesn't post its minutes and that frustrates him. He said this licensing process has been long and drawn out and he feels they have stuck the university system for about $200,000. Mayor Muhlfeld clarified that the packet was available on the City's FTP site.

Cricket Butler, 855 Beaver Lake Road, said she owns the Whitefish Bike Retreat. She said they have had people visit from all over the world. They are adjacent to the Whitefish Trail and their guests have immediate access to the trail for hiking or biking. She hears the feedback from their guests and they love the trails and the town. She has been cycling in this community for over 6 years. She thinks it is wonderful that so many groups came together to promote this project. She said the Spencer Mountain trail adds to the diversity of the trails in the area.

Leslie Hunt, 2497 KM Ranch Road, said her property borders the State land and she uses it regularly. Friends of Spencer have been monitoring the use and timber sales over the past 10 years. She appreciates the opportunities they provided as part of the public process. She volunteers with Whitefish Legacy Partners and this truly is a project that is a legacy she wants to leave for her children. She is in full support of the project. She encouraged them to pass the proposal.

Andy Feury, 930 Packrat Lane, said Fred Jones made a good point that this project started over 10 years ago in May 2003. He said there has been a great collaborative effort with everyone who is involved with biking. The trail system has 22 miles of trails, four more will be completed by September and they have generated over $7 million for the trust. They have preserved traditional financial support through logging. He said about 6% of the people who come to the community today come because of cycling. It is a significant number for the City and he encouraged them to approve the special recreation use license.

Marilyn Nelson, 565 Blanchard Lake Road, spoke in support of the trail and the special recreation use license. She said she is a donor and member of the Board of Whitefish Legacy Partners she thanked everyone who has been involved.

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

Councilor Mitchell said he asked and Attorney VanBuskirk said the Fat Tires group has the first liability insurance, followed by the City's MMIA Insurance as the secondary. Councilor Mitchell asked if they had open meetings and minutes. Fred Jones said most of the negotiations with the DNRC were held at different locations, but they were open to the public. Councilor Anderson said the meetings were

to negotiate the terms of the contract, and no one was ever excluded from the meetings. Councilor Mitchell said he wanted to be sure the meetings were open. Mayor Muhlfeld said City Manager Stearns sends out an email with a list of upcoming meetings so it was well broadcast through the community. Councilor Mitchell said his boys love the trail.

Councilor Hyatt offered a motion, seconded by Councilor Kahle, to approve Resolution No. 13-14; 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.

Councilor Anderson said there are a lot of people to thank for all of this. He said it has been eluded to that the DNRC was a very important part of this project and he agreed. Steve Frye, Greg Poncin, Anne Moran, and Mark Phares were all instrumental in making this plan work. He said they are thoughtful and very committed to the use of their property and to their mission. Councilor Hildner thanked Councilor Anderson for all of the time he donated for this project. Mayor Muhlfeld agreed and thanked Councilor Anderson.

The motion passed unanimously.

7b. 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)

Senior Planner Compton-Ring reported that Michael Collins, on behalf of Mountain Properties of Montana llc, is 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.

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. The applicant cited the economic downturn as the reason the development had not moved forward but now he would like to begin the infrastructure.

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 are 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. It is being reviewed by Public Works.

- *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.

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.

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.

No changes can be made to the conditions. This is just a request to extend it. Councilor Mitchell asked and Planner Compton-Ring said Big Mountain and Lookout Ridge have all asked for similar extensions. Councilor Hyatt asked about emergency vehicle access. Planner Compton-Ring said the driveway from Fraser to Ramsey would have a breakaway gate for emergency services. She said the Fire Department will have to sign off on it before they get final plat. Councilor Sweeney said lot A has

10% grades. He asked if there is a designated envelope on this lot and Planner Compton-Ring said there weren't any standards requiring that the building be set in any particular location at the time of the application of the original preliminary plat, but buildings will have to comply with setbacks. Councilor Hildner asked about soil stability studies on adjacent properties and Planner Compton-Ring said she hasn't heard of anything. Mayor Muhlfeld said when they revised the water quality ordinance it was intended to only address projects that are close to a water body and this property sits back significantly from the water.

Mayor Muhlfeld opened the public hearing.

The applicant, Michael Collins, said they would like to extend the preliminary plat. Everyone knows that there has been an economic downturn, but things are now moving. He said it is consistent with the WR-2 zoning and they didn't ask for any variations to it. It was recommended for approval 4 different times from the Planning Staff. All of the lots are significantly above the minimum lot size required in that zone. He said they identified building envelopes on the preliminary plat. In the last 3 weeks they engaged a geotechnical specialist and they are using the information in cooperation with the City staff. He said there are two new issues: stormwater drainage and utility extension. The original stormwater drainage system was not placed within the utility easement and that needs to be addressed. One of the neighbors to the east, the Bennett family asked if they could extend water and sewer so they could build their house. He said that means they've agreed to run water and sewer up the east side of their lot. All three of the residents on the east are on septic and this will give them the opportunity to get on City water and sewer. He thinks this project is good for him, his neighbors and the City. Councilor Hildner asked about the geotechnical study and Michael Collins said there is good sandy loam soil that perks well and its susceptibility to movement is very small.

Angel Dominguez, 510 Ramsey Avenue, said she is adjacent to the lot. She is not opposed to development of the lot, but this is poor planning. It was denied twice by the City Planners in 2007. She said City Planners provide expertise and had concerns in 2007; many that are still a concern now. She said Joe and MaBritt Bennett opposed the project back in 2007; they still oppose it today, but are taking advantage of a cost-share with Mike Collins to extend the utilities if the project does go forward. The design is inconsistent with neighborhood compatibility. She said Michael Collins claimed in 2007 that the density was in line with the Ackerman and Grant townhomes. She disagreed. She said those homes are not stacked up on one another. She said it is poor planning to have three sets of homes on top of each other. It is double the average of the neighborhood density now. She said there is an encroachment on public services. She is not opposed to development but it has gone from a single-family residence to a four-plex. She said the Planning Board expressed significant concerns back in 2007 and said it should be denied. She said it is a lawsuit that is waiting to happen. She said she appreciated their attention to this and requested that they deny this project.

Diana Tague, 510 Ramsey Avenue, said the neighbors are concerned about the project. She purchased the property in 2007. She asked them to consider whether this is still consistent with the City's planning goals. She said there is slightly more than an acre and they want to place 7-units with only four having direct access to City streets. She said the drainage is still a concern. She said there is a 10-foot difference between the grade between her southernmost property and this lot and this concerns her. She would like to think the neighbors in Ramsey have some say in what is done in their neighborhood.

Larry Cook, 508 Ramsey Avenue, said the neighbors are opposed to the extension and have concerns about the drainage and the steep grade. He said the density doesn't fit the layout of the neighborhood. He is concerned about traffic and where they will park because this isn't a road. He asked how people will park up the 45 degree section. He was worried about parking for special events. He said weeds have been 2-4 feet high on this property and they are concerned for fire safety. He would like to purchase the property if Mr. Collins would sell it.

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

Councilor Hildner said he had some concerns. He drove along Fraser Avenue. He asked and Planner Compton-Ring said there is no plan to include curbs and gutters. The 10 foot dedication is only for the portion of the lot that touches Fraser Avenue. She deferred to Public Works Director Wilson who said they can't include curbs and gutters until they get more right-of-ways to widen the street. Councilor Kahle asked and Planner Compton-Ring said the underlying zone is WR-2 and these lots do exceed the minimum lot size for WR-2. Councilor Sweeney asked if the drainage issues that have been identified will be resolved before they go to final plat and Planner Compton-Ring said the stormwater drainage plan has to be approved by Public Works. Councilor Sweeney asked about the weed issue and Planner Compton-Ring said the City has to receive a complaint to proceed with code enforcement. She said they can check into it and get back to the neighbors. Councilor Mitchell said for the past four years they haven't had money for the enforcement officer, so that may be the reason for the lack of response.

Councilor Mitchell offered a motion, seconded by Councilor Kahle, to approve a 24-month extension for the Ramsey Lakeview preliminary plat, a 4-lot (2 townhouses) subdivision on 0.63 acres at 502 Ramsey Avenue based on the findings of fact in the Staff Report WPP-07-20 dated August 13, 2013 in the packet.

Councilor Mitchell said the past two years the Council has been granting extensions due to the change in the economy. This is a fair request, similar to what they have done with the other plats, but he would like to see this be the last extension on this property. Councilor Hyatt said they have set a precedence based on the economic downturn. He said what Mr. Collins is requesting is allowable. He said he would like Mr. Collins to fix the weed problem going forward. Councilor Sweeney said he was on the Planning Board when it came through and he wasn't in favor of it. He said the issues that have been raised today are the same issues that were raised back then, yet it was approved. He said it meets the standards for height and density. He said given the zoning and the history he doesn't see a way not to support the extension for another 24 months. He said this plat has been extended too many times. Councilor Anderson asked for the applicant to come forward.

Councilor Anderson asked and Mike Collins, 2288 Houston Point Drive, said one of the conditions of the final plat is to comply with the conditions of the preliminary plat. He asked and Mr. Collins said he has sprayed the weeds on the property twice this year. Councilor Anderson said condition #4 states that all noxious weeds shall be removed by the property owner. Mr. Collins said they have been sprayed, but they haven't been removed. Councilor Anderson said the preliminary conditions haven't been followed so he isn't willing to grant the extension. Councilor Hildner said he is concerned that this is the third application for extension. He said Mr. Collins said he is anxious to get started and Councilor Hildner questioned whether they need 24 months. Mr. Collins said they could probably do it in a year.

The motion passed 5-1 with Councilor Anderson voting in opposition.

7c. Resolution No. 13-15; 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)

Assistant City Manager/Finance Director Rich Knapp reported that 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.

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

Councilor Kahle offered a motion, seconded by Councilor Hyatt, to approve Resolution No. 13-15; 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. The motion passed unanimously.

7d. FY14 Budget, Tax Levy, and Assessments Public Hearing:

- **i) Resolution No. 13 - 16; 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 - 17; 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 - 18; 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 - 19; 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 - 20; 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 - 21; 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 - 22; 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 - 23; 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 - 24; 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 - 25; 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)**

City Manager Stearns said they have to get the tax levies to Flathead County before the end of the month. These are resolutions for the budget and the tax mill levies. The Staff Report starting on packet page 298 is a budget overview and also highlights the major changes and issues dealt throughout all the budget work sessions; and those changes are also highlighted on page 292-293. He said the tax levy is down by .5% because City Council increased street lighting assessments by 10%. These fees can be as small as $12 which would only be a $1.20 increase. The City is proposing to increase the year end cash balance to 11.5%. The goal is 12-15% and they are slowing building up the cash reserves. Councilor Mitchell asked and Public Works Director Wilson said the changes on the DNRC Planning Grant was necessary because it was budgeted for revenue but not for expenditure.

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

Councilor Hildner offered a motion, seconded by Councilor Sweeney, to adopt Resolutions 13-16 through 13-25 adopting the FY14 Budget and 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 and other assessments on real estate within the Districts for FY14.

Mayor Muhlfeld said he wrote a budget message to the *Whitefish Pilot*, but one paragraph was omitted that gives kudos to City staff. He thanked Necile, Vanice, the department heads, Rich Knapp and Manager Stearns for a stellar job on the budget.

The motion passed unanimously.

Mayor Muhlfeld called a 5-minute recess from 8:35 pm to 8:40 pm.

7e. 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) Staff report is combined with 7f.

7f. Ordinance No. 13____; An Ordinance approving the East 2nd Street Multi-Family/Condominium Planned Unit Development (PUD) overlay (1st Reading) (p. 407)

Mayor Muhlfeld said they will hold one public hearing to hear the applications for a zone change and the related PUD tonight, but motions for actions will be taken separately. He said he attended two Planning Board meetings and this meeting will be different. He said they will not hold an open forum, but a regular public hearing tonight at the Council meeting. He read the Principles for Civil Dialogue.

Planner Compton-Ring reported on a request by William MacDonald and Sean Averill on behalf of Community Infill Partners llc to rezone three parcels; the westerly parcel from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District) and the two easterly parcels from WA (Agricultural District) to WER (Estate Residential District) at 100 Wild Rose Lane and 1500 E 2nd Street for 103 units**.** 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.

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 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.

This request is reviewed in accordance with the Whitefish Zoning Regulations based on statutory criteria and is in accordance with the Growth Policy. 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 property is adjacent to planned industrial, suburban/urban residential, suburban residential and urban residential zoning. The proposed changes are in accordance with the Growth Policy. All properties are served by Whitefish Police and Fire. Public services are immediately available to the property. Water and sewer will be extended into the property and the new public right-of-way will be extended into the property. The new public right-of-way is proposed with the development. Sidewalks and trail systems are proposed. This project is considered infill because it is surrounded by residential development. Maximum building height and size are standards in the zoning regulations. The proposed density is higher than the neighborhood, but not higher than density around the schools. The current agricultural zoning is not consistent with the neighborhood. The district is single family lots and a few scatter multi-family projects. The character will change from

rural pastoral to multi-family. It is designed with single families on the exterior and multi-family units in the center. Architectural review will be required.

Planner Compton-Ring said the properties have had a rural look while development has grown up around them. Urban scale development in town is recommended. Staff recommended that WR-2 would revert back to WR-1 if this project did not go forward. The PUD would overlay the entire 23.789 acres. The Planning Board held three public hearings and the project design has evolved. The Planning Board first recommended that the project be tabled and that the applicant consider the public input and hold a neighborhood meeting. A meeting was held and about 25 people attended resulting in the applicant offering a revised site plan. At the 2nd Planning Board meeting there was extensive comment from the neighborhood and the proposal was tabled again until July so the applicant could listen to and consider the concerns of the public. The Planning Board recommended that the applicant come back with lower density and smaller units. Another neighborhood meeting was held and about 20 people attended.

The site plan before them tonight is the plan the Planning Board reviewed in July. There are 143 units; 92 apartments, 16 single family units with 15 accessory apartments and one existing home retained as a detached single family home condominium. Density is 6.02 units/acre which is lower than the 7.31 units/acre originally proposed. There is an extension of Armory Road that will facilitate future connectivity to the east. There is 68% open space and a series of trails. The applicant is taking advantage of the density bonus, so 10% of the units will be deed restricted units under management by the Whitefish Housing Authority for a total of 14 units for moderate income families. There will be parking for the public to use the trails. Sewer and water easements will be provided up Cow Creek and under the train tracks. In exchange the applicant is requesting some 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

Planner Compton-Ring said comments on stormwater management, quality and quantity were expressed by neighbors. This project must submit an engineered stormwater plan to Public Works. She said there is not a condition for restoration. They are meeting all of the standards. Large trees are protected on the property and the applicant is proposing open space, trails, and amenities including playgrounds and shelters. Staff recommended a phased open space plan. This latest version has been scaled down by size and mass to better match the character of the neighborhood. There are no 16-unit buildings in the new design; they are now 2, 3, 4 and 5 unit buildings. The PUD allows attached multi-density units and this provides efficient use of infill. The project is within walking distance to schools, town and parks. In March staff recommended a density reduction and a method for transitioning density through the project. This change has been made and staff is satisfied with this approach.

Staff had concerns about the density in the site plans offered in March and May. There aren't a lot of areas close to the schools. It may be an ideal location, but it continues to be a controversial location. She said the applicant is providing services, but the density is more intense than the existing neighborhood.

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. 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:

<u>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)</u>

<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 development. (WCCPB, 7-18-13)</u>

The Planning Board also recommended that the Council place Armory Road on a priority list for roadway improvements that would also include sidewalks.

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.

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 a second project in this neighborhood right away.

The public involvement and comment at all three public hearings have 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. She reviewed the conditions for approval.

She said a petition was received today, signed by over 25% or more of the property owners within 150 feet who are in opposition to the zone change on Tract 1K; therefore requiring the Council must have a 2/3 vote of the Council for it to pass in accordance with State Law 76-2-305-2b (MCA).

Councilor Mitchell asked about Condition #17 and Planner Compton-Ring clarified that the affordable housing bonus is 10% or 14 units. Council Mitchell asked and Director Wilson said they will look at the alignment for the sewer and the water. The City provides the sewer line and will upsize the water line for their needs. Councilor Mitchell asked and Director Wilson said he was satisfied with the traffic study; he has no reason to question the traffic study. Councilor Sweeney asked if the phasing will occur on Second Street first and Planner Compton-Ring said they will go from Second Street north with the utilities. Councilor Hildner said there is some conflict on the sidewalk with Public Works and the Bike/Ped committee and he wondered if the right-of-way would be preserved. Director Wilson said there is no right-of-way beyond this property so there is no practical way to extend the sidewalk beyond it on the north side of Second Street. Councilor Anderson asked the capacity of the traffic study and Planner Compton-Ring said the applicant could describe that. Mayor Muhlfeld asked about Condition #6. He said years ago when they approved the Cow Creek easement they didn't have an easement on Rose Crossing Lane. Director Wilson said they initiated the extension with the developer and he thinks that it is the best way to go. Manager Stearns said they should refer to the conditions on page 414 because they are the most recent conditions.

Mayor Muhlfeld opened the public hearing.

Sean Averill, Community Infill Partners, thanked Planner Compton-Ring and the staff for putting the staff report together. He said they have been moving slowly through this project and have tried to listen to the public. He said all development impacts others, but they are trying to limit the impact to the community as much as possible. He presented a power point presentation describing their purpose and plan. He said there was a need for affordable housing, young professional housing and rentals. They chose this project location because it is close to the schools and downtown. There is no other large site like this within the .85 mile radius of downtown.

Eric Mulcahy with Sands Surveying said 6.89 acres are in the urban designation, and the eastern property is suburban; that is why they came with a request for different zoning. They are requesting WR-2 and WER zoning to be in compliance with the Growth Policy. Without affordable housing they could have a maximum density of 117 units. The Growth Policy encourages affordable housing and a density bonus allows a density increase by a half to offset the costs to provide affordable housing. With affordable housing the density is 174 units. The applicant is proposing 143 units, so the affordable

housing number would be 14 units. He said this is one of the first projects since the recession to utilize the density bonus to create affordable housing.

Scott Elden, 444 O'Brien, Montana Creative, said he and Aaron Wallace were with the project as the design team. He said they received a lot of public input and created 3 different iterations of the plan. The first site plan began with 174 multi-family units, 22 apartment buildings, 71% open space, 8 and 16 plexes, but no single family units. The second site plan addressed the concerns of staff and the community. Single family homes are on the outside and the apartments are smaller units that have walk-ups separate entrances. There is a perimeter trail around the whole project that will be open to the public. Each single family residence will have to go for ARC review for project variety. This site plan will offer one-bedroom units, 2-bedroom, and 3-bedroom units. They are providing 32% impervious surface which is very low. For rentals there will be 29 buildings with 93 residences. The pocket living neighborhood design is a new concept in Whitefish. He said it will meet housing needs for young professionals as well as affordable housing. The PUD requires community benefits and they are providing 2,300 feet of trail, 5.5 acres of riparian area, a City road connection, a City sidewalk, a 20' City sewer interceptor project easement and a City water connection project easement. There will be a management office on site and the Whitefish Housing Authority will manage the 14 units in that program. He said they could build a traditional subdivision with 89 buildings with 267 bedrooms, but they are only proposing 53 buildings with 270 bedrooms. The traditional subdivision would offer 35% green space, but they are providing 68% green space. The vehicle trips per day in a traditional subdivision would be 890 and theirs will generate 989 trips.

Ryan Mitchell, civil engineer, said he did not do the traffic study; but they use traffic studies for information to evaluate traffic systems and impacts for specific projects. The project is bordering Second Street and it has a typical capacity of 10,000 vehicles/day. The proposed traffic from the development increases the trips to 3,821 and it will constitute 85% of the proposed usage from the project. Armory Road has a typical capacity of 3,000-5,000 vehicles/day. The proposed traffic from the development would increase the trips to 1,162. It will be 15% of the total usage from this project.

Bill VanCanagan, legal counsel for the applicant, said land use law is one of his specialties. He has dealt with numerous cases with spot zoning. He said he assists local government with implementation of regulations. He also represents the Montana Association of Realtors and their legislative matters. He has submitted a comprehensive letter addressing the spot zoning issues and cites the Montana cases that deal with this issue. This project does not fall within the legal definition of spot zoning. He said there is no stark contrast between one property and the next in this project. This development is infill in a residential development. It is in full compliance with the Growth Policy. He said the Planning Board has completed a comprehensive study. He said staff has created a very comprehensive staff report and sent the project back to the applicant several times. He urged them to approve the application.

Sean Averill read the mission statement of the Growth Policy which says they will provide affordable housing. He said they have several ideas they can propose to offset more of the neighbor's concerns if the Council would like them to share them after the public hearing.

Councilor Sweeney said the traffic studies are confusing. He said there is an increase of 1,162 vehicle trips and he wondered what the current use is on Armory Road.

Bob Abelin from Abelin Traffic services said the current volume on Armory Road ranges from about 700-1000 trips/day. With this development there would be another 150 trips, so it would increase to about 1100 trips/day. Councilor Kahle asked and Bob Abelin said the capacity on Second Street is about 10,000 trips. Councilor Anderson said page 723 says the latest site plan iteration would decrease the traffic trips to 989 trips/days. MDT said Second Street has about 3000 trips per day and they will increase it by about 750. Councilor Hildner asked if the list included the ADU's per unit and Planner Compton-Ring said they do.

Rebecca Norton, 530 Scott Avenue, said she attended the Whitefish City County Planning Board and everyone spoke against it. She thinks the density is too intense. She thinks the traffic is a major issue and she wants to be sure Cow Creek is protected. She didn't like the idea of the Armory Road people having to pay for a Special Improvement District. She would like to see the project designed to match the neighborhood and more character-based.

Lori Collins, Director of the Whitefish Housing Authority, said they are in support of this development because of it's inclusion of affordable rentals which are in extremely short supply. They are also in favor of this because of its proximity to schools and the bike and walking trails. She thanked the developer and staff for providing affordable housing because their waiting list is 3.5-5 years for affordable rentals.

Ryan Zinke, 409 W. Second Street, said people ask what has changed in Whitefish and the biggest change is that people don't live here. He said most of his 1980 WHS graduating class lives in Columbia Falls. He said he has looked at this project and he is in support of it. He said he would like to see a left turn lane coming from town to turn into this project.

Nancy Tigue, 1319 E. Second Street, applauded the development, but said she lives on Second Street and she has deep concerns for the safety of pedestrians and bike riders. She would like to see the density reduced.

Jim McIntyre, 719 W. 3rd Street, said this is a great plan and he supports it. He said it has a lot of green space, mixed uses and a good design. He thinks it would be a positive addition to Whitefish.

Kate McMahon, 151 Wedgewood Lane, said she lives in the neighborhood. She said the neighborhood did not have opportunity to read the information on spot zoning. She addressed the "public benefit" doctrine that was referenced in the legal analysis by Mr. VanCanagan. She noted that the source for the public benefit doctrine that was cited in the letter is over fifteen years old. Second, this citation does not come from case law in Montana. For guidance on analyzing spot zoning as it relates to public benefits, she would refer the Council to a recent Montana Supreme Court decision from 2010, the Plains Grains L.P. versus the Board of County Commissioners in Cascade County; this case is referenced in the letter from the applicant's attorney. She is very familiar with this case because she wrote the expert report that contained the spot zoning analysis that was relied upon by the court in making their decision. In regards to the public benefits determination, she quoted from the Montana Supreme Court:

"This inquiry should focus on the benefits of the proposed rezone to surrounding landowners, not the benefits – financial or otherwise – that would accrue from the proposed development." And

"The proposed rezone smacks of "special legislation" in that the benefits would accrue to a single landowner to the detriment of the surrounding farmers and ranchers."

She said that her neighbors here tonight have testified at three Planning Board hearings and submitted volumes of letters attesting to the detrimental effects resulting from the increase in maximum density of 80% that would be allowed by this proposed rezoning. Pedestrian safety, property values, the change in character and the loss of the quiet enjoyment of the neighborhood are the significant detriments that the neighbors have described and the Council should give serious consideration to these concerns. She referenced a more recent court case from Flathead County that was issued just a few months ago from Judge Ortley. In this case, the court overturned the action of the County Commissioner's that rezoned land from suburban residential to a greenbelt highway business district. Again, she is familiar with this case because she wrote the expert report for the plaintiffs which contained a zoning analysis of this action. In the Plains Grains case from Cascade County and the recent case from Flathead County, both Planning Boards and both County Commissions made findings that the proposed rezoning was consistent with the Growth Policy. In both cases, however, the courts ruled that this finding was made in error and that the Growth Policy did not support the proposed rezoning. In both cases, local officials relied –in good faith - on general policies and descriptions that appeared to support the rezoning action. In both cases, however, the local officials failed to acknowledge more specific policies that provided clear direction on the application of zoning districts to individual parcels. In the matter before you tonight, the Planning board failed to consider the policy that states, "Protect and preserve the special character, scale, and qualities of existing neighborhoods while supporting and encouraging attractive, well-designed, neighborhood compatible infill development." The neighborhood east of Cow Creek has an existing density of 2 to 3 dwelling units per acre. The proposed zoning district that would allow a maximum density of 18 dwelling units per acre. She said this is not compatible development.

She referred to a landmark case from the United States Supreme Court referred to as the Village of Arlington Heights vs. the Metropolitan Housing Commission. She said she is familiar with this case because her first job out of college was working for the Village of Arlington Heights as a community development planner. In this capacity, she was responsible for writing the Village's housing plan and rewriting the Comprehensive Plan including the housing element. She became very familiar with the affordable housing concerns that were at issue in this case and said the facts of the case are very similar to the proposal in front of them tonight. There was a request to rezone land in a single family neighborhood to allow for townhomes in order to provide affordable housing. Even with a demonstrated need for affordable housing, the United States Supreme Court upheld the single-family zoning and did so primarily because the future land use map in the comprehensive plan indicated that this land was designated for single-family development. As stated by the Supreme Court, "There is no reason to doubt that there has been reliance by some neighboring property owners on the maintenance of single-family zoning in the vicinity."

She said that for many households the investment in their homes represents the biggest investment in their lives. Residents of this neighborhood have purchased homes and have chosen to raise families in an area that has a peaceful – pastoral setting. Rezoning Tract 1K from WR-1 to WR-2 would allow a density that is far and above what anyone envisioned for this neighborhood. In both the cases from the Montana Supreme Court and the United States Supreme Court, it is clear that the courts give priority to the investment made by surrounding property owners and the potential detrimental impact to those investments. She asked the City Council so give the same weight to these factors that the courts have. She said the proposed rezoning does not comply with the Growth Policy, it is special legislation benefitting one land owner and it does meet the test for spot zoning. She referenced the

graphic in the slide show by the applicant that depicted a subdivision with 99 lots. And said this lot layout is based on a lot size of approximately 7,000 square feet. This layout is inaccurate and misleading. The minimum lot size for the WER zoning district, which the applicant has requested for the easterly 17 acres, is 20,000 square feet. She said she had redrawn the layout with the larger lot size and submitted this layout for the record. Under this layout, which complies with the WER zoning, only 44 lots would be accommodated on the parcel – not the 99 lots suggested by the applicant. She said with this revised layout, there is a noticeable difference in the scale and intensity of the development.

Jack Quatman said he and his wife, Phyllis, live at 150 Johns Way. There are huge concerns for public safety. He said the traffic study is smoke and mirrors. He said his wife Phyllis has a copy of the traffic study in June 2013 that showed 500 trips per day on Armory Road. He said there was a letter from the Fire Department saying they had concerns about getting their fire trucks in there. He said he talked to Chief Dial who said no one has asked him if he had any concern about 150 units on Second Street. He said they were told by the developer that this project is about the community of Whitefish. He said they heard that they are thinking of 1, 3 and 6 month rentals and that doesn't represent people committed to the community. This is way off base from the Growth Policy and the historical nature of this neighborhood. He said the Council cannot ignore the public comment. They are saying they want to change two sets of zoning to create this project. He said they are all aware of the Walton issue and how the City lost the lawsuit. He said if they make an exception for this developer they will set up a precedent that will allow them to get sued in the future. He said this could be a constructive change to the Growth Policy if they allow this zone change through the back door. He said he is a donut resident so he can't vote for them; that litigation is winding its way through the courts. He said the traffic on Armory Road is going to more than double. He said the Planning Board wanted to add conditions to get a second, unbiased traffic study and to move the improvement of Armory Road to the top of the list. He asked them not to approve this project. He asked those in the audience who were opposed to stand and about 45 people stood.

Dick Zoellner said he lives in the donut and wished he had representation. He said the City and County need to get together on the roads. He lives on Voerman Road. The east/west corridor is an issue because of the sun blinding people. He said they need to address the road and safety issues and future Councils are going to be forced to initiate an SID. He said he is against the project.

Carol Nelson, 1590 E. Second Street, said they bought their home in 1984 and she is concerned about the impacts on the neighborhood. She asked them to deny it.

Velvet Phillips-Sullivan, 1637 E. Second Street, said some of the people on the governing bodies have forgotten why they were elected. She said when she was on the Council they were instructed to ask whether it aligns with the Master Plan and with the zoning that is currently there. She said some members seem to only be concerned about whether the developers will be able to make money on the project. It is not their job to make sure the project pencils out for the developers. She is offended. She thinks the project violates the Master Plan and the prohibition against spot zoning. She asked them to remember whom they represent and the long term impacts of this development. If they approve this they are setting a dangerous precedent.

Sarah Fitzgerald, 148 Wedgewood Lane, said she is a former City Council member. She said they bought 4 acres in the neighborhood based on the neighborhood and the zoning. She said the developers want to change the zoning. They keep hearing affordable housing, but they are asking for

$900 for one bedroom units. She said City staff said it will connect the bike paths, but ironically, the path they want to connect with is one that she and her neighbor donated land for—at great cost to themselves. She said the neighborhood has spoken and is asking them to deny this request.

Melinda Morrison, 170 Armory Road, said she and her husband Bruce are in opposition to this project. She urged them not to change the zoning from WR-1 to WR-2. She is an attorney and believes it is spot zoning and is not in conformance with the Growth Policy. She urged them to deny.

Suzy Stagg, 1306 E. Second Street, spoke in opposition. She said the change of zoning is not appropriate. She said they are not opposed to the property being developed, but they are opposed to the zoning change. She said the applicant said they wanted to meet the needs for families, but then they created homes which aren't applicable to families. She has supported other projects that changed the character and traffic out there because they benefited the whole community. She said the applicant stands to gain financially from this, but the neighbors don't stand to gain anything. She has heard the comments from the Councilors, the applicants; but in listening to the neighbors she wanted to commend the people who keep coming to these meetings, taking time away from their families to speak out.

Councilor Kahle offered a motion, seconded by Councilor Anderson, to extend the meeting past 11:00 o'clock pm. The motion passed unanimously.

Mayor Muhlfeld called a 10-minute recess from 11:00 pm to 11:10 pm.

Erin Barbee, 1310 E. Second Street, echoed the concerns about public safety for pedestrians on Second Street and Armory Street. The road narrows beyond Pine Street and there is a line of sight issue. She said there are many children who will be put at risk. She quoted from the Daily Interlake which said the current condition of Armory Road shouldn't hamstring the project. The City has had plenty of time to address the poor roads as they have added amenities out on Armory Road.

Kelly Davidson, 585 Armory Road, said she understands being a contractor and knows there are boundaries and parameters. She asked them to consider the precedent they are setting, and she cautioned them to be careful with the parameters they set. She didn't want them to set parameters due to the economic downturn or due to financial hardship. She asked them to assure that the community actually receives the benefits which are promised. She said there is a lot of distrust for this process and people are skeptical. She said they can't come to consensus on the traffic numbers or the dangerous intersections. She asked them to hear the concerns about traffic and safety.

J.D. Hughes lives at the corner of Armory Road and Second Street. He thanked Planner Compton-Ring for her report, but said she didn't mention anything about the bad effects on the community. He said he wondered if they would give him the same zoning for his property. He said he likes to make money, too, but he doesn't want to impact the community. He said they don't need fancy presentations if they are good, honest people. He said the Council is the only hope they have as a community. He thanked David Kauffman for providing the agricultural property for 10 years. He asked the Council to look at turning this property into a City park or a cemetery or something good for the community.

Bob Horne, urban planner, said the applicants have lowered their density but it is still out of character and the wrong zoning for this area. He said they support infill and know this property is going

to develop, but they want them to keep the WR-1 zoning which allows 99 units/24 acres. He said their neighborhood is full of affordable housing and rentals. He doesn't think it is accurate to say the developers have listened to their concerns. They suggested that the developers stay with the WR-1 zoning and patio homes. The patio homes have gone away. He said staff did the neighbors a disservice in the staff report by not stating that this project is not in compliance with the Growth Policy. He said Eric Mulcahy said density bonuses are common, but this is not a suitable location. He said Scott Elden said this rhythm matched the neighborhood. The community is different on the east side of Cow Creek. He said Armory Road is 24 feet wide with deep drainage ditches. He said capacity is not the issue. He said Jack Quatman spoke about a traffic study on Armory Road which estimates about 582 trips/day. He said capacity-wise Armory can handle 5 times that load, but the issue is safety. He said Pine Avenue and Second Street is heavily used, but that intersection wasn't addressed in the Traffic Study and that is unacceptable. He said he submitted a map showing land that can handle heavy development on the Highway 93 South corridor. He asked them to deny the zone change and PUD requests.

Chris Bernat, 119 Wedgewood Lane, spoke in opposition to the project.

K.K. Jentz, 309 Sugar Bowl, is a business owner who moved his manufacturing company up here and he has 60 employees. He said they can't find affordable housing for their employees to live in Whitefish.

Park Schara, Bigfork, said his goal is to be in Whitefish. He has five kids which limits his rental options. He was a self-employed builder when the economy tanked. They can't live in Whitefish because of the lack of rental space. He thinks there has been a lot of planning and compromises made for this project. He said he sees this as a great opportunity to provide jobs. He said from infrastructure to landscaping they hire about 60 people for home construction projects. Most of them are young guys with families. He said this project could help a lot of families. He said these guys have proposed an incredible development.

Nikkee Aston, a current renter in Whitefish, said it was hard to find a rental. She said there should be a better market for rentals so she was in support of the project.

Sarah Scott, 130 Armory Road, spoke in opposition. She is a teacher in Whitefish and lives on Armory Road. This development changes their neighborhood. The developers have single family homes they estimate at $350,000 and that is not affordable for teachers.

John Bates who grew up at 155 Armory Road said the traffic has continued to increase and it is dangerous. He said he is an EMT and his wife is a nurse and there is no way they would choose to live on this street.

Heidi VanEveren, 4 Pine Avenue, said she is opposed to this project. She said an infill project could be figured out for this area that doesn't have such high density.

Michael Downey, 140 Hueth Lane, said he has seen a lot of development out on Armory Road. He said the Fire and Police Department are already stressed in our community. Crime rates increase when there is a transient population. He said there are safety issues, as well. He thinks the community has spoken—they aren't opposed to development, but they are opposed to poor development. He quoted

Chet Hope who said they need to focus on the type of developments they do in this town. The Council is elected to represent the community and they need to listen to the concerns of the people.

David Kauffman, 4610 Highway 40, owns the property in question. He moved to this property in 1962 and it was outside the City limits. In 1988 he bought the neighbor's property to protect the area from being developed and to buffer his parent's property. In about 2000 the Council annexed large tracts of property, including his, even though they didn't need sewer services. His taxes jumped 38% the first year and they have gone up about 100% now. He said he is entitled to develop the property according to the City statutes. When the last Growth Policy was reviewed the City property still ended at Larch Lane. If the City reaches out and takes in new properties then the other properties should see an increase in density. He had no voice when he was annexed, but now the rules apply. He understands the traffic issue and thinks the Public Works is going to fill the low spot just west of Cow Creek. He said Bob Horne said the property east of Cow Creek was "different." He would love to have this property stay like it is forever. He hoped someone would buy it and keep it as a park, but now they just want to keep him from developing it. He thinks the developers have worked hard to work with the neighbors. He cares about the neighborhood. He thinks the designers have worked to create a great project that is unique. He said when the City annexed that property they took on Armory Road—no shoulders, deep ditches and all. He said the past Council created this knot when they annexed the property in. He said finances dictate the choices we have to make sometimes and that is why he is selling his property. He feels the City can benefit from this project.

Noah Cowzer, 128 Armory Road, said they are young professionals and have successfully rented in Whitefish for the past 6 years. They bought a lot on Armory Road to start their life. He asked them to vote in opposition.

Ryan Kann, 120 Birch Drive, said he doesn't think this is a case of "not in my backyard." He said this will set a precedent for other properties as Whitefish expands. He thinks the design team did a great job, but the next one might not be great. He asked them not to set a precedent.

Mayor Muhlfeld asked City Attorney VanBuskirk if, due to the lateness of the hour, the Council decides to delay their action this evening, what would be the process. City Attorney VanBuskirk advised the meeting can be continued (or tabled) to the next meeting or to a date certain, and continued public comment would be allowed at that time. It would also allow time for Council to voice their follow-up questions, if any, regarding any of the testimony heard tonight. If the Council chooses to have action tonight, then the Public Hearing would be closed.

Councilor Hyatt offered a motion to table and to keep the public hearing open. The motion died for lack of second.

Councilor Kahle offered a motion, seconded by Councilor Hyatt, to table both ordinances and to keep the public hearing open to the next meeting.

Councilor Hildner said if it is their desire to not make a decision tonight then they need to make a motion to continue the public hearing to a date certain. Councilor Mitchell said he spent the day reading the packet and he thinks the public is waiting for them to make a decision so the public doesn't have to come back.

Councilor Kahle said he agreed that this is a critical decision and best attendance they've had. He said he has a lot of questions especially about safety and traffic. He would love to hear from police and fire, so he is not ready to make an informed decision. Councilor Sweeney said he doesn't want to make everyone come back, but given the questions he has about how affordable housing in defined, he needs more time. He has issues about Armory Road and he needs information from staff. Councilor Hyatt said he wants to table it because the fire and police chiefs haven't been able to express their concerns. This is a big decision. Councilor Anderson said he had quite a few questions, too. He wondered if they should compile those and give them to the applicant and staff to get answers. Attorney VanBuskirk asked if they would feel comfortable asking staff to put together some more analysis. Councilor Kahle asked if it was appropriate to acknowledge someone from the audience and Mayor Muhlfeld asked him to wait.

Manager Stearns said staff needs to know the questions or concerns the Councilors have. He worries that there might be a delay to get the questions in writing. He said they would have to get them by Wednesday. Councilor Anderson said if the applicant has other ideas then they need to be submitted before the public hearing so the public has a chance to comment on them. Councilor Mitchell said there is a viable concern about safety and he wondered who was qualified to address those concerns. Manager Stearns said Director Wilson can talk about the roads and fire and police can talk about road widths and emergency access. Councilor Hildner thanked everyone for their patience. He said he has listened carefully to their comments and will give them every consideration.

Mayor Muhlfeld acknowledged the public to return to the podium.

Bob Horne asked if the public can provide information on the Councilors questions and Manager Stearns said they can post it on the website or via his email list. Bob Horne said if they have to wait for the packet they won't have the time to answer the complex questions.

Kelly Davidson asked how many times they are going to postpone. She said this is the fourth time most of these people have showed up with the same questions and issues. Councilor Hyatt said the Councilors have just read a 400 page packet and they have had numerous hours of public comment and they want to make a good decision. Mayor Muhlfeld said the comments from tonight will carry over to the next meeting. Councilor Hyatt reminded the public that it is the first time the Councilors have heard this project.

Ken Stein, 1495 Lion Mountain Drive, thanked them all for the time and effort they have put in. He questioned why they need to come up with the questions for the experts to answer. No offense, he said, but that is out of the scope of their job.

J.D. Hughes came back to the podium and said he would be nicer this time. He said most of the people in this area said they are willing to let them change the zoning to what is currently in the area; so there were other alternatives to consider.

Nancy Tigue asked them to all be present at the next meeting. Councilor Mitchell said he may not be here at the next meeting. He has a hard time sending out questions to staff to appear on the website. He thinks it needs to go out in the packet the way they normally do it.

The motion to table passed 5-1 with Councilor Mitchell voting in opposition.

Manager Stearns said neither the public nor the applicant can lobby the Councilors because this is a quasi-judicial issue. City Clerk Lorang said in order for printed public input to be included in the packet it must be received by the City Clerk's Office by the deadline of the Tuesdays before the meeting by 4:00 p.m.

Bob Horne asked and Manager Stearns said they will post the questions on the website.

8. COMMUNICATIONS FROM CITY MANAGER

8a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 893)

Councilor Mitchell asked how the BID is going and Manager Stearns said they have met three times. There will be a work session in September, but there is no concrete proposal at this time.

8b. Other items arising between August 14th and August 19th

Manager Stearns said Tom Lopaz, Chief of Staff for Senator Tester and field representative Virginia Sloane met to talk about the Stoltze Conservation Forest Legacy Grant application to help conserve 3,000+ acres, along with discussing invasive species and tax exempt municipal bonds.

He said Director Taylor wanted to remind the public that there is a public open house on the Highway 93 South Corridor Study Plan 4:30 pm - 6:30 pm, August 20th.

8c. Consideration of a two year employment contract extension for City Attorney Mary VanBuskirk (p. 898)

Councilor Mitchell offered a motion, seconded by Councilor Kahle, to approve a two year employment contract extension for City Attorney Mary VanBuskirk. The motion passed unanimously.

8d. Reconsideration of the request to waive the building permit and impacts fees for the WAVE.

Councilor Hildner moved, and Councilor Anderson seconded, to reconsider the motion on August 3 by Councilors Mitchell and Hyatt on the request to reimburse the WAVE impact and building permit fees.

Councilors Mitchell, Kahle and Hyatt voted in opposition and Anderson, Sweeney and Hildner voted in favor. Mayor Muhlfeld voted in opposition and the motion failed.

9 COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

9a. Standing budget item - None.

9b. Letter from Whitefish Community Library about library restroom use during Farmers' Market and special events (p. 908)

Councilor Mitchell asked and Councilor Hyatt said the library gets a huge influx of traffic for the restrooms during Farmer's Market; and, in addition, the trash cans are full and overflowing. He suggested that the Heart of Whitefish provide porta-potties. Councilor Hildner said the Library is a public building and a public restroom. The Parks Department maintains that bathroom. He said the Heart of Whitefish already provides recycling and garbage cans.

9c. Consideration of approving Landlord's Release and Consent for assignment of lease for WAVE expansion financing (p. 909)

City Manager Stearns said the lease with the WAVE states there is no approval of the lease without release from the City Council. It assigns the lease revenue to the bank. He said he and Attorney VanBuskirk are reviewing all of the documents and they think this is the only one that requires Council approval. Councilor Mitchell asked and Manager Stearns they would only be responsible for any expansion bills if they chose to be. The debts are attached to the property. It is a $7-9 million property and the current loan is about $2.5 million. If The WAVE couldn't meet its payments the Councilors could decided whether they wanted to protect the investment. The bank is requiring assignment of the lease as part of the collateral for The WAVE. Councilor Anderson said if there is a foreclosure then the bank gets to operate the asset. He said the City doesn't want to be a guarantor.

Councilor Anderson offered a motion, seconded by Councilor Hildner, to approve the Landlord's Release and Consent for assignment of lease for WAVE expansion financing. The motion passed unanimously.

Councilor Hildner said there are new, permanent race marks on the street and they need to be sure race organizers know to use non-permanent markings. Mayor Muhlfeld agreed. Mayor Muhlfeld said if it hadn't been so late he would have allowed the reconsideration so they could talk about the WAVE fee waivers and he apologized for not giving them that opportunity.

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 at 12:40 a.m.

_____
Mayor Muhlfeld

_____
Jane Latus Emmert, Recording Secretary

Attest:

_____
Necile Lorang, City Clerk

HOUSTON POINT HOMEOWNERS
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLV-13-W28
SEPTEMBER 3, 2013

Owner:	Houston Point Homeowners
Mailing Address:	PO Box 4096 Whitefish, MT 59937
Telephone Number:	406.862.2528
Applicant:	Susan Jones HOA President
Mailing Address:	2292 Houston Point Drive Whitefish, MT 59937
Telephone Number:	239.293.2487
Contractor:	David Stephens Whitefish Lake Services
Mailing Address:	PO Box 5521 Whitefish, MT 59937
Telephone Number:	406.471.5723
Property Legal Description:	Green Area & Common Area, Sections 14 & 23, Township 31 North, Range 22 West
Property Address:	N/A Houston Drive
Lake:	Whitefish Lake
Lake Frontage:	1011' per survey
Project Description:	Variance to add 24 square feet/8' feet in length to existing gangways on 4 docks at a private marina to extend the length of the existing docks to 78'.

Discussion:

Background: At the meeting of the Lakeshore Protection Committee, staff was directed to modify the staff report to reflect a variance to the length in regards to Section 13-3-1-K-5-a.

Proposal: The applicant is requesting a variance to add 24 square feet/8' feet in length to existing gangways on 4 docks at a private marina. This would extend each dock to a total of 78' in length. The allowed maximum length for docks in a private marina is 70'. The inner four slips on each dock are located in shallow water. Marina users have a difficult time placing boats in the slip due to the shallow depth and large rocks located in the water scrape boats and hit motors. Pictures of the dock taken in July show the water depth at 33" at the innermost slip.

The property is under the allowable constructed area by over 3,000 square feet. Rather than place additional docks, which would increase infrastructure, the

applicant is requesting to lengthen the gangways to allow the inner most slips to be used. Under the existing regulations, the property would be eligible for up to 50 boat slips. At this time there are 32 slips. The water depth of 33' at the inner slips is low but the water depth at the end of the dock is much deeper and the dock does not meet the criteria to be longer than 60' according to 13-3-1-K.

Frontage and allowable constructed area: The property has 1,011 feet of lake frontage according to a survey in 2007. The allowable constructed area based on 10 square feet per lineal foot of frontage for a private marina is 10,110 square feet (13-3-1-L-6-e). The application as submitted would bring the total constructed area to 7,116 square feet. Marinas allow for constructed area below mean high water (docks) to be calculated at 8 square feet for each linear foot of lakeshore frontage (13-3-1-L-6-f). With the increase to 7,116 square feet the property would still be below the allowable constructed area below mean high water of 8,088 square feet.

Existing Constructed Area: The property has six existing docks of 7,020 square feet.

Consideration of Minor Variance:

The applicant is requesting a variance to Section 13-3-1-K-5-a of the Whitefish Lake and Lakeshore Regulations, Construction Standards, which requires *"If the water depth at sixty feet (60') from low water (measured after August 15) is less than four feet (4') in depth, and cannot be moved to a location on the property to achieve four feet (4') depth, then the total dock length may be increased to the point at which water depth equals four feet (4'), but not to exceed one hundred feet (100') in maximum length, including gangway*". In reviewing a minor variance there are three criteria that the request must meet prior to granting said variance (13-4-2A-1):

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

Strict enforcement of the existing requirements and standards would require an additional dock to be added to the marina. This would increase the infrastructure on the lake, remove a large portion of the swimming area due to setbacks, and parts of the new dock would be unusable at low water. These factors combined can create an undue hardship.

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

Reasonable alternatives that meet the standards do not exist. Common sense prevails when comparing increasing the existing constructed area by 96 square feet to lengthen four (4) docks to 78' as opposed to adding more docks and increasing the constructed area by 1,000.

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

The Policy Criteria for all permits include:

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

The proposed variance would not materially diminish water quality, diminish fish or wildlife habitat, interfere with navigation or lawful recreation, or create a public nuisance or safety hazard. There are numerous docks on the lake exceeding 78' in length and they do not interfere with navigation. The proposed variance will maintain the feel of the existing development without substantially increasing it. Additional boat slips will not be needed which would increase the amount of boats on the water. The characteristics of the shoreline will not be altered with the addition of the gangways.

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

General benefits from the requested variance would contain the same number of boats permitted to a small area and preserve open shoreline.

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

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

Recommended Conditions of Approval:

1. The Lakeshore Protection Zone shall be defined as the lake, lakeshore and all land within 20 horizontal feet of the average high water line at elevation 3,000.79'.

2. The proposed gangway dimensions specified on the application project drawing of 3' x 20' shall not be exceeded. Changes or modifications to increase any

dimension or change configuration must be approved through a permit amendment.

3. Any existing gangways on the property shall be dismantled and removed from the lakeshore protection zone prior to construction/installation of the new gangway. If the existing gangway is to be sold or moved to another location on Whitefish Lake, a lakeshore permit must be obtained and the dock must be modified to conform to current regulations prior to moving.

4. Any wood used in construction of the new gangway 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.

5. If foam logs or similar easily damaged flotation systems are incorporated into the gangway 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/gangways 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.

6. Flotation-encased docks (i.e., Superdeck, EZ-Dock, Glacier Dock) or docks with rotomolded floats are strongly recommended for durability and longer-life

7. No additional dock access gangway is allowed unless included in the permit application and in the approved total dock length.

8. The gangway shall be constructed outside of the Lakeshore Protection Zone. Upon completion the components may be brought to the lakeshore area and launched.

9. The gangway 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.

10. 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

HOUSTON POINT HOMEOWNERS
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLV-13-W28
AUGUST 14, 2013

Owner:	Houston Point Homeowners
Mailing Address:	PO Box 4096 Whitefish, MT 59937
Telephone Number:	406.862.2528
Applicant:	Susan Jones HOA President
Mailing Address:	2292 Houston Point Drive Whitefish, MT 59937
Telephone Number:	239.293.2487
Contractor:	David Stephens Whitefish Lake Services
Mailing Address:	PO Box 5521 Whitefish, MT 59937
Telephone Number:	406.471.5723
Property Legal Description:	Green Area & Common Area, Sections 14 & 23, Township 31 North, Range 22 West
Property Address:	N/A Houston Drive
Lake:	Whitefish Lake
Lake Frontage:	1011' per survey
Project Description:	Variance to add 24 square feet/8' feet in length to existing gangways on 4 docks at a private marina

Discussion:

Additional Information: Staff questions whether the application requires a variance after reviewing the regulations and speaking with Jim Stack, former Lakeshore Committee Chair. The report is prepared as a variance. After reviewing the application, the Lakeshore Committee may decide to interpret regulation 13-3-1-L-6-c differently than how it was interpreted in the report. If that is the case, staff would revise the report as a regular application, remove the variance and recommend approval with the conditions listed at the end of the staff report.

Proposal: The applicant is requesting a variance to add 24 square feet/8' feet in length to existing gangways on 4 docks at a private marina. This would extend each dock to a total of 72' in length. The allowed maximum length for docks in a private marina is 60'. The inner four slips on each dock are located in shallow water. Marina users have a difficult time placing boats in the slip due to the shallow depth and large rocks located in the water scrape boats and hit motors. Pictures of the dock taken in July show the water depth at 33" at the innermost slip.

The property is under the allowable constructed area by over 3,000 square feet. Rather than place additional docks, which would increase infrastructure, the applicant is requesting to lengthen the gangways to allow the inner most slips to be used. Under the existing regulations, the property would be eligible for up to 50 boat slips. At this time there are 32 slips. In reviewing the regulations, 13-3-1-6-c, states that an additional 12' gangway up to 3' by 12' in size, may be installed to access the dock as long as the dock doesn't exceed 60' in length. Staff discussed the regulation with the Planning Director and the conclusion was the additional gangway access was intended to add an additional access point to wide marina docks and not to lengthen the dock length. This determination is what led the applicant to apply for a variance. The water depth of 33' at the inner slips is low but the water depth at the end of the dock is much deeper and the dock does not meet the criteria to be longer than 60' according to 13-3-1-K.

Frontage and allowable constructed area: The property has 1,011 feet of lake frontage according to a survey in 2007. The allowable constructed area based on 10 square feet per lineal foot of frontage for a private marina is 10,110 square feet (13-3-1-L-6-e). The application as submitted would bring the total constructed area to 7,116 square feet. Marinas allow for constructed area below mean high water (docks) to be calculated at 8 square feet for each linear foot of lakeshore frontage (13-3-1-L-6-f). With the increase to 7,1116 square feet the property would still be below the allowable constructed area below mean high water of 8,088 square feet.

Existing Constructed Area: The property has six existing docks of 7,020 square feet.

Consideration of Minor Variance:

The applicant is requesting a variance to Section 13-3-1-L-6-c of the Whitefish Lake and Lakeshore Regulations, Construction Standards, Marinas, which requires *"If a marina meets all regulation criteria without requiring a variance, and does not exceed sixty feet (60') in length, then an additional gangway up to three feet by twelve feet (3' x '12') may be installed to access the dock. This gangway shall be included in the constructed surface for the marina*" and Section 13-3-1-K-5 (although not noted on the application), which requires "Length of Docks: Dock shall not exceed sixty (60') in length, including any access ramp or gangway. In reviewing a minor variance there are three criteria that the request must meet prior to granting said variance (13-4-2A-1):

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

Strict enforcement of the existing requirements and standards would require an additional dock to be added to the marina. This would increase the infrastructure on the lake, remove a large portion of the swimming area due to setbacks, and parts

of the new dock would be unusable at low water. These factors combined can create an undue hardship.

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

Reasonable alternatives that meet the standards do not exist. Common sense prevails when comparing increasing the existing constructed area by 96 square feet to lengthen four (4) docks to 72' as opposed to adding more docks and increasing the constructed area by 1,000.

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

The Policy Criteria for all permits include:

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

The proposed variance would not materially diminish water quality, diminish fish or wildlife habitat, interfere with navigation or lawful recreation, or create a public nuisance or safety hazard. The proposed variance will maintain the feel of the existing development without substantially increasing it. Additional boat slips will not be needed which would increase the amount of boats on the water. The characteristics of the shoreline will not be altered with the addition of the gangways.

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

General benefits from the requested variance would contain the same number of boats permitted to a small area and preserve open shoreline.

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

Recommendation: The Whitefish Planning Department staff recommends the Whitefish Lakeshore Protection Committee recommend approval of the requested Minor Variance and lakeshore construction permit to the Whitefish City Council subject to the following conditions:

Recommended Conditions of Approval:

1. The Lakeshore Protection Zone shall be defined as the lake, lakeshore and all land within 20 horizontal feet of the average high water line at elevation 3,000.79'.

2. The proposed gangway dimensions specified on the application project drawing of 3' x 20' shall not be exceeded. Changes or modifications to increase any dimension or change configuration must be approved through a permit amendment.

3. Any existing gangways on the property shall be dismantled and removed from the lakeshore protection zone prior to construction/installation of the new gangway. If the existing gangway is to be sold or moved to another location on Whitefish Lake, a lakeshore permit must be obtained and the dock must be modified to conform to current regulations prior to moving.

4. Any wood used in construction of the new gangway 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.

5. If foam logs or similar easily damaged flotation systems are incorporated into the gangway 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/gangways 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.

6. Flotation-encased docks (i.e., Superdeck, EZ-Dock, Glacier Dock) or docks with rotomolded floats are strongly recommended for durability and longer-life

7. No additional dock access gangway is allowed unless included in the permit application and in the approved total dock length.

8. The gangway shall be constructed outside of the Lakeshore Protection Zone. Upon completion the components may be brought to the lakeshore area and launched.

9. The gangway 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.

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

Report by: Nikki Bond

WHITEFISH, BLANCHARD & LOST COON LAKE
Lakeshore Construction Permit Application

A permit is required for any work, construction, demolition, dock/shore station/buoy installation, and landscaping or shoreline modification in the lake and lakeshore protection zone - an area extending 20 horizontal feet landward from mean high water of 3,000.79' msl (NAVD 1988) for Whitefish Lake, 3,144.80' msl (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 Houston Point Homeowners Association Phone 406-862-2528
Mail Address P O Box 4096
City, State, Zip Whitefish, MT 59937

APPLICANT (If Other Than Owner)
Name Susan S Jones Phone 239-293-2487
Mail Address 2292 Houston Point Dr.
City, State, Zip Whitefish, MT 59937

Project address (if other than above) Houston Point Subdivision
Email address (staff reports are sent via email): sggcc108@gmail.com

How many feet of the lake frontage do you own?	Legal Description (available from annual property tax notice) Lot/Tract#:	Section:	Township	Range:
1011	Subdivision Name: Houston Point			

CONTRACTOR: David Stephens PHONE#: 406-471-5723
Mail Address: Whitefish Lake Services PO Box 5521 Whitefish, MT 59937

FEES:

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

WV 13-W28

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).

Remove existing 121 feet gangways and replace with 20 feet gangways on four docks. No demolition is required. Gangways are made of aluminum with flow through plastic decks.

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.

There are no adverse 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.

Permit No. WLP-05-W10, Permit WLP-06-W1 and Permit No. WLP-07-W44 (see attached). There are 6 docks, two from the earlier permits, exactly the same. (see diagram in Permit). There is no other infrastructure within the LPZ.

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

4. The following Project Information must be included.

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

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

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

S S Jones 7/29/13

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

Susan S Jones, HPHA President

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.

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

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

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

Replace existing 12' gangways with 20' gangways on four docks. See attached variance addendum.

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

Section 13-3-1: 6.c. allows for an additional 12' gangway, if the marina dock meets all regulations and does not exceed 60 feet in length. HPHA is applying for a 20' gangway. This would take our docks out an additional 6 feet beyond the allowable 60' + 12' = 72'.

EXPLAIN THE REASON WHY THE VARIANCE IS NEEDED.

To allow use of boat slips closest to the shore. Currently the water level is too low, especially late in the season, to dock boats safely and avoid hitting rocks causing damage to the boats and possibly injury to the boat users. The curvature of our shoreline exacerbates the problem.

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

Add an additional dock or fingers to gain more boat slips that are useable. This would increase the infrastructure on the lake and eliminate quiet shoreline for swimming. These alternatives would increase the infrastructure on the lake substantially more than would be necessary by granting this variance.

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

We have four docks with 8 slips each. The inside slips (closest to the shore) are not useable. The water is too shallow and there are large rocks. The rocks damage propellers and the bottom of the boats. With the curvature of the shoreline, navigation into these slips is particularly difficult.

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

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

PLEASE READ CAREFULLY

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

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

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

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

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

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

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

A pre-application meeting was held on: 7.23.13
Date:

Applicant Signature _____ City Staff Signature Mikki Bond

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

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

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

Without this variance, there would be an undue hardship on those homeowners that use the swim area for quiet enjoyment of the lake. We would need to eliminate or reduce the swim area and add more boat slips to the shoreline. We believe lengthening the gangways is the best use of infrastructure by minimizing the square footage on the lake, creating the best aesthetic, lowest environmental impact to the area.

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

We believe adding more docks and fingers, when we already have ones that are not being used, is not a reasonable alternative. It is a non-beneficial way to solve the problem.

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

This variance will not diminish water quality or habitat for fish and wildlife. It will not interfere with navigation or create a public nuisance. It will not adversely affect the natural scenic values of the lake or alter the shoreline.

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

Absolutely there will be a benefit to our neighborhood by containing the boats to a smaller area and preserving some of our open shoreline for the foreseeable future. We also believe this is the best use of our infrastructure for the lake and general public.

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

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

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

N/A

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

N/A

c. The variance request creates a major environmental impact.

N/A

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

Applicant's Signature

President, HPHA Board

Date: 7/29/13

Houston Point Variance Permit Request Addendum

The Houston Point Homeowners' Association is respectfully submitting a request for a variance for the length of our gangways for four docks that are used for boats. We are asking to remove our 12-foot gangways and replace them with 20-foot gangways made of aluminum with flow through plastic decks.

History: We have a total of 6 docks. Permit Numbers are listed on the application for variance (Also see attached permit history). Our permits allow us to increase our slips to a total of 48. We have 1011 feet of shoreline, which under the Regulations would allow up to 50 slips. We are well below the total square footage of allowable infrastructure based on the formula in the Regulations. The total allowable is 8,088 sq ft. (8 sq ft for each linear foot of frontage – 1011 X 8) (See Note A) and permitted for 6 docks at 1,170 square feet for a total of 7,020 square feet. Four of the docks have 8 slips on each dock. The inside slips are too close to the shoreline and the water is too shallow to safely dock a boat; even though, we move the docks out frequently over the course of the summer (See inside slip photos). The curvature of our shoreline exacerbates the problem. Several boat owners have damaged the bottom of their boats and propellers trying to dock in these slips. Currently the inside slips are only useable for small craft such as canoes or jet skis. We have observed that other docks in the area have apparently had similar problems and now have longer gangways.

In recent years we have had several home sales increasing the demand for boat slips. This summer we have 27 of the 32 slips rented with an additional homeowner waiting for a "deep water" slip. The 5 slips that are not rented are all "inside" slips (closest to the shore). Virtually every homeowner that has purchased a property in our neighborhood for the last 5 to 7 years has rented a boat slip. The demand has increased from approximately 15 slips to the now current level of 27 slips. We do not have any "deepwater" slips available for future needs. We anticipate the demand for more deepwater slips will grow, although not dramatically, over the next 5 years. We hope that the 32 slips we have will be sufficient to meet that demand.

Regulations: We are a private marina under the regulations promulgated by the Whitefish Lakeshore Protection Committee. According to the Regulations, we can install a 12-foot gangway on our docks if they do not exceed 60 feet in length not including the gangway. (See Reg. 13-3-1:6.c) We are submitting a variance request to remove these 12-foot

gangways and replace them with 20-foot gangways of similar material and structure. Under the current regulations we would be allowed a 60-foot dock, plus a 12-foot gangway for a maximum length of 72 feet. We are asking for a maximum length of 78 feet (a six foot variance) with a 58-feet dock and 20-feet gangway for the four docks that currently have boat slips.

Reason for Variance: We believe this is in the best interest of our homeowners and the lake for the following reasons:

All of us want to preserve this valuable recreational resource and allow maximum enjoyment with minimum environmental impact.

By extending our gangways, we can reduce the total infrastructure we will put on the lake. Our existing 32 slips will be useable and for the foreseeable future we will not need to add any additional fingers or other dock sections.

The current boats will be contained in a smaller portion of the beach providing a quiet section of the beach for swimming and other outdoor activities.

The current boat docks are located in an area that is further away from the houses and easier to access due to our already existing pathway. We will not require any additional pathways to be constructed.

Without this extension we will have to look at adding or reconfiguring our current dock situation, which will certainly involve more infrastructure than is required with this modification.

The additional square footage that will be added is: 4 docks X 3 feet (width of gangways) X 8 feet (additional length of gangways) = 96 additional square feet of infrastructure. We have up to 1068 square feet of allowable infrastructure.

Houston Point does not actually include the point. See attached photos of shoreline. The additional gangway length will have no adverse environmental or navigational impact on the lake or surrounding shoreline.

Note A: The Committee Report in our previous permit states that we can have 7,600 sq. ft. of infrastructure but that was based on our pre-survey shoreline estimate of 950 feet. We actually have 1011 linear feet of shoreline (Per 8/28/2007 survey by F & H Land Surveying, Inc.)

Respectfully submitted by: Susan S. Jones,
HPHA Board member

Date: July 25, 2013

Houston Point Homeowners
Dock Permits History

2005
Permit # WLP-05-W10 – dock replaced with new EZ dock

2006
Permit # WLP-06-W1 – New EZ dock replaced old wood dock

2007
Permit # WLP-07-W44 – revise existing dock plan to 6 fingers (sic) (docks) as per attached sketch. Each dock will be of same style as 2 of the existing 3 docks on site.

VICINITY MAP (1)

Map

Zestimates

	Value	Range	30-day change	$/sqft	Last updated
Zestimate	$639,138	$447K – $940K	-$3,842	$227	07/16/2013
Rent Zestimate	$1,764/mo	$776 – $2.2K/mo	+$202	$0.63	07/15/2013

Owner tools

Market guide Zillow predicts Montana home values will increase 16.9% next year.

Learn more about .

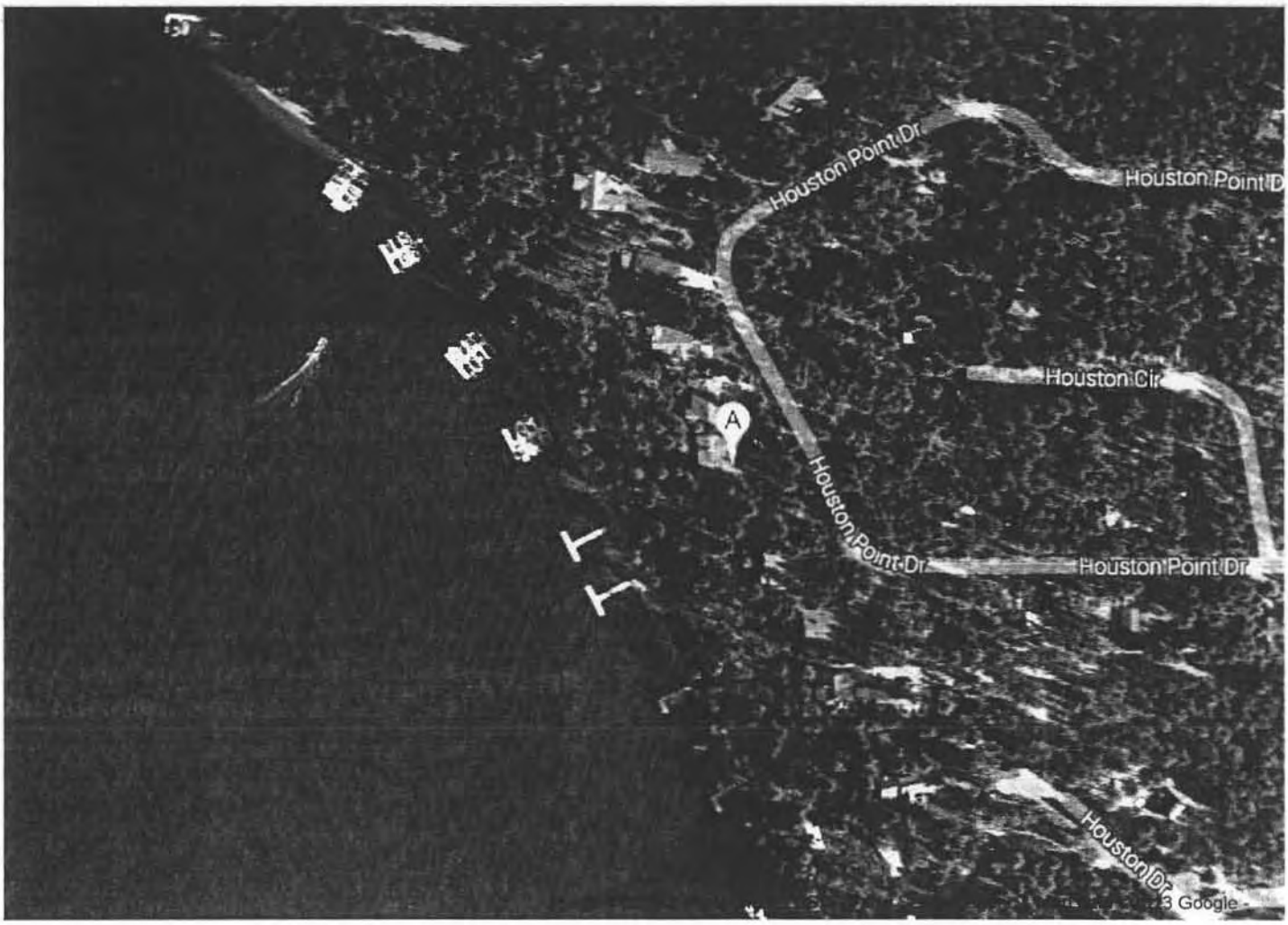
Google VICINITY MAP (2)

To see all the details that are visible on the screen, use the "Print" link next to the map.

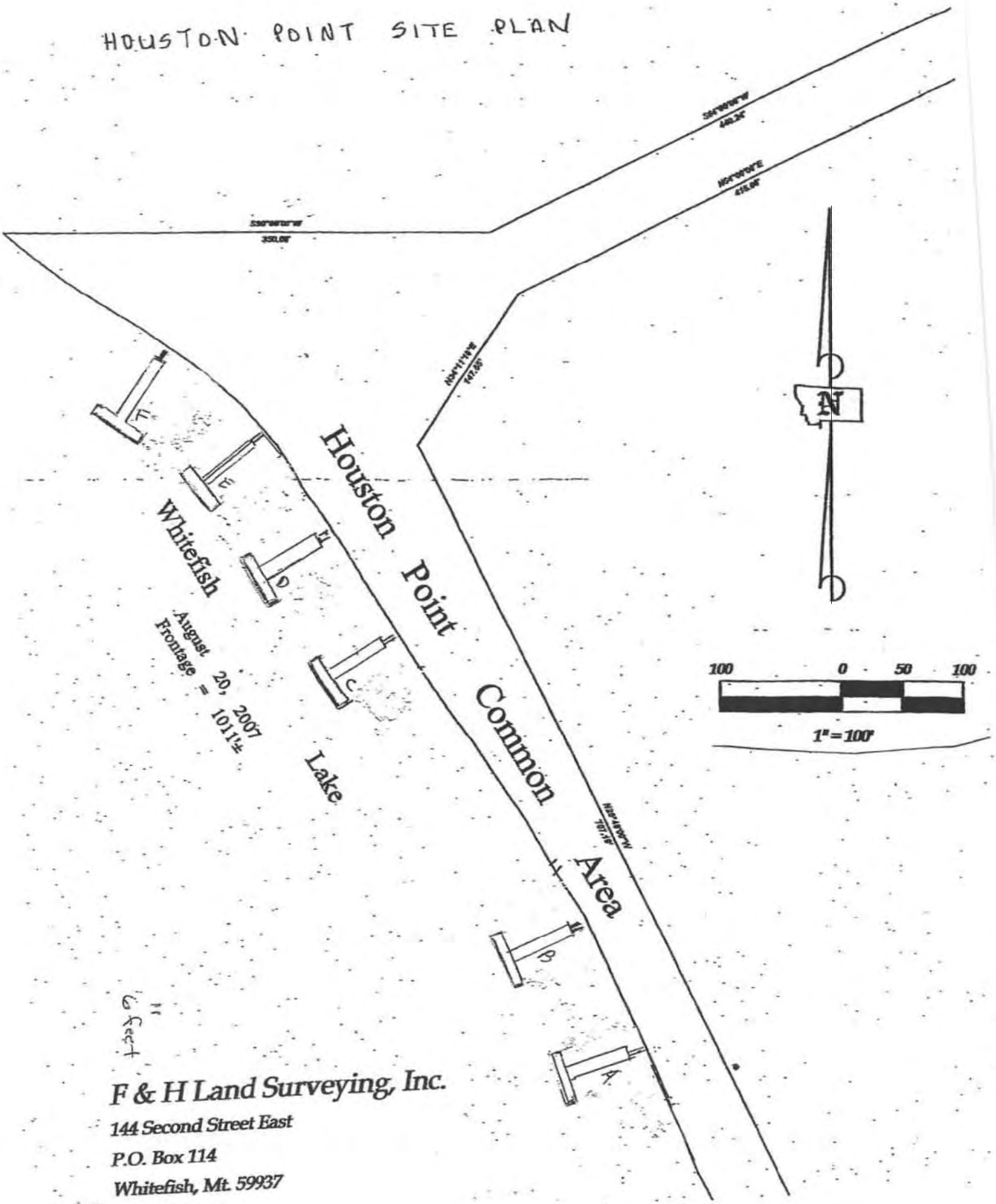
VICINITY MAP (3)

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.



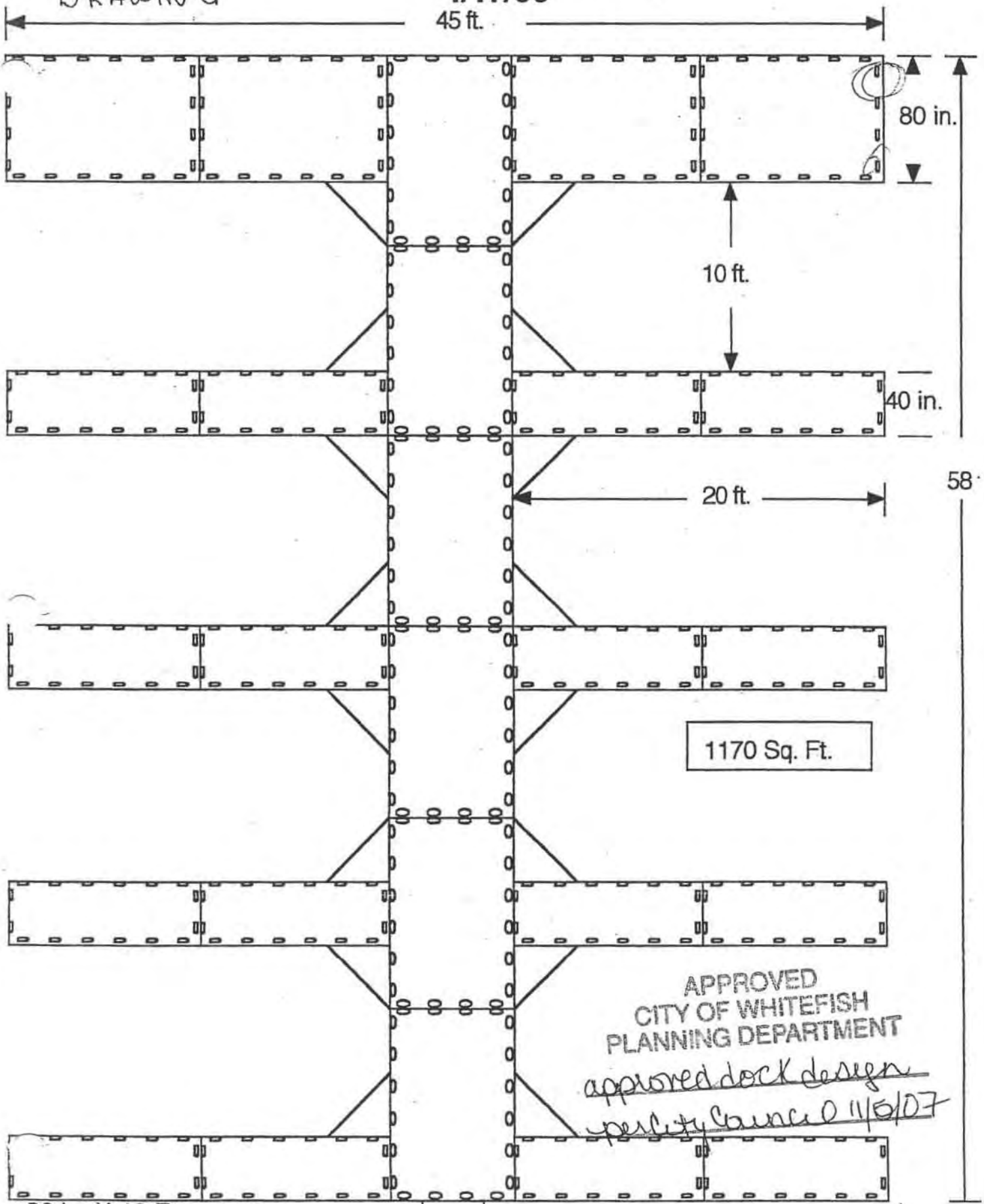
HOUSTON POINT SITE PLAN



F & H Land Surveying, Inc.
144 Second Street East
P.O. Box 114
Whitefish, Mt. 59937
406-862-2386

PROJECT DRAWING

Houston Point
1/17/06



APPROVED
CITY OF WHITEFISH
PLANNING DEPARTMENT

approved dock design
per City Council 11/6/07

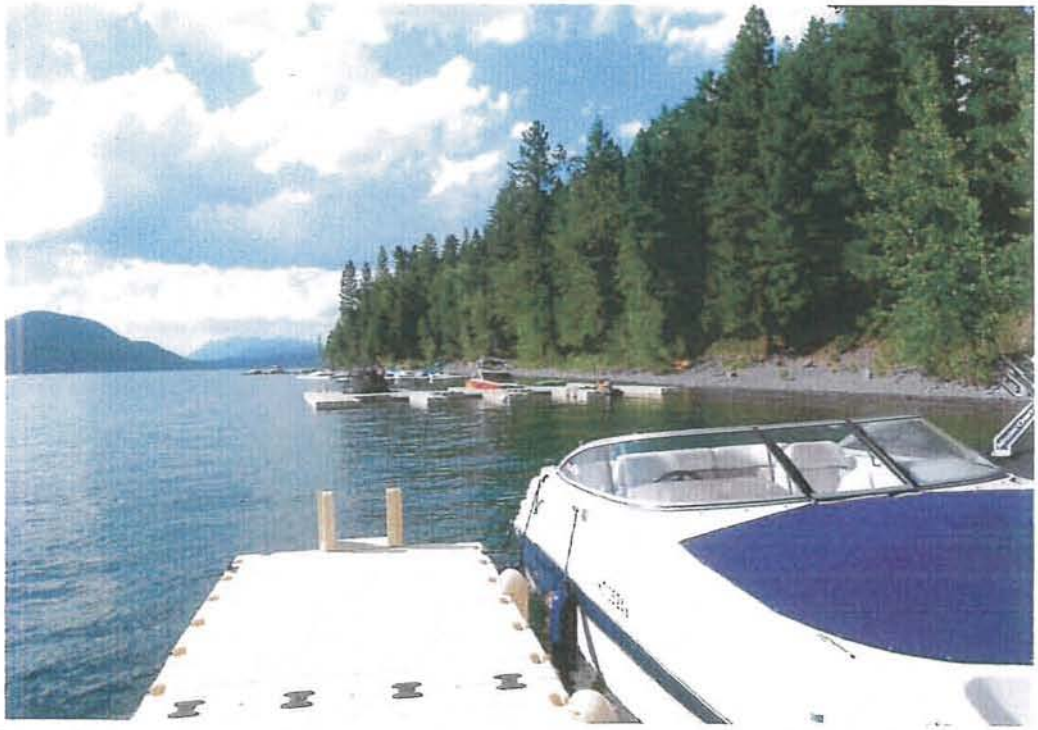
36 in. X 12 Ft. gangway
modify to 36in X 20 ft. Gangway

Gangways are aluminum with flow-through plastic decks

The North boundary - taken from "C" Dock

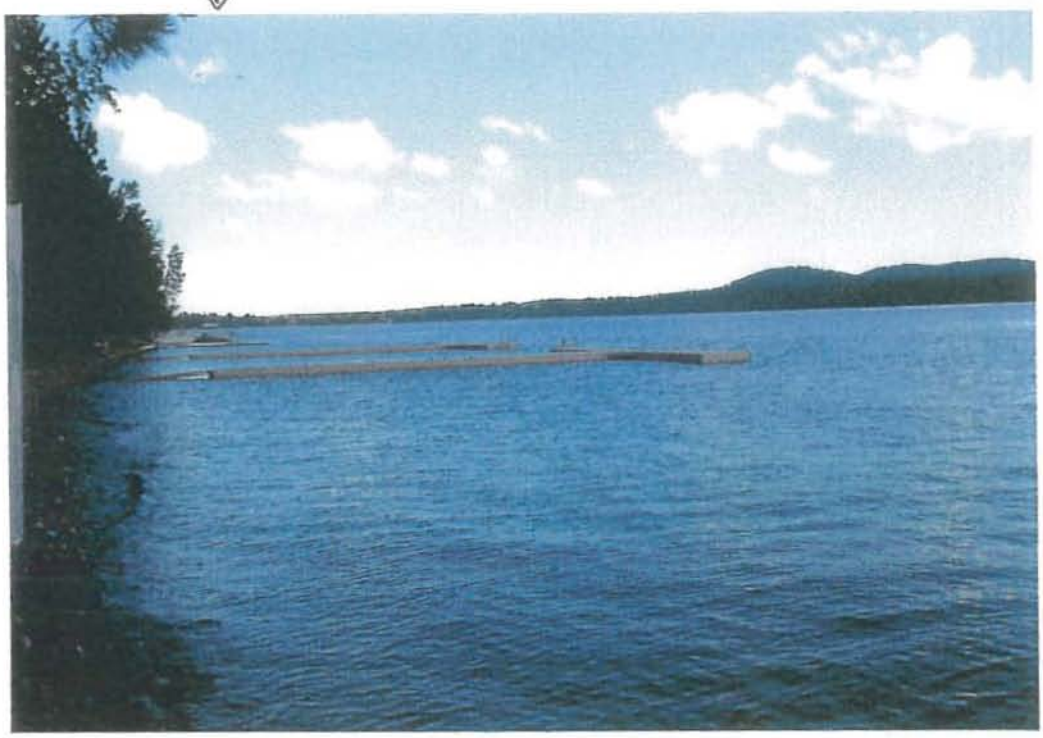
Note: the two boats sticking the furtherest out are not Houston Point property.

↓



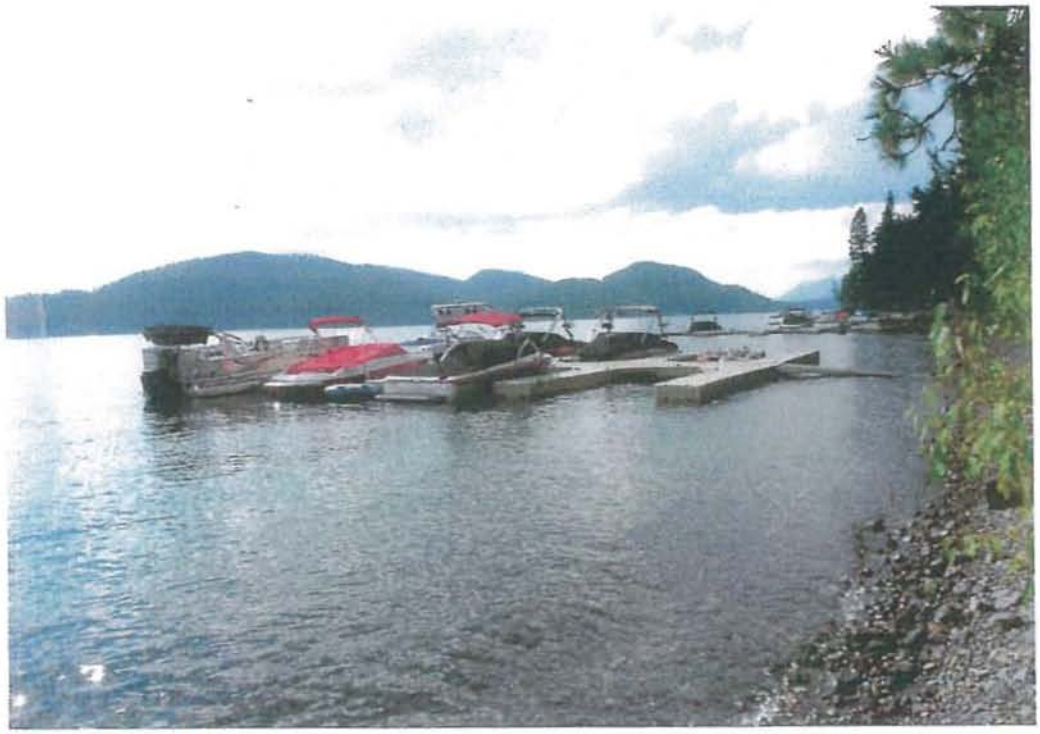
View from the Lake of Houston Point shore line

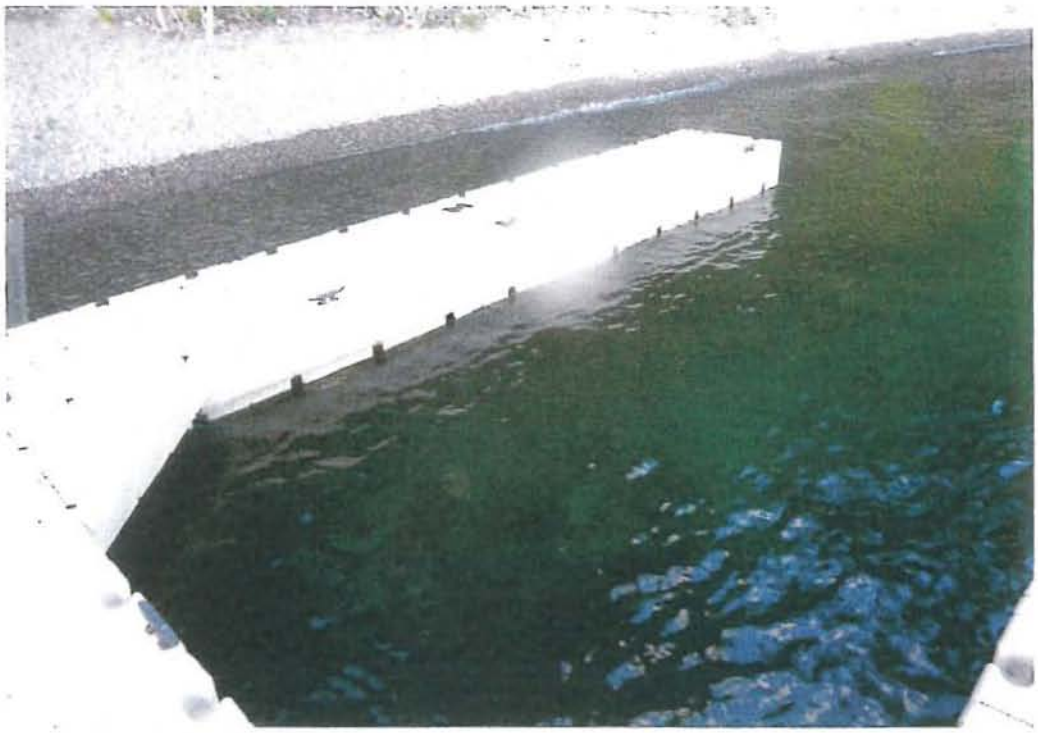
The 2 southern most docks and South boundary. Note boat in picture is not on our property.



Southern boundary taken from "C" dock

Example of our dock system. "C" dock is in the foreground. D, E, & F are further North in picture.





The problem with the inside slips. They are too close to the shore.

Underwater photos taken of an inside slip. Note the drop off. It starts in the middle of the inside slips

drop off

Shallow rocky bottom in portion of inside slip.

"Inside slip"

drop off

Water depth of 33" in July at inside slip.

BY: DOYLE ENTERPRISES
285 N. MAIN ST
KALISPELL, MT, 59901
755-6481

FOR: WHITEFISH LAND CO. II
P.O. BOX 257
WHITEFISH, MT., 59937
PH 862-3559

DATE: OCT., 29, 1980

LEGEND
- SECTION COR. FND. 1/4 COR. REC.
- CORR. FND. BRASS CAP
- CORR. FND. 5/8" REBAR
- MONUMENT COR. FND. REBAR
- FND. 1/4" CORR. MONUMENT
- SET 5/8" x 24" REBAR W/CAP STAMPED (DOYLE 2546-S)
- FND. 5/8" REBAR AT TIES PER PLAT OF HOUSTON POINT

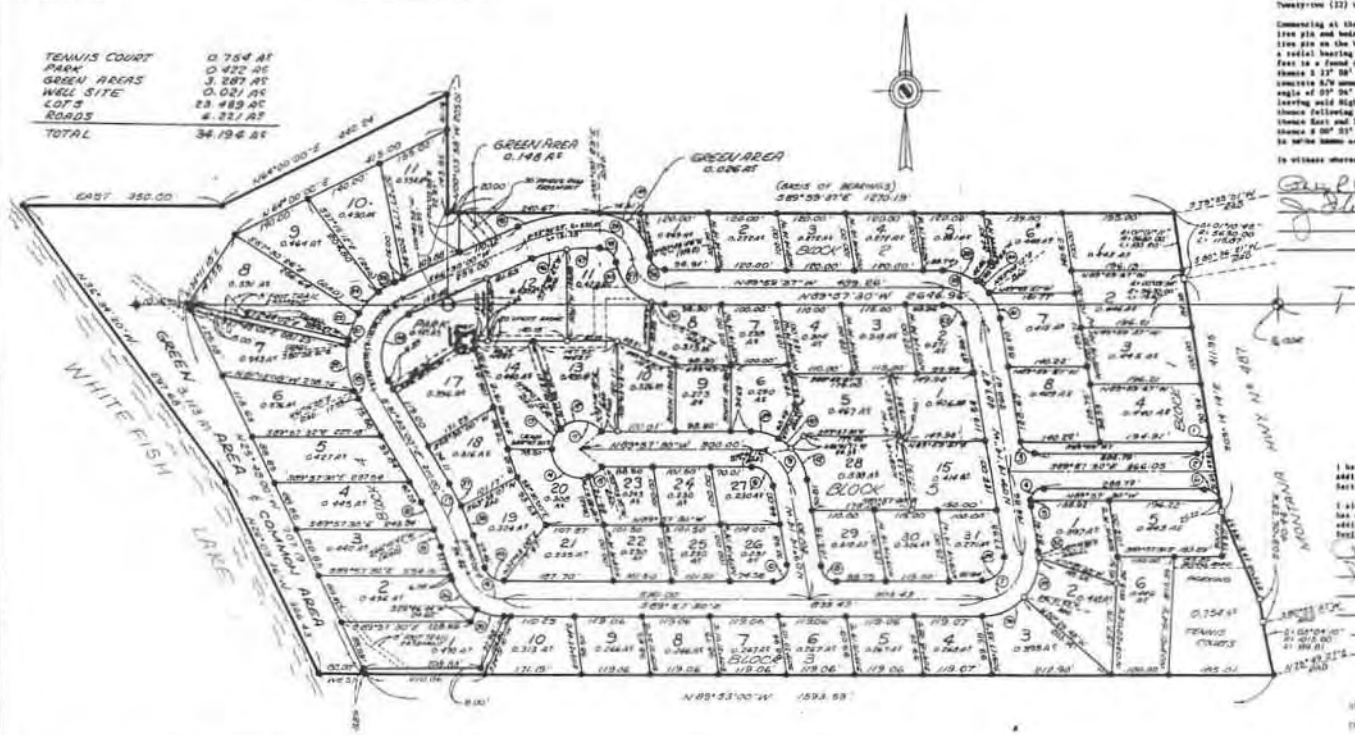
PLAT OF
AMENDED PLAT OF HOUSTON POINT SUBDIVISION

IN THE S.1/2, SEC.14, & N.1/2, SEC.23, T31N, R22W, P.M.M., FLATHEAD CO., MONTANA.

SCALE: 1" = 100'

0 50 100 200 400

TENNIS COURT	0.754 AC
PARK	0.422 AC
GREEN AREAS	3.287 AC
WELL SITE	0.021 AC
LOTS	28.489 AC
ROADS	4.221 AC
TOTAL	34.194 AC



CERTIFICATE OF DEDICATION

We, the undersigned property owners, do hereby certify that we have caused to be surveyed into lots and streets all of the following described property to wit:

A tract of land situated, lying and being in Section Fourteen(14) and Section Twenty-three (23), Township Thirty-one (31) North, Range Twenty-two (22) West, P.M.M., Flathead County, Montana, and more particularly described as follows to wit:

Commencing at the S1 corner of Sec. 14, T 31 N, R 22 W, P.M.M., Flathead County, Montana; thence N 00° 03' 00" W 42.09' feet to a fnd iron pin and being the true point of beginning of the tract of land herein described; thence S 89° 59' 27" E, 1270.19 feet to a fnd iron pin on the Variable R/W of Montana Highway No. 467, said point being on a 3630.00 foot radius curve concave Southwesterly (having a radial bearing of S 74° 23' 01" W); thence in a Southeasterly direction through a central angle of 01° 10' 43" on arc length of 115.87 feet to a found concrete R/W monument; thence S 89° 14' 14" E continuing along same R/W 411.91 feet to a found concrete R/W monument; thence S 12° 08' 39" E, 144.52 feet to a found concrete R/W monument; thence S 09° 26' 12" E along same R/W, 40.44 feet to a found concrete R/W monument; said point being on a 1811.00 foot radius curve concave Northeasterly; thence Southeasterly through a central angle of 09° 34' 10" on arc length of 84.8[illegible] feet to a fnd iron pin (radial bearing N 75° 49' 12" E); thence N 89° 31' W and leaving said Highway R/W 1345.33 feet to a fnd iron pin; thence West 40.00 feet more or less to the low water line of Whitefish Lake; thence following a meander line along said low water line N 26° 09' 36" W, 369.43 feet, (and N 26° 24' 22" W, 387.68 feet to a point); thence East and leaving said low water line 330.00 feet to a found iron pin; thence N 64° 08' 00" E, 440.24 feet to a found iron pin; thence N 00° 03' 30" E, 285.81 feet to the place of beginning and containing 34.194 acres of land more or less. That said tract of land is to be known as the AMENDED PLAT OF HOUSTON POINT SUBDIVISION.

In witness whereof we have caused our hand to be set this 15 day of [illegible], 198[illegible]

BOUNDARY LINE ADJUSTMENTS

I hereby certify that the purpose of this survey is to relocate common boundaries between adjoining properties, and no additional parcels are hereby created; therefore, this division of land is exempt from review as a subdivision pursuant to Section 76-3-207 (e), M.C.A.

I also certify that the purpose for this division of land is to acquire additional land to become part of a parcel that has no sanitary restrictions imposed on it, and that no structures requiring water or sewage will be erected on the additional acquired parcel, therefore, this division of land is exempt from review by the Department of Health and Environmental Sciences pursuant to ARM 16-2.14 (10) x 16.2.640 (1)(f)(iii).

STATE OF MONTANA)
COUNTY OF FLATHEAD) ss

On this 19th day of [illegible], 198[illegible], before me, a Notary Public for the State of Montana, personally appeared Phillip E. Doyle and [illegible] and acknowledged to me that they executed the same.

Notary Public for the State of Montana
Residing at Kalispell
My Commission expires [illegible]

APPROVED:

[illegible]
Examining Land Surveyor MLS No. [illegible]

CERTIFICATE OF SURVEY

Charles W. Hoyt (5546-S)
STATE OF MONTANA)
COUNTY OF FLATHEAD)
Filed for record this 2 day of [illegible]
198[illegible] at [illegible] o'clock [illegible] M.
[illegible]
Under clerk and recorder
By [illegible]
Date

CURVE DATA

	DELTA	RADIUS	LENGTH
[illegible]	[illegible]	[illegible]	[illegible]

	DELTA	RADIUS	LENGTH
[illegible]	[illegible]	[illegible]	[illegible]

WHITEFISH LAKESHORE PROTECTION COMMITTEE
MINUTES OF AUGUST 14, 2013

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

MEMBERS PRESENT:

- Dennis Konapatzke, Jeff Jensen, Ron Hauf, Sharon Morrison, Herb Peschel, Scott Ringer, Greg Gunderson (attended meeting 10 minutes after start) and Joe Malletta (joined meeting 17 minutes after start). Nikki Bond of the Whitefish Planning Office was also present.

MEMBERS ABSENT: None

ADDITIONS/CORRECTIONS to TONIGHT'S AGENDA:

- The chairmain asked to move the by-laws discussion to September in order to review input from the City of Whitefish Attorney.

GENERAL PUBLIC COMMENT: <none>

ADOPTION of MINUTES from LAST MEETING:

- Minutes of July 10, 2013 were reviewed with Scott Ringer moving to adopt; Ron Hauf seconded. All in favor and motion carried.

DISCUSSION

WLP-13-W25 – Westridge Investments, LLC – Replacement of Wooden Stairs

Discussion:

Nikki Bond reviewed the Staff Report for the committee, explaining that this was an after-the fact permit which was processed as a regular lakeshore permit. Although the work was reported as a violation, the work had occurred due to a misunderstanding of the regulations between the definitions of repair and maintenance. The property owner was responsive and easy to work with in order to remedy the situation. The property owner reported that he had fallen through the stairs and hired a contractor to replace them. If the treads had been the only item replaced, a permit a would not have been needed. The stairs were replaced with a minor reduction in size from the former steps and were installed in accordance with the lakeshore regulations. The non-conforming deck in the lakeshore protection zone was not altered.

Motion:

- Ron Hauf moved to accept Application #WLP-13-W25 as submitted, subject to the conditions detailed in the Planner's staff report. Dennis Konapatzke seconded. No further discussion. All in favor and motion carried.

WLP-13-W26 – Katie Callahan –Buoy

Discussion:

Nikki Bond reviewed the Staff Report for the committee explaining that the Lazy Bay Subdivision Homeowner's Association had originally applied for a buoy permit to mark the opening of the channel however their lot was not large enough to allow for a buoy. The owner of

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the adjacent property has applied for a buoy as her property met the 100' width requirement. The buoy will be placed in the channel in front of her property. There was no further discussion.
Motion:

- Ron Hauf moved to accept Application #WLP-13-W26 as submitted, subject to the conditions detailed in the Planner's staff report. Dennis Konapatzke seconded. No further discussion. All in favor and motion carried.

WLP-13-B27 – John Heberling – Dock
[Present: Drew Paslawsky, Applicant]
Discussion:
Nikki Bond reviewed the Staff Report for the committee, noting that the applicant had submitted a change to the dock length and size as a gangway had not been included in the original application that would allow the dock to reach far enough in the water to be useful. The revisions met the criteria for length and overall constructed area. Staff also noted that this was the first lakeshore permit for Blanchard Lake in over 3 years.
Motion:

- Scott Ringer moved to accept Application #WLP-13-B27 as submitted, subject to the conditions detailed in the Planner's staff report. Dennis Konapatzke seconded. No further discussion. All in favor and motion carried.

WLV-13-W28 – Houston Point Homeowner's Association – Gangway
[Present: Susan Jones, Applicant]
Discussion:
Nikki Bond reviewed the Staff Report explaining that staff had differences of opinion in how to interpret the lakeshore regulations regarding the allowed additional gangway length for private marinas. David Taylor was out of the office so the staff report was written to include two different options based on the possible regulation interpretation. Private marinas are allowed to have an overall length of 72' without a variance provided they have not received a variance for dock width or other circumstances. The Houston Point Homeowner's Association is requesting an additional 8' in length for the gangways accessing four (4) of the docks. While the water depth at the end of the dock far exceeds the requirement to extend the length, the depth of the water at the inside slips is at 33" in July. These inner slips are unusable in the current configuration. Additionally, there are large rocks in the area that pose a hazard to boats trying to access these slips. The HOA is requesting the lengthen the gangways to 20' which would situate the inner most slips past the drop off of the lake bottom to provide safe access and usability of the slips.

Susan Jones explained that additional constructed area is available to expand the marina with additional docks. The current number of slips available in the marina is sufficient to for HOA members and additional docks to mitigate the problem would be costly and unnecessary. Ron Hauf expressed that the possible approval of the variance would set a precedent for the other marinas to extend their docks. Susan Jones responded that there are not that many marinas that would meet the same criteria in regards to available constructed area and that do not already have variances in place. She stated that they could have asked for 2' in length on the gangways without a variance. That would have provided some use of the inner slips during a portion of the summer. They are asking for 8' as that is the minimum length needed to bring the slips past the

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drop off. She also stated the variance is solely to increase the depth of the inner most slips as there have been no complaints of the depth at the second slips on the docks. The 8' increase of length will put the inner slips at the location of the current second slips as there is no problem for water depth or hazards for navigation caused by large rocks. She noted that this is a private marina and not a public marina. They are not asking to increase the length for monetary reasons due to slip rentals. She also pointed at that other marinas on the length are much longer than 78'.

Sharon Morrison stated that it seems impossible that the additional 8' in length would interfere with navigation. No one goes that close to the docks while on a boat and the area is located in a cove. There are numerous docks on Whitefish Lake that far exceed this length and there are no complaints that those longer docks are impeding navigation.

Motion:

- Sharon Morrison moved to accept Application #WLV-13-W28 subject to modifications to change the staff report to reflect the variance to the overall length allowed and subject to the conditions detailed in the Planner's staff report. Dennis Konapatzke seconded. Discussion took place regarding the additional constructed area available for the property and the possibility of more infrastructure on the lake to mitigate the water depth was not warranted. The variance criteria was addressed as the lengthening of the dock would not materially diminish water quality and adding additional docks would add more boats to the area which could impact water quality and diminish habitat. By lengthening the gangways instead of adding docks there would be no visual discordance created and the shoreline would not need to be altered. All in favor and motion carried.

WLP-13-W29 – Sherwood Capital – Variance for retaining wall; restore harbor to lakebed; restoration of disturbed areas and gravel supplement.
[Present: Bill Hart, Applicant]
Discussion:
Nikki Bond reviewed the Staff Report for the committee and noted that the applicant was present to answer questions as there were some changes needed to the site plan. The application was multi-faceted as it requested to restore a man-made harbor back to lakebed and a 404 permit had been issued for the work by the U.S. Army Corps of Engineers. The property owner was also requesting to remove an existing low retaining wall and replace it with a larger dry-set stone wall. Ron Hauf questioned why adding stone to the face of the existing concrete wall had not been considered as well as the use of soil to supplement the areas where erosion was taking place on the tree roots instead of removing the trees and replanting them elsewhere. Bill Hart explained erosion that is occurring is due to both wave action and slope degradation. Sharon Morrison questioned how the existing concrete wall would be removed. Bill Hart responded that a back hoe will be used to dig out the wall; sections will be placed in a truck and driven outside of the lakeshore zone. Members asked for clarification on how the materials and gravels would be added to the harbor to fill it back in and would any wheels come in contact with the lake. Bill Hart stated that the materials will be put in with a back hoe reaching into the harbor and fencing would be used to keep the area clear from siltation during the work. Herb Peschel questioned the placement of the boat house on the site. It was explained that the plans that had been submitted were rather old and they had been created for another project. The boat house had been built years ago and is located outside of the lakeshore protection area. Bill Hart said the line on the site plan was drawn incorrectly and needed to follow the contours of the slope and not cut across

them. The wall will not be over 6' in height. As to the placement of the wall, it was designed to protect the tree roots of existing vegetation and preserve the dripline areas around them. The property owner does not want to lose them. The trees to be removed would be replaced with two (2) new trees each. Bill Hart provided more information about the site and explained the schematics of the wall. Ron Hauf asked if it would be possible for committee members to come to the property to view the site to develop a better understanding of the project. Bill Hart agreed that it if it would be helpful then a meeting time could be set. Herb Peschel added that more detailed drawings showing the actual start and end of the wall would be required prior to considering the project at the next meeting. The on-site inspection will be on Wednesday, September 4th at 10 am. Bill Hart explained how to arrive at the site as a pond that had been breached washed out the upper driveway to the property. Greg Gunderson asked for clarification on the tree species being proposed for removal and replacement. He referred to a project on an adjacent property where lakeshore vegetation was being restored and asked if the restoration of the disturbed areas could incorporate riparian shrubbery and vegetation in front of the proposed wall.

Motion:

- Sharon Morrison moved to table Application #WLP-13-W29 until September 11, 2013 after a site inspection could be performed by those interested. Dennis Konapatzke seconded. No further discussion. All in favor and motion carried to continue the review of the application at the next lakeshore meeting.

WLP-13-W30 – State of Montana (State Park) – Replacement of a Section of Public Boat Launch

Discussion:

Nikki Bond reviewed the Staff Report for the committee. Members questioned whether the entire boat launch would be replaced or just sections. The plans were reviewed to answer their questions regarding the four (4) 4' wide sections to be replaced.

Motion:

- Ron Hauf moved to accept Application #WLP-13-W30 as submitted, subject to the conditions detailed in the Planner's staff report. Dennis Konapatzke seconded. No further discussion. All in favor and motion carried.

OTHER BUSINESS

Mike Koppel, of the Whitefish Lake Institute was present at the meeting and brought the committee up to speed regarding recent watershed reports and the status of monitoring and committees that had been meeting regarding lake quality.

ADJOURNMENT

Meeting was adjourned at 7:05pm.

NEXT MEETING

September 11, 2013 * 6:00pm
Whitefish Planning & Building Office
510 Railway Street – Whitefish, MT

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WESTRIDGE INVESTMENTS LLC
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-13-W25
SEPTEMBER 3, 2013

Owner:	Westridge Investments LLC
Mailing Address:	1241 Valparaiso Avenue Menlo Park, CA 94025
Telephone Number:	630.678.1248
Applicant:	Matt Moran
Contractor:	Ryan Ulvin
Property Legal Description:	Lot 42, Whitefish Lake Summer Homes, Addition 1, Amended in Section 14, Township 31N, Range 22W
Property Address:	2454 Birch Glen Road
Lake:	Whitefish Lake
Lake Frontage:	95.9' per Plat
Project Description:	Replacement of Wooden Stairs

Discussion:

Background & Project Information: Staff sent a letter to the property owner on June 25, 2013 after it was determined a violation had occurred on the subject property. The violation was for the replacement of a non-conforming structure without a permit (wooden stairs). The scope of work performed exceeded the definition of maintenance and is categorized as a repair due to the replacement of structural components (WCC 13-3-3-1-Z).

Matt Moran contacted staff as soon as he received the letter and was very willing to clear up the violation. Due to the changes in the lakeshore regulations, he was not aware that a permit was needed to fix the stairs. According to a conversation with Matt, the steps were rotting and he broke through one while walking on the stairway. The replacement was a necessity for access and safety. Mr. Moran was very polite in his dealings with staff and provided the necessary documents needed to bring the project into compliance. The work that was performed met the requirements of the Lakeshore Protection Regulations and did not use any non-approved materials or construction methods in the replacement.

The applicant is requesting an after-the-fact permit to bring the stairs into compliance. The stairs are an exact replacement. Untreated douglas fir was used for the stairs and rails. The creosote railroad ties that were on the original stairs were removed. The concrete supports were reused. No heavy equipment was utilized. The stairs were hand-painted with water soluble stain. While

staining/painting is no longer allowed on new structures, non-conforming structures existing prior to 1978 may be stained/painted for routine maintenance. As the stairs tie into the existing deck, staff is viewing the replacement as a portion of the structure only. If the deck and stairs were to be removed entirely, only the stairs could receive a permit for future replacement and, at that time, conformance with the code would be required.

Frontage and allowable constructed area: The property is eligible for 767.2 square feet of constructed area based on 95.9' of lake frontage per plat. The property owner also has an adjacent lot to the North. The frontage noted on the application combines the two properties. Since there is a residence on each property, staff is treating the properties as separate lots.

Existing Constructed Area: There is currently a residence, deck, stairs and shed built into the lakeshore protection zone. The existing structures predate the lakeshore regulations. To estimate the actual constructed area, staff used a site plan that was prepared for a project that was proposed in 2007. The project did not receive approval and did not move forward. The existing development is shown on the site plan with notations for proposed structures crossed out. The house, deck and stairs comprise 487 square feet. Since the shed square footage is not listed, staff estimated the square footage at 60 square feet. The proposed constructed area after the installation of the stairs stays the same at 547 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'.

Steps

2. 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.

3. The steps shall have a maximum width of four feet (4') and shall be designed to provide access only.

4. Untreated lumber shall be used for future maintenance of the stairs if boards need replacing in conformance with the lakeshore regulations.

5. 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.

6. 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

WESTRIDGE INVESTMENTS LLC
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-13-W25
AUGUST 14, 2013

Owner:	Westridge Investments LLC
Mailing Address:	1241 Valparaiso Avenue Menlo Park, CA 94025
Telephone Number:	630.678.1248
Applicant:	Matt Moran
Contractor:	Ryan Ulvin
Property Legal Description:	Lot 42, Whitefish Lake Summer Homes, Addition 1, Amended in Section 14, Township 31N, Range 22W
Property Address:	2454 Birch Glen Road
Lake:	Whitefish Lake
Lake Frontage:	95.9' per Plat
Project Description:	Replacement of Wooden Stairs

Discussion:

Background & Project Information: Staff sent a letter to the property owner on June 25, 2013 after it was determined a violation had occurred on the subject property. The violation was for the replacement of a non-conforming structure without a permit (wooden stairs). The scope of work performed exceeded the definition of maintenance and is categorized as a repair due to the replacement of structural components (WCC 13-3-3-1-Z).

Matt Moran contacted staff as soon as he received the letter and was very willing to clear up the violation. Due to the changes in the lakeshore regulations, he was not aware that a permit was needed to fix the stairs. According to a conversation with Matt, the steps were rotting and he broke through one while walking on the stairway. The replacement was a necessity for access and safety. Mr. Moran was very polite in his dealings with staff and provided the necessary documents needed to bring the project into compliance. The work that was performed met the requirements of the Lakeshore Protection Regulations and did not use any non-approved materials or construction methods in the replacement.

The applicant is requesting an after-the-fact permit to bring the stairs into compliance. The stairs are an exact replacement. Untreated douglas fir was used for the stairs and rails. The creosote railroad ties that were on the original stairs were removed. The concrete supports were reused. No heavy equipment was utilized. The stairs were hand-painted with water soluble stain. While

staining/painting is no longer allowed on new structures, non-conforming structures existing prior to 1978 may be stained/painted for routine maintenance. As the stairs tie into the existing deck, staff is viewing the replacement as a portion of the structure only. If the deck and stairs were to be removed entirely, only the stairs could receive a permit for future replacement and, at that time, conformance with the code would be required.

Frontage and allowable constructed area: The property is eligible for 767.2 square feet of constructed area based on 95.9' of lake frontage per plat. The property owner also has an adjacent lot to the North. The frontage noted on the application combines the two properties. Since there is a residence on each property, staff is treating the properties as separate lots.

Existing Constructed Area: There is currently a residence, deck, stairs and shed built into the lakeshore protection zone. The existing structures predate the lakeshore regulations. To estimate the actual constructed area, staff used a site plan that was prepared for a project that was proposed in 2007. The project did not receive approval and did not move forward. The existing development is shown on the site plan with notations for proposed structures crossed out. The house, deck and stairs comprise 487 square feet. Since the shed square footage is not listed, staff estimated the square footage at 60 square feet. The proposed constructed area after the installation of the stairs stays the same at 547 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'.

Steps

2. 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.

3. The steps shall have a maximum width of four feet (4') and shall be designed to provide access only.

4. Untreated lumber shall be used for future maintenance of the stairs if boards need replacing in conformance with the lakeshore regulations.

5. 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.

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

Report by: Nikki Bond

WHITEFISH, BLANCHARD & LOST COON LAKE
Lakeshore Construction Permit Application

A permit is required for any work, construction, demolition, dock/shore station/buoy installation, and landscaping or shoreline modification in the lake and lakeshore protection zone - an area extending 20 horizontal feet landward from mean high water of 3,000.79' msl (NAVD 1988) for Whitefish Lake, 3,144.80' msl (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
Westridge Investments LLC
Name Matt Moran Phone 650-678-1248
Mail Address 1241 Valparaiso Ave.
City, Menlo Park
State, Zip CA 94025

APPLICANT (If Other Than Owner)
Name Phone
Mail Address
City,
State, Zip

Project address (if other than above)
2454 Birch Glen, Whitefish MT

Email address (staff reports are sent via email): mmoran@fiminvestments.com

How many feet of the lake frontage do you own?
± 220
95.9 per plat

Legal Description (available from annual property tax notice)
Lot/Tract#: 1/2 40, 41, 42 Section: 14 Township 31N Range: 22W
Subdivision Name: Whitefish Lake Summer Homes

CONTRACTOR: Ryan Ulvin PHONE#: 406 261-7210

Mail Address:

08-06-13 A10:59 IN

FEES:

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

WCF13-W25

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).

Repair stairs down to Lake from "A" frame cabin. Use standard un-treated douglas fir. Remove creosoted railroad ties and re-use existing concrete supports. No heavy equipment will be used. Hand paint with water soluable stain

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. None

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.

Approximately 800# of deck and stairs are located in LPZ. No permit # available as improvements were there when we purchased in 2001.

See Bruce Boody Site plan 481 sq ft in LPZ Plus shed of ≈ 60 ft

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

4. The following Project Information must be included.

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

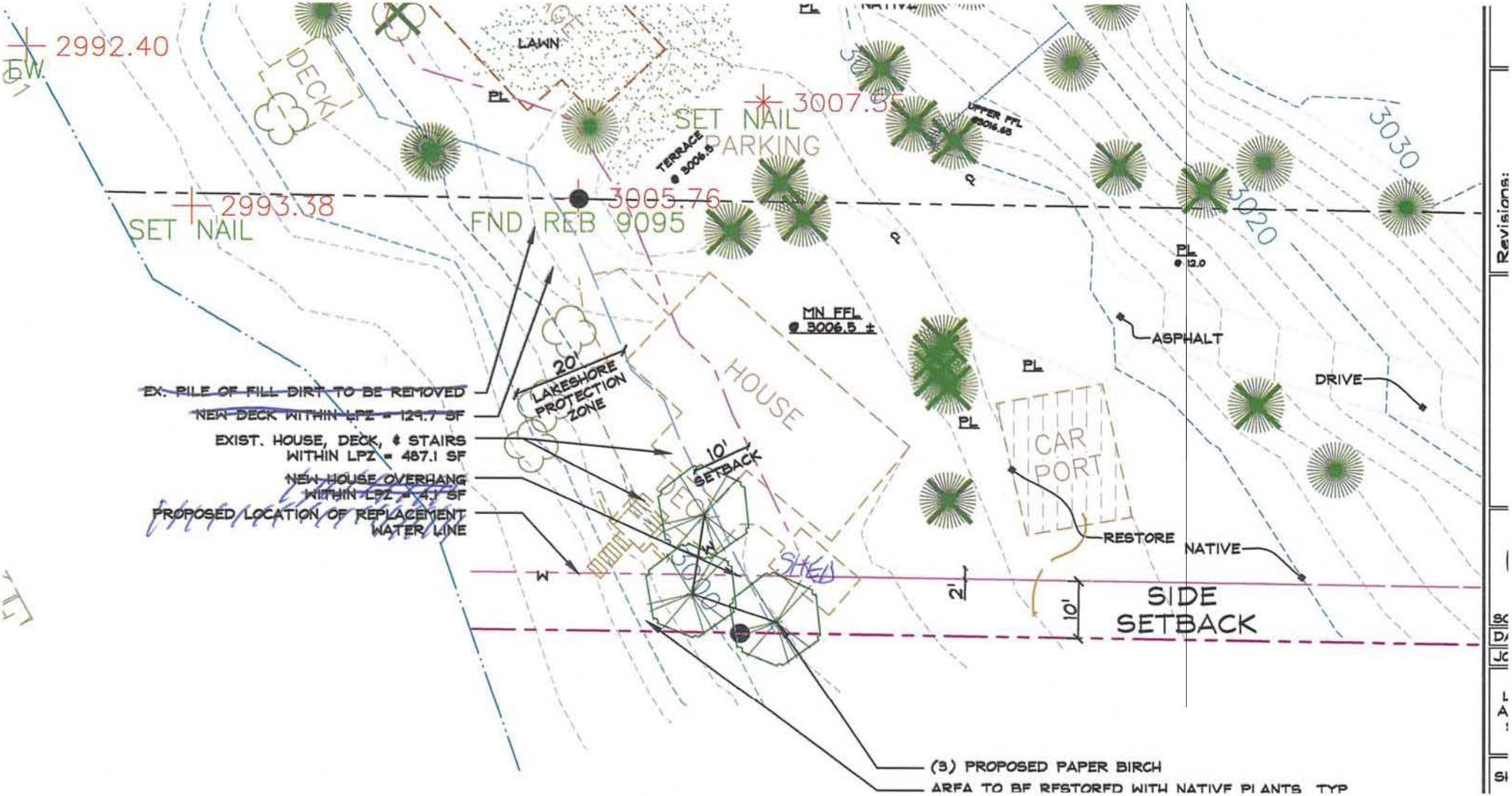
1 photo of property from lake, 2 photos showing lakeshore protection zone from property boundary towards other property boundary, i.e., from north property line across to south property line, and photos of each existing structure or constructed area within the lakeshore protection zone (dock, boat house,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

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

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

R. Matthew Moran
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.


2992.40
EW
DECK
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PL
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3007.55
PARKING
TERRACE @ 3006.5
UPPER FFL @3016.55
3030
3020
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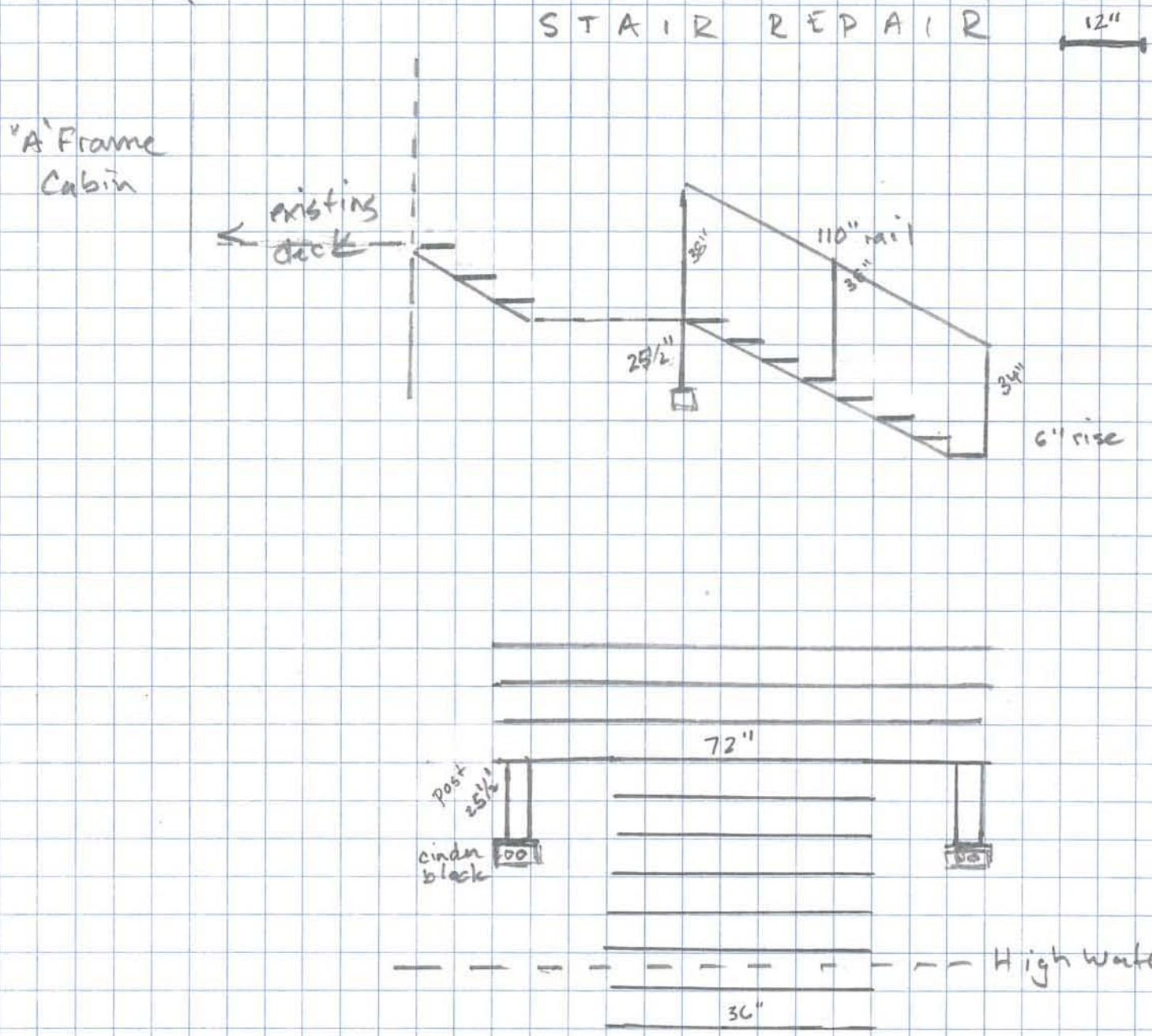
SET NAIL
FND REB 9095
3005.76
PL @ 12.0
MN FFL @ 3006.5 ±
ASPHALT
DRIVE
20' LAKESHORE PROTECTION ZONE
HOUSE
EX. PILE OF FILL DIRT TO BE REMOVED
NEW DECK WITHIN LPZ = 129.7 SF
EXIST. HOUSE, DECK, & STAIRS WITHIN LPZ = 487.1 SF
NEW HOUSE OVERHANG WITHIN LPZ = 4.1 SF
PROPOSED LOCATION OF REPLACEMENT WATER LINE
10' SETBACK
CAR PORT
RESTORE
NATIVE
SHED
2'
10'
SIDE SETBACK
(3) PROPOSED PAPER BIRCH
AREA TO BE RESTORED WITH NATIVE PLANTS TYP
Revisions:

2454 BIRCH GLEN

STAIR REPAIR



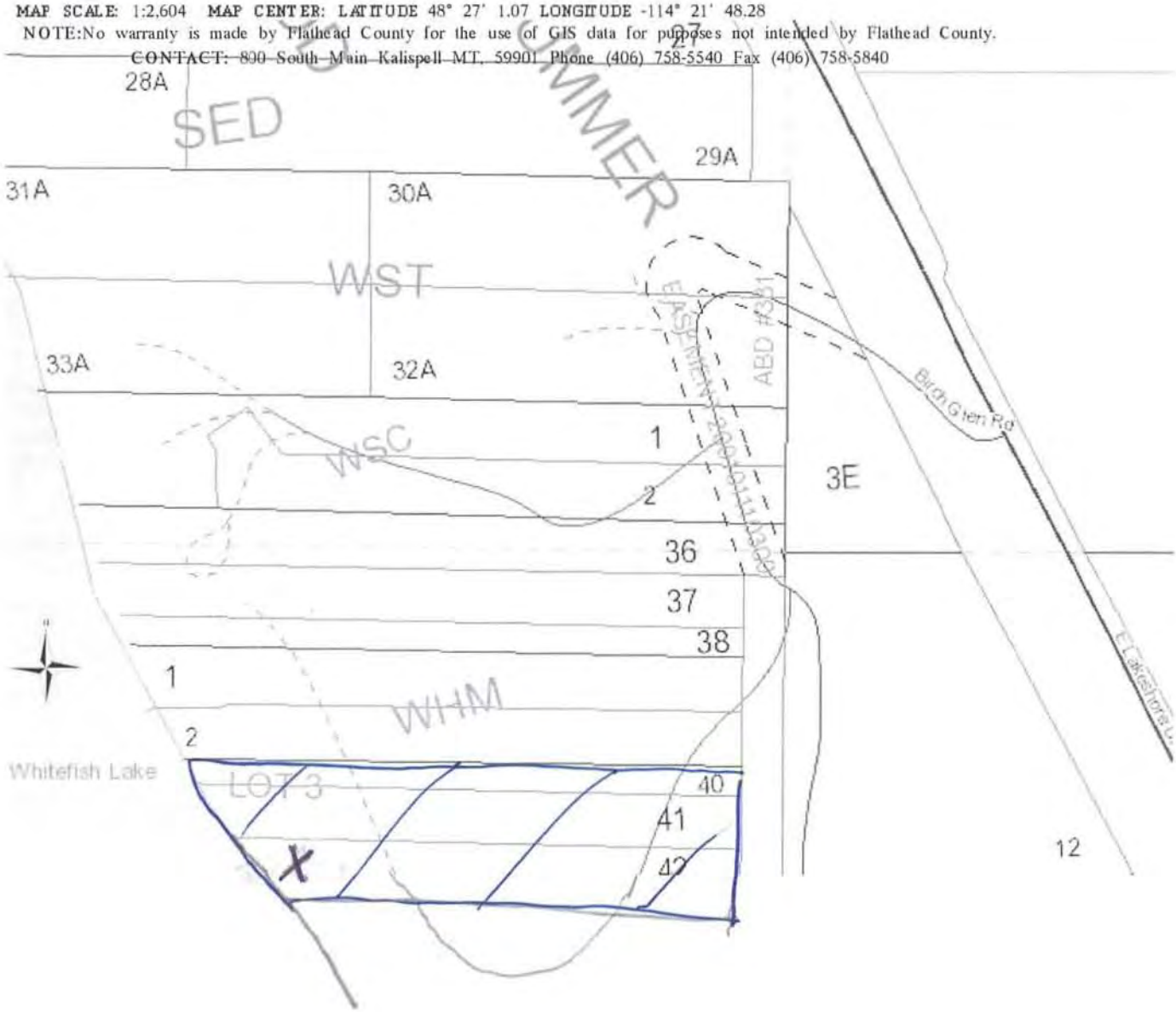
FLATHEAD COUNTY GIS

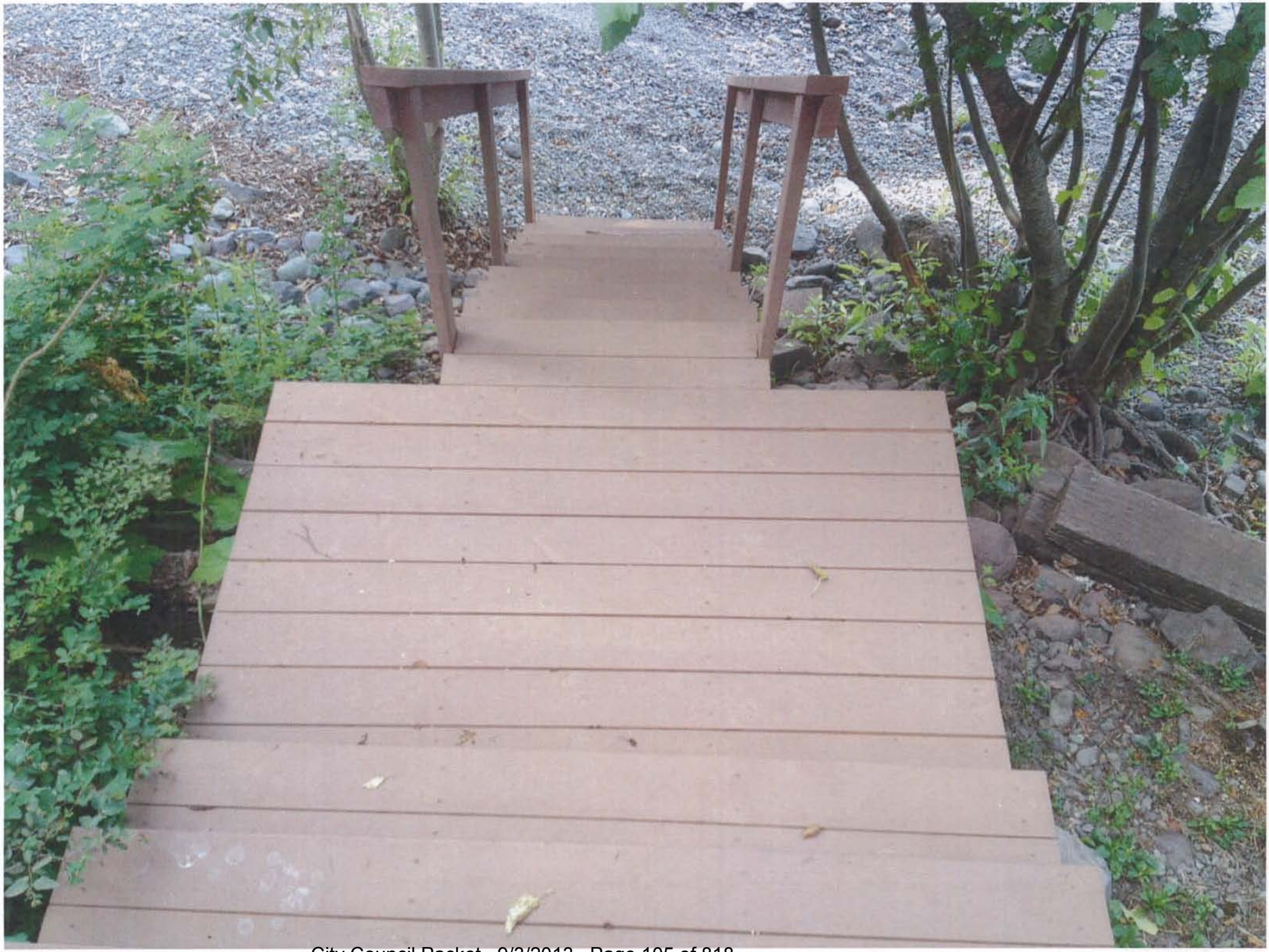
KALISPELL, MONTANA

MAP SCALE: 1:2,604 MAP CENTER: LATITUDE 48° 27' 1.07 LONGITUDE -114° 21' 48.28

NOTE:No warranty is made by Flathead County for the use of GIS data for purposes not intended by Flathead County.

CONTACT: 800 South Main Kalispell MT, 59901 Phone (406) 758-5540 Fax (406) 758-5840





STATE OF MONTANA
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-13-W30
SEPTEMBER 3, 2013

Owner/Applicant:	State of Montana Fish, Wildlife & Parks Kelly Williams, P.E.
Mailing Address:	PO Box 200701 Helena, MT 59620-0701
Telephone Number:	406.841.4002
Property Legal Description:	Lot 18, Block 3 Lake Park Addition in Section 26, Township 31N, Range 22W
Property Address:	State Park, State Park Road
Lake:	Whitefish Lake
Lake Frontage:	Greater than 800', no recent survey on file
Project Description:	Replace public boat launch

Discussion:

Proposal: The applicant is requesting to replace 320 square feet of the existing concrete boat ramp with precast concrete sections.

Frontage and allowable constructed area: The property has over 800 feet of lake frontage.

Existing Constructed Area: Staff does not have an exact total of the development within the lakeshore zone. However the property is a public park and the proposed work is an exact replacement of a public facility.

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

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

Recommended Conditions of Approval:

1. The Lakeshore Protection Zone shall be defined as the lake, lakeshore and all land within 20 horizontal feet of the average high water line at elevation 3,000.79'.

2. The proposed 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 material excavated from the lakeshore to construct the boat ramp and not used as the ramp foundation material shall be immediately and completely removed from the lakeshore protection zone and deposited in such a manner as to prohibit its reentry into the lake.

4. Boat ramps shall be of the same elevation as the preconstruction lake bed and lakeshore elevation.

5. The replacement section of the boat ramp shall be finished with nonskid surface to ensure maximum traction for vehicles launching and retrieving boats.

6. Boat ramp edges, if deemed necessary, shall be riprapped in order to prevent erosive undercutting.

7. Temporary storage of vehicles, trailers, debris, other equipment or construction materials in the lakeshore protection zone is prohibited.

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.

10. All work shall be done when the construction site is dry.

11. If lake siltation occurs, work will be immediately halted and the City of Whitefish Planning Department shall be contacted.

12. The natural protective armament of the lakebed and lakeshore shall be preserved wherever possible.

13. 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.

14. The proposed projects shall not exceed the dimensions or deviate from the proposed location as specified in the application, except as amended by the Whitefish Lake and Lakeshore Protection Regulations. Changes or modification to increase any dimension (or change configuration) must be approved through

permit amendment. The owner must request an amendment before the permit expires.

15. 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.

16. 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

STATE OF MONTANA
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-13-W30
AUGUST 14, 2013

Owner/Applicant:	State of Montana Fish, Wildlife & Parks Kelly Williams, P.E.
Mailing Address:	PO Box 200701 Helena, MT 59620-0701
Telephone Number:	406.841.4002
Property Legal Description:	Lot 18, Block 3 Lake Park Addition in Section 26, Township 31N, Range 22W
Property Address:	State Park, State Park Road
Lake:	Whitefish Lake
Lake Frontage:	Greater than 800', no recent survey on file
Project Description:	Replace public boat launch

Discussion:

Proposal: The applicant is requesting to replace 320 square feet of the existing concrete boat ramp with precast concrete sections.

Frontage and allowable constructed area: The property has over 800 feet of lake frontage.

Existing Constructed Area: Staff does not have an exact total of the development within the lakeshore zone. However the property is a public park and the proposed work is an exact replacement of a public facility.

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 approve the requested lakeshore construction permit subject to the following conditions:

Recommended Conditions of Approval:

1. The Lakeshore Protection Zone shall be defined as the lake, lakeshore and all land within 20 horizontal feet of the average high water line at elevation 3,000.79'.

2. The proposed 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 material excavated from the lakeshore to construct the boat ramp and not used as the ramp foundation material shall be immediately and completely removed from the lakeshore protection zone and deposited in such a manner as to prohibit its reentry into the lake.

4. Boat ramps shall be of the same elevation as the preconstruction lake bed and lakeshore elevation.

5. The replacement section of the boat ramp shall be finished with nonskid surface to ensure maximum traction for vehicles launching and retrieving boats.

6. Boat ramp edges, if deemed necessary, shall be riprapped in order to prevent erosive undercutting.

7. Temporary storage of vehicles, trailers, debris, other equipment or construction materials in the lakeshore protection zone is prohibited.

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.

10. All work shall be done when the construction site is dry.

11. If lake siltation occurs, work will be immediately halted and the City of Whitefish Planning Department shall be contacted.

12. The natural protective armament of the lakebed and lakeshore shall be preserved wherever possible.

13. 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.

14. The proposed projects shall not exceed the dimensions or deviate from the proposed location as specified in the application, except as amended by the Whitefish Lake and Lakeshore Protection Regulations. Changes or modification to increase any dimension (or change configuration) must be approved through

permit amendment. The owner must request an amendment before the permit expires.

15. 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.

16. 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

MONTANA
STATE PARKS
stateparks.mt.gov

July 18, 2013

07-22-13 P02:33 IN

Design and Construction Bureau
600 North Park Avenue
PO Box 200701
Helena, MT 59620-0701

Whitefish Planning and Building Department
PO Box 158
Whitefish, MT 59937

Subject: Whitefish Lake State Park
Lakeshore Construction Permit

To Whom it May Concern:

Enclosed is a Lakeshore Construction Permit Application for the subject project. The project is located on the south end of Whitefish Lake at Whitefish Lake State Park.

The proposed project involves removing eight existing aged "concrete planks" from the existing boat ramp and replacing them with a "push-in" concrete slab.

Construction is anticipated for late fall of 2013.

The permit fees of $350.00 are being processed through our accounting department and will be submitted as soon as possible.

If you have any questions or need additional information, please don't hesitate to call or e-mail.

Sincerely,

Kelly Williams, P.E.
Project Manager
Montana FWP, Design & Construction Bureau
Phone: 841-4002, Cell: 438-2737, Fax: 841-4004
kelwilliams@mt.gov

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 Mt FWP - Kelly Williams Phone 406-841-4002
Mail Address PO Box 200701
City, State, Zip Helena, MT 59620-0701
Project address (if other than above)

APPLICANT (If Other Than Owner)

Name Phone
Mail Address
City, State, Zip

Email address (staff reports are sent via email): Kelwilliams@mt.gov

How many feet of the lake frontage do you own? ~880 ft

Legal Description (available from annual property tax notice)
Lot/Tract#: Lot 10 Blk 3 Section: 26 Township 31 N Range: 22 W

Subdivision Name: Lake Park Addition

CONTRACTOR: PHONE#:

Mail Address:

FEES:

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

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).

Project involves removal and replacement of 20 feet of existing concrete ramp and modification of the dock launch ramp. We propose removing eight - 4 foot by 10 foot concrete planks and replacing them with a cast concrete ramp that will be pushed into place. Work on the dock launch ramp will involve cast-in-place concrete to lessen the slope to facilitate pulling the dock out of the water in the fall.

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.

There may be minimal temporary turbidity issues while the sub base is prepared and the ramp is pushed into the water.

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.

Existing improvements consist of an ~80 foot concrete ramp (20 feet wide) and a roll in dock that is removed in the fall and installed in the spring.

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

4. The following Project Information must be included.

Is VICINITY MAP attached? yes
Is a "to scale" SITE PLAN attached? yes
Is a "to scale" 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, boat house, stairs, etc)

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

Owners Signature (May be signed by applicant but authorization letter from owner must be attached.) Date: 7/11/13

KELLY WILLIAMS - MT FWP
Print Name

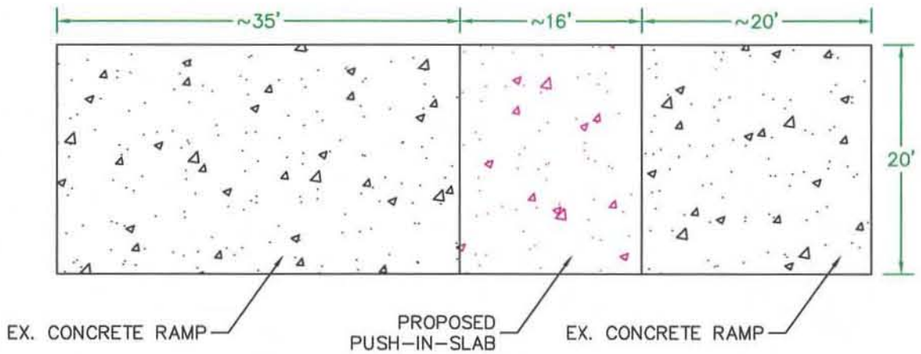
All work will be inspected for conformity with permit. The permit is valid for one year from date of approval. The permit can be renewed by the governing body upon request.

VICINITY MAP

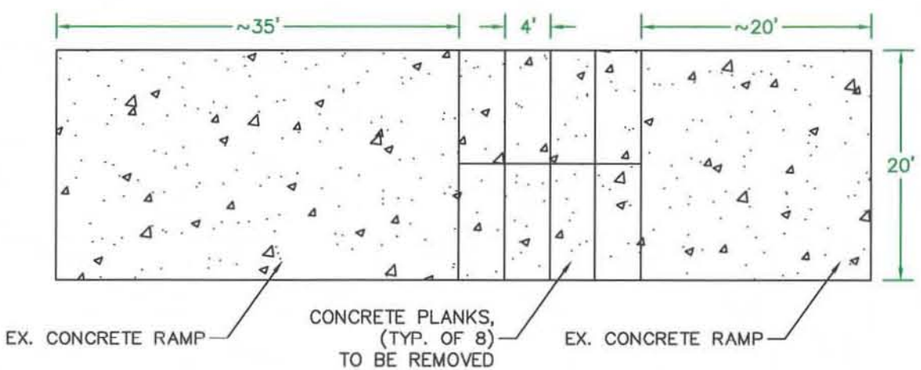
N

0 0.35 0.7 1.4 Miles

LOADING



PROPOSED



EXISTING

KMW 7/2013 DRAWN BY: DATE: CHECKED BY: DATE:	REVISED BY: DATE: APPROVED BY: DATE:	APPROVED BY: DATE: APPROVED BY: DATE:	Montana Fish, Wildlife & Parks	Ramp Replacement Whitefish Lake State Park	SHEET: 1 of 1

Map of

LAKE PARK ADDITION

to

WHITEFISH, MONTANA.

Scale 1"=200

Certificate of Dedication

We Edgar S. Baker, and Flora E. Baker his wife, Adolph P. Smorud and Gaila Smorud, his wife, Arthur G. Sheppard and Clara Sheppard his wife, do hereby Certify That we have caused to be surveyed, subdivided and platted into Lots, Blocks, Streets, Avenues and Alleys as shown by the Map or Plat and the Certificate of Survey hereunto annexed, the following described Tract, Piece or Parcel of land to wit:- Lots 1 2 & 3 and the West ½ of the Southwest ¼ of Sec 26, Township 31 North, Range 22 West of Montana's Principal Meridian, save and excepting a certain portion held as Right of Way by the Great Northern Railway, as shown by the annexed map, and excepting a portion of "Denied Property" to wit:- Beginning at a point which is 1121.3 feet East of the North East corner of the Southwest ¼ of the Southwest ¼ of said Section, thence N. 39°05' W. 620 feet, thence N. 50°55' E. 553 feet thence along the meander line of Whitefish Lake S. 30°30' E. 82 ft, thence S. 36°00' E. 223.1 feet thence S. 30°35' E. 174.1 feet, thence S. 48°50' E. 168.1 feet, thence bearing same meander line West 36 ft back to point of beginning. The tract, piece or parcel of land intended to be herein described for the purpose of platting contains 15.3 Acres more or less, and is to be known and designated as "LAKE PARK ADDITION to WHITEFISH MONTANA" and the lands included within all the Streets, Avenues and Alleys on said Plat are hereby Granted and Donated to the Public forever.

In Witness Whereof we have hereunto set our hands this 21st Day of February A.D. 1913.

Edgar S. Baker
Flora E. Baker
Adolph P. Smorud
Gaila Smorud
Arthur G. Sheppard
Clara Sheppard

State of Montana, }
County of Flathead. } ss.

On this 24th day of February A.D. 1913 before me, Merle C. Greene, a Notary Public for the State of Montana, personally appeared Edgar S. Baker, and Flora E. Baker, his wife, and Arthur G. Sheppard and Clara Sheppard, his wife, known to me to be the persons who executed the foregoing Certificate of Dedication and acknowledged to me that they executed the same for the uses and purposes therein mentioned.

Merle C. Greene
A Notary Public for Montana, residing at Whitefish, Montana.
My Commission expires August 13 1913

State of North Dakota }
County of Mountrail } ss.

On this 21st day of February, A.D. 1913, before me, R.E. Edwardson a Notary Public for the State aforesaid, personally appeared Adolph P. Smorud and Gaila Smorud, his wife, known to me to be the persons who executed the foregoing Certificate of Dedication and acknowledged to me that they executed the same for the uses and purposes therein mentioned.

R.E. Edwardson
A Notary Public for the State of North Dakota Residing at White Earth, North Dakota. My commission expires Sept 17th 1913

Certificate of Commissoners

We, Joseph R. Edge, John Lowe, and Henry Good, County Commissioners in and for the County of Flathead, State of Montana, do hereby CERTIFY that at a meeting of the Board of County Commissioners held on the 7th day of April A.D. 1913, the annexed Plat of "LAKE PARK ADDITION to WHITEFISH MONTANA" was examined and approved by us and the Streets and Avenues shown thereon are declared to be Public Highways.

In Witness Whereof, we have hereunto set our hands and caused the Seal of Flathead County to be hereunto affixed the day and year in this certificate written.

Attest: Fred S. Perry, County Clerk.

Henry Good, Chairman
Joseph R. Edge, Commissioner
John Lowe, Commissioner

State of Montana }
County of Flathead }

Filed on the 2nd day of July A.D. 1913 at 10 o'clock A.M.
Fred S. Perry, County Clerk & Recorder.

Fee $3.00 pd

Certificate of Survey

I, Harry P. Walters, a Civil Engineer and Surveyor do hereby certify that on the 18th to 21st day of September, 1912, I made a careful and accurate Survey of the tract of land embraced within "LAKE PARK ADDITION to WHITEFISH, MONTANA" as shown by the annexed map and the courses and distances as shown thereon are true and correct to the best of my knowledge and belief and that said survey was made in conformity with Sections 5000 to 5013 of the Political Code of the State of Montana.

Harry P. Walters
Civil Engineer and Surveyor

State of Montana }
County of Flathead }

On this __th day of January, A.D. 1913, before me, A.W. Simon, a Notary Public for the State aforesaid, personally appeared H.P. Walters, known to me to be the person who signed the above Certificate of Survey and acknowledged to me that the statements therein and facts are true and correct to the best of his knowledge and belief.

A.W. Simon
A Notary Public for Montana, residing at Kalispell. My commission expires July 30th 1913.

4-3-10 COPY

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

August 27, 2013

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

Re: Final Plat for Resubdivision of Lot 42, Mountain Park Subdivision; WFP 13-01

Honorable Mayor and Council Members:

This office is in receipt of a final plat application from TD&H for Bernard Papp. This is a 2-lot subdivision located in Mountain Park Subdivision. The property is zoned WR-3 (Low Density Multi-Family Residential District). Preliminary plat approval was granted by the City Council on December 1, 2008, subject to six conditions.

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

COMPLIANCE WITH PRELIMINARY PLAT CONDITIONS OF APPROVAL:

Condition 1. 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.

- Condition met. The final plat conforms to the applicable city codes.

Condition 2. That any new improvements, if needed, (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.

- Condition met. The final plat conforms to the applicable Public Works Standards.

Condition 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.

- Condition met. See attached DEQ letter #EQ14-1149.

Condition 4. All noxious weeds, as described by Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner.

- Condition met. See note on face of plat concerning this requirement.

Condition 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.

- Condition met. See note on face of plat concerning this requirement.

Condition 6. The preliminary plat is approved for three years from Council action (WCC 12-3-3-2.E.6.).

- Condition met. The project received approval on December 1, 2008. On June 20, 2011, the Whitefish City Council granted the applicant a two-year extension until December 1, 2013.

RECOMMENDATION:

All of the conditions of preliminary plat approval have been adequately met. The Planning and Building Department recommends the Whitefish City Council accept this report, #WFP 13-01 and approve the final plat for this subdivision.

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

Sincerely,

Wendy Compton-Ring, AICP
Senior Planner

Attachments: 2 reproducible Mylar of final plat
Final plat application (received 8-14-13)
Letter – applicant (8-14-13)
Consent to Plat, Glacier Bank 2008-00023849 (8-9-13)
Consent to Plat, Glacier Bank 2007-00031219 (8-9-13)
Treasurer's Certification (8-14-13)
Letter – DEQ, EQ#14-1149 (8-13-13)
Title Report, Alliance Title & Escrow, File No. 200435 (8-12-13)

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

c/wo/att: Doug Peppmeier, PE, TD&H 450 Corporate Dr, suite 101 Kalispell, MT 59901
Bernard Papp, 4901 48th St #301 Red Deer, AB T4N 6M4 Canada

FOR (OWNER): BERNARD PAPP

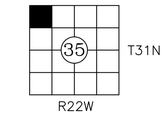
BY: THOMAS, DEAN AND HOSKINS, INC.
450 CORPORATE DRIVE SUITE #101
KALISPELL, MT. 59901
PHONE: (406) 751-5246

DATE: AUGUST, 2013

SUBDIVISION PLAT OF

RESUBDIVISION OF LOT 42 OF MOUNTAIN PARK SUBDIVISION

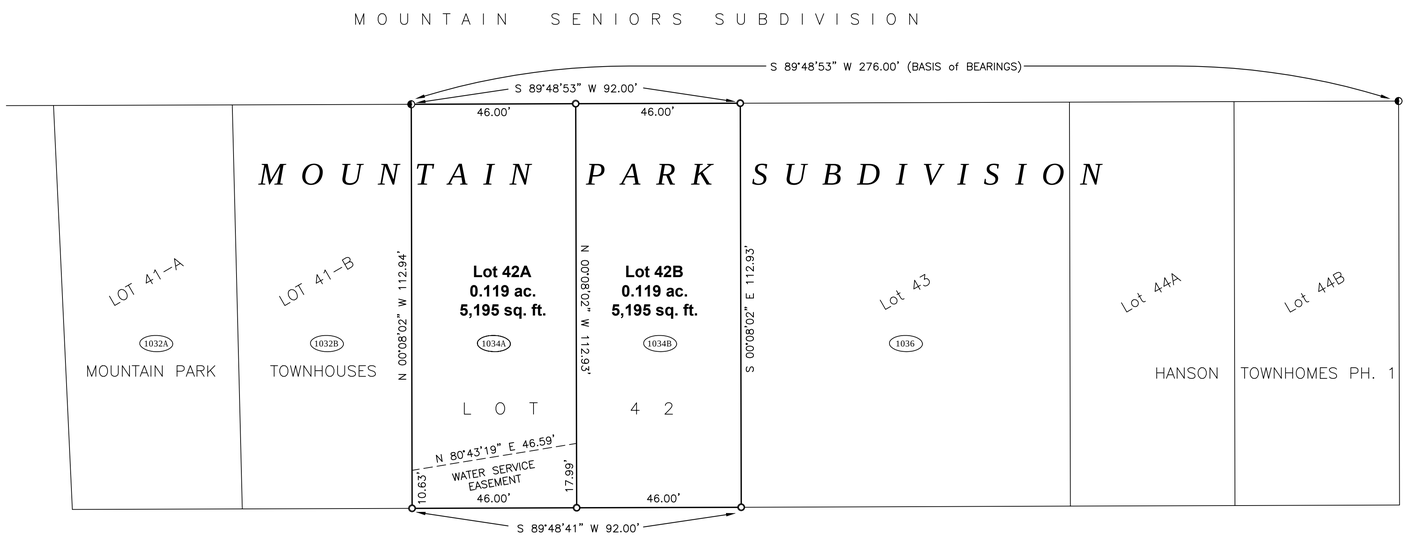
LOCATED IN THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35, T31N, R22W, P.M.M., FLATHEAD COUNTY, MONTANA.



NOTES:

House numbers shall be posted on the house in a clearly visible location.

All noxious weeds, as described by the Whitefish City Code, shall be removed throughout the life of the development by the recorded owner.



LEGEND

- FND. 5/8" REBAR & CAP BY 9344LS
- SET 5/8" REBAR & CAP STAMPED 9525LS
- (1034B) STREET ADDRESS

AREA TABLE

	GROSS	NET
LOT 42A	0.119 AC	0.104 AC
LOT 42B	0.119 AC	0.119 AC
TOTAL	0.238 AC	0.223 AC

0 20' 40' 60'
SCALE

CERTIFICATE OF DEDICATION

I, Bernard Papp, the undersigned property owner, do hereby certify that I have caused to be surveyed, subdivided and platted into lots as shown by the plat hereto annexed, the following described land in the City of Whitefish, Montana, to wit:

A tract of land located in the Northwest quarter of the Northwest quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, being more particularly described as follows:

Lot 42 of MOUNTAIN PARK SUBDIVISION, Records of Flathead County, Montana and containing 0.238 acres. Subject to and together with all appurtenant easements of record.

The above described tract of land is to be known and designated as RESUBDIVISION OF LOT 42 OF MOUNTAIN PARK SUBDIVISION, located in the Northwest quarter of the Northwest quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

CERTIFICATE OF UTILITY EASEMENT

I, Bernard Papp, the undersigned property owner, do hereby grant unto each and every person, firm or corporation whether private or public, providing or offering to provide telephone, electric power, gas, internet, cable television or other similar utility or service the right to joint use of an easement for the construction, maintenance repair and removal of their lines and other facilities in, over, under, and across each area designated on this plat as "Utility Easement" to have and to hold forever.

Utility Easement
A twenty (20) foot wide utility easement is hereby reserved for each lot of this subdivision centered on the utility service for each lot. said easement shall extend from the point of origin to the required service point. Said utilities are to include but are not limited to telephone, electric power, gas, cable television, internet, water, and sewer as well as any other utility to serve the lot.

_____
Bernard Papp

State of _____)
County of _____) ss.

On this _____ day of _____, 20____ before me, the undersigned, a Notary for the State of _____ personally appeared _____, known to me to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged to me that they executed the same.

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

CERTIFICATE OF FINAL PLAT APPROVAL

We, _____, Mayor of the City of Whitefish, Montana and _____, City Clerk of the City of Whitefish, Montana do hereby certify that the accompanying plat was duly examined and approved by the City Council of Whitefish, Montana, at its regular meeting held on the _____ day of _____, 20___.

_____
Mayor
City of Whitefish, Montana
Whitefish, Montana

_____
City Clerk

CERTIFICATE OF PLANNING DIRECTOR

I, _____, Planning Director for the City of Whitefish, Montana do hereby certify that the accompanying Subdivision has been duly reviewed, and has been found to conform to the requirements of the Whitefish Zoning Regulations and the Whitefish Subdivision Regulations. Dated this day _____ of _____, 20___.

_____
Planning Director
City of Whitefish, Montana

CERTIFICATE OF PUBLIC WORKS DIRECTOR

I, _____, Public Works Director for the City of Whitefish, Montana do hereby certify that the accompanying Subdivision Plat has been duly examined, and it has been found the required subdivision improvements conform/comply with the requirements of the Whitefish Standards for Design and Construction. Dated this day _____ of _____, 20___.

_____
Public Works Director
City of Whitefish, Montana

CERTIFICATE OF CITY ATTORNEY

I, _____, City Attorney for the City of Whitefish, Montana do hereby certify that I have examined the plat according to Section 76-3-612(2), MCA relying on Title Report No. _____, issued by a licensed Title Company, attached hereto, of the land described in the Certificate of Consent of the annexed plat of the RESUBDIVISION OF LOT 42 OF MOUNTAIN PARK SUBDIVISION, and approved this plat based on information submitted by the developer and/or his agent. Dated this day _____ of _____, 20___.

_____
City Attorney
City of Whitefish, Montana

CERTIFICATE OF SURVEYOR

_____
REGISTRATION NO. 9525 LS

APPROVED _____ ,20____

_____
EXAMINING LAND SURVEYOR REG. NO. _____

STATE OF MONTANA
COUNTY OF FLATHEAD SS

FILED ON THE _____ DAY OF_____,20____

TIME: _____

_____
CLERK AND RECORDER

BY: _____
DEPUTY

RECEPTION NO._____

SHEET 1 OF 1

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

File #: _____
Date: _____
Intake Staff: _____
Date Complete: _____

FINAL PLAT APPLICATION

FEE ATTACHED $2,974.00
(See most current fee schedule)

Project /Subdivision Name: Resubdivision of Lot 42, Mountain Park Subdivision

OWNER(S) OF RECORD:
Name: Bernard Papp Phone: 403-341-8880
Mailing Address: 4901 4901 48th Street, 301,
City, State, Zip: Red Deer, AB T4N6M4CN
Email: bernie.papp@rbc.com

APPLICANT (if different than above):
Name: _____ Phone: _____
Mailing Address: _____
City, State, Zip: _____
Email: _____

TECHNICAL/PROFESSIONAL:
Name: Douglas A. Peppmeier, P.E. Phone: 406-751-5246
Mailing Address: 450 Corporate Drive, Suite 101
City, State, Zip: Kalispell, MT 59901
Email: doug.peppmeier@tdhengineering.com
Name: Richard Swan, PLS Phone: 406-751-5246
Mailing Address: 450 Corporate Drive, Suite 101
City, State, Zip: Kalispell, MT 59901
Email: rick.swan@tdhengineering.com

Date of Preliminary Plat Approval: 12/01/2008
Type of Subdivision: Residential x Industrial ____ Commercial ____ PUD ____ Other ____
Total Number of Lots in Subdivision 2 Land in Project (acres) 0.238 Ac
Parkland (acres) _____ Cash-in-Lieu $_____ Exempt x

NUMBER OF LOTS BY TYPE:
Single Family: ___ Townhouse: 2 Mobile Home Park: ____ Duplex: ____ Apartment: ____
Recreational Vehicle Park: ____ Commercial: ____ Industrial: ____ Planned Unit Development: ____
Condominium: ____ Multi-Family: ____ Other: ____

Legal Description of the Property: Lot 42 – Mountain Park Subdivision, Sec 35, T31N, R22W, P.M., M. Flathead County, Montana

08-14-13 P04:43 IN

All applicable items required by *Appendix C: Final Plat Contents* of the Whitefish Subdivision Regulations must be submitted with the application for final plat including the following. Check items attached or not applicable.

Not Applicable	Attached	(MUST CHECK ONE)
	X	Cover letter listing each condition of approval and individually state how each condition is specifically met. In cases where documentation is required, such as an engineer's certification, State Department of Health certification, etc., original letters shall be submitted. Blanket statements stating, for example, "all improvements are in place" are not acceptable.
	X	Montana DEQ Health Department Certification (*Original*)
	X	Title Report (*Original, not more than 90 days old*)
	X	Tax Certification (*Property taxes must be paid*)
	X	Consent(s) to Plat (*Originals and notarized*)
X		Engineer's Certification (*Original*)
		Subdivision Improvements Agreement (*Attach collateral*)
X		Engineering Improvements (*sidewalks, walkways, street lights, street signs, solid waste facilities, utilities*)
X		Landscaping Improvements (*landscaping, street trees, parkland improvements – trails, park facilities,*)
X		Parkland Cash-in-Lieu (*Check attached payable to City of Whitefish*)
X		Maintenance Agreement (*as applicable: stormwater facility, private roads, parks, etc*)
X		Articles of Incorporation and Conditions, Covenants & Restrictions
X		Approach Permit (*when applicable*)
	X	**Plat:** signed mylars: 2, 24" x 36" paper copy: 2, 11" x 17" paper copy: 1 and .pdf The plat must be signed by all owners of record, the surveyor and the examining land surveyor.

A complete final plat application must be submitted no less than **90 days** prior to expiration date of the preliminary plat.

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

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

Owner(s) Signature _____ Date 08/12/2013

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

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

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

TD&H Engineering

August 14, 2013

Wendy Compton Ring
Whitefish Planning & Building Department
PO Box 158
510 Railway Street
Whitefish, MT 59937

Re: FINAL PLAT RESUDIVISION OF LOT 42 OF MOUNTAIN PARK SUBDIVISION

Dear Ms. Compton Ring:

Attached is the Final Plat of the above referenced resubdivision, along with the following materials:

- Signed application form and fee ($2,974)
- Platting Certificate
- Consent to plat from Glacier Bank
- Tax Certification
- Municipal Facilities Exclusion Letter from DEQ
- Half-size copy of the plat
- CD containing the plat in PDF and AutoCad .dwg formats

The subdivision meets the conditions of Preliminary Plat approval (WSPP-08-61) as follows:

Condition #1
Development of this subdivision is in substantial conformance with the approved preliminary plat.

Condition #2
No new improvements are needed for this subdivision.

Condition #3
Municipal Facilities Exclusion letter from DEQ is attached. Water and sewer facilities were approved by Public Works in the original platting of Mountain Park Subdivison.

450 Corporate Drive, Suite 101 • Kalispell, MT 59901 • (406) 751-5246 • FAX (406) 752-5230

Conditions #4 & #5
Notes have been placed on the face of the Final Plat, requiring that noxious weeds be removed throughout the life of the development, and that house numbers be posted on the house in a clearly visible location.

Condition #6
The Preliminary Plat was originally approved 12/01/2008. A three-year extension was granted and the approval currently expires 12/01/2013.

Feel free to call if you have questions, or require additional materials.

Sincerely,

TD&H Engineering

Richard J. Swan, PLS
Survey Manager

RJS/rjs
K13-023-010

Encl: Referenced above

450 Corporate Drive, Suite 101 • Kalispell, MT 59901 • (406) 751-5246 • FAX (406) 752-5230

CONSENT TO PLATTING

Pursuant to Section 76-3-612, Montana Code Annotated, 2011, the undersigned, acting on behalf of Glacier Bank, being an owner of interest in the property to be subdivided as:

RESUBDIVISION OF LOT 42 OF MOUNTAIN PARK SUBDIVISION

do hereby consent to the platting of said subdivision.

GLACIER BANK

By: _____

CERTIFICATE OF NOTARY

State of MONTANA)

County of FLATHEAD) ss:

On this 9TH day of AUGUST 2013, before me the undersigned, a Notary Public for the State of MONTANA, personally appeared SHANE MOSS known to me to be the person(s) whose names are affixed to the Consent to Platting and acknowledged to me that they executed the same.

LAURA PRINGNITZ
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
April 10, 2015

Laura Pringnitz

Notary Public for the State of MONTANA

Residing at WHITEFISH

My Commission Expires APRIL 10, 2015

Flathead County Record
#2008-00023849

CONSENT TO PLATTING

Pursuant to Section 76-3-612, Montana Code Annotated, 2011, the undersigned, acting on behalf of Glacier Bank, being an owner of interest in the property to be subdivided as:

RESUBDIVISION OF LOT 42 OF MOUNTAIN PARK SUBDIVISION

do hereby consent to the platting of said subdivision.

GLACIER BANK

By: _____

CERTIFICATE OF NOTARY

State of MONTANA)

County of FLATHEAD) ss:

On this 9TH day of AUGUST 2013, before me the undersigned, a Notary Public for the State of MONTANA, personally appeared SHANE MOSS known to me to be the person(s) whose names are affixed to the Consent to Platting and acknowledged to me that they executed the same.

LAURA PRINGNITZ
NOTARY PUBLIC for the
State of Montana
Residing at Whitefish, Montana
My Commission Expires
April 10, 2015

Notary Public for the State of MONTANA

Residing at WHITEFISH

My Commission Expires APRIL 10, 2015

Flathead County Record
#2007-00031219

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

This Form is for Subdivisions Only

BY : TD & H

FOR : PAPP

DATE : 7/31/13

DESCP : MOUNTAIN PARK SUB
RESUB L42 (35-31-22)

PURPOSE : RESUB

YEARS	ASSESSOR #
2009 THRU 2012	0982111

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

Judy Lindahl
Deputy Treasurer
(seal)

AUG 14 2013

KALISPELL, MONTANA
FLATHEAD COUNTY TREASURER

Montana Department of
ENVIRONMENTAL QUALITY

Steve Bullock, Governor
Tracy Stone-Manning, Director

P. O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • Website: www.deq.mt.gov

August 9, 2013

RECEIVED
AUG 13 2013
BY:

Doug Peppmeier PE
TD&H Engineering
450 Corporate Drive Suite 101
Kalispell MT 59901

RE: Resubdivision of Lot 42 of Mountain Park Subdivision
Municipal Facilities Exclusion
EQ#14-1149
City of Whitefish
Flathead County

Dear Mr Peppmeier;

This is to certify that the information and fees received by the Department of Environmental Quality relating to this subdivision are in compliance with 76-4-127, MCA and ARM 17.36.602. Under 76-4-125(2)(d), MCA, this subdivision is not subject to review, and the plat can be filed with the county clerk and recorder.

Plans and specifications must be submitted when extensions of municipal facilities for the supply of water or disposal of sewage are proposed {76-4-111 (3), MCA}. Construction of water or sewer extensions prior to DEQ, Public Water Supply Section's approval is prohibited, and is subject to penalty as prescribed in Title 75, Chapter 6 and Title 76, Chapter 4.

Sincerely,

Janet Skaarland

Janet Skaarland
Compliance Specialist
Subdivision Section
(406) 444-1801 – email jskaarland@mt.gov

cc: City Engineer
County Sanitarian
file

Customer Reference No.
File No. 200435

ALLIANCE
TITLE & ESCROW CORP.

501 S Main St., PO Box 879 Kalispell, MT 59901
(406) 752-7606 Fax: (406) 756-7064

PRELIMINARY TITLE COMMITMENT ATTACHED

Date: August 12, 2013 **File No.:** 200435

Property: 1034 Mountain Park Drive, Whitefish, MT 59937

Buyer/Borrower: Gregory S. Fletcher

Seller: Bernard Papp

In connection with the above referenced transaction, we are delivering copies of the Title Commitment to the following parties:

Listing Agent:
RE/MAX of Whitefish, Inc.
509 E 6th St.
Whitefish, MT 59937
Attn: Lee Zignego

Selling Agent:
RE/MAX of Whitefish, Inc.
509 E 6th St.
Whitefish, MT 59937
Attn: Lee Zignego

Lender:

Attn:

Buyer/Borrower:
Gregory S. Fletcher
3637 1A St SW
Calgary, AB T2S 1R4

Seller:
Bernard Papp
#301 4901 48th ST
Red Deer, AB T4N 6M4

Customer Reference No.
File No. 200435

ALLIANCE
TITLE & ESCROW CORP.

501 S Main St., PO Box 879 Kalispell, MT 59901
(406) 752-7606 Fax: (406) 756-7064

Commitment for Title Insurance

Subject to conditions and stipulations contained therein

Your contacts for this transaction are as follows:

Escrow Officer:

Catherine Guenther
catherine_guenther@alliancetitle.com

Title Officer

Kelley Hill
kelley_hill@alliancetitle.com
(406) 752-7606

Email escrow closing documents to:

whitefish@alliancetitle.com

Customer Reference No.
File No. 200435

In an effort to assure that your transaction goes smoothly, please review the following checklist and contact your Escrow Officer or Title Officer if you answer "Yes" to any of the following:

- **Will you be using a Power of Attorney?**
- **Are any of the parties in title incapacitated or deceased?**
- **Has a change in marital status occurred for any of the principals?**
- **Will the property be transferred into or from a trust, partnership, corporation or Limited Liability Company?**
- **Has there been any construction on the property in the last six months?**

Remember, all parties signing documents must have a current driver's license or other valid, government issued photo I.D.

Customer Reference No.
File No. 200435

ALTA Plain Language Commitment Form

INFORMATION

The Title Insurance Commitment is a legal contract between you and the Company. It is issued to show the basis on which we will issue a Title Insurance Policy to you. The Policy will insure you against certain risks to the land title, subject to the limitations shown in the Policy.

The Company will give you a sample of the Policy form, if you ask.

Note: Notwithstanding anything to the contrary in this Commitment, if the policy to be issued is other than an ALTA Owner's Policy (6/17/06) or ALTA Loan Policy (6/17/06), the policy may not contain an arbitration clause, or the terms of the arbitration clause may be different from those set forth in this Commitment. If the policy does contain an arbitration clause, and the Amount of Insurance is less than the amount, if any, set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties.

The Commitment is based on the land title as of the Commitment Date. Any changes in the land title or the transaction may affect the Commitment and the Policy.

The Commitment is subject to its Requirements, Exceptions and Conditions.

THIS INFORMATION IS NOT PART OF THE TITLE INSURANCE COMMITMENT. YOU SHOULD READ THE COMMITMENT VERY CAREFULLY.

If you have any questions about the Commitment, contact your title officer, Kelley Hill

---

TABLE OF CONTENTS

AGREEMENT TO ISSUE POLICY

SCHEDULE A

1. Commitment Date
2. Policies to be Issued, Amounts and Proposed Insureds
3. Interest in the Land and Owner
4. Description of the Land

SCHEDULE B-I -- REQUIREMENTS

SCHEDULE B-II -- EXCEPTIONS

CONDITIONS

Customer Reference No.
File No. 200435

TITLE INSURANCE COMMITMENT

BY

Chicago Title Insurance Company

AGREEMENT TO ISSUE POLICY

We agree to issue a policy to you according to the terms of the Commitment. When we show the policy amount and your name as the proposed insured in Schedule A, this Commitment becomes effective as of the Commitment Date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within six months after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is issued and then our obligation to you will be under the Policy.

Our obligation under this Commitment is limited by the following:

The Provisions in Schedule A.

The Requirements in Schedule B-I.

The Exceptions in Schedule B-II.

The Conditions.

This Commitment is not valid without SCHEDULE A and Sections I and II of SCHEDULE B.

CHICAGO TITLE INSURANCE COMPANY
By:

President

By:

Secretary

Issued by: Alliance Title & Escrow Corp.

By: _____

Authorized signer

Customer Reference No.
File No. 200435

SCHEDULE A

Order No.: **200435**

1. Effective date: **July 31, 2013 at 7:30 A.M**

2. Policy or Policies to be issued:

(a) **ALTA Owner's Policy (6-17-06)** [X] **Standard Coverage** [ ] **Extended Coverage**

Amount: **$550,000.00**
Premium: **$1,523.00**

Proposed Insured:

Gregory S. Fletcher

(b) **ALTA Loan Policy (6-17-06)** [ ] **Standard Coverage** [ ] **Extended Coverage**

Amount:
Premium: **$0.00**

Endorsements:

Proposed Insured:

3. FEE SIMPLE interest in the Land described in this Commitment is owned, at the Commitment Date, by:

Bernard Papp

4. The Land referred to in this Commitment is described as follows:

Lot 42 of Mountain Park Subdivision, according to the official plat thereof, filed in Official Records of Flathead County, Montana.

Customer Reference No.
File No. 200435

SCHEDULE B - SECTION I

REQUIREMENTS

The following requirements must be met:

a. Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.

b. Pay us the premiums, fees and charges for the policy.

c. Documents satisfactory to us creating the interest in the Land and/or the Mortgage to be insured must be signed, delivered and recorded.

d. You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the Land or who will make a loan on the Land. We may then make additional requirements or exceptions.

Note No. 1: In the event this transaction fails to close and this commitment is cancelled a fee will be charged complying with the state insurance code.

Note No. 2: According to the available County Assessor's Office records, the purported address of said land is:
1034 Mountain Park Drive, Whitefish, MT 59937

Note No. 3: To assist you with RESPA compliance, be advised that the agent/underwriter split associated with the policy(ies) to be issued are as follows:
As to any Owners policy of title insurance proposed in Schedule A:
Agent $1,340.24 Underwriter $182.76
As to any Lenders policy of title insurance proposed in Schedule A:
Agent $0.00 Underwriter $0.00
As to any Endorsements proposed in Schedule A:
Agent Underwriter

Note No. 4: Taxes, including any assessments collected therewith, for the year shown below are paid:
Amount: $9,268.39
Year: 2012
Parcel No.: 74-0982111

Copies of our privacy policies are available upon request. Please contact your title officer.

Customer Reference No.
File No. 200435

SCHEDULE B - SECTION II

EXCEPTIONS

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

1. Rights or claims of parties in possession not shown by the public records.
2. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
3. Easements, or claims of easements, not shown by the public records.
4. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights or easements appurtenant to water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.
6. Taxes or special assessments which are not shown as existing liens by the public records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
7. County road rights-of-way not shown by the Public Records, including, but not limited to any right of the Public and the County of Flathead to use and occupy those certain roads and trails as depicted on County Surveyor's maps on file in the office of the County Surveyor of Flathead County.
8. All minerals in or under said land including but not limited to metals, oil, gas, coal, stone and mineral rights, mining rights and easement rights or other matters relating thereto, whether expressed or implied.
9. Taxes, including any assessments collected therewith, for the year 2013 which are a lien not yet due and payable.
10. An easement for the purpose shown below and rights incidental thereto as set forth in a document:
    Granted To: James E. Cuffe, Charles E. Lyman and Sheila Lyman, husband and wife as joint tenants AND Paul A. Wolk and Anna M. Wolk, husband and wife, as joint tenants AND Lawrence O'Shaughnessy.
    Purpose: a water well pump and water distribution system
    Recorded: October 6, 1975
    Instrument No.: 9227in Book 587 Page 240, AND Amendment recorded April 17, 1979 Instrument No. 5263 in Book 666 page 310
11. An easement for the purpose shown below and rights incidental thereto as set forth in a document:
    Purpose: a water well, pump and a portion of a water distribution system
    Recorded: July 16, 1976
    Instrument No.: 7639
    Book 598, Page 991AND Instrument of Correction and Amendment recorded April 17, 1979 Instrument No. 5263 in book 666 Page 310

12. An easement for the purpose shown below and rights incidental thereto as set forth in a document:
    Purpose: water well site, well and appurtenances
    Recorded: October 19, 1981
    Instrument No.: 14727
    Book 726, Page 275AND Amendment to Easement Agreement recorded May 25, 1994
    Instrument No. 94-145-1612-0

13. Easements, reservations, notes and/or dedications as shown on Certificate of Survey No. 5259.

14. Easements, reservations, notes and/or dedications as shown on the official plat of Mountain Park Subdivision.

15. Terms, provisions, covenants, conditions, definitions, options, obligations and restrictions, contained in a document
    Purpose: Resolution No. 94-27 for annexation
    Recorded: July 6, 1994
    Instrument No.: 94-187-1520-0

16. Terms and provisions of State of Montana, Department of Environmental Quality, Certificate of Subdivision Plat Approval, recorded with recorded with Mountain Park Subdivision on July 6, 1994 Instrument No. 94-187-1522-0, of Official Records.

17. Terms, provisions, covenants, conditions, definitions, options, obligations and restrictions, contained in a document
    Purpose: By-Laws of Mountain Park Homeowner's Association, Inc.
    Recorded: July 6, 1994
    Instrument No.: 94-187-1523-0

18. Covenants, conditions and restrictions, but omitting any covenant or restriction based on race, color, religion, sex, sexual orientation, disability, handicap, familial status, marital status, ancestry, national origin or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.
    Recorded: July 6, 1994
    Instrument No.: 94-187-1524-0

    Modification(s) of said covenants, conditions and restrictions
    Recorded: September 2, 1997
    Instrument No: 1997-245-1430-0

    Further modifications of said covenants, conditions and restrictions
    Recorded: February 21, 2006
    Instrument No.: 2006-052-1535-0

19. Terms, provisions, covenants, conditions, definitions, options, obligations and restrictions, contained in a document
    Purpose: Subdivision Improvements Agreement
    Recorded: July 6, 1994
    Instrument No.: 94-187-1525-0

20. Terms, provisions, covenants, conditions, definitions, options, obligations and restrictions, contained in a document
    Purpose: Waiver to Protest Agreement (Participation in Special Improvement District)
    Recorded: July 6, 1994
    Instrument No.: 94-187-1526-0

21. A Deed of Trust to secure an indebtedness in the amount shown below.
    Amount: $1,000,000.00
    Trustor/Grantor: Bernard Papp
    Trustee: Whitefish Title Services
    Beneficiary: Glacier Bank
    Dated: October 1, 2007
    Recorded: October 10, 2007
    Instrument No.: 2007-00031219

22. A Deed of Trust to secure an indebtedness in the amount shown below.
    Amount: $156,000.00
    Trustor/Grantor: Bernard Papp
    Trustee: C. Mark Hash
    Beneficiary: Glacier Bank
    Dated: August 20, 2008
    Recorded: August 25, 2008
    Instrument No.: 2008-00023849

23. Intentionally Deleted

END OF SCHEDULE B

CONDITIONS

1. DEFINITIONS

(a) "Mortgage" means mortgage, deed of trust or other security instrument. (b) "Public Records" means title records that give constructive notice of matters affecting your title according to the state statutes where your land is located.

2. LATER DEFECTS

The Exceptions in Schedule B - Section II may be amended to show any defects, liens or encumbrances that appear for the first time in the public records or are created or attach between the Commitment Date and the date on which all of the Requirements (a) and (c) of Schedule B - Section I are met. We shall have no liability to you because of this amendment.

3. EXISTING DEFECTS

If any defects, liens or encumbrances existing at Commitment Date are not shown in Schedule B, we may amend Schedule B to show them. If we do amend Schedule B to show these defects, liens or encumbrances, we shall be liable to you according to Paragraph 4 below unless you knew of this information and did not tell us about it in writing.

4. LIMITATION OF OUR LIABILITY

Our only obligation is to issue to you the Policy referred to in this Commitment, when you have met its Requirements. If we have any liability to you for any loss you incur because of an error in this Commitment, our liability will be limited to your actual loss caused by your relying on this Commitment when you acted in good faith to:

Comply with the Requirements shown in Schedule B - Section I

or

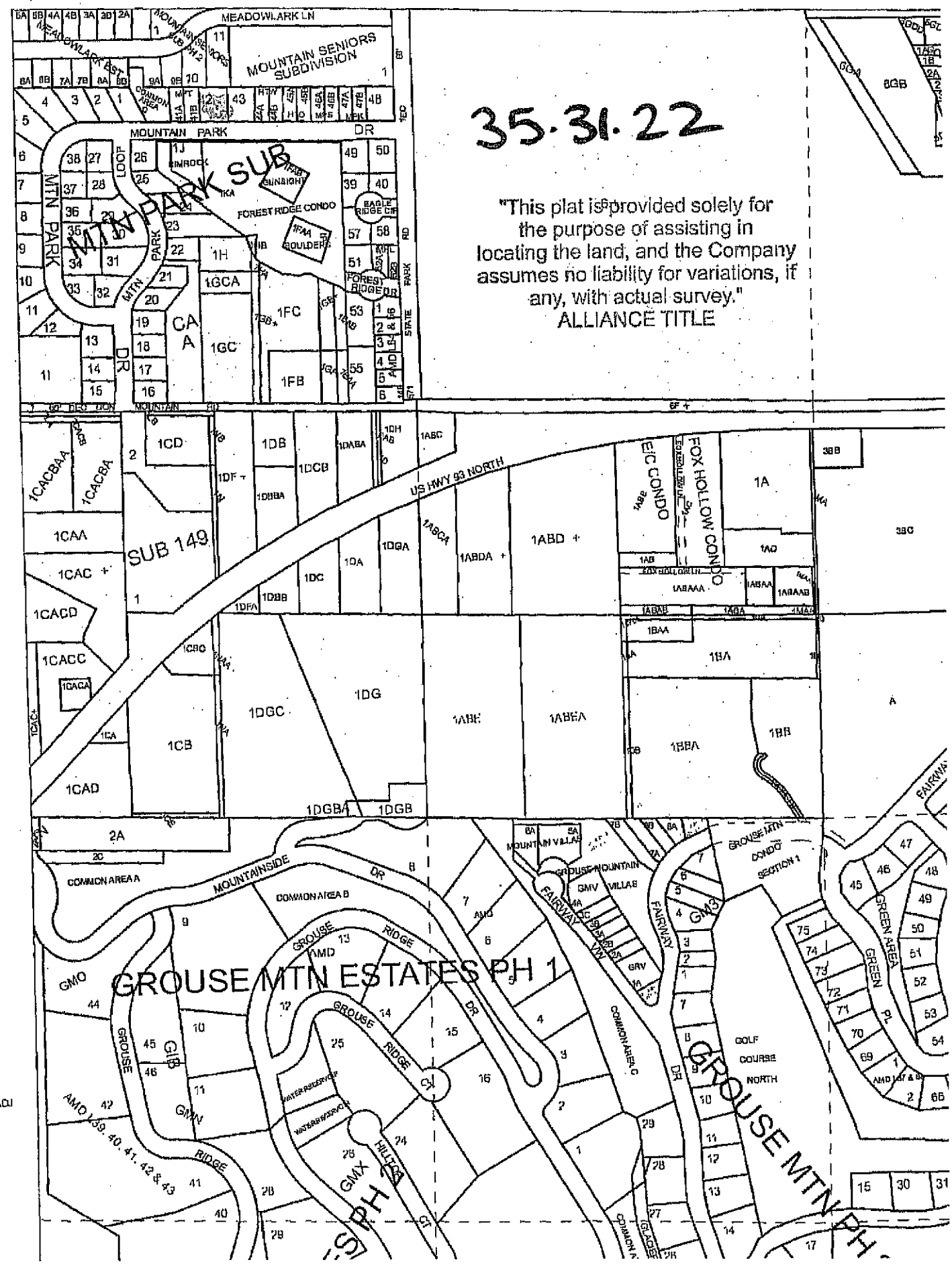
Eliminate with our written consent any Exceptions shown in Schedule B - Section II.

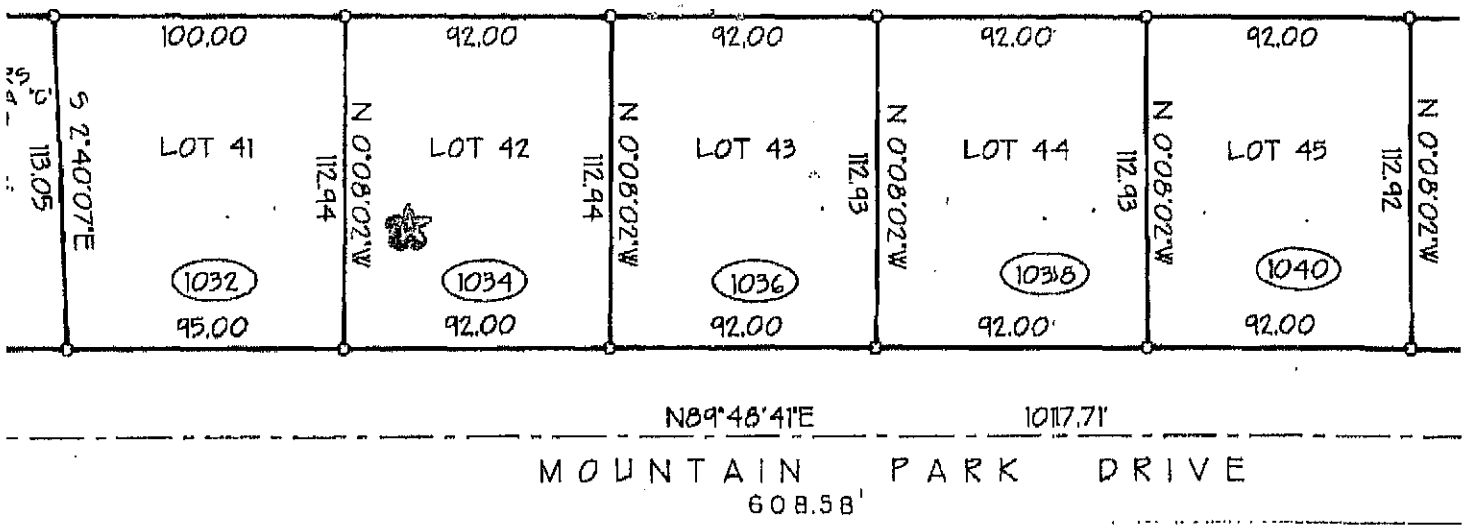
We shall not be liable for more than the Policy Amount shown in Schedule A of this Commitment and our liability is subject to the terms of the Policy form to be issued to you.

5. CLAIMS MUST BE BASED ON THIS COMMITMENT

Any claim, whether or not based on negligence, which you may have against us concerning the title to the land must be based on this Commitment and is subject to its terms.

SI 1121= L31 GROUSE MTN SUB 2
SI 1122= L44 GROUSE MTN SUB 1





"This plat is provided solely for the purpose of assisting in locating the land, and the Company assumes no liability for variations, if any, with actual survey."
ALLIANCE TITLE

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RESOLUTION NO. 13-__

A Resolution of the City Council of the City of Whitefish, Montana, to approve a petition to the Montana Department of Fish, Wildlife & Parks to restrict motorized watercraft from a portion of the Whitefish River and designate a portion of the Whitefish River as Montana's first urban non-motorized waterway.

WHEREAS, in the interest of public safety and protection of public health and the river resource, in 1989 after public notice and hearing, the Montana Department of Fish, Wildlife & Parks (FWP) implemented a "no wake" restriction on all watercraft operating on the Whitefish River from its confluence with Whitefish Lake to the JP Road Bridge by ARM §12.11.645, whereby there is no "white" water in the track or path of the vessel or in created waves immediate to the vessel; and

WHEREAS, despite the "no wake" speed restriction on the Whitefish River, the continued operation of motorized watercraft on Whitefish River creates white water in its track or path and waves immediate to the vessel, which have not been eliminated, have proven difficult to enforce, and usage of motorized watercraft is expected to increase; and

WHEREAS, due to the geographical characteristics of the river corridor and limited sight distances, recreational use by swimmers and operators of motor-propelled watercraft and traditional non-motorized craft creates the potential for serious conflict and the risk of personal injury, if not restricted; and

WHEREAS, the City of Whitefish recognizes the Whitefish River as an essential, but fragile natural resource, in need of protection, for the quality of life and recreational use of all Montanans, and visitors to our community, and as an important habitat for a wide variety of territorial life; and

WHEREAS, the City has an essential interest in the Whitefish River, as its headwaters originate at the outlet from Whitefish Lake, the lake bed up to the low water mark having been annexed into the City by Resolution No. 05-25 on August 15, 2005; and

WHEREAS, beginning from its headwaters at Whitefish Lake, the Whitefish River corridor continues through the City's jurisdictional area to the bridge at Highway 40, a distance of almost six miles. The river depth is approximately four feet, the upper reach of the river narrows to approximately 46 feet with an average of less than 80 feet in width. The maximum sight distance is 549 feet and the minimum is 103 feet, averaging less than 278 feet; and

WHEREAS, the stream bottom and shore immediately adjacent to the Whitefish River is characterized by glacial outwash deposits, glacial till and lacustrine deposits, which are highly erodible; and

WHEREAS, due to its highly erodible geography, the river corridor continues to experience erosion and disruption of the river bed, shoreline, and banks, visible along the river corridor; and

WHEREAS, realizing the importance of protecting water quality, waterways, vegetation, wildlife and fish, the City Council enacted the Water Quality Protection Ordinance, Ordinance No. 12-04 on February 6, 2012; and

WHEREAS, in order to protect the unstable river bank and reduce rotational slumping along the Whitefish River corridor, and the risk of transporting the phosphate absorbed alkaline silts downstream toward Flathead Lake, wave action and motorized disturbance needs to be minimized and controlled; and

WHEREAS, FWP is authorized under Montana law as the responsible agency to determine recreation rules, and permitted and restricted recreational use on Montana's waterways in the interests of public health and safety, and protection of the State's natural resources. State law provides the process to petition the FWP Commission for river recreation management decisions and the restriction of use on waterways; and

WHEREAS, at a publicly noticed hearing, on September 3, 2013, public comment was taken and following discussion, the City Council approved the resolution to petition FWP to restrict motorized watercraft from a portion of the Whitefish River and designate a portion of the Whitefish River as Montana's first urban non-motorized waterway; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to petition for and be granted FWP's approval for such designation.

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

Section 1: The City of Whitefish adopts this resolution as an expression of its support for the Petition to the FWP Commission to restrict motorized watercraft from a portion of the Whitefish River and designate a portion of the Whitefish River as Montana's first urban non-motorized waterway.

Section 2: On behalf of the City, the City Manager will Petition the FWP Commission seeking such restriction and designation for a portion of the Whitefish River, and to take such further action to have the restriction and designation approved by FWP.

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, THIS _____ DAY OF _____, 2013.

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

A RESOLUTION TO PETITION MONTANA FISH WILDLIFE AND PARKS
TO RESTRICT MOTORIZED WATERCRAFT ON THE
WHITEFISH RIVER BETWEEN THE OUTLET
FROM WHITEFISH LAKE TO HIGHWAY 40

TIMELINE:

June 5, 1989: Councilor Hanson "wondered if the City could do anything about a speed limit on (the) Whitefish River. There are jet skis and motor boats speeding up and down too fast and endangering people in canoes and on their docks."

June 19, 1989: City Council votes unanimously to petition FWP to designate the Whitefish River from the lake through the City as "No Wake."

September 17, 2007: City Council votes unanimously "to petition FWP to prohibit internal combustion motors on the portion of the Whitefish River that is within the City limits."

October 2007: The previous action of the City Council is rescinded when property owners between the outlet and the BNSF trestle objected.

April 2012: City Council agrees to include pursuit of a "non-motorized waterway on the Whitefish River between the outlet and Highway 40" during their annual goal setting session.

April 2013: City Council reaffirms its commitment to creating a "non-motorized waterway on the Whitefish River between the outlet and Highway 40"

August 19, 2013: City Council schedules a work session and public hearing to gather input on a "non-motorized waterway on the Whitefish River between the outlet and Highway 40" and petition FWP for a non-motorized designation.

Why create a non-motorized section of the Whitefish River?

The primary concern is public safety. Non-motorized use on the River is increasing including swimming, fishing, stand-up paddleboarding (SUP), floating and boating. The River presents several challenges to motorized users such as limited sight distances, narrow waterway, and speed. As a consequence of the BNSF River clean up, River use appears to be increasing.

A secondary concern is resource protection: The shoreline of the Whitefish River is highly erodible and this is exacerbated by wave action from motorized craft. Increased siltation contributes to the eutrophication of the River and Flathead Lake. Eroded silts carry phosphorus to the river. The Whitefish River is home to a wide variety of plants, animals, and fishes.

Why now?
For the past five years the upper reach of the Whitefish River has been closed to all users while BNSF completed an EPA mandated cleanup of diesel sheen on the River. Non-motorized use of the River appears to be increasing, particularly the use of stand-up paddleboards, now that the River has reopened to the public. Now is a good time to provide for public safety and resource protection. High speed watercraft are incompatible with more passive activities such as floating, paddling, swimming, and bridge jumping in the confined space of the Whitefish River.

Highway 93 Culverts
Kay Beller Park
Riverside Park Launch
Begin Waterway
N
E
S
W

End
Canoe Park
Highway 93 Culverts
End of Present "No Wake" Restriction
N
E
S
W

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

August 27, 2013

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

RE: Eighth Street llc at 118 W 2nd Street; (WCUP 13-08)

Honorable Mayor and Council:

Summary of Requested Action: Marty Beale on behalf of the Eighth Street llc is requesting approval of a Conditional Use Permit to have multiple primary uses on one lot – a professional office and triplex at 118 W 2nd Street. The property is currently developed with a single family home. The property is zoned WR-3 (Low Density Multi-family Residential District). The Whitefish Growth Policy designates this property as "High Density Residential".

Planning Board Action: The Whitefish City-County Planning Board met on August 15, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with ten (10) conditions as contained in the staff report and adopted the staff report as findings of fact. (Blake, Konapatzke and Smith were absent) In addition, the Planning Board added one condition:

11. The applicant shall obtain a 310 permit from the Flathead Conservation District.

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with ten (10) conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the hearing. The draft minutes for this item are attached as part of this packet.

This item has been placed on the agenda for your regularly scheduled meeting on September 3, 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
Draft Minutes of 8-15-13 Planning Board Meeting

Exhibits from 8-15-13 Staff Packet

1. Staff Report – WCUP 13-08, 8-8-13
2. Adjacent Landowner Notice, 7-26-13
3. Advisory Agency Notice, 7-26-13-13

The following were submitted by the applicant:

4. Application for Conditional Use Permit, 6-13-13

c: w/att Necile Lorang, City Clerk

c: w/o att Eighth Street llc, Marty Beale, PO Box 4562 Whitefish, MT 59937

Exhibit A
Eight Street llc
WCUP 13-08
Whitefish City-County Planning Board
Recommended Conditions of Approval
August 15, 2013

1. The project shall be constructed in compliance with the plans dated February 28, 2013, except as amended by these conditions. Any significant deviation from the plans shall require approval.

2. Prior to any pre-construction meeting, construction, excavation, grading or other terrain disturbance, plans for all on and off site infrastructure shall be submitted to and approved by the Whitefish Public Works Department. The infrastructure improvements (water, sewer, road, stormwater management, on-site lighting, etc.) shall be designed and inspected by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works Director shall approve the design prior to construction. Plans for grading, drainage, utilities, the internal road and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works.

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

4. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the Public Works and Planning & Building Department. The plan shall include, but may not necessarily be limited to, the following:
   - Dust abatement and control of fugitive dust.
   - Hours of construction activity.
   - Noise abatement.
   - Control of erosion and siltation.
   - Routing for heavy equipment, hauling, and employees.
   - Construction office siting, staging areas for material and vehicles, and employee parking.

- Measures to prevent soil and construction debris from being tracked onto public roadways, including procedures to remove soil and construction debris from roadways as necessary.
- Detours of vehicular, pedestrian, and bicycle traffic as necessary.
- Notation of any street closures or need to work in public right-of-way.

5. A landscaping plan shall be submitted and approved prior to the issuance of the building permit. The overall landscaping, parking lot landscaping and tree density credits shall be met.

6. A final plan for buffer restoration shall be submitted and approved prior to the issuance of the building permit. In addition, a geotechnical letter shall be submitted along with the building permit.

7. All on-site lighting shall be dark sky compliant.

8. A sign permit shall be obtained prior to the installation of any signage.

9. The existing single family, proposed to be converted into a professional office, will need a professional design. This design shall be reviewed and approved by the Building Department.

10. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun.

11. The applicant shall obtain a 310 permit from the Flathead Conservation District.

WHITEFISH CITY PLANNING BOARD
MINUTES OF MEETING
AUGUST 15, 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, Zak Anderson, Chad Phillips, Ole Netteberg and Greg Gunderson. Mary Vail was seated at 6:06 p.m. Rick Blake, Diane Smith and Dennis Konapatzke were absent. Senior Planner Compton-Ring represented the Whitefish Planning & Building Department. Director Karl Cozad represented the Parks and Recreation Department.

APPROVAL OF MINUTES

Phillips offered an amendment on the 2nd to the last page, top paragraph, last sentence for his statement to include, "…with the three proposed friendly amendments."

Meckel moved and Phillips seconded to approve the City minutes of the July 18, 2013 Whitefish Planning Board as amended. On a vote by acclamation the motion passed unanimously.

PUBLIC ITEMS NOT ON AGENDA

No one wished to speak.

OLD BUSINESS

None.

EIGHTH STREET LLC CONDITIONAL USE PERMIT REQUEST

A request by 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.

STAFF REPORT WCUP 13-08

Planner Compton-Ring reported that Marty Beale, on behalf of Eighth Street llc, is requesting approval of a conditional use permit to have a professional office and a triplex condo on a single lot. The Whitefish Zoning Regulations, §11-2-3B(12), permits only one primary use per lot unless a Conditional Use Permit is obtained.

The proposed project will convert an existing single family home into a professional office. The WR-3 (Low Density Multi-family Residential District) along Highway 93 W allows the conversion of existing single family homes to professional offices once a Conditional Use Permit is obtained. This is an area of town where one is able to obtain a Conditional Use Permit administratively; however, since a Conditional Use Permit is required for the multiple uses, staff is reviewing these two permits concurrently.

The other aspect to this project is a triplex on the north part of the property. Parking for the residential use and the office will be

located in the center of the property. Three spaces for the residential units will be covered and one customer space for the professional office will be located in front of the professional office. A walking trail for the triplex is being designed to access the Whitefish River. The triplex has already obtained Architectural Review approval.

A shared access easement between this property and the lot to the east is in place and is located on the adjacent lot.

The property is zoned WR-3, Low Density Multi-Family Residential District. The Growth Policy designation for this area is 'High Density Residential' which corresponds to the WR-3.

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on July 26, 2013. A notice was emailed to advisory agencies on July 26, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on July 31, 2013. No comments have been received.

Planner Compton-Ring said this request complies with the Growth Policy, and the applicant will provide a 15 foot side yard setback and 10 parking spots. There is adequate area for the project. There is an existing 20 foot easement they share with the property to the east. The Fire Chief wants to make sure snow storage doesn't affect the 20 foot easement and access. They had a consultant determine the river bank edge and are planning to repair the buffer for a 25% reduction of setback. A geotechnical letter will be required at the time of application because of their proximity to the river. Landscaping will be required between their property and the property to the west. Highway 93 west is undergoing major construction and the utilities are being run underground. Sewer is also being upgraded. The new road design should be able to handle the additional traffic. The proposed triplex is quite a bit taller than the existing buildings. This is an evolving neighborhood with combination of commercial and residential. Staff recommends approval with 10 conditions.

Gunderson disclosed that his partner did the stormwater plan for this property, but he has no bias regarding voting on the project.

PUBLIC HEARING

The public hearing was opened to those who wished to speak on the issue. Marty Beale said they got in touch with the neighbors to the west and he said he was in support of the project. He did note that within a ¼ of a mile there are several commercial entities.

Phillips asked if they considered pervious paving and Beale said they looked into it before, but it didn't seem like a good idea with the plowing issues in this area. Meckel asked and Beale said they took advantage of the enhancement and restoration buffer. They are allowed to encroach 25%. Meckel asked if he knew they needed a

310 permit from the Flathead Conservation District. Meckel said perennial streams are under the jurisdiction of the Flathead Conservation District and he will need a permit to work that close to the river.

Phillips said he thinks it would be nice to have an incentive for green roofs that slow down the run-off into the river. Netteberg asked and Phillips said there is an incentive in other cities where there is a reduction on ground landscaping or fees. It really helps with runoff.

PUBLIC HEARING

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

AMENDMENT

Meckel offered an amendment, seconded by Phillips, to add a condition to require the applicant to obtain a 310 permit from the Conservation District.

BOARD DISCUSSION

Gunderson asked and Beale said the building is about 120 feet back from the river. Planner Compton-Ring said it is 122 feet from the property line. Meckel said often times the Conservation District will decide it is not their jurisdiction, but it protects the applicant.

VOTE ON AMENDMENT

The vote on the amendment passed unanimously.

MOTION

Meckel moved and Phillips seconded Whitefish to adopt staff report WCUP 13-08 as findings-of-fact and recommend to the Whitefish City Council to approve the Beale conditional use permit to have a professional office and a triplex condo on a single lot, subject to the conditions in the staff report.

VOTE

The motion passed unanimously. (Scheduled for City Council on September 3, 2013.)

JOHNSON CONDITIONAL USE PERMIT REQUEST

Netteberg recused himself from this item.

A request by 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).

STAFF REPORT WCUP 13-09

Planner Compton-Ring reported that the applicant is requesting a conditional use permit to allow a guest house at 815 Delrey Road. The site has an existing single family home that will become the guest house and a new home will be constructed. Access for the single family home is on the southern property boundary and access for the guest house is existing and is along the eastern property line.

The property is zoned WSR, Suburban Residential District. The purpose of this district is intended to provide single-family homes in an estate-type setting and is designed to maintain, protect and preserve

118 SECOND STREET LLC
CONDITIONAL USE PERMIT
WCUP 13-08
August 8, 2013

This is a report to the Whitefish City-County Planning Board and the Whitefish City Council regarding a request for a conditional use permit for multiple primary uses on one lot (a professional office and a tri-plex). This application has been scheduled before the Whitefish City-County Planning Board for a public hearing on Thursday, August 15, 2013. A recommendation will be forwarded to the City Council for a subsequent public hearing and final action on Tuesday, September 3, 2013.

PROJECT SCOPE

Marty Beale, on behalf of Eighth Street llc, is requesting approval of a conditional use permit to have a professional office and a triplex condo on a single lot. The Whitefish Zoning Regulations, §11-2-3B(12), permits only one primary use per lot unless a Conditional Use Permit is obtained.

The proposed project will convert an existing single family home into a professional office. The WR-3 (Low Density Multi-family Residential District) along Highway 93 W allows the conversion of existing single family homes to professional offices once a Conditional Use Permit is obtained. This is an area of town where one is able to obtain a Conditional Use Permit administratively; however, since a Conditional Use Permit is required for the multiple uses, staff is reviewing these two permits concurrently.

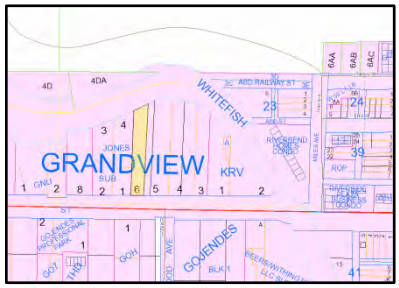
The other aspect to this project is a triplex on the north part of the property. Parking for the residential use and the office will be located in the center of the property. Three spaces for the residential units will be covered and one customer space for the professional office will be located in front of the professional office. A walking trail for the triplex is being designed to access the Whitefish River. The triplex has already obtained Architectural Review approval.

A shared access easement between this property and the lot to the east is in place and is located on the adjacent lot.

A. **OWNER:**

Eighth Street llc
(soon to be transferred to 118 Second St llc)
PO Box 4562
Whitefish, MT 59937

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



The parcel is addressed as 118 and 120 W 2nd Street and can be legally described as Grandview Addition, Block 1, east ½ of Lot 6 (S36-T31N-R22W).

C. **EXISTING LAND USE:**

The subject property is currently developed with a single family residence.

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

North:	Whitefish River and BNSF yard	WI
West:	Residential	WR-3
South:	Residential	WR-3
East:	Residential	WR-3

E. **ZONING DISTRICT:**

The property is zoned WR-3, Low Density Multi-Family Residential District. The purpose of this district is intended for one, duplex, triplex, fourplex and attached single family residential uses in an urban setting connected to all municipal utilities and services.

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

The Growth Policy designation for this area is 'High Density Residential' which corresponds to the WR-3. "Multi-family residential, mostly in the form of apartments, condominiums, and townhomes, are accounted for by this designation. Areas designated for High Density Residential development are mostly near the downtown and along major transportation routes. All multi-family structures are now subject to architectural review, and the City will be looking for a higher quality of site planning, architecture, and overall development high density projects have exhibited in the past. The applicable zones are WR-3 and WR-4, but WR-2 with a PUD option also allows for high densities."

G. **UTILITIES:**

Sewer:	City of Whitefish
Water:	City of Whitefish
Solid Waste:	North Valley Refuse
Electric:	Flathead Electric Co-op

Gas:	Northwest Energy
Phone:	CenturyLink
Police:	City of Whitefish
Fire:	Whitefish Fire Department

H. **PUBLIC COMMENTS:**

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on July 26, 2013. A notice was emailed to advisory agencies on July 26, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on July 31, 2013. As of the writing of this report, no comments have been received.

REVIEW AND FINDINGS OF FACT

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

1. Growth Policy Compliance:

Finding 1: The proposed use complies with Growth Policy Designation of High Density Residential.

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

The property is zoned WR-3, Low Density Multi-Family Residential District. The purpose of this district is intended for one through four-plex residential uses in an urban setting connected to all municipal utilities and services.

The development proposal is consistent with the purpose and intent of the applicable regulations. The WR-3 zoning has the following setback: 25-foot front, 15-foot side and 20-foot rear, which are being met with the new buildings. The existing building that will remain encroaches into the side yard setback, but no changes, other than interior, are proposed with the structure. The maximum lot coverage is 40% and the applicant is proposing well below the lot coverage at approximately 18%. The density standard is 3,000 square feet per dwelling unit and the applicant is proposing 5,592 square feet per unit.

Section 11-3-16, Professional Offices, provides for additional standards including parking requirements. This chapter requires a minimum of 1 space per 400 square feet of professional office space; therefore three parking spaces are required. In addition, 2.3 parking spaces are required per unit in the triplex; therefore seven spaces are needed for the residential aspect of the project. A total of ten parking spaces are required for the project and ten spaces are shown

on the site plan. The WR-3 zoning district does not permit parking in the front yard setback and this parking space is outside the setback.

Finding 2: The proposal is consistent with the purpose, intent, and applicable provisions of the zoning regulations and the WR-3 residential district.

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

Adequate usable land area: The subject parcel is 0.385 acres in size. There is adequate space for the proposed structures to meet all required setbacks. The maximum permitted lot coverage in this zoning district is 40% and the project is well under this standard.

Access that meets the standards set forth in these regulations, including emergency access: An existing access is proposed to be used for this project. This access is a shared 20-foot paved easement between this lot and the lot to the east. This easement is proposed to be extended to the back of the lot to serve the triplex. The Whitefish Fire Marshal has reviewed the project and wants to ensure the snow storage area is located off the access area. If access is less than optimal, the Fire Department may require sprinklering of the building.

Absence of environmental constraints that would render the site inappropriate for the proposed use or development, including, but not necessarily limited to floodplains, slope, wetlands, riparian buffers/setbacks, or geological hazards: Property is located along the Whitefish River. The applicant has retained consultants to determine the top of bank and develop a project that meets the requirements of the Water Quality Protection regulations. The applicant is proposing to restore the buffer in exchange for a 25% buffer reduction. Prior to the construction of the triplex, the applicant will be required to submit a geotechnical letter. Staff has reviewed the submittals and finds that it meets the WQP regulations. The proposed development is not located within the 100-year floodplain nor within an area mapped for high groundwater. No other Water Quality Protection areas are within the bounds of the project.

Finding 3: The site suitability for the subject property is addressed through the large lot size and open space to address the need for adequate usable land area. The property is located along the Whitefish River and the applicant is proposing to restore the river buffer in exchange for a 25% buffer reduction. The proposed access should provide adequate emergency access to the site and buildings.

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

Parking locations and layout: As described above, there are parking requirements for the residential units and the professional office space. The proposed site plan shows adequate parking for both uses.

Traffic Circulation: The proposed use should not impact traffic circulation on the existing road.

Open space: The site plan has adequate open space.

Fencing/Screening: Fencing is not proposed and landscape screening is required for between the new parking area and the adjacent residential use to the west.

Landscaping: A restoration landscaping plan has been submitted along with the application along the river. A landscaping plan will be required for the new parking area and remainder of the lot. There are large mature trees on the property that will remain as part of the project. A final landscaping plan will be reviewed and approved as the time of building permit review.

Signage: Signage for the professional office spaces will meet the signage standards for the Community-Resort Sign District.

Undergrounding of new and existing utilities: There are utilities existing on site servicing the primary residence. The utilities along Highway 93 W will also be underground with the highway project and the applicant will be undergrounding their utilities.

Finding 4: The quality and functionality of the proposed development meets the required parking spaces. Open space is preserved. New utilities will be placed underground during construction and new landscaping will be installed.

5. Availability and Adequacy of Public Services and Facilities.

Sewer: The sewer line is being upgraded along with the Highway 93 W project to accommodate this development. A separate sewer service is required for each unit.

Water: Water services are currently available on site. Separate water service is required for each unit.

Storm Water Drainage: An engineered drainage plan shall be reviewed and approved by the city prior to its installation.

Fire Protection: The Whitefish Fire Department serves the site and response times are good. If access is less than optimal, the Fire Department may require sprinklering of the building. The proposed use is not expected to have significant impacts upon fire services.

Police: The City of Whitefish serves the site; response times and access are adequate. The proposed use is not expected to have significant impacts upon police services.

Streets: The subject properties are accessed off of W 2nd Street/Highway 93 W. Montana Department of Transportation is improving the highway. This includes the installation of a sidewalk on this project's frontage along with curb, gutter and lighting.

Finding 5: Municipal water and sewer are currently in use for the existing residence and will be extended to the new buildings. Response times for police and fire are not anticipated to be affected due to the proposed development. The property has adequate access to the state highway.

6. Neighborhood/Community Impact:

Traffic Generation: The project should generate an average of 27 trips per day at full build-out of the triplex and the professional offices. With the rebuild of Highway 93 W, the new design and improvements should be able to handle the additional traffic.

Noise or Vibration: No additional noise or vibration is anticipated to be generated from the proposed use. Any additional noises or vibrations would be associated with construction and are not anticipated to be permanent impacts.

Dust, Smoke, Glare, or Heat: No impact is anticipated beyond what would be expected from the residential use currently onsite.

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

Hours of Operation: The residential use will have typical residential hours of operation and the professional office will have typical office hours of 8:00 AM to 5:00 PM. The office space is located along W 2nd Street/Highway 93 W in order to have less impact on surrounding neighbors.

Finding 6: The proposed development is not anticipated to have a negative neighborhood impact. Negative impacts on noise, dust, smoke, odor or other environmental nuisances are not expected.

7. Neighborhood/Community Compatibility:

Structural Bulk and Massing: The proposed structure is taller than surrounding buildings, but meets the maximum height and is located on the back part of the lot. The existing building at the front of the lot will retain its scale.

Context of Existing Neighborhood: As shown in the submittal, the neighborhood is evolving. The corridor is has a High Density zoning with some limited commercial options. There is a mixture of residential uses and commercial uses. The proposed use is not expected to impact or change the character of the existing neighborhood. The proposed use is consistent with the zoning, uses allowed and those located within the neighborhood.

Density: The zoning requires 3,000 square feet per dwelling unit and the project is providing 5,592 square feet per dwelling unit. The density is not out of character with the area.

Community Character: As described above, the triplex received Architectural Review approval in April of this year. The front building proposed for the professional office received Architectural Review for a façade change on August 6, 2013.

Also, as described earlier in this report the zoning is for higher density multifamily dwellings with the opportunity for professional office space. This project is consistent with the zoning and neighborhood character.

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

RECOMMENDATION

It is recommended that the Whitefish City-County Planning Board adopt the findings of fact within staff report WCUP 13-08 and that this conditional use permit be recommended for **approval** to the Whitefish City Council subject to the following conditions:

1. The project shall be constructed in compliance with the plans dated February 28, 2013, except as amended by these conditions. Any significant deviation from the plans shall require approval.

2. Prior to any pre-construction meeting, construction, excavation, grading or other terrain disturbance, plans for all on and off site infrastructure shall be submitted to and approved by the Whitefish Public Works Department. The infrastructure improvements (water, sewer, road, stormwater management, on-site lighting, etc.) shall be designed and inspected by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works

Director shall approve the design prior to construction. Plans for grading, drainage, utilities, the internal road and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works.

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

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

5. A landscaping plan shall be submitted and approved prior to the issuance of the building permit. The overall landscaping, parking lot landscaping and tree density credits shall be met.

6. A final plan for buffer restoration shall be submitted and approved prior to the issuance of the building permit. In addition, a geotechnical letter shall be submitted along with the building permit.

7. All on-site lighting shall be dark sky compliant.

8. A sign permit shall be obtained prior to the installation of any signage.

9. The existing single family, proposed to be converted into a professional office, will need a professional design. This design shall be reviewed and approved by the Building Department.

10. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun.

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 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.

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, August 15, 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 Tuesday, September 3, 2013 at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, August 5, 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

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

Wendy Compton-Ring

From: Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>
Sent: Friday, July 26, 2013 12:04 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'
Subject: August City-County Planning Board Notice
Attachments: 8-2013_PB meeting.pdf

Attached please find the notice for the August Planning Board

Wendy Compton-Ring, AICP
Senior Planner
City of Whitefish
406-863-2418

EXHIBIT
3

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

APPLICATION FOR CONDITIONAL USE PERMIT
CITY OF WHITEFISH

WCMP 13.00

FEE ATTACHED 1251.00 **(See current fee schedule)**

06-13-13 P03:47 IN

OWNER(S) OF RECORD:

Name: Eighth St LLC as of 6/6/13 (Soon to be transferred to 118 Second St LLC)

Mailing Address: PO BOX 4562

City/State/Zip: Whitefish MT, 59937

Phone: 406 - 863 - 9177

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

Name: Marty Beale

Mailing Address: PO BOX 4562

City/State/Zip: Whitefish MT, 59937

Phone: 406 - 863 - 9177

LEGAL DESCRIPTION OF PROPERTY (Refer to Property Records):
Street: 118/ 120 West Second Street
Sec: 36 Town: 31N Range: 22W

Subdivision
Name: Grandview Addition East ½ of Lot 6 and the West 25' of Lot 5 of
Block No. 1

DESCRIBE PROPOSED USE:

Change of use of existing cabin at 118 West Second Street from current residential to commercial office space. Addition of 3 story 3 unit condominium building on the rear half of the lot which has the address of 120 West Second Street Unit A, B, and C.

ZONING DISTRICT: WR - 3

EXHIBIT 4

Revised 3-22-10

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

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

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

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

3. How is the property location suitable for the proposed use? Is there adequate usable land area? Does the access, including emergency vehicle access, meet the current standards? Are environmentally sensitive areas present on the property that would render the site inappropriate for the proposed use?

4. How are the following design issues addressed on the site plan?
   a. Parking locations and layout
   b. Traffic circulation
   c. Open space
   d. Fencing/screening
   e. Landscaping
   f. Signage
   g. Undergrounding of new utilities
   h. Undergrounding of existing utilities

5. Are all necessary public services and facilities available and adequate? If not, how will public services and facilities be upgraded?
   a. Sewer
   b. Water
   c. Stormwater
   d. Fire Protection
   e. Police Protection
   f. Street (public or private)
   g. Parks (residential only)
   h. Sidewalks
   i. Bike/pedestrian ways – including connectivity to existing and proposed developments

6. How will your project impact on adjacent properties, the nearby neighborhoods and the community in general? Describe any adverse impacts under the following categories.
   a. Excessive traffic generation and/or infiltration of traffic into neighborhoods
   b. Noise, vibration, dust, glare, heat, smoke, fumes, odors

7. What are the proposed hours of operation?

8. How is the proposal compatible with the surrounding neighborhood and community in general in terms of the following:
   a. Structural bulk and massing
   b. Scale
   c. Context of existing neighborhood
   d. Density
   e. Community Character

B. PROPERTY OWNER LIST

Submit a list of names with mailing addresses of property owners within **150** feet of the proposed use (**public street right-of-ways are not counted as part of the 150 feet**). The owner of record must appear exactly as on the official records of Flathead County. This list is obtained from the Flathead County GIS Department using the 'Adjacent Landowner Request' form.

C. SITE PLAN

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

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

B Beale
Applicant's Signature

6/10/13
Date

Marty Beale
Print Name

INSTRUCTIONS FOR CONDITIONAL USE PERMIT APPLICATION

1. A pre-application meeting with the planning director or member of the planning staff is required.

2. Submit the application fee (per current fee schedule), completed application and appropriate attachments to the Whitefish Planning & Building Department (address on the front of this form).

3. Attach a list of the names and mailing addresses of all property owners within 150 feet of the subject property as shown in the Flathead County Assessor's records. This list is obtained from the Flathead County GIS Department.

4. Application must be completed and submitted a minimum of **forty five (45) days prior** to the Planning Board meeting at which this application will be heard.

5. The regularly scheduled meeting of the Planning Board is the third Thursday of each month.

6. After the Planning Board hearing, the application is forwarded with the Board's recommendation to the City Council for hearing and final action.

7. Once the application is complete and accepted by Whitefish Planning & Building Department, final approval usually takes 60 days, but never more than 90 days.

FORESTORATION
ECOSYSTEM MANAGEMENT

Mindful Designs, Inc.
118 Second Street West
Whitefish, MT

Stormwater Mitigation and Restoration Enhancement Plan

Prepared by David Noftsinger

Overview: *This plan addresses appropriate solutions to mitigate stormwater run-off and associated restoration enhancement of the Mindful Designs, Inc. property at 118 Second Street West. As part of future construction of a new parking area and a new building, two drains will collect stormwater and will daylight the water in two locations north and downhill of the parking area and building site – uphill of the Whitefish River.*

Current Site Conditions

Northwest Drain: The subgrade gutter drain pipe on the northwest aspect of the building daylights in an area of non-native grasses and noxious weeds. The existing shrub line is above the daylight and consists mainly of snowberry with a few interspersed native roses. The grassy area continues downhill for approximately 25' until it reaches a sizable shrub and tree zone made up of snowberry, wood's rose, red-osier dogwood, black cottonwood, and quaking aspen. Noxious weeds on the site consist of great burdock, dame's rocket, and spreading form of buttercup.

Northeast Drain: The subgrade stormwater pipe from the driveway catch basins daylights in an area consisting of snowberry, wood's rose, red-osier dogwood, and quaking aspen communities. There are non-native grasses as well as strong community of noxious weeds, predominantly great burdock.

Stormwater Mitigation Plan and Restoration Enhancement

A naturalized and enhanced french-drain-style system will be used to slow, spread, and sink the stormwater exiting the drains. The drains will move across and descend down slope on a east-west plane. Native plants will be planted in association with the descending drains and ditches. The associated drawings help to illustrate the strategy.

Drawings

Drawing 1A shows an overhead view of the conceptual site lay-out including drain basins, ditches, and the generalized native planting zones associated with the project.

Drawing 1B shows an optional lay-out and configuration to the northeast drain. This option would immediately route stormwater into the pre-existing and established native plant community. The drains and ditches would then descend down slope. Option 1B would most likely need less plants than option 1A.

Drawing 2 shows a profile of the stormwater mitigation concept. The fundamental elements of the approach are shown in the drawing are described below:

1. Drain basin – French drain basins (appx. 24" deep) will be used to help sink stormwater. As the water works its way down the slope via the directed water ditches/percolation ditches, 4 drain ditches could intercept and sink the water. Drain basins will be lined with a hydrophillic fabric and filled with drain rock.
2. Directed water ditches/percolation ditches – The directed water ditches/percolation ditches will connect th drain basins. Ditches will be lined with a hydrophillic fabric and filled with drain rock. Ditches will be approximately 12-18" deep. The "ditches" will utilize excavated fill material to build "swales" to enhance the downhill slope helping to capture and direct water and to naturalize site topography.
3. Partially-buried rocks – Partially buried rocks will help to slow and dissipate the force of the stormwater. The rocks also help to create a natural aesthetic to the site.
4. Native plants – Native plants should suround the drains and be interspresed between the descending ditches. All disturbed areas should be seeded with native grasses and wildflowers.
5. NOTE: All basins and ditches should be built and sculpted in an attempted to create natural microsite topography. The final outcome should function effectively to mitigate stormwater, augment the ecology of the lands adjacent to the Whitefish River, and enhance natural aesthetic of the landscape.

Drawing 3 shows a conceptual plantng plan. A strong plant community should wrap the most uphill basin and fortify the terrain below it. The other basins should have concentrations of native plants surrounding them as well. Appropriate native plants should be interspersed along the drains and on the slope between the drains.

Native Plants

A combination of native trees, shrubs, grasses, forbs, and wildflowers should be utilized in the planting plan. As a large list of appropriate native plants has been compiled. The actual planting list should be determined prior to construction and should consider functional and ecological importance as well as landowner prefernce.

I recommend adding at least some diversity to the plant list. A diverse arrangement of plants will not only have attributes above ground, but will also add stuctural diversity of root zones – an extremely important aspect of the stormwater mitigation plan.

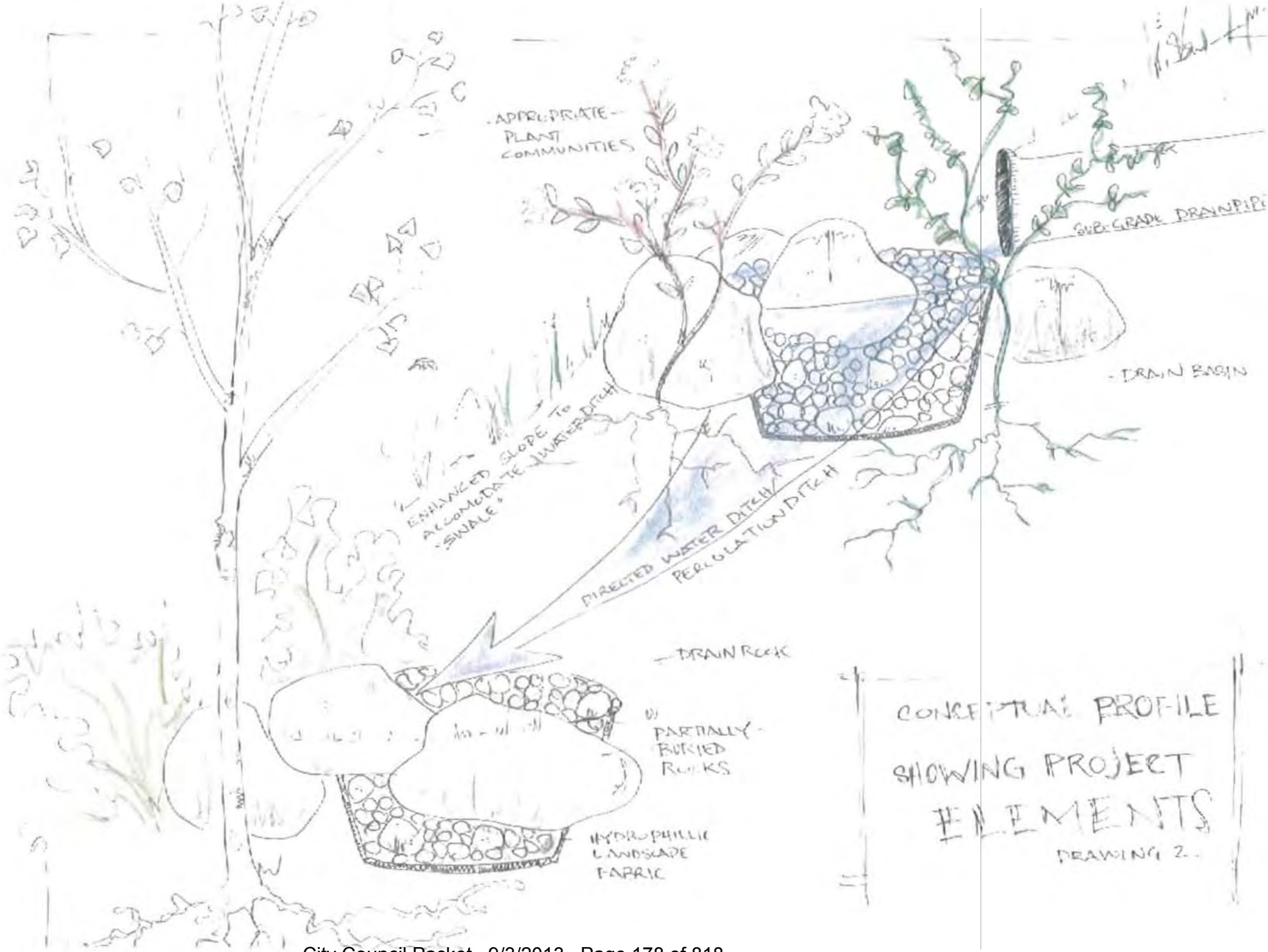
A minimum of 20 plants should be planted around and below each sub-grade drain for a total of 40 plants. Consider planting in clusters and in natural patterens instead of planting in a strictly linear approach across the hillside. More plants could certainly be added to further enhance the site.

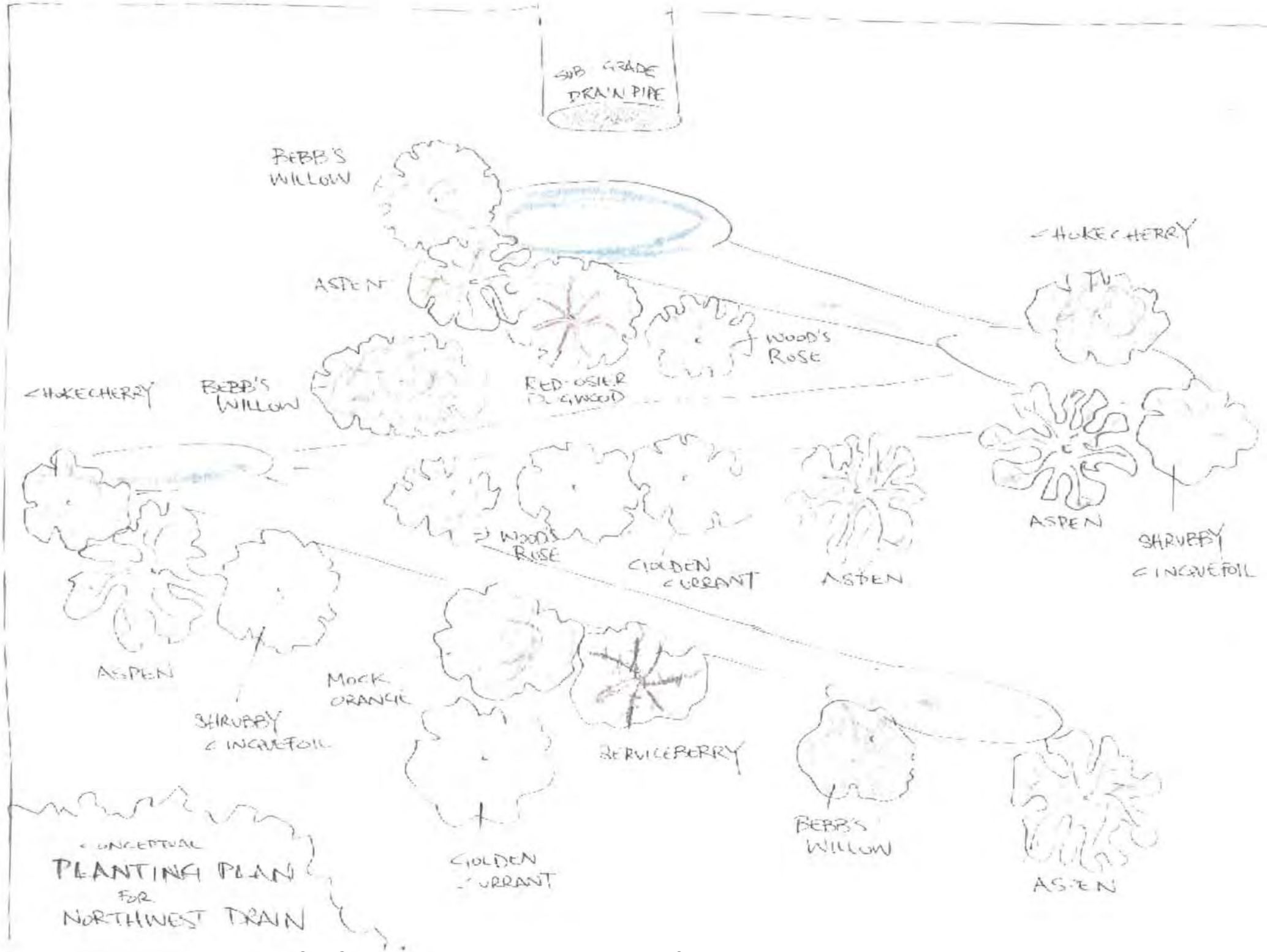
I recommend using a combination of pot sizes. Trees should range from 5-gallon to 15-gallon plants. Shrubs should be a combination of 1-gallon, 2-gallon, and 5-gallon with a the majority of shrubs being 2 and 5-gallon. Grasses and wildflowers can utilize 10T plugs or seed.

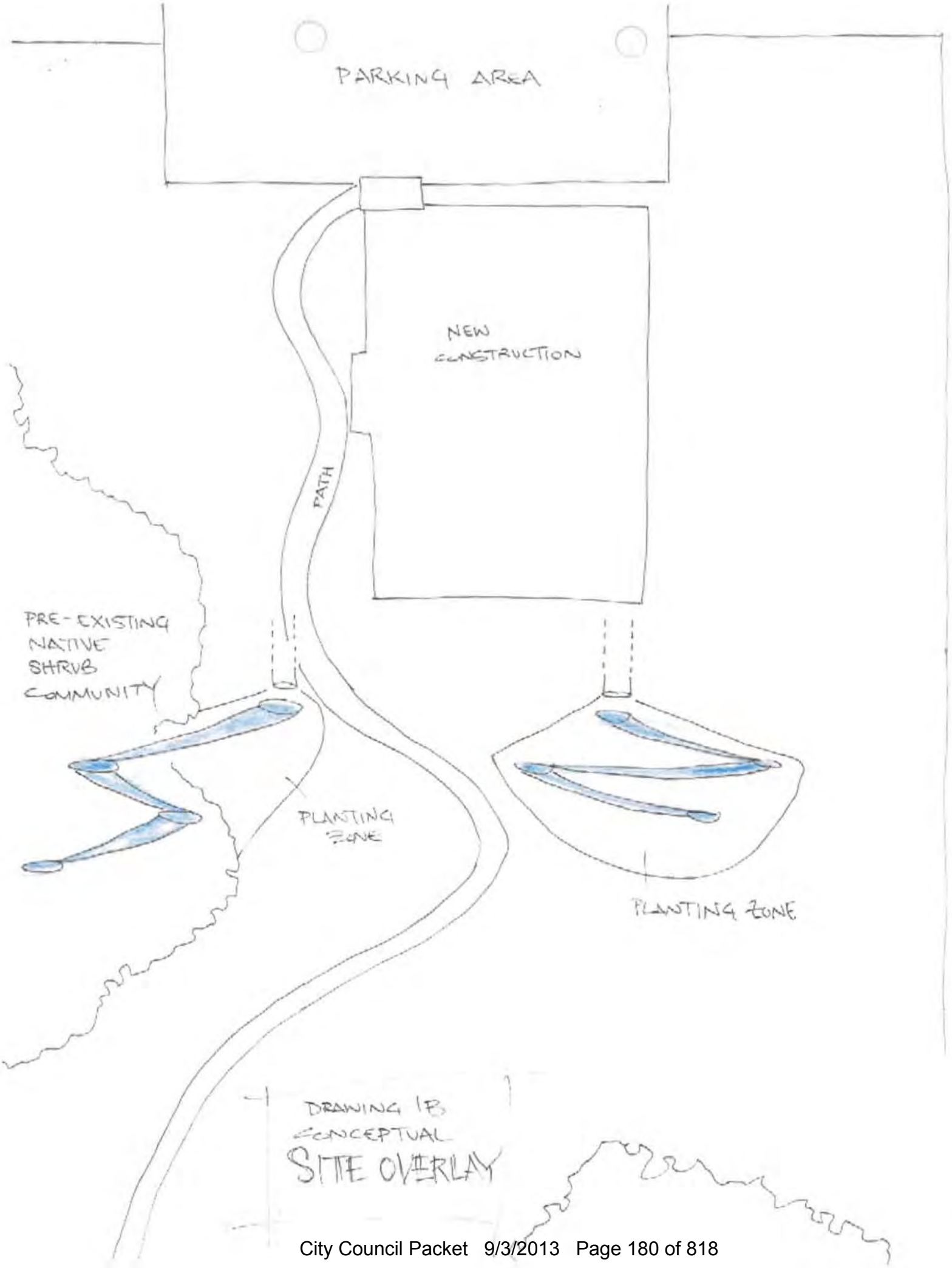
Exclosures will be necessary as deer will heavily browse freshly planted native plants. Individual plants can be caged or exclosures around each planting zone can be erected.

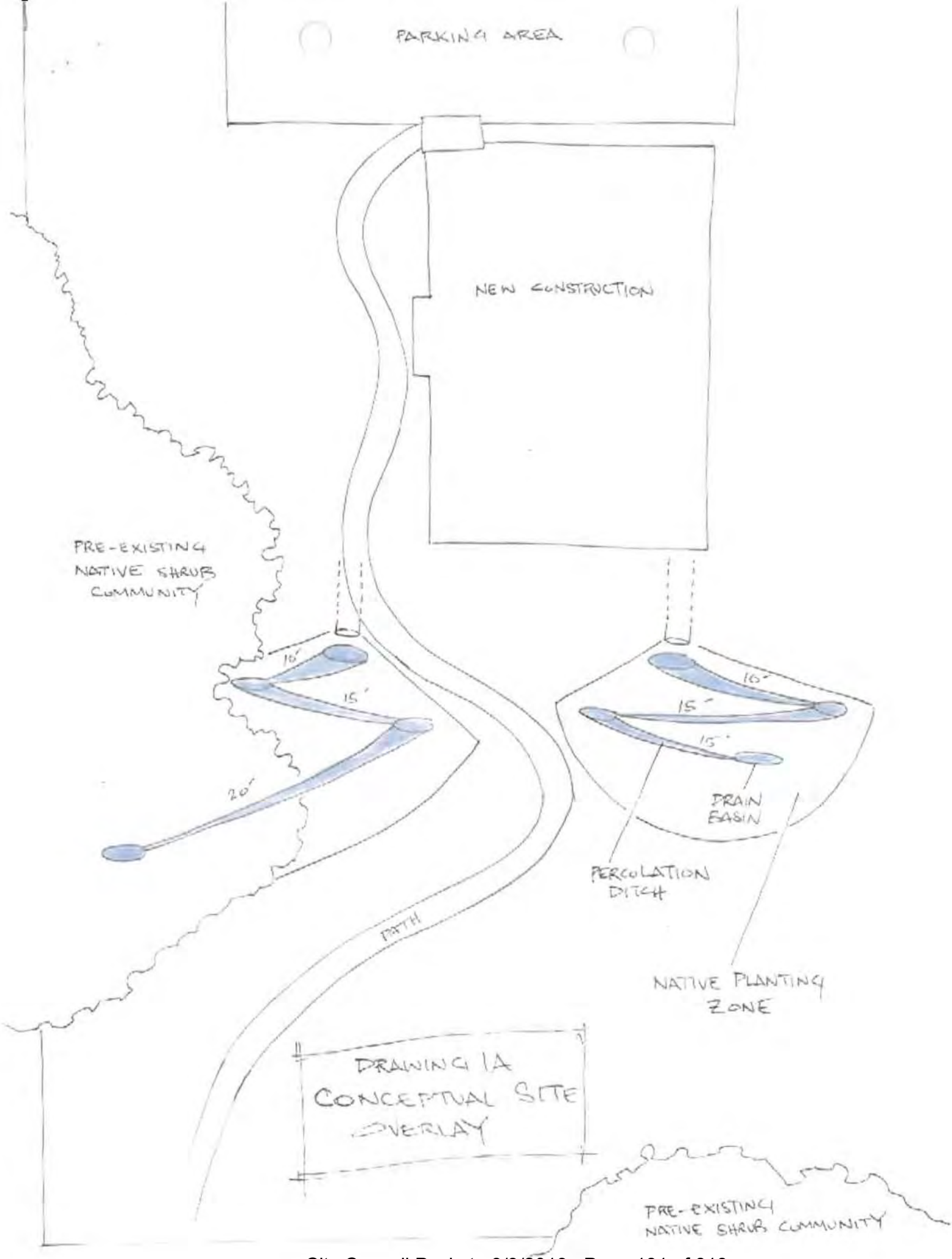
Mindful Designs, Inc. Appropriate Native Plants for Stormwater Mitigation
118 West Second Street

PLANTS	COMMENTS
Trees	
Quaking Aspen - *Populus tremuloides*	
Western Larch - *Larix occidentalis*	
Black Cottonwood - *Populus trichocarpa*	Too close to dwelling in this scenario
Ponderosa Pine - *Pinus ponderosa*	On edges of vegetation zones
Shrubs	
Red-osier Dogwood - *Cornus stolinifera*	
Wood's Rose - *Rosa woodsii*	
Common Chokecherry - *Prunus virginiana*	
Serviceberry - *Amelanchier alnifolia*	
Golden Currant - *Ribes aureum*	
Mock Orange - *Philadelphus lewisii*	
Shrubby Cinquefoil - *Potentilla fruticosa*	
Bebb's Willow - *Salix bebbiana*	
Snowberry - *Symphoricarpus albus*	Snowberry could be transplanted from house excavation zone
Drummond Willow - *Salix drummondii*	Typicall found lower on slope nearer to water's edge
Geyer Williow - *Salix geyeriana*	
Booth's Willow - *Salix boothii*	
Grasses	
Rough Fescue - *Festuca campestris*	
Idaho Fescue - *Festuca idahoensis*	
Prairie Junegrass - *Koeleria macrantha*	
Bluebunch Wheatgrass - *Pseudoegneria spicata*	
Western Wheatgrass - *Pascopyrum smithii*	
Slender Wheatgrass - *Elymus trachycaulus*	
Forbs and Wildflowers	
Leafy Aster - *Aster foliaceus*	
Indian Blanketflower - *Gaillardia aristata*	
Wild Strawberry - *Fragaria virginiana*	
Pearly Everlasting - *Anaphalis margaritacea*	
Alumroot - *Heuchera cylindrica*	
Wild Blue Flax - *Linum perrene lewisii*	
Clarkia - *Clarkia puchella*	
Wild Bergamot - *Monarda fistulosa*	
Penstemon - *Penstemon ssp.*	
Red Coumbine - *Aquilegia formosa*	
Yellow Monkey-flower - *Mimulus gattatus*	


APPROPRIATE PLANT COMMUNITIES
SUB-GRADE DRAINPIPE
DRAIN BASIN
ENHANCED SLOPE TO ACCOMODATE SWALE & WATER DITCH
DIRECTED WATER DITCH/ PERCOLATION DITCH
DRAIN ROCK
PARTIALLY BURIED ROCKS
HYDROPHILLIC LANDSCAPE FABRIC
CONCEPTUAL PROFILE SHOWING PROJECT ELEMENTS
DRAWING 2


SUB GRADE
DRAIN PIPE
BEBB'S WILLOW
ASPEN
RED OSIER DOGWOOD
WOOD'S ROSE
CHOKECHERRY
CHOKECHERRY
BEBB'S WILLOW
ASPEN
SHRUBBY CINQUEFOIL
WOOD'S ROSE
GOLDEN CURRANT
ASPEN
ASPEN
SHRUBBY CINQUEFOIL
MOCK ORANGE
SERVICEBERRY
GOLDEN CURRANT
BEBB'S WILLOW
ASPEN
CONCEPTUAL
PLANTING PLAN
FOR
NORTHWEST TRAIN


PARKING AREA
NEW CONSTRUCTION
PATH
PRE-EXISTING NATIVE SHRUB COMMUNITY
PLANTING ZONE
PLANTING ZONE
DRAWING 1B
CONCEPTUAL
SITE OVERLAY


PARKING AREA
NEW CONSTRUCTION
PRE-EXISTING NATIVE SHRUB COMMUNITY
10'
15'
20'
10'
15'
15'
DRAIN BASIN
PERCOLATION DITCH
PATH
NATIVE PLANTING ZONE
DRAWING 1A
CONCEPTUAL SITE OVERLAY
PRE-EXISTING NATIVE SHRUB COMMUNITY

118/ 120 West Second Street Conditional Use Permit Supplement
Conditional Use Permit Application following Chapter 7 of Title 11 Whitefish Zoning Regulations

A) 1&2) The proposal for the addition of a 3 unit condominium building on the rear half of the lot in addition to the change of use of the front building from residential to commercial office space is in accordance with the applicable goals and policies of the Whitefish City/County Growth Policy (CCGP) and is consistent the purpose and intent of applicable provision of the regulations due to the following:

a. The original 100 year old building on the road front will not be enlarged, rather embellished, to retain the small scale and small town feel that the Citizens of whitefish sought to preserve as stated in the vision statement and goals outlined on page 47 of the CCGP
b. The proposed rear building is intended to have two units sold to out of state seasonal visitors, and the remaining new unit is intended to be rented yearly. Both of these uses of the proposed building are in accordance with the support of community visitation and tourism that the vision statement of the CCGP outlines as a goal. Furthermore all of these units are overlooking the river while looking at Whitefish Mtn Resort which is in accordance with the development of the scenic beauty referenced in this same paragraph of the CCGP.
c. The proposed is in accordance with the Air quality goals as none of the units are heated by wood (no wood smoke), and adding dwelling units to an area within walking distance to the center of town reduces the need for visitors/residents in these units to start a vehicle to drive to town. All of these units can access the sidewalk and bike trails to access the center of town as well as the Whitefish Trail System.
d. Erosion control measures during the build and low impact development landscape measures in perpetuity will mitigate sedimentation or storm waters from negatively impacting the Whitefish River and in this way the proposed complies with the goals stated in the CCGP.
e. We have had a geotechnical engineer analyze the site and are following all recommendations for building on the slope. The area between the building and the river is to be reclaimed from its current overgrown invasive weeds to be restored and enhanced with native species. In these ways the proposed in accordance with the goals outlined in the Critical Areas Section of the CCGP.
f. The proposed in in accordance with the zoning of the site as well as the character of the neighborhood. The neighborhood is a mix of multifamily dwellings and small buildings some of which are residential, some of which are currently commercial. The proposed has exactly the same components as the surroundings – a small multifamily building for residential use as well as a very small and original cabin for proposed commercial office space. The increase in density due to the proposed condominium follows the path outlined on page 58 of the CCGP for this highway corridor that notes the zoning will allow the residential densities to increase over time.

g. The proposed new construction is far beyond the 90' river setback from high water line and therefore seems to be in accordance with the concern for development too near the waterways as described on page 54 of the CCGP.
h. The proposed follows the guidelines set forth under "Future Land Use" as it does have the commercial and service use outlined under the Highway Commercial paragraph that refers to properties on the highway as this one is. The proposed also follows the guidelines set forth in the "High Density Residential" paragraph as it does take advantage of the WR – 3 zoning to increase the density in this mixed use area very close to the city center.
i. The proposed is consistent with the purpose and intent of all applicable provisions stated in numbers 1- 15 of the "Future Land Use Policies" in the CCGP as it is an infill project (specifically supported in #6) that is consistent with the size and character of the neighborhood (#4) as well as the long term vision for this highway corridor with a small town mixed use character. The proposed new construction and driveway have been intentionally set far from the river and located on the flat bench to avoid negative impact to the river and as such conform to numbers 13 and 14 of this section of the CCGP.

3) The property location is suitable for the proposed uses as it is mixed use with both small scale multifamily dwelling and a small scale local business, both of which are consistent with the immediate neighboring properties as well as the neighborhood at large. This mixed use is in accordance with the current zoning as well as the CCGP plan for this corridor in the future. The flat bench of the property that fronts the road is being developed as infill development, while the north half of the property is being left open and vegetated with native plants and as such will have a walking path and dock access to the river. This split use of the property seems to be in accordance with increased density of the current zone and highway frontage while embracing the open lands recommendations and foot access to our scenic waterways. The access is in compliance with current standards even for emergency vehicles. There are no environmental sensitive areas on the property which would render it inappropriate for the proposed use.

4)

a. Parking locations and layout are clearly defined on the site plan and code compliant.
b. There is adequate driveway for traffic circulation for the intended use of the property.
c. As diagramed in the site plan the entire north half of the lot will NOT be built upon. Rather this area will be enhanced with native vegetation.
d. Fencing that is in disrepair will be replaced with similar fencing appropriate to the neighborhood as outlined in the site plan.
e. There is a detailed landscaping plan with plant species list that will be submitted in addition to the site plan.
f. There is no signage on the property proposed at this time. In the following year, when the existing front building is to change to commercial use a full sign permit will be undertaken.

g. All new utility services to the proposed new construction are scheduled to be underground.
h. We are going to added expense to move the current above ground electrical service to the existing building to an underground service.

5)

a. Sewer: we have recently replaced the existing sewer service for existing front building and it is getting a new connection to the city main line with the road construction project. With the road construction project they are installing a new appropriately sized stub out for the rear 3 unit building. We are running 3 new sewer service lines from the proposed building to this stub out.
b. Water: There is a new adequately sized stub out for the 3 unit building for water service as part of the road construction project. We will install 3 meter pits and 3 new water service lines to the proposed building in the rear.
c. Storm water flows have been calculated by A to Z engineering and will be directed into catch basins or gutter drains, these drains will daylight to the north and be mitigated by appropriate Low Impact Development planting according to the Landscape Plan provided by Foresteration. This landscape plan has been attached.
d. Fire Protection: The existing front building is right on the main road and fire hoses can get to all sides. The proposed rear building is scheduled to have an automatic fire suppression system.
e. Police Protection: The property is located on the Highway and will have open access to all units for police protection.
f. Street: The property is located on the highway and has an unrestricted driveway access directly to the street.
g. Parks: The property is located within easy foot or vehicle access to the local parks.
h. Sidewalks: Both the existing front building as well as the proposed rear building will have access down the driveway to the sidewalk and bike path that are part of the road construction project directly in front of the property.
i. Bike/pedestrian ways: Both the existing front building as well as the proposed rear building will have access down the driveway to the sidewalk and bike path that are part of the road construction project directly in front of the property.

6)

a. This neighborhood is directly on the existing highway and currently has a residential rental in the existing front building. The front building change of use to an office will not mean that there is any more vehicular traffic during the day. It does mean that there will be less vehicular traffic at night and on the weekends to the current building. The proposed rear condominiums will be occupied (according to current zoning) as long term residences so there will be increased residential type of parking for these units. As the directly neighboring property currently has 3 or more separate rentals – this proposed use of the rear building will not change the character of this area.
b. There is no source for excessive noise, vibration, dust, glare, heat, smoke, fumes, or odors from an office or residential units.

7) The proposed hours of operation for the office in the existing front building are M-F 9 – 5. The proposed rear building is a residential type of use so it will not have hours of operation.

8)

a. Structural bulk and Massing: The proposed building uses a roof that projects towards the street and a highly visible recessed corner of the building (for a covered stairwell) to break up the visible mass of the structure from the most visible viewpoint from the street. This is according to the recommendations outlined in 5.6.6 of the Architectural Standards. The proposed building also uses bump outs on both the east and west walls to break up the large planes of the building following the guidelines set forth in 5.6.8 of the Architectural Standards. The north elevation of the building uses a recessed corner and covered deck spaces to break up this plane of the building and is in accordance with the encouragement outlined in 5.6.7 of the Architectural Standards.

b. Scale: The proposed building has a slightly smaller profile and height when compared to the other multifamily dwelling units on the same side of Rt. 93located within ¼ mile to the East. As the building is only 2 stories above grade it will not visually overwhelm the other one and two story dwellings in the neighborhood. In this manner the proposal is in accordance with 5.5.1, 5.5.2 and 5.5.4 of the Architectural Standards.

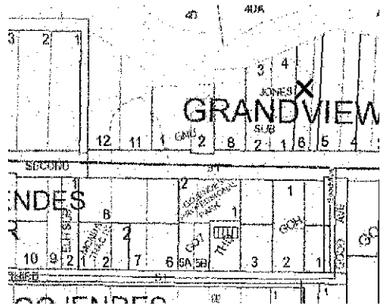
c. Context of existing neighborhood: The visual impact on the neighborhood is minimized due to the fact that the proposal leaves the existing building located directly on Rt. 93 unchanged. The proposed building is sighted in a "staggered" manner in accordance with bullet point number 4 of the Architectural Standards. The proposed building is located to the rear (north) of the buildable envelope which will help minimize the visual impact and is accordance with bullet point number 2 in the opening section of Chapter 5 of the Architectural Standards. The proposal is for new dwelling units, which is in accordance with the WR – 3 zoning and the same type of use as the majority of the buildings in this residential neighborhood. The roofline of the building is a commonly seen "shed" roof that can actually be seen on a shed currently on the neighboring property in addition to other buildings in the area.

d. Community Character: This is a largely residential neighborhood made up of single family homes and a small number of multifamily dwelling units within ½ mile in either direction. The proposed building fits into this character as it is residential in use and will have a residential feel as typical multifamily architectural features (such as a large number of high visibility identical doors) have been avoided.

B) Owners:

1) PICKERING, JACQUELINE M , ADDRESS:(M) PO BOX 4690 WHITEFISH MT 59937
2) WELLS, PAUL L, ADDRESS:(M) 50 W 2ND ST WHITEFISH MT 59937
3) HANSON FAMILY 2002 TRUST, ADDRESS:(M) PO BOX 2921 SAN RAMON CA 94583, ADDRESS:(P) 124 W 2ND ST WHITEFISH MT 59937
4) HIGGINS, MICHAEL R & CHRYSTAL L, ADDRESS:(M) 235 GOOD AVE WHITEFISH MT 59937 , ADDRESS:(P) 101 W 2ND ST WHITEFISH MT 59937
5) SCHWARTZ LIVING TRUST, MARTIN ALAN, ADDRESS:(M) 4739 SANTA ROSITA CT SANTA ROSA CA 95405, ADDRESS:(P) 121 W 2ND ST WHITEFISH MT 59937, ADDRESS:(P) 123 W 2ND ST WHITEFISH MT 59937
6) SOLBERG, DUANE R & KAREN, ADDRESS:(M) 150 LOST CREEK LOOP ANACONDA MT 59711 , ADDRESS:(P) 133 W 2ND ST WHITEFISH MT 59937, OWN:HARTSOCH, RONALD DALE & MERDITH DEE , ADDRESS:(M) 150 LOST CREEK LOOP ANACONDA MT 59711 , ADDRESS:(P) 133 W 2ND ST WHITEFISH MT 59937
7) Please See Attached.

VICINITY MAP

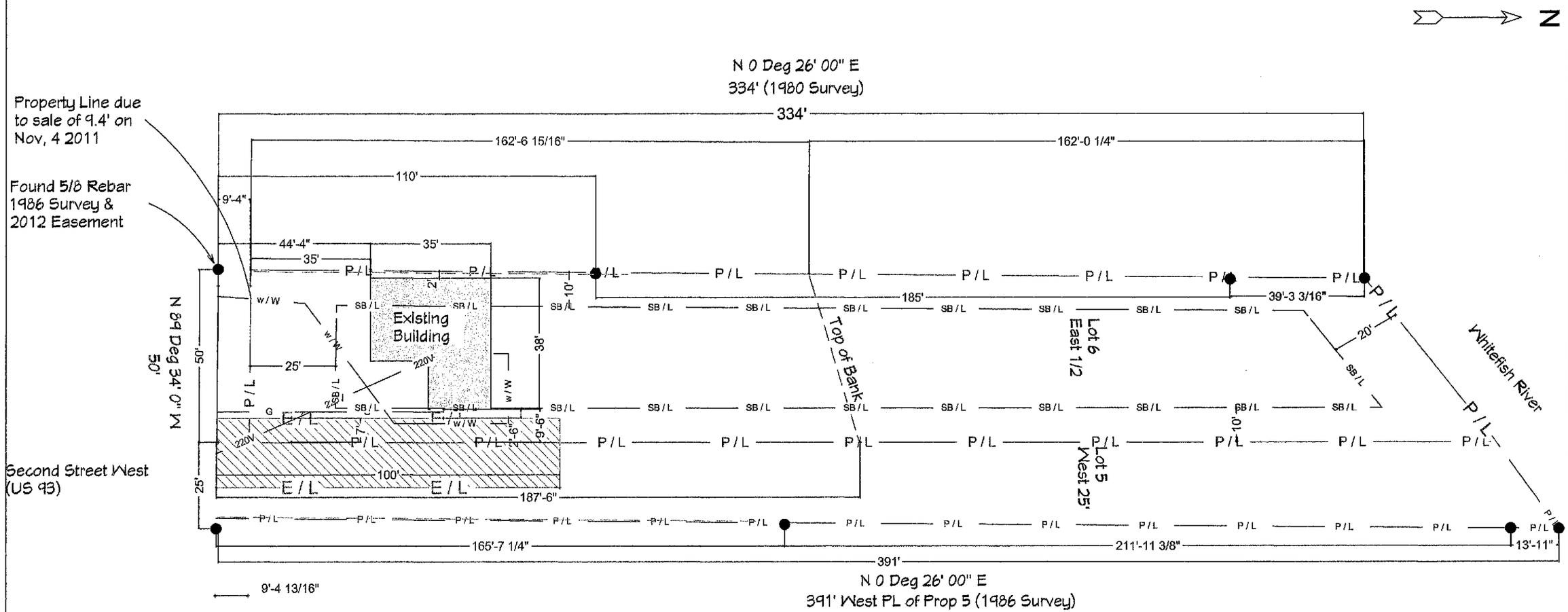


CODE SUMMARY

EXISTING:
- Property Zone: WR - 3
- Single Family Dwelling: Occupancy Group R - 3
- Building SF: 1,200 SF
- Lot SF: 16,776 SF (0.38512397 Acres)
- Impervious Surface SF NOT including Building SF: 100 SF
- % Coverage: (Building Footprint Only): 7%
- Parking Required: 2

LEGEND

- P/L in RED: 118 Second Street West Property Line
- P/L in BLUE: West Property Line of "West 25' of Lot 5" from 1986 Survey
- SB / L in Black: Set Back Lines (25' Front, 10' Side, 20' Rear)
- E/L in GREEN: Existing Easment
- Dashed Pink Line: Top of River Bank from RLK Hydro 10/25/12 report
- Dashed Green Line: Existing Fence Lines (On Southern portion of E & W PL)
- Solid Black Circles: Found Pins from 1980 & 1986 Surveys
- 220V - Electrical Service Existing Route
- G - Gas Service Existing Route
- W/W - Waste Water/ SEWER Existing Route
- Dotted Green Lines on E/W property lines: Existing Fences (propose to replace)



MINDFUL DESIGNS

"Building a Better Future" For:

118 2nd Street West

mdi@mindfuldesignsinc.com
Marty: 406 - 250 - 1668
Dave: 406 - 250 - 0336
Jason: 406 - 249 - 9492

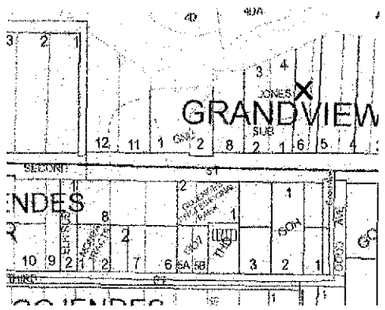
2/28/2013

SCALE: 1" = 30'

Existing Site Plan

PAGE: 1

VICINITY MAP



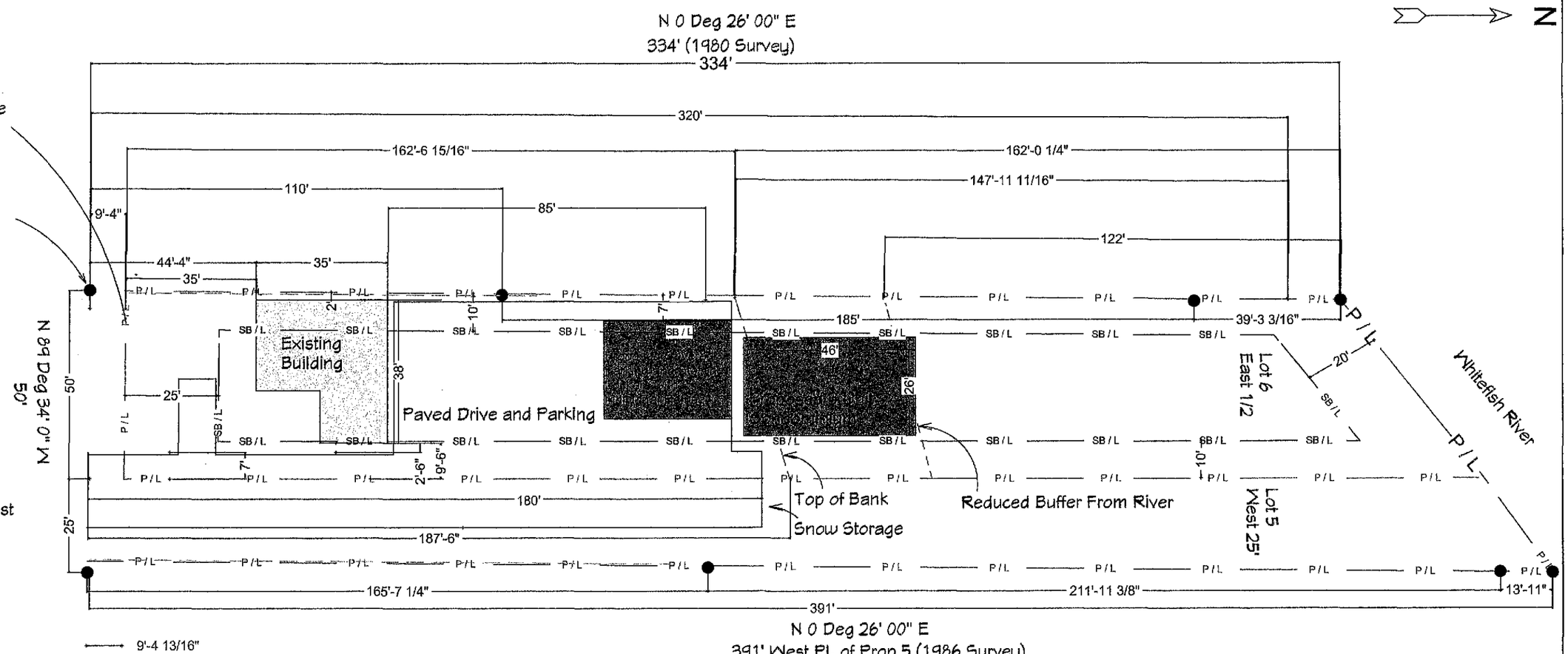
CODE SUMMARY

Keep Existing Building As Is:
- Property Zone: WR - 3
- Single Family Dwelling: Occupancy Group R - 3
- Building SF: 1,200 SF
- Lot SF: 16,776 SF (0.38512397 Acres)

PROPOSED NEW CONSTRUCTION IN ADDITOION TO EXISITNG BUILDING:
- 3 Level 3 Unit Condominium: Occupance Group R - 2
- Building Footprint: 1196 SF (Each unit is 1000 SF living space)
- Finsihed Sf of Entire Building: 3024 SF
- Impervious Surface SF NOT including Building SF:
- % Coverage: Proposed building plus existing building (NO asphalt) = 14%
- Parking Required: 10

LEGEND

- P/L in RED: 118 Second Street West Property Line
- P/L in BLUE: West Property Line of "West 25' of Lot 5" from 1986 Survey
- SB / L in Black: Set Back Lines (25' Front, 10' Side, 20' Rear)
- E/L in GREEN: Existing Easment
- E/L in YELLOW: Proposed Easement
- Dashed Pink Line: Top of River Bank from RLK Hydro 10/25/12 report
- Dashed Green Line: Existing Fence Lines (On Southern portion of E & W PL)
- Solid Black Circles: Found Pins from 1980 & 1986 Surveys
- 220V - Electrical Service Existing Route
- G - Gas Service Existing Route
- W/W - Waste Water/ SEWER Existing Route



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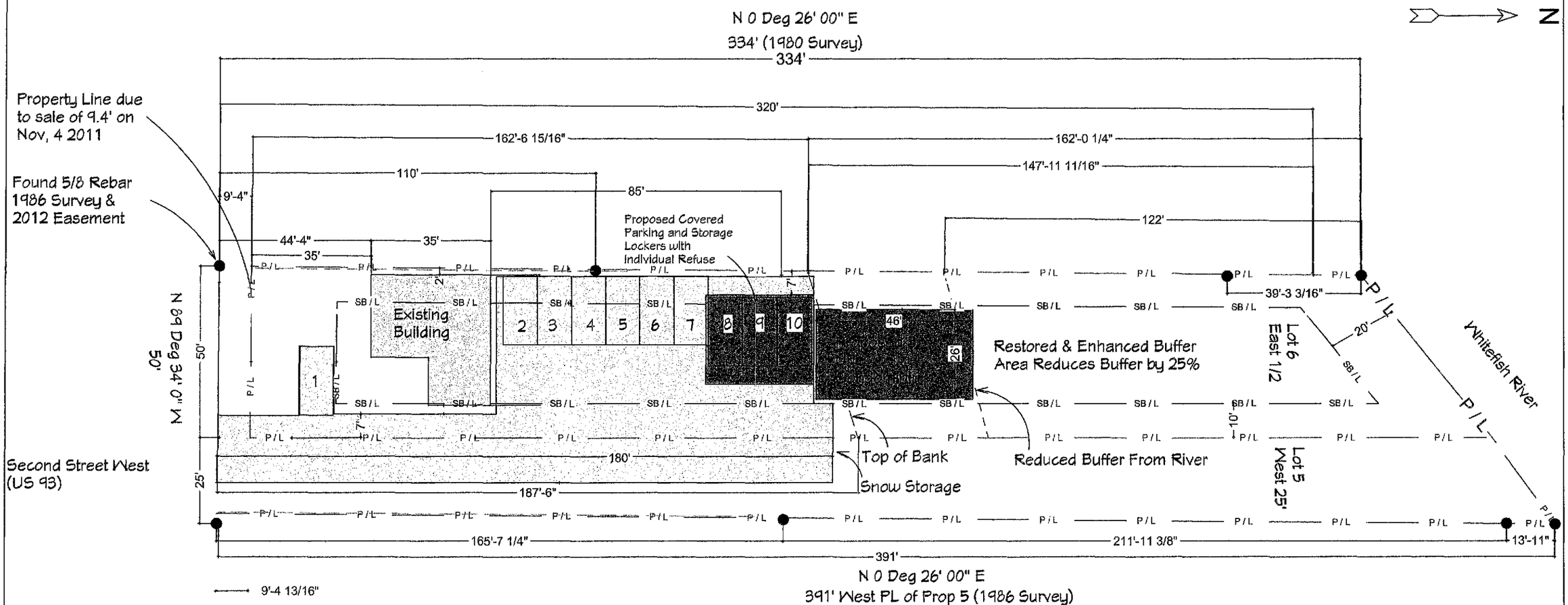
2/28/2013

SCALE: 1" = 30'

Proposed Site Plan

PAGE: 2

PARKING



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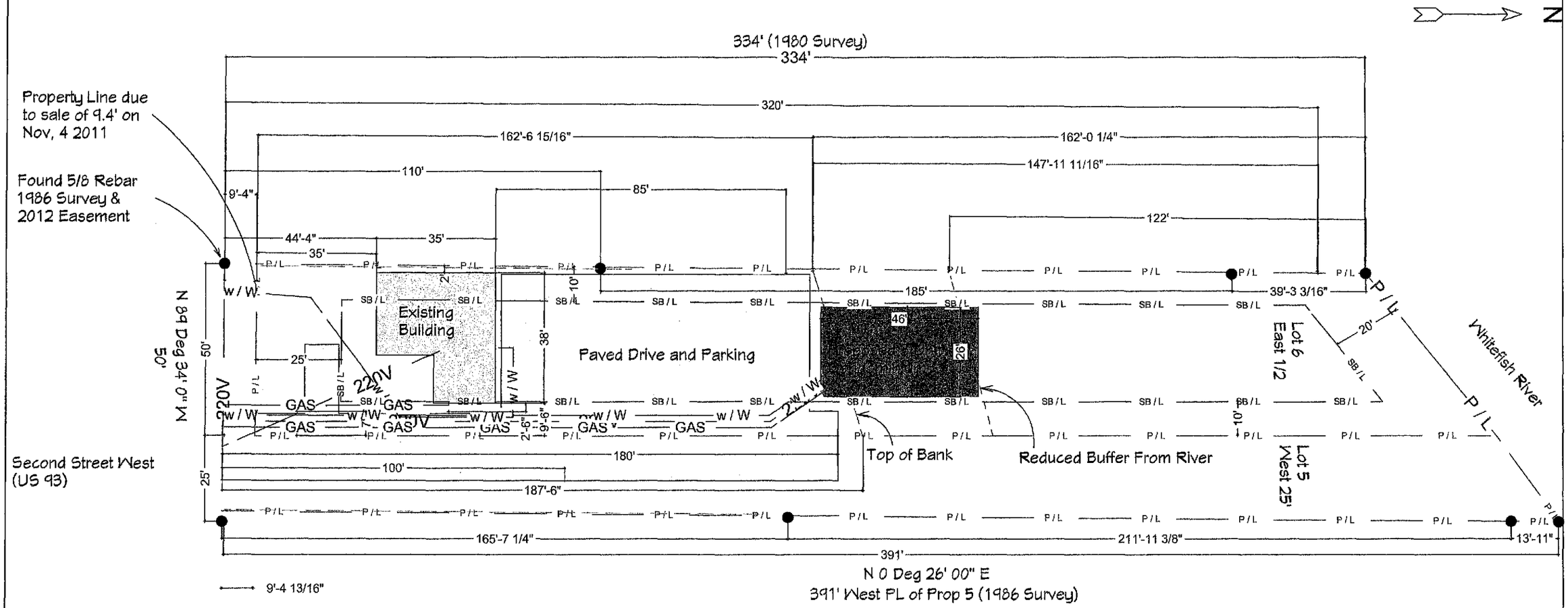
2/28/2013

SCALE: 1" = 30'

Proposed Parking

PAGE: 3

Existing and Proposed Utilities



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2/28/2013

SCALE: 1" = 30'

Proposed Utilities

PAGE: 4

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

August 27, 2013

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

RE: Johnson Guest House at 815 Delrey Road; (WCUP 13-09)

Honorable Mayor and Council:

Summary of Requested Action: Bruce Boody on behalf of Kevin and Melinda Johnson is requesting approval of a Conditional Use Permit to have a guest house at 815 Delrey Road. The property is currently developed with a single family home that will become the guest house. The property is zoned WSR (Suburban Residential District). The Whitefish Growth Policy designates this property as "Suburban Residential".

Planning Board Action: The Whitefish City-County Planning Board met on August 15, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with six (6) conditions as contained in the staff report and adopted the staff report as findings of fact. (Blake, Konapatzke and Smith were absent)

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

Public Hearing: No one spoke at the hearing. The draft minutes for this item are attached as part of this packet.

This item has been placed on the agenda for your regularly scheduled meeting on September 3, 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
Draft Minutes of 8-15-13 Planning Board Meeting

Exhibits from 8-15-13 Staff Packet

1. Staff Report – WCUP 13-09, 8-8-13
2. Adjacent Landowner Notice, 7-26-13
3. Advisory Agency Notice, 7-26-13-13

The following were submitted by the applicant:

4. Application for Conditional Use Permit, 7-1-13

c: w/att Necile Lorang, City Clerk

c: w/o att Bruce Boody, Bruce Boody Landscape Architect Inc, 301 E 2nd Street, suite 1B Whitefish, MT 59937

Exhibit A
Johnson Guest House
WCUP 13-09
Whitefish City-County Planning Board
Recommended Conditions of Approval
August 15, 2013

1. The project shall be constructed in compliance with the plan dated July 1, 2013, except as amended by these conditions. Any significant deviation from the plans shall require approval.

2. All stormwater shall be retained on-site.

3. One off-street parking space shall be designated for the guest house and two off-street parking spaces shall be designated for the primary residence as shown on the project drawing.

4. Prior to construction, the property owner shall provide the City a recorded copy of either a deed restriction or a restrictive covenant that the guesthouse may not be used for rental purposes or as a permanent residence for anyone employed in a home occupation on the subject property.

5. Any outdoor lighting that is used for the guest house shall be placed on a timer or motion sensor and shall be fully shielded and/or have a full cut-off lens to avoid intrusion onto adjoining properties or into the night sky.

6. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun.

310 permit from the Flathead Conservation District. Meckel said perennial streams are under the jurisdiction of the Flathead Conservation District and he will need a permit to work that close to the river.

Phillips said he thinks it would be nice to have an incentive for green roofs that slow down the run-off into the river. Netteberg asked and Phillips said there is an incentive in other cities where there is a reduction on ground landscaping or fees. It really helps with runoff.

PUBLIC HEARING

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

AMENDMENT

Meckel offered an amendment, seconded by Phillips, to add a condition to require the applicant to obtain a 310 permit from the Conservation District.

BOARD DISCUSSION

Gunderson asked and Beale said the building is about 120 feet back from the river. Planner Compton-Ring said it is 122 feet from the property line. Meckel said often times the Conservation District will decide it is not their jurisdiction, but it protects the applicant.

VOTE ON AMENDMENT

The vote on the amendment passed unanimously.

MOTION

Meckel moved and Phillips seconded Whitefish to adopt staff report WCUP 13-08 as findings-of-fact and recommend to the Whitefish City Council to approve the Beale conditional use permit to have a professional office and a triplex condo on a single lot, subject to the conditions in the staff report.

VOTE

The motion passed unanimously. (Scheduled for City Council on September 3, 2013.)

JOHNSON CONDITIONAL USE PERMIT REQUEST

Netteberg recused himself from this item.

A request by 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).

STAFF REPORT WCUP 13-09

Planner Compton-Ring reported that the applicant is requesting a conditional use permit to allow a guest house at 815 Delrey Road. The site has an existing single family home that will become the guest house and a new home will be constructed. Access for the single family home is on the southern property boundary and access for the guest house is existing and is along the eastern property line.

The property is zoned WSR, Suburban Residential District. The purpose of this district is intended to provide single-family homes in an estate-type setting and is designed to maintain, protect and preserve

a character of development characterized by used of a residential purpose and with no more than one dwelling unit and customary accessory buildings on one lot.

The Growth Policy designation for this area is Suburban Residential which generally corresponds to the WCR, WSR and WER zoning districts.

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on July 26, 2013. A notice was mailed to advisory agencies on July 26, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on July 31, 2013. No comments have been received.

This application is evaluated based on the "criteria required for consideration of a Conditional Use Permit," per Section 11-7-8(J) of the Whitefish Zoning Regulations. The proposed use complies with Growth Policy Designation of Suburban. The structure meets all required setbacks. The maximum permitted lot coverage in this zoning district is 25% appears to be met.

The existing home that will be converted to the guest house is 45-feet from the lake. If there are any proposed expansions of the guest house toward the lake, a Water Quality Protection review will need to occur. They are not proposing any changes to guest house. A Water Quality Protection review will need to occur with the new residence, as it is within 200-feet of the Whitefish Lake. The guest house is not located within a 100-year floodplain nor within 200-feet of the river, stream or wetland.

Staff recommends that this conditional use permit be recommended for approval to the Whitefish City Council subject to 6 conditions as outlined in the staff report. She noted that condition #5 should say "guesthouse" instead of "accessory apartment."

Phillips, item #3, site suitability says lot coverage "appears to meet 25%" and he wanted to be sure it was definite. Bruce Boody said it is only about 7% coverage.

PUBLIC HEARING The public hearing was opened to those who wished to speak on the issue. Bruce Boody said he was available to answer questions.

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

BOARD DISCUSSION Gunderson said he likes the architect's sketches.

MOTION Gunderson moved and Phillips seconded Whitefish to adopt staff report WCUP-13-09 as findings-of-fact and recommend to the Whitefish City Council to approve the Johnson conditional use permit

to have a guest house, subject to the conditions in the staff report.

VOTE

The motion passed unanimously. (Scheduled for City Council on September 3, 2013.) Netteberg was re-seated.

STUBER AND COLBERT HOME OCCUPATION TEMPORARY EXTENSION REQUEST

A request by 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).

STAFF REPORT WCUP 13-10

Senior Planner Compton-Ring reported that Neil Stuber and Corrie Colbert, on behalf of Hurraw! Balm llc, are requesting a conditional use permit to temporarily exceed the home occupation standards at 103 Dakota Avenue. The zoning regulations limit home occupation to no more than 25% of the gross floor area of the primary residence and limit employees to family members residing on the premises and one nonfamily member. If one exceeds these thresholds, a Conditional Use Permit is required. The applicant is proposing to use 50% (800 square feet) of the home in the basement and they have three part-time employees.

This is an after-the-fact permit, and the use will not be expanding at this site as the applicant is in the process of constructing a new facility in Baker Commons. It is anticipated the building will be complete in January, 2014 and the entire operation will move to the new building.

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on July 26, 2013. A notice was mailed to advisory agencies on July 26, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on July 31, 2013. Staff received one letter in support of the application and it is attached to this report.

This is a single family home, zoned WR-2 and the Growth Policy designation is urban. It was reviewed according to the CUP standards. This zone does allow for home occupations. The site is suitable for the proposed use and there is adequate parking. There is no need for fencing, signage or open space. It is compatible with the neighborhood and is an accessory use. Staff recommends approval. One condition limits that this CUP terminates when this business moves to the new property. Vail asked and Compton-Ring said they did not receive any comments from neighbors. Gunderson asked and Compton-Ring said they paid $990 for the fee.

PUBLIC HEARING

The public hearing was opened to those who wished to speak on the issue. Neil Stuber, applicant, said they are looking at some other locations because they are outgrowing their temporary space. They

JOHNSON
CONDITIONAL USE PERMIT REQUEST
WCUP 13-09
August 8, 2012

This is a report to the Whitefish City-County Planning Board and the Whitefish City Council regarding a request for a conditional use permit to allow a guest house. This application has been scheduled before the Whitefish City-County Planning Board for a public hearing on Thursday, August 15, 2013. A recommendation will be forwarded to the City Council for a subsequent public hearing and final action on Tuesday, September 3, 2013.

PROJECT SCOPE

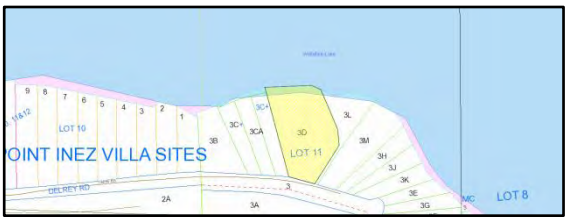
The applicant is requesting a conditional use permit to allow a guest house at 815 Delrey Road. The site has an existing single family home that will become the guest house and a new home will be constructed. Access for the single family home is on the southern property boundary and access for the guest house is existing and is along the eastern property line.

A. **OWNER:**

Kevin and Melinda Johnson
555 Twin Dolphin Drive
Redwood City, CA 94025

REPRESENTATIVE:
Bruce Boody Landscape Architect Inc
301 E 2nd Street, suite 1B
Whitefish, MT 59937

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



The property is 3.023-acres. It is located at 815 Delrey Road and can be described as Tract 3D (S5-T31N-R22W).

C. **EXISTING LAND USE AND ZONING:**

The subject property is currently developed with a single family residence that will become the guest house. The property is zoned WSR, Suburban Residential District. The purpose of this district is intended to provide single-family homes in an estate-type setting and is designed to maintain, protect and preserve a character of development characterized by used of a residential purpose and with no more than

one dwelling unit and customary accessory buildings on one lot.

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

North:	Whitefish Lake	unzoned
West:	Residential	WSR
South:	Railway	WA
East:	Residential	WSR

E. **ZONING DISTRICT:**

WSR (Suburban Residential District)

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

The Growth Policy designation for this area is Suburban Residential which generally corresponds to the WCR, WSR and WER zoning districts. 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. Cluster residential that preserves considerable open space, allows for limited agriculture, maintains wildlife habitat is encouraged.

G. **UTILITIES:**

Sewer:	on-site
Water:	on-site
Solid Waste:	private hauler
Electric:	Flathead Electric Co-op
Phone:	CenturyLink
Police:	Flathead County Sheriff
Fire:	Whitefish Fire Department

H. **PUBLIC COMMENTS**

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on July 26, 2013. A notice was mailed to advisory agencies on July 26, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on July 31, 2013. As of the writing of this staff report, no comments have been received.

REVIEW AND FINDINGS OF FACT

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

1. Growth Policy Compliance:

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

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

The underlying zoning is WSR (Suburban Residential District). The purpose and intent of this zoning category describes single-family homes in an suburban setting.

The development proposal is consistent with the purpose and intent of the applicable regulations. Section 11-3-12 describes the requirements for a guest house and this project meets all the requirements. The guest house is located on a lot that meets both the minimum lot size and lot width requirements, it is accessory to a single family home and adequate parking is being provided. The zoning primary setbacks are being met with the submitted site plan.

Finding 2: The proposed use complies with the zoning regulations and intent for the WSR district based on conditionally permitted uses for guest houses.

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

Adequate usable land area: The subject parcel is 3.023-acres in size. The structure meets all required setbacks. The maximum permitted lot coverage in this zoning district is 25% appears to be met.

Access that meets the standards set forth in these regulations, including emergency access: There is an existing access to the site off Delrey Road to the proposed guest house and a new access will be constructed to the new home. Delrey Road is a paved County road should allow adequate access for emergency situations.

Absence of environmental constraints that would render the site inappropriate for the proposed use or development, including, but not necessarily limited to floodplains, slope, wetlands, riparian buffers/setbacks, or geological hazards: The existing home that will be converted to the guest house is 45-feet from the lake. If there are any proposed expansions of the guest house toward the lake, a Water Quality Protection review will need to occur. They are not proposing any changes to guest house. A Water Quality Protection review will need to occur with the new

residence, as it is within 200-feet of the Whitefish Lake. The guest house is not located within a 100-year floodplain nor within 200-feet of the river, stream or wetland.

Finding 3: The site suitability for the subject property is addressed through the large lot size and open space to address the need for adequate usable land area. The property is on the lake. The existing structure that will become the guest house is not proposed for an expansion. The new home will require Water Quality Protection review prior to the start of construction.

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

Parking locations and layout: Section 11-6-2(A) of the Whitefish Zoning Regulations requires two (2) parking spaces per single family dwelling unit and Section 11-3-12 requires one (1) space per guest house with less than 1200 square feet. The proposed plans provide adequate space to accommodate all parking needs on site.

Traffic Circulation: The proposed use should not impact traffic circulation on the existing road.

Open space: The site plan has adequate open space.

Fencing/Screening: Fencing and screening are not required by the zoning regulations.

Landscaping: Section 11-4-1 of the Whitefish Zoning Regulations exempts single family dwellings and guest houses from the landscaping requirements; therefore, no landscape plan is required. The site is landscaped and has many large, established trees.

Signage: None is proposed.

Undergrounding of new and existing utilities: There are utilities existing on site servicing the primary residence. Any new utilities will be required to be installed underground, if possible.

Finding 4: The quality and functionality of the proposed development meets the required parking spaces. Open space is preserved.

5. Availability and Adequacy of Public Services and Facilities.

Sewer and water: Private on-site services are available for the existing cabin. A new septic system is proposed and permitting will go through Flathead County Environmental Health Department. The existing well will serve both buildings.

Storm Water Drainage: A plan as to how the storm water will be managed for the new single family home will be required, as the home is within 75-feet of the lake. All storm water is required to be maintained on-site.

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

Police: The Flathead County Sheriff's Department serves the site, response times and access is adequate. The proposed use is not expected to have significant impacts upon police services.

Streets: The subject property is accessed off of Delrey Road – a paved right-of-way.

Finding 5: Private on-site water and sewer services are currently in use on site. Response times for police and fire are not anticipated to be affected due to the proposed development. The property has adequate access to a county right-of-way.

6. Neighborhood/Community Impact:

Traffic Generation: Traffic impacts are anticipated to be minimal and should not result in a significant impact to traffic on Delrey Road.

Noise or Vibration: No additional noise or vibration is anticipated to be generated from the proposed use. Any additional noises or vibrations would be associated with construction, but are not anticipated to be permanent impacts.

Dust, Smoke, Glare, or Heat: No impact is anticipated beyond what would be expected from the residential use currently onsite.

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

Hours of Operation: There are no hours of activity anticipated with this use beyond those that would be typical of the neighborhood for a residential use.

Finding 6: The proposed development is not anticipated to have a negative neighborhood impact. Negative impacts on noise, dust, smoke, odor or other environmental nuisances are not expected to be associated with the use of one additional residential unit.

7. Neighborhood/Community Compatibility:

Structural Bulk and Massing: The structure's bulk and massing are comparable to the proposed primary residence and the adjacent residential structures.

Context of Existing Neighborhood: The existing neighborhood is predominantly single family residential. The proposed use is not expected to impact or change the character of the existing neighborhood. The proposed use is consistent with the zoning and uses allowed and in place.

Density: The design of the proposed structure is similar to other buildings in the area. The density is not out of character with the area.

Community Character: The proposed guest house will not be detrimental to the immediate neighborhood integrity as the guest house reflects the housing standards established in the area and will be use as an ancillary use of the primary residence.

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

RECOMMENDATION

It is recommended that the Whitefish City-County Planning Board adopt the findings of fact within staff report WCUP 13-09 and that this conditional use permit be recommended for **approval** to the Whitefish City Council subject to the following conditions:

1. The project shall be constructed in compliance with the plan dated July 1, 2013, except as amended by these conditions. Any significant deviation from the plans shall require approval.

2. All stormwater shall be retained on-site.

3. One off-street parking space shall be designated for the guest house and two off-street parking spaces shall be designated for the primary residence as shown on the project drawing.

4. Prior to construction, the property owner shall provide the City a recorded copy of either a deed restriction or a restrictive covenant that the guesthouse may not be used for rental purposes or as a permanent residence for anyone employed in a home occupation on the subject property.

5. Any outdoor lighting that is used for the guest house shall be placed on a timer or motion sensor and shall be fully shielded and/or have a full cut-off lens to avoid intrusion onto adjoining properties or into the night sky.

6. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun.

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 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.

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, August 15, 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 Tuesday, September 3, 2013 at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at *wcompton-ring@cityofwhitefish.org*. Comments received by the close of business on Monday, August 5, 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

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

Wendy Compton-Ring

From: Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>
Sent: Friday, July 26, 2013 12:04 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'
Subject: August City-County Planning Board Notice
Attachments: 8-2013_PB meeting.pdf

Attached please find the notice for the August Planning Board

Wendy Compton-Ring, AICP
Senior Planner
City of Whitefish
406-863-2418

EXHIBIT
3

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

APPLICATION FOR CONDITIONAL USE PERMIT
CITY OF WHITEFISH

FEE ATTACHED_____ **(See current fee schedule)**

OWNER(S) OF RECORD:

Name: Johnson, Kevin & Melinda

Mailing Address: 555 Twin Dolphin Drive

City/State/Zip: Redwood City, CA 94025 Phone: (650) 207-2700

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

Name: Bruce Boody Landscape Architect Inc

Mailing Address: 301 Second Street East, Suite 1B

City/State/Zip: Whitefish, MT 59937 Phone: 406, 862-4755

LEGAL DESCRIPTION OF PROPERTY (Refer to Property Records):

Street Address: 815 Delrey Road	Sec. No. 5	Town-ship 31 N	Range No. 22 W

Subdivision Name: NA	Tract No(s). Assr.Tract 3D Tract 1, COS 17219	Lot No(s)._____	Block No._____

DESCRIBE PROPOSED USE: Single family residence, one guest home, two outbuildings (garage, shop)

ZONING DISTRICT: WSR

CHAPTER 7 OF TITLE 11 WHITEFISH ZONING REGULATIONS REQUIRES THE FOLLOWING: Please see the following Section A narrative with Exhibits A-D

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

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

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

3. How is the property location suitable for the proposed use? Is there adequate usable land area? Does the access, including emergency vehicle access, meet the current standards? Are environmentally sensitive areas present on the property that would render the site inappropriate for the proposed use?

4. How are the following design issues addressed on the site plan?
   a. Parking locations and layout
   b. Traffic circulation
   c. Open space
   d. Fencing/screening
   e. Landscaping
   f. Signage
   g. Undergrounding of new utilities
   h. Undergrounding of existing utilities

5. Are all necessary public services and facilities available and adequate? If not, how will public services and facilities be upgraded?
   a. Sewer
   b. Water
   c. Stormwater
   d. Fire Protection
   e. Police Protection
   f. Street (public or private)
   g. Parks (residential only)
   h. Sidewalks
   i. Bike/pedestrian ways – including connectivity to existing and proposed developments

6. How will your project impact on adjacent properties, the nearby neighborhoods and the community in general? Describe any adverse impacts under the following categories.
   a. Excessive traffic generation and/or infiltration of traffic into neighborhoods
   b. Noise, vibration, dust, glare, heat, smoke, fumes, odors

7. What are the proposed hours of operation?

8. How is the proposal compatible with the surrounding neighborhood and community in general in terms of the following:
   a. Structural bulk and massing
   b. Scale
   c. Context of existing neighborhood
   d. Density
   e. Community Character

B. PROPERTY OWNER LIST

Submit a list of names with mailing addresses of property owners within **150** feet of the proposed use (**public street right-of-ways are not counted as part of the 150 feet**). The owner of record must appear exactly as on the official records of Flathead County. This list is obtained from the Flathead County GIS Department using the 'Adjacent Landowner Request' form.

C. SITE PLAN

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

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

Bruce Boody ASLA
Applicant's Signature

July 1, 2013
Date

Bruce Boody
Print Name

INSTRUCTIONS FOR CONDITIONAL USE PERMIT APPLICATION

1. A pre-application meeting with the planning director or member of the planning staff is required.

2. Submit the application fee (per current fee schedule), completed application and appropriate attachments to the Whitefish Planning & Building Department (address on the front of this form).

3. Attach a list of the names and mailing addresses of all property owners within 150 feet of the subject property as shown in the Flathead County Assessor's records. This list is obtained from the Flathead County GIS Department.

4. Application must be completed and submitted a minimum of **forty five (45) days prior** to the Planning Board meeting at which this application will be heard.

5. The regularly scheduled meeting of the Planning Board is the third Thursday of each month.

6. After the Planning Board hearing, the application is forwarded with the Board's recommendation to the City Council for hearing and final action.

7. Once the application is complete and accepted by Whitefish Planning & Building Department, final approval usually takes 60 days, but never more than 90 days.

I hereby authorize Bruce Boody Landscape Architect, Inc. to act on our behalf as applicant in in the submittal of my City of Whitefish Conditional Use Permit Application.

Signature

Kevin P. B Johnson

Print Name

6/27/13

Date

1 SITE PLAN

SCALE: 1" = 30'-0"

SITE PLAN LEGEND

	TELEPHONE PEDESTAL
	ELECTRIC TRANSFORMER
	UTILITY POLE
	WELL HEAD
OP	OVERHEAD POWER LINE
P	BURIED POWER/CABLE/TELEPHONE LINE
S	SEPTIC LINE
W	WATER LINE
G	PROPANE LINE
G	PROPANE TANK

NOTES:

1. NATIVE VEGETATION TO BE PROTECTED OR RESTORED DURING CONSTRUCTION.

OLSON KUNDIG ARCHITECTS
159 South Jackson Street, 6th Floor, Seattle WA 98104 USA T+1 206 624 5670 F+1 206 624 3730 www.olsonkundigarchitects.com

project:
JOHNSON WHITEFISH RESIDENCE
815 DELREY ROAD
WHITEFISH, MT 59937

principal architect TK
project manager EC
drawn by JH
Author
checked by Checker
job no. 12036
date 07/01/13

revisions:

no. date by

NOT FOR CONSTRUCTION

CONDITIONAL USE PERMIT

07/01/13

SITE PLAN - C.U.P.

A1.01

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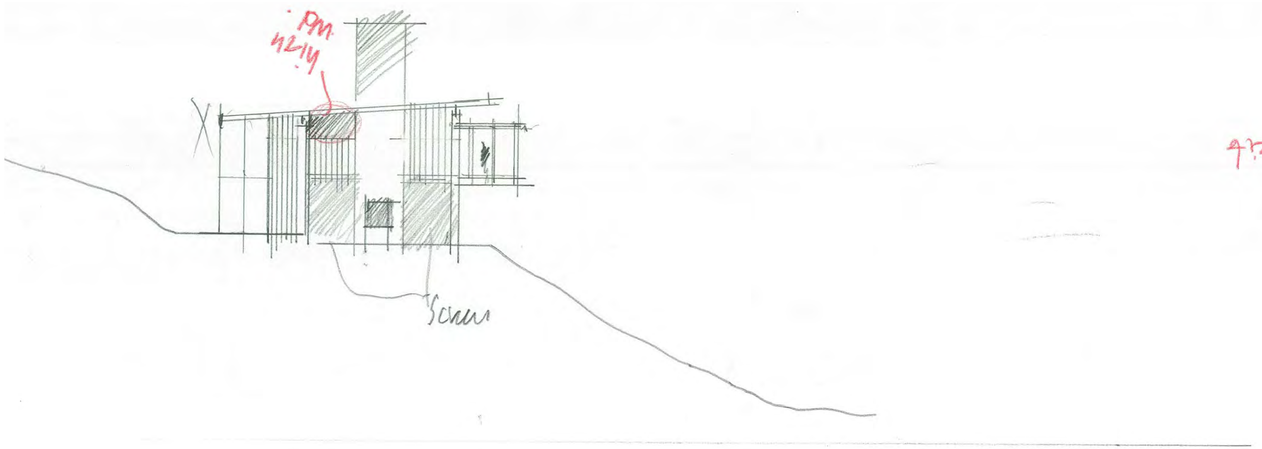
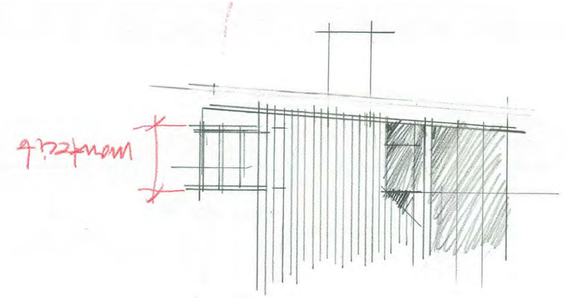
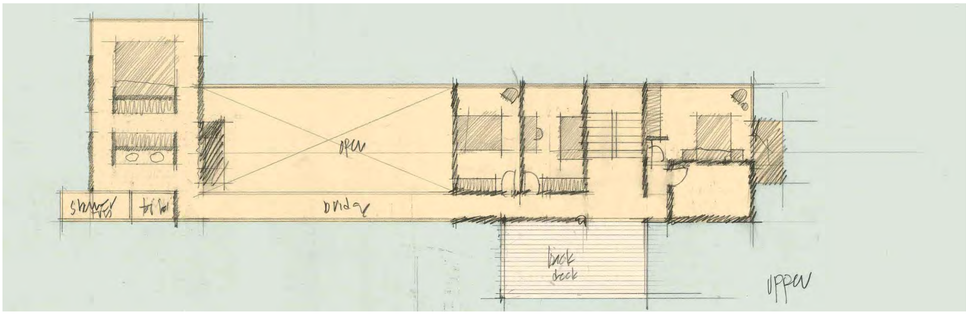
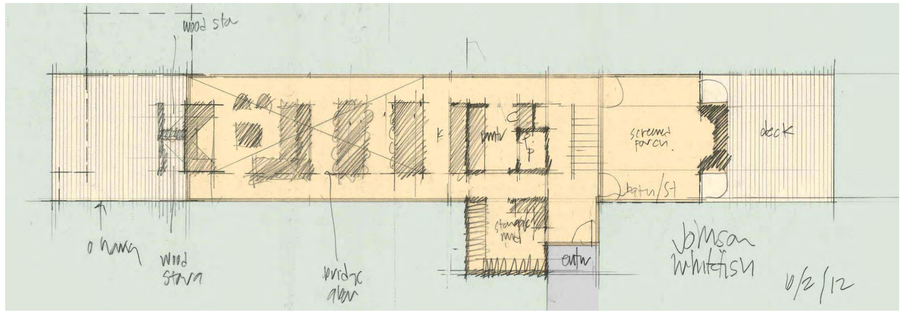




3 MAIN RESIDENCE ELEVATION SKETCH



2 MAIN RESIDENCE UPPER LEVEL SKETCH



1 MAIN RESIDENCE MAIN LEVEL SKETCH

OLSON KUNDIG ARCHITECTS
159 South Jackson Street, 6th Floor, Seattle WA 98104 USA T +1 206 624 5670 F +1 206 624 3730 www.olsonkundigarchitects.com

project:
JOHNSON WHITEFISH RESIDENCE – MAIN HOUSE
815 DELREY ROAD
WHITEFISH, MT 59937

principal architect TK
project manager EC
drawn by JH
Author
checked by Checker
job no. 12036
date 07/01/13

revisions:

no. date by

NOT FOR CONSTRUCTION

CONDITIONAL USE PERMIT

07/01/13

SKETCHES

PR0.01

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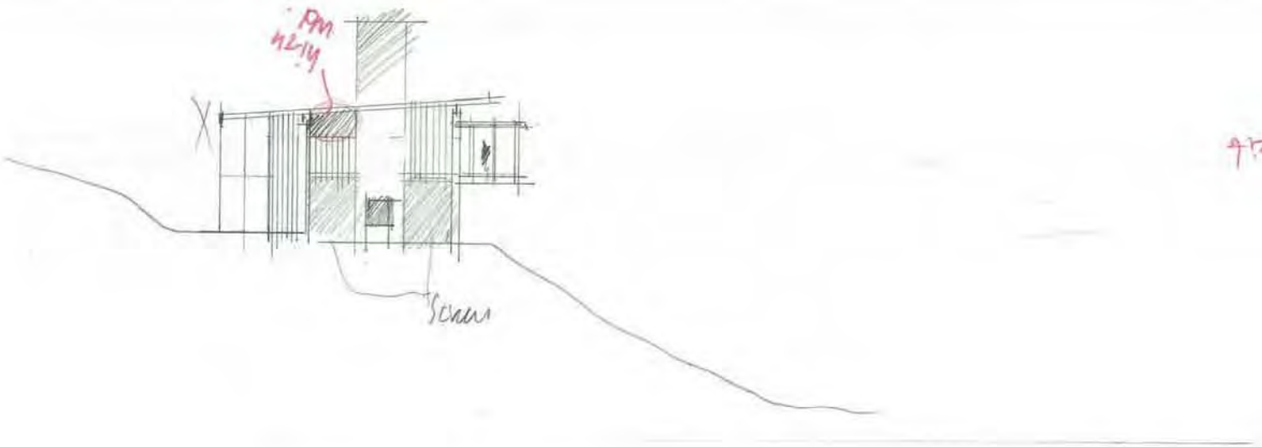
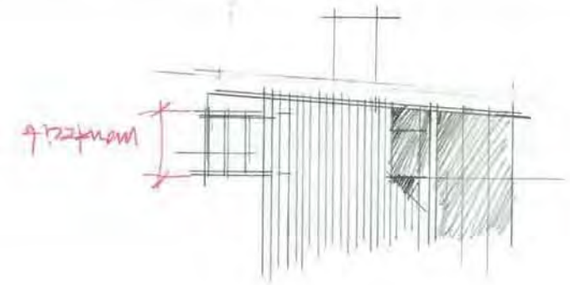
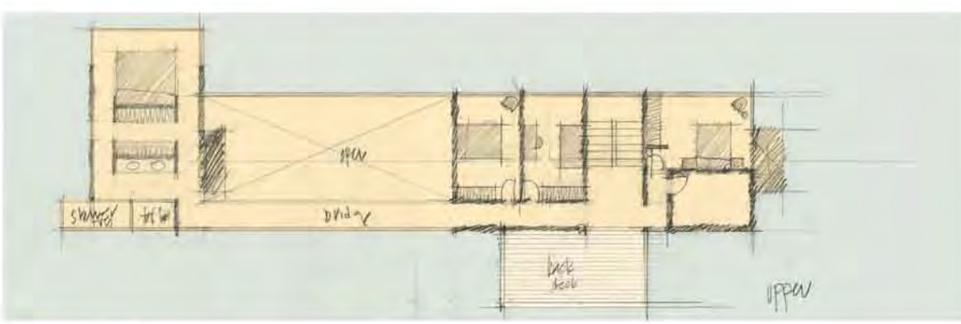
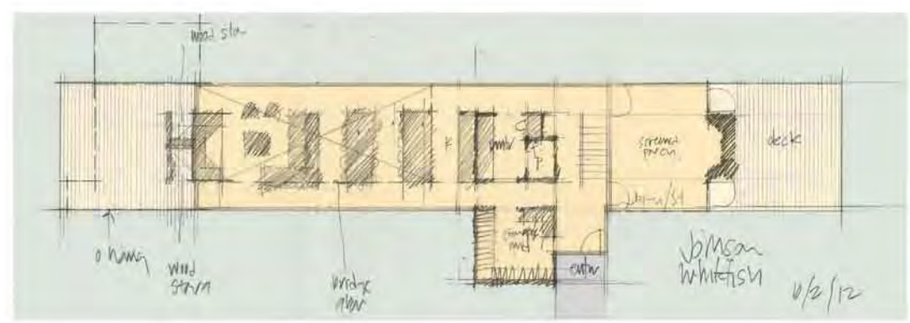




3 MAIN RESIDENCE ELEVATION SKETCH



2 MAIN RESIDENCE UPPER LEVEL SKETCH



1 MAIN RESIDENCE MAIN LEVEL SKETCH

OLSON KUNDIG ARCHITECTS
159 South Jackson Street, 6th Floor, Seattle WA 98104 USA T +1 206 624 5670 F +1 206 624 3730 www.olsonkundigarchitects.com

project:
JOHNSON WHITEFISH RESIDENCE – MAIN HOUSE
815 DELREY ROAD
WHITEFISH, MT 59937

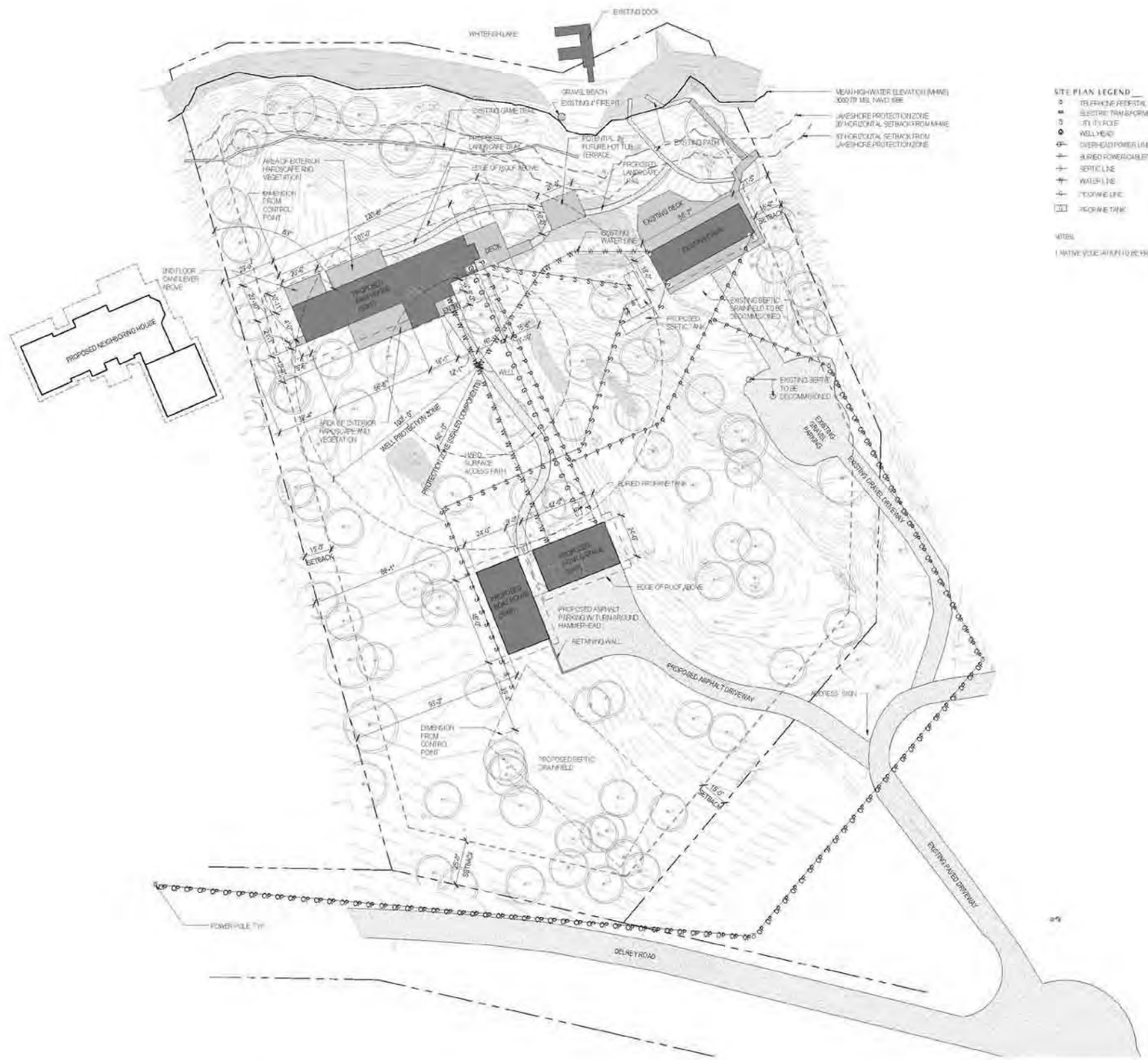
principal architect TK
project manager EC
drawn by JH
Author
checked by Checker
job no. 12035
date 07/01/13

no. date by

NOT FOR CONSTRUCTION
CONDITIONAL USE PERMIT
07/01/13

SKETCHES

PR0.01



1 SITE PLAN

SCALE: 1" = 30'-0"

SITE PLAN LEGEND

- TELEPHONE PEDESTAL
- ELECTRIC TRANSFORMER
- UTILITY POLE
- WELL HEAD
- OVERHEAD POWER LINE
- BURIED POWER/CABLE/TELEPHONE LINE
- SEPTIC LINE
- WATER LINE
- PROPANE LINE
- PROPANE TANK

NOTES:

1. NATIVE VEGETATION TO BE PROTECTED OR RESTORED DURING CONSTRUCTION

OLSON KUNDIG ARCHITECTS

159 South Jackson Street, 6th Floor, Seattle WA 98104 USA T +1 206 624 5670 F +1 206 624 3730 www.olsonkundigarchitects.com

PROJECT:

JOHNSON WHITEFISH RESIDENCE

815 DELREY ROAD

WHITEFISH, MT 59937

principal architect: TK

project manager: EC

drawn by: JJ

Author

checked by: Checker

job no. 12036

date 07/01/13

no.	date	by

NOT FOR CONSTRUCTION

CONDITIONAL USE PERMIT

07/01/13

SITE PLAN - C.U.P.

A1.01

MONTANA WELL LOG REPORT

This well log reports the activities of a licensed Montana well driller, serves as the official record of work done within the borehole and casing, and describes the amount of water encountered. This report is complied electronically from the contents of the Ground-Water Information Center (GWIC) database for this site. Acquiring water rights is the well owner's responsibility and is NOT accomplished by the filing of this report.

Other Options

Plot this site on a topographic map

Site Name: HARTE, RICHARD & KAREN
GWIC Id: 223904

Section 1: Well Owner

Owner Name

HARTE, RICHARD & KAREN

Mailing Address

815 DELRAE ROAD

City	State	Zip Code
WHITEFISH	MT	59937

Section 2: Location

Township	Range	Section	Quarter Sections
31N	22W	5	SE¼ SE¼

County	Geocode
FLATHEAD	

Latitude	Longitude	Geomethod	Datum
48.474108	114.420103	TRS-SEC	NAD83

Altitude	Method	Datum	Date

Addition	Block	Lot
TRACT 3D		1

Section 3: Proposed Use of Water

DOMESTIC (1)

Section 4: Type of Work

Drilling Method: ROTARY

Section 5: Well Completion Date

Date well completed: Saturday, May 22, 2004

Section 6: Well Construction Details

Section 7: Well Test Data

Total Depth: 240
Static Water Level: 34
Water Temperature:

Air Test *

12 gpm with drill stem set at 220 feet for 1 hours.
Time of recovery _ hours.
Recovery water level _ feet.
Pumping water level _ feet.

** During the well test the discharge rate shall be as uniform as possible. This rate may or may not be the sustainable yield of the well. Sustainable yield does not include the reservoir of the well casing.*

Section 8: Remarks

Section 9: Well Log

Geologic Source

Unassigned

From	To	Description
0	5	BROWN CLAY - GRAVEL
5	203	GRAY ROCK
203	240	GRAY FRACTURED ROCK - WATER

EXHIBIT C

Borehole dimensions

From	To	Diameter
0	20	8
20	240	6

Casing

From	To	Diameter	Wall Thickness	Pressure Rating	Joint	Type
-2	20	6	0.250		WELDED	A53B STEEL
5	240	4		160.00	SOLVENT WELD	PVC-SDR 26

Completion (Perf/Screen)

From	To	Diameter	# of Openings	Size of Openings	Description
200	240	4		.035	FACTORY SLOTTED

Annular Space (Seal/Grout/Packer)

From	To	Description	Cont. Fed?
0	18	BENTONITE	

Driller Certification

All work performed and reported in this well log is in compliance with the Montana well construction standards. This report is true to the best of my knowledge.

Name:

Company: BILLMAYER DRILLING

License No: WWC-335

Date Completed: 5/22/2004

Environmental Health Services
1035 First Ave. West Kalispell, MT 59901
(406) 751-8130 Fax: 751-8131

Administration
751-8101 FAX 751-8101
Community Health Services
751-8110 FAX 751-8111
Reproductive Health Services
751-8150 FAX 751-8151
WIC Services
751-8170 FAX 751-8171
Home Health
751-6800 FAX 751-6807

October 21, 2009

Jere Johnson, RS
4572 Whitefish Stage Road
Whitefish MT 59937

Subject: Application for site evaluation and septic permit for a second structure at 815 Delrey Road, Whitefish, Flathead County, Tract 3D in Section 5, T31N, R22W

Dear Jere,

In accordance with the City of Whitefish zoning sign-off as submitted on the septic application, this office cannot issue a septic permit at this time. The property owners must obtain a conditional use permit or minor subdivision approval before a permit can be issued by this Department.

Personnel from this office have conducted a site visit to the property. Information has been received from the consultant regarding soils and pertinent nondegradation information. Information provided on the application proposes a shared well and shared drainfield for the existing and proposed single family dwellings. The proposed drainfield site would be acceptable for a shared on-site wastewater treatment system treating 800 gpd of wastewater utilizing Level 2 treatment with 83 foot laterals. Level 2 treatment would be required in order to comply with Nondegradation requirements. Soil information provided by Jere Johnson, RS indicate soils are gravelly silt loam to 96 inches with no traces of water. The preliminary concept design utilizes 4-83 ft. laterals (as proposed in the site plan). The proposed site was monitored for ground water in 1992 with a 74" peak. Trench depths would not be allowed to exceed 24 inches to maintain the required separation to ground water

To reiterate, at this time a septic permit cannot be issued for a second dwelling to the referenced property due to zoning issues. Should these be resolved at a later date, the proposed drainfield site meets current drainfield siting requirements as referenced in Flathead County Sewage Treatment System Regulations (2005).

Professionally,

Wendee Jacobs, RS
Flathead County Sanitarian

EXHIBIT B

FLATHEAD COUNTY GIS

KALISPELL, MONTANA

GIS Home | Downloadable Data | Help | Contact Us

General Parcel Data

Tract Id:	3122X05-XXX-3D
Assessor:	0467660
Geocode:	07429205402010000
Approximate Acres:	2.9
City:	NA
Subdivision Name:	NA
Owner:	JOHNSON LIVING TRUST, KEVIN & MELINDA
Address:	(M) AD% QUINN EMANUEL ETAL 555 TWIN DOLPHIN DR 5TH FLOOR REDWOOD CITY CA 94065
Owner:	JOHNSON LIVING TRUST, KEVIN & MELINDA
Address:	(P) 815 DELREY RD WHITEFISH MT 59937

Certificates of Survey

Tract Land:	CS 17219.TIF
Subdivision RTMT/BLA:	None available

Subdivision Plats

None available

School Data

School District Name:	WHITEFISH
School District Number:	44
High School District:	WHITEFISH

Congressional Data

Precinct Number:	45
House District:	6
Senate District:	3
Kalispell Ward Number:	NA

Water, Sewer and Fire Data

Fire District:	WHITEFISH RURAL
Water & Sewer District:	WHITEFISH COUNTY WATER SEWER

Zoning Data

Neighborhood Plan:	NA
County Zoning District:	NA

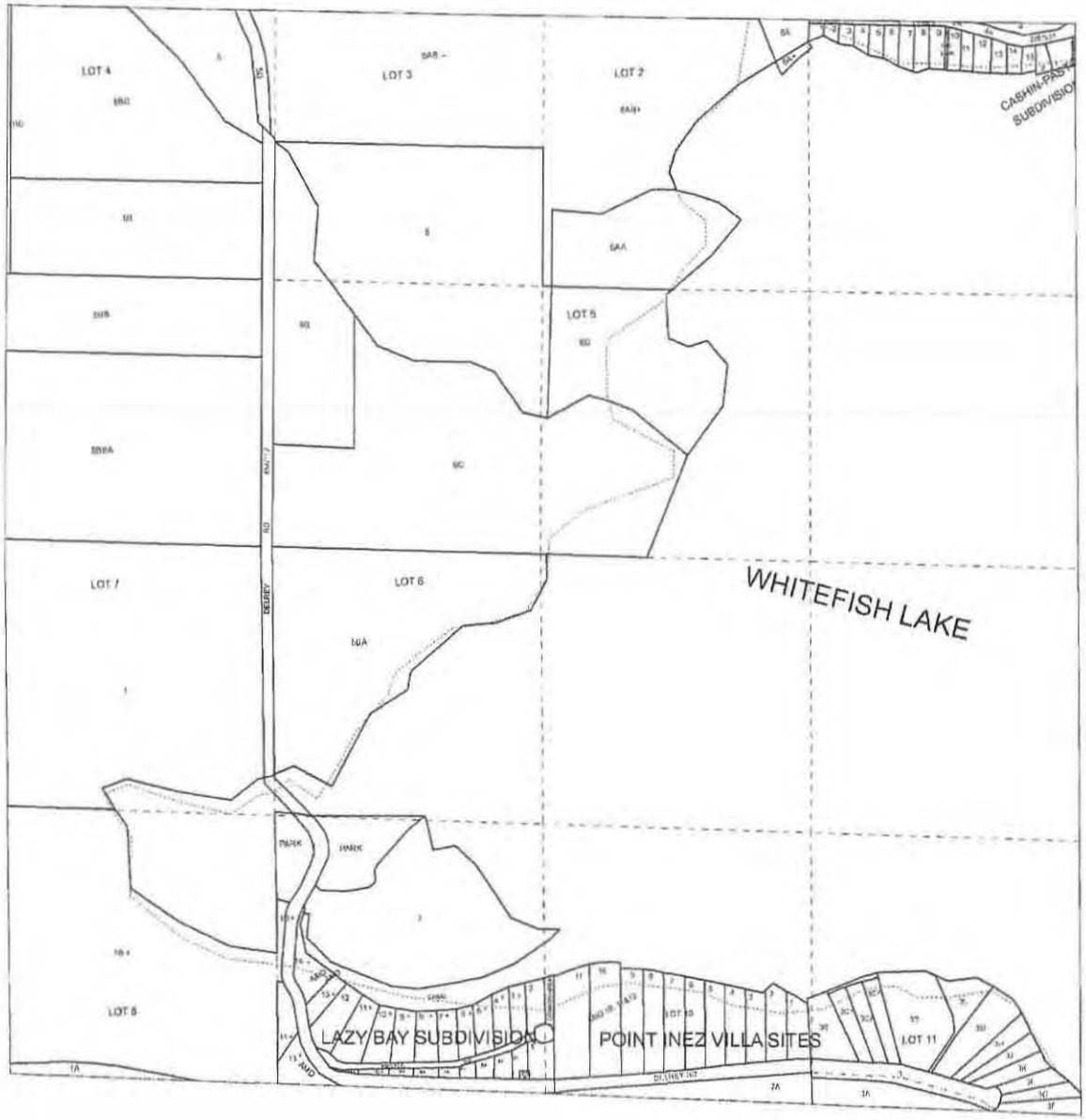
EXHIBIT A

County Zoning Use:	NA
Whitefish Zoning:	WSR
Kalispell Zoning:	NA
Columbia Falls Zoning:	NA

5 31 22

SCALE 1" = 400'

THIS MAP IS PREPARED ONLY FOR THE ADMINISTRATIVE USE OF FLATHEAD COUNTY AND IS NOT NECESSARILY AN ACCURATE REPRESENTATION OF THE LOCATION OR EXISTENCE OF TRACTS OF RECORD, THEIR BOUNDARIES OR EASEMENTS AND ROADWAYS.



5-17-11

3D-0467660

BY: SANDS SURVEYING, INC.
2 VILLAGE LOOP
KALISPELL, MT. 59901
PH: (406) 755-6481

JOB NO: 255703
DATE: FEBRUARY 28, 2006
FOR: IRON HORSE PROPERTIES
OWNER: KAREN K. HARTE

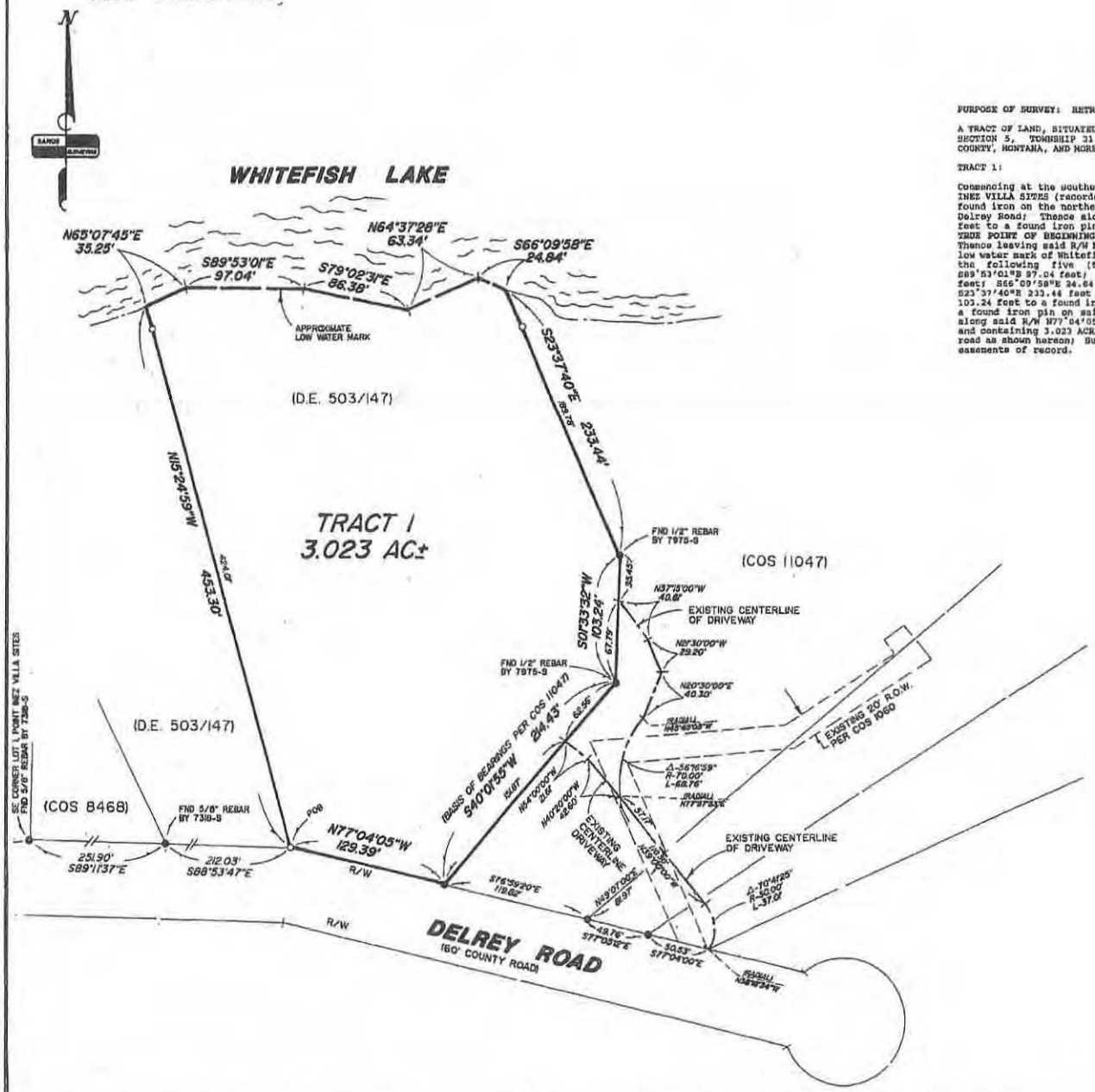
GOV'T LOT 11

CERTIFICATE OF SURVEY

SEC. 5, T.31 N., R.22W., P.M.,M., FLATHEAD CO.

SCALE 1" = 60'

0' 30' 60' 120' 180'



PURPOSE OF SURVEY: RETRACEMENT

A TRACT OF LAND, SITUATED, LYING, AND BEING IN GOVERNMENT LOT 11 OF SECTION 5, TOWNSHIP 31 NORTH, RANGE 22 WEST, P.M.,M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

TRACT 1:

Commencing at the southeast corner of LOT 1, of the Plat of POINT INEZ VILLA SITES (records of Flathead County, Montana), which is a found iron on the northerly R/W of a 60 foot county road known as Delrey Road; Thence along said northerly R/W S89°11'37"E 251.90 feet to a found iron pin; Thence S88°53'47"E 212.03 feet to THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED: Thence leaving said R/W N15°24'59"W 453.30 feet to the approximate low water mark of Whitefish Lake; Thence along said low water mark the following five (5) courses: N65°07'45"E 35.25 feet; S89°53'01"E 97.04 feet; S79°02'31"E 86.38 feet; N64°37'28"E 63.34 feet; S66°09'58"E 24.84 feet; Thence leaving said low water mark S23°37'40"E 233.44 feet to a found iron pin; Thence S01°33'32"W 103.24 feet to a found iron pin; Thence S40°01'55"W 214.43 feet to a found iron pin on said northerly R/W of Delrey Road; Thence along said R/W N77°04'05"W 129.39 feet to the point of beginning and containing 3.023 ACRES, more or less; Together with an access road as shown hereon; Subject to and together with all appurtenant easements of record.

LEGEND

1. SEC. COR. (AS NOTED)
2. 1/4 CORNER (AS NOTED)
3. CENTER SECTION (AS NOTED)
4. 1/16 CORNER (AS NOTED)
5. FOUND 5/8" REBAR (UNLESS OR AS NOTED)
6. SET 1/2" X 24" REBAR WITH 1 1/4" PLASTIC CAP, STAMPED: SANDS, 7975-S

CERTIFICATE OF SURVEYOR

THOMAS E. SANDS
REGISTRATION NO. 7975-S

APPROVED: 3/16, 20 06.

EXAMINING LAND SURVEYOR REG. No. 5478-S

STATE OF MONTANA
COUNTY OF FLATHEAD SS

FILED ON THE 16th DAY OF March, 20 06 A.D.
AT 11:42 O'CLOCK A M

CLERK & RECORDER

BY DEPUTY

INSTRUMENT REC. No. 200607511420

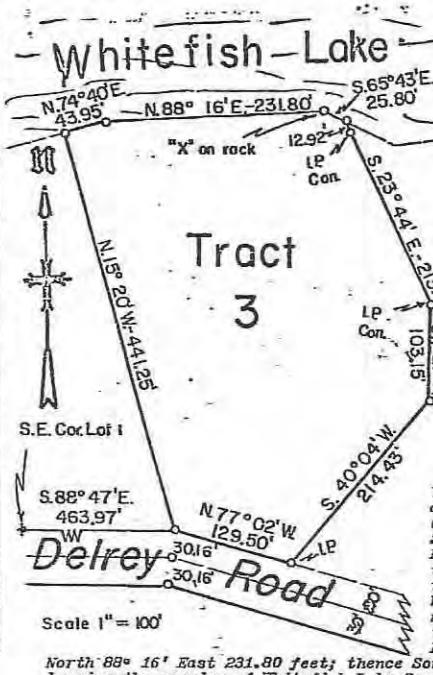
SHEET ___ OF ___ SHEETS

CERTIFICATE OF SURVEY No. 17219

MISC.

BOOK 503 PAGE 147

PLAT



Showing survey of a tract in Gov. Lot 11 of Section 5, Twp. 31 N. R. 22 West of M.P.M. Survey by Donald D. Dahl-Montana Reg. No. 798S.

Description of Tract 3

A tract of land in Government Lot Eleven (11) of Section Five (5), Township Thirty-one (31) North, Range Twenty-two (22) West of the Montana Principal Meridian Flathead County, Montana and being more particularly described as follows: Beginning at the Southeast corner of Lot One (1) of POINT INEZ VILLA SITES, a plat of which is on file and of record at the office of the Clerk and Recorder of Flathead County, State of Montana; thence South 88° 47' East a distance of 463.97 feet to the true point of beginning of the tract to be described; thence North 15° 20' West a distance of 441.25 feet to the meander of Whitefish Lake; thence upon the afore said meander North 74° 40' East a distance of 43.95 feet; thence North 88° 16' East 231.80 feet; thence South 65° 43' East 25.80 feet; thence leaving the meander of Whitefish Lake South 23° 44' East 213.44 feet; thence South 1° 27' West 103.15 feet; thence South 40°04' West 214.43 feet; thence North 77° 02' West a distance of 129.50 feet to the point of beginning. This tract described to the meander of Whitefish Lake but it is the intention to convey to the low water of Whitefish Lake. GRANTING A ROAD EASEMENT from the County Road to this tract as the roadway is now constructed.

Certificate of Survey

I, Donald D. Dahl, Montana Reg. No. 798-S. a land surveyor State of Montana do hereby certify that during the month of November 1965 under my supervision a careful and accurate survey was made of part of the above tract and that during the month of July 1968 the east line was run as shown upon this plat and to my knowledge the lines as shown upon this plat are true and correct to the best of my knowledge and belief. Dated this 26th day of July 1968.

Donald D. Dahl

Donald D. Dahl- Montana Reg. No. 798-S.

MONTANA DONALD D. DAHL 798-S

INDEXED
COPIED
COMPARED

STATE OF MONTANA } ss
County Of Flathead }
Filed for record at the request of Merritt Warden
this 13 day of Nov 19 68 at 2:46 o'clock P M and recorded in
Vol. 503 Page 147 Records of Flathead County, State of Montana.
Fee $ 10.00

Jeanne E. Melchow
Flathead County, Clerk & Recorder

RECEPTION NO 9053 By Joan A. Pelzi
Deputy

RETURN TO Kim Hardent et al, Box 157 - Kal. Mont.

Kevin & Melinda Johnson
Application for Conditional Use Permit
815 Delrey Rd, Tract 1
Whitefish, MT

List of Exhibits
Exhibit A – Property Information (5 pages)
Exhibit B – Letter from FCEHS
Exhibit C – Montana Well Log Report
Exhibit D – Site Plan
Exhibit E – Architectural Elevations (Main House)

Project Description

The applicant is requesting a Conditional Use Permit as required for a second residence on a given parcel within the WSR zone.

Section A

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

Chapter 3, the Land Use Element of the Growth Policy sets out the general criteria for projects, through the following applicable issues:

Character: This proposed residential project will preserve the rural character and the waterfront visual resource through appropriate and careful site planning. Existing trees and native vegetation will be preserved to the maximum extent possible, while allowing views and pedestrian access to the lakefront. Most of the project will be in the internal areas of the site and will be visually unobtrusive. Proposed colors and materials of the structures are intended to blend with the natural landscape. Once the main house and garage are constructed a new guest home will be developed in the same general location as the existing cabin.

Environment: A sustainable design approach is planned for the different structures. The project will be designed with sensitivity to the natural landscape and is intended to have a lower environmental impact than traditional design/construction methods (both short- and long-term). While all Lakefront lands are sensitive to development, the codes are in place to regulate projects such as this. This scale and type of development is anticipated in the Growth Policy, Whitefish Water Quality Protection Regulations, Whitefish Lakeshore Protection Regulations and the Zoning Regulations.

Future Land Use: This parcel is located in the Future Land Use designation "Suburban Residential". It is zoned WSR "Suburban Residential".

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

The existing parcel, Tract 1 of COS 17219 (retracement), was initially created by Deed Exhibit 503/147, in 1968. The parcel, at 3.023 Acres, is larger than all but one of the other parcels along Delrey Road on the south side of Lazy Bay. The proposed development conforms to the intent and purpose of the WSR zoning. Furthermore, the home fits the Permitted Uses, the guest home fits the Conditional Uses and all the proposed development will conform to the Property Development Standards.

3. How is the property location suitable for the proposed use? Is there adequate usable land area? Does the access, including emergency vehicle access, meet the current standards? Are environmentally sensitive areas present on the property that would render the site inappropriate for the proposed use?

The proposed project is in conformance with the density standard and lot coverage provisions of the WSR Zoning.

We met with the Fire Chief and Fire Marshall on Friday, June 21. They reviewed the preliminary site plan and discussed emergency access issues. The result of that meeting was the following items were requested/agreed upon:

- Fire sprinkle the main house
- No 60' radius required
- No fire truck access required via road to house
- Reasonable hard surface path for ambulance stretcher is requested
- Keep driveway access to cabin
- Regular vehicle size t-turnaround acceptable at garage

The environmentally sensitive areas are the lakeshore and the visual character of the site. These issues are being addressed through conformance with the WSR Zoning and the Whitefish Lakeshore Protection Regulations. A Whitefish Water Quality Protection Regulation submittal will also be required.

4. How are the following design issues addressed on the site plan?

a. Parking locations and layout – There is adequate level area for parking on this site.

b. Traffic circulation – There are existing drives and parking areas on the site, which will be used to the extent possible. See the Site Plan, Exhibit D.

c. Open space – The WSR zoning limits lot coverage to 25%. Proposed coverage for this project is 5.7%.

d. Fencing/screening – No fencing is anticipated. Screening will be accomplished through the preservation and restoration of native vegetation.

e. Landscaping – The majority of the landscape will be native vegetation. There will be some ornamental planting around the home.

f. Signage – Address sign only.

g. Undergrounding of new utilities – All new utilities constructed on-site will be underground.

h. Undergrounding of existing utilities – Existing utilities will remain as-is.

5. Are all necessary public services and facilities available and adequate? If not, how will public services and facilities be upgraded?

a. Sewer – There is no sewer available. A new on-site septic system will be installed, consisting of Level 2 Treatment. This new system will serve the home and guest home. The old system serving the home will be removed. See Exhibit B, a letter from FCEHS dated October 21, 2009.

b. Water - Water is provided by an on-site well. See Exhibit C, Montana Well Log Report.

c. Stormwater – A WFWQPR application will be submitted, assuring adequate management of drainage and stormwater.

d. Fire Protection – All existing lots in this area are served by the Whitefish Fire Department.

e. Police Protection – All existing lots in this area are served by the Flathead County Sherriff.

f. Street (public or private) – N/A

g. Parks (residential only) – N/A

h. Sidewalks – N/A

i. Bike/pedestrian ways – N/A

6. How will your project impact on adjacent properties, the nearby neighborhoods and the community in general? Describe any adverse impacts under the following categories.

The project will have impacts consistent with other residential development and uses in the area.

a. Excessive traffic generation and/or infiltration of traffic into neighborhoods – N/A

b. Noise, vibration, dust, glare, heat, smoke, fumes, odors – N/A

7. What are the proposed hours of operation?

N/A

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

See A. 1-6, above.

a. Structural bulk and massing
b. Scale
c. Context of the existing neighborhood
d. Density
e. Community character

(This page left blank intentionally to separate printed sections)

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

August 27, 2013

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

RE: Stuber/Colbert Home Occupation at 103 Dakota Avenue; (WCUP 13-10)

Honorable Mayor and Council:

Summary of Requested Action: Neil Stuber and Corrie Colbert on behalf of Hurraw! Balm llc are requesting approval of a Conditional Use Permit to temporarily allow an expanded home occupation at 103 Dakota Avenue. The property is currently developed with a single family home. The property is zoned WR-2 (Two-Family Residential District). The Whitefish Growth Policy designates this property as "Urban Residential".

Planning Board Action: The Whitefish City-County Planning Board met on August 15, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with three (3) conditions as contained in the staff report and adopted the staff report as findings of fact. (Blake, Konapatzke and Smith were absent)

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with three (3) conditions set forth in the attached staff report.

Public Hearing: The applicant spoke at the hearing. The draft minutes for this item are attached as part of this packet.

This item has been placed on the agenda for your regularly scheduled meeting on September 3, 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
Draft Minutes of 8-15-13 Planning Board Meeting

Exhibits from 8-15-13 Staff Packet

1. Staff Report – WCUP 13-10, 8-8-13
2. Adjacent Landowner Notice, 7-26-13
3. Advisory Agency Notice, 7-26-13
4. Public Comment, email, Daniel Voermans, 8-7-13

The following were submitted by the applicant:

5. Application for Conditional Use Permit, 7-2-13

c: w/att Necile Lorang, City Clerk

c: w/o att Neil Stuber and Corrie Colbert, 103 Dakota Ave Whitefish, MT 59937

Exhibit A
Stuber/Colbert
WCUP 13-10
Whitefish City-County Planning Board
Recommended Conditions of Approval
August 15, 2013

1. The project shall be constructed in compliance with the plan dated July 1, 2013, except as amended by these conditions. Any significant deviation from the plans shall require approval.

2. Two off-street parking spaces shall be designated for the home occupation and two off-street parking spaces shall be designated for the primary residence.

3. The conditional use permit for an expanded home based business with three part-time employees at 103 Dakota Avenue shall terminate when the company moves into the new facility.

to have a guest house, subject to the conditions in the staff report.

VOTE

The motion passed unanimously. (Scheduled for City Council on September 3, 2013.) Netteberg was re-seated.

STUBER AND COLBERT HOME OCCUPATION TEMPORARY EXTENSION REQUEST

A request by 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).

STAFF REPORT WCUP 13-10

Senior Planner Compton-Ring reported that Neil Stuber and Corrie Colbert, on behalf of Hurraw! Balm llc, are requesting a conditional use permit to temporarily exceed the home occupation standards at 103 Dakota Avenue. The zoning regulations limit home occupation to no more than 25% of the gross floor area of the primary residence and limit employees to family members residing on the premises and one nonfamily member. If one exceeds these thresholds, a Conditional Use Permit is required. The applicant is proposing to use 50% (800 square feet) of the home in the basement and they have three part-time employees.

This is an after-the-fact permit, and the use will not be expanding at this site as the applicant is in the process of constructing a new facility in Baker Commons. It is anticipated the building will be complete in January, 2014 and the entire operation will move to the new building.

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on July 26, 2013. A notice was mailed to advisory agencies on July 26, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on July 31, 2013. Staff received one letter in support of the application and it is attached to this report.

This is a single family home, zoned WR-2 and the Growth Policy designation is urban. It was reviewed according to the CUP standards. This zone does allow for home occupations. The site is suitable for the proposed use and there is adequate parking. There is no need for fencing, signage or open space. It is compatible with the neighborhood and is an accessory use. Staff recommends approval. One condition limits that this CUP terminates when this business moves to the new property. Vail asked and Compton-Ring said they did not receive any comments from neighbors. Gunderson asked and Compton-Ring said they paid $990 for the fee.

PUBLIC HEARING

The public hearing was opened to those who wished to speak on the issue. Neil Stuber, applicant, said they are looking at some other locations because they are outgrowing their temporary space. They

are planning on moving out by October 1st.

PUBLIC HEARING

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

MOTION

Anderson moved and Vail seconded Whitefish to adopt staff report WCUP 13-10 as findings-of-fact and recommend to the Whitefish City Council to approve the Hurraw! temporary home expansion request, subject to the conditions in the staff report.

VOTE

The motion passed (Scheduled for City Council on September 3, 2013.)

CITY OF WHITEFISH SUBDIVISION REGULATIONS AMENDMENT REQUEST

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.

STAFF REPORT WSUB 13-01

Planner Compton-Ring said the City updated the Subdivision Regulations in late 2009. Changes included recent state legislative requirements, local legislative amendments and reorganization of the chapter. In late 2010, the City amended the Subdivision Regulations in order to provide some additional relief to those with approved preliminary and final plats. In 2011, the City amended the Subdivision Regulations to provide additional flexibility in extending preliminary plats. In 2013 there were some changes to the subdivision and platting act.

PROPOSED AMENDMENTS

Senate Bill 40. There are two matters that need to be amended:

- The bill does not permit jurisdictions to use an application submittal schedule with subdivision application deadlines. No one is quite certain why eliminating a deadline was the focus of a bill, but it will cause uncertainty as applications are submitted. The purpose of a deadline is to establish predictability and certainty to the subdivision permitting process. Jurisdictions have been advised to have a 'recommended' submittal date. This bill will not affect our application deadlines for other applications. (§12-2-1A) The State office said they could have a recommended schedule.

- The other aspect to this application is the requirement that an application is considered 'received' the date the application is submitted with any required fees. This is how we process our subdivision applications now and the new rule does not affect our permitting process or review. Staff understands that perhaps other jurisdictions were letting applications linger on desks until a determination was made that the application was received. (§12-3-4A)

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 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. The Home Occupation standards in the Whitefish zoning regulations limit the square footage of a home occupation to no more than 25% and limit employees to no more than 1 nonfamily member. This home occupation will temporarily exceed these standards. The property is single family home and is zoned WR-2 (Two-Family Residential District). The property is located at 103 Dakota Ave and can be legally described as Lot 7, Block 12, Whitefish Townsite in Section 25 Township 31N Range 22W, P.M.M., Flathead County.

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, August 15, 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 Tuesday, September 3, 2013 at 7:10 p.m., also in the Whitefish City Council Chambers.

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 5, 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

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

Wendy Compton-Ring

From: Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>
Sent: Friday, July 26, 2013 12:04 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'
Subject: August City-County Planning Board Notice
Attachments: 8-2013_PB meeting.pdf

Attached please find the notice for the August Planning Board

Wendy Compton-Ring, AICP
Senior Planner
City of Whitefish
406-863-2418

EXHIBIT
3

Wendy Compton-Ring

From: Daniel Voermans <dvoerman@fvcc.edu>
Sent: Wednesday, August 07, 2013 2:31 PM
To: wcompton-ring@cityofwhitefish.org
Subject: Proposed Land Use Action Letter

Dear Planning Board Members,

My name is Dan Voermans. I won't be able to attend the 8/15 meeting regarding the Proposed Land Use Action for the property at 105 Dakota Ave so I wanted to send this email to you. I live at 35 Dakota and have lived there permanently since June 2006 when I moved in and eventually married Karen (KC). Her previous name was Zwisler.

I want to let you I strongly support that Kori and Neil be able to run their small business out of that house until they can "jump through all the hoops" to build a facility to accommodate their growing business. I think that they (as many new businesses do) have had to use their residence as an incubator for a new business. If you didn't allow this to continue in their residence until such a facility is built it could cripple or at least slow down the revenue needed to build such a facility. I think that any city would welcome a chance to help an "upstart" company to grow and be able to expand to another facility. However one of my observations of Whitefish is that rigid rules exist that does not take into consideration individual cases. I believe this situation does warrant special consideration.

The operation at 105 is not intrusive to the neighborhood. There is no parking problem or noise created at all. On some days I see 2-3 cars there and I know that the parents and maybe another or two (don't know because I never see or hear them come) helpers are there to fill the orders. Parking problems in our area are only created by the trucks pulling boat trailers that come from the city beach area when they don't find parking there. Noise is only created by many dogs in the neighborhood and of course the 4th of July revelers! We live in a great neighborhood, which Kori and Neil have enhanced.

The other reason that I support Kori and Neil is the vitality that they've brought to our area of the city. When I tell people where I live I can't count the number of people who have said, "you must live near that unique, new-age house". They have reached out to many neighbors in helping do physical, neighborly work. I know that they have paid a 71 year old financially down and out Vietnam Vet to do small handyman work to help him rather than Neil doing it himself. In all the places I'm lived I can't think of any young couple who have integrated so well into a neighborhood.

In summary, I know that communities have rules but common sense should look at individual cases and try to accommodate what is good for the individuals (Kori and Neil in this case) as well as the community. Their request for a variance or extension of time should be honored and would be a win-win for everyone.

Dan Voermans
35 Dakata Ave
Whitefish, MT 59937
862-5710

EXHIBIT
4

WCUP 13-10

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

APPLICATION FOR CONDITIONAL USE PERMIT
CITY OF WHITEFISH

FEE ATTACHED_____ **(See current fee schedule)**

OWNER(S) OF RECORD:

Name: Neil Stuber + Corrie Colbert

Mailing Address: 103 Dakota Ave

City/State/Zip: Whitefish, MT. 59937 Phone: 406.314.2865

3 week

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

Name: NA

Mailing Address: _____

City/State/Zip: _____ Phone: _____

LEGAL DESCRIPTION OF PROPERTY (Refer to Property Records):

Street Address: 103 Dakota Ave, Sec. No. 25 Township 31 Range No. 22

Subdivision Name: _____ Tract No(s). _____ Lot No(s). _____ Block No. _____

DESCRIBE PROPOSED USE: Single floor (800 sqft) manufacturing of lip balm cosmetic. Estimated move into new facility January 14. Harrow! Balm LLC.

ZONING DISTRICT: _____

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

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

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

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

07-02-13 A11:52 IN

EXHIBIT 5

Revised 3-22-10

C. SITE PLAN

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

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

Applicant's Signature

Date 06/24/13

Neil Stuber + Corrie Colbert

Print Name

FOR DEPOSIT ONLY
GLACIER BANK OF WHITEFISH, CIT
Y OF WHITEFISH
990.00
07/02/2013 03:38:47 PM

Revised 3-22-10

Whitefish Planning & Building
510 Railway Street
Whitefish, MT. 59937
(406) 863-2410

This document is intended to answer any questions that you may have about the temporary use of 103 Dakota Ave as a production space for Hurraw! Balm LLC. (Neil Stuber and Corrie Colbert)

A1-3.
Our current residence (103 Dakota Ave) is the only available workspace that we have found in the Whitefish area. For 3 years we have inquired about purchasing or renting a location within Whitefish City limits. We've found available retail and office space throughout the valley yet have found no real estate that meets the needs of a clean manufacturing space.

Our current location is ½ of our residence. It is a blank concrete space that provides a clean separation from our living quarters & appropriate functionality for our business (though quickly becoming too small!)

A4.
103 Dakota is considered new construction in the past 6 years with up-to-date utilities. The residence is on a corner lot with adequate parking for the small part-time staff. Owners of the residence have a single vehicle leaving many available parking spaces on all sides of the house.

We do not advertise our business location, as it is NOT a retail location. Clients do not visit or pick up product from this location.

A6.
Neighbors have all been informed of the current temporary situation and are aware of our intentions in the larger community. Our production is 'light manufacturing' meaning there is no disruption to the flow of the neighborhood in any way.

A7.
Our hours of production are 9am to 5pm Monday – Friday.

A8.
We like to believe that our residence, product, and community involvement is of the highest quality. Our small footprint and attention to our surroundings have allowed us to continue to operate out of this residence over 3 years after our initial attempt to acquire ANY appropriate space in Whitefish. It is our understanding that our neighborhood is not affected negatively and that residents are supportive and understanding of our temporary situation.

B.

Property owner list via Flathead County GIS attached.

C.
ALL architectural plans including primary structure, garage (not used for business), utilities, and fencing are on file with the Whitefish Planning & Building Department and have been approved for residential use.

Again, our intent is to move in to a new facility by January 2014.
Please contact us for any additional information!
Neil & Corrie

406.730.2571 office line
406.863.9597 home (after 5pm)
406.314.2865 neil cell

neil@hurrawbalm.com
corrie@hurrawbalm.com

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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 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.

WHEREAS, Community Infill Partners, LLC (applicant), seeks 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 in conjunction with its Planned Unit Development application (WPUD 13-01) to develop a multi-family/condominium project; and

WHEREAS, in response to such zoning change request, the Whitefish Planning and Building Department prepared Zone Change Staff Report WZC 13-01, dated March 14, 2013, which analyzed the proposed zone change to facilitate the proposed Planned Unit Development (PUD) and recommended that the Whitefish City Council approve the rezone and Staff Report WZC 13-01 findings and map amendment; and

WHEREAS, at a lawfully noticed public hearing on March 21, 2013, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed the March 14, 2013 Staff Zone Change Report WZC 13-01 and findings, invited public comment, and thereafter voted to table the zoning change request and continue over the public hearing for the Board's next meeting in order for the applicant to consider the comments from the public and conduct a neighborhood meeting or outreach to address the neighborhood concerns; and

WHEREAS, the applicant held a neighborhood meeting on April 24, 2013, and in consideration of the public comment expressed at the neighborhood meeting, revised the PUD project to address the concerns raised by the public and Board; and

WHEREAS, in response to applicant's revised PUD project, the Whitefish Planning and Building Department prepared Zone Change Staff Report WZC 13-01, dated May 9, 2013, which analyzed the proposed zone change in conjunction with the revised PUD project proposal and recommended that the Whitefish City Council approve the rezone and Staff Report WZC 13-01 findings and map amendment; and

WHEREAS, at a lawfully noticed public hearing on May 16, 2013, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed the May 9, 2013 Zone Change Report, WZC 13-01, invited public comment, and thereafter

voted to table the zoning change request and continue over the public hearing for the Board's next meeting, in order for the applicant to hold another neighborhood public meeting to address the neighborhood concerns; and

WHEREAS, the applicant held a neighborhood meeting on June 19, 2013, and in consideration of the public concerns about the planned density of the project expressed by members of the public at the neighborhood meeting, revised the PUD project to address the density concerns raised by the public and the Board; and

WHEREAS, in response to the revised PUD project, the Whitefish Planning and Building Department prepared Zone Change Staff Report WZC 13-01, dated July 11, 2013, which analyzed the proposed zone change in conjunction with the revised PUD proposal and recommended that the Whitefish City Council approve the rezone, Staff Report WZC 13-01 findings, and map amendment; and

WHEREAS, at a lawfully noticed public hearing on July 18, 2013, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed Zone Change Report WZC 13-01, invited public comment, and thereafter voted to recommend in favor of the proposed zone change, Staff Report WZC 13-01 findings, and map amendment; and

WHEREAS, at a lawfully noticed public hearing on July 1, 2013, the Whitefish City Council received an oral report from Planning Staff, reviewed Zone Change Report WZC 13-01 and findings of fact, took public comment, and thereafter voted to approve the zone change, WZC 13-01 Staff Report and Findings and map amendment; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the zone change and map amendment.

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

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

Section 2: Zone Change Report WZC 13-01, together with a letter of transmittal dated August 13, 2013, from the City Planning and Building Department to the Whitefish City Council, are hereby adopted as Findings of Fact.

Section 3: The property identified as Tract 1K in Section 32, Township 31 North, Range 21 West, which was previously zoned WR-1 (One-Family Residential District) is hereby rezoned to WR-2 (Two-Family Residential District) and the property identified as Tracts 1D and 1DA, in Section 32, Township 31 North, Range 21 West, which was previously zoned WA (Agricultural District) is hereby rezoned to WER (Estate Residential District).

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

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

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

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

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.

WHEREAS, Community Infill Partners, LLC (applicant), applied to the Whitefish Planning and Building Department for a Planned Unit Development (PUD) to develop a multi-family/condominium project on the real property described as Tracts 1K, 1D and 1DA, in Section 32, Township 31 North, Range 21 West, Whitefish, Flathead County, Montana (WPUD 13-01), located at East 2nd Street north of the East 2nd Street and Armory Road intersection, Whitefish, Montana, in conjunction with its proposed rezone; and

WHEREAS, in response to such application for a PUD, the Whitefish Planning and Building Department prepared the 2nd Street Apartments Staff Report, dated March 14, 2013, WPUD 13-01, which reviewed and analyzed the proposed PUD, and recommended that the Whitefish City Council approve the PUD, adopt the Findings of Fact in Staff report WPUD 13-01, subject to the Conditions of Approval and that deviations to the zoning be granted; and

WHEREAS, at a lawfully noticed public hearing on March 21, 2013, the Whitefish City-County Planning Board received an oral report from planning staff, reviewed the March 14, 2013 Staff Report WPUD 13-01, Findings of Fact, and Conditions of Approval and deviations to the zoning, invited public comment, discussed the proposed PUD and rezone request, and thereafter voted to table the proposed PUD and continue over the public hearing for the Board's May meeting in order for the applicant to consider the comments from the public and conduct a neighborhood meeting or outreach to address the neighborhood concerns; and

WHEREAS, the applicant held a neighborhood meeting on April 24, 2013, and in consideration of the public comment expressed at the neighborhood meeting, revised the PUD project to address the concerns raised by the public and Board and resubmitted its application to the Whitefish Planning and Building Department; and

WHEREAS, in response to the applicant's modifications to its proposed East 2nd Street PUD project and rezone request, the Whitefish Planning and Building Department prepared Staff Report WPUD 13-01, dated May 9, 2013, which analyzed the proposed modified PUD in conjunction with the request to rezone and recommended that the Whitefish City Council approve the PUD, adopt Staff Report WPUD 13-01 Findings of Fact, subject to the Conditions of Approval and that the deviations to the zoning be granted; and

WHEREAS, at a lawfully noticed public hearing on May 16, 2013, the Whitefish City-County Planning Board received an oral report from planning staff, reviewed the May 9, 2013 Staff Report, WPUD 13-01, Findings of Fact, Conditions of Approval and proposed deviations to zoning, invited public comment, discussed the proposed PUD

and rezone request, and thereafter voted to table the PUD and rezone request and continue over the public hearing for the Board's July meeting, in order for the applicant to hold another neighborhood public meeting to address the neighborhood concerns; and

WHEREAS, the applicant held a neighborhood meeting on June 19, 2013, and in consideration of the public concerns about the planned density of the project expressed by members of the public at the neighborhood meeting, revised its application for the PUD project to address the density concerns raised by the public and the Board; and

WHEREAS, in response to such modified application, the Whitefish Planning and Building Department prepared Staff Report WPUD 13-01, dated July 11, 2013, which analyzed the proposed modified PUD in conjunction with the rezone request and recommended that the Whitefish City Council approve the PUD, adopt Staff Report WPUD 13-01 Findings of Fact, subject to the Conditions of Approval and that the deviations to the zoning be granted; and

WHEREAS, at a lawfully noticed public hearing on July 18, 2013, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed Staff Report WPUD 13-01, Findings of Fact, 18 Conditions of Approval, and proposed deviations to zoning, invited public comment, discussed the proposed PUD and rezone request, Findings and 18 Conditions of Approval, and thereafter voted to recommend approval of the PUD to the Whitefish City Council, Staff Report WPUD 13-01 Findings, in favor of the PUD, subject to 20 Conditions of Approval, and that the deviations to the zoning be granted; and

WHEREAS, at a lawfully noticed public hearing on August 19, 2013, the Whitefish City Council received an oral report from Planning Staff, reviewed Staff Report WPUD 13-01 Findings in favor of the PUD, subject to 18 Conditions of Approval, and the Planning Boards' recommendation with the additional Conditions of Approval, took public comment, and thereafter voted to approve the PUD, WPUD 13-01 Staff Report and Findings, subject to the Conditions of Approval attached as Exhibit "A", and incorporated herein by reference, and granted the deviations to the zoning; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the PUD, Staff Report WPUD 13-01 Findings subject to the Conditions of Approval attached as Exhibit "A", and grant the deviations to the zoning.

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

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

Section 2: The City Council hereby approves and adopts as Findings of Fact, Staff Report WPUD 13-01 Findings and Conditions of Approval attached as Exhibit "A", together with a letter of transmittal dated August 13, 2013, from the City Planning and Building Department to the Whitefish City Council.

Section 3: The City Council hereby approves the requested East 2nd Street Planned Unit Development to overlay the real property identified as Tracts 1K, 1D and 1DA, in Section 32, Township 31 North, Range 21 West, to develop a multi-family/condominium project, subject to the Conditions of Approval shown on Exhibit "A".

Section 4: The official zoning map of the City of Whitefish, Montana, be amended, altered and changed to provide that the real property located at 100 Wild Rose Lane and 1500 E. 2nd Street, legally described as Tracts 1K, 1D and 1DA in Section 32, Township 31 N, Range 21 W, P.M.M., Flathead County, Montana, shall have a Planned Unit Development Overlay, which shall modify the requirements of the underlying WR-2 and WER zones and shall be subject to all of the requirements shown on Exhibit "A".

Section 5: The Zoning Administrator is hereby authorized and directed to amend the official zoning map to conform to the terms of this Ordinance.

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

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

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

_____
John M. Muhlfeld, Mayor

ATTEST:

_____
Necile Lorang, City Clerk

Exhibit "A"

CONDITIONS OF APPROVAL

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 sprinkling, 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 East 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 East 2nd Street improvements. (Staff Report, Finding 8)

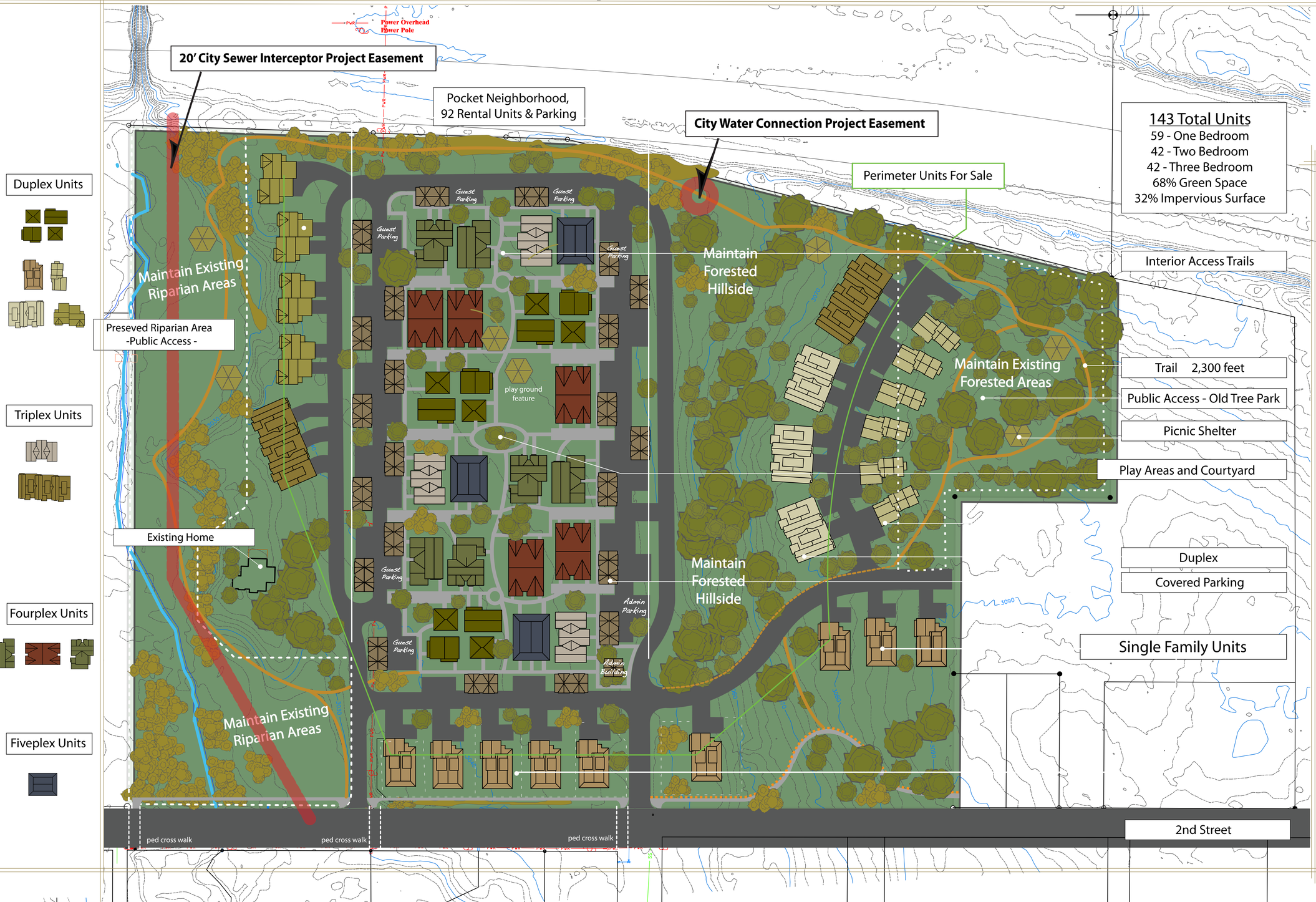
17. Prior to submitting applications for building permits for each phase, a report showing how conditions of approval have been met for each phase shall be submitted to the Planning Department for review and approval and it shall include:
    - Architectural Review approval for all buildings within the 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. Review the intersection of Armory Road and East 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. (WCCPB, 7-18-13)

2nd Street Residences - Proposed Land Use Outline



143 Total Units
59 - One Bedroom
42 - Two Bedroom
42 - Three Bedroom
68% Green Space
32% Impervious Surface

Existing Mature Trees Parked Native Forest Trees and Bed

Pavilion / BBQ

Existing Russian Olive Red bark Dog Wood & Similar

Natural Green Space

Paved Bike Trail

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)

These next pages contain the City Council questions and staff and applicant responses all in one document. Following these pages are the individual submittals by each staff person and the applicant.

Questions submitted by City Council regarding 2nd Street Residences project
Prepared: 8/28/13
Chuck Stearns

From Councilor John Anderson:

My general questions regarding the 2nd Street Development are as follows. Some of them may require the applicant or their representatives to respond.

1. Traffic Safety: How much of an increase in traffic can we expect when fully built out? From Public Works Director John Wilson - In May 2013, Abelin Traffic Services (ATS) prepared an addendum to their initial Traffic Impact Study (TIS) for the 2nd Street Residences project, reflecting the amended development proposal with 150 dwelling units. On page 1 of the TIS addendum (or page 723 of the Council packet) ATS estimates the project will generate approximately 1084 vehicle trips per day (VPD) at full build-out. A trip to the store and back home would be counted as 2 vehicle trips.

   While the addendum does not go on to list estimated VPDs for each adjacent street, one can follow the distribution reported in the original TIS to calculate an estimated increase of 833 vehicle trips per day on 2nd Street west of the project, 93 VPD on 2nd St east of the project and 185 VPD on Armory Road. The difference between this and the AIS's estimates for the original, larger project seem to be negligible.

   For those who may be familiar with typical traffic volumes on Armory, Voerman and Dillon Roads, a sense of proportion for these numbers may be found in the traffic counts performed by Flathead County in early June 2013. Their work indicated the following averages at various locations:

- 578 VPD on Armory Road 150 ft. east of the ball fields
- 554 VPD on Armory Road 125 ft. north of Voerman Road
- 861 VPD on Voerman Road 50 ft. west of Dillon Road
- 1015 VPD on Voerman Road 150 ft. west of Monegan Road and
- 959 VPD on Dillon Road 125 ft. north of Hwy 40

   From applicant Will MacDonald - Traffic Impact – see attached exhibit by Abelin Traffic Services

   a. Traffic Overview
      i. 2,900 VPD along West 2nd Street
      ii. 2,000 VPD along East 2nd Street
      iii. 578 VPD along Armory Road
   b. Traffic Impact at **143 Units**
      i. At 143 Units this development would add 989 trips per day
      ii. West 2nd Street increase by 20% (3,642 VPD)
      iii. East 2nd Street increase by 5% (2,099 VPD)
      iv. Armory Road increases by 20% (726 VPD)

c. Traffic Impact at **117 Units**
   i. At 117 Units this development would add 883 trips per day
   ii. West 2nd Street increases by 19% (3,562 VPD)
   iii. East 2nd Street increases by 4% (2,088 VPD)
   iv. Armory Road would increase by 19% (710 VPD)

2. Back-up Proposal: What is the applicant's back-up proposal that includes a lower density and other changes?

   From applicant Will MacDonald - We will lower the total density to 117 units. 83 Apartments and 34 single family condos. It is important to note that at this density we no longer are required to provide affordable housing; however we see the importance of this product and will offer 12 affordable housing units to Whitefish Housing Authority

3. Pedestrian Crossings: Are these adequate given expected growth? From Public Works Director John Wilson – A thorough evaluation of existing conditions and the application of appropriate design standards are vitally important when considering a new pedestrian crossing. Critical points include topography, speed limits, sight distances, distance between crosswalks on the same roadway, crosswalk marking options and traffic control devices. Although the Public Works Department does not have a qualified traffic engineer on staff, we would consult with the developer's engineering team during the design process and seek advice from an independent traffic engineer, as needed. Our expectation, to date, is that a safe pedestrian crossing can be designed for the intersection at 2nd Street and Armory Road, as well as for the proposed entrance to the west.

4. What is the plan for the Amory Road entrance? There was mention of it moving or having two entrances, but none of this was clearly described in the application. From Public Works Director John Wilson – The concept presented at the August 19th Council meeting provided two entrances for the project; one at Armory Road and a second at the present alignment of Wild Rose Lane, about 300 feet to the west. Concerns were expressed at the Planning Board meeting about the proximity of the Armory Road intersection to the bottom of the 2nd Street hill.

   The Planning Board recommended foregoing the proposed 4-way intersection at Armory Road and moving this entrance to the west. This would result in two T intersections, one branching to the north and another to the south, about 125 feet apart. This quick succession of intersections, crosswalks and driveways would create more decision points for motorists, pedestrians and bicyclists than a compact 4-way intersection.

The offset alignment would also cause car headlights to point into houses on the south side of 2nd Street and possibly compromise design standards for the distance between crosswalks on the same roadway.

We understand a primary concern about the proposed entrance at Armory Road was the ability for west-bound cars and bicyclists to control their speeds coming down the hill. This may have also involved some concerns about safe sight distances. The slope of the 2nd Street hill will be reduced somewhat with the reconstruction of East 2nd Street in 2014 and sight distances will be improved to meet safe design standards. Considering these improvements, as well as the existing 25 mile per hour speed limit, Public Works believes stopping and sight distances at this intersection would be manageable concerns.

5. What are the expected infrastructure locations and costs to the City to accommodate this development? From Public Works Director John Wilson - In accordance with the City's Extension of Services Plan and Standards for Design and Construction, the developer would pay all costs for design and construction of infrastructure needed to serve the project. When an opportunity arises, the City may chose to increase the capacity and/or depth of water mains or sewer mains to serve a larger area. In that event, the City would pay the additional cost necessary to meet those additional needs.

   We have an opportunity, in this case, to extend and increase the capacity of one water main and one sewer main in anticipation of future needs north of the railroad tracks. Our rough estimates for the City's cost to extend and increase the capacity of the water and sewer mains are $50,000 and $700,000 to $800,000, respectively. These cost estimates are based on partial, conceptual designs. The developer's plans for utility infrastructure do not depend on the City's involvement.

   The Council's decision on this development proposal should be independent from subsequent decisions about potential utility improvements on the City's part.

6. In financial terms, what are the affordable housing benefits and what is the mechanism to insure they are delivered and the program is administered? – From Lori Collins of WHA -Chuck, we have an outdated Letter of Intent signed by SueAnn that lays out how and when the affordable units are to be delivered to WHA. I have attached the updated "Letter of Intent" delivered to me today from their attorney Judah Gersh.

7. Is the WHA able to manage the affordable housing portion? From Lori Collins of WHA - Yes we are. We are currently operating a 50 unit apartment complex for seniors and disabled, 9 homeowners and 16 rental assistance vouchers. As a standard practice, WHA advertises for available rentals (or homeownership opportunities), accepts all applications and places them on a "waitlist" in date order. We then do a full screening of the applicant including a criminal check and past rental history. Also mandatory in our program is a face to face meeting with the management and

tenant services staff before a unit is offered for tenancy. We have the staff and the expertise to manage many more rental and/or homeownership opportunities.

8. Also regarding affordable housing benefits, what is the targeted price or rent of each unit and does it comply with the appropriate affordable housing guidelines? From Lori Collins of WHA - For the 10% of the units that will be managed by WHA, we will follow the "Fair Market Rent" standards as set yearly by HUD. We adopt, on a yearly basis, those amounts or up to 110% above for Whitefish. Please see the attached Payment Standards adopted 10/17/12.

I will likely have more, but they should fit these general categories. Thanks……..John

From Councilor Richard Hildner:

I think we need to reserve a sidewalk right-of-way on the north side of 2nd. The question is are the proponents willing to grant said right of way?

Richard

From applicant Will MacDonald - Yes, the applicant is willing to grant this right of way and currently the site-plan includes a sidewalk on the north side of Second Street extending east.

From Mayor John Muhlfeld:

The only additional questions I have are:

1. Would the applicants be willing to add as a condition of approval the granting of a utility easement adjacent to or in the general proximity of Wild Rose Lane, or an area outside of the Cow Creek buffer, to accommodate future extensions of both water and sewer utilities to the north property line? (The general condition included in the current staff report is rather vague and would still permit the extension of utilities within the riparian area of Cow Creek). From Public Works Director John Wilson - We understand the concern is to install water and sewer infrastructure well away from Cow Creek and avoid impacts to that sensitive area. We understand the developer is willing to grant these easements. All water mains would be installed far from the Cow Creek buffer zone, and while we have not analyzed each and every detail for the preferred route along Wild Rose Lane, Public Works hopes to install the Cow Creek sewer interceptor on that alignment.

   From applicant Will MacDonald - Yes, the applicant would be willing to explore such easement along Wild Rose Lane as long as it does not increase costs to the development from the current easement location.

2. The application indicates that stormwater would be treated with Low Impact Development technologies (e.g. bioswales versus curb and gutter) and that stormwater discharge would be directed into the Cow Creek buffer. Would the applicants be willing to add as a condition of approval a stormwater detention basin with advanced filtration to ensure water quality is protected before entering Cow Creek? This would of course be coordinated with Public Works as part of their stormwater management plan for the site. Unfortunately, our regulations cannot require more stringent requirements, but in this case, I'm curious if the applicants would be willing to consider other technologies. From Public Works Director John Wilson - Public Works understands the PUD process gives the City Council the prerogative to invoke special requirements.

   From applicant Will MacDonald - The applicant would be willing to explore other technologies for storm water management. The financial costs for upgrades would have to be seriously evaluated before any guarantees are executed.

3. When would the affordable housing units be developed, in terms of phase, and year? From Senior Planner Wendy Compton-Ring - See Condition #17 (below). We are recommending a condition that no more than one unit per building be allocated for affordable housing and they be a variety of one, two and three bedroom units. All the rental units are located within Phases 1 and 2.

   From applicant Will MacDonald - Please see the answers to Frank Sweeney's Questions. All affordable units will be built within 16 months from the construction commencement.

John M. Muhlfeld

From Councilor Frank Sweeney

1. What is the percentage of short term rentals in the complex From Senior Planner Wendy Compton-Ring - None. All rentals will be a minimum of 30-days. No overnight or weekly rental is proposed nor permitted.

   From applicant Will MacDonald - All apartments will be long-term rentals now with 12month leases or more. This will be a condition for the PUD.

2. What are the details of phasing and how would that be enforced for the development From Senior Planner Wendy Compton-Ring - The applicant has indicated a five phased project. Prior to the issuance of a building permit within each phase, the applicant will submit a 'final plat'-type of review to city staff to ensure all the conditions of approval area being met. Staff proposed and Planning Board is recommending the following condition of approval:

#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.

From applicant Will MacDonald - Four phases as follows:

- First Phase: 43 Apartments and 7 single-family condos (Kaufman house and the six single family units directly along 2nd Street).
- Second Phase: 40 apartments and 11 single-family condos along cow creak
- Third Phase: 11 single family condos on the Hill
- Forth Phase: 9 single family condos on the Hill

This would be enforced by the condition of the PUD. Just like a subdivision each phase is reviewed and approved by City Staff to ensure that it can stand alone and all necessary infrastructure is available and installed prior to construction of the buildings.

3. When would the 'affordable' housing be built and is it all 'rental'? From Senior Planner Wendy-Compton-Ring - See Condition #17 (above). We are recommending a condition that no more than one unit per building be constructed and a variety of one, two and three bedroom units. All the rental units are located within Phases 1 and 2. All the affordable housing are rentals.

From applicant Will MacDonald - The affordable housing would be built in the first two phases -- 6 units in the first phase and 6 units in the second phase. All affordable housing would be in the form of rental apartments.

4. Are there any other concentrations of development that compare to this, in the area? From Senior Planner Wendy Compton-Ring - There are no other PUD's with mixed densities nearby, but the nearby WR-2 zoning to the west allows up to 12 dwelling units per acre, and this project is only proposing a little over 6 dwelling units per acre.

5. Are there any other 'rental' complexes in this area? From Senior Planner Wendy Compton-Ring - No 'complexes', but a good portion of the houses in the nearby WR-2 zoning district are long term rentals.

6. Have they considered less density, longer term rentals (rather than monthly) to avoid the 'transient' and 'resort rental' aspects of the development? Currently the development show to have approximately, 107 rental units out of the total of 142. Is the 'out of character' concern that it is so overwhelmingly rentals? From Senior Planner Wendy Compton-Ring - I would say that a perception of increased crime rate for rentals is a concern of the neighbors, as well as the density and the associated effects of density such as traffic increase.

   From applicant Will MacDonald - We will lower the total density to 117 units. 83 Apartments and 34 single family condos. It is important to note that at this density we no longer are required to provide affordable housing; however we see the importance of this product and will offer 12 affordable housing units to Whitefish Housing Authority

7. What will the rebuild of 2nd Street mean in terms of addressing some of the 'safety' concerns for the area, for this development or anything else that might go in up there? From Public Works Director John Wilson - A major objective for the East 2nd St Reconstruction Project is to build a separated 8 foot wide bicycle and pedestrian path along the south side of the street from Armory Road to the entrance to Armory Park. The need for this trail, in response to the increased activity at Armory Park, was the impetus for the City Council to move East 2nd ahead of West 7th on the Street Reconstruction Priority list.

   Other safety improvements include reducing the slope and improving vertical sight distances on the 2nd St hill, east of Armory Road, as well as clearing trees and vegetation back to the edge of right of way and improving horizontal sight distances at the Armory Road intersection.

8. What needs to be done to address the concerns with Armory and can they be addressed in the short term? From Public Works Director John Wilson -The developer's traffic engineer has analyzed the potential impacts to Armory Road and offered the opinion that the road has aequate capacity to handle the projected increase of 200 vehicle trips per

day. While anyone is entitled to disagree with that conclusion, the traffic impact study should be recognized as providing a reasonable estimate for your consideration.

The Public Works engineering staff's primary qualifications and experience are in stormwater management, water and sewer infrastructure, roadway design and project management. Neither of us is a qualified traffic analyst, which is a specialized field, much different than roadway design. Nevertheless, it's obvious that more traffic would bring added risk. And the worst possible consequences of added risk could be tragic.

The question is how much risk would be presented by 200 vehicles per day? And how much risk is acceptable? No one person can quantify these things to everyone's satisfaction. It all comes down to the City Council considering the available information and working to find reasonable consensus.

If the consensus should be to improve Armory Road, the Council would then need to compare that goal with other needs throughout the community. As everyone knows, our needs far outweigh our resources and we have to set priorities. To reconstruct Armory Road from 2nd Street to the City limits at Armory Park would cost at least $2,500,000. To build a separate path project, without a full street reconstruction, could cost $200,000 to $300,000. But as affordable as that might seem compared to a full road reconstruct, the funds are much more limited for separate trail projects and, once again, the needs for safe bicycle andpedestrian facilities are great throughout the community.

As much as Whitefish is fortunate to have over $1,500,000 per year in Resort Tax revenue to rebuild roads and upgrade utilities, our street reconstruction projects are incredibly expensive. We have to work from a list of priorities and many important projects simply have to wait for their turn. Aside from Resort Tax funds, our only other option to finance a major street reconstruction project would be a Special Improvement District (SID). We can certainly work with SID financing, but the key is whether or not property owners within the district are willing to pay for improvements through annual assessments added to their taxes.

As for County jurisdiction on Armory Road from Armory Park out to Voerman, the needs for road improvements throughout the county are certainly much greater than what we face in Whitefish. So it seems unlikely they would schedule any major improvements for Armory Road in the near future.

Our options to address the Armory Road residents' concern in the short term are limited. We are taking "short term" to mean during the course of build-out for the 2nd Street Residences project.

- One option would be to move Armory Road to the top of the street reconstruction priority list, although such a choice would likely involve a significant decision process with review and recommendation by the Resort Tax Monitoring Committee and public input.
- Another option, as mentioned above, would be a Special Improvement District subject to acceptance by a majority of the area residents.

- A third option might be to pursue grant funding and seek a partnership with Flathead County to construct a bike/ped path along Armory Road from 2nd Street to Voerman Road. This would involve several unknowns such as the County's interest in such a project, the competitive nature of grant applications and the availability of local matching funds.

  Aside from these ideas, our current programs and available funds provide only for general maintenance, periodic overlays or chipseals, and perhaps some added signage directing motorists to share the road.

9. How does the 'county' ownership of parts of Armory effect our ability to address these issues? See answer to #8 above.

10. What are our option and ability to address these concerns in the short term? See answer to #8 above.

11. What does 'affordable' mean in terms of dollars? From Lori Collins of WHA - The definition of "affordable" is that housing, including utilities, should not exceed 30% of a household's income regardless of their income. For WHA's purchase, we set rents for those households we serve; low and moderate (those that do not exceed 80% of the area median income), as established by HUD and adopted by WHA. I have attached the adopted payment standards of WHA.
12. Are any of the ownership options going to affordable housing and if so, what does that look like in terms of cost? From Lori Collins of WHA - it does not appear so per the Letter of Intent. WHA is not currently in the position to purchase homes at this time…though; we would accept free homes of course. From Wendy Compton-Ring - None of the ownership options (condominiums) will be put into the affordable housing programs.

    From applicant Will MacDonald – there will be no affordable housing options for ownership.

13. How does this 'fit' with the Growth Policy for 'single family' in this area? From Senior Planner Wendy Compton-Ring - The project is consistent with 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, encourages the protection of critical areas, supports the development of affordable housing, and encourages non-motorized transportation, which are all things this project provides.

14. What are the other possibilities for development on this site without a set of zone changes? From Senior Planner Wendy-Compton-Ring - The WA zoning on the eastern 2/3 of the property is certainly a 'left-over' from the rural days. The proposed WER zone complies with the Suburban Residential land use designation. If the WR-1 lot didn't change to WR-2, the following zoning would apply.

ZONING	W/OUT PUD	WITH PUD
WER:	2 dwelling units per acre (36 UNITS)	3 dwelling units per acre (54 UNITS)
WR-1:	4 dwelling units per acre (24 UNITS)	7 dwelling units per acre (43 UNITS)
TOTAL:	**60 UNITS**	**97 UNITS**

I am certain I have others but, that is what comes to mind as I review my notes from the meeting.
Thanks,
Frank

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

Date: August 27, 2013

To: Chuck Stearns, City Manager

From: Wendy Compton-Ring, AICP, Senior Planner

Subject: 2nd Street Residences – Questions From Council

From Councilor Sweeney:

1. What is the percentage of short-term rentals in the complex? None. All rentals will be a minimum of 30-days. No overnight or weekly rental is proposed nor permitted.

2. What are the details of phasing and how would that be enforced for development? The applicant has indicated a five phased project. Prior to the issuance of a building permit within each phase, the applicant will submit a 'final plat'-type of review to city staff to ensure all the conditions of approval area being met. Staff proposed and Planning Board is recommending the following condition of approval:

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   - 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.
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4. Are there any other concentrations of development that compare to this, in the area? There are no other PUD's with mixed densities nearby, but the nearby WR-2 zoning to the west allows up to 12 dwelling units per acre, and this project is only proposing a little over 6 dwelling units per acre.

5. Are there any other 'rental' complexes in this area? No 'complexes', but a good portion of the houses in the nearby WR-2 zoning district are long term rentals.

6. Is the 'out of character' concern that it is so overwhelming rentals? I would say that a perception of increased crime rate for rentals is a concern of the neighbors, as well as the density and the associated effects of density such as traffic increase.

12. Are any of the ownership options going to affordable housing and if so what that look like in terms of cost? None of the ownership options (condominiums) will be put into the affordable housing programs.

13. How does this 'fit' with the Growth Policy for 'single family' in this area? The project is consistent with 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, encourages the protection of critical areas, supports the development of affordable housing, and encourages non-motorized transportation, which are all things this project provides.

14. What are the other possibilities for development on this site without a set of zone changes? The WA zoning on the eastern 2/3 of the property is certainly a 'left-over' from the rural days. The proposed WER zone complies with the Suburban Residential land use designation. If the WR-1 lot didn't change to WR-2, the following zoning would apply.

ZONING	W/OUT PUD	WITH PUD
WER:	2 dwelling units per acre (36 UNITS)	3 dwelling units per acre (54 UNITS)
WR-1:	4 dwelling units per acre (24 UNITS)	7 dwelling units per acre (43 UNITS)
TOTAL:	**60 UNITS**	**97 UNITS**

2nd Street Residences Project
Public Works Response to Questions from City Council

Councilman Anderson

Questions #1, 3, 4 and 5 seem related to Public Works

- #1. How much increase in traffic can we expect at full build-out?

  In May 2013, Abelin Traffic Services (ATS) prepared an addendum to their initial Traffic Impact Study (TIS) for the 2nd Street Residences project, reflecting the amended development proposal with 150 dwelling units. On page 1 of the TIS addendum (or page 723 of the Council packet) ATS estimates the project will generate approximately 1084 vehicle trips per day (VPD) at full build-out. A trip to the store and back home would be counted as 2 vehicle trips.

  While the addendum does not go on to list estimated VPDs for each adjacent street, one can follow the distribution reported in the original TIS to calculate an estimated increase of 833 vehicle trips per day on 2nd Street west of the project, 93 VPD on 2nd St east of the project and 185 VPD on Armory Road. The difference between this and the AIS's estimates for the original, larger project seem to be negligible.

  For those who may be familiar with typical traffic volumes on Armory, Voerman and Dillon Roads, a sense of proportion for these numbers may be found in the traffic counts performed by Flathead County in early June 2013. Their work indicated the following averages at various locations:
  - 578 VPD on Armory Road 150 ft. east of the ball fields
  - 554 VPD on Armory Road 125 ft. north of Voerman Road
  - 861 VPD on Voerman Road 50 ft. west of Dillon Road
  - 1015 VPD on Voerman Road 150 ft. west of Monegan Road and
  - 959 VPD on Dillon Road 125 ft. north of Hwy 40

- #3. Pedestrian Crossings: Are these adequate given expected growth?

  A thorough evaluation of existing conditions and the application of appropriate design standards are vitally important when considering a new pedestrian crossing. Critical points include topography, speed limits, sight distances, distance between crosswalks on the same roadway, crosswalk marking options and traffic control devices. Although the Public Works Department does not have a qualified traffic engineer on staff, we would consult with the developer's engineering team during the design process and seek advice from an independent traffic engineer, as needed. Our expectation, to date, is that a safe pedestrian crossing can be designed for

the intersection at 2nd Street and Armory Road, as well as for the proposed entrance to the west.

- #4. What is the plan for the Armory Road entrance?

  The concept presented at the August 19th Council meeting provided two entrances for the project; one at Armory Road and a second at the present alignment of Wild Rose Lane, about 300 feet to the west. Concerns were expressed at the Planning Board meeting about the proximity of the Armory Road intersection to the bottom of the 2nd Street hill.

  The Planning Board recommended foregoing the proposed 4-way intersection at Armory Road and moving this entrance to the west. This would result in two T intersections, one branching to the north and another to the south, about 125 feet apart. This quick succession of intersections, crosswalks and driveways would create more decision points for motorists, pedestrians and bicyclists than a compact 4-way intersection.

  The offset alignment would also cause car headlights to point into houses on the south side of 2nd Street and possibly compromise design standards for the distance between crosswalks on the same roadway.

  We understand a primary concern about the proposed entrance at Armory Road was the ability for west-bound cars and bicyclists to control their speeds coming down the hill. This may have also involved some concerns about safe sight distances. The slope of the 2nd Street hill will be reduced somewhat with the reconstruction of East 2nd Street in 2014 and sight distances will be improved to meet safe design standards. Considering these improvements, as well as the existing 25 mile per hour speed limit, Public Works believes stopping and sight distances at this intersection would be manageable concerns.

- #5. What are the expected infrastructure locations and costs to the City?

  In accordance with the City's Extension of Services Plan and Standards for Design and Construction, the developer would pay all costs for design and construction of infrastructure needed to serve the project. When an opportunity arises, the City may chose to increase the capacity and/or depth of water mains or sewer mains to serve a larger area. In that event, the City would pay the additional cost necessary to meet those additional needs.

  We have an opportunity, in this case, to extend and increase the capacity of one water main and one sewer main in anticipation of future needs north of the railroad tracks. Our rough estimates for the City's cost to

extend and increase the capacity of the water and sewer mains are $50,000 and $700,000 to $800,000, respectively. These cost estimates are based on partial, conceptual designs. The developer's plans for utility infrastructure do not depend on the City's involvement.

The Council's decision on this development proposal should be independent from subsequent decisions about potential utility improvements on the City's part.

Councilman Hildner

- This appears to be a question for the Planning Department.

Mayor Muhlfeld

Questions #1 and 2 seem related to Public Works

- #1. Would the applicant grant easements for water and sewer mains to be installed in areas outside the Cow Creek buffer zone?

  We understand the concern is to install water and sewer infrastructure well away from Cow Creek and avoid impacts to that sensitive area. We understand the developer is willing to grant these easements. All water mains would be installed far from the Cow Creek buffer zone, and while we have not analyzed each and every detail for the preferred route along Wild Rose Lane, Public Works hopes to install the Cow Creek sewer interceptor on that alignment.

- #2. Would the applicant be willing to install stormwater treatment facilities to meet standards more stringent than those currently specified under City regulations?

  Public Works understands the PUD process gives the City Council the prerogative to invoke special requirements.

Councilman Sweeney

Questions #7 through 10 seem related to Public Works.

- #7. How will the rebuild of East 2nd St address the safety concerns?

  A major objective for the East 2nd St Reconstruction Project is to build a separated 8 foot wide bicycle and pedestrian path along the south side of the street from Armory Road to the entrance to Armory Park. The need for this trail, in response to the increased activity at Armory Park, was the impetus for the City Council to move East 2nd ahead of West 7th on the Street Reconstruction Priority list.

Other safety improvements include reducing the slope and improving vertical sight distances on the 2nd St hill, east of Armory Road, as well as clearing trees and vegetation back to the edge of right of way and improving horizontal sight distances at the Armory Road intersection.

- #8., 9. and 10. Regarding the City's ability to address concerns about Armory Road.

  The developer's traffic engineer has analyzed the potential impacts to Armory Road and offered the opinion that the road has aequate capacity to handle the projected increase of 200 vehicle trips per day. While anyone is entitled to disagree with that conclusion, the traffic impact study should be recognized as providing a reasonable estimate for your consideration.

  The Public Works engineering staff's primary qualifications and experience are in stormwater management, water and sewer infrastructure, roadway design and project management. Neither of us is a qualified traffic analyst, which is a specialized field, much different than roadway design. Nevertheless, it's obvious that more traffic would bring added risk. And the worst possible consequences of added risk could be tragic.

  The question is how much risk would be presented by 200 vehicles per day? And how much risk is acceptable? No one person can quantify these things to everyone's satisfaction. It all comes down to the City Council considering the available information and working to find reasonable consensus.

  If the consensus should be to improve Armory Road, the Council would then need to compare that goal with other needs throughout the community. As everyone knows, our needs far outweigh our resources and we have to set priorities. To reconstruct Armory Road from 2nd Street to the City limits at Armory Park would cost at least $2,500,000. To build a separate path project, without a full street reconstruction, could cost $200,000 to $300,000. But as affordable as that might seem compared to a full road reconstruct, the funds are much more limited for separate trail projects and, once again, the needs for safe bicycle andpedestrian facilities are great throughout the community.

  As much as Whitefish is fortunate to have over $1,500,000 per year in Resort Tax revenue to rebuild roads and upgrade utilities, our street reconstruction projects are incredibly expensive. We have to work from a list of priorities and many important projects simply have to wait for their turn. Aside from Resort Tax funds, our only other option to finance a

major street reconstruction project would be a Special Improvement District (SID). We can certainly work with SID financing, but the key is whether or not property owners within the district are willing to pay for improvements through annual assessments added to their taxes.

As for County jurisdiction on Armory Road from Armory Park out to Voerman, the needs for road improvements throughout the county are certainly much greater than what we face in Whitefish. So it seems unlikely they would schedule any major improvements for Armory Road in the near future.

Our options to address the Armory Road residents' concern in the short term are limited. We are taking "short term" to mean during the course of build-out for the 2nd Street Residences project.

- One option would be to move Armory Road to the top of the street reconstruction priority list, although such a choice would likely involve a significant decision process with review and recommendation by the Resort Tax Monitoring Committee and public input.
- Another option, as mentioned above, would be a Special Improvement District subject to acceptance by a majority of the area residents.
- A third option might be to pursue grant funding and seek a partnership with Flathead County to construct a bike/ped path along Armory Road from 2nd Street to Voerman Road. This would involve several unknowns such as the County's interest in such a project, the competitive nature of grant applications and the availability of local matching funds.

Aside from these ideas, our current programs and available funds provide only for general maintenance, periodic overlays or chipseals, and perhaps some added signage directing motorists to share the road.

Chuck Stearns

From: Lori Collins [lcollins@cityofwhitefish.org]
Sent: Thursday, August 22, 2013 3:45 PM
To: 'Chuck Stearns'
Subject: RE: 2nd Street Development Questions
Attachments: Letter of Intent - revised August 2013.pdf; Payment Standards Oct 2012.doc

Chuck,
Please see my answers to #'s 6, 7 & 8 in RED below:

Please let me know if you need anything further. I will answer the questions on the more recent emails as well.

Lori Collins
Executive Director
Whitefish Housing Authority
406.862.4143

From: Chuck Stearns [mailto:cstearns@cityofwhitefish.org]
Sent: Thursday, August 22, 2013 8:57 AM
To: 'David Taylor'; 'Wendy Compton-Ring'; 'Chief Bill Dial'; 'John Wilson'; 'Lori Collins'
Cc: 'Mary VanBuskirk'
Subject: FW: 2nd Street Development Questions

Staff:

Below are the questions that I received from City Council members by 5:00 p.m. last night. I have put tentative assignments for each question, but if you have input on a particular question, please feel free to add to the answer. For each question, please send your response to me and I will gather them from each person and combine them into one memo for the packet next Tuesday and Wednesday. Please try to get your responses to me by Tuesday afternoon of next week. Thanks.

Chuck Stearns
City Manager
City of Whitefish
P.O. Box 158
418 East 2nd Street
Whitefish, MT 59937-0158
Telephone - 406-863-2406
Fax - 406-863-2419
Cell -
cstearns@cityofwhitefish.org

From: John W. Anderson [mailto:janderson@cityofwhitefish.org]
Sent: Wednesday, August 21, 2013 5:00 PM
To: 'Chuck Stearns'
Subject: 2nd Street Development Questions

Chuck,

My general questions regarding the 2nd Street Development are as follows. Some of them may require the applicant or their representatives to respond.

1. Traffic Safety: How much of an increase in traffic can we expect when fully built out? (Wendy or John W) (Maybe just distill information from the traffic study and attribute it to the author??)

2. Back-up Proposal: What is the applicant's back-up proposal that includes a lower density and other changes? (Applicant will have to answer this)

3. Pedestrian Crossings: Are these adequate given expected growth? (John W)

4. What is the plan for the Amory Road entrance? There was mention of it moving or having two entrances, but none of this was clearly described in the application. (John W)

5. What are the expected infrastructure locations and costs to the City to accommodate this development? (John W)

6. In financial terms, what are the affordable housing benefits and what is the mechanism to insure they are delivered and the program is administered? (Lori C) (The mechanism is probably that an agreement between WHA and developer has to be delivered as part of the requirements before it can get approval for final plat) – Chuck, we have an outdated Letter of Intent signed by SueAnn that lays out how and when the affordable units are to be delivered to WHA. I have attached the updated "Letter of Intent" delivered to me today from their attorney Judah Gersh.

7. Is the WHA able to manage the affordable housing portion? (Lori C) – Yes we are. We are currently operating a 50 unit apartment complex for seniors and disabled, 9 homeowners and 16 rental assistance vouchers. As a standard practice, WHA advertises for available rentals (or homeownership opportunities), accepts all applications and places them on a "waitlist" in date order. We then do a full screening of the applicant including a criminal check and past rental history. Also mandatory in our program is a face to face meeting with the management and tenant services staff before a unit is offered for tenancy. We have the staff and the expertise to manage many more rental and/or homeownership opportunities.

8. Also regarding affordable housing benefits, what is the targeted price or rent of each unit and does it comply with the appropriate affordable housing guidelines? (Lori C) – For the 10% of the units that will be managed by WHA, we will follow the "Fair Market Rent" standards as set yearly by HUD. We adopt, on a yearly basis, those amounts or up to 110% above for Whitefish. Please see the attached Payment Standards adopted 10/17/12.

I will likely have more, but they should fit these general categories. Thanks……John

Chuck Stearns

From: Lori Collins [lcollins@cityofwhitefish.org]
Sent: Thursday, August 22, 2013 3:52 PM
To: 'Chuck Stearns'
Subject: RE: 2nd street project
Attachments: Payment Standards Oct 2012.doc

Chuck,

Please see my answers to #'s 11 &12 in RED below:

Lori Collins
Executive Director
Whitefish Housing Authority
406.862.4143

From: Chuck Stearns [mailto:cstearns@cityofwhitefish.org]
Sent: Thursday, August 22, 2013 11:34 AM
To: 'Wendy Compton-Ring'; 'David Taylor'; 'John Wilson'; 'Lori Collins'
Cc: 'Mary VanBuskirk'
Subject: FW: 2nd street project

To all:

Here are more questions from Frank Sweeney and assignments. Short paragraphs should suffice. Please get to me by next Tuesday.

Chuck Stearns
City Manager
City of Whitefish
P.O. Box 158
418 East 2nd Street
Whitefish, MT 59937-0158
Telephone - 406-863-2406
Fax - 406-863-2419
Cell -
cstearns@cityofwhitefish.org

From: Frank Sweeney [mailto:fsweeney@cityofwhitefish.org]
Sent: Thursday, August 22, 2013 11:07 AM
To: 'Chuck Stearns'

Cc: 'John Muhlfeld'; 'Richard Hildner'; Sweeney, Francis
Subject: 2nd street project

Chuck, My questions and clarifications are as follows and in no particular order of importance:

1. What is the percentage of short term rentals in the complex (Wendy)
2. What are the details of phasing and how would that be enforced for the development (Wendy or developer?)
3. When would the 'affordable' housing be built and is it all 'rental'? (Developer)
4. Are there any other concentrations of development that compare to this, in the area? (Wendy)
5. Are there any other 'rental' complexes in this area? (Wendy)
6. Have they considered less density, longer term rentals (rather than monthly) to avoid the 'transient' and 'resort rental' aspects of the development? Currently the development show to have approximately, 107 rental units out of the total of 142. Is the 'out of character' concern that it is so overwhelmingly rentals? (Developer)
7. What will the rebuild of 2nd Street mean in terms of addressing some of the 'safety' concerns for the area, for this development or anything else that might go in up there? (John W)
8. What needs to be done to address the concerns with Armory and can they be addressed in the short term? (John W or SID)
9. How does the 'county' ownership of parts of Armory effect our ability to address these issues? (Wendy, Dave or John)
10. What are our option and ability to address these concerns in the short term (Wendy, Dave, John)
11. What does 'affordable' mean in terms of dollars? (Lori) – The definition of "affordable" is that housing, including utilities, should not exceed 30% of a household's income regardless of their income. For WHA's purchase, we set rents for those households we serve; low and moderate (those that do not exceed 80% of the area

median income), as established by HUD and adopted by WHA. I have attached the adopted payment standards of WHA.

12. Are any of the ownership options going to affordable housing and if so, what does that look like in terms of cost? (Developer or Lori) – it does not appear so per the Letter of Intent. WHA is not currently in the position to purchase homes at this time…though; we would accept free homes of course.

13. How does this 'fit' with the Growth Policy for 'single family' in this area? (Wendy – this is already addressed in the packet)

14. What are the other possibilities for development on this site without a set of zone changes? (Wendy)

I am certain I have others but, that is what comes to mind as I review my notes from the meeting.

Thanks,

Frank

Whitefish Housing Authority
100 East Fourth Street
Whitefish, MT 59937
862-4143

Letter of Intent

Date: August 22, 2013

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 at the above-referenced address in the City of Whitefish, Montana. The development will be a mix of one, two, and three bedroom units. CIP intends to dedicate 10% of the 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 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 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 not 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.

Whitefish Housing Development, Inc.

By:_____
Sean Averill, Manager

By:_____
Lori Collins, Executive Director

The Whitefish Housing Authority
PO Box 1237
Whitefish, MT 59937

November 7, 2012

PAYMENT STANDARDS

The Whitefish Housing Authority adopts the following Fair Market Rent and Payment Standards:

	0 BR	**1BR**	**2BR**	**3BR**	**4BR**
Fair Market Rent (HUD)	516	604	747	1101	1323
Percent	102%	108%	108%	105%	102%
WHA Payment Standard	526	652	807	1156	1349

In addition, through this resolution, WHA adopts:

- The **Utility Reimbursement Schedule** as created by MDOC and updated on 11/1/12.
- The **Flat Rent at MVM** as **$604** (100% of FMR) for a one bedroom; and **$700** for a two bedroom (94% of FMR). The one bedroom flat rent will be increased in two increments: $579 starting on 1/1/13 and $604 starting on 7/1/13.

Fair Market Rent:
Adopted by **Resolution # 234 ,** dated_____

Payment Standards and Utility Schedule
Adopted by **Resolution #235 ,** dated_____

_____
Executive Director Date

November 7, 2012

Board of Commissioners

RE: Housing Choice Voucher Payment Standards

In October each year, HUD adopts and publishes the new fair market rents, (FMR). The WHA Board is responsible for reviewing and updating the Payment Standards on a yearly basis. WHA adopted payment standards must be within 90% to 110% of the HUD FMR.

A comparison of the changes to the FMR over the years:

Fair Market Rent	0 BR	1 BR	2 BR	3 BR	4 BR
2005	363	446	560	792	971
2006	375	461	579	819	1004
2007	388	477	599	847	1039
2008	411	505	634	896	1099
2009	419	514	646	913	1120
2010	418	513	645	912	1118
2011	449	552	693	980	1202
2012	417	513	644	911	1117
2013	516	604	747	1101	1323

	0 BR	1 BR	2 BR	3 BR	4 BR
2005-2006 Increase of approx. 3%	$12	$15	$19	$27	33
2006-2007 Increase	$8	$16	$20	$28	$35
2007-2008 Increase	23	28	35	49	60
2008-2009	8	9	12	17	11
2009-2010	1	1	1	1	2
2010-2011	31	39	48	68	84
2011-2012	-32	-39	-49	-69	-85
2012-2013	+ $99 23%increase	+ $91 18%increase	+$103 16%increase	+$190 21%increase	+$206 18%increase

A comparison of the WHA Proposed / MDOC Payment Standards for the current year to our standards from the previous year:

	0 BR	1 BR	2 BR	3 BR	4 BR
MDOC 2012 Payment Standards for Flathead / WHA Proposed	526	652	807	1156	1349
WHA current (adopted Oct 2011)	421	554	696	984	1195

<u>Other important information</u>

1. **Current Leases**
   - At this point, the current WHA Payment standards are sufficient to allow a household to rent in Whitefish.
2. **Rent Burden**
   - Current voucher holders are not experiencing rent burdens.
3. **Inability to Lease Up**
   - We have had no households unable to lease up in 2012.
4. **Current voucher holders not leased up and looking now:**
   - 0 (All vouchers are issued and leased up.
5. **General status of rental units in Whitefish / Other comments:**

It appears rents are becoming scarce again and may be increasing, but not decreasing.

<u>I propose that the board adopt the payment standards as presented noting that they match the current MDOC standards for Flathead County</u>. The new payment standards do not affect current voucher holders immediately. They are put into effect at the regularly scheduled yearly re-examination.

So submitted,
SueAnn Grogan

Applicant's answers to City Council questions

Frank Sweeney Questions – Answered by Applicant

1. All apartments will be long-term rentals now with 12month leases or more. This will be a condition for the PUD.
2. Four phases as follows:

- First Phase: 43 Apartments and 7 single-family condos (Kaufman house and the six single family units directly along 2nd Street).
- Second Phase: 40 apartments and 11 single-family condos along cow creak
- Third Phase: 11 single family condos on the Hill
- Forth Phase: 9 single family condos on the Hill

This would be enforced by the condition of the PUD. Just like a subdivision each phase is reviewed and approved by City Staff to ensure that it can stand alone and all necessary infrastructure is available and installed prior to construction of the buildings.

3. The affordable housing would be built in the first two phases -- 6 units in the first phase and 6 units in the second phase. All affordable housing would be in the form of rental apartments.
6. We will lower the total density to 117 units. 83 Apartments and 34 single family condos. It is important to note that at this density we no longer are required to provide affordable housing; however we see the importance of this product and will offer 12 affordable housing units to Whitefish Housing Authority
12. There will be no affordable housing options for ownership.

John Anderson Questions – Answered by Applicant

1. Traffic Impact – see attached exhibit by Abelin Traffic Services
    a. Traffic Overview
        i. 2,900 VPD along West 2nd Street
        ii. 2,000 VPD along East 2nd Street
        iii. 578 VPD along Armory Road
    b. Traffic Impact at **143 Units**
        i. At 143 Units this development would add 989 trips per day
        ii. West 2nd Street increase by 20% (3,642 VPD)
        iii. East 2nd Street increase by 5% (2,099 VPD)
        iv. Armory Road increases by 20% (726 VPD)
    c. Traffic Impact at **117 Units**
        i. At 117 Units this development would add 883 trips per day
        ii. West 2nd Street increases by 19% (3,562 VPD)
        iii. East 2nd Street increases by 4% (2,088 VPD)
        iv. Armory Road would increase by 19% (710 VPD)
2. Please see answers to Frank Sweeney's questions.

Richard Hildner Questions – Answered by Applicant

1. Yes, the applicant is willing to grant this right of way and currently the site-plan includes a sidewalk on the north side of Second Street extending east.

John Muhlfeld Questions – Answered by Applicant

1. Yes, the applicant would be willing to explore such easement along Wild Rose Lane as long as it does not increase costs to the development from the current easement location.
2. The applicant would be willing to explore other technologies for storm water management. The financial costs for upgrades would have to be seriously evaluated before any guarantees are executed.
3. Please see the answers to Frank Sweeney's Questions. All affordable units will be built within 16 months from the construction commencement.

August 26, 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 decrease the project's overall density. The new plan includes 16 single-family homes, 20 condominium units, and 107 apartments for a total of 143 units.

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 would produce 76 AM peak hour trips, 82 PM peak hour trips, and 989 daily trips. The trip generation rates and totals are shown in **Table 1.** This 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	16	0.75	12	1.01	16	9.57	153
Condominium	20	0.44	9	0.52	10	5.86	117
Apartments	107	0.51	55	0.62	66	6.72	719
TOTAL	**143**		**76**		**92**		**989**

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% (742 VPD) of traffic would use Second Street to the west, 15% (148 VPD) would use Armory Road to the south, and 10% (99 VPD) would use Second Street to the east. The total traffic volume increase on the surrounding roadways is shown in **Table 2**.

130 South Howie Street
Helena, Montana 59601
406-459-1443

Table 2 – Project Traffic Volume Increases

	Existing Traffic	Additional Traffic	Total Projected Traffic	Percent Increase
Second Street West of Armory Road	2,900 VPD	742 VPD	3,642 VPD	20%
Second Street East of Armory Road	2,000 VPD	99 VPD	2,099	5%
Armory Road	578 VPD	148 VPD	726 VPD	20%

It is also my understanding that you may choose to decrease the overall density farther to help minimize the overall impacts from the project. This proposal would decrease the overall unit numbers to include 34 single-family homes and 83 apartments for a total of 117 units. Under this scenario the trip generation rates would fall to 68 AM peak hour trips, 85 PM peak hour trips, and 883 daily trips. The trip generation rates and totals are shown in **Table 3.** This is a decrease of 11% from the current proposal and a decrease of 25% from the original 1,172 daily trips evaluated in the February Traffic Impact Study for this project.

Table 3 – Alternative 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	34	0.75	26	1.01	34	9.57	325
Apartments	83	0.51	42	0.62	51	6.72	558
TOTAL	**117**		**68**		**85**		**883**

If you have any questions please feel free to contact me at 406-459-1443.

Sincerely,

Bob Abelin, P.E.
Abelin Traffic Services, Inc

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

August 13, 2013

This section begins the documents which were in the original City Council packet of 8/19/13. There are some new letters submitted at the end of citizen letters below.

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

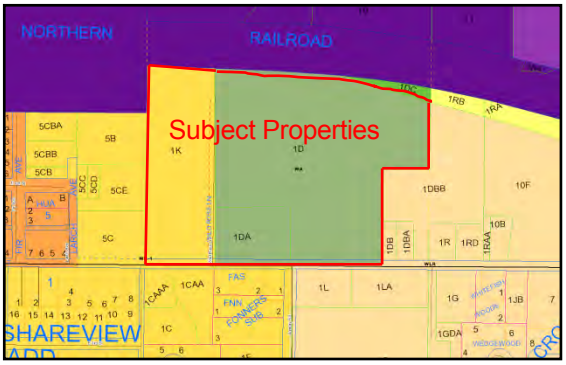
None.

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.

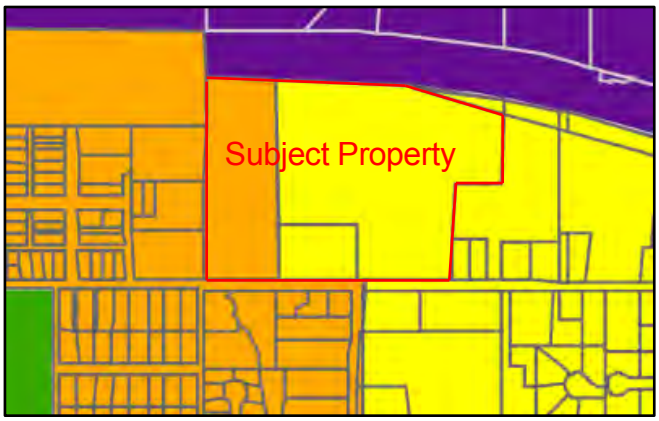
	WER (proposed zoning)	**WA (existing zoning)**
Minimum lot area:	20,000 s.f.	15 acre
Front yard setback:	25 feet	50 feet
Side yard setback:	15 feet	20 feet
Rear yard setback:	20 feet	20 feet
Maximum height:	35 feet	35 feet
Permitted lot coverage:	30% maximum	20% maximum for 2 acres or less; 10% maximum 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.

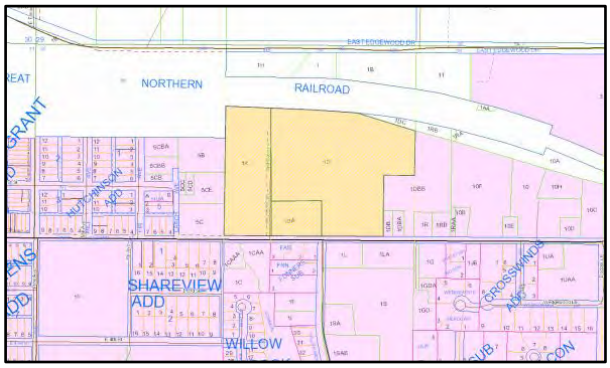
People not in support of the application were concerned about:

- 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.

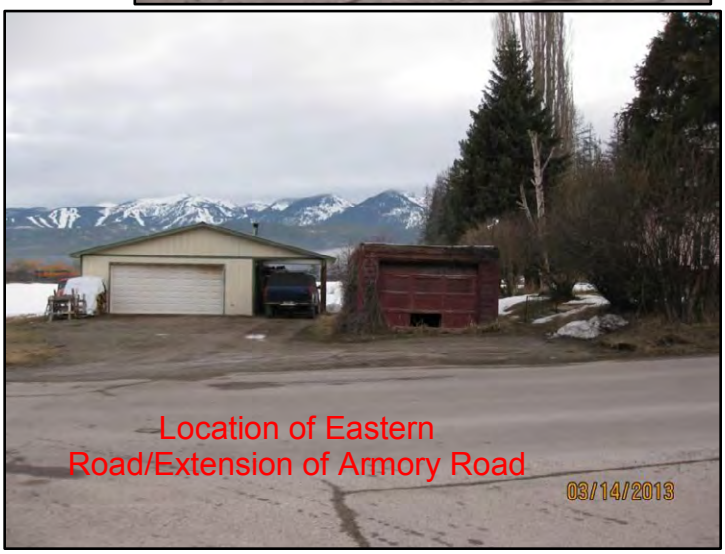
The buffer along the west, the tree retention and the topography of the site are adequately buffering the project from incompatible uses. In addition, the applicant is proposing single family detached homes along the perimeter of the project as a transition between the existing single family neighborhoods 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.

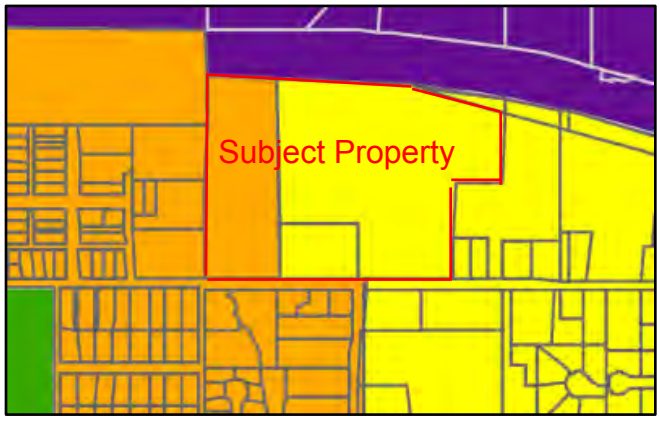
I. Provide affordable housing. In order to get the density bonus, a minimum of 10% of the project is required to be set aside meeting the needs for 'moderate income' families. The applicant will enter into a Letter of Intent with the Whitefish Housing Authority to manage 14 rental apartments. There are 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,

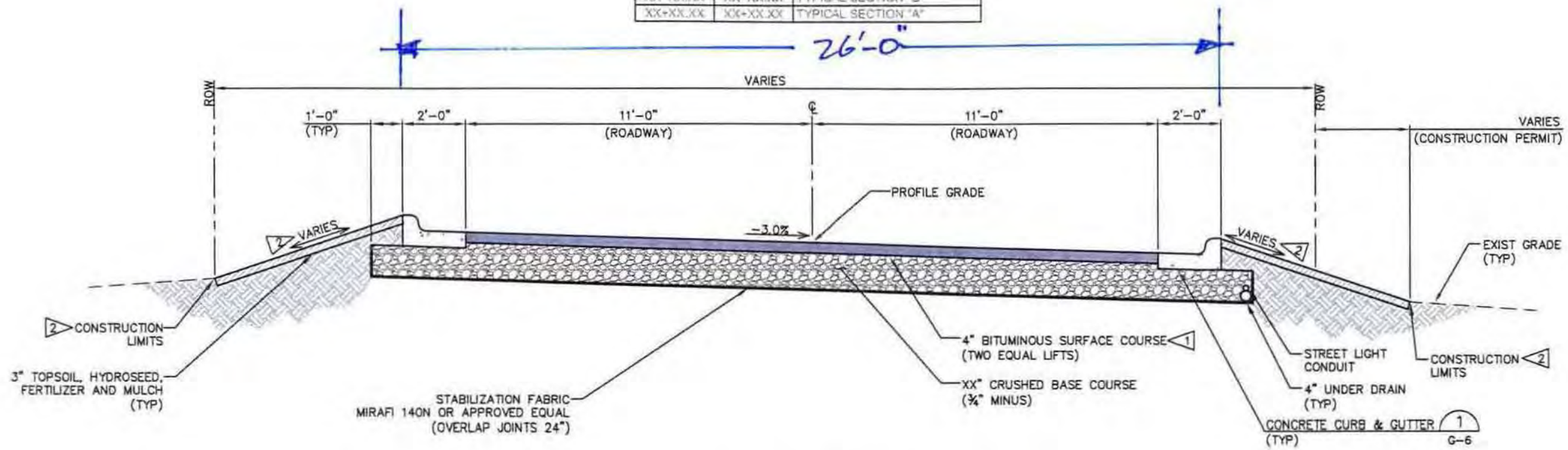
Brandon

TYPICAL SECTION INFORMATION TABLE

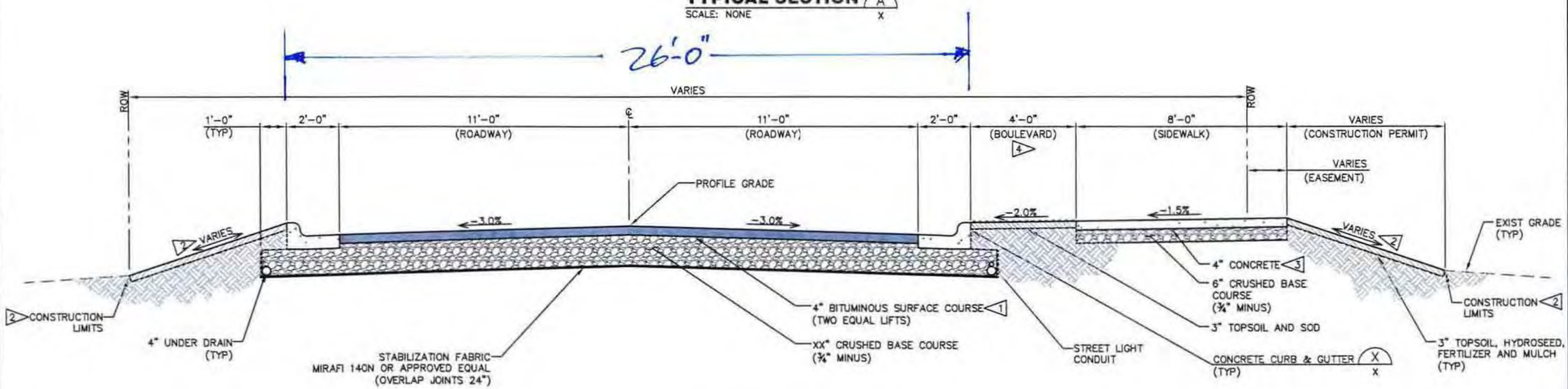
STATION FROM	STATION TO	DESCRIPTION
XX+XX.XX	XX+XX.XX	SEE INTERSECTION DETAILS
XX+XX.XX	XX+XX.XX	TYPICAL SECTION "A"
XX+XX.XX	XX+XX.XX	TYPICAL SECTION "B"
XX+XX.XX	XX+XX.XX	SEE INTERSECTION DETAILS
XX+XX.XX	XX+XX.XX	TYPICAL SECTION "B"
XX+XX.XX	XX+XX.XX	SEE INTERSECTION DETAILS
XX+XX.XX	XX+XX.XX	TYPICAL 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

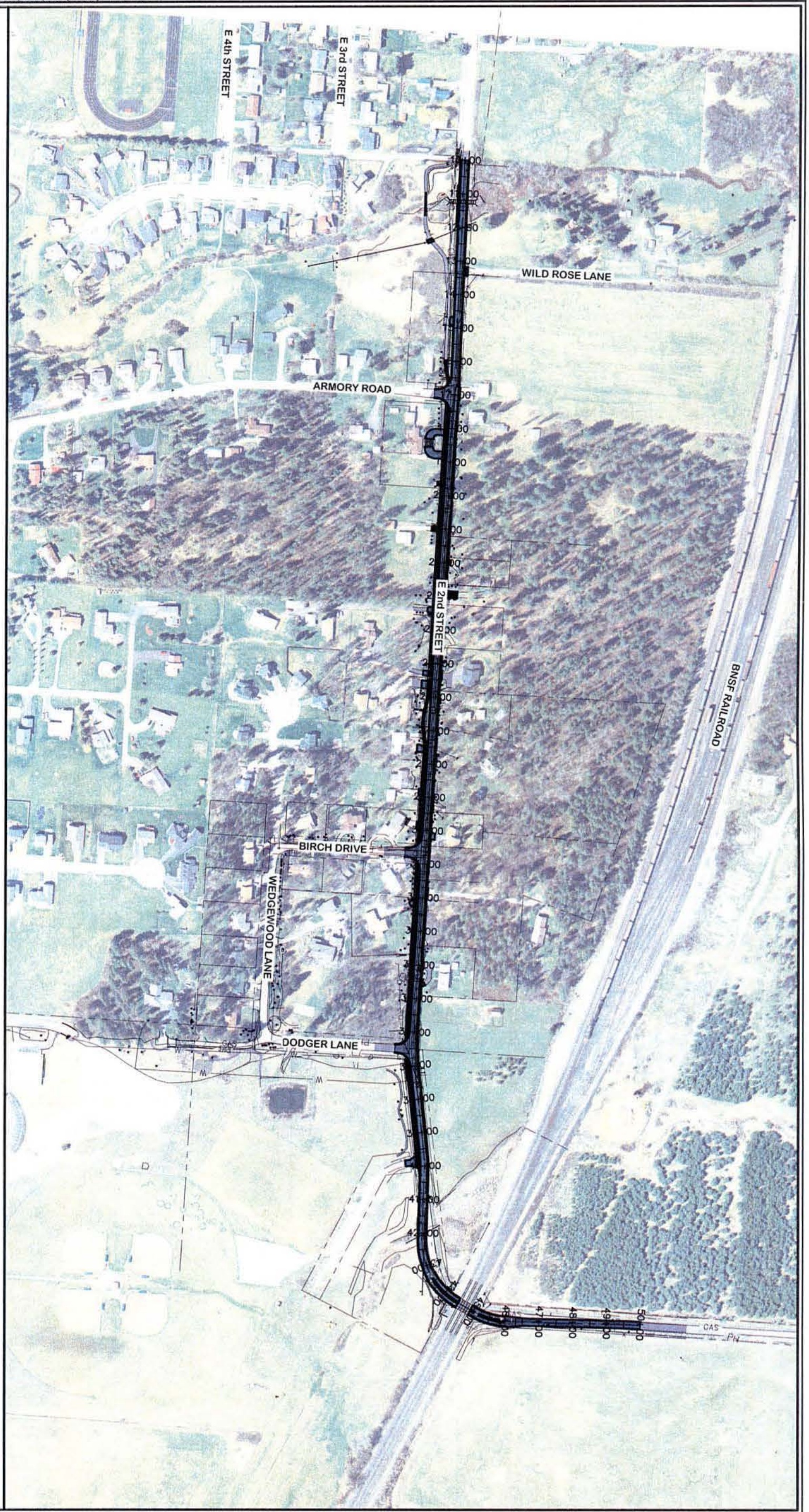
SYM	REVISION	BY	APPR.	DATE
	PRELIMINARY NOT FOR CONSTRUCTION			

B.THEIS DESIGNED BY
M.ROGERS DRAWN BY
R.MITCHELL CHECKED BY
JUNE 2013 DATE
12103.000 PROJECT NO.
General_ESS FILE

PROJECT TITLE: **EAST SECOND STREET RECONSTRUCTION PROJECT** *Whitefish, Montana*

SHEET TITLE: **TYPICAL SECTIONS**

SHEET **G-4**



150 0 150 300
(SCALE IN FEET)

SHEET	SHEET TITLE	PROJECT TITLE			
C2-1	ROADWAY OVERVIEW	EAST SECOND STREET RECONSTRUCTION PROJECT *Kalispell, Montana*	B.THEIS DESIGNED BY	JUNE 2013 DATE	
			M. ROGERS DRAWN BY	12103.000 PROJECT NO.	
			R. MITCHELL CHECKED BY	Roadway_ESS FILE	

SYM	REVISION	BY	APPR	DATE
	PRELIMINARY NOT FOR CONSTRUCTION			

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,

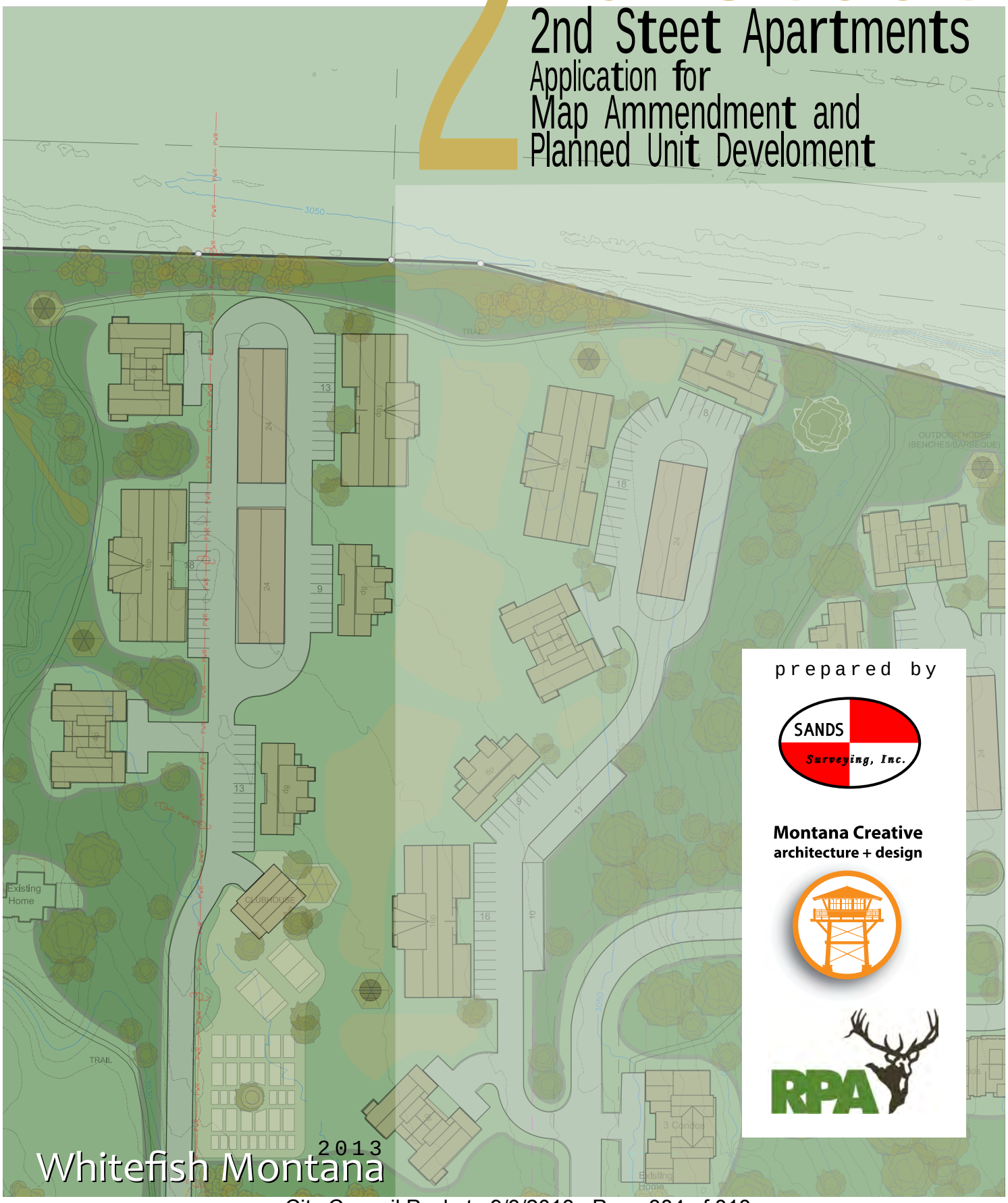
Blaine Platt
bcplatt76@gmail.com
(406)407-1994

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.

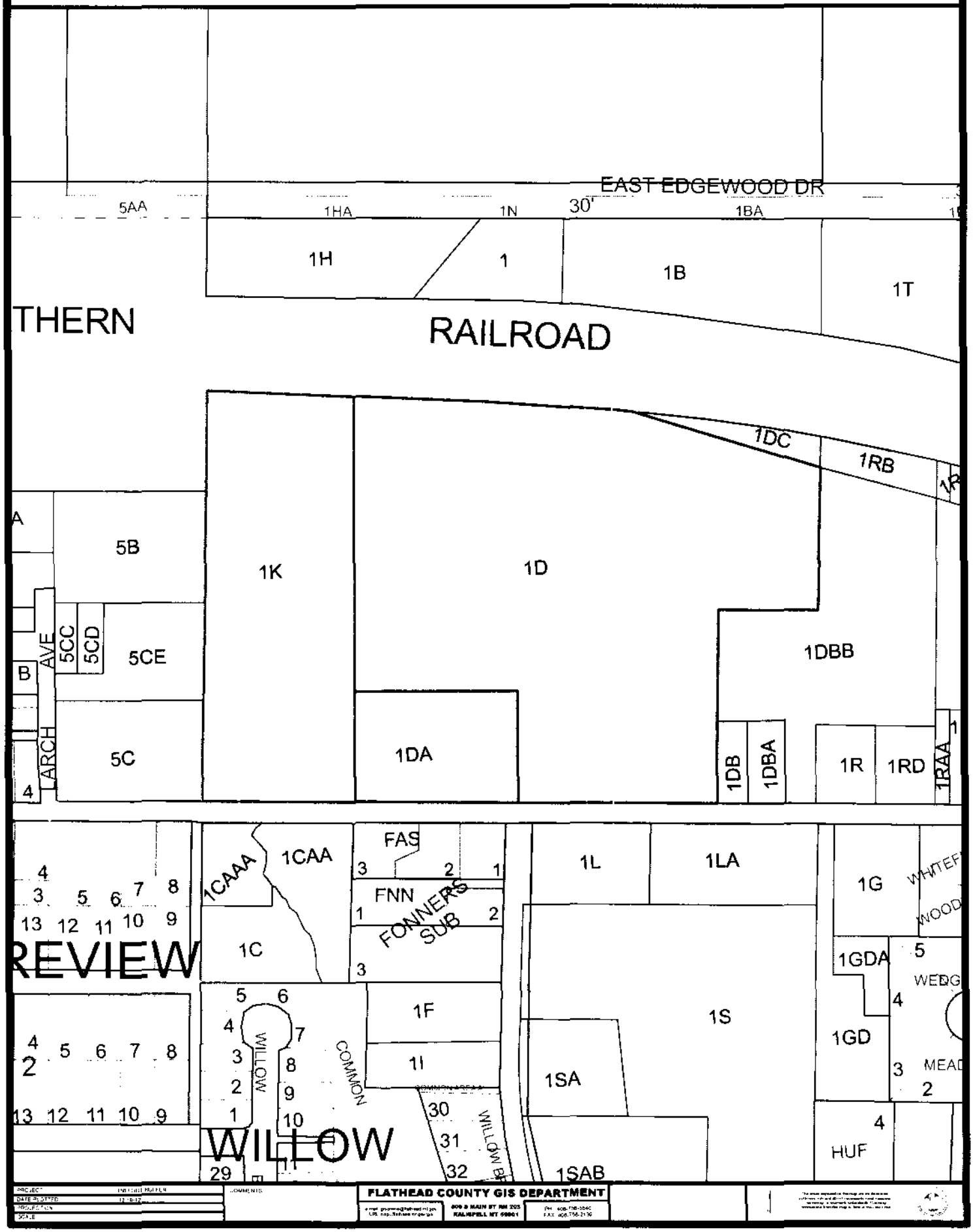
2. A map showing the location and boundaries of the property.

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.

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.

APPROVED 5/6/05 0431051

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 ECTS
5/16 2005 @ 12:17 O'CLOCK $ 12 — .00 PAID
PAULA ROBINSON, CLERK AND RECORDER BY
DEPUTY Kayla Kle
RETURN
DOCUMENT # 2005126 12170

2004191 15360

0362200

APPROVED 7-9-04 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.

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.

Paula Robinson
(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]

```
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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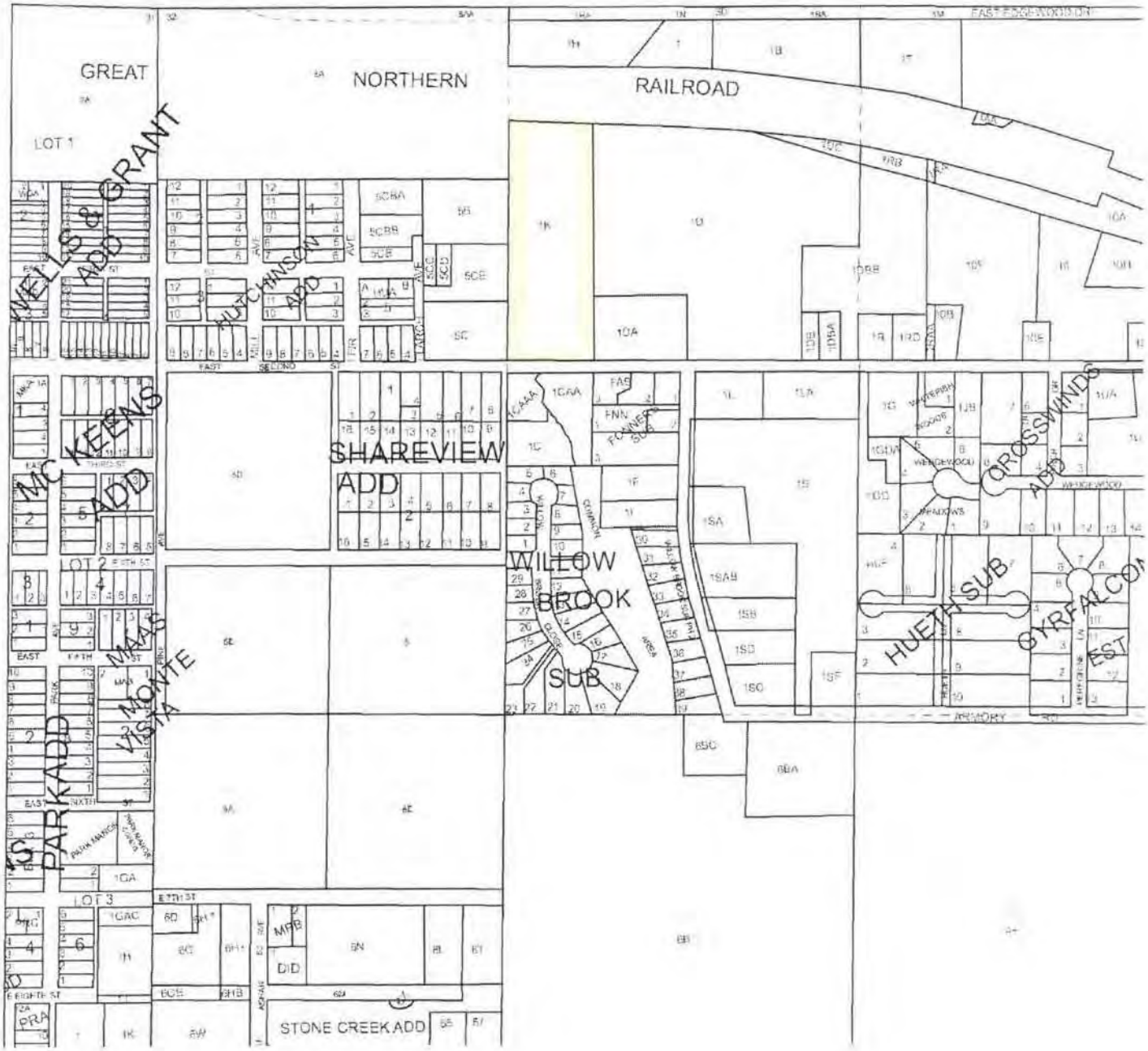
32-31-21
Not to Scale



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]

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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

         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
```

SD	ASSRNO	REC CODE	NAME/ADDRESS/PROPERTY DESCRIPTION CAT COD CATEGORY TYPE	CITY/STATE/ZIP QUANTITY MARKET VALUE TAX RATE TAXABLE VALUE SPEC	TOTAL TAX AMOUNT	TAX BILL 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

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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

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

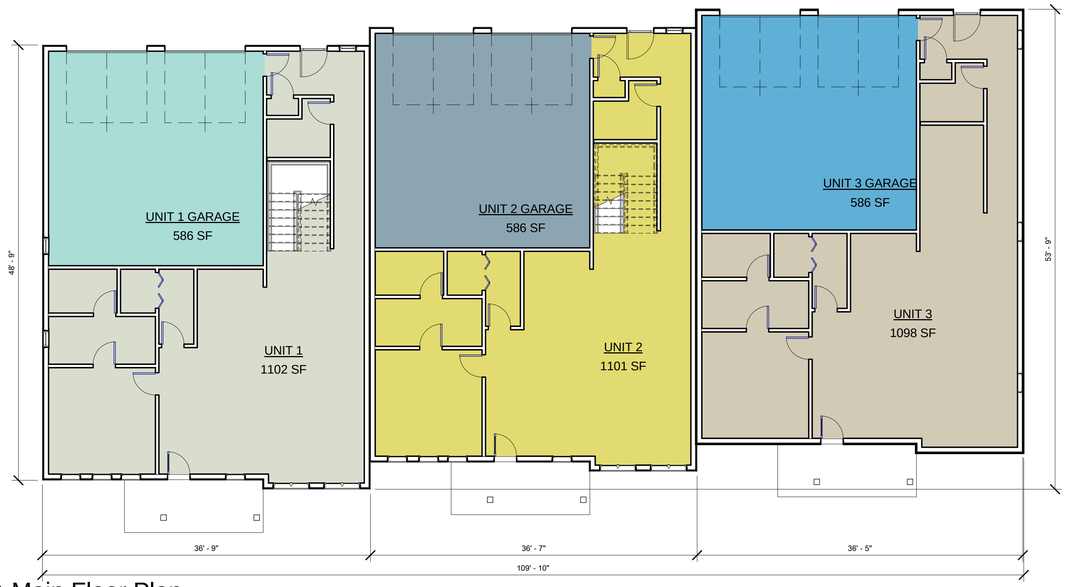
STATE OF MONTANA)
:ss
County of Flathead)

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.

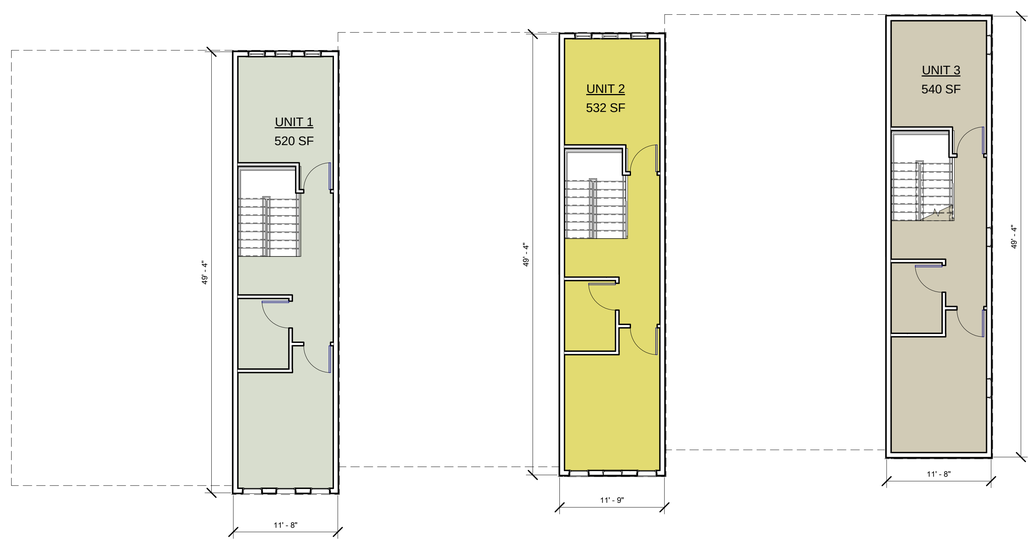
_____
Notary Public for the State of Montana

_____
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

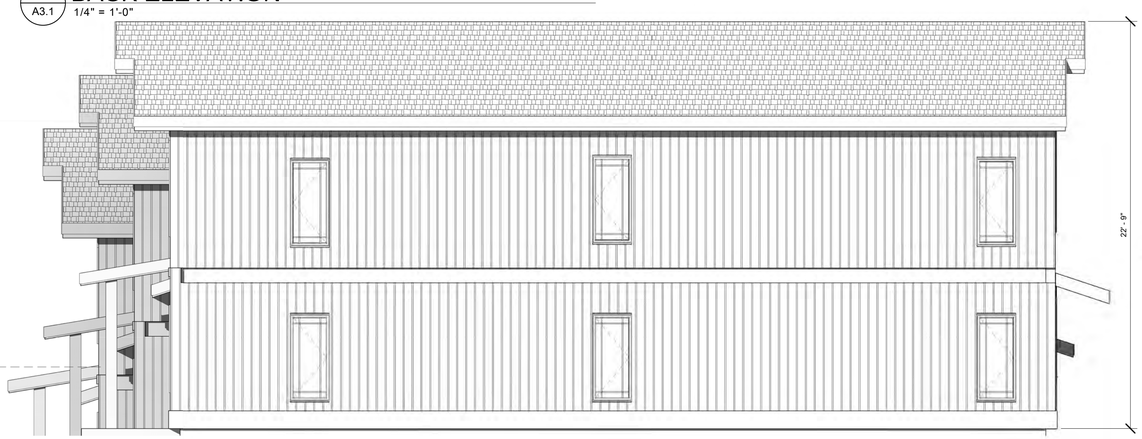
2ND STREET APARTMENTS -
3PLEX CONDO

WHITEFISH, MT

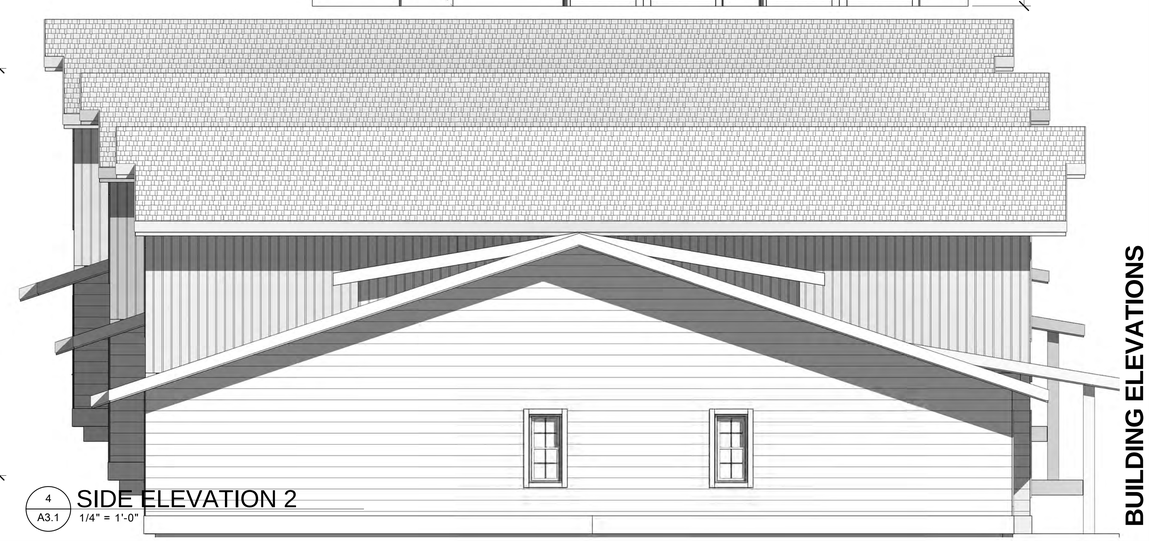
A2.1

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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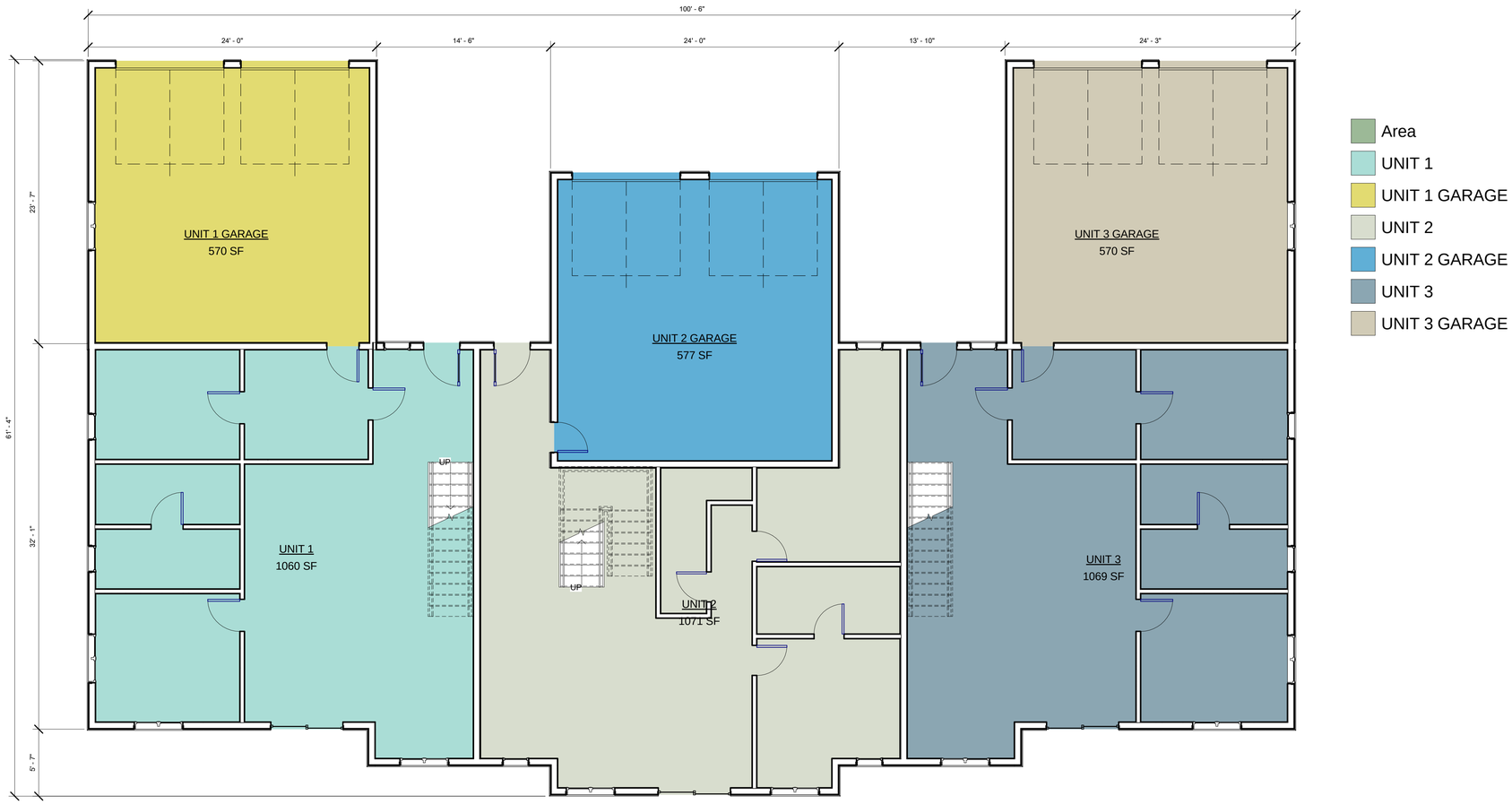
BUILDING ELEVATIONS

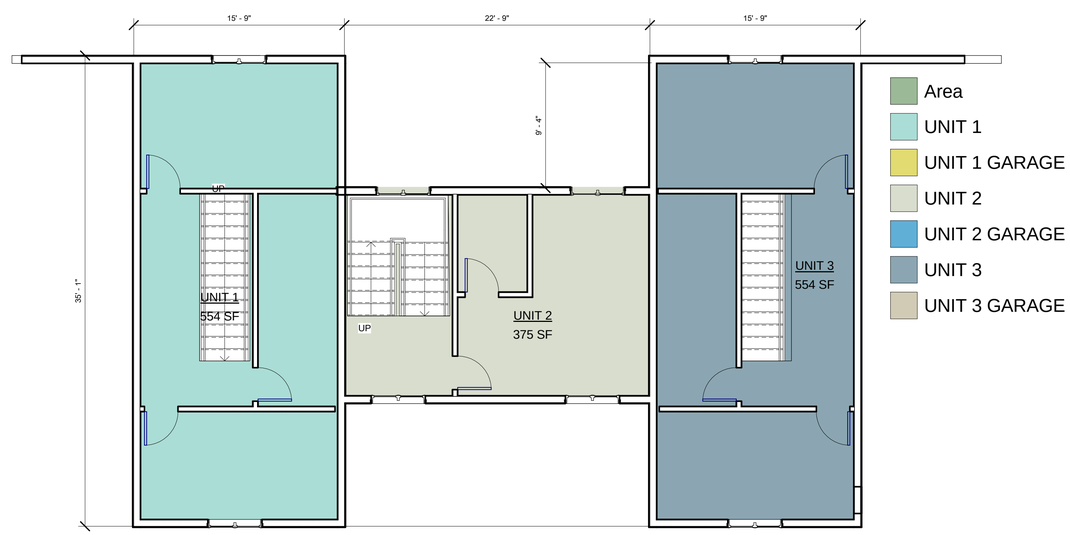
2ND STREET APARTMENTS -
3PLEX CONDO

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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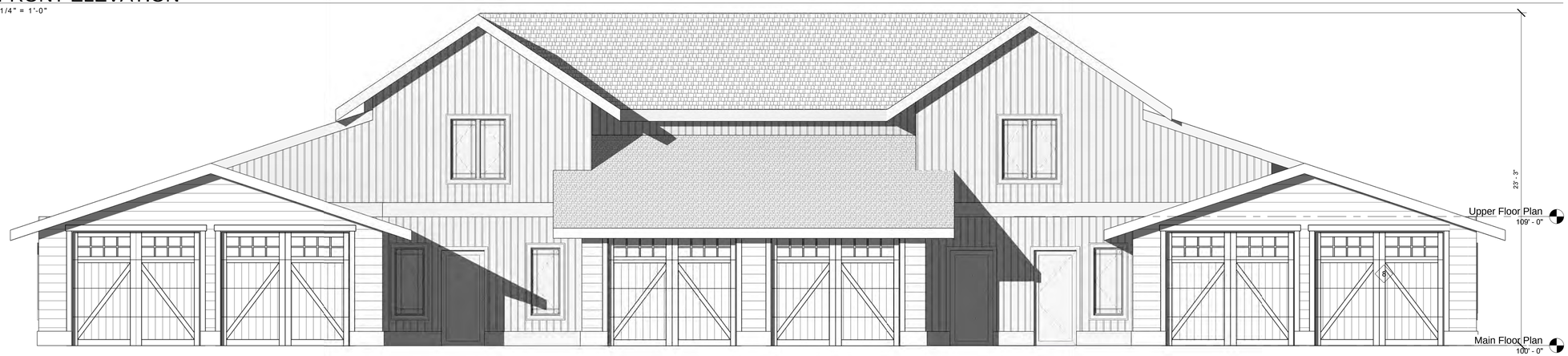
FLOOR PLANS

2ND STREET APARTMENTS - 3 PLEX CONDO VERSION 2

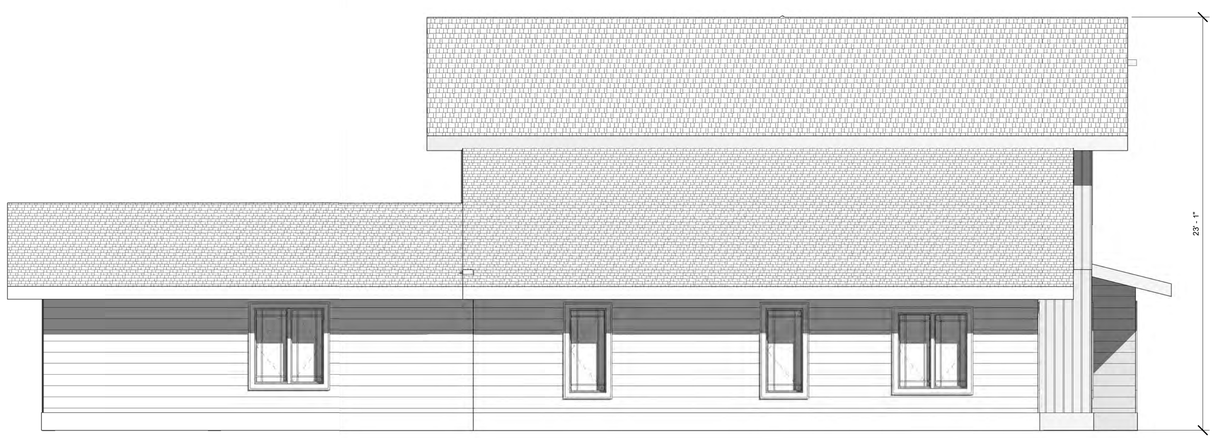
WHITEFISH, MT

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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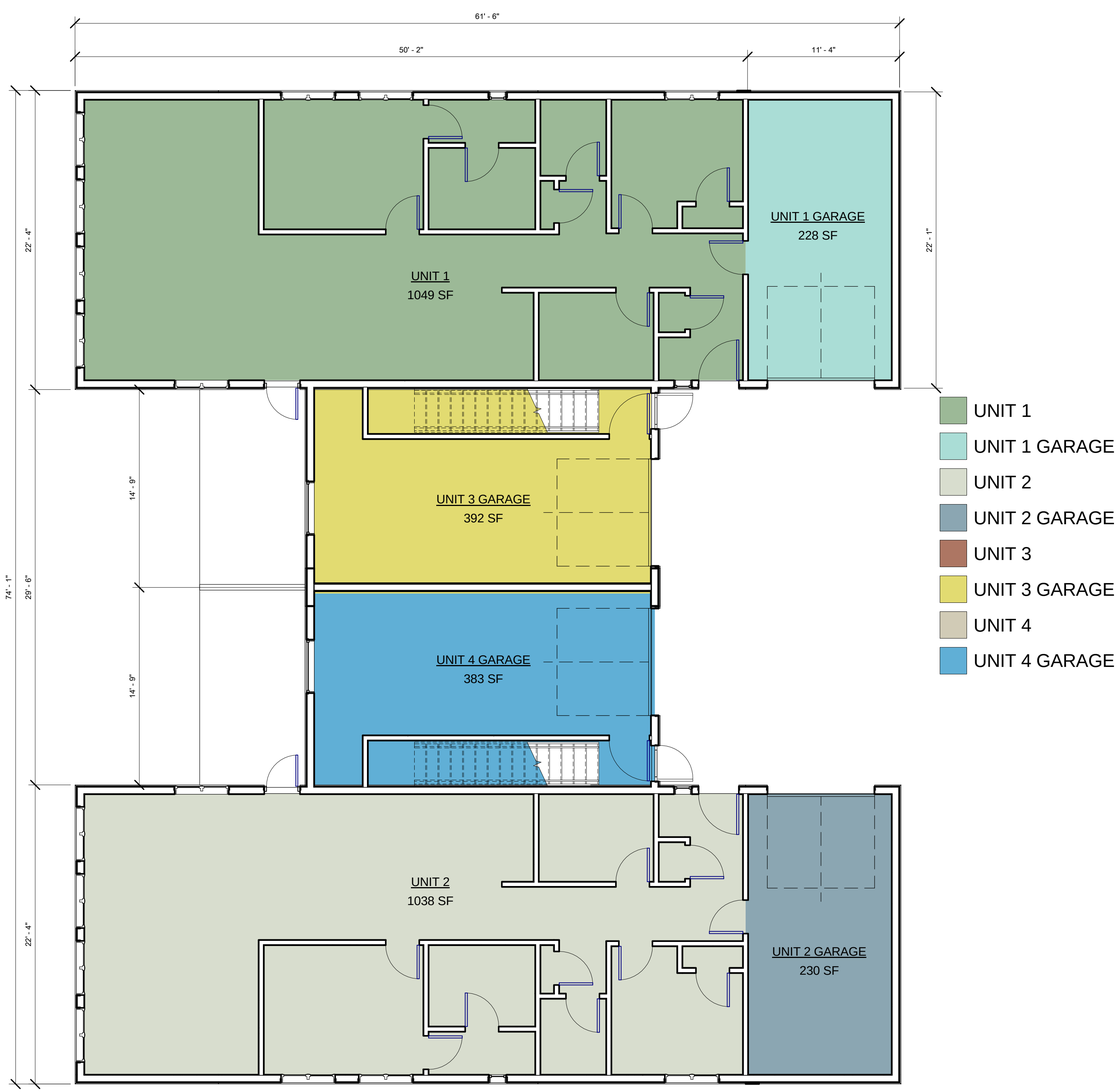
BUILDING ELEVATIONS

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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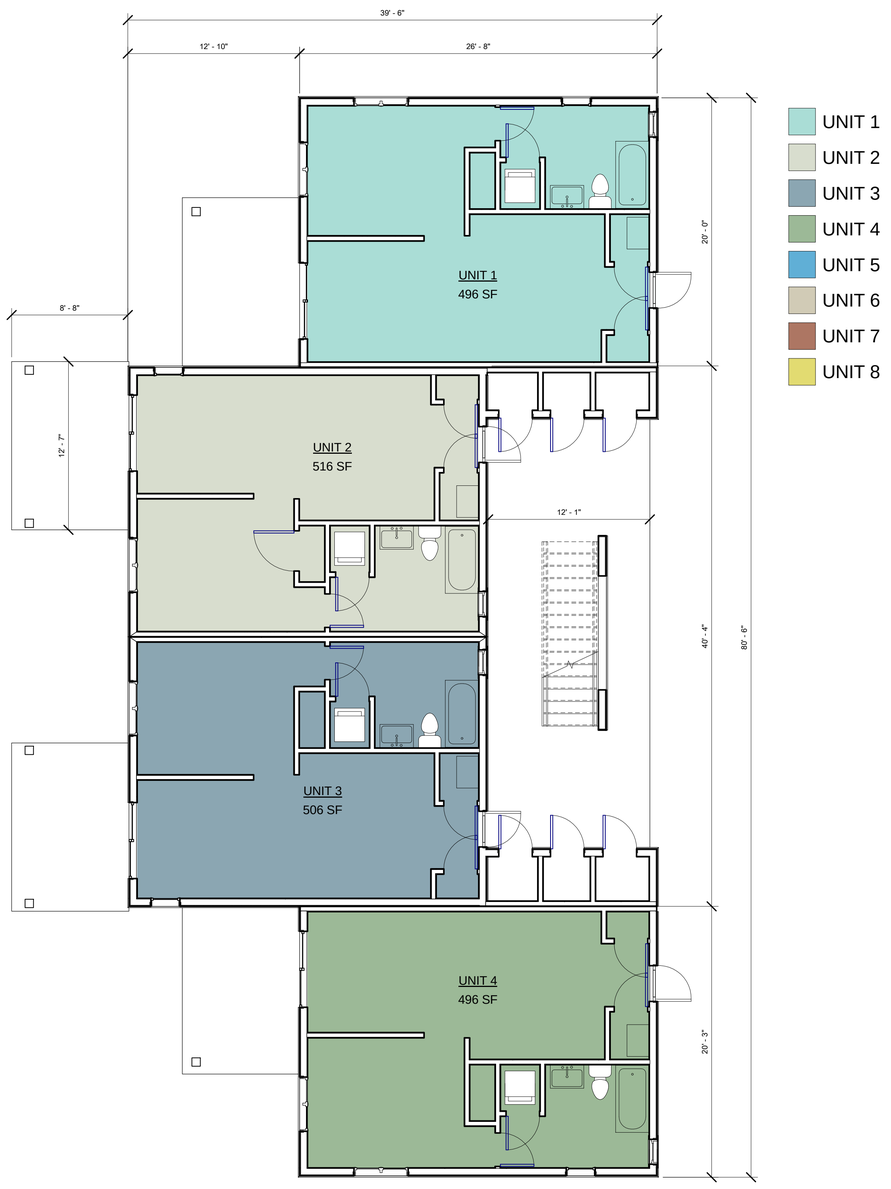
BUILDING ELEVATIONS

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"

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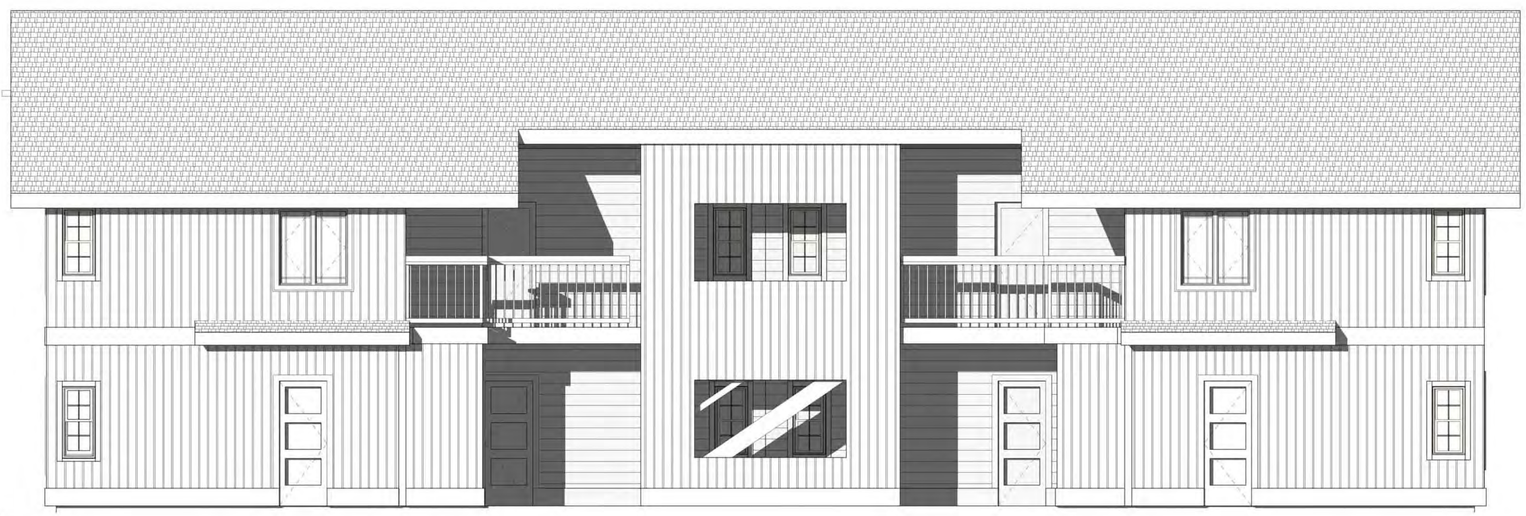
2ND STREET APARTMENTS - 8 PLEX

WHITEFHIS, MT

FLOOR PLANS

A2.1

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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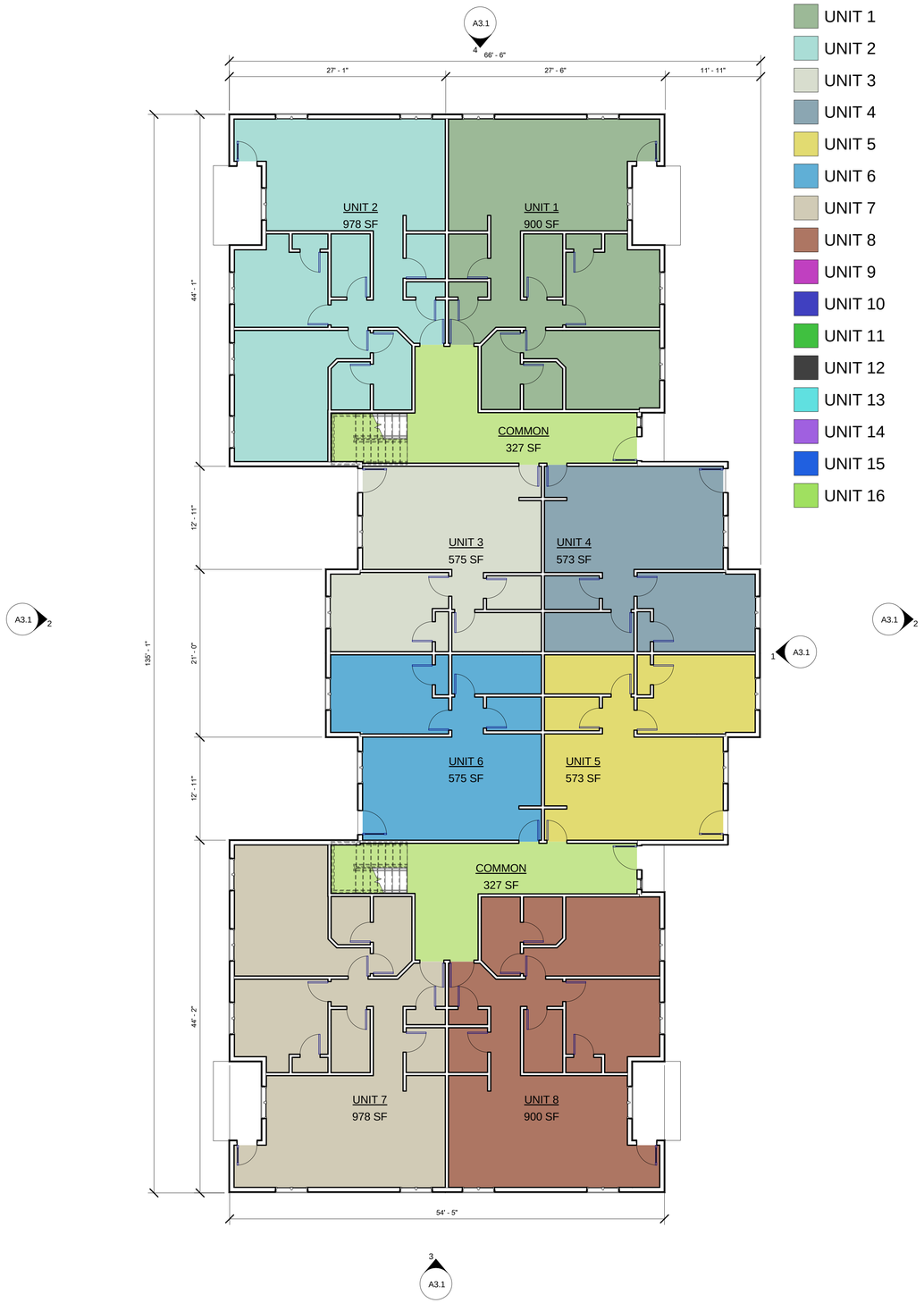
2ND STREET APARTMENTS - 8 PLEX

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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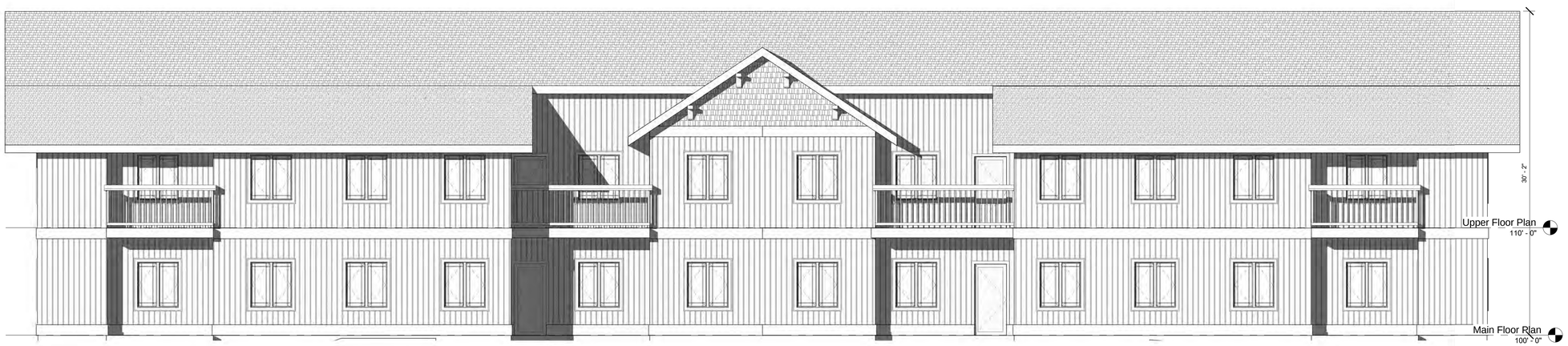
2nd Street Apartments - 16 PLEX

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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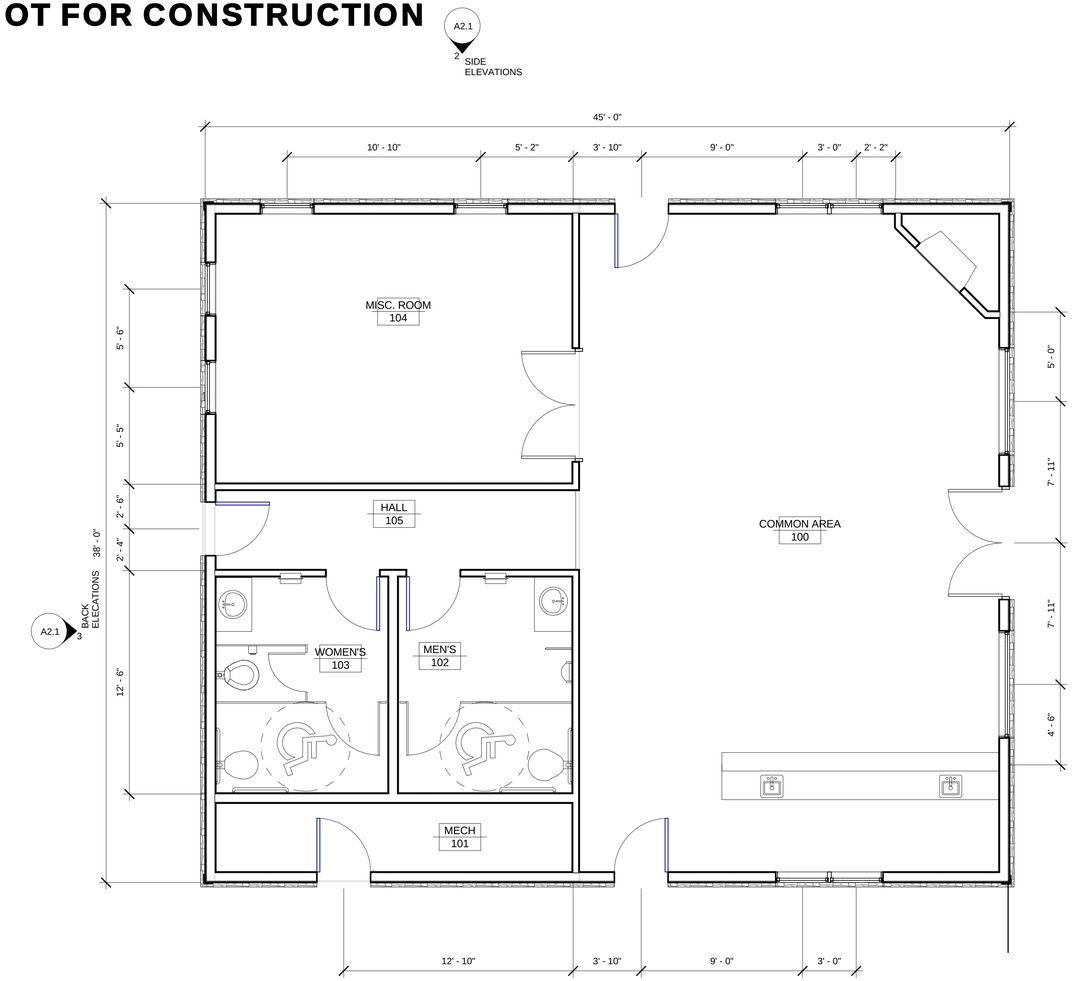
2nd Street Apartments - 16 PLEX

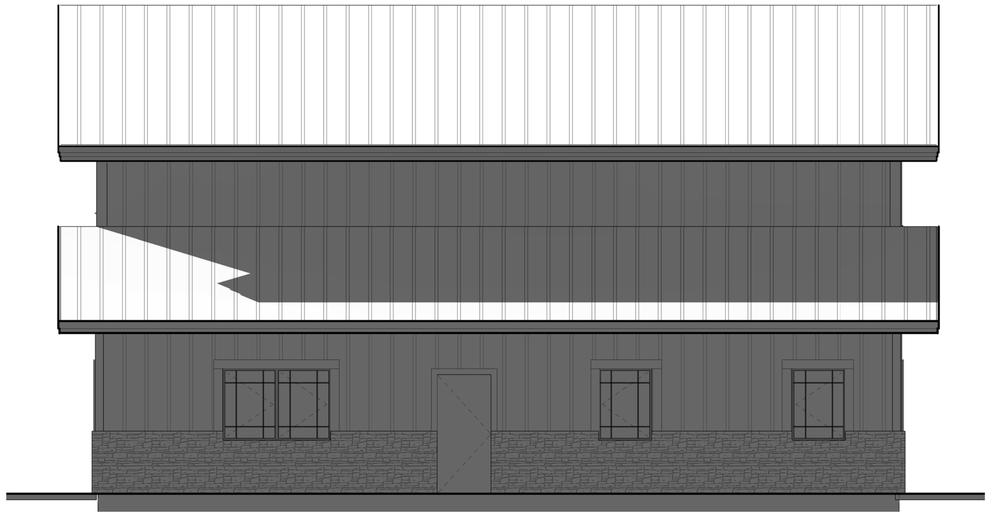
WHITEFISH, MT

A3.1

NOT FOR CONSTRUCTION

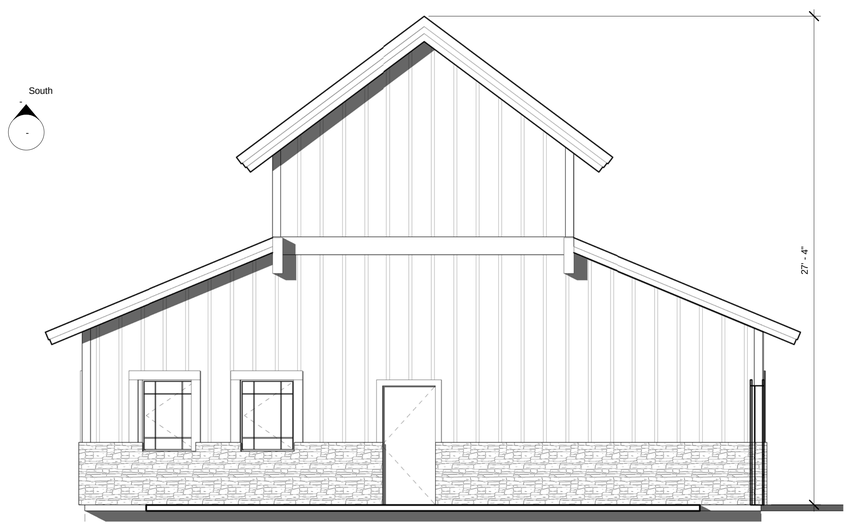


1 A2.1 FLOOR PLAN
1/4" = 1'-0"

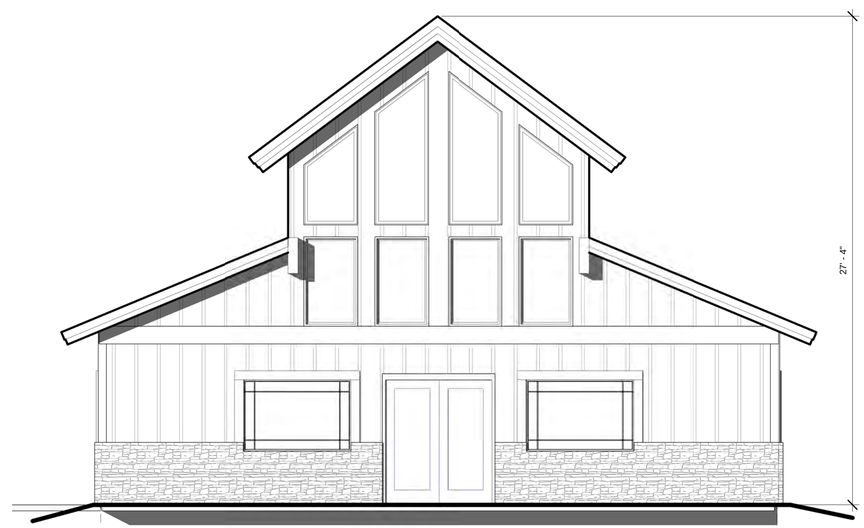


2 A2.1 SIDE ELEVATIONS
1/4" = 1'-0"

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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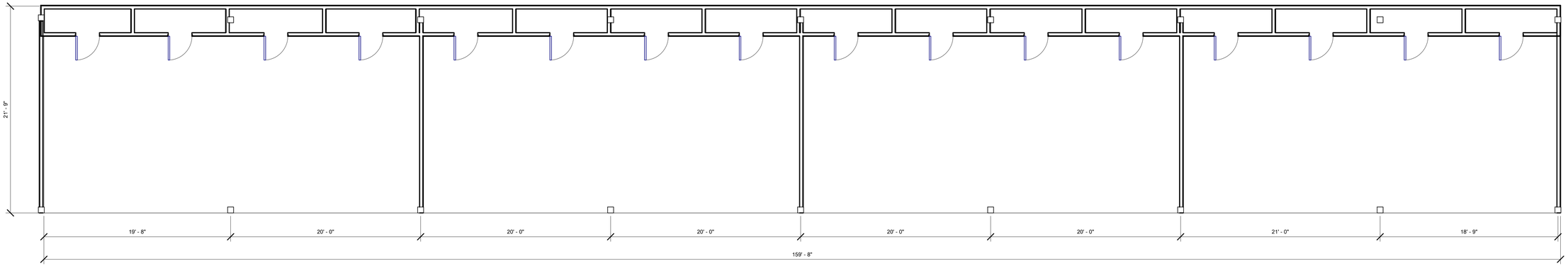
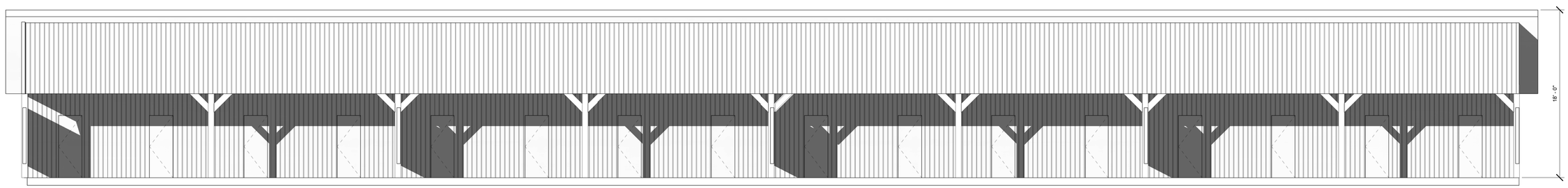
2ND STREET APARTMENTS - CLUBHOUSE

WHITEFISH, MONTANA

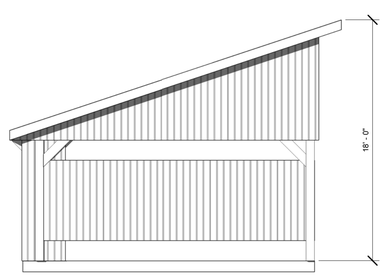
A2.1



1 / A2.1 FLOOR PLAN
3/16" = 1'-0"



2 / A2.1 FRONT ELEVATION
3/16" = 1'-0"



3 / A2.1 SIDE ELEVATION
3/16" = 1'-0"

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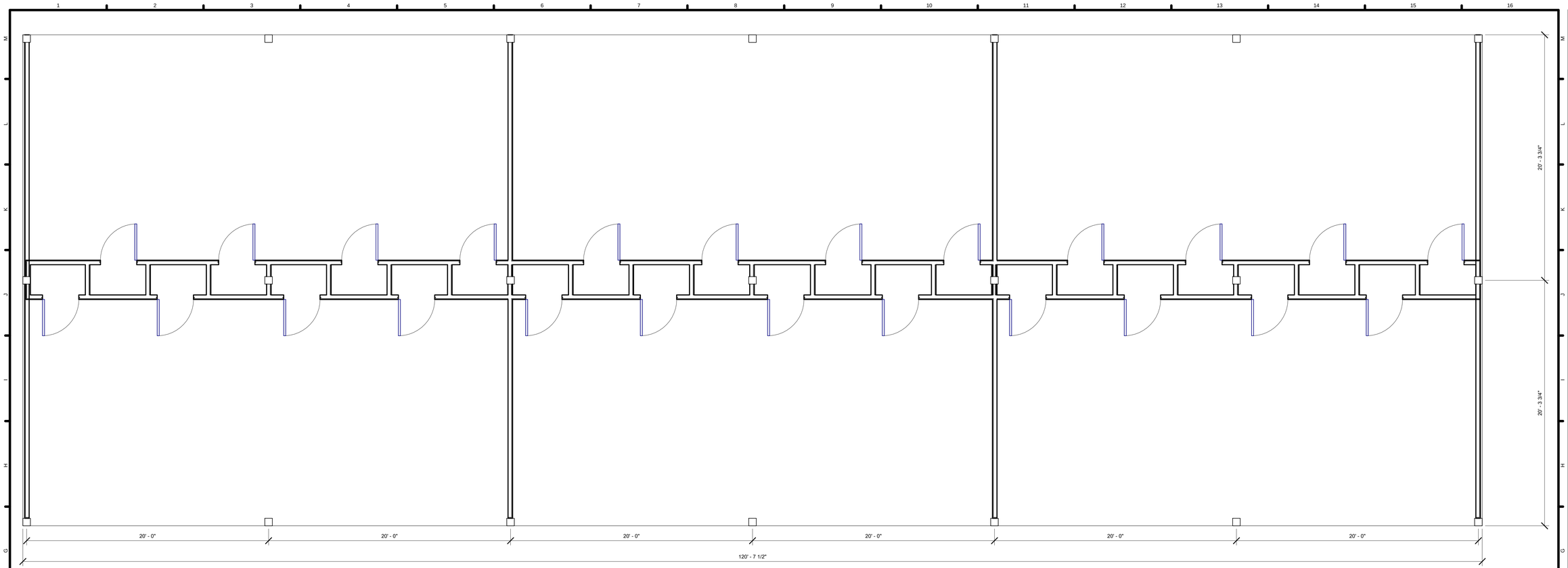
PLANS AND ELEVATIONS

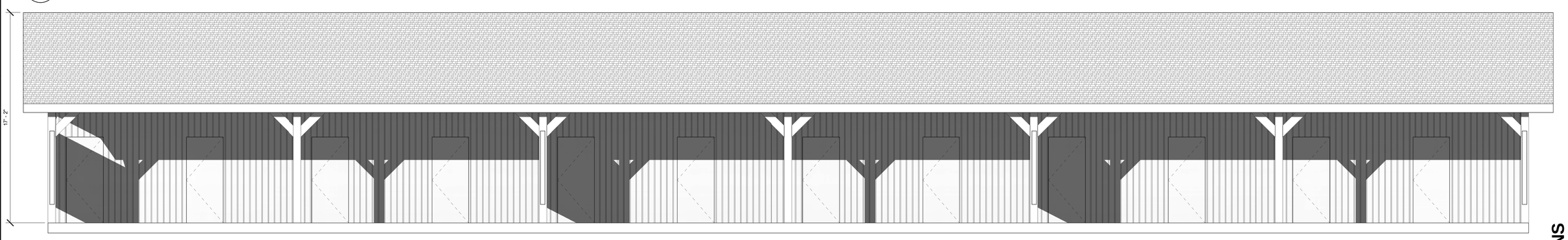
2ND STREET APARTMENTS - 16 UNIT CARPORT

WHITEFISH, MT

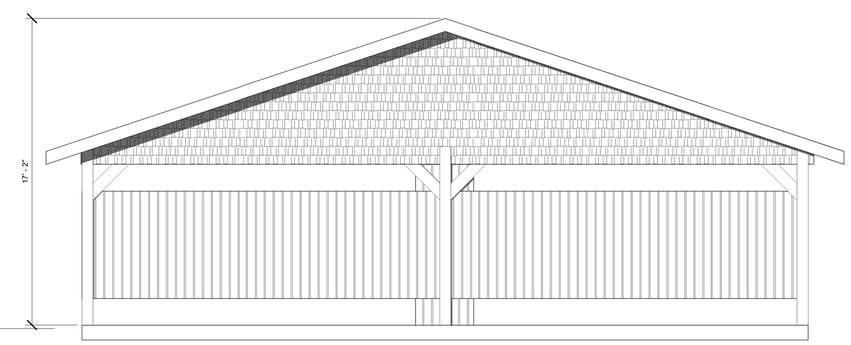
A2.1



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"

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
Checked By:	AJW
Revisions:	

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FLOOR PLAN AND ELEVATIONS

2ND STREET APARTMENTS - 24 UNIT CARPORT

WHTIECISH, MT

A2.1

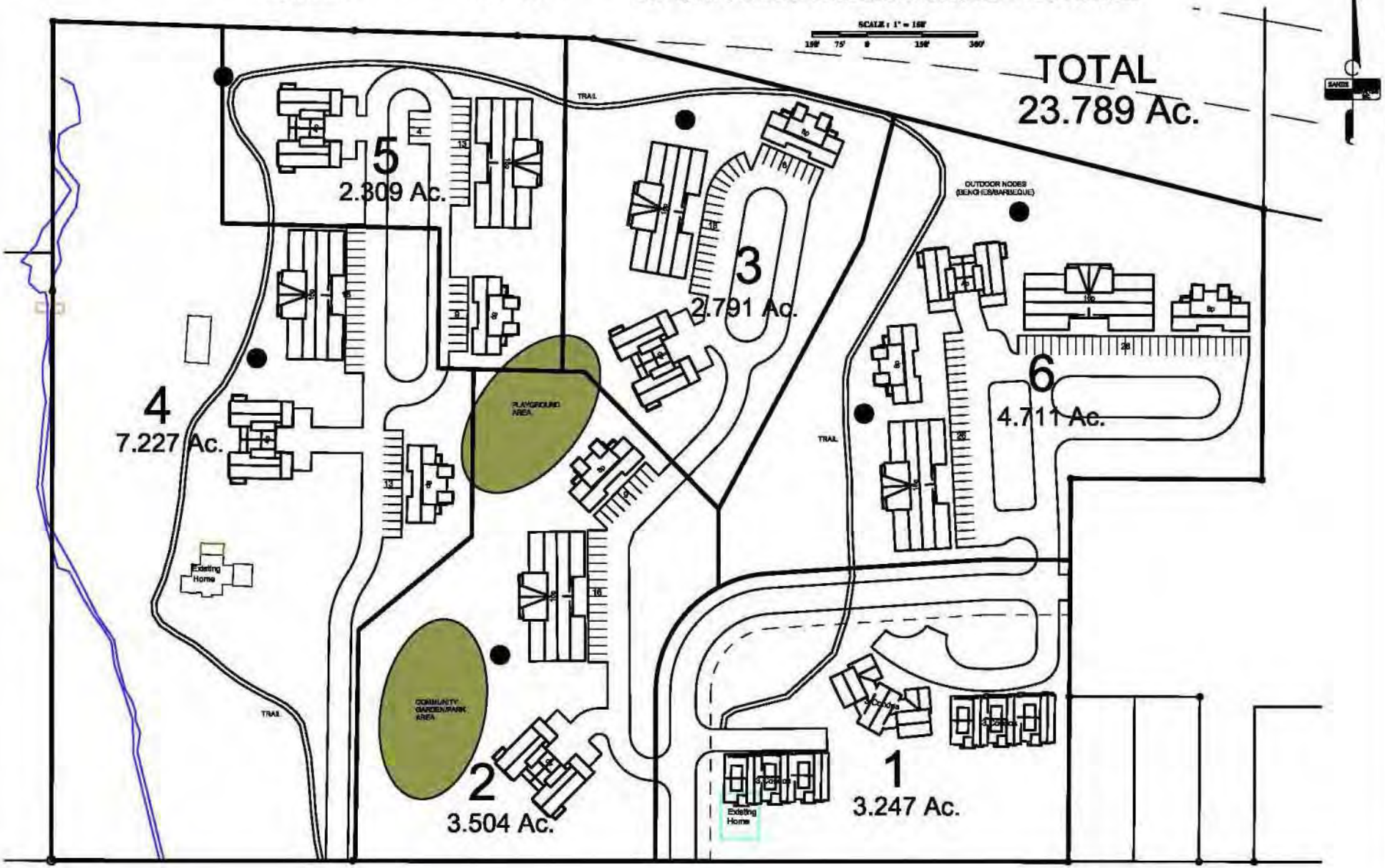
By: SANDS SURVEYING, Inc.
2 Village Loop
Kalispell, MT 59901
(406) 755-6481

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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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 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.

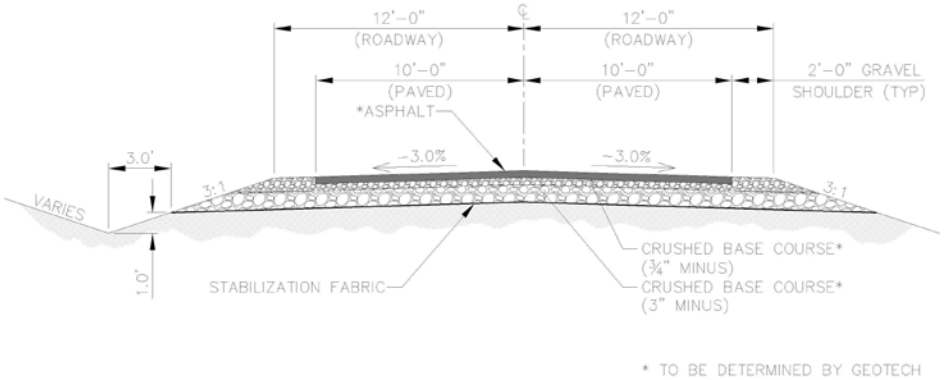
4.5 Down-Gradient Analysis

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.

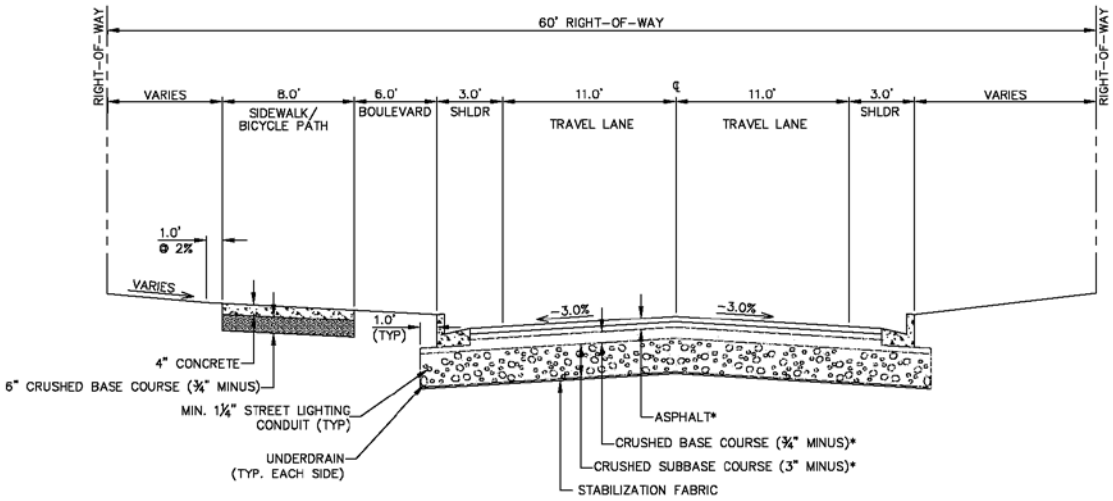
5.1 Streets

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

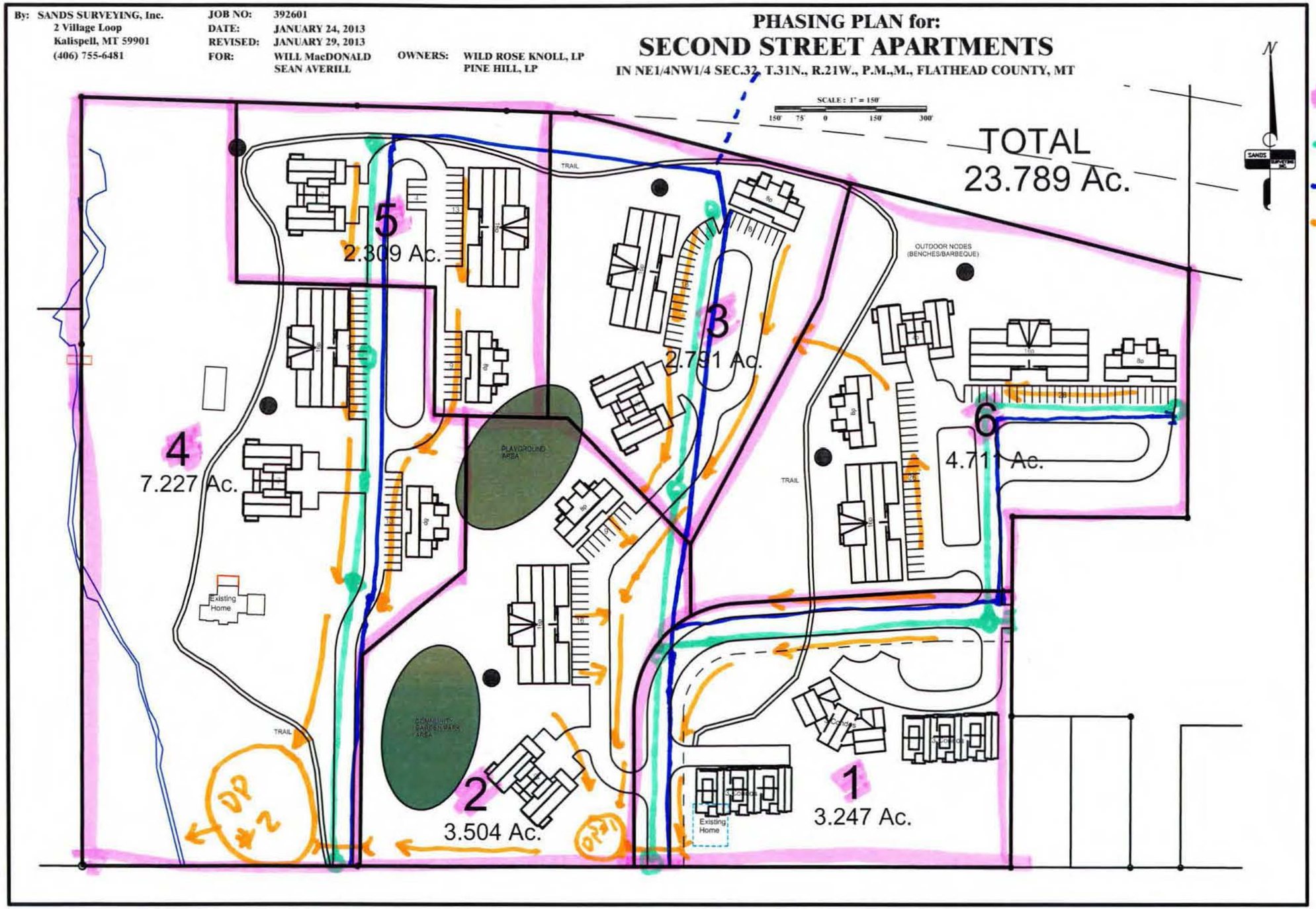
By: SANDS SURVEYING, Inc.
2 Village Loop
Kalispell, MT 59901
(406) 755-6481

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

114° 19' 27"

114° 18' 46"

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.

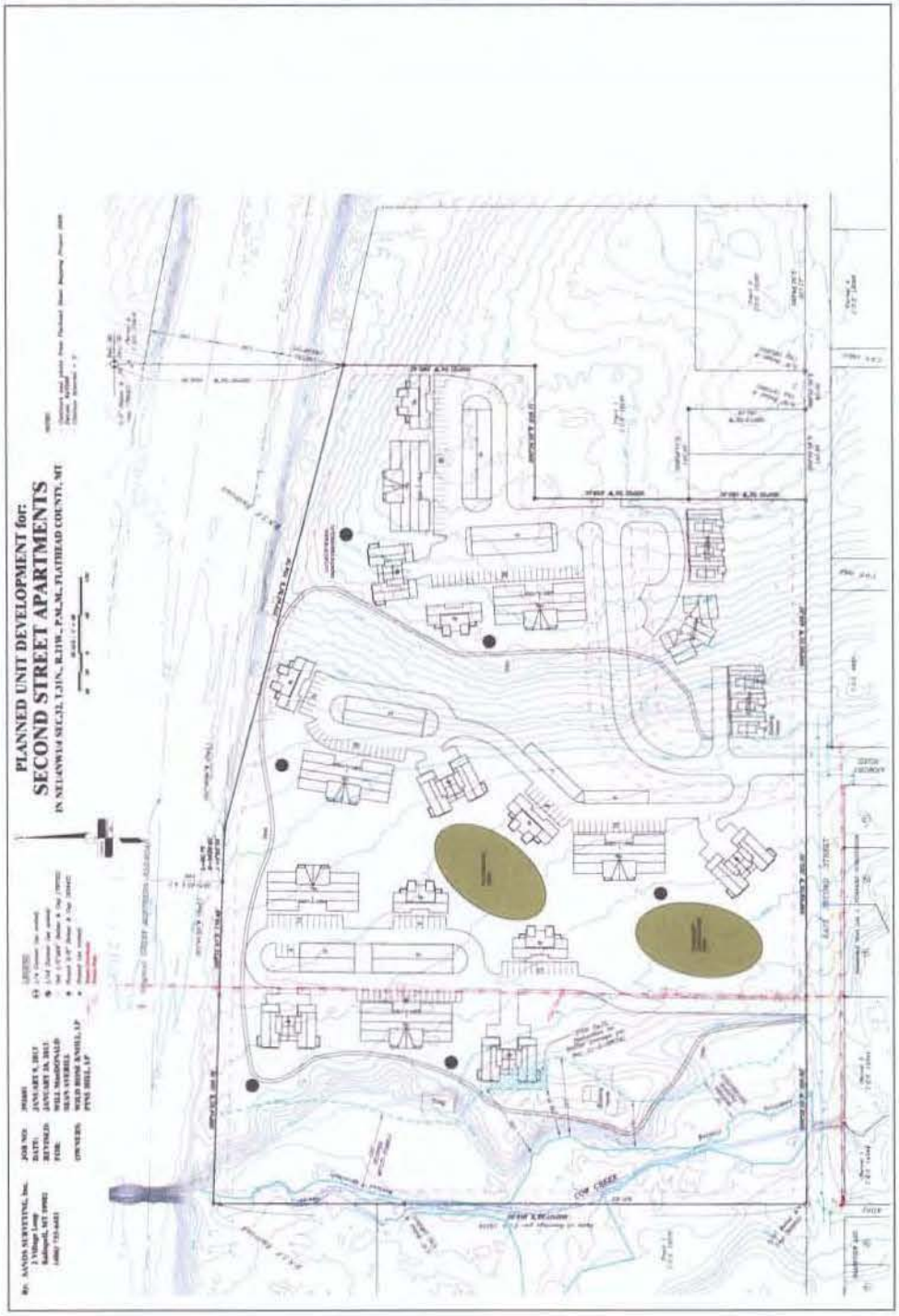
The eastern end of Second Street was identified in the *Whitefish Transportation Plan* as an area of high potential growth and may carry large volumes of traffic by 2030. The construction of high-density residential units in this area is consistent with the anticipated growth patterns.

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**.

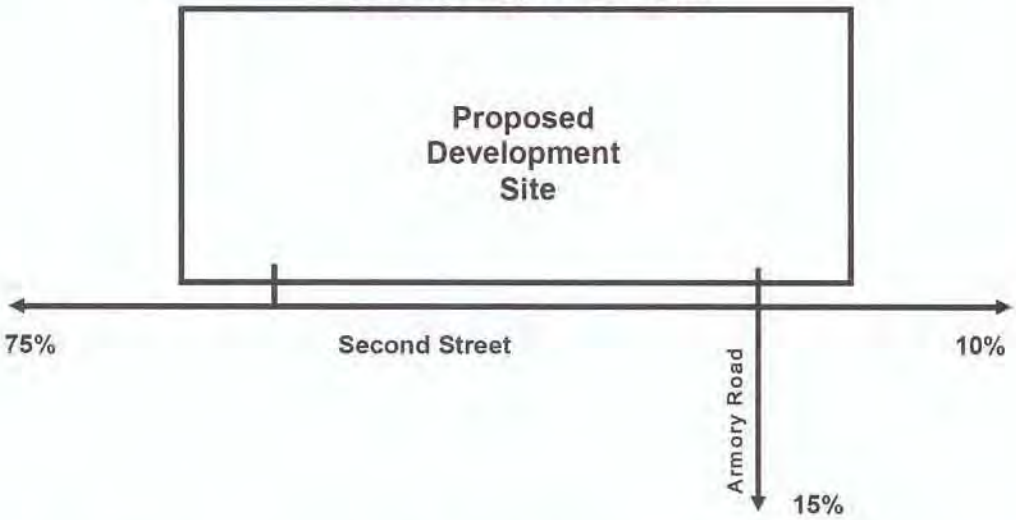
Table 3 - Trip Generation Rates

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

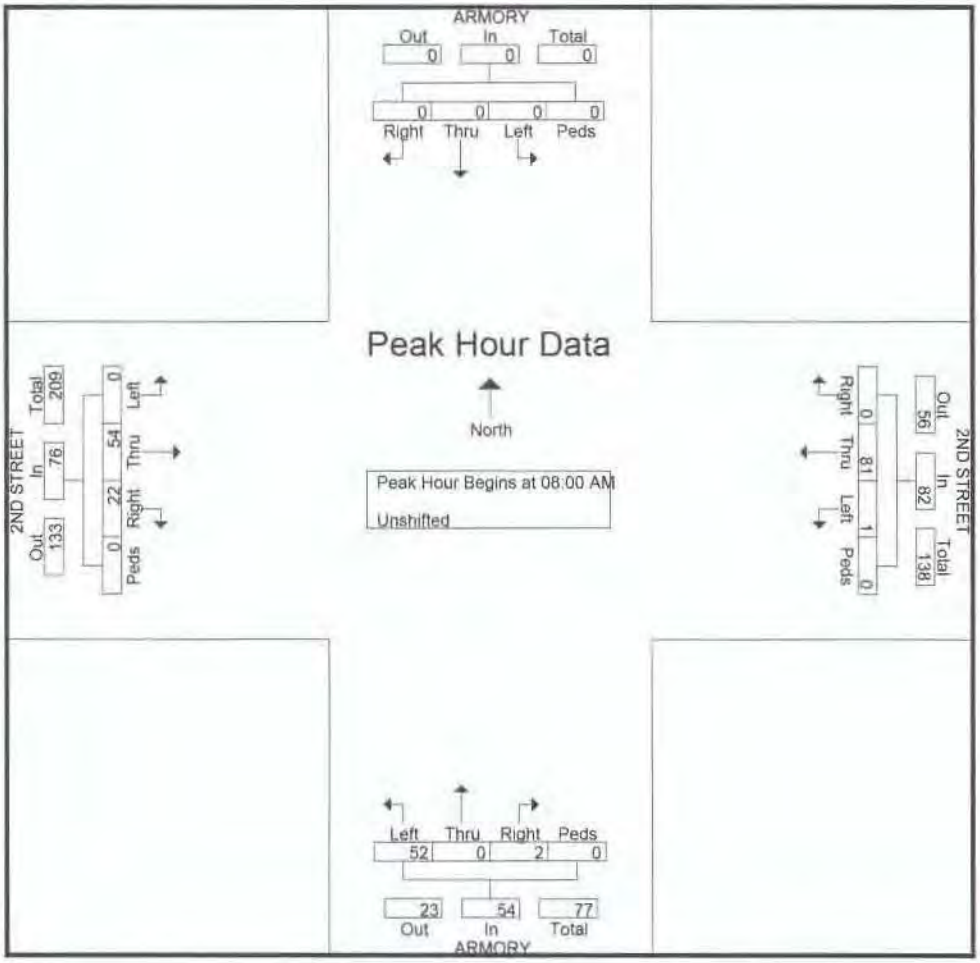
	Sun	Mon	Tue	Wed	Thu	Fri	Sat
DW Totals :	0	0	853	867	0	0	0
# Days :	0.0	0.0	0.3	0.7	0.0	0.0	0.0
ADT :	0	0	2559	1301	0	0	0
Percent :	0%	0%	50%	50%	0%	0%	0%

	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

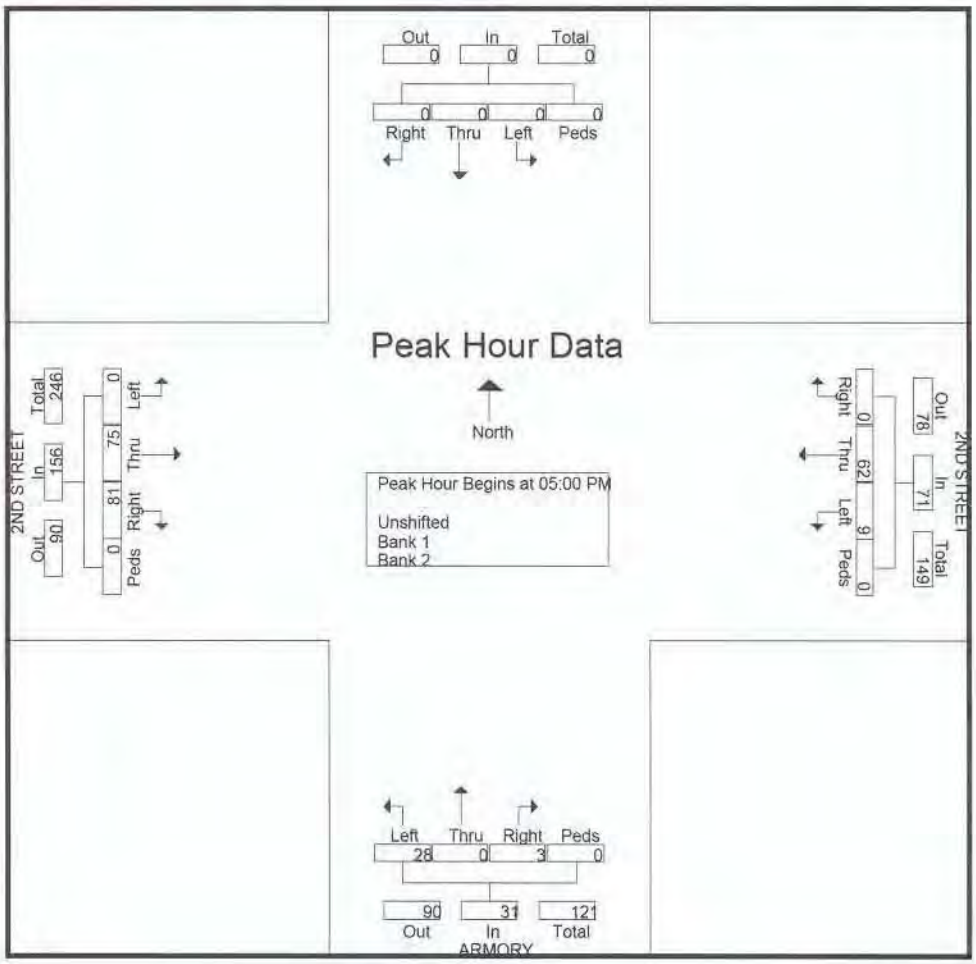


Abelin Traffic Services
130 S. Howie Street
Helena, MT 59601

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

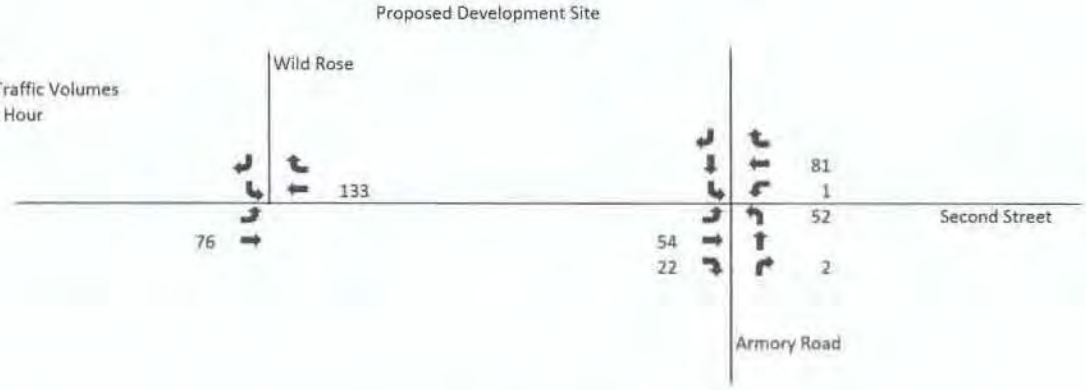


APPENDIX B

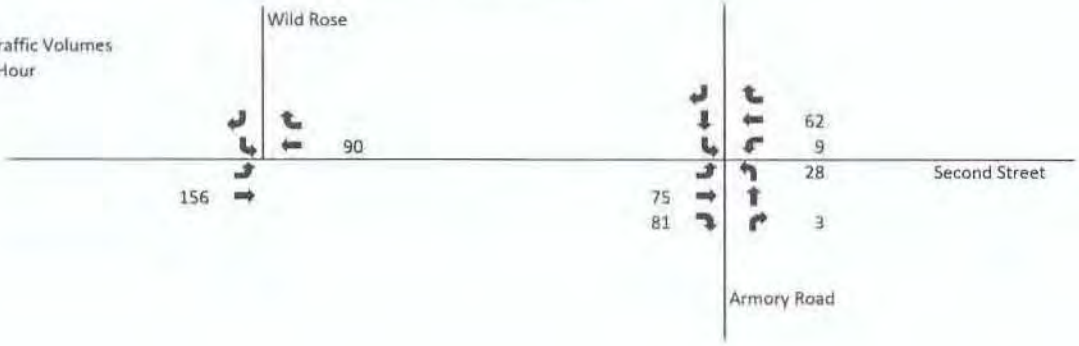
Traffic Model

Second Street Apartments
Whitefish Montana
Traffic Impact Study

Existing Traffic Volumes
AM Peak Hour



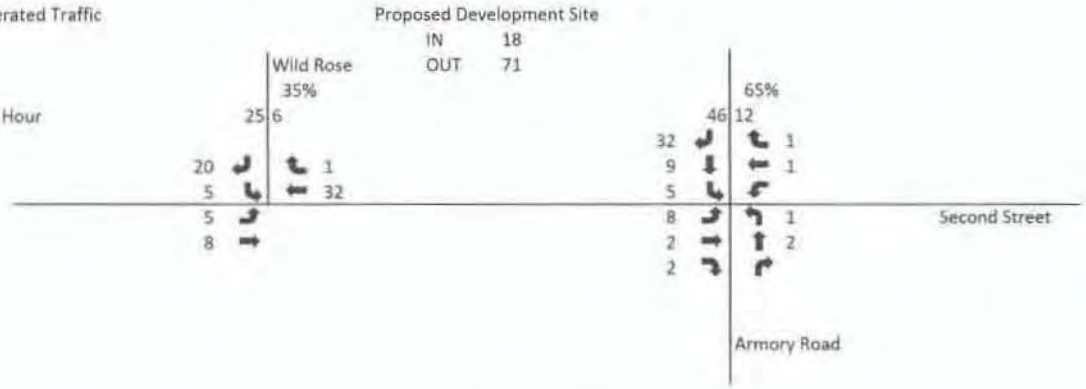
Existing Traffic Volumes
PM Peak Hour



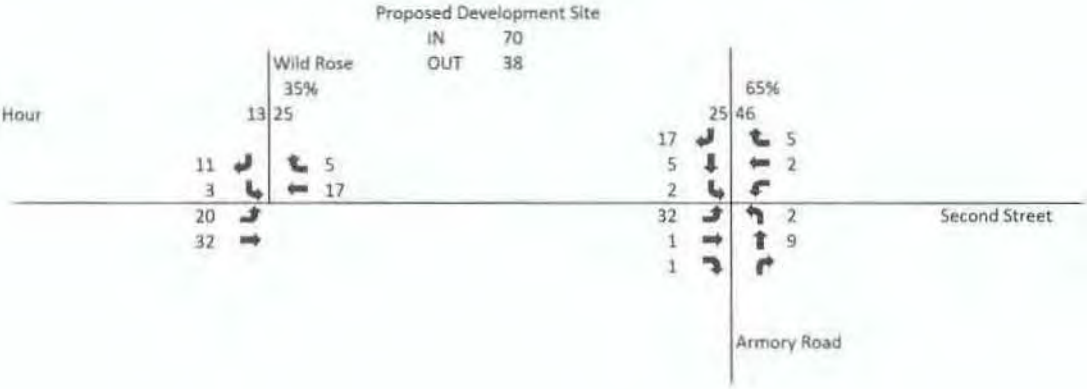
Second Street Apartments
Whitefish Montana
Traffic Impact Study

Site Generated Traffic

Model
AM Peak Hour



Model
PM Peak Hour

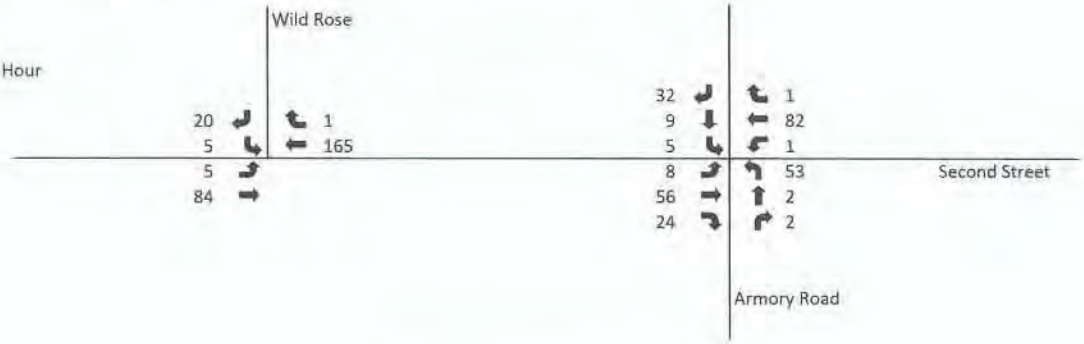


Second Street Apartments
Whitefish Montana
Traffic Impact Study

Total Traffic with Whitefish Apartments

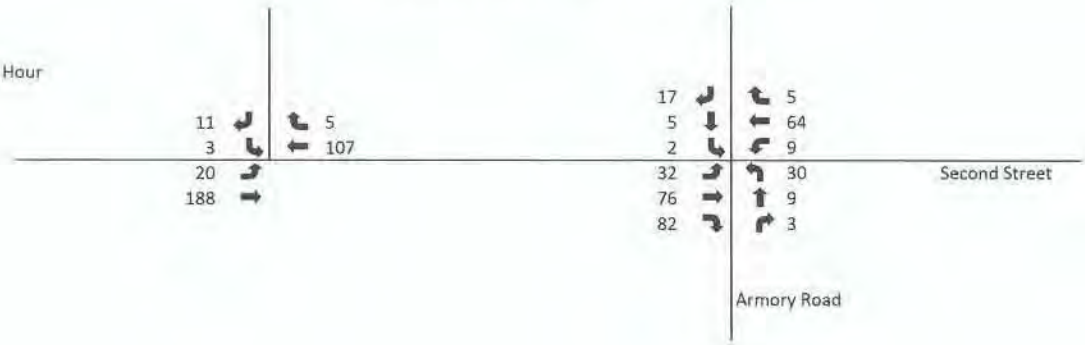
Proposed Development Site

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

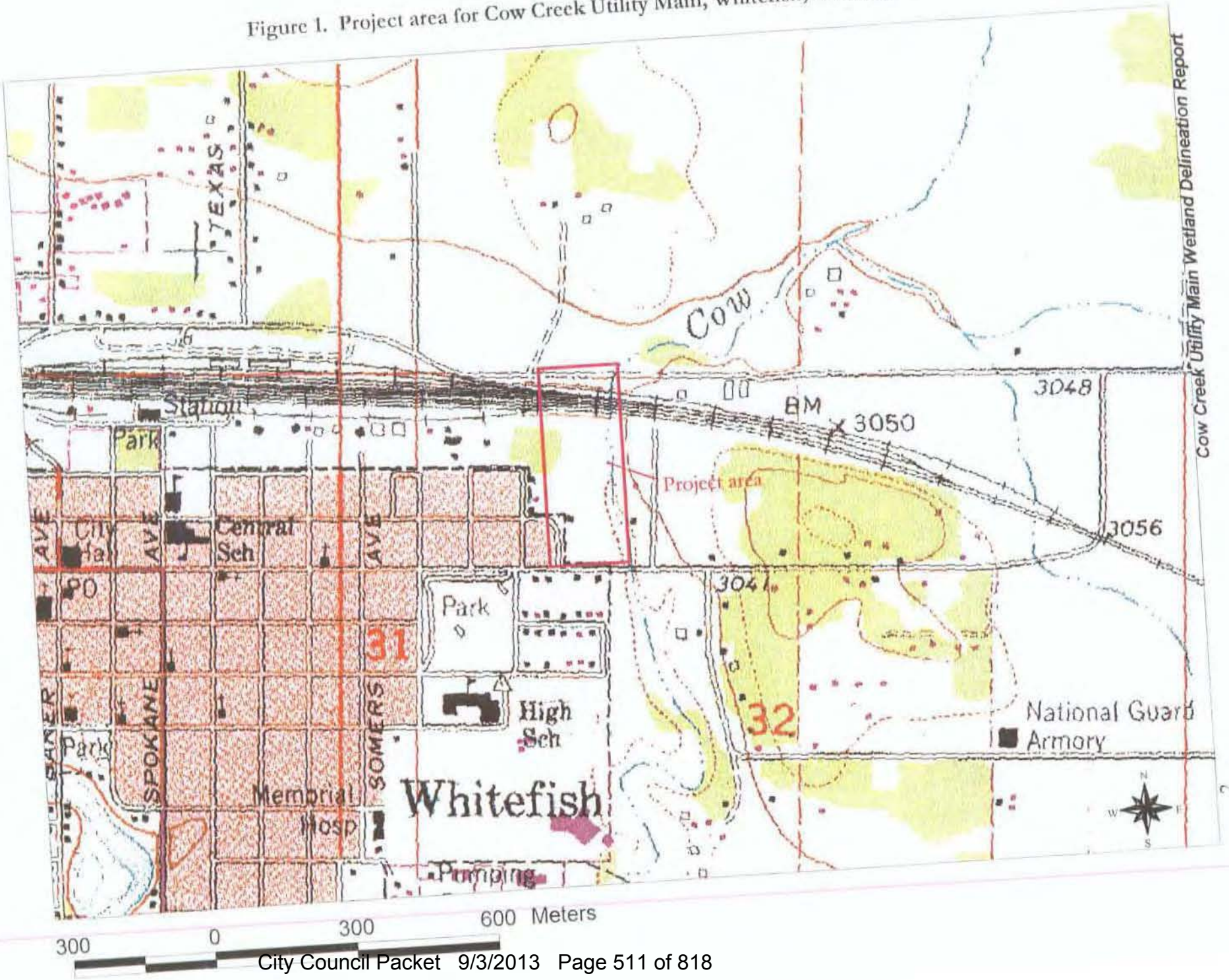
Whitefish, MT

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

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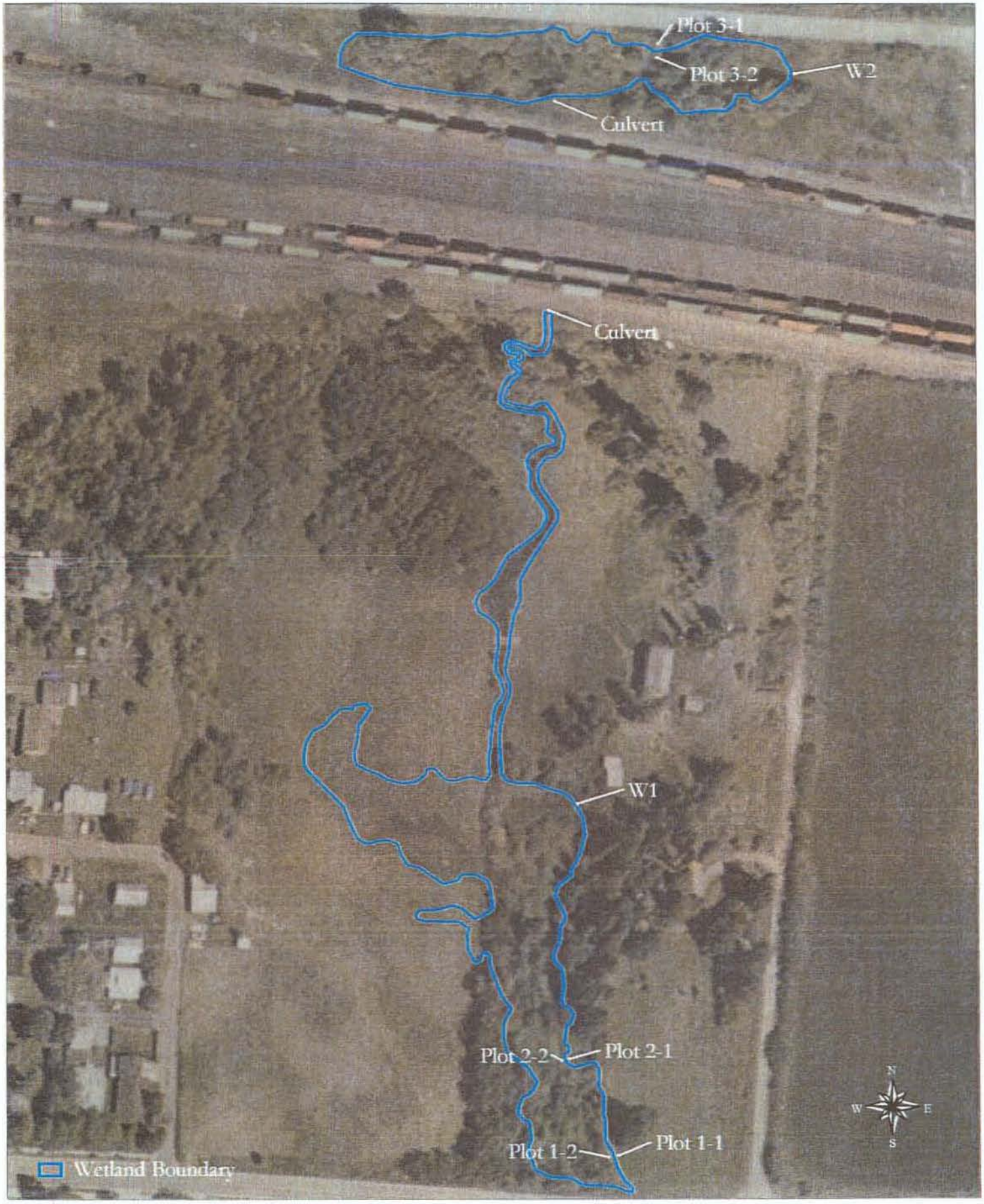
Appendix A. Wetland Delineation for Cow Creek Sewer Project, Whitefish, Montana, June 7, 2007.



30 0 30 60 Meters

Appendix B
Photos

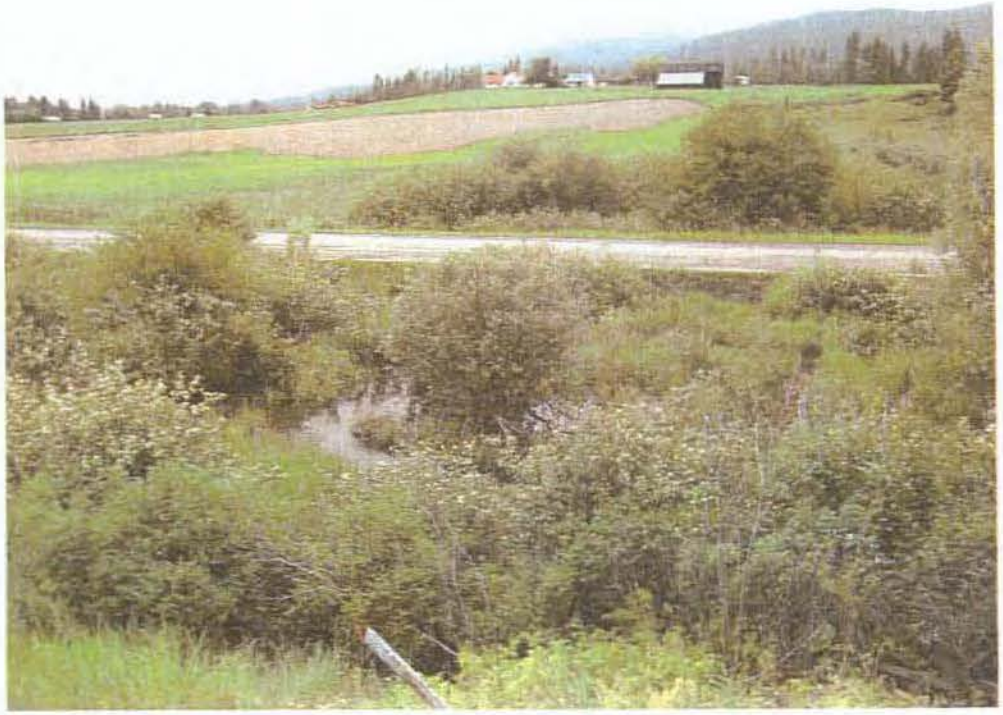
Plots 1-1 and 1-2 (W1).

Plots 2-1 and 2-2 (W1).

Plots 3-1 and 3-2 (W2).

W1: Interior herbaceous wetland with
Typha latifolia, *Carex stricta* 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	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 ☐ 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

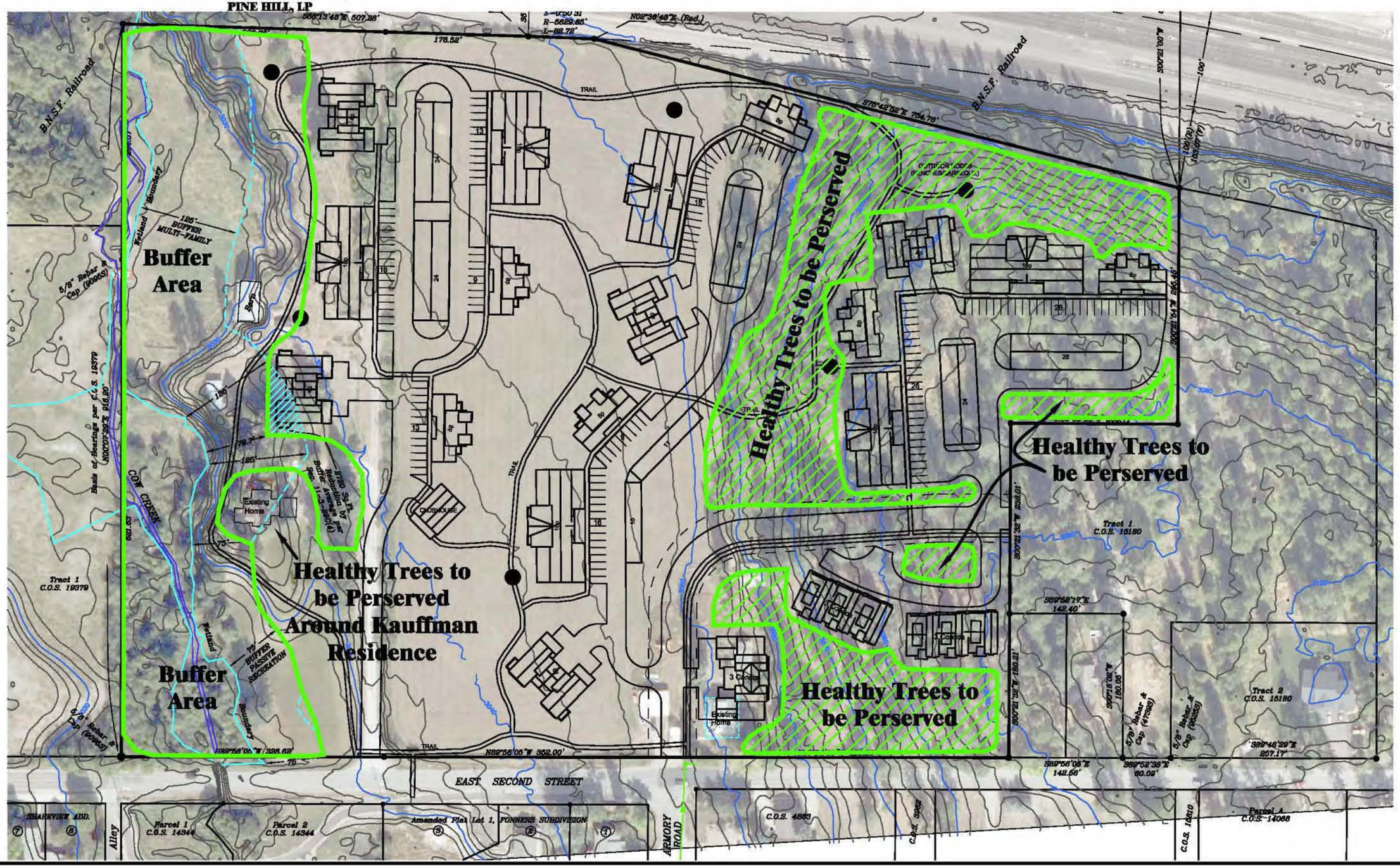
TREE PRESERVATION PLAN for:
SECOND STREET APARTMENTS

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

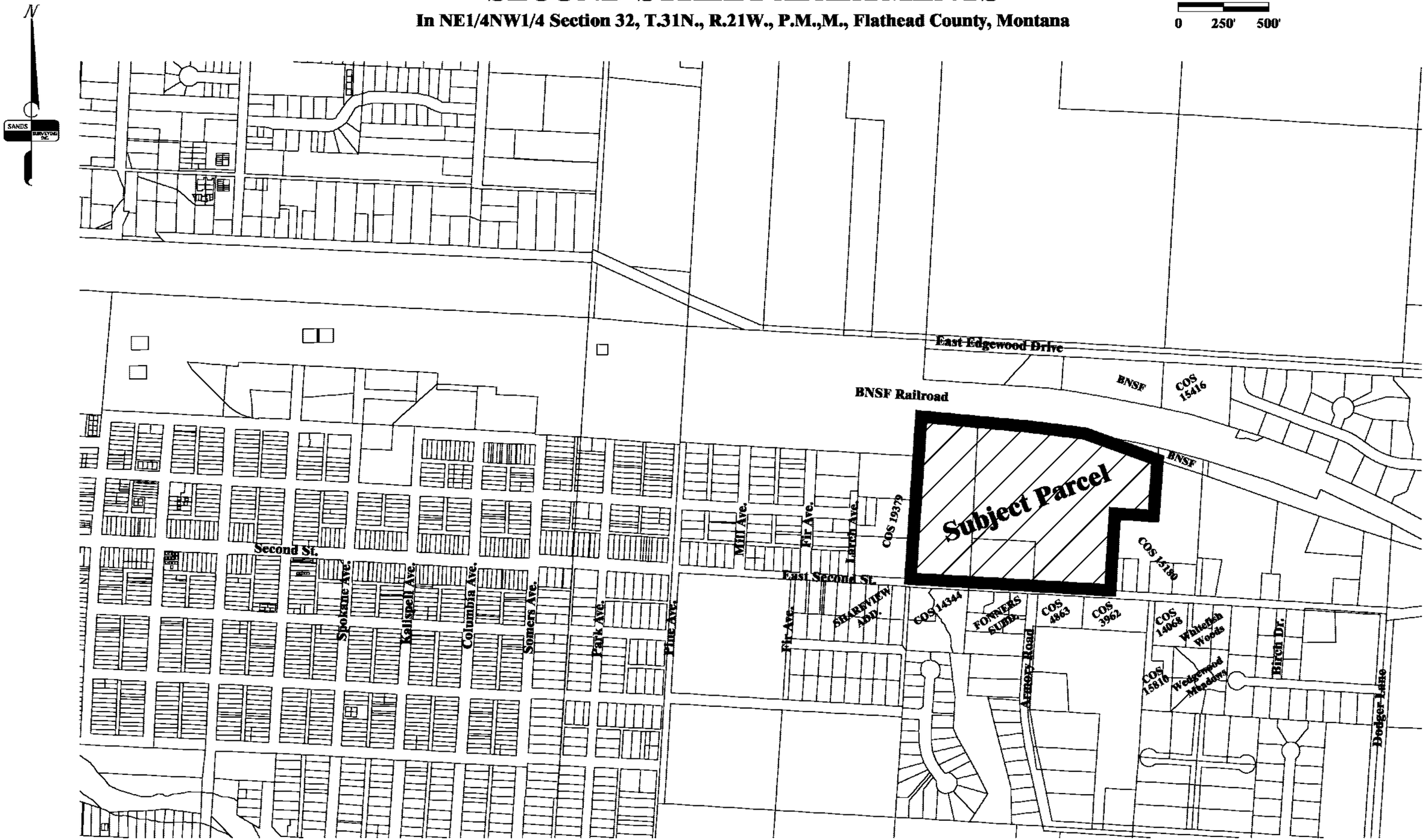


Vicinity Map for:
SECOND STREET APARTMENTS

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

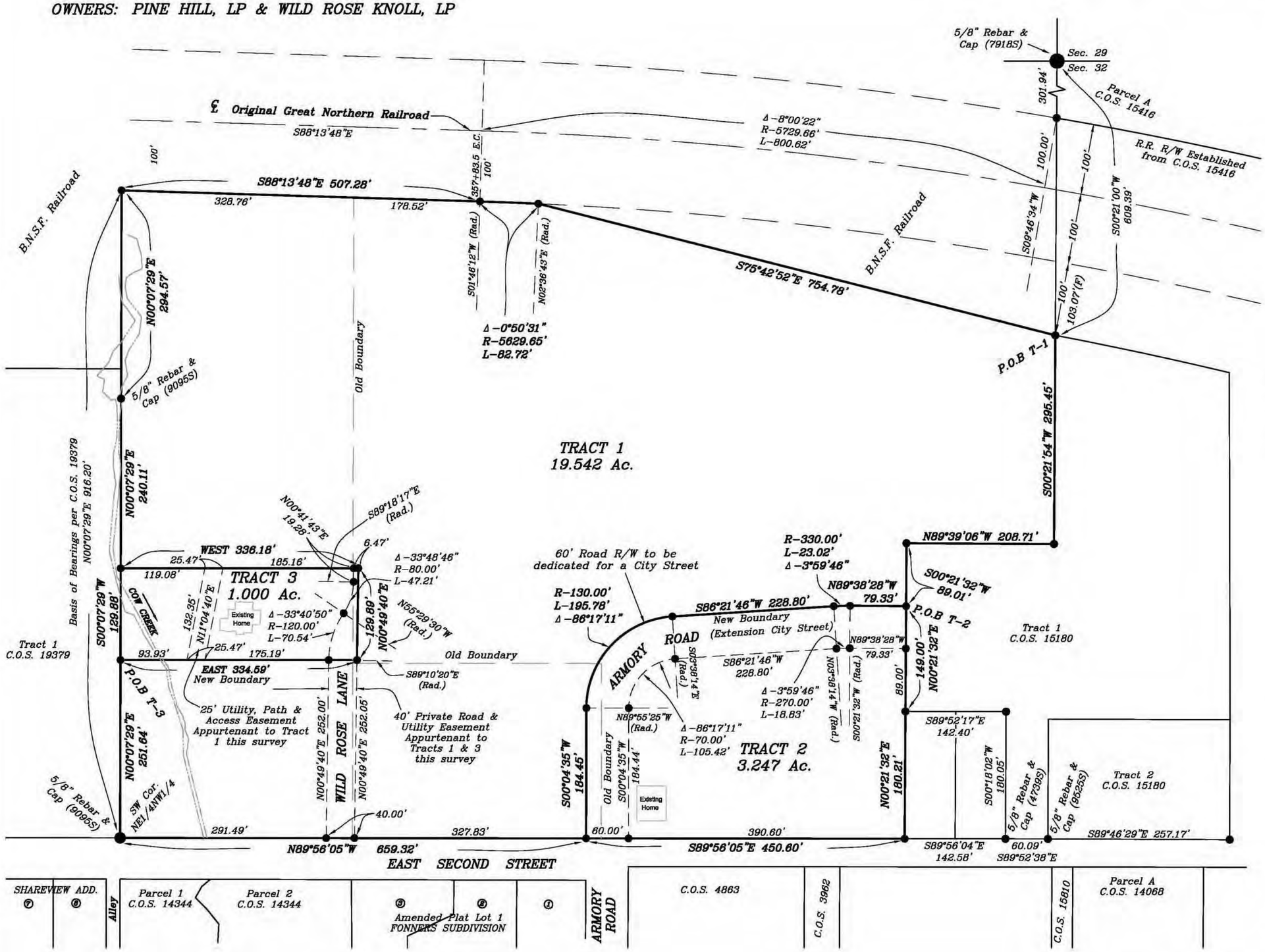
CERTIFICATE OF SURVEY

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

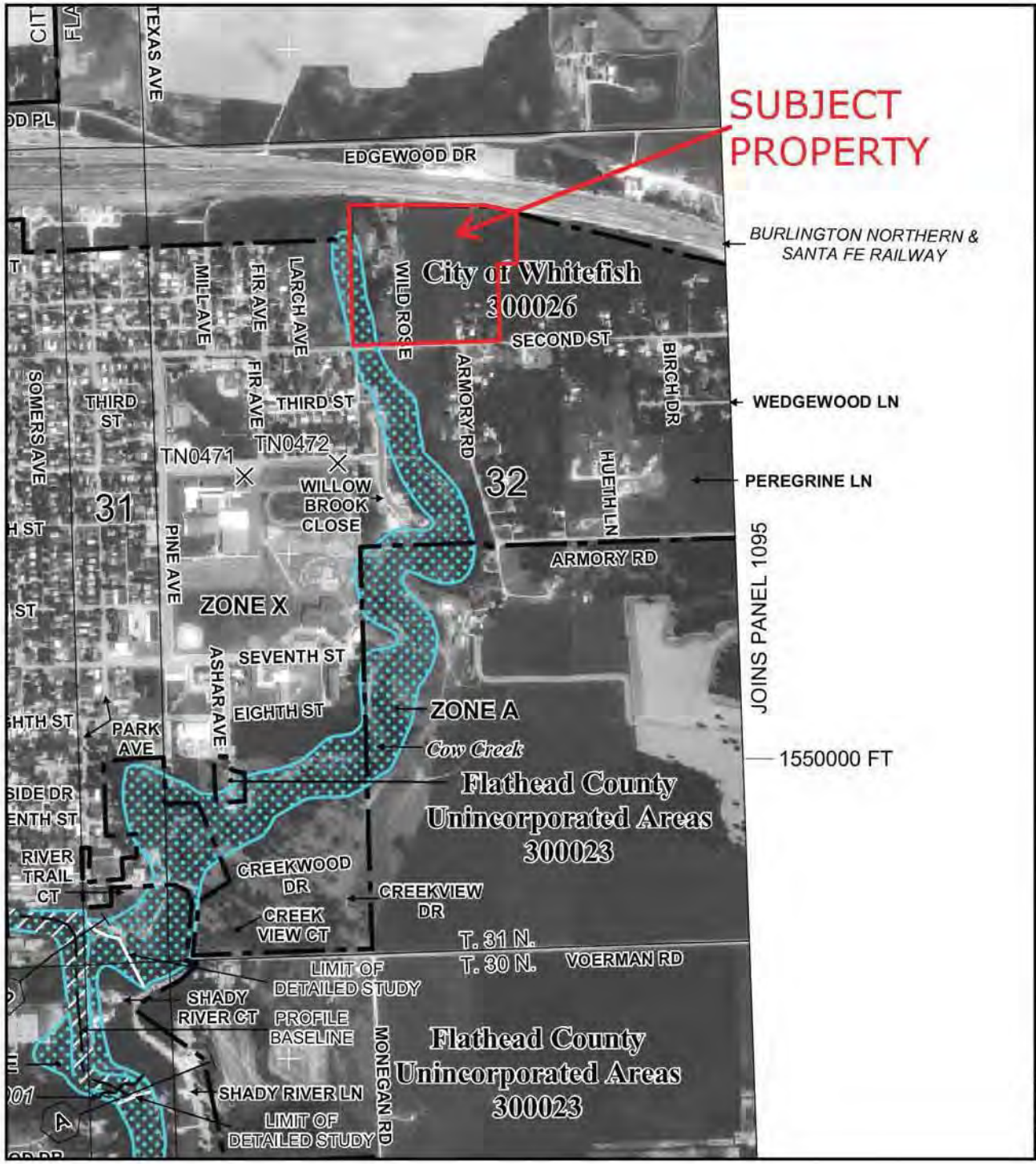
BY _____
DEPUTY

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

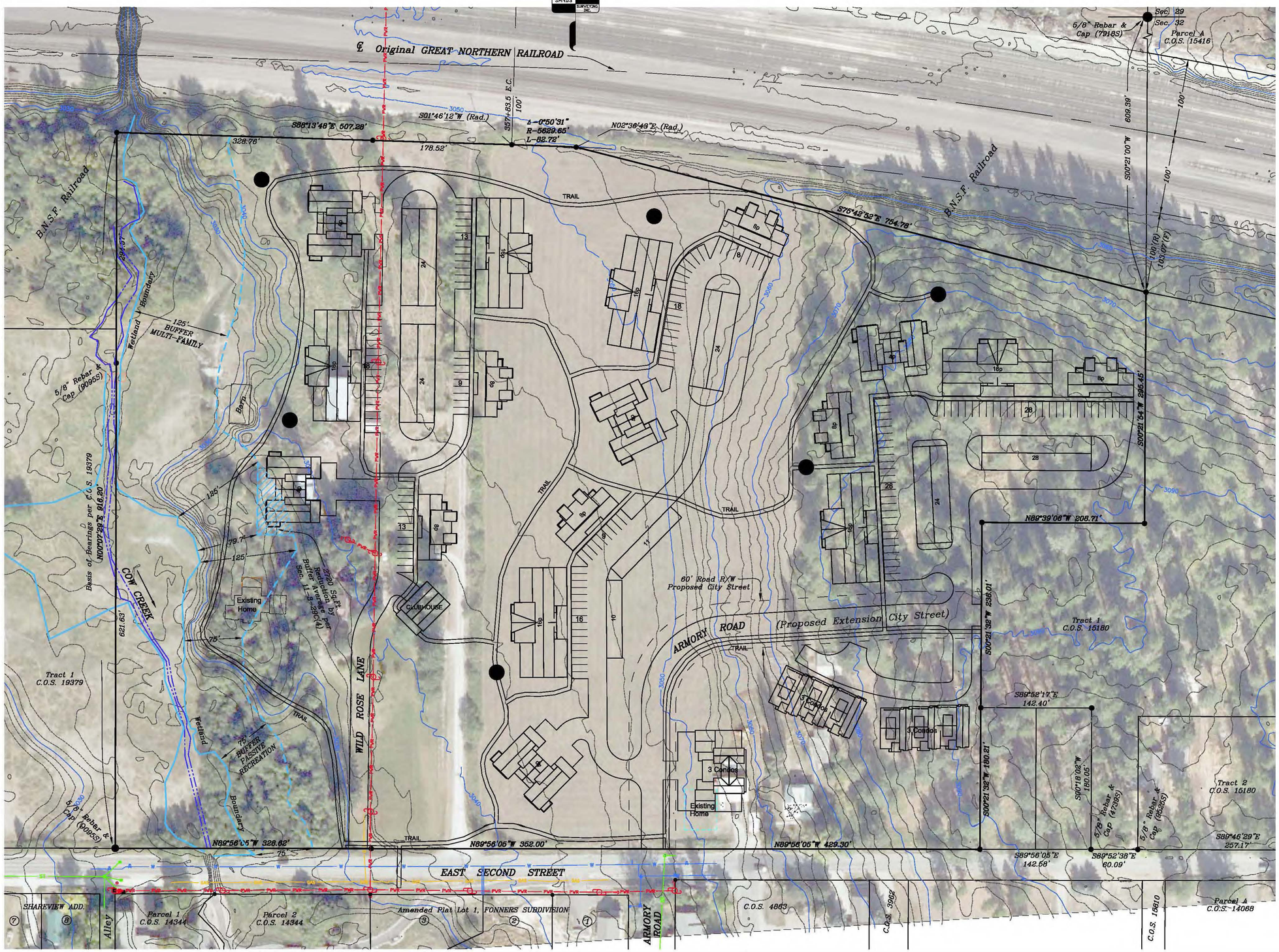
IN NE1/4NW1/4 SEC.32, T.31N., R.21W., P.M.,M., FLATHEAD COUNTY, MT

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:

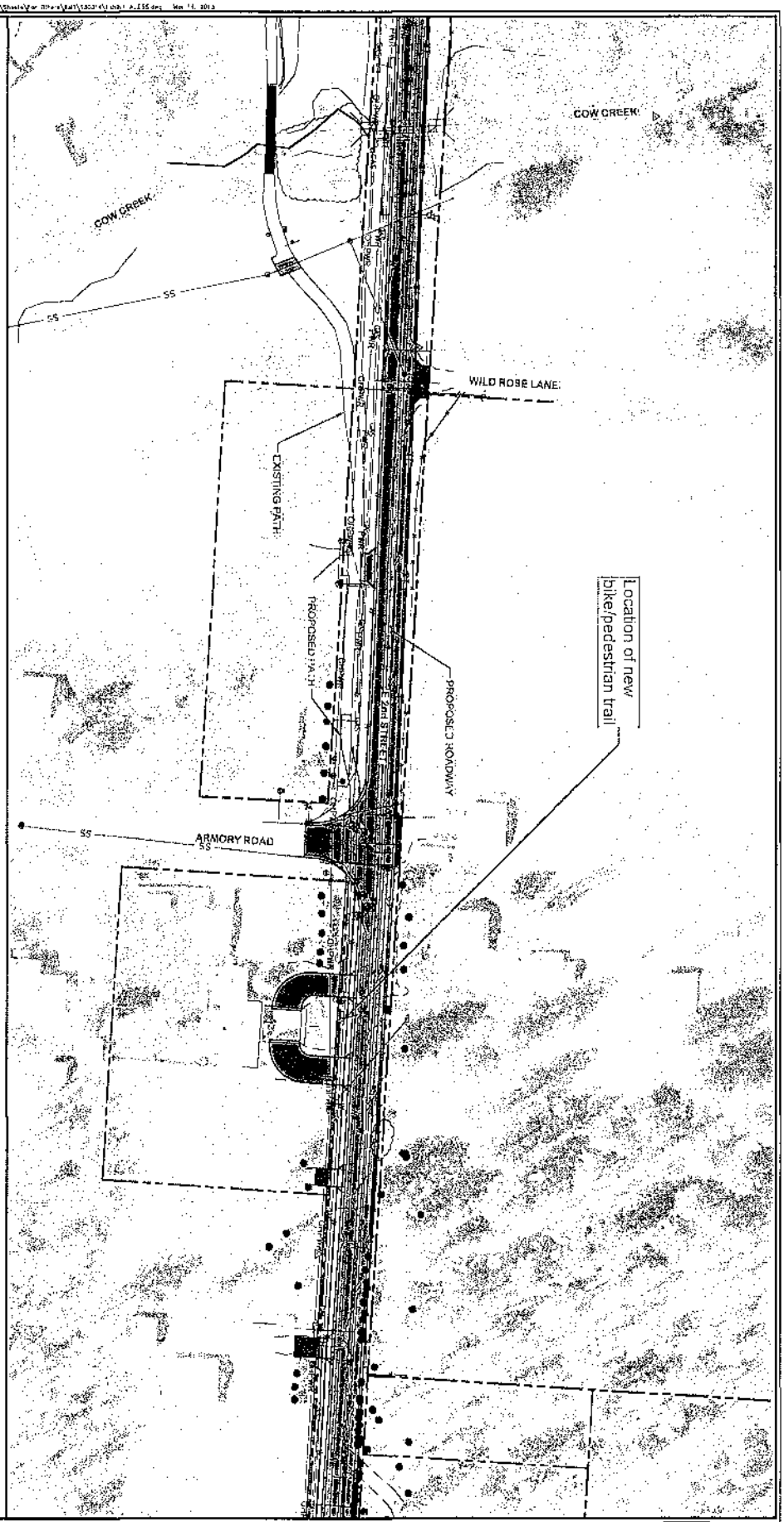
1 Bedroom Apt.:	96 Units
1 Bedroom Apt.:	58 Units
1 Bedroom Apt.:	10 Units
Subtotal:	164 Units
Condominiums:	9 Units
House:	1 Units
Total:	174 Units

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. TRUSH DESIGNED BY	MARCH 2013 DATE	SYM	REVISION	BY	APPR.	DATE
			M. ROGERS DRAWN BY	12-03-00 PROJECT NO.					
			R.MITCHELL CHECKED 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:

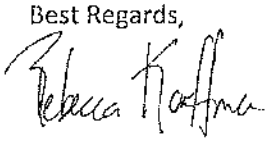
- The proposed zoning change is large and negatively impacts the entire neighborhood and quality of life.
    - Increasing traffic on limited infrastructure, e.g., sidewalks and narrow streets.
    - The developer estimated vehicle increase is 175-400+ vehicles in the development which drastically changes 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
11

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 A11:06 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
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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
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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.

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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 Ben Stormes 1630 2nd St East
34. Melinda Ratchye [illegible] 1481 2nd St East
35. Sibyl Hughes Sibyl Hughes 1515 2nd Street E.
36. Alissa LaChance Alissa LaChance 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 Yuko Gaikowski 82 Wedgewood Ln.
42.
43.
44.
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46.
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54.

ATTN: Wendy Compton
WF. Planning dept

Honorable Mayor and Town Council
Members of the WF City-County Planning Board

March 17, 2013
Signtures 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
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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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Honorable Mayor and Town Council
Members of the WF City-County Planning Board

March 17, 2013

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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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	168 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
18.			
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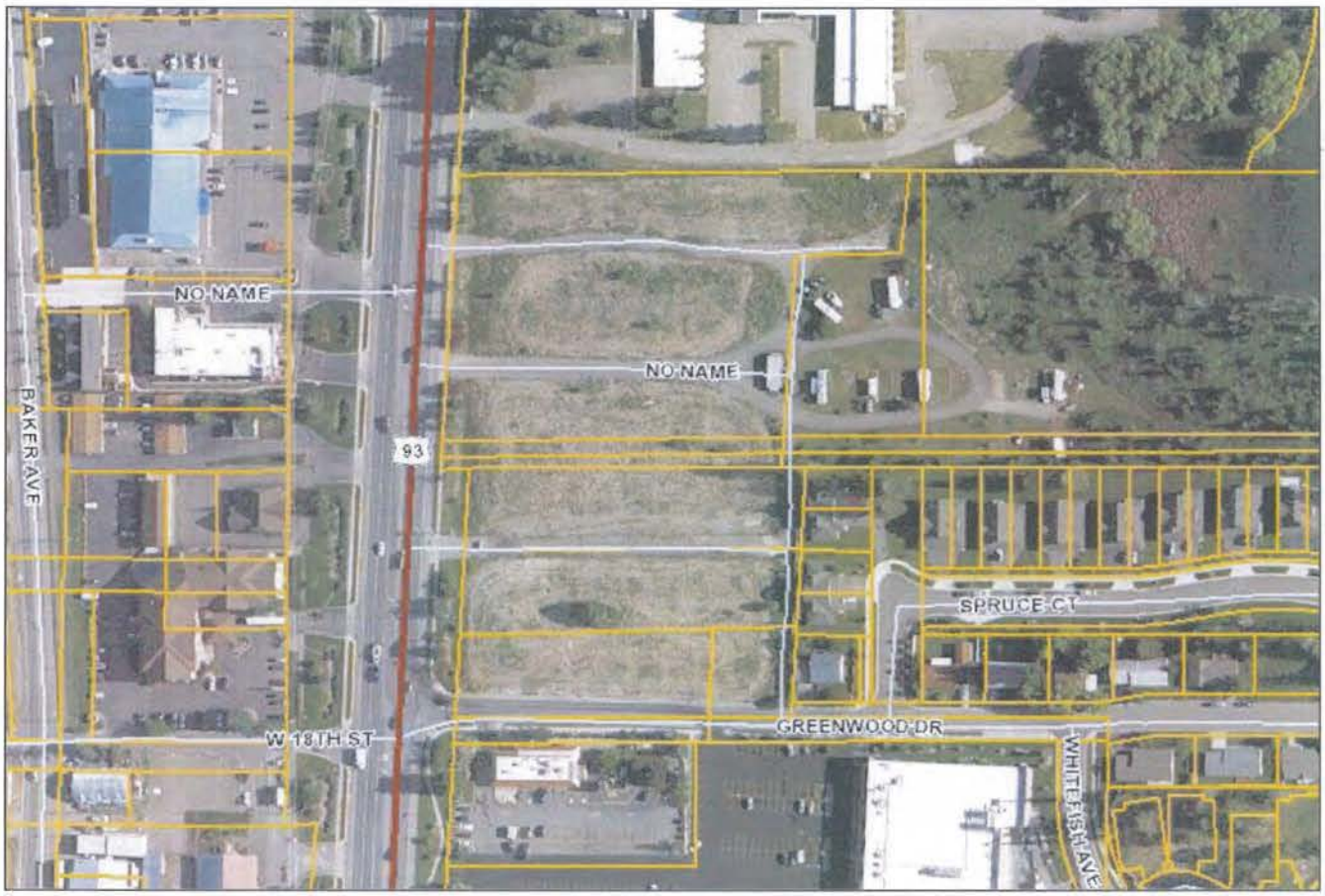
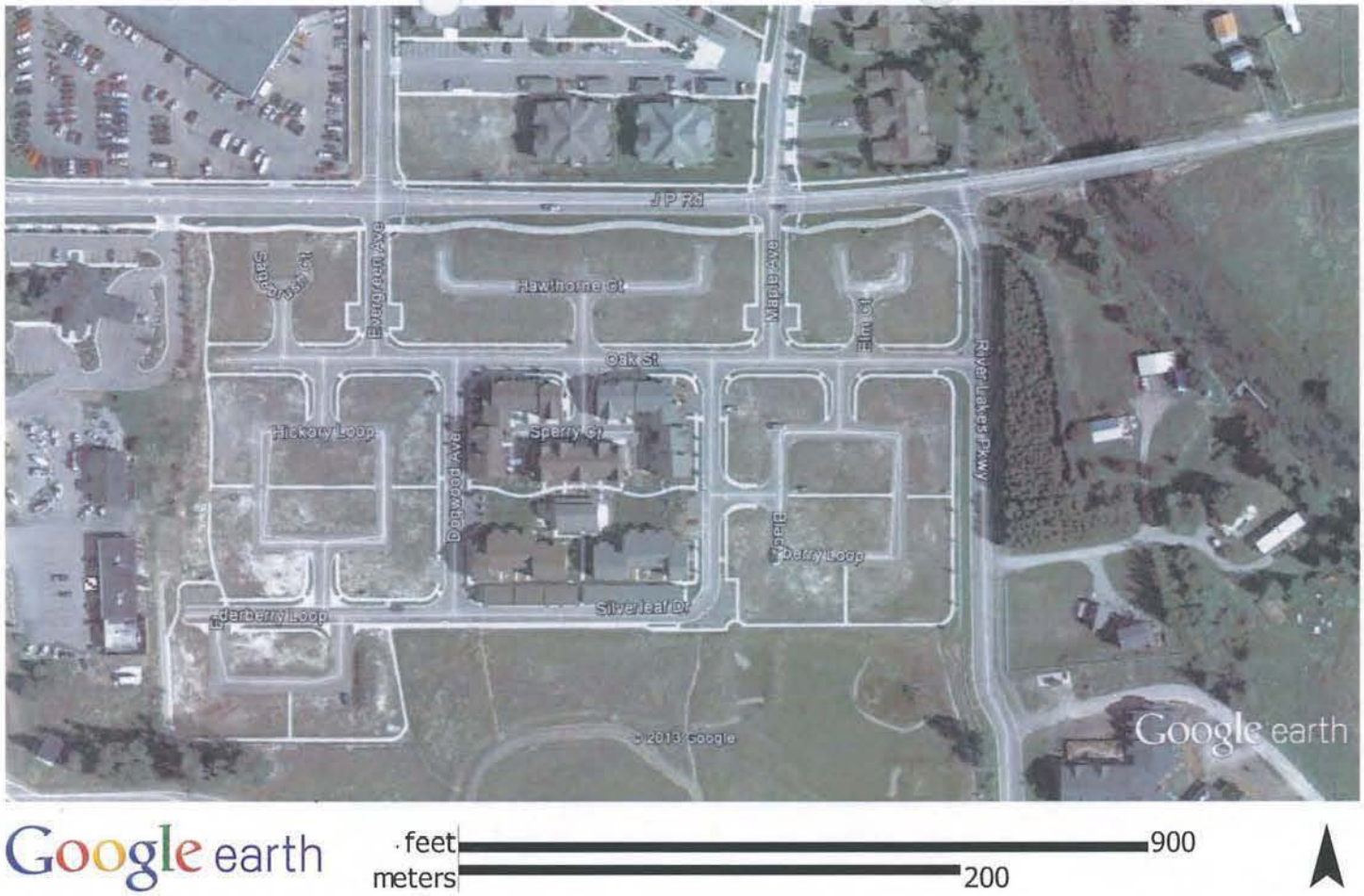


Former MHP north of McDonald's

EXHIBIT
27

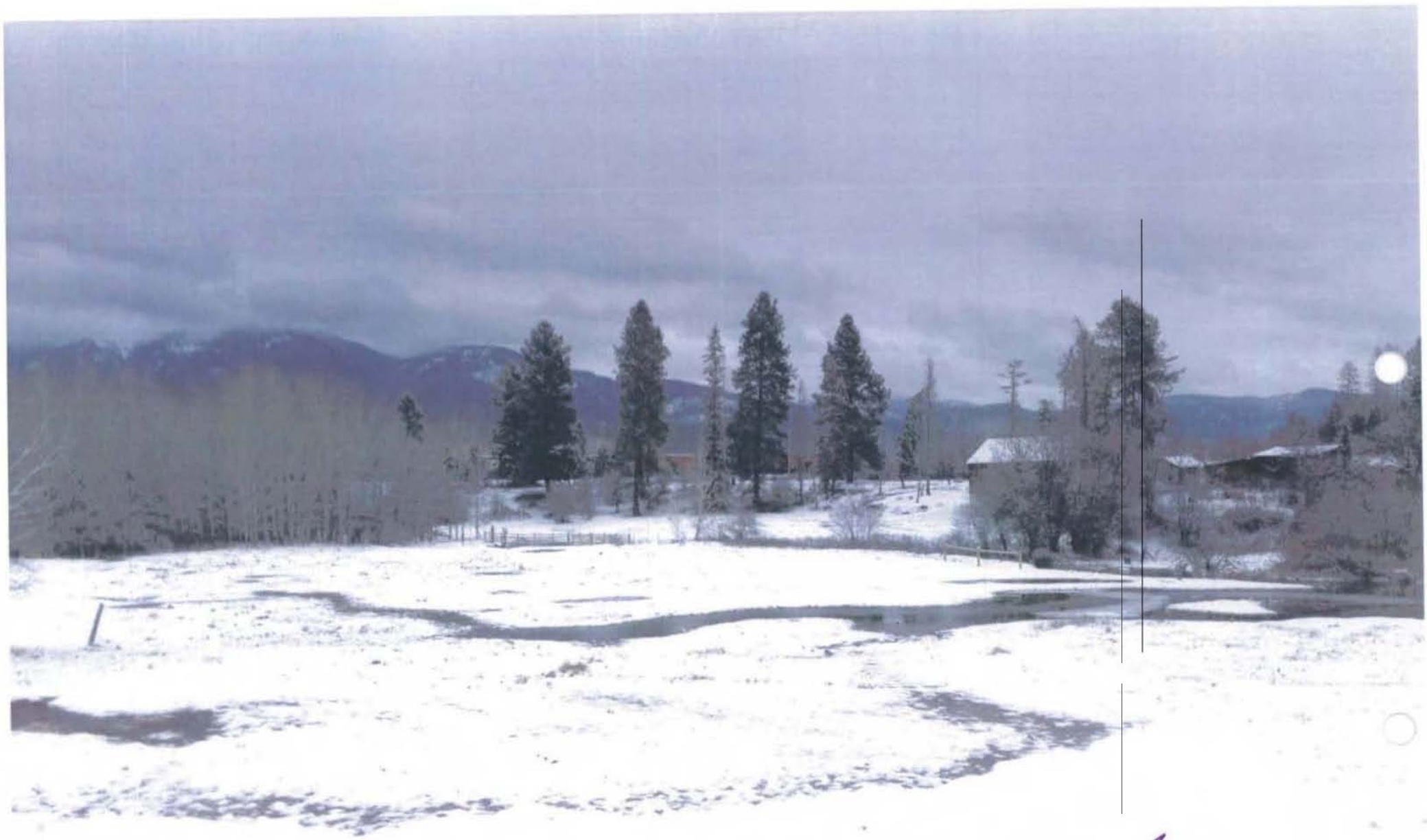
ARIELLE WAY
SHILOH AVE
J P RD
EVERGREEN AVE
HAWTHORNE CT
MAPLE AVE
ELM CT
OAK ST
RIVER LAKES PKWY

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
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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
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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.

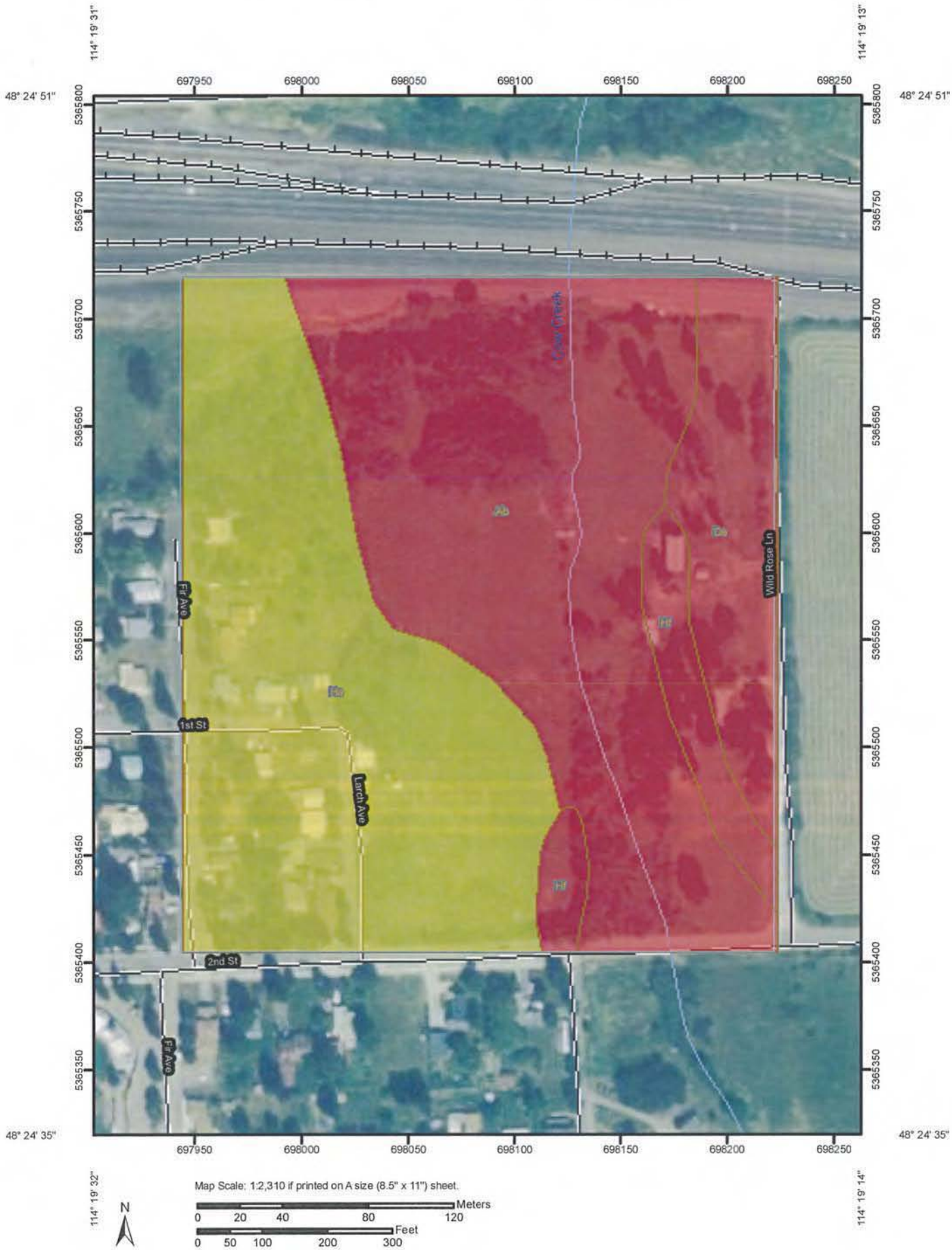
Conclusion

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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Larch Ave
2nd St
Wild Rose Ln
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
33

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

EXHIBIT
36

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
37

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
39

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.

EXHIBIT
39

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
13928-ES
LICENSED
PROF. ENGINEER - LAND SURVEYOR

5-6-13

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Whitefish, Montana

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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 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.

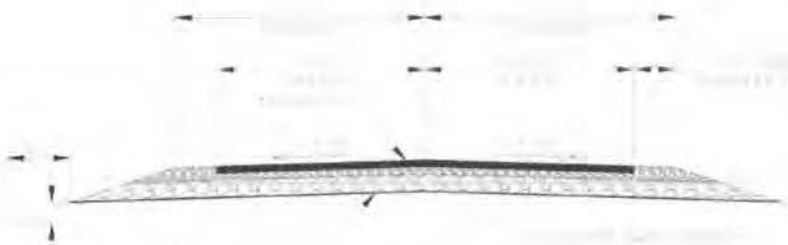
4.5 Down-Gradient Analysis

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.

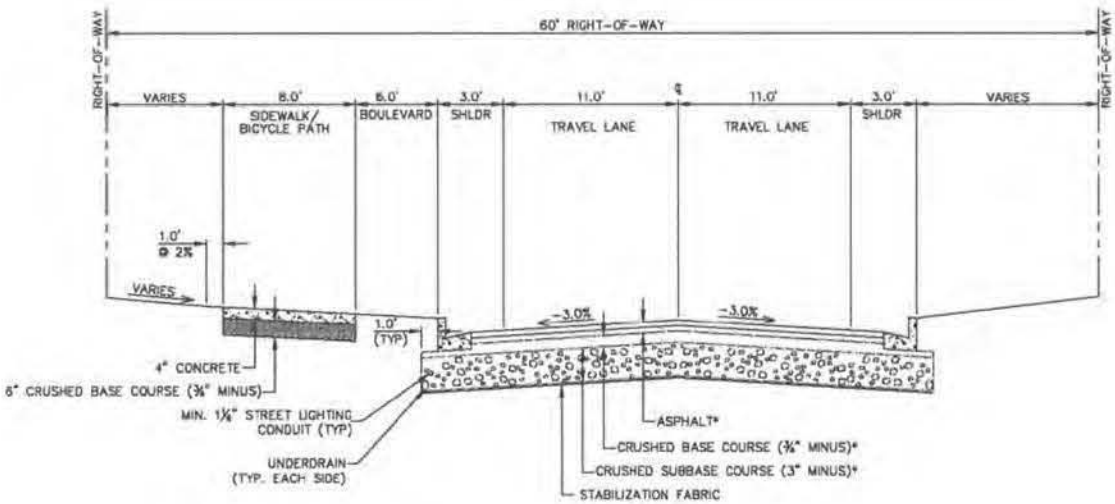
5.1 Streets

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

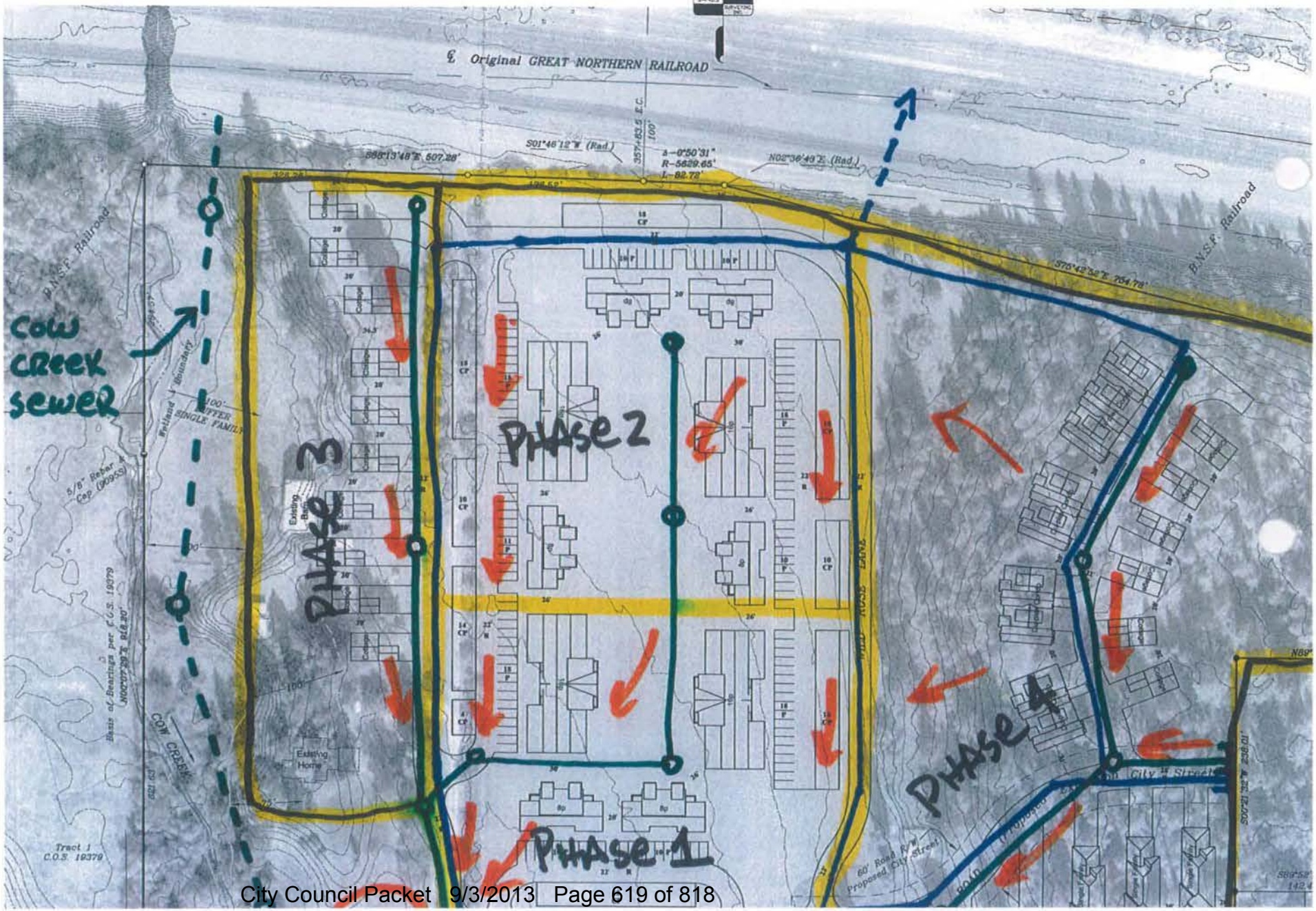
JOB NO: 392601
DATE: APRIL 25, 2013
REVISED: APRIL 30, 2013
FOR: WILL MacDONALD
SEAN AVERILL
OWNERS: WILD ROSE KNOLL, LP
PINE HILL, LP

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'



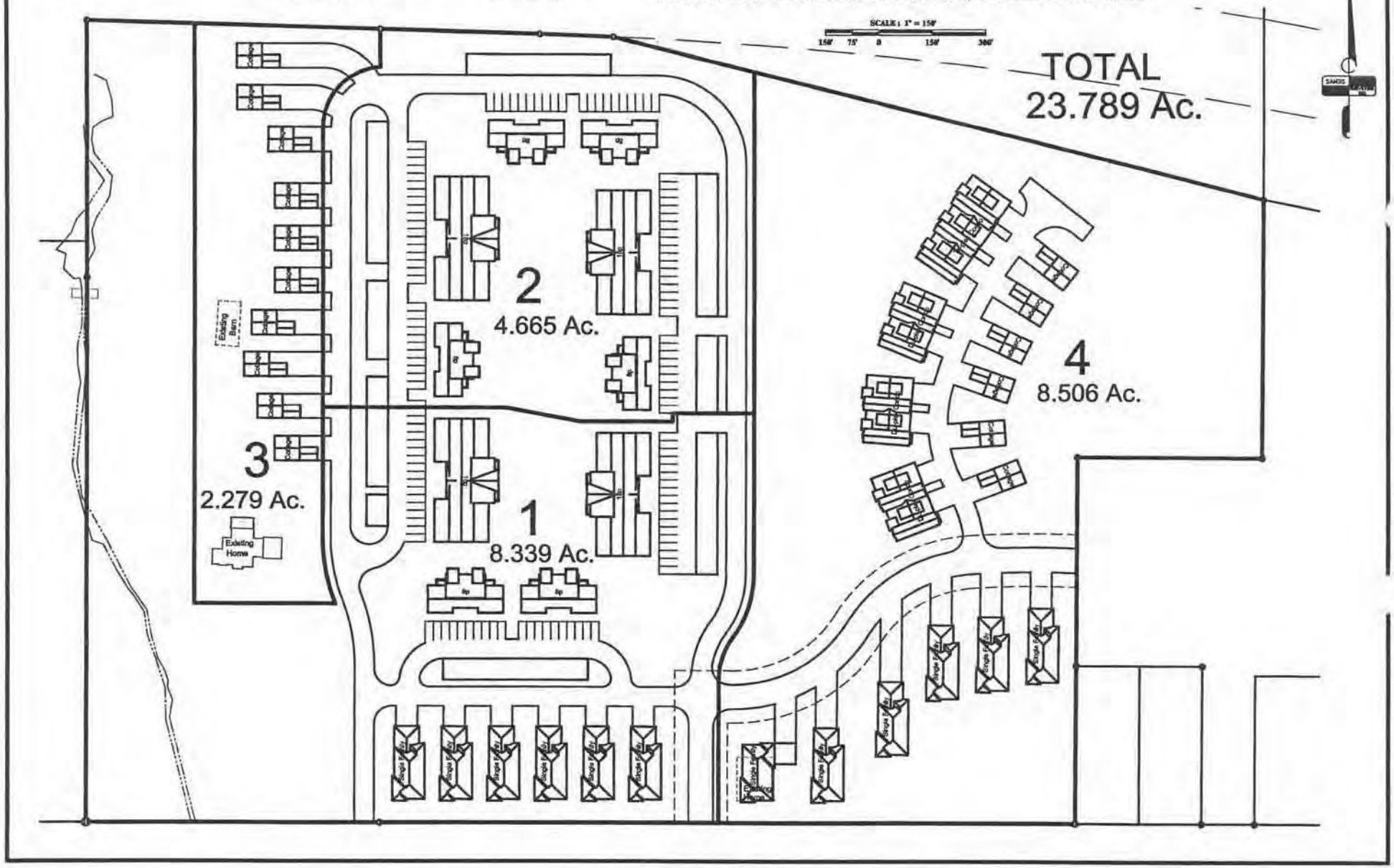
By: SANDS SURVEYING, Inc.
2 Village Loop
Kalispell, MT 59901
(406) 755-6481

JOB NO: 392601
DATE: APRIL 25, 2013
REVISED: MAY 1, 2013
FOR: WILL MacDONALD
SEAN AVERILL

OWNERS: WILD ROSE KNOLL, LP
PINE HILL, LP

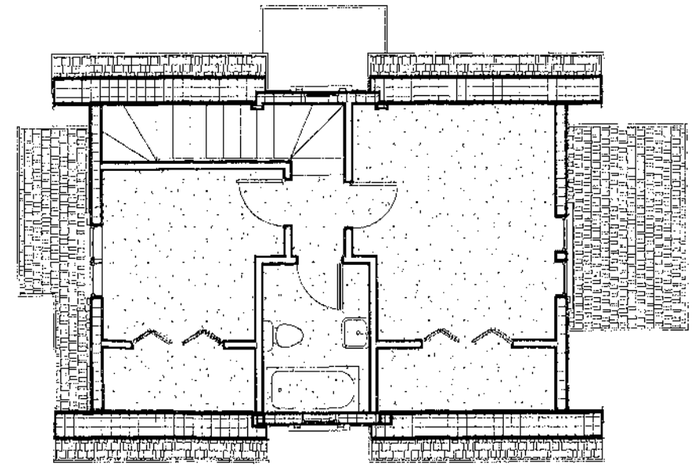
PHASING PLAN for:
SECOND STREET APARTMENTS

IN NE1/4NW1/4 SEC.32, T.31N., R.21W., P.M.,M., FLATHEAD COUNTY, MT

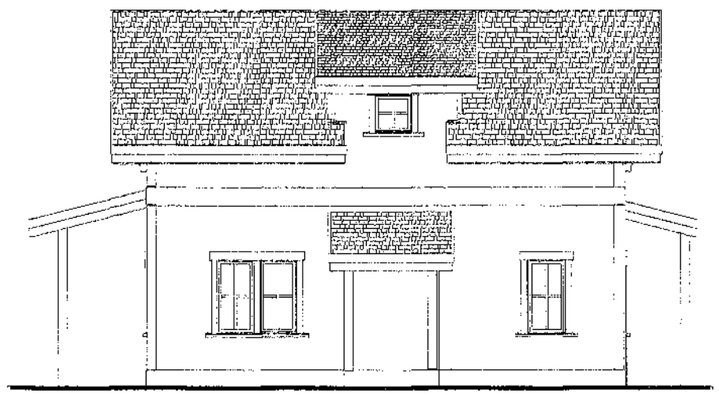


6 PUD EAST
1/8" = 1'-0"

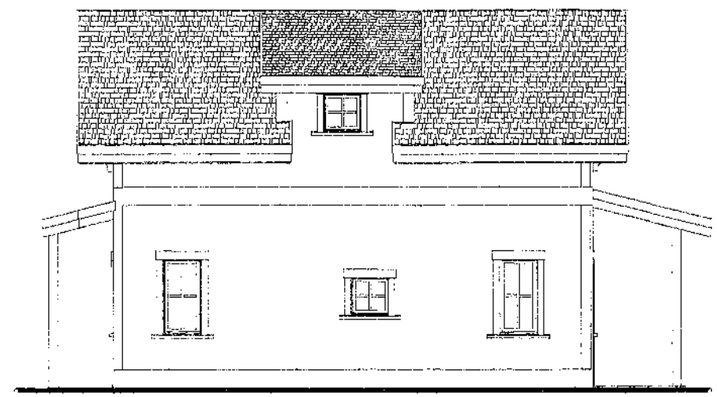
7 PUD WEST
1/8" = 1'-0"



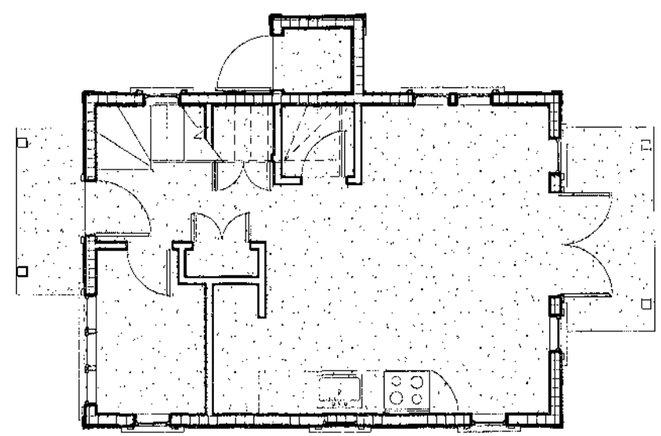
2 PUD SECOND FLOOR
1/8" = 1'-0"



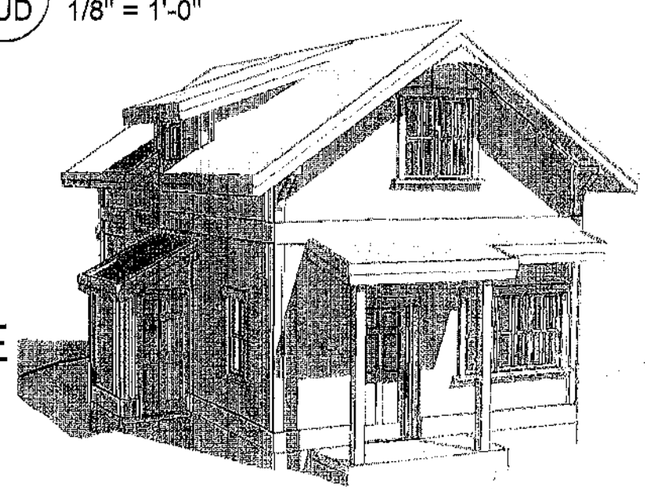
4 PUD NORTH
1/8" = 1'-0"



5 PUD SOUTH
1/8" = 1'-0"



1 PUD FIRST FLOOR
1/8" = 1'-0"



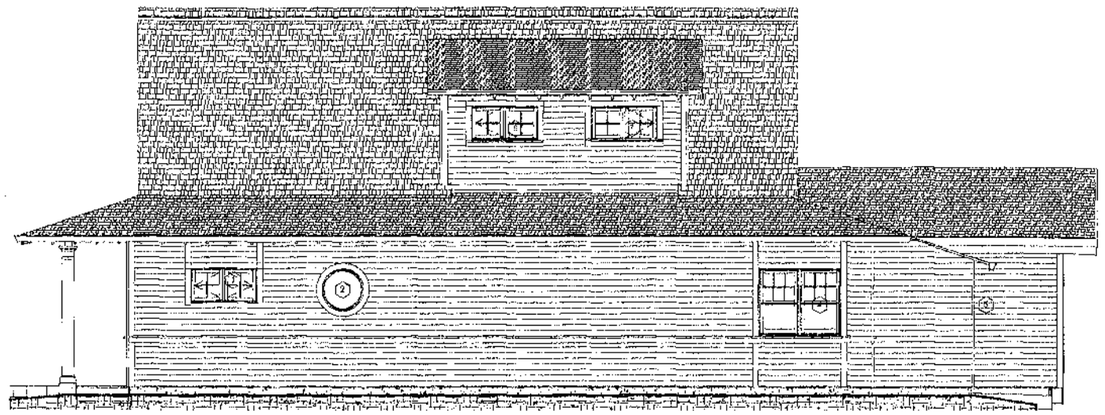
3 PUD PERSPECTIVE

2ND STREET APARTMENTS

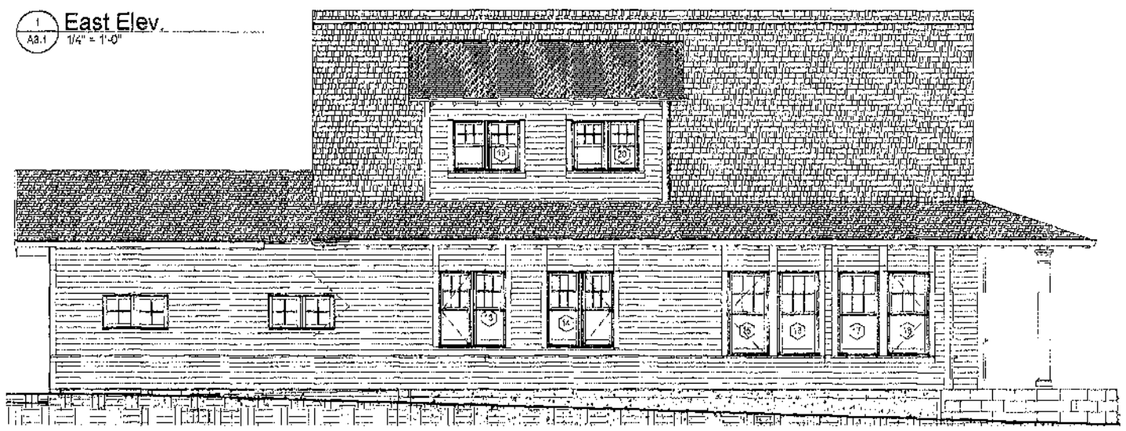
WHITEFISH, MT

COTTAGES

5.1.13



1 A3.1 East Elev.
1/4" = 1'-0"



2 A3.1 West Elev.
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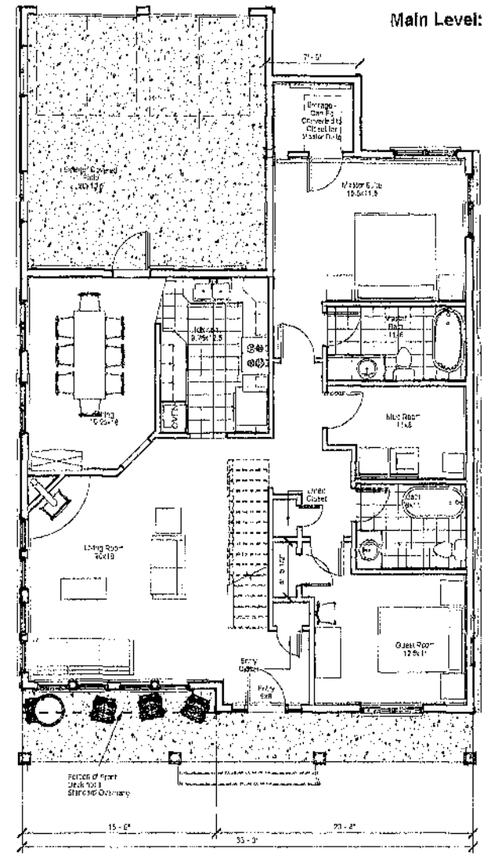
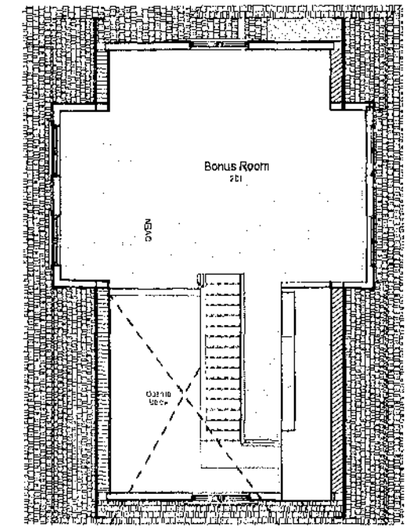
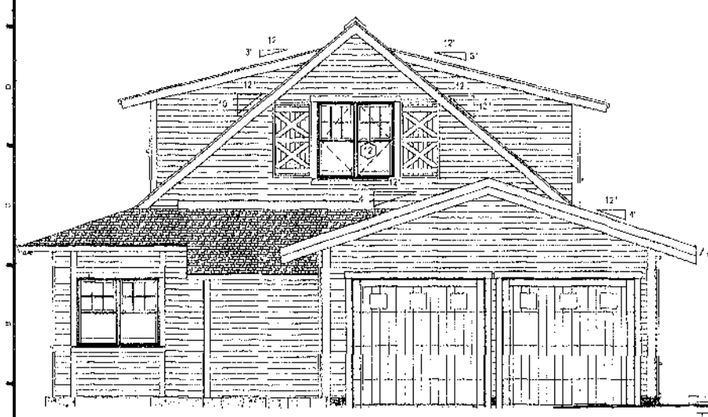


6 A3.1 Concept Plan - Main
3/16" = 1'-0"



7 A3.1 Concept Plan - Upper
3/16" = 1'-0"



3 A3.1 North Elev.
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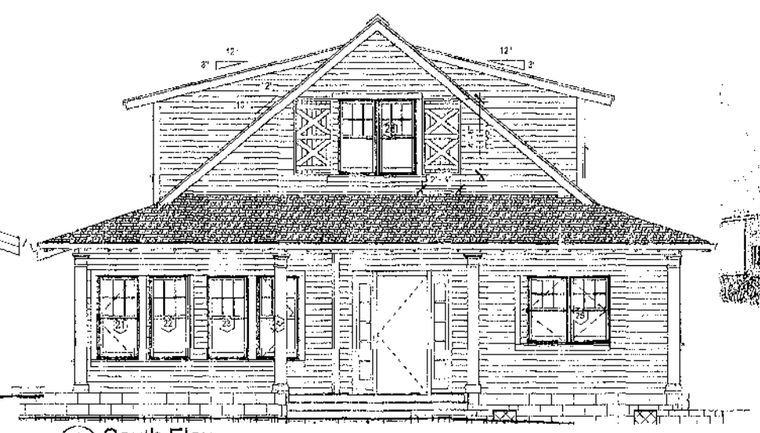

4 A3.1 South Elev.
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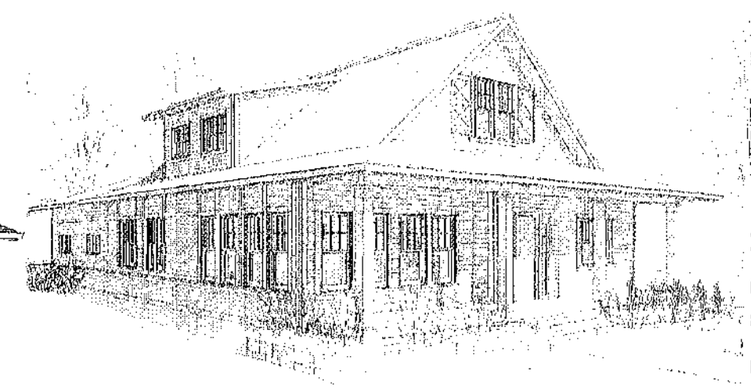

8 A3.1 PERSPECTIVE

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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Checked By:	A.J.W.
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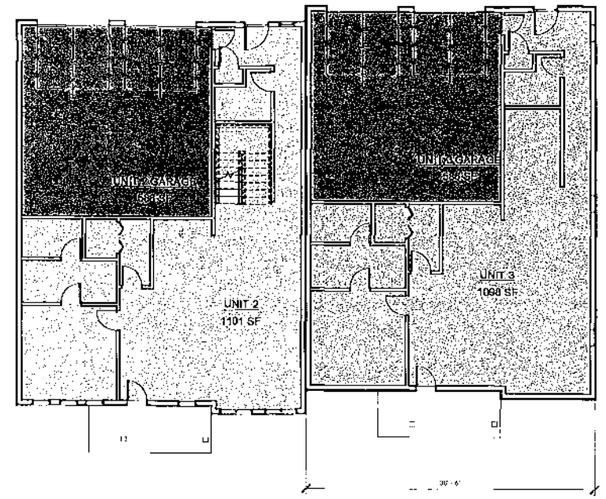
FAX# 406 862 8153

SINGLE FAMILY RESIDENCE

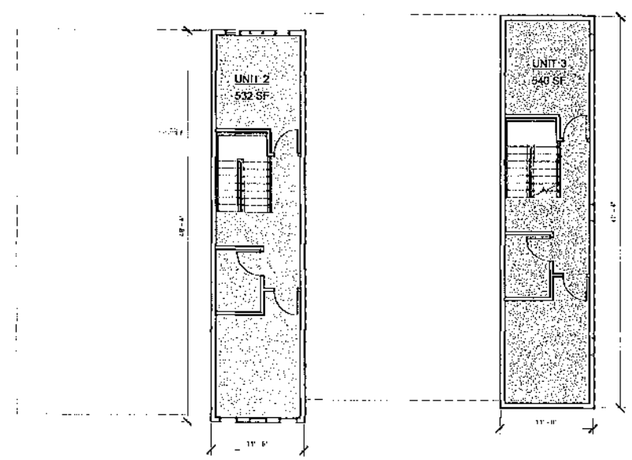
Whitefish, MT

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

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Drawn By:	A.WLL
Checked By:	AJW
Revisions	

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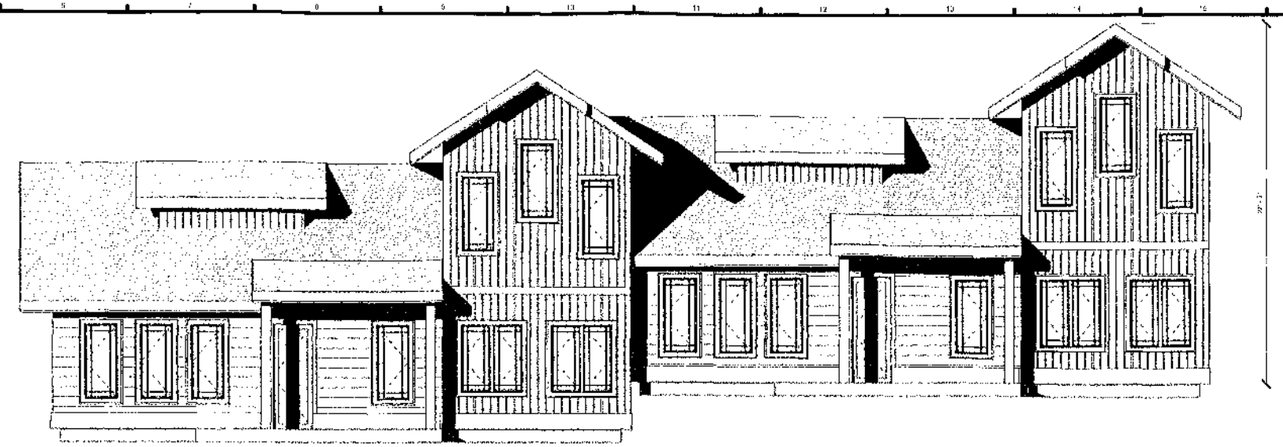
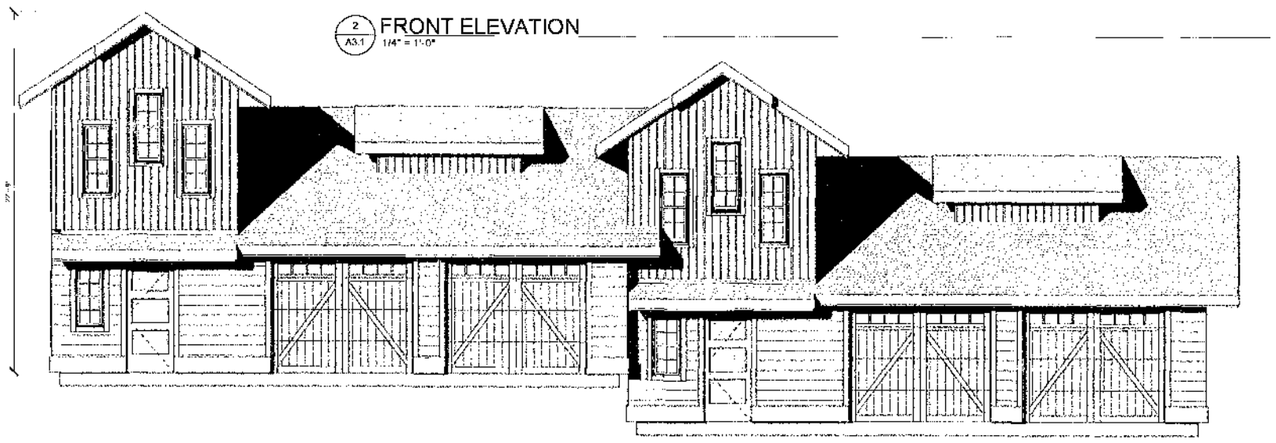
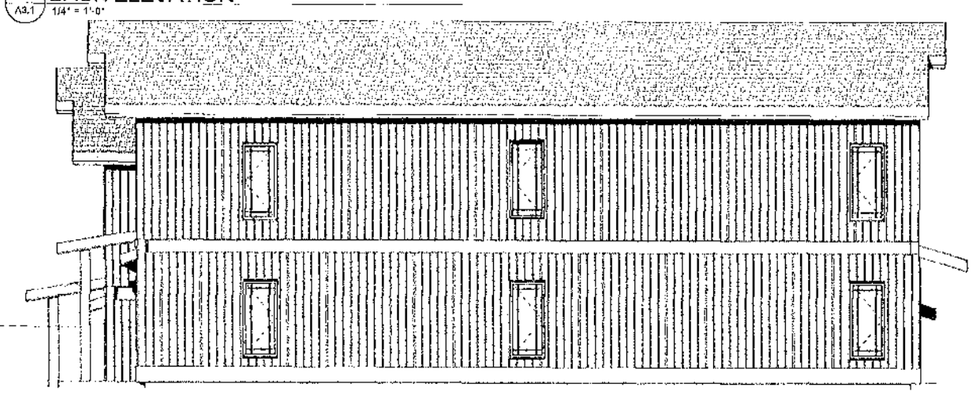


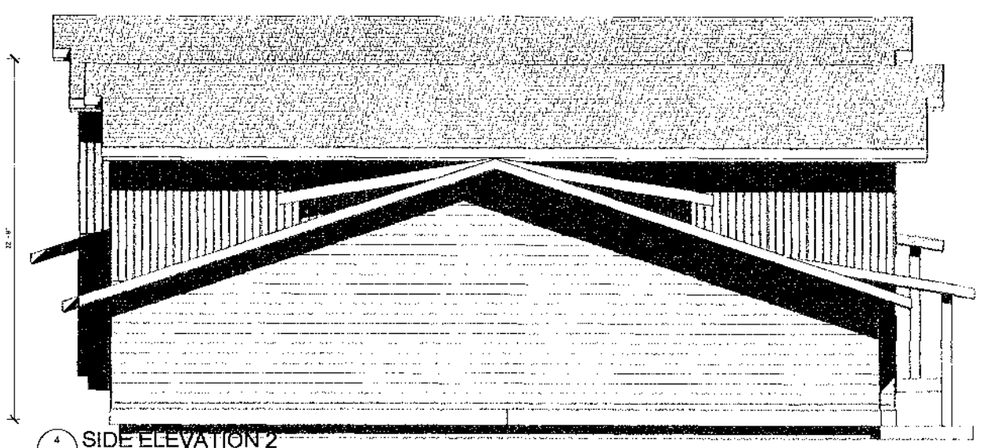
2 A3.1 FRONT ELEVATION
1/4" = 1'-0"



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 January 1, 1991.

12-22
Date 1.30.13
Reg. No. 5892
AARON J. WAY, AIA

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Drawn By:	AJW
Checked By:	AJW
Revisions	

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FAX 406.862.8103

BUILDING ELEVATIONS

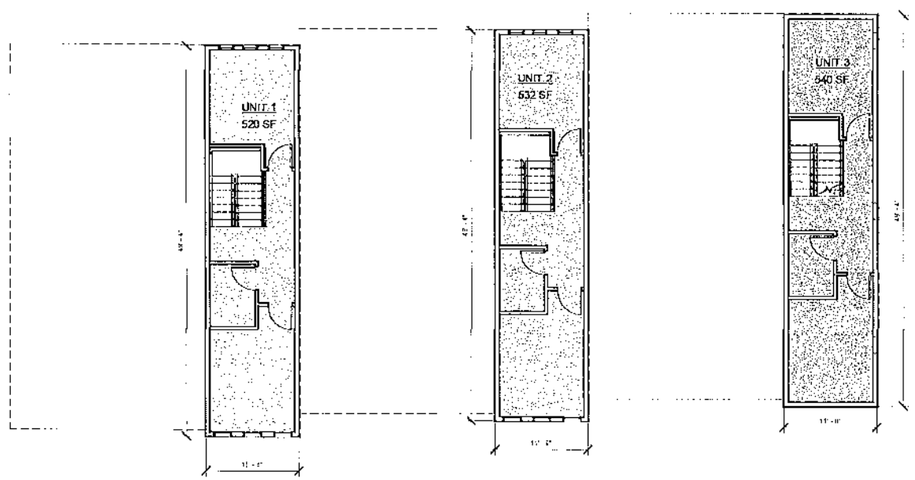
2ND STREET APARTMENTS -
3PLEX CONDO

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

Reg. No. 2932

Date 1.30.13

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Drawn By:	AWJ
Checked By:	AW
Revisions:	

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WHITEFISH, MT 59937
406.862.8162
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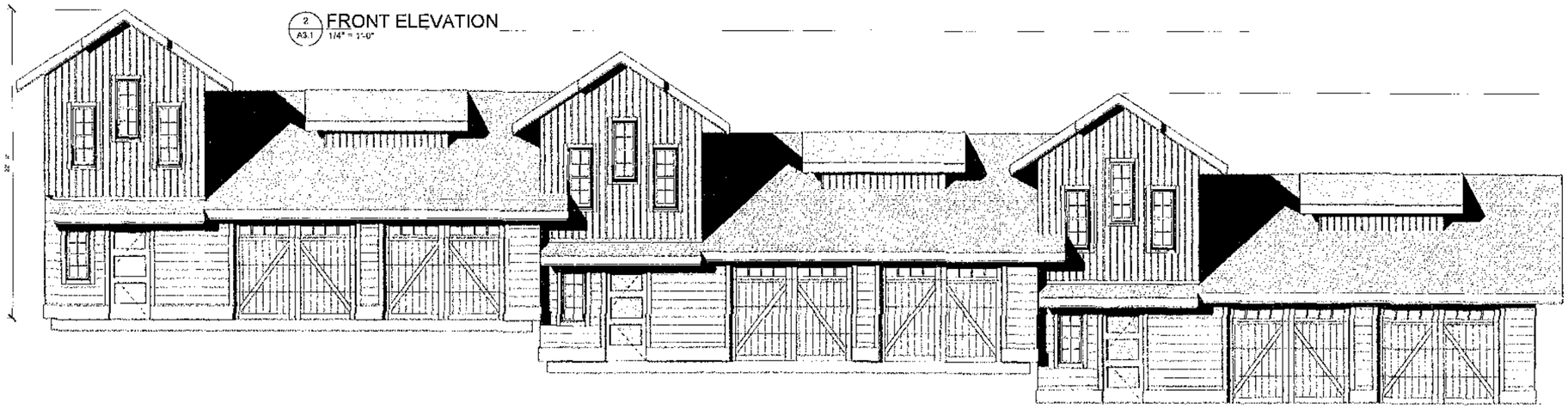
2 A3.1 FRONT ELEVATION
1/4" = 1'-0"



3 A3.1 BACK ELEVATION
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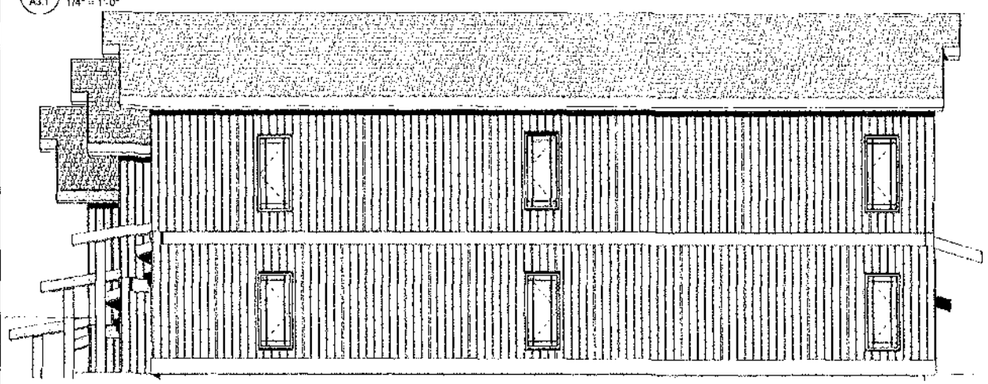
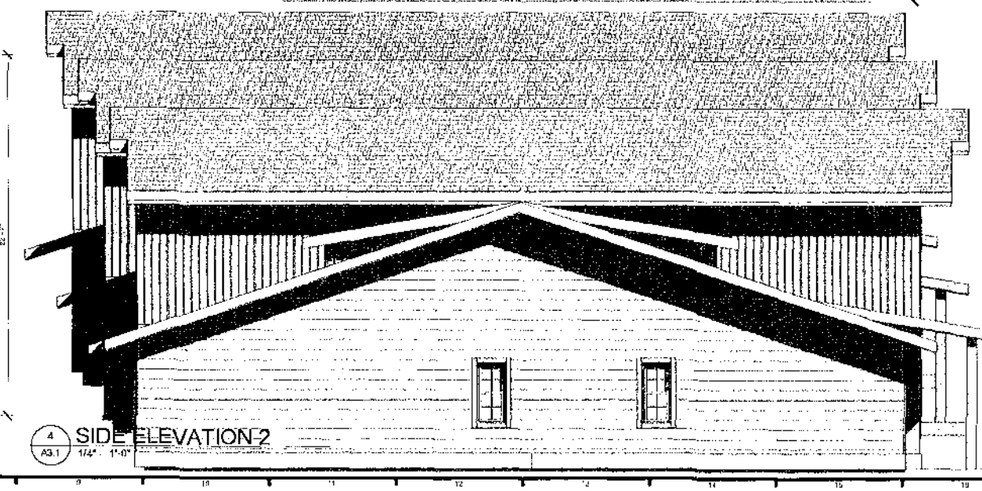


1 A3.1 SIDE ELEVATION
1/4" = 1'-0"



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

Project Number: 12-22

Date: 1-30-13

Drawn By: AJW

Checked By: AJW

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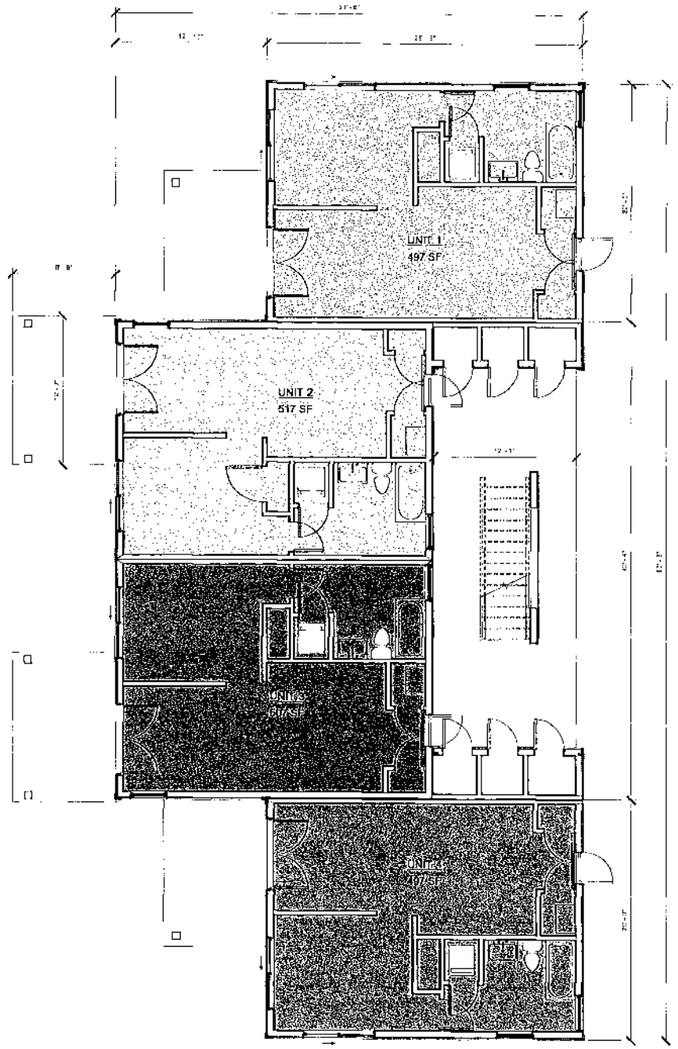
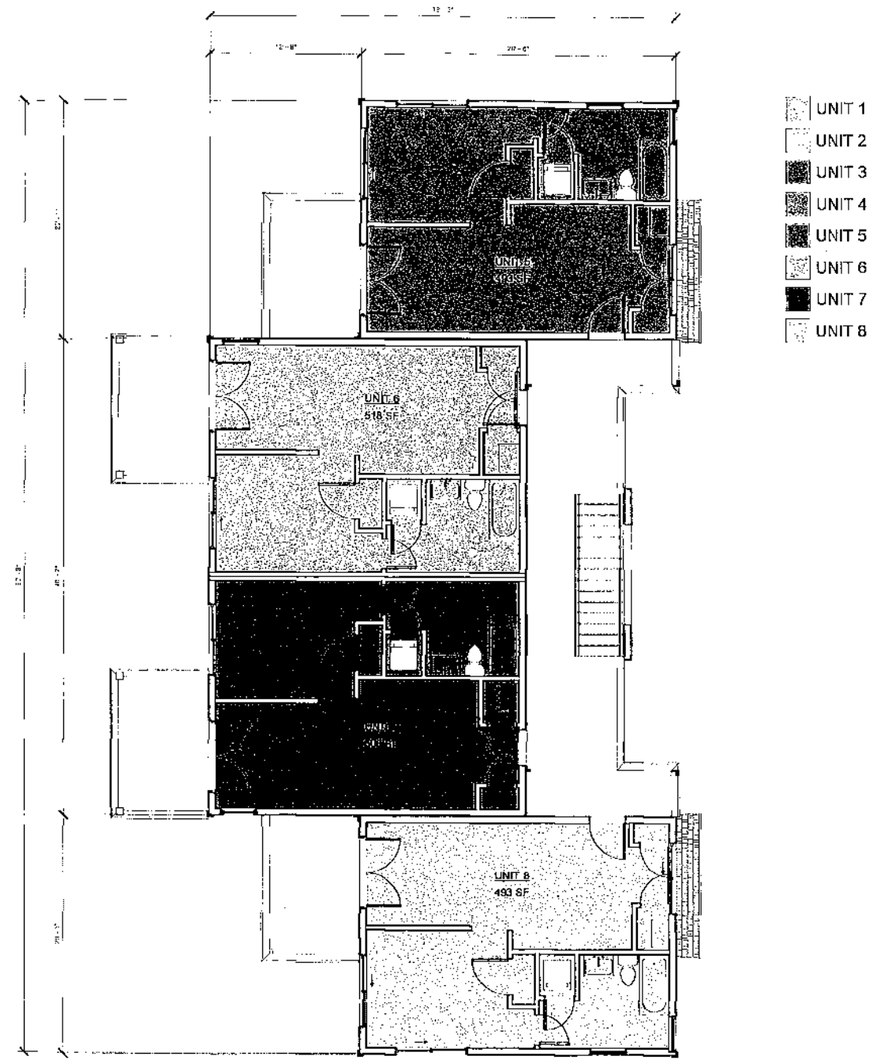


1 A2.1 Main Floor Plan
3/16" = 1'-0"



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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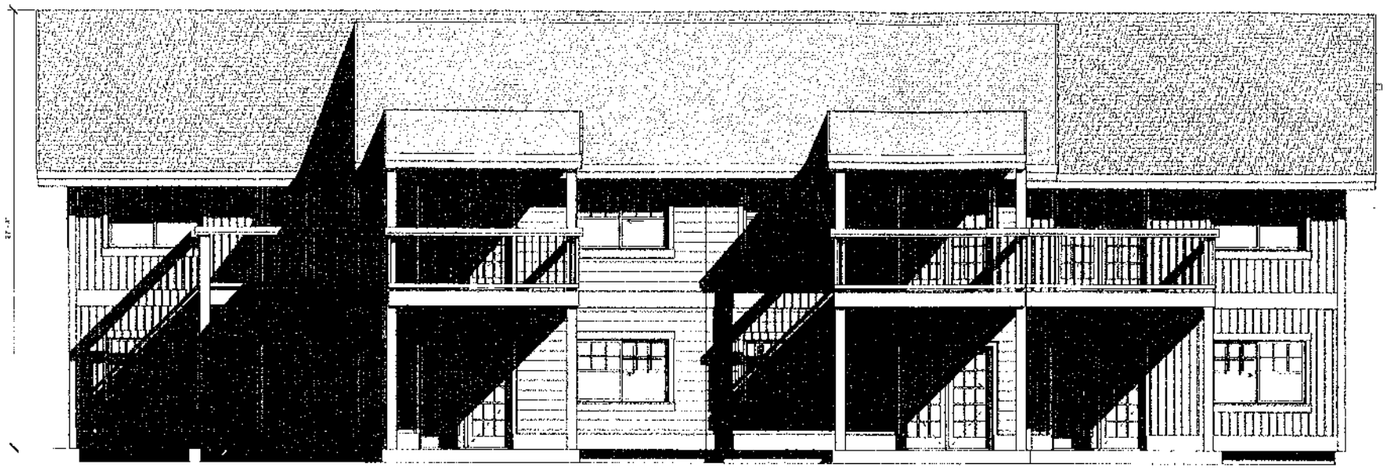
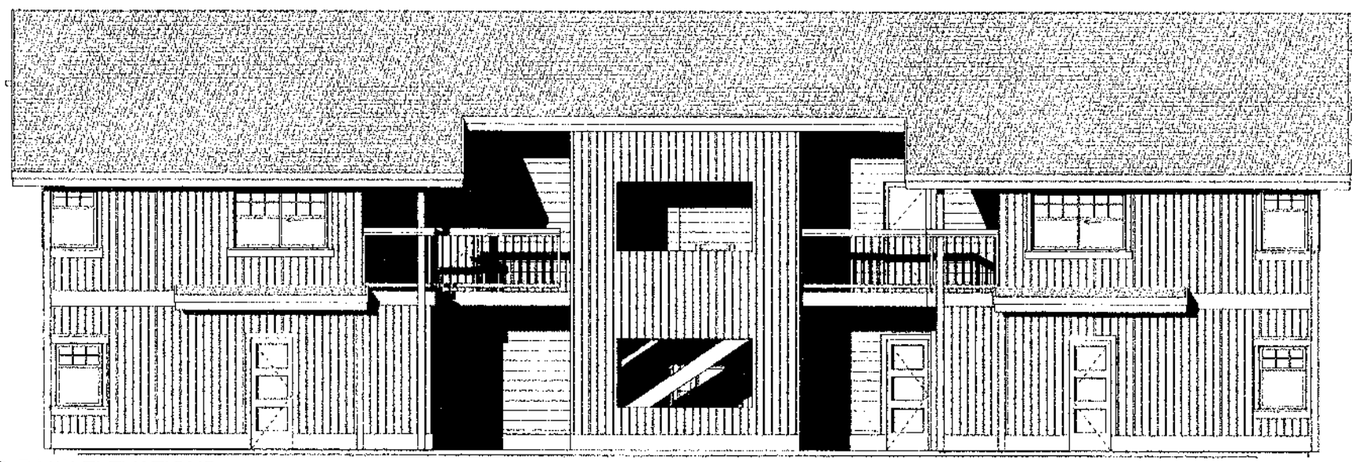
406.862.8254
FAX 406.862.8155



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

Preliminary drawings shall not be used for construction purposes, or otherwise, unless signed and sealed, or otherwise approved in writing by the Architect.

12-22

Sept. 12, 2012 — June 7, 2013

MARION, WALLACE

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Project Number:	12-22
Date:	1-30-13
Drawn By:	AJW
Checked By:	AJW
Revisions:	

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ARCHITECTURE AND DESIGN
153 RAILWAY ST.
WHITEFISH, MT 59937
406.862.8102
406.862.8153

2ND STREET APARTMENTS - 6 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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406 862 8152
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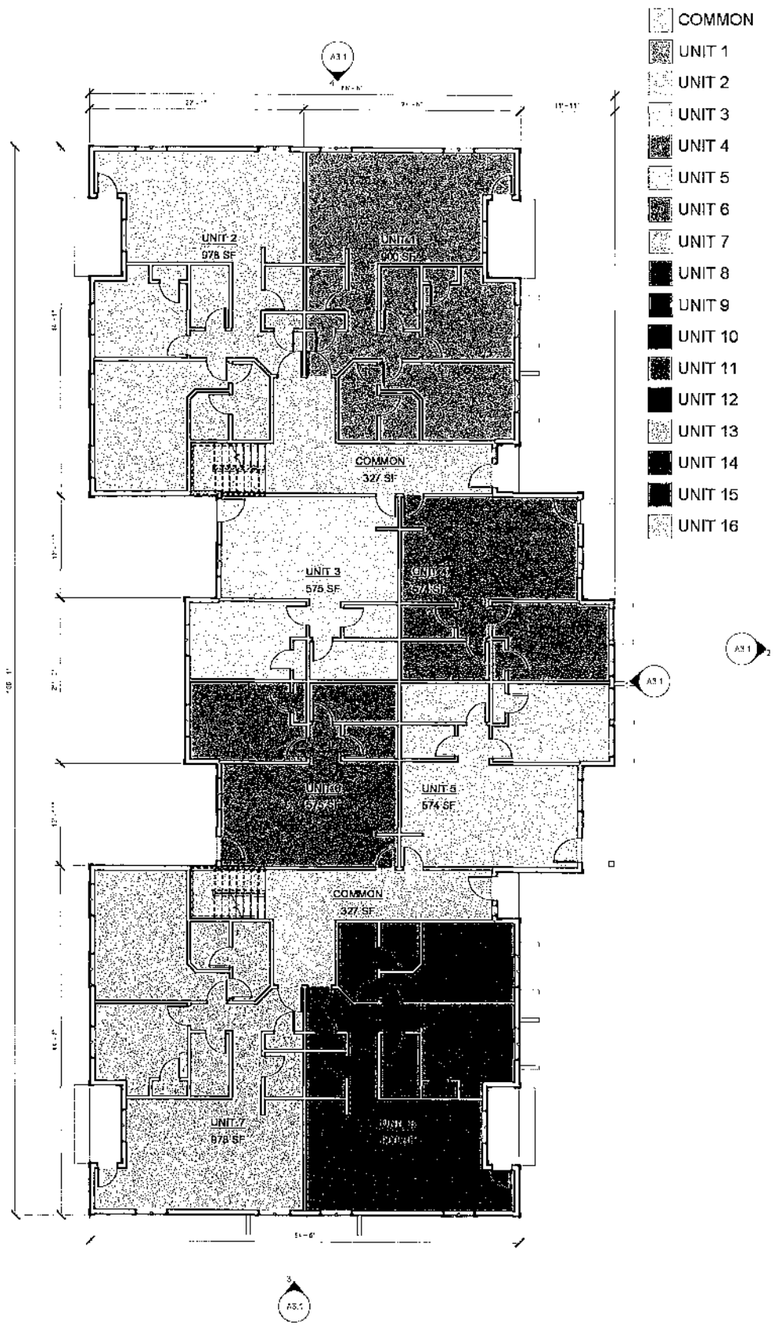
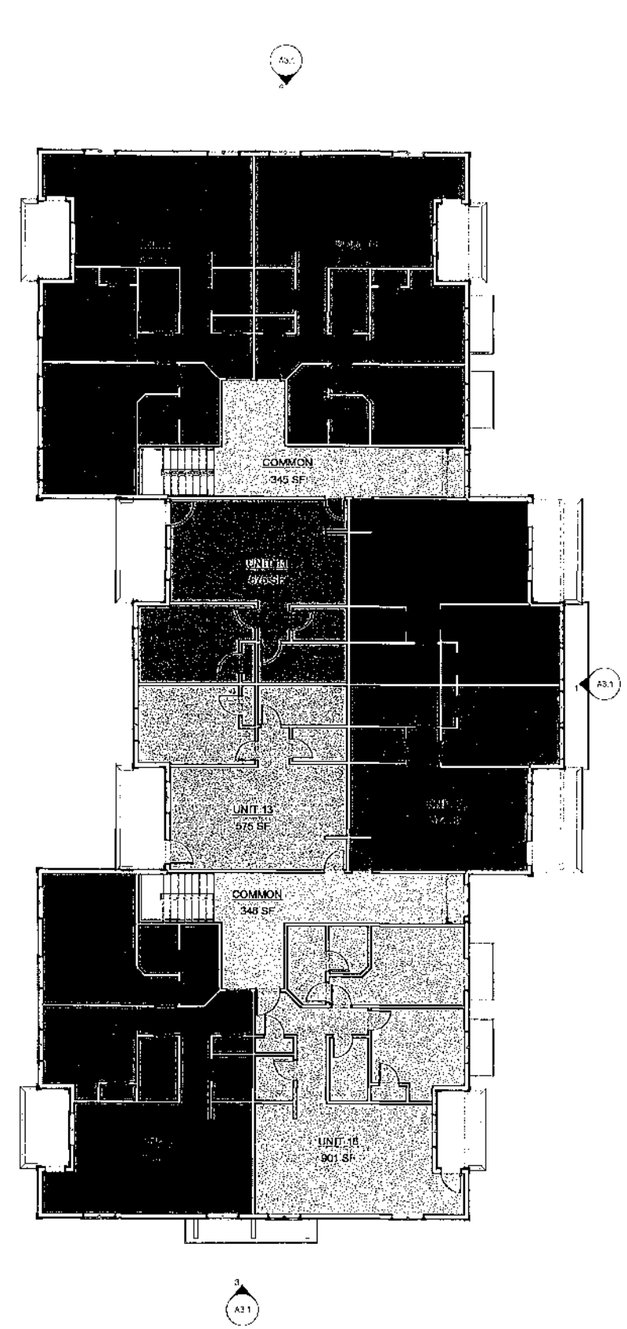
Project Number	12-22
Date	4.30.13
Drawn By	Author
Checked By	Checker
Revisions	08/06/13



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

12-22

Montana Creative
architecture + design

MONTANA CREATIVE
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1516 HIWAY 93
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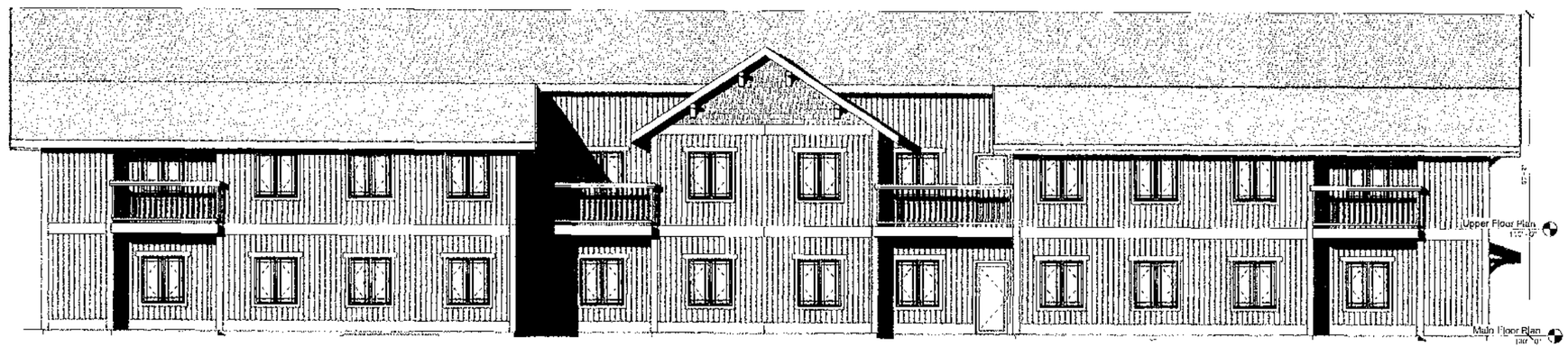
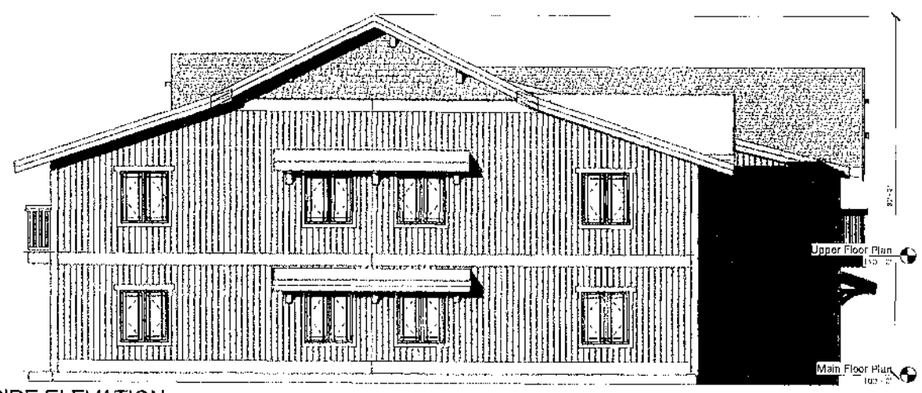
Project Number: 12-22
Date: 1-30-13
Drawn By: AARON
Checked By: AW
Revisions:

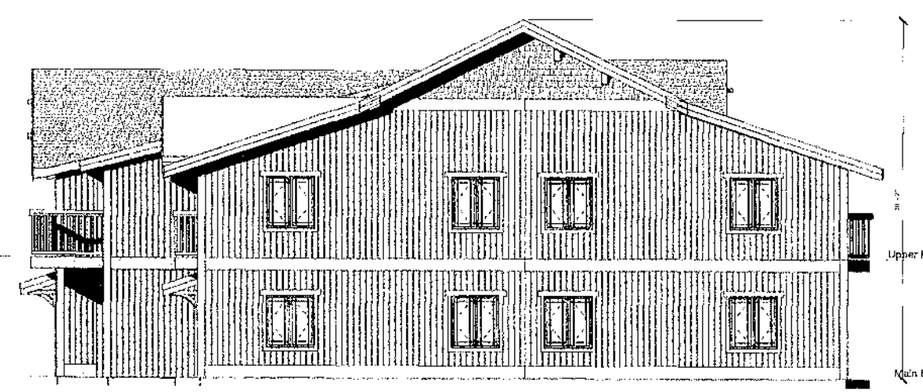
BACK ELEVATION
A3.1



2 FRONT ELEVATION
A3.1



3 SIDE ELEVATION
A3.1



4 SIDE ELEVATION 2
A3.1

BUILDING ELEVATIONS

2nd Street Apartments - 16 PLEX

WHITEFISH, MT

A3.1

Montana Creative
architecture + design

MONTANA CREATIVE
ARCHITECTURE + DESIGN
108 ROW WAY ST.
WHITEFISH, MT 59937
406.862.8152
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Project Number	12-22
Date	7.30.13
Drawn By	AJW
Checked By	AJW
Revisions	

THERE ARE NO ERRORS OR OMISSIONS IN THESE PLANS. CONTRACTORS MUST VERIFY ALL DIMENSIONS BEFORE BEGINNING CONSTRUCTION. ANY ERRORS OR OMISSIONS MUST BE REPORTED TO THE ARCHITECT.

12-22
JOB # 12-22
Reg. No. 2830
AARON L. WALLACE

3D View 1

Perspectives

2nd Street Apartments - 16 PLEX

WHITEFISH, MT

A7.1

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Project Number	12-22
Date	1.30.13
Drawn By:	Author
Checked By:	Checker
Revisions	05/03/11

Montana Creative
architecture + design

MONTANA CREATIVE
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38 NAP WAY ST
WHITEFISH, MT 59937
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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

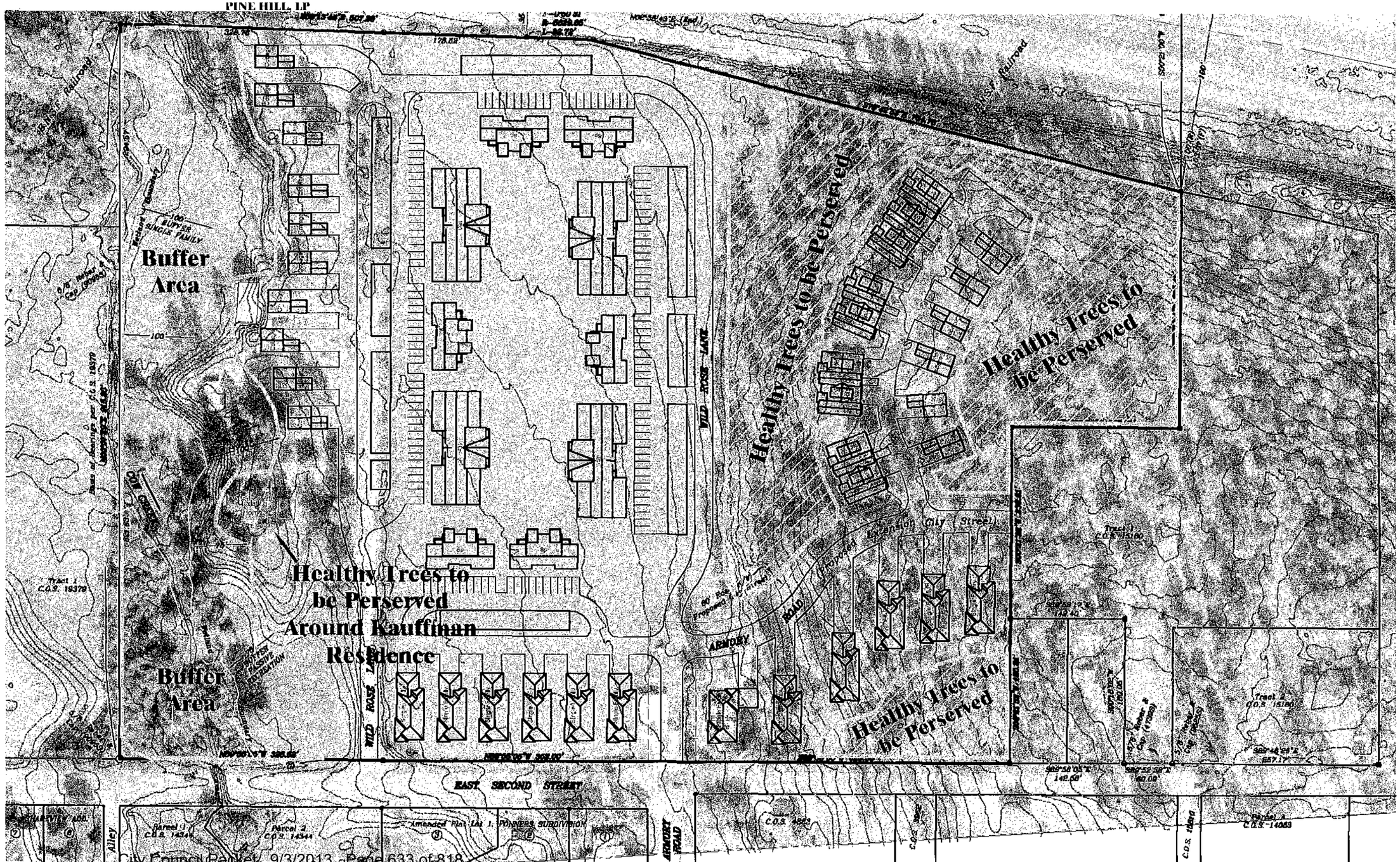
TREE PRESERVATION PLAN for:
SECOND STREET APARTMENTS

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
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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
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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	664 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.

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.

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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 Trucks		154 Arm Rd
31. Anita Flint		1323 E 2nd St
32. Bill Flint		"
33. JEFF ZERR	[illegible]	1208 E. 2nd St.
34. Richard Menicke	[illegible]	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 6

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

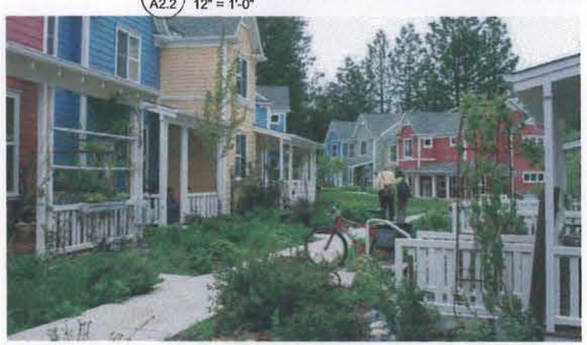
EXAMPLES OF A POCKET NEIGHBORHOOD

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

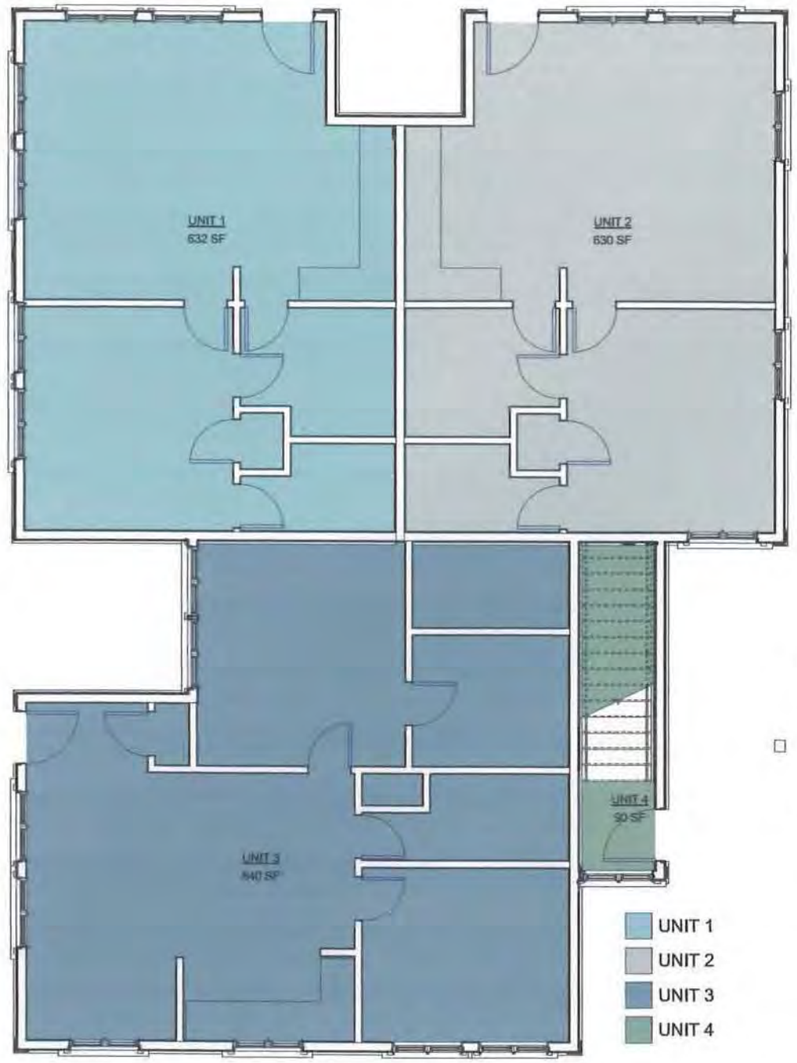
FROM 2ND STREET

FROM ARMORY

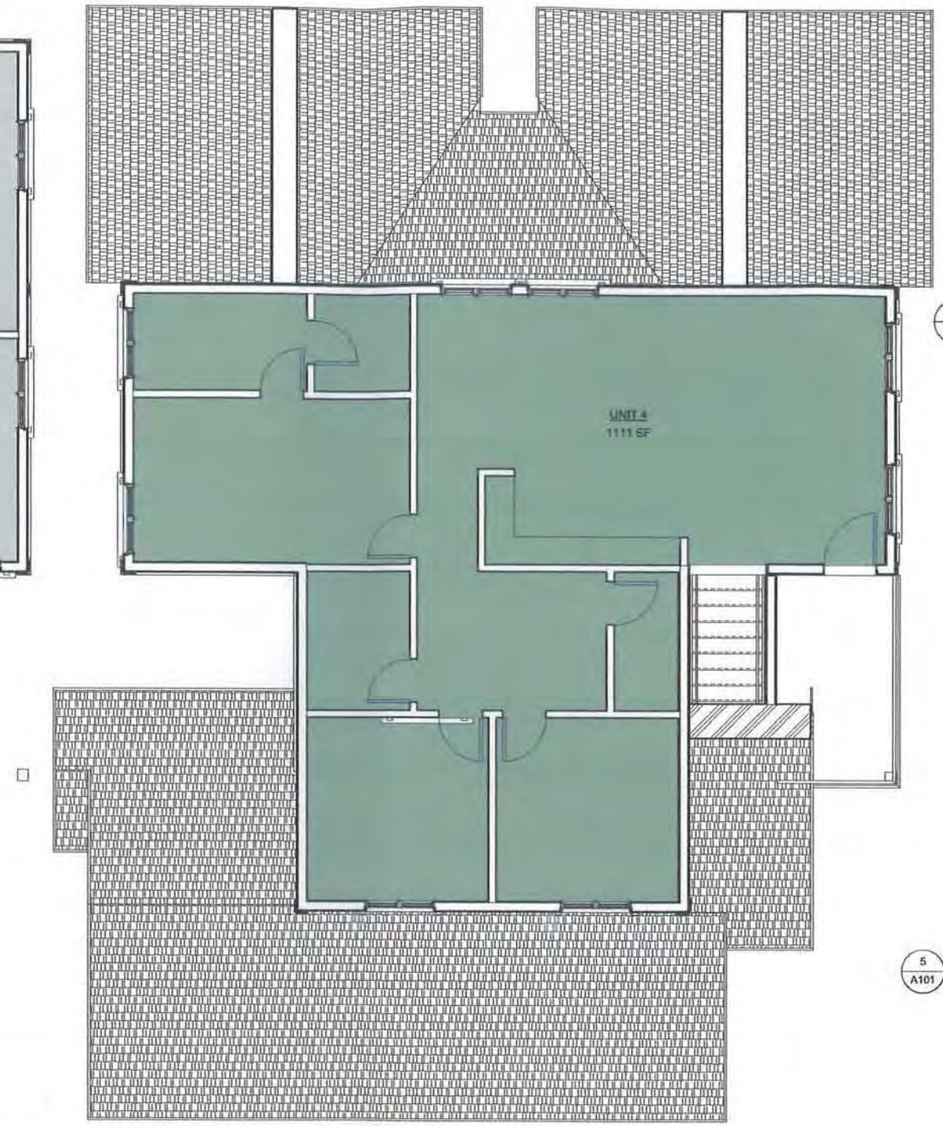
2ND STREET RESIDENCES

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"

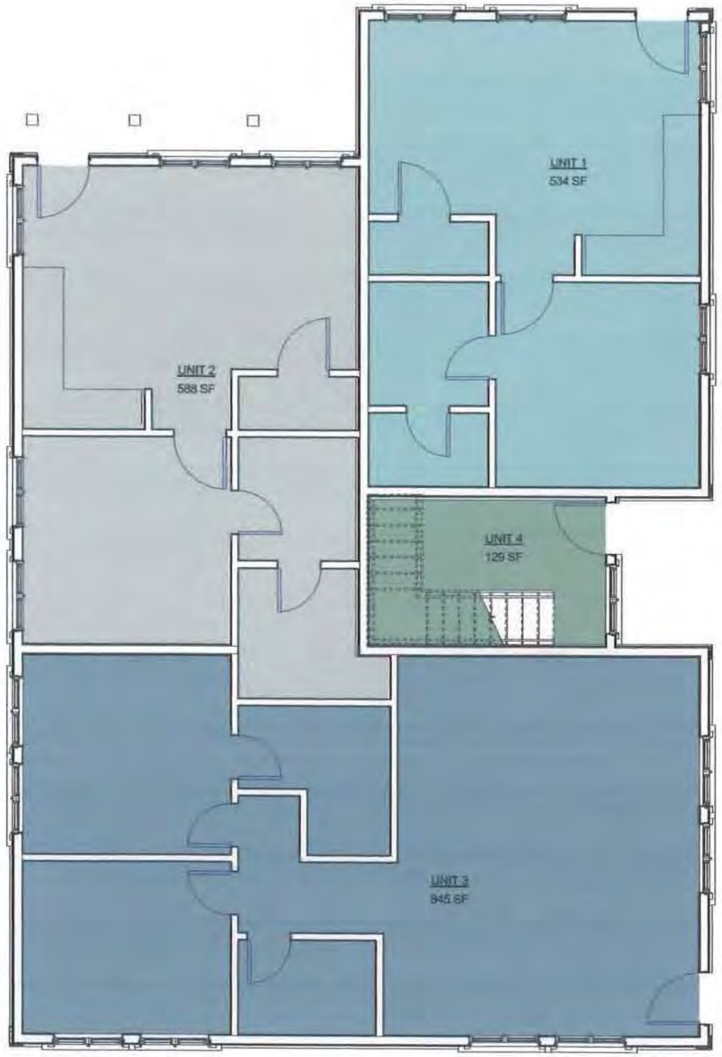
4 A101 ELEVATION 2
1/8" = 1'-0"

5 A101 ELEVATION 3
1/8" = 1'-0"

6 A101 ELEVATION 4
1/8" = 1'-0"

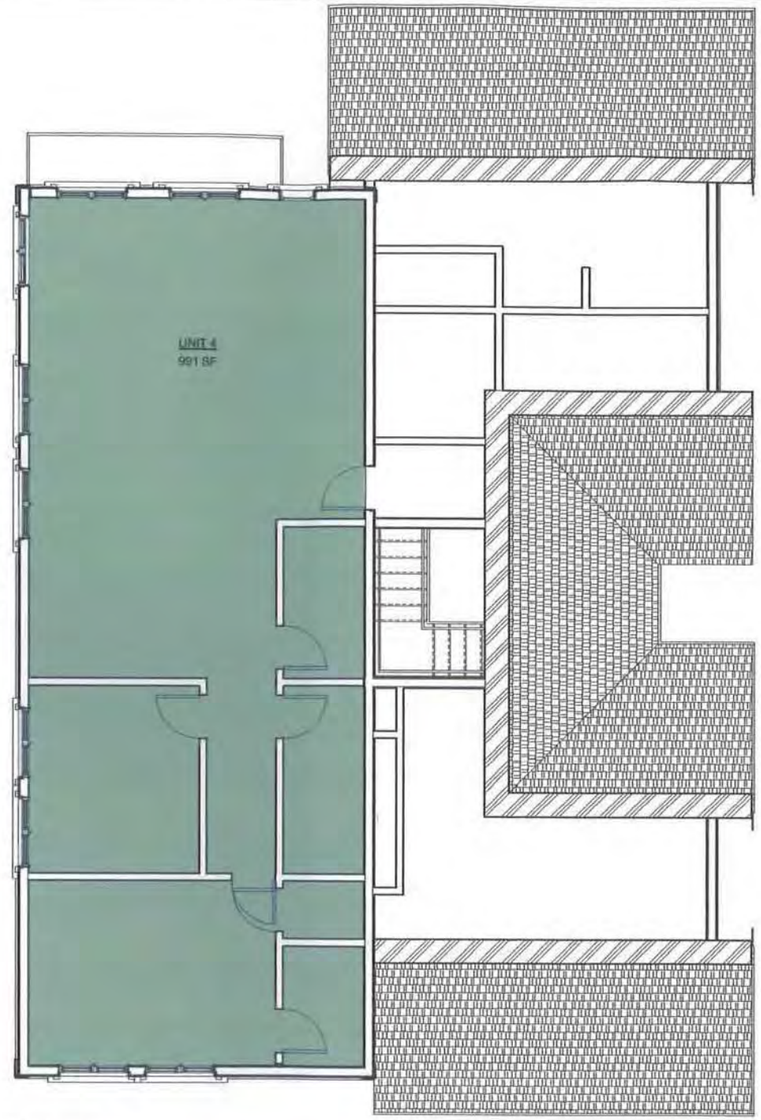
2ND STREET RESIDENCES - BUILDING A

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"

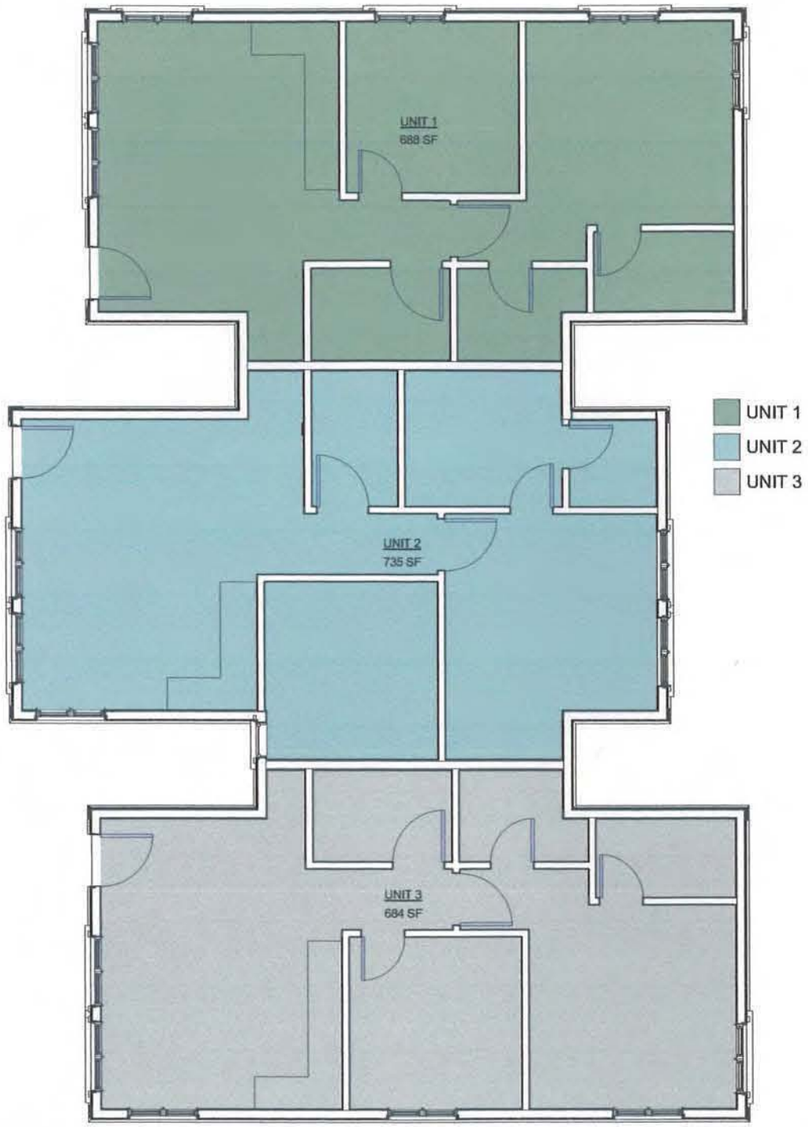
4 A101 ELEVATION 2
1/8" = 1'-0"

5 A101 ELEVATION 3
1/8" = 1'-0"

6 A101 ELEVATION 4
1/8" = 1'-0"

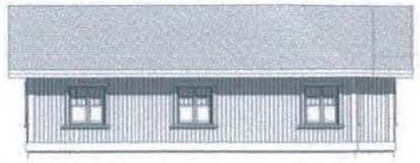
2ND STREET RESIDENCES - BUILDING B

FLOOR PLANS & ELEVATIONS



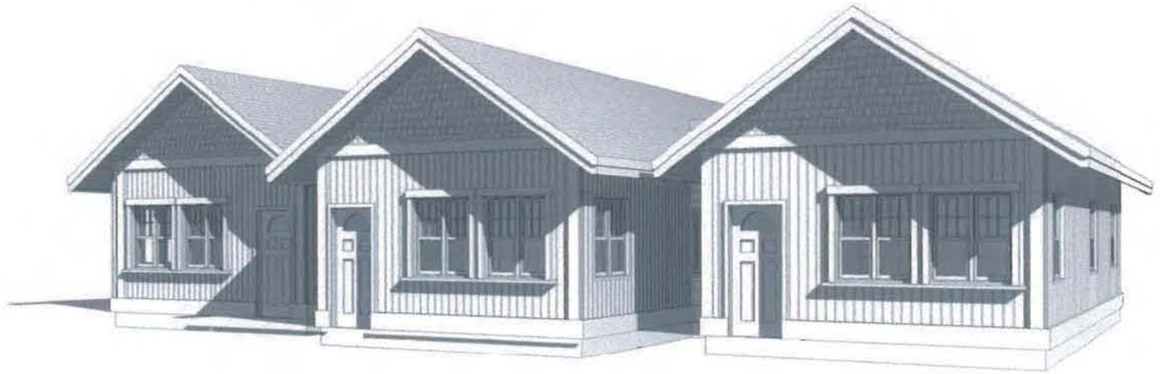
1 A101 Level 1
1/4" = 1'-0"

2 A101 ELEVATION 1
1/8" = 1'-0"



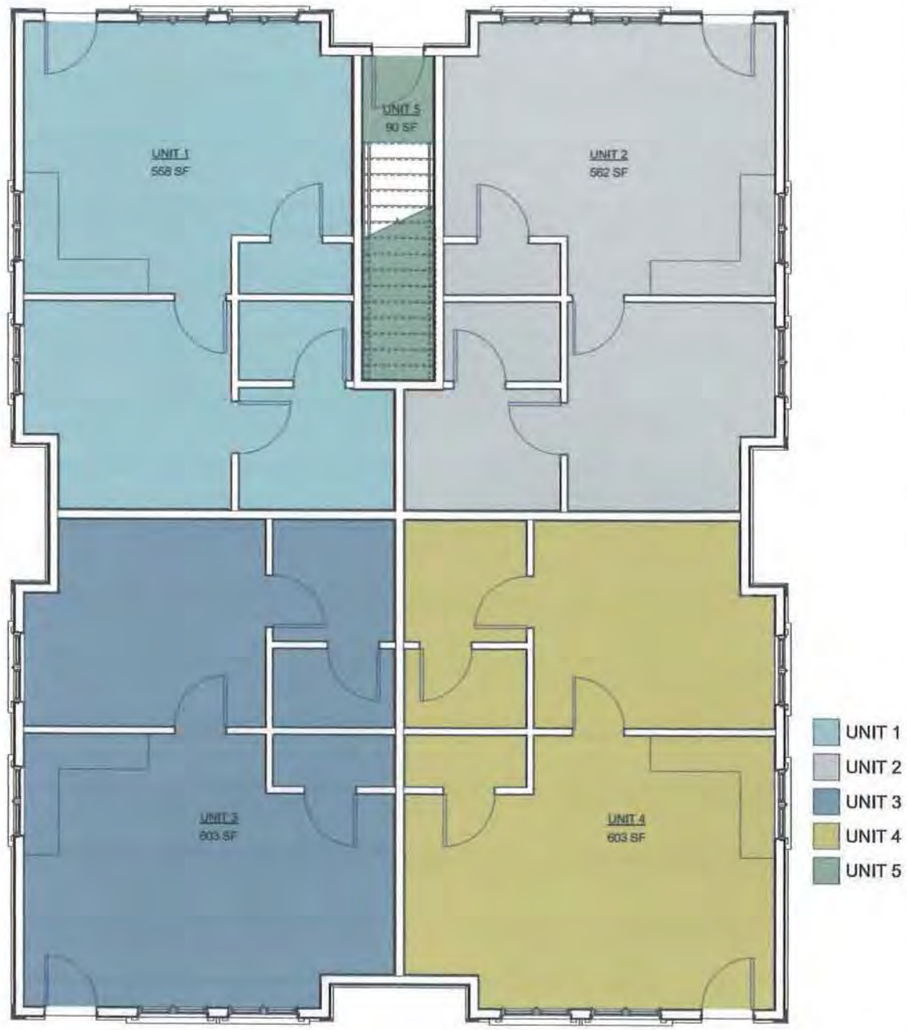
3 A101 ELEVATION 2
1/8" = 1'-0"

4 A101 ELEVATION 3
1/8" = 1'-0"

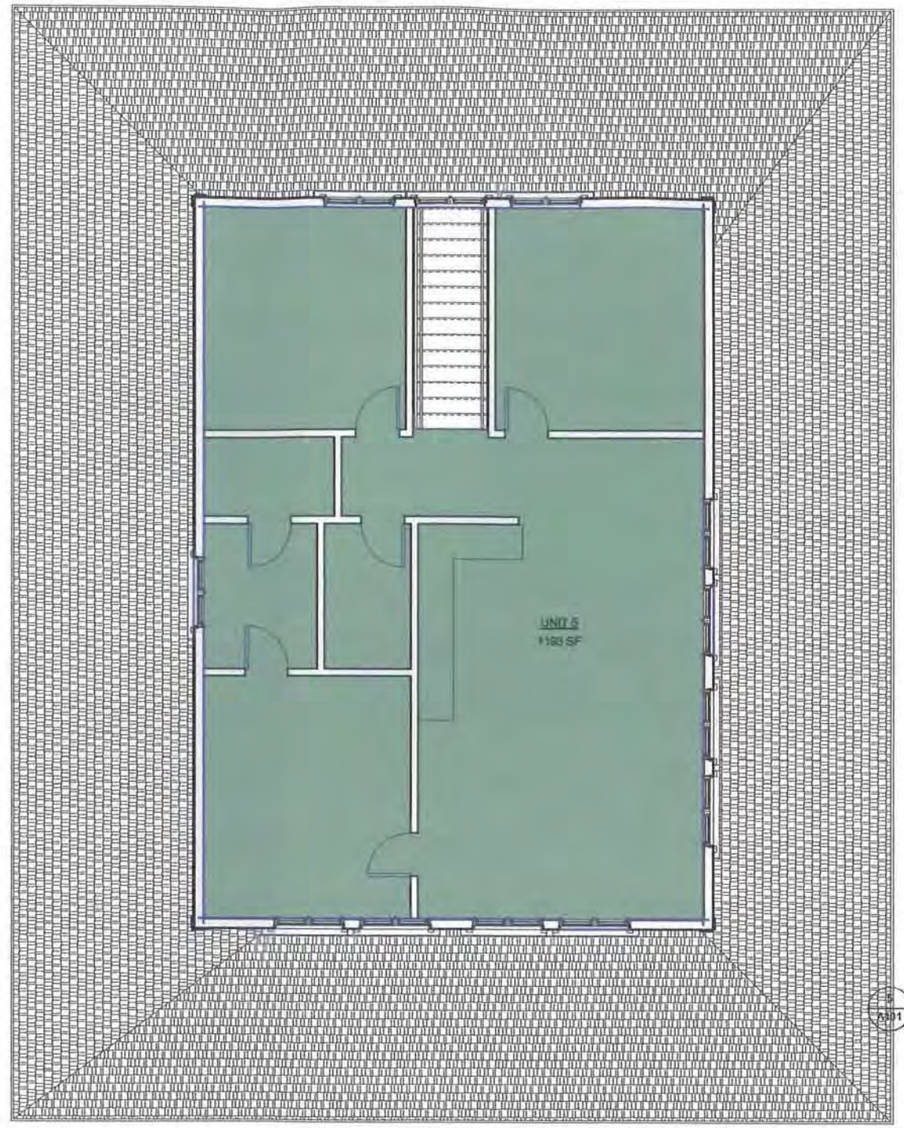


2nd STREET RESIDENCES - BUILDING C

PLANS & ELEVATIONS



1 A101 Level 1
1/4" = 1'-0"



2 A101 Level 2
1/4" = 1'-0"

3 A101 ELEVATION 1
1/8" = 1'-0"

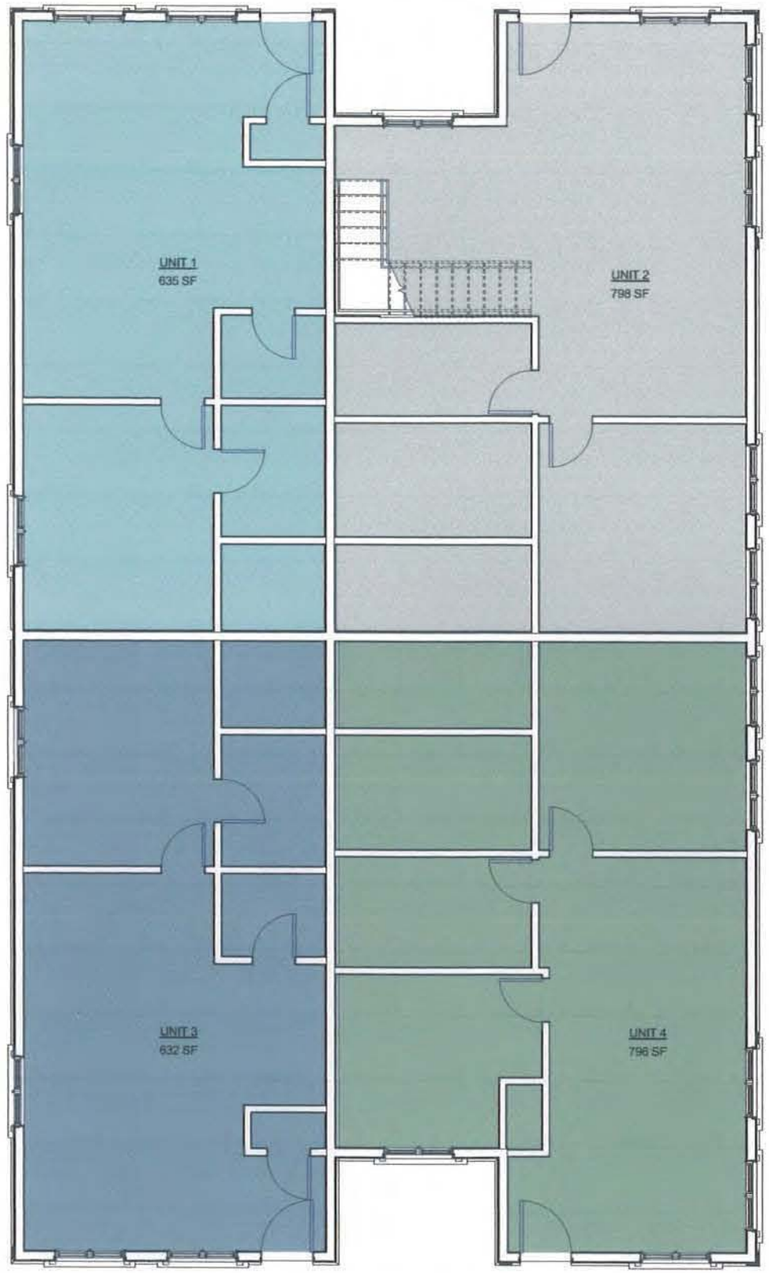
4 A101 ELEVATION 2
1/8" = 1'-0"

5 A101 ELEVATION 3
1/8" = 1'-0"

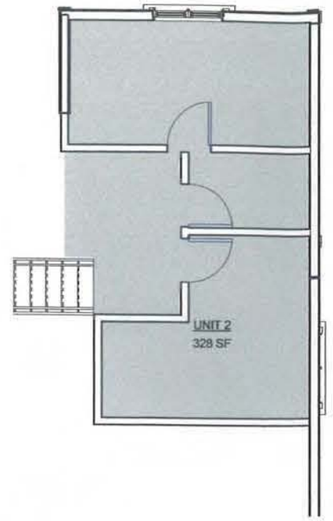
6 A101 ELEVATION 4
1/8" = 1'-0"

2ND STREET RESIDENCES - BUILDING D

PLANS & ELEVATIONS



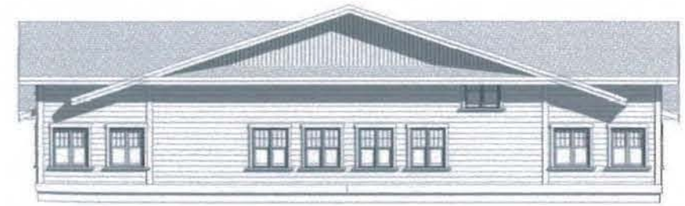
1 A101 Level 1
1/4" = 1'-0"



2 A101 Level 2
1/4" = 1'-0"

BUILDING F HAS ONLY 1 BEDROOM ON SECOND FLOOR

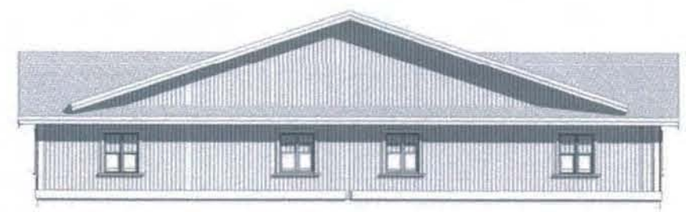
UNIT 1
UNIT 2
UNIT 3
UNIT 4



3 A101 ELEVATION 1
1/8" = 1'-0"

4 A101 ELEVATION 2
1/8" = 1'-0"

6 A101 ELEVATION 4
1/8" = 1'-0"

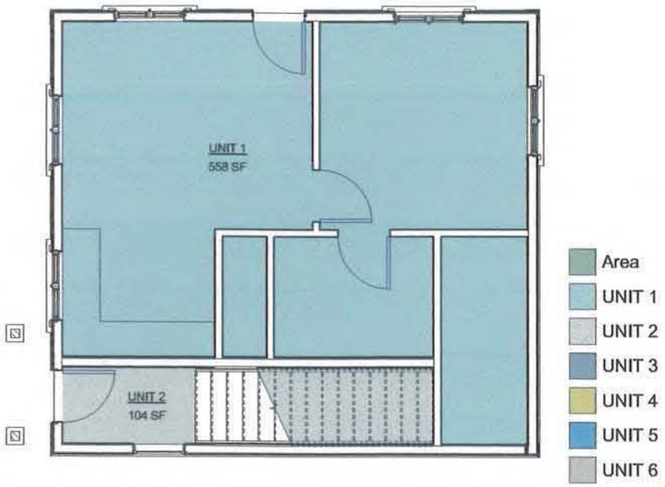


5 A101 ELEVATION 3
1/8" = 1'-0"

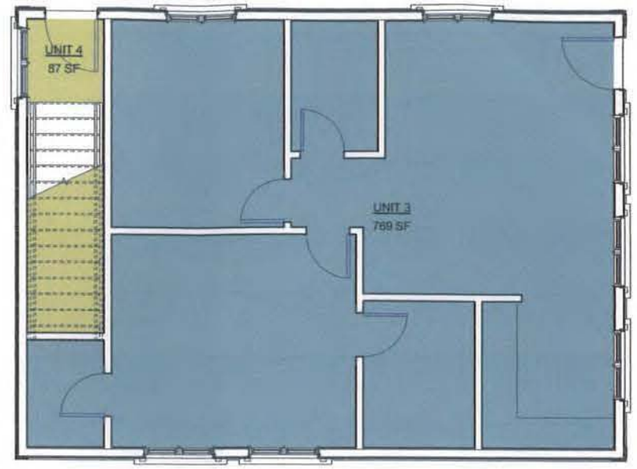
2ND STREET RESIDENCES - BUILDINGS E&F

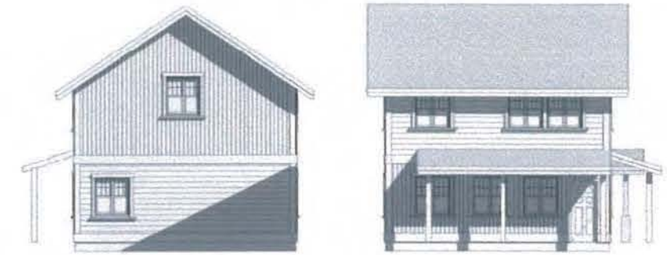
PLANS & ELEVATIONS

BUILDING G

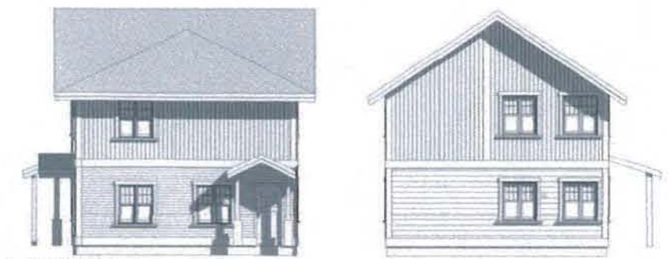


BUILDING H



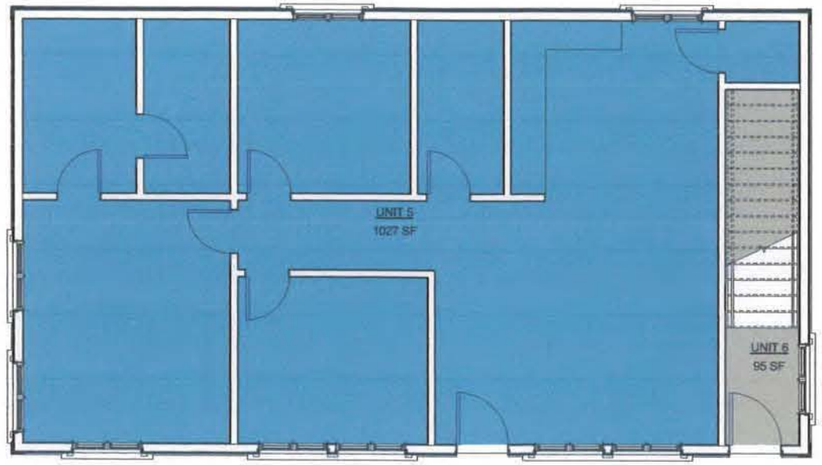


3 A101 ELEVATION 2
1/8" = 1'-0"

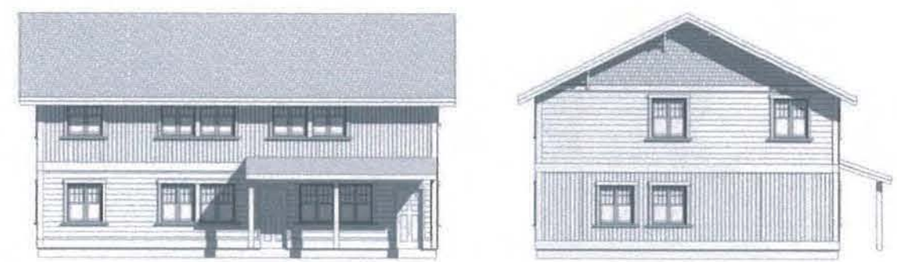


5 A101 ELEVATION 4
1/8" = 1'-0"

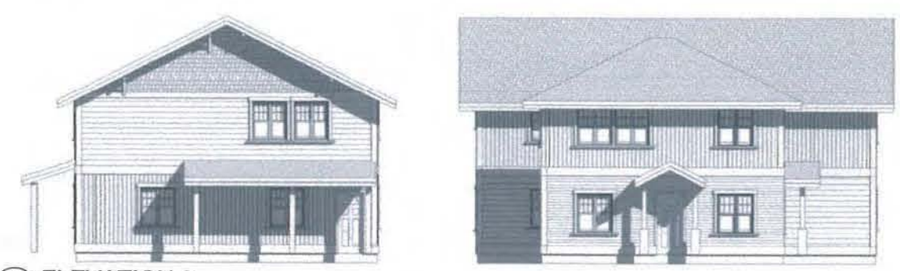
BUILDING I



1 A101 Level 1
1/4" = 1'-0"



2 A101 ELEVATION 1
1/8" = 1'-0"

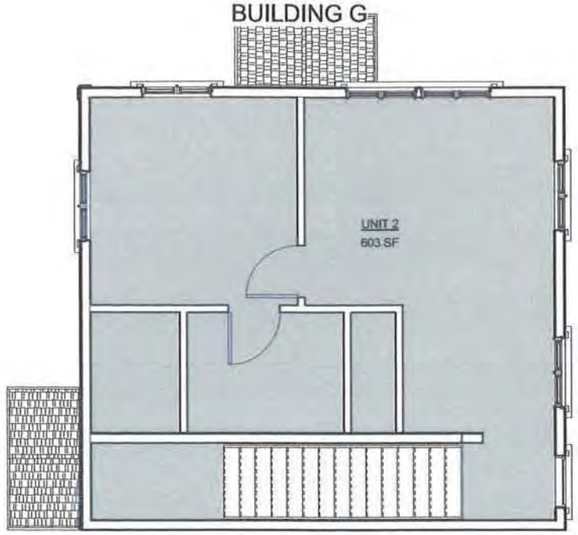


4 A101 ELEVATION 3
1/8" = 1'-0"

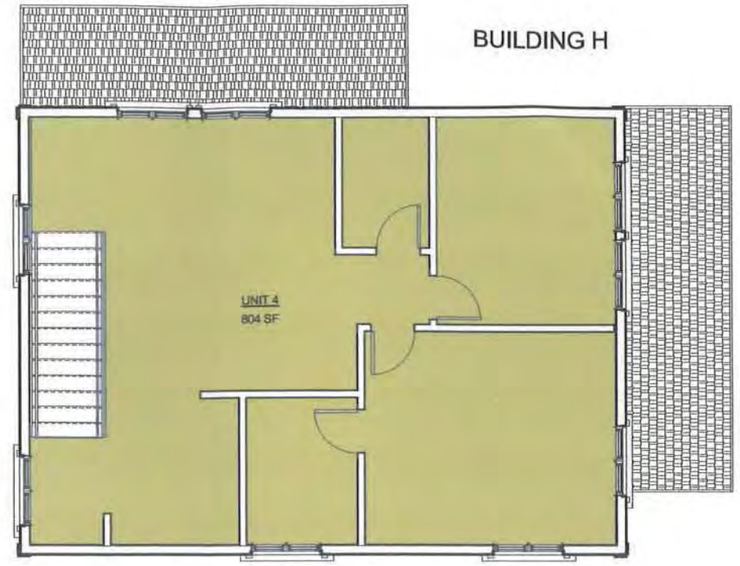
2ND STREET RESIDENCES - BUILDINGS G, H, I

FIRST FLOOR PLANS & ELEVATIONS

BUILDING G

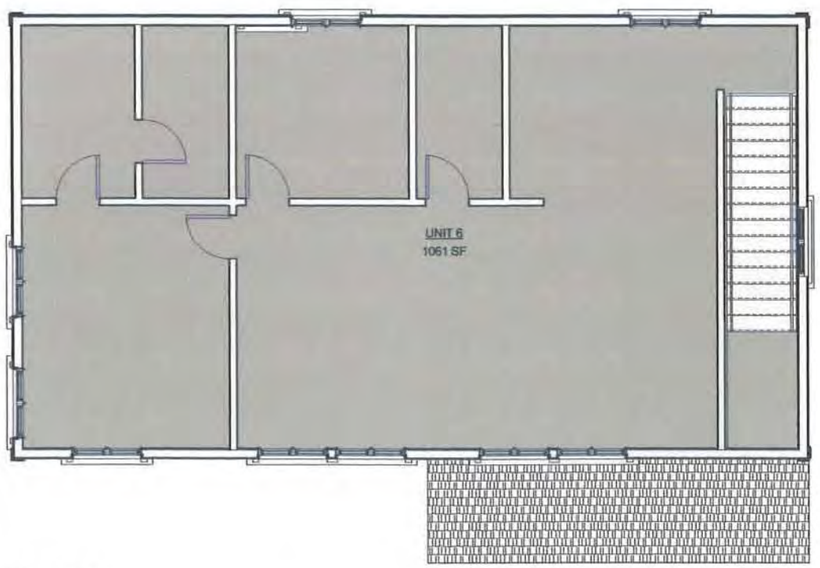


BUILDING H



- Area
- UNIT 1
- UNIT 2
- UNIT 3
- UNIT 4
- UNIT 5
- UNIT 6

BUILDING I

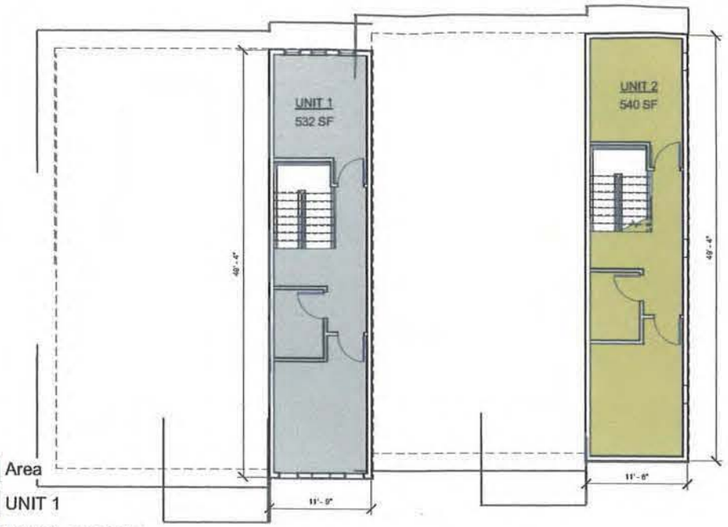


1 A102 Level 2
1/4" = 1'-0"

2ND STREET RESIDENCES - BUILDINGS G, H, I

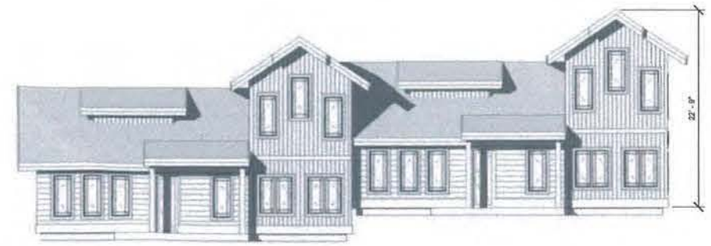
SECOND FLOOR PLANS & IMAGE

1 A2.1 Main Floor Plan
1/8" = 1'-0"



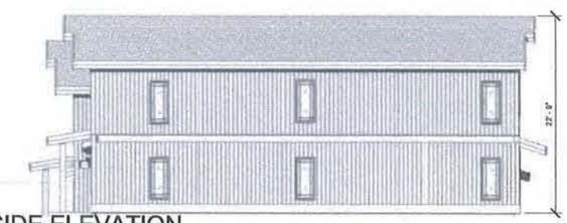
Area
UNIT 1
UNIT 1 GARAGE
UNIT 2
UNIT 2 GARAGE

2 A2.1 Upper Floor Plan
1/8" = 1'-0"



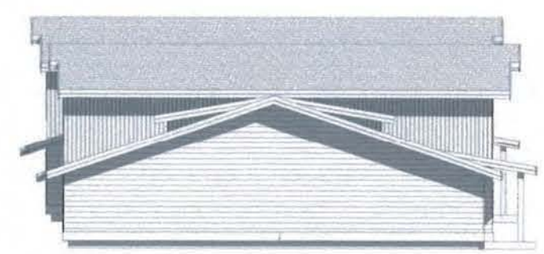
4 A2.1 FRONT ELEVATION
1/8" = 1'-0"

3 A2.1 BACK ELEVATION
1/8" = 1'-0"



5 A2.1 SIDE ELEVATION
1/8" = 1'-0"

7 A2.1 3D View 1



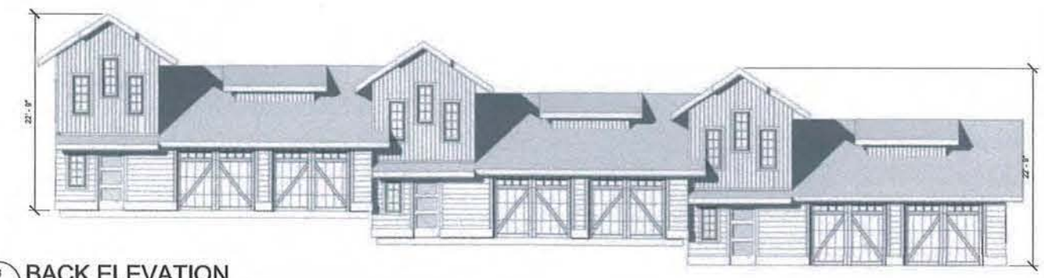
6 A2.1 SIDE ELEVATION 2
1/8" = 1'-0"

2ND STREET RESIDENCES - BUILDING K

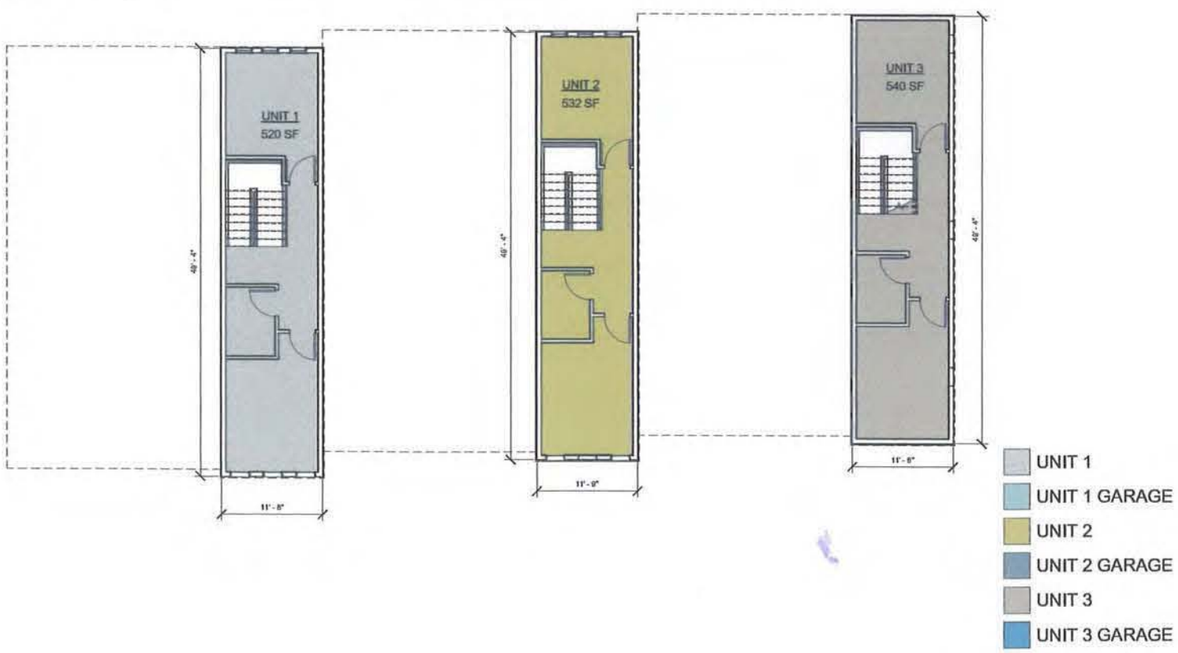
FLOOR PLANS & ELEVATIONS

5 A3.1 Main Floor Plan
1/8" = 1'-0"

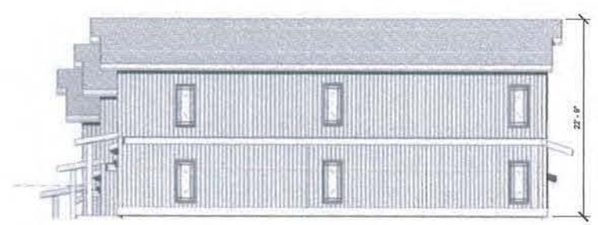
2 A3.1 FRONT ELEVATION
1/8" = 1'-0"



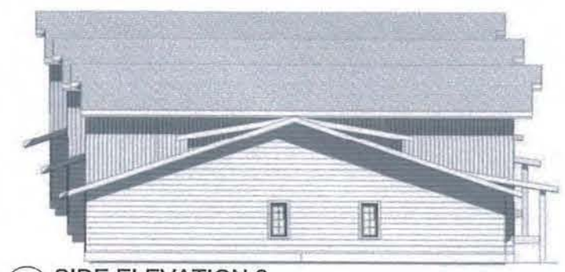
3 A3.1 BACK ELEVATION
1/8" = 1'-0"



6 A3.1 Upper Floor Plan
1/8" = 1'-0"



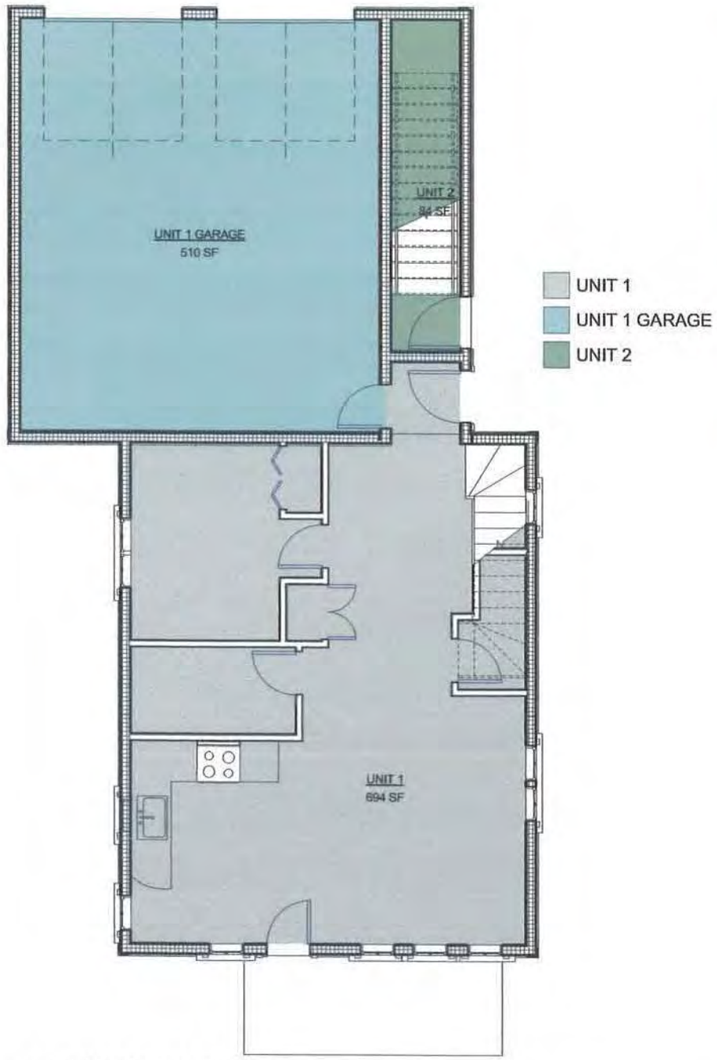
1 A3.1 SIDE ELEVATION
1/8" = 1'-0"



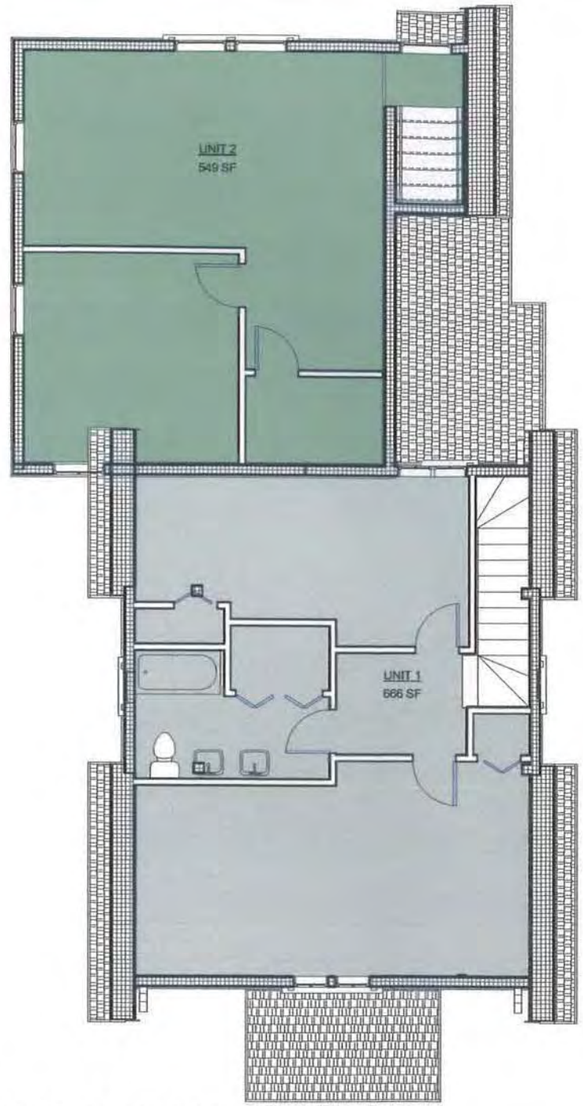
4 A3.1 SIDE ELEVATION 2
1/8" = 1'-0"

2ND STREET RESIDENCES - BUILDING M

PLANS & ELEVATIONS



1 PUD FIRST FLOOR PLAN
1/4" = 1'-0"



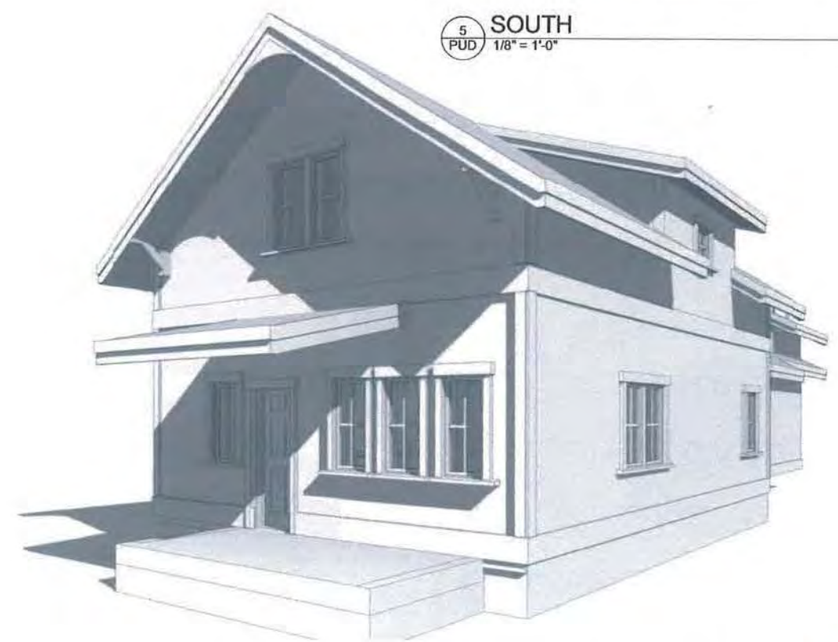
2 PUD SECOND FLOOR PLAN
1/4" = 1'-0"

6 PUD EAST
1/8" = 1'-0"

7 PUD WEST
1/8" = 1'-0"

4 PUD NORTH
1/8" = 1'-0"

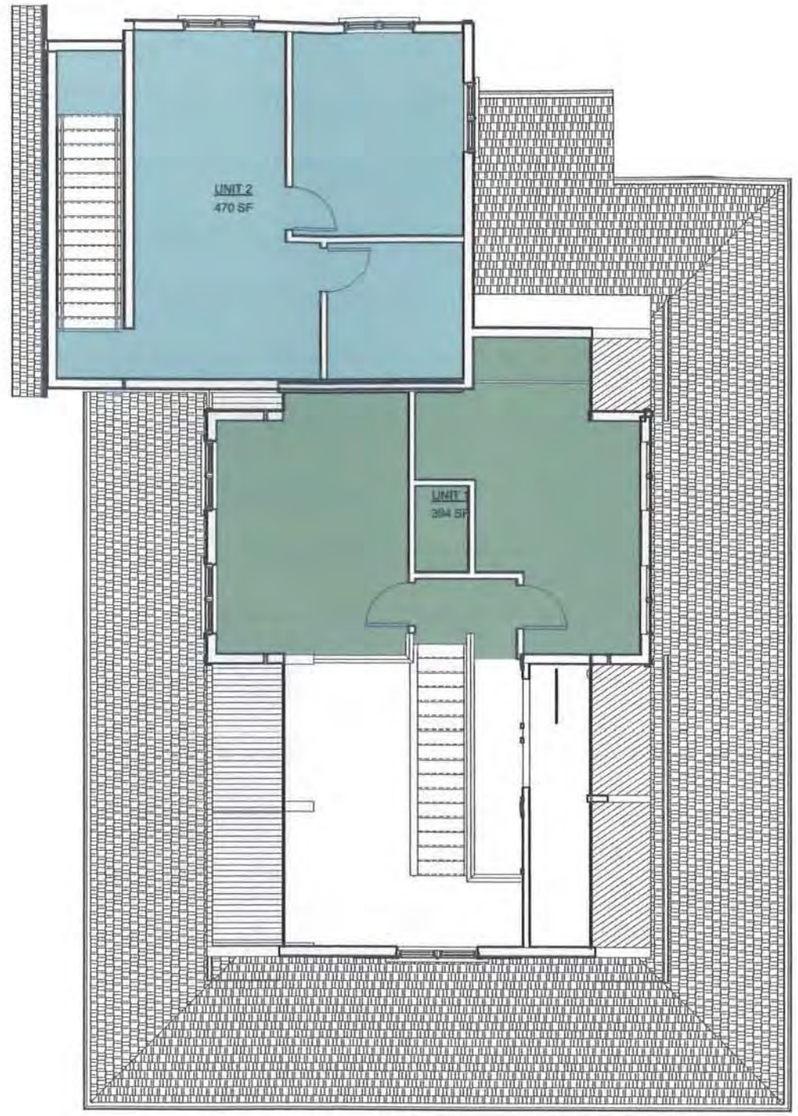
5 PUD SOUTH
1/8" = 1'-0"



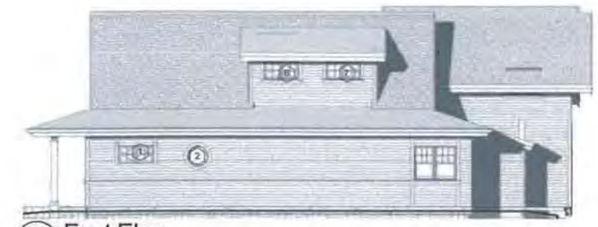
2ND STREET RESIDENCES - BUILDING L

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"

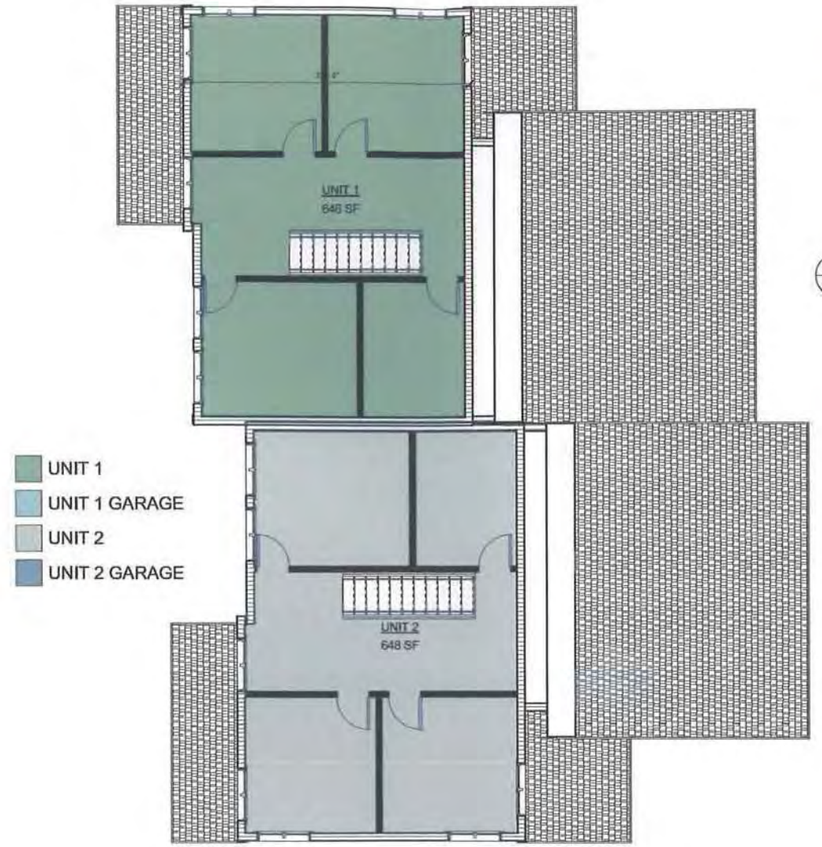
3 A3.1 North Elev.
1/8" = 1'-0"

4 A3.1 South Elev.
1/8" = 1'-0"

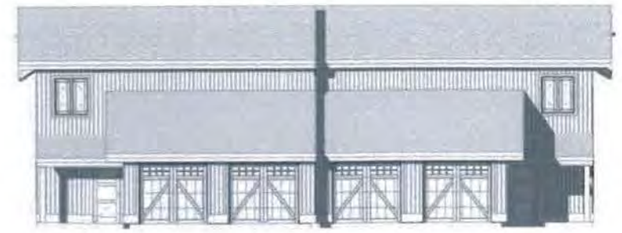
2ND STREET RESIDENCES - BUILDING M

PLANS & ELEVATIONS

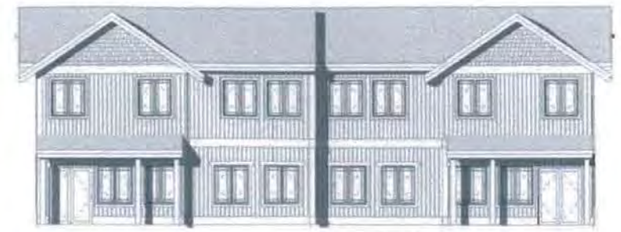
1 A2.1 Main Floor Plan
3/16" = 1'-0"



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"

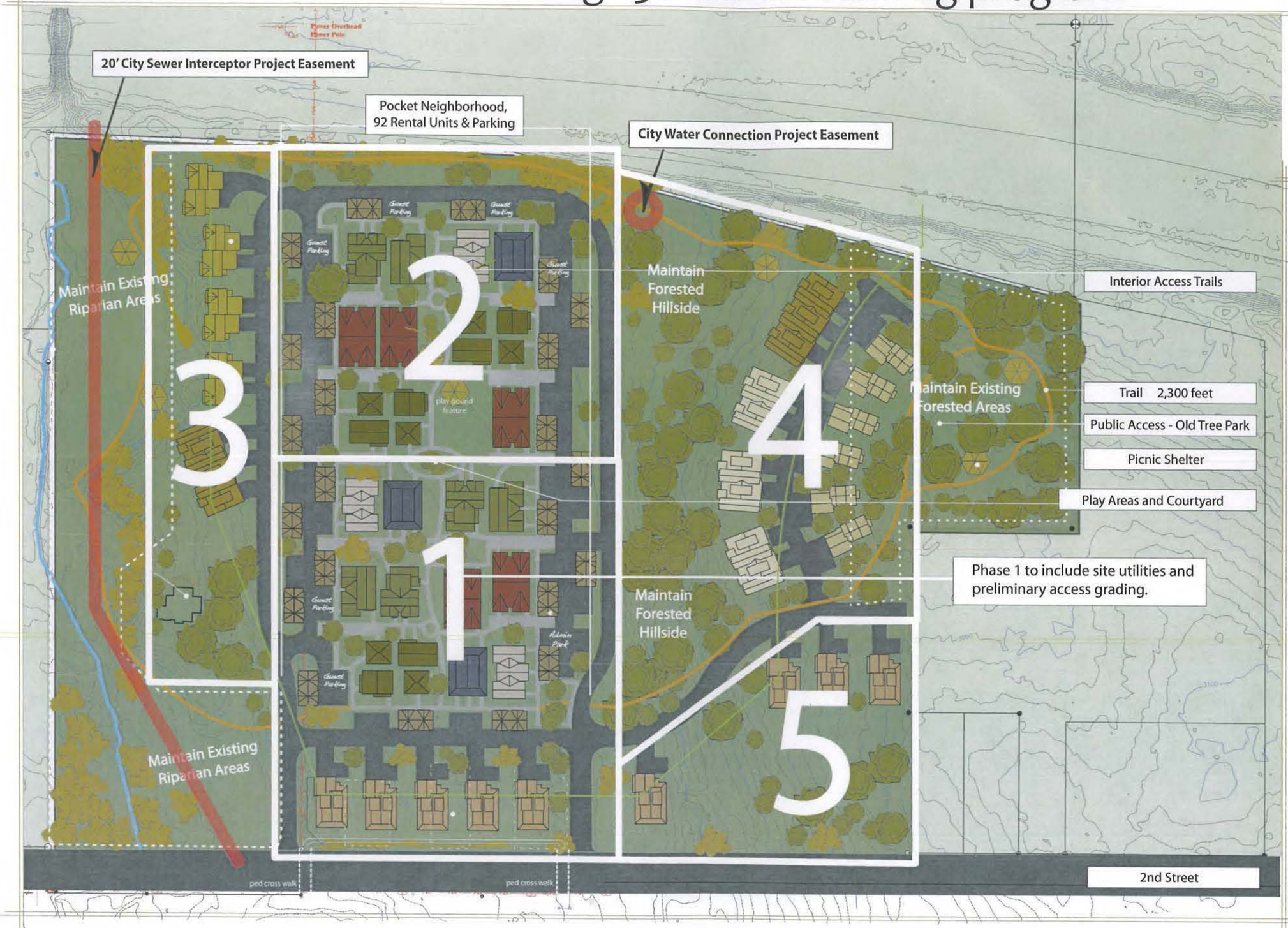
6 A2.1 SIDE ELEVATIONS
1/8" = 1'-0"

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
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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
(6)

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
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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

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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
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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

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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
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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
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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
Elderberry 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

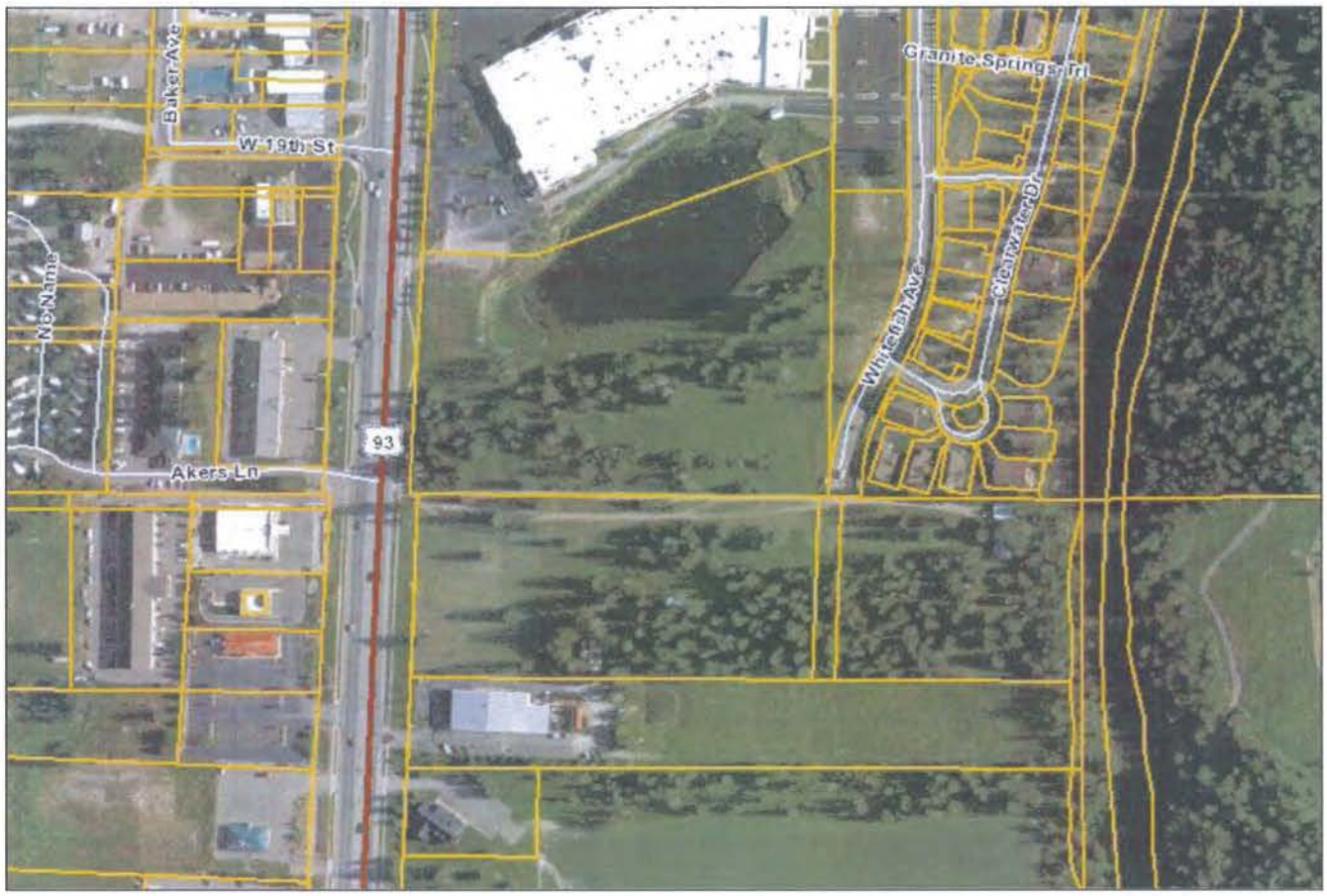
Name: Riverwalk of Whitefish
Zoning: WR-1/PUD
Status: Partially developed as 8-unit condo buildings.
Development Potential: Three additional 8-unit buildings may be constructed, but they would probably be limited to condo units. Making these units available to rent at market rates, or, to turn their 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.

Park Knoll Ln
93
Shiloh Ave
Lenna Joy Dr

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.

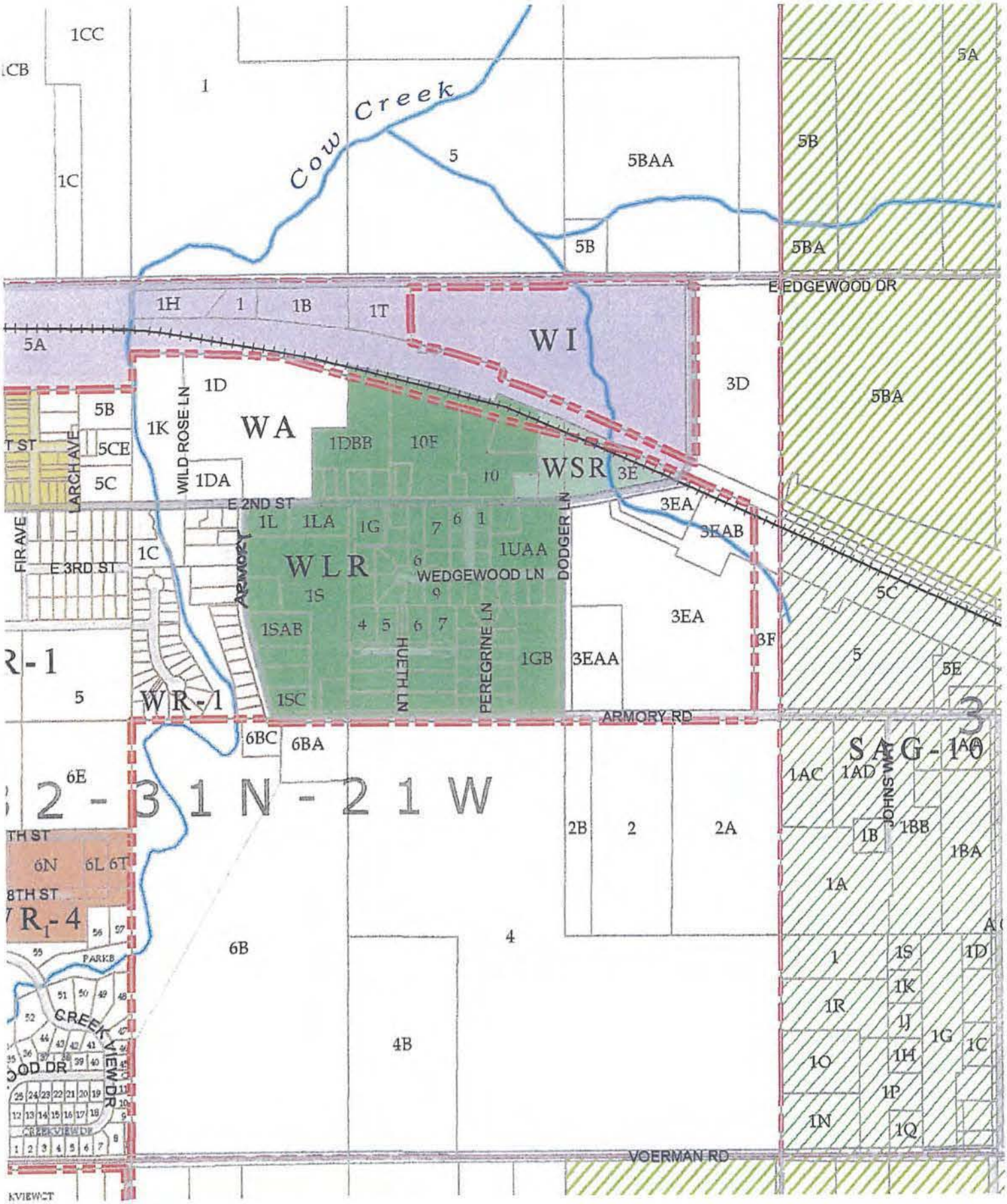
There are many areas in the city that have already been designated for High Density Residential development through the Growth Planning process and are already zoned for it. To approve this zone change request and corresponding PUD for this location would set precedence that the Growth Plan as currently 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?

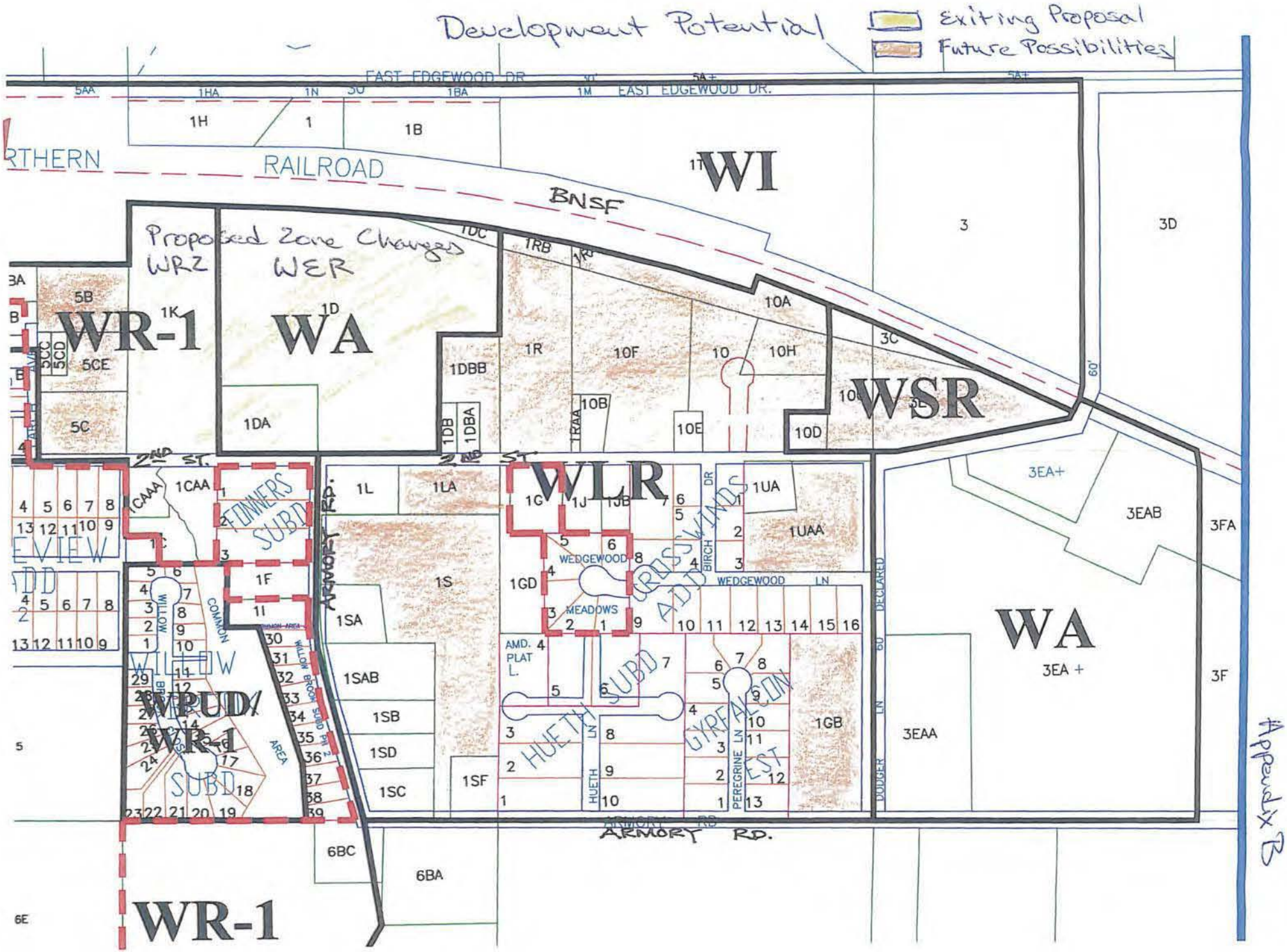
I respectfully request that you honor the Growth Policy Planning process and preserve the character of our neighborhood and vote against this project.

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.
RAILROAD
BNSF
WI
Proposed Zone Changes
WRZ
WER
WR-1
WA
WSR
WLR
WA
WR-1
WPUD/
WR-1
2ND ST.
ARMORY RD.
ARMORY RD.
FONNERS SUBD
WILLOW SUBD
HUETH SUBD
CROSSWINDS ADD
GYRFALCON EST
WEDGEWOOD
WEDGEWOOD LN
MEADOWS
BIRCH DR
HUETH LN
PEREGRINE LN
DECLARED
DOUGER LN
WILLOW BROOK SUBD PH 2
COMMON AREA
AMD. PLAT L.
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
5365750
5365700
5365650
5365600
5365550
5365500
5365450
5365400
5365350
Cow Creek
Wild Rose Ln
Fir Ave
1st St
Larch Ave
2nd St
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

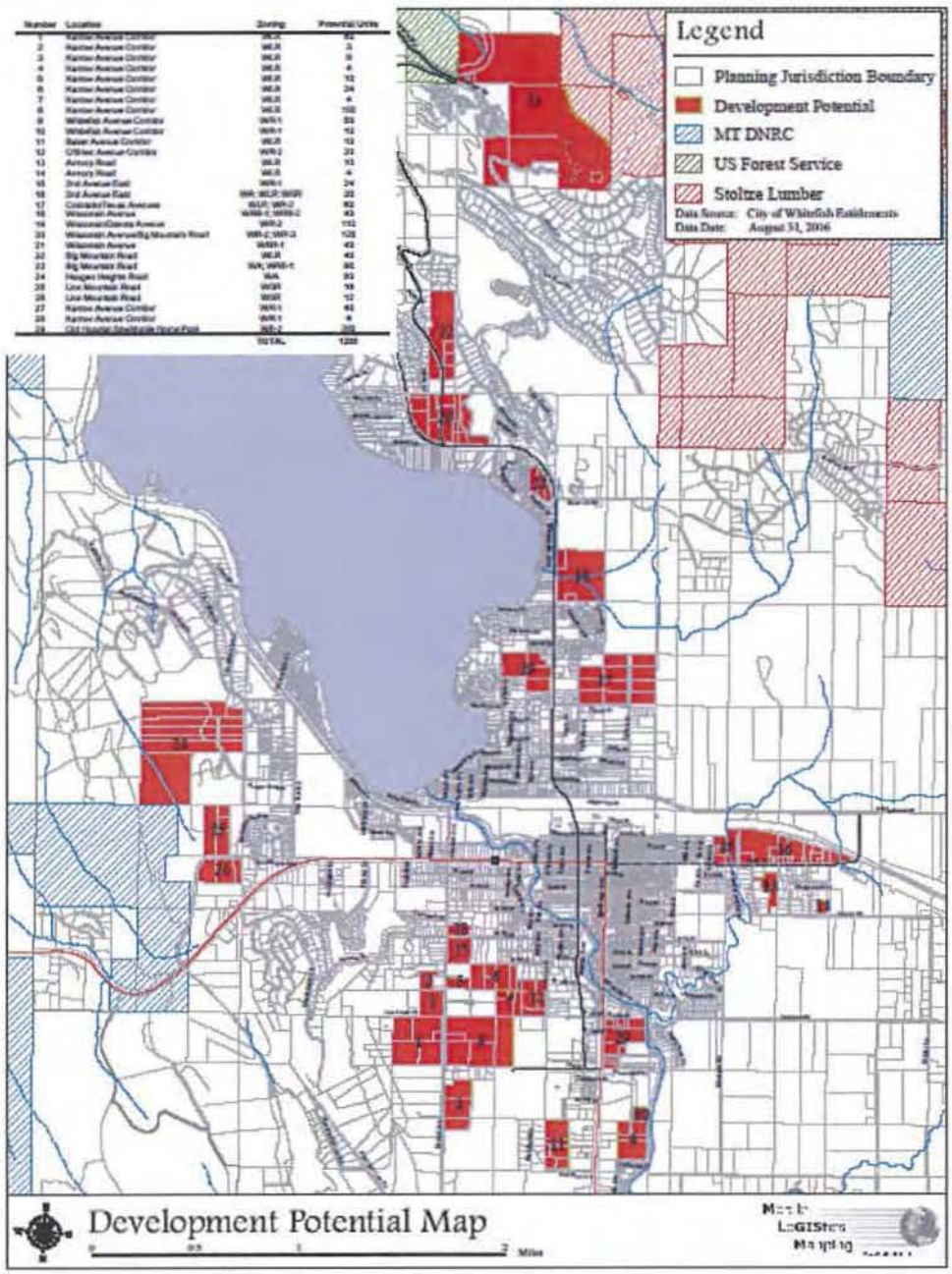
Table 2-8: 2007 LOS (Stop-Controlled Intersections)

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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Milton Datsopoulos
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William K. VanCanagan
Rebecca L. Summerville
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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.

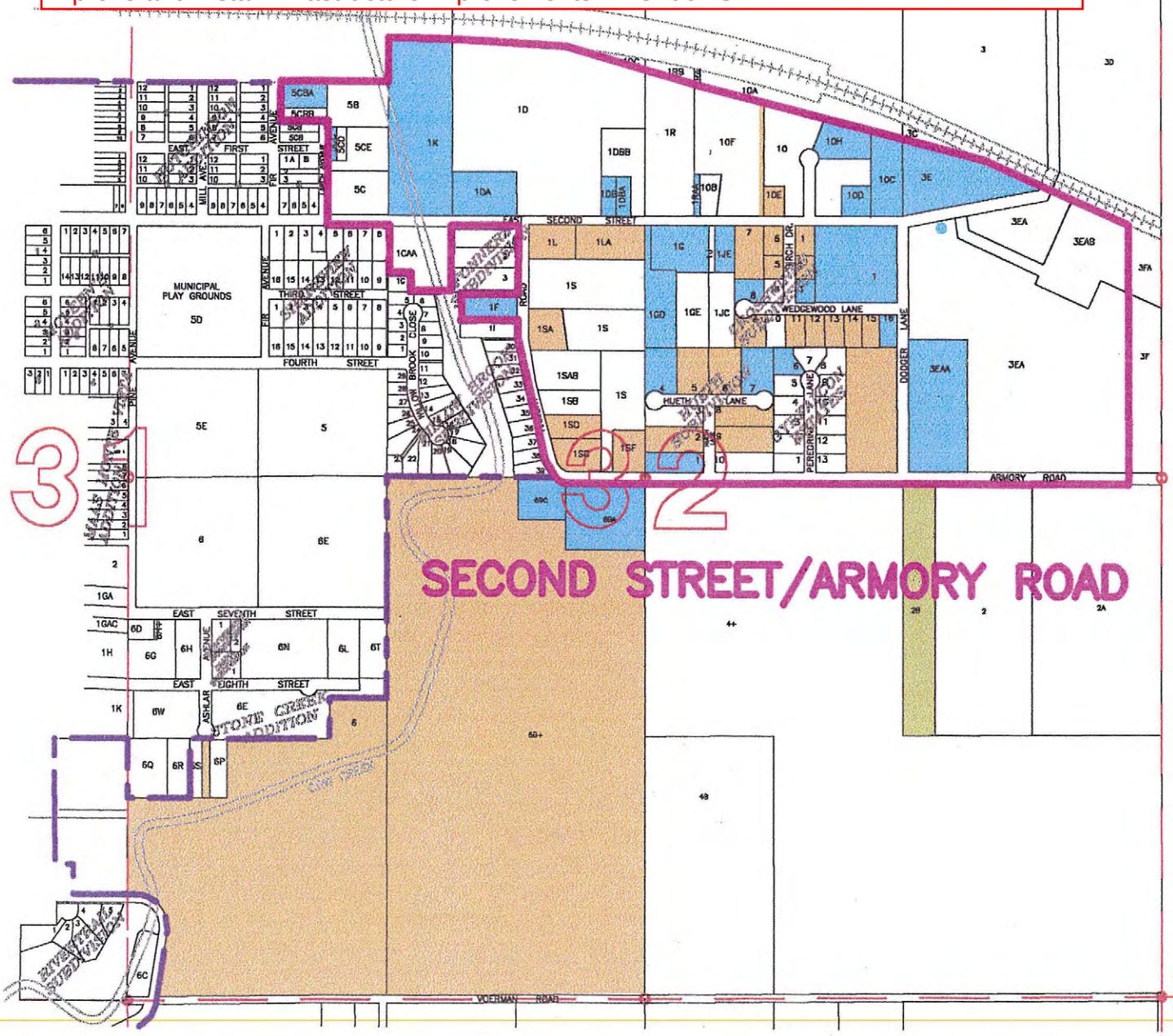
Furthermore, the spot zoning of the current plot of land violates the City of Whitefish's Growth Policy and will undoubtedly result in extensive and costly litigation will the Whitefish taxpayer stuck footing the bill. Now is not the time for needless lawsuits and increased government spending to defend 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

received
8-13-13
after packet

August 13, 2013
Alexandria Jackson
Whitefish,MT

Dear Wendy,

Im am writing in regards to showing my support for the proposed plan of the 2nd street development in Whitefish aimed to alleviate a housing scarcity for Whitefish residents. I am thirty years old and I consider myself as a young professional, I work in Whitefish year round. I strongly believe that this project accommodates the growth that we are experiencing in Whitefish.

I have been on the search for a one bedroom for under $900 per month for six months now. Since finding a one bedroom in Whitefish is almost impossible, my only option now is to share a ski bum rental with two to four other people. This is not the quality of life that I want; however, I'm just not ready to purchase a house at the moment. The Whitefish community should believe that it is essential that the majority of Whitefish employees live in the community in which they work. Access to affordable living space enables the well being of both the individual and the community as a whole.

To achieve this objective we must partner with the developers to provide and sustain a range of housing options both rental and home ownership for those who live and work in Whitefish. Access to affordable housing attracts skilled and energetic adults as well as young families with children to become part of the community. This in turn helps to ensure a stable resident workforce and a vibrant and diversified community. The sustained success in Whitefish depends on having a permanent population that is engaged in the community.

Whitefish is growing and we cannot dismiss this reality and turn away from it and that is why I support this development. It ensures that the community has a plan to satisfy the needs of the residents. The developers have a vision that will accommodate this growth while assuming responsibility for the community, which is inspiring and commendable. This plan aligns our resort community toward a vision of sustainability and success, which actually reduces commuter congestion on the highway and reduces urban sprawl.

Sincerely yours,

Alex Jackson

received
8-15-13
after packet

Necile Lorang

From: "S Brant" <thebrants@gmail.com>
To: <nlorang@cityofwhitefish.org>
Sent: Thursday, August 15, 2013 11:14 AM
Subject: Letter to the City Council - RE: 2nd Street Apartments

Dear City Council Members;

This letter is intended to voice our concerns about the proposed development of the David Kaufman property on East 2nd Street.

We understand that the property under consideration will be developed at some point and are not opposed to development there however since this project has been proposed there are concerns that have been voiced by neighbors and other residents of Whitefish that have not been adequately addressed by the 3 previous meetings of the Planning Board.

Primarily these concerns center around:
1. The zoning changes requested.
2. The size and scale of the development being out of character to the surrounding neighborhood.
3. The traffic and road safety concerns of the development.

I know that many of our neighbors have addressed the zoning issues and I urge you to give the zoning changes your careful consideration. The primary reason that a zone change is requested for the smaller parcel is that the two parcels can then be considered as one unit for the PUD overlay. If the zoning is left as is there will still be adequate allowable building to take place under the guidelines of allowances for that particular zoning.

A large multi-unit complex like the one proposed is clearly out of character with the surrounding neighborhood and it has been stated more than once that if the developers were proposing to build in accordance with existing zoning that opposition would be much less. There already exist a number of already zoned and approved developments nearby the schools and downtown that need to be built out. Those areas are more suitable for multi-unit housing and again Kaufman's field is more suitable for single family dwellings compatible with the surrounding neighborhood.

Our main concern however is the impact that the development as proposed

will have on the traffic flow on East 2nd Street. We have lived at our present location for 37 years (at the top of the hill on East 2nd Street) and have seen every possible adverse condition on the hill itself. The hill is steep and to have as many as 250 to 300 cars per day pulling out on the E. 2nd Street morning and night is a safety nightmare. The proposed intersection of extending Armory Road creating a four-way intersection is a bad idea and to talk of making that intersection a four-way stop is an even worse idea. I believe a suggestion was made by the Planning Board to move the exit to the project further west on 2nd Street and not creating a four-way intersection is a much better idea and will help mitigate a potential safety hazard at the bottom of the hill. Even with the rebuild of the street the hill is only going to be lowered about 6 inches and that won't be enough to allow a safe stop zone if a stop sign were put in on 2nd at the bottom of the hill. Moving the project exit further west will eliminate the need for a stop sign, Traffic on East 2nd Street is only going to increase in the future - especially if city services are extended to north of the tracks thus opening up much more land to future residential development. We should be thinking seriously about that future traffic flow.

It is for these reasons that we are opposed to the development as proposed. We believe the developers have more work to do to make the whole project one in which we as Whitefish residents can be proud. Thank you for your considerations.

Sincerely,

Scott and Barbara Brant
1658 2nd Street East
Whitefish, MT. 59937

8/15/2013

received
8-15-13
After Packet

Necile Lorang

From: "Wendy Compton-Ring" <wcompton-ring@cityofwhitefish.org>
To: "Necile Lorang" <nlorang@cityofwhitefish.org>
Sent: Thursday, August 15, 2013 12:08 PM
Subject: FW: Infill Support Letter

From: Nikkee Aston [mailto:nikkee@montanabuild.com]
Sent: Thursday, August 15, 2013 11:42 AM
To: wcompton-ring@cityofwhitefish.org
Cc: 'Tracy Rossi'
Subject: Infill Support Letter

Dear Planning Department,

I started my relocation plans to Whitefish in January 2013. I mainly relied on Craigslist, Daily Interlake, and Mountain Traders online services for jobs and rentals. However, I was unsuccessful in finding a decent, affordable, unfurnished, and long term rental in Whitefish. A couple of friends living in Whitefish confirmed it was a very difficult market for rentals. Upon arrival we drove around, and that's when I found my current place. It shouldn't have to be like this. There should be more housing for people like me!
Whitefish has everything to offer from great outdoor adventures, culture, awesome social scene, and a wonderful place to raise a family. However, what it doesn't have is affordable home rentals, and this really needs to change!

Sincerely,
Whitefish Resident

received
8-15-13
After Packet

Dear Council Members,

I am writing in opposition of the zoning change request that would make the 2nd Street Residences Project possible. Let me make something clear right from the start. I am not opposed to the property being developed. I am opposed to the zoning change that would allow the project to be way too dense. I understand that anything put on the property will result in more traffic, safety concerns, etc. The only way to minimize the impact is to deny the zoning change request. I would support a project that would conform to the zoning already in place in the surrounding neighborhoods.

I believe that this request is considered spot zoning. A very dangerous precedent will be set if you allow this zoning change. There are areas in town that are already zoned for projects such as this. If you have truly explored (not just driven by) the 2nd Street and Armory neighborhoods than you already know that this project does not fit in at all. If you start to allow spot zoning we will end up with a very disjointed community. If you say yes this time then how can you say no to the next developer?

The proposed project is way too dense for this neighborhood. The developer said that he wants to build housing for families and young professionals. This community is full of families and professionals already and I would welcome more with open arms. Unfortunately the developers plan seems more like transitional, seasonal employee housing. How can I feel otherwise when the plan consists of 90+ multi-family rental units? This is not a transitional neighborhood.

Safety is also a big concern regarding this project. After many community and Planning Board meetings the traffic safety concerns have still not been fully addressed. Adding 1,000 plus car trips a day to an already extremely busy 2nd Street is a recipe for disaster. The street is significantly narrower from Memorial Field to the building site. With cars parked on one side of the street it is already difficult for two cars to safely pass each other. Armory is already a dangerous place without sidewalks.

Does Whitefish need more affordable housing? Of course it does. Sacrificing the integrity of an entire community is not the way to get it. There has been an overwhelmingly negative response to this project. I attended two Planning Board meetings where many, many folks took the time to show up and speak out against it. At the first meeting I attended, the only folks that spoke in favor of the project were the developer and Mr. Kauffman. At the next meeting the developer, Mr. Kauffman, and the developer's father were the only ones to speak in favor of the project. Where were all of the people who, according to the developer, are so excited about the proposed plan?

My husband and I both work for local schools. I have lived and worked in this neighborhood for 20+ years. I have seen many, many changes in that time. I was here before Willowbrook,

Creekwood, the dog park and the skate park. All of these things have changed our neighborhood and increased traffic, but I supported each and every one of them. They benefited the entire community. In meeting after meeting the community has spoken out saying they will support a project if the zoning change request is dropped. The issue for most of us is not the how the property will look, but the density. If the developers truly wanted to better our community then they would listen. They have chosen not to. Please do not sacrifice our entire neighborhood for the sole financial benefit of the developer and Mr. Kauffman. We need to grow Whitefish responsibly.

Sincerely,

Suzi Stagg

1306 East 2nd Street

received
8-16-13
After packet

OPPONENTS' SUMMARY OF ISSUES RELATED TO THE PROPOSED DEVELOPMENT OF THE SECOND STREET APARTMENTS/RESIDENCES BY COMMUNITY INFILL PARTNERS

PREPARED FOR THE WHITEFISH CITY COUNCIL MEMBERS TO REFERENCE AT THE AUGUST 19, 2013 MEETING

LEGAL ISSUES

I. ***Citizens for a Better Flathead v. Board of County Commissioners, et al***, DV-12-010C, July 5, 2013. **Three (3) Key Holdings**:

(1) **Council cannot ignore the Whitefish Growth Policy**. While infill and affordable housing are part of the Growth Policy, so is preserving and enhancing traditional neighborhoods that make our community special. As noted, the historical use for the Second Street and Armory Road neighborhood is single family residential. The future land use map never contemplates high density, multi-family projects in this part of town.

(2) **Council cannot ignore public comments**. Every neighbor within a mile of this proposed apartment complex who has signed a petition or written a letter objects to this zone and map change. There are several hundred affected residents who have appeared at meetings or voiced their opposition to this project.

(3) **Illegal Spot Zoning**: This high-density project is significantly different from the prevailing use in the immediate area. The area in which the use applies is small (6 acres). The zone change from WR-1 to WR-2 inures only to the benefit of one landowner and to the detriment of all surrounding neighbors, not only with respect to their quiet use and enjoyment of their property, but also for the decrease in value in their property's worth.

When asked why his initial report specifically pointed out that this project constituted spot zoning but later deleted that language from his last report, our Planning Director stated he liked the later iterations of the project better than the first one. Also, he didn't feel a change from WR-1 to WR-2 was significant, not like a change to a commercial use would be, for example.

While 153 rental units might not meet the test for "commercial use" in planning jargon, as a practical matter, **this SHORT TERM RENTAL DEVELOPMENT amounts to a commercial use, since the proposed leases are for 1, 3, or 6, months, the owners will run and manage this as a business serving the needs of temporary workers employed at The Lodge, Whitefish Mountain, and Proof Research, among others,** and the impact for residents, police and fire likely will be as great as if a retail development were built.

II. SETTING PRECEDENT: ***William and Theodora Walton v. City of Whitefish,*** **2009 MT 360N**. The Waltons prevailed in their lawsuit against Whitefish after a jury trial. In the City's motion for a directed verdict, it argued the Waltons had been treated the same as similarly situated persons seeking a building permit on a slope. The judge, the jury, and the Montana Supreme Court disagreed with the City.

Thus, this case stands for the legal premise, based on the Equal Protection Clause, that what the City of Whitefish grants for one, it must grant for all who are

similarly situated. If Council approves this zone change request, along with the PUD, and allows Community Infill Partners [CIP] to build their proposed project, then Council will have to approve every other similar request in the future. Otherwise, it will subject itself to a lawsuit, as it did with the Waltons, that it cannot win.

Therefore, arguably every WR-1 parcel of land within the Whitefish zoning jurisdiction, including the disputed "doughnut," that adjoins an open space zoned agricultural could be re-zoned accordingly, opening our city to massive high-density residential development. This is not what the 2007 Growth Policy contemplates.

III. Approval will amount to a constructive amendment to the Growth Policy without following the strict legal scrutiny such an amendment requires. If Council opens this door by approving CIP's zoning request, thereby setting a precedent, the decision will enable similar changes throughout the WF zoning district, even though the Growth Policy specifically designates different uses for those neighborhoods.

Presumably, this is an UNINTENDED CONSEQUENCE rather than an effort by those with commercial interests to run through the back door what they could never get through the front door, avoiding the same public outcry voiced over this proposed development.

IV. DETRIMENTAL RELIANCE: Many people, including former councilor Sarah Fitzgerald, performed their due diligence before purchasing homes in the 2nd Street neighborhood. They relied on current zoning, the growth policy, and the future land use map when they chose this neighborhood to call "home." Others have lived here over 20 years. None of them ever envisioned a massive apartment/rental complex on the Kauffman property or they would not have purchased their homes in that area.

V. TAKINGS CLAUSE VIOLATION: If Council approves this development, surrounding property values WILL DECREASE. Unless the City plans to compensate property owners for the losses they will sustain in decreased equity, this could become a justiciable claim in court.

VI. THE DOUGHNUT: A large number of residents adversely affected by this proposed development live on Armory and Voerman roads in the "doughnut." While this contentious litigation wends its way to the Montana Supreme Court, those of us out here, *without a vote*, would very much appreciate Council considering our needs, objections, decrease in property values, our way of life forever being altered by increased traffic and noise, and the potential for massive development in our area even though we chose our homes for their rural feel. While we have three members representing us on the Planning Board, two didn't bother to show up or even call in for the last meeting, and the other voted against us, despite our overwhelming numbers in opposition to this project. Therefore, please, Council members, support us in this.

Proposed development DOES NOT comply with the Whitefish Growth Policy

1. Staff focuses on whether or not the proposed zoning implements the future land use designation in the Growth Policy rather than the purpose and intent of the actual land use designation. Both WR-1 (existing) and WR-2 (proposed) implement the "Urban" land use designation. An examination of zone change requests since 2007 reveals a history of this type of superficial and perfunctory analysis of growth policy compliance.
2. The description of "Suburban Residential" is found on page 67 of the Growth Policy. It reads in part, "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."
3. Nowhere in the Growth Policy does it state that a highly urban, highly dense design concept like the pocket neighborhood is appropriate for Suburban Residential.
4. Nowhere in the Growth Policy (or the zoning code for that matter) does it say that an adjacent zoning district can be combined with the PUD in order to circumvent the Growth Policy by allowing densities and product types that **never** would be allowed under a particular land use designation.
5. What staff failed to address is whether the pocket neighborhood is appropriate in an area designated "Suburban Residential?" We submit that the pocket neighborhood is highly **inappropriate** in a Suburban Residential area, and is **clearly not supported by the Growth Policy.**
6. Staff and Planning Board also failed to address the extremely dangerous development and zoning precedents that will be set by this superficial analysis of Growth Policy compliance.
7. Members of the Planning Board stated that the project and zone change are in compliance with the Growth Policy, but offered no reasons or findings to support that conclusion.
8. On page 63, the Whitefish Growth Policy states, "Visioning session participants were most clear in expressing a dislike for relatively high density housing that they felt "is not Whitefish". The proposed project represents a return to this type residential development that is overly dense for the surrounding neighborhood.
9. The Growth Policy states (page 69) that it is the policy of the City to **require** concurrency of all services, including public safety. However, identified public safety concerns expressed by the public have been ignored by staff and the applicant, and addressed ineffectively by the Planning Board.

The proposed zone change from WR-1 to WR-2 on the westerly 6.875 acres would create an "island" of WR-2 zoning and constitute improper spot zoning.

1. The criteria for spot zoning are set forth in a number of Montana Supreme Court cases, including:
    - *Little v. Flathead County (1981)*
    - *Boland v. City of Great Falls*
    - *Plains Grains, Ltd. v. Commissioners of Cascade County*
    - *Citizens for a Better Flathead v. Flathead County Board of Commissioners*
2. Those criteria are:
    - Requested use is significantly different from prevailing use in the immediate area
    - The area in which the requested use is to apply is small
    - Requested change is more in the area of special legislation that benefits one property owner at the expense of others (and that the proposed zoning is contrary to the zoning in the immediate area, as expressed in the *Citizens* case)
3. In this instance, the "requested use" is multi-family residential in the form of a highly dense urban development concept called a "pocket neighborhood". By contrast, the surrounding neighborhood is decidedly comprised of single-family detached housing except for the property immediately to the west which is currently used as pasture, but is zoned for single-family residential (WR-1).
4. Not only is the area of the proposed zoning small in proportion to the neighborhood, it is isolated from the nearest WR-2 zoning district to the west in the Whitefish urban grid.
5. The proposed zone change constitutes special legislation because:
    - Its only purpose is to artificially raise the allowable density on the adjacent property through the use of the PUD (from 99 units to 175).
    - It circumvents the Growth Policy by allowing a higher density and residential product types that would not otherwise be allowed on land designated "Suburban Residential", which comprises 71% of the subject property.
    - It benefits only the property owner and developers at the expense of approximately 50 families in the surrounding area, most of whom have provided testimony of the detrimental effects of this project on the neighborhood.
    - It is contrary to the zoning of the adjacent properties and surrounding neighborhood.

- The "reverter" condition recommended by staff and adopted by the Planning Board makes it clear that this zoning action is intended and considered approvable **only** for this project.

6. In their decision to recommend approval of both the zone change to WR-2 and the PUD site plan, the Planning Board did not even address the issue of spot zoning even though it had been raised **repeatedly** by members of the public.

Opponents incorporate by reference herein all materials previously submitted to both the Whitefish City-County Planning Board and Whitefish City Council, including but not limited to petitions, letters, emails, photographs, public comments, letters to the editor, and all documents related to Community Infill Partners' proposed project.

Opponents failed to receive from the Planning Department requested documents, to wit, logs of all meetings between the applicants and Planning Staff, a tally of correspondence both for and against this project as submitted to the Planning Department, and any input the Planning Department sought or received regarding public safety issues like traffic increases, police and fire services increased needs and costs, and impact on any other local services provided by tax payers.

Respectfully submitted this 16th day of August 2013

Jack and Phyllis Quatman
Bob Horne
Kate McMahon
Melinda Morrison
Kelly Davidson

On behalf of neighbors opposed to the development of 2nd Street Apartments/Residences

received
8-19-13
After Packet

Necile Lorang

From: "gena wilson" <genawilson@bresnan.net>
To: <Nlorang@cityofwhitefish.org>
Sent: Saturday, August 17, 2013 12:32 PM
Subject: City council/Second Street development

To the Whitefish City Council,

As residents of the Second Street area, we would like to voice our opposition to the proposed development of the Kauffman property. We are not opposed to
development of the property as the current zoning allows, we oppose the spot zoning that would need to take place to give this project the green light.

We fear such zoning change would alter the complexion of our neighborhood and
potentially other neighborhhods like ours around Whitefish.

Sincerely,

Mitch and Gena Wilson
15 Willowbrook Close

received
8-19-13
After Packet

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 (the folks who live very close to this proposed area) 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 would 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. The developers have talked about offering 1, 3 and 6-month rentals.

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 three public hearings, at two on site meetings with the developers, in petitions with over 80 signatures, in letters to the editors, and in countless e-mails. Not only did the developers and Planning Board not hear us, but also now you the Whitefish city administration will be voting for this project with a myriad of safety issues unresolved.

Here are just a few of the safety issues on both 2nd Street and Armory:

- Many children walk/ride bikes/skateboard to & from school, as well as places in the area once school is out. Many times these children are crossing 2nd in various places and there is NO type of path on Armory for this use.
- Parents pushing strollers, towing children behind on bikes and people walking dogs have no path available to them on Armory.
- Cars coming and going squeeze people who actually use the bike lane on 2nd Street. If a vehicle is hauling a trailer or a construction vehicle is passing, it is beyond dangerous. Almost always, cars are parked on both sides of 2nd where there is designated car parking, which makes the bike lane even tighter. From 2nd & Pine heading East out of town, 2nd street narrows, making even less room for bikers.
- The corner of Larch (the last city block street on the North side of 2nd) & 2nd Street has a line of sight issue. Larch is set back to the North on that corner. Due to the dip in the road, as well as the positioning of the street, it is very difficult to see vehicles or bikers heading west into town. You have to pull farther out onto 2nd Street and therefore in the oncoming lane of traffic to continue.
- The majority of vehicles are already going above the speed limit on the East end of 2nd. They are still moving with the momentum of the hill coming into town and the folks heading away from town are free from the slower school zones.
- There are 2 school zones in and around 2nd Street. Children are all over this area as mentioned above.
- On Armory Road, there is a family living there that has 7 young children in one home. These children, as others on the same road, love biking, walking and playing on and around their street. I travel that road very often and most always these children are weaving across the street in many different directions, just as children do in any other neighborhood. Now factor in increased vehicle and construction traffic, and that is the perfect storm for a tragedy. If those were your children and you lived on that street, how would you feel about their safety?
- The rising and setting of the sun directly East and West on 2nd makes is very difficult to see while traveling this road during these times.
- There has been almost no discussion of the special events that occur on the East end of town and the traffic that results from these such events. The dog park, the skate park, the ball fields, the Armory center, even the ball fields between Pine and Fir on 2nd…all of

these places hold events and most of them quite large. Have any of you traveled down 2nd Street or Armory during Skijoring? With this proposed development, that is exactly what daily traffic will look like on these streets. All in the middle of the most charming Whitefish neighborhood.

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.

It sure seems extremely unfair and shortsighted to sacrifice a desirable and stable single-family neighborhood for multi-family housing that can and should be built elsewhere. 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. I've actually had both the developer and a Planning Board member apologize to me personally that this project will be placed close to where I live. That in itself speaks volumes of this project.

Thank you,

Erin Barbee

received
8-19-13
after Packet

Transmittal Memo

To: Dave Taylor, Whitefish Planning Director

From: Kathleen McMahon & Robert E. Horne, JR
151 Wedgewood Ln, Whitefish, MT 59937

CC by e-mail: Chuck Stearns, City Manager
Necile Lorang, City Clerk
Mary Van Buskirk, City Attorney

Date: 8-16-13

Re: Zoning Protest

Pursuant to Sec. 76-2-305, MCA, we hereby submit protest affidavits executed by the owners of seven (7) properties within 150 feet of the property known as Tract 1K, which is proposed to be rezoned from WR-1 to WR-2 in a combined application for zone changes and PUD approval by Community Infill Partners (CPI). We have identified 13 parcels of land within 150 feet of the subject property, and the attached copies of the affidavits of the owners of seven of those properties constitutes more than the required 25% to require a 2/3 affirmative vote of the City Council to affect the proposed zone change. Please note that Rebecca Kauffman's and the affidavit of the Flint Family trust represent more than one legal lot of record under the same geocode.

Applied Communications * 151 Wedgewood Ln. * Whitefish, MT 59937
(406)863-9255 * kate@appcom.net
www.appcom.net

ZONING PROTEST

This form represents a formal zoning protest in accordance with Montana Code Annotated 76-2-305.

Legal Description of Zoning District Being Protested: Assessor's Tracts 1K, in Section 32, T31N, R21W, P.M.M., Flathead County

Existing Zone: WR-1

Proposed Zone: WR-2

Name of Protester: Flint Family Trust

Parcel ID – Geocode of Parcel owned by Protester: 07-4293-32-2-05-01-0000

Mailing Address of Protester: c/o Whitefish Credit Union, P.O. Box 1239, Whitefish, MT 59937

Signatures of Protestors(s):

Billy Francis Flint, Trustee — 8/16/2013
(Signature – Must match name on property record) — Date

Anita Phyllis Flint, trustee — 8-16-2013
(Signature – Must match name on property record) — Date

ZONING PROTEST

This form represents a formal zoning protest in accordance with Montana Code Annotated 76-2-305.

Legal Description of Zoning District Being Protested: Assessor's Tracts 1K, in Section 32, T31N, R21W, P.M.M., Flathead County

Existing Zone: WR-1

Proposed Zone: WR-2

Name of Protester: Jeffrey L. & Melinda Ratchye

Parcel ID – Geocode of Parcel owned by Protester: 07-4293-32-2-02-19-0000

Mailing Address of Protester: 1481 E 2nd St. Whitefish, MT 59937

Signatures of Protestors(s):

(Signature – Must match name on property record) 8/16/13 Date

(Signature – Must match name on property record) 8/16/13 Date

ZONING PROTEST

This form represents a formal zoning protest in accordance with Montana Code Annotated 76-2-305.

Legal Description of Zoning District Being Protested: Assessor's Tracts 1K, in Section 32, T31N, R21W, P.M.M., Flathead County

Existing Zone: WR-1

Proposed Zone: WR-2

Name of Protester: David Benne ts

Parcel ID – Geocode of Parcel owned by Protester: 07-4293-32-2-02-18-0000

Mailing Address of Protester: 1489 E 2nd St. Whitefish, MT 59937

Signatures of Protestors(s):

(Signature – Must match name on property record) 8/15/13 Date

(Signature – Must match name on proper y record) 8/15/13 Date

ZONING PROTEST

This form represents a formal zoning protest in accordance with Montana Code Annotated 76-2-305.

Legal Description of Zoning District Being Protested: Assessor's Tracts 1K, in Section 32, T31N, R21W, P.M.M., Flathead County

Existing Zone: WR-1

Proposed Zone: WR-2

Name of Protester: Noah J & Megan R Couser

Parcel ID – Geocode of Parcel owned by Protester: 07-4293-32-2-02-14-0000

Mailing Address of Protester: 119 Lupfer Ave., Apt. 3, Whitefish, MT 59937

Signatures of Protestors(s):

Noah J Couser — 8/16/13

(Signature – Must match name on property record) — Date

Megan R. Couser — 8/16/13

(Signature – Must match name on property record) — Date

ZONING PROTEST

This form represents a formal zoning protest in accordance with Montana Code Annotated 76-2-305.

Legal Description of Zoning District Being Protested: Assessor's Tracts 1K, in Section 32, T31N, R21W, P.M.M., Flathead County

Existing Zone: WR-1

Proposed Zone: WR-2

Name of Protester: PHIHOP Inc, aka Rebecca Kauffman

Parcel ID – Geocode of Parcel owned by Protester: 07-4293-32-212-01-000

Mailing Address of Protester: 30 Tanglewood Dr., Durango, CO 81301

Signatures of Protestors(s):

Rebecca Kauffman

(Signature – Must match name on property record)

14 Aug 13

Date

(Signature – Must match name on property record)

Date

received
8-20-13
City Clerk's Office

14 August, 2013

Whitefish City Council
c/o Whitefish City Clerk
P.O. Box 158
Whitefish, MT 59937

Dear Whitefish City Council Members:

Enclosed is the original Zoning Protest for PHIHOP, Inc. representing three parcels, 5C, 5CE and 5B, as shown on the Whitefish Zoning Map. It is unclear whether parcel 5CE is a single parcel or three smaller parcels, for a total of five. Whatever the official count, three or five, this zoning protest is for all parcels.

A copy was delivered via email copy last week.

Regards,

Rebecca Kauffman

PHIHOP, Inc
By Rebecca Kauffman

ZONING PROTEST

This form represents a formal zoning protest in accordance with Montana Code Annotated 76-2-305.

Legal Description of Zoning District Being Protested: Assessor's Tracts 1K, in Section 32, T31N, R21W, P.M.M., Flathead County

Existing Zone: WR-1

Proposed Zone: WR-2

Name of Protester: PHIHOP Inc, aka Rebecca Kauffman

Parcel ID – Geocode of Parcel owned by Protester: 07-4293-32-212-01-000

Mailing Address of Protester: 30 Tanglewood Dr., Durango, CO 81301

Signatures of Protestors(s):

Rebecca Kauffman _____ 14 Aug 13 _____

(Signature – Must match name on property record) Date

_____ _____

(Signature – Must match name on property record) Date

received
8-19-13
After Packet

19 August 2013

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

Dear City Council Members:

My sister, Elisabeth Harmon, and I own the neighboring lots between Cow Creek and Larch Avenue. We grew up on the 100 Wild Rose Lane property and although we don't live in Whitefish at this time, we continue to enjoy the community frequently when visiting family and friends in addition to trips for business. We had hoped to join the City Council discussion in person but work and jury duty did not allow.

We are very interested and concerned with this proposed development because at some future time we will build on our property or someone else may develop it. The decisions you make today have an impact on our property values, the neighborhood and those future activities.

As the saying goes "The only thing that is constant is change." Whitefish is no exception, like any other desirable place to live. The critical component of success, in our view, is the approach taken towards the longer-term viability and desirability of the community. People moving to Whitefish and purchasing homes in a particular neighborhood want some idea of what to expect in the future because a home represents the largest investment most of us will make during our lives.

The Whitefish Growth Policy and associated zoning provide some insight to that future picture. The City of Whitefish and residents put a lot of thought, time and effort into the Whitefish Growth Policy, but in the case of the proposed 2nd Street Apartments all that logic is getting pushed aside. While the consideration of the proposed development generated lots of dialog with three Planning Board hearings, two Developer hosted meetings and several meetings instigated by the neighbors; unfortunately, the discussions did not produce resolution to the key issues of traffic and zoning.

We want to be clear that we support growth and appropriate development done within the Whitefish Growth Policy. We believe that infill development and Affordable Housing can be accomplished with the support and best interest of existing neighborhoods. We do not believe the 2nd Street Apartment proposal successfully achieves this level of development.

As outlined in detail by many other neighbors and qualified professionals opposed to this proposed development there are significant issues with:

- Increased traffic on 2nd Street even with the planned changes by the City

- The intersection of East 2nd Street and Armory Road is at the bottom of a hill with a blind approach
- The inadequacy of Armory Road in the current state to handle the current multi-modal traffic use let alone the proposed increases. Even members of the City County Planning Board admit there is a current safety issue with Armory Road which will only be made worse by this development, yet they voted for this development with no visibility to mitigation for the problem.

- A soils study which documents that the area has the lowest rating of "very limited" for dwellings without basements
- A proposal that is out of scale and character with this area of Whitefish and the immediately adjacent neighborhoods. It has a higher effective density than any other built WR-2 density in this area of Whitefish.

In addition the Developer's sales pitch and details of the plan contain important contradictions.

- The Developers are saying that they will provide much needed housing for local firefighters, police, schoolteachers and young families while the actual plan consists of many 400 square foot apartments and options for 1, 3, and 6 month leases more consistent with a very transient or seasonal population.
- The Developer claims there is a need for this type of housing while there is similar housing currently available elsewhere in Whitefish and the Growth Policy outlines other areas with the required high density zoning that are not developed.
- The Developer reiterates often that this proposed density is the only option for including Affordable Housing. Even under less dense, undisputed zoning the Developer can get a 10% density bump for Affordable Housing. Whether or not profitability is high enough for the Developer to pursue is not a valid argument for supporting the density of their proposal.

These contradictions are of particular concern since this proposed development represents an exit from the neighborhood for the Developer and Landowner. The Developer has no real skin in the game. There is lots of talk about their intent to stay, but no contractual obligations to back it up. All the risk and downside is left in the neighborhood and for the City to deal with.

In contrast, many people in the neighborhoods surrounding the proposed 2nd Street Apartments are 15+year residents of Whitefish and this neighborhood giving them substantial skin in the game. Their motivations, money and time invested in this neighborhood shows they are here for the long term.

We understand that businesses are driven by dollars and profits, but that is why there is a City government elected by residents to look out for the Community's important values and not the dollars for developers.

The zoning request for Lot 1K is an area we believe needs more scrutiny for two reasons, 1) the lot is a poor candidate for WR-2 zoning and 2) the WR-2 zoning provides the basis for the overall 23 acre development density that is out of character with all the surrounding neighborhoods. We are not opposed to the zoning change from WA to WER on the other 18 acres in the proposal.

The physical and geological characteristics of Lot 1K with the Cow Creek drainage, poor soil and flood prone areas does not seem to support WR-2 (high density) zoning characteristics. In addition, these physical and geological characteristics further concentrate any zoning density because the entire lot is not buildable.

The proposed development has four factors which increase the density but which do not take into account the practicality of the situation nor the existing types of neighborhoods in the area

- First, Lot 1K is 6.875 acres, but only about half of that area is practical for building given wetlands and stream setbacks for Cow Creek. By taking out those areas, the density allowed is increased on the remaining land area (Exhibit A).

- Second, additional areas for setbacks around the existing home are taken out in the proposed development (Exhibit A). Taking out this area again increases the density on the remaining land area.

- Third, the Developer is requesting a zoning change to WR-2 which again increases the density on the remaining land area because the required lot sizes are 40% smaller.

- Fourth, the developers are promising to include Affordable Housing units commensurate with their requested zoning change gaining a 10% increase in density. This again increases the density on the remaining land area.

From the public discussions so far, it is my understanding that a City approval on this development sets a precedent which any and all future infill development proposals could follow for increasing density.

For example, our 5 undeveloped acres next door just west of Cow Creek... Using WR-2 zoning and throwing in the extra 10% by including Affordable Housing we could put 39.6 units on the 5 acre parcel, or 7.92 units/acre (Exhibit B). Realistically however, only about 1.6 acres are buildable given setbacks for Cow Creek, wetlands and flood zones (Exhibit D). Perhaps that is better; 3.3 acres for public accessible open space (never mind that area on both sides of the creek flood regularly making them inaccessible).

However, just like the proposed development, the physical characteristics of the 5 acres artificially concentrate the density. For our 5 acres next door that density adds up to about 24.7 units/buildable acre (Exhibit B). As you can easily guess, the only way to squeeze that many units in the buildable space is with multi-story apartment buildings

and perhaps a parking garage. By now I hope you are thinking that this is not appropriate compared to the surrounding neighborhood, and you are correct.

We believe this example sufficiently illustrates that our 5 acres and the 6.875 acres bordering Cow Creek are neither suitable, nor reasonable candidates for WR-2 zoning from a practical standpoint. The similar physical constraints for either parcel do not support WR-2 zoning. Granting the proposed development WR-2 zoning for the 1K parcel may have much further reaching unintended consequences elsewhere in Whitefish.

While the math in the example and in the proposed development follows all the rules and seems to provide public benefit, the result bears no resemblance to the surrounding WR-1 or WR-2 neighborhoods.

As a point of comparison, the existing block bordered by Somers, Columbia, 5th and 6th, is the densest we could find in this area of town with WR-2 zoning (Exhibit C). Roughly figuring it has 22 units on about 4 acres or 5.5 units/acre which is close to the City Staff's original recommendations. If this is the densest existing area how can the 2nd Street Apartments with 143 units at 6.22 units/acre (7.15 units/buildable acre) be called consistent with the WR-2 neighborhoods located several lots to the West or consistent with the single family (WR-1 and WLR) neighborhoods to the East and South with even lower densities?

Wherever you might look in this area of Whitefish the actual density of the 2nd Street Apartments using the WR-2 zoning is denser than the densest existing WR-2 zoned areas (Exhibit E). In addition, there is only one City Street, 2nd Street, available to handle the estimated 1,000 additional trips a day. For the other densely built or densely zoned areas in Whitefish, all are off the main roads or have multiple streets for access (Exhibit F).

The Staff Reports dropped their comments that this request amounts to spot zoning and now look at WR-1 and WR-2 zones as similar. While both are in the "urban" category, the minimum lot size is 10K square feet and 6K square feet respectively. By my calculations that is a 40% difference. It is not clear how the two zoning designations can be "similar" enough to allow a simple one-for-one exchange when they are 40% different. A good test of that assumption is to apply it to other City rules. How would the City react if we paid 40% of our taxes and called it "similar" enough to the actual assessed amount?

If the current Whitefish Growth Policy is inadequate, or these types of exceptions are really necessary then the whole Whitefish community should be part of the conversation, not just a single developer or a single neighborhood. These types of zoning changes are precedent setting and, as we hope our example showed, have potential unintended consequences across all Whitefish neighborhoods with respect to future development, property values and resident expectations.

While this version of the proposal has some positive features they do not balance with the associated negative impacts because of the inappropriate spot zoning. We urge you to

see this proposal for what it is, a square peg in a round hole, and vote against the 2nd Street Apartments.

Best Regards,

Rebecca Kauffman
for PHIHOP, Inc.

Exhibit A

100 Wild Rose Lane parcel = 6.875 acres
parcel requesting WR-2 zoning

Red shading on the left outlines area which is <u>not</u> Cow Creek, surrounding wetlands or areas reliably flooded for 3-4 months of the year.

The blue shading on the right is the effective area for building if there is additional setback for the existing house, but not any of the outbuildings. About 30% of the lot roughly

Exhibit B - The 5 acres just west of Cow Creek with WR-2 zoning

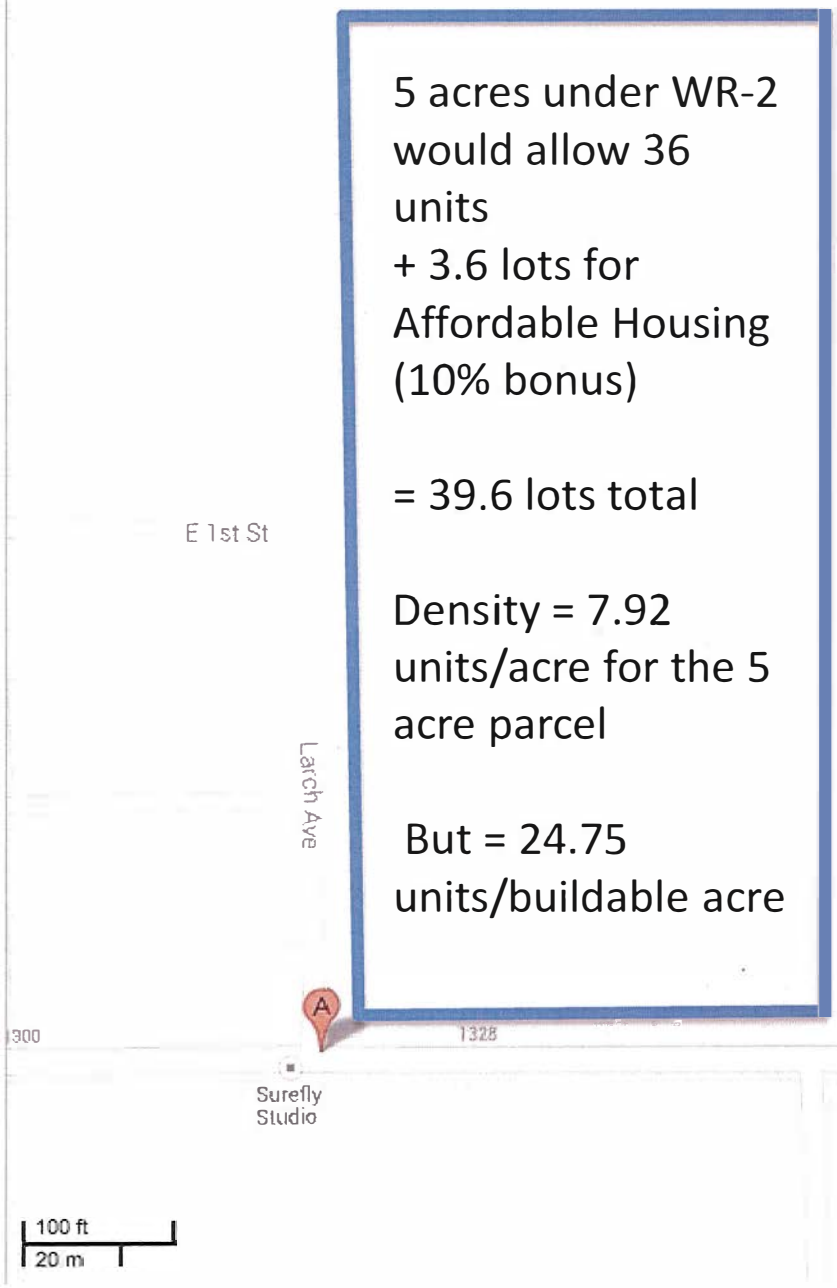


Exhibit C - Existing WR-2 City block for comparison

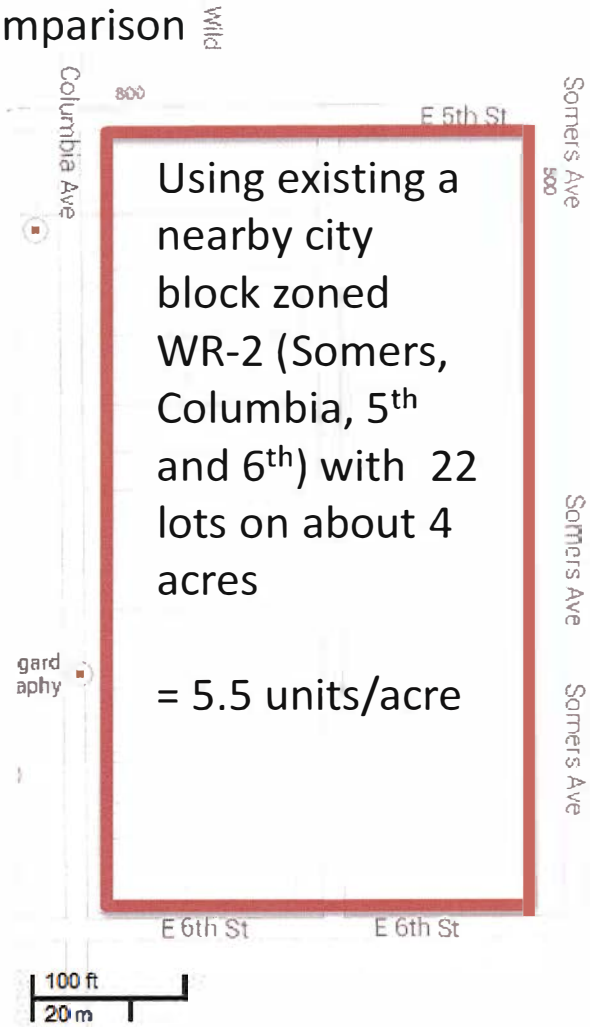
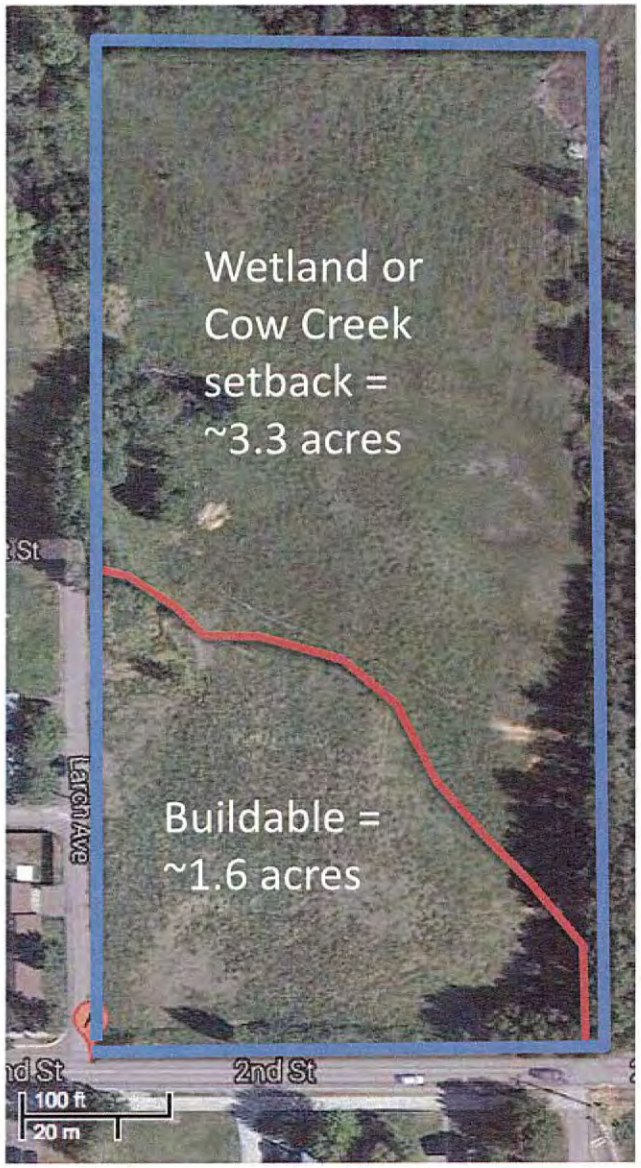


Exhibit D


Wetland or
Cow Creek
setback =
~3.3 acres
Buildable =
~1.6 acres
Larch Ave
2nd St
100 ft
20 m

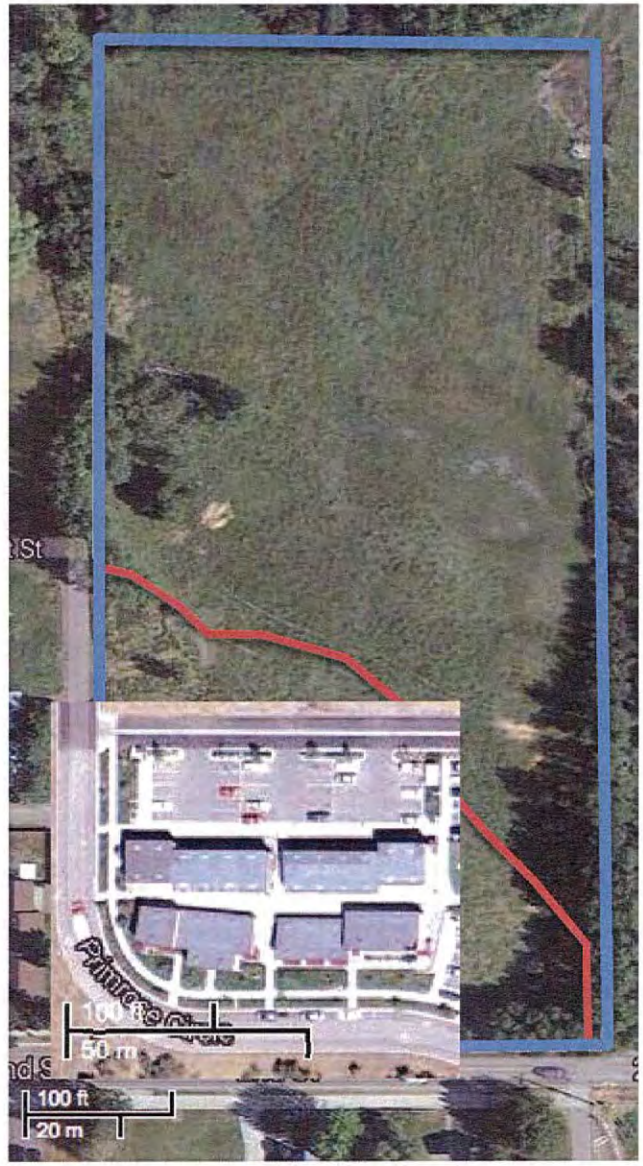

100 ft
50 m
100 ft
20 m

Exhibit E - Whether you look for an urban (blue) or suburban (red) comparison, the most dense areas in the surrounding neighborhoods do NOT come close to the density/acre of this developers proposal

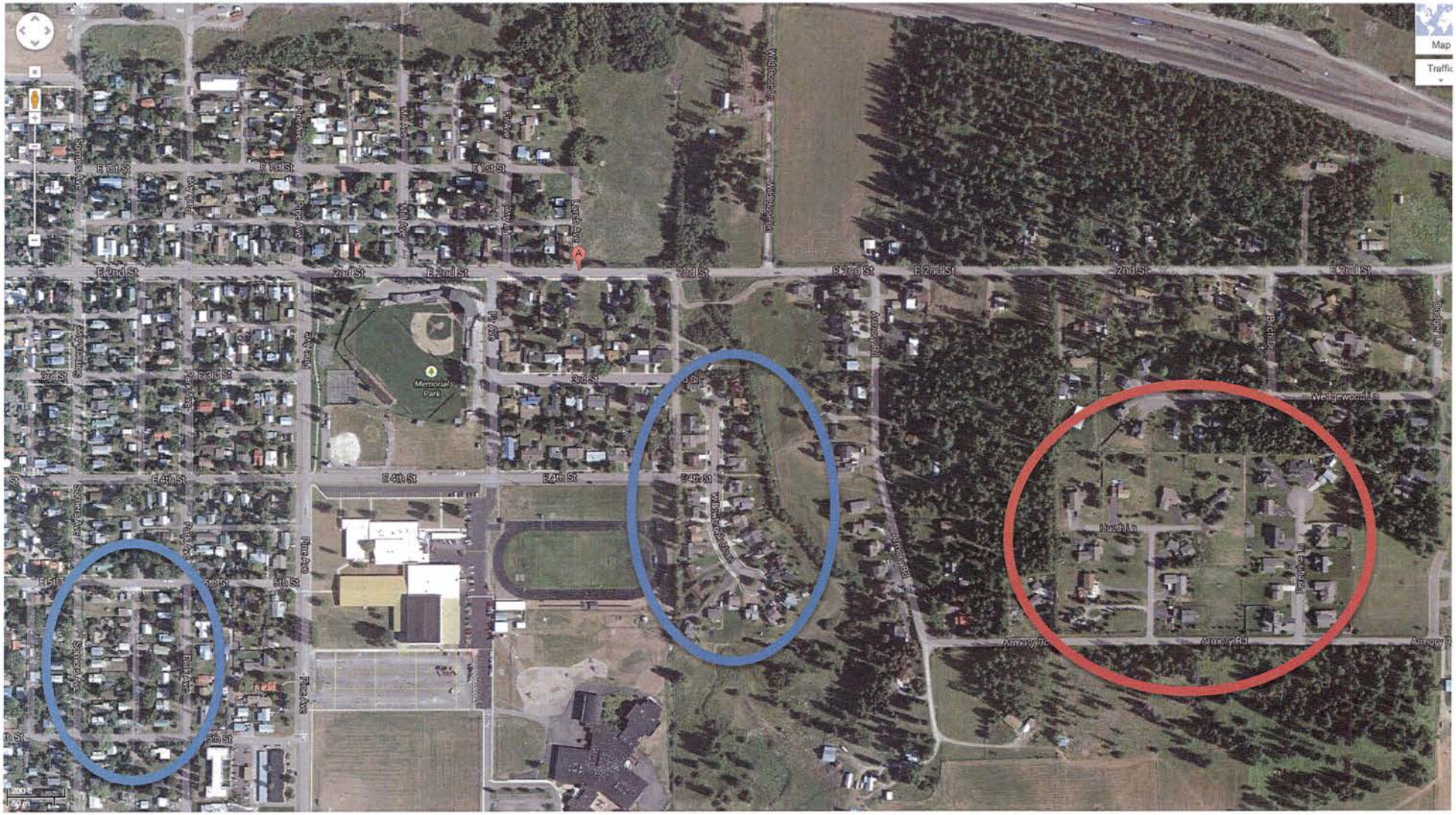
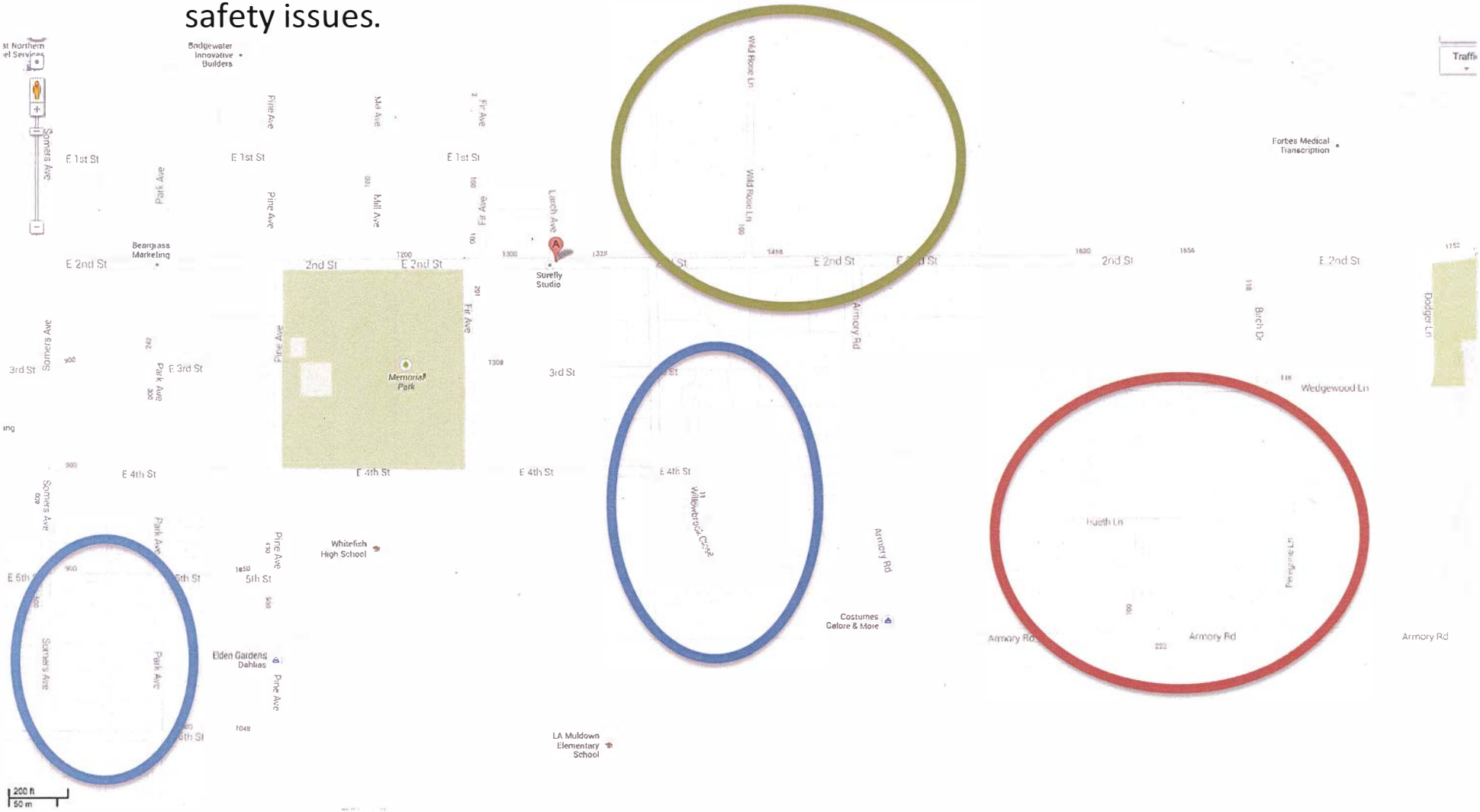


Exhibit F - In addition, the proposed development has a single street, 2nd Street, for all traffic flow. 2nd Street is already a busy street with identified safety and traffic flow issues. The blue and red areas shown have multiple points of access and the points of access is do not have the magnitude of safety issues.



Submitted at meeting 8-19-13 Kate McMahon

Lot Layout with WER zoning minimum lot size of 20,000 sq. ft in conformance with the Growth Policy)

received
8-20-13
City Clerk's Office

Necile Lorang

From: "Shelby Powell" <thepowells@bresnan.net>
To: <nlorang@cityofwhitefish.org>
Sent: Tuesday, August 20, 2013 11:29 AM
Subject: 2nd Street "Residences"

Dear City Council Members,

Wow....that was a long one. Thank you Council members for listening at the council meeting to our concerns about the proposed apartment development in our neighborhood.
I for one am extremely offended that the developers think we are gullible enough to pass this proposal off as being "affordable housing". They are using that as a sympathy vote when all they are really offering are 10 units that
are actually not affordable. I find that very disturbing to think they are getting away with that.

Traffic of course is the main concern. All three schools being within walking distance is a huge deal and an eminent danger zone with traffic.
This mass amount of units simply do not fit.
Speed is already a factor on 2nd Street. Cars go by way too fast. If this development is allowed, it would add approx.300 cars a day with only one round trip per unit, and at least 600 cars a day with 2 round trips. That's with only one car per unit, so the numbers will actually be more in the thousands.
Will the proposed development have road access to town north of 2nd Street, near the railroad tracks? That would certainly help ease the impact of traffic on 2nd Street.

My argument is that there are so many other feasible locations in Whitefish where this development could be built, there are tons of empty lots on Hwy 93 coming into Whitefish that would benefit from this design. There is so much blight driving into Whitefish. The old hospital lot for one and the old RV lot where all of the trees were torn down. There are open fields over by the new hospital that have new roads and sidewalks, people there can live closer to the Mall, movie theatres, The Wave and grocery stores. 2nd Street is just not the place to build this. Period.

Anyone living in larger cities must commute to work everyday. I think that addressing the need to live close to work or town isn't even relevant. And yes, housing costs may seem high, but this has become a resort town!
I think too that if you walked around the neighborhoods north of Second street, you will see very many homes that already are affordable housing...they need work. This neighborhood is no Iron Horse.
People may have trouble finding rental units, but that is because we are a small town. Those of us that chose to invest in a home should not suffer the consequences of what is perceived as lack of rentals.

I beg you to focus on the troublesome phrases, "cluster development" and "density bonus". Those words are very alarming.
This development simply does not adhere to the Master Plan. Do what you can to save the integrity of this historical neighborhood in Whitefish.
We would very much appreciate your support.

Thank you all,
Shelby Powell

806 E. 2nd Street

received
8-24-13
City Clerks Office

Necile Lorang

From: "nancy tigue" <nancymt@montanasky.net>
To: <nlorang@cityofwhitefish.org>
Sent: Saturday, August 24, 2013 11:19 AM
Subject: Proposed Second street Residences

Dear Ms Lorang, Mayor Muhlfield, and Honorable Members of the Whitefish City Council,

I hope that there can be a win-win solution to the present issues surrounding the proposed Second Street Residences project.
As I see it, the developers want to make money and we neighbors want to maintain the integrity of our long established, residential community.
It appears that the pivotal difficulty for a compromise is the proposed zone change for Track 1K from WR-1 to WR-2 being sought by the developers.

I want to be clear that I not against development of Mr. Kaufman's property but that am opposed to the specific zone change of Track K1

I need to emphasize that I support progress and development as long as it is done legally, transparently, within the Whitefish Growth Policy, with the majority of the community support with the best interest and safety of all Whitefish residents including the existing neighborhood. Hence, I am opposed to the zone change sought for the western most section to Dave Kaufman's property Track 1K, approximately 6.8 acres. I firmly hold that this change would constitute spot zoning and is inconsistent with the Whitefish Growth Policy and set dangerous, unintended precedents for all property owners in Whitefish.

Safety for all Whitefish residents is my utmost concern. Having owned my home at 1319 East Second Street for the last twenty years, I feel I am in a position to convey to you the hazards that already exists with the traffic on Second Street. Since the bicycle and pedestrian path was installed, Second Street has become a popular walking venue for mothers with strollers, children of all ages on bikes, walkers with their dogs heading to the dog park, and skate boarders to the park on Armory Road. Add to that all the "serious bikers" in the street! Second Street in front of my house is very narrow and dips down towards Cow Creek. Often cars have to slow to a near stop to prevent incidents. In the winter months the ice causes treacherous conditions and skidding. The reconstruction of Second Street in this section was

completed a few years ago so it will remain the same configuration.

Second Street is the main artery for all three Whitefish schools. During heavy morning traffic school buses, students, and parents with their children are driving on Second Street. In addition there are countless young children walking or biking to school and crossing Second Street. Because this section of Second Street runs directly east and west, the rising or setting sun is directly in the eyes of drivers and presents a major hazard as the glare on the windshield is near blinding.

The proposed density of this development further threatens the potential for accidents with the projection of nearly 1000 additional daily vehicle trips on East Second Street. I have not even mentioned all the ramifications of the problems on Armory Road!

The number of occupants for the proposed 143 residences will have a major affect on our fire and police services.

The developers have not addressed any of these issues that have been repeatedly brought to their attention since we have learned about this project in March - even though they have been in discussion with the City for over one year! This development as presented will drastically affect the safety, environment, quality, and value of our neighborhood and all of Whitefish. It would be totally incompatible with our mainly single-family residential neighborhood. They intend that ninety nine plus rental units will be for short periods of one, three, or six months. This is not a proposal for an enhanced community but a pocket neighborhood of mostly transient/seasonal renters. I believe that their elaborate presentations hide their primary intentions for financial gain under the guise of offering fourteen affordable housing units at the expense of homeowners and long time residents.

If Track K1 remains zoned as W1 these glaring problems are resolved. The developers who are touting their desire to provide afforable housing are free to do so if they choose and still benefit financially but the density of rental units are eliminated and our neighborhood remains a cohesive, safe, residential community. A win-win.

My hope is that the council will represent the majority of us long time citizens

committed to Whitefish's best interest and continued quality of life. We, the people, oppose the zone change of Track K1

Sincerely,
Nancy Tigue

received
8-26-13
City Clerk's Office

Necile Lorang

From: "Chris Jensen" <Chris.Jensen@chrobinson.com>
To: <nlorang@cityofwhitefish.org>
Sent: Monday, August 26, 2013 1:56 PM
Subject: 2nd Street Development

We are new to this great community and coming from Portland, OR we understand the need for development and expansion within the city. We have seen many new developments go up throughout the last 15 years in our communities. The number one thing that makes or breaks these developments are the proper infrastructure to support them and allow for the continued safety of the people who live within these areas. We live on Hueth Lane and our family (2 kids) uses Armory road daily with bikes and on foot. The road is narrow, no street lights and zero sidewalks. The decision for expansion should always follow the improvements on the infrastructure. It is obvious by the sheer number of accidents, which locations followed this process. I ask that you look into this prior to the decision and make the necessary changes to keep the people that love to use the roads with means other than motor vehicles. We of all people understand your need for increased housing but we strongly encourage you to address the impacts and issues that increase by not addressing critical infrastructures that will be strained by current conditions. Yes, the road can handle more traffic but the question remains can it handle more traffic without significant danger to the people that use these areas by foot and bike. In 2 months, we have already seen near misses on these roads. Thank you for taking all points into consideration and we hope that there is a middle ground where we can all meet.

Chris and Diaun Jensen
125 Hueth Lane

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C.H. Robinson Worldwide, 14701 Charlson Road, Eden Prairie, MN, USA
****

received
8-26-13
City Clerk's Office

Necile Lorang

From: "Chuck Stearns" <cstearns@cityofwhitefish.org>
To: "'Necile Lorang'" <nlorang@cityofwhitefish.org>
Sent: Monday, August 26, 2013 1:20 PM
Subject: FW: 2nd Street Project

From: Donald Spivey [mailto:donaldrspivey@gmail.com]
Sent: Monday, August 26, 2013 12:51 PM
To: cstearns@cityofwhitefish.org
Subject: 2nd Street Project

Chuck--

I've been reading about the various proposals and am not personally affected so have not gotten involved but I haven't seen any discussion about the long term needs addressed the the Transportation Plan" for a 2nd "viaduct" to the north side of the railroad as tbe
city expands to the North.

At the time the plan was done the most viable and practical site for another crossing was the Cow Creek area--at least that's how I read the tea leaves. There was also discussion about a crossing the general Columbia Ave. area--much less attractive--again at least to me.

A major residential development in the Cow Creek area certainly makes that long term need more difficult and undoubtedly more expensive. Don't know whether this is important in this curerent process but a 2nd crossing is definitely a valid long-term Whitefish need.

Don

received
8-26-13
City Clerk's Office

Dear City Council Members,

I would like to amend a letter that I sent to you before the 8/19/13 meeting regarding the 2nd Street Residences. In that letter I stated that I would support the project if the re-zoning request for tract 1K was taken off the table. At this point, even if the re-zoning part of the developer's proposal does not get approved, I will not support the 2nd Street Residences Project.

I am not opposed to the land being developed, but I am opposed to this project for the following reasons:

- The first meeting I attended regarding this matter, the developer stated that they wanted to build housing for teacher's, fireman, and families, etcetera. One of the reasons they said they chose the site was because it was in walking distance to schools. Over half of the rentals in the plan are 1 bedroom with monthly leases. That significantly cuts down on the number of units available for families. Families with children will not rent a one bedroom apartment. The project is clearly meant to be housing for seasonal or transitional workers.
- I am concerned that the single family home phase of this project will never be completed. I think $350,000-450,000 homes adjacent to almost 100 apartments will be a hard sell.
- I believe that incorporating low-income housing was originally talked about. Low income housing has become moderate income housing. It is my understanding that there is a difference between the two.
- After 4 public meetings numerous safety issues have still not been addressed. I think that showing up to yet another meeting still unprepared to address these issues shows a lack of respect for the Council and the many, many members of the community who continue to show up at the meetings.
- My tax dollars are now being used for City employees to gather information that should have been gathered by the developer at the beginning of the application process. I feel that if they are this unprepared a year into said process that they cannot be trusted to build something on such a large scale.

I understand that the issue came before the Council for the first time on 8/19. It was the 4th time that most of the people who showed up in opposition of the 2nd Street Residences have heard the developer's presentation. As I stated, they still have not been able to satisfactorily answer numerous questions about safety and the true purpose of this project. Enough is enough. There are just too many red flags about this whole thing for me. As Velvet Phillips stated at the last meeting it is not the Council's job to make this project pencil out for the developer or Mr. Kauffman.

Sincerely,

Suzi Stagg

1306 East 2nd Street

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MANAGER REPORT

August 28, 2013

WHITEFISH NAMED GOOGLE'S 2013 eCITY FOR MONTANA

Rich Knapp received a notice from Google indicating that Whitefish was named as Google's 2013 eCity of Montana. The eCity award recognizes the strongest online business community in each state—the digital capitals of America. A copy of the notice that we received is in the packet.

This award was not anything that we had applied for, rather it appears to be an on-going, independent review of communities with strong, on-line business communities. This award is more a result of what the business community in Whitefish is doing than anything in particular that the City of Whitefish is doing, but it is very nice recognition nonetheless.

CEMETERY WORK

The Cemetery irrigation system is operating, but we still have to install a new meter and electrical service. We also had the roof on the Cemetery Shed replaced and a picture below shows the new shed. We are also initiating the order for the Columbarium (Cremain Niche vaults). The concrete pad for the new Columbarium is in front of the shed.

MEETINGS

WAVE Board Meeting (8/21) – The WAVE Board held their regular meeting. There were updates on the construction project, the new loan, and fundraising efforts as well as the regular operating and financial reports.

UPCOMING SPECIAL EVENTS

Two Bear Marathon – Sunday, September 15th

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

August 19, 2013

Dear Mayor Muhlfeld,

It gives me great pleasure to inform you that the City of Whitefish has been named the 2013 eCity of Montana. The eCity Award recognizes the strongest online business community in each state—the digital capitals of America.

The Internet plays a critical role in growing our local businesses and our local economies. With 97% of American Internet users looking online for local goods and services, businesses that make use of the web are growing twice as fast and creating twice as many jobs. Given the importance of the web in driving growth, we partnered with research firm Ipsos to identify the strongest online communities in each state - cities whose businesses are embracing the power of the web to find new customers, connect with existing clients, and fuel their local economies.

Whitefish, as the 2013 eCity Award winner for Montana, joins the ranks of America's leading cities in the digital economy.

For more information on the eCity initiative visit our website at www.google.com/ecities. If you have any questions, please don't hesitate to reach out to us at ecities@google.com.

Congratulations, Whitefish!

Sincerely,

Scott Levitan, Google, Director of Small Business Engagement

Google is committed to the highest standards of ethical conduct and does not intend to offer an inappropriate gift or create even the appearance of impropriety. By accepting these promotional materials, your municipality certifies that it is able to do so in compliance with applicable laws. Google will accept payment for the promotional materials to facilitate compliance with any applicable government ethics requirements. Please contact event-compliance@google.com with any questions or concerns.

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NICHOLAS R. CHICKERING
Post Office Box 455
Whitefish, MT 59937
(406) 862-0577 cell: 406-250-7401
e-mail: nrchic@gmail.com

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

August 25, 2013

RE: Proposed Annexation

Dear Mayor Muhlfeld and Council Members:

I am one of the homeowners included in the proposal for Annexation, being a resident of 206 Jennings Lakeside Road (AP #0210450).

I am strongly opposed to an annexation for two good reasons:

Firstly, my lot and those other lots nearest Les Mason Park, are not contiguous to any City land, and so the proposal would create an island of City property completely separate from the rest of the City.

Secondly, all but 3 of the lots on what is now Jennings Lakeside Road, signed on to a new sewer in 1997 because it made good sense to provide long term protection of the Lake. We paid for the installation, and continue to pay fees to cover the costs of the sewer. Now you propose to annex our properties, thereby driving our property taxes much higher on the heels of the recent crushing tax increases already burdening the owners. You proposed annexing only these lots on sewers, apparently, because of the language in the sewer contract requiring waiver of the right to protest an annexation.

Ask yourself, if you were a lakefront owner, and saw this forced upon those who in good faith wanted to preserve the lake and hooked up, what do you think your response would be for any future proposal to install a sewer on your property? That's right. Universal rejection of future sewer hook ups, the exact opposite of what the City wants to benefit the Lake.

Let's rethink this proposal so that lakefront owners *want* to install sewers. The Lake's clarity and future is in the balance, and your decision here will determine whether other lot owners will cooperate in preserving the Lake by installing a sewer line, or will fight the City as a result of the decision you are considering now to force annexation on a few who took this important step.

Please think about the implications here, and thank you for your consideration,