1) Call to Order

2) Interview - Whitefish Convention and Visitors Bureau
   a) 5:45 p.m. – Lauren Oscilowski

3) Public Comment

4) Appointment

City Council interviewed Jen Asebrook and Kimberly Wortman on January 17, 2023. Letters are included in the packet.

**If time runs out before appointments are made, there will be time at the end of the regular session**

**********************************************************************************

**CITY COUNCIL WORK SESSION**
**CITY COUNCIL CONFERENCE ROOM**
**TUESDAY, FEBRUARY 21, 2023**
**6:00 PM**

5) 6:00 p.m. Discuss the Growth Policy Update

6) Public Comment

7) Direction to City Manager

8) Adjourn

Meeting Link: Microsoft Teams Link
Meeting Number: 289 639 561 237
Password: z2TEXh

For the Audio Conference Call option: call the number below and enter the access code.
- United States Toll Free: 833-563-1751
- Access code: 605 562 219#

We encourage individuals to provide written public comment; to the City Clerk, Michelle Howke at mhowke@cityofwhitefish.org or deliver by 4:00 p.m. Tuesday, February 21, 2023, to City Hall. Written comments should include name, address, should be short and concise, courteous, and polite. All written comments received by 4:00 p.m. will be provided to the City Council and appended to the packet following the meeting.
PUBLIC NOTICE

VACANCIES ON CITY BOARDS/COMMITTEES

WHITEFISH SUSTAINABLE TOURISM MANAGEMENT PLAN STANDING COMMITTEE—Eight (8) positions. Four (4) position - members-at-large (must be a city resident with experience in, knowledge of, or perspective on tourism and its relationship to the Whitefish community); two (2) members may reside outside the City of Whitefish, as long as the member resides in Flathead County and has an ownership interest in or a managerial position at a business located and operating within the corporate limits of Whitefish; one (1) member from Whitefish Mountain Resort; one (1) member from the Whitefish Convention and Visitors Bureau.

WHITEFISH CONVENTION AND VISITORS BUREAU—Two (2) positions, complete term ending 5/31/2023. Applicant shall reside in the city of Whitefish postal district (59937) and shall have ownership interest or managerial position at a business located and operating within the city of Whitefish postal district (59937). Openings include preference for representative for transportation business: finance, large lodging properties, or Whitefish Golf Course. Committee meets once a month.

WHITEFISH LAKE AND LAKESHORE PROTECTION COMMITTEE—One (1) position, 2-year term, applicant must be a lakefront property owner within the corporate limits of the city of Whitefish. Committee meets once a month.

WHITEFISH COMMUNITY HOUSING COMMITTEE—Four (4) positions, term ending 12/31/2023, one (1) member of the public with relevant professional or personal expertise in real estate development; one (1) member of the public with relevant professional or personal expertise in fundraising or financing; and two (2) members of the public with relevant professional or personal expertise in housing policy, property management, housing programs, and users of community housing programs, or housing advocacy. The Committee shall meet as often as necessary to accomplish its general purpose, as described above, but at least quarterly.

FLATHEAD CONSERVATION DISTRICT BOARD—Two (2) position, 3-year term to serve as an urban supervisor. Pursuant §76-15-311 M.C.A (1) applicants may reside within the city limits of Whitefish; and (1) applicant may live outside the municipality the supervisor represents, but the supervisor must reside within the boundaries of the district. For more details on this board please see their website https://flatheadcd.org/

IMPACT FEE ADVISORY COMMITTEE—One (1) position to complete term ending 12/31/2023. Applicant shall be a member-at-large and shall reside or work within the City limits.

BOARD OF APPEALS—One (1) position, term not designated. The Board of Appeals determines suitability of alternate materials and methods of construction and to provide for reasonable interpretations of the International Building Code. Applicant must be qualified by experience or training to pass on matters pertaining to building construction. The Committee meets as needed.

Interested citizens—Please submit a letter of interest to serve on the above committees to the Whitefish City Clerk's Office at 418 E. 2nd St.; mail to P.O. Box 158, Whitefish, MT 59937, or email mhowke@cityofwhitefish.org, by Friday, January 27, 2023. Please include your name, mailing address, physical address, and phone number. Letters of interest will be accepted until the positions are filled. If you have any questions, please call Michelle Hawke, City Clerk at 863-2402 or visit the City's website: www.cityofwhitefish.org

THANK YOU FOR YOUR INTEREST
Dear Mayor Muhlfeld and City Council,

This letter serves to express my interest in serving on the Whitefish Convention and Visitor Bureau Committee. As a small business owner/operator I understand the social, economic, and environmental impacts that tourism has on our community and will provide the committee with a holistic perspective in attracting, retaining, and developing sustainable tourism. Tourism drives our economic growth, and how we continue to market our community directly affects the landscape and community culture that we aim to create and maintain. I want Whitefish’s tourism economy and culture to grow in stride with accountability—to encourage sustainable tourism, attract high-value, low impact visitors, and realize that our decisions today impact the city we create tomorrow. I welcome the opportunity to affect positive change through service on the Whitefish Convention and Visitor Bureau Committee and I look forward to further discussing the available position in person.

Sincerely,

Lauren Oscilowski

Spotted Bear Spirits
503 Railway Street, Suite A
406-407-5909
Hi Michelle,

I am Jennifer Asebrook, Executive Director of the Whitefish Theatre Company, and I am interested in joining the Board of Directors of the Whitefish Convention and Visitors Bureau (WCVB). The WCVB has a long history of having the arts represented on the Board of Directors and I want to continue to be this voice. I have extensive experience working as a local non-profit partner with the WCVB over the years to raise awareness of WTC’s upcoming shows. I have also been a resident of Whitefish for 23 years, raising my family here. This long-term personal and business background in Whitefish gives me some perspective of the changes our town has gone through, as well as a vested interest in the future of our town.

While I realize personnel is changing at the WCVB, I have worked closely with Dylan, Dan and Sarah over the years. As a town that relies on tourism for our economy, I appreciate how the WCVB has supported businesses over the years, but who is also trying to listen to townspeople and local businesses as we experience growth. I really appreciated their “Be A Friend Of The Fish” campaign and I like their efforts to support sustainability - both with grants and messaging - in our town. While many people visit our area for the outdoor recreation, I would like to think a voice that supports the arts on the WCVB BOD will continue to promote a well-rounded town with diverse activities.

Thank you for your consideration. If you need to reach me by phone, please call my cell at 406-871-8020.

Happy holidays!

Jen Asebrook
December 29, 2022

Whitefish Convention and Visitors Bureau
City of Whitefish
418 E 2nd St, Whitefish MT 59937

Letter of Interest to Serve as Board Member

Dear WCVB,

I am interested in serving on the Whitefish Convention and Visitors Bureau Board. As the new Executive Director for the Big Mountain Commercial Association, I would like to continue our presence on the Board. With the BMCA funding of the SNOW Bus, the BMCA Board would like to stay in touch with transportation throughout the valley.

Personally, I am born and raised in the Flathead Valley. I moved away after high school and have been back in the area for about 10 years. Professionally I began as an accountant and CPA, working in both managerial and public accounting. I switched careers about 7 years ago and have been a real estate agent based out of Columbia Falls. I started as Executive Director of the BMCA at the end of November.

Thank you for the opportunity.

Sincerely,

Kim Wortman
Kimberly Wortman
Executive Director
(406) 201-5669
bigsnowbus@gmail.com
CHAPTER 12

CONVENTION AND VISITOR BUREAU COMMITTEE

SECTION:

2-12-1: Standing Committee Established
2-12-2: Purpose, Powers, Processes And Duties
2-12-3: Membership
2-12-4: Organization
2-12-5: Meetings, Rules And Regulations
2-12-6: Staff Supervision
2-12-7: Expenditures
2-12-8: Committee As Board Of Directors

2-12-1: STANDING COMMITTEE ESTABLISHED:

There is hereby established a standing committee to be called the "Whitefish convention and visitor bureau committee", hereinafter referred to as the committee. (Ord. 06-05, 3-20-2006)

2-12-2: PURPOSE, POWERS, PROCESSES AND DUTIES:

The purpose and duties of the committee are:

A. To be the designated nonprofit convention and visitors' bureau for the city of Whitefish;

B. To develop an annual marketing plan and budget for each fiscal year, which annual marketing plan and budget will be presented to the Whitefish city council for approval;

C. To submit the annual marketing plan approved by the Whitefish city council to the Montana tourism advisory council and receive approval by the tourism advisory council of such annual marketing plan;

D. To contract with the Montana department of commerce to receive lodging tax revenues earmarked for tourism promotion and disbursed pursuant to section 15-65-121, Montana Code Annotated;

E. To implement the annual marketing plan referenced above, and use the proceeds distributed by the Montana department of commerce pursuant to the budget approved by the Whitefish city council;

F. To comply with all of the provisions contained under the category "eligible organizations" in the "Regulations And Procedures For Regional/CVB Tourism Organizations Use Of Lodging Facility Use Tax Revenue" promulgated by the Montana department of commerce;

G. To provide recommendations and advice to the Whitefish city council, as appropriate, regarding tourism promotion; (Ord. 06-05, 3-20-2006)

H. To solicit nonvoting members residing in or owning a business located in the Whitefish postal district (59937), if the committee determines it to be in the best interests of the committee and in the
best interests of tourism promotion; such members may be required by the committee to pay an
annual fee for membership; (Ord. 15-15, 9-8-2015)

I. To conduct such additional activities with regard to tourism promotion as are determined by the
committee to be in the best interests of the committee and of the city of Whitefish; and (Ord. 06-05, 3-
20-2006)

J. To create a new classification of members, to be called "associate members", which would have
the following characteristics:

1. The associate member must provide a significant activity, experience or service that is not
already provided in the Whitefish postal district (59937).

2. The associate member must agree to all obligations and duties applicable to regular members
of the WCVB.

3. The associate member must be nominated by a convention and visitor bureau standing city
committee member (board member of the WCVB) and be approved by a majority of the standing city
committee (board of the WCVB).

Associate members cannot participate in the nomination or recommendation of board positions, nor
can they serve on the board. Otherwise, however, they will have the same rights as other members.
(Ord. 15-15, 9-8-2015)

Nothing in this chapter shall be construed to provide the committee with the power to authorize the
use of public funds other than those funds specifically identified in the committee's annual budget and
approved by the Whitefish city council. The committee shall be entitled to conduct fundraising
activities, including charging a membership fee, and expend any funds raised for purposes related to
tourism promotion. In conducting fundraising activities, the committee shall not be entitled to incur
indebtedness that could be charged against the city. (Ord. 06-05, 3-20-2006)

2-12-3: MEMBERSHIP:

A. Appointment; Compensation: The committee shall have up to nine (9) members. Members shall
be appointed by the city council. At least seven (7) members shall reside in the city of Whitefish postal
district (59937). Two (2) members may reside in Flathead County, but outside the city of Whitefish
postal district (59937), as long as the member has an ownership interest or managerial position at a
business located and operating within the city of Whitefish postal district (59937). The city council shall
endeavor to appoint members who represent one of the following business categories, and that have
broad experience in and a current understanding of the following types of businesses:

Finance
Large lodging properties
Restaurant and bar business
Retail businesses
Small lodging properties
Transportation business
Whitefish Golf Course
Whitefish Mountain Resort

The city clerk shall make a notation of a member's representation category and a member's residence
to facilitate appointment to categories not represented. However, the city council shall be entitled to
appoint those individuals that it determines most qualified, regardless of representation category. The
city council may appoint one of its members to serve as an ex officio (nonvoting) member of the committee. Committee members shall receive no compensation. (Ord. 15-15, 9-8-2015)

B. Terms Of Members: Committee terms shall be for three (3) years, although several of the terms of the initial appointees may be slightly longer than three (3) years. There are hereby created positions numbered 1 through 9 inclusive of the members of the committee. Three (3) of the initial appointees shall serve three (3) year terms. Two (2) of the initial appointees shall serve two (2) year terms. Two (2) of the initial appointees shall serve one year terms. Terms shall be assigned to the initial appointees randomly.

<table>
<thead>
<tr>
<th>Position Number</th>
<th>Position Specification</th>
<th>Initial Expiration Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Member</td>
<td>May 31, 2009</td>
</tr>
<tr>
<td>2</td>
<td>Member</td>
<td>May 31, 2009</td>
</tr>
<tr>
<td>3</td>
<td>Member</td>
<td>May 31, 2009</td>
</tr>
<tr>
<td>4</td>
<td>Member</td>
<td>May 31, 2008</td>
</tr>
<tr>
<td>5</td>
<td>Member</td>
<td>May 31, 2008</td>
</tr>
<tr>
<td>6</td>
<td>Member</td>
<td>May 31, 2007</td>
</tr>
<tr>
<td>7</td>
<td>Member</td>
<td>May 31, 2007</td>
</tr>
<tr>
<td>8</td>
<td>Member</td>
<td>May 31, 2014</td>
</tr>
<tr>
<td>9</td>
<td>Member</td>
<td>May 31, 2013</td>
</tr>
</tbody>
</table>

Thereafter members appointed to each position shall serve for three (3) year terms; the terms beginning on June 1 of the year in which the term for the position expires. At the discretion of the city council, members may be appointed for more than one term. (Ord. 12-10, 7-2-2012)

C. Removal Of Member: A member may be removed from the committee by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of this chapter and the rules of procedure or bylaws of the committee, or absences from three (3) consecutive meetings, including regular and special meetings, or absences from more than fifty percent (50%) of such meetings held during the calendar year, shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chairperson or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting.

D. Vacancy: Any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The city council may appoint members of the city council to temporarily fill vacant positions on the committee. (Ord. 06-05, 3-20-2006)

2-12-4: ORGANIZATION:

At its first meeting after the initial appointment of committee members, and thereafter at its first meeting after June 1 of each year, the committee shall elect officers, including a chairperson (also known as the president), vice chairperson (also known as the vice president), treasurer and secretary for the next twelve (12) month period. Upon the absence of the chairperson, the vice chairperson shall serve as chairperson pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chairperson, vice chairperson, treasurer or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 06-05, 3-20-2006)
2-12-5: MEETINGS, RULES AND REGULATIONS:

Five (5) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business before the committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter before the committee. The committee shall adopt bylaws for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. Meetings of the committee shall be held at least once every other month or at the call of the chairperson, and at such other times as the committee may determine. All meetings shall be open to the public. (Ord. 12-10, 7-2-2012)

2-12-6: STAFF SUPERVISION:

The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. (Ord. 06-05, 3-20-2006)

2-12-7: EXPENDITURES:

Other than those funds specifically identified in the committee's annual budget and expenditure of which has been approved by the Whitefish city council, the committee shall have no authority to make any expenditure on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds. (Ord. 06-05, 3-20-2006)

2-12-8: COMMITTEE AS BOARD OF DIRECTORS:

The committee shall serve as the board of directors of the Whitefish Convention And Visitor Bureau, Inc., a Montana nonprofit corporation (the "nonprofit corporation"). The officers of the committee shall serve in the same capacity as officers of the nonprofit corporation. The articles of incorporation of the nonprofit corporation shall be amended, as necessary and appropriate, to conform to the terms of this chapter, and shall further provide that such articles of incorporation shall not be further amended without approval of the Whitefish city council. The committee, acting as board of directors of the nonprofit corporation, shall adopt bylaws that conform to the terms of this chapter and to the amended articles of incorporation, and thereafter such bylaws shall not be amended without approval of the Whitefish city council. The committee, acting as board of directors of the nonprofit corporation, may provide that the nonprofit corporation may have members, and may solicit dues or other contributions from such members; provided, however, that all of such members shall be nonvoting members, and shall not be able to elect or remove members of the board of directors, or amend the articles of incorporation or bylaws of the nonprofit corporation. (Ord. 06-05, 3-20-2006)
## Volunteer Committee List

**WHITEFISH CONVENTION AND VISITOR BUREAU COMMITTEE - WCC 2-12 3 YEAR TERM**

(Meeting: 2nd Monday (except July); City Council Conference Room at 2:30 pm)

<table>
<thead>
<tr>
<th>#</th>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
<th>Term Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Rhonda Fitzgerald</td>
<td>412 Lupfer Ave</td>
<td>862-3440</td>
<td>5/31/2024</td>
</tr>
<tr>
<td></td>
<td>Small Lodging Properties</td>
<td><a href="mailto:rhonda@gardenwallinn.com">rhonda@gardenwallinn.com</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Erica Terrell</td>
<td>1332 E 3rd St.</td>
<td>249-4035</td>
<td>5/31/2024</td>
</tr>
<tr>
<td></td>
<td>Restaurant/Bar</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><a href="mailto:erica@grgfood.com">erica@grgfood.com</a></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Maggie Schwenker</td>
<td>112 2nd Ave E. Cfalls</td>
<td>270-293-9723</td>
<td>5/31/2024</td>
</tr>
<tr>
<td></td>
<td>MT Coffee Traders (member -at -large)</td>
<td><a href="mailto:maggie@coffeetraders.com">maggie@coffeetraders.com</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Vacant</td>
<td></td>
<td></td>
<td>5/31/2023</td>
</tr>
<tr>
<td></td>
<td>(Transportation)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Vacant</td>
<td></td>
<td></td>
<td>5/31/2023</td>
</tr>
<tr>
<td></td>
<td>Alpine Theatre Project (&quot;At Large&quot;)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Edna White</td>
<td>1380 Wisconsin Ave, WF</td>
<td>863-4046</td>
<td>5/31/2025</td>
</tr>
<tr>
<td></td>
<td>Dir. Of Sales Marketing The Lodge (Large Lodging)</td>
<td><a href="mailto:edna@averillhospitality.com">edna@averillhospitality.com</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Matt Gebo</td>
<td>PO Box 1400, WF</td>
<td>862-1955</td>
<td>5/31/2025</td>
</tr>
<tr>
<td></td>
<td>Whitefish Mountain Resort (Director of Marketing &amp; Sales)</td>
<td><a href="mailto:mattg@skiwhitefish.com">mattg@skiwhitefish.com</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Mariah Joos</td>
<td>6490 Hwy 93 S, Whitefish</td>
<td>862-3426</td>
<td>5/31/2023</td>
</tr>
<tr>
<td></td>
<td>Retail-Nelson Hardware</td>
<td><a href="mailto:mariah@nelsonhardware.com">mariah@nelsonhardware.com</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Jessie Farnes</td>
<td>510 West 9th St, Whitefish</td>
<td>406-862-7667</td>
<td>5/31/2025</td>
</tr>
<tr>
<td></td>
<td>Member at Large/Bar/Rest</td>
<td><a href="mailto:coordinator@coffeetraders.com">coordinator@coffeetraders.com</a></td>
<td>831-345-6970</td>
<td></td>
</tr>
</tbody>
</table>

City Council Packet, February 21, 2023 Page 10 of 305
MEMORANDUM

To: Mayor Muhlfeld and City Council

From: Alan Tiefenbach, Long Range Planner

Date: February 15, 2023

RE: Growth Policy Update Process Discussion

Background

The City of Whitefish Planning Department is preparing to begin the process of updating our adopted Growth Policy. A growth policy (also known as a comprehensive plan) is an official public document adopted and used by Montana cities, towns, and counties as a guide for making decisions about their future, particularly regarding land use. Although a growth policy is not mandatory or regulatory, zoning is regulatory, and Montana State Statute requires a growth policy be prepared for any City to adopt municipal zoning. Zoning must be generally consistent with the growth policy. Under Montana statute, a planning board is the only public entity authorized to prepare a growth policy, at the request of its governing body. The City Planning Board, based on Montana state statutes, will help to prepare and develop the plan and provide the sounding board for public input.

The statute requires review of an adopted growth policy at least once every five years, revising the document as necessary. The existing Growth Policy was last updated in 2007, although updates such as highway corridor plans and the Downtown Master Plan have been added as recently as 2021. As it has been sixteen years since the original Growth Policy was approved, a new Growth Policy which reflects current and future conditions and ties together all subsequent plans is prudent and has been established as a City Council priority goal.

Current Process

As an early step to creating an updated Growth Policy, the statute governing growth policies requires that a city, town, or county create an “inventory” of its existing characteristics and features using maps and narrative. Over the last several months, staff has been mapping the existing conditions of all properties within the City of Whitefish. Staff intends to share these results with the City Council at their February 21, 2023 meeting as well as further discuss the plan development process. Also, staff has prepared a tentative timeline for the growth policy update process, which has been included with this memorandum. Staff intends to begin “kick-off” and visioning meetings with the public regarding the growth policy update in April and May.
# 2023-2025 Growth Policy Tentative Time Line

<table>
<thead>
<tr>
<th>BACKGROUND</th>
<th>2022</th>
<th>2023</th>
<th>2024</th>
<th>2025</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Oct</td>
<td>Nov</td>
<td>Dec</td>
<td>Jan</td>
</tr>
<tr>
<td>Prepare existing conditions / demographics</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>WORKSESSION</td>
<td>2022</td>
<td>2023</td>
<td>2024</td>
<td>2025</td>
</tr>
<tr>
<td></td>
<td>Oct</td>
<td>Nov</td>
<td>Dec</td>
<td>Jan</td>
</tr>
<tr>
<td>Discuss Outline and Project with Planning Board / Council (worksession)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>COMMUNITY OUTREACH</td>
<td>2022</td>
<td>2023</td>
<td>2024</td>
<td>2025</td>
</tr>
<tr>
<td></td>
<td>Oct</td>
<td>Nov</td>
<td>Dec</td>
<td>Jan</td>
</tr>
<tr>
<td>Logos contest, create website, kick off and visioning</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PLAN ELEMENTS</td>
<td>2022</td>
<td>2023</td>
<td>2024</td>
<td>2025</td>
</tr>
<tr>
<td></td>
<td>Oct</td>
<td>Nov</td>
<td>Dec</td>
<td>Jan</td>
</tr>
<tr>
<td>Land Use Element</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presentation of land use element to public for review and comment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presentation of land use element to Planning Board for review and comment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Housing Element</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Outreach (possibly consultants)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presentation of Housing Element to Planning Board</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transportation Element</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Review transportation plan, Flathead county and MDT plans</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presentation of Transportation Element to Planning Board</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Outreach Midway Point Progress Meeting (&quot;how are we doing?&quot;)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Outreach Midway Point Progress Meeting (&quot;how are we doing?&quot;)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Economic Development Element</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Review economic development and marketing plans</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presentation of Economic Development Element to Planning Board</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Environment Element</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Review existing environmental policies and regulations</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presentation of Environmental Element to Planning Board</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Facilities and Infrastructure Element</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Review existing infrastructure policies and regulations</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presentation of Public Facilities and Infrastructure Element to Planning Board</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Open Space and Recreational Element</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Review open space and trails plans and associated plans</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presentation of Open Space and Recreational Element to Planning Board</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Implementation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Review existing implementation policies</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preparation of Implementation table</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presentation of Implementation to Planning Board</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PREPARATION OF OTHER REQUIRED ELEMENTS</td>
<td>2022</td>
<td>2023</td>
<td>2024</td>
<td>2025</td>
</tr>
<tr>
<td></td>
<td>Oct</td>
<td>Nov</td>
<td>Dec</td>
<td>Jan</td>
</tr>
<tr>
<td>Subdivision Policy</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annexation Policy</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Growth Policy Updates</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Coordination with other agencies</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LAYOUT AND DESIGN</td>
<td>2022</td>
<td>2023</td>
<td>2024</td>
<td>2025</td>
</tr>
<tr>
<td></td>
<td>Oct</td>
<td>Nov</td>
<td>Dec</td>
<td>Jan</td>
</tr>
<tr>
<td>COMMUNITY OUTREACH</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Open Houses</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FINAL PUBLIC HEARINGS</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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, February 21, 2023 at 7:10 p.m., at City Hall 418 East Second Street, 2nd Floor
Hybrid (In-person and/or Remotely via Teams)

To attend the meeting via Microsoft Teams, and provide live comment on your computer, tablet or smartphone, attendees should go to the web link below.

Meeting Link: Microsoft Teams Link  Meeting Number: 289 639 561 237  Password: z2TEXh
For the Audio Conference Call option: call the number below and enter the access code.
- United States Toll Free: 833-563-1751  Access code: 605 562 219#
- View live streaming (not to provide comment) on the City of Whitefish YouTube Channel
- We encourage individuals to provide written public comment; to the City Clerk, Michelle Howke at mhowke@cityofwhitefish.org or deliver by 4:00 p.m. Tuesday, February 21, 2023, to City Hall. Written comments should include name, address, should be short and concise, courteous, and polite. All written comments received by 4:00 p.m. will be provided to the City Council and appended to the packet following the meeting.
- Public comment by those attending the meeting "live" via Microsoft Teams or in-person will be limited to three minutes per individual.

Ordinance numbers start with 23-02. Resolution numbers start with 23-05.

1) CALL TO ORDER

2) PLEDGE OF ALLEGIANCE

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

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

5) CONSENT AGENDA (The consent agenda is a means of expediting routine matters that require the Council’s action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
   a) Minutes from February 6, 2023 Special Session (p.24)
   b) Minutes from February 6, 2023 Regular Meeting (p.25)
   c) Ordinance No. 23-01; An Ordinance amending the Whitefish City Code to add Article Y, Chapter 2, Title 11, to establish the WB-T zoning district (Business Transitional District), as an implementation of the Highway 93 South Corridor Plan (Second Reading) (p.30)
   d) Resolution No. 23-___; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 11.18 acres of land known as 111 Iverson Lane, 119 Iverson Lane, 140 Iverson Lane, and 6010 US Highway 93 South, in Section 12, Township 30 North, Range 22 West, in Whitefish, Montana, for which the owners have petitioned for and consented to annexation (p.36)
   e) Consideration of a request for Final Plat for the Rock Ridge Subdivision (fka 93 LLC), a 28-lot subdivision located off Highway 93 West (WFP 22-09) (p.49)
   f) Consideration of a request from Eric Sikola for a Whitefish Lakeshore Protection Permit as recommended in the staff report located at 1490 and 1492 Barkley Lane (WLP 23-W02) (p.205)

6) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30-minute time limit for applicant’s land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC))
a) Ordinance No. 23-__; An Interim Zoning Ordinance prohibiting the approval of new applications for administrative conditional use permits for marijuana dispensaries (Only Reading) (p.245)

b) Consideration of a request from Pheasant Run LLC, for a 24-lot preliminary plat called The Canopy, located at the western end of Pheasant Run and can be legally described as Tract 3ABM in S01 T30N R22W, P.M.M., Flathead County, zoned WR-2 (Two-Family Residential District) and WB-2 (Secondary Business District) (WPP 22-08) (p.) POSTPONED BY APPLICANT AFTER PUBLIC NOTICE WAS PUBLISHED

7) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR
   a) Consideration of approval of RAISE Grant Submittal for a portion of the Whitefish Promenade on Spokane Avenue between East Second Street and Railway Street (p.251)

8) COMMUNICATIONS FROM CITY MANAGER
   a) Written report enclosed with the packet. Questions from Mayor and Council? (p.265)
   b) Other items arising between February 15th through February 21st

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS
   a) Consideration of appointment to volunteer boards and committees not made during the Special Session preceding tonight’s meeting
   b) Consideration of approving tentative FY24 Budget calendar (p.272)
   c) Consideration of a request from North Valley Music School to approve the building plans for the new facility in accordance with Project Whitefish Kids lease of Smith Fields (p.273)
   d) Consideration of a request from Flathead Electric Cooperative asking to support Holy Cross Energy in its application under DOE’s BIL Grid Resilience and Innovation Partnership FOA for Topic Area 1 (p.304)

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
(This page left blank intentionally to separate printed sections)
Mayor Muhlfeld and City Councilors:

Tuesday, February 21, 2023 City Council Agenda Report

There will be a Special Session beginning at 5:45pm to conduct an interview for the Whitefish Convention and Visitors Bureau Board. The work session will begin at 6:00pm to discuss the Growth Policy update. 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 February 6, 2023 Special Session (p.24)
b) Minutes from February 6, 2023 Regular Meeting (p.25)
c) Ordinance No. 23-01; An Ordinance amending the Whitefish City Code to add Article Y, Chapter 2, Title 11, to establish the WB-T zoning district (Business Transitional District), as an implementation of the Highway 93 South Corridor Plan (Second Reading) (p.30)
d) Resolution No. 23-__; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 11.18 acres of land known as 111 Iverson Lane, 119 Iverson Lane, 140 Iverson Lane, and 6010 US Highway 93 South, in Section 12, Township 30 North, Range 22 West, in Whitefish, Montana, for which the owners have petitioned for and consented to annexation (p.36)
e) Consideration of a request for Final Plat for the Rock Ridge Subdivision (fka 93 LLC), a 28-lot subdivision located off Highway 93 West (WFP 22-09) (p.49)
f) Consideration of a request from Eric Sikola for a Whitefish Lakeshore Protection Permit as recommended in the staff report located at 1490 and 1492 Barkley Lane (WLP 23-W02) (p.205)

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

Items “a, and b” are administrative matters; Items “d, e, and f” 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) Ordinance No. 23-__; An Interim Zoning Ordinance prohibiting the approval of new applications for administrative conditional use permits for marijuana dispensaries (Only Reading) (p.245)

From Planning and Building Director Dave Taylor’s staff memorandum.

At a recent work session on February 6 regarding marijuana facilities, the City Council directed staff to bring back an Interim Zoning Ordinance on February 21 that would prohibit marijuana facilities
for six months, so the council and staff have time to further study the issue and look at increasing setbacks and/or changing permitting procedures. Attached is the draft Interim Ordinance prepared by the City Attorney.

The City Council made recreational marijuana facilities legal December of 2021. Since then, eleven conditional use permits have been granted, with five of those open for business. At the work session, Council members voiced concern about the proliferation of marijuana dispensaries throughout Whitefish, and about the setback requirements from schools and churches. Currently the city zoning regulations defer to the State of Montana Department of Revenue setback standards whereby a dispensary could go in next to a school or church if the address and front doors are on different streets, with the exception that current marijuana ordinance also prohibits dispensaries on Spokane Avenue between Railway Street and East Second Street.

Interim Ordinances must meet the following criteria under the Montana Code Annotated:

76-2-306. Interim zoning ordinances. (1) Except as provided in 76-2-340, the city or town council or other legislative body of the municipality, to protect the public safety, health, and welfare and without following the procedures otherwise required prior to the adoption of a zoning ordinance, may adopt as an urgency measure an interim zoning ordinance prohibiting any uses that may be in conflict with a contemplated zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time.

(2) An interim zoning ordinance may be applicable only within the city limits and up to 1 mile beyond the corporate boundaries of the city or town and takes effect upon passage if a hearing is first held upon notice reasonably designed to inform all affected parties. A notice must be published in a newspaper of general circulation at least 7 days before the hearing.

(3) An interim zoning ordinance is no longer in effect 6 months from the date of its adoption. However, after notice pursuant to 76-2-303 and pursuant to public hearing, the legislative body may extend the interim zoning ordinance for 1 year. Any extension requires a two-thirds vote for passage and becomes effective upon passage. No more than two extensions may be adopted.

RECOMMENDATION: Staff respectfully recommends the City Council discuss an issues related to marijuana facilities and their locations as well as the pros and cons of adopting the attached interim ordinance, and then vote on whether you wish to approve it. If approved, staff will schedule a work session in April for the Council to further study and discuss the matter and review staff recommendation based on Council’s direction.

This item is a legislative matter.

b) Consideration of a request from Pheasant Run LLC, for a 24-lot preliminary plat called The Canopy, located at the western end of Pheasant Run and can be legally described as Tract 3ABM in S01 T30N R22W, P.M.M., Flathead County, zoned WR-2 (Two-Family Residential District) and WB-2 (Secondary Business District) (WPP 22-08) (p.) POSTPONED BY APPLICANT AFTER PUBLIC NOTICE WAS PUBLISHED

COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR
a) Consideration of approval of RAISE Grant Submittal for a portion of the Whitefish Promenade on Spokane Avenue between East Second Street and Railway Street (p.251)

From Public Works Director Craig Workman’s staff report.
INTRODUCTION/HISTORY
The Downtown Business District Master Plan (Downtown MP) was updated in 2015 to identify opportunities to increase the vitality of the downtown business district and outline the components that will make this vision a reality. The Vision Statement of the 2017 Connect Whitefish Bike & Pedestrian Master Plan (Bike/Ped MP) calls for a connected and continuous network of well-maintained bicycle and pedestrian facilities liking key destinations. The 2022 Whitefish Transportation Plan focuses on livability and prioritizes multimodal transportation and promotes walkability.

The City went through an exhaustive public process when drafting all three plans, which included stakeholder meetings, public workshops, and consultation with agencies such as the Montana Department of Transportation (MDT). Improvements along Spokane Avenue between E. 2nd St. and Railway St. are identified in all three plans as a critical bicycle and pedestrian link.

To finance this project, the City has identified US DOT’s RAISE Discretionary Grant Program which helps communities build transportation projects that have significant local or regional impact and improve safety and equity. RAISE projects are reviewed and evaluated on statutory criteria of safety, environmental sustainability, quality of life, mobility, and community connectivity.

CURRENT REPORT
The concept for this section of Spokane Avenue from the Downtown MP has been included for reference in your packet. The primary goal of the project will be to complete a missing link in the Whitefish Promenade on Spokane Avenue from E. 2nd to Railway. The project will include a bi-directional protected bikeway between E. 2nd and Railway and maintain all travel lane configurations. Two concepts are shown for the section between 1st and Railway. The first concept replaces the angled parking on the east side of Spokane Ave. with parallel parking. The alternate concept maintains angled parking on the east side of Spokane Ave. between 1st and Railway but requires an easement from the Whitefish School District.

The Bike/Ped MP clearly establishes that the citizens of Whitefish desire improvements to connectivity and safety in the community’s shared-use path network. Projects to improve both connectivity and safety are presented in the plan. This proposed section of the Whitefish Promenade is identified as Project C29 on the Tier II connectivity improvement project list.

As part of the 2022 Transportation Plan, multimodal projects were scored on four important benchmarks – active transportation, safety, congestion reduction, and connectivity. The Whitefish Promenade was the number one ranked cycletrack identified in the Transportation Plan.

FINANCIAL REQUIREMENT
The Federal share of the costs of an eligible project carried out using a grant provided under the RAISE grant program shall not exceed 80%, unless the project is in a rural area, a historically disadvantaged community (HDC), or an area of persistent poverty (APP). While Whitefish is considered a rural area, to be more competitive with the state-wide pool of projects, staff is recommending a split of 80% RAISE funds (80%) and 20% City funds.

RECOMMENDATION: Staff respectfully recommends the City Council authorize staff to proceed with the grant application as discussed in this report committing a local match of approximately 20% of total project costs.

COMMUNICATIONS FROM CITY MANAGER
a) Written report enclosed with the packet. Questions from Mayor and Council? (p.265)
b) Other items arising between February 15th through February 21st
COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

a) Consideration of appointment to volunteer boards and committees not made during the Special Session preceding tonight’s meeting

b) Consideration of approving tentative FY24 Budget calendar (p.272)

c) Consideration of a request from North Valley Music School to approve the building plans for the new facility in accordance with Project Whitefish Kids lease of Smith Fields (p.273)

d) Consideration of a request from Flathead Electric Cooperative asking to support Holy Cross Energy in its application under DOE’s BIL Grid Resilience and Innovation Partnership FOA for Topic Area 1 (p.304)

ADJOURNMENT

Sincerely,

[Signature]

Dana Smith, C.P.A
City Manager
The motions below are listed in order of precedence. Any motion can be introduced if it is higher on the chart than the pending motion.

### PRIVILEGED MOTIONS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Adjourn</td>
<td>I move to adjourn</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Majority</td>
<td>Yes</td>
</tr>
<tr>
<td>Take a break</td>
<td>I move to recess for</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Majority</td>
<td>No</td>
</tr>
<tr>
<td>Register complaint</td>
<td>I rise to a question of privilege</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>None</td>
<td>No</td>
</tr>
<tr>
<td>Orders of the day</td>
<td>I call for the orders of the day</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>None</td>
<td>No</td>
</tr>
</tbody>
</table>

### SUBSIDIARY MOTIONS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Lay aside temporarily</td>
<td>I move to lay the question on the table</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Majority</td>
<td>Negative vote only</td>
</tr>
<tr>
<td>Close debate</td>
<td>I move the previous question</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>2/3</td>
<td>Yes</td>
</tr>
<tr>
<td>Limit / extend debate</td>
<td>I move that debate be limited to...</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>2/3</td>
<td>Yes</td>
</tr>
<tr>
<td>Postpone to a certain time</td>
<td>I move to postpone the motion to...</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Majority</td>
<td>Yes</td>
</tr>
<tr>
<td>Refer to a committee</td>
<td>I move to refer the motion to...</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Majority</td>
<td>Yes</td>
</tr>
<tr>
<td>Amend a motion</td>
<td>I move to amend the motion by...</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Majority</td>
<td>Yes</td>
</tr>
<tr>
<td>Kill main motion</td>
<td>I move that the motion be postponed indefinitely</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Majority</td>
<td>Affirmative vote only</td>
</tr>
</tbody>
</table>
### MAIN MOTIONS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bring business to motion</td>
<td>I move that (or “to”)...</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Majority</td>
<td>Yes</td>
</tr>
</tbody>
</table>

No order of precedence. Arise incidentally and decided immediately.

### INCIDENTAL MOTIONS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Enforce rules</td>
<td>Point of order</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>None</td>
<td>No</td>
</tr>
<tr>
<td>Submit matter to assembly</td>
<td>I appeal from the decision of the chair</td>
<td>Yes</td>
<td>Yes</td>
<td>Varies</td>
<td>No</td>
<td>Majority</td>
<td>Yes</td>
</tr>
<tr>
<td>Suspend rules</td>
<td>I move to suspend the rules which...</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>2/3</td>
<td>No</td>
</tr>
<tr>
<td>Avoid main motion altogether</td>
<td>I object to the consideration of the question</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>2/3</td>
<td>Negative vote only</td>
</tr>
<tr>
<td>Divide motion/question</td>
<td>I move to divide the question</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Majority</td>
<td>No</td>
</tr>
<tr>
<td>Demand rising vote</td>
<td>I call for a division</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>None</td>
<td>No</td>
</tr>
<tr>
<td>Parliamentary law question</td>
<td>Parliamentary inquiry</td>
<td>Yes (if urgent)</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>None</td>
<td>No</td>
</tr>
<tr>
<td>Request information</td>
<td>A point of information, please.</td>
<td>Yes (if urgent)</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>None</td>
<td>No</td>
</tr>
</tbody>
</table>

No order of precedence. Introduce only when nothing else pending.

### RENEWAL MOTIONS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Take matter from table</td>
<td>I move to take from the table...</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Majority</td>
<td>No</td>
</tr>
<tr>
<td>Cancel or change previous action</td>
<td>I move to rescind / amend the motion...</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>2/3 or majority w/notice</td>
<td>Negative vote only</td>
</tr>
<tr>
<td>Reconsider motion</td>
<td>I move to reconsider the vote on...</td>
<td>No</td>
<td>Yes</td>
<td>Varies</td>
<td>No</td>
<td>Majority</td>
<td>No</td>
</tr>
</tbody>
</table>
(This page left blank intentionally to separate printed sections)
1) Call to Order

The meeting was held in-person in the Council Conference Room. Deputy Mayor Sweeney called the meeting to order. Councilors present were Davis, Qunell, Feury, Norton and Caltabiano. Mayor Muhlfeld was absent. Staff present were City Manager Smith, City Clerk Howke, and Planning and Building Director Taylor.

2) Interview

City Council interviewed applicants interested to serve on the Whitefish Community Housing Committee; Carolyn Pitman, Leanette Galaz (virtually via Microsoft Teams), Bob Horne, Roxann Gallagher, and Cameron Blake. Addie Brown-Testa withdrew her application.

3) Public Comment

None

4) Appointment

Due to time constraints, Deputy Mayor Sweeney made appointments to the Whitefish Community Housing Committee during the regular session.

5) Adjourn

Deputy Mayor Sweeney adjourned the meeting at 6:25 p.m. and opened the work session.

________________________________________
Deputy Mayor Sweeney

Attest:

________________________________________
Michelle Howke, Whitefish City Clerk
1) CALL TO ORDER

Deputy Mayor Sweeney called the meeting to order. Councilors present were Qunell, Feury, Caltabiano, Davis, and Norton. Mayor Muhlfeld was absent. City Staff present were, City Clerk Howke, City Manager Smith, City Attorney Jacobs, Finance Director Gospodarek, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, Police Chief Kelch and Fire Chief Page. Approximately 3 people were in the audience, and one attended virtually.

2) PLEDGE OF ALLEGIANCE

Deputy Mayor Sweeney asked Mayre Flowers to lead the audience in the Pledge of Allegiance.

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

Mayre Flowers, Citizens for a Better Flathead, provided written public comment that is appended to the packet on the website, addressing concerns with the proposed WB-T zoning district. She encourages the Council to relook at the intent and purpose; the ordinance does not list the most current finding of facts; the term accessory apartments appear as a permitted and a conditional use, but there is no definition for that in the Whitefish zoning codes; there is no definition for light commercial and ancillary services, and they are not a permitted use listed or conditional use and thinks they should be removed from the purpose statement. The consensus she is hearing is that everyone would like to see generous landscaping and if you currently have no minimum lot coverage that is harder to achieve.

Mayre also reported that the County is looking to build a composting facility south of the Wiley Dyke area, a mile north of Flathead Lake. All of the septic waste in the County (30,000 systems) will be directed to that facility. The solids would be removed, and the liquid would be pumped over to the Lakeside sewage treatment plant. The proposed area annually has groundwater depths as high as five feet. This is an area of concern. The County is scheduled on February 15th to decide about purchasing this land. She hopes city officials like Whitefish will raise questions. High concentration on an area of shallow groundwater is of concern. She thinks it is time to look for a better location and wanted to bring it to the Councils attention.

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

None

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

a) Minutes from January 17, 2023 Special Session (p.45)
b) Minutes from January 17, 2023 Regular Meeting (p.46)
c) Resolution No. 23-04; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 9.99 acres of land known as 625 Lund Lane in Section 1, Township 30 North, Range 22 West, in Whitefish, Montana, for which the owner has petitioned for and consented to annexation (p.49)
d) Consideration of a request from Seven Hills Construction LLC for a Final Plat for Orchard Lane 4 Subdivision, a 5-Lot subdivision located at 415 ½ Colorado Avenue (WFP 23-01) (p.60)
e) **Consideration** of a request from the members of the Whitefish Lake Lodge Homeowners Association to amend Article VIII, Section 2, Insurance and Fidelity Bonds of the Declaration of Unit Ownership (p.89)

Councillor Davis recused himself from the Consent Agenda, item d) is his request for Final Plat.

Councillor Quinell made a motion, seconded by Councillor Caltabiano to approve the Consent Agenda. The motion carried.

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

   a) **Ordinance No. 23-01;** An Ordinance amending the Whitefish City Code to add Article Y, Chapter 2, Title 11, to establish the WB-T zoning district (Business Transitional District), as an implementation of the Highway 93 South Corridor Plan (First Reading) (POSTPONED FROM 11/07/2022 AND 11/21/2022, PUBLIC HEARING CLOSED) (P.106)

Planning and Building Director Taylor presented his staff report that is provided in the packet. One written comment was received from Citizens for a Better Flathead that is appended to the packet on the website. There have been multiple public hearings dating back over a year ago. November 21, 2022 Council directed staff to make some changes to the proposed code. The changes that were proposed were moving the majority of the permitted uses into the conditional use permit category, making the frontage and backage road portion mandatory and then increasing the buffers between that zoning and the adjacent residential zoning. The Highway 93 South Corridor Plan that was adopted called for this transitional zoning district. It established the intended purpose of that zone. Staff is confident it meets the Growth Policy criteria as long as the intent and purpose are not changed too much.

Councillor Norton asked and Director Taylor addressed Mayre Flower’s comments regarding light commercial and ancillary services is a general term; storage facilities in enclosed buildings would have to be associated with that light manufacturing or assembly to store their product; guides and outfitters was not a use that was allowed in our WB-2 until an outfitter business moved out of WB-3 into the WB-2, City Council added it as a conditional use into the WB-2 zoning district.

Councillor Davis asked, and Director Taylor stated there is no maximum density to the residential development allowed in this district. The WB-2 does not have a maximum density unless you do a PUD.

Councillor Caltabiano made a motion, seconded by Councillor Norton to approve Ordinance No. 23-01; An Ordinance amending the Whitefish City Code to add Article Y, Chapter 2, Title 11, to establish the WB-T zoning district (Business Transitional District), as an implementation of the Highway 93 South Corridor Plan (First Reading). Councillor Caltabiano stated this ordinance will not affect any of the implementations that any owner not annexed into the city will be able to do within county regulations. If they do not require services from the City and they do not petition to annex this ordinance would be mute. We are trying to find a compromise to attract enough property owners to petition to annex, taking our services paying towards the city as well as managing and controlling the type of growth we want to see in that area.

Councillor Davis made a motion, seconded by Councillor Caltabiano to amend 11-2Y-3, Residential, Two-family (duplex) through a six-plex. Councillor Davis stated what is presented here looks like more or less the highest density residential zone in town. It has unlimited maximum density. Good city planning wouldn’t be to put the highest density out of town. Conditional uses can’t always be denied for various reasons. The developers are owed some predictability about what the council thinks is appropriate. If it is a conditional use permit, he feels like we are just going to get applications for the largest apartment buildings in the Flathead. This would be missing middle housing and below, that is what a six-plex is to him. He hopes
to encourage higher density development more towards our core when revising the Growth Policy. Councilor Norton stated she could not support his motion. She thinks it is a great place for housing, and she is not sure that we should restrict ideas at this point. **The motion carried 5-1, Councilor Norton voting in opposition.**

Councilor Qunell stated making sure that a CUP is required for pretty much any of the business uses really helps. He agrees with Councilor Davis, this is not a great place for housing for our city, not currently. Moving most everything to conditional uses was the right move here. It gives some predictability if people want to annex into the city. We want to be able to have a public conversation about any new uses that are going to be a part of the city.

Councilor Feury stated he still has concerns and doesn’t know that it is going to either entice anyone to annex and he doesn’t know if it is going to discourage anyone to annex. A couple of Mayre’s Flowers comments ring true with him. Residential behind and commercial up front tends to lead to strip development that we are trying to not have. The reality is from a property development side, most people are going to want some kind of buffer from the highway. They are not going to want their front yard on Highway 93. Larger tracts would be under Council review when subdividing. Most of the commercial uses have been eliminated. At this point his is going to support it. He agrees, housing needs to be towards the core of our community.

**The original motion to adopt Ordinance No. 23-01 carried.**

7) **COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR**

a) **Consideration** of approval of the Community Solar Agreement with Flathead Electric Cooperative, Inc. to construct a community solar facility on the wastewater treatment plant property and authorize the City Manager to execute the contract (p.205)

Public Works Director Workman presented his staff report that is provided in the packet.

Councilor Davis made a motion, seconded by Councilor Caltabiano to approve the Community Solar Agreement with Flathead Electric Cooperative, Inc., removing a portion of Section 3 C. Insurance; FEC shall be added as an additional insured on such policies during the period of time that the System remains installed at the Facility. The motion carried.

8) **COMMUNICATIONS FROM CITY MANAGER**

a) **Written report** enclosed with the packet. Questions from Mayor and Council? (p.223)

None

b) **Other items arising between February 1st through February 6th**

Manager Smith provided updates to the Legislative Session. There are currently 434 House Bills (HB) that have been introduced and 279 Senate Bills (SB); SB159, restricting use of eminent domain, has been transmitted to the House; SB215 has some amendments, there was a hearing on January 30th and we are waiting on the executive action; HB226 regarding pension laws, as originally drafted would cause a significant increase for the pension of Public Employee Retirement System (PERS), having the increase in one year is not sustainable; HB244 revising the Montana Housing Fund Rules has been transmitted to the Senate, so it passed through the House; HB324, local government expenditure limitation, which would severely limit local governments from adjusting to growth, has a hearing on February 9th, written testimony will be provided as well as our lobbyist will be in person to testify in opposition; HB337, which would decrease the minimum lot sizes across the entire city to 4,000 square feet, a letter in opposition was written, we are waiting on the executive action; HB369, requiring a referendum to adopt growth policies and any growth policy changes, a hearing is scheduled on February 9th; LC300, regarding short-term-rentals is now
SB268 is scheduled for a hearing on February 20th, amendments were not made, so we will oppose that bill as drafted; a new draft for LC2647, which would grandfather structures within the lakeshore protection zone, has not been introduced yet.

Manager Smith announced that Luke Sponable has accepted our job offer for the Housing Coordinator/Planner II Long Range position. He is a master’s student at the University of Washington, and has worked as a Planner I and II at the City of Breckenridge, Colorado. Currently he is an intern in Seattle working with the Department of Transportation. He brings a lot of knowledge. He will start on a part-time remote status starting February 21st, then become full-time in July.

The League of Cities and Towns and our lobbyist requested Manager Smith to write a response to the County Commissioners letter that was published in the paper addressing homelessness. There are legislative bills looking at supporting homeless shelters and centers, that would provide grant funding to them at the state level.

Councilor Davis asked, and Manager Smith stated the City of Whitefish was included in the debate in Kalispell regarding the homelessness issue. Manager Smith and Police Chief Kelch confirmed the rumors that Whitefish Police were taking homeless people down and dropping them in Kalispell to be untrue. Police Chief Kelch stated Whitefish Police deal with homelessness on an individual basis. We will get them to the resources that is best going to help their situation, many times through the Pastoral Association by providing a gas card, or food voucher, or a hotel room for an evening. If somebody needs to be warm, we will bring them to the Police Department to warm up. Part of their core values is to police with dignity and respect. The Warming Shelter in Kalispell hold beds for law enforcement throughout the county to bring individuals there when they are in need. We deal with it on an individual basis, as we encounter individuals in that situation and try to get them to the best resources or a quick fix at that point in time.

The Council directed Manager Smith to write a letter to the County Commissioners addressing their publication in the local paper.

Manager Smith stated the Consultants working on the Impact Fee update will be onsite soon and will be meeting with the Impact Fee Advisory Committee. She will extend an invitation to the City Council as well to attend. They are proposing for some Impact Fees to go away, and some Impact Fees that will be changing. She has held off on the transportation impact fee because of the Impact Fee bill at the Legislative Session. That bill has been amended at this point and as long as it goes through as amended, she doesn’t see a problem adding that back into our work. At this point we are just doing the update of the seven impact fees we have currently.

   c) **Consideration** of fundraising sign request by North Valley Music School (p.227)

Manager Smith presented her staff report that is provided in the packet.

Councilor Caltabiano made a motion, seconded by Councilor Qunell to approve the request from North Valley Music School as recommended by staff as stated in the packet, every Friday for the duration requested by North Valley Music School. The motion carried.

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS
   a) Consideration of appointment to the Whitefish Community Housing Committee – Mayoral Appointment(p.)
      i) **One representative** from the Whitefish Housing Authority – Dwarne Hawkins (p.236)
      ii) **One representative** from Housing Whitefish – Daniel Sidder (p.237)
iii) One representative from the Whitefish Convention and Visitors Bureau – Rhonda Fitzgerald (p.238)

iv) One representative from the Whitefish Chamber of Commerce – Jeff Raper (p.239)

v) The Mayor or one member of the City Council

Deputy Mayor Sweeney appointed Dwarne Hawkins, Daniel Sidder, Rhonda Fitzgerald, Jeff Raper and Councilor Ben Davis as recommended. Council ratified his appointments.

b) Consideration of appointment to volunteer boards and committees not made during the Special Session preceding tonight’s meeting

Deputy Mayor Sweeney appointed Cameron Blake (real estate development), Carolyn Pitman (fundraising or financing) and Leanette Galaz and Roxann Gallagher (housing policy, property management, housing programs, end-users of community housing programs, or housing advocacy). The Council ratified his appointments.

Council Comment

Councilor Caltabiano congratulated the Whitefish Winter Carnival organization for a good job. The parade was exceptional with 57 floats, and the Penguin Plunge broke some records on Saturday morning. He also congratulated Councilor Davis for being awarded the Citizen of the Year.

Councilor Qunell received a letter from Whitefish Mountain Resort about the continued problems they have been having at the resort. He has noticed a lot of people have been getting really upset and frustrated. He stated we know the last few years have been hard and thinks that is part of the effect of what we are seeing up on Big Mountain this winter. You may be frustrated but grace is a gift you can give in any instance.

Councilor Norton congratulated the Public Works Department for receiving a $160,000 Safe Streets for All Planning Grant; and congratulated Councilor Davis for receiving the Citizen of the Year award; and congratulated Councilor Caltabiano for his engagement. She asked Manager Smith to update the Council on the biosolids that Mayre Flowers brought to the Council’s attention during Communications from the Public. Manager Smith stated the County is planning on using their ARPA funds for that project. She will get more information from the County and email it to the Council.

Councilor Feury reported at the Trail Operations meeting last week, DNRC is also looking at a commercial use policy for the rest of the trail. They are getting an awful lot of requests and are looking at a relatively low number.

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

Deputy Mayor Sweeney adjourned the meeting at 8:46 p.m.

______________________________
Deputy Mayor Sweeney

Attest:

______________________________
Michelle Howke, Whitefish City Clerk
ORDINANCE NO. 23-01

An Ordinance of the City Council of the City of Whitefish, Montana, amending the Whitefish City Code to add Article Y, Chapter 2, Title 11, to establish the WB-T zoning district (Business Transitional District), as an implementation of the Highway 93 South Corridor Plan.

WHEREAS, on December 6, 2021, the City Council adopted the Highway 93 South Corridor Plan as an amendment to the 2007 City-County Growth Policy; and

WHEREAS, the Highway 93 South Corridor Plan called for the creation of a highway transitional zoning district for the area south of the intersection of Highway 93 South and Highway 40 to "ensure properties at the entrance to Whitefish that annex into the City are developed in a manner consistent with community's vision for Segment C, and to better buffer adjacent residential properties from negative impacts..."; and

WHEREAS, in response to the direction to amend Title 11, Chapter 2 in the Whitefish City Code to create a new zoning district, Business Transitional District, the Planning & Building Department prepared Staff Report WZTA 22-01, dated January 12, 2022; and

WHEREAS, at a lawfully noticed public hearing on January 20, 2022, the Whitefish Planning Board received an oral report from Planning staff, reviewed Staff Report WZTA 22-01, held a public hearing, invited public comment, and thereafter voted unanimously to recommend approval of the proposed text amendments to the City Council; and

WHEREAS, at a lawfully noticed public hearing on February 7, 2022, the Whitefish City Council postponed the matter to a meeting to be held February 22, 2022; and

WHEREAS, at a lawfully noticed public hearing on February 22, 2022, the Whitefish City Council received an oral and written report from Planning staff, reviewed Staff Report WZTA 22-01, and letter of transmittal dated February 1, 2022, invited public input, closed public comment, and thereafter voted to postpone action on the proposed text amendments to a meeting to be held March 7, 2022; and

WHEREAS, at a lawfully noticed public hearing on March 7, 2022, the Whitefish City Council received an oral and written report from Planning staff, reviewed a staff memo and revised draft, postponed action to the April 4 meeting, and established a work session on the item for March 21, 2022; and

WHEREAS, at a lawfully noticed work session on March 21, 2022, the Whitefish City Council received an oral and written report from Planning staff, reviewed a revised draft of the ordinance, offered comment, and directed staff to schedule an additional work session on April 4, 2022; and

WHEREAS, at a lawfully noticed work session on April 4, 2022, the Whitefish City Council received an oral and written report from Planning staff, reviewed a revised draft of the ordinance, and offered comment; and
WHEREAS, at a lawfully noticed public hearing on May 2, 2022, the Whitefish City Council received an oral and written report from Planning staff, reviewed Staff Report WZTA 22-01, and revised letter of transmittal dated May 2, 2022, and thereafter voted to table the proposed text amendments; and

WHEREAS, at the regular meeting held September 19, 2022, the Whitefish City Council directed staff to bring back the proposed text amendments to Council in a work session; and

WHEREAS, at a lawfully noticed work session on October 17, 2022, the Whitefish City Council received an oral and written report from Planning staff, reviewed a revised draft of the ordinance, and offered comment; and

WHEREAS, at a lawfully noticed public hearing on November 7, 2022, the Whitefish City Council received an oral and written report from Planning staff, reviewed Staff Report WZTA 22-01, and revised letter of transmittal dated November 7, 2022, and thereafter voted to close the public hearing and postpone the item to November 21, 2022; and

WHEREAS, at a lawfully noticed public hearing on November 21, 2022, the Whitefish City Council received an oral and written report from Planning staff, reviewed Staff Report WZTA 22-01, and revised letter of transmittal dated November 7, 2022, closed the public hearing and thereafter directed staff to amend the proposed text amendments and bring them back on February 6, 2023; and

WHEREAS, at a lawfully noticed meeting on February 6, 2023, the Whitefish City Council received an oral and written report from Planning staff, reviewed Staff Report WZTA 22-01, and revised letter of transmittal dated February 6, 2023, and thereafter voted to approve the proposed text amendments; and

WHEREAS, it will be in the best interests of the City of Whitefish and its inhabitants to adopt the proposed text amendments.

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

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

Section 2: Staff Report WZTA 22-01 dated February 6, 2023, together with the May 2, 2022 letter of transmittal from the Whitefish Planning & Building Department, are hereby adopted as Findings of Fact.

Section 3: Amendments to Whitefish City Code adding Article Y, Chapter 2, Title 11 to establish the WB-T zoning district (Business Transitional District), as set forth in the attached Exhibit A, are hereby adopted.

Section 4: In the event any word, phrase, clause, sentence, paragraph, section, or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such
judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 5: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.


______________________________
John M. Muhlfeld, Mayor

ATTEST:

______________________________
Michelle Howke, City Clerk
EXHIBIT "A"

WHITEFISH CITY CODE TITLE 11 – ZONING REGULATIONS
CHAPTER 2 – ZONING DISTRICTS
ARTICLE Y. WB-T BUSINESS TRANSITIONAL DISTRICT

11-2Y-1: INTENT AND PURPOSE: The WB-T District is intended for transitional highway frontage areas between existing county Business Service areas and the city's Secondary Business District. While the majority of development would be tightly controlled by the conditional use permit process, the district is appropriate for light commercial and ancillary services fronting the highway with single-family to high density residential uses typically located behind to provide a performance based mixed-use environment in a highway community gateway setting. Due to high vehicle speeds and limited access points, high traffic uses are discouraged, and frontage or backage roads will be developed to consolidate highway accesses. This zoning classification is intended for areas annexing into the city with current county B-4 zoning, and not intended for general application throughout the Whitefish area, nor is it to be extended south of Emerald Drive/Russell Road on Highway 93 South.

11-2Y-2: PERMITTED USES:

- Accessory dwelling units.
- Daycares and daycare centers.
- Home occupations (see special provisions in section 11-3-13 of this title).
- Public utility buildings and facilities when necessary for serving the surrounding territory, excluding business offices and repair or storage facilities. A minimum of five feet (5') of landscaped area shall surround such a building or structure.
- Publicly owned or operated buildings and uses.
- Residential:
  - Class A manufactured homes.
  - Single-family dwellings.

11-2Y-3: CONDITIONAL USES:

- Churches.
- Hospitals, nursing, retirement homes, or personal care facilities.
- Kennels and animal training centers.
- Light assembly, manufacturing, fabricating, processing, including light food manufacturing and processing, repairing, packing, and related storage facilities in enclosed buildings, provided that such uses do not create objectionable characteristics (such as dirt, noise, glare, heat, odor, smoke) which extend beyond lot lines, and do not involve materials that are explosive, hazardous or toxic.
- Marijuana facilities.
- Medical clinics and associated therapeutic health services.
- Micro-breweries or micro-distilleries.
- Nurseries and landscape materials.
• Professional offices.
• Recreational facilities, private and commercial.
• Recreational guides and outfitters.
• Research laboratories and institutions.
• RV parks and campgrounds.
• Residential:
  • Boarding houses.
  • Caretaker units.
  • Two-family (duplex) through six-plex dwellings.
• Restaurants (non-formula).
• Veterinary offices and hospitals.

11-2Y-4: PROPERTY DEVELOPMENT STANDARDS: The following property development standards shall apply to land and buildings within this district:

Bulk and scale: All new structures with a building footprint of 7,500 square feet or greater, existing structures where an addition causes the total footprint to be 7,500 square feet or greater, and additions to structures where the footprint is already 7,500 square feet or greater, are subject to a conditional use permit pursuant to section 11-7-8 of this title.

Minimum district size: n/a
Minimum lot area: n/a
Minimum lot width: 50 feet
Minimum yard spaces:
  Front: 30 feet, 50 feet landscaped buffer when abutting Highway 93 and Highway 40.
  Side: 10 feet, 30 feet landscaped buffer when abutting residential or agricultural zoned properties, 50 feet landscaped buffer when abutting Highway 93 and Highway 40.
  Rear: 20 feet, 30 feet landscaped buffer when abutting residential or agricultural zoned properties.
Maximum height: 35 feet
Permitted lot coverage: n/a
Off street parking

See chapter 6 of this title.

Landscaping

See chapter 4 of this title (single-family uses exempted).

General requirements:

1. Shared driveway access or frontage roads (whether public or private) are required to provide a cohesive internal circulation pattern and to consolidate access onto arterials and collectors.

2. Where access can be achieved via an adjacent or internal street or easement, the lot shall take its access from that location instead of direct access onto the highway.

3. Where no adjacent street network is available, site design of individual lots shall provide for shared access with neighboring parcels and easements shall be provided for future road locations.

4. Site design should incorporate shared parking and landscaped buffers to protect surrounding properties from adverse impacts to the greatest extent possible.

5. Exposed utilities, storage areas, machinery, service and loading areas and similar accessory areas and structures shall be set back to the primary structure requirements and fully screened with fencing and/or landscaping to minimize the loss of views, privacy and the general aesthetic value of surroundings.
RESOLUTION NO. 23-___

A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 11.18 acres of land known as 111 Iverson Lane, 119 Iverson Lane, 140 Iverson Lane, and 6010 US Highway 93 South, in Section 12, Township 30 North, Range 22 West, in Whitefish, Montana, for which the owners have petitioned for and consented to annexation.

WHEREAS, Eric Payne, as authorized representative of Whitefish Junction LLC, and Dean Grommet, have filed a Petition for Annexation with the City Clerk requesting annexation and waiving any right of protest to annexation as the sole owners of real property representing 50% or more of the total area to be annexed. Therefore, the City Council will consider this petition for annexation pursuant to the statutory Annexation by Petition method set forth in Title 7, Chapter 2, Part 46, Montana Code Annotated; and

WHEREAS, services to the annexed area will be provided according to the City of Whitefish Extension of Services Plan, amended by the City Council by Resolution No. 21-21 on June 21, 20121, as required by and in conformity with §§ 7-2-4610 and 7-2-4732, MCA, available at the Office of the City Clerk; and

WHEREAS, pursuant to § 7-2-4211(2), MCA, the City shall include the full width of any public streets or roads, including the rights-of-way, that are adjacent to the property being annexed; and

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

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

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

TRACT 1 and TRACT 2 of Retracement Certificate of Survey No. 11855, located in the Southwest Quarter Northeast Quarter (SW1/4NE1/4) Section 12, Township 30 North, Range 22 West, P.M., M., Flathead County, Montana

AND

TRACT 2 of Certificate of Survey No. 19774, a tract of land located in the Northeast Quarter of Section 12, Township 30 North, Range 22 West, P.M., M., Flathead County, Montana

AND

TRACT 1 of Certificate of Survey No. 15003, located and being in the South one-half of the Southwest one-quarter of the Northeast one-quarter (S1/2SW1/4NE1/4) and in the Northwest one-quarter of the Southeast one-quarter (NW1/4SE1/4) of Section 12, Township 30 North, Range 22 West, P.M., M., Flathead County, Montana

Including the full width of any public streets or roads, including the rights-of-way, that are adjacent to the said property being annexed.

Section 2: The minutes of the City Council of the City of Whitefish, Montana, incorporate this Resolution.

Section 3: The City Clerk is hereby instructed to certify a copy of this Resolution so entered upon the February 21, 2023 Minutes of the City Council. Further that this document shall be filed with the office of the Clerk and Recorder of Flathead County. Pursuant to § 7-2-4607, MCA, this annexation shall be deemed complete effective from and after the date of the filing of said document with the Flathead County Clerk and Recorder.


________________________________________
John M. Muhlfeld, Mayor

ATTEST:

________________________________________
Michelle Howke, City Clerk
CERTIFICATE AS TO RESOLUTION
AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Whitefish, Montana (the "City"), hereby certify that the attached resolution is a true copy of a resolution entitled: "A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 11.18 acres of land known as 111 Iverson Lane, 119 Iverson Lane, 140 Iverson Lane, and 6010 US Highway 93 South, in Section 12, Township 30 North, Range 22 West, in Whitefish, Montana, for which the owners have petitioned for and consented to annexation (the "Resolution")," on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on February 21, 2023, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, Councilors voted unanimously in favor thereof.

WITNESS my hand and seal officially this 21st day of February 2023.

Michelle Howke, City Clerk
Annexation Petition
PETITION
BEFORE THE CITY COUNCIL
OF THE
CITY OF WHITEFISH

PETITION FOR ANNEXATION TO CITY

Dated this 13 day of February 2023.

The undersigned Property Owners hereby petition the City Council of the City of Whitefish, pursuant to § 7-2-601(3)(a), MCA, requesting annexation of the following real property into the City of Whitefish and to remove the following real property from the Whitefish Fire Service Area.

This petition is pursuant to the Contract Agreement for Annexation and City Water and/or Sanitary Sewer Service dated the 7th day of February 2023.

Petitioners agree that this annexation petition is irrevocable, and that the City may act on this petition, and actually accomplish the annexation of such real property, at any time in the future, without limitation. Petitioners have had an opportunity to review the City of Whitefish Plan for Extension of Services applicable to such real property, and Petitioners are satisfied with such Plan.

LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED: See attached Exhibit.

PROPERTY ADDRESS: 6010 US Highway 93 South, 111 Iverson Lane, 119 Iverson Lane, and 140 Iverson Lane

ZONED AS: WB-2

Whitefish Junction LLC:

By: Eric Payne, Principal

On this 13 day of February 2023, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared ERIC PAYNE, known to me to be the principal of Whitefish Junction LLC, that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of Whitefish Junction LLC for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of Whitefish Junction LLC; and DEAN GROMMET, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

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

MARGARET HENNEN
NOTARY PUBLIC FOR THE
STATE OF MONTANA
RESIDING AT WHITEFISH, MT
My Commission Expires March 17, 2025.

Printed Name: Margaret Hennen
EXHIBIT "A"

TRACT 1 and TRACT 2 of Retracement Certificate of Survey No. 11855, located in the Southwest Quarter Northeast Quarter (SW1/4NE1/4) Section 12, Township 30 North, Range 22 West, P.M., M., Flathead County, Montana

AND

TRACT 2 of Certificate of Survey No. 19774, a tract of land located in the Northeast Quarter of Section 12, Township 30 North, Range 22 West, P.M., M., Flathead County, Montana

AND

TRACT 1 of Certificate of Survey No. 15003, located and being in the South one-half of the Southwest one-quarter of the Northeast one-quarter (S1/2SW1/4NE1/4) and in the Northwest one-quarter of the Southeast one-quarter (NW1/4SE1/4) of Section 12, Township 30 North, Range 22 West, P.M., M., Flathead County, Montana.
After Recording Return to:
Michelle Howke, City Clerk
City of Whitefish
PO Box 158
Whitefish, MT 59937-0158

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

THIS AGREEMENT is entered into as of __ day of February, 2023, by
and between the City of Whitefish, a municipal corporation ("CITY") as grantor of City water and/or
sanitary sewer services, and Eric Payne, as authorized representative of Whitefish Junction LLC, and
Dean Grommet ("OWNER"), as grantee recipient(s) of City water and/or sanitary sewer services,
whose mailing addresses are 100 Central Avenue, Suite 204, Whitefish, MT 59937, and
3816 Highway 40, Columbia Falls, MT 59912, with respect to the following facts:

A. CITY owns and operates a municipal water and sanitary sewer system.

B. OWNER is the sole owner of the real property located at 6010 US Highway 93 South,
111 Iverson Lane, 119 Iverson Lane and 140 Iverson Lane, and legally described below, or as fully
disclosed and shown on Exhibit "A" attached and made a part of this Agreement ("OWNER'S REAL
PROPERTY"):;

LEGAL DESCRIPTION

C. OWNER'S REAL PROPERTY is located outside of the current corporate limits of
the CITY.

D. OWNER desires to obtain municipal water/sewer service from the CITY to serve
OWNER'S REAL PROPERTY.

E. The parties desire to enter into an Agreement pursuant to MCA §§7-13-4312 and
7-13-4314, for the CITY to furnish municipal water and/or sanitary sewer service at rates adopted in
accordance with Montana State Law in return for OWNER'S agreement that OWNER'S REAL
PROPERTY may be annexed to the corporate limits of the CITY at any time.
In consideration of the performance of the terms and conditions of this Agreement on the part of each party, and pursuant to MCA §§7-13-4312 and 7-13-4314, it is hereby agreed as follows:

(1) **Furnishing of Sewer Services:** The CITY hereby agrees to furnish municipal water and/or sanitary sewer service to OWNER’S REAL PROPERTY. Unless otherwise agreed in writing between the parties, OWNER shall be solely responsible for all costs involved in extending municipal water and/or sanitary sewer service to OWNER’S REAL PROPERTY and connecting OWNER’S REAL PROPERTY to the municipal water and/or sewer system. Nothing in this Agreement shall obligate CITY to pay the costs of right-of-way acquisition, engineering, construction and other related costs involved in extending or connecting municipal water and/or sewer service to OWNER’S REAL PROPERTY.

(2) **Municipal Water and/or Sanitary Sewer Connections:** Upon approval by the CITY Public Works Department of the design and construction of all the municipal water and/or sanitary sewer lines and other facilities necessary to serve OWNER’S REAL PROPERTY, and acceptance of all of such water and/or sewer facilities by the CITY, OWNER will be given permission to connect no more than [ ] connection to the CITY’S municipal water and/or sanitary sewer system. Any additional water and/or sewer connections shall require a new application for service and approval obtained from the CITY Public Works Department.

Upon approval by the CITY Public Works Department and Montana Department of Environmental Quality, OWNER will be given permission to extend water and sewer mains and services to the property line of the property described herein. Any additional water and/or sanitary sewer stubs shall require a new application for CITY water and/or sanitary sewer service. Prior to connecting any residential or commercial building or any other structure to the water and/or sanitary sewer service stub-out(s), a request must be submitted to CITY for municipal water and/or sanitary sewer service describing the use of the building proposed to be connected. Any connections must comply with the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utility. The request is to be reviewed and approved by CITY prior to any connection of a residential or commercial building, or other structure. No residential or commercial building or any other structure shall be allowed to connect to the municipal water and/or sanitary sewer service extension unless approval has first been obtained from the CITY Public Works Department.

(3) **Transfer of Title:** Within thirty (30) days of the completion of the construction and CITY acceptance of the said water and/or sanitary sewer extension, OWNER hereby agrees to transfer, or cause to be transferred to CITY by appropriate documents any right, title and interest that OWNER may have in the municipal water and/or sanitary sewer lateral and main extensions to be built by OWNER to provide service to the herein described property.

OWNER agrees that the municipal water and/or sanitary sewer line extension to the property shall be constructed in a public right-of-way or on land either owned by OWNER or subject to an appropriate easement approved by CITY, granting OWNER, CITY, and their successors and assigns the right to construct, repair, and maintain the sanitary sewer extension lines. If any portion of the lateral extension is constructed on land owned by OWNER at the time OWNER transfers their interest in the sanitary sewer extension line to the CITY, they shall also grant the CITY an appropriate easement for construction, repair, and maintenance of the municipal water and/or sanitary sewer extension lines. The CITY shall not be required to accept any previously constructed
water or sewer lines unless they are properly located in the right-of-way or a valid easement.

(4) **Maintenance**: Upon completion and acceptance of construction and the approval of access to the municipal water and/or sanitary sewer lines constructed in easements, maintenance, and repair of the mains servicing OWNER'S REAL PROPERTY shall become and remain the responsibility of CITY. Maintenance and repair of the lateral service lines serving the OWNER'S REAL PROPERTY shall become and remain the responsibility of the OWNER.

(5) **Rates, Rules and Policies**: OWNER agrees to pay to the CITY such charges, rates, and fees, including but not limited to connection fees and impact fees, as are established by the CITY in accordance with Montana Law. In addition, OWNER agrees to comply with and be subject to all of the CITY’S rules, regulations and policies, as amended from time to time, with respect to the operation of the CITY’S municipal water and/or sanitary sewer system.

(6) **Consent to Annexation**: OWNER acknowledges and agrees that the CITY is willing to provide municipal water and/or sanitary sewer services only if OWNER provides all of the promises and representations contained in this Agreement. Pursuant to MCA §7-13-4314, the CITY requires that any person, firm, or corporation outside of the incorporated CITY limits is required, as a condition to initiate such service(s), to consent to and petition for annexation of the tract served by the CITY, and in consideration for the CITY’S agreement to provide municipal water and/or sanitary sewer service, OWNER agrees to consent to annexation under the following conditions and in the following manner:

a) OWNER hereby irrevocably consents to the annexation of OWNER'S REAL PROPERTY, and OWNER irrevocably waives any right of protest to any annexation proceedings initiated by the CITY. OWNER agrees that the CITY may initiate annexation of OWNER'S REAL PROPERTY, relying upon this consent and waiver of protest, at any time in the future, without limitation. OWNER acknowledges that, but for this waiver, OWNER would have a right to protest the annexation of OWNER'S REAL PROPERTY.

b) OWNER hereby petitions to have OWNER'S REAL PROPERTY annexed to the CITY, pursuant to MCA §7-2-4601, et seq. OWNER agrees that the CITY may act on this petition at any time in the future, without limitation. OWNER furthermore expressly waives the provisions of MCA §7-2-4608, which provides, in effect, that no property used for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing purposes or for any purpose incident thereto shall be annexed pursuant to the provisions of MCA §7-2-4601, et seq.

c) OWNER hereby signs the petition requesting annexation attached to and made a part hereof under this Agreement for municipal water and/or sanitary sewer services at the time of signing this Agreement. Such Petition shall be filed with the City Clerk.

d) OWNER acknowledges and agrees that OWNER has had an opportunity to inspect the contents of the CITY’S Plan for Extension of Services, as adopted by the CITY, and which describes the manner in which CITY services may be extended to properties annexed by the CITY. OWNER acknowledges and agrees that OWNER
is satisfied with the CITY’S Plan for Extension of Services, and that the CITY’S Plan for Extension of Services adequately provides for the extension of CITY services to OWNER’S REAL PROPERTY. OWNER hereby waives the right to object or otherwise challenge the CITY’S Plan for Extension of Services.

e) OWNER hereby irrevocably waives for all time the right to file an action in court to challenge, for any reason, the CITY’S annexation of OWNER’S REAL PROPERTY, whether such annexation occurs now or in the future.

f) OWNER acknowledges and agrees that all of OWNER’S REAL PROPERTY, as described above, will clearly and immediately, and not merely potentially, be serviced by the municipal water and/or sanitary sewer service to be provided by the CITY pursuant to this Agreement.

g) OWNER agrees that if ever OWNER, their heirs, assigns, successors, purchasers, administrators, personal representatives or subsequent holders of title to OWNER’S REAL PROPERTY, breach, challenge, disregard, or otherwise violate any of the terms of this Agreement, the CITY may, after providing twenty (20) days written notice, terminate water and/or sanitary sewer services to OWNER’S REAL PROPERTY, in addition to any other remedies that the CITY may have.

h) OWNER agrees that if OWNER, in violation of this Agreement, submits a protest to the annexation of OWNER’S REAL PROPERTY, the CITY may disregard such protest, in addition to any other remedies that the CITY may have.

i) The promises, covenants, representations, and waivers provided pursuant to this Agreement are voluntarily and knowingly given, with full knowledge of the OWNER’S legal rights. OWNER acknowledges and agrees that it is has had an opportunity to consult with legal counsel of its choice regarding the provisions of this Agreement.

(7) **Recording; Binding Effect:** OWNER agrees that this entire Agreement shall be recorded in the office of the Clerk and Recorder of Flathead County, and OWNER agrees that this Agreement shall run to, with, and be binding upon OWNER’S REAL PROPERTY and OWNER’S title to such real property, and shall be binding upon the OWNER’S heirs, assigns, successors, administrators, personal representatives and any and all subsequent holders or owners of OWNER’S REAL PROPERTY.

(8) **Future Deeds:** Subsequent to this Agreement all deeds to parcels of land within the property subject to this Agreement granted by OWNER shall contain the following consent to annexation and waiver:
The Owner hereby covenants and agrees that acceptance of this deed does constitute a waiver of the statutory right of protest against any annexation procedure initiated by the City of Whitefish with respect to the property described herein. Owner also agrees that acceptance of a deed constitutes an obligation on the part of Owner to initiate annexation procedures per the Petition to Annex on file at the City Clerk's Office.

This consent to annexation and waiver shall run with the land and shall forever be binding upon the Owner, transferees, successors and assigns.

OWNER agrees that this Agreement shall be binding even if OWNER fails to include the language set forth above in future deeds. After annexation of OWNER'S REAL PROPERTY, future deeds need not contain the language set forth above.

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

(10) **Entire Agreement**: This Agreement contains the entire agreement between the parties and any additional agreement hereafter made shall be ineffective to alter, change, modify or discharge it in whole or in part, unless such additional agreement is in writing and signed by the parties hereto.

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

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

**WHITEFISH JUNCTION LLC**

By: ___________________________  ___________________________
   Eric Payne, Principal        Dean Grommet

**CITY OF WHITEFISH**

By: ___________________________  ___________________________
   /s/Dana Smith               /s/Michelle Howke
   Dana Smith, City Manager    Michelle Howke, City Clerk

*Agreement for Annexation and City Water and/or Sanitary Sewer Service*
STATE OF MONTANA  )
                   ) ss.
County of Flathead    )

On this 14th day of February, 2023, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared ERIC PAYNE, known to me to be the principal of Whitefish Junction LLC, that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of Whitefish Junction LLC for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of Whitefish Junction LLC; and DEAN GROMMET, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

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

Printed Name: Margaret Hennen

STATE OF MONTANA  )
                   ) ss.
County of Flathead    )

On this 14th day of February, 2023, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared DANA SMITH, and MICHELLE HOWKE, to me known to be the City Manager and City Clerk respectively of the City of Whitefish, that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of the City of Whitefish for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of the City of Whitefish.

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

Printed Name: _______________________

Agreement for Annexation and
City Water and/or Sanitary Sewer Service

Page 6
EXHIBIT "A"

TRACT 1 and TRACT 2 of Retracement Certificate of Survey No. 11855, located in the Southwest Quarter Northeast Quarter (SW1/4NE1/4) Section 12, Township 30 North, Range 22 West, P.M., M., Flathead County, Montana

AND

TRACT 2 of Certificate of Survey No. 19774, a tract of land located in the Northeast Quarter of Section 12, Township 30 North, Range 22 West, P.M., M., Flathead County, Montana

AND

TRACT 1 of Certificate of Survey No. 15003, located and being in the South one-half of the Southwest one-quarter of the Northeast one-quarter (S1/2SW1/4NE1/4) and in the Northwest one-quarter of the Southeast one-quarter (NW1/4SE1/4) of Section 12, Township 30 North, Range 22 West, P.M., M., Flathead County, Montana.
February 14, 2023

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

Re:  Final Plat for Rock Ridge Subdivision (fka 93 LLC); WFP 22-09

Honorable Mayor and Councilors:

This office is in receipt of a final plat application for the Rock Ridge Subdivision (formerly known as 93 LLC). Rock Ridge is a 28-lot subdivision located off Highway 93 W. The property is zoned WLR (One-Family Limited Residential District) with a Planned Unit Development overlay. The original preliminary plat was approved by the Whitefish City Council on February 22, 2007. After an amendment and several extensions, this plat expired in 2017. In 2018, a new application was submitted and was approved by the City Council on July 2, 2018, subject to 31 conditions of approval. In March 2021, the Whitefish City Council granted a two-year extension. Currently, the subdivision expires July 2, 2023.

The applicant is providing a Subdivision Improvements Agreement (SIA) in the amount of $151,775.00 for outstanding items still under construction. Public Works has reviewed the SIA and agrees with the figures. To approve the subdivision, the Council would also have to consent to the SIA.

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

**COMPLIANCE WITH PRELIMINARY PLAT CONDITIONS OF APPROVAL:**

**Condition 1.** The subdivision must comply with Title 12 (Subdivision Regulations) and Title 11 (Zoning Regulations) and all other applicable requirements of the Whitefish City Code, except as amended by these conditions.

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

**Condition 2.** Except as amended by these conditions, the development of the subdivision and planned unit development must be in substantial conformance with the approved preliminary plat, site plan and elevations that govern the general location of lots, roadways, parking, landscaping and improvements and labeled as "approved plans" by the City Council.
• Condition met. The final plat conforms to applicable City Codes and the approval granted by the City Council.

**Condition 3.** Prior to any pre-construction meeting, construction, excavation, grading or other terrain disturbance, plans for all on and off-site infrastructure must be submitted to and approved by the Whitefish Public Works Department. The improvements (water, sewer, roads, street lights, trails, sidewalks, driveways, etc.) within the development must 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 must approve the design prior to construction. Plans for grading, drainage, utilities, streets, sidewalks and other improvements must be submitted as a package and reviewed concurrently. No individual improvement designs must be accepted by Public Works. *(City Engineering Standards, 2009)*

• Condition met. See letter from Public Works dated 8-10-20.

**Condition 4.** A tree retention plan must be submitted to the Planning Department for review and approval. Appropriate trees outside building envelopes, driveways and roads must be preserved. Any additional tree removal must be approved by the Planning Department. *(Subdivision Regulations §12-4-5)*


**Condition 5.** Prior to any grading or clearing, submit a site plan indicating all protected trees 4 inches at DBH (diameter at breast height) and greater that lie outside the building envelopes, driveways and roads. On the site plan indicate species, size, and location of the trees and structure corners. In the field indicate lot corners, rights-of-way and any natural buffers that will be retained. To insure proper root protection, all protected trees must be barricaded to the dripline prior to any construction activity. Contact the City Planning Office for a field inspection prior to any construction activity. Inspection of barricades must be on-going during construction. *(Subdivision Regulations §12-4-5)*


**Condition 6.** No healthy trees may be removed from the multifamily pods until such times as the City Council approves an amended Planned Unit Development Permit for these areas. The only vegetation management in these areas that is permitted is the removal of noxious weeds and the removal of vegetation for the installation of utilities. *(Staff Report, Finding 3)*

• Condition met. No plans for the multi-family pods have been submitted and no trees have been removed.
**Condition 7.** The applicant must work with a wetland expert to review the stormwater management plan to ensure it meets the standards within the Water Quality Protection regulations. *(Staff Report, Finding 3)*

- Condition met. The engineering plans showed the wetland buffer averaging and the applicant worked with Calipso Environmental on a wetland restoration plan.

**Condition 8.** A final wetland buffer averaging and restoration plan must be submitted to Planning and Public Works Departments for review and approval. *(Staff Report, Finding 3)*

- Condition met. See wetland buffer averaging plan.

**Condition 9.** Approval of the preliminary plat is subject to approval of detailed design of all on and off-site improvements, including drainage. Through review of detailed road and drainage plans, applicant is advised that the number, density and/or location of building lots, as well as the location and width of the road right-of-way, and widths of rights-of-way shown on the preliminary plat may change depending upon constructability of roads, pedestrian walkways, and necessary retaining walls within the right-of-way, LID design requirements, on-site retention needs, 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 Homeowners' Association Conditions Covenants and Restrictions, must include a strategy for long-term maintenance. Fill on-site must be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion. *(City Engineering Standards, 2009)*

- Condition met. See letter from Public Works dated 8-10-20.

**Condition 10.** A 20-foot wide utility easement must be provided to install, maintain and replace a water line to serve Tract 1CBC. *(City Engineering Standards, 2009)*

- Condition met. A 20-foot utility easement is provided to Tract 1CBC (1915 Highway 93 W). See face of plat.

**Condition 11.** The 0.539 acres of property with the City of Whitefish water tank must be dedicated to the City. *(Staff Report, Finding 4)*

- Condition met. Lot E is proposed to be dedicated to the City. See Sheet 1 of 2 showing the dedication.

**Condition 12.** Prior to any ground disturbing activities, a plan must be submitted for review and approval by the Public Works and Planning/Building Department. The plan must 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.

(City Engineering Standards, 2009)

• Condition met. See letter from Public Works dated 8-10-20.

Condition 13. All roads within the subdivision must be built to City of Whitefish Public Works Standards and the Whitefish Subdivision Regulations unless otherwise approved by the Public Works Director. The roadway within the subdivision must be privately owned and maintain, but open to the public. Rights-of-way must be sized to allow installation, maintenance and replacement of public utilities. Public utilities must only be located in road rights-of-way unless otherwise approved by the Public Works Director. (City Engineering Standards, 2009)

• Condition met. See letter from Public Works dated 8-10-20 and face of plat.

Condition 14. The most southerly road, serving Lots 1-12 and multifamily pod 'D,' must have a driving surface of 24-feet plus a 2-foot wide gravel shoulder on either side of the road. (City Engineering Standards, 2009)

• Condition met. See letter from Public Works dated 8-10-20.

Condition 15. Street lighting must be required in accordance with the Whitefish Standards for Design and Construction. Street and other on-site lighting must be dark sky compliant and meet the requirements of the City's Outdoor Lighting ordinance. (Zoning Regulations §11-3-25)

• Condition met. See letter from Public Works dated 8-10-20.

Condition 16. Obtain an approach permit from Montana Department of Transportation. (Staff Report, Finding 1)

• Condition met. See approach permit from Montana Department of Transportation, dated 4-7-22.

Condition 17. A Certificate of Subdivision Approval be obtained from the Department of Environmental Quality and written approval by the Whitefish Public Works Department
approving the storm drainage, water and sewage facilities for the subdivision.  
(Subdivision Regulations, Appendix C)

- Condition met. See letters from MDEQ – EQ #21-1292, dated 3-26-21.

**Condition 18.** A landscaping plan for the open space, trails, wetlands and landscaping buffers must be submitted to the Planning Department for review and approval. Landscaping plan must also be submitted for review and approval by the Public Works Department, as they relate to the LID design.  (Staff Report, Findings 3 & 4)

- Condition met. See letter from Public Works dated 8-10-20.

**Condition 19.** Prior to approval of the final plat, the applicant must produce a copy of the proposed Covenants, Conditions and Restrictions (CC&Rs) for the 93, LLC Subdivision Homeowners’ Association (HOA) providing for:
  - Long-term maintenance of the open spaces, landscape buffers, private streets, sidewalks, trails and the street trees;
  - Snow removal as a HOA responsibility;
  - Long-term weed management plan. The weed management plan must be submitted to the Planning Department for review and approval prior to final plat;
  - Long-term maintenance plan for drainage and stormwater management facilities; and
  - The fire protection zone guidelines (appendix K of the subdivision regulations) must be made a component of the covenants.

(Subdivision Regulations §12-4-29; Staff Report Finding 3; City Engineering Standards, 2009)

- Condition met. See CC&Rs (Sec. 4.9, 4.10), the Rock Ridge Development Rules and Design Guidelines (Sec. 4.12, 4.14) and the 93 LLC Stormwater Operation and Maintenance Agreement.

**Condition 20.** The following notes must be placed on the face of the plat:
  a. House numbers must be located in a clearly visible location.
  b. The internal roads shown on the final plat are intended to be privately owned and maintained and open to the public. understood and agreed that these internal roadways do not conform to City requirements for public roadways. Because of the road configuration, grades and right-of-way widths, these roads are not suitable for all-season maintenance by the public authority. The owners (and successors in interest) of the lots described in this plat will provide for all-season maintenance of the private roadways by creation of a corporation or association to administer and fund the maintenance. This dedication is made with the express understanding that the private roadways will never be maintained by any government agency or public authority. It is understood and agreed that the value of each described lot in this plat is enhanced by the private nature of said roadways. Thus, the
area encompassed by said private roadways will not be separately taxed or assessed by any government agency or public authority.

c. Only class A and class B fire-rated roofing materials are allowed.
d. Defensible Space Standards must be incorporated around all primary structures, as described in the Covenants.

(Subdivision Regulations §12-4-29, §12-4-6; Staff Report Finding 4; City Engineering Standards, 2009)

- Condition met. See face of plat.

**Condition 21.** All areas disturbed because of road and utility construction must be re-seeded as soon as practical to inhibit erosion and the spread of noxious weeds. (Subdivision Regulations §12-4-29)


**Condition 22.** The Fire Marshal must approve the placement and design of all fire hydrants prior to their installation and fire access. (UFC; Subdivision Regulations §12-4-19; Engineering Standards, 2009)

- Condition met. See approval letter from Public Works dated 8-10-20 which also includes approval from the Fire Marshal.

**Condition 23.** A map of fire protection features must be submitted to the fire chief or designee for review and approval prior to final plat. This map will show access roads, hydrants, water supply point and any other pertinent items. It must also be made a component of the homeowners’ covenants. (Subdivision Regulations §12-4-6)

- Condition met. All fire protection features are on the approved engineering plans that the Fire Marshal reviewed and approved. See approval letter from Public Works dated 8-10-20.

**Condition 24.** Roads signs must be approved by the Fire Marshal. Such signs must be noncombustible and reflective. (Subdivision Regulations §12-4-6)

- Condition met. All signs meet City standards, see approval letter from Public Works dated 8-10-20.

**Condition 25.** Common off-street mail facilities must be provided by the developer and approved by the local post office. (Subdivision Regulations §12-4-23)

- Condition met. See letter from USPS, 10-6-22.

**Condition 26.** A central garbage and recycling collection site must be located in the neighborhood. Its location must be approved by North Valley Refuse. (Engineering Standards, 2009)
• Condition met. See email from Republic Services 8-10-22.

**Condition 27.** Development of multifamily pods A, B, C and D must require review and approval through a Conditional Use Permit prior to the start of construction. Density of the multifamily pods must not exceed that which is identified on the approved plans, the pods must set aside a minimum of 13% open space and meet all the requirements of the zoning code. *(Zoning Regulations §11-2S-3C; 11-11-2-3B(12))*

• A CUP will be submitted prior to the commencement of development.

**Condition 28.** A 5-foot wide utility easement must be dedicated on the private side of each edge of right-of-way to provide for private underground utilities such as gas, telephone, electrical and television cable. Where this may not be feasible due to topography, retaining walls or other obstacles, an alternate plan for private utility easements must be proposed by the developer and approved by the Public Works Director. *(Engineering Standards, 2009)*

• Condition met. A utility easement is located along all lots. See plat.

**Condition 29.** The right-of-way, road, utilities must accommodate or relocate to another suitable location, the existing road and utility easement which crosses the north edge of Tract 1ABE. The Public Works Department may require additional easement width to enable a perpendicular intersection between the private driveway and the through road. *(Engineering Standards, 2009)*

• Condition met. See approval letter from Public Works dated 8-10-20 approving a 30-foot wide easement and the driveway meets City standards.

**Condition 30.** A building pad of 40' by 40' (or 1,600 square feet) with a slope of less than 30% must be shown on the final plat map for the single-family lots along with a driveway of less than 10% accessing the building pad. Any future home and driveway construction must take place in the location identified on the plat. If the Fire Department needs to suppress a fire from the driveway, it cannot exceed 9%. *(Subdivision Regulations §12-4-12A)*

• Condition met. See sheet 3 of the Final Plat showing the building envelopes and the areas with 30% or greater slopes.

**Condition 31.** This preliminary plat and planned unit development is valid for three years from Council action. *(Subdivision Regulations §12-3-8)*

• Condition met. As described previously, the subdivision expires July 2, 2023.

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

/s/ Wendy Compton-Ring

Wendy Compton-Ring, AICP
Senior Planner

Attachments: 2 reproducible mylars of final plat
Letter, applicant, 12-1-22
Final plat application, dated 10-6-22 (received 12-1-22)
Subdivision Improvement Agreement, 1-30-23
Letter of Credit, First Interstate Bank, 10-7-22, amended 1-20-23
Letter, Whitefish Public Works Department, Karin Hilding, 8-10-20
Wetland Buffer Averaging, 8-15-22
Conditions Covenants & Restrictions, Articles of Incorporation, Bylaws
Approach Permit, MDT, 4-7-22
Letter, DEQ, EQ#21-1292, 3-26-21
Letter, Whitefish Planning & Building, Wendy Compton-Ring, 3-17-21
Letter, DEQ, 3-19-21
Letter, DEQ, 10-15-20
Letter, USPS, 10-6-22
Email, Republic Services, 7-31-19
Easement Agreement, No. 201300024297, 9-19-13
Title Report, Fidelity Title, Guarantee No. FT1585-223045, 1-12-23
Treasurer’s Certification, 12-7-22
Map showing 40 x 40 buildable areas,
Letter, Whitefish Public Works Department, Karin Hilding, 1-5-23

c/w/att: Michelle Howke, Whitefish City Clerk

c/wo/att: 93 LLC PO Box 16552 Missoula, MT 59808
Eric Mulcahy, Sands Surveying, 2 Village Loop Kalispell, MT 59901
December 1, 2022

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

RE: Final Plat submittal for Rock Ridge (formerly 93 LLC).

Dear Planning Office:

This cover letter is intended to give an overview of the conditions of approval and the supporting documentation for meeting the conditions of the Rock Ridge Subdivision and PUD formerly known as 93 LLC. The Whitefish City Council granted preliminary plat approval subdivision on June 18, 2018 and the PUD second reading was approved July 2, 2018. On March 15, 2021 the City Council granted a two-year extension to the PUD and subdivision so that the subdivision now expires on July 2, 2023. The applicants are submitting a Subdivision Improvements Agreement for $603,983.75 to cover the remaining trails, mailboxes, landscaping, and street lights. The work complete is equal to approximately 92% of the project. The PUD and Subdivision approvals are subject to the following conditions.

Preliminary Plat Conditions

Condition #1: The subdivision must comply with Title 12 (Subdivision Regulations) and Title 11 (Zoning Regulations) and all other applicable requirements of the Whitefish City Code as amended by these conditions.

This condition is met. The Subdivision complies with Title 12 and Title 11.

Condition #2: Except as amended by these conditions, the development of the subdivision and planned unit development shall be in substantial conformance with the approved preliminary plat, site plan and elevations that govern the general location of lots, roadways, parking, landscaping and improvements and labeled as “approved plans” by the City Council.

This condition is met. The plat reflects the design of the approved preliminary plat.

Condition #3: 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
improvements (water, sewer, roads, street lights, trails, sidewalks, driveways, 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, streets, sidewalks and other improvements must be submitted as a package and reviewed concurrently. No individual improvement design shall be accepted by public works.

This condition is met. The applicant’s Engineer, TD&H, has secured approval from the Whitefish Public Works Department. (See approval Letters from Whitefish Public Works Department dated 8/10/20 for 93 LLC).

Condition #4: A tree retention plan must be submitted to the Planning Department for review and approval. Appropriate trees outside building envelopes, driveways and roads must pe preserved. Any additional tree removal must be approved by the Planning Department.

This condition is met. The Rock Ridge Development Rules and Design Guidelines address tree preservation and removal (Section 1.14).

Condition #5: Prior to grading or clearing, submit as site plan indicating all protected trees 4 inches as DBH and greater that lie outside of building envelopes, driveways, and roads. On the site plan indicate species, size, and location of the trees and structure corners. In the field indicate lot corners, rights-of-way and natural buffers that will be retained. To ensure proper root protection, all protected trees must be barricaded to the dripline prior to any construction activity. Contact the City Planning Office for a field inspection prior to any construction activity. Inspection of barricades must be on-going during construction.

This condition is met.

Condition #6: No healthy trees may be removed from the multifamily pods until such time as the City Council approves an amended PUD Permit for these three areas. The only vegetation management in these areas that is permitted is the removal of noxious weeds and the removal of vegetation for installation of utilities.

This condition is met.

Condition #7: The applicant must work with a wetland expert to review the stormwater management plan to ensure it meets the standards within the Water Quality Protection Regulations.

This condition is met. BBLA worked with Calipso Environmental on a wetland restoration plan that was part of the Public Works Submittal.

Condition #8: A final wetland buffer averaging and restoration plan must be submitted to the Planning and Public Works Department for review and approval.

This condition is met. See email from the Whitefish Planning Office.
**Condition #9:** Approval of the preliminary plat is 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 building lots, as well as, the location and width of the road right-of-way, and widths of right-of-way shown on the preliminary plat may change depending upon constructability of roads, pedestrian walkways, and necessary retaining walls within the right-of-way, LID design requirements, on-site retention needs, 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 Homeowners’ Association Conditions Covenants, and Restrictions, must 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.

This condition is met. The applicant has secured approval from the Whitefish Public Works Department. (See approval Letters from Whitefish Public Works Department dated 8/10/20. See CC&R’s for long term maintenance strategy Section 4.10.

**Condition #10:** A 20-foot wide utility easement must be provided to install, maintain and replace a water line to service Tract 1CBC.

This condition is met. The easement is shown on the plat.

**Condition #11:** The 0.539 acres of property with the City of Whitefish water tank must be dedicated to the City

This condition is met. The dedication language is on the face of the plat. When the City signs the plat they will be accepting Lot E which contains the City Water Tank.

**Condition #12:** Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the Public Works and Planning/Building Departments. The plan shall include, but 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.

This condition is met. (See approval Letters from Whitefish Public Works Department dated 8/10/20.
Condition #13: All roads within the subdivision must be built to City of Whitefish Public Works Standards and the Whitefish Subdivision Regulations unless otherwise approved by the Public Works Director. The roadway within the subdivision must be privately owned and maintained, but open to the public. Rights of way must be sized to allow installation, maintenance and replacement of public utilities. Public utilities must only be located in road rights-of-way unless otherwise approved by the Public Works Director.

This condition is met. (See approval Letters from Whitefish Public Works Department dated 8/10/20 and the certification letter from TD&H, Doug Peppmeier, PE is pending acceptance of infrastructure from Whitefish Public Works) See section 4.9 of CC&R’s for maintenance and open to the public.

Condition #14: The most southerly road serving lots 1 -12 and multi-family pod ‘D’ must have a driving surface of 24-feet plus 2-foot wide gravel shoulders on either side of the road.

This condition is met.

Condition #15: Street lighting must be required in accordance with the Whitefish Standards for Design and Construction. Street and other on-site lighting must be dark sky compliant and meet the requirements of the City’s Outdoor Lighting ordinance.

This condition is met. Street lights are the City approved standard lights and the Section 4.15 of the Rock Ridge Rules and Design Review Guidelines

Condition #16: Obtain an approach permit from the MDOT

This condition is met. See MDOT dated 4/7/22

Condition #17: 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 stormwater drainage, water and sewerage treatment facilities for the subdivision.

This condition is met. (See MDEQ letters E# 21-1292, dated 3/6/21.)

Condition #18: A landscaping plan for the open space, tails, wetlands, and landscaping buffers must be submitted to the Planning Department for review and approval. Landscaping plan must also be submitted for review and approval by the Public Works Department, as they relate to the LID design.

This condition is met. See Public Works approval Letter (8/10/20).

Condition #19: Prior to approval of the final plat, the applicant shall produce a copy of the proposed CC&R’s for 93 LLC Subdivision Homeowners Association (HOA) providing for:
- Long-term maintenance of the open spaces, landscape buffers, private streets and walks, trails, and the street trees.
- Snow removal as a HOA responsibility
- Long-term weed management plan. Weed management plan shall be submitted to the Planning Department for review and approval prior to final plat; and
- Long-term maintenance plan for drainage and stormwater management facilities
- The fire protection zone guidelines (appendix K of the subdivision regulations) must be made a component of the covenants.

This condition is met. Maintenance is addressed in Section 4.10 of the CC&R’s. The operation and Maintenance Manual for the Stormwater System will be filed with the subdivision paperwork.

**Condition #20:** The following notes shall be placed on the face of the final plat:
- House numbers shall be located in a clearly visible location.
- The internal roads shall be shown on the final plat are intended to be privately owned and maintained and open to the public. It is understood and agreed that these internal roadways do not conform to the City requirements for public roadways. Because of the road configuration, grades and rights-of-way widths, these roads are not suitable for all-season maintenance by the public authority. The owners (and successors in interest) of the lots described in this plat will provide for all-season maintenance of the private roadways by creation of a corporation or association to administer and fund the maintenance. This dedication is made with the express understanding that the private roadways will never be maintained by any government agency or public authority. It is understood and agreed that the value of each described lot in this plat is enhanced by the private nature of said roadways. Thus, the area encompassed by said private roadways will not be separately taxed or assessed by any government agency or public authority.
- Only class A and B fire-rated roofing material are allowed.
- Defensible Space Standards must be incorporated around all primary structures, as described in the Covenants.

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

**Condition #21:** 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.

This condition is met. Weed management is addressed in Section 4.12 of the CC&R’s.

**Condition #22:** The Fire Marshal shall approve the placement and design of all fire hydrants prior to their installation and fire access.

This condition is met. The Fire Marshall signed the construction plans which showed the hydrant location and placement.
Condition #23: A map of the fire protection features must be submitted to the fire chief or designee for review and approval prior to final plat. This map will show access roads, hydrants, water supply points and any other pertinent items. It must also be made a component of the Homeowners covenants.

This condition is met. The Whitefish Fire Marshall signed off on the Construction Plans which shows location of Hydrants and Roads within the Subdivision.

Condition #24: Road signs must be approved by the Fire Marshall. Such signs must be noncombustible and reflective.

This condition is met. The road signs will be the typical road signs approved and used by the City. The applicant is no longer requesting special road signs.

Condition #25: That common off-street mail facility shall be provided by the developer and approved by the local post office.

This condition is met. See letter from the USPS.

Condition #26: A central garbage and recycling collection site must be located in the neighborhood. Its location must be approved by North Valley Refuse.

This condition is met. Republic will provide individual refuse containers to the lot owners. See email approval attached to application.

Condition #27: Development of multifamily pods A, B, C, and D must require review and approval through a Conditional Use Permit prior to the start of construction. Density of the multi-family pods must not exceed that which is identified on the approved plans, the pods must set aside a minimum of 13% open space and must meet all requirements of the zoning code.

Phase 1 of 93 LLC does not include development the multi-family pods. A CUP will be submitted to the City prior to any development of the pods.

Condition #28: A 5-foot wide utility easement must be dedicated on the private side of each edge of the right-of-way to provide for private underground utilities such as gas, telephone, electrical, and television cable. Where this may not be feasible due to topography, retaining walls, or other obstacles, an alternate plan for private utility easements must be proposed by the developer and approved by the Public Works Director.

This condition is met. Utility easements are shown along the road right-of-way’s on the final plat.

Condition #29: The right-of-way, road and utilizes must accommodate or relocate to another suitable location, the existing road and utility easement which crosses the northern edge of Tract 1ABE. The Public Works Department may require additional easement width to enable perpendicular intersection between the private driveway and the through road.
This condition is met. The applicant and Wishers entered into an agreement to relocation the easement and the driveway meets the new subdivision road at a perpendicular intersection with the easement as shown on the face of the final plat.

**Condition #30**: A building pad of 40 by 40 (or 1600, square feet) with slope of less than 30% must be shown on the final plat map for single family lots along with a driveway of less than 10% accessing the building pad. Any future home and driveway construction must take place in the location identified on the plat. If the Fire Department needs to suppress a fire from the driveway, it cannot exceed 9%.

This condition is met. See sheet 3 of the Final Plat

**Condition #31**: This preliminary plat and planned unit development is valid for three years from Council action.

This condition is understood. The Whitefish City Council granted preliminary plat approval subdivision on June 18, 2018 and the PUD second reading was approved July 2, 2018. On March 15, 2021 the City Council granted a two-year extension to the PUD and subdivision so that the subdivision now expires on July 2, 2023.

A title report is included with this application. Taxes are paid in full. Should you have any questions regarding this final plat application, please contact me at 755-6481.

Sincerely,

Eric H. Mulcahy, AICP
Sands Surveying Inc.

Attachments: Final Plat Application
   $5,456 Application Fee
   SIA (10/6/22)
   Letter of Credit – First Interstate Bank $603,983.75
   Letter – TD&H, Doug Peppmeirer, PE (Letter pending acceptance by Whitefish Public Works)
   Letters – Whitefish Public Works Department, dated 8/10/20
   Tree removal plan
   Email – Approval of Wetland Buffer Averaging
   CC&R Rock Ridge
   Development Rules and Design Guidelines
   MDOT Approach Permit (4/7/22)
   MDEQ letters EQ# 21-1292, dated 3/6/21
MDEQ NOI MTR108667 (10/15/20)
Plan signature – Fire Marshal, Travis Tviedt (8/19/20)
Letter – USPS (10/6/22)
Email – Republic Services
Agreement Washer and 93 LLC (Doc #201200024297)
Title Report – FT1585-223045 dated 8/2/22
Tax Certification
FINAL PLAT APPLICATION

FEE ATTACHED $ 8504.00.00
(see current fee schedule)

INSTRUCTIONS:

☑ Submit the application fee, a complete application, with appropriate attachments, to the Whitefish Planning
   & Building Department no less than ninety (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.

☐ The regularly scheduled meetings of the City Council are the first and third Mondays of each month at
   7:10PM in the Council Chambers at 418 E 2nd Street.

A. PROJECT INFORMATION:

Project/Subdivision Name: Rock Ridge (Formerly 93 LLC)

Legal Description of the Property: With the filing of the final plat the legal description will be Rock Ridge

Date of Preliminary Plat Approval: 6/18/18

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

Owner’s Signature**

Heather Wilcox

Print Name

Applicant’s Signature

Heather Wilcox

Print Name

Representative’s Signature

Print Name

Date

10/16/22

Date

10/16/22

Date

**May be signed by the applicant or representative, authorization
letter from owner must be attached. If there are multiple owners, a
letter authorizing one owner to be the authorized representative for
all must be included.
B. APPLICATION CONTENTS:
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.

<table>
<thead>
<tr>
<th>Not Applicable</th>
<th>Attached</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>(MUST CHECK ONE)</strong></td>
<td></td>
</tr>
<tr>
<td>Required ✔</td>
<td>Electronic version of the entire application and supplemental information (i.e. pdf)</td>
</tr>
<tr>
<td>Required ✔</td>
<td>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.</td>
</tr>
<tr>
<td>Required ✔</td>
<td>Montana DEQ Health Department Certification (Original)</td>
</tr>
<tr>
<td>Required ✔</td>
<td>Title Report, not more than 90 days old</td>
</tr>
<tr>
<td>Required ✔</td>
<td>Tax Certification (Property taxes must be paid)</td>
</tr>
<tr>
<td>✔</td>
<td>Consent(s) to Plat (Originals and notarized)</td>
</tr>
<tr>
<td>✔</td>
<td>Engineer’s Certification (Original)</td>
</tr>
<tr>
<td></td>
<td>Subdivision Improvements Agreement (Attach collateral)</td>
</tr>
<tr>
<td></td>
<td>Engineering Improvements (sidewalks, walkways, street lights, street signs, solid waste facilities, utilities)</td>
</tr>
<tr>
<td></td>
<td>Landscaping Improvements (landscaping, street trees, parkland improvements – trails, park facilities, )</td>
</tr>
<tr>
<td>✔</td>
<td>Parkland Cash-in-Lieu (Check attached payable to City of Whitefish)</td>
</tr>
<tr>
<td></td>
<td>Maintenance Agreement (as applicable; stormwater facility, private roads, parks, etc)</td>
</tr>
<tr>
<td></td>
<td>Articles of Incorporation and Conditions, Covenants &amp; Restrictions</td>
</tr>
<tr>
<td>✔</td>
<td>Original Legacy Home deed(s) ready for City Manager signature</td>
</tr>
<tr>
<td>✔</td>
<td>Approach Permit (when applicable)</td>
</tr>
<tr>
<td></td>
<td>Plat: One (1) 24x36 paper copy and two (2) mylars signed by all owners of record, the surveyor, and the examining land surveyor.</td>
</tr>
</tbody>
</table>

**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 an AutoCAD file format (.dwg), 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**
C. OWNER/APPLICANT INFORMATION

OWNER(S) OF RECORD:

Name: 93 LLC  
Phone: (406) 544-6640

Mailing Address: PO Box 16552
City, State, Zip: Missoula Mt 59808
Email: Heatherw@rockridgwhitefish.com

APPLICANT (if different than above):

Name: Same  
Phone: 

Mailing Address: 
City, State, Zip: 
Email: 

OTHER TECHNICAL/PROFESSIONAL:

Name: Sands Surveying, Inc  
Phone: (406) 755-6481

Mailing Address: 2 Village Loop
City, State, Zip: Kalispell, MT 59901
Email: eric@sandssurveying.com

D. GENERAL DESCRIPTION OF SUBDIVISION

PROJECT DESCRIPTION:

Type of Subdivision: ☑ Residential ☐ Industrial ☐ Commercial ☑ PUD ☐ Other 
Total Number of Lots in Subdivision: 28
Land in Project (acres): 22.77 ac  
Parkland (acres): 5.135 ac
Cash-in-Lieu: $ ☑ Exempt
Legacy Homes # of units: ______ rent ______ own ☐ Alternative Option ☑ Exempt

NUMBER OF LOTS BY TYPE:

Single Family: 22 Lots  
Mobile Home Park: 
Duplex: ______ Apartment: ______  
Recreational Vehicle Park: 
Commercial: ______  
Industrial: ______  
Planned Unit Development: 
Condominium: ______ Multi-Family: 6 Lots  
Other: ______
SUBDIVISION IMPROVEMENT AGREEMENT
Rock Ridge

THIS AGREEMENT, made and entered into this ___ day of ___ , 20__ , by and between 93, LLC, hereinafter called the Subdivider, and the City of Whitefish, State of Montana:

WHEREAS, subdivisions are subject to the provisions of Title 76, Chapter 3, Parts 1 through 6, M.C.A., said provisions being known as the “Montana Subdivision and Platting Act,” hereinafter referred to as the Act: and,

WHEREAS, the Act requires that Governing Bodies adopt and provide for the enforcement of subdivision regulations; and,

WHEREAS, the Governing Body of Whitefish, being the City Council, has adopted a body of ordinances entitled “Whitefish Subdivision Regulations” hereinafter referred to as the Regulations; and,

WHEREAS, the regulations provide that:

A. One of the conditions which must precede approval of the final plat of a subdivision by the Governing Body is an approved guarantee of completion of public improvements which are described and provided for in the subdivision plat.

B. The Regulations authorize various alternative methods of effecting the necessary and prerequisite guarantees and one such method is a written agreement between the Subdivider and the Governing Body; and,

WHEREAS, it is the intent and purpose of both Subdivider and Governing Body to hereby enter into an agreement which will guarantee the full and satisfactory completion of all public improvements within the subdivisions hereinafter described and by this agreement to satisfy the public improvement guarantee conditions for final plat approval.

THEREFORE, it is covenanted and agreed as follows:

This agreement pertains to and includes the proposed subdivision which is designated and identified as Rock Ridge.

This agreement specifically includes the following improvements described on Exhibit "A" attached hereto and incorporated herein by reference, their projected construction completion date and estimated construction costs. All such improvements shall be done in a workmanlike manner and shall be completed by ___ , a date at least sixty (60) days before the expiration of the collateral held by the City of Whitefish. Exhibit “A” includes Contractor’s estimate from a contractor for the construction of the remaining work, and that all information contained on it is true and accurate.
As a guarantee of performance to install the above designated improvements, the Subdivider hereby and concurrently with the subscription and execution of this agreement and the City's Subdivision Regulations which require that a subdivider shall provide a financial security of 125% of the estimated total cost of construction of said improvements, provides the City of Whitefish, Montana with a guarantee in collateral in the amount of $151,775.00.

The Subdivider does hereby confirm that said guarantee is from a bank or other reputable institution or individual and acceptable to the Whitefish City Council. This guarantee shall be deposited with the City of Whitefish and certify to the following:

a. That the creditor guarantees funds in an amount equal to the cost, as estimated by the Subdivider, and approved by the governing body, of completing the required improvements.

b. That if the Subdivider fails to complete the specified improvements within the required time period, the creditor will pay to the City of Whitefish immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit given in the letter.

c. That this letter of credit may not be withdrawn, or reduced in any amount, until released by the City of Whitefish, Montana.

Performance by the Subdivider of the covenants set out in this agreement and in conformance with the time schedule set forth in this agreement is the essence; accordingly, the Subdivider expressly understands and agrees that failure to meet the time schedule to the specifications described herein shall be deemed to be a breach to this agreement. The Subdivider hereby waives any notice of breach.

Upon any breach of this agreement as herein defined, the Subdivider shall be subject to the penalties and enforcement outlined in the Regulations.

In consideration of the covenants and acts of the Subdivider, the Whitefish City Council does hereby agree that the public improvement guarantee provision has been satisfied for Rock Ridge, which is the subject of this agreement, provided that nothing herein shall be construed to be final plat approval or assurance of final plat approval.

This agreement shall inure to the benefit of and be binding upon any successors in interest, heirs, or assignees.

IN WITNESS WHEREOF, the parties to this agreement have executed the same on the day and year first above written:

By: __________________________

93, LLC

Rock Ridge Subdivision
STATE OF MONTANA)

) ss.

County of Flathead )

On this 30 day of January, 2023, before me, the undersigned, a Notary Public for the State of Montana, personally appeared ______________, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

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

(SEAL)

Signature of Notarial Officer

Larissa Scheewe
Name of Notarial Officer (Stamped, Typed or Printed)

Title: 

Residing at: State of MT, County of Missoula

My Commission expires:

This agreement is hereby approved and accepted by the City Council, City of Whitefish, Montana this _____ day of ___________________, 20__.

MAYOR John Muhfeld
City of Whitefish, Montana

(SEAL)

ATTEST:

CITY CLERK, Whitefish, Montana
<table>
<thead>
<tr>
<th>#</th>
<th>Description</th>
<th>UM</th>
<th>Unit Price</th>
<th>Contract Quantity</th>
<th>Contract Amount</th>
<th>Completed Quantity</th>
<th>Completed Amount</th>
<th>Amount To Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Mobilization</td>
<td>LS</td>
<td>$104,000.00</td>
<td>1.000</td>
<td>$104,000.00</td>
<td>0.950</td>
<td>$98,800.00</td>
<td>$5,200.00</td>
</tr>
<tr>
<td>50</td>
<td>Erosion &amp; Sediment Control</td>
<td>LS</td>
<td>$10,000.00</td>
<td>1.000</td>
<td>$10,000.00</td>
<td>0.950</td>
<td>$9,500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>150</td>
<td>Standard Sidewalk (4&quot; Thick)</td>
<td>SY</td>
<td>$34.00</td>
<td>1,097.00</td>
<td>$37,298.00</td>
<td>1,042.00</td>
<td>$35,428.00</td>
<td>$1,870.00</td>
</tr>
<tr>
<td>155</td>
<td>Sidewalk Drain</td>
<td>EA</td>
<td>$1,500.00</td>
<td>4.000</td>
<td>$6,000.00</td>
<td>0.000</td>
<td>$ -</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>390</td>
<td>Mailbox Cluster</td>
<td>LS</td>
<td>$2,000.00</td>
<td>4.000</td>
<td>$8,000.00</td>
<td>0.000</td>
<td>$ -</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>410</td>
<td>Topsoil &amp; Hydroseeding</td>
<td>LS</td>
<td>$75,000.00</td>
<td>1.000</td>
<td>$75,000.00</td>
<td>0.700</td>
<td>$52,500.00</td>
<td>$22,500.00</td>
</tr>
<tr>
<td>450</td>
<td>Landscaping</td>
<td>LS</td>
<td>$160,000.00</td>
<td>1.000</td>
<td>$160,000.00</td>
<td>0.950</td>
<td>$152,000.00</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>1010</td>
<td>Mobilization</td>
<td>LS</td>
<td>$1,000.00</td>
<td>1.000</td>
<td>$1,000.00</td>
<td>0.950</td>
<td>$950.00</td>
<td>$50.00</td>
</tr>
<tr>
<td>1050</td>
<td>Erosion &amp; Sediment Control</td>
<td>LS</td>
<td>$500.00</td>
<td>1.000</td>
<td>$500.00</td>
<td>0.950</td>
<td>$475.00</td>
<td>$25.00</td>
</tr>
<tr>
<td>1410</td>
<td>Topsoil &amp; Hydroseeding</td>
<td>LS</td>
<td>$15,000.00</td>
<td>1.000</td>
<td>$15,000.00</td>
<td>0.700</td>
<td>$10,500.00</td>
<td>$4,500.00</td>
</tr>
<tr>
<td>1450</td>
<td>Landscaping</td>
<td>LS</td>
<td>$2,500.00</td>
<td>1.000</td>
<td>$2,500.00</td>
<td>0.950</td>
<td>$2,375.00</td>
<td>$125.00</td>
</tr>
<tr>
<td>2010</td>
<td>Mobilization</td>
<td>LS</td>
<td>$2,000.00</td>
<td>1.000</td>
<td>$2,000.00</td>
<td>0.950</td>
<td>$1,900.00</td>
<td>$100.00</td>
</tr>
<tr>
<td>2050</td>
<td>Erosion &amp; Sediment Control</td>
<td>LS</td>
<td>$500.00</td>
<td>1.000</td>
<td>$500.00</td>
<td>0.950</td>
<td>$475.00</td>
<td>$25.00</td>
</tr>
<tr>
<td>2410</td>
<td>Topsoil &amp; Hydroseeding</td>
<td>LS</td>
<td>$15,000.00</td>
<td>1.000</td>
<td>$15,000.00</td>
<td>0.700</td>
<td>$10,500.00</td>
<td>$4,500.00</td>
</tr>
<tr>
<td>2450</td>
<td>Landscaping</td>
<td>LS</td>
<td>$2,500.00</td>
<td>1.000</td>
<td>$2,500.00</td>
<td>0.950</td>
<td>$2,375.00</td>
<td>$125.00</td>
</tr>
<tr>
<td>3010</td>
<td>Mobilization</td>
<td>LS</td>
<td>$1,000.00</td>
<td>1.000</td>
<td>$1,000.00</td>
<td>0.950</td>
<td>$950.00</td>
<td>$50.00</td>
</tr>
<tr>
<td>3050</td>
<td>Erosion &amp; Sediment Control</td>
<td>LS</td>
<td>$500.00</td>
<td>1.000</td>
<td>$500.00</td>
<td>0.950</td>
<td>$475.00</td>
<td>$25.00</td>
</tr>
<tr>
<td>3410</td>
<td>Topsoil &amp; Hydroseeding</td>
<td>LS</td>
<td>$15,000.00</td>
<td>1.000</td>
<td>$15,000.00</td>
<td>0.700</td>
<td>$10,500.00</td>
<td>$4,500.00</td>
</tr>
<tr>
<td>3450</td>
<td>Landscaping</td>
<td>LS</td>
<td>$2,500.00</td>
<td>1.000</td>
<td>$2,500.00</td>
<td>0.950</td>
<td>$2,375.00</td>
<td>$125.00</td>
</tr>
<tr>
<td>CO-05</td>
<td>Coir Blanket</td>
<td>LS</td>
<td>$55,200.00</td>
<td>1.000</td>
<td>$55,200.00</td>
<td>0.000</td>
<td>$ -</td>
<td>$55,200.00</td>
</tr>
</tbody>
</table>

**ASSOCIATED CHANGE ORDERS**

**TOTAL COST OF REMAINING IMPROVEMENTS** $121,420.00

**125% OF TOTAL REMAINING IMPROVEMENT COST** $151,775.00
November 30, 2022

93 LLC
P. O. Box 16552
Missoula, MT 59808

RE: 93 LLC (Rock Ridge)

Ms. Heather Wilcox: <via email only: heatherw@rockridgewhitefish.com>

This letter is concerning the schedule and cost to complete the above referenced project. Construction is anticipated to be complete as weather allows in the spring, around April 30, 2023. Items to complete include seeding/coir blanket ($100,000), sidewalk drains ($8,000), and small miscellaneous items ($13,000). The total cost to complete construction is $121,420.00.

If you have any questions or concerns, please call me in the office at 752-2755 or on my cell at 253-0209.

Thank You,

Kurtis J. Paulson
Project Manager
LETTER OF CREDIT AMENDMENT

<table>
<thead>
<tr>
<th>Principal</th>
<th>Loan Date</th>
<th>Maturity</th>
<th>Loan No</th>
<th>Call / Coll</th>
<th>Account</th>
<th>Officer</th>
<th>Initials</th>
</tr>
</thead>
<tbody>
<tr>
<td>$151,775.00</td>
<td>10-07-2022</td>
<td>08-30-2023</td>
<td>1404491692</td>
<td>0041</td>
<td>14020598</td>
<td>00409</td>
<td></td>
</tr>
</tbody>
</table>

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.

Borrower: Heather Wilcox
10165 Grant Creek Road
Missoula, MT 59808

Lender: First Interstate Bank
Missoula Downtown Branch
101 East Front Street
P.O. Box 4687
Missoula, MT 59808-4687

Irrevocable Letter of Credit Number: 1404491692

Amendment Number: 001
Amendment Date: January 20, 2023
Original Date: October 7, 2022
Beneficiary: Whitefish City Council - City of Whitefish
PO Box 138
Whitefish, MT 59937

To whom it may concern:

First Interstate Bank hereby amends the language of our Irrevocable Letter of Credit No. 1404491692 for the account of Heather Wilcox as follows:

Letter of Credit Amount:
From: $603,983.75 to: $151,775.00

Maturity Date Change:
From: February 23, 2023 to: August 30, 2023

Except as expressly changed by this Amendment, all other terms and conditions of the original Letter of Credit No. 1404491692 remain unchanged and in full force and effect.

LENDER:

FIRST INTERSTATE BANK

[Signature]

Ryan Jones, Commercial Group Manager III
IRREVOCABLE LETTER OF CREDIT

Borrower:  
Heather Wilcox  
10152 Grant Creek Road  
Missoula, MT 59808

Lender:  
First Interstate Bank  
Missoula Downtown Branch  
101 East Front Street  
P.O. Box 4607  
Missoula, MT 59806-4607

Beneficiary:  
Whitefish City Council - City of Whitefish  
PO BOX 138  
Whitefish, MT 59937

NO.: 1404491692

EXPIRATION DATE: This letter of credit shall expire upon the close of business on 02-23-2023 and all drafts and accompanying statements or documents must be presented to Lender on or before that time (the "Expiration Date").

AMOUNT OF CREDIT: Lender hereby establishes at the request and for the account of Borrower, an Irrevocable Letter of Credit in favor of Beneficiary for a sum of Six Hundred Thousand Nine Hundred Eighty-Three & 75/100 Dollars ($600,983.75) (the "Letter of Credit"). These funds shall be made available to Beneficiary upon Lender's receipt from Beneficiary of sight drafts drawn on Lender at Beneficiary's address indicated above (or other such address that Lender may provide Beneficiary in writing) during regular business hours and accompanied by the signed written statements or documents indicated below. A copy of the statement forms is attached to the back of this letter. This letter of credit shall not be revocable, cancelable, or amendable in any manner.

WARNING TO BENEFICIARY: PLEASE EXAMINE THIS LETTER OF CREDIT AT ONCE. IF YOU FEEL UNABLE TO MEET ANY OF ITS REQUIREMENTS, EITHER SIMPLY OR TOGETHER, YOU SHOULD CONTACT BORROWER IMMEDIATELY TO SEE IF THE LETTER OF CREDIT CAN BE AMENDED. IF YOU WILL RUN LOOSING PAYMENT UNDER THIS LETTER OF CREDIT FOR FAILURE TO COMPLY STRICTLY WITH ITS TERMS AS WRITTEN.

DRAFT TERMS AND CONDITIONS. Lender shall honor drafts submitted by Beneficiary under the following terms and conditions: If B&L LLC fails to complete the improvements in the Rods Ridge Whitefish Subdivision within the time period set forth in the Subdivision Improvements Agreement executed between B&L LLC and the City of Whitefish, we will pay on demand your draft or drafts for such funds, to the limit of fund set forth herein, as are required to complete said improvements. All drafts must indicate the number and date of this letter of credit and be accompanied by a signed statement of an authorized official that the amount is drawn to install improvements not installed in accordance with the Subdivision Improvements Agreement and specifying the default or defect in question. Drafts must be presented prior to the expiration date stated above, and this letter of credit must accompany the final draft for payment. This letter may not be withdrawn or reduced in any amount prior to its expiration date except by your draft or written release.

Upon Lender’s honor of such drafts, Lender shall be fully discharged of Lender’s obligations under this Letter of Credit and shall not be obligated to make any further payments under this Letter of Credit once the full amount of credit available under this Letter of Credit has been drawn. Lender shall have no recourse against Lender for any amount paid under this Letter of Credit once Lender has honored any draft or other document which complies strictly with this Letter of Credit, and which on its face appears otherwise in order but which is signed, issued, or presented by a party or under the name of a party purporting to act for Beneficiary, purporting to claim through Beneficiary, or purporting to act for Beneficiary without Beneficiary’s authorization. By paying any amount demanded in accordance with this Letter of Credit, Lender makes no representation as to the correctness of the amount demanded and Lender shall not be liable to Beneficiary, or any other person, for any amount paid or disbursed for any reason whatsoever, including, without limitation, any nonsatisfaction or misapplication by Beneficiary of the proceeds of such payment. By presenting upon Lender or a confirming bank, Beneficiary certifies that Beneficiary has not and will not present upon the other, unless and until Beneficiary meets with disapproval. Beneficiary promises to return to Lender any funds received by Beneficiary in excess of the Letter of Credit’s maximum drawing amount.

USE RESTRICTIONS. All drafts must be marked "DRAWN UNDER First Interstate Bank IRREVOCABLE LETTER OF CREDIT NO. 1404491692 DATED 10-07-2022," and the amount of each draft shall be marked on the draft. Only Beneficiary may complete a draft and accompanying statements or documents required by this Letter of Credit and make a draft under this Letter of Credit. This original Letter of Credit must accompany any draft drawn hereunder. Drafted drafts are not permitted under this Letter of Credit.

PERMITTED TRANSFERS. The right to draw under this Letter of Credit shall be nontransferable, except for:

A. A transfer (in its entirety, but not in part) by direct operation of law to the administrator, executor, bankruptcy trustee, receiver, liquidator, successor, or other representative at law of the original Beneficiary; and
B. The first immediate transfer (in its entirety, but not in part) by such legal representative to a third party after express approval of a governmental body (judicial, administrative, or executive).

TRANSFERS REQUIRED DOCUMENTS. When the presentee is a permitted transferee, (i) by operation of law or (ii) a third party receiving transfer from the direct representative, as described above, the documents required for a drawer shall include a certified copy of the one or more documents which show the presentee’s authority to draw upon or to act with authority for the original Beneficiary.

COMPLIANCE BURDEN. Lender is not responsible for any impossibility or other difficulty in achieving strict compliance with the requirements of the Letter of Credit precisely as written. Beneficiary understands and acknowledges: (i) that unless and until the present wording of this Letter of Credit is amended with Lender’s prior written consent, the burden of complying strictly with such wording remains solely upon Beneficiary, and (ii) that Lender is relying upon the lack of such amendment as constituting Beneficiary’s initial and continued approval of such wording.

NON-SEVERABILITY. If any aspect of this Letter of Credit is ever declared unenforceable for any reason by any court or governmental body having jurisdiction, Lender’s entire engagement under this Letter of Credit shall be deemed null and void ab initio, and both Lender and Beneficiary shall be restored to the position each would have occupied with all rights available as though this Letter of Credit had never occurred. This non-severability provision shall override all other provisions in this Letter of Credit, no matter where such provision appears within this Letter of Credit.

GOVERNING LAW. This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Montana without regard to its conflicts of law provisions, except to the extent such laws are inconsistent with the 2007 Revision of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce, ICC Publication No. 600. This Agreement has been accepted by Lender in the State of Montana.

EXPIRATION. Lender hereby agrees with Beneficiary that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to Lender on or before the Expiration Date unless otherwise provided for above.

Dated: October 7, 2022

LENDER:

FIRST INTERSTATE BANK

By: ____________________________

City Council Packet, February 21, 2023 Page 74 of 305
93 LLC.                                      October 7, 2022

Re: 93 LLC

To Whom it May Concern:

The electrical backbone trench, conduit, and concrete vaults for 93 LLC Subdivision located in Section 35 Township 31 N. Range 22 W. has been completed by the digging contractor. The construction fees have not been paid yet and once they are, the work order will be released to Flathead Electric’s Operation Department to be built. We are currently having material issues with primary wire, secondary wire and equipment, mainly pad mount single phase transformers. Unfortunately, I can’t give any time frame on when these issues will clear up so that we can complete pulling in the wire and setting equipment for this project. Please give me a call if you have any questions.

Thanks,

[Signature]

Stan Pluid
Distribution Design Supervisor
Flathead Electric Co-op
2510 US Hwy 2 East
Kalispell, MT 59901
406-751-4461
### Work Order Cost
Non Residential

93 LLC  
Account #: N/A

**Amount Pd:** By: ____________________________  Date: ____________________________  Check #: ____________________________

<table>
<thead>
<tr>
<th>New Units</th>
<th>Unit Description</th>
<th>Quantity</th>
<th>Labor &amp; OH</th>
<th>Material &amp; OH</th>
</tr>
</thead>
<tbody>
<tr>
<td>PRI526</td>
<td>#2 STR. 220 MIL 15KV EPR</td>
<td>3,263</td>
<td>$12,067.31</td>
<td>11,536.42</td>
</tr>
<tr>
<td>SEC554</td>
<td>4/0 USE TPX</td>
<td>173</td>
<td>$987.11</td>
<td>513.23</td>
</tr>
<tr>
<td>SEC557</td>
<td>350 MCM USE TPX</td>
<td>204</td>
<td>$1,336.43</td>
<td>935.30</td>
</tr>
<tr>
<td>UA2</td>
<td>RISER, SINGLE W/ BRKT.</td>
<td>2</td>
<td>$4,015.22</td>
<td>1,372.94</td>
</tr>
<tr>
<td>UG7-25</td>
<td>25KVA TRANS. ASSY. URD</td>
<td>6</td>
<td>$10,460.70</td>
<td>13,538.48</td>
</tr>
<tr>
<td>UG7-50</td>
<td>50KVA TRANS. ASSY. URD</td>
<td>7</td>
<td>$12,204.15</td>
<td>18,303.73</td>
</tr>
<tr>
<td>UK5</td>
<td>SECONDARY PEDESTAL DOME W/ 3 CONN.</td>
<td>3</td>
<td>$523.03</td>
<td>1,355.26</td>
</tr>
<tr>
<td>UM3-15</td>
<td>ENCL. 1PHASE W/ LBC-4 15KV</td>
<td>1</td>
<td>$607.57</td>
<td>917.38</td>
</tr>
<tr>
<td>UM50-M-3</td>
<td>Member Supplied 3&quot; Conduit</td>
<td>3,640</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>UM6-1</td>
<td>ELBOW 15KV #2 - #1/0</td>
<td>25</td>
<td>$9,245.57</td>
<td>1,180.50</td>
</tr>
<tr>
<td>UM6-10</td>
<td>GRD. PROT. CAP 15KV (N.O.I.)</td>
<td>1</td>
<td>$26.42</td>
<td>0.00</td>
</tr>
<tr>
<td>UM6-34</td>
<td>ELBOW/ARRESTER</td>
<td>5</td>
<td>$1,849.11</td>
<td>492.54</td>
</tr>
<tr>
<td>UM6-5</td>
<td>FEEDTHRU-ROTATABLE 15KV</td>
<td>1</td>
<td>$369.82</td>
<td>174.46</td>
</tr>
<tr>
<td>UR2-3-MBR</td>
<td>Member Secondary trench</td>
<td>4</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>UR2-MBR</td>
<td>Member Primary Trench</td>
<td>15</td>
<td>0.00</td>
<td>0.00</td>
</tr>
</tbody>
</table>

| Construction Cost: | $49,486.00 | $53,692.45 | 50,300.25 |
| Service Deposit Meter | $125.00 |
| Transformer Fee | $54,507.22 |
| Additional FEC Costs: | $0.00 |

**Construction Cost:** $104,118.22

**FEC Transformer Contribution:** $45,904.10

**Additional FEC Allowance:** $0.00

**Explanation:**

| Meter GL# 370.99: | $125.00 |
| Transformer GL# 368.99: | $45,904.00 | Material OH is removed |
| Construction GL# 107.0: | $49,486.00 |

**TOTAL DUE:** $95,515.00

**ESTIMATE VALID FOR 90 DAYS FROM:** 10/7/2022

Do not pay until after the final inspection.
Changes from the original design will require a new job cost estimate.
August 10, 2020

Mr. Doug Peppmeier
TD&H Engineering
450 Corporate Drive, Suite 101
Kalispell, MT 59901

Re: 93 LLC Subdivision Plan Review

Dear Doug:

This letter is regarding the 93 LLC Subdivision Plans and Specifications. The revised plans, dated August 10, 2020, have been reviewed and conditionally approved by the Public Works Department. The City’s water and sewer system have adequate capacity to serve this project. Approval is given with the understanding that any deviation from the approved plans and specifications will be submitted to the Public Works Department for review and approval.

Approval is subject to the following conditions:

1. The Operation and Maintenance manual for the stormwater facilities will be incorporated into Owner’s Association Conditions, Covenants, and Restrictions (CC&Rs).
2. In accordance with PUD Condition 4 and 5 a tree retention plan must be submitted to the Planning Department for review and approval. The Planning Department must be contacted for a field inspection prior to construction activity to inspect the tree protection fencing or barricades. As stated in PUD Condition 6, no healthy trees may be removed from the multifamily pods until such times as the City Council approves an amended PUD permit for these areas. The limits of disturbance must be designated as indicated on Sheet C1.0.
3. In accordance with PUD Condition 11 the 0.539 acres of property with the City of Whitefish water tank must be dedicated to the City.
4. Protective fencing must be provided around the existing wetlands area as per the wetland restoration/landscaping Sheets L7 and L9.
5. The landscaping design firm must provide inspection for the landscaping and wetland restoration improvements. The landscaping plans must be submitted to the Planning Department for review in accordance with PUD Condition 18.
6. A 20-foot utility easement must be provided along the west side of lot “D” (Multi-family) for a possible future water connection to the Mountainside Drive water line. This looped water line connection was recommended in the 93 LLC Subdivision’s water modeling
report to provide for increased fire flow within the subdivision.

7. An approach permit must be obtained from the Montana Department of Transportation in accordance with PUD condition 16.

8. The easements shown on Sheet C2.0 must be recorded prior to final plat.

Upon project completion and before final acceptance, the Professional Engineer shall submit record drawings in accordance with the 2019 Engineering Standards. Also, prior to final acceptance of infrastructure improvements, the property owner, developer, or contractor shall provide the City with a maintenance bond of ten percent of the total value of the public improvements. The bond shall remain in place for a two-year period after acceptance of the City infrastructure.

Any contractor working in the City right-of-way must fill out a right-of-way permit with the associated insurance and bonding requirement. Additional approvals from other agencies may be required for this project to proceed. Please call to schedule a pre-construction meeting prior to the start of the project. If you have any questions, please call me at 863-2450.

Sincerely,

Karin Hilding, P.E.
Senior Project Engineer
Looks good – sorry about that delay :/

Hi Wendy,
I sent to you several weeks ago and did not hear back so maybe it got lost in the world wide web. Attached is the buffer average map for the final plat of Rock Ridge. Is this acceptable.

Eric H. Mulcahy, AICP
Sands Surveying, Inc
(406) 755-6481
eric@sandssurveying.com

2 Village Loop
Kalispell, MT 59901
EXHIBIT

WETLAND BUFFER AVERAGING

S1/2NW1/4 SEC. 35, T.31N., R.22W., P.M.M.

CITY OF WHITEFISH, FLATHEAD COUNTY, MONTANA

LEGEND:
- Wetland area
- 125' Wetland Buffer
- Averaged Wetland Buffer
- Wetland Buffer Decrease (0.752 Ac. Total)
- Wetland Buffer Increase (0.752 Ac. Total)

SCALE: 1" = 100'

100' 50' 0 100' 200'

SHEET 1 OF 1
ROCK RIDGE COVENANTS, CONDITIONS AND RESTRICTIONS

This Rock Ridge Covenants, Conditions and Restrictions (“Declaration”) is made by 93 LLC (“Declarant” or “Company”) who owns the following real property subject to this Declaration:

South one-half of Northwest one-quarter, Section 35, Township 31 North, Range 22 West, P.M.M., City of Whitefish, Flathead County, Montana and more particularly described as:

Lots 1-22, Lots A-F and Open Space A-G as shown on the Plat of 93 LLC, File No. __________, recorded __________________, 2022 at the Office of the Flathead County Clerk and Recorder.

Article 1-Definitions


1.2 “Covenants” means the covenants, conditions, restrictions, obligations and responsibility set forth in this Declaration.

1.3. “First Mortgage” means a bona fide, first position mortgage, deed of trust or similar voluntary encumbrance on a Lot.

1.4 “Lot” or “Lots” means a tract of land labeled as Lots 1-22 (single family lots) or Lots A-F on the Plat and if Lots A-F are further divided, including but not limited to condominium units, then each new lot or condominium unit in Lots A-F.

1.5 “Member” means a member of the Rock Ridge Homeowners' Association.

1.6 “Open Space” means all real property (including improvements) labeled on the Plat as Open Space A, Open Space B, Open Space C, Open Space D, Open Space E, Open Space F and Open Space G.
1.7 “Owner” means the owner of record, whether one or more persons or entities, of fee simple title to a Lot, including contract sellers but not parties with only a security interest.

1.8 “Period of Declarant Control” means the period beginning when this Declaration is recorded and ending on the earlier of: (a) the date which is 20 years later; (b) the date on which the Declarant has sold all Lots; (c) the date on which Declarant has provided written notice to the Association that Declarant has terminated the Period of Declarant Control. After the termination of the Period of Declarant Control, Declarant, if still an Owner, continues to have a Member’s rights and duties.

1.9 “Plat” means the Plat of 93 LLC, File No. __________, recorded ____________, 2021 at the Office of the Flathead County Clerk and Recorder.

1.10 “Private Roads” means streets or other rights-of-way on the Plat.

1.11 “Property” or “Properties” means the real property on the Plat.

1.12 “Sewer Main Infrastructure” means the sewer mains and related infrastructure that Declarant has installed and transferred to the ownership of the City of Whitefish.

1.13 “Water Main Infrastructure” means the water mains and related infrastructure that Declarant has installed and transferred to the ownership of the City of Whitefish.

Article 2-Purpose, Covenants and Conveyances

2.1 Purpose: The purpose of this Declaration is to preserve the natural beauty and wildlife corridor of Rock Ridge’s surroundings, provide harmonious residential design, create the Association and set forth its rules and protect and enhance property values.

2.2. Imposition of Covenants: From the date of recording this Declaration forward, the Property will constitute a planned community known as Rock Ridge and be subject to the Covenants set forth here.

2.3 Conveyances and Grants of Easements: By separate deed, Declarant has conveyed to the Association all Open Space, easements and rights of way on the Plat.

Article 3-Association Membership and Voting Rights

3.1. Association Membership: Each Owner is a Member. Membership is appurtenant to and may not be separated from Lot ownership. The Association shall have one class of voting membership.

3.2 Voting Rights: All Members are entitled to vote on Association matters on the basis
of one vote for each Lot owned. In addition to any votes as an Owner, Declarant holds an addition 16 votes by virtue of being Declarant. In its sole discretion, Declarant may relinquish some or all of these additional votes by giving written notice to the Association,

3.3 **Declarant’s Creation of Association and Appointment of Directors**: Until the expiration of the Period of Declarant Control, Declarant, in its sole discretion, may act as the Association itself without creating the Association or may create the Association with Declarant holding the sole and exclusive power to appoint, remove and replace Association directors and officers.

3.4 **Non-Transfer of Membership**: An Owner may not transfer Owner’s membership except upon the sale its Lot and then only to the Lot purchaser.

3.5 **Notice**: Each Lot Owner shall provide the Association with a mailing address, phone number and email address for purposes of notice under this Declaration. In the absence of providing this information, the Association may mail notice to the Lot Owner’s address shown on the Montana Cadastral website. Email notice alone is not sufficient and shall be accompanied with mailed or hand-delivered notice. Notice is deemed given upon mailing or hand-delivery.

3.6 **Notification of Transfer and Fee**: An Owner shall notify the Association of a Lot ownership transfer and pay a transfer fee to the Association at closing equal to one quarter (25%) of the then annual assessment. This transfer fee shall not apply to a bona fide, secured lender taking ownership as a result of its security interest.

**Article 4-Association Powers and Duties**

4.1 **Association Management Duties**: The Association, through its Board of Directors, shall be responsible for the Association’s administration and operation except for those duties reserved to Declarant or Members by this Declaration.

4.2 **Rules and Regulations**: The Association may adopt and amend rules and regulations governing the Properties and Rock Ridge as set forth in Article 9 below.

4.3 **Fines**: The Association may adopt and publish a schedule of fines for Covenant violations.

4.4 **Enforcement of Declaration**: Declarant and the Association have standing to enforce the provisions this Declaration, which includes the Development Rules and Design Review Guide set forth in Section 9 below. If the Association fails to take action after 30 days of a written request from an aggrieved Owner to the Association, the aggrieved Owner has standing too. Prior to initiating legal action, the initiating party shall provide 30 days written notice to the alleged offender to cure the violation. If the alleged offender fails to cure the violation within 30 days, the party giving notice may proceed with legal action to enforce the provision or, in its sole discretion, may
correct the violation at its expense and demand the alleged offender reimburse the party within 30
days after mailing a statement. If alleged offender fails to reimburse the party, the party may record
a lien against the alleged offender’s Lot and proceed with legal action to collect the money and
foreclose the lien. No entry upon a Lot by the Association for purposes of enforcing these covenants
shall be deemed a civil or criminal trespass.

4.5 Non-Waiver: A party’s failure to enforce any provisions of this Declaration shall not
be deemed a waiver of the right to do so later.

4.6 Declarant has No Duty to Enforce: Declarant shall not have the duty to take any
affirmative action to enforce any provision of this Declaration nor shall it be subject to any liability
for its failure to so act.

4.7 Delegation by Association: The Association may employ or contract for the services
of a Manager to act for the Association. The Manager may be the Declarant or a person related to
Declarant.

4.8 Ownership of Real and Personal Property: The Association may acquire, hold and
dispose of personal and real property. The Association accepts all real or personal property,
leasehold or other property interests within Rock Ridge as conveyed to the Association by Declarant.

4.9 Private Road Open to Public: The Private Roads are privately owned and maintained,
but open to the public.

4.10 Maintenance of Private Roads, Open Space and Storm Drainage System: The
Association shall be responsible for maintenance and upkeep of Private Roads, Open Space, walks
and trails and street trees. It also shall maintain the drainage and storm water management facilities
in conformity with the long term maintenance strategy in its operation and maintenance manual. The
Association is responsible for snow removal on the Private Roads and eliminating noxious weeds
in the areas it maintains.

4.11 Insurance: The Association shall purchase and maintain insurance with coverage,
limits, deductibles and other terms as the Association determines.

4.12 Books and Records: The Association shall make available for inspection by Owners
and Mortgagees, upon request, during normal business hours or under other reasonable
circumstances, current copies of the Association’s books, records and financial statements. The
Association may charge a reasonable copying fee.

4.13 Successor to Declarant: The Association shall succeed to all of the rights, duties and
responsibilities of Declarant under this Declaration upon termination of the Period of Declarant
Control.
Section 5 - Sewer Facilities

5.1 Sewer Facilities: Each Lot shall have access to the Sewer Main Infrastructure owned by the City of Whitefish. The Lot Owner is responsible for all costs associated with hooking up to the Sewer Main Infrastructure and the cost to repair, maintenance or replace the infrastructure necessary to hook up to the Sewer Main Infrastructure. The Lot Owner shall pay directly to the City of Whitefish such amounts for sewer service, including monthly charges, hook-up fees and other charges as may be set from time to time by the City of Whitefish.

Section 6 - Water Service

6.1 Water Service: Each Lot shall have access to the Water Infrastructure owned by the City of Whitefish. The Lot Owner is responsible for all costs associated with hooking up to the Water Infrastructure and the cost to repair, maintenance or replace the infrastructure necessary to hook up to the Water Infrastructure. The Lot Owner shall pay the City of Whitefish such amounts for water service, including monthly charges, hook-up fees and other charges as may be set from time to time by the City of Whitefish.

6.2 Water Meter: Water usage shall be separately metered for each Lot. Each Owner shall be responsible for furnishing a water meter, purchased from the City of Whitefish, and for the installation, operation, repair, maintenance and replacement of the water meter. Each Owner shall cooperate in permitting the City of Whitefish to read the water meter to determine water usage.

Section 7 - Open Spaces

7.1 Use of Open Space For Owners Only: The Open Space is solely for the common use, benefit and enjoyment of Owners and their families, tenants, employees, guests and invitees and not for the general public.

7.2 Not Subject to Assessment: The Open Space is not subject to assessments.

7.3 No Dedication of Open Space to the Public: Nothing in this Declaration shall be construed as a dedication to public use, or a grant to any public municipal or quasi-municipal authority or utility, or an assumption of responsibility for the maintenance of any Open Space by such authority or utility, absent an express written agreement to that effect.

Article 8 - Assessments

8.1 Lot Owner Obligation for Assessments: Lot Owners shall pay to the Association the annual or special assessments against the Lot. Assessments are due upon receipt.

8.2 Annual Assessments: In its sole discretion, the Association may fix the amount and due date of the annual assessment at a meeting called for this purpose. At the meeting, Members may
address the Board of Directors.

8.3 Special Assessments for Capital Improvements: In addition to the annual assessments, the Association may levy a special assessment applicable to that year for capital improvement costs, so long as a majority of Members attending a meeting called for this purpose vote in favor of the special assessment. At this special assessment meeting, Declarant may cast one vote for each Lot that Declarant owns but may not vote its additional votes granted in Article 3.2 above.

8.4 Notice for Assessment Meetings: Written notice for a meeting addressing annual or special assessments shall be sent to Members not less than 30 days nor more than 60 days before the meeting.

8.5 Uniform Rate of Assessments: Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected as the Association determines.

8.6 Nonpayment of Assessments: An assessment not paid within 30 days after the due date shall bear interest from the due date at 12% per year and late fees as the Association may determine. An assessment, together with late fees, interest, costs and reasonable attorney’s fees, shall be a personal responsibility of the Owner who owned the Lot when the assessment became due. The Association may record a lien on the Lot for this amount and file a lawsuit to recover the assessment amount against the Owner and foreclose the lien on the Lot.

8.7 Subordination of Assessment Lien to First Mortgage: The assessment lien shall be subordinate to a First Mortgage. A holder of a First Mortgage who obtains title to a Lot pursuant to the remedies provided in the First Mortgage or by deed or assignment in lieu of foreclosure, shall not be liable for a Lot's unpaid assessments that accrue prior to the holder’s acquisition of title. Except as provided here, no sale or transfer shall relieve any Lot from assessment liens.

8.8 Combination and Division of Lots: If a Lot is formed by the combination of two or more lots, whether informally by use for a single residence or by recorded survey, the resulting Lot or informal combination of Lots shall be subject to the number of annual and special assessments equal to the number of Lots that are combined and shall have the number of votes in Association matters equal to the number of Lots that are combined.

Article 9– Rules and Design Review

9.1 Rules and Design Review: Rules and design guidelines are set forth in a separate document called Development Rules and Design Review Guide (“Guide”). The Guide also sets forth the design review process for construction on Lots. Prior to undertaking any work on a Lot, it shall be the responsibility of the Owner to obtain the current Guide from the Association and comply with it.
9.2 Amendments to Guide: The Guide shall be amended in the same fashion as this Declaration may be amended as set forth below, except that in lieu of recording a document in the Office of the Flathead County Clerk and Recorder, the amendment itself shall be delivered to all Owners.

9.3 Guide Incorporated into Declaration: The Guide and any subsequent amendments are hereby incorporate by reference and shall be fully enforceable as if set forth here. Lot Owners have a duty to obtain the current Guide and be familiar with its contents.

Article 10-General Provisions

Section 10.1 Proxy Voting: Members may vote by proxy by providing a signed proxy to the Association prior to the vote.

Section 10.2 Waiver of Right to Object: An Owner may not, either directly or indirectly, object or otherwise take action to object, impede or prevent Declarant or other Owners from creating multi-family structures on Lots designated as “multi-family” or developing Lot F consistent with its WRR-1 zoning, including but not limited to constructing condominiums or townhouses.

Section 10.3 Applicable Law and Forum: This Declaration shall be construed pursuant to Montana law. The proper forum for legal disputes shall be an appropriate Montana court.

Section 10.4 Attorney's Fees and Costs: In the event of a dispute arising from this Declaration, the prevailing party shall be entitled to its costs and reasonable attorney's fees, including fees to enforce this provision.

Section 10.5 Severability: If a Court finds any provision of this Declaration to be illegal or unenforceable, such provision shall be severed and shall be inoperative, and the remainder of this Declaration shall remain in full force and effect.

Article 11-Amendments and Term

Section 11.1 Amendments to Declaration: This Declaration may be amended as follows:

11.1.1 Prior to Sale of Lots: Prior to the sale of any Lots (excluding any sale to a Successor Declarant), Declarant may amend this Declaration by recording the amendment in the Office of the Flathead County Clerk and Recorder.

11.1.2 After Sale of Lots but During Period of Declarant Control: After the sale of a Lot (excluding a sale to a Successor Declarant) but before expiration of the Period of Declarant Control, Declarant may amend this Declaration by delivering to Declarant (if Declarant holds additional votes pursuant to Section 3.2 above) and to Members: (a) a ballot; (2) a description of the proposed action; and (c) notice that Declarant and the Members have 30
days from date of mailing to deliver the cast ballot to Declarant. If less than 67% of the cast votes oppose the proposed action, the action shall be considered approved and final. Declarant shall then record the amendment in the Office of the Flathead County Clerk and Recorder, along with a certificate stating this procedure was followed and that the proposed action was opposed by less than 67% of the cast votes.

11.1.3 After the Period of Declarant Control: After the Period of Declarant Control, the Association or a Member may amend this Declaration by delivering to Declarant (if Declarant holds additional votes pursuant to Section 3.2 above) and to Members: (a) a ballot; (2) a description of the proposed action; and (c) notice that Declarant and the Members have 30 days from date of mailing to deliver the cast ballot to the sender. If at least 67% of the cast votes support the proposed action, the action shall be considered approved and final. The sender shall then record the amendment in the Office of the Flathead County Clerk and Recorder, along with a certificate stating this procedure was followed and that the proposed action was supporter by at least 67% of the cast votes.

Section 11.2 Term of Declaration: This Declaration shall run with and bind the land for a term of 30 years from the date this Declaration is recorded. Thereafter, this Declaration shall be automatically extended for successive ten year terms, unless a majority vote to terminate the Declaration within 90 days of the end of the term.
Declarant:

93 LLC

By: _______________________
Heather Wilcox, Manager
PO Box 16552
Missoula MT 59808

State of Montana )
    : ss.
County of Flathead )

This instrument was acknowledged before me on October __, 2022 by Heather Wilcox, Manager of 93 LLC.

Notary Public for Montana
Contents

Introduction ........................................................................................................ 03

1.0 Site Design Development Guidelines ..................................................... 04

1.1 Design Considerations ........................................................................ 05
1.2 Codes .................................................................................................... 05
1.3 Construction Vehicles & Construction Trailers .................................. 05
1.4 Utilities .................................................................................................. 05
1.5 Setbacks ............................................................................................... 05
1.6 Density & Site Utilization ..................................................................... 06
1.7 Site Drainage ....................................................................................... 06
1.8 Driveways & Parking .......................................................................... 06
1.9 Fencing .................................................................................................. 06
1.10 Grading .............................................................................................. 07
1.11 View Preservation ............................................................................... 08
1.12 Ridgelines / Hilltops .......................................................................... 09
1.13 Scale / Context .................................................................................. 10
1.14 Landscaping ....................................................................................... 11

2.0 Architectural Design Development Guidelines ................................... 14

2.1 Massing / Building Scale ..................................................................... 15
2.2 Building Heights ................................................................................ 16
2.3 Building Projections .......................................................................... 16
2.4 Ancillary Structures ........................................................................... 17
2.5 Roofs ................................................................................................... 18
2.6 Basements, Crawl Spaces & Exposed Concrete ................................. 18
2.7 Doors & Windows .............................................................................. 18
2.8 Exterior Walls & Finishes .................................................................. 19
2.9 Color ................................................................................................... 19
2.10 Texture .............................................................................................. 20
2.11 Resource Conservation ..................................................................... 20
2.12 Solar Application ............................................................................. 20
2.13 Lighting ............................................................................................. 20

3.0 Design Review Procedures ................................................................... 22

Contacts ........................................................................................................ 26
Simplified Plat Map ..................................................................................... 27

4.0 Rules & Regulations ............................................................................ 28

Appendices .................................................................................................. 31
These development guidelines have been created to preserve the natural beauty and environmental values of its surroundings. This guide also ensures harmonious residential design to protect and enhance property values.

The development guidelines are intended for use by all persons involved in any new buildings or landscapes as well as any subsequent additions or alterations to any property at Rock Ridge.

These development guidelines are administered and enforced by the Architectural Design Review Consultant (ADRC) in accordance with procedures set forth in this document.

This document may be amended from time to time. Before submitting plans, the owner or its representative is required to contact the ADRC to obtain the most recent development guidelines.

These development guidelines are in addition to overarching building codes, WLR/WPUP zone restrictions and the Rock Ridge Covenants, Conditions and Restrictions.
1.0 Site Design Development Guidelines
1.1 Design Considerations

1.1A GENERAL

It is the intent of Rock Ridge to build on the architectural tradition of the area while allowing diversity of architectural expression within an overall unity that characterizes a distinctive community.

The intent of every site design is to preserve and enhance the natural features of the development, which is compatible with the physical constraints and natural features of the individual site and its surrounding areas. Creative architectural design is strongly encouraged.

1.1B DUPLICATE DESIGNS

Duplicate building designs are prohibited.

1.2 Codes

All structures shall be constructed in compliance with the current International Building Codes and the latest adopted Energy Code by the state of Montana.

1.3 Construction Vehicles & Construction Trailers

Temporary construction trailers maintained during, and used exclusively in connection with, the construction of any work or improvement shall be permitted. No person shall reside in such temporary construction trailers or vehicles. Trailer may not be left on roadways overnight and must be pulled onto the developing property.

1.4 Utilities

It is the sole responsibility of the owner to contact utility companies prior to any excavation and grading. All utilities shall be installed underground. Television antennas and satellite dishes should be those of smaller size and of the most recent technology at the time of installation. Satellite dishes shall be screened from adjoining lots and streets. Television antennas shall not be visible from the street. Radio towers are prohibited.

1.5 Setbacks

No structure shall be constructed less than 25 feet from the front lot line, less than 15 feet from the side lot lines, or less than 20 feet from the rear lot line. It is strongly encouraged to keep the building toward the front of the lot.

Reference the plat map on p. 27 of this document for a general understanding of the setbacks, but ultimately defer to the covenants and Whitefish’s zoning laws for your specific setbacks and restrictions specific to your lot conditions.
1.6 **Density & Site Utilization**

No more than one single-family residence may be built on each residential lots 1 to 22.

No primary residence shall be less than 1,500 square feet, and the total built square footage of any lot shall not exceed 30% of the property area.

1.7 **Site Drainage**

All site plans must indicate surface drainage patterns. All grading within the property must relate to and blend into the surrounding natural landscape. No surface drainage may enter adjoining properties.

1.8 **Driveways & Parking**

All lots shall have only one driveway access. All parking shall be within the lot boundary. At least two of these parking spaces shall be enclosed in the required two-car garage. Driveways shall be asphalt, concrete or any other material approved by the ADRC.

If a structure is designed with a side or back parking entry it must be in such a way that adjacent lots do not use the same lot side for their driveway.

All driveways shall be installed with a 4" culvert running under the slab to connect the adjacent sides of the drive for future use.

1.9 **Fencing**

1.9A **GENERAL**

+ Maximum height: 4'-0"
+ Fencing property lines is not allowed.
+ Fencing shall only be used in minor areas of the property and shall be designed to connect building forms on the site.
+ Use low, open-style fencing and gates to maintain the rural character of the development.
+ Reduce visibility of fences and gates by using colors and materials that blend with the natural environment.
+ Fencing design shall be approved by the ADRC.

1.9B **KENNELS & DOG RUNS**

Kennels and dog runs must be placed within the greater building(s) enclosure and in an area which is inconspicuous and removed from the direct view of neighbors and the primary road. All kennels and dog runs must obtain the ADRC’s approval for size, materials, and location.

Kennel and dog run material must mimic and compliment the design of the home. Kennel and dog run size shall not exceed 200 square feet.
1.10 Grading

+ Design structures to integrate with the natural topography of the site.
+ Use contour grading to blend into landforms rather than severe cutting, filling, padding, or terracing.
+ Do not cross steep terrain to provide access to the building site.
+ Design retaining walls as terraced or broken elements, not large single retaining walls.
+ Control grading and site preparation to reduce erosion and soil exposure, and minimize impacts on natural drainage systems.
+ Re-vegetate cuts, fills, and other earth modifications with appropriate native plant material.
1.11 View Preservation

+ Site structures shall be designed to minimize adverse visual impacts when viewed from off the site. Do not locate structures in visually prominent locations.
+ Maximize open space preservation.
+ Protect view corridors on the site to maintain views of prominent scenic features.
+ Prevent the obstruction of views of adjacent property owners by structures or additions to existing structures.
+ Consider the future height of trees and shrubs so as not to obstruct owner or neighbor views either on or off the site.
+ Reference section 1.14C Planting Guidelines for further guidance on preserving views.
1.12 Ridgelines / Hilltops

+ Whenever possible, avoid siting structures on ridgelines and hilltops.
+ Minimize removal of tree masses so as not to disrupt the natural silhouette.
+ Minimize off-site visual impacts by using natural colors and materials that blend with the natural environment.
+ Keep rooflines of structures below the height of the existing tree canopy.
+ Any construction on ridgelines should integrate with the natural context. Structures should be stepped with the hillsides, and slopes of roofs should mirror slopes of the terrain.
1.13 Scale / Context

+ Site and design structures with respect to the natural environment and the surrounding residential area.

+ Design structures in proportion to the size and configuration of the lots on which they are placed.

+ Structures should be sited and designed to be unobtrusive and subordinate to the landscape.

+ In relating structures to the surrounding environment, pay particular attention to shapes, colors, and textures.

+ Avoid architectural features that increase visual prominence.

This

![Diagram of a well-sited and designed structure](image1.png)

Not This

![Diagram of a poorly sited and designed structure](image2.png)
**1.14 Landscaping**

**1.14A GENERAL LANDSCAPING GUIDELINES**

A landscaping plan must be submitted at the same time as the building plans. All approved landscaping plans must be implemented and completed per the approved landscaping plan within six months after the primary building is signed off on by local building officials or the property becomes occupied, whichever comes first.

Use a landscape plan to address conditions of the site, such as controlling erosion, providing privacy, creating shade, and softening the appearance of structures.

All buildings completed after October 1 must begin their landscaping in the spring and no later than May 1.

**1.14B PLANTING GUIDELINES**

Plant in random groupings to reflect the vegetation in adjacent properties and open space areas. Planting in linear lines is prohibited. (see diagram to the right)

Create a simple and natural design that blends with the site and area rather than an elaborate and formal landscape solution.

Use best efforts to preserve mature existing trees outside building envelope and driveways as required by the City of Whitefish.
Avoid plantings that would restrict sight distance, require unusual maintenance, or interfere with already established indigenous plantings.

**1.14C EXISTING TREE REMOVAL**

Healthy trees, four inches (4”) in diameter at breast height (DBH) shall be preserved in the lot setbacks. The only exceptions should be locations of driveways and/or in an area that may create a safety hazard.

Removal of trees 4” DBH shall be pre-approved by the Design Review Committee using the Tree Removal Form (TRF), referenced in the Appendices section of this document.

If removal is approved by the Committee, the TRF must be submitted, with all other required documents, to the City of Whitefish Planning Office.

The Committee may require additional plantings to mitigate tree removal.

**1.14D MANICURED LAWNS & BOULEVARD GUIDELINES**

Manicured lawn areas should not exceed 40% of the lot size and should be set back from the property line to blend into the natural surroundings.

Homeowners will be responsible for maintaining irrigation and landscaping in the boulevard adjacent to their lot.

**1.14E ACCEPTABLE TREE, PLANT, AND GROUND COVER**

**Trees**

Deciduous:
- Aspen, Cottonwood, Alder, Willow, Chokecherry, European White Birch, Rocky Mountain and Bigtooth Maple

Evergreen:
- Douglas Fir, Lodgepole Pine, White and Subalpine Fir, and Rocky Mountain Juniper

**Shrubs**

Alpine Currant, Red Twig Dogwood, Potentilla, Plum, Serviceberry, Caragana, Catoneaster, Grape Holly, Junipers (many varieties), Spirea, and Woodrose

**Ground Covers**

Phlox, Potentilla Verna, Kinnikinnick, Ajuga, Periwinkle, Sedum (many varieties)
Grasses
Natural pasture grasses and wildflower mixes

Lawns
Drought tolerant and water-wise mixes, including Sheep Fescue, Buffalo Grass, and Crested Wheatgrass

Planting at least three minimum 2” caliper trees in the front yard, two minimum 2” caliper trees in backyard, and at least two appropriately sized planting beds at the house perimeter containing a mix of shrubs is required.

All properties are required to have a full in-ground landscape irrigation system that encompasses the manicured lawn area outlined in 1.14D.

Additional Questions?
Contact an engineer for questions, concerns, and/or staking of Montana Department of Environmental Quality (MDEQ) approved water and wastewater systems, setting floodplain elevations on each specific lot, potential geotechnical evaluations, or homesite staking (if requested).

Suggested Engineer

**TD&H**
450 Corporate Dr, Ste 101
Kalispell, Montana 59901
(406) 582-0221

**Sands Surveying Inc**
2 Village Lp
Kalispell, MT 59901
(406) 755-6481
2.0

Architectural Design Development Guidelines
2.1 **Massing / Building Scale**

+ On downhill slopes, avoid tall facades by stepping structures with the natural terrain.
+ On downhill slopes, avoid cantilevered structures with tall supports and excessive roof overhangs.
+ Reduce effective visible mass with the use of horizontal elements.
+ Reduce the impacts of expansive facades by incorporating the following:
  - varied rooflines
  - offset facades
  - elements to produce shadow patterns
2.2 Building Heights

The maximum height limit established is 30 feet to the ridge point of the roof, sufficient for a two-story building with a pitched roof and/or the tallest point in the main building mass. The maximum height limit is established off of the existing natural grade of the lot. This shall ensure that the building mass follows the shape and/or slope of the lot. Ancillary projections, such as chimneys for fireplaces, shall not exceed the maximum height of 36'-0".

2.3 Building Projections

The use of porches, verandas, courtyards, and patios for climate control and/or outdoor living and circulation is encouraged. Such projections must be designed as integral elements of the building using compatible forms and materials. Second-story decks that create unstable or unsightly spaces below will not be permitted. The use of unenclosed front porches and projecting bay window forms is encouraged.

All roof projections, including flues, vents, and other equipment, must penetrate the roof behind the ridge or building element and must be compatible in height and material with the structure from which they project and/or be painted to match the roof color.

Freestanding, external, pad-mounted equipment, such as those required for air conditioning units, spas, or garbage can storage areas, must be integrated into the building through the use of walled or fenced enclosures.
2.4 Ancillary Structures

2.4A GENERAL

All ancillary structures, such as garages, guest wings, caretaker units, etc., are to be designed as integral parts or extensions of the main building in terms of architecture, materials, and colors, even if they are physically separated. Such structures shall be subordinate in mass and scale to the main building. Accessory dwelling units (ADUs) must comply with local county/city jurisdictions.

2.4B SIZE & ORIENTATION

The size and orientation of ancillary structures shall consider the view corridors of adjacent neighbors and can not obstruct the majority of their views beyond the development. The size of ancillary structures shall be proportionate to the main building and not dwarf in scale. Large expanses of building facade on ancillary structures shall be broken up according to the guidelines outlined in section 2.3 Building Projections. Prefabricated and/or off-the-shelf storage structures are not permitted.
2.5 Roofs

Roofs potentially have the greatest impact on the overall image of Rock Ridge from many public viewpoints, community spaces, and individual lots. For that reason, roof design will be one of the most carefully considered elements for design review by the ADRC.

Large, unbroken expanses of single-pitch roof will not be approved. Large, unbroken expanses of flat roofs will not be approved. All roof pitches are allowed, but no more than three different roof pitches per residence are permitted.

The roof proportions shall align with the overall design proportions of the residence. One roof plane should be dominant over the others. For example, the main common space for the residence would have the dominant roofline, and all other ancillary rooflines shall express logical structural relationships to the program spaces below.

Roof colors shall be selected to be compatible with the surrounding natural landscape. Light-colored roofs are discouraged and, in general, shall not exceed a reflectivity value of 40%.

Approved materials:
- Cedar Shakes - Natural color
- Cedar Shingles - Natural color
- Asphalt Shingle - Dark color
- Metal Roofs
- EPDM or TPO roofs shall be covered with another material if it exceeds the 40% reflectivity value.

Other materials can be considered based on design merit.

2.6 Basements, Crawl Spaces & Exposed Concrete

All exposed concrete foundation walls that are 12” in height or more shall be covered with another material acceptable within these guidelines.

2.7 Doors & Windows

Window shall not be less than 10% of the wall area, measured on each elevation. Elevation calculations shall include exterior window trim. Only glass doors are considered in these calculations.

Glass may be coated or tinted to control solar heat gain, but a reflective, mirrored appearance will not be approved. All glazing is to be double-pane as a minimum for its energy conservation characteristics.

Approved materials:
- Aluminum-clad
- Wood
- Steel

Not permitted:
- Fiberglass
- Vinyl
2.8 Exterior Walls & Finishes

2.8A GENERAL

The exterior walls of any building are not to be surfaced with more than three materials. One material shall be dominant over the other(s) and should express logical structural relationships.

All building facades must include a significant degree of texture.

Approved materials:
+ Shingles
+ Clapboards (Lap Siding)
+ Board and Batten
+ Real Stone Veneer

Not Permitted:
+ Stucco
+ Plaster
+ Artificial Stone Veneer

2.8B ENGINEERED MATERIALS

While real materials are encouraged, some engineered products may be approved on the basis of design merit and at the discretion of the ADRC.

All proposed engineered materials must be clearly presented to the ADRC as a separate document from the rest of the submittal.

2.8C INSULATION

To ensure quality and mitigate excess heating and cooling, all exterior walls must meet the minimum requirements outlined in the Energy Code adopted by the state of Montana.

2.9 Color

Use colors and materials that blend with the natural environment. Do not use highly reflective colors and surfaces. Reflectivity of colors shall not exceed 40% on the main body of the residence, except that the colors for trim shall not exceed 50%.

In general, approved colors for the development are to be light grays, beiges, creams, greens, earthy reds, muted reds, white, and browns. Other colors can be approved based on design merit. Adjacent lots may not have the same color palette and must be reviewed by the ADRC upon submittal.

*Because of the emphasis on natural materials in this neighborhood, finishes that complement and enhance the material’s intrinsic qualities are encouraged. Colors shall complement and blend, rather than contrast, with the surrounding natural environment. Colors shall generally be recessive, particularly those used for roofs and walls. A minor amount of high-contrast color on trim may be considered appropriate in certain conditions.*
2.10 **Texture**

Textures are to be incorporated throughout the structure in order to create a variety of light and shadow at all scales. Building forms are to be complex, with setbacks, overhangs, porches, and varied skylines.

Walls, roofs, and windows are to be made up of clearly defined smaller elements.

A richness of architectural detailing, including columns, brackets, corners, eaves, railings, and doors, will provide approved microtextural elements. Rough materials, rather than those with a smooth textural quality, are more likely to be approved. Plywood panels, for example, will not be approved.

2.11 **Resource Conservation**

Rock Ridge encourages the use of appropriate passive energy technologies and the utilization of products made from recycled materials. The ADRC will actively support the use of additional resource conservation measures in the design of all new homes in ways that are compatible with the intent of the development guidelines.

2.12 **Solar Applications**

Solar applications are encouraged. However, they must be integrated into the design of the building and/or its landscape and should not appear as an “add-on” unrelated to the overall design.

2.13 **Lighting**

In order to maintain the rural character of Rock Ridge, a “minimal” approach shall be taken toward outside illumination of any use, site, or structure. Excessive lighting on an individual site (and/or the impact of cumulative lighting on adjoining sites) can create a glow that tends to obscure the night sky and stars, and results in a community that is more urban and less rural.

Use only the minimum amount of lighting necessary to achieve essential illumination. The primary objective of exterior lighting should be safety for pedestrians and other non-vehicular uses around the primary building on the site. Lighting of front entries, main access doors, frequently used stairs, etc., may be appropriate but shall be determined on a case-by-case basis. Further, some lighting to identify address numbers and driveway entries may be acceptable but shall be considered only when it is determined that reflectors and reflective numbers cannot be used effectively.

Exterior lighting shall be located as close to building entries and key stair and access ways as possible.
Lighting for purely decorative purposes should be avoided.

The source of light in any light fixture (i.e., the bulb or other source of indirect illumination) shall not be visible off-site. All lights shall conform to be “night sky friendly.”

Exterior lighting shall be controlled so that lights are on only when needed. Lighting controls shall be selected and adjusted to light areas only at the times lighting is essential. It is preferable to have lights manually controlled or on timers rather than to be controlled by photocells or motion detectors.
3.0 Design Review Procedures
3.1 Design Review Process

Submittals will be carefully reviewed by the ADRC to ensure the design is compatible with both Rock Ridge as a whole and the particular lot. This design review process must be followed for any of the following improvements:

- Construction of all new buildings;
- Construction of roads, drives, and site work;
- Construction of and addition to fences or enclosure structures;
- Renovations, expansion, or refinishing of exterior of existing buildings, including repainting with the same color as previously approved by the ADRC;
- Or major site and/or landscape improvements, except for the replacement of plant species similar to those previously approved by the ADRC.

The ADRC evaluates all development proposals on the basis of Rock Ridge development guidelines. Most of the guidelines are relatively broad standards, and the interpretation of these standards is left up to the discretion of the ADRC.

Other development standards are more definitive or absolute design parameters, and it is the intention of this design review process to ensure all improvements comply with these absolute standards.

The design review process takes place in four steps:

1. Preliminary Design Review
2. Design Review Meeting
3. Final Design Review
4. Inspections

3.2 Preliminary Design Review

The preliminary review step in the process is intended to avert wasted time and professional fees that result from pursuing a design solution that is in conflict with standards contained in these guidelines.

To initiate the preliminary design review process, the owner or contractor must submit the Preliminary Design Review Checklist along with the preliminary design documents and appropriate application fee.

The Preliminary Design Review Checklist is available in the Appendices section of this document.

Preliminary development documents are as follows:

+ Lot Location on Plat Map
+ Site Plan
+ Schematic Floor Plans
+ Schematic Roof Plans
3.3 **Design Evaluation**

Within 10 business days of receipt of the required documents and fees, the ADRC will notify the owner of the scheduled meeting date to review the final development documents. The owner and/or consultant(s) must be present at the meeting or the submittal will be postponed until the next meeting. Should such a postponement occur through fault of the owner or consultant(s), additional fees may be charged.

The ADRC will review and comment on the application at the meeting, allow time for discussion with the owner and/or consultant(s), and subsequently provide the owner with written record of the meeting.

Additional review meetings may be necessary to review corrected and/or new materials. Corrected materials must be provided to the ADRC a minimum of five working days prior to the next regularly scheduled meeting.

3.4 **Final Development Approval**

The ADRC will issue final development approval in writing within 15 days of approval. Final development approval is site-specific and should not be construed to establish precedent for other sites.

Project approval does not clear a project for construction. Once approved, the final approved documents must be acquired from the HOA. See section 3.9 for information on acquiring your approved design documents.
If the decision of the ADRC is to disapprove the submission, the ADRC shall provide the owner with a written statement of the basis for such disapproval to assist the owner in modifying or redesigning the project so as to obtain the approval of the ADRC.

3.5 **Re-Submittal of Plans**

In the event that the final submittal is not approved by the ADRC, the owner will follow the same procedures for a re-submission as for original submittals. An additional design review fee may be charged for each re-submission at the ADRC’s discretion.

3.6 **Minor Changes**

It is anticipated that owners may wish to make improvements or modifications to their buildings or property during construction or at a future date. A change may be executed upon review and receipt of formal approval from the ADRC. A design review fee may be charged at the ADRC’s discretion.

3.7 **Liability & Variances**

Neither the ADRC nor individual members thereof may be held liable to any person for damages for any action taken pursuant to these guidelines, including, but not limited to, damages that may result from correction, amendment, changes, or rejection of the plans and specifications; the issuance of approvals; or any delays associated with such action on the part of the ADRC.

3.8 **Application Fees**

1. **NEW CONSTRUCTION**
   - Initial Submittal: $1,000
   - Re-Submittals: $500

2. **REMODEL**
   - Initial Submittal: $500
   - Re-Submittals: $250

**PAYMENT**

Please make payment to:

A&E Design
ATTN: Jonathan Crabtree (Rock Ridge Lot #)
515 W Aspen St. Suite 200A
Bozeman MT 59715
(406) 451-7310
3.9 Construction Deposit

To ensure construction sites are kept clean during construction, all approved projects must deliver a construction deposit to Rock Ridge HOA prior to starting construction, regardless of approval of the design.

The ADRC will send final development approval documents to Rock Ridge HOA to be held until the construction deposit is complete, at which time the approved design documents will be released.

For site construction guidelines and construction deposit details, please contact Rock Ridge HOA.

Contacts

ARCHITECTURAL DESIGN REVIEW CONSULTANT

Ryan Kiefer
Architect - A&E Design

36 2nd Street East
Kalispell, MT 59901
(406) 300-7535
ae.design
rkiefer@ae.design

ROCK RIDGE HOA

Montana Community Management Corp.

857 Grand Drive
Bigfork, MT 59911
(406) 837-4536
4.0

Rules and Regulations
The following outlines the Developments rules. They are maintained and enforced through Rock Ridge HOA. Any questions should be directed towards Rock Ridge HOA.

4.1 Rules & Regulations
The following rules shall apply to all Properties.

4.2 Density
Lots 1-22 shall be used as a single-family residences and Lots A-F may be used for multifamily residences.

4.3 Short Term Rentals
Owners may rent their properties either short or long term in conformity with the City of Whitefish’s rules.

4.4 Vehicles
All vehicles shall be parked on individual Lots and not on roads except for a temporary period. No outdoor maintenance or repair work shall be performed except washing and polishing. Trucks exceeding a capacity of one ton may not be regularly parked or kept on Lots. Recreational vehicles such as boats, campers and camper-trailers, may not be kept or stored on Lots except on a temporary basis unless in a covered garage.

4.5 Animals
No animals, livestock or poultry of any kind shall be kept on the Properties except that dogs, cats or other household pets may be kept for domestic and not commercial purposes. Dogs and cats shall be leashed at all times when beyond the pet owner’s Lot. Owners shall be responsible to clean up after their pets. If the Rock Ridge HOA deems a pet to be a nuisance, the Rock Ridge HOA may order that the pet be kept within the owner’s residence or removed from the Property.

4.6 Feeding Wild Animals
Except for bird feeders, Owners may not provide supplemental feed or attractants to wild animals such as deer, bear, fox, turkeys or others. Owners who violate this provision can be held liable for problems or damage the wild animals cause on neighboring Lots. Supplemental feeding of wild animals also violates state law.

4.7 Signs
No signs, billboards or advertising devices may be installed maintained on the Properties, except as approved by the Rock Ridge HOA.
4.8 Nuisances
No unreasonably offensive or noxious activity shall take place on the Properties, nor shall noises be made or anything be done which is an unreasonable annoyance or nuisance. The discharge of fireworks or firearms is prohibited. No commercial, political, charitable or religious door-to-door solicitation, canvassing or surveying shall be allowed on the Properties.

4.9 Exterior Maintenance
Each Lot Owner with a structure on the Lot shall be responsible to maintain the structure in a manner consistent with its original design, including painting, repairing, landscaping, and removing trash and debris.

4.10 Temporary Structures
No structure of a temporary character, trailer, mobile home, tent, shack, garage, barn or other outbuilding, shall be used as a residence, either temporarily or permanently.

4.11 Drainage Control
Reasonable precautions shall be taken during construction, and thereafter, to prevent erosion and drainage problems. All disturbed soil areas shall be re-vegetated within a reasonable time to minimize erosion. Driveways shall be constructed so as not to interfere with drainage and shall include culverts of appropriate size to prevent obstruction of water flow.

4.12 Weed Control
Lot Owners shall control and remove noxious weeds to prevent the dissemination of seed and avoid fire hazards on their lots.

4.13 Outside Burning
Exterior fires are prohibited except for barbeques and outside fireplaces with appropriate spark arresters.

4.14 Fire Protection Guidelines
Owners shall be familiar with and use best efforts to follow the fire protection zone guidelines set forth in Appendix K of the City of Whitefish subdivision regulations. For a map of fire protection features, refer to the final plat map.

4.15 Outdoor Lighting
Street lighting must conform with Whitefish Standards for Design and Construction. Street and other on-site lighting must be dark sky compliant and conform with City of Whitefish’s Outdoor Lighting ordinance.
Appendices
Preliminary Design Review Checklist

ATTN: PROJECT LOT NUMBER

OWNER CONTACT INFORMATION
Name __________________________ Email __________________________ Phone __________________________

SUBMITTING DOCUMENTS
Email applications shall be submitted to:
Ryan Kiefer
Architect - A&E Design
rkiefer@ae.design

Physical copies & samples shall be submitted to:
A&E Design
ATTN: Ryan Kiefer
36 2nd Street East
Kalispell, MT 59901

CHECKLIST:
☐ Lot Location on Plat Map
☐ Site Plan
☐ Schematic Floor Plans
☐ Schematic Roof Plans
☐ Schematic Colored Elevations
☐ 3D Colored Perspective w/ accurate materials depicted
☐ Schematic Sections (at least two)
☐ Landscape Plan (can be part of site plan)
☐ Samples Board (delivered to A&E Kalispell office) with the following:
  ☐ Roof Material & Color
  ☐ Exterior Wall Materials & Colors
  ☐ Exterior Trim Material & Colors
  ☐ Window Material & Color
  ☐ Stone Materials
  ☐ Fence Materials
EXISTING TREE REMOVAL

Healthy trees, four inches (4”) in diameter at breast height (DBH) shall be preserved in the lot setbacks. The only exceptions should be locations of driveways and/or in an area that may create a safety hazard.

The Committee may require additional plantings to mitigate tree removal.

Submit all required info enclosed in this form to the contact outlined above.

1. SITE PLAN SUBMITTAL
   - Submit a project site plan indicating where the existing trees are located on site that you are requesting removal for.

2. PHOTO SUBMITTAL
   - Submit photos of the tree(s) to be removed.
     - One photo of the full tree
     - One photo of the Diameter at Breast Height (DBH) with a clear read out indicating the tree diameter.

Email applications shall be submitted to:
Ryan Kiefer
Architect - A&E Design
rkiefer@ae.design

Physical copies & samples shall be submitted to:
A&E Design
ATTN: Ryan Kiefer
36 2nd Street East
Kalispell, MT 59901

DESIGN COMMITTEE REVIEW:
- Tree Removal Approved
- Tree Removal Denied

COMMITTEE MEMBER SIGNATURE
DATE
State of Montana
Montana Department of Transportation
Driveway Approach Application and Permit

To be filled in by Department of Transportation Personnel

F.A. Route No: C-5 (US 93)  
Milepost: 129.19 & 129.42  
Project: CBI 5-3(116)129 R/W (UPN 20171116)  
Approach Station: 24+36&28+14 LT (metric)

District: Missoula  
County: Flathead  
Maint Section No: 1215

Drainage as determined by Department of Transportation

Type: N/A  
Size: N/A  
Length: N/A

Sight Distance (feet): Right: 765  
Left: 765

Approach Recommended by District Traffic Engineer or Traffic & Safety Bureau

Date: 3/21/22

Approach Application Approved by District Administrator or Designee

Date: 4/7/22

Access Control: ☒ Yes  ☐ No

If Access Control is Yes: Approach Recommended by Access Manager, R/W Bureau

APPLICANT (PROPERTY OWNER)

Name: 93 LLC - Reo Barrington (Junkermier Clark Campenella Stevens PC)

Address: 307 Spokane Ave STE 200

City: Whitefish  
State: MT  
Zip Code: 59937-2617

Phone/Fax Number: 250-278-1444

E-mail: barrington.reto53@gmail.com

herein termed the applicant, requests permission to construct approach(es) described and shown on attached site plan or plan and profile and hereby made a part of this application

Use of Property or Facility: Multi-family Residence

An environmental checklist must be filled out, signed and attached in order for this application to be considered complete.

Link to Environmental Checklist

Location

City or Town: (If rural, direction & approx. distance from nearest city or town) Whitefish (45 mph speed limit)

Street Name, if any: US Hwy 93

Roadway or Highway

Surfacing: Asphalt  
Width: varies 40' - 52' (3 lanes)

Approach

Estimated number of trips per day: see TIS  
Side of Roadway: S

Width: as per plans  
Flare: as per plans

Other Comments

This permit is for a change in use of two accesses that were installed by the Karrow to Mountainside reconstruction project (see parcel 30). This development (93 LLC) was reviewed through MDT S/A/P.
State of Montana
Montana Department of Transportation
Driveway Approach Application and Permit

(INSTRUCTIONS CONCERNING USE OF THIS FORM)

Applicant will complete and deliver this form in duplicate to the District Administrator serving the area in which the Approach Permit is requested. The District Administrator, in conjunction with the District Traffic Engineer, is delegated authority to approve curb cuts, public and private approaches serving businesses, residences and agricultural uses in rural or urban areas without further consultation if the traffic conditions are not congested. In congested areas, usually urban situations, the District Administrator and District Traffic Engineer can request the Traffic and Safety Engineer in Helena for additional technical assistance. If this is necessary, the approach should be scaled onto existing plan and profile sheets showing the highway right-of-way and sent to Helena.

- APPROACH PERMIT -

Subject to the following terms and conditions, the permit applied for upon the reverse side hereof, is hereby granted:

1) TERM. This permit shall be in full force and effect from the date hereof until revoked as herein provided.

2) REVOCATION. This permit may be revoked by the State upon giving thirty (30) days notice to Permittee by ordinary mail, directed to the address shown in the application hereto attached, but the State reserves the right to revoke this permit without giving said notice in the event Permittee breaches any of the conditions or terms set forth herein.

3) COMMENCEMENT OF WORK. No work shall be commenced until Permittee notifies the Department of Transportation when work is proposed to commence.

4) CHANGES IN HIGHWAY. If the State changes the highway, or there are other changes to adjoining streets, alleys, etc., which necessitate alterations in structures or installations installed under this permit, Permittee shall make the necessary alterations at Permittee’s sole expense or in accordance with a separate agreement.

5) STATE SAVED HARMLESS FROM CLAIMS. In accepting this permit the Permittee, its/its successors or assigns, agree to protect the State and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or persons, corporations or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of said highway right-of-way, and in case any suit or action is brought against the State and arising out of, or by reason of, any of the above causes, the Permittee, its/its successors or assigns, will upon notice to the State of the commencement of such action, defend the same at its/its sole cost and expense and satisfy any judgment which may be rendered against the State in any such suit or action.

6) PROTECTION OF TRAFFIC. Submit a traffic control plan for review and approval prior to any work being performed in MDT Right-of-Way. Traffic control must meet current MUTCD standards and guidance. The approval shall in no way operate to relieve or discharge the Permittee from any of the obligations assumed by acceptance of this permit, and especially those set forth under Section 6 thereof.

7) HIGHWAY DRAINAGE. If the work done under this permit interferes in any way with the drainage of the State Highway affected, Permittee shall, at its/its own expense, make such provisions as the State may direct to take care of said drainage.

8) RUBBISH AND DEBRIS. Permittee is responsible for debris that is carried onto the roadway by this construction with sweeping and clearing done daily at permittee’s expense. Upon completion of work contemplated under this permit, all rubbish and debris shall be immediately removed and the roadway and the roadside left in a neat and presentable condition satisfactory to the State.

9) WORK TO BE SUPERVISED BY STATE. All work contemplated under this permit shall be done under the supervision of and to the satisfaction of the authorized representative of the State, and the State hereby reserves the right to order the change of location or removal of any structure or installation authorized by this permit at any time, said changes or removal to be made at the sole expense of the permittee.

10) STATE’S RIGHT NOT TO BE INTERFERED WITH. All such changes, reconstructing or relocation shall be done by Permittee, in such a manner as will cause the least interference with any of the State’s work, and the State shall in no way be liable for any damage to the Permittee by reason of any such work by the State, its agents, contractors or representatives, or by the exercise of any rights by the State upon the highways by the installations or structures placed under this permit.

11) REMOVAL OF INSTALLATIONS OR STRUCTURES. Unless waived by the State, upon termination of this permit, the Permittee shall remove the installations or structures contemplated by this permit and restore the premises to the condition existing at the time of entering upon the same under this permit, reasonable and customary wear and tear and damage by the elements, or by circumstances over which the Permittee has no control, excepted.

12) MAINTENANCE AT EXPENSE OF PERMITTEE. Permittee shall maintain, at its/its own expense, the installations and structures for which this permit is granted, in a condition satisfactory to the State.

13) STATE NOT LIABLE FOR DAMAGE TO INSTALLATIONS. In accepting this permit the Permittee agrees that any damage or injury done to said installations or structures by a contractor working for the State, or by any State employee engaged in construction, alteration, repair, maintenance or improvement of the State Highway, shall be at the sole expense of the Permittee.

14) STATE TO BE REIMBURSED FOR REPAIRING ROADWAY. Upon being billed therefor Permittee agrees to promptly reimburse State for any expense incurred in repairing surface or roadway due to settling at installation or for any other damage to roadway as a result of the work performed under this permit.

15) OTHER CONDITIONS AND/OR REMARKS.
   a. All approach side slopes will preferably be constructed on 10 to 1 slope but not less than 8 to 1 slope, unless otherwise approved.
   b. No private signs or devices, etc., will be constructed or installed within the highway right-of-way limits.
   c. This permit is valid only if approach construction is completed within specified months from date of issue. 6 Months
   d. Prior to starting work, for construction inspection and approval of completed approach contact

Dated at: February 1, 2020, Agreement Date: 2/24/2020

The undersigned, the "Permittee" mentioned in the foregoing instrument, hereby accepts this permit, together with all of the terms and conditions set forth therein.

Signed by Permittee

To be filled in by Department of Transportation Personnel

Completed Approach Inspection By: __________________________ Date: __________________________

Title: __________________________
93 LLC/Reoto Barrington
Standard MDT Permit Conditions

- Approval is contingent upon the applicant complying with all applicable environmental laws. The applicant is solely responsible for any environmental impacts incurred as a result of this project and is solely responsible for obtaining any necessary environmental permits, notifications, and/or any other necessary environmental clearances.

- If any aquatic resources such as streams, wetlands, canals, irrigation ditches, springs, etc. will be impacted as a result of this project, the appropriate water quality permits will need to be obtained from state, federal and/or local agencies.

- The applicant must obtain approvals from downstream landowners if their proposed actions impact downstream properties (easements, etc.) and provide documentation of appropriate coordination with affected landowners.

- Any damage done to MDT facilities or adjacent landowners as a result of the applicant's design or construction is the sole responsibility of the applicant and MDT will not be liable for damages.

- The permit, along with all conditions and restrictions, will be transferred to any subsequent parties. It is the responsibility of the applicant or their successor to notify MDT of any ownership changes within two weeks of the change.

- If any deviation(s) from the MDT-approved plans is determined necessary at the time of construction due to unforeseen obstacles, the deviation(s) must be approved by MDT in writing before installation begins.

- Any work performed before MDT review and approval that requires permitting is subject to removal by the applicant at their sole expense if MDT design standards and/or guidelines are not met.

- The applicant will submit a traffic control plan to the District office for approval before entering MDT right of way for construction.

- The applicant must coordinate their project with any MDT projects in the area.

- MDT design reviews are meant to ensure compatibility with existing facilities and design standards and guidelines. The applicant is responsible for all survey and plan errors and/or omissions that impact the constructability or intended design function of the project.

- The applicant must provide full time construction inspection and certification for any work done within MDT right-of-way. Upon completion of the project, or at any time upon request from MDT, the applicant must provide all construction inspection reports. The MDT District Office may assign staff to provide construction inspection oversight at their discretion.

- The applicant will provide "as-builts" to MDT Planning within 30 days after construction company, contractor, or work crew have demobilized from the work zone.
Montana Environmental Checklist Help Guide (click button to view) [Guide]

Impact Questions
Actions that qualify for Categorical Exclusion under MEPA and/or NEPA (See ARM 18.2.261 and 23 CFR 771.117)
(See ARM 18.2.261 and 23 CFR 771.117)

1. Will the proposed action impact any known historical or archaeological site(s)?
   - Yes
   - No

2. Will the proposed action impact any publicly owned parkland(s), recreation area(s), wildlife or waterfront refuge(s)?
   - Yes
   - No

3. Will the proposed action impact prime farmlands? (If yes, attach a completed Farmland Conversion Impact Rating Ad-1006.)
   - Yes
   - No

   a. Will the proposed action have an impact on the human environment that may result from relocations of persons or businesses, changes in traffic patterns, changes in grade, or other types of changes?
      - Yes
      - No

   b. Has the proposed action received any preliminary or final approval from the local land use authority?
      - Yes
      - No

   City of Whitefish Approval.

5. For the proposed action, is there documented controversy on environmental grounds? (For example, has the applicant received a letter of petition from an environmental organization?)
   - Yes
   - No

6. Will the proposed action require work in, across or adjacent to a listed or proposed Wild or Scenic River?
   - Yes
   - No

7. Will the proposed action require work in a Class 1 Air Shed or nonattainment area?
   - Yes
   - No

8. Will the proposed action impact air quality or increase noise, even temporarily?
   - Yes
   - No

   temporarily during construction.

9. a. Is the proposed action located within an MS4 Area?
    - Yes
    - No

   b. Will the proposed action have potential to affect water quality, wetlands, streams or other water bodies? If YES, an environment-related permit or authorization may be required.
      - Yes
      - No

10. Are solid or hazardous wastes or petroleum products likely to be encountered? (For example, project occurs in or adjacent to Superfund sites, known spill areas, underground tanks, or abandoned mines.)
   - Yes
   - No

   a. Are there any listed or candidate threatened or endangered species, or critical habitat in the vicinity of the proposed action?
      - Yes
      - No

   b. Will the proposed action adversely affect listed or candidate threatened or endangered species, or adversely modify critical habitat?
      - Yes
      - No

12. Will the proposed action require an environmental-related permit or authorization?
    - Yes
    - No

    If the answer is ‘yes,’ please list the specific permits or authorizations.

13. Is the proposed action within designated sage grouse habitat (https://sagegrouse.mt.gov/projects/). (If yes, a consultation letter issued from the Montana sage Grouse Habitat Conservation Program is required.)
   - Yes
   - No

14. a. Is the proposed action on or within approximately 1 mile of an Indian Reservation?
    - Yes
    - No

   b. If ‘Yes’, will a Tribal Water Permit be required?
      - Yes
      - No

15. Will the proposed action result in increased traffic volumes, increased wait or delays on state highways, or have adverse impacts on other forms of transportation (rail, transit or air movements)?
    - Yes
    - No

Comment, Expl, and/or Information Source (Attach supporting information, as necessary.)
Is the proposed action part of a project that may require other governmental permits, licenses or easements? If "Yes", describe the full extent of the project and any other permits, licenses or easements that may be necessary for the applicant to acquire.

17 Attach a brief description of the work to be performed, including any subsurface work.

18 Attach representative photos of the site(s) where the proposed action would be implemented. Photos are to include any structures, streams, irrigation canals, and/or potential wetlands in the project area.

19 Attach map(s) showing the location(s) of the proposed action(s); Section, Township, Range; highway or route number and approximate route post(s).

Checklist preparer: Douglas Peppmeier, PE
Title: Project Engineer
Date: Nov 18, 2020

Reviewed for completeness by: Justin Juelfs
Title: M/C
Date: 4/7/22

Checklist Approved by:
Rebecca Ridenour
Environmental Services Bureau
(Project Development Engineer
When any of the items 1 through 16 are checked "Yes")

Mike Tinner
Transportation Planning
(When any of the items 15 or 16 are checked "Yes")

Title: Planner - P3 Bureau
Date: 1/11/2022

Checklist Conditions and Required Approvals

A. The applicant is not authorized to proceed with the proposed work until the checklist has been reviewed and approved, as necessary, and any requested conditions of approval have been incorporated.

B. Complete the checklist items 1 through 16, indicating "Yes" or "No" for each item. Include comments, explanations, information sources, and a description of the magnitude/importance of potential impacts in the right hand column. Attach additional and supporting information as needed. Ensure that information required for items 17, 18, and 19, is attached. The checklist preparer, by signing, certifies the accuracy of the information provided.

C. If "Yes" is indicated on any of the items, the Applicant must explain the impacts as applicable. Appropriate mitigation measures that will be taken to avoid, minimize, and/or mitigate adverse impacts must also be described. Any proposed mitigation measures will become a condition of approval. Use attachments if necessary. If the applicant checks "No" and the District concludes there may in fact be potential impacts, the Environmental Checklist must be forwarded to Transportation Planning for review and approval.

D. If "Yes" is indicated in item 11 a. (threatened or endangered species), the Applicant should provide information naming the particular species and the expected location, distribution and habitat use in the proposed action area, i.e. within the immediate area of the proposed action; or, in the general area on occasion (seasonally passes through) but does not nest, den or occupy the area for more than a few days.

E. If the applicant checks "Yes" for any item, the approach permit, occupancy agreement or permit, along with the checklist and supporting information, including the Applicant's mitigation proposal, documentation, evaluation and/or permits must be submitted to Transportation Planning. Electronic format is preferred.

F. When the applicant checks "Yes" to any item, the Applicant cannot be authorized to proceed with the proposed work until the MDT Environmental Services Bureau and/or Transportation Planning, as appropriate, reviews the information and signs the checklist.

G. Applicant must obtain all necessary permits or authorizations from other entities with jurisdiction prior to beginning the proposed action or activity. The Applicant is solely responsible for any environmental impacts incurred as a result of the project; obtaining any necessary environmental permits, notifications, and/or clearances; and ensuring compliance with environmental laws and regulations.
March 26, 2021

Doug Peppmeier PE
Thomas Dean & Hoskins
450 Corporate Drive Suite 101
Kalispell MT 59901

RE: 93 LLC
Municipal Facilities Exclusion
EQ# 21-1292
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. Under 76-4-125(1)(d), MCA, this subdivision is not subject to review, and the Declaration can be filed with the county clerk and recorder.

Plans and specifications must be submitted when extensions of municipal facilities for the supply of water or disposal of sewage are proposed 76-4-131. Construction of water or sewer extensions prior to DEQ, Public Water Supply Section’s approval is prohibited, and is subject to penalty as prescribed in Title 75, Chapter 6 and Title 76, Chapter 4.

93 LLC Municipal Facilities Exclusion will consist of 26 Lots with 52 Units.

Sincerely,

[Signature]
Kevin Smith
department of environmental quality
Bureau Chief
Engineering Bureau
(406) 444-1277
Email Ksmith@mt.gov

cc: City Engineer
    County Sanitarian
    Owner
    file
March 26, 2021

Doug Peppmeier PE
Thomas Dean & Hoskins
450 Corporate Drive Suite 101
Kalispell MT 59901

RE: 93 LLC
Municipal Facilities Exclusion
EQ# 21-1292
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. Under 76-4-125(1)(d), MCA, this subdivision is not subject to review, and the Declaration can be filed with the county clerk and recorder.

Plans and specifications must be submitted when extensions of municipal facilities for the supply of water or disposal of sewage are proposed 76-4-131. Construction of water or sewer extensions prior to DEQ, Public Water Supply Section’s approval is prohibited, and is subject to penalty as prescribed in Title 75, Chapter 6 and Title 76, Chapter 4.

93 LLC Municipal Facilities Exclusion will consist of 26 Lots with 52 Units.

Sincerely,

[Signature]
Kevin Smith
Department of Environmental Quality
Bureau Chief
Engineering Bureau
(406) 444-1277
Email Ksmith@mt.gov

cc: City Engineer
County Sanitarian
Owner
file
March 17, 2021

Eric Mulcahy  
Sands Surveying, Inc  
2 Village Loop  
Kalispell, MT 59901

RE: Extension of Preliminary Plat for 93 LLC Subdivision (WPP 18-03/WPUD 18-03)

Dear Mr. Mulcahy:

On March 15, 2021, the Whitefish City Council granted your request for a two-year extension, as provided for in §12-3-8B of the Whitefish Subdivision regulations. The expiration of the 93 LLC Subdivision is now July 2, 2023.

Sincerely,

/s/ Wendy Compton-Ring

Wendy Compton-Ring, AICP  
Senior Planner  

C: Reto Barrington, 93 LLC
March 19, 2021

December 1, 2020

Doug Peppmeier
TD&H Engineering
450 Corporate Way Suite 101
Kalispell, MT 59901

Re: 93 LLC Subdivision
Whitefish, Montana

Dear Mr. Peppmeier:

The design report, plans, referenced specifications and supporting information for the 93 LLC Subdivision project were received on November 17, 2020. The design documents were submitted under the seal of Douglas Peppmeier, PE # 13231PE. Additional information requested by the Department was received on March 11, 2021. The submittal was reviewed in accordance with the Department of Environmental Quality design standards in Circular DEQ-1, Standards for Water Works, 2018 edition and DEQ-2, Design Standards for Public Sewage Systems, 2016 edition.

The project consists of the installation of approximately 3400 lineal feet of 8-inch C-900 PVC water main and 3,100 lineal feet of 8-inch SDR 35 PVC sanitary sewer main. The project also includes all fittings, valves, hydrants, manholes, services and appurtenances as shown on the plans and indicated in the specifications.

Plans and referenced specifications for the 93 LLC Subdivision project are hereby approved. One copy of the plans bearing the approval stamp of the Department of Environmental Quality is enclosed. A second set will be retained for Department record. The third set will be provided to the Flathead County Health Department.

Approval is given with the understanding that any deviation from the approved plans and specifications will be submitted to the Department for review and approval. The project may not be placed into service until the project engineer or designer certifies by letter to the Department that the activated portion of the project was constructed in substantial accordance with the plans and specifications approved by the Department and there are no deviations from the design standards other than those previously approved by the department. Within 90 days after the completion of construction, a complete set of certified "as-built" drawings must be signed and submitted to the Department.

It is further understood that construction of this project must be completed within three years of this approval date. If more than three years elapse before completing construction, plans and specifications must be resubmitted and approved before construction begins.

Greg Gianforte, Governor | Chris Dorrington, Director | P.O. Box 200901 | Helena, MT 59620-0901 | (406) 444-2544 | www.deq.mt.gov
Department approval of this project covers only those portions of the plans and specifications that are subject to the Department's review authority under the Public Water Supply Laws (MCA 75-6) and the Administrative Rules promulgated thereunder (ARM 17.38). This approval does not cover items found within the plans and specifications that are outside of the Department's review authority, including but not limited to, electrical work, architecture, site grading or water and sewer service connections.

Thank you for your efforts regarding this submittal. If you have any further questions or concerns, please feel free to contact me at (406)579-0976 or Jennifer.Warren@mt.gov.

Sincerely,

Jennifer Warren, PE
Public Water & Subdivision Section
Engineering Bureau
e-mail — Jennifer.Warren@mt.gov

Enclosures: One set of approved plans

cc: Flathead County Health Department
File: EQ#21-1291
CONSTRUCTION PLANS
FOR
93 LLC SUBDIVISION
SITE IMPROVEMENTS
WHITEFISH, MONTANA
AUGUST 2020

PROJECT LOCATION

VICINITY MAP

WHITEFISH
LAKE

VICINITY MAP
REF TO SHEET

PROJECT LOCATION

93 LLC SUBDIVISION
WHITEFISH, MONTANA
SITE IMPROVEMENTS
COVER SHEET

Approved for Construction

City Engineer
Date: 8/1/2023

Fire Marshal
Date: 8/1/2023
EROSION CONTROL NOTES

1. The project site and adjacent areas disturbed during construction shall be protected with temporary erosion control measures during the course of the project. The contractor shall comply with all local, state, or federal erosion control measures required for the project site. Sites shall be maintained until the permanent erosion control measures are installed.

2. Construction activities which disturb soil to a depth more than one foot require a general permit for stormwater discharge activities associated with construction activity also known as a "specific permit" which is administered by the Montana Department of Environmental Quality (MDEQ).

3. The contractor shall develop and implement erosion control plans for all areas impacted by construction activities in accordance with the plans and specifications. These plans shall include temporary erosion control measures in place for all areas as needed and shall be revised and amended as necessary to ensure compliance. Plans shall be submitted to the project representative and approved prior to implementation.

4. Erosion control measures shall be installed and maintained during and throughout the construction period. Erasure control plans shall be submitted to the project representative and approved prior to implementation.

5. Vehicles shall be limited to one per site at an approved location. Do not wash out tractors into stormwater, manholes, or any storm drain system.

6. Silt fence shall be installed at the project site and maintained such that they are not disturbed by grading, excavation, or earthwork activities. Silt fence shall be maintained at least 10 feet away from the storm drain system.

7. All temporary erosion control measures shall be removed from the project site and materials shall be salvaged where applicable.

8. All temporary erosion control measures shall be removed from the project site and materials shall be salvaged where applicable.

9. Stormwater treatment systems shall be installed and maintained during and throughout the construction period. Plans shall be submitted to the project representative and approved prior to implementation.

10. Stormwater treatment systems shall be designed and installed in accordance with MDEQ regulations.

11. Stormwater treatment systems shall be maintained and monitored during and throughout the construction period. Plans shall be submitted to the project representative and approved prior to implementation.

SILT FENCE DETAIL

NOT TO SCALE

CONTRACTOR TO INSTALL FELT FABRIC TO FILTER FABRIC AND INSTALL SILT FENCE DETAIL AS PER DETAIL C-1.1. SHEET NUMBER C-1.1

NOTES:

1. ALL EXCAVATION MUST BE COVERED OF COVERED WITH SEDIMENT CONTROL MATERIALS, TO REDUCE EROSION OF EROSION CONTROL MATERIALS,

2. ALL EXCAVATION MUST BE COVERED WITH SEDIMENT CONTROL MATERIALS, TO REDUCE EROSION OF EROSION CONTROL MATERIALS,

3. ALL EXCAVATION MUST BE COVERED WITH SEDIMENT CONTROL MATERIALS, TO REDUCE EROSION OF EROSION CONTROL MATERIALS,
INTERSECTION DETAIL - ROAD B & HIGHWAY 93
WATER NOTES

1. ALL WASTE LINES TO MAINTAIN A MINIMUM OF 5' CLEARANCE TO ANY PIPE. PROVIDE INSULATION WHERE MINIMUM CLEARANCE IS NOT ACHIEVED.

2. ALL LAYING TO MEET MIN. 6"-10" OR 18 PVC REQUIREMENTS.

3. THE CONSTRUCTION SHALL INSTALL NEW PVC CONNECTORS AND CONDUIT THRUHOLES AT ALL WASTE LINE INTERSECTIONS. VENTS & PLUMBING, AS DESCRIBED IN THE SPECIFICATIONS.

4. INSTALL A MINIMUM HEIGHT SEPARATION BETWEEN OUTSIDE OF SANITARY SEWER PIPE AND INSIDE OF WASTE PIPE.

5. THE CONSTRUCTION SHALL REMOVE NEW PVC CONNECTORS AND CONDUIT THRUHOLES AT ALL WASTE LINE INTERSECTIONS. VENTS & PLUMBING, AS DESCRIBED IN THE SPECIFICATIONS.

6. THE CONSTRUCTION SHALL NOTIFY THE WASTE DEPARTMENT A MINIMUM OF 24 HOURS PRIOR TO RECOMMENCING ANY WORK.

7. MAINTAIN A MINIMUM OF 18" VERTICAL SEPARATION AT CROSSINGS BETWEEN OUTSIDE OF SANITARY SEWER PIPE AND INSIDE OF WASTE PIPE.

8. MAINTAIN A MINIMUM OF 10 FEET HORIZONTAL SEPARATION BETWEEN OUTSIDE OF SANITARY SEWER PIPE AND OUTSIDE OF WASTE PIPE.

9. THE CONSTRUCTION SHALL ENSURE ALL COVERED BETWEEN WATER LINES AND ENSURE ALL DRAIN LINES PRIOR TO BEGINNING FRENCH DRAIN ENSURE TO ADEQUATE DRAINAGE.

10. ALL EXISTING WASTE LINES & SEWERS ON ABANDONED WATER MAINS SHALL BE REMOVED TO 18" BELOW SURFACE.

11. MAIN LINES WASTE VALVES SHALL HAVE A 90° X 90° FITTING AND U-DRAIN AND ACTUAL VALVES SHALL HAVE Aраб X PLANE (FLANGED) FITTINGS.

12. CONTRACTOR TO PROVIDE DRAINAGE SYSTEM AND DRAINAGE DUCTS. COORDINATE WORK WITH PUBLIC WORKS STAFF.

NOTE:

1. ALL 6" & 8" EFFluent LINES TO BE CLOTTED WASTE PIPE.

2. ALL WASTE SERVICE LINES TO BE 1" PE PIPE.

3. MAINTAIN A MINIMUM 10" HORIZONTAL AND 18" VERTICAL SEPARATION BETWEEN WASTE AND SEWER LINES.

4. WASTE MAINS MAY BE DEDICATED TO A MINIMUM OF 3 DEDJ.T. PRIOR TO WITNESSED.

5. FRENCH EXCAVATION AND BACKFILL PER DETAILS 50-23-01 & 50-24-02.

6. NEW WATER SERVICES NOT SLOTTED IN WATER MAIN DUE TO YIELD FOR CIVIL.

CONCEP TO EXISTING AT WATER MAIN DEDJ. FITTINGS WITH CITY OF ALBERT Le PUBLIC WORKS DEPARTMENT. CONTRACTORS TO PROVIDE DIRECT VISUAL INSPECTION PRIOR TO CONSTRUCTION.

WATER MAIN EXTENSION PLAN
SANITARY SEWER NOTES

1. All sewer lines are to be 8 ½” PVC, except where otherwise noted on plans.
2. All sewer service connections to the main with a separate riser, no tees on sewer sides are allowed.
3. All sewer main runs are to be 8 ½” PVC.
4. All sanitary sewer service lines are to be 4” soil, 40 ft max.
5. All pressure sewer service lines are to be 1 ½” IPS, 100 ft max.
6. Maintain a minimum of 10 feet horizontal separation between outside of sewer drain pipe and outside of water pipe.
7. Maintain a minimum of 15 feet vertical separation at crossings between outside of sewer drain pipe and outside of water pipe.
8. All sewer drain manholes are 4’x4’ unless otherwise noted on plans.
9. Conduit shall not be used for line and shall not be required elsewhere.
10. The connection wall shall consist of one (1) crossing between main lines and sewer drain lines parallel to beginning trench excavation to ensure crossing clearance.
11. Sanitary sewers to be located into a manhole basin depth of 4’ to top of pipe, finished elevation must be not exceeded.

NOTE:
1. All sewer main to be 8 ½” PVC, 20’ max.
2. All sewer service lines to be 4” soil, 40 ft max.
3. Maintain a minimum 10’ horizontal, and minimum 15’ vertical, separation between sewer main runs.
4. Lots 11-12 & 14-22 xi shall require a sewer main.
5. Fence excavation and backfill per details 10-21/05/1 & 14-24/05/1.
6. New water services not shown in sewer main profile run 1/4 mile.

sanitary sewer main extension plan
STORM DRAIN NOTES

1. All storm sewer pipe is to be cured-in-place with noncorroding joints and moisture. Use straight joints on all pipe.
2. Reinforced concrete pipe (RCP) shall be rubber gasketed.
3. Maintain a minimum of 10 feet horizontal separation between the outside of the storm sewer pipe and outside of water pipe.
4. Maintain a minimum of 18 feet horizontal separation at crossings between outside of sewers and outside of water pipe.
5. All storm sewer pipe lines as shown are measured center to center of adjacent sewers unless otherwise noted on plans.
6. Contractor shall field verify line and grade of existing features.
7. The contractor shall document all crossings between water lines and storm sewer and report any prior to beginning trench excavation to ensure proper clearance.
### CDS2020-5-C DESIGN NOTES

The standard CDS2020-5-C configuration is shown. Alternate configurations are available and are listed below. Some configurations may be combined to suit site requirements.

#### CONFIGURATION DESCRIPTION
- **Spilted Inlet Only** (no inlet pipe)
- **Grated Inlet with Inlet Pipe Only**
- **Curb Inlet Only** (no inlet pipe)
- **Curb Inlet with Inlet Pipe Only**
- **Separate Oil Baffle (Single Inlet Pipe Required for this Configuration)**
- **Sediment Vee for Neap / Night Conforming Units**

#### SITE SPECIFIC DATA REQUIREMENTS

<table>
<thead>
<tr>
<th>STRUCTURE</th>
</tr>
</thead>
<tbody>
<tr>
<td>WATER QUALITY FLOW RATE (GPM OR L)</td>
</tr>
<tr>
<td>REAR FLOW RATE (GPM OR L)</td>
</tr>
<tr>
<td>RETURN PERIOD OF REAR FLOW (YRS)</td>
</tr>
<tr>
<td>SCREEN APERTURE (INCH OR MM)</td>
</tr>
<tr>
<td>PIPE</td>
</tr>
<tr>
<td>INLET PIPE 1</td>
</tr>
<tr>
<td>INLET PIPE 2</td>
</tr>
<tr>
<td>OUTLET PIPE</td>
</tr>
<tr>
<td>Rim Elevation</td>
</tr>
</tbody>
</table>

#### FRAME AND COVER

(Diameter Varies)

**GENERAL NOTES**
1. CONTECH TO PROVIDE ALL MATERIALS UNLESS NOTED OTHERWISE.
2. EXCEPT AS MENTIONED HEREIN, ALL DIMENSIONS ARE REFERENCE DIMENSIONS. ACTUAL DIMENSIONS MAY VARY.
3. FOR FABRICATION DRAWINGS WITH DETAIL DIMENSIONS AND WEIGHTS, PLEASE CONTACT YOUR CONTECH ENGINEERED SOLUTIONS REP.
4. CONTECH WATER QUALITY STRUCTURE SHALL BE IN ACCORDANCE WITH ALL DESIGN DATA AND INFORMATION CONTAINED IN THE DRAWING.
5. STRUCTURE SHALL MEET AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI) AND CANADIAN STANDARDS IN CANADA (CSA) STANDARD REQUIREMENTS.
6. PVC HYDRAULIC SHEET PLATE IS PLACED ON SHELF AT BOTTOM OF SCREEN CYLINDER. REMOVE AND REPLACE AS NECESSARY DURING MAINTENANCE CLEANING.

#### INSTALLATION NOTES
- ANY SUE BASE, BACKFILL DEPTH, AND/OR ANTI-POLLUTION PRECAUTIONS ARE SITE-SPECIFIC DESIGN CONSIDERATIONS AND SHALL BE SPECIFIED BY ENGINEER OF RECORD.
- CONTRACTOR TO PROVIDE EQUIPMENT WITH SUITABLE LIFTING AND RAPID CAPACITY TO LIFT AND SET THE CDS MANHOLE STRUCTURE.
- CONTRACTOR TO PROVIDE JOINT SEALANT BETWEEN ALL STRUCTURE SECTIONS AND ASSEMBLE STRUCTURE.
- CONTRACTOR TO PROVIDE PROPER INSTALLATION OF PUMP AND PIPE ALIGNMENT WITH ELEVATION DATA PROVIDED.
- CONTRACTOR TO TAKE APPROPRIATE MEASURES TO ASSURE LIMITS IS WATER TIGHT. HOLDING WATER TO FLOWLINE INVENT MINIMUM. IT IS SUGGESTED TO ASSURE ALL JOINTS BLOW IN PIPE ENDS ARE GROOVED.

**CDS2020-5-C INLINE CDS STANDARD DETAIL**

City Council Packet, February 21, 2023 Page 163 of 305
October 15, 2020

Mike Eichner
93 LLC
KNIFE RIVER MISSOULA
4800 WILKIE ROAD
Missoula, MT 59808

RE: Confirmation Letter, Notice of Intent (NOI) MTR108667
93 LLC

Dear Mike Eichner:

The Department of Environmental Quality (DEQ) acknowledges the receipt of your complete application package (NOI and SWPPP) to discharge under the January 01, 2018, General Permit for Storm Water Discharges Associated with Construction Activity (SWC-GP) on 10/16/2020. Your authorization number under the SWC-GP is MTR108667. Please include this number on any correspondence with DEQ regarding this site.

This letter confirms only that a complete NOI has been received. DEQ does not assess the validity of the information you provided other than project location as it relates to sage grouse habitat. Your signature on the NOI certifies that you have read, understand, and are implementing all applicable requirements.

Specifically, the SWC-GP:

- Requires implementation of a Storm Water Pollution Prevention Plan (SWPPP),
- Defines the inspection process,
- Defines record keeping requirements (refer to Part 2.5 of the General Permit).

The SWC-GP and additional guidance materials can be viewed and downloaded from our FACTS page at http://deq.mt.gov/Public/FACTS or the MT DEQ website at http://deq.mt.gov/Water/StormWater/StormSystems.

Authorization under the SWC-GP remains in effect until you submit a complete Notice of Termination (NOT). Your signature on the NOT certifies that you have achieved final stabilization, removed your temporary Best Management Practices, and have paid all applicable fees. All effective authorizations are assessed annual fees each calendar year until a complete NOT is received.

Coverage under the SWC-GP does not waive your obligation to obtain coverage under other applicable permits. If you have questions regarding SWC-GP requirements, please contact the Water Protection Bureau at (406) 444-3080.

Sincerely,

Gina Self
ICIS Data Coordinator
CONSTRUCTION PLANS
FOR
93 LLC SUBDIVISION
SITE IMPROVEMENTS
WHITEFISH, MONTANA
AUGUST 2020

SHEET INDEX

<table>
<thead>
<tr>
<th>SHEET</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>CS.1</td>
<td>COVER SHEET</td>
</tr>
</tbody>
</table>
| CS.2  | HORIZONTAL AMBULATORY SURVEY, SURVEY, GPS, LIDAR, & LIDAR |}

PROJECT LOCATION

VICINITY MAP

PROJECT LOCATION

City Council Packet, February 21, 2023 Page 174 of 305
DATE: 10/06/2022

Subj: CBU placement

To: TD&H Engineering
450 Corporate Drive, Suite 101
Kalispell, MT 59901

Whitefish Post Office and TD&H Engineering (Wil Goodpaster) meet for the proposed location for the Cluster Box Unit (CBU) for the future subdivision (Rock Ridge). The location, map attached, is approved location worked out between USPS and TD&H Engineering.

Any questions, POC is in the signature block

Paul Wolak
Customer Service Supervisor
424 Baker Ave.
Whitefish, MT 59937
406-862-2151
Hello there Eric,

Below is my correspondence from Republic for the 93 LLC project solid waste. They will provide cans to residences to be placed inside until pick-up.

Thanks,

Wil Goodpaster  |  Engineer
TD&H Engineering
450 Corporate Drive, Suite 101  |  Kalispell, MT 59901
D:406.751.5241
www.tdhengineering.com

>>> "NVR" <NVR@MontanaWastesystems.com> 7/31/2019 12:18 PM >>>
Hello Will

We can provide individual bear proof carts to the residents.

Please update your contact info. This email is no longer our main contact.

If you need any other info, you can contact me at aclaments4@republicservices.com or you can contact my supervisor, Jake Persinger, at jpersinger@republicservices.com

Thanks
Andrea

---

From: Wil Goodpaster <Wil.Goodpaster@tdhengineering.com>
Sent: Wednesday, July 17, 2019 9:10 AM
To: nvr@montanawastesystems.com
Subject: Fwd: K19-034 93 LLC - Service Coordination

Hello there Andrea,

I just wanted to follow up with you about the email below and see what your thoughts were or who I may need to speak with to discuss the solid waste collection for the proposed 93 LLC Development.

Thanks,
>>> Wil Goodpaster 7/8/2019 10:38 AM >>>

Hello there Andrea,

I wanted to coordinate solid waste services to the attached project with you. The project had previous preliminary plat approval with conditions to provide a centralized bear-proof collection site. I was curious if it would be acceptable for the individual lot owners to be conditioned to keep garbage cans indoors until collection day and picked up as part of your route rather than a centralized location for all the single and multi-family lots. These are private roadways however will be maintained for access year-round by the HOA. Please let me know if you have any questions.

Thanks,

Wil Goodpaster  |  Engineer
TD&H Engineering
450 Corporate Drive, Suite 101  |  Kalispell, MT 59901
p:406.751.5246

www.tdhengineering.com
NOTICE
OF
MEMORANDUM OF AGREEMENT

This NOTICE OF MEMORANDUM OF AGREEMENT ( "Notice" ) is made by Christopher S. Washer and Leslee E. Washer, with mailing address at P.O. Box 1644, Whitefish, Montana, 59937 (herein "Washer"); and 93, LLC, a Montana Limited Liability Company, with mailing address at 100 Second Street East, Suite 218, Whitefish, Montana, 59937 (herein "93, LLC") . Both Washer and 93, LLC may hereinafter collectively be referred to as the "Parties" .

A. Washer and 93, LLC have entered into an agreement entitled “Memorandum of Agreement to Grant Easement, to Terminate and Release Portions of Existing Easements, and to Relinquish Existing Highway Approach Permit” (herein “Memorandum of Agreement”).

B. Washer is the owner of the following described real property:

A tract of land situated, lying, and being in the Southeast Quarter of the Northwest Quarter (SE ¼ NW¼ ) of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, more particularly shown and described as Tract 2 on Certificate of Survey No. 11455 filed on October 26, 1993, Instrument No.9329914450, records of Flathead County, Montana

(herein the "Washer Property").

C. 93, LLC is the owner of the following described property:

A tract of land situated, lying, and being in the South Half of the Northwest Quarter (S½ NW¼ ) of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, more particularly shown and described as Tract 1 through Tract 9 on
Certificate of Survey No. 17098 filed on December 21, 2005, Instrument No. 200535512040, records of Flathead County, Montana

(herein the “93, LLC Property”).

D. The Memorandum of Agreement concerns the reciprocal obligations of the Parties to execute and, as may be applicable, have recorded certain documents whereby (i) 93, LLC will grant a road and utility easement to Washer for the Washer Property which will run through a portion of the 93, LLC Property shown as Tract 5 on Certificate of Survey No. 17098, (ii) Washer will terminate and release portions of existing easements benefitting the Washer Property which run through certain portions of the 93, LLC Property, and (iii) the Parties will relinquish an existing State of Montana Department of Transportation (herein “MDOT”) approach permit onto U.S. Highway 93 (herein “Hwy 93”) right-of-way at or about the time that MDOT issues a new approach permit allowing 93, LLC and Washer to enter and exit the Hwy 93 right-of-way at the location where the easement to be granted by 93, LLC to Washer (set forth in D(i) above) intersects the Hwy 93 right-of-way. Nos. D(i) thru D(iii) are collectively herein the “Reciprocal Obligations of the Parties”.

E. The Reciprocal Obligations of the Parties are specifically contingent, however upon MDOT (i) fulfilling its commitment to construct a new MDOT approach from Hwy 93 onto that portion of the 93, LLC Property shown as Tract 5 on COS 17098 for use by 93, LLC and Washer, and (ii) issuing a new approach permit for 93, LLC to access the 93, LLC Property and for Washer to access the Washer Property at the location where the fifty (50) foot easement to be granted by 93, LLC to Washer intersects the Hwy 93 right-of-way. Nos. E(i) and E(ii) are together referred to in the Memorandum of Agreement as the “MDOT Contingencies”.

This Notice is an Abstract of the Memorandum of Agreement, dated this date, full and complete copies of which are in the possession of the Parties and will be provided upon request of interested persons.

IN WITNESS WHEREOF, 93, LLC, through its duly authorized Manager, Reto Barrington, and Christopher S. Washer and Leslee E. Washer have executed this instrument on those dates set forth opposite their signatures below.

Christopher S. Washer 9/5/13

Leslee E. Washer 9/5/13
93, LLC

By: ____________________________
Reto Barrington
It's Manager

09/06/2013
Date

STATE OF MONTANA

County of Flathead

This instrument was acknowledged before me on the 5th day of September, 2013, by Christopher S. Washer and Leslee E. Washer, who are known to me, or who have presented to me sufficient evidence as to their identities, that being a [drivers license]

NOTARY PUBLIC for the State of Montana

CANADA

PROVINCE OF British Columbia

On this 6th day of September, 2013, before me, the undersigned, a Notary Public in and for the Province of British Columbia, personally appeared Reto Barrington, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity as Manager of 93, LLC.

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

[Seal]

A Notary Public or Commissioner for Oaths and a Notary Public in and for the Province of British Columbia

Print or Type Name of Notary Public or Commissioner for Oaths/Acknowledgements

ANGELA N. ETHERIDGE

As to Reto Barrington's
signature only.

Barister & Solicitor

Residing at 401-2nd Avenue, PO Box 9

Barrister and Solicitor

Fame, B.C., V0B 1M0

angela@saikkoctenaylaw.com

NOTICE OF MEMORANDUM OF AGREEMENT - WASHER / 93, LLC
FIDELITY NATIONAL TITLE INSURANCE COMPANY
a corporation, herein called the Company

GUARANTEES

Sands Surveying, Inc.

herein called the Assured, against actual loss not exceeding the liability amount stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurances set forth in Schedule A.

LIABILITY EXCLUSIONS AND LIMITATIONS

1. No guarantee is given nor liability assumed with respect to the identity of any party named or referred to in Schedule A or with respect to the validity, legal effect or priority of any matter shown therein.

2. The Company’s liability hereunder shall be limited to the amount of actual loss sustained by the Assured because of reliance upon the assurance herein set forth, but in no event shall the Company’s liability exceed the liability amount set forth in Schedule A.

Please note carefully the liability exclusions and limitations and the specific assurances afforded by this guarantee. If you wish additional liability, or assurances other than as contained herein, please contact the Company for further information as to the availability and cost.

Fidelity National Title Insurance Company

By:

[Signature]

Michael J. Nolan, President

Countersigned By:

[Signature]

Authorized Officer or Agent

Attest:

[Signature]

Marjorie Nemzura, Secretary
Effective Date: January 4, 2023 at 08:00 AM

The assurances referred to on the face page are:

That, according to those public records which, under the recording laws, impart constructive notice of matter relative to the following described property:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Title to said real property is vested in:

93, LLC, a Montana limited liability company

subject to the matters shown below under Exceptions, which Exceptions are not necessarily shown in the order of their priority.

END OF SCHEDULE A
EXHIBIT "A"
Legal Description

TRACT 1:
Tract 1 of Certificate of Survey No. 17098, a tract of land situated, lying, and being in the South Half of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

TRACT 2:
Tract 2 of Certificate of Survey No. 17098, a tract of land situated, lying, and being in the South Half of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

TRACT 3:
Tract 3 of Certificate of Survey No. 17098, a tract of land situated, lying, and being in the South Half of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

TRACT 4:
Tract 4 of Certificate of Survey No. 17098, a tract of land situated, lying, and being in the South Half of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

TRACT 5:
Tract 5 of Certificate of Survey No. 17098, a tract of land situated, lying, and being in the South Half of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

TRACT 6:
Tract 6 of Certificate of Survey No. 17098, a tract of land situated, lying, and being in the South Half of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

TRACT 7:
Tract 7 of Certificate of Survey No. 17098, a tract of land situated, lying, and being in the South Half of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

TRACT 8:
Tract 8 of Certificate of Survey No. 17098, a tract of land situated, lying, and being in the South Half of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

EXCEPTING THEREFROM that portion conveyed to the Montana Department of Transportation in Bargain and Sale Deed recorded February 27, 2014, as Document No. 201400003609, records of Flathead County, Montana.

TRACT 9:
Tract 9 of Certificate of Survey No. 17098, a tract of land situated, lying, and being in the South Half of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

EXCEPTING THEREFROM that portion conveyed to the Montana Department of Transportation in Bargain and Sale Deed recorded February 27, 2014, as Document No. 201400003609, records of Flathead County, Montana.

TRACT 10:
Tract 10 of Certificate of Survey No. 17098, a tract of land situated, lying, and being in the South Half of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

TRACT 11:
Tract 1 of Certificate of Survey No. 17463, a tract of land situated, lying and being in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.

EXCEPTING THEREFROM that portion conveyed to the Montana Department of Transportation in Bargain and Sale Deed recorded February 27, 2014, as Document No. 201400003609, records of Flathead County, Montana.

The above described tract of land shall hereafter be known as: Rock Ridge
SCHEDULE B

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I—Requirements are met.

   a. Rights or claims of parties in possession not shown by the Public Records.

   b. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the Land including, but not limited to, insufficient or impaired access and matters contradictory to any survey plat shown by the Public Records.

   c. Easements, or claims of easements, not shown by the Public Records.

   d. 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.

   e. (a) unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters accepted under (a), (b), (c) are shown by the Public Records.

   f. Taxes to special assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records. 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.

   g. County road rights-of-way, not recorded and indexed as a conveyance of record in the office of the Clerk and Recorder pursuant to Title 70, Chapter 21 MCA, including, but not limited to any right of the public to use and occupy those certain roads and trails.

   h. Mineral rights, claims or title to minerals in or under said land, including but not limited to metals, oil, gas, coal, or other hydrocarbons, sand, gravel, or stone, and geothermal energy rights, and easement or other rights or matters relating thereto, whether express or implied, recorded, or unrecorded.

Paragraphs 1, a, b, c, d, and f will not appear as printed exceptions on extended coverage policies, except as to such parts thereof which may be typed as a Special Exception as shown below.

SPECIAL EXCEPTIONS:

2. General Taxes for the year 2022

   1st Half: $1,176.23 PAID
   2nd Half: $1,176.17 PAID
   Tax ID No.: 74-0799000
   Affects: Tracts 1 and 10
3. General Taxes for the year 2022
   1st Half: $764.04 PAID
   2nd Half: $764.00 PAID
   Tax ID No.: 74-0002403
   Affects: a portion of Tract 2

4. General Taxes for the year 2022
   1st Half: $4.01 PAID
   2nd Half: $4.01 PAID
   Tax ID No.: 74-0002404
   Affects: a portion of Tract 2

5. General Taxes for the year 2022
   1st Half: $1,917.32 PAID
   2nd Half: $1,917.26 PAID
   Tax ID No.: 74-0001947
   Affects: a portion of Tract 3 and Tract 7

6. General Taxes for the year 2022
   1st Half: $12.78 PAID
   2nd Half: $12.77 PAID
   Tax ID No.: 74-0336451
   Affects: a portion of Tract 3

7. General Taxes for the year 2022
   1st Half: $776.74 PAID
   2nd Half: $776.70 PAID
   Tax ID No.: 74-0193260
   Affects: Tract 4

8. General Taxes for the year 2022
   1st Half: $963.20 PAID
   2nd Half: $963.16 PAID
   Tax ID No.: 74-0976545
   Affects: Tract 5

9. General Taxes for the year 2022
   1st Half: $1,159.46 PAID
   2nd Half: $1,159.46 PAID
   Tax ID No.: 74-0548290
   Affects: Tract 6
10. General Taxes for the year 2022
   1st Half: $608.77 PAID
   2nd Half: $608.74 PAID
   Tax ID No.: 74-0810075
   Affects: Tract 8

11. General Taxes for the year 2022
   1st Half: $536.93 PAID
   2nd Half: $536.89 PAID
   Tax ID No.: 74-0979080
   Affects: Tract 9

12. General Taxes for the year 2022
   1st Half: $444.69 PAID
   2nd Half: $444.66 PAID
   Tax ID No.: 74-0012406
   Affects: Tract 11

13. General County Taxes for the year 2023 and subsequent years, which are a lien but not yet due or payable.
   ALL TRACTS

14. Any possible additional tax assessments because of construction and/or improvements to the property.
   ALL TRACTS

15. Delinquent water and service charges of the City of Whitefish, if any, for which no investigation has been made.
   ALL TRACTS

16. Location of State Park Road as disclosed by available county maps.
    Tract 5

17. Terms and conditions of Easement(s) and rights incidental thereto as set forth in a document:

    In favor of: State of Montana
    Recording Date: April 21, 1933
    Recording No.: 211/460
    Tract 1, 2, 3, 6, 7, 10 and 11
18. Terms and conditions of Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: State of Montana
   Recording Date: March 6, 1934
   Recording No.: 211/610
   Tract 4 and 5

19. Terms and conditions of Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: State of Montana
   Recording Date: January 17, 1938
   Recording No.: 229/213
   Tract 9

20. Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: Mountain States Power Company
   Recording Date: September 2, 1938
   Recording No.: 231/411
   Tract 11

21. Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: Mountain States Power Company
   Recording Date: October 7, 1938
   Recording No.: 231/458
   Tract 4 and 5

22. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Deed Exhibit Book 410 Page 181. Reference is hereby made to the survey for more particulars.
   Tract 5

23. Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: The Montana Power Company
   Recording Date: January 19, 1967
   Recording No.: 486/422
   Tract 1 and 10

24. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Deed Exhibit Book 541 Page 39. Reference is hereby made to the survey for more particulars.
   Tract 11
25. Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: Pacific Power & Light Company
   Recording Date: June 7, 1974
   Recording No.: 568/619
   Tract 4

26. Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: Pacific Power & Light Company
   Recording Date: September 9, 1974
   Recording No.: 573/106
   Tract 2, 3, 6, and 7

27. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Certificate of Survey No. 2257. Reference is hereby made to the survey for more particulars.
   Tract 9

28. Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: The City of Whitefish
   Recording Date: February 10, 1977
   Recording No.: 611/314
   Tract 4

29. Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: The City of Whitefish
   Recording Date: February 10, 1977
   Recording No.: 611/316
   Tract 5

30. Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: The City of Whitefish
   Recording Date: March 23, 1977
   Recording No.: 611/895
   Tract 2, 3, 6 and 7
31. Easement(s) and rights incidental thereto as set forth in a document:

In favor of: The City of Whitefish
Recording Date: July 14, 1977
Recording No.: 621/128
Tract 2, 3, 6 and 7

32. Easement(s) and rights incidental thereto as set forth in a document:

In favor of: The City of Whitefish
Recording Date: September 15, 1977
Recording No.: 624/739
Tract 4

33. Ordinance No. A-333 for annexation

Recording Date: April 24, 1979
Recording No.: 666/439
Tract 2, 3, 6, and 7

34. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Certificate of Survey No. 5682. Reference is hereby made to the survey for more particulars.
Tract 4

35. Easement(s) and rights incidental thereto as set forth in a document:

In favor of: Pacific Power & Light Company
Recording Date: May 1, 1981
Recording No.: 716/51
Tract 4

36. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Certificate of Survey No. 6093. Reference is hereby made to the survey for more particulars.
Tract 2 and 3

37. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Certificate of Survey No. 9193. Reference is hereby made to the survey for more particulars.
Tract 2, 3, and 7
38. Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: The City of Whitefish
   Recording Date: October 9, 1992
   Recording No.: 92-283-16180
   Tract 3

39. Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: Pacific Power & Light Co.
   Recording Date: February 17, 1993
   Recording No.: 93-048-09500
   Tract 2, 3, 6, and 7

40. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Certificate of Survey No. 11455. Reference is hereby made to the survey for more particulars.
   Tract 4

41. State of Montana Department of Environmental Quality Certificate of Subdivision Approval

   Recording Date: October 26, 1993
   Recording No.: 93-299-14450
   Tract 4

42. Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: Christopher S. Washer and Leslee E. Washer
   Recording Date: December 7, 1993
   Recording No.: 93-341-15420
   Tract 4

43. This property lies within the boundaries of Resolution No. 1093A for West Whitefish Zoning District, recorded August 10, 1995 at 95-222-08350 and will be subject to any levies and assessments thereof.
   ALL TRACTS

44. Easement(s) and rights incidental thereto as set forth in a document:

   In favor of: Pacificorp dba Pacific Power & Light Company
   Recording Date: September 16, 1996
   Recording No.: 96-260-11180
   Tract 11
45. Easement Agreement

Recording Date: June 18, 1997
Recording No.: **1997-169-16230**

AND

Release and Termination of Easements and Encumbrances
Recording Date: April 25, 2007
Recording No.: **2007-115-15540**
Tract 2, 3, 4, 6, and 7

46. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Certificate of Survey No. **12750**. Reference is hereby made to the survey for more particulars.
Tract 1 and 10

47. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Certificate of Survey No. **13725**. Reference is hereby made to the survey for more particulars.
Tract 2 and 3

AND

Release and Termination of Easements and Encumbrances
Recording Date: April 25, 2007
Recording No.: **2007-115-15540**

48. Easement(s) and rights incidental thereto as reserved in a document:

Reserved by: Sheila M. Huckabone
Recording Date: April 21, 1999
Recording No.: **1999-111-16350**

AND

Release and Termination of Easements and Encumbrances
Recording Date: April 25, 2007
Recording No.: **2007-115-15540**

Tract 3
SCHEDULE B
(continued)

49. Easement(s) and rights incidental thereto as reserved in a document:

Reserved by: Gary A. Huckabone and Sheila M. Huckabone
Recording Date: April 21, 1999
Recording No.: 1999-111-16360

AND

Release and Termination of Easements and Encumbrances
Recording Date: April 25, 2007
Recording No.: 2007-115-15540

Tract 7

50. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Certificate of Survey No. 14106. Reference is hereby made to the survey for more particulars.
Tract 5

51. Notice of Boundary Line Dispute

Recording Date: October 4, 2001
Recording No.: 2001-277-14250

AND

Easement Agreement
Recording Date: January 17, 2002
Recording No.: 2002-017-10350

AND

Release and Termination of Easements and Encumbrances
Recording Date: April 25, 2007
Recording No.: 2007-115-15540

Tract 1, 2, 3, 6, 7 and 10

52. State of Montana Department of Environmental Quality Certificate of Subdivision Approval

Recording Date: July 30, 2002
Recording No.: 2002-211-10090
Tract 2, 3, 6 and 7
53. Easement Agreement

Recording Date: September 9, 2004
Recording No.: 2004-253-09410
Tract 2, 3, 6 and 7

54. Matters contained in that certain Road Maintenance Agreement which document, among other things, may provide for liens and charges.

Executed by: Phillip R. Wreden, et al
Recording Date: September 30, 2004
Recording No: 2004-274-08440

Reference is hereby made to said document for full particulars.
Tract 2, 3, 6 and 7

55. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Certificate of Survey No. 17098. Reference is hereby made to the survey for more particulars.
Tract 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10

56. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as contained or referred to on Certificate of Survey No. 17463. Reference is hereby made to the survey for more particulars.
Tract 11

57. This property lies within the boundaries of Resolution No. 08-52 for Annexation, recorded October 20, 2008 at 200800029076 and will be subject to any levies and assessments thereof.
ALL TRACTS

58. Terms and provisions contained in Notice of Memorandum of Agreement

Recording Date: September 19, 2013
Recording No.: 201300024297
Tract 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10

59. Easement(s) and rights incidental thereto as set forth in a document:

In favor of: Montana Department of Transportation
Recording Date: February 27, 2014
Recording No.: 201400003609
Tract 8, 9 and 11
SCHEDULE B
(continued)

60. Easement(s) and rights incidental thereto as set forth in a document:

In favor of: Montana Department of Transportation
Recording Date: February 27, 2014
Recording No.: 201400003610
Tract 8 and 9

61. Easement(s) and rights incidental thereto as set forth in a document:

In favor of: Flathead Electric Cooperative, Inc.
Recording Date: December 29, 2021
Recording No.: 202100044143
Tract 1, 2, 3, 4, 5, 6, 7, 8, and 9

62. Recitals, notes, sanitary restrictions, ordinances, resolutions, easements, dedications and covenants as referred to on proposed survey or plat to be recorded prior to or as a part of this transaction.

63. Please be advised that our search did not disclose any open Deeds of Trust of record. If you should have knowledge of any outstanding obligation, please contact the Title Department immediately for further review prior to closing.

64. The land described in the commitment/policy shall not be deemed to include any home trailer or mobile home located on the property.

65. Exceptions and reservations contained in Patents of record.

END OF SCHEDULE B
This Form is for Subdivisions Only

BY: Sands
FOR: 93 LLC
DATE: 04/16/2021
PURPOSE: Subdivision

DESCP: 93 LLC Subdivision
nka Rock Ridge Subdivision

<table>
<thead>
<tr>
<th>YEARS</th>
<th>ASSESSOR #</th>
</tr>
</thead>
</table>
| 2018 thru 2020 | 0001947, 0002403, 0002404,  
|           | 0012406, 0193260, 0336451,  
|           | 0548290, 0799000, 0810075,  
|           | 0976545, 0979080                        |
| 2021    | same Updated 6/29/2022 kd               |
| 2022    | same Updated 12/01/2022                 |

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.

[Signature]
Deputy Treasurer
(seal)

DEC 07 2022
93 LLC Subdivision
Operation & Maintenance Manual

I. INTRODUCTION

One of the key components of any Storm Water Pollution Prevention Plan is routine inspection and maintenance. This manual is intended to set level of service standards for Operation & Maintenance (O&M) of the private storm drain system to ensure proper function. This O&M manual is to be used in conjunction with the approved set of construction documents as a reference in the overall operation and maintenance of the 93 LLC Subdivision storm water conveyance and treatment system. This manual should be updated as required to reflect any physical or procedural changes to the operation or maintenance of the system.

II. STORM DRAIN SYSTEM OVERVIEW

In general, the majority of runoff produced from the site will be conveyed to the proposed detention system via sheet flow and shallow concentrated flow in roadside vegetated swales. The stormwater collected in the stormdrain system will be channeled through a Contech CDS treatment structure prior to entering the detention pond. Here water will be detained within a vegetated pond and then released at a controlled rate through a flow control structure. Stormwater will then be conveyed into the existing stormsewer system. Once water enters into the city system it will then discharge into the Whitefish River.

III. OWNER RESPONSIBILITIES

It is the responsibility of 93 LLC to inspect, maintain, repair and replace (if necessary) at the Owner’s own expense all private storm water system components which are located on the property. Inspection frequency shall be at least twice a year (typically in the spring and fall prior to the rainy season) to ensure the proper operation of all facilities associated with the storm water system. The system should also be inspected after each storm event that could have adversely impacted the drainage system or in response to visible problems. Existing site conditions may warrant more frequent inspections and it is the Owner’s responsibility to update the O&M manual as necessary.

The Owner shall maintain the overall site, road, and right-of-way drainage. At no time will any landscaping debris, yard waste, oils, or refuse be allowed to flow into the system. The conveyance systems must be maintained and cannot be blocked in any way that prohibits the easy flow of stormwater to its intended destination. Special attention should be given to the area inlet grate located on top of the CDS unit as well as the orifices located within the flow control structure. Ensure these do not become clogged as they are extremely critical for proper function of the system.
Catch Basin/Area Drains

Cleaning
Catch basins and inlets should be cleaned when they become one third full to maintain sediment-trapping capacity. Catch basin cleaning should be performed in a manner that keeps removed sediment and water from being discharged back into the storm drain system. Inlet should be kept clean of debris and litter.

Safety
Work inside underground structures requires special OSHA required confined space equipment and procedures where applicable.

Materials Handling
Disposal of waste from maintenance of drainage facilities shall be conducted in accordance with local, state and federal regulations. Removed sediment must be disposed of in an approved fashion. Water should be disposed of in a sanitary sewer after oils are removed using oil absorbent materials or other mechanical means. Used oil absorbents should be recycled or disposed according to the manufacturer’s instructions.

Repairs
Repair any damages that prevent the catch basin from functioning as designed.

Flow Control Structure

Cleaning/Maintenance
Inspect the control structure and check the frame and lid for cracks and wear. Ensure removable overflow grate locks and functions as designed. Structures sump should be cleaned when in becomes one third full to maintain sediment trapping capacity. Be sure to inspect the openings, and pipe orifices to ensure that flow is not restricted or blocked.

Safety
Work inside underground structures requires special OSHA required confined space equipment and procedures where applicable.

Materials Handling
Disposal of waste from maintenance of drainage facilities shall be conducted in accordance with local, state and federal regulations.

Repairs
Repair any damages that prevent the control structure from functioning as designed. Repair or replace to original design specification any outlet orifice that is enlarged, bypassed or damaged. Make certain that overflow outlet is not blocked. Structures should be installed securely in place and within 10 percent of vertical. Repair the outlet pipe structure if it has leaking connections or holes not specified by the design documents.
Contech CDS Unit

(See attached inspection and maintenance manual from Contech)

Pipes

Cleaning
Pipes are difficult to inspect requiring special equipment and training. Usually, if a problem occurs such as blockage of flow, specialized services will be required to inspect and clean the pipe. Pipes should be cleaned when sediment depth is greater than 20% of the pipe diameter. When cleaning pipes, be sure to install a downstream debris trap to minimize the debris discharge to the public storm sewer system.

Safety
Work inside underground structures requires special OSHA required confined space equipment and procedures where applicable.

Materials Handling
Disposal of waste from maintenance of drainage facilities shall be conducted in accordance with local, state and federal regulations.

Repairs
Repair or replace any damaged pipes that show breaks or dents which close more than 20 percent of the pipe diameter.

Pavement Sweeping

Cleaning
Sweeping should be performed to remove sand, gravel, sediment, debris, and litter from the roadway areas. In addition to limiting the amount of sediment washed into the storm drain system, sweeping also reduces dust during dry weather. By reducing the amount of sediment washing into catch basins, detention systems, and other facilities can save money because sweeping is generally cheaper than removing the same sediment from the storm system.

Vlyoplast Basin

Cleaning
Inspect the basins and check the frame and lid for cracks and wear, such as rocking lids or dislodged lids. Manhole sumps should be cleaned when they become one third full to maintain sediment-trapping capacity. For the manhole with the flow control tee structure, be sure to inspect the orifice and overflow pipe to ensure that flow is not restricted or blocked.

Safety
Work inside underground structures requires special OSHA required confined space equipment and procedures where applicable.
**Materials Handling**
Disposal of waste from maintenance of drainage facilities shall be conducted in accordance with local, state and federal regulations.

**Repairs**
Repair any damages that prevent the manhole from functioning as designed. Repair or replace to original design specification any outlet orifice that is enlarged, bypassed or damaged. Make certain that overflow outlets are not blocked. Structures should be securely in place and within 10 percent of vertical. Repair the outlet pipe structure if it has leaking connections or holes not specified by the design documents.

**Vegetated Detention Ponds and Swale Ditches:**

- **Cleaning** - Vegetated swale ditches shall be maintained to provide a suitable mowed grass surface where required to pre-treat storm water and reduce erosion. Sediment deposits and fallen leaves should be removed to provide positive drainage and unimpeded flows. Check dams shall be inspected and maintained to ensure proper functionality. Sidewalk drains must be inspected and all debris removed to provide adequate drainage flows.
Maintenance Agreement

Responsible Party
List the party that shall be permanently responsible for the maintenance of structural or non-structural measures required by the Operation Manual. (e.g. owner, governmental agency, or other legal established entity) 93 LLC,

Designate personnel for inspection and maintenance:
Name: 93 LLC,
Address: PO Box 1799, Fernie, BC V0B 1M0
Contact Phone: ___________________________ Cell: ___________________________

Property Description
List legal description of property: NW 1/4 of the SE 1/4 of Section 25 , T31N, R22W,
P.M.M., Flathead County, MT

Operation and Maintenance
Has the Operation and Maintenance Manual been created? ☒ Yes ☐ No
Responsible Party shall ensure the continued performance of the maintenance obligation in accordance with the Operation and Maintenance Manual.

By signing the Maintenance Agreement the Responsible Party shall assume full responsibility for the maintenance of the stormwater system.

X ___________________________
Signature of Responsible Party

10/6/22
Date
January 5, 2023

Mr. Doug Peppmeier
TD&H Engineering
450 Corporate Drive
Kalispell, Montana 59901

Re: 93 LLC (Rock Ridge) Subdivision Acceptance

Dear Doug:

We received your December 16, 2022 letter certifying that the 93 LLC Subdivision was completed and has been constructed in accordance with the approved plans and specifications. We also received Record Drawings for the Bear Paw Subdivision dated December 2nd, 2022. The final walk through was held on October 14, 2022. The city has received a Subdivision Improvement Agreement performance bond for $151,775 for remaining items including; seeding, coir blanket, and sidewalk drains. The City received a maintenance bond for ten percent of the total value of the infrastructure improvements ($100,691), dated December 19, 2022. This two-year maintenance bond expires on December 19, 2024. The owner is responsible for PRV maintenance or repair that is needed during that two year period.

The Public Works Department is formally accepting the public improvements. The project engineer shall conduct a two-year inspection, attended by a representative of the Public Works Department, at the end of the warranty period. The inspection shall take place not less than ninety days prior to the expiration date of the maintenance bond.

Sincerely,

Karin Hilding, P.E.
Engineering & Sustainability Project Manager
February 21, 2023

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

Re:   Lakeshore Construction Permit Eric Sikola, WLP 23-W02

Honorable Mayor and Councilors:

The Whitefish Lakeshore Protection Committee voted 3-1 to recommend approval of WLP 23-W02 on February 8, 2023. The approval was subject to a friendly amendment to not include the boathouse foundation repair in the approval. Staff had recommended denial based on the boathouse repair but found that the rest of the requested projects complied with the Lakeshore Protection Regulations.

*Nonconforming Structures Standards: § 13-3-1-Z*

Nonconforming Structures:

1. Continued And Maintained Building Or Structure: Any nonconforming building or structure may be continued and maintained, provided there is no physical change other than necessary maintenance and repair.

   *The Definition of Repair allows for “replacing component parts of the facility and maintaining the exact design, size and configuration as was original prior to repair.” (§ 13-1-5)*

2. Routine Or Seasonal Maintenance: Routine or seasonal maintenance may be completed without requiring a permit. See "maintenance" as defined in section 13-1-5 of this title. All materials shall conform with subsection A, "Construction Materials", of this section.

   *All work proposed on the boathouse extends beyond maintenance and falls under repair.*

3. Repair: A permit shall be required when repairs include replacement of structural or foundation components, or include improvements not present in the structure prior to such repair. See "repair" as defined in section 13-1-5 of this title. All materials shall conform with subsection A, "Construction Materials", of this section.
The repair being done is a structural repair of the foundation; using helical piers instead of concrete which is prohibited in the lakeshore protection zone.

4. Change In Ownership: In the case of a change in ownership or management of an existing nonconforming building or structure, no changes may be made in the nature or character of such nonconforming use.

The nature or character of the boathouse is not changing.

5. Storage Shed Or Boathouse: A nonconforming storage shed or boathouse in the lakeshore protection zone may not be altered or improved in any manner which might result in a change of use.

The boathouse will not be altered or improved beyond the foundation and deck repairs.

6. Replacement/Restoration Of Nonconforming Structures Due To Fire Or Other Calamity:
   a. A nonconforming house or boathouse having been damaged or partially destroyed by fire or other calamity to an extent not exceeding ninety percent (90%) of its real value, exclusive of the foundations, at any time, may be restored to its immediately previous use existing at the time of partial destruction. Whenever a nonconforming house or boathouse is damaged in excess of ninety percent (90%), as stated above, the repair or reconstruction shall conform to the requirements of these regulations. (All work exceeding routine maintenance requires a permit.)
   b. All other nonconforming buildings or structures having been damaged or partially destroyed by fire, or other calamity to an extent not exceeding fifty percent (50%) of its real value, exclusive of foundations, at any time, may be restored to its immediately previous use existing at the time of partial destruction. Whenever a nonconforming house or boathouse is damaged in excess of fifty percent (50%), as stated above, the repair or reconstruction shall conform to the requirements of these regulations. (All work exceeding routine maintenance requires a permit.)
   c. The percentage of loss resulting from fire or other calamity for a nonconforming structure shall be defined as the cost to repair divided by the fair market value of the structure (less foundation and land) prior to the damage. The cost to repair shall include the value of all materials, labor and services used for a project.

N/A

7. Enlargements: A building or structure which is nonconforming shall not be added to or enlarged in any manner unless such building or structure, including such addition and enlargements, is made to conform to the requirements of these regulations (permit required).

There are no enlargements planned. The constructed area will remain the same after the repairs.
8. Other Than Natural Disaster: Any nonconforming use or structure which is eliminated or reduced in size or scale by a means other than natural disaster or calamity may only be replaced, reestablished or enlarged according to these regulations (permit required).

N/A

9. Remodeling: Existing dwelling units situated in the lakeshore protection zone may be remodeled and maintained in accordance to the following standards:

N/A

Sincerely,

/s/ Nelson Loring

Nelson Loring
Planner I

Attachments: Staff Report
Draft Minutes
Application

c/w/att: Michelle Howke, Whitefish City Clerk

c/wo/att: Cate Walker, Northwest Design Studio 301 E 2nd Street, Suite 1B Whitefish, MT 59937
Sikola
WHITEFISH LAKE LAKESHORE PERMIT
STAFF REPORT #WLP-23-W02
Feb 8, 2023

Property Owner: Eric Sikola
Mailing Address: 648 Ocampo Drive
                  Palasades, CA 90272
Telephone Number: 310.488.1241

Applicant/Contractor: Cate Walker, Northwest Design Studio
Mailing Address: 301 E 2nd Street, Suite 1B
                 Whitefish, MT 59937
Telephone Number: 406.862.4755

Property Legal Description: BARKLEY TR, S24, T31 N, R22 W, Lot 20
Property Address: 1490 & 1492 Barkley Lane
Lake: Whitefish Lake
Lake Frontage: 1490~ 70’
                1492~ 70’

Project Description: 1490-
Remove tree stump, remove riprap along 1490/1492
property line, and plant native vegetation in disturbed
areas

1492-
Replace foundation of existing boat house, repair
boathouse cantilevered deck, remove 73’ of chain link
fence and posts, remove concrete seawall and stairs,
and plant native vegetation in disturbed areas

Proposal: The applicant is proposing multiple projects within the Lakeshore Protection Zone.
The applicant owns both properties and has projects proposed on both 1490 and 1492 Barkley
Lane. At 1490 Barkley Lane the applicant wishes to remove a tree stump, remove rip rap that
exists between the two properties, and replant with native vegetation. 1492 Barkley Lane
projects include repairing the boathouse foundation and deck, removing 73’ of chain link
to fence, removing a short seawall and stairs, and planting native vegetation.

Frontage and allowable constructed area: The subject properties have 70 feet of lakeshore
frontage each and are both eligible for 560 square feet of constructed area, however 1492
Barkley Lane is grandfathered for 686 square feet of constructed area. No constructed area is
being removed at 1490 Barkley Lane. 1492 Barkley lane wishes to remove 42 square feet of
concrete sea wall and stairs.
**Existing Constructed Area:** 1490 has an existing dock that totals 460 square feet as well as 95 square feet of stone stairs which totals 555 square feet.

1492 has an existing boathouse from 1980 totaling 344 square feet, a cantilevered deck of 80 square feet (WLP-00-W25), 42 sq ft for a concrete sea wall and stairway, 20 feet of wooden stairs, and 20 square feet of stepping stones totaling 506 square feet. With removal of the 42 sq ft of sea wall and stairway, the total constructed area will be reduced to 464 square feet.

A permit exists for an approximately 6’X30’ dock dating back to 1997. This dock appears to no longer be what is installed. WLP 15-W03 was a withdrawn permit asking for a 460 square foot dock to replace the 300 square foot dock that was removed. Aerial imagery indicates that a non-conforming dock attached to the boathouse exists without an updated permit. The owner needs to reduce the size of the dock to 222 sq ft with a revised lakeshore permit as it combined with the boathouse well exceeds the constructed area limit and historic grandfathered limit. 686 square feet is the historic permitted allowable square footage including the dock.

![Figure 1. 1492 on the left and 1490 Barkley Lane on the right.](image-url)
Figure 2. Sea wall and fence to be removed
Figure 3. Tree stump to be removed (cut off at ground level).

Figure 4. Boathouse shown with crack in the foundation.
Figure 5. Riprap to be removed along the property line.

Figure 6. Nonconforming Boathouse Dock exceeding the size limit set forth in City Application #97-8 as well as the constructed area.
Figure 7. Aerial measurement of the dock. Appears to match the plans for a 2015 permit for a 460 square foot dock that was withdrawn.

Figure 8. Still from October 2022 lakeshore baseline video showing the dock and boathouse at 1490 Barkley Lane.
Nonconforming Structures Standards:

Nonconforming Structures:
1. Continued And Maintained Building Or Structure: Any nonconforming building or structure may be continued and maintained, provided there is no physical change other than necessary maintenance and repair.

   *The Definition of Repair allows for “replacing component parts of the facility and maintaining the exact design, size and configuration as was original prior to repair.”* (§ 13-1-5)

2. Routine Or Seasonal Maintenance: Routine or seasonal maintenance may be completed without requiring a permit. See "maintenance" as defined in section 13-1-5 of this title. All materials shall conform with subsection A, "Construction Materials", of this section.

   *All work proposed on the boathouse extends beyond maintenance and falls under repair.*

3. Repair: A permit shall be required when repairs include replacement of structural or foundation components, or include improvements not present in the structure prior to such repair. See "repair" as defined in section 13-1-5 of this title. All materials shall conform with subsection A, "Construction Materials", of this section.

   *The repair being done is a structural repair of the foundation; using helical piers instead of concrete which is prohibited in the lakeshore protection zone.*

4. Change In Ownership: In the case of a change in ownership or management of an existing nonconforming building or structure, no changes may be made in the nature or character of such nonconforming use.

   *The nature or character of the boathouse is not changing.*

5. Storage Shed Or Boathouse: A nonconforming storage shed or boathouse in the lakeshore protection zone may not be altered or improved in any manner which might result in a change of use.

   *The boathouse will not be altered or improved beyond the foundation and deck repairs.*

6. Replacement/Restoration Of Nonconforming Structures Due To Fire Or Other Calamity:
   a. A nonconforming house or boathouse having been damaged or partially destroyed by fire or other calamity to an extent not exceeding ninety percent (90%) of its real value, exclusive of the foundations, at any time, may be restored to its immediately previous use existing at the time of partial destruction. Whenever a nonconforming house or boathouse is damaged in excess of ninety percent (90%), as stated above, the repair or reconstruction shall conform to the requirements of these regulations. (All work exceeding routine maintenance requires a permit.)
b. All other nonconforming buildings or structures having been damaged or partially destroyed by fire, or other calamity to an extent not exceeding fifty percent (50%) of its real value, exclusive of foundations, at any time, may be restored to its immediately previous use existing at the time of partial destruction. Whenever a nonconforming house or boathouse is damaged in excess of fifty percent (50%), as stated above, the repair or reconstruction shall conform to the requirements of these regulations. (All work exceeding routine maintenance requires a permit.)

c. The percentage of loss resulting from fire or other calamity for a nonconforming structure shall be defined as the cost to repair divided by the fair market value of the structure (less foundation and land) prior to the damage. The cost to repair shall include the value of all materials, labor and services used for a project.

N/A

7. Enlargements: A building or structure which is nonconforming shall not be added to or enlarged in any manner unless such building or structure, including such addition and enlargements, is made to conform to the requirements of these regulations (permit required).

There are no enlargements planned. The constructed area will remain the same after the repairs.

8. Other Than Natural Disaster: Any nonconforming use or structure which is eliminated or reduced in size or scale by a means other than natural disaster or calamity may only be replaced, reestablished or enlarged according to these regulations (permit required).

N/A

9. Remodeling: Existing dwelling units situated in the lakeshore protection zone may be remodeled and maintained in accordance to the following standards:

N/A
Staff Discussion: The proposed boathouse repair is located below the highwater mark at 3000.79' and within the Whitefish Lake 100 year floodplain. That 100 year flood elevation is 3004' while the finished floor elevation is 3004.3', which is not the required two feet elevation above the floodplain. The boat house is also located partially below the low water mark of 2,996.44'. If the repair work falls under a substantial improvement, a Floodplain permit cannot be issued per Whitefish Floodplain Regulations 14-3-4. Substantial improvements are when more than 50% of the value of the structure is being added. The State assessor’s office values the structure at $9,010.64, so the cost of repairs must be below half of that, or $4,505.32. The applicant may either remove the structure or repair it under the substantial improvement threshold with a required floodplain permit with the City and FEMA. Additionally, the non-conforming dock must be brought into compliance with a new permit.

Staff does not support a replacement of the foundation of the boat house with piers but would support repairs to the foundation that are not considered a substantial improvement and otherwise meet the Lakeshore Nonconforming Structure maintenance and repair criteria found in 13-3-1-Z.

Conclusion: Apart from the unconforming docks and the proposed boat house foundation improvements, the rest of 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 recommends that the City Council approve the application without the boathouse foundation repair.

If the City Council chooses to approve of the permit, staff recommends that the permit be subject to the following conditions:

Conditions of Approval: If approved, staff recommends that it be subject to the following conditions:

1. A new permit for the non-conforming dock must be approved with a square footage of no larger than 222 square feet.

2. A floodplain permit must be obtained for repairs to the boathouse, and those repairs must not exceed 50% of the State assessed valuation of the structure.

3. The Lakeshore Protection Zone shall be defined as the lake, lake bed, and all land within 20 horizontal feet of the perimeter of the lake and adjacent wetlands when the lake is that the mean annual high water elevation of 3,000.79' (NAVD 1988)
4. Temporary storage of equipment or construction materials in the lakeshore protection zone is prohibited.

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

6. Prior to the start of any construction activity, an effective siltation barrier shall be installed at the lakeshore protection zone boundary. The barrier shall be designed and constructed to prevent silt and other debris from the construction site entering the lakeshore protection zone and shall be maintained until such a time as permanent erosion control and site stabilization are established on the property.

7. Any existing or disturbed areas inside the lakeshore zone may be revegetated. New plants shall be native to the Flathead Valley or cultivars whose form, color, texture, and character approximates that of natives. A resource file on native plants is available at the City of Whitefish Planning Department. Application of fertilizer is permitted only in minimal amounts to establish new plantings.

Use of Mechanical Equipment

8. The lakeshore shall be immediately restored to its condition prior to construction. All equipment tracks shall be raked or otherwise removed by hand.

9. The use of mechanical equipment within the lakeshore protection zone is permitted only if the equipment does not come in contact with the lake, expose silts or fine materials, or gouge, rut, or otherwise damage the lakeshore.

10. The natural protective armament of the lakeshore and lakebed must be preserved whenever possible. Following installation, the lakeshore and lakebed shall be returned to its condition prior to construction.

Building Repair and Reconstruction

11. Any repair of the existing boat house and and wood deck shall be of the exact design, size and configuration as the existing structure, except as required to meet current building codes. In no case shall the foundation be replaced and the deck railing cannot extend higher than four feet above the deck surface. (§ 13-3-1-W-6)

12. All materials shall comply with Section 5.1.A Materials. Specifically, all wood used in the lakeshore protection zone shall be untreated and left in its natural state. Only solid wood shall be used. This specifically excludes plywood, particleboard, chipboard, etc. No preservatives, including varnish, stain, paint, linseed oil, diesel fuel, creosote or any pressure treated preservatives, are allowed as the boathouse was constructed after
1978. No metal used in the lakeshore protection zone may contain deposits or a surface application of any of the following (1) Grease or oil (other than this subsection A3); (2) Paint, varnish or coatings which have not been allowed to thoroughly cure or dry outside the lakeshore protection zone; (3) Any chemical or substance that will wash off or dissolve when in contact with water. (§ 13-3-1-A-2).

13. The existing total constructed surface area in the lakeshore protection zone shall not be increased. (§ 13-3-1-Z-1)

14. The boathouse and deck may not be altered or improved in any manner which might result in a change of use, nor shall the deck be enlarged. (§ 13-3-1-Z-5)

15. All cutting of materials shall be done outside the lakeshore protection zone. Upon completion, the components may be brought to the lakeshore area and assembled.

16. Rock or stone from the immediate lakeshore protection zone may be used for a project if its removal does not reduce the effectiveness of the existing lakeshore armament or expose, silts, sands, clays, or fine materials. (§ 13-3-1-A)

17. No adhesives, concrete, grout, or other product is allowed to come into contact with the lake. (§ 13-3-1-Z-11)

18. Temporary storage of construction materials, debris, or equipment within the lakeshore protection zone is prohibited. (§ 13-3-1-G)

Native Plantings

19. Any existing or disturbed areas inside the lakeshore zone must be revegetated. New plants shall be native to the Flathead Valley or cultivars whose form, color, texture, and character approximates that of natives. A resource file on native plants is available at the City of Whitefish Planning Department.

20. A finely ground bark (less than ½ inch in size) or compost is recommended for ground cover in conjunction with native plants.

21. Fertilizer, pesticide, insecticide, and herbicide is prohibited in the lakeshore protection zone. (§ 13-3-1-D)

Additional Conditions
22. This permit shall be valid for one year from the date of issuance. Upon completion of the work, please contact the Planning Department for an inspection.

23. All stumps shall be cut off at ground level and not removed from the lakeshore protection zone. The roots must remain. (§ 13-3-1-D-10)

24. Constructed area may not exceed the allowed 560 square feet for each address. No dock or other constructed area may be installed that exceeds the 560 square foot limit. (§ 13-3-1-F)

Nelson Loring
Planner I
Whitefish Planning and Building Department
418 E. 2nd Street, PO Box 158
Whitefish, MT 59937
(406) 863-2412
Date: Wednesday, February 8, 2023
Place: City Council Conference Room
Recorded By: Nelson Loring

Members Present:
Peggy Brammer
Roger Rowles
Nancy Schuber
Don Harring

Members Absent:
Tara Zimmerman (Resigned)
Donna Emmerson (Resigned)
Two vacant positions
Toby Scott

Staff Present:
Dave Taylor
Nelson Loring

Public Present:
Cate Walker

1. CALL TO ORDER
   Summary: Nancy Schuber, called the meeting to order at 6:07 pm.

2. AGENDA CHANGES
   Summary: None.

3. APPROVAL OF OCTOBER 12, 2022 MINUTES
   Summary: Members reviewed the minutes of October 12th, 2022.

   ACTION: Rodger made a motion to approve the minutes of October 12th, 2022. Peggy Brammer seconded the motion. All were in favor and the motion passed unanimously.

4. GENERAL PUBLIC COMMENT
   Summary: None

5. UNFINISHED BUSINESS
   None

6. PUBLIC HEARINGS & ACTION
   A. Appointment of Committee Chair and Vice Chair

   ACTION: Nancy Schuber motioned to appoint Toby Scott as Chair. The motion was seconded by Roger Rowles. Nancy Schuber called for a vote. The vote was approved unanimously. Nancy motioned to volunteer as Vice Chair. Peggy Brammer seconded the motion. Nancy Schuber called for a vote. The vote was approved unanimously.
B. WLP 23-W02 – 1490 & 1492 Barkley Lane

**Summary:** The applicant is proposing multiple projects within the Lakeshore Protection Zone. The applicant owns both properties and has projects proposed on both 1490 and 1492 Barkley Lane. At 1490 Barkley Lane the applicant wishes to remove a tree stump, remove rip rap that exists between the two properties, and replant with native vegetation. 1492 Barkley Lane projects include repairing the boathouse foundation and deck, removing 73’ of chain link fence, removing a short seawall and stairs, and planting native vegetation.

Nelson Loring summarized the staff report for members, noting a couple of key points:
- The project meets all Lakeshore Regulations and the conditions of approval will ensure that the lake is protected and the docks come into compliance.
- The project meets the Lakeshore protection standards for nonconforming building repair, but would need to comply with the floodplain regulations. Staff recommends denial of the boathouse repair until an updated application meeting the floodplain standards can be met.

**Recommendation:** Staff is recommending denial of WLP 23-W02 with the conditions listed in the report should the Committee vote to recommend approval.

Members discussed the application with Nelson, clarifying the following items:
- Rodger Rowles asked for more detail on helical piers and how they function.
- Peggy Brammer discussed the role that nonconforming structures have in the lakeshore and expressed that there is a reason that the regulations are strict.
- Cate Walker explained that the docks will be brought into compliance as the current owner recently purchased the property and was unaware of any non-compliance.

No one from the public wished to comment further on this application at this time.

**ACTION:** Peggy Brammer made a motion to deny WLP 23-W02. Don Harring seconded the motion. Don then made a friendly amendment to the motion to recommend approval without the boathouse repair. Peggy seconded the motion. Roger disagreed with the proposed boathouse repair and the motion went 3-1 with Rodger voting against.

The application will go before City Council on February 21st.

8. **STAFF COMMENTS / GOOD AND WELFARE**

**Summary:** There is a need to fill the vacancies on the Lakeshore Protection Committee.

9. **COMMITTEE COMMENTS**

**Summary:** None

10. **ADJOURNMENT**

**ACTION:** The meeting is adjourned at 6:50 pm.
LAKE SHORE CONSTRUCTION PERMIT APPLICATION

WHITEFISH or LOST COON LAKE

FEE ATTACHED $ 1190

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
- 3,104’ msl (NAVD 1988) for Lost Coon Lake

INSTRUCTIONS:

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

☒ The regularly scheduled meeting of the Lakeshore Protection Committee is the second Wednesday of each month at 6:00 PM at City Hall at 418 E 2nd Street.

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

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

A. PROJECT INFORMATION:

Project Name: SIKOLA RESIDENCE

How many feet of the lake frontage do you own? 145.85 FT

Street Address: 1490 & 1492 Barkley Ln

Assessor’s Tract No.(s) 0672600, 0594900 Lot No(s) 20 & 21

Block # Subdivision Name Barkley Tracts

Section 24 Township 31N Range 22W

File #: __________________________ Date: __________________________

Intake Staff: __________________________ Check #: __________________________

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

_________________________________________  ____________________________
Owner’s Signature**  Date

Eric Sikola
Print Name

__________________________  ____________________________
Applicant’s Signature  Date

Cate Walker, Northwest Design Studio
Print Name

_________________________________________  ____________________________
Representative’s Signature  Date

________________________________________________________________________
Print Name

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

B. APPLICATION CONTENTS:

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

- One (1) printed copy and one (1) electronic copy of the application and supplemental materials.
- Lakeshore Construction Permit Application
- Written description how the project meets the criteria in Sections D-G
- Site Plan drawn to scale
- Project Drawing that is drawn to scale
- Vicinity Map
- Minimum of three (3) photos: 1 photo of property from lake; 2 photos showing lakeshore protection zoning from property boundary toward the other property boundary (e.g., from the north property line across property to the south) and photos of each existing structure or constructed area within the lakeshore protection zone (dock, boathouse, stairs, etc.)

For Tree Removal Only: A letter from a certified arborist confirming the condition of the trees to be removed.

C. OWNER/APPLICANT INFORMATION

OWNER(S) OF RECORD:

Name:  Sikola Family Trust - Eric Sikola  Phone:  310-488-1241
Mailing Address:  648 Ocampo Dr
City, State, Zip:  Palasades, CA  90272
Email:  esikola@gmail.com
APPLICANT (if different than above):
Name: Cate Walker, Northwest Design Studio, Inc.  Phone: 406 862-4755
Mailing Address: 301 E 2nd Street, Suite 1B
City, State, Zip: Whitefish, MT 59937
Email: cate.walker@nwds-mt.com

OTHER TECHNICAL/PROFESSIONAL:
Name: Eclipse Engineering, Travis Berro, PE  Phone: 406 552-1442
Mailing Address: 913 Wisconsin Ave, Suite 204
City, State, Zip: Whitefish, MT 59937
Email: tberro@eeimt.com

D. 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.)

Proposed work at 1490 Barkley Lane:
1. Removal of tree stump.
2. Removal of riprap along property line between 1490 & 1492 Barkley Lane. Redistribute existing beach gravel to cover.
3. Restore disturbed areas with native plant material (see attached landscape plan).

Proposed work at 1492 Barkley Lane:
1. Replacement of two (2) 14’ x 6’ concrete foundation structures on existing boat house. Foundation will be rebuild in one of three (3) ways per recommendation of Structural Engineer (see attached Exhibit A). It is the recommendation of the applicant that Option 3 be implemented, utilizing Helical Piers to minimize disturbance within the lakeshore protection zone.
2. Repair in place of cantilevered wooden walkway immediately adjacent to existing boat house.
5. Restore disturbed areas with native plant material (see attached landscape plan).

E. 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.

Erosion control methods per best management practices will be implemented and utilized throughout the project construction. Proposed work will be completed during the period of low water to minimize effects of construction. Significant impacts on water quality and wildlife habitat are not anticipated.
F. 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 at 1490 Barkley Lane:**
1. Dock and gangway: 460 sq ft (WLP-14-W33)
2. Stack stone stairs: 95 sq ft (WLP-16-W10)

**Existing improvements at 1492 Barkley Lane:**
1. Boathouse structure: 344 sq ft (first recorded in 1980)
2. Cantilevered walkway decking: 80 sq ft (unknown time of origin)
3. Concrete sea wall and stairway: 42 sq ft
4. Wooden stairs from above: 20 sq ft
5. Stepping stones through planing area: ±20 sq ft (WPL-00-W25)

G. 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?

**FEES:**

<table>
<thead>
<tr>
<th>Permit Type</th>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Administrative Permit</strong></td>
<td>no committee meeting: waterlines, dead trees, buoys, burning etc.</td>
<td>$75</td>
</tr>
<tr>
<td><strong>Administrative Permit</strong></td>
<td>with committee meeting: docks under 60’, shore stations</td>
<td>$255</td>
</tr>
</tbody>
</table>
| **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 |
September 1st, 2022

Cate Walker
NW Design Studio
301 E Second Street #1B
Whitefish, MT 59937

Project Number: 22-08-256

Re: Structural Observation
1492 Barkley Lane
Whitefish, MT 59937

Cate,

Per your request, I performed a visual observation of the concrete foundation system of the structure, specifically the concrete pier walls, located at the address referenced above on August 24th, 2022. The purpose of my observation and this subsequent report is to evaluate whether the foundation of the residence is structurally sufficient.

Background

The residential building, a wood framed structure, resting on concrete stem walls presumably on concrete strip footings has a significant crack in the concrete wall closest to the water. The construction technique of the structure appears to consist of wood stick framing with floor beams resting on concrete pier walls. In addition, there is a wood walkway attached to the side of the structure that is supported on the concrete pier walls. The building is one story, elevated from the ground with no attic or crawlspace.

Observation

On August 24th, 2022, I performed observations of the crawl space and exterior of the residential building.

During my observation, I noted the following conditions:

1) The concrete wall closest to the lake has a large crack running horizontally through the whole wall (Fig 1).
2) The concrete wall located near the middle of the building is out of plumb.
3) Floor beams rest directly on the concrete pier walls (Fig 2 & Fig 3).
4) Timbers were attached to the concrete pier walls and floor beams to support the walkway next to the house (Fig 4).
5) The inside of the structure was inspected, and it was noted that the roof joists run the same direction as the concrete pier walls (Fig 5).
6) An additional aluminum walkway was noted to be hanging off the wood walkway attached to the structure (Fig 6).
Figure 3 - Alternate View – Floor Beams on Concrete Wall

Figure 4 – Timbers Supporting the Walkway and Attachments to Structure
Figure 5 – Inside of Building Showing Wall and Roof Framing

Figure 6: Aluminum Walkway attached to Wood Walkway
Evaluation and Recommendations

From data collected at the site, and engineering analysis and judgment, our opinions of the concrete walls are indicated below:

1) The concrete wall near the water shows significant signs of distress. The horizontal crack in the wall impacts the structural capacity of the structure. The concrete wall should be replaced.

2) The concrete wall near the middle of the building should be replaced.

3) The timbers supporting the walkway are attached to the concrete wall and floor beams. The connections to the concrete wall are sufficient, however the connection to the floor beams may not be. These timbers should be removed when the concrete walls are replaced. Please reference the documents attached for our recommendation on walkway support.

Conclusion

Upon inspection, the concrete pier walls are not structurally sufficient. The horizontal crack along with the other deteriorations noted are a big source of concern. The walkway is supported off these concrete pier walls as well. Due to the cracking and deterioration of the walls, Eclipse Engineering recommends replacing the walls and footings. Please reference the attached documents for replacement options. The following options for the foundation replacements are based off an assumed bearing pressure of 1500 psf on non-expansive soil. Confirmation with a geotechnical engineer is recommended but is not provided by Eclipse Engineering.

The first option is to remove the concrete walls and replace them with a similar wall and footing system. Details for this option and concrete wall and footing requirements can be found attached to this letter.

The second option is to remove the concrete walls and replace them with beams and concrete sonotubes. Sonotubes would be placed at the corners of the removed concrete walls. A beam would span between these sonotubes and cantilever off one end to carry the walkway loading. The beams may have a scabbed section picking up the walkway. Please see the attached for beam and concrete sonotube layout and details.

The third option is to remove the concrete walls and replace them with beams, helical piers, and tension cables. Helical piers would be placed at the corners of the removed concrete wall. A beam would span between the piers and cantilever off one end to carry the walkway loading. The beams may have a scabbed section picking up the walkway. Tension ties with turnbuckles would be utilized on all four sides of the helical piers. Please see the attached for beam, helical pier, and tension tie layout.

Please note that the design of the elements supporting the walkway can be completed once a desired method of replacement of the concrete walls is chosen. Eclipse Engineering can provide engineering for this element if it is desired at that time.

Eclipse Engineering, P.C. has reviewed the visible framing of this structure and did not perform a full evaluation of the entire structure.
We take no responsibility for any element of the structure or of the structure as a whole. We have observed only those elements that were visible and accessible at the time of the observation and make no assumptions as to the conditions or materials that we were not able inspect. This letter and our certification do not imply any warranty of any kind as to the workmanship or the materials utilized in construction of the building.

Please call with any specific questions.

Sincerely,

Kelton Czyzio

Staff Engineer, EIT

Eclipse Engineering, P.C.

Travis Berro

Principal, PE

Eclipse Engineering, P.C.
Existing Site Layout

10'-0"
3'-0"

EXISTING WALKWAY

4x4's @ 3'-6" OC

City Council Packet, February 21, 2023 Page 233 of 305
Option 1: Concrete Walls

iv. Cast in Place Concrete

A. Construction shall be in accordance with ACI 318, unless otherwise noted.

B. Required Compressive Strength:
   i. Concrete elements exposed to the exterior ground and weather or unconditioned space of the building, 4500 psi at 28 days, normal weight, maximum water to cement ratio = 0.44.
   ii. Concrete elements within the conditioned space of the building, 3000 psi at 28 days, normal weight.

C. Durability Requirements:
   i. Concrete elements exposed to the exterior ground and weather or unconditioned space of the building provide total air content in accordance with exposure class F2 in accordance with ACI 318, Chapter 4, per the following table. Tolerance on air content as delivered shall be ±1.5%.

<table>
<thead>
<tr>
<th>Aggregate Size</th>
<th>Exposure Class F2</th>
</tr>
</thead>
<tbody>
<tr>
<td>3/8&quot;</td>
<td>7%</td>
</tr>
<tr>
<td>3/4&quot;</td>
<td>6%</td>
</tr>
<tr>
<td>1&quot;</td>
<td>6%</td>
</tr>
<tr>
<td>1-1/2&quot;</td>
<td>5%</td>
</tr>
</tbody>
</table>

D. The contractor shall submit proposed locations of construction or pour joints to the architect and engineer for review.

E. Roughen concrete surfaces of construction joints and at locations where concrete is cast against existing concrete to 1/4" amplitude and clean of laitance, foreign matter, and loose particles.
EXISTING WALKWAY

EXISTING 4x12's @ 3'-6" OC

PROPOSED 36" DIA CONCRETE SONOTUBE, 48" MIN BELOW GRADE, TYP

SECTION A-A

W8x13 BEAM

2" MIN

36" DIA SONOTUBE

ATTACH EXISTING FLOOR BEAMS TO BEAM WITH CUSTOM TAB PER INSTALLER

ATTACH BEAM TO SONOTUBE W/ (4) TITEN HD THD37300HMG ANCHORS

(3) # 3 TIES @ 3" OC

# 3 TIES @ 10" OC REMAINDER

(12) # 6 LONGITUDINAL BARS

34,100 lbs

8,600 lbs

1,900 lbs

34,100 lbs

City Council Packet, February 21, 2023 Page 235 of 305
Option 3: Helical Piers

EXISTING WALKWAY

BEAM SCABBED TO STEEL BEAM

EXISTING 4x12's @ 3'-6" OC

W8x13 BEAM

PROPOSED HELICAL PIER
ULTIMATE LOAD = 25K

ATTACH EXISTING FLOOR BEAMS TO BEAM WITH CUSTOM TAB PER INSTALLER

ATTACH EXISTING WALKWAY

HELICAL CAP PLATE BY INSTALLER

HELICAL CAP PLATE BY OTHERS

TENSION CABLE PLATE ATTACHMENT

NOTE: PROVIDE TENSION CABLES PER SECTION B-B BETWEEN ALL HELICAL PIERS
Lakeshore looking north and stump to be removed.

Lakeshore looking north
Heaving concrete sea wall and chainlink fence to be removed

Existing concrete stairs, to be removed
Cantilevered Wooden Walkway attached to ‘Boathouse’
Lakeshore looking south. Image taken during Spring 2022, showing very high water.

Lakeshore as viewed from Lake for 1492 (left) and 1490 (right) Barkley Lane.
(This page left blank intentionally to separate printed sections)
ORDINANCE NO. 23-____

An Interim Zoning Ordinance of the City Council of the City of Whitefish, Montana, prohibiting the approval of new applications for administrative conditional use permits for marijuana dispensaries.

WHEREAS, as of January 1, 2022, medical and adult use marijuana is legal to purchase in the State of Montana by individuals 21 and over; and

WHEREAS, the Montana Marijuana Regulation and Taxation Act allows local governments to adopt ordinances regulating marijuana businesses that operate within their limits to protect the public health, safety or welfare (§ 16-12-301(2), MCA); and

WHEREAS, the Montana Marijuana Regulation and Taxation Act provides the Montana Department of Revenue must deny a license for a marijuana business, including a dispensary, if the premises is located within 500 feet of and addressed on the same street as a building used as a place of worship or as a school, with the front doors located on the same street, unless a locality requires a greater distance (§ 16-12-207(3), MCA); and

WHEREAS, under the authority of the Montana Marijuana Regulation and Taxation Act, the City adopted § 11-3-34 of the Whitefish City Code which regulates marijuana businesses within City limits; and

WHEREAS, pursuant to § 11-3-34 of the Whitefish City Code, marijuana dispensaries are required to apply for and obtain an administrative conditional use permit from the Zoning Administrator; and

WHEREAS, § 11-3-34 of the Whitefish City Code provides: "No marijuana facility is permitted from locales within 500' of and addressed on the same street as a building used exclusively as a church or public school pursuant to state law. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the marijuana sales premises. A lawfully operating facility shall not be rendered in violation of these provisions by the subsequent location of a church or public school. Additionally, no marijuana facility shall be located on Spokane Avenue between Railway Street and East Second Street."

WHEREAS, the "addressed on the same street" proximity test set forth in § 11-3-34 of the Whitefish City Code was modeled after the Administrative Rule applied by the Montana Department of Revenue when determining the proximity of an establishment selling retail alcohol to a school or place of worship, and that rule was changed to allow such a business to be within 500 feet and addressed on the same street if the front doors are on different streets; and

WHEREAS, significant concern has been expressed that application of the proximity test set forth in § 11-3-34 of the Whitefish City Code could result in marijuana dispensaries being located very close to schools and places of worship; and
WHEREAS, significant concern has been expressed regarding the possible proliferation of marijuana dispensaries, particularly in the WB-3 zoning district; and

WHEREAS, § 76-2-306, MCA, permits the City to adopt an interim zoning ordinance without following the procedures otherwise required prior to the adoption of a zoning ordinance to protect the public safety, health, and welfare by prohibiting any uses that may be in conflict with a contemplated zoning proposal that the City Council is considering or studying or intends to study within a reasonable time; and

WHEREAS, the City Council held a public work session on February 6, 2023, to discuss the concerns that have been raised with respect to marijuana dispensaries; and

WHEREAS, the City Council thereafter directed staff to draft a proposed interim zoning ordinance prohibiting the approval of new applications for administrative conditional use permits for marijuana dispensaries to allow the City to study the concerns raised and contemplate possible changes to § 11-3-34 of the Whitefish City Code including increasing the distance dispensaries are required to be from places of worship and schools and/or requiring a full conditional use permit for new dispensaries; and

WHEREAS, after first having provided lawful public notice, as required by § 76-2-306(2), MCA, the City Council conducted a public hearing on February 21, 2023, with respect to this proposed interim zoning ordinance, and invited public comment; and

WHEREAS, the City Council has determined it is necessary to prohibit the approval of new applications for administrative conditional use permits for marijuana dispensaries to protect the public health, safety and welfare while the City studies the concerns raised and contemplates possible changes to § 11-3-34 of the Whitefish City Code including, but not limited to, increasing the distance dispensaries are required to be from places of worship and schools and/or requiring a full conditional use permit for new dispensaries.

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

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

Section 2: An interim zoning ordinance prohibiting the approval of new applications for administrative conditional use permits for marijuana dispensary licenses is hereby adopted in order to allow the City an opportunity to further study the concerns raised with respect to dispensaries and contemplate possible changes to § 11-3-34 of the Whitefish City Code, including, but not limited to, increasing the distance dispensaries are required to be from places of worship and schools and/or requiring a full conditional use permit for new dispensaries.

Section 3: This interim zoning ordinance shall remain in effect for six months from the date of its adoption unless, after notice and pursuant to public hearing, the City Council extends the ordinance as allowed by § 76-2-306(3), MCA.
Section 4: In the event any word, phrase, clause, sentence, paragraph, section, or other part of the interim ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 5: This interim ordinance shall take effect immediately upon its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof. No second reading shall be required.


______________________________
John M. Muhlfeld, Mayor

ATTEST:

______________________________
Michelle Howke, City Clerk
MEMORANDUM

To: Mayor Muhlfeld and City Council

From: David Taylor, AICP, Angela Jacobs, City Attorney

Date: February 14, 2023

RE: Marijuana Facilities Interim Ordinance

Mayor Muhlfeld and Councilors,

At a recent work session on February 6 regarding marijuana facilities, the City Council directed staff to bring back an Interim Zoning Ordinance on February 21 that would prohibit marijuana facilities for six months so the council and staff have time to further study the issue and look at increasing setbacks and/or changing permitting procedures. Attached is the draft Interim Ordinance prepared by the City Attorney.

The City Council made recreational marijuana facilities legal December of 2021. Since then, eleven conditional use permits have been granted, with five of those open for business. At the work session, Council members voiced concern about the proliferation of marijuana dispensaries throughout Whitefish, and about the setback requirements from schools and churches. Currently the city zoning regulations defer to the State of Montana Department of Revenue setback standards whereby a dispensary could go in next to a school or church if the address and front doors are on different streets, with the exception that current marijuana ordinance also prohibits dispensaries on Spokane Avenue between Railway Street and East Second Street.

Interim Ordinances must meet the following criteria under the Montana Code Annotated:

76-2-306. Interim zoning ordinances. (1) Except as provided in 76-2-340, the city or town council or other legislative body of the municipality, to protect the public safety, health, and welfare and without following the procedures otherwise required prior to the adoption of a zoning ordinance, may adopt as an urgency measure an interim zoning ordinance prohibiting any uses that may be in conflict with a contemplated zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time.

(2) An interim zoning ordinance may be applicable only within the city limits and up to 1 mile beyond the corporate boundaries of the city or town and takes
effect upon passage if a hearing is first held upon notice reasonably designed to inform all affected parties. A notice must be published in a newspaper of general circulation at least 7 days before the hearing.

(3) An interim zoning ordinance is no longer in effect 6 months from the date of its adoption. However, after notice pursuant to 76-2-303 and pursuant to public hearing, the legislative body may extend the interim zoning ordinance for 1 year. Any extension requires a two-thirds vote for passage and becomes effective upon passage. No more than two extensions may be adopted.

Staff recommends the City Council discuss any issues related to marijuana facilities and their locations as well as the pros and cons of adopting the attached interim ordinance, and then vote on whether you wish to approve it. If approved, staff will schedule a work session in April for the Council to further study and discuss the matter and review staff recommendations based on your direction.
(This page left blank intentionally to separate printed sections)
February 14, 2023

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

RAISE Grant Application for a
Portion of the Whitefish Promenade

INTRODUCTION/HISTORY
The Downtown Business District Master Plan (Downtown MP) was updated in 2015 to identify opportunities to increase the vitality of the downtown business district and outline the components that will make this vision a reality. The Vision Statement of the 2017 Connect Whitefish Bike & Pedestrian Master Plan (Bike/Ped MP) calls for a connected and continuous network of well-maintained bicycle and pedestrian facilities liking key destinations. The 2022 Whitefish Transportation Plan focuses on livability and prioritizes multimodal transportation and promotes walkability.

The City went through an exhaustive public process when drafting all three plans, which included stakeholder meetings, public workshops, and consultation with agencies such as the Montana Department of Transportation (MDT). Improvements along Spokane Avenue between E. 2nd St. and Railway St. are identified in all three plans as a critical bicycle and pedestrian link.

To finance this project, the City has identified US DOT’s RAISE Discretionary Grant Program which helps communities build transportation projects that have significant local or regional impact and improve safety and equity. RAISE projects are reviewed and evaluated on statutory criteria of safety, environmental sustainability, quality of life, mobility, and community connectivity.

CURRENT REPORT
The concept for this section of Spokane Avenue from the Downtown MP has been included for reference in your packet. The primary goal of the project will be to complete a missing link in the Whitefish Promenade on Spokane Avenue from E. 2nd to Railway. The project will include a bi-directional protected bikeway between E. 2nd and Railway and maintain all travel lane
configurations. Two concepts are shown for the section between 1st and Railway. The first concept replaces the angled parking on the east side of Spokane Ave. with parallel parking. The alternate concept maintains angled parking on the east side of Spokane Ave. between 1st and Railway but requires an easement from the Whitefish School District.

The Bike/Ped MP clearly establishes that the citizens of Whitefish desire improvements to connectivity and safety in the community’s shared-use path network. Projects to improve both connectivity and safety are presented in the plan. This proposed section of the Whitefish Promenade is identified as Project C29 on the Tier II connectivity improvement project list.

As part of the 2022 Transportation Plan, multimodal projects were scored on four important benchmarks – active transportation, safety, congestion reduction, and connectivity. The Whitefish Promenade was the number one ranked cycletrack identified in the Transportation Plan.

FINANCIAL REQUIREMENT
The Federal share of the costs of an eligible project carried out using a grant provided under the RAISE grant program shall not exceed 80%, unless the project is in a rural area, a historically disadvantaged community (HDC), or an area of persistent poverty (APP). While Whitefish is considered a rural area, to be more competitive with the state-wide pool of projects, staff is recommending a split of 80% RAISE funds (80%) and 20% City funds.

RECOMMENDATION
With the sections of Promenade completed to the north and south, this project will provide a seamless connection to Depot Park facilities and events, Central Avenue, downtown, and the transit center. This Project will complete a critical link in the City’s bicycle/pedestrian facilities. This project is listed as a priority in the Bike/Ped Master Plan as well as the Downtown Master Plan, the creation of which included extensive public outreach and a thorough public vetting.

Based on these factors, it is the recommendation of the Public Works Department that Council authorize staff to proceed with the grant application as discussed in this report committing a local match of approximately 20% of total project costs.

Sincerely,

Craig Workman, P.E.
Director of Public Works
Whitefish Promenade–Spokane Avenue
(Second to Third Street Concept)

The concept diagram illustrates the improvement characteristics and locations of all key elements within the existing right-of-way for a typical segment of Spokane Avenue of the Whitefish Promenade from Second to Third Street. This segment includes a bi-directional protected bikeway and new sidewalks. This design concept may vary at intersections and driveways. The design should:

- Maintain the existing curb line location on the west side of the street and existing travel lanes
- Include a new 10’ wide bi-directional off-street asphalt protected bikeway on the east side of the street.
- Include a new sidewalk on the east side of the street which will require an easement or right-of-way acquisition from 4’ to 11’ of from the adjacent property.

[Diagram of the Whitefish Promenade–Spokane Avenue concept]
Whitefish Promenade—Spokane Avenue
(Second to Third Streets)

No Changes

Notes:
- The existing ROW is 68' and will require a 4' to 11' acquisition of ROW or easement for the promenade and sidewalk improvements
- Additional width may be required to accommodate traffic signal poles, control boxes fire hydrants, etc.
Whitefish Promenade–Spokane Avenue Protected Bikeway Preferred Concept (Second to Railway Street)

The concept diagram illustrates the improvement characteristics and locations of all key elements within the existing right-of-way for a segment of Spokane Avenue of the Whitefish Promenade, from Second to Railway Street. The preferred concept includes a bi-directional protected bikeway throughout and maintains all travel lane configurations. The design should:

- Be constructed within the existing 78’ right-of-way with the exception of relocating the sidewalk outside of the right-of-way in order to preserve existing trees in front of the Middle School.
- Provide a 10’ wide bi-directional asphalt protected bikeway on the east side of the street which will replace curbside parking south of First Street and convert angled parking to parallel parking north of First Street.
- Construct the protected bikeway either at-grade with the existing sidewalk or at-grade with the roadway.
- Require a bicycle ‘dismount’ zone at the intersection of First and Baker to avoid pedestrian and bicycle conflicts.
- Provide driveway access to disabled-person parking and vehicle loading areas adjacent to Central School.
- Include a 6” raised door zone (3’) between the parallel parking north of First Street and the bi-directional protected bikeway.
- Dedicate school parking spaces in the city parking lot.
Whitefish Promenade—Spokane Avenue
Protected Bikeway Preferred Concept
(First to Railway)

Note:
- The existing northbound travel lane is reduced from 13'-6” to 11'
Whitefish Promenade–Spokane Avenue Multi-Use Trail/
Protected Bikeway Alternative Concept
(First to Railway Street)

The concept diagram illustrates the improvement characteristics and locations of all key elements within the existing right-of-way for a segment of Spokane Avenue of the Whitefish Promenade, from First to Railway Street. This segment includes the combination of a multi-use trail and a bi-directional protected bikeway. It maintains all travel lane configurations and widths between Second and Railway Streets. The design should:

From Second to First:
- Match the improvements identified for the preferred protected bikeway alternative concept

From First to Railway:
- Include a 12’ wide asphalt multi-use trail replacing the existing sidewalk north of First Street to Railway Street
- Maintain angled parking
- Requires an 8’ easement on the east side of the street from First to Railway from the Middle School and library parcels
- Include a 6” raised door zone (3’) between the existing angled parking and the multi-use trail
- Maintain the existing parking, travel lanes and sidewalk conditions on the west side of the street
Whitefish Promenade—Spokane Avenue
Multi-Use Trail/Protected Bikeway Alternative Concept (First to Railway)

Note:
- Requires 8’ easement or right-of-way acquisition along the Middle School and library parking lot
Depot Park (Spokane to Baker Avenue Concept)
The concept diagram illustrates improvement characteristics and locations of all key elements within public areas for a segment between Spokane Avenue and Baker Avenue. The design should:
- Include a 12’ wide multi-use trail as indicated
- Preserve existing trees within Depot Park
- Require removal of curbside parking along the O’Shaughnessy frontage
- Include a landscaped separation between the O’Shaughnessy public restroom and the multi-use trail to minimize conflicts between pedestrians and cyclists
Whitefish Promenade—Depot Park Route

- **O’Shaughnessy Center Expansion**
- **12’ Multi-Use Trail**
- **Existing Parallel Parking**
- **‘Door’ Zone (3’)**
- **Diagonal Multi-Use Trail Crossing**

- **Preserve Existing Trees**
- **Maintain Existing Curbline**
- **Provide a Landscaped Separation Between the Public Restroom and Multi-Use Trail**
- **Remove Curbside Parking and Widen Sidewalk for 12’ Multi-Use Trail**
PROJECT INTEGRATION

When planning for a comprehensive transportation network it is important to consider projects that include the construction or expansion of bicycle and pedestrian infrastructure as integral and plan for facility upgrades in concert with transportation safety measures (TSM) and major street network (MSN) improvements. This approach results in cost efficiencies and minimizes unnecessary repairs or reconstruction of recently installed facilities, capitalizing on project overlap that minimizes construction length and leads to better results.

Through extensive analysis this plan identified priority projects overlapping specific MSN infrastructure needs in Whitefish. When compared to the bicycle and pedestrian connections analyzed in this chapter, intersecting priorities and project opportunities began to emerge. The corridor infrastructure projects that correlate with high-scoring bicycle and pedestrian improvements are identified in Table 8.3. Projects on Armory Road and Karrow Avenue are not listed as they have already been programmed as Resort Tax reconstruction projects.

Table 8.3: MSN and Active Transportation Priority Project Correlation

<table>
<thead>
<tr>
<th>RANK</th>
<th>PROJECT IDENTIFIER</th>
<th>PROJECT DESCRIPTION</th>
<th>MSN PROJECT ALIGNMENT</th>
<th>PRIORITY DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CT1</td>
<td>Highway 93 – Sixth Street to Railway Street</td>
<td>MSN 16</td>
<td>Construct cyclestracks on Highway 93.</td>
</tr>
<tr>
<td>2</td>
<td>SP5</td>
<td>Highway 93 – West of Mountainside Drive</td>
<td>MSN 1</td>
<td>Continue the shared use path to the west of Whitefish city-proper along Highway 93, connecting users from downtown to the Lion Mountain trail system and developments west of town to the community.</td>
</tr>
<tr>
<td>3</td>
<td>SW3</td>
<td>Eighth Street – Highway 93 to Park Ave.</td>
<td>MSN 41</td>
<td>Complete the sidewalk network (both north and south sides of street) along Eighth Street, to serve the proposed SRTS network identified on the east side</td>
</tr>
<tr>
<td>4</td>
<td>BL5</td>
<td>Fifth Street – Highway 93 to Pine Ave.</td>
<td>MSN 53</td>
<td>Construct protected bike lane facilities on both sides of Fifth Street (with potential to convert into shared use path), to serve the proposed SRTS network identified on the east side</td>
</tr>
<tr>
<td>5</td>
<td>SW1</td>
<td>Sixth Street – Highway 93 to Pine Ave.</td>
<td>MSN 29</td>
<td>Complete the sidewalk network (both north and south sides of street) along Sixth Street, to serve the proposed SRTS network identified on the east side</td>
</tr>
<tr>
<td>6</td>
<td>SP2</td>
<td>Denver Street – Wisconsin Ave. to Texas Ave.</td>
<td>MSN 37</td>
<td>Construct a shared use path along one side of Denver Street, to serve the neighborhoods east of Wisconsin Avenue, providing a direct link to a transit stop as well as connectivity to the Wisconsin Avenue shared use path.</td>
</tr>
<tr>
<td>7</td>
<td>SP34</td>
<td>Seventh Street (Spokane to Pine)</td>
<td>MSN11</td>
<td>Construct a shared use path as part of the new road/connection construction extending Seventh Street (Spokane to Kalispell) all the way from Pine to Highway 93 (bike lanes currently exist on Seventh between Columbia and Pine).</td>
</tr>
<tr>
<td>8</td>
<td>SW14; SP39</td>
<td>Park Avenue (Voerman to 8th)</td>
<td>MSN 35</td>
<td>Construct a shared use path on one side of Park Avenue to serve the neighborhoods south of the schools. Provides a direct link between workforce housing, schools and town.</td>
</tr>
</tbody>
</table>

Beyond the notable alignment between top scoring bicycle and pedestrian projects and key MSN projects, nearly all of the proposed MSN improvements correspond to a project involving bicycle or pedestrian facilities. This emphasizes the importance of consistent and holistic integration of multi-modal facilities in transportation improvement projects.
<table>
<thead>
<tr>
<th>NO.</th>
<th>NAME &amp; DESCRIPTION</th>
<th>TYPE</th>
<th>LENGTH (ft)</th>
<th>APPRX COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>C25</td>
<td>Dakota Ave Trail Extension</td>
<td>Shared Use Path</td>
<td>1,014</td>
<td>$138,000</td>
</tr>
<tr>
<td></td>
<td>Extend Shared Use Path along Dakota Ave from Marina Crest Ln to Labrie Dr.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C26</td>
<td>Monegan Rd Trail</td>
<td>Shared Use Path</td>
<td>1,490</td>
<td>$203,000</td>
</tr>
<tr>
<td></td>
<td>Construct Shared Use Path adjacent to Monegan Rd from existing path to Voerman Rd when Monegan Rd is reconstructed.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C27</td>
<td>Cow Creek Trail</td>
<td>Urban Trail</td>
<td>8,743</td>
<td>$131,000</td>
</tr>
<tr>
<td></td>
<td>Construct Urban Trail from Creekwood Park to Willowbrook Subdivision to E. 2nd St. Plan for future Shared Use Path.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C28</td>
<td>Baker Park Connection</td>
<td>Shared Use Path</td>
<td>373</td>
<td>$51,000</td>
</tr>
<tr>
<td></td>
<td>Construct Shared Use Path connecting corner of Central Ave and 5th St, across Baker Park, to River Trail crossing on Baker Ave.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C29</td>
<td>Whitefish Promenade - 2nd St to Railway St</td>
<td>Raised Cycle Track</td>
<td>737</td>
<td>$100,000</td>
</tr>
<tr>
<td></td>
<td>Construct a two-way cycle track adjacent to sidewalk on east side of Spokane Ave from E. 2nd St to Railway St, as shown on page 45 of the 2015 Whitefish Downtown Business District Master Plan.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C30</td>
<td>Whitefish Promenade - 7th St to 2nd St</td>
<td>Cycle Track</td>
<td>1,998</td>
<td>$272,000</td>
</tr>
<tr>
<td></td>
<td>Construct a two-way cycle track adjacent to Spokane Ave (US Hwy 93), as shown on pages 40-42 of the 2015 Whitefish Downtown Business District Master Plan. Connect to Whitefish River Trail and 7th St Bikeway.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C31</td>
<td>Fir Ave Sidewalks</td>
<td>Curb &amp; Sidewalk</td>
<td>852</td>
<td>$47,000</td>
</tr>
<tr>
<td></td>
<td>Curb and sidewalk on west side of Fir Ave from E. 4th St to E. 2nd St, and on east side of Fir Ave from E. 3rd St to E. 2nd St.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C32</td>
<td>E. 4th St Sidewalks</td>
<td>Curb &amp; Sidewalk</td>
<td>670</td>
<td>$37,000</td>
</tr>
<tr>
<td></td>
<td>Curb and sidewalk on south side of E. 4th St from Fir Ave to Willowbrook.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C33</td>
<td>E. 6th St Sidewalks</td>
<td>Curb &amp; Sidewalk</td>
<td>1,378</td>
<td>$76,000</td>
</tr>
<tr>
<td></td>
<td>Curb and sidewalk on E. 6th St from Kalispell Ave to Pine Ave.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C34</td>
<td>Park Ave Sidewalks</td>
<td>Sidewalk</td>
<td>3,046</td>
<td>$94,000</td>
</tr>
<tr>
<td></td>
<td>Add sidewalks to both sides of Park Ave from E. 4th St to E. 8th St.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(This page left blank intentionally to separate printed sections)
MEETINGS
On Tuesday, February 7th, Finance Director Gospodarek and I attended the Economic Outlook Seminar hosted by the University of Montana’s Bureau of Business and Economic Research. This year’s topic was focused on *The Future of Montana: What the New Wave of In-Migration Means for the State*. There was an extensive amount of information and data provided during the seminar that truly shows the impact of remote workers and the increased demand for housing in Montana, which leaves the question of how to manage growth. There is also a more cautious outlook as a slow-down or recession, caused by the Federal Reserve rate increases, is expected in the coming year that will likely impact the more interest rate sensitive sectors.

The Wave Board met on February 9th. The Wave has made a comeback from the challenges of the pandemic with the number of members and daily visits at an all time high. The Wave Board and management are working on various improvement project to enhance and improve the member experience.

2023 MONTANA LEGISLATIVE SESSION
The 2023 Montana Legislative Session is moving full steam ahead with hundreds of bills introduced (345 Senate bills & 543 House bills) and thousands of drafts requested (4,607) as of the date of this report. Below is a list of bills that could significantly impact the City that we are supporting or opposing. There are hundreds more that are being monitored at this time. To look up specific bills visit:

**SB 105 – Prohibit Rent Control of Private Property.** This bill prohibits a local government from enacting, maintaining, or enforcing an ordinance or resolution that would have the effect of controlling the amount of rent charged for private residential or commercial property. Even though rent control is already preempted by the State, the City opposes this bill based on principle. The bill was amended and passed through the Senate Business, Labor, and Economic Affairs Committee and Senate. The bill has been transmitted to the House.

**SB 125 – Limit Certain Property Tax Levies to 5 Years without Reapproval.** The original draft would limit voted mill levies to 5 years. The City currently has a perpetual 24-mill voted levy for 24/7 fire protection. Amendments have been proposed that would exclude voted mill levies for law enforcement, fire protection, search and rescue, water, wastewater, storm water, and solid waste. If passed, the effective date is set for January 1, 2024, and applies only to mill levy elections held on or after that date. While the amendments are in the right direction, voted levies for parks,
open space (excluding bonding), and libraries would now be limited. The City opposes SB 125. A hearing was held January 31st in the Senate Taxation Committee. Executive action is pending.

SB 142 – Provide Oversight of Local Impact Fee Laws. Sponsored by Senator Regier, this bill was the product of the City’s ongoing class action lawsuit with many of the items directly related to the specific complaints. Senator Mandeville provided amendments to SB 142, which were approved in the Senate Local Government Committee and subsequently by a majority of the Senate. The amendment eliminated most of the proposed changes, especially those changes that would make impact fees simply ineffective as a funding source for projects driven solely by new development. SB 142 has been transmitted to the House. The City will continue monitoring this bill moving forward.

SB 145 – Property Tax Relief from State Lodging and Facilities Use Tax. SB 145 is sponsored by Senator Regier. This bill would provide 50% of the sales tax on lodging and the lodging facilities use tax currently retained for marketing by the State to local governments to reduce property taxes. Thus, the City would be allocated 30.15% of the State lodging and facilities use tax collected in Whitefish City Limits for property tax relief. The impacts of these new funds would be accounted for in the City’s property tax levy limitations, including the potential reductions of future collections. Furthermore, it retains the amount allocated to the Whitefish Convention & Visitors Bureau. Whitefish taxpayers would directly benefit from the passing of this bill. The City supports SB 145 and provided testimony at the hearing. Currently it is waiting executive action by the Senate Taxation Committee. The hearing was held January 19th.

SB 159 – Restrict use of Eminent Domain. This bill would prohibit the use of eminent domain for trails and paths for walking, hiking, bicycling or equestrian use. The City provided testimony in opposition to SB 159. The Senate Judiciary Committee and Senate have approved the bill and it has been transmitted to the House.

SB 215 – Revise DEQ rule ARM 17.36.328 to Require Connection from Proposed Subdivision. SB 215 would change the connection requirement of a subdivision from 500 feet to 1000 feet of a public water or wastewater system and require that the system accepts the connection. The City is currently monitoring this bill, which was approved by the Senate and transmitted to the House.

SB 206 – Exempt Certain Cell Phone Use from Local Ordinances. If passed, this bill would require a change to the City’s current ordinance to allow the use of a cell phone while driving for voice communications. In other words, the City would only be able to restrict texting while driving. The City opposes this bill. The bill has passed through the Senate and has been transmitted to the House.

SB 245 – Revise Municipal Zoning to Allow Multifamily and Mixed-Use Development. SB 245 would require as a permitted use multifamily and mixed-use developments in commercial zones with no parking requirements, a maximum height of 40 feet, and setbacks equal to the smallest setbacks in the City. The City provided written testimony opposing this bill at the hearing on February 8th and executive action is still pending.

SB 262 – Generally Revise Licensing Requirements. This bill would essentially eliminate the City’s business licensing program. As proposed, this bill would prohibit any additional licensing
requirements at the City level for which a license is required by the State. There are many types of businesses and professions licensed by the State including public accommodations, bars, restaurants, CPAs, etc. The City provided written testimony opposing this bill for the February 8th hearing, but the bill passed through the committee on February 14th. We will continue to oppose this bill as it moves through the Senate and House.

SB 268 – Short-term Rentals. This bill was introduced by Senator Hertz on February 3rd. As currently drafted, short-term rentals would be deemed a residential use and would have to be expressly prohibited in zoning. However, zoning could not prohibit the short-term rental of a property owner’s primary residence or a property adjacent to the owner’s primary residence. Amendments to the bill were proposed to Senator Hertz to clarify that the adjacent properties must be on separate lots and therefore would not include accessory dwelling units or guest houses on the same parcel as the owner’s primary residence, but no amendments have been made. The definition of primary residence is still unknown, but clarification has been requested. Based on other bills it would likely be considered a primary residence for any owner who resides in the home for at least 7 months. The City opposes this bill as drafted and intends to submit written testimony for the hearing on February 20th, as well as have our lobbyist attend in person.

SB 291 – Revise Threshold for Approval for Certain Bond Elections. SB 291 proposes changes the voter approval for bond elections from a majority vote to a required 40% turnout for majority approval or a 60% approval rate if there is a 30% voter turnout. Anything less than 30% is consider a failed election. While no immediate impact to the City is of concern, future bond elections could be affected. The City will oppose this bill on February 15th through our lobbyist at the Senate Taxation Committee.

SB 292 – Revisit Threshold for Approval for a Mill Levy Election. Much like SB 291, this bill proposes changes the voter approval from a majority vote to a required 40% turnout for majority approval or a 60% approval rate for a 30% voter turnout for mill levy elections. While no immediate impact to the City is of concern, future mill levy elections could be affected. The City will oppose this bill on February 15th through our lobbyist at the Senate Taxation Committee.

SB 301 – Revise Property Laws Related to Lakeshore Regulations. SB 301 would grandfather structures within the lakeshore protection zone that were in place on or before January 1, 2023, unless active enforcement was taking place by a local government. Furthermore, it allows ongoing maintenance, remodeling or minor modification that costs less than $10,000 and does not involve significant excavation or in-fill of material. The City will submit written testimony for the Senate Local Government Committee hearing scheduled for January 20th.

SB 323 – Allow for Duplex, Triplex, and Fourplex Housing in City Zoning. This bill is much more impactful for communities with a population of 50,000 or more as it would require zoning regulations for all duplexes, triplexes, and fourplexes to be no more restrictive that that of a single-family residence. For cities with a population of at least 5,000, which applies to Whitefish, zoning regulations cannot be more restrictive for duplex housing than those applicable to single-family homes. Currently we are monitoring this bill but may oppose it on the basis of local control at the February 20th hearing with the Senate Local Government Committee.
HB 76 – Generally Revise Transportation Laws. This bill reduces the administrative burden of the State’s fuel tax and the local government allocations, including the Bridge and Road Safety and Accountability Act that was established in 2017. The City supports this bill which passed the House Transportation Committee and the House. The Senate Highways and Transportation Committee also approved this bill which will be heard on the floor of the Senate in the coming days.

HB 206 – Generally Revise Mill Levy Election Laws. Similar to SB 125 above, this bill aims to limit voted mill levies to 5 years. Amendments were made to exclude law enforcement, fire protection, search and rescue, water, wastewater, storm water, and solid waste. This bill does go further, though, by proposing requirements for a percentage of voter turnout and the percentage that would represent a majority vote for passage. The City’s lobbyist attended the hearing on January 18th and opposed the bill on behalf of the City. This bill was tabled in the House State Administration Committee on January 26th and is likely dead. There are similar bills sponsored by Senator Hertz (SB 291, 251 and 292).

HB 226 – Generally Revise Pension Laws. HB 226 would increase the employer (city) contributions to the Public Employees Retirement System (PERS) to ensure it is fully funded. While we are not opposed to an actuarially determined sound retirement plan, this bill does not allow for the necessary financial planning for cities as rates could significantly be adjusted in any given year. A hearing was held on January 23rd in the House State Administration Committee. The City opposes HB 226. However, the City does support SB 29 that continues the 0.10% increase each year for another 10 years to work toward a sound retirement system. SB 29 passed the Senate Finance and Claims Committee, as well as the Senate. A hearing was held on February 13th in the House Appropriations Committee. Executive action is pending.

HB 244 – Revise Laws Governing the Housing Montana Fund. This bill, sponsored by Representative Fern, removes restrictions and income requirements for loans from the Housing Montana Fund. The City supports this bill, which passed out of the House and was transmitted to the Senate. We will continue to support and monitor this bill.

HB 324 – Local Government Expenditure Limitation. HB 324 would limit local government expenditure growth to the total amount expended by the local government entity in the prior fiscal year or the sum of the average inflation rate of the prior 3 years plus the average population growth rate of the local government entity for the prior 3 years multiplied by the amount of money expended in the prior fiscal year for cities of the first class (10K population or more). To exceed these limitations a local government would have to pass a resolution and submit to the electors the question to approve the amount above the expenditure limit. The City strongly opposes this bill and submitted testimony for the February 9th hearing in the House Local Government Committee. Executive action is pending.

HB 337 – Revise Municipal Zoning Laws to Prohibit Certain Minimum Lot Sizes. The City strongly opposes HB 337 which would decrease the minimum lot sizes across the entire city to 4,000 sq. ft. (or 2,500 sq. ft. with setbacks and lot coverage applied). Currently our minimum lot size for single family is 6,000 sq. ft. and 3,600 sq. ft. for an attached zero lot line townhome. The proposed changes in HB 337 are contrary to the State of Montana’s requirements for local Growth Policies, where growth is planned and prepared for in an orderly and sustainable manner. It also
raises compatibility issues with existing neighborhoods and is not consistent with our concurrency policies that require adequate infrastructure for areas of urban growth. The City submitted written testimony and our lobbyist attend to provide brief testimony at the hearing on January 31, 2023, in the House Local Government Committee. No executive action has been taken.

**HB 369 – Require Referendum to Adopt Growth Policy.** HB 369 would require a special election to adopt or revise a growth policy. The City opposes HB 369. There is already ample opportunity for the public to provide input on the adoption of a growth policy or amendment. Furthermore, to hold a special election there would be an added cost, upwards of $10,000. The law already provides a petition for initiative or referendum with signatures from 15% of qualified electors of the area covered by the growth policy should there be concerns with the growth policy of a community. This bill was introduced on January 31st and referred to the House Local Government Committee. The City provided testimony opposing this bill at the hearing on February 9th. Executive action is pending.

**HB 370 – Revise Resort Tax Eligibility and Allow Use for Workforce Housing.** This bill, sponsored by Representative Fern, does not change the City’s Resort Tax. However, it would provide an opportunity for Whitefish to add an additional 1% in the future specifically for infrastructure or workforce rental housing (defined as a development providing 20% or more of the units with rent restricted to 60% to 120% AMI). It also increases the population of a resort community to a city of the second or third class or less than 5,500. It’s important to note that the additional 1% for infrastructure that passed during the last legislative session excluded Whitefish due to our population. HB 370 proposes to eliminate that requirement. The City supports HB 370 which was referred to the House Taxation Committee. A hearing was held on February 10th and the bill was tabled in Committee by a 21-0 vote. This bill is likely dead.

**HB 407 – Provide for Affordable Housing Tax Abatements.** HB 407, sponsored by Representative Fern, provides that a local government may provide a program for property tax abatements for affordable multifamily rental housing. This is a possible new tool for the City in addressing affordable housing. The City provided support at the hearing on February 14th. Executive action is pending.

**HB 430 – Establish a Rent Local Program Funded with Tax on Short-term Rentals.** This bill would create a new tax on short-term rentals that would be collected and administered by the State. The tax collected would be remitted to local jurisdictions in which the short-term rental operates if the governing body creates and administers a rent local program. Up to 5% of the tax collected may be retained by the State for administrative costs. The program requirements would be determined at the local level with certain parameters such as a 1-year lease. The City is a proponent of this bill and will provide supportive testimony on February 17th at the House Taxation Committee meeting.

**HB 465 – Revise Local Government Acceptable Use of Building Permit Fees.** The City supports HB 465 that would increase the maximum fund balance limit from 12 months to 36 months, as well as eliminate the need for a separate audit. The City will provide written testimony in support of the bill for the hearing in front of the House Local Government Committee on February 21st.
NEXT CITY COUNCIL MEETING
The next City Council meeting is scheduled for Monday, March 6th, in the City Council Chambers with remote participation available to the public. A special session is tentatively scheduled to hold committee interviews. A work session will immediately follow to discuss the proposed landscaping regulations update.

Respectfully submitted,

Dana M. Smith, CPA
City Manager
(This page left blank intentionally to separate printed sections)
Feb 1   Finance Director begins updating budget spreadsheets and budgeting software, updating historical budget data, and estimating final year end revenues and expenditures for FY23 and forecasting revenues for FY24.

Feb 21  Council adopts Budget Calendar.

Feb 28  Finance Director submits budget and capital improvements plan preparation instructions and materials to all Department Directors.

March  City Manager meets with Mayor and Council members to get preliminary comments on budget.

April 1  Optional notice deadline for City Council or Municipal Judge to submit request for an adjustment in Municipal Judge’s compensation other than automatic cost of living. (Ordinance)

April 3  All Department Directors submit individual updated 5-year capital improvements plan and estimates of expenditures and revenues to the Finance Director.

April 10 Finance Director to submit draft of newly compiled 5-year capital improvements plan to City Manager.

April Throughout the month City Manager and Finance Director meet with Department Directors to review and refine proposed budget and capital improvements plan.

May 1   City Manager to provide Municipal Judge with proposed “status quo” Municipal Court Budget.

May 1   Preliminary budget document and 5-year capital improvements plan is distributed to the Mayor and City Council.

May 15  Municipal Judge’s deadline to submit the Municipal Court budget proposal. (Ordinance)

May 30  Tentative Budget Meeting - City Manager presents proposed budget to Mayor and City Council. Department Directors, other than Public Works, present budgets and capital improvements plan updates.

June 12  Tentative Budget Meeting – Public Works and Municipal Court present budgets and capital improvements plan updates.

June 19  Preliminary public hearing. City Council considers adoption of Preliminary Budget.

July 1   City begins fiscal year using preliminary budget as approved by the City Council.

August 7 DOR to submit Certified Taxable Value to City and Finance Director to update Property Tax Budget.

August 9 & 16 Advertise notice of public hearing on final budget for August 21, 2023.

August 21 Public hearing on capital improvements plan and FY24 Budget. Final budget adopted by resolution.
February 14, 2023

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

Mayor Muhlfeld and City Councilors:

On behalf of the North Valley Music School (NVMS) staff and Board of Directors, I am submitting this request for approval on our building plans for our new facility. Included in this packet are the following documents:

1. Letter from Project Whitefish Kids
2. Approval letter from the City of Whitefish’s ARC review committee
3. Site plan and survey
4. Facility description and narrative (from ARC review submission)
5. Building renderings, elevation drawings, floor plan
6. Landscape plans and planting guides

NVMS is celebrating its 25th year of providing quality, affordable music education to students of all ages. It is the only non-profit community music school in Montana. Its merits and importance are long and clearly established. We are humbled and grateful for the support we have received from the City of Whitefish, Project Whitefish Kids, and our community, and are looking forward to breaking ground late this summer.

Thank you for considering our request and please do not hesitate to contact me for additional information.

Respectfully,

Christine Rossi
North Valley Music School Board Chair
christine@rossi1.com
Dear City Council and Staff,

Project Whitefish Kids has been working diligently for the last 26 years to provide playing fields for the Flathead Valley youth soccer, lacrosse, baseball, and softball teams. Our mission is to serve the youth and families of our community by providing a safe recreational facility and green space that creates active outdoor opportunities to promote health, well-being, and relationships. Over the years this mission has taken many forms. We pride ourselves as a nonprofit that we continue to listen to the needs of our community.

Most recently, the North Valley Music School approached us asking if they could join our campus. We felt the addition of a music school that also serves our community youth furthers our mission of serving our local families. The concept of music and sports being available at the same location is an exciting partnership.

We look forward to the developing partnership between two nonprofits who are both serving our community youth. This partnership will create new opportunities for our kids.

NVMS has put a lot of time and effort into developing a building design that serves the needs of their students, staff, the sports fields, and the surrounding neighborhood including a multi-use path. We recommend approval of the building as designed.

Thank you for your consideration,

Gloria Nelson
Executive Director Project Whitefish Kids

Don Bestwick
Board President Project Whitefish Kids
February 10, 2023

Dana Smith  
City of Whitefish  
PO Box 158  
Whitefish, MT 59937

RE: North Valley Music School, River Lakes Parkway (ARC 23-05)

Dear Ms. Smith:

The Architectural Review Committee (ARC) met on February 7, 2023, to review the North Valley Music School. At the meeting, the ARC approved the application as submitted.

This permit is valid for 18 months; a building permit must be submitted before August 7, 2024. Appeals of this decision must be filed pursuant to Section 2.11 of the Architectural Review Standards. Attached please find the draft Committee minutes. If you have any further questions, please feel free to call me at 863-2418.

Sincerely,

/s/ Wendy Compton-Ring

Wendy Compton-Ring, AICP  
Senior Planner

C: Building Department  
Christine Rossi, North Valley Music School, 432 Spokane Avenue Whitefish, MT 59937  
Karen Knauss, LSW Architects 471 Electric Avenue Bigfork, MT 59911
Exhibit "C"

EXHIBIT A
In Gov’t Lot 2 SEC. 7 & SW1/4NW1/4 SEC. 8, T.30N., R.21W., P.M.,M., CITY OF WHITEFISH, FLATHEAD COUNTY, MONTANA

SCALE: 1” = 200’

LEGEND:

- Found 1/2” Rebar & Cap (79755)
- (R) Record Information Per COS 14001
- POB Point of Beginning

City Council Packet, February 21, 2023 Page 277 of 305
Facility Description and Narrative from ARC review submission
North Valley Music School | LSW Architects

Description of Project
The proposed building is a new single-story building for North Valley Music School a 501(C) (3) non-profit—the only non-profit community music school in Montana. The building is expected to be approximately 8,100 sf with spaces for teaching, practice, recital, administrative, and utility spaces. The site is an unbuilt approximately 2-acre lot on River Lakes Parkway in Whitefish. The initial programmatic goals are:

- 14 music studios
- Multi-purpose recital space with space for 100 non-fixed seats
- Reception area with two offices
- Multi-purpose classroom
- Conference room
- Staff Break room
- 2 practice rooms
- Green room
- Related storage, mechanical services, restrooms, and circulation spaces.

Review Criteria
1. Describe how the site plan will meet the general objectives and the specific standards in 6.1 (Residential District).
   Site:
   - The site and associated landscape and parking areas are designed in accordance with applicable City standards, including the Architectural Review Standards and the City of Whitefish Zoning Code. The parking area provides adequate green/open space to offset the necessary paved parking areas to serve the buildings proposed use.
   - Pedestrian access to the site is provided with a sidewalk connection to the public ROW, a shared use path located along the property’s southern boundary, and multiple walking paths and sidewalks internal the site and around the building. The proposed crosswalk at the entrance to the site encourages pedestrian access to and through the property from neighboring developments.
   - No fencing is proposed as a part of this project. The site’s design encourages and strives for open and accessible areas to allow for users to enjoy the plentiful views.
   - Adequate snow storage is provided along the property’s eastern boundary.
   - The development is served by two vehicular access points which allow for an efficient traffic flow through the property and minimizes backing up of vehicles as students are dropped off and picked up. The site utilizes an existing driveway to Smith Fields complex as an access to the Site, which also encourages connection to neighboring properties and land uses.

In addition, describe how the project will meet the requirements for:
   a. Landscaping
      The landscape has been designed in accordance with the Landscape Design Standards as set by section 6.2 of the Architectural Review Standards and the City of Whitefish Zoning Code, Chapter 4. Landscape has been integrated into the design to provide usable spaces and promote usability of the
site. Landscape plantings directly adjacent to the building include a mix of shrubs, perennials, and grasses to enhance the architecture and to reflect the character of the residential district and surrounding properties, while meeting the needs of the school-use of the building, minimizing the requirements for maintenance wherever possible. A low-mow grass mix is being utilized around the majority of the site to further limit maintenance requirements and water usage. More formal lawn areas are strategically placed in areas of high use. Existing trees on site are all to remain, but one that must be removed to accommodate drainage off of the northeast corner of the building. Oversized dry-stack stone, to match the architecture of the building will be used to provide wall elements in the landscape and will double as seating.

b. Parking & Site

The proposed parking area, on the eastern side of the site will be designed in accordance with City of Whitefish Standards for Design and Construction Chapter 6 of the City of Whitefish Zoning Regulations, and Section 6.3 of the ARC Standards. The parking area has several landscape islands to soften the visual impact and is located along the side of the building, with the primary axis facing the property’s eastern boundary rather than along River Lake Parkway. A new pedestrian crosswalk is proposed near the project’s northern driveway allowing safe pedestrian access to and through the site, and a new community trail is proposed along the site’s southern boundary, designed in coordination with Project Whitefish Kids which is planning on a larger trail network throughout the Smith Sports Complex.

c. Outdoor Lighting

(See Sheet LT100)

2. How is the proposal compatible with the surrounding neighborhood and community? 6.5, 6.6, 6.7, 7 Public Building in the Residential District

a. Structural Bulk and Massing

This single-story building provides visual variety with the primary roofs pitched and single slope shed roofs at the exterior canopies. Bulk and massing are compatible with the other one- and two-story buildings in the area which have a variety of roof forms but are primarily dominated by roof gables. The building footprint is arranged to provide a courtyard between program areas to activate the area north towards River Lakes Parkway and serve to break up overall massing. The public entry on the east side is highlighted by a canopy to clearly identify the entry from the parking lot. The massing of the elevation facing the soccer fields is broken up by a glazed connector wall and patio access between the two larger areas of the building. The west side is dominated by teaching studios which need acoustic separation and focus. A performance canopy on the west side mirrors the entry canopy and will facilitate outdoor performances on the west lawn in good weather. Each side of the building varies in scale and massing, and fenestration—each is responsive to the function it performs. The overall form is based on the varied natural ridgeline of the mountains, path of valley rivers, and the vertical grasses surrounding the pond across the parkway (see attached concept photos).

b. Scale

This is a single-story building that at its highest point is not more than 25’ tall at the recital curtain wall. (The Lakes maximum height for the residences is 35’). The articulation and modulation of the building and its rooflines reduce scale. There are no other buildings immediately adjacent to the property, its scale is complementary to both the residential and larger hospital and medical offices in the vicinity.

c. Context of Existing Neighborhood

There is a variety of context to respond to: views north and east toward the mountains, pond, and residential development, view west to the hospital and medical offices, the view northwest toward
The Springs, view south to sports activity at Smith Fields and low hills beyond. At this point, the site itself stands alone. The views to the mountains are enhanced from the recital hall and waiting area through the courtyard, and when people spill out to the north courtyard, it will activate the parkway and sidewalk. The building materials, colors, and articulation are similar to all in the neighborhood yet amplify the public nature of the school.

d. Community Character
As a community building, this will be a central feature of the neighborhood and, while being complementary to the existing architecture, will have design elements that differentiate it from the other buildings in the area. The adjacency to Smith Fields and the connection to the trail system on the south portion of the property will make it pedestrian friendly and a highly visible and convenient location for lessons, recitals, camps, and concerts. The recital hall will be a multiuse space that is open to community events. The overall design, with its unique response to traditional roof forms and cladding materials, as well as inviting landscape, will be a huge draw in the neighborhood.

3. Describe how the exterior materials (color and texture) are met generally and within the appropriate district: 6.9
(Please refer also to Context photos) Cladding in the residential district is a mix of horizontal lap, shingle, and vertical board and batten siding of either fiber cement, wood, or wood composite. A stone base is common. Warm color schemes range anywhere from light taupe / gray to dark gray, blue, brown, rose, and raisin. Many have belly bands and heavy corner boards and window trim. Roof materials vary between composition shingle and standing seam metal roofing in predominantly darker colors. Typical overhangs appear between 12” – 24”.

As a non-profit organization, all financial resources require responsible stewardship. Ultimately, the priority for NVMS is to seek and provide innovative ways to make music education a part of everyday life. It is imperative that we provide a building that elevates that vision while including materials that are durable and low maintenance with low operational costs.

The NVMS exterior materials are designed to provide a high quality, durable, beautiful, and low-maintenance building within a constrained budget. Working with a local contractor, locally sourced materials are given priority. More costly or higher maintenance materials are used where they can be highlighted or touched. The palette is simple, the details will be unique:

- A light body color in fiber cement panels with a varied pattern of vertical battens that provides texture and responds to changes in light over the course of the day.
- Full-height, local stone at the main entrance that will be lit to accentuate texture and invite touch.
- Black standing seam metal roof with clear-finished exposed cedar soffits around the entire perimeter and underside of canopies. The desire is to light these wood soffits for a soft glow.
- Black anodized storefront windows with an extended fin of black sheet metal at the head, jamb and sill that will provide texture across the elevations and tie in with the dark roof.
- The large curtain wall highlighting the performance space will share its warm glow in the evening as the star performer and provides a framed view of the mountains.

-END-
Cedar Roof Soffits: Clear Finish
Standing Seam Metal Roof: Black

Fiber Cement Panel with Varied Batten Pattern: Monterey Taupe
Example of Varied Batten Pattern in James Hardie

Kawneer Storefront System: Black Anodized

McGregor Lake Cut Ashlar Thin Veneer: Rows 6” High, Mix of Lengths with Angle Cut As Shown (Montana Rockworks)

Example of window opening with metal fin and effective contrast of a light palette with dark window frames.
Pseudotsuga menziesii | DOUGLAS FIR
H: 120-170', W: 20-50'; Z4; Sun

Pinus ponderosa | PONDEROSA PINE
H: 60-90', W: 25-40'; Z3; Sun; Dry soil
Quercus macrocarpa | BUR OAK
H:60-80', W:60-80'; Z3; Sun; Average and well-drained soil

Betula papyrifera | PAPER BIRCH
H:40-50', W:25-40'; Z2; Part shade; Moist well-drained soil

Populus tremuloides | QUAKING ASPEN
H:50-100', W:20-25'; Z1; Sun; Average soil
Celtis occidentalis | COMMON HACKBERRY
H:40-60', W:40-60', Medium to Wet Water, Full to Part Sun, Rich, Moist Soils

Amelanchier x grandiflora ‘Autumn Brilliance’ | AUTUMN BRILLIANCE SERVICEBERRY
H:15-25', W:15-25'; Z4; Bloom: April-May; Sun to part shade; Average soil
**ORNAMENTAL SHRUBS**

**Salix pupurea ‘Nana’ | DWARF ARCTIC WILLOW**
H: 3-5’, W: 3-5’; Z3; Bloom: May; Sun to part shade; Average soil

**Potentilla fructicosa ‘Bailmering’ | LEMON MERINGUE POTENTILLA**
H: 2-3’, W: 2-3’; Z2; Bloom: June-August; Sun; Adaptable to a variety of soils

**Spiraea x bumalda ‘Froebelii’ | FROEBEL SPIREA**
H:3-4, W:4’; Z3; Bloom: June-July; Sun to part shade; Average soil

**Spiraea japonica var. alpina | DAPHNE SPIREA**
H:1-1.5’, W:1-3’; Z4; Bloom: May-July; Sun; Average soil
**ORNAMENTAL SHRUBS**

- **Pinus sylvestris 'Hillside Creeper' | HILLSIDE CREEPER SCOTCH PINE**
  - H: 1.5-2'; W: 6-8'; Z: 2; Sun; Average and well-drained soil

- **Juniperus squamata 'Blue Star' | BLUE STAR JUNIPER**
  - H: 2-3'; W: 3-4'; Z: 4; Sun; Average soil

- **Ribes alpinum 'Green Mound' | GREEN MOUND ALPINE CURRENT**
  - H: 2-3'; W: 2-3'; Z: 3; Bloom: May; Sun to part shade; Average soil

- **Rhus aromatica 'Gro-Low' | GO-LOW FRAGRANT SUMAC**
  - H: 2-3'; W: 5-8'; Z: 3; Bloom: April-May; Sun to part shade; Average soil. Can sucker.
Aronia melanocarpa ‘Autumn Magic’ | AUTUMN MAGIC BLACK CHokeBERRY
H:3-5', W:4-6'; Z3; Bloom: May; Sun to part shade; Average soils. May sucker over time.
Perovskia atriplicifolia | RUSSIAN SAGE
H:36-48”, W:36-48”; Z4; Bloom: July-September; Sun; Average soil

Iris pallida ‘Argentea Variegata’ | VARIEGATED IRIS
H:24-36, W:12-18”; Z3; Bloom: May-July; Sun to part shade; Average soil

Nepeta racemosa ‘Walker’s Low’ | WALKER’S LOW CATMINT
H:1.5-2’, W:2.5-3’; Z4; Bloom: June-August; Sun to part shade; Average soil
Baptisia australis ‘False Indigo’ | FALSE INDIGO
H:36-48”, W:24-36”; Z3; Bloom: May-June; Sun to part shade

Aruncus dioicus | GOATSBEARD
H:3-5’, W:3-5”; Z3; Bloom: May-June; Part shade to shade; Rich and moist soils

Polygonatum odoratum ‘Variegatum’ | VARIEGATED FRAGRANT SOLOMON’S SEAL
H:2-3’, W:2”; Z3; Shade to part shade; Bloom: May-June (fragrant); Rich moist soil
Matteuccia struthiopteris | OSTRICH FERN
H:3-6'; W:5-8'; Z3; Partial to full shade; Average and medium to wet soil

Athyrium filix-femina | COMMON LADY FERN
H:2-3'; W:2'; Z3; Partial to full shade; Rich and medium moisture soil
Calamagrostis x acutiflora ‘Karl Foerster’ | KARL FOERSTER FEATHER REED GRASS
H:3-4’, W:1.5-2’; Z4; Bloom: May-December; Sun; Average soil

Helictotrichon sempervirens | BLUE OAT GRASS
H:24-40”, W:18-24”; Z4; Bloom: June; Sun; Average soil

Miscanthus sinensis ‘Graziella’ | GRAZIELLA MAIDEN GRASS
H:4-5’, W:2-3’; Z4; Bloom: August-December; Sun to part shade; Average soil

Deschampsia cespitosa | TUFTED HAIR GRASS
H:2-3’, W:1.5-2’; Z3; Bloom: July-Sept.; Sun to part shade; Average soil
Good morning,

I am reaching out with an urgent community support request from Flathead Electric. We are part of a large group, headed by Holy Cross and containing many Cooperatives, banding together focusing on fire mitigation and grid resiliency. We are pursuing grant funds for a large scale battery and vegetation management project in the Essex area. The vegetation management portion will focus on tree trimming near the line from West Glacier to Essex, with the intent to lower the amount of exposure the power lines have to vegetation. This will help reduce outages and potentially dangerous wildfire possibilities. The battery will serve a dual purpose and allow Flathead Electric to test the technology and better understand how it can be expanded in our territory.

The first use for the Battery Energy Storage System will be to discharge during our peak times, lowering our demand from Bonneville power. Outside of lowering Flathead Electric’s monthly bill and saving all of money, this could be very valuable as the consumption in the Flathead Valley continues to grow at an unprecedented rate. The second use will be to island the Essex community in certain outage situations. Essex has traditionally been the are most affected by outages in all of Flathead Electric’s service territory and will be an ideal place to use this technology. The BESS will be grid charged during off peak hours, using Flathead Electric’s almost exclusively renewable power.

The attached form was just sent to us this morning with a due date of this Friday, February 15th, sorry for the short notice. Please if possible endorse this project using the attached document as framework. Feel free to change what you would like and copy to a document with your organizations letter head.

Please reach out with any questions.

Your support will truly be appreciated.

Thanks,

Ashley Keltner
System Engineer
Flathead Electric Cooperative
a.keltner@flathead.coop | Direct (406) 751-4478 | Cell (406)261-0459
Toll Free (800) 735-8489 | Fax (406) 756-9204
2510 US Highway 2 East, Kalispell, MT 59901
February 21, 2023

U.S. Department of Energy, Grid Deployment Office
Office of Clean Energy Demonstrations
1000 Independence Ave SW
Washington, DC 20585

RE: Bipartisan Infrastructure Law (BIL) - Grid Resilience and Innovation Partnerships (GRIP) - DE-FOA-0002740
Letter of Commitment/Flathead Electric Cooperative, Inc./Holy Cross Energy

To Whom It May Concern,

This Letter of Commitment confirms the support and involvement of the City of Whitefish in the development of FLATHEAD ELECTRIC COOPERATIVE, INC.'s “Essex Resiliency Project,” submitted as a Subawardee to Holy Cross Energy's ("Applicant") “Wildfire Assessment and Resilience for Networks (WARN)” project (“the Project”).

FLATHEAD ELECTRIC COOPERATIVE, INC. (via Holy Cross Energy) proposes to design and deploy cost-effective, community-aware methods to reduce the risk of wildfire ignition by electrical power grids and make these grids resilient to all wildfires. Initial grid upgrade designs will be improved using WARN—an assessment tool that will adapt and extend existing wildfire mitigation planning methods to incorporate upfront cost, wildfire risk reduction, resilience, and community benefits. The deployed grid upgrade projects will realize these benefits for the cooperative customers, while providing lessons learned and validation data to improve WARN, both of which will enable wider dissemination of the methods.

The City of Whitefish is pleased to support FLATHEAD ELECTRIC COOPERATIVE, INC., as a Subawardee, under Applicant Holy Cross Energy, in its application under DOE’s BIL Grid Resilience and Innovation Partnerships FOA for Topic Area 1. We understand that DOE seeks to deploy and catalyze technology solutions that increase the flexibility, efficiency, and resilience of the electric power system. The Project will advance these objectives by designing and deploying the most cost-effective grid upgrades that leverage a wide range of methods that include battery systems, vegetation management, and advanced surveillance and maintenance.

Please contact me if you have any questions on the contents of this letter or with respect to the City’s continuing support of the Project.

Sincerely,

John Muhlfeld, Mayor
The following pages were handed out at the City Council meeting the night of the meeting. They are included here as an addendum to the packet.
Whitefish Mayor and Members of Council  
Whitefish City Hall  
418 E. 2nd St.  
Whitefish, MT 59937

Via e-mail

Dear Mayor Muhlfeld and Members of Council:
I attended the recent Planning Board work session (February 16) to hear discussion regarding the upcoming Whitefish growth policy project. I came away highly impressed with the work and preparation already done by Dave Taylor and Alan Tiefenbach. The existing land use inventory and analyses they have prepared will get the growth policy process off to a great start.

When I spoke with Alan last month, he told me that the Planning Board would be the group that would work with the staff and/or consultants to produce the draft growth policy, and that was confirmed at the work session. While I have every confidence that the current Planning Board is quite capable of performing this task, I would like to suggest an approach that worked very well for us when we were formulating the 2007 City-County Growth Policy. At that time, I asked for and Council appointed a Growth Policy Steering Committee. As I recall, the Steering Committee was made up of 11 citizens of the Whitefish community that came from different backgrounds and had a variety of community interests and perspectives. In my assessment, the Steering Committee was a much broader representation of the community than members of the Planning Board alone would have been. The Committee included a Council person and members of the Planning Board and Design Review Committee, but it also included real estate and development people, business people, and others engaged in a variety of occupations and professions. They elected a very efficient chair and vice-chair person, and again, in my assessment, they worked effectively and well together. They brought forward many ideas and concepts that were reflected in the final document.

For the current growth policy program, I suggest you consider a steering committee of 11 to 15 persons. This would allow appointees from Council, Planning Board, Design Review, or any other committees you might choose, while still allowing for a wide variety of community interests and perspectives to be represented. Just looking at the issue of housing alone, there were three primary implementing partners in 2017, and today there are about a dozen. It certainly makes sense to include some of these people in formulating the growth policy. In addition, we have many other stakeholders in the community such as realtors/developers, visitation industry,
banking/finance, construction/design, food and beverage, outfitters, retailers, artists, health care, public education, and more. People from these walks of life make our community what it is.

Once again, the role of the steering committee would be to work with the staff and/or consultants to conduct research, conduct a robust community involvement and visioning program, and ultimately, produce a “first draft” of the growth policy. That first draft is then turned over to the Planning Board for review and to conduct public meetings and hearings just as we did in 2007-08, and as prescribed in state law. I see the appointment of a growth policy steering committee as a win-win: we get a talented, involved group of stakeholders to draft the growth policy while our Planning Board continues the important work of growth management and development review. Once the draft is completed, the Planning Board steps in and takes over the review, public hearing, and adoption functions. Thank you for your consideration of this option for our community.

Respectfully submitted,

Robert Horne, Jr.
City of Whitefish Growth Policy Update

Existing Conditions
Growth Policy

- Required for a County or City to adopt or amend County or Municipal Zoning.
- An official public document adopted and used by Montana cities, towns, and counties as a guide for making decisions about their future, particularly with regards to land use.

- Not a regulation; rather, it is a community’s official policy meant to guide and help manage change for the benefit of residents.
- Zoning and Subdivision Regs implement growth policy and should be generally in conformance.
- Also known as a Master Plan or a Comprehensive Plan.
Growth Policy Requirements

- The growth policy statute, MCA 76-1-601, does identify the minimum content that must be included in the document.

- This includes maps and narrative describing the character and features of the community, including land use, population, housing, economics, local services, public facilities, natural resources, and other topics as identified by residents.

- Statute requires the growth policy be reviewed, and updated if necessary, at least every 5 years.

- Corridor Plans and specific plans (such as the downtown master plan) are considered “updates” to the growth policy.

- Statute designates only the Planning Board to prepare a growth policy.
Events from 2007

- George W. Bush is President
- Apple releases first iPhone
- Facebook available to the public (2006)
- Housing bubble starts recession
- Bank bailout occurs
- Nancy Pelosi is elected as the first female Speaker of the US Congress
- Al Gore wins the Nobel Peace Prize on Global Warming
# Basic Demographics 2007(ish)

<table>
<thead>
<tr>
<th></th>
<th>Whitefish</th>
<th>Flathead</th>
<th>Montana</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007 Population</td>
<td>6,500</td>
<td>88,245</td>
<td>990,730</td>
<td>Census</td>
</tr>
<tr>
<td>2010 Area</td>
<td>4115.2 acres</td>
<td></td>
<td></td>
<td>Census</td>
</tr>
<tr>
<td>2007 Median Home Price</td>
<td>$319,000</td>
<td>$250,000</td>
<td></td>
<td>NW Montana Assoc. Realtors</td>
</tr>
<tr>
<td>2010 Median Income</td>
<td>$48,813</td>
<td>$40,000</td>
<td></td>
<td>Census</td>
</tr>
<tr>
<td>2003 Median Age</td>
<td>37.3, 55-59 largest group</td>
<td></td>
<td></td>
<td>2003 Housing Study</td>
</tr>
<tr>
<td>Growth Rate</td>
<td>15.2% between 1990-2000 and 5% per year.</td>
<td></td>
<td></td>
<td>2008 Housing Needs Assess.</td>
</tr>
<tr>
<td>Whitefish Mtn Visits</td>
<td>296,708</td>
<td></td>
<td></td>
<td>Montana Tourism and Rec</td>
</tr>
<tr>
<td>Glacier Nat’l Park visits</td>
<td></td>
<td>5,811,388</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Basic Demographics 2023

<table>
<thead>
<tr>
<th></th>
<th>Whitefish</th>
<th>Flathead</th>
<th>Montana</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021 Population</td>
<td>8,500</td>
<td>108,454</td>
<td>1,122,867</td>
<td>Census</td>
</tr>
<tr>
<td>2040 Population</td>
<td></td>
<td>125,329</td>
<td>1,229,024</td>
<td>Montana.gov</td>
</tr>
<tr>
<td>2022 Area</td>
<td>8022.46 acres</td>
<td></td>
<td></td>
<td>GIS</td>
</tr>
<tr>
<td>2023 Median Home Price</td>
<td>$1,389,578 ($447,000 in 2020)</td>
<td>$680,000</td>
<td>$467,068</td>
<td>NMAR</td>
</tr>
<tr>
<td>2022 Median Age</td>
<td>40 years, 55-59 largest group</td>
<td></td>
<td></td>
<td>Census</td>
</tr>
<tr>
<td>Growth Rate</td>
<td>21.9% btwn 2010-2020, 8.2 % btwn 2020-2021</td>
<td>3.5% btwn 2020-2021</td>
<td>1.7% btwn 2020-2021</td>
<td>Montana.gov</td>
</tr>
<tr>
<td>Total Housing Units (2022)</td>
<td>4,650 (9,529- needs assessment)</td>
<td>49,875</td>
<td></td>
<td>Montana.gov</td>
</tr>
<tr>
<td>Average Rent (2022)</td>
<td>$1,240</td>
<td>$920</td>
<td></td>
<td>2022 Needs Assmt.</td>
</tr>
<tr>
<td>Home ownership (2020)</td>
<td>62%</td>
<td></td>
<td></td>
<td>Census</td>
</tr>
<tr>
<td>Whitefish Mtn Visits</td>
<td>463,875</td>
<td></td>
<td></td>
<td>Montana Tourism and Rec</td>
</tr>
<tr>
<td>Glacier Nat’l Park visit</td>
<td></td>
<td>6,401,737</td>
<td>&gt;10.16%</td>
<td>Montana Tourism and Rec</td>
</tr>
</tbody>
</table>

Gallatin County is the fastest growing, followed by Flathead (source: Montana Census and Economic Info Center)
“Three C’s”
# Whitefish Major Employers (2007)

<table>
<thead>
<tr>
<th>Name</th>
<th>Number Employed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whitefish Mountain Resort</td>
<td>535</td>
</tr>
<tr>
<td>North Valley Hospital</td>
<td>249</td>
</tr>
<tr>
<td>Whitefish School District</td>
<td>240</td>
</tr>
<tr>
<td>BNSF</td>
<td>230</td>
</tr>
<tr>
<td>City of Whitefish</td>
<td>100</td>
</tr>
<tr>
<td>Colonial Manor</td>
<td>85</td>
</tr>
<tr>
<td>Montana Coffee Traders</td>
<td>75</td>
</tr>
<tr>
<td>Depratu Ford</td>
<td>61</td>
</tr>
<tr>
<td>Idaho Timber</td>
<td>35</td>
</tr>
</tbody>
</table>

*Source: 2007 Growth Policy*
## Whitefish Major Employers (2022)

<table>
<thead>
<tr>
<th>Name</th>
<th>Number Employed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winter Sports, Inc (Big Mountain)</td>
<td>1100</td>
</tr>
<tr>
<td>Logan Health</td>
<td>650</td>
</tr>
<tr>
<td>BNSF</td>
<td>420</td>
</tr>
<tr>
<td>Averill Hospitality (The Lodge)</td>
<td>282</td>
</tr>
<tr>
<td>Whitefish School District</td>
<td>250</td>
</tr>
<tr>
<td>Glacier Restaurant Group</td>
<td>182</td>
</tr>
<tr>
<td>City of Whitefish</td>
<td>120 fulltime, 7 seasonal</td>
</tr>
<tr>
<td>Grouse Mountain Lodge</td>
<td>100</td>
</tr>
</tbody>
</table>

*Source: Chamber of Commerce*
Montana Fastest Growing and Quickest Decline 2022

<table>
<thead>
<tr>
<th>Industry</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Growing</strong></td>
<td></td>
</tr>
<tr>
<td>Building material and garden supply stores</td>
<td>8.2%</td>
</tr>
<tr>
<td>Construction of buildings</td>
<td>8.11%</td>
</tr>
<tr>
<td>Wood Products</td>
<td>8.00%</td>
</tr>
<tr>
<td><strong>Declining</strong></td>
<td></td>
</tr>
<tr>
<td>Accommodation</td>
<td>-11.90%</td>
</tr>
<tr>
<td>Full-service restaurants</td>
<td>-10.53%</td>
</tr>
<tr>
<td>Heavy and civil engineering construction</td>
<td>-9.52%</td>
</tr>
</tbody>
</table>

*Source: Montana Dept of Labor and Industry*
### Whitefish Residents Occupation 2022

**Occupation for the Civilian Employed Population 16 Years and Over**
in Whitefish city, Montana

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management, business, science, and arts occupations</td>
<td>1,809</td>
</tr>
<tr>
<td>Service occupations</td>
<td>910</td>
</tr>
<tr>
<td>Sales and office occupations</td>
<td>1,311</td>
</tr>
<tr>
<td>Natural resources, construction, and maintenance occupations</td>
<td>271</td>
</tr>
<tr>
<td>Production, transportation, and material moving occupations</td>
<td>186</td>
</tr>
</tbody>
</table>

*Source: Census*
Whitefish Employment 2022

*Source: Census*
Existing Conditions

The statute governing growth policies requires that a city, town, or county create an “inventory” of its existing characteristics and features using maps and narrative.
Existing Conditions

- Staff mapped all existing Planning Areas and land use designations.
- Only the US 93 South Planning Area boundary was presently mapped.
Whitefish Planning Areas

Wisconsin Corridor (2018)

Hwy 93 West (2015)
Whitefish Planning Areas

DTWN Master Plan (2018)

US 93 South (2021)
Existing Conditions

• Drove every street of the City
• Mapped all uses at a parcel level
• Compared against Google Maps and property record card data
• Staff did this to ensure accuracy of existing conditions.
• For example, Montana cadastral mapping only lists “commercial” but does not differentiate between car wash, supermarket, boutique store or real estate office, which have very different impacts.
Developable Land

- Subtracted lake, parks, right-of-ways, open space, public land, etc
- 3056.29 Acres
- 38% of area within city limits
Single Family Detached

- 1847.551 acres
- 60% of developable land
Multifamily

- 271 acres
- 9% of developable land
Commercial

- 312.82 Acres
- 10% of developable land
Vacant

- 699 acres
- 23% of developable land
- Subtracting Lookout Ridge
  - 577.8 Acres
  - 19% of developable land
Housing

- 3340 Single Family Detached
- 2068 Multifamily Units
- 119 Mixed Use Units
- **5,527 Total Housing Units**
  (Address data and field surveys used for analysis)

- 2020 Census shows 4,650 units
- 2020-22 Yearly Reports – 617 additional units built
  
  4,650 + 617 = 5,267

- 119 Mixed Use Units could raise this number
- Numbers seem to correlate with staff findings.
- < 5% Error
- 60% Single Family Detached
- 40% Multifamily Units
Short Term Rentals (STR)

- 1,243 residential units within B-3, RR-1, RR-2, RB-1, and RB-2 zoning districts (allow STRs)
- 346 registered STRs
- 151 registered STRs in downtown
- Registered STRs are 28% of units in zones which allow them.
- Registered STRS are 6% of all units in City.
- 22% of all units in City would allow for STRs.
Community Character

Existing Growth Policy

“Two important factors affect residents’ perception of character and small-town feel. First and most obvious is the type and amount of new growth that is occurring. The second is the rapid rate at which the community is growing.

A part of Whitefish’s character is defined by its diversity of residential types and densities.

Another factor that can threaten community character is development that is out of scale with surrounding neighborhood.”
Community Character

American Planning Association Dictionary

“The image of a community or area as defined by such factors as its built environment, natural features and open space elements, type of housing, architectural style, infrastructure, and the type and quality of public facilities and services.”
Community Character
Housing Density and Lot Size Maps
Community Character
Ages of Structures
Community Character
Residences > 50 & 100 years
Examples of Distinct Character Areas
Plan Name

- Most city’s growth policies and comprehensive plans have used a “catchy” name to provide interesting branding and help with public outreach.
- Staff recommended the Planning Board choose a name and provided a list of 33 suggestions.
At a February 16, 2023, work session, after much discussion, the Planning Board did choose a name for the Plan.

VISION WHITEFISH 2045
Next Steps

- The City will be reaching out to the community on a “logo contest.”
- Staff intends to have first public “kick off” meeting in April.
- Staff will then have “visioning” meeting(s) with the public following the kickoff meeting.
- Staff has provided a tentative outline to the City Council.
- Tentative completion in the beginning of 2025.
Pending Legislation

- Governor appointed a housing task force to make recommendations to increase supply of housing. This document is serving as a basis for some pending legislation.

- Montana legislature considering bills for such measures as:
  - Restricting City's ability to limit lot sizes below 4,000 sq. ft.;
  - Allowing some type of multifamily in some or all single-family zones;
  - Reducing parking requirements;
  - Preempting municipalities' abilities to limit heights below three stories;
  - Limiting or prohibiting design review on fourplexes or less;
  - Allowing STRs in some or all single-family zones.

- Also discussion regarding citizen referendums required for growth policies.

- Staff is monitoring closely and actively participating.
Comments / Questions?
Mr. Mayor and Councilors,

It is my belief that your number one priority as stewards of Whitefish is to keep our town as close to the same way it was when you either grew up here or moved here.

There is no chance that our early community leaders would have tolerated Dope Shops in downtown Whitefish, so neither should you.

A completely ridiculous idea of replacing the culverts on Spokane Ave with a “welcoming bridge” seems counter to welcoming people to a downtown that is littered with Dope Shops. It’s bad enough heading south on Hwy 93 and being inundated with the smell of dope every time you drive by the growing facility, that we certainly do not need that in our downtown area!

Also, it is simply a matter of semantics that a Dope Shop can be located within 500’ of a church or school if it’s addressed on a different street. That is Completely Crazy!

Please do what you can to keep these shops out of our town!

Thank you for your service.

Koel Abell

Whitefish, MT
To whom it may concern,

Please allow me to briefly address my concerns regarding the regulation of cannabis retail outlets within the city limits. It appears as though there is no shortage of workarounds for out of county/state businesses to take advantage of, which has led to an irrational plethora of dispensaries and applications for permits. Many local cannabis businesses worked diligently early on in the process to locate their dispensaries in areas that were logically construed to be the most responsible, given the assumption that the city would seek to regulate these new businesses rationally and reasonably, with an emphasis on conservative allocation of permits. It appears at this point that these early applicants are now subject to undue hardship as the result of malleable zoning constraints for recent applicants, most of whom are not local businesses.

It would be greatly appreciated if the board could reevaluate the regulatory/zoning rubric for future conditional use permits, with an eye toward increasing the distance between cannabis businesses and making sure that distances from churches and schools cannot be so easily manipulated.

Respectfully,

Gregory Zuckert