1) Call to Order

2) Interviews
   a) 5:30 p.m. – Leslie Lowe – Architectural Review – Incumbent
   b) Tracy Rossi – Architectural Review – Incumbent – out of the country – letter included

3) Public Comment

4) Appointment
   a) Architectural Review Committee – Two (2) positions, received two (2) letters, both incumbents, three-year term, Council appointment.

**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
418 EAST SECOND STREET
MONDAY, JUNE 5, 2023
5:45 PM

5) Annual Mayor and City Council Goal setting session

6) Public Comment

7) Direction to City Manager

8) Adjourn

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](https://teams.microsoft.com/l/message/19:227040268977@threaded.0/1929605265648594975/0)
Meeting Number: **227 040 268 977**
Password: **GnJwp2**

**For the Audio Conference Call option:** call the number below and enter the access code.

- United States Toll Free: **833-563-1751**
  Access code: **879 740 065#**

- 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. Monday, June 5, 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.
PUBLIC NOTICE
VACANCIES ON CITY BOARDS/COMMITTEES

WHITEFISH LAKE AND LAKESHORE PROTECTION COMMITTEE – Two (2) positions. One (1) 2-year term, applicant must be a lakefront property owner and reside within the corporate limits of the city of Whitefish. One (1), complete term ending 12/31/2023, shall reside within the corporate limits of the city of Whitefish. Committee meets once a month.

BOARD OF PARK COMMISSIONER – Three (3) positions, 2-year term. Applicants must have resided within the City limits for 2 years and within the State for 3 years and must be at least 21 years old. The Committee meets once a month in the evenings.

RESORT TAX MONITORING COMMITTEE – Two (2) positions, 3-year term. Applicants shall be an owner, operator or representative of any restaurant/bar business, retail business, lodging business, business owner at large within the corporate limits of the city of Whitefish. The Committee meets once a month in the mornings.

POLICE COMMISSION – One (1) position, 3-year term. Open to City residents who have maintained residency within the city limits of Whitefish for one year prior to appointment to the Commission. The Commission meets as needed.

WHITEFISH CONVENTION AND VISITORS BUREAU – Three (3) positions, 3-year term. Applicants shall reside in the city of Whitefish postal district (59937), or reside in Flathead County, but outside the city of Whitefish postal district (59937), as long as the applicant has an ownership interest or managerial position at a business located and operating within the city of Whitefish postal district (59937). Openings include preference for representatives of finance, large lodging properties, small lodging, restaurant/bar business, transportation business or the Whitefish Lake Golf Course. The Committee meets once a month.

ARCHITECTURAL REVIEW COMMITTEE – Two (2) positions, 3-year term. Applicants shall reside within the corporate limits of the city of Whitefish, are employed or own a business in the city of Whitefish, or own property in the city of Whitefish; or be a Montana licensed architect, or licensed design professional (i.e. architect, engineer, or landscape architect). The Committee meets twice a month April – October, once a month November – March in the mornings.

BOARD OF ADJUSTMENT – One (1) position, complete the term ending 12/31/2023. Applicant shall reside within the city limits of Whitefish. The Committee meets in the evening once a month as needed.

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 12/31/2025. 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 April 21, 2023. Please include your name, mailing address, physical address, and phone number. Interviews will be May 1st and May 15th, or as needed. Letters of interest will be accepted until the positions are filled. If you have any questions, please call Michelle Howke, City Clerk at 863-2402 or visit the City’s website: www.cityofwhitefish.org

*THANK YOU FOR YOUR INTEREST*

Publish 3/29/2023 and 4/12/2023
Hi Michelle

I am interested in remaining on the committee for another term. Please note in the ad that we meet twice monthly through the summer.

Cheers Leslie

On 3/21/2023 1:51 PM, Michelle Howke wrote:

Dear: Leslie


As a matter of course, the City will also be advertising this position along with others board positions expiring at this time. The deadline to receive letters of application, and to receive your letter of interest if you want to reapply to serve another term, is April 21, 2023. Interviews with the Council will be scheduled for May 1st and May 15th. I will call or email you to set up your specific interview time if you are re-applying.

Please respond to this email in place of a new letter of interest.

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

If you are not planning to ‘re-up’ for your position again, please let me know that as well.

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

Michelle Howke
Administrative Services Director/City Clerk
PO Box 158/418 E. 2nd Street
Whitefish, MT 59937
mhowke@cityofwhitefish.org
406-863-2402

STAY CLEAN, CAREFUL AND CONNECTED
Tracy Rossi

Real Estate Broker at Glacier Sotheby’s International Realty
PO Box 1982
Whitefish, MT 59937
323-877-7911
Tracyerossi@gmail.com

4/7/2023

Michelle Howke
Administrative Services Director/City Clerk
City of Whitefish
418 E 2nd Street
Whitefish, MT 59937

Dear Ms. Howke and Council Members:

I have sat on the City of Whitefish ARC since 2020. I have been involved in many committees and boards over the years, the ARC has been the most fulfilling and impactful committee I have been a part of. We have great members and we work together to uphold the standards of the city and our community.

I would like to continue to serve on the board for another term. I have been informed interviews are being held between May 1st-15th in the evening from 5:15P-7P. However, I am currently out of the country until June 22nd with an 8 hour time difference, I understand the importance of an interview but I would ask that I would be considered either through this letter or an interview when I return.

Thank you for your time and consideration, I look forward to hearing back from you.

Regards,

Tracy Rossi
CHAPTER 10
ARCHITECTURAL REVIEW COMMITTEE

SECTION:

2-10-1: Committee Established

2-10-2: Purpose, Powers And Duties

2-10-3: Membership

2-10-4: Organization

2-10-5: Meetings, Rules And Regulations

2-10-6: Staff Supervision

2-10-7: Expenditures

2-10-1: COMMITTEE ESTABLISHED:

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

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

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

B. Secondary Purpose: The secondary purpose of the committee shall be to make recommendations to the city's planning staff with respect to proposed amendments to the city of Whitefish architectural review standards, or the procedures utilized by the committee. (Ord. 03-26, 9-15-2003; amd. Ord. 15-09, 6-1-2015; Ord. 20-02, 2-3-2020)

Notes
2-10-3: MEMBERSHIP:

A. Appointment; Compensation: The committee shall have seven (7) members who either reside within the corporate limits of the city of Whitefish, are employed or own a business in the city of Whitefish, or own property in the city of Whitefish. Members shall be appointed by the city council. Two (2) of the committee members shall be Montana licensed architects and one of the members shall be a licensed design professional (i.e., either architect, engineer or landscape architect). If, within the discretion of the city council, less than two (2) licensed architects or one licensed design professional, as described above, is identified after publication of a notice of position vacancy, the city council may make an appointment of an individual that is not a licensed architect or licensed design professional, or is a licensed architect or design professional who resides, is employed, or owns a business or property in the 59937 zip code. No member of the committee shall concurrently serve on the Whitefish city council, the Whitefish planning board or the Whitefish board of adjustment. No member of the committee with any interest in a project may sit in review of that project, or attempt to influence other members of the committee other than through the normal application and public meeting process. Committee members shall receive no compensation.

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

<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, 2004</td>
</tr>
<tr>
<td>2</td>
<td>Member</td>
<td>May 31, 2004</td>
</tr>
<tr>
<td>3</td>
<td>Member</td>
<td>May 31, 2004</td>
</tr>
<tr>
<td>4</td>
<td>Member</td>
<td>May 31, 2005</td>
</tr>
<tr>
<td>5</td>
<td>Member</td>
<td>May 31, 2005</td>
</tr>
<tr>
<td>6</td>
<td>Member</td>
<td>May 31, 2006</td>
</tr>
<tr>
<td>7</td>
<td>Member</td>
<td>May 31, 2006</td>
</tr>
</tbody>
</table>

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

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

D. Vacancy: Pursuant to subsections A and B of this section, any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. (Ord. 03-26, 9-15-2003; amd. Ord. 15-09, 6-1-2015; Ord. 20-02, 2-3-2020)
2-10-4: ORGANIZATION:

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

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

Four (4) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business or conduct any proceedings before the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. The committee shall meet as frequently as is necessary in order to provide a timely decision with respect to all applications that it considers. The committee shall decide the time, place and date of meetings. All meetings shall be open to the public. (Ord. 17-02, 2-21-2017)

2-10-6: STAFF SUPERVISION:

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

2-10-7: EXPENDITURES:

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

| Architectural Review Committee - WCC 2-10 - 3-Year Terms - 1st & 3rd Tuesday (April-October) 1 |
|-------------------------------------------------|-----------------|-----------------|
| 1. Ryan Kiefer  
Chair  | 620 Baker Avenue  | 406-282-4601  | 5/31/2025  |
|  | rkiefer@ae.design |      |                  |
| 2. Christine Bleyhl  
 | 610 5th St. W.  | 612-961-1371  | 5/31/2025  |
|  | bleyhlsmile@gmail.com |      |                  |
| 3. Grant Hughes  
 | 210 Granite Drive  | 406-885-0475  | 5/31/2025  |
|  | dydxhughes@gmail.com |      |                  |
| 4. Tracy Rossi  
Vice Chair  | PO Box 1982, Whitefish  | 323-877-7911  | 5/31/2023  |
|  | tracyerossi@gmail.com  |      |                  |
|  | trossi@glaciersir.com |      |                  |
| 5. Leslie Lowe  
 | 259 Goat Trail, Whitefish  | 406-471-5760  | 5/31/2023  |
|  | leslie@lowe.ca |      |                  |
| 6. Paul McElroy  
P.O. Box 5316, Whitefish  | 406-261-9014 (c)  | 5/31/2024  |
|  | paul@montanabuild.com  | 406-862-4975 (o) |      |
| 7. Diane Kane  
Chair  | 3026 River Lakes Drive, Whitefish  | 206-954-3165  | 5/31/2024  |
|  | dmkane@outlook.com |      |                  |

*Ordinance 03-26 includes provision to appoint others at the discretion of the Council (if not 2 Licensed Architects, 1 Design Professional)
## Proposed Fiscal Year 2024
### Mayor & City Council Goals

<table>
<thead>
<tr>
<th>Administration</th>
<th>Est. Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Resort tax reallocation to add community housing</td>
<td>November 2023</td>
</tr>
<tr>
<td>2. Short-term rental program enhancements</td>
<td>June 2024</td>
</tr>
<tr>
<td>3. Big Mountain annexation analysis</td>
<td>September 2024</td>
</tr>
<tr>
<td>4. Additional cemetery location and plan</td>
<td>Long-term</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fire Department</th>
<th>Est. Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Development and Adoption of Strategic Plan for the Fire Department</td>
<td>September 2023</td>
</tr>
<tr>
<td>2. Provide City Council emergency management training</td>
<td>March 2024</td>
</tr>
<tr>
<td>3. Analysis of voted levy in 2025 to replace fire apparatus</td>
<td>December 2024</td>
</tr>
<tr>
<td>4. Implementation of the Whitefish Fire Department Strategic Plan</td>
<td>Ongoing</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parks and Recreation</th>
<th>Est. Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Armory Park Redevelopment Project - Phase IV</td>
<td>June 2024</td>
</tr>
<tr>
<td>2. River Trail Improvement Project</td>
<td>June 2024</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Planning Department</th>
<th>Est. Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Implement State Legislative changes to land use code</td>
<td>October 2023</td>
</tr>
<tr>
<td>2. Create a best practice guide for Whitefish Lake</td>
<td>March 2024</td>
</tr>
<tr>
<td>3. Streamline permitting process and bonding codes</td>
<td>June 2024</td>
</tr>
<tr>
<td>4. Update City’s Growth Policy</td>
<td>October 2025</td>
</tr>
<tr>
<td>5. Downtown Master Plan implementation – update zoning ordinance</td>
<td>October 2025</td>
</tr>
<tr>
<td>6. Implement Highway 93 S. Corridor Plan</td>
<td>Ongoing</td>
</tr>
<tr>
<td>7. Community Housing Roadmap implementation</td>
<td>Ongoing</td>
</tr>
<tr>
<td>8. Implement parking plan for downtown</td>
<td>Ongoing</td>
</tr>
<tr>
<td>9. Develop a historic preservation plan</td>
<td>Long-term</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Police Department</th>
<th>Est. Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Explore creation of a deer management plan</td>
<td>June 2024</td>
</tr>
<tr>
<td>2. Plan for proactive policing and adequate staffing levels</td>
<td>Ongoing</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Public Works</th>
<th>Est. Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Birch Point Quiet Zone Project</td>
<td>June 2024</td>
</tr>
<tr>
<td>2. Karrow Avenue Road Reconstruction Project</td>
<td>November 2024</td>
</tr>
<tr>
<td>3. Reduce City’s greenhouse gas emissions 26% by 2025</td>
<td>December 2025</td>
</tr>
<tr>
<td>4. Increase water capacity</td>
<td>Ongoing</td>
</tr>
<tr>
<td>5. Implement strategies of the 2022 Whitefish Transportation Plan</td>
<td>Ongoing</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 Monday, June 5, 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: **227 040 268 977** Password: **GnJwp2**

For the Audio Conference Call option: call the number below and enter the access code.
- United States Toll Free: **833-563-1751** Access code: **879 740 065#**
- 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. Monday, June 5, 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 23-09. Resolution numbers start with 23-07.

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**
   a) Consideration of a request from the Whitefish Convention and Visitors Bureau to hang Friend of the Fish messaging banners (p.21)

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 May 15, 2023 Regular Meeting (p.33)
   b) Ordinance No.23-08; An Ordinance amending the Whitefish City Code to completely rewrite Title 11, Chapter 4, Landscaping Requirements; and amend Chapter 2, Zoning Districts, Section 11-2K-4 Property Development Standards; Section 11-2N-2 Permitted Uses; Section 11-2N-4 Property Development Standards; Section 11-2O-2 Permitted uses; Section 11-2O-4 Property Development Standards; Section 11-2P-2 Permitted Uses; Section 11-2P-4 Property Development Standards; Section 11-2Q-2 Permitted Uses; Section 11-2Q-4 Property Development Standards; Chapter 3, Special Provisions, Section 11-3-42 Multi-Family Development Standards, 11-3-43 Mixed-Use and Non-Residential Building Development Standards; Chapter 6, Off Street Parking and Loading, Section 11-6-2 Parking Space Requirements; Section 11-6-3 Special Conditions; Section 11-6-5 Landscaping and Screening; Section 11-6-8 Street and Roadway Access Standards. (Second Reading) (WZTA 23-08) (p.38)
   c) Consideration of a request from Houston Point Homeowner’s Association for a Whitefish Lake and Lakeshore Protection Permit to widen and rebuild the existing hiking trail using mechanical equipment, and remove rocks and vegetation along trail, located at 2303 Houston Point Drive (WLP 23-W-07) (p.69)
d) Consideration of a request from Bay Point Country Homeowner’s Association for a Whitefish Lake and Lakeshore Protection Permit to remove a concrete block that is in the lake approximately 10’ from the shore, located at 115 Bay Point Drive (WLP 23-W12) (p.101)

e) Consideration of a recommendation for confirmation of Police Officer Jonathan Warricks pursuant to MCA §7-32-4113 (p.115)

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

a) Consideration of a request from High Water LLC for Preliminary Plat to develop a 9-lot subdivision located at 1600 and 1628 East 2nd Street, zoned WLR (One-Family Limited Residential District) (WPP 23-02) (p.117)

b) Ordinance No. 23-__; An Ordinance amending Ordinance Nos. 18-01, 19-02 and 21-14, which approved and subsequently amended the 95 Karrow, LLC Preliminary Plat and Planned Unit Development, to develop a mixed-use development on the former Idaho Timber property located at 95 Karrow Avenue, Whitefish (First Reading) (WPUD 23-01) (p.269)

c) Resolution No. 23-__; A Resolution adopting an Annexation Policy (p.338)

d) Consideration of a request from Ruis Texco LLC for a Planned Unit Development to develop a 146-unit multi-family project in seven buildings located at 105 Colorado Avenue, 709 Waverly Place, 60, 124, 136 and 152 Texas Avenue, zoned WR-4 (High Density Multi-Family Residential District) and WR-2 (Two-Family Residential District) (WPUD 22-04) (p.) POSTPONED PER APPLICANT TO JUNE 19, 2023 CITY COUNCIL MEETING

7) COMMUNICATIONS FROM FIRE CHIEF

a) Consideration of a request to award a contract for an airboat as a rescue boat (p.348)

8) COMMUNICATIONS FROM CITY MANAGER

a) Written report enclosed with the packet. Questions from Mayor and Council? (p.351)

b) Other items arising between May 31st through June 5th

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

a) Letter from Jan Metzmaker regarding nuisance deer (p.353)

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)
May 31, 2023

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

Mayor Muhlfeld and City Councilors:

Monday, June 5, 2023 City Council Agenda Report

There will be a Special Session at 5:30 pm to interview for Architectural Review Committee; at 5:45 pm, City Manager Smith will review the Mayor and City Council Goals. Food will be provided.

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

COMMUNICATIONS FROM VOLUNTEER BOARDS

a) Consideration of a request from the Whitefish Convention and Visitors Bureau to hang Friend of the Fish messaging banners (p.21)

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 May 15, 2023 Regular Meeting (p.33)

b) Ordinance No.23-08; An Ordinance amending the Whitefish City Code to completely rewrite Title 11, Chapter 4, Landscaping Requirements; and amend Chapter 2, Zoning Districts, Section 11-2K-4 Property Development Standards; Section 11-2N-2 Permitted Uses; Section 11-2N-4 Property Development Standards; Section 11-2O-2 Permitted uses; Section 11-2O-4 Property Development Standards; Section 11-2P-2 Permitted Uses; Section 11-2P-4 Property Development Standards; Section 11-2Q-2 Permitted Uses; Section 11-2Q-4 Property Development Standards; Chapter 3, Special Provisions, Section 11-3-42 Multi-Family Development Standards, 11-3-43 Mixed-Use and Non-Residential Building Development Standards; Chapter 6, Off Street Parking and Loading, Section 11-6-2 Parking Space Requirements; Section 11-6-3 Special Conditions; Section 11-6-5 Landscaping and Screening; Section 11-6-8 Street and Roadway Access Standards. (Second Reading) (WZTA 23-08) (p.38)

c) Consideration of a request from Houston Point Homeowner’s Association for a Whitefish Lake and Lakeshore Protection Permit to widen and rebuild the existing hiking trail using mechanical equipment, and remove rocks and vegetation along trail, located at 2303 Houston Point Drive (WLP 23-W-07) (p.69)

d) Consideration of a request from Bay Point Country Homeowner’s Association for a Whitefish Lake and Lakeshore Protection Permit to remove a concrete block that is in the lake approximately 10’ from the shore, located at 115 Bay Point Drive (WLP 23-W12) (p.101)

e) Consideration of a recommendation for confirmation of Police Officer Jonathan Warricks pursuant to MCA §7-32-4113 (p.115)

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

Items “a & e” are administrative matters; Item “b” is a legislative matter; Item “c & d” are quasi-judicial matters.

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

a) Consideration of a request from High Water LLC for Preliminary Plat to develop a 9-lot subdivision located at 1600 East 2nd Street, zoned WLR (One-Family Limited Residential District) (WPP 23-02) (p.117)

From Senior Planner Wendy Compton-Ring’s staff report.

The applicant is proposing a 9-lot subdivision on a 4.844-acre parcel. The subdivision will be accessed off E. 2nd Street and Wild Rose Lane. A newly constructed public right-of-way will ‘T’ into Wild Rose Lane, a public street, and Wild Rose will connect to the west and be extended the full extent of the north property line to the eastern property for future extension.

Per the Whitefish Subdivision Regulations (§12-4-3A, WCC), this project is eligible for an Expedited Review.

**RECOMMENDATION:** Staff respectfully recommends that the City Council, after considering testimony at the Public Hearing, approve WPP 23-02, adopt the findings of fact in the staff report, and the 17 conditions of approval.

This item is a quasi-judicial matter.

b) Ordinance No. 23–_; An Ordinance amending Ordinance Nos. 18-01, 19-02 and 21-14, which approved and subsequently amended the 95 Karrow, LLC Preliminary Plat and Planned Unit Development, to develop a mixed-use development on the former Idaho Timber property located at 95 Karrow Avenue, Whitefish (First Reading) (WPUD 23-01) (p.269)

From Senior Planner Wendy Compton-Ring’s transmittal report.

**Summary of Requested Action:** A request by Karrow Whitefish Investment LLC for an amendment to previously approved Mixed Use Planned Unit Development (M-PUD) overlay to deviate from the underlying zoning for a 5-foot structural setback, 0-foot lot line setback on awnings and roofs adjacent to common areas and public ways, 60% lot coverage Lots 3, 4, 5, 6, and portions of Lot 7, and 80% lot coverage on Lot 10 at 95 Karrow Avenue (legally described as Tract 1, COS 9540 in Section 35 & 36, Township 31N, Range 22W, P.M.M., Flathead County).

**Planning & Building Department Recommendation:** Staff recommended approval of the amendments.

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

**Planning Board Action:** At the May 18, 2023, Whitefish Planning Board meeting, the Board considered the request and following the hearing, a motion to approve the project passed unanimously.

**RECOMMENDATION:** Staff respectfully recommends the City Council, after considering
testimony at the Public Hearing, and the recommendations from the Planning Staff and the Planning Board, adopt Ordinance No. 23--__; An Ordinance amending Ordinance Nos. 18-01, 19-02 and 21-14, which approved and subsequently amended the 95 Karrow, LLC Preliminary Plat and Planned Unit Development, to develop a mixed-use development on the former Idaho Timber property located at 95 Karrow Avenue, Whitefish (First Reading), the findings of fact in the staff report and the one condition of approval.

This item is a quasi-judicial matter.

c) Resolution No. 23--__: A Resolution adopting an Annexation Policy (p.338)

From Director Dave Taylors staff memo.

Background Information: Attached is an updated City Annexation Policy, which has been put together for adoption of the City Council by resolution. While our current Annexation Policy is contained in our adopted Extension of Services Plan, staff recommends that the city adopt a standalone Annexation Policy. This Annexation Policy was previously reviewed by the Council at two work sessions.

The Annexation Policy outlines the policy for both city-initiated annexations of wholly surrounded properties or properties already on city services, as well as annexations requested by landowners needing services. The Annexation Policy document includes a purpose statement and a series of evaluation criteria the City Council should use when making decisions related to annexation. This includes the process to allow for zoning upon annexation, as we recently updated the city code to allow for rezones to city zoning to occur simultaneously with annexation petition approvals.

A companion document providing answers to Frequently Asked Questions (FAQ) is also included. It explains the annexation process and provides explanation of why annexation might be desirable. It answers questions that often come up about City-initiated annexations of wholly surrounded properties, including concerns about property tax increases and whether there are requirements to connect to City sewer and water services.

A map is also included of the Urban Growth Boundary adopted in our Extension of Services Plan.

RECOMMENDATION: Staff respectfully recommends the City Council after considering testimony at the Public Hearing, adopt Resolution No. 23--__; A Resolution adopting an Annexation Policy.

This item is an administrative matter.

d) Consideration of a request from Ruis Texco LLC for a Planned Unit Development to develop a 146-unit multi-family project in seven buildings located at 105 Colorado Avenue, 709 Waverly Place, 60, 124, 136 and 152 Texas Avenue, zoned WR-4 (High Density Multi-Family Residential District) and WR-2 (Two Family Residential District) (WPUD 22-04) (p.) POSTPONED PER APPLICANT TO JUNE 19, 2023 CITY COUNCIL MEETING

COMMUNICATIONS FROM FIRE CHIEF

a) Consideration of a request to award a contract for an airboat as a rescue boat (p.348)

From fire Chief Joe Page’s staff report.

Introduction / History
The Fire Department provides fire, rescue, hazmat, and EMS services to the City of Whitefish, the Whitefish Fire Service Area, and portions of the Flathead Fire Service Area. Within our response are a number of waterways including the Whitefish Lake, Spencer Lake, Tally Lake, plus the Whitefish River. The ability to operate year-round on frozen, partially frozen, and in shallow area waterways along the shorelines, specifically providing initial containment of a hazardous materials spill is vital.

**Current Report**

Our previous rescue boat, a 1990 Achilles Inflatable, was taken out of service due to numerous air leaks and the inability to obtain parts for the outboard engine. Our 2006 Hovercraft is capable of operating year-round on frozen and partially frozen and shallow area waterways but lacks the space to carry hazmat booms or if used in a rescue operation, a place to bring a patient onboard.

Speaking with FWP Warden Captain Nathan Reiner, Montana Fish, Wildlife and Parks would grant us administrative privileges to operate an air boat, even if it exceeds the noise limitations set forth in MCA §23-2-526.

On March 9th we sent out six requests for proposals to known airboat manufacturers, published legal notices in the Whitefish Pilot and Daily Inter Lake on March 15th and 22nd plus listed the notice on our website. Bids were opened on May 4th. Nirbuilt Airboats out of Ashland, NE was the only bidder at $101,663.42 for an 18-foot air boat and trailer with an October build date.

**Financial Requirement**

The Fire Department’s FY23 Budget has $100,000.00 appropriated for a new rescue boat with a portion of that cost funded through a $25,000 grant from BNSF and a $10,000 grant from the Whitefish Community Foundation, both of which have already been awarded. The FY24 Proposed Budget assumed this project would be carried forward into the next year and continues an appropriation of $100,000.00 for the purchase of an airboat. The additional $1,663.42, will be adjusted in the final FY24 Budget if the contract is awarded by the City Council. Additionally, BNSF has also offered to help provide training with their Sandpoint operations which also deploys an airboat.

**RECOMMENDATION:** Staff respectfully recommends the City Council award the contract to Nirbuilt Airboats to provide an airboat as specified for $101,663.42.

**COMMUNICATIONS FROM CITY MANAGER**

a) Written report enclosed with the packet. Questions from Mayor and Council? (p.351)
b) Other items arising between May 31st through June 5th

**COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS**

a) Letter from Jan Metzmaker regarding nuisance deer (p.353)

**ADJOURNMENT**

Sincerely,

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>
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<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>
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### Subsidiary Motions

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<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

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<tr>
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<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

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<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>
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</table>

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

### RENEWAL MOTIONS

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<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>
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Be a Friend of The Fish Banners

Whitefish Sustainable Tourism Management Plan (STMP)
Location: Whitefish City Hall
Background

- STMP is partnership with City of Whitefish and WCVB.
- STMP approved by City Council Sept 2020 with a recommended action item of an education and outreach campaign.
- “Be a Friend of The Fish” Campaign Created:
  - Messaging geared towards visitors and locals to promote sustainability community values, destination stewardship, kindness, etc.
During 2021, City Council approved the STMP Committee request to hang Friend of The Fish Banners during the warm season (June - October).

STMP committee is once again making this request to hang Friend of The Fish Banners during the 2022 warm season (June - October) with some additional placement in pedestrian and bicycle friendly areas which has been reviewed by Parks and Rec. and will not interfere with downtown flower baskets. Public Works has once again agreed to install the banners.
Timing

• Mid/Late June - Mid October 2022 (peak season)
• Just like last year, consideration of STMP committee coming back to the council for future requests/recommendations based on STMP campaign needs and future STMP messaging.
Design

Take it Slow. Enjoy the Ride.

Show Respect and Kindness.

Recreate Responsibly.

Be a Friend of The Fish

FriendOfTheFish.com

Be a Friend of The Fish

FriendOfTheFish.com

Be a Friend of The Fish

FriendOfTheFish.com
Design

Be a Steward of the Land.
Be a Friend of The Fish
FriendOfTheFish.com

Fuel our Local Businesses.
Be a Friend of The Fish
FriendOfTheFish.com

Help us Stay Healthy.
Be a Friend of The Fish
FriendOfTheFish.com
1. **Edgewood Ave**: 25 poles available
   (Two Sparrow Chiropractic to City Beach Overflow parking lot -13)
   (New poles on reconstructed East Edgewood - 12)

2. **O’Shaughnessy Building**: 4 poles available
   (3 on south side of building/bathroom side) (1 in front of building)

3. **Depot St**: 5 poles available (Spokane Ave-Columbia Ave)

4. **BNSF/Library Back Parking Lot**: 4 poles available
Locations (8 Locations Total)

1. **Columbia Ave**: 4 poles available
   (Depot-1\textsuperscript{st} St. behind the middle school sports field)

2. **Library Main Parking Lot**: 4 poles available
   *Some Banners Here in 2021*

3. **Second St. Parking Lot**: 3 poles available
   *Some Banners Here in 2021*

4. **Hwy 93 W**: 51 poles (2\textsuperscript{nd} St. bridge-State Park Rd.)
   *Some Banners Here in 2021*
Details

Quantity

- (38) 24x48 double sided banners
- (7) 18x30 double sided banners
- (5) 18x30 single bracket hardware

Funding

WCVB funded the design and printing of banners last year. City of Whitefish will provide staff for installation through Public Works.

Approval

STMP committee is asking for approval of placement of Be a Friend of The Fish Banners at the 8 proposed locations, with priority given to locations #1-7 and the remainder of banners placed on Hwy 93 W. starting at 2nd St. Bridge
1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Caltabiano, Davis, Sweeney, and Norton. Councilor Feury 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, Fire Chief Page, and Long-Range Planner Tiefenbach. Approximately 8 people were in the audience and 0 attended virtually.

2) PLEDGE OF ALLEGIANCE

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

3) PRESENTATION
   a) Whitefish Winter Carnival Royal Court regarding matters related to the Realm.

   The Prime Minister of the Whitefish Winter Carnival Tony Veseth introduced King Ullr LXIV Doug Zignego, Queen of the Snows LXIV Chris Zignego, Duchess of Lark LXIV Kellie Cahill and Harold the Hark Davis Madden. The Royal Court recognized, Planning and Building Director Dave Taylor, Public Works Director Craig Workman, City Clerk Michelle Howke, City Attorney Angela Jacobs, Police Chief Bridger Kelch, Fire Chief Joe Page, and City Manager Dana Smith.

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

   None

5) COMMUNICATIONS FROM VOLUNTEER BOARDS

   None

6) CONSENT AGENDA (The consent agenda is a means of expediting routine matters that require the Council’s action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
   a) Minutes from May 1, 2023 Special Session (p.37)
   b) Minutes from May 1, 2023 Regular Meeting (p.38)
   c) Ordinance No. 23-07: An Ordinance rezoning 11.18 acres of land located at 111 Iverson Lane, 119 Iverson lane, 140 Iverson Lane, and 6010 US Highway 93 South in Section 12, Township 30 North, Range 22 West, P.M., Flathead County, Montana, zoned Flathead County B-4/HO (Secondary Business/Highway Overlay) and SAG 5/HO (Suburban Agricultural/Highway Overlay) to WB-T (Business Transitional District) and WCR (Country Residential District), and adopting finding with respect to such rezone (Second Reading) (WZC 23-02) (p.44)

   Councilor Sweeney made a motion, seconded by Councilor Qunell to approve the Consent Agenda. The motion carried.

7) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30-minute time limit for applicant’s land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
a) **Ordinance No.23-08**: An Ordinance amending the Whitefish City Code to completely rewrite Title 11, Chapter 4, Landscaping Requirements; and amend Chapter 2, Zoning Districts, Section 11-2K-4 Property Development Standards; Section 11-2N-2 Permitted Uses; Section 11-2N-4 Property Development Standards; Section 11-2O-2 Permitted uses; Section 11-2O-4 Property Development Standards; Section 11-2P-2 Permitted Uses; Section 11-2P-4 Property Development Standards; Section 11-2Q-2 Permitted Uses; Section 11-2Q-4 Property Development Standards; Chapter 3, Special Provisions, Section 11-3-42 Multi-Family Development Standards, 11-3-43 Mixed-Use and Non-Residential Building Development Standards; Chapter 6, Off Street Parking and Loading, Section 11-6-2 Parking Space Requirements; Section 11-6-3 Special Conditions; Section 11-6-5 Landscaping and Screening; Section 11-6-8 Street and Roadway Access Standards. (First Reading) (WZTA 23-08) (p.52)

Long Range Planner, Alan Tiefenbach presented his staff report that is provided in the packet on the website. This is a complete update to the landscaping code. The last revisions were in 2008. The new landscaping requirements apply to everything except for single family detached. There are new requirements for residential buffers, street frontages, internal parking lot islands, and added a 30-foot buffer along Highway 93 South.

The new tree preservation requirements identify evergreen trees with calipers greater than 12-inch, deciduous trees with calipers greater than six inches, and other trees that are determined as qualifying trees. Each qualifying tree that is removed must be replaced with trees totaling at least two times the caliper. Any qualifying trees that remain is used as a credit towards two trees. There is an allowance for relief from this requirement particularly because of the heavily forested lots. The landscape talks about sometimes it is understood that removal of trees is necessary particularly for fire mitigation.

Questions were brought forward during work sessions with the Planning Board and City Council such as how tree evaluation is determined; there should be exemptions for fire mitigation; there should be some additional clarification regarding what an acceptable root barrier is; and there should be revisions to the residential buffer standards. There was a citizen that commented about whether or not it would be difficult to have the 50 native species requirement. The solution was recommended to allow cultivars, which is hybrids of native and are much easier to get. There was also a comment whether or not there should be a footnote added with the cost of a tree in case a tree had to be removed. Staff talked about that, but they didn’t want to put anything having to do with costs into the regulations.

Staff received a letter today, that is appended to the packet on the website, which had some comments and concerns about the landscape code. The comments whether these regulations were more like regulations or more like subdivision covenants. It is important to note that these codes are very similar to other municipalities. These codes are standard and tailored to the city. There were concerns if the landscape code would have an impact on housing. The code does reference there can be relief granted when there is a hardship. Staff wanted to make sure there was flexibility that the intent of these happen.

Planner Tiefenbach recommends two revisions to the proposed code; a typo 11-4-1, change from mitigation to mitigate; and 11-4-9 to read, **unlawful removal of or qualifying tree designated in the tree preservation plan for retention will result in a municipal infraction**.

Councilor Davis asked, and Planner Tiefenbach stated section 11-4-6 talks about the city recognizes that tree removal is sometimes necessary. When it is considered impractical or the trees can not be retained or replaced, the applicant has the ability to show that they are planting a tree someplace else or adding a buffer on one side. The intent is to try to get to the same end without being overly prescriptive. Flexibility is important in code otherwise you are always trying to grab variances from it.
Councilor Norton asked if the city arborist is involved in this process. The regulations state that the applicant has to have a licensed arborist. Councilor Sweeney asked, and Planner Tiefenbach stated the regulations states you should plant 50% of your species to be native and it states evergreen or deciduous.

Mayor Muhlfeld opened the Public Hearing

Jim Ramlow, 316 Somers Avenue, provided a letter that is appended to the packet. He stated that the proposed ordinance is a lot of new legislation. There is a lot of concepts that are difficult to administer and apply. In section 11-4-9(b) there are several standards by which a zoning administrator can grant permission. Zoning Administrators can have all kinds of different opinions. This ordinance is talking about trees that are located on people’s private property. We have to think hard about the question of taking. What is the City trying to accomplish? Is it public safety and environment protection? Or is it about aesthetics? He recommends designing regulations that do not require variances or require special arrangements with an administrator. The more complex the ordinance the greater the discretion with the administrator the more likelihood there is going to be an equal protection problem, as well as a taking problem in this case.

Leo Keane, 514 Pine Place, stated he feels this is a great plan. We are a tree city, and we need to do something that is fairly forceful about preserving what we have here. He is concerned about those that remove trees before plans are submitted. In order for this to be effective, we need to start an inventory of what we do have. Will there be an inventory of the trees that we have within the city so that we can get a little bit ahead of the developments? His is in favor of this plan and is comfortable with the flexibility.

Richard Hildner, 104 East 5th Street, has concerns that three years is not enough time for a newly planted tree to be protected. He is concerned that bark mulch does not adequately protect houses from an ember shower, should be banned throughout the entire city. He recommends adding a viability standard for the trees that are planted. For every inch of caliper, it takes one year to establish the root system. We should do everything we can to prove to the public that we are in fact a tree city. He likes the fact that this proposed update combines all the other various regulations into one section of the code.

Nathan Dugan, 937 Kalispell Avenue, stated due to the Governor signing SB 323, duplexes will be legal throughout Whitefish. He recommends removing duplexes from the landscaping standards, since that could add workload on the planning staff.

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

Councilor Caltabiano made a motion, to postpone indefinitely this matter. The motion failed for a lack of a second.

Councilor Norton asked Director Taylor how we address undue hardship, highest degree possible, and equal or better results. Director Taylor stated some of it is subjective when looking at a site plan. Every single site is different. There might be mitigating circumstances depending on what is on the site, what is adjacent to it, whether it is on a corner lot all come into play when someone is developing a lot. To the highest degree possible, is recognizing that there are extenuating circumstances. There is subjective language, but the majority of projects are going to be able to meet these things without any kind of issue.

Attorney Jacobs stated there is an appeal process built into the statute if somebody disagrees with the Zoning Administrators decision. She stated this is very comparable with other cities landscaping requirements and is less arduous than other cities. Councilor Quinell asked, and Planner Tiefenbach stated if the landscaping plan
is approved, and it dies, then it is a zoning violation.

Councilor Norton made a motion, seconded by Councilor Qunell, to adopt Ordinance No. 23-08 with two revisions; section 11-4-1 change “mitigation” to “mitigate; and section 11-4-9D it should read “Enforcement: Unlawful removal of a qualifying tree designated in the tree preservation plan for retention will result in a municipal infraction”.

Councilor Qunell made a motion, seconded by Councilor Davis to amend 11-4-2A, “Unless otherwise noted, the provisions of this chapter apply to all districts and to all uses except single-family dwellings and duplexes”. The motion failed 3-2, Councilors Sweeney and Caltabiano voting in opposition.

The original motion for approval carried 4-1, Councilor Caltabiano voting in opposition.

8) COMMUNICATIONS FROM CITY ATTORNEY
   a) Resolution No. 23-06; A Resolution Granting a Utility Easement to Flathead Electric Cooperative over land located at Lot 6 of Bakers Common – Phase II Subdivision, Section 1, Township 31 North, Range 22 West P.M., M., Flathead County Montana (p.102)

City Attorney Jacobs presented her staff report that is provided in the packet on the website.

Mayor Muhlfeld addressed Stan Pluid, Flathead Electric Cooperation. Mr. Pluid stated this is a limited easement. The idea is to keep the line close to the property line. The easement is ten feet on each side of the line as installed.

Councilor Qunell made a motion, seconded by Councilor Sweeney to approve Resolution No. 23-06, A Resolution granting a Utility Easement to Flathead Electric. The motion carried.

9) COMMUNICATIONS FROM CITY MANAGER
   a) Written report enclosed with the packet. Questions from Mayor and Council? (p.108)

None

   b) Other items arising between May 10th through May 15th.

City Manager Smith reported she met with other city managers, and the Montana League of Cities and Towns, in Billings to discuss the legislative session. She learned that SB 382 impacts other bills that were adopted. For example, SB 528 would not necessarily apply if you work under SB 382. You will have to select options, but you do not necessarily have to follow the rules that they have identified. They looked at modernization of tax increment financing, and tax reform. Doing something in the interim to come forward with a proposal and working with certain entities like the Montana Infrastructure Coalition. The League needs more help at the session. They will be looking at increasing their dues to get more of them working the floor. Manager Smith reported that the Governor vetoed SB 301, which would grandfather lakeshore docks.

10) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

Councilor Comments

Councilor Norton asked, and Director Workman stated the water main installation on Spokane Avenue is ahead of schedule. MDT will start resurfacing May 30th in the evening hours. The justification for MDT to do their work at night will take the work from two to two and half weeks to four or five days. Councilor
Norton is concerned the controlled pedestrian signal at the corner of Spokane and Fifth Street are not accessible in the winter months, and asked Director Workman to look into it. Councilor Norton asked Attorney Jacobs to review the City’s non-discrimination ordinance. Attorney Jacobs stated Council passed a non-discrimination ordinance in 2015 which prohibits discrimination in employment, public accommodations, housing, and prohibits retaliation. A complaint would first be filed with the Montana Human Rights Bureau. If they refuse to prosecute or do not recognize as a protected class, the person can file an action in Municipal Court. We have not had anybody file a complaint.

Councilor Davis asked, and Manager Smith stated the TischlerBise will continue to work with the Impact Fee Advisory Committee. Once that process is done, a work session will be held before adopting the report, by ordinance. The new fees would be adopted simultaneously through resolution.

Councilor Qunell has concerns of the construction project near Riverbend Apartments pumping water directly out of their basements onto the bike path. Director Workman stated staff has received the same concerns and will be addressing it.

Mayor Muhlfeld asked Director Workman if the landscaping on Edgewood between Wisconsin Avenue and Texas Avenue a final project. Director Workman stated there were a few properties where staff worked with the homeowners to do individualized landscaping plans. The seeding in general has been a disaster. After meeting with the contractor and subcontractor, there is a plan in place to try to get some of that seed to germinate and do some weed mitigation. Mayor Muhlfeld asked, and Manager Smith stated Director Butts staff has reached out to Town Pump last fall and have not received a response. Manager Smith will do a follow up with their contacts to have them follow through. Mayor Muhlfeld acknowledged Alan Tiefenbach and Lanie Gospodarek for their terrific work and are a great addition to staff.

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

Mayor Muhlfeld adjourned the meeting at 8:48 p.m.

______________________________________________

Mayor Muhlfeld

Attest:

______________________________________________

Michelle Howke, Whitefish City Clerk
ORDINANCE NO. 23-08

An Ordinance of the City Council of the City of Whitefish, Montana, amending the Whitefish City Code to completely rewrite Title 11, Chapter 4, Landscaping Requirements; and amend Chapter 2, Zoning Districts, Section 11-2K-4 Property Development Standards; Section 11-2N-2 Permitted Uses; Section 11-2N-4 Property Development Standards; Section 11-2O-2 Permitted Uses; Section 11-2O-4 Property Development Standards; Section 11-2P-2 Permitted Uses; Section 11-2P-4 Property Development Standards; Section 11-2Q-2 Permitted Uses; Section 11-2Q-4 Property Development Standards; Chapter 3, Special Provisions, Section 11-3-42 Multi-Family Development Standards, 11-3-43 Mixed-Use and Non-Residential Building Development Standards; Chapter 6, Off Street Parking and Loading, Section 11-6-2 Parking Space Requirements; Section 11-6-3 Special Conditions; Section 11-6-5 Landscaping and Screening; Section 11-6-8 Street and Roadway Access Standards.

WHEREAS, the ordinance governing landscaping requirements on private property has not been updated since 2008; and

WHEREAS, in 2022, the Whitefish City Council set a goal to direct staff to revise the landscaping ordinance; and

WHEREAS, the existing landscaping ordinance has minimum tree density requirements and is not easily understood; and

WHEREAS, the Whitefish City Council has expressed the desire for more robust tree retention requirements; and

WHEREAS, in response to the direction provided by the Whitefish City Council, Staff revised the landscaping ordinance to: maintain and improve community livability, mitigate adverse impacts of higher intensity land uses located adjacent to lower intensity land uses, reduce the impacts of climate change, reduce the heat-island effect, foster quality of life, enhance the City’s natural environment, improve air quality, protect water quality, promote sustainable landscape practices, provide wildlife habitat, enhance the aesthetic quality and economic viability of the City and protect the health, safety and general welfare; and

WHEREAS, Staff distributed the proposed landscaping ordinance for review and comment to twelve (12) Landscape Architects and Botanists; and

WHEREAS, Staff presented a preliminary draft of the landscaping ordinance at February 16, 2023 Planning Board and March 7, 2023 City Council Work Sessions, public input was received, and the Board and Council directed Staff to make revisions; and,

WHEREAS, the Whitefish Planning and Building Department prepared Staff Report WZTA 23-03, dated April 20, 2023, which analyzed the proposed rewrite of the landscaping ordinance and other housekeeping amendments, and recommended in favor of their approval; and
WHEREAS, at a lawfully noticed public hearing on April 20, 2023, the Whitefish Planning Board received an oral report from Planning Staff, reviewed Staff Report WZTA 23-02, invited public comment, and thereafter voted unanimously to approve the proposed text amendments; and

WHEREAS, at a lawfully noticed public hearing on May 15, 2023, the Whitefish City Council received an oral report and a written report from Planning Staff, reviewed Staff Report WZTA 23-03, and letter of transmittal, invited public input, 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 amendments to the landscaping ordinance.

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

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

Section 2: Staff Report WZTA 23-03 dated April 20, 2023, together with letter of transmittal from the Whitefish Planning & Building Department dated May 15, 2023, are hereby adopted as Findings of Fact.

Section 3: The amendments to Title 11, Zoning Regulations, as provided in 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 4
LANDSCAPING REQUIREMENTS

11-4-1: PURPOSE AND INTENT: The purpose of this chapter is to enhance, conserve and stabilize property values and the city's natural environment. This is accomplished through the preservation, protection and planting of trees and other landscape material, particularly those trees recognized herein as canopy and understory trees, and the provision of natural and/or planted buffers between dissimilar uses as part of the land development process. This chapter is intended to further the city's policy that all development sites where trees are most commonly removed will achieve, upon project completion, a uniform standard related to tree coverage, landscaping and buffers. In addition, trees are recognized for their importance in shading and cooling, noise and wind reduction, prevention of soil erosion, production of oxygen, dust filtration, fostering air quality through carbon dioxide absorption, providing wildlife habitat, and contributing to the aesthetic and economic value of real property. Unless otherwise noted, the provisions of this chapter shall apply to all districts and to all uses except single-family, duplex and threeplex dwellings.

11-4-2: NONCONFORMING STATUS:

A. Any property or use of property that did not comply with the landscaping regulations in effect prior to December 21, 2000, may not be continued, and shall be considered noncompliant with the amendments that took effect on December 21, 2000. Any property or use of property that complied with the landscaping regulations in effect prior to December 21, 2000, may be continued in the same manner as if the landscaping was conforming with the amendments that took effect on December 21, 2000; provided, however, if there is a change in occupancy, use or division, landscaping shall be provided in accordance with the requirements of this chapter.

B. If the developed lot area of any use, or the gross floor area of any building, is increased by fifty percent (50%) or more from the effective date of this chapter, landscaping shall be provided in accordance with the requirements of this chapter.

11-4-3: REDUCTION OF EXISTING LANDSCAPING: Landscaping which exists on any property or for any use, subject to the provisions of this chapter, shall not be altered or reduced below the minimum requirements of this chapter, unless suitable substitutions are made which meet the requirements of this chapter, and a site plan is first approved by the zoning administrator. Preserving existing trees or groves of trees will provide a one hundred percent (100%) bonus in calculating the required landscaping in section 11-4-4 of this chapter. The bonus will not exceed twenty-five percent (25%) of the total landscaping requirement. (Example: The regulations require 1,000 square feet of landscaping. An existing grove of trees covers 300 square feet of area. The existing grove, if preserved, will account for 300 square feet plus 100 percent bonus for a total
11-4-4: PROPERTY LANDSCAPING STANDARDS: Landscaping shall be provided for that portion of the developed area according to the following schedule:

<table>
<thead>
<tr>
<th>Developed Area</th>
<th>Minimum Landscaping Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 22,000 square feet</td>
<td>10 percent of landscaping area</td>
</tr>
<tr>
<td>22,000 square feet to 5 acres</td>
<td>8 percent of landscaping area</td>
</tr>
<tr>
<td>5 acres to 10 acres</td>
<td>6 percent of landscaping area</td>
</tr>
<tr>
<td>10 acres or more</td>
<td>4 percent of landscaping area</td>
</tr>
</tbody>
</table>

For the purpose of determining the required amount of landscaping, "developed area" is defined as: The area encumbered by building footprints, parking lots, driveways and retail sales areas (both interior and exterior).

Landscaping standards for parking lots and buffers are in addition to the required minimum specified above. At least fifty percent (50%) of the required landscaping shall occur between the building setback line and the public right of way.

11-4-5: DESIGN STANDARDS:

A. General Standards:

1. The minimum inside width of any required landscaped area, or of any form or fixed planter box used to satisfy required landscaping, shall be three feet (3').

2. Additional information regarding suitable species for planting and location of landscaping shall be available at the office of the city manager.

3. Landscaping material, as defined in section 11-9-2 of this title, to meet the minimum requirements listed above shall be complemented with lawn cover on the balance of the landscaping area.

4. When a commercial use or parking lot abuts residentially zoned property, the landscaped buffer (greenbelt) shall consist of a mixture of trees, shrubs and ground cover. The buffer shall achieve a fifty percent (50%) visual screen within three (3) years after planting. The buffer shall be a minimum width equal to the required setback and five feet (5') high. If fences are used in the buffer, the fence shall be made of material commonly used in construction such as wood or vinyl.

B. W-2 Standards:

1. At least forty percent (40%) of the landscaped area shall consist of shrubs or living ground cover that is a minimum of six inches (6") in height.
2. Along the street frontage, a five foot (5') wide landscaped buffer shall be installed with one large canopy tree per fifty feet (50') of frontage or two (2) small ornamental trees per fifty feet (50') of frontage. (See materials list for species.)

3. When a parking lot fronts a street, a five foot (5') wide landscape buffer (7 feet wide if curb stops are not used and the car bumper hangs over the landscaped area) shall be installed that achieves a fifty percent (50%) visual screen within three (3) years of planting.

4. When a use is adjacent to WA or any residential zoning, the adjacent property boundaries must incorporate a buffer of twenty feet (20').

C. WB-3 Standards:

1. Buildings in the WB-3 classification are exempt from the landscaping requirements when construction is developed to the zero lot line.

2. Landscaping, per section 11-4-4 of this chapter, is required for developments in the WB-3 when the use incorporates on site parking and/or yard areas.

D. WRB 1 And WRB 2 Standards: When a use is adjacent to WA or any residential zoning, the adjacent property boundaries must incorporate a buffer of twenty feet (20').

E. WI Standards: When a use is adjacent to any other zoning, the adjacent property boundaries must incorporate a buffer of twenty feet (20').

F. WBSD Standards: When a use is adjacent to WA or any residential zoning, the adjacent property boundaries must incorporate a buffer of twenty feet (20').

11-4-6: MAINTENANCE: Required landscaped areas shall be maintained in a neat, clean, orderly and healthful condition. Maintenance shall include proper pruning of trees and shrubs, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary, and the regular watering of all plantings. Required landscaped areas shall be provided with a permanent watering or sprinkling system that shall consist of piped water lines terminating in an appropriate number of sprinklers or hose bibs to ensure a sufficient amount of water for plants within the landscaped area. Where the water system consists of hose bibs alone, these bibs shall be located not more than one hundred fifty feet (150') apart.

11-4-7: LANDSCAPING BETWEEN WALL AND PROPERTY LINE: Any open area between a fence or wall and the adjacent property line shall be maintained by the property owner in a neat and orderly manner.

11-4-8: PERFORMANCE ASSURANCE

\[\text{\textsuperscript{1}}\text{ See subsection 11-6-5B of this code.}\]
A. Required trees and landscaping must be installed prior to issuance of a certificate of occupancy or issuance of other necessary permitting prior to construction or development of the site. In the event it is not possible for landscaping to be completed at that time due to legitimate weather, supply issues, etc., the Zoning Administrator may accept a bond or letter of credit to ensure the installation of all required landscaping within six (6) months of project approval. Any such device for project assurance must be one hundred fifty percent (150%) of the cost of all required materials and labor, as shown in an itemized cost estimate, and in no situation will the total be less than two thousand dollars ($2,000).

11-4-9: ADMINISTRATION:

A. Authority: The Zoning Administrator has the authority and jurisdiction of regulating the planting and/or removal of landscape and trees required by this chapter.

B. Deviation from Landscaping Standards. The Zoning Administrator may approve exceptions to the regulations when all of the following are met:

1. The applicant can document that meeting the requirements would cause undue hardship due to pre-existing conditions on site, such as existing location of structures or vegetation.

2. The deviation from the standards meets the landscape requirements to the highest degree possible and is the minimum variation needed.

3. The applicant proposes an equal or better result than that which could be achieved by strictly following the requirements of this chapter.

C. Other measures to meet the purpose and intent of this Landscape Code may be proposed to substitute for the required landscaping, such as decorative fencing, walls, arbors, or trellises, with appropriate vegetation.

D. Enforcement: Unlawful removal of a qualifying tree designated in the tree preservation plan for retention will result in either a municipal infraction or a fine equal to one hundred fifty percent (150%) of the value, as determined by a certified arborist based on the Council of Tree and Landscapers Appraisal Guide or replacement trees as required per Section 11-4-6C.

E. Appeal: Any person may make a written appeal from any ruling or order made by the Zoning Administrator to the Board of Adjustment, who shall make a final decision.

11-4-10: NONCONFORMING STATUS:

A. Any existing property or use of property that does not comply with the landscaping regulations of this chapter may be continued in the same manner except as provided in Section 11-4-2.
B. Landscaping which exists on any property or for any use, subject to the provisions of this chapter, must not be altered or reduced below the minimum requirements of this chapter, unless suitable substitutions are made which meet the requirements of this chapter, and a site plan is first approved by the Zoning Administrator.

11-4-1: PURPOSE AND INTENT:

A. The purpose of this chapter is to promote landscaping on private property to:

1. Maintain and improve community livability;

2. Mitigate possible adverse impacts of higher intensity land uses located adjacent to lower intensity land uses;

3. Mitigate or reduce the impacts of climate change;

4. Reduce the heat-island effect and provide adequate shade;

5. Foster quality of life;

6. Enhance the City's natural environment;

7. Improve air quality;

8. Protect water quality by providing vegetated areas that minimize and filter stormwater runoff;

9. Promote sustainable landscape practices including the usage of water-conserving and non-invasive native plants;

10. Provide wildlife habitat;

11. Enhance the aesthetic quality, and economic viability of the City; and

12. Preserve, protect, and provide planting of trees and other landscape material, particularly those trees recognized as canopy and understory trees which are integral to the City of Whitefish's community character and protect public health, safety, and general welfare.

11-4-2: APPLICABILITY:

A. Unless otherwise noted, the provisions of this chapter apply to all districts and to all uses except single-family dwellings.
1. While exempt from the enforcement of these landscaping requirements, single-family uses are encouraged to apply general landscaping standards as written in this chapter.

2. Multifamily developments are additionally required to conform to the open space and common and private open space requirements of Section 11-3-42 "Multifamily Development Standards" of this title.

B. Landscaping requirements outlined in this section apply when any of the following occurs:

1. When new development occurs; or

2. When the footprint of any existing building or total area of parking lot is cumulatively expanded by twenty-five percent (25%) or more; or

3. When a change of use is requested by the property owner that requires additional parking to be developed.

C. Required Landscape Areas. Landscaping must occur in buffer areas, along building frontages facing streets, residential areas and public spaces, interior parking areas, along the perimeter of parking lots, along street frontages, and to screen specific elements as indicated in this chapter. Buildings frontages where the buildings are developed at less than a five-foot setback are exempt from this requirement but are encouraged to incorporate the methods of landscaping for properties with reduced or no street frontage setbacks in the general landscaping requirements of Section 11-4-4-D.

1. All areas of a site not covered by structures, courtyards, patios, driveways, parking areas, or other impervious surfaces must be landscaped or retain existing vegetation.

11-4-3: LANDSCAPING PLAN SUBMITTAL REQUIREMENTS:

A. As applicable, a scaled landscape plan showing required landscaping must be submitted to the Zoning Administrator in electronic and paper format for review and approval as a part of the application for a building permit.

B. When a stormwater plan is required, it must match the approved landscape plan. Landscape plans must be submitted to Public Works with the engineering plans if above-ground stormwater facilities are included.

C. A landscape plan must be prepared by a licensed landscape architect or professional landscape company or installer. A landscape plan must at a minimum include the following:

1. Name and address and location of the project:
2. Scale (scale shall be at least 1:20 or larger for sites of 2 acres or less and at least 1:50 for sites greater than 2 acres in size);

3. Dimensioned locations, size, and species of existing and proposed trees and vegetation within required landscape areas, including public right-of-way, and indication of which trees will be protected, and which trees will be removed pursuant to the tree retention requirements per Section 11-4-6;

4. Property boundaries, significant existing physical features, playgrounds and equipment, easements, rights-of-way, vision clearance triangles, streets, sidewalks, paths, driveways, parking lots, areas to be paved or graveled, retaining walls, fences, detention ponds, drainageways or swales, areas affected by the 100-year floodplain, existing and proposed structures, building entrances, freestanding lights and signs, service or loading areas, open spaces, and recreational or resident amenities;

5. Existing and proposed contours and elevations;

6. The location, size and species of all qualifying trees or groups of trees. Qualifying trees will be identified by botanical/common names and applicable size (refer to Section 11-4-6 regarding "qualifying trees");

7. Trees to be removed or altered in any way must be marked in the field and matched on the tree plan. Number of trees, species and caliper as measured four feet (4’) dbh must be identified on the plan;

8. Identify the size, location, number of replacement plantings, the total caliper inches being removed of qualifying trees, and the total caliper inches being replaced;

9. If tree mitigation or replacement is not feasible, the plan or accompanying materials should demonstrate why mitigation or planting of some or all of the required replacement trees is impracticable;

10. The location and type of any irrigation systems (with water source noted) to maintain plantings unless exclusively drought tolerant species are used, and an acceptable watering plan is approved by the Planning Department;

11. Plant legend listing botanical and common names with size and quantity information;

12. The location of all existing and proposed underground utilities and any electric/communication facilities;

13. Description of the long-term proposed maintenance plan;

14. Description of how the proposed plan meets the requirement for water conserving design;
15. Plans for the removal and continued maintenance for removal of existing prohibited invasive species from the site;

16. Metal caging or breathable trunk protectors around trees for the first three (3) years after planting for protection from wildlife.

17. Estimated date of completion of the installation of plantings and finish materials;

18. The approved landscape and maintenance plans must not be changed or altered without review and approval by the zoning administrator. All landscaping shown on the approved plan must be installed and maintained;

19. Limits of disturbance must be reflected on the landscape plan and any engineering plans and must be delineated and permanently maintained throughout the project;

20. Photos of any existing trees/landscaping to be retained must be submitted with the landscaping plan;

21. Cost estimate of any elements of the landscaping plan that cannot be installed prior to certificate of occupancy due to season or weather that will need to be bonded for; and

22. A cost estimate for all labor and materials for any project requiring a maintenance bond.

11-4-4: MINIMUM LANDSCAPING STANDARDS:

A. The following landscape standards reflected in Table 11-4-3A-1 establish minimum landscape requirements that apply to any applicable development.

<table>
<thead>
<tr>
<th>TABLE 11-4-3A-1 MINIMUM LANDSCAPING STANDARDS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Minimum planting sizes at installation</strong></td>
</tr>
<tr>
<td>Deciduous Trees</td>
</tr>
<tr>
<td>Evergreen Trees</td>
</tr>
<tr>
<td>Shrubs</td>
</tr>
<tr>
<td>Ground Cover / Perennials</td>
</tr>
<tr>
<td><strong>B. General Planting Standards</strong></td>
</tr>
<tr>
<td>Minimum Planting Density</td>
</tr>
<tr>
<td>Minimum Width of Landscape Area</td>
</tr>
<tr>
<td><strong>Ground Coverage Requirements</strong></td>
</tr>
<tr>
<td><strong>Species Requirement</strong></td>
</tr>
<tr>
<td><strong>Drought Tolerant Species Required Percentage</strong></td>
</tr>
</tbody>
</table>

## C. Street Frontage Landscape Standards

<p>| <strong>Applicability</strong> | All private areas along street frontages not used for street pavement, curbs, gutters, parking, sidewalks or drive aisles must be landscaped as indicated in the general planting standards. Alleys are exempt from this requirement. This landscaping area may include amenities such as patios, courtyards, outdoor furniture and planter boxes. Landscaping in public rights-of-way is regulated per the City of Whitefish's Engineering Standards (Refer to the Tree Protection and Planting Requirements of Chapter 1). When this requirement conflicts with other requirements of this chapter or other portion of the code, the more restrictive standard shall apply. |
| <strong>Minimum Width of Landscape Area</strong> | Ten feet (10'). |</p>
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>All properties within the WB-2 zoning district with street frontage along Highway 93 South from E. 13th Street to Highway 40 must provide a landscaped thirty-foot (30') wide street frontage.</td>
<td></td>
</tr>
<tr>
<td><strong>D. Parking Lot Landscape Standards</strong>&lt;sup&gt;1&lt;/sup&gt;</td>
<td></td>
</tr>
<tr>
<td><strong>Applicability</strong></td>
<td>Applies to all uncovered parking lots of over five (5) parking spaces, including vehicle sales or service areas.</td>
</tr>
<tr>
<td><strong>Minimum Required Landscaping Percentage</strong></td>
<td>Ten Percent (10%) of the total area of parking lot and drive aisles must be landscaped as measured around the perimeter of all parking spaces and maneuvering areas. Interior parking islands, parking lot perimeters and parking lot-side building perimeter landscaping may be calculated in this percentage.</td>
</tr>
<tr>
<td><strong>Parking Lot Perimeter</strong></td>
<td>A minimum five-foot (5') wide landscape strip must be provided along the perimeter of parking, loading, or other paved vehicular use areas, including drive aisles, vehicle sales areas, and vehicle storage areas. Two feet (2') must be added to the width of any required landscape area when curb stops are not used, and a car bumper hangs over the landscaped area.</td>
</tr>
<tr>
<td><strong>Parking Lots Adjacent to Right-of-Way</strong></td>
<td>A ten foot (10') wide landscape screen must be installed along any parking lot perimeter adjacent to right-of-way. The screen shall consist of planting materials and manmade features to create at minimum a three foot (3') high visual relief screen in the form of hedges, planter boxes, berms, dividers, shrubbery, or trees, or a combination of the above.</td>
</tr>
<tr>
<td><strong>Parking Lots Abutting Residential Use</strong></td>
<td>See residential buffer requirements in Section 11-4-3A-1-E.</td>
</tr>
</tbody>
</table>

<sup>1</sup> Parking lots also need to meet the parking lot design standards found in Appendix A of this title.
### Internal Landscape Island Standards:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Minimum Landscaping Required</strong></td>
<td>One landscape island must be installed per every ten (10) parking spaces and at the end of each parking row.</td>
</tr>
<tr>
<td><strong>Minimum Planting Density</strong></td>
<td>All landscape islands shall include at least one (1) shade tree with remaining ground being covered with low shrubs, native seed, or other vegetative cover with no more than fifty percent (50%) of the remaining coverage being only turf, mulch or rock.</td>
</tr>
<tr>
<td><strong>Minimum Dimensions</strong></td>
<td>Each island must be a minimum of one-hundred eighty (180) square feet and not less than nine feet (9') in width. All tree plantings must contain a root barrier around the perimeter of the planting area a minimum of thirty-six inches (36”) in depth and which extends above the surface of the soil enough to prevent roots from growing over the top. Acceptable root barriers include any impermeable durable material that can withstand burial in soil for the life of the tree.</td>
</tr>
</tbody>
</table>

### E. Residential Buffer Standards

| Applicability | Required along the entire property line of non-residential properties that abut a parcel used or zoned for entirely residential purposes, excluding mixed use\(^2\). Buffers should be designed to avoid the appearance of a straight line or "wall" of uniform plant material and must be wide enough to accommodate the planted species at maturation. Residential buffers are not required along property lines abutting a street or alley. Exemption: Buildings in the WB-3 classification are exempt from the residential buffer requirements but are encouraged to incorporate the landscaping for properties with reduced or no street frontage setbacks indicated in the general landscaping regulations. |

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\(^2\) Unless otherwise required by the Zoning Administrator in order to observe the sight distance requirements contained in the development regulations.
requirements in Section 11-4-4-D when possible.

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

<table>
<thead>
<tr>
<th>Residential Buffer Planting Standards:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Minimum Width:</strong></td>
<td>Ten feet (10').</td>
</tr>
<tr>
<td><strong>Minimum Planting Density:</strong></td>
<td>One (1) tree and five (5) shrubs for every thirty feet (30') of linear frontage.</td>
</tr>
<tr>
<td><strong>Minimum Height:</strong></td>
<td>Must be planted to grow to at least five feet (5') in height, planted in a manner that best screens the proposed use.</td>
</tr>
<tr>
<td><strong>Composition:</strong></td>
<td>The remaining ground must be covered with low shrubs, native seed, or other vegetative cover with no more than fifty percent (50%) of the remaining coverage being only turf, mulch, or rock. No less than seventy five percent (75%) of the total required plant materials must be evergreen. The residential buffer must achieve a fifty percent (50%) visual screen of at least 5 feet (5') in height at maturity. An up to six foot (6') high closed masonry or wood wall, fence, or berm may be substituted for the shrub vegetation, but trees and ground cover are still required.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>F. Screening Standards</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicability</strong></td>
<td></td>
</tr>
<tr>
<td>1. Ground level mechanical equipment.</td>
<td></td>
</tr>
<tr>
<td>2. Utility cabinets thirty (30) or more inches in height and located within twenty-five feet (25') of a street.</td>
<td></td>
</tr>
<tr>
<td>3. Materials, supplies, merchandise, vehicles, equipment, storage or shipping containers.</td>
<td></td>
</tr>
<tr>
<td>Screening Method</td>
<td>Must be screened from view of streets and abutting residential uses and zoning districts by a dense hedge, berms, solid wall, solid fence or combination of such features. The hedge, fence, or wall must be tall enough to fully screen the equipment from neighboring parcels.</td>
</tr>
</tbody>
</table>

11-4-5: **GENERAL LANDSCAPING REQUIREMENTS:**

A. Water Conserving Design. Water conserving landscape designs and low water use plant materials are required and intended to discourage landscaping necessitating high water use for maintenance. Water conserving landscaping principles do not include or allow artificial turf or plants, landscape designs predominately consisting of mulch or gravel beds (including crushed rock, etc.), or areas without landscape plant material such as bare dirt or weed infested surfaces, or any landscaping that does not comply with the standards of this section. Water conserving landscaping principles include all of the following:

1. Grouping plants and trees with similar water and sunlight requirements together.

2. Limiting the application of turf to appropriate high-use areas with high visibility and functional needs.

3. Use of low water demanding plants and turf where suitable.

4. Use of automatic irrigation systems designed and operated to conserve water.

5. Incorporation of soil amendments, where appropriate.

6. Use of mulches.

7. Planting appropriate materials suited to the soil and climate.

B. Prohibited Species. The installation and maintenance of prohibited species, as indicated in the City of Whitefish Prohibited Species List on file in the Office of the City Clerk, are prohibited.

C. Landscape Design Techniques. Whenever possible, the following landscaping design techniques must be integrated into a project:

1. Existing trees, topography and other existing natural features should be retained and incorporated into a project;
2. Open areas created by building modulation should be landscaped;

3. Natural vegetation, existing grades and undisturbed open space must be preserved where possible;

4. Trees should be located on commercial frontages at appropriate spacing so at maturity building signage and entrance are clearly visible from the street and sidewalk;

5. On-site natural objects such as rocks, boulders and tree stumps should be incorporated into landscape design;

6. All landscaped areas must be graded to prevent erosion and facilitate healthy landscaping;

7. Trees and large shrubs must be located with consideration to utilities and other public improvements.

8. Firewise fuel management techniques and fire-resistant plants should be utilized.

D. Landscaping for properties with reduced or no street frontage setbacks: When possible, the additional design techniques for the WB-3 Zone and areas with limited undeveloped space should include, but not be limited to, the following:

1. Providing frameworks attached to buildings such as trellises or arbors for plants;

2. Incorporating planter guards, retaining walls, or low planter walls as part of the architecture;

3. Incorporating upper story planter boxes, "green roofs", roof gardens or hanging plants;

4. Incorporating outdoor furniture into the site.

E. Trees, fencing and any other landscape materials in accordance with landscape plans must not cause sight distance problems with vehicles entering the adjoining street from driveways or nearby intersections (see clear vision triangle in Section 11-3-8).

F. Any open area between a fence or wall and the adjacent property line must be maintained by the property owner in a neat and orderly manner.

G. Where streams, wetlands, steep slopes, or other environmentally sensitive areas exist on a proposed development site, the landscape plan must be coordinated with measures for their protection and enhancement as required by the Water Quality Protection and Erosion and Sediment Control Provisions in Sections 11-3-29 and 11-3-33.
H. Vehicle sales lots are exempt from planting trees in the required internal landscape islands.

**11-4-6: TREE RETENTION:**

A. Applicability: The preferred method of landscaping is to first incorporate and preserve existing trees and shrubs, topography, and other natural features into the project design. Tree preservation and/or tree replacement is required to be addressed with landscape plans for all developments which are applicable pursuant to this chapter. Priority for tree preservation will be given to qualifying trees which provide beneficial shade, property or use buffering, visual prominence, or significant habitat. The applicant and/or developer shall make every effort to protect or retain any qualifying trees throughout a project.

B. Qualifying Trees: For the purpose of this section, a “qualifying tree” is an existing evergreen tree which is at least twelve inches (12”) in caliper, deciduous tree which is at least six inches (6”) in diameter, or any mature tree determined as significant by the Zoning Administrator. Diameter will be measured at four feet (4’) from grade, also called diameter at breast height (dbh).

C. The City recognizes that tree removal is sometimes necessary to reasonably develop a site. Preservation of trees may be considered impractical when removal is required for defensible space for wildfire prevention, when tree retention or replacement would prevent development of streets, utilities, construction of civil facilities, needed community housing, to meet minimum standards as required by the City, or when it would prevent reasonable use of the property as permitted by the applicable zoning district. The term “prevent” in this standard means that the development cannot be designed to avoid removal or replacement of qualifying tree(s). An inability to achieve maximum permitted density or building envelopes by complying with this subsection is not in itself considered to prevent development.

1. When tree retention or replacement is considered impractical, the qualifying trees which cannot be retained or replaced should be indicated on the landscape plan with demonstration of why removal of qualifying trees is necessary and / or planting of some or all of the required replacement trees is impractical.

D. Tree Replacement Requirements: In the case a qualifying tree designated for retention on the landscape plan must be removed or dies, it must be replaced with trees totaling at least two times the caliper inches as was lost. Tree replacement requirements exist whether or not the lot is already meeting overall planting requirements.

E. Tree Credit. Each existing preserved qualifying tree will be credited as two trees toward satisfying landscape requirements (ex: if 10 trees are required along a street frontage and a qualifying tree is preserved only eight (8) trees are required to be planted). The total trees on a site cannot be reduced by more than fifty percent (50%) of any requirement. This reduction does not apply to internal parking island trees.
a. Only those trees determined to be viable and savable will receive tree credits. A tree(s) determined to be hazardous, diseased or severely injured by a certified arborist will not receive tree credits. Likewise, if it is determined that a large portion of the root system of a tree(s) will be disturbed or destroyed by grading, trenching etc. then no tree credits will be granted.

b. Should any tree designated on the landscape plan die or be removed at any time after approval of the plan or issuance of a certificate of occupancy, the owner must replace sufficient trees equal to the tree preservation credit within six (6) months.

F. Tree Protection Requirements: The following guidelines and standards apply to trees proposed to be preserved:

1. Tree Protection Zones:

   a. The root system within the drip line is generally considered to be the critical root zone and must be protected. To protect these critical root zones, a tree protection zone must be established around each tree or group of trees to be retained.

   b. The tree protection zones must include no less than the total area beneath the tree canopy as defined by the drip line of the tree or group of trees.

   c. Natural grading around trees must be preserved within drip line to protect roots. Grade should not be increased or diminished around root collar.

   d. Layout of the project site utility and grading plans and construction plans must avoid disturbance of the tree protection zone.

   e. Construction site activities such as parking, materials storage, grading and excavation, concrete washout, etc., must be arranged so as to prevent disturbances within tree protection areas.

2. Protective Barriers:

   a. Protective tree fencing must be installed between buffers and tree protection areas and areas proposed to be cleared, graded, or otherwise disturbed on the site, prior to any land disturbance.

   b. All tree protection zones are recommended to be designated as such with "tree save area signs" posted in addition to the required protective fencing. Signs requesting subcontractor cooperation and compliance with tree protection standards are recommended for site entrances.
c. All tree protection zones must be protected from soil sedimentation intrusion through the use of silt screens or other acceptable measures placed up slope from the tree protection area.

d. All protective tree fencing and all erosion control barriers must be installed prior to and maintained throughout the land disturbing and construction process, and should not be removed until final landscaping is installed.

e. Encroachment: If encroachment into a tree protection zone occurs which causes irreparable damage to the trees, the tree preservation and/or replacement plan will be revised to compensate for the loss. Under no circumstances is the developer relieved of responsibility for compliance with the provisions of this section, nor will plan revision activities stop the department from instituting action for violation of this section.

G. Replacement Trees: Replacement trees shall comply with the following:

1. The spacing of replacement trees must be compatible with spatial site limitations and with responsible consideration towards species size when mature.

2. Trees selected for planting must be free from injury, pests, disease, nutritional disorders or root defects, and must be of good vigor, so as to assure a reasonable expectation of survivability.

11-4-7: MAINTENANCE:

A. General maintenance. The property owner is responsible for maintaining all plant materials and irrigation facilities within the approved landscaping plan in a neat and orderly condition for the life of the project. Any unhealthy or dead plants must be replaced in conformance with the landscaping plan and landscaped areas must remain free of invasive species. Maintenance includes, but is not limited to, proper pruning of trees and shrubs, mowing of lawns, noxious weed mitigation measures/weeding, removal of litter, fertilizing, replacement of plants when necessary, and the regular watering of all plantings. When required, landscaped areas will be provided with a permanent watering or sprinkling system consisting of piped water lines terminating in an appropriate number of sprinklers or hose bibs to ensure a sufficient amount of water for plants within the landscaped area. Where the water system consists of hose bibs alone, these bibs must be located not more than one hundred fifty feet (150') apart.

B. Maintenance Assurance. For multifamily, commercial, and industrial development, the Zoning Administrator will require a maintenance bond or letter of credit valid for a period of eighteen (18) months from time of approval of the landscaping plan to ensure compliance with this section. The value of the maintenance bond or letter of credit must
be twenty percent (20%) of the total cost of materials and labor. The fee-in-lieu will be ten percent (10%) of the cost of materials and labor, as outlined in an approved landscaping plan. Duplexes are exempt from maintenance assurance requirements.

11-4-8: PERFORMANCE ASSURANCE

A. Required trees and landscaping must be installed prior to issuance of a certificate of occupancy or issuance of other necessary permitting prior to construction or development of the site. In the event it is not possible for landscaping to be completed at that time due to legitimate weather, supply issues, etc., the Zoning Administrator may accept a bond or letter of credit to ensure the installation of all required landscaping within six (6) months of project approval. Any such device for project assurance must be one hundred fifty percent (150%) of the cost of all required materials and labor, as shown in an itemized cost estimate, and in no situation will the total be less than two thousand dollars ($2000).

11-4-9: ADMINISTRATION:

A. Authority: The Zoning Administrator has the authority and jurisdiction of regulating the planting and/or removal of landscape and trees required by this chapter.

B. Deviation from Landscaping Standards. The Zoning Administrator may approve exceptions to the regulations when all of the following are met:

1. The applicant can document that meeting the requirements would cause undue hardship due to pre-existing conditions on site, such as existing location of structures or vegetation.

2. The deviation from the standards meets the landscape requirements to the highest degree possible and is the minimum variation needed.

3. The applicant proposes an equal or better result than that which could be achieved by strictly following the requirements of this chapter.

C. Other measures to meet the purpose and intent of this Landscape Code may be proposed to substitute for the required landscaping, such as decorative fencing, walls, arbors, or trellises, with appropriate vegetation.

D. Enforcement: Unlawful removal of a qualifying tree designated in the tree preservation plan for retention will result in either a municipal infraction.

E. Appeal: Any person may make a written appeal from any ruling or order made by the Zoning Administrator to the Board of Adjustment, who shall make a final decision.
11-4-10: NONCONFORMING STATUS:

A. Any existing property or use of property that does not comply with the landscaping regulations of this chapter may be continued in the same manner except as provided in Section 11-4-2.

B. Landscaping which exists on any property or for any use, subject to the provisions of this chapter, must not be altered or reduced below the minimum requirements of this chapter, unless suitable substitutions are made which meet the requirements of this chapter, and a site plan is first approved by the Zoning Administrator.

CHAPTER 2
ZONING DISTRICTS

ARTICLE K. WB-2 SECONDARY BUSINESS DISTRICT

11-2K-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 10,000 square feet or greater, existing structures where an addition causes the total footprint to be 10,000 square feet or greater, and additions to structures where the footprint already is 10,000 square feet or greater, are subject to a conditional use permit pursuant to section 11-7-8 of this title.

Minimum lot area

n/a

Minimum lot width

n/a

Minimum yard spaces:

Front

20 feet

Highway 93 frontage:

30 feet, landscaped as required per the general planting standards of Table 11-4-3A-1 of Chapter 4 of this title. Vehicle and pedestrian ingress and egress may be allowed in this area up to a maximum of 40 percent of the landscaped area.
ARTICLE N. WRR-1 LOW DENSITY RESORT RESIDENTIAL DISTRICT

11-2N-2: PERMITTED USES:

- Public utility buildings and facilities when necessary for serving the surrounding territory, excluding business offices and repair or storage facilities. At minimum of five feet (5') of landscaped area shall surround such a building or structure.

11-2N-4: PROPERTY DEVELOPMENT STANDARDS:

Minimum yard spaces:

Front 15 feet, except when fronting on a public right-of-way where there shall be a front yard setback of not less than 25 feet, of landscaped greenbelt area as required per the minimum landscape standards of Chapter 4. Vehicle and pedestrian ingress and egress may be allowed in this area up to a maximum of 40 percent of the greenbelt-landscaped area.
ARTICLE O. WRR-2 MEDIUM DENSITY RESORT RESIDENTIAL DISTRICT

11-2O-2: PERMITTED USES:

- 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.

11-2O-4: PROPERTY DEVELOPMENT STANDARDS:

Minimum yard spaces:

Front 15 feet, except when fronting on a public right-of-way where there shall be a front yard setback of not less than 25 feet, of landscaped greenbelt area as required per the minimum landscape standards of Chapter 4. Vehicle and pedestrian ingress and egress may be allowed in this area up to a maximum of 40 percent of the greenbelt-landscaped area.

ARTICLE P. WRB-1 LIMITED RESORT BUSINESS DISTRICT

11-2P-2: PERMITTED USES:

- 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.

11-2P-4: PROPERTY DEVELOPMENT STANDARDS:

Minimum yard spaces:

Front 15 feet, except when fronting on a public right-of-way where there shall be a front yard setback of not less than 25 feet, of landscaped greenbelt area as required per the minimum landscape standards of Chapter 4. Vehicle and pedestrian ingress and egress may be allowed in this area up to a maximum of 40 percent of the greenbelt-landscaped area.
ARTICLE Q. WRB-2 GENERAL RESORT BUSINESS DISTRICT

11-2Q-2: PERMITTED USES:

- 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.

11-2Q-4: PROPERTY DEVELOPMENT STANDARDS:

Minimum yard spaces:
Front 15 feet, except when fronting on a public right-of-way where there shall be a front yard setback of not less than 25 feet, of landscaped greenbelt area as required per the minimum landscape standards of Chapter 4. Vehicle and pedestrian ingress and egress may be allowed in this area up to a maximum of 40 percent of the greenbelt-landscaped area.

CHAPTER 3
SPECIAL PROVISIONS

11-3-42: MULTI-FAMILY DEVELOPMENT STANDARDS:

B. Orientation And Multiple Buildings Standards:

2. Techniques: Techniques for complying with the requirement in subsection B1-B-2 of this section include, but are not limited to:

a. Using a modified street grid system where most buildings in a project front on a street. Where no public streets exist, creating a grid street system within the project.

b. Locating parking areas behind or under buildings and accessing such parking from alley-type driveways. If driveway access from streets is necessary, minimum width driveways meeting the Fire Code standards should be used. Shared driveways between adjacent uses are preferred.

c. Providing each building with direct and distinct pedestrian access from the main street fronting the building and from the back where the parking is located.

d. Design alternate and/or separate routes into the development that clearly define the bicycle and pedestrian areas versus areas for vehicles.
C. Parking Location And Design:

1. Requirement: The impact of driveways and parking lots on the public and neighboring properties must be minimized by designing, locating, and screening parking lots, carports, and garages in a way that creates few interruptions on the street, sidewalk, or building facade. Bicycle parking and storage must be provided.

2. Techniques: Techniques for complying with the requirement in subsection C1 of this section include, but are not limited to:

   a. Locating surface parking at the rear or side of lot;

   b. Breaking large parking lots into small ones in a way that provides easy access for pedestrians;

   c. Minimizing the number and width of driveways and curb cuts;

   d. Sharing driveways with adjacent property owners;

   e. Locating parking in areas that are less visible from the street but preferably with southern exposure for snow melt;

   f. Locating driveways so they are visually less dominant and berming and landscaping them when they are visible from the street while maintaining required clear vision triangles (see section 11-3-8 of this chapter);

   g. Screening parking lots abutting single-family residences with landscaping, berming, and/or natural material fencing (see section 11-6-5, "Landscape And Screening", of this title);

   h. Limiting parking lots on street frontages to thirty percent (30%) of the street frontage;

   i. Parking lot lighting must be the minimum needed to create adequate visibility at night, must be energy efficient and dark sky compliant meeting outdoor lighting standards found in section 11-3-25 of this chapter, and must utilize energy efficient "warm-white" or filtered (CCT <3,000 K; S/P ratio <1.2) fully shielded LED lights as much as possible. Sufficient ground-level lighting must be provided where stairs, curbs, ramps, abrupt changes in walk direction, and crossing vehicle lanes occur; and

   j. Secure short-term bicycle parking must be provided in a convenient location at one space for every four (4) dwelling units, with a minimum of two (2) spaces provided.
F. Grading/Tree Retention:

Requirement: Multi-family projects must be designed to minimize impacts to existing topography and vegetation and require a tree preservation plan with an application submittal.

Techniques: Techniques for complying with the requirement in subsection F1 of this section include, but are not limited to:

a. Incorporating the natural grades in the overall design of the project;

b. Incorporating existing groups of trees/vegetation that will be protected and retained;

c. Minimizing disturbance of open space areas to better facilitate stormwater infiltration; and

d. Avoiding the placement of buildings adjacent to ridgetops, so the rooftops do not extend above the crest of the ridgetops of the hillside, especially where views of natural amenities are concerned.

11-3-43: MIXED-USE AND NON-RESIDENTIAL BUILDING DEVELOPMENT STANDARDS:

B. Building Orientation And Multi-Building Sites:

1. Orientation: Buildings must be oriented towards the primary street frontage and public paths and/or sidewalks. Buildings on corner lots should be oriented towards the primary intersection.

   a. Buildings may be located further away from the primary street when separated from the street by existing healthy and mature trees being retained in perpetuity. In those cases, buildings should be placed as close to the trees as practical and a plan must be submitted to maintain the health of the trees along with a replacement plan for dead, dying, or hazardous trees (see section 11-4-3 and section 11-4-6 of this chapter).

C. Topography: Existing trees, topography and other existing natural features must be incorporated into the project design.

   1. To the extent reasonable and practicable incorporate natural grades into the overall site plan.

   2. Incorporate natural features such as trees, large rocks or boulders into landscaping design.
3. To the extent reasonable, existing healthy, mature trees must be protected and incorporated into the overall site landscaping features.

D. Landscaping: Landscaping must be incorporated into new development design to soften the manmade environment, provide vegetative buffers, provide open space, and mitigate any unavoidable loss of existing native vegetation. The preferred method of landscaping is to first incorporate and preserve existing trees and shrubs, topography and other existing natural features into the project design. Any unavoidable loss of existing native vegetation must be mitigated.

1. Landscaping in parking lots must conform to the requirements of section 11-6-5, "Landscaping And Screening", of this title.

2. Landscaping techniques including living plant material and supporting elements must include, but are not limited to, the following:

   a. Landscape open areas created by building modulation.

   b. Retain natural vegetation and undisturbed open space.

   c. Use plants that require low amounts of water, including native drought-resistant species.

   d. Locate trees on storefront street frontages at appropriate spacing so that at maturity building signage and entrance are clearly visible from the street and sidewalk.

   e. Incorporate on-site natural objects such as rocks, boulders and tree stumps into landscape design where possible.

   f. Shrubs, grasses and other nontree vegetation must be included in the plan as appropriate to the site on a case-by-case basis.

   g. Landscaping techniques for the WB-3 Zone and areas with limited undeveloped space may include:

      (1) Providing frameworks such as trellises or arbors for plants;

      (2) Incorporating planter guards, retaining walls, or low planter walls as part of the architecture;

      (3) Incorporating upper story planter boxes, "green roofs", roof gardens or plants;

      (4) Incorporating outdoor furniture into the landscaping plan.
3. The Zoning Administrator may consider a waiver of certain landscaping requirements if significant existing (especially native) vegetation and topography are preserved.

H. F. Mixed-Use Or Non-Residential Development Adjacent To Residential Zones: Buildings must be designed to ensure that building massing, height, and scale provide sensitive transition to adjoining residential neighborhoods. When abutting a Residential Zoning District, the project's landscaping plan must include provisions for vegetative screening between the project and the residential property.

d. Creative use and ongoing maintenance of landscaping, such as buffers, berms, mounds, rockeries, living fences, and swales. Buffers should be designed to avoid the appearance of a straight line or "wall" of uniform plant material and must be wide enough to accommodate the planted species at maturation.

CHAPTER 6
OFF STREET PARKING AND LOADING

11-6-2: PARKING SPACE REQUIREMENTS:

E. Recreational areas:

- Bowling alleys: 6 spaces per alley
- Golf courses: 3 spaces per hole of main course
- Private clubs and lodges, special centers, athletic club and similar recreational facilities: 1 space per 8 seats; plus 1 space for every 100 square feet of assembly space without 1 space per 8 seats
- Stadiums, special arenas and similar open assemblies: 1 space per 8 seats; plus 1 space for every 100 square feet of assembly space without seats

Outdoor courts without seating / viewing areas: 1.5 spaces per court

11-6-3: SPECIAL CONDITIONS:

11-6-3-1: WCR, WSR, WER, WLR, WR-1, WR-2, WR-3, WR-4, WT-3, WRR-1 AND WRR-2 DISTRICTS:

A. One-half (1/2) of all required parking shall be capable of being covered by a garage.

11-6-3-2: WB-1, WB-2, WB-4, WRB-1, WRB-2, WI-T, WB-T, WBSD AND WI DISTRICTS:

11-6-5: LANDSCAPING AND SCREENING: See chapter 4 of this title
A. Parking and driveway areas shall be landscaped, including a minimum five foot (5') wide landscaped buffer (7 feet wide if curb stops are not used and the car bumper hangs over the landscaped area) abutting a public street. The percentage of parking lot landscaping is called out below:

<table>
<thead>
<tr>
<th>Number Of Parking Spaces</th>
<th>Gross Area To Be Landscaped</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 to 50</td>
<td>8 percent</td>
</tr>
<tr>
<td>51 to 99</td>
<td>10 percent</td>
</tr>
<tr>
<td>100 and above</td>
<td>12 percent</td>
</tr>
</tbody>
</table>

B. The perimeter landscape buffer along a street shall consist of planting materials or planting materials and manmade features to create at minimum a three foot (3') high visual relief screen in the form of a hedge, fence, planter box, berm, dividers, shrubbery or trees, or a combination of the above. All landscaping to form such visual relief shall create a two foot (2') tall minimum screen at planting.

C. There shall be a landscaped buffer (at least 50 percent sight obscuring) when a parking lot borders, or is adjacent to a residential zone. The landscaped buffer shall be a minimum five feet (5') wide (7 feet wide if curb stops are not used and the car bumper hangs over the landscaped area) and five feet (5') high or five feet (5') wide with a five foot (5') fence.

D. Clear vision triangles shall be observed regarding all landscaping or screens.

E. A performance bond may be required to ensure compliance with this section and to cover maintenance for a period not to exceed one year after time of planting.

F. Vehicle sales lots are exempt from the parking lot landscaping requirements but are still subject to the overall landscape requirements in chapter 4 of this title.

11-6-8: STREET AND ROADWAY ACCESS STANDARDS:

A. Access to businesses, service stations, roadside stands, public parking lots and all other businesses requiring motor vehicle access shall meet the requirements as hereinafter provided or as prescribed by the approach standards for Montana highways, whichever requirements are greater.

B. Access shall be controlled as follows:

1. The driveway access width shall be ten feet to twenty four feet (10' - 24') for one-way traffic and twenty feet to thirty six feet (20' - 36') for two-way traffic, excluding the minimum necessary curb return radius located in the public right of way.

1 Please see the City of Whitefish Engineering Standards.
2.1. Access shall be by not more than two (2) roadways for each one hundred feet (100'), or fraction thereof, frontage on any street.

3.2. No two (2) roadways shall be closer to each other than twelve feet (12') on the same parcel, and no roadway shall be closer to a side property line than two feet (2').

4.3. On a corner lot, no roadway shall be closer than twenty feet (20') to the point of intersection of two (2) property lines at any corner as measured along the property line, and no roadway shall extend across such extended property line.
ATTENTION: External Email - This email originated from outside of the City of Whitefish. Use caution when clicking links or opening attachments unless you recognize the sender and are expecting the contents. Contact the IT Helpdesk if in doubt.

Michelle, could you please forward this to the mayor and council?

Mayor and Council,

I briefly mentioned this during the public hearing on the topic, but wanted to point out something in the new landscaping code that might require attention, specifically around duplexes.

SB 323 was signed by the governor and will allow for duplexes to be built where single-family homes are permitted. Per the language of that bill:

"In a city with a population of at least 5,000 residents, duplex housing must be allowed as a permitted use on a lot where a single-family residence is a permitted use, and zoning regulations that apply to the development or use of duplex housing may not be more restrictive than zoning regulations that are applicable to single-family residences."

SB 382 will eventually make this moot (assuming that nothing changes during the next legislative session, which I would think is unlikely), but by my reading of the bill, not until the city is in full compliance with SB 382, which will not happen before the next legislative session. The relevant portion of that bill is in Section 5(4):

"A local government that complies with [sections 1 through 38] is not subject to any provision of Title 76, chapters 1, 2, 3, or 8."

Enforcing the new landscaping code in regards to duplexes is likely not legal based on my reading (Angie cc’d for an actual legal opinion). If that’s the case, then I think there are two ways to address this. First, do not subject duplexes to the new landscaping code (how the current code is structured). Second (and better), subject single-family homes to the new landscaping code requirements. If the ultimate goal is tree preservation, then subjecting single-family homes makes a lot of sense given that they make up 60% of the homes in the city and even more of our land area.

Nathan

--

Nathan Dugan (he/him)
President
June 5, 2023

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

Re: Lakeshore Construction Permit Houston Point, WLP 23-07

Honorable Mayor and Councilors:

The Whitefish Lakeshore Protection Committee voted unanimously to recommend approval of WLP 23-07 on May 10, 2023. Staff had recommended approval based on compliance with the Lakeshore Protection Regulations.

Pathway and Stairway Standards:

W. Stairways, Walkways And Pathways:
   1. Stairways, walkways, and pathways shall have a maximum width of four feet (4’) and be designed and constructed in a manner which provides the most direct access to the lake with minimum environmental and visual impact.

The proposed pathway and stairs meet the width standard. The trail design minimizes visual and environmental impact through erosion mitigation. While the path does not go directly to the lake but runs parallel to the lake, it acts as an access point for multiple sets of stairs to the different docks along the property.

   2. Pathways on existing grade with embedded steps of stone or untreated timbers are preferred to constructed walkways or elevated stairways. For pathways, only the stone or timber steps are subject to the maximum allowable constructed area in subsection F of this section.

The proposed pathway meets these standards as there are no stone or timber steps proposed.

   3. Stairways and walkways constructed of impervious material, including dry laid stone, are subject to the maximum allowable constructed area in subsection F of this section.

The proposed project does use impervious material and does comply with subsection F maximum allowable constructed area.
4. Elevated stairways shall follow the natural grade of the existing shoreline, and no portion of the walking surface of the stairway or landing shall be situated higher than two (2) vertical feet above the underlying lakeshore. The proposed plans for the stairway meet this requirement.

5. Stairways shall be constructed of wood composite (i.e., Trex) or untreated wood left in its natural (unpainted) condition. Stairways or walkways of poured in place concrete are prohibited. Not Applicable.

6. Stairway railings are permitted. Railings shall not extend higher than four feet (4’) above the stairway walking surface and shall have a nonornate, visually open design. Railings shall be constructed of wood composite (i.e., Trex) or untreated wood left in its natural (unpainted) condition or metal painted an earth tone color by the manufacturer prior to installation. Not Applicable.

7. Steep lakeshore properties, where stairway construction standards cannot be met, may lack reasonable access to the lake and shall be considered view lots. Not Applicable.

Sincerely,

/s/ Nelson Loring

Nelson Loring
Planner I
Attachments: Staff Report
Draft Minutes
Application
Photographs

c/w/att: Michelle Howke, Whitefish City Clerk
c/wo/att: Pete Costain Terraflow Trails 1210 O'Brien Ave, Whitefish 59937
## Houston Point HOA Trail Rebuild

**STAFF REPORT #WLP-23-W07**

**May 10, 2023**

### Property Owner:
Houston Point HOA

### Mailing Address:
P.O. Box 4096  
Whitefish, MT 59937

### Telephone Number:
403.863.5442

### Applicant/Contractor:
Pete Costain/ Terraflow Trails

### Mailing Address:
1210 O'Brien Ave  
Whitefish MT 59937

### Telephone Number:
406.261.3943

### Property Legal Description:
HOUSTON POINT SUB AMD, S23, T31 N, R22 W,  
PARK GREEN AREAS TENNIS COURTS WELL STS

### Property Address:
2303 HOUSTON POINT DR

### Lake:
Whitefish Lake

### Lake Frontage:
597.68+366.43 = 964.11’ per plat  
2007 permit states 1011’

### Project Description:
Widen and rebuild existing hiking trail using mechanical equipment. Rocks and vegetation along trail would be removed through the rebuild process, with vegetation replanted to mitigate erosion.

### Proposal:
The applicant is proposing to rebuild 950 linear feet of an existing hiking path in the HOA Common area in the Lakeshore Protection Zone by widening the path from 20"-24" to 32"-36" through excavation, rock removal and compaction using a light excavator. Hiking trails are exempt from a Floodplain Permit.

### Frontage and allowable constructed area:
The subject property has 964.11 feet of lakeshore frontage and is eligible for 7712.88 square feet of constructed area. No additional constructed area is being proposed with this application.

### Existing Constructed Area:
The property has 6 existing docks on a private marina of 7,020 square feet per staff report WLV-13-W28. No Permit on file delineates the square footage of the stairs.

### Discussion:
The proposed trail work would excavate trail, remove large rocks, re-compact with the sifted soil and widen the trail to 32"-36" in width. Some sections of the trail require more excavation than others depending on the condition and slope. The trail along the marina connects to access stairs to the beach. To do the work a miniature excavator, compactor, and hand tools would be used.
Figure 1. Site image
The section in yellow is the location of the proposed project where the trail rebuild would take place. The section in yellow is all within the lakeshore protection zone. No impervious surface is being proposed.
Figure 2. Proposed trail design showing how the trail would be widened and where the removed vegetation would be placed.
Pathway and Stairway Standards:

W. Stairways, Walkways And Pathways:

1. Stairways, walkways, and pathways shall have a maximum width of four feet (4') and be designed and constructed in a manner which provides the most direct access to the lake with minimum environmental and visual impact.

The proposed pathway and stairs meet the width standard. The trail design minimizes visual and environmental impact through erosion mitigation. While the path does not go directly to the lake but runs parallel to the lake, it acts as an access point for multiple sets of stairs to the different docks along the property.
2. **Pathways on existing grade with embedded steps of stone or untreated timbers are preferred to constructed walkways or elevated stairways. For pathways, only the stone or timber steps are subject to the maximum allowable constructed area in subsection F of this section.**

The proposed pathway meets these standards as there are no stone or timber steps proposed.

3. **Stairways and walkways constructed of impervious material, including dry laid stone, are subject to the maximum allowable constructed area in subsection F of this section.**

The proposed project does use impervious material and does comply with subsection F maximum allowable constructed area.

4. **Elevated stairways shall follow the natural grade of the existing shoreline, and no portion of the walking surface of the stairway or landing shall be situated higher than two (2) vertical feet above the underlying lakeshore.**

The proposed plans for the stairway meet this requirement.

5. **Stairways shall be constructed of wood composite (i.e., Trex) or untreated wood left in its natural (unpainted) condition. Stairways or walkways of poured in place concrete are prohibited.**

Not Applicable.

6. **Stairway railings are permitted. Railings shall not extend higher than four feet (4’) above the stairway walking surface and shall have a nonornate, visually open design. Railings shall be constructed of wood composite (i.e., Trex) or untreated wood left in its natural (unpainted) condition or metal painted an earth tone color by the manufacturer prior to installation.**

Not Applicable.

7. **Steep lakeshore properties, where stairway construction standards cannot be met, may lack reasonable access to the lake and shall be considered view lots.**

Not Applicable.
Conclusion: The proposed work complies with all requirements, most specifically Section 13-3-1, General Construction Standards of the Whitefish Lake and Lakeshore Regulations.

Recommendation: The Whitefish Lakeshore Protection Committee recommends that the Whitefish City Council approve the requested lakeshore permit subject to the following conditions.

Conditions of Approval: The Whitefish Planning and Building Department approves the permit subject to the following conditions:

1. 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)

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

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

4. 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.

5. 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.

6. The applicant must maintain and demonstrate continued compliance with all adopted City Codes and Ordinances.

Removal of Native Vegetation

7. Native plant species are an important biological and aesthetic component of the lakeshore, and shall be preserved wherever possible.

8. New vegetation shall be provided, if required, as a means of stabilizing erosive areas. Topsoil may be allowed in quantities necessary for establishing and maintaining new plantings.
9. New plants introduced into the lakeshore protection zone must 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 jurisdictional planning office.

10. A finely ground bark (less than $\frac{1}{2}$ inch in size) or compost is recommended for ground cover in conjunction with the native plants.

11. Flower gardens are prohibited.

12. Application of fertilizer, pesticide, insecticide, or herbicide, is prohibited in the lakeshore protection zone.

Pathways

13. Stairways, walkways, and pathways shall have a maximum width of four feet (4') and be designed and constructed in a manner which provides the most direct access to the lakes with minimum environmental and visual impact.

14. Pathways on existing grade with embedded steps of stone or untreated timbers are preferred to constructed walkways or elevated stairways. For pathways, only the stone or timber steps are subject to the maximum allowable constructed area in subsection F of this section.

15. Stairways and walkways constructed of impervious material, including dry laid stone, are subject to the maximum allowable constructed area in subsection F of this section.

16. Elevated stairways shall follow the natural grade of the existing shoreline, and no portion of the walking surface of the stairway or landing shall be situated higher than two (2) vertical feet above the underlying lakeshore.

17. Stairway railings are permitted. Railings shall not extend higher than four feet (4') above the stairway walking surface and shall have a nonornate, visually open design. Railings shall be constructed of wood composite (i.e., Trex) or untreated wood left in its natural (unpainted) condition or metal painted an earth tone color by the manufacturer prior to installation.

18. Steep lakeshore properties, where stairway construction standards cannot be met, may lack reasonable access to the lake and shall be considered view lots.

Use of Mechanical Equipment

19. The lakeshore shall be immediately restored to its condition prior to construction. All equipment tracks shall be raked or otherwise removed by hand.
20. 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 or vegetation.

21. 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.

22. As a condition of the permit, the governing body may require that hand tools be used in lieu of mechanical equipment, based on the scope (size) of the project or possible damage to the lakeshore zone due to excessive slope or terrain.

Excavation Or Filling Of Materials

23. Any material which is excavated from the lake bed or lakeshore shall be removed entirely from the lake and lakeshore protection zone and deposited in such a manner so as to prohibit reentry of the material into the lake.

24. For all construction and projects in the lake or lakeshore protection zone, sedimentation in the lake shall be minimized to the greatest extent possible, as a protection for aquatic habitat and water quality.

25. Any materials used for fill shall be free of fine materials (i.e., clays, silts and sands), unless the material is placed behind a retaining wall that will prevent introduction of the materials into the lake. Large cobbles and boulders lying on the lake bottom and not part of the lake bed armament may be handpicked, provided that such handpicking can be done without excavating any fine lake bed materials and that an armament of rock or gravel remains on the lake bed in the affected areas.

Additional Conditions

26. 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.

Nelson Loring
Planner I
Whitefish Planning and Building Department
418 E. 2nd Street, PO Box 158
Whitefish, MT 59937
(406) 863-2412
1. CALL TO ORDER
   **Summary:** Toby Scott, called the meeting to order at 6:00 pm.

2. AGENDA CHANGES
   **Summary:** None.

3. APPROVAL OF FEBRUARY 8, 2022 MINUTES
   **Summary:** Members reviewed the minutes of February 8th, 2022.

   **ACTION:** Nancy made a motion to approve the minutes of February 8th, 2022. Peggy 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. WLP 23-W07 2303 Houston Point Drive
      **Summary:** Widen and rebuild existing hiking trail. Rocks and vegetation along trail would be removed through the rebuild process, with vegetation replanted to mitigate erosion
      Nelson Loring summarized the staff report for members, noting a couple of key points:
      - Hiking trails do not increase impervious surface, are exempt from floodplain requirements
      - Excavated material would be conditioned to be removed from the lakeshore zone as the application stated that they intended to place excavated rocks back into the beach.
**Recommendation:** Staff is recommending approval of WLP 23-07 with the 26 conditions listed in the report.

Members discussed the application with Nelson, clarifying the following items:
- Nancy asked if the whole outlined section of trail was located in the lakeshore protection zone. Loring confirmed it was.
- Peggy asked if there was a condition to ensure that excavated material would not be placed back in the lakeshore protection zone. Loring confirmed condition 23 would ensure this.

**ACTION:** Toby made a motion to approve WLP 23-W07. Peggy seconded the motion. The motion was approved unanimously.

The application will go before City Council on June 5.

**B. WLP 23-W12 115 Bay Point Drive**

**Summary:** Excavate a concrete block hazard approximately 10’ from the lakeshore. There is an old concrete anchor/object that is near the shore that the applicant would like to remove for safety reasons.

Nelson Loring summarized the staff report for members, noting a couple of key points:
- The project meets all Lakeshore Regulations as proposed and the conditions of approval would ensure the lake is protected from contamination and sedimentation.
- The project will need to meet the Lakeshore protection standards for heavy machinery in the lakeshore zone, notably not coming in contact with the lake.

**Recommendation:** Staff is recommending approval of WLP 23-W12 with the 13 conditions listed in the report.

Members discussed the application with Nelson, clarifying the following items:
- Toby asked how the object would be removed. Loring stated that since there is no way to determine how heavy the object is that the applicant did not specify, and the conditions would ensure that heavy machinery would not come in contact with the lake.

Lynette Donaldson, the applicant, commented that the anchor maybe up to 4000 lbs. and that the exact removal method would be explored after approval.

**ACTION:** Peggy made a motion to approve WLP 23-W12. Toby seconded the motion. The motion was approved unanimously.

The application will go before City Council on June 5.

8. **STAFF COMMENTS / GOOD AND WELFARE**

**Summary:** There is a need to fill the vacancies on the Lakeshore Protection Committee. Legislation such as Senate Bill 301 and may change lakeshore protection regulations.
9. COMMITTEE COMMENTS  
**Summary:** None

10. ADJOURNMENT  

**ACTION:** The meeting is adjourned at 6:33 pm.
LAKESHORE CONSTRUCTION PERMIT APPLICATION

WHITEFISH or LOST COON LAKE

FEE ATTACHED $350

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: Houston Point HOA Lakeshore Trail Rebuild

How many feet of the lake frontage do you own? 1011

Street Address: Houston Point Common Area

Assessor's Tract No.(s) 3122X14-HP1-GREENAREA Lot No(s)

Block # Subdivision Name Houston Point

Section 24 Township 31 North Range 22 West

Revised 09-21-21
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.

Dale Cockrell or Jacalyn Bergstrom-White

Pete Costain

B. APPLICATION CONTENTS:

- 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: Jacalyn Bergstrom-White / Houston Point HOA Phone: 403-863-5442
Mailing Address: P.O Box 4096
City, State, Zip: Whitefish, MT 59937
Email: jacalynwhite@me.com
APPLICANT (if different than above):
Name: Pete Costain / Terraflow Trails  Phone: 406-261-3943
Mailing Address: 1210 O’Brien Ave
City, State, Zip: Whitefish, MT 59937
Email: petecostain@gmail.com

OTHER TECHNICAL/PROFESSIONAL:
Name: ________________________________ Phone: __________________
Mailing Address: _______________________________________________________
City, State, Zip: _________________________________________________________
Email: ________________________________________________________________

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.)

Terraflow plans to rebuild 950 linear feet of hiking path located on HOA common area above the lake. Currently the path is in poor condition, 20"-24" wide with uneven tread and many embedded rocks. The goal is to improve the tread by lightly excavating native material within the existing corridor, sift out the larger rocks and re-compact the native soil to create a smooth, level walking surface, 32"-36" wide. Equipment used will consist of a John Deere 17G mini-excavator, a walk behind plate compactor and various hand tools such as rakes and rock bars. Any loose organic material generated will be spread thinly just below the path to encourage native reseeding, and all rocks sifted will be blended into the natural riprap located around the high water mark. Silt sock erosion control devices will be set for the full length of the project.

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.

Any excavation within the Lakeshore Protection Zone has the potential to create unwanted erosion. During this project, all excavated and sifted soil will remain within the trailbed and be compacted to resist displacement. The minor amount of native plant material generated (currently growing on the outside berm of the existing path) will be placed neatly on the outside edge of the path to encourage native reseeding. Finally, below this organic material, silt sock erosion control devices will capture any fine material that migrates off the edge while the path settles into its natural balance. Rocks that are sifted out of the trailbed will be placed to blend in naturally with the native riprap layer that exists at high water mark. Constructed area of the path will be less than 3 square ft per linear ft of shoreline, considerably less than the 8 square ft maximum.
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.

No later than September, 1995, five docks (three boat and two swim) had been approved and installed. In 1998, one of those five was approved to be replaced via Permit WLP-98-W7. On July 25, 2005, permit WLP-05-W10 was issued approving replacement of one wooden dock with an EZ dock. On November 15, 2007, permit WLP-07-W44 was issued approving replacing the remaining four wood docks with EZ docks; an amendment to that permit approved one additional dock. Approval of the six docks was confirmed with the City of Whitefish on June 14, 2011 (email from David Taylor to Susan Jones, the Houston Point HOA president at the time). There are also two existing sets of embedded steps providing direct access to the lake from the path to be reconstructed; the HOA has understood that the path and these two sets of steps to the docks were part of the permitting process. The two sets of steps are not being reconstructed; only the path.

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?

No variance requested.

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**FEES:**

<table>
<thead>
<tr>
<th>Permit Type</th>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Permit</td>
<td>no committee meeting: waterlines, dead trees, buoys, burning etc.</td>
<td>$75</td>
</tr>
<tr>
<td>Administrative Permit</td>
<td>with committee meeting: docks under 60', shore stations</td>
<td>$255</td>
</tr>
<tr>
<td>Standard Permit</td>
<td>(construction, rip rap, stairs, dredging, filling, excavation, clearing, machinery operations)</td>
<td>$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)</td>
</tr>
<tr>
<td>Variance – Minor</td>
<td></td>
<td>$490/variance – added to standard permit fee; supplemental application required</td>
</tr>
<tr>
<td>Variance – Major</td>
<td></td>
<td>$1,400/variance – added to standard permit fee; supplemental application required</td>
</tr>
<tr>
<td>“After-the-Fact” Permit</td>
<td></td>
<td>4 times the normal fee</td>
</tr>
</tbody>
</table>
These data are 2-foot topographic contours of the Flathead Basin downloaded from the MSDI through the Montana State Library. These contours were derived by automated methods from LiDAR point cloud data collected between September 22 and September 29, 2009.

These data are in Montana State Plane coordinates, NAD83, HARN. The horizontal units of the coordinate system are U.S. Survey Feet. The vertical datum is NAVD 88, Geoid03.

The areas depicted on these maps herein are for illustrative purposes only and do not necessarily meet mapping, surveying, or engineering standards. Deriving conclusions from this map is done at the user’s assumed risk.

Yellow Line represents project path
Yellow Line represents project path.

Green Line represents existing path to be left as is.

Terraflow Trails 3/8/23
Houston Point Lakeside Path Reconstruction Project
Terraflow Trails 3/8/23

Houston Point Lakeside Path Reconstruction Project

Excavation Profile
November 15, 2007

Gary Danczyk
2306 Houston Point
Whitefish MT 59937

Re: WHITEFISH LAKE LAKESHORE CONSTRUCTION PERMIT FOR HOUSTON POINT HOMEOWNERS' ASSOCIATION #WLP-07-W44

This letter is to inform you that the Whitefish City Council has approved the Lakeshore Permit for replacement of four existing docks in a private marina in the Lakeshore Protection Zone at their meeting of November 5, 2007.

The work associated with this permit must adhere to the approved site plans and is subject to the attached conditions. Please review these conditions carefully as they may include requirements not referenced in your original application.

This permit is issued under the provisions of the Lake and Lakeshore Protection Regulations, Title 13, Whitefish City Code. Work done that is not in conformance the approved plans and conditions listed on this permit is in violation of the regulations and is subject to prosecution. If you have any questions regarding your permit, please don't hesitate to contact me or Dru Dennison, the project monitor, at the Whitefish Planning Office at 863-2410.

Sincerely,

Nikki Bond
Planner II
 APPROVED PERMIT NOVEMBER 5, 2007
 HOUSTON POINT HOMEOWNERS' ASSOCIATION
 WHITEFISH LAKE LAKESHORE PERMIT
 #WLP-07-W44

 Owner: Houston Point Homeowners' Association
 Mailing Address: PO Box 4096
 Whitefish, MT 59937
 Applicant: Gary Danczyk
 Mailing Address: 2306 Houston Point
 Whitefish, MT 59937
 Telephone Number: (406) 862-6609 home
 (406) 888-7976 work
 Contractor Corey Izett
 Mailing Address: Whitefish Lake Services
 3308 E Lakeshore Drive
 Whitefish, MT 59937
 Telephone Number: (406) 862-7332
 Property Legal Description: Houston Point Green Area and Common Area,
 Section 24, Township 31 North, Range 22 West,
 P.M.M.
 Property Address: Houston Point Drive
 Lake: Whitefish Lake
 Lake Frontage: 1,011 feet as per survey 08/2007

Permit approved for: Replace 4 existing docks with EZ docks in a private marina.
The proposed docks are comprised of a 3’ x 12’ gangway; and a dock that is 58’ long
and 45’ wide from wing to wing. The square footage for the proposed docks are
1,170 square feet each.

The construction above shall adhere to the approved site plans and are subject to
the attached conditions. Please review these conditions carefully as they may
include requirements not referenced in your original application.

Conditions of Approval:

1. The Lakeshore Protection Zone shall be defined as the lake, lakeshore and all
land within 20 horizontal feet of the average high water line at elevation
3,000.6’.

2. The proposed dock dimensions specified on the application project drawing
shall not be exceeded. Changes or modifications to increase any dimension or
change configuration must be approved through a permit amendment.
3. Any existing dock on the property shall be dismantled and removed from the lakeshore protection zone prior to construction of the new dock. If an existing dock is to be sold or moved to another location on Whitefish Lake, a lakeshore permit must be obtained and the dock must be modified to conform to current regulations prior to moving.

**Dock Conditions:**

4. Any wood used in construction of the new dock shall be untreated and left in its natural state. Use of a wood polymer composite (i.e. TREQX) is strongly encouraged. Use of painted material, plywood, particle board or other glued composite board is not allowed.

5. If foam logs or similar easily damaged flotation systems are incorporated into the dock design, said material shall be completely encased in solid wood or a suitable impervious, non-corrosive material such as a synthetic, aluminum or galvanized sheet metal to avoid the breakup or scattering of materials. Boards may be spaced up to one-half inch (1/2") apart on the bottom or drain holes may be incorporated into other materials to aid in drainage. All foam encased floating docks shall be maintained according to these standards or else be immediately and completely removed from the Lakeshore Protection Zone. All foam shall be extruded closed-cell polystyrene (blue or pink logs) unless encased in synthetic "rotomolded" floats.

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

7. The floating dock shall be suitably anchored to the lake bottom to avoid drift. anchoring methods for the dock are limited to cable; galvanized chain or nylon or polypropylene rope attached to a suitable clean weight such as solid clean concrete, rock or steel blocks.

8. Minimum twenty-five (25) foot travel lanes shall be provided between dock structures for boats to travel.

9. The docks should be placed at the location of the existing dock. Under no circumstances shall the dock be located closer than one-hundred (100) feet from the riparian property lines.

10. This permit shall be valid for one year from the date of issuance. Upon completion of the work, please contact Dru Dennison at 863-2410 for an inspection.

11. Slips are to be used only by deeded property owners within the subdivision of Houston Point and may not be sub-leased or rented.
NOTE: Flotation-encased docks (i.e., Superdeck, EZ-Dock, Glacier Dock) or docks with rotomolded floats are strongly recommended for durability and longer-life. Owners are also encouraged to identify docks with a nameplate to permit notification in the event their dock floats away at high water.
Existing path to be widened and compacted
Existing path to be widened and compacted
Existing path section requiring only minor widening and compaction
Mayor and City Council  
City of Whitefish  
PO Box 158  
Whitefish, MT  59937  

Re: Lakeshore Construction Permit Bay Point Country Homeowner’s Association, WLP 23-12  

Honorable Mayor and Councilors:  

The Whitefish Lakeshore Protection Committee voted unanimously to recommend approval of WLP 23-12 on May 10, 2023. Staff had recommended approval based on compliance with the Lakeshore Protection Regulations.  

Conditions of Approval: The Whitefish Planning and Building Department approves the permit subject to the following conditions:  

1. 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)  

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

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

4. 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.
5. 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.

6. Any material which is excavated from the lake bed or lakeshore shall be removed entirely from the lake and lakeshore protection zone and deposited in such a manner so as to prohibit reentry of the material into the lake.

7. Any material which is excavated from the lake bed or lakeshore shall be removed entirely from the lake and lakeshore protection zone and deposited in such a manner so as to prohibit reentry of the material into the lake.

8. Any material which is excavated from the lake bed or lakeshore shall be removed entirely from the lake and lakeshore protection zone and deposited in such a manner so as to prohibit reentry of the material into the lake.

9. Work must be done during low water, or between August 16th and April 15th.

**Use of Mechanical Equipment**

10. The lakeshore shall be immediately restored to its condition prior to construction. All equipment tracks shall be raked or otherwise removed by hand.

11. 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 or vegetation.

12. 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.

**Additional Conditions**

13. 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.

Sincerely,
/s/ Nelson Loring

Nelson Loring
Planner I

Attachments: Staff Report
   Draft Minutes
   Application
   Photographs

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

c/wo/att: Bay Point Country Homeowner’s Association 115 Bay Point Drive Whitefish, MT 59937
Date: Wednesday, May 10, 2023

Place: City Council Conference Room

Recorded By: Nelson Loring

Members Present:
Toby Scott
Peggy Brammer
Nancy Schuber
Daniel Wood

Members Absent:
Vacant position
Don Harring
Roger Rowles

Staff Present:
Nelson Loring

Public Present:

1. CALL TO ORDER
   Summary: Toby Scott, called the meeting to order at 6:00 pm.

2. AGENDA CHANGES
   Summary: None.

3. APPROVAL OF FEBRUARY 8, 2022 MINUTES
   Summary: Members reviewed the minutes of February 8th, 2022.

   ACTION: Nancy made a motion to approve the minutes of February 8th, 2022. Peggy 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. WLP 23-W07 2303 Houston Point Drive
      Summary: Widen and rebuild existing hiking trail. Rocks and vegetation along trail would be removed through the rebuild process, with vegetation replanted to mitigate erosion
      Nelson Loring summarized the staff report for members, noting a couple of key points:
      • Hiking trails do not increase impervious surface, are exempt from floodplain requirements
      • Excavated material would be conditioned to be removed from the lakeshore zone as the application stated that they intended to place excavated rocks back into the beach.
Recommendation: Staff is recommending approval of WLP 23-07 with the 26 conditions listed in the report.

Members discussed the application with Nelson, clarifying the following items:
- Nancy asked if the whole outlined section of trail was located in the lakeshore protection zone. Loring confirmed it was.
- Peggy asked if there was a condition to ensure that excavated material would not be placed back in the lakeshore protection zone. Loring confirmed condition 23 would ensure this.

ACTION: Toby made a motion to approve WLP 23-W07. Peggy seconded the motion. The motion was approved unanimously.

The application will go before City Council on June 5.

B. WLP 23-W12 115 Bay Point Drive
Summary: Excavate a concrete block hazard approximately 10' from the lakeshore. There is an old concrete anchor/object that is near the shore that the applicant would like to remove for safety reasons.
Nelson Loring summarized the staff report for members, noting a couple of key points:
- The project meets all Lakeshore Regulations as proposed and the conditions of approval would ensure the lake is protected from contamination and sedimentation.
- The project will need to meet the Lakeshore protection standards for heavy machinery in the lakeshore zone, notably not coming in contact with the lake.

Recommendation: Staff is recommending approval of WLP 23-W12 with the 13 conditions listed in the report.

Members discussed the application with Nelson, clarifying the following items:
- Toby asked how the object would be removed. Loring stated that since there is no way to determine how heavy the object is that the applicant did not specify, and the conditions would ensure that heavy machinery would not come in contact with the lake.
- Lynette Donaldson, the applicant, commented that the anchor maybe up to 4000 lbs. and that the exact removal method would be explored after approval.

ACTION: Peggy made a motion to approve WLP 23-W12. Toby seconded the motion. The motion was approved unanimously.

The application will go before City Council on June 5.

8. STAFF COMMENTS / GOOD AND WELFARE
Summary: There is a need to fill the vacancies on the Lakeshore Protection Committee. Legislation such as Senate Bill 301 and may change lakeshore protection regulations.
9. COMMITTEE COMMENTS
Summary: None

10. ADJOURNMENT

ACTION: The meeting is adjourned at 6:33 pm.
LAKESHORE CONSTRUCTION PERMIT APPLICATION

WHITEFISH or LOST COON LAKE

FEE ATTACHED $75-

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: Bay Point Country Homes Cement Anchor Hazard Removal

How many feet of the lake frontage do you own? 697 feet

Street Address: 115 Bay Point Drive, Whitefish, MT, 59937

Assessor’s Tract No.(s) 3122X25-BAH-COMMONAREA-C Lot No(s)

Block # Subdivision Name Bay Point Country Homeowners Association

Section Township Range

Revised 09-21-21
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**
Bay Point Country Homeowner's Ass'n

Print Name

Applicant's Signature

Print Name

Representative's Signature

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:
Bay Point Country Homeowner's Association

Name: ___________________________ Phone: 406.212.1745

Mailing Address: 115 Bay Point Drive

City, State, Zip: Whitefish, MT 59937

Email: baypointcountryhomes@gmail.com
APPLICANT (if different than above):
Name: ___________________________________________ Phone: ___________________________
Mailing Address: ____________________________________________
City, State, Zip: ____________________________________________
Email: _____________________________________________________

OTHER TECHNICAL/PROFESSIONAL:
Name: ___________________________________________ Phone: ___________________________
Mailing Address: ____________________________________________
City, State, Zip: ____________________________________________
Email: _____________________________________________________

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.)

The HOA has received numerous safety complaints over the years regarding a concrete block submerged in our only family swimming area. The block is square and sharp-sided. During high-water season it does not pose as much of a threat, but as water levels lower, swimmers of all ages are at risk of running into it. This block is nowhere close to the marina, and serves no purpose. The HOA is concerned with this safety hazard, and as water levels continue to become lower and lower, the hazard increases and we need to remove it.

This concrete block is 3 feet wide x 3 feet long but we are not sure how deep it lies. We believe it was placed by Russ Street at HOA inception in the early 1990's as an anchor. Because we do not know how deep the anchor lies, we have been advised by Whitefish Lake Services that it is not advisable to remove it from the lake via barge. We need to excavate it from the shore.

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.

If this project can be completed during low water season the concrete block is only 10 feet from the shore.

Any damage to the shoreline will be adjacent to HOA common area property and any necessary remediation will be completed by the HOA. The membership recognizes the lake as a vital resource for all of Whitefish. We live adjacent to the lake, and we are committed to doing our part to mitigate damage to the shoreline we are fortunate to access through HOA common area.
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.

The HOA administers the second largest marina on the Lake in cooperation with Bay Point on the Lake. The marina is many feet around a bend, on a different side of a natural sand/gravel spit in the lake, at least 100 feet to the east of the concrete block in question.

The concrete block is not a part of the marina and has never been in proximity to the marina.

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

To: Mayor John Muhlfeld
    City Councilors

From: Bridger Kelch, Chief of Police

Re: Certification of Police Officer

Date: May 31, 2023

Introduction/History

Montana Code Annotated 7-32-4113 (2) requires the City Council to “confirm” police officers of their city when the police officer has successfully completed a probationary period of one year of service and has met the minimum standards required by Montana law and administrative rules.

Current Report

Officer Jonathan Warricks has successfully completed his probationary period.

Financial Requirement

None

Recommendation

I recommend that the City Council “confirm” Officer Jonathan Warricks as a Whitefish Police Officer in accordance with State Statute.

Respectfully,

/s/Bridger Kelch

Bridger Kelch

Chief of Police
A report to the Whitefish City Council regarding a request by High Water LLC for a Preliminary Plat to develop a 9-lot subdivision at 1600 & 1628 E 2nd Street. A public hearing is scheduled before the Whitefish City Council on June 5, 2023.

I. PROJECT SCOPE
The applicant is proposing a 9-lot subdivision on a 4.844-acre parcel. The subdivision will be accessed off E 2nd Street and Wild Rose Lane. A newly constructed public right-of-way will ‘T’ into Wild Rose Lane, a public street, and Wild Rose will connect to the west and be extended the full extent of the north property line to the eastern property for future extension. The lots are 15,000-square feet or greater, meeting the zoning with a density of 1.86 dwelling units per acre. In addition, a 7,729 square foot homeowners park is proposed near the center of the neighborhood.

Finally, per the Whitefish Subdivision Regulations (§12-4-3A, WCC), this project is eligible for an Expedited Review because it:
1. is in city limits;
2. is covered by the current City-County Growth Policy;
3. conforms to all City zoning and design standards;
4. does not need any variances in order to comply with the Subdivision Regulations; and
5. includes plans for the extension of public services.

A. Owner: David Dodrill
   304 Sawtooth Drive
   Whitefish, MT 59937

   Applicant: High Water LLC
   6247 Shiloh Avenue
   Whitefish, MT 59937

   Technical Assistance: Doug Peppmeier
   TD&H Engineering
   450 Corporate Drive, suite 101
   Kalispell, MT 59901

B. Location:
The subject property is located at 1600 & 1628 E 2nd Street and can be legally described as Tracts 1DBB & 1R in Section 32, Township 31N, Range 22W, P.M.M., Flathead County.
C. Existing Land Use and Zoning:
The property is undeveloped and zoned WLR (One-Family Limited Residential District).

D. Adjacent Land Uses and Zoning:
North: BNSF R-3
South: Residential WLR
East: Residential WLR
West: Residential WLR & WER/WPUD
E. **Utilities:**
- **Sewer:** City of Whitefish
- **Water:** City of Whitefish
- **Solid Waste:** Republic Services
- **Gas:** Northwestern Energy
- **Electric:** Flathead Electric Co-op
- **Phone:** CenturyLink
- **Police:** City of Whitefish
- **Fire:** City of Whitefish
- **Schools:** Whitefish School District #44

F. **Public Notice:**
A notice was mailed to adjacent landowners within 150-feet of the subject parcel on May 11, 2023, a sign was posted on the property and Advisory Agencies were noticed. A notice was published in the *Whitefish Pilot* on May 17, 2023. As of the writing of this report, twelve public comments were received with concerns about infrastructure installation and maintenance, impact on adjacent development, high groundwater in the adjacent development, traffic, loss of mature trees and questions about the Expedited preliminary plat review process.

II. **REVIEW AND FINDINGS OF FACT**
This request is reviewed in accordance with statutory criteria and the Whitefish Zoning and Subdivision Regulations.

A. **Effects of Health and Safety:**
- **Fire:** The Whitefish Fire Marshal reviewed the project for conformance with the City’s adopted fire codes. The applicant will be required to install fire hydrants approximately 300-feet apart along the new public streets and the final engineering plans will be reviewed by the Fire Marshal. Emergency services will be able to access the subdivision from the new public street.

  **Wildland Urban Interface (WUI):** The property is within the city limits and within the City’s fire district. The property is currently quite wooded. Staff will condition the project to provide a Tree Preservation Plan along with the engineering plans to identify trees to be saved during construction. Open spaces must be properly mitigated for wildland fire protection and maintained yearly. Staff is recommending three notes be placed on the face of the plat regarding development within the WUI.

- **Flooding:** Pursuant to the FEMA flood insurance rate maps, no portion of the lot is located within the floodplain.

- **Access:** The lots are proposed to access off a newly constructed public street.

- **Traffic Impacts:** A Traffic Impact Study (TIS) is not required as it will generate less than 200 trips per day. A typical single-family home generates 10 vehicle trips per day; therefore, this project, as full buildout, will generate 90 trips per day. The existing roads should be able to
accommodate the additional traffic. E 2nd Street was reconstructed a number of years ago with a shared use path on the south side of the street.

Finding 1: The proposed subdivision will not have a negative effect on public health and safety because the Fire Department has reviewed the proposal for conformance with the fire code and has adequate emergency access, there are no environmentally sensitive areas on the property, healthy trees will be retained, access will be from an existing public street and a newly constructed public street, and the project will not create any roadway capacity issues.

B. Effects on Wildlife and Wildlife Habitat: There are no mapped crucial wildlife habitat and/or daily or seasonal migration corridors on this site. It is likely that deer and other animals use or travel through the wooded property. The preservation of mature trees and open spaces will help to maintain some of these patterns, as deer and other small animals will likely continue to move through the subdivision, as they do throughout town. In addition, staff notified Montana Fish, Wildlife & Parks and received no comments.

Finding 2: The subdivision should not have a negative effect on wildlife and wildlife habitat because there is no mapped crucial wildlife habitat or migration corridors on this property, the property is surrounded on three sides by residential development and the train tracks to the north. In addition, Montana Fish, Wildlife & Parks did not comment on this project.

C. Effects on the Natural Environment:

Surface and groundwater: No surface water is on the property and the property is not mapped as an area with the potential of high groundwater.

Slopes: The site is higher along the south property line and slopes to the north at 10%. There are very small portions of the lot with greater than 30% but are not located within building sites.

Storm Water Conveyance: There are no mapped storm water conveyances within the property boundary.

Wetland: There are no mapped wetlands on the property.
Drainage: The preliminary drainage plan proposes to convey stormwater from south to the north toward a stormwater facility in the northeast portion of the property. If the applicant intends to do infiltration, groundwater monitoring will be required. Final approval of the design, including required calculations, would occur after the preliminary plat is approved by Council, and installation of the system would be required prior to an application for Final Plat.

Finding 3: The subdivision should not have a negative impact on the natural environment because there are no mapped stormwater conveyances, mapped wetlands or areas of potentially having high groundwater. The site slopes to the north and has very small portions of greater than 30% but these areas are not within building sites. Stormwater will be reviewed and approved by the City Public Works Department prior to final plat.

D. Effects on Local Services:

Water: City water is located within E 2nd Street and Wild Rose Lane. It will be extended in the new rights-of-way and extended to the far eastern edge of the property within Wild Rose Lane for future connection. All water facilities will be designed and constructed to City specifications and will require approval by the Public Works Department and Montana Department of Environmental Quality prior to installation.

Sewer: City sewer is located within Wild Rose Lane and will be extended in the new rights-of-way. Individual service lines will then be extended to each lot. All sewer facilities will be designed and constructed to City specifications and will require approval by the Public Works Department prior to installation.

Streets: The applicant is proposing to extend two new rights-of-way – one off E 2nd Street toward the north and the extension of Wild Rose Lane to the eastern edge of the property for future extension. The streets will be public and built to City standards with sidewalks, boulevards, street trees and streetlights on both sides. The applicant will have the option to pay a fee in lieu of street tree installation. The final engineering plans for the new public street will be reviewed and approved by the Public Works Department prior to any construction. Staff will recommend a condition of approval that the developer locate a sign at the eastern edge of the road designating it as a ‘future road’.

Extension of Wild Rose Lane: Entrance off E 2nd Street:
Schools: The site is within the Whitefish School District #44.

Parks and Open Space: According to the Subdivision Regulations §12-4-11(A), the proposed subdivision is required to provide a parkland dedication. The residential lots are all less than ½ acre in size for a calculation of 11% of the net acreage. The net acreage of the subdivision is 3.071 acres for a total required parkland amount of 14,715 square feet (0.3378 acres). Since the required parkland is greater than 10,000 square feet but less than 1 acre in size, the subdivision regulations require the area to be set aside in an HOA park. The applicant is proposing a 7,729 square foot (0.177 acres) open space. This is less than the minimum of 10,000 square feet; therefore, the applicant must either redesign the subdivision to increase the park area to meet the minimum square footage and pay a fee in lieu for the difference or pay a fee in lieu of parkland. Staff will recommend this as a condition of approval.

Police: The project is in the City of Whitefish and will be served by the Whitefish Police Department. The proposed development will have some impact on the Whitefish Police Department; however, this subdivision is not anticipated to impact current levels of service.

Fire Protection: The Whitefish Fire Department serves the property. The proposed development will have some impact on the Whitefish Fire Department; however, this subdivision is not anticipated to impact current levels of service.

Solid Waste: Republic Services is under contract with the City of Whitefish to handle solid waste for the city. Solid waste is taken to the Flathead County Landfill. There is sufficient capacity within the landfill to accommodate the additional solid waste generated from this subdivision.

Medical Services: The Whitefish Fire Department provides emergency medical services to this property. Logan Health Whitefish is approximately two miles to the south of this property.

Finding 4: The proposed subdivision does not pose any negative effects on local services because City staff has preliminarily reviewed the project for water, sewer, and stormwater systems, the parkland dedication meets the requirements of state and City regulations for parkland requirements, as conditioned, the Fire Department has preliminarily reviewed the proposal for conformance with the Fire Code, a new public right-of-way will be installed to the furthest edge of the property, and additional services, such as police and schools, are not anticipated to be affected.

E. Effects on Agriculture and Agricultural Water User Facilities:
This property has not been used for agricultural purposes in the recent past and no property surrounding the subject project is being used for agricultural purposes.

Finding 5: The proposed subdivision does not pose any negative effects on agriculture or agricultural water users because the property is within city limits and no property in the surrounding area is being used for agricultural purposes.
F. Compliance with Growth Policy:
The Growth Policy identifies the parcel as Suburban Residential on the Future Land Use Map. This designation generally includes WCR, WER, and WSR. The property is zoned WLR (One-Family Limited Residential District). While the zoning of WLR does not necessarily comply with the Suburban land use designation, the proposal for single family homes and the development standards are consistent with the Suburban land use. The proposed preliminary plat complies with Suburban Residential land use designations.

Suburban Residential. Lower density residential areas at the periphery of the urban service area generally fall under this designation on the Future Land Use Map. The residential product type is predominantly single-family, but cluster homes and low-density town homes that preserve significant open space are also appropriate. Densities range from one unit per 2 ½ acres to 2.5 units per acre but could be higher through the PUD. Zoning districts include WCR, WER, and WSR. Cluster residential that preserves considerable open space, allows for limited agriculture, maintains wildlife habitat is encouraged.

Growth Policy (2007)
Future Land Use Goal 5: Protect and preserve the special character, scale, and qualities of existing neighborhoods while supporting and encouraging attractive, well-designed, neighborhood compatible infill development.

Future Land Use Policy 6: The City of Whitefish shall give priority to infill development over Growth Policy amendments that would redesignate land to Urban or Suburban.

Transportation Element Goal 1: Provide an efficient and effective transportation system to serve the present and future needs of the Whitefish area.
Transportation Element Goal 2: Integrate transportation and land use planning so that choices of transportation modes are optimized.

Finding 6: The project complies with the 2007 Growth Policy because, while the underlying zoning is not compliant with the Suburban land use designation, the uses and development standards do comply, and the project is considered an infill project which was a major component of the 2007 Growth Policy.

G. Compliance with Zoning:
The property is zoned WLR (One-Family Limited Residential District). Minimum lot size and lot width are met for the majority of the lots. Two flag lots are proposed in the development which is allowed in both the Zoning and Subdivision regulations. Flag lots 4 & 5 have an access road of less than 30-feet so this area cannot be counted toward the minimum lot area. These lot areas will need to be recalculated and possibly rearranged to meet the minimum lot size. Setback, lot coverage and other development standards will be confirmed at the time of building permit approval.

Finding 7: The proposed subdivision complies with the zoning regulations, as conditioned, because the property is zoned WLR and the lot sizes, lot width, setbacks, and lot coverage will be confirmed at the time of final plat or building permit approval.

H. Compliance with Whitefish Subdivision Regulations:
As described previously in the report, the property is in city limits, is included within the Growth Policy, conforms to all zoning and design standards, no subdivision variances are needed and the plan includes proposal for the extension of public infrastructure; therefore, this project is eligible for an Expedited Review (§12-3-3A, WCC).

Design Standards:
- The project complies with City design standards.
- No environmental hazards are identified on the property, and it is not in a floodplain.
- There are large healthy trees to be retained, as conditioned.
- This subdivision, and all of Whitefish, is in the Wildland Urban Interface and has been conditioned accordingly.
- If the project is proposing infiltration for its stormwater, groundwater monitoring will be required.
- Construction is not proposed on lots greater than 10%.
- The project is conditioned to show the clearing limits and tree retention areas; lots are rectangular in shape with side lot lines substantially at right angles with a minimum 20-foot access to the public street; flag lots are permitted but no more than 50% of total lots – two of the nine lots are flag; no through or reverse lots are proposed; and all other standards are met.
- No blocks are proposed.
- Each lot has physical and legal access to a public street; the street will be designed to City standards; the primary access is less than 1,000 feet, but they are providing a secondary access with the connection to Wild Rose Lane.
The streets will meet City standards, no Traffic Impact Study is required as the trips are less than 200 per day; they are not developing a dead-end street but making a connection to the west and to the eastern edge of their property for future extensions with a sign indicating a future road connection; no half streets are proposed, streetlights and street trees will be installed.

- No alleys are proposed.
- Sidewalks will be installed.
- The project will be connected to City water.
- The project will be connected to City sewer.
- All standards for fire protection and suppression will be installed – including hydrants and access.
- Solid waste is handled by Republic Services and is addressed by Utility Billing.
- The public street will have streetlighting.
- As conditioned, the applicant will work with the Post Office to provide mail receptacles.
- As conditioned, the street name and address will need to be reviewed and approved by the City Clerk.
- The drainage will be reviewed and approved by the Public Works Department prior to installation.
- Grading and erosion control plans are reviewed and approved by the Public Works Department prior to construction.
- All new utilities are to be located underground, as required by the City Engineering Standards, and a 10-foot dry utility easement will be located along the fronts of all lots.
- Noxious weeds are required to be kept under control by the property owner – this is a condition in the CC&Rs and on the face of the plat.
- No deed restricted affordable housing is being proposed.

Finding 8: With the imposition of conditions, the subdivision complies with the Whitefish Subdivision Regulations.

I. Compliance with the Montana Subdivision and Planning Act:

Finding 9: The proposed subdivision complies with the Montana Subdivision and Platting Act, §MCA 76-3.

RECOMMENDATION

It is recommended the Whitefish City Council adopt the findings of fact within staff report WPP 23-02 and approve High Water subdivision, as submitted by the applicant, subject to the following conditions:

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.

2. Except as amended by these conditions, the development of the subdivision 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.
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 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, streetlights, street trees, sidewalks, and other improvements must be submitted as a package and reviewed concurrently. No individual improvement designs will be accepted by Public Works. (City Engineering Standards, 2019)

4. 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 drainage plans, applicant is advised that the number, density and/or location of building lots, shown on the preliminary plat may change depending upon constructability of 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 shall include a strategy for long-term maintenance. Fill on-site shall be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion. (City Engineering Standards, 2019)

5. Lots must have their clearing limits identified, no less than 2,000 square feet, and show the tree protection areas on the face of the plat. (§11-4-12A, WCC)

6. Lots 4 and 5 must have their lot areas re-calculated to remove the area within the access to meet the minimum lot size for the zoning district. (Finding 7, §11-3-14A(2), WCC)

7. Parkland dedication must either meet the minimum 10,000 square feet for a Homeowners Association Park and pay a fee for the remainder or pay a fee in lieu of parkland dedication at the time of final plat. (Finding 4, §12-4-11D(3), WCC)

8. Prior to any ground disturbing activities, a plan must be submitted for review and approval by the Public Works and Planning/Building Departments. 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, 2019)
9. A tree preservation/retention plan must be submitted with the Engineering Plans compliant with the Subdivision Regulations. Such plan will identify healthy trees to be retained, method for tree protection during construction (including inspection), and plan for replacement trees if damaged during construction. Tree removal may only occur in rights-of-way and to install infrastructure. No trees may be removed from the individual lots until a building permit is issued and tree protection measures are installed and approved by the City. (Finding 1, §12-4-5, WCC)

10. Wild Rose Lane must be constructed to the eastern edge of this property and signed ‘Future Street Connection’. The final location and alignment of this roadway extension will be determined by the Public Works Director. (Finding 1, 4, 8; Subdivision Regulations, §12-4-15, WCC; City Engineering Standards 2019)

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

12. All areas disturbed because of road and utility construction must be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. All noxious weeds, as described by Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner or homeowners’ association. (§12-4-30, WCC)

13. The City Clerk must assign addresses to the subdivision prior to final plat. Such addresses must be shown on the face of the plat. Written confirmation from the City Clerk shall be submitted with the final plat application. (Flathead County Addressing Standards)

14. The following notes must be placed on the face of the plat:
   - House numbers must be located in a clearly visible location and must conform to the current Fire Code, as adopted by the City Council.
   - All noxious weeds, as described by the Whitefish City Code, must be removed throughout the life of the development by the recorded property owner.
   - The entire City of Whitefish falls within the Wildland Urban Interface. The City of Whitefish has adopted the 2012 International Wildland-Urban Interface code.
   - Only Class A and Class B fire-rated roofing materials are allowed.
   - Defensible Space Standards shall be incorporated around all primary structures, as described in the Covenants.
   (Staff Report Findings 1, 4; Subdivision Regulations Appendix D, §§12-4-30, 12-4-6A(2), WCC; City Engineering Standards, 2019)

15. Individual or common off-street mail facilities must be provided by the developer and approved by the local post office. (§12-4-24, WCC)

16. Prior to approval of the final plat, the applicant shall produce a copy of the proposed Covenants, Conditions and Restrictions (CC&Rs) providing for:
   - Long-term weed management plan. The weed management plan shall be submitted to the Planning Department for review and approval prior to final plat;
• Long-term maintenance plan for drainage and storm water management facilities;
• Long-term maintenance plan for HOA parkland; and
• Defensible Space Standards for individual primary structures.
• Homeowner designing their homes to protect identified healthy trees as much as practicable. Such saved trees must be identified on site plans for building permits and maintain tree protective fencing during construction.
  (Findings 3, 4; §§12-4-26, 12-4-30, 12-4-6A(2), WCC; City Engineering Standards, 2019)

17. The High Water preliminary plat is approved for three years from Council action.
  (Subdivision Regulations, §12-3-9, WCC)
PRELIMINARY PLAT OF
HIGH WATER SUBDIVISION
LOCATED IN THE THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER AND
THE NORTHEAST OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 31
NORTH, RANGE 21 WEST, P.M.M., CITY OF WHITEFISH, FLATHEAD COUNTY,
MONTANA.

AREAS & DIMENSIONS

LEGAL DESCRIPTION
The Northwest Quarter of the Northeast Quarter of Section 32, Township 31, Range 21, West, P.M.M., City of Whitefish, Flathead County, Montana.

PARKLAND DEDICATION

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HIGH WATER LANE

STORM

LOT 1

LOT 2

LOT 3

LOT 4

LOT 5

LOT 6

LOT 7

LOT 8

LOT 9

WILD ROSE LANE

EAST 2ND STREET

GREEN

ROAD

LEGEND

NOTE: TO THE PLAT OF HIGH WATER SUBDIVISION, CITY OF WHITEFISH, M.T.

OWNER: DAVID DODRILL
BY: TD&H ENGINEERING, INC.
450 CORPORATE DRIVE SUITE 101
KALISPELL, MT. 59901
PHONE: (406) 751-5246
DATE: APRIL, 2023

450 CORPORATE DRIVE SUITE 101
TD&H ENGINEERING, INC.
KALISPELL, MT. 59901

Dedicated by David D. Dodrill
April 30, 2023

PARKLAND DEDICATION

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Element Review
Preliminary Plat Application

RE: Element Review for: **High Water**

Pursuant to MCA 76-3604(1)(a) and Whitefish Subdivision Regulations §12-3-4(A) we have determined your application:

☐ Contains all the required Elements to begin a Sufficiency Review

☑ Is missing the following Elements:

- pre-ap in the last 6 months (scheduled for 4/20/23)

Until the above-mentioned items are submitted, no further review will occur on your project.

---

Staff Signature

4-17-23

Date
Element Review
Preliminary Plat Application

RE: Element Review for: High Water

Pursuant to MCA 76-3604(1)(a) and Whitefish Subdivision Regulations §12-3-4(A) we have determined your application:

☐ Contains all the required Elements to begin a Sufficiency Review
☐ Is missing the following Elements:

Until the above-mentioned items are submitted, no further review will occur on your project.

Staff Signature

4-27-23
Date
Sufficiency Review
Preliminary Plat Application

RE: Sufficiency Review for: High Water

Pursuant to MCA 76-3-604(2)(a) and Whitefish Subdivision Regulations Section 12-3-4(B) we have determined your application:

☑ Contains sufficient detail to commence review of the application. Your application will be scheduled for Planning Board on n/a _______________ and City Council on June 5, 2023 _______________.

☐ Is lacking required detail in the following Elements:

Until the above-mentioned items are submitted, no further review will occur on your project.

Staff Signature _______________

May 18, 2023 _______________
Date
The City of Whitefish would like to inform you that High Water LLC on behalf of David Dodrill is requesting preliminary plat approval for a nine (9) lot subdivision. The property is currently undeveloped and is zoned WLR (One-Family Limited Residential District). The property is located at 1600 & 1628 E 2nd Street and can be legally described as Tracts 1DBB & 1R in S32 T31N R22W, P.M.M., Flathead County.

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

**Monday, June 5, 2023**
**7:10 p.m.**
**Whitefish City Council Chambers, City Hall**
**418 E 2nd Street, Whitefish MT 59937**

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department and on the Planning Department webpage – Current Land Use Actions: [www.cityofwhitefish.org](http://www.cityofwhitefish.org). The public is encouraged to comment on the above proposal and attend the hearing. Please send comments to the Whitefish Planning Department (address below) or email at wcompton-ring@cityofwhitefish.org.

Comments received by the close of business on Monday, May 22, 2023, will be included in the packets to Board members. Comments received after the deadline will be summarized to Board members at the public hearing.

Please share this notice with your neighbors
Date: May 12, 2023
To: Advisory Agencies & Interested Parties
From: Whitefish Planning & Building Department

At the regular meeting of the Whitefish City Council on Monday, June 5, 2023 at 7:10 pm at the Whitefish City Council Chambers in City Hall, the Council will consider the following request:

1. High Water LLC on behalf of David Dodrill is requesting preliminary plat approval for a nine (9) lot subdivision. The property is currently undeveloped and is zoned WLR (One-Family Limited Residential District). The property is located at 1600 & 1628 E 2nd Street and can be legally described as Tracts 1DBB & 1R in S32 T31N R22W, P.M.M., Flathead County. (WPP 23-02) Compton-Ring

Documents pertaining to these agenda items are available for review at the Whitefish Planning & Building Department, 418 E Second Street, during regular business hours, and the application and site plans are available HERE. The full application packet along with public comments and staff report will be available on the City’s webpage: www.cityofwhitefish.org under Mayor and Council one week prior to the City Council public hearing date noted above. Inquiries are welcomed. Interested parties are invited to attend the meeting and make known their views and concerns. Comments in writing may be forwarded to the Whitefish Planning & Building Department at the above address prior to the hearing or via email: wcompton-ring@cityofwhitefish.org. For questions or further information regarding these proposals, call 406-863-2410.
May 22, 2023

By E-mail (wcompton-ring@cityofwhitefish.org)

The Honorable John Muhlfeld, Mayor,
and City Councilors of the City of Whitefish
418 E 2nd Street
Whitefish, Montana 59937

Dear Mayor Muhlfeld and Councilors:

We write in response to the “Public Notice of Proposed Land Use Action” in File No. WPP 23-02, an application by High Water LLC for authorization to develop nine residential lots at 1600 and 1628 E 2nd Street. As set out below, among other things, the application fails to provide adequate information regarding the design, cost and financing of infrastructure associated with the proposed development. It fails to provide information regarding potential impacts of the proposed development on adjacent and surrounding neighborhoods. It is characterized by substantive errors and inconsistencies that are material to the City’s evaluation and consideration of the proposal. Accordingly, we respectfully request that Council defer action on the proposal pending additional review and analysis by the City’s Planning Department.

Further study is warranted especially because some of the deficiencies identified here could have foreseeable adverse consequences for the City and its taxpayers.

1. The Application Contains Unsubstantiated and Incomplete Information Regarding the Design, Functionality and Cost of Infrastructure Buildout.

Part III, Section 1.b., of the Community Impact Report submitted with the application requires the applicant to provide information regarding, among other things, the estimated costs of the development’s water and sewage treatment facilities, who will bear those costs, and how those costs will be financed. High Water LLC’s response — that the estimated total cost of water and sewer infrastructure is $350,000 — doesn’t include a line-item cost breakdown or any analysis, comparisons or other documentation that might enable the City to understand how the estimate was derived or whether the water and sewer infrastructure plan is feasible or reliable. Moreover, beyond stating that High Water LLC “will be responsible for installation of the water and sewer system improvements,” the application is silent with respect to how High Water LLC intends to cover the costs of these improvements, including whether, if the costs are to be financed, it has a committed source or sources of funds.

Furthermore, High Water acknowledges (at Part III, Section 1.c.) that “[p]lans for modifications to, and extensions of, the City’s public water and sewer systems are necessary to
serve the lots being proposed in the development . . . .” Yet it fails to provide any information, as requested in Section 1.c., regarding the potential “impacts” of the development’s proposed water and sewer connections on those existing systems. High Water’s unelaborated acknowledgment isn’t responsive to the request and actually raises more questions than it answers. Precisely because, as the application notes (Part III, Section 1.b.), the City of Whitefish ultimately “will own, operate and maintain the [development’s] water supply and sewage collection systems,” it is essential that the City have additional information regarding water and sewer infrastructure design, costs and financing before it can make an informed decision on the proposal.

Similar omissions and ambiguities characterize High Water’s responses to Part III, Section 2, of the Community Impact Report, regarding road construction and maintenance and storm drainage. As an example, in Section 2.a., High Water provides no basis for the trip factor (ten vehicle trips per day per unit) used to support its contention that a traffic impact study is not required. Moreover, High Point’s proposal doesn’t appear to take into account the impact of additional vehicle trips on existing streets — Wild Rose Lane, Armory Road and Ponderosa Court — attributable to the new development following the extension of Wild Rose Lane and its connection to the proposed development. High Water’s assertion that “[t]raffic volumes were generally anticipated in the development of the adjacent streets” is ambiguous and unsubstantiated.

The applicant asserts that “new streets will be designed to meet the City’s design standards” as justification for its contention that the City won’t be taking on road maintenance problems once the development has been completed. Our understanding is that Wild Rose Lane, Armory Road and Ponderosa Court, comprising the adjacent High Point on Second Street subdivision, were constructed to satisfy the minimum road construction tolerances set out by the City of Whitefish. Yet only a few years after completion, those roads exhibit significant damage due to heaving, subsidence and cracking, apparently because the minimum guidelines specified by the City do not take into account the unstable clay substrate in the area, which also includes the proposed High Water development. We note in this regard that the April 13, 2023, TD&H Engineering Report submitted with the application states that, under applicable industry guidelines, the High Water development substrate may be “a fair to poor subgrade material due to its reduced drainage properties and strength when wetted.” (TD&H Engineering Report at page 3.) The report explains that roadway construction in the subdivision will require additional surface preparation — with, presumably, corresponding increased costs — to address these concerns.

Further, the TD&H Engineering Report, while stating that TD&H didn’t encounter ground water at the time of its undated test pit excavations, nonetheless cautions that the possible presence of “groundwater, subsurface seepage or areas of high moisture” will “warrant additional investigation and evaluation” prior to construction of any homes. (TD&H Engineering Report at pages 1-2.) Meanwhile, the draft Declaration of Covenants, Conditions and Restrictions for the High Water Subdivision submitted with the application categorically states (at Section 5.5), without explanation, “No basements allowed.” (On information and belief, certain homes in the
adjacent High Point on Second Street subdivision experience or have experienced groundwater infiltration; and see our comment above regarding road conditions in the subdivision.)

In any case, as with the water and sewer improvements discussed above, High Water has provided only a conclusory and unsubstantiated statement that the total cost of constructing new roadways, sidewalks, curbs, gutters, street lights and boulevard improvements will be $450,000. Significantly, High Water has expressly acknowledged that its ability to cover these costs is predicated on its prior sale of lots within the development. Yet, at the same time, High Water states that it “will use a combination of investors and construction loans from lending institutions to raise the capital to build the infrastructure required for the subdivision” — a statement that is inconsistent with its caveat that the successful sale of lots is a precondition to its ability to construct the infrastructure needed to support the development.

The incomplete and internally inconsistent information in High Water’s application doesn’t provide the sorts of assurances the City needs to allow the project to go forward. At the very least, High Water should be required to provide detailed information regarding the actual anticipated cost of each infrastructure element — water, sewer, and roads and maintenance (including storm drainage) — and evidence of committed sources of financing. Anything less raises a risk that the infrastructure necessary to support the development as proposed will not be completed within the approved subdivision timeline — and, even worse, the attendant risk that the City and its taxpayers could be left holding the bag.


The application fails to provide any meaningful information regarding effects of the proposed development on adjacent neighborhoods and property. Thus, for example, the “Vicinity” exhibit included with the application merely is a copy of a Flathead County GIS Department map of the greater Whitefish area. It doesn’t allow a reviewer to determine the precise location of the development, much less provide any meaningful information regarding the relationship of the proposed development to surrounding and adjacent neighborhoods or facilities. Nor does the preliminary development plat submitted with the application provide any information regarding the relationship between the proposed lots and existing lots abutting them. This renders it impossible for the City (or adjacent landowners, like ourselves) to evaluate the potential impacts of the development — indeed, we’re not even able to discern from the information provided how the proposed lots will be aligned with existing lots in the adjacent neighborhood that abut the new development. Nor does the proposal contain any information regarding adjacent edge relationships, setbacks and other information that would enable the City and current property owners to evaluate the effects of the subdivision on existing property.

3. The Application Contains Errors, Omissions and Inconsistencies that Require Additional Review and Analysis.

Finally, we note illustrative errors and inconsistencies that are emblematic of the applicant’s apparent inattention to detail. For example, the draft Declaration of Covenants,
Conditions and Restrictions states (at Section 5.9) that “the subdivision will be connected to Evergreen water and sewer systems.” (Our emphasis.)

As another example, the CCRs state (at Section 3.5(e)) that the development’s Home Owners’ Association will be “responsible for maintaining roads in The High Water Subdivision, including but not limited to snow removal, drainage features, pavement chip sealing, new striping, [and] new pavement . . . .” Yet the Community Impact Report states (at Part III, Section 2.h.) that “[t]he street system [for the subdivision] will be constructed by the developer and dedicated to the City for long term maintenance which would include snow removal.” There is no way to reconcile these conflicting statements.

These examples alone suggest that the application is an assemblage of materials cut and pasted from other, unrelated documents, rather than the thoughtful, comprehensive presentation the City requires of its applicants.

*     *     *     *

For all the reasons stated above, we believe the High Water application cannot be approved in its current form. We therefore respectfully request that Council defer action on the application and refer it to the City Planning Department for additional review and, as necessary and appropriate, consultation with High Water LLC.

Thank you for your consideration of these comments and, of course, please let us know if you have any questions.

Respectfully submitted,

/s/

Louise de la Fuente
Mace Rosenstein
COMMENTS AND CONCERNS PERTAINING TO HIGH WATER LLC PROPOSED SUBDIVISION PLAT APPROVAL
5/22/2023

Rachel Desimone
199 Wild Rose Lane
Whitefish, MT 59937

TO THE CITY OF WHITEFISH PLANNING AND ZONING DEPARTMENT, AND WHITEFISH CITY COUNSEL:

I have reviewed the entirety of the application and supporting documentation, as well as the Public Notice mailed to our neighborhood, pertaining to the proposed development in Whitefish entitled High Water, LLC. Please accept as this my objection to the High Water LLC Subdivision Plat Approval for the foregoing reasons. To be clear, I do not object to the mere existence of a subdivision altogether; instead, I object to the expedited application being approved without any of the necessary elements as required by both the City of Whitefish Zoning and Platting and Subdivision departments and the Montana Code Annotated. It is my firm belief that the proposed application is sufficiently lacking the necessary information for it to be approved, and since it seems the preliminary approval process was circumvented because the Dodrills paid a fee to expedite the process, it is before the City of Whitefish to approve the subdivision in its entirety based on the current documents submitted. Unfortunately, the Dodrills have not submitted a complete application that addresses all areas set forth by the City of Whitefish’s Rules and Regulations, or by the Montana Code Annotated.

For the below reasons, I kindly request that you deny approval of the development without request of further due diligence from the Dodrills. Below is a summary of specific concerns shared by a number of homeowners in the adjacent subdivision, High Point.

1. First and foremost, I, together with all homeowners who abut the eastern side of Ponderosa Court, will be directly impacted by this development.

2. The development is situated downhill from our properties, and there appears to be very little consideration of the massive surface and groundwater flow that will inevitably occur, potentially flooding our areas.
   a. The small "storm" retention area appears inadequate to accept the substantial water runoff that will be generated by the development. As the area has unusually high subsurface water levels that are currently handled by limited percolation into clay soils, almost the entire hill will drain into this small area when the development is fully built-out. As the BNSF right-of-way lies immediately downhill from the "storm" area, it may have unplanned and potentially hazardous effects on the railroad.
b. They should be obligated to conduct full water and stormwater runoff testing before this subdivision ever gets approved.

3. When I built my home in 2015 I understood it was being built on a high water table. I moved in and during the first spring (Spring 2017) my crawl space filled with water. I immediately had the builders come out and inspect the crawl space and subsequently place a sump pump. Fortunately there was little lasting damage (that I am aware of) to the foundation or house. That being said, this clearly shows the high water table in the Highpoint on Second subdivision and the potential risk to our homes and properties if insufficient water testing is not completed prior to moving forward with the Dodrills subdivision. I am fearful for my home and my property if the city allows the Dodrills to move forward with construction and subdivision without proper evaluation first.

4. The proposed subdivision application does not even contain a proposed formal survey. The Drodrills have proposed a “plat map” which lacks survey specification by TD&H Engineering. They are not surveyors, they are engineers.

5. It is the right of the Dodrills to develop a subdivision. But if they choose to do so, it is their obligation to abide by the statutes, ordinances, and rules that govern land use within the State of Montana, Flathead County, and in particular, the City of Whitefish. One of the benefits of living in this city instead of in unincorporated areas of the county is that the rules and regulations which govern City of Whitefish construction are more rigid, and we rely on and are bound by imposition of those strict and specific rules. They have not gone through the preliminary plat application process sufficiently as set forth in Title 12, Subsection B such that should be allowed to submit an application for a final plat as set forth in Title 12, Subjection C of the City of Whitefish Rules and Regulations.

6. There are simply too many lots proposed to increase profits, but to the detriment of the future homeowners and neighboring communities. To that end, the small "flag lots" of lots 4 and 5 are ill-sited for this area. Flag lots may be appropriate in a rural setting, and they are clearly an attempt by the developer to "squeeze" more lots into a relatively small area. Not only do these ill-conceived lots detract from the uniformity of the building setback lines, but also they also present a public safety issue, as the addresses of these proposed homes can certainly be confusing to police, fire, and other public utility services. They are "shoehorned" together and may be confusing. Combining lots 4 and 5 would create a larger and more appropriate lot, with a uniform setback from the street. The almost universal prohibition of de novo creation of flag lots by urban and suburban planning and zoning authorities across the country speaks volumes. They may have a place in the rural areas of our state, but this area is squarely in the core area of Whitefish, and should not allow this inappropriate planning device to be used. Lots 4, 5 and green should be consolidated into a single lot with the appropriate frontage of 25 feet. Based on the current proposal as to lots, the shapes of the lots in an effort to create more lots for profit, detrimentally impacts the owners of those lots, as well as the abutting lots.
7. The connection of the south terminus of proposed "High Water Lane" to East 2nd St is very concerning from a traffic safety standpoint. Westbound traffic on East 2nd Street will encounter a blind hill almost immediately before that intersection, presenting a collision hazard that cannot be mitigated by signage alone. As East 2nd Street is the main East-West thoroughfare in Whitefish, traffic often exceeds the posted 25 MPH speed limit as it accelerates West passing the dog park. Vehicles attempting a right turn onto East 2nd Street will have a very limited line of sight for anything approaching from the East; additionally, those approaching vehicles will only have a very limited sightline after cresting the hill to avoid colliding with those right-turning vehicles. Furthermore, the placement of a home on Lot 6 will further restrict visibility to the East, adding to the danger. In summary, it is a very bad place to put a road, especially one that will serve as the primary exit from the proposed development.

8. As set forth above, High Water LLC’s application in full is very thin, poorly reviewed, and quite incomplete. Had this application been reviewed in the standard process, through the Planning Board, the errors would have likely been discovered early, and required elements and studies might have been completed prior to consideration by the Council. Below is a more detailed analysis of the application and issues that arise as primary concerns.

a. **ROAD TRAFFIC DENSITY AND LACK OF ADEQUATE STUDY** In the Community Impact Report, Section 2 (Roads and Maintenance), they are estimating only 90 vehicle trips/day in the development. There is no supporting evidence for this number. In my view, this substantially underestimates the actual traffic that will move through the area. Given that there is NO eastbound access to Second St from Ponderosa Ct, it is expected that most of that traffic will use the proposed High Water Lane for this purpose, as well as most of the traffic on Wild Rose Lane that plans to proceed eastbound, so as to avoid the poor surface conditions on Armory Rd. Applying this, High Water Lane will more likely carry from 200-270 vehicle trips/day, given the homes in High Point on Second St that will use it. **Public Works requires that any development generating 200 or more daily trips must complete a Traffic Impact Study (TIS)**

b. **ROAD CONSTRUCTION STANDARDS:** On page 3 of the geotechnical report the engineer discusses the road section needs, and preparation. What they propose is to meet the MINIMUM City of Whitefish specifications. See obligations for City of Whitefish governing Geotechnical Review: Site Characterization, §12-4-9. Those subsidence, heave, and the other serious issues we have already seen on Armory and Wild Rose Lane. I would invite anyone to drive over these roads and experience the multiple areas of deep subsidence, protrusion of utility covers, and a ride that is commonly referred to be “like a roller coaster.” THOSE roads were built to this minimum specification, and the result is a disaster which will require possibly hundreds of thousands of taxpayer dollars to repair. I would not fully agree with Dr. Dodrill's consulting
engineer that a minimum structural number of 2.90 (the minimum City standard) is acceptable, given that we see the inadequacy of using that standard on ALL of the roads in our development immediately adjacent to this property. Although this area of Whitefish obviously has a unique geology, the current damage on our roads must be evaluated and perhaps the City should require upgraded construction specifications on the proposed roads to prevent the rapid deterioration we have seen in High Point on 2nd St! The road plan needs to be reconsidered and more deeply studied, especially in regard to the proposed pavement section standard, which has clearly proven to be inadequate for this area.

c. POOR PREPARATION AND ATTENTION TO DETAIL IN SUPPORTING DOCUMENTS, PARTICULARLY THE CCRs: It is clear that very little actual thought has gone into much of this submission. The CCRs have absolutely no guidelines for residences and are so vague that one could quite literally get away with building a prefab tiny home on these lots. This causes decrease in surrounding value in an expensive neighborhood. They were poorly drafted, lack specificity required of neighboring subdivisions like ours, and the author of these CCRs does not even live or practice in Montana; rather, Arizona. One example is the draft, "DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE HIGH WATER SUBDIVISION." Although this is only submitted as a governing document for the proposed HOA, it illustrates the lack of thought and attention to detail seen throughout this proposal. Specifically: Section 2.6 Common Expenses states the following:

"Common Expenses” means expenses to maintain The High Water Subdivision as defined by The High Water Subdivision Homeowners Association. Common Expenses include road and common area maintenance, servicing, conserving, management, administration, duties to comply with this declaration, and any other expenses deemed necessary by the Homeowners Association for care of The High Water Subdivision."

So does this mean that the roads within the proposed development will be private? Two-way streets? Or Public? It is further explained in Article III:

"(e) Road Maintenance: The HOA is responsible for maintaining roads in The High Water Subdivision, including but not limited to snow removal, drainage features, pavement chip sealing, new striping, new pavement, and a means to accumulate funds for these expenses."

"(f) Sidewalks and Boulevards: The HOA is responsible for snow removal, weed control, and other repairs and maintenance on common area sidewalks and boulevards in order to maintain safety standards and visual appeal."
If this will be a private-road development, then is there a right of public access to High Water Lane? Will there be gates or other restrictions on both entrances? Section (f) seems to relieve the City of Whitefish from snow removal on High Water Lane. None of this is explained, and it is implied elsewhere in the application (Community Impact Report, Section III (h)) that these will be dedicated to the City of Whitefish. So what is it?

Another glaring error points out that the entire CR&R document was cut-and-pasted from some other development in Evergreen, without adequate review. Section 5.9: Utilities states:

"All utilities shall be placed underground. The subdivision shall be connected to Evergreen water and sewer systems. No private water or sewer systems may be constructed."

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f. LACK OF HEARING ON PRELIMINARY PROPOSAL OF MAJOR SUBDIVISION. Pursuant to Section 4.0.14 Public Hearings and Notices, the Planning Board shall hold a public hearing on all land use applications when a hearing is required by these Regulations. The Commission may refer a proposed preliminary major subdivision back to the Planning Board for a subsequent public hearing if new information becomes available that was not considered in the previous public hearing pursuant to 76-3-615. No such initial preliminary hearing was held, and it should have been.
9. SUMMARY: The High Water, LLC submission was initially recommended for an expedited procedure due solely due to its lack of a need for a zoning variance. Given the multiple substantive concerns and questions that remain from review of this thin and hastily-constructed plan, it is not appropriate for direct consideration by the Whitefish City Council, and should more appropriately be fully reviewed by the Planning Board. It will be able to take the necessary steps to fully address the substantive issues I have described. It is not fair either to the community, the prospective homeowners, or the developer himself to hastily approve a plan that fails to address these issues. 

I therefore recommend that the City refund Dr. Dodrill’s expedited submission fee and refer him to the full Planning Board for appropriate consideration, hearing, and review before re-submitting to the Council for approval.

Sincerely,

Rachel Desimone
199 Wild Rose Lane
Whitefish, MT 59937
COMMENTS AND CONCERNS PERTAINING TO HIGH WATER LLC PROPOSED SUBDIVISION PLAT APPROVAL
5/23/2023

David Diehl
108 Wild Rose Ln, Whitefish, MT 59937

TO THE CITY OF WHITEFISH PLANNING AND ZONING DEPARTMENT, AND WHITEFISH CITY COUNSEL:

I have reviewed the entirety of the application and supporting documentation, as well as the Public Notice mailed to our neighborhood, pertaining to the proposed development in Whitefish entitled High Water, LLC. Please accept as this our objection to the High Water LLC Subdivision Plat Approval for the foregoing reasons. To be clear, we do not object to the mere existence of a subdivision altogether; instead, we object to an expedited application being approved without any of the necessary elements as required by both the City of Whitefish Zoning and Platting and Subdivision departments and the Montana Code Annotated. It is my firm belief that the proposed application is sufficiently lacking the necessary information for it to be approved, and since it seems the preliminary approval process was circumvented because the Dodrills paid a fee to expedite the process, it is before the City of Whitefish to approve the subdivision in its entirety based on the current documents submitted. Unfortunately, the Dodrills have not submitted a complete application that addresses all areas set forth by the City of Whitefish’s Rules and Regulations, or by the Montana Code Annotated.

For the below reasons, we kindly request that you deny approval of the development without request of further due diligence from the Dodrills. Below is a summary of specific concerns shared by a number of homeowners in the adjacent subdivision, High Point on 2nd Street.

1. First and foremost, all my fellow High Point homeowners who abut the eastern side of Ponderosa Court, will be directly impacted by this development.

2. The development is situated downhill from our properties, and there appears to be very little consideration of the massive surface and groundwater flow that will inevitably occur, potentially flooding our areas.
   a. The small "storm" retention area appears inadequate to accept the substantial water runoff that will be generated by the development. As the area has unusually high subsurface water levels that are currently handled by limited percolation into clay soils, almost the entire hill will drain into this small area when the development is fully built out. As the BNSF right-of-way lies immediately downhill from the "storm" area, it may have unplanned and potentially hazardous effects on the railroad.
   b. They should be obligated to conduct full water and stormwater runoff testing before this subdivision ever gets approved.
3. Sufficient underground and aboveground water testing has not yet been done by the
Dodrills to address these water issues, which are most certainly known to them, as they
aptly named the proposed subdivision, High Water. If water issues arise during
excavation and construction of this new subdivision, High Water LLC as well as High
Point could be very detrimentally affected.

4. The proposed subdivision application does not even contain a proposed formal survey.
The Drodrills have proposed a “plat map” which lacks survey specification by TD&H
Engineering. They are not surveyors, they are engineers.

5. Insofar as the Dodrills make mention of any type of road access by and through the
dedicated easement as set forth on Certificate of Survey ___ and that runs between 69
Ponderosa Court and Randy Mahoney’s home at 63 Ponderosa Court, this is in direct
violation of the COS upon which we relied, and any through traffic in violation of that
easement would give rise to litigation. It is not clear whether the Dodrills intend to use
that as access from High Water Lane to Ponderosa Court, but any such proposed use
would be in direct violation of the existing COS and would most certainly give rise to suit
for damages and injunctive relief.

6. It is the right of the Dodrills to develop a subdivision. But if they choose to do so, it is
their obligation to abide by the statutes, ordinances, and rules that govern land use within
the State of Montana, Flathead County, and in particular, the City of Whitefish. One of
the benefits of living in this city instead of in unincorporated areas of the county is that
the rules and regulations which govern City of Whitefish construction are more rigid, and
we rely on and are bound by imposition of those strict and specific rules. They have not
gone through the preliminary plat application process sufficiently as set forth in Title 12,
Subsection B such that should be allowed to apply for a final plat as set forth in Title 12,
Subjection C of the City of Whitefish Rules and Regulations.

7. There are simply too many lots proposed to increase profits, but to the detriment of the
future homeowners and neighboring communities. To that end, the small "flag lots" of
lots 4 and 5 are ill-sited for this area. Flag lots may be appropriate in a rural setting, and
they are clearly an attempt by the developer to "squeeze" more lots into a relatively small
area. Not only do these ill-conceived lots detract from the uniformity of the building
setback lines, but also, they also present a public safety issue, as the addresses of these
proposed homes can certainly be confusing to police, fire, and other public utility
services. They are "shoehorned" together and may be confusing. Combining lots 4 and 5
would create a larger and more appropriate lot, with a uniform setback from the street.
The almost universal prohibition of de novo creation of flag lots by urban and suburban
planning and zoning authorities across the country speaks volumes. They may have a
place in the rural areas of our state, but this area is squarely in the core area of Whitefish
and should not allow this inappropriate planning device to be used. Lots 4, 5 and green
should be consolidated into a single lot with the appropriate frontage of 25 feet. Based
on the current proposal as to lots, the shapes of the lots to create more lots for profit,
detrimentally impacts the owners of those lots, as well as the abutting lots, such as mine. Owners of lots 4 and 5 have difficult and shared access, and would be forced to build right next to our property lines because of poor layout and engineering design.

8. The connection of the south terminus of proposed "High Water Lane" to East 2nd St is very concerning from a traffic safety standpoint. Westbound traffic on East 2nd Street will encounter a blind hill almost immediately before that intersection, presenting a collision hazard that cannot be mitigated by signage alone. As East 2nd Street is the main East-West thoroughfare in Whitefish, traffic often exceeds the posted 25 MPH speed limit as it accelerates West passing the dog park. Vehicles attempting a right turn onto East 2nd Street will have a very limited line of sight for anything approaching from the East; additionally, those approaching vehicles will only have a very limited sightline after cresting the hill to avoid colliding with those right-turning vehicles. Furthermore, the placement of a home on Lot 6 will further restrict visibility to the East, adding to the danger. In summary, it is a very bad place to put a road, especially one that will serve as the primary exit from the proposed development.

9. As set forth above, High Water LLC’s application in full is very thin, poorly reviewed, and quite incomplete. Had this application been reviewed in the standard process, through the Planning Board, the errors would have likely been discovered early, and required elements and studies might have been completed prior to consideration by the Council. Below is a more detailed analysis of the application and issues that arise as primary concerns.

a. ROAD TRAFFIC DENSITY AND LACK OF ADEQUATE STUDY

In the Community Impact Report, Section 2 (Roads and Maintenance), they are estimating only 90 vehicle trips/day in the development. There is no supporting evidence for this number. In my view, this substantially underestimates the actual traffic that will move through the area. Given that there is NO eastbound access to Second St from Ponderosa Ct, it is expected that most of that traffic, will use the proposed High Water Lane for this purpose, as well as most of the traffic on Wild Rose Lane that plans to proceed eastbound, so as to avoid the poor surface conditions on Armory Rd. Applying this, High Water Lane will more likely carry from 200-270 vehicle trips/day, given the homes in High Point on Second St that will use it. Public Works requires that any development generating 200 or more daily trips must complete a Traffic Impact Study (TIS).

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So does this mean that the roads within the proposed development will be private? Two-way streets? Or Public? It is further explained in Article III:

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f. **LACK OF HEARING ON PRELIMINARY PROPOSAL OF MAJOR SUBDIVISION.** Pursuant to Section 4.0.14 Public Hearings and Notices, the Planning Board shall hold a public hearing on all land use applications when a hearing is required by these Regulations. The Commission may refer a proposed preliminary major subdivision back to the Planning Board for a subsequent public hearing if new information becomes available that was not considered in the
previous public hearing pursuant to 76-3-615. No such initial preliminary hearing was held, and it should have been.

10. I recommend that High Water LLC consider entering into agreement with High Point on 2nd Street LLC to subordinate High Water subdivision under our High Point bylaws and CC&Rs thereby creating a more homogenous look and feel between the two adjacent neighborhoods…as well as streamline homeowner’s association administration for both neighborhoods.

11. SUMMARY: The High Water, LLC submission was initially recommended for an expedited procedure due solely due to its lack of a need for a zoning variance. Given the multiple substantive concerns and questions that remain from review of this thin and hastily-constructed plan, it is not appropriate for direct consideration by the Whitefish City Council, and should more appropriately be fully reviewed by the Planning Board. It will be able to take the necessary steps to fully address the substantive issues I, and my fellow homeowners have in similar letters described. It is not fair either to the community, the prospective homeowners, or the developer himself to hastily approve a plan that fails to address these issues. I therefore recommend that the City refund Dr. Dodrill’s expedited submission fee and refer him to the full Planning Board for appropriate consideration, hearing, and review before re-submitting to the Council for approval.
COMMENTS AND CONCERNS PERTAINING TO HIGH WATER LLC PROPOSED SUBDIVISION PLAT APPROVAL
5/22/2023

Leigh Drogen
209 Wild Rose Ln, Whitefish, MT 59937

TO THE CITY OF WHITEFISH PLANNING AND ZONING DEPARTMENT, AND WHITEFISH CITY COUNSEL:

I have reviewed the entirety of the application and supporting documentation, as well as the Public Notice mailed to our neighborhood, pertaining to the proposed development in Whitefish entitled High Water, LLC. Please accept as this our objection to the High Water LLC Subdivision Plat Approval for the foregoing reasons. To be clear, we do not object to the mere existence of a subdivision altogether; instead, we object to an expedited application being approved without any of the necessary elements as required by both the City of Whitefish Zoning and Platting and Subdivision departments and the Montana Code Annotated. It is my firm belief that the proposed application is sufficiently lacking the necessary information for it to be approved, and since it seems the preliminary approval process was circumvented because the Dodrills paid a fee to expedite the process, it is before the City of Whitefish to approve the subdivision in its entirety based on the current documents submitted. Unfortunately, the Dodrills have not submitted a complete application that addresses all areas set forth by the City of Whitefish’s Rules and Regulations, or by the Montana Code Annotated.

For the below reasons, we kindly request that you deny approval of the development without request of further due diligence from the Dodrills. Below is a summary of specific concerns shared by a number of homeowners in the adjacent subdivision, High Point.

1. First and foremost, I, together with all homeowners who abut the eastern side of Ponderosa Court, will be directly impacted by this development.

2. The development is situated downhill from our properties, and there appears to be very little consideration of the massive surface and groundwater flow that will inevitably occur, potentially flooding our areas.
   a. The small "storm" retention area appears inadequate to accept the substantial water runoff that will be generated by the development. As the area has unusually high subsurface water levels that are currently handled by limited percolation into clay soils, almost the entire hill will drain into this small area when the development is fully built-out. As the BNSF right-of-way lies immediately downhill from the "storm" area, it may have unplanned and potentially hazardous effects on the railroad.

b. They should be obligated to conduct full water and stormwater runoff testing before this subdivision ever gets approved.
3. Insufficient underground and aboveground water testing has not yet been done by the Dodrills to address these water issues, which are most certainly known to them, as they aptly named the proposed subdivision, High Water. Needless to say, if water issues arise during excavation and construction of this new subdivision, High Water LLC as well as High Point could be very detrimentally affected.

4. The proposed subdivision application does not even contain a proposed formal survey. The Drodrills have proposed a “plat map” which lacks survey specification by TD&H Engineering. They are not surveyors, they are engineers.

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6. It is the right of the Dodrills to develop a subdivision. But if they choose to do so, it is their obligation to abide by the statutes, ordinances, and rules that govern land use within the State of Montana, Flathead County, and in particular, the City of Whitefish. One of the benefits of living in this city instead of in unincorporated areas of the county is that the rules and regulations which govern City of Whitefish construction are more rigid, and we rely on and are bound by imposition of those strict and specific rules. They have not gone through the preliminary plat application process sufficiently as set forth in Title 12, Subsection B such that should be allowed to submit an application for a final plat as set forth in Title 12, Subsection C of the City of Whitefish Rules and Regulations.

7. There are simply too many lots proposed to increase profits, but to the detriment of the future homeowners and neighboring communities. To that end, the small "flag lots" of lots 4 and 5 are ill-sited for this area. Flag lots may be appropriate in a rural setting, and they are clearly an attempt by the developer to "squeeze" more lots into a relatively small area. Not only do these ill-conceived lots detract from the uniformity of the building setback lines, but also they also present a public safety issue, as the addresses of these proposed homes can certainly be confusing to police, fire, and other public utility services. They are "shoehorned" together and may be confusing. Combining lots 4 and 5 would create a larger and more appropriate lot, with a uniform setback from the street. The almost universal prohibition of de novo creation of flag lots by urban and suburban planning and zoning authorities across the country speaks volumes. They may have a place in the rural areas of our state, but this area is squarely in the core area of Whitefish, and should not allow this inappropriate planning device to be used. Lots 4, 5 and green should be consolidated into a single lot with the appropriate frontage of 25 feet. Based on the current proposal as to lots, the shapes of the lots in an effort to create more lots for
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previous public hearing pursuant to 76-3-615. No such initial preliminary hearing was held, and it should have been.

10. SUMMARY: The High Water, LLC submission was initially recommended for an expedited procedure due solely due to its lack of a need for a zoning variance. Given the multiple substantive concerns and questions that remain from review of this thin and hastily-constructed plan, it is not appropriate for direct consideration by the Whitefish City Council, and should more appropriately be fully reviewed by the Planning Board. It will be able to take the necessary steps to fully address the substantive issues I have described. It is not fair either to the community, the prospective homeowners, or the developer himself to hastily approve a plan that fails to address these issues. I therefore recommend that the City refund Dr. Dodrill’s expedited submission fee and refer him to the full Planning Board for appropriate consideration, hearing, and review before re-submitting to the Council for approval.
5-16-23

Richard Kirksey
88 Ponderosa Ct.
PO Box 785
Whitefish, Mt.
59937

City of Whitefish
Planning & Building Dept.
PO BOX 158
Whitefish, Mt. 59937

To whom it may concern:

RE: Proposed land use action, pertaining to Tracts
Tracts 1DBB & 1R in S32 T31N R22W, P.M.M.,
Flat Head County, by High Water, LLC.

As presented, it appears High Water LLC. wants to
incorporate a storm water surface drainage
system in its proposed new housing development.
When Whitefish has significant rains, Ponderosa
Ct. street, in the Highpoint development, on the
west side of the proposed High Water
development, tends to flood, with water going into
the basements of several homes on Ponderosa Ct.
A significant part of the problem stems from the
run off from the undeveloped land that High
Water, LLC wants to develop. I am concerned this
flooding problem will be compounded when nine new homes are built, with concrete/asphalt driveways, sidewalks and manicured lawns. The development should not even be considered unless they put in underground storm drainage. No matter what the proposed developers survey might indicate, the heavy rain water does not and will not flow away from Ponderosa Ct. street and the homes in its path. I hope you will consider this information before approving the High Water land use permit.

Richard Kirksey
88 Ponderosa Ct.
Whitefish, MT. 59937

Mailing: PO Box 785
Whitefish, MT. 59937

[Signature]
ATTENTION: External Email - This email originated from outside of the City of Whitefish. Use caution when clicking links or opening attachments unless you recognize the sender and are expecting the contents. Contact the IT Helpdesk if in doubt.

Ms Wendy Compton-Ring, AICP Senior Planner:

We are the Lasures, Barrie and Jackie, and we reside at 77 Ponderosa Court, immediately to the west of lots 4 and 5 of the proposed subdivision. We would like to provide feedback on this proposed land use. Firstly, we love Whitefish and appreciate that City Government is vigilant and looks out for our best interests. Since we permanently moved to Whitefish in 2020 and built our new home during the pandemic, we have found that the Public Works Department and others that we have encountered have been courteous and professional in their approach. Secondly, we were aware of the possibility that the land to the east of our home would one day be developed and now that day has come. The following are our comments and concerns:

1. During that last two springs, we have encountered a substantial amount of run-off water in our crawlspace reservoir and at times our sump-pump has run continually. As a result of our landscaping and previous ground construction, we installed a substantial dry well to accept the naturally occurring run-off as well as the run-off from our pump. However, we have noticed at times, the dry well has reached capacity and seeped onto our lawn. This leads to our major concern with the proposed development which appears to incorporate a surface storm drainage system rather than an underground storm sewage system. While we have been informed that this is part of another phase of development, i.e. engineering, we would ask the planners and the City Council insist on this requirement prior to final approval. Our reasoning for this request comes from our experience with current storm drainage and the fact that the elevation of the proposed subdivision peaks about where the new road is being proposed. In addition, because of the increased infrastructure of concrete and blacktop as well as manicured lots, more storm water will flow westerly from the elevation peak toward all the lots on the east side of Ponderosa Court.

2. The proposed parcel development has some very tall (old growth) Ponderosa Pines and Larch Trees. While we understand the economic value of maintaining as many trees on each lot as possible, we would ask that the City stress the ascetic value that we and others have been fortunate to see out our back patios. We are so appreciative to have this natural look and yet be less than a mile from downtown.

3. We value the wildlife that we have been able to observe in this parcel including black bears, foxes, raccoons, black squirrels, birds, and of course, the ever-present deer. We know that this will change with development but we wanted to emphasize the wildness and natural setting of this parcel. It is unfortunate that it cannot remain wild.

We appreciate the opportunity to comment and we trust that our elected councilpersons will accept our comments in the spirit presented and balance the needs of the city as well as our concerns.

Thank you.

Barrie and Jackie Lasure
77 Ponderosa Court
To the Planning Director:

In response to the Public Notice regarding the proposed development in Whitefish by High Water, LLC, I make the following comments.

1. It is the right of the property owner of the proposed project to develop it. Living in immediately adjacent property that was also recently developed from similar raw land, both the community and I have benefited from such a change. However, such changes incur a responsibility to act in accordance with the statutes, ordinances, and rules that govern land use within the State of Montana, Flathead County, and the City of Whitefish. One of the benefits of living in this city instead of in unincorporated areas of the county is that there are more strict and specific rules that govern developments. In short, the rules must be strictly followed.

2. I have reviewed the High Water LLC’s application. My impression is that the application is very thin, poorly reviewed, and quite incomplete. Had this application been reviewed in the standard process, through the Planning Board, the errors would have likely been discovered early, and required elements and studies might have been completed prior to consideration by the Council. Here are several of the most concerning problems, of many in the documents.

   a. **ROAD TRAFFIC DENSITY AND LACK OF ADEQUATE STUDY** In the *Community Impact Report*, Section 2 (Roads and Maintenance), they are estimating only 90 vehicle trips/day in the development. There is no supporting evidence for this number. In my view, this substantially underestimates the actual traffic that will move through the area. Given that there is NO eastbound access to Second St from Ponderosa Ct, it is expected that most of that traffic, will use the proposed High Water Lane for this purpose, as well as most of the traffic on Wild Rose Lane that plans to proceed eastbound, so as to avoid the poor surface conditions on Armory Rd. Applying this, High Water Lane will more likely carry from 200-270 vehicle trips/day, given the homes in High Point on Second St that will use it. **Public Works requires that any development generating 200 or more daily trips must complete a Traffic Impact Study (TIS)**

   b. **ROAD CONSTRUCTION STANDARDS:** On page 3 of the geotechnical report the engineer discusses the road section needs, and preparation. What they propose is to meet the MINIMUM City of Whitefish specifications. My argument is that for this unique area, those specifications are not adequate to prevent subsidence, heave, and the other serious issues we have already seen on Armory and Wild Rose Lanes. I would invite anyone to drive over these roads and experience the multiple areas of deep subsidence, protrusion of utility covers, and a ride that is commonly referred to be “like a roller coaster.” **THOSE roads were built to this minimum specification, and the result is a disaster which will require possibly hundreds of thousands of taxpayer dollars to repair. I would not fully agree with Dr Dodrill's consulting engineer that a minimum structural number of 2.90 (the minimum City standard) is acceptable, given that we see**
the inadequacy of using that standard on ALL of the roads in our development immediately adjacent to this property. Although this area of Whitefish obviously has a unique geology, the current damage on our roads must be evaluated and perhaps the City should require **upgraded** construction specifications on the proposed roads to prevent the rapid deterioration we have seen in High Point on 2nd St! **The road plan needs to be reconsidered and more deeply studied, especially in regard to the proposed pavement section standard, which has clearly proven to be inadequate for this area.**

c. **POOR PREPARATION AND ATTENTION TO DETAIL IN SUPPORTING DOCUMENTS:** It is clear that very little actual thought has gone into much of this submission. One example is the draft, "**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE HIGH WATER SUBDIVISION.**” Although this is only submitted as a governing document for the proposed HOA, it illustrates the lack of thought and attention to detail seen throughout this proposal. Specifically:

i. **Section 2.6 Common Expenses** states the following:

"Common Expenses means expenses to maintain The High Water Subdivision as defined by The High Water Subdivision Homeowners Association. Common Expenses include road and common area maintenance, servicing, conserving, management, administration, duties to comply with this declaration, and any other expenses deemed necessary by the Homeowners Association for care of The High Water Subdivision."

So does this mean that the roads within the proposed development will be *private*? It is further explained in Article III:

"(e) Road Maintenance: The HOA is responsible for maintaining roads in The High Water Subdivision, including but not limited to snow removal, drainage features, pavement chip sealing, new striping, new pavement, and a means to accumulate funds for these expenses."

"(f) Sidewalks and Boulevards: The HOA is responsible for snow removal, weed control, and other repairs and maintenance on common area sidewalks and boulevards in order to maintain safety standards and visual appeal."

If this will be a *private-road development*, then is there a right of public access to High Water Lane? Will there be gates or other restrictions on both entrances? Section (f) seems to relieve the City of Whitefish from snow removal on High Water Lane. None of this is explained, and it is implied elsewhere in the application (Community Impact Report, Section III (h)) that these will be dedicated to the City of Whitefish. **So what is it?**

Another glaring error points out that the entire CR&R document was cut-and-pasted from some other development, without adequate review.
Section 5.9: Utilities states:

"All utilities shall be placed underground. The subdivision shall be connected to Evergreen water and sewer systems. No private water or sewer systems may be constructed."

Although an obvious editing error, this illustrates the lack of thought and substance seen throughout the submission.

d. LACK OF CERTIFIED SURVEY MAPS. The only map or depiction in the application that has appropriate survey certification is on the Certificate of Survey, dated 21 years ago (2002) and is only for the property that is proposed for development. The vicinity “map” is merely a screenshot from an internet GIS page from Flathead County. We have no legal depiction of the land proposed for development or the surrounding property. This fails to meet the requirements of Appendix “B” Chapter 3 of the Whitefish City Code

e. GROSSLY UNDERSTATE PROJECTED COSTS OF INFRASTRUCTURE. As the Council may require proof of available funds to complete infrastructure construction, (at 125%) these costs must be accurately stated. In the Community Impact Statement, he lists these costs, but they are grossly understated. One example is that “the cost of roadways, sidewalks, curb and gutter, streetlights, and boulevard improvements is estimated to be $450,000.” As this represents less than the cost of a single unimproved building lot in this area, the estimate is absurd on its face. Other “estimates” are also grossly understated.

3. SUMMARY: The High Water, LLC submission was initially recommended for an expedited procedure due solely due to its lack of a need for a zoning variance. Given the multiple substantive concerns and questions that remain from review of this thin and hastily-constructed plan, it is not appropriate for direct consideration by the Whitefish City Council, and should more appropriately be fully reviewed by the Planning Board. It will be able to take the necessary steps to fully address the substantive issues I have described. It is not fair either to the community, the prospective homeowners, or the developer himself to hastily approve a plan that fails to address these issues. I therefore recommend that the City refund Dr. Dodrill’s expedited submission fee and refer him to the full Planning Board for appropriate consideration, hearing, and review before re-submitting to the Council for approval.
In response to the Public Notice regarding the proposed development in Whitefish by High Water, LLC, I make the following comments.

In coordination with the other home owners in the High Point Neighborhood.

1. All land developers, either as individual or companies or professional or amateur have the responsibility to act in accordance with the statutes, ordinances, and rules that govern land use within the State of Montana, Flathead County, and the City of Whitefish. One of the benefits of living in this city instead of in unincorporated areas of the county is that there are more strict and specific rules that govern developments. In short, the rules must be strictly followed.

2. I have reviewed the High Water LLC’s application. The application is short on details, not sufficiently reviewed, and incomplete. Had this application been reviewed in the standard process, through the Planning Board, the mistake would have likely been discovered early, and required elements and studies might have been completed prior to consideration by the Council.

Community Impact Report, Section 2 (Roads and Maintenance), they are estimating only 90 vehicle trips/day in the development. There is no supporting evidence for this number. This is likely a substantially underestimates of the actual traffic that will move through the area. Given that there is NO eastbound access to Second St from Ponderosa Ct, it is expected that most of that traffic, will use the proposed High Water Lane for this purpose, as well as most of the traffic on Wild Rose Lane that plans to proceed eastbound, so as to avoid the poor surface conditions on Armory Rd. Applying this, High Water Lane will more likely carry from 300 vehicle trips/day, given the homes in High Point on Second St that will use it.
Public Works requires that any development generating 200 or more daily trips must complete a Traffic Impact Study (TIS). Not requiring this will open up the city to litigation.

b. ROAD CONSTRUCTION STANDARDS:

On page 3 of the geotechnical report meet the MINIMUM City of Whitefish specifications. Those specifications are not adequate to prevent subsidence, heave, and the other serious issues we have already seen on Armory and Wild Rose Lanes. I would invite anyone to drive over these roads and experience the multiple areas of deep subsidence, protrusion of utility covers, and a ride that is commonly referred to be "like a roller coaster." THOSE roads were built to this minimum specification, and the result is a completely insufficient which will require possibly hundreds of thousands of taxpayer dollars to repair. I would not fully agree with the consulting engineer that a minimum structural number of 2.90 (the minimum City standard) is acceptable, given that we see the inadequacy of using that standard on ALL of the roads in our development immediately adjacent to this property. Although this area of Whitefish obviously has a unique geology, the current damage on our roads must be evaluated and perhaps the City should require upgraded construction specifications on the proposed roads to prevent the rapid deterioration we have seen in High Point on 2nd St.

c. LACK OF SUPPORTING DOCUMENTS: In the draft, "DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE HIGH WATER SUBDIVISION." Although this is only submitted as a governing document for the proposed HOA, it is not complete and at the standards set for professional land developers.

Specifically:

i. Section 2.6 Common Expenses states the following:
"Common Expenses means expenses to maintain The High Water Subdivision as defined by The High Water Subdivision Homeowners Association. Common Expenses include road and common area maintenance, servicing, conserving, management, administration, duties to comply with this declaration, and any other expenses deemed necessary by the Homeowners Association for care of The High Water Subdivision."

So does this mean that the roads within the proposed development will be private? It is further explained in Article III:

"(e) If this will be a private-road development, then is there a right of public access to High Water Lane? Will there be gates or other restrictions on both entrances? Section (f) seems to relieve the City of Whitefish from snow removal on High Water Lane. None of this is explained, and it is implied elsewhere in the application (Community Impact Report, Section III (h)) that these will be dedicated to the City of Whitefish. So what is it? Another glaring error points out that the entire CR&R document was cut-and-pasted from some other development, without adequate review.

Road Maintenance: The HOA is responsible for maintaining roads

- LACK OF CERTIFIED SURVEY MAPS. The only map or depiction in the application that has appropriate survey certification is on the Certificate of Survey, dated 21 years ago (2002) and is only for the property that is proposed for development. The vicinity “map” is merely a screenshot from an internet GIS page from Flathead County. We have no legal depiction of the land proposed for development or the surrounding property. This fails to meet the requirements of Appendix “B” Chapter 3 of the Whitefish City Code.

- GROSSLY UNDERSTATED PROJECTED COSTS OF INFRASTRUCTURE. As the Council may require proof of available funds to complete infrastructure construction, (at 125%) these costs must be accurately stated. In the Community Impact Statement, he lists these costs, but they are grossly understated. One example is that “the cost of roadways, sidewalks, curb and gutter, streetlights, and boulevard improvements is estimated to be $450,000.”
less than the cost of a single unimproved building lot in this area, the estimate is absurd on its face. Other “estimates” are also grossly understated.

3. SUMMARY: This proposal is significantly lacking, the individual should be required to live up to the same standards as all land developers of Whitefish. Landowners certainly do have the right to develop their property and I believe everyone expects that this property will be developed, but it have to be planned out, and it is your responsibility to ensure that it is.

Mary Beth Mulroy
51 Ponderosa Ct,
Whitefish, Montana 59937
COMMENTS AND CONCERNS PERTAINING TO HIGH WATER LLC PROPOSED SUBDIVISION PLAT APPROVAL
5/22/2023

Paul and Gina Simmonds
42 Ponderosa Court

TO THE CITY OF WHITEFISH PLANNING AND ZONING DEPARTMENT, AND WHITEFISH CITY COUNSEL:

I have reviewed the entirety of the application and supporting documentation, as well as the Public Notice mailed to our neighborhood, pertaining to the proposed development in Whitefish entitled High Water, LLC. Please accept as this our objection to the High Water LLC Subdivision Plat Approval for the foregoing reasons. To be clear, we do not object to the mere existence of a subdivision altogether; instead, we object to an expedited application being approved without any of the necessary elements as required by both the City of Whitefish Zoning and Platting and Subdivision departments and the Montana Code Annotated. It is my firm belief that the proposed application is sufficiently lacking the necessary information for it to be approved, and since it seems the preliminary approval process was circumvented because the Dodrills paid a fee to expedite the process, it is before the City of Whitefish to approve the subdivision in its entirety based on the current documents submitted. Unfortunately, the Dodrills have not submitted a complete application that addresses all areas set forth by the City of Whitefish’s Rules and Regulations, or by the Montana Code Annotated.
For the below reasons, we kindly request that you deny approval of the development without request of further due diligence from the Dodrills. Below is a summary of specific concerns shared by a number of homeowners in the adjacent subdivision, High Point.

1. First and foremost, I, together with all homeowners who abut the eastern side of Ponderosa Court, will be directly impacted by this development.

2. The development is situated downhill from our properties, and there appears to be very little consideration of the massive surface and groundwater flow that will inevitably occur, potentially flooding our areas.
   a. The small "storm" retention area appears inadequate to accept the substantial water runoff that will be generated by the development. As the area has unusually high subsurface water levels that are currently handled by limited percolation into clay soils, almost the entire hill will drain into this small area when the development is fully built-out. As the BNSF right-of-way lies immediately downhill from the "storm" area, it may have unplanned and potentially hazardous effects on the railroad.
   b. They should be obligated to conduct full water and stormwater runoff testing before this subdivision ever gets approved.

3. As a personal anecdote, when I built my home in 2016-2017, we encountered significant underground stream water at an already high water table. Last year, my crawl space flooded and we asked the City of Whitefish to come check and make sure the City water pipes were not damaged or the cause of the flooding. The representative from the City water or zoning department came to visit my property, and he was quite knowledgeable and helpful to us. He expressly indicated to me that the overall water table in this area is particularly high, but he noted with reference to the property now proposed as High Water LLC, that it contained an even higher water table and underground water concerns, and he was of the position that it would almost impossible to subdivide this land because of the water issues. Insufficient underground and aboveground water testing has not yet been done by the Dodrills to address these water issues, which are most certainly known to them, as they aptly named the proposed subdivision, High Water. Needless to say, if water issues arise during excavation and construction of this new subdivision, High Water LLC as well as High Point could be very detrimentally affected.
4. The proposed subdivision application does not even contain a proposed formal survey. The Drodrills have proposed a “plat map” which lacks survey specification by TD&H Engineering. They are not surveyors, they are engineers.

5. Insofar as the Drodrills make mention of *any type of road access* by and through the dedicated easement as set forth on Certificate of Survey ___ and that runs between my home at 69 Ponderosa Court and Randy Mahoney’s home at 63 Ponderosa Court, this is in direct violation of the COS upon which we relied, and any through traffic in violation of that easement would give rise to litigation. It is not clear whether the Drodrills intend to use that as access from High Water Lane to Ponderosa Court, but any such proposed use would be in direct violation of the existing COS and would most certainly give rise to suit for damages and injunctive relief.

6. It is the right of the Drodrills to develop a subdivision. But if they choose to do so, it is their obligation to abide by the statutes, ordinances, and rules that govern land use within the State of Montana, Flathead County, and in particular, the City of Whitefish. One of the benefits of living in this city instead of in unincorporated areas of the county is that the rules and regulations which govern City of Whitefish construction are more rigid, and we rely on and are bound by imposition of those strict and specific rules. They have not gone through the preliminary plat application process sufficiently as set forth in Title 12, Subsection B such that should be allowed to submit an application for a final plat as set forth in Title 12, Subjection C of the City of Whitefish Rules and Regulations.

7. There are simply too many lots proposed to increase profits, but to the detriment of the future homeowners and neighboring communities. To that end, the small "flag lots" of lots 4 and 5 are ill-sited for this area. Flag lots may be appropriate in a rural setting, and they are clearly an attempt by the developer to "squeeze" more lots into a relatively small area. Not only do these ill-conceived lots detract from the uniformity of the building setback lines, but also they also present a public safety issue, as the addresses of these proposed homes can certainly be confusing to police, fire, and other public utility services. They are "shoehorned" together and may be confusing. Combining lots 4 and 5 would create a larger and more appropriate lot, with a uniform setback from the street. The almost universal prohibition of de novo creation of flag lots by urban and suburban planning and zoning authorities
across the country speaks volumes. They may have a place in the rural areas of our state, but this area is squarely in the core area of Whitefish, and should not allow this inappropriate planning device to be used. Lots 4, 5 and green should be consolidated into a single lot with the appropriate frontage of 25 feet. Based on the current proposal as to lots, the shapes of the lots in an effort to create more lots for profit, detrimentally impacts the owners of those lots, as well as the abutting lots, such as mine. Owners of lots 4 and 5 have difficult and shared access, and would be forced to build right next to our property lines because of poor layout and engineering design.

8. The connection of the south terminus of proposed "High Water Lane" to East 2nd St is very concerning from a traffic safety standpoint. Westbound traffic on East 2nd Street will encounter a blind hill almost immediately before that intersection, presenting a collision hazard that cannot be mitigated by signage alone. As East 2nd Street is the main East-West thoroughfare in Whitefish, traffic often exceeds the posted 25 MPH speed limit as it accelerates West passing the dog park. Vehicles attempting a right turn onto East 2nd Street will have a very limited line of sight for anything approaching from the East; additionally, those approaching vehicles will only have a very limited sightline after cresting the hill to avoid colliding with those right-turning vehicles. Furthermore, the placement of a home on Lot 6 will further restrict visibility to the East, adding to the danger. In summary, it is a very bad place to put a road, especially one that will serve as the primary exit from the proposed development.

9. As set forth above, High Water LLC’s application in full is very thin, poorly reviewed, and quite incomplete. Had this application been reviewed in the standard process, through the Planning Board, the errors would have likely been discovered early, and required elements and studies might have been completed prior to consideration by the Council. Below is a more detailed analysis of the application and issues that arise as primary concerns.

a. ROAD TRAFFIC DENSITY AND LACK OF ADEQUATE STUDY In the Community Impact Report, Section 2 (Roads and Maintenance), they are estimating only 90 vehicle trips/day in the development. There is no supporting evidence for this number. In my view, this substantially underestimates the actual traffic that will move through the area. Given that there is NO eastbound access to Second St from Ponderosa Ct, it is expected that most of that traffic, will use the proposed High Water Lane for this purpose, as well as most of the traffic on Wild Rose Lane that plans to proceed eastbound, so as to avoid the
poor surface conditions on Armory Rd. Applying this, High Water Lane will more likely carry from 200-270 vehicle trips/day, given the homes in High Point on Second St that will use it. **Public Works requires that any development generating 200 or more daily trips must complete a Traffic Impact Study (TIS)**

b. **ROAD CONSTRUCTION STANDARDS:** On page 3 of the geotechnical report the engineer discusses the road section needs, and preparation. What they propose is to meet the MINIMUM City of Whitefish specifications. See obligations for City of Whitefish governing Geotechnical Review: Site Characterization, §12-4-9. Those subsidence, heave, and the other serious issues we have already seen on Armory and Wild Rose Lane. I would invite anyone to drive over these roads and experience the multiple areas of deep subsidence, protrusion of utility covers, and a ride that is commonly referred to be “like a roller coaster.” THOSE roads were built to this minimum specification, and the result is a disaster which will require possibly hundreds of thousands of taxpayer dollars to repair. I would not fully agree with Dr. Dodrill's consulting engineer that a minimum structural number of 2.90 (the minimum City standard) is acceptable, given that we see the inadequacy of using that standard on ALL of the roads in our development immediately adjacent to this property. Although this area of Whitefish obviously has a unique geology, the current damage on our roads must be evaluated and perhaps the City should require upgraded construction specifications on the proposed roads to prevent the rapid deterioration we have seen in High Point on 2nd St! **The road plan needs to be reconsidered and more deeply studied, especially in regard to the proposed pavement section standard, which has clearly proven to be inadequate for this area.**

c. **POOR PREPARATION AND ATTENTION TO DETAIL IN SUPPORTING DOCUMENTS, PARTICULARLY THE CCRs:** It is clear that very little actual thought has gone into much of this submission. The CCRs have absolutely no guidelines for residences and are so vague that one could quite literally get away with building a prefab tiny home on these lots. This causes decrease in surrounding value in an expensive neighborhood. They were poorly drafted, lack specificity required of neighboring subdivisions like ours, and the author of these CCRs does not even live or practice in Montana; rather, Arizona. One example is the draft, "**DECLARATION OF COVENANTS, CONDITIONS,**
AND RESTRICTIONS FOR THE HIGH WATERSUBDIVISION.” Although this is only submitted as a governing document for the proposed HOA, it illustrates the lack of thought and attention to detail seen throughout this proposal. Specifically: **Section 2.6 Common Expenses** states the following:

"Common Expenses” means expenses to maintain The High Water Subdivision as defined by The High Water Subdivision Homeowners Association. Common Expenses include road and common area maintenance, servicing, conserving, management, administration, duties to comply with this declaration, and any other expenses deemed necessary by the Homeowners Association for care of The High Water Subdivision."

So does this mean that the roads within the proposed development will be private? Two-way streets? Or Public? It is further explained in Article III:

"(e) Road Maintenance: The HOA is responsible for maintaining roads in The High Water Subdivision, including but not limited to snow removal, drainage features, pavement chip sealing, new striping, new pavement, and a means to accumulate funds for these expenses.”

"(f) Sidewalks and Boulevards: The HOA is responsible for snow removal, weed control, and other repairs and maintenance on common area sidewalks and boulevards in order to maintain safety standards and visual appeal."

If this will be a private-road development, then is there a right of public access to High Water Lane? Will there be gates or other restrictions on both entrances? Section (f) seems to relieve the City of Whitefish from snow removal on High Water Lane. None of this is explained, and it is implied elsewhere in the application (Community Impact Report, Section III (h)) that these will be dedicated to the City of Whitefish. **So what is it?**

Another glaring error points out that the entire CR&R document was cut-and-pasted from some other development in Evergreen, without adequate review. **Section 5.9: Utilities** states:

"All utilities shall be placed underground. The subdivision shall be connected to Evergreen water and sewer systems. No private water or sewer systems may be constructed.”

Although an obvious editing error, this illustrates the lack of thought and substance seen throughout the submission.

**d. LACK OF CERTIFIED SURVEY MAPS.** The only map or depiction
in the application that has appropriate survey certification is on the Certificate of Survey, dated 21 years ago (2002) and is only for the property that is proposed for development. The vicinity “map” is merely a screenshot from an internet GIS page from Flathead County. We have no legal depiction of the land proposed for development or the surrounding property. This fails to meet the requirements of Appendix “B” Chapter 3 of the Whitefish City Code

e. GROSSLY UNDERSTATED PROJECTED COSTS OF INFRASTRUCTURE. As the Council may require proof of available funds to complete infrastructure construction, (at 125%) these costs must be accurately stated. In the Community Impact Statement, he lists these costs, but they are grossly understated. One example is that “the cost of roadways, sidewalks, curb and gutter, streetlights, and boulevard improvements is estimated to be $450,000.” As this represents less than the cost of a single unimproved building lot in this area, the estimate is absurd on its face. Other “estimates” are also grossly understated.

f. LACK OF HEARING ON PRELIMINARY PROPOSAL OF MAJOR SUBDIVISION. Pursuant to Section 4.0.14 Public Hearings and Notices, the Planning Board shall hold a public hearing on all land use applications when a hearing is required by these Regulations. The Commission may refer a proposed preliminary major subdivision back to the Planning Board for a subsequent public hearing if new information becomes available that was not considered in the previous public hearing pursuant to 76-3-615. No such initial preliminary hearing was held, and it should have been.

10. SUMMARY: The High Water, LLC submission was initially recommended for an expedited procedure due solely due to its lack of a need for a zoning variance. Given the multiple substantive concerns and questions that remain from review of this thin and hastily-constructed plan, it is not appropriate for direct consideration by the Whitefish City Council, and should more appropriately be fully reviewed by the Planning Board. It will be able to take the necessary steps to fully address the substantive issues I have described. It is not fair either to the community, the prospective homeowners, or the developer himself to hastily approve a plan that fails to address these issues. I therefore
recommend that the City refund Dr. Dodrill’s expedited submission fee and refer him to the full Planning Board for appropriate consideration, hearing, and review before re-submitting to the Council for approval.
Thank you for the opportunity to comment on the proposed land use action for the High Water Subdivision.

We currently live in the High Point on 2nd Street subdivision and have anticipated that this property would be developed. However, we assumed it would be an extension of our subdivision.

We would like to make a few observations that we hope are helpful in the city council’s consideration of this development.

1. Currently, Ponderosa Court joins 2nd Street but is limited to eastbound traffic on 2nd Street. Since exiting onto 2nd Street from Ponderosa Court is not permitted, homeowners in this part of the subdivision must use either Wild Rose Lane or Armory to exit the neighborhood or if they are entering westbound from 2nd Street. While this makes sense from a safety perspective given the blind spot in the middle of the hill on 2nd Street, it does push more traffic onto Wild Rose Lane and Armory. If it is possible to maintain a safe traffic flow, we recommend that proposed High Water Lane have both exit and egress capacity.

2. The High Point on 2nd Street has 56 homes that are part of a Home Owner’s Association (HOA). The HOA has ensured a high standard for home design and effectively maintained common areas. To maintain a consistency of appearance and quality of common area maintenance, we would encourage this development to join the existing High Point on 2nd Street HOA. Since the proposed development is only 9 homes, this will ensure economies of scale for the managing the new development while maintaining the continuity of design standards and landscape maintenance of the existing High Point neighborhood.

Thank you for considering these suggestions.

Margie and Preston Spencer
Here’s another.
Thanks,
Karin

From: Scott Suiter
Sent: Tuesday, May 23, 2023 2:27 PM
To: Karin Hilding <khilding@cityofwhitefish.org>
Subject: Objection to High Water LLC Proposed Subdivision

ATTENTION: External Email - This email originated from outside of the City of Whitefish. Use caution when clicking links or opening attachments unless you recognize the sender and are expecting the contents. Contact the IT Helpdesk if in doubt.

COMMENTS AND CONCERNS PERTAINING TO HIGH WATER LLC PROPOSED SUBDIVISION PLAT APPROVAL
5/23/2023

Scott Suiter
70 Ponderosa Ct. Whitefish, MT 59937

To the city of Whitefish Planning and Zoning Department, and Whitefish City Counsel,

I have reviewed the application and supporting documentation, as well as the Public Notice mailed to me regarding the proposed development in Whitefish entitled High Water, LLC.

Please accept as this an objection to the High Water LLC Subdivision Plat Approval. We do not object to the development of the subdivision altogether; instead, we object to the expedited application being approved without any of the necessary elements as required by both the City of Whitefish Zoning and Platting and Subdivision departments and the Montana Code Annotated. It is my belief that the proposed application is lacking the necessary information for it to be approved, and since it seems the preliminary approval process was circumvented because the paid a fee to expedite the process, it is before the City of Whitefish to approve the subdivision in its entirety based on the current documents submitted. Unfortunately, the Developer has not submitted a complete application that addresses all areas set forth by the City of Whitefish’s Rules and Regulations, or by the Montana Code Annotated.

For the below reasons, we kindly request that you deny approval of the development without request of further due diligence.

1. The development is situated uphill from our properties, and there appears to be very little consideration of the surface and groundwater flow that will inevitably occur, potentially flooding our street and potentially homes.
   a. The small storm retention area appears inadequate to accept the substantial water runoff that will be generated by the development. As the area has unusually high subsurface water levels that are currently handled by limited percolation into clay
soils, almost the entire hill will drain into this small area when the development is fully built-out.

b. The developers should be obligated to conduct full water and stormwater runoff testing before this subdivision ever gets approved.

2. The proposed subdivision application does not contain a proposed formal survey.

3. The Developers make mention of *any type of road access* by and through the dedicated easement as set forth on Certificate of Survey ___ and that runs between 69 Ponderosa Court and 63 Ponderosa Court, which is in direct violation of the COS upon which our High Point Development has relied. It is my understanding that any through traffic in violation of that easement would give rise to litigation.

4. The developers have not gone through the preliminary plat application process sufficiently as set forth in Title 12, Subsection B such that should be allowed to submit an application for a final plat as set forth in Title 12, Subjection C of the City of Whitefish Rules and Regulations.

5. There are simply too many lots proposed, to the detriment of the future homeowners and neighboring communities.

6. There should be a traffic study. I find it hard to believe there will be less than 90 vehicle trips per day given the proposed number of lots.

**Thank you!**

-
COMMENTS AND CONCERNS PERTAINING TO HIGH WATER LLC PROPOSED SUBDIVISION PLAT APPROVAL
5/23/2023

Laura J. Webb and Daniel G. Wood
69 Ponderosa Court, Whitefish, MT 59937

TO THE CITY OF WHITEFISH PLANNING AND ZONING DEPARTMENT, AND WHITEFISH CITY COUNSEL:

I have reviewed the entirety of the application and supporting documentation, as well as the Public Notice mailed to our neighborhood, pertaining to the proposed development in Whitefish entitled High Water, LLC. Please accept as this our objection to the High Water LLC Subdivision Plat Approval for the foregoing reasons. To be clear, we do not object to the mere existence of a subdivision altogether; instead, we object to an expedited application being approved without any of the necessary elements as required by both the City of Whitefish Zoning and Platting and Subdivision departments and the Montana Code Annotated. It is my firm belief that the proposed application is sufficiently lacking the necessary information for it to be approved, and since it seems the preliminary approval process was circumvented because the Dodrills paid a fee to expedite the process, it is before the City of Whitefish to approve the subdivision in its entirety based on the current documents submitted. Unfortunately, the Dodrills have not submitted a complete application that addresses all areas set forth by the City of Whitefish’s Rules and Regulations, or by the Montana Code Annotated.

For the below reasons, we kindly request that you deny approval of the development without request of further due diligence from the Dodrills. Below is a summary of specific concerns shared by a number of homeowners in the adjacent subdivision, High Point.

1. First and foremost, I, together with all homeowners who abut the eastern side of Ponderosa Court, will be directly impacted by this development.

2. The development is situated downhill from our properties, and there appears to be very little consideration of the massive surface and groundwater flow that will inevitably occur, potentially flooding our areas.
   
   a. The small "storm" retention area appears inadequate to accept the substantial water runoff that will be generated by the development. As the area has unusually high subsurface water levels that are currently handled by limited percolation into clay soils, almost the entire hill will drain into this small area when the development is fully built-out. As the BNSF right-of-way lies immediately downhill from the "storm" area, it may have unplanned and potentially hazardous effects on the railroad.

   b. They should be obligated to conduct full water and stormwater runoff testing before this subdivision ever gets approved.
3. As a personal anecdote, when I built my home in 2016-2017, we encountered significant underground stream water at an already high water table. Last year, my crawl space flooded and we asked the City of Whitefish to come check and make sure the City water pipes were not damaged or the cause of the flooding. The representative from the City water or zoning department came to visit my property, and he was quite knowledgeable and helpful to us. He expressly indicated to me that the overall water table in this area is particularly high, but he noted with reference to the property now proposed as High Water LLC, that it contained an even higher water table and underground water concerns, and he was of the position that it would almost impossible to subdivide this land because of the water issues. Insufficient underground and aboveground water testing has not yet been done by the Dodrills to address these water issues, which are most certainly known to them, as they aptly named the proposed subdivision, High Water. Needless to say, if water issues arise during excavation and construction of this new subdivision, High Water LLC as well as High Point could be very detrimentally affected.

4. Insufficient underground and aboveground water testing has not yet been done by the Dodrills to address these water issues, which are most certainly known to them, as they aptly named the proposed subdivision, High Water. Needless to say, if water issues arise during excavation and construction of this new subdivision, High Water LLC as well as High Point could be very detrimentally affected.

5. The proposed subdivision application does not even contain a proposed formal survey. The Drodrills have proposed a “plat map” which lacks survey specification by TD&H Engineering. They are not surveyors, they are engineers.

6. Insofar as the Dodrills make mention of any type of road access by and through the dedicated easement as set forth on Certificate of Survey Plat Number 201700024970 and that runs between 69 Ponderosa Court and Randy Mahoney’s home at 63 Ponderosa Court, this is in direct violation of the COS upon which we relied, and any through traffic in violation of that easement would give rise to litigation. I attach this COS for your convenience. It is not clear whether the Dodrills intend to use that as access from High Water Lane to Ponderosa Court, but any such proposed use would be in direct violation of the existing COS and would most certainly give rise to suit for damages and injunctive relief.

7. It is the right of the Dodrills to develop a subdivision. But if they choose to do so, it is their obligation to abide by the statutes, ordinances, and rules that govern land use within the State of Montana, Flathead County, and in particular, the City of Whitefish. One of the benefits of living in this city instead of in unincorporated areas of the county is that the rules and regulations which govern City of Whitefish construction are more rigid, and we rely on and are bound by imposition of those strict and specific rules. They have not gone through the preliminary plat application process sufficiently as set forth in Title 12, Subsection B such that should be allowed to submit an application for a final plat as set forth in Title 12, Subjection C of the City of Whitefish Rules and Regulations.
8. There are simply too many lots proposed to increase profits, but to the detriment of the future homeowners and neighboring communities. To that end, the small "flag lots" of lots 4 and 5 are ill-sited for this area. Flag lots may be appropriate in a rural setting, and they are clearly an attempt by the developer to "squeeze" more lots into a relatively small area. Not only do these ill-conceived lots detract from the uniformity of the building setback lines, but also they also present a public safety issue, as the addresses of these proposed homes can certainly be confusing to police, fire, and other public utility services. They are "shoehorned" together and may be confusing. Combining lots 4 and 5 would create a larger and more appropriate lot, with a uniform setback from the street. The almost universal prohibition of de novo creation of flag lots by urban and suburban planning and zoning authorities across the country speaks volumes. They may have a place in the rural areas of our state, but this area is squarely in the core area of Whitefish, and should not allow this inappropriate planning device to be used. Lots 4, 5 and green should be consolidated into a single lot with the appropriate frontage of 25 feet. Based on the current proposal as to lots, the shapes of the lots in an effort to create more lots for profit, detrimentally impacts the owners of those lots, as well as the abutting lots, such as mine. Owners of lots 4 and 5 have difficult and shared access, and would be forced to build right next to our property lines because of poor layout and engineering design.

9. The connection of the south terminus of proposed "High Water Lane" to East 2nd St is very concerning from a traffic safety standpoint. Westbound traffic on East 2nd Street will encounter a blind hill almost immediately before that intersection, presenting a collision hazard that cannot be mitigated by signage alone. As East 2nd Street is the main East-West thoroughfare in Whitefish, traffic often exceeds the posted 25 MPH speed limit as it accelerates West passing the dog park. Vehicles attempting a right turn onto East 2nd Street will have a very limited line of sight for anything approaching from the East; additionally, those approaching vehicles will only have a very limited sightline after cresting the hill to avoid colliding with those right-turning vehicles. Furthermore, the placement of a home on Lot 6 will further restrict visibility to the East, adding to the danger. In summary, it is a very bad place to put a road, especially one that will serve as the primary exit from the proposed development.

10. As set forth above, High Water LLC’s application in full is very thin, poorly reviewed, and quite incomplete. Had this application been reviewed in the standard process, through the Planning Board, the errors would have likely been discovered early, and required elements and studies might have been completed prior to consideration by the Council. Below is a more detailed analysis of the application and issues that arise as primary concerns.

   a. ROAD TRAFFIC DENSITY AND LACK OF ADEQUATE STUDY In the Community Impact Report, Section 2 (Roads and Maintenance), they are estimating only 90 vehicle trips/day in the development. There is no supporting evidence for this number. In my view, this substantially underestimates the
actual traffic that will move through the area. Given that there is NO eastbound access to Second St from Ponderosa Ct, it is expected that most of that traffic, will use the proposed High Water Lane for this purpose, as well as most of the traffic on Wild Rose Lane that plans to proceed eastbound, so as to avoid the poor surface conditions on Armory Rd. Applying this, High Water Lane will more likely carry from 200-270 vehicle trips/day, given the homes in High Point on Second St that will use it. **Public Works requires that any development generating 200 or more daily trips must complete a Traffic Impact Study (TIS)**

b. **ROAD CONSTRUCTION STANDARDS:** On page 3 of the geotechnical report the engineer discusses the road section needs, and preparation. What they propose is to meet the MINIMUM City of Whitefish specifications. See obligations for City of Whitefish governing Geotechnical Review: Site Characterization, §12-4-9. Those subsidence, heave, and the other serious issues we have already seen on Armory and Wild Rose Lane. I would invite anyone to drive over these roads and experience the multiple areas of deep subsidence, protrusion of utility covers, and a ride that is commonly referred to be “like a roller coaster.” THOSE roads were built to this minimum specification, and the result is a disaster which will require possibly hundreds of thousands of taxpayer dollars to repair. I would not fully agree with Dr. Dodrill's consulting engineer that a minimum structural number of 2.90 (the minimum City standard) is acceptable, given that we see the inadequacy of using that standard on ALL of the roads in our development immediately adjacent to this property. Although this area of Whitefish obviously has a unique geology, the current damage on our roads must be evaluated and perhaps the City should require upgraded construction specifications on the proposed roads to prevent the rapid deterioration we have seen in High Point on 2nd St! **The road plan needs to be reconsidered and more deeply studied, especially in regard to the proposed pavement section standard, which has clearly proven to be inadequate for this area.**

c. **POOR PREPARATION AND ATTENTION TO DETAIL IN SUPPORTING DOCUMENTS, PARTICULARLY THE CCRs:** It is clear that very little actual thought has gone into much of this submission. The CCRs have absolutely no guidelines for residences and are so vague that one could quite literally get away with building a prefab tiny home on these lots. This causes decrease in surrounding value in an expensive neighborhood. They were poorly drafted, lack specificity required of neighboring subdivisions like ours, and the author of these CCRs does not even live or practice in Montana; rather, Arizona. One example is the draft, "DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE HIGH WATER SUBDIVISION." Although this is only submitted as a governing document for the proposed HOA, it illustrates the lack of thought and attention to detail seen throughout this proposal. Specifically: **Section 2.6 Common Expenses** states the following:
"Common Expenses" means expenses to maintain The High Water Subdivision as defined by The High Water Subdivision Homeowners Association. Common Expenses include road and common area maintenance, servicing, conserving, management, administration, duties to comply with this declaration, and any other expenses deemed necessary by the Homeowners Association for care of The High Water Subdivision.

So does this mean that the roads within the proposed development will be private? Two-way streets? Or Public? It is further explained in Article III:

"(e) Road Maintenance: The HOA is responsible for maintaining roads in The High Water Subdivision, including but not limited to snow removal, drainage features, pavement chip sealing, new striping, new pavement, and a means to accumulate funds for these expenses."

"(f) Sidewalks and Boulevards: The HOA is responsible for snow removal, weed control, and other repairs and maintenance on common area sidewalks and boulevards in order to maintain safety standards and visual appeal."

If this will be a private-road development, then is there a right of public access to High Water Lane? Will there be gates or other restrictions on both entrances? Section (f) seems to relieve the City of Whitefish from snow removal on High Water Lane. None of this is explained, and it is implied elsewhere in the application (Community Impact Report, Section III (h)) that these will be dedicated to the City of Whitefish. So what is it?

Another glaring error points out that the entire CR&R document was cut-and-pasted from some other development in Evergreen, without adequate review. Section 5.9: Utilities states:

"All utilities shall be placed underground. The subdivision shall be connected to Evergreen water and sewer systems. No private water or sewer systems may be constructed."

Although an obvious editing error, this illustrates the lack of thought and substance seen throughout the submission.

d. LACK OF CERTIFIED SURVEY MAPS. The only map or depiction in the application that has appropriate survey certification is on the Certificate of Survey, dated 21 years ago (2002) and is only for the property that is proposed for development. The vicinity “map” is merely a screenshot from an internet GIS page from Flathead County. We have no legal depiction of the land proposed for development or the surrounding property. This fails to meet the requirements of Appendix “B” Chapter 3 of the Whitefish City Code.

e. GROSSLY UNDERSTATED PROJECTED COSTS OF INFRASTRUCTURE. As the Council may require proof of available funds to
complete infrastructure construction, (at 125%) these costs must be accurately stated. In the Community Impact Statement, he lists these costs, but they are grossly understated. One example is that “the cost of roadways, sidewalks, curb and gutter, streetlights, and boulevard improvements is estimated to be $450,000.” As this represents less than the cost of a single unimproved building lot in this area, the estimate is absurd on its face. Other “estimates” are also grossly understated.

f. LACK OF HEARING ON PRELIMINARY PROPOSAL OF MAJOR SUBDIVISION. Pursuant to Section 4.0.14 Public Hearings and Notices, the Planning Board shall hold a public hearing on all land use applications when a hearing is required by these Regulations. The Commission may refer a proposed preliminary major subdivision back to the Planning Board for a subsequent public hearing if new information becomes available that was not considered in the previous public hearing pursuant to 76-3-615. No such initial preliminary hearing was held, and it should have been.

11. SUMMARY: The High Water, LLC submission was initially recommended for an expedited procedure due solely due to its lack of a need for a zoning variance. Given the multiple substantive concerns and questions that remain from review of this thin and hastily-constructed plan, it is not appropriate for direct consideration by the Whitefish City Council, and should more appropriately be fully reviewed by the Planning Board. It will be able to take the necessary steps to fully address the substantive issues I have described. It is not fair either to the community, the prospective homeowners, or the developer himself to hastily approve a plan that fails to address these issues. I therefore recommend that the City refund Dr. Dodrill’s expedited submission fee and refer him to the full Planning Board for appropriate consideration, hearing, and review before re-submitting to the Council for approval.
May 30th, 2023

City of Whitefish – Planning & Building Department
Attn: Wendy Compton-Ring – Senior Planner
418 E 2nd Street
Whitefish, MT 59937
Via Email: wcompton-ring@cityofwhitefish.org

RE: HIGH WATER SUBDIVISION – PRELIMINARY PLAT
PUBLIC COMMENT RESPONSES
TD&H ENGINEERING JOB NO. K21-063

Dear Wendy,

In response to the public comments received so far to date, I wanted to provide some responses and clarifications to the Councilors prior to the public hearing next Monday. I also wanted to let you know that both I and the Developer are meeting with the neighborhood tomorrow evening to discuss the comments and hopefully provide some clarification regarding the preliminary plat application for the proposed High Water Subdivision.

**Clarifications**

- The name of the subdivision was a fishing reference given that in Montana the law says that, in general, all surface waters capable of recreational use may be so used by the public without regard to the ownership of the land underlying the waters. The Owners are considering an alternate name for the subdivision.

- TD&H Engineering is a full-service consulting engineering firm that in addition to civil engineers, we also employ geotechnical engineers, structural engineers, environmental scientists, and professional land surveyors.

- There is reference to lack of “certified survey maps”? As required, a complete topographic and boundary survey was completed and used for preparation of the preliminary plat drawings. Sheet 1 of 5 is a copy of the topographic survey and Sheet 5 of 5 is a copy of the proposed preliminary plat (prepared by a licensed surveyor) which includes a legal description of the subject property.

- As allowed by the subdivision regulations, we are utilizing the Expedited Preliminary Plat review process. This process is administered by the City of Whitefish and is in conformance with all state and city statutes, ordinances, and rules that govern land use within the State of Montana, Flathead County, and the City of Whitefish.
• The application contains all required documentation as outlined in the application and Appendix B: Preliminary Plat Submittal Requirements of the Whitefish Subdivision Regulations and was deemed sufficient by the Whitefish Planning & Building Department on April 27, 2023.

• A traffic impact study (TIS) is not required nor warranted. Per the City of Whitefish Engineering Standards, a TIS is only required for developments which will contribute two hundred (200) or more new vehicle trips per day to the City street system. The Institute of Transportation Engineers (ITE) Trip Generation Manual has established the a single-family residence generates 10 average weekday vehicle trips per day. Therefore, the proposed subdivision will generate an estimated 90 new vehicle trips per day which is well below the requirement for a traffic impact study.

• All public streets will be design and constructed in accordance with the City of Whitefish Engineering Standards.

• The CC&R documents provided are only a DRAFT version of what will be used for the subdivision. As was noted, we have a standard template that we use for preliminary plats which was not updated in two areas. The street will be public and therefore will be owned and maintained by the City of Whitefish; and the subdivision will be connected to the City of Whitefish water and sewer system (not Evergreen). Again, these are only for reference as they are not recorded as part of the preliminary plat. The CC&R’s will be recorded once the project has been designed, constructed, and the final plat is of record.

• The cost information that was provided is based on a recently completed subdivision (Mountain Brook Subdivision) which is located off Armory Road. This subdivision was also designed by TD&H Engineering and competitively bid. The project was completed in October of 2020 and had a total cost of roughly $575 per linear foot of street. The estimated costs for the High Water Subdivision which were included as part of the community impact report were $350,000 for water/sewer and $450,000 for curbs, sidewalks, and other associated street improvements. Based on the proposed length of street improvements (1,022 LF) this is roughly a cost of $783/LF or approximately 1.4 times the cost of a recently completed subdivision in the same area and with the same scope of improvements. What is not requested as part of the community impact report is the cost of the storm drainage improvements which would be in addition to the costs outlined in the report.

• It is not a requirement of Preliminary Plat for the developer to provide proof of available funds to complete the infrastructure construction. In fact, the public comment reference to 125% of these costs is for a Subdivision Improvement Agreement (SIA). The regulations provide for an (SIA), whereby a subdivision final plat may be issued prior to the completion of required infrastructure improvements. In such cases Developers sign a Subdivision Improvement Agreement with the City.

• High groundwater and surface water are of concern (which is why a geotechnical investigation was completed) and will be incorporated into the final design and construction documents. These documents will be reviewed and approved by both
the City of Whitefish and the Montana Department of Environmental Quality prior to any construction activities commencing.

- There is mention that if the Developer makes any mention of any type of road access by and through the dedicated “easement” on the plat of High Point on Second Street, Phase 2 (between 69 Ponderosa and 63 Ponderosa Court) this will “most certainly give rise to suit for damages and injunctive relief”. It should be noted that this is not an easement, this is dedicated public right-of-way which we have the option to connect to.

If you have any questions or need any additional information regarding this application, please feel free to contact me directly.

Sincerely,

Douglas Peppmeier, PE
Principal / Regional Manager
TD&H ENGINEERING
EXPEDITED PRELIMINARY PLAT APPLICATION

FEE ATTACHED $ $3675
(see current fee schedule)

INSTRUCTIONS:

☐ A Site Review Meeting with city staff is required. Date of Site Review Meeting: 02.10.2022

☐ Submit the application fee, completed application, and appropriate attachments to the Whitefish Planning & Building Department. The City recommends complete applications be submitted a minimum of sixty (60) days prior to the City Council meeting at which this application will be heard.

☐ Schedule a Date and Time with City Staff to Submit the Application: 04.06.2023 - 4:59 (Date/Time)

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

A. PROJECT INFORMATION:

Project Name: High Water Subdivision

Street Address: 1600 & 1628 East 2nd Street

Assessor's Tract No.(s) 0233050, 0006007 Lot No(s) Tracts 1DBB & 1R
Block # n/a Subdivision Name n/a
Section 32 Township 31N Range 22W

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

Owner's Signature**

David Dodrill
Print Name

Applicant's Signature

High Water LLC - Managing Partner
Print Name

Representative's Signature

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.

Revised 10-1-21
B. APPLICATION CONTENTS:
All applicable items required by Appendix B: Preliminary Plat Submittal Requirements of the Whitefish Subdivision Regulations must be submitted to the Whitefish Planning & Building Department with the application for preliminary plat, including the following:

<table>
<thead>
<tr>
<th>Attached</th>
<th>ALL ITEMS MUST BE INCLUDED - INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>One (1) printed copy and one (1) electronic copy of the Preliminary Plat Application and supplemental information</td>
</tr>
<tr>
<td>X</td>
<td>Preliminary Plat</td>
</tr>
<tr>
<td>X</td>
<td>Deed and Encumbrance Report (aka &quot;title report&quot;), no more than 90 days old</td>
</tr>
<tr>
<td>X</td>
<td>Applicable items from Appendix B of the Whitefish Subdivision Regulations (can be found at: <a href="http://www.cityofwhitefish.org">www.cityofwhitefish.org</a>)</td>
</tr>
<tr>
<td>X</td>
<td>Will this project provide affordable housing: □ Yes  □ No</td>
</tr>
<tr>
<td>X</td>
<td>If yes, complete a Housing Mitigation Plan</td>
</tr>
<tr>
<td>X</td>
<td>Additional information requested during the pre-application process</td>
</tr>
<tr>
<td>X</td>
<td>Documentation the subdivision is eligible for an expedited preliminary plat (§12-3-3A)</td>
</tr>
<tr>
<td>X</td>
<td>Fair Market Land Value (state of Montana Department of Revenue for the most current year)</td>
</tr>
<tr>
<td>X</td>
<td>Recommendation from the Parks Board – unless exempt §12-410(C)</td>
</tr>
<tr>
<td>X</td>
<td>$100 deposit for sign to be posted on site during the duration of the public process (submit a separate check, which will be returned to you after you return the sign to the Planning Office)</td>
</tr>
</tbody>
</table>

When all application materials are submitted to the Planning & Building Department, and the staff finds the application is complete, the staff will schedule the subdivision for a public hearing before the City Council. The Council must act within 35 working days once an application is determined to be complete pursuant to §12-3-4 of the Subdivision Regulations.

I understand I am responsible for maintaining the public notice sign on the subject property during the entire public process. I understand I will forfeit my $100.00 deposit, if I do not return the public notice sign to the Planning & Building Department in good condition after the public review.

Applicant Signature
High Water LLC - Managing Partner

Date

4/5/23
C. OWNER/APPLICANT INFORMATION

OWNER(S) OF RECORD:

Name: David Dodrill Phone: XXX-XXX-XXXX
Mailing Address: 304 Sawtooth Drive
City, State, Zip: Whitefish, MT 59937
Email: drdave@mtlaserdentistry.com

APPLICANT (if different than above):

Name: High Water LLC Phone: XXX-XXX-XXXX
Mailing Address: 6247 Shiloh Avenue
City, State, Zip: Whitefish, MT 59937
Email: drdave@mtlaserdentistry.com

OTHER TECHNICAL/PROFESSIONAL:

Name: TD&H Engineering - Doug Peppemeier, PE Phone: 406-751-5246
Mailing Address: 450 Corporate Drive Suite #101
City, State, Zip: Kalispell, MT 59901
Email: doug.peppmeier@tdhengineering.com

D. GENERAL DESCRIPTION OF SUBDIVISION:

X Initial Preliminary Plat
☐ Amendment to an Approved Preliminary Plat
☐ Change a Condition of Approval to an Approved Preliminary Plat (attach a narrative explaining which condition you are requesting to be changed and why the condition is no longer valid or warranted)
☐ Re-file of an Expired Preliminary Plat; date preliminary plat expired: __________________________

ZONING DESIGNATION: WRL - Whitefish One Family Limited Residential
If proposing to change the underlying zoning, proposed zoning: __________________________

LOTS AND ACREAGE:

Total Acreage in Subdivision: 4.844 ac Number of Lots or Rental Spaces: 9
Maximum Size of Lots or Spaces: 0.368 ac/16,009 sf Minimum Size of Lots or Spaces: 0.344 ac/15,000 sf
Total Acreage in Lots: 3.071 ac Total Acreage in Streets or Roads: 1.314 ac

PROPOSED USE(S) AND NUMBER OF ASSOCIATED lots/SPACES:

Single Family: 9 Townhouse: _____________ Mobile Home Park: _____________
Duplex: _______ Apartment: _____________ Recreational Vehicle Park: _____________
Commercial: _______ Industrial: _____________ Planned Unit Development: _____________
Condominium: ______________ Multi-Family: _____________ Other: _____________

Revised 10-1-21
CRITICAL AREAS ON-SITE OR NEARBY:

☐ Lake  ☐ Wetlands  ☐ Streams  ☐ Stormwater Conveyance  ☐ High Groundwater
☒ Slopess 10-30%  ☐ Slopess 30%+  ☐ Floodplain

PARKLAND/OPEN SPACE PROPOSAL: The following information is required to show how the project meets the parkland dedication requirements of the subdivision regulations (§12-4-10). A recommendation from the Park Board is required to be submitted along with the application, unless exempted under the subdivision regulations §12-4-10(C).

• Date of Parks Board Meeting (prior to submitting an application): 02.10.2022 (Site Plan)
• Market Land Value (state of MT Department of Revenue for the most Current Year): $313,279
• Total Acreage in Parks, Open Spaces and/or Common Areas: 0.177 ac

IMPROVEMENTS TO BE PROVIDED:

Roads: ☐ Gravel  ☒ Paved  ☒ Curb  ☒ Gutter  ☒ Sidewalks  ☐ Alleys  ☐ Other (explain): ______________________

Water System: ☐ Individual  ☐ Multiple User  ☒ Neighborhood  ☒ Public  ☐ Other (explain): ______________________

Sewer System: ☐ Individual  ☐ Multiple User  ☒ Neighborhood  ☒ Public  ☐ Other (explain): ______________________

Other Utilities: ☒ Cable TV  ☒ Telephone  ☒ Electric  ☒ Gas  ☐ Other (explain): ______________________

Solid Waste: ☐ Home Pick Up  ☐ Central Storage  ☒ Contract Hauler  ☐ Owner Haul

Mail Delivery: ☒ Central  ☐ Individual

Fire Protection: ☒ Hydrants  ☐ Tanker Recharge

Drainage System: Curb & gutter, piping to treatment structure, detention pond with flow control structure on outlet
PRELIMINARY PLAT OF
HIGH WATER SUBDIVISION
LOCATED IN THE THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER AND
THE NORTHEAST OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 31
NORTH, RANGE 21 WEST, P.M.M., CITY OF WHITEFISH, FLATHEAD COUNTY,
MONTANA.

EXISTING CONDITIONS & TREE PRESERVATION PLAN

OWNER: DAVID DODRILL
BY: TDH ENGINEERING, INC.
450 CORPORATE DRIVE SUITE 101
KALISPELL, MT. 59901
PHONE: (406) 751-5246
DATE: APRIL, 2023

450 CORPORATE DRIVE SUITE 101
KALISPELL, MT. 59901

DAVID DODRILL

HIGH WATER SUBDIVISION
SUBJECT TRACTS
4.844 ACRES
WILD ROSE LANE
EAST 2nd STREET
BNSF RAILROAD

GENERAL NOTES

FLOOD PLAIN

LEGEND
## SLOPES TABLE

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**PRELIMINARY PLAT OF\nHIGH WATER SUBDIVISION\nLOCATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER AND\nTHE NORTHEAST OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 31\NORTH, RANGE 21 WEST, P.M.M., CITY OF WHITEFISH, FLATHEAD COUNTY,\MONTANA.\n
**SLOPE STUDY**

---

**City Council Packet, June 5, 2023 Page 194 of 354**
Preliminary Plat of High Water Subdivision

Located in the the Northwest Quarter of the Northeast Quarter and the Northeast of the Northwest Quarter of Section 32, Township 31 North, Range 21 West, P.M.M., City of Whitefish, Flathead County, Montana.

Site Plan, Utilities, Drainage

City Council Packet, June 5, 2023 Page 195 of 354
HIGH WATER SUBDIVISION
LOCATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER AND
THE NORTHEAST OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 31
NORTH, RANGE 21 WEST, P.M.M., CITY OF WHITEFISH, FLATHEAD COUNTY,
MONTANA.

AREAS & DIMENSIONS

LEGAL DESCRIPTION
The sum of 0.229 acres of land described as follows: All of the 0.229 acres of land
in the NE 1/4 SE 1/4 of SW 1/4, SEC 32, Township 31 N., Range 21 W.,
P.M.M., City of Whitefish, Flathead County, Montana.

PARKLAND DEDICATION

AREA TABLE

LOT 1  0.344 AC
LOT 2  0.344 AC
LOT 3  0.344 AC
LOT 4  0.344 AC
LOT 5  0.368 AC
LOT 6  0.344 AC
LOT 7  0.344 AC
LOT 8  0.344 AC
LOT 9  0.344 AC
GREEN  0.177 AC
STORM  0.229 AC
ROAD    1.314 AC

TD&H ENGINEERING, INC.
KALISPELL, MT.  59901

DAVID DODRILL

HIGH WATER LANE

EAST 2ND STREET

WILD ROSE LANE

STORM

GREEN

ROAD

LOT 1
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
LOT 8
LOT 9
ORDER NO.: 2304002

Effective Date: April 5, 2023 @ 7:55 AM

A) Description of land:

TRACT 1 OF CERTIFICATE OF SURVEY NO. 15180, A TRACT OF LAND LOCATED IN THE NORTH HALF OF THE NORTH HALF OF SECTION 32, TOWNSHIP 31 NORTH, RANGE 21 WEST, P.M.M., FLATHEAD COUNTY, MONTANA.

AND

TRACT A OF CERTIFICATE OF SURVEY NO. 15574, A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 31 NORTH, RANGE 21 WEST, P.M.M., FLATHEAD COUNTY, MONTANA.

B) Title is vested in:

David Dodrill

C) Only the following matters appear in the Public Records subsequent to April 5, 2023 at 7:55 A.M. Note: All items recorded before the above date and other foreclosure items previously requested by the customer are attached and are not a part of the report.

1. 2023 taxes and special assessments are a lien; amounts are not yet determined or payable. The first half becomes delinquent after November 30th of the current year, the second half becomes delinquent after May 31st of the following year. General taxes are set forth below. Any amounts not paid when due will accrue penalties and interest in addition to the amount state herein. 2022 taxes for Assessor No.: 74-0006007: 1st half $770.11(paid), 2nd half $770.08(unpaid). 2022 taxes for Assessor No.: 74-0233050: 1st half $793.36(delinquent), 2nd half $793.33(unpaid).
2. Deed of Trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby:
   Amount: $497,000.00
   Dated: April 12, 2021
   Grantor: David Dodrill
   Trustee: Fidelity Title of Flathead Valley
   Beneficiary: Three Rivers Bank
   Recorded: April 14, 2021 as Doc. No. 2021-000-12863

3. Terms and Conditions of the Divorce Decree filed on October 20, 2020 as Cause No DR-19-904, filed in the Clerk of District Court, Flathead County, Montana.

NOTICE TO APPLICANT: If you require copies of any documents identified in this commitment for title insurance, the Company will furnish the same specific request, either free of charge or for the actual cost of duplication for those copies requiring payment by the Company to obtain.
NOTE: All notes are for information only and will be removed from the final title policy.
Property Address: 1600 & 1628 E. 2nd St Whitefish, MT 59937
CERTIFICATE OF SURVEY

SECTION 32, T 31 N, R 21 W, P.M.M., FLATHEAD CO.

PURPOSE: RELOCATE COMMON BOUNDARIES

DESCRIPTION - TRACT 1

A tract of land located in the North half of the North half of Section 32, Township 31 North, Range 21 West, Principal Meridian, Montana, Flathead County, Montana, being more particularly described as follows:

Commencing at the Northwest corner of Tract 1 of C.O.S. 16003, records of Flathead County, and the POINT-OF-BEGINNING, thence N88°51'39"W along the North boundary of said tract, a distance of 208.74 feet to a point on the West boundary of Tract 2 of said C.O.S. 16003, thence N00°14'26"W along said West boundary, a distance of 293.50 feet to the Northwest corner of said Tract 2; thence Southwesterly along the North boundary of said tract on a non-tangent curve, concave to the Southwest, having a radius of 612.06 feet, a central angle of 02°36'29"W, a beginning radial bearing of N10°41'00"W, and an ending radial bearing of N14°17'37"E, an arc length of 291.71 feet to the Northeast corner of said Tract 2; thence S00°15'40"W along the East boundary of said tract, a distance of 455.53 feet; thence S08°01'26"E along said boundry, a distance of 39.75 feet; thence N89°25'39"W a distance of 539.74 feet; thence N89°25'39"W a distance of 188.52 feet to a point on the North right-of-way of a ferry/toddle wide county road known as East Second Street; thence N88°51'39"W along said north right-of-way, a distance of 83.66 feet to the Southeast corner of that certain tract of land conveyed in Warranty Deed recorded March 16, 1990 under instrument number 19900043, Flathead County, Montana, N88°51'39"W along the East boundary of said tract, a distance of 188.52 feet to the Northeast corner of said tract; thence N89°25'39"W along the North boundary of said tract, a distance of 114.46 feet to the Northwest corner of said tract; thence N88°51'39"E a distance of 237.04 feet to the POINT-OF-BEGINNING, containing 4.344 acres.

OWNERS' CERTIFICATION

The undersigned does hereby certify that the purpose of this division of land is to relocate common boundary lines between adjoining parcels and that no additional parcels are hereby created, therefore, the division of land is exempt from review as a subdivision pursuant to Section 76-1-207(7)(b)(iv) MCA.

The undersigned further certifies that Tract 1 is exempt from survey review pursuant to Section 17-36-605 (2)(c) ARM, which excludes 'parcels wherein survey data facilities will not be used, in which no structure requiring water or sewage disposal work is to be erected, and to the section to the provisions of Title 76, Chapter 4, part 1, MCA, and this chapter.'

P-7 LLC

by

Signature

State of MONTANA
County of FLATHEAD
On this 7th day of JULY, 2002 before me, the undersigned, a Notary Public for the State of MONTANA, personally appeared

 subscriber to me to be the person whose name appears subscribed to this instrument, and acknowledged me that they executed the same.

NOTARY PUBLIC STATE OF MONTANA

City Council Packet, June 5, 2023 Page 201 of 354
CERTIFICATE OF SURVEY
SECTION 32, T 31 N, R 21 W, P.M.M., FLATHEAD CO.

PURPOSE: FAMILY TRANSFER

"This plat is provided solely for the purpose of assistance in locating the land and the Company assumes no liability for any variation with the actual survey and/or plat." First Title of Montana

TRACT A
C.O.S. 15180

TRACT B
C.O.S. 15180

0.500 AC.

DESCRIPTION - TRACT A

A tract of land located in the North half of the North half of Section 32, Township 31 North, Range 21 West, Principal Meridian, Montana, Flathead County, Montana, being more particularly described as follows:

Commencing at the Southwest corner of Tract 2 of Certificate of Survey No. 15180, records of Flathead County, and the POINT OF BEGINNING: Thence N90°00'00"W along the West boundary of said tract, a distance of 100.50 feet to the Northwest corner of said tract; thence S0°00'00"E along the North boundary of said tract, a distance of 128.30 feet; thence S0°00'00"W along a distance of 100.50 feet to a point on the South boundary of said land; thence N90°00'00"E along said boundary, a distance of 128.30 feet to the POINT OF BEGINNING, containing 0.500 acres.

DESCRIPTION - TRACT B

A tract of land located in the Northeast quarter of the Northeast quarter of Section 32, Township 31 North, Range 21 West, Principal Meridian, Montana, Flathead County, Montana, being more particularly described as follows:

Commencing at the Southwest corner of Tract 2 of Certificate of Survey No. 15180, records of Flathead County, and the POINT OF BEGINNING: Thence N90°00'00"W along the South boundary of said tract, a distance of 128.30 feet; thence N0°00'00"E a distance of 100.50 feet to a point on the North boundary of said tract; thence S90°00'00"E along said boundary, a distance of 128.30 feet to the Southwest corner of said tract; thence S0°00'00"W along the East boundary of said tract, a distance of 100.50 feet to the POINT OF BEGINNING, containing 0.500 acres.

OWNER'S CERTIFICATION

I, Laura Lawrence, do hereby certify that the purpose for this division of land is to transfer Tract B as shown on this Certificate of Survey to Andrew Lawrence, my husband.

Furthermore, I certify that I am entitled to use this exemption and am in compliance with all conditions imposed on the use of this exemption, therefore, this division of land is exempt from review on a subdivision pursuant to Section 76-3-201(1)(b), M.C.A.

Laura Lawrence

State of Montana
County of Flathead

On the day of April 2023, before me, the undersigned, a Notary for the State of Montana, personally appeared Laila Lawrence, known to me to be the person whose name is subscribed to this instrument, and acknowledged to me that they executed the same.

Laila Lawrence

NOTARY PUBLIC FOR THE STATE OF MONTANA
Residing at Kalispell
My commission expires 7-11-2023

CERTIFICATE OF SURVEYOR

REGISTRATION NO. 15180

APPROVED: 3-20-2023

EXAMINING LAND SURVEYOR REG. NO. 15180

STATE OF MONTANA
COUNTY OF FLATHEAD

SEAL OF FLATHEAD COUNTY

RECEIVEDバレー003000010150

SHEET 1 OF 1
C.O.S. NO. 15180

NOTARY SEAL
"This plot is provided solely for the purpose of assisting in locating the land and the Company assumes no liability for any variations with the actual survey and/or plot. First Title of Montana.

This map is prepared only for the administrative use of Flathead County and is not necessarily an accurate representation of the location or existence of tracts of record, their boundaries or easements and roadways."
Notice of Privacy Policy

of

Westcor Land Title Insurance Company

Westcor Land Title Insurance Company ("WLTIC") values its customers and is committed to protecting the privacy of personal information. In keeping with that philosophy, we have developed a Privacy Policy, set out below, that will ensure the continued protection of your nonpublic personal information and inform you about the measures WLTIC takes to safeguard that information.

Who is Covered

We provide our Privacy Policy to each customer when they purchase an WLTIC title insurance policy. Generally, this means that the Privacy Policy is provided to the customer at the closing of the real estate transaction.

Information Collected

In the normal course of business and to provide the necessary services to our customers, we may obtain nonpublic personal information directly from the customer, from customer-related transactions, or from third parties such as our title insurance agents, lenders, appraisers, surveyors or other similar entities.

Access to Information

Access to all nonpublic personal information is limited to those employees who have a need to know in order to perform their jobs. These employees include, but are not limited to, those in departments such as legal, underwriting, claims administration and accounting.

Information Sharing

Generally, WLTIC does not share nonpublic personal information that it collects with anyone other than its policy issuing agents as needed to complete the real estate settlement services and issue its title insurance policy as requested by the consumer. WLTIC may share nonpublic personal information as permitted by law with entities with whom WLTIC has a joint marketing agreement. Entities with whom WLTIC has a joint marketing agreement have agreed to protect the privacy of our customer’s nonpublic personal information by utilizing similar precautions and security measures as WLTIC uses to protect this information and to use the information for lawful purposes. WLTIC, however, may share information as required by law in response to a subpoena, to a government regulatory agency or to prevent fraud.

Information Security

WLTIC, at all times, strives to maintain the confidentiality and integrity of the personal information in its possession and has instituted measures to guard against its unauthorized access. We maintain physical, electronic and procedural safeguards in compliance with federal standards to protect that information.

The WLTIC Privacy Policy can also be found on WLTIC’s website at www.wltic.com.
April 6th, 2023

City of Whitefish Planning Department  
Attn: Wendy Compton-Ring, AICP  
418 E. 2nd Street  
Whitefish, MT  59937

RE: HIGH WATER SUBDIVISION  
EXPEDITED PRELIMINARY PLAT DOCUMENTATION  
TD&H ENGINEERING JOB NO. K21-063

Dear Wendy,

As required, the following is to document that the High Water Subdivision qualifies for the expedited preliminary plat review process as outlined in section 12-3-5 of City of Whitefish Subdivision regulations if:

1. Within city limits – YES
2. Included in the City's current Growth Policy – YES
3. Conforms to all City zoning and design standards – YES
4. No subdivision variance is needed to comply with the Whitefish subdivision Regulations - YES
5. Includes plans in the proposal for extension of public infrastructure - YES

If you have any questions or need any additional information regarding the preliminary plat submittal for the High Water Subdivision, please feel free to contact me directly.

Sincerely,

Douglas Peppmeier, PE  
V.P. / Regional Manager  
TD&H ENGINEERING

J:\2021\K21-063 High Water - Dodrill Subdivision\020 - Preliminary Plat\DOCUMENTS\TEMPLATES\TDH KAL LETTERHEAD.DOC
PART III - COMMUNITY IMPACT REPORT – High Water Subdivision

Provide a community impact report containing a statement of estimated number of people coming into the area as a result of the subdivision, anticipated needs of the proposed subdivision for public facilities and services, the increased capital and operating cost to each affected unit of local government. Provide responses to each of the following questions and provide reference materials as required.

1. Water, Sewage, and Solid Waste Facilities

   a. Briefly describe the water supply and sewage treatment systems to be used in serving the proposed subdivision (e.g. methods, capacities, locations).

   Water service to the proposed lots will be provided by a public water supply system owned, operated and maintained by the City of Whitefish. There is an existing water main in East 2nd Street (12” main to the south) and in Wild Rose Lane (8” main to the northwest). A water main extension, looping through the development and connecting to both the south and northwest boundary of the project will be required to serve the proposed lots. See Water and Sewer Plans accompanying this Preliminary Plat submittal. Plans for proposed extension will need to be reviewed and approved by the City of Whitefish and the Montana Department of Environmental Quality (MDEQ).

   Sanitary sewer service to the proposed lots will be provided by a public wastewater main extension for collection and treatment owned, operated and maintained by the City of Whitefish. There is an existing 8” sanitary sewer main that borders the northwest limits of the proposed development. A sewer main extension, will be required to serve the proposed lots. See Water and Sewer Plans accompanying this Preliminary Plat submittal. Plans for an extension of the existing wastewater collection system will have to be reviewed and approved by the City of Whitefish and the MDEQ.

   b. Provide information on estimated cost of the system, who will bear the costs, and how the system will be financed.

   The owners/developers will be responsible for installation of the water and sewer system improvements, and following construction and testing, the City of Whitefish will own, operate and maintain the water supply and sewage collection systems. The cost of water system improvements is estimated to be $150,000. The cost of sewer system improvements is estimated to be $200,000.

   c. Where hook-up to an existing system is proposed, describe estimated impacts on the existing system, and show evidence that permission has been granted to hook up to the existing system.

   Plans for modifications to, and extensions of, the City’s public water and sewer systems, are necessary to serve the lots being proposed in the development, and will need to be reviewed and approved by the City of Whitefish and the MDEQ. In the City’s review of the plans for water and sewer system improvements, impacts on the respective systems will be addressed.
d. All water supply and sewage treatment plans and specifications will be reviewed and approved by the Department of Environmental Quality (DEQ) and should be submitted using the appropriate DEQ application form.

The proposed preliminary plat will need to be reviewed by the City of Whitefish. The applicants cannot submit plans for review by the City and MDEQ until the Whitefish City Council approves the preliminary plat as the signed approval statement is a required element of the submittal.

Following preliminary plat approval by the Whitefish City Council, the engineering consultants will prepare detailed engineering plans and specifications for sewer, water and storm water drainage and submit the drawings to the City of Whitefish Public Works Department and MDEQ for review and final approval.

e. Describe the proposed method of collecting and disposing of solid waste from the development.

Solid Waste will be collected and disposed of by Republic Services. Each lot will have a refuse container and will be responsible for taking it out on the day(s) of pick-up and putting it back that evening. As this is an area frequented by wildlife, the owners will be required to keep refuse containers indoors except for the day of pick-up.

f. If use of an existing collection system or disposal facility is proposed indicate the name and location of the facility.

Republic Services is located approximately two miles south of the City of Whitefish on Highway 93 and the Flathead County Land Fill is located approximately five miles south of the City off of Highway 93.

2. Roads and Maintenance

a. Estimate how much daily traffic the subdivision, when fully occupied will generate on existing streets and arterials.

When the proposed development is completed, the area of the subdivision will average approximately 90 vehicle trips per day based on a factor of ten (10) vehicle trips per day per unit. Public Works requires any development generating 200 or more Average Daily Trips (ADT) to the City street system to complete a Traffic Impact Study (TIS). Therefore, a traffic impact study will not be required as part of the proposed residential subdivision development.

b. Describe the capability of existing and proposed roads to safely accommodate this increased traffic.

Access to the development, in general, will be provided by an approach onto Highway East 2nd Street to the south and Wild Rose Lane to the northwest. The road system will be constructed to City of Whitefish Standards for Design and Construction and dedicated to the City. Sidewalks will be constructed along both sides of the street to provide...
pedestrian movement through the development and to pedestrian paths along East 2nd Street.

c. Describe increased maintenance problems and increased cost due to this increase in volume.

The new streets will be designed to meet the City’s design standards; there should not be maintenance problems associated with the streets given these design guidelines. Traffic volumes were generally anticipated in the development of the adjacent streets.

d. Describe proposed new public or private access roads including:

i. Measures for disposing of storm run-off from streets and roads.

    Runoff from the project will generally be collected with an inlet and piping system, and will flow to a treatment structure prior to discharge within a detention facility.

ii. Type of road surface and provisions to be made for dust.

    All of the roadways within the subdivision will be paved to provide longevity of the roadways and to reduce or eliminate dust from vehicle traffic. All new roads will have curbs and gutters and roads will be crowned along the centerline to direct runoff water to the respective gutters.

iii. Facilities for streams or drainage crossing (e.g. culverts, bridges).

    No streams or drainage crossings exist on site

iv. Seeding of disturbed areas.

    All areas outside of roadways that are disturbed during construction will be graded, covered with topsoil, and will then be raked and hydro-seeded for stabilization of soils.

e. Describe the closing or modification of any existing roads.

No roads will be closed as a result of the proposal and no modification of existing roads is proposed; The subdivision proposes extending a new roadway through the site to connect to East 2nd Street in the south and Wild Rose Lane in the northwest.

f. Explain why road access was not provided within the subdivision, if access to any individual lot is directly from arterial streets or roads.

Road access will be provided within the subdivision. No arterial streets will provide direct access to the development.

g. Is year-round access by conventional automobile over legal rights-of-way available to the subdivision and to all lots and common facilities within the subdivision? Identify the owners of any private property over which access to the subdivision will be provided.
Legal year-round access is provided to all lots and common facilities within the proposed subdivision.

h. Estimate the cost and completion date of the system, and indicate who will pay the cost of installation, maintenance and snow removal.

The street system will be constructed by the developer and dedicated to the City for long term maintenance which would include snow removal. Completion of the infrastructure is dependent upon the market for lots and therefore it could happen anytime during the approved subdivision timeline. The cost of constructing the new roadways, along with sidewalks, curb & gutter, street lights and boulevard improvements, is estimated to be $450,000.

3. Fire, Police Protection and Emergency Services

a. Describe the fire, police protection and emergency services available to the residents of the proposed subdivision including number of personnel and number of vehicles or type of facilities for:

Emergency services, including police, fire and ambulance/EMT, are dispatched from the City’s Emergency Services facility. Current Fire staff includes Chief, Marshall, fifteen Fighter/Paramedics and three volunteers. Current fire equipment list includes, but is not limited to, three engines, one tender, four ambulances, two boats, one all terrain vehicle, two emergency/heavy rescue vehicles and one command vehicle. Current Police staff includes Chief, Deputy Chief, Three Sergeants, two Detectives and ten Officers as well as office staff.

i Fire protection -- is the proposed subdivision in an existing fire district? If not, will one be formed or extended? Describe what fire protection procedures are planned?

The proposed subdivision is located within the Whitefish Fire Department Service Area and the city limits of Whitefish. The subdivision will connect to the Whitefish public water system. As part of the approval of the water system, Public Works and the Fire Marshall will review the sizing, pressure, and location of hydrants needed to serve the development. The attached sewer and water plans indicate the probable locations of the Water mains.

ii Law enforcement protection – Is the proposed subdivision within the jurisdiction of a County Sheriff or municipal police department?

The proposed subdivision is within city limits, and is in the City of Whitefish Police Department response area.

b. Can the fire and police protection service needs of the proposed subdivision be met by present personnel and facilities? If not, describe the additional expenses that would be necessary to make these services adequate, and who would pay the costs?
Police and fire services can be met through the existing personnel and facilities. Fire hydrants will be included in the subdivision to assist with fire protection.

4. Education and Busing

a. Describe the available educational facilities which would serve this subdivision.

Whitefish School District 44 includes the following facilities to serve the proposed subdivision:

- Muldown Elementary School (K- 4th)
- Whitefish Middle School (5th- 8th)
- Whitefish High School 9th- 12th)
- Whitefish Independent High School

b. Estimate the number of school children that will be added by the proposed subdivision. Provide a statement from the administrator of the affected school system indicating whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system. If not, estimate the increased expenditures that would be necessary to do so.

Using County wide average of 0.34 school aged children per residence, (There were 17,446 students recorded with the Flathead County Superintendent of Schools Office including public, private and home schooled children at the beginning of the 2022 school year. The US Census Bureau 2021 counted 50,808 housing units in Flathead County – 17,446 students / 50,808 housing units = 0.34 students per unit), the 9 units would generate approximately 3 additional students for the school system.

The Whitefish School District #44 serves the site. The school district was contacted and based on those discussions with an even distribution of students across all grade levels, the additional students could be absorbed into district at the current service level. Because the proposed development is within the three mile transportation envelope, the existing busing system would not be impacted. The Whitefish School District recently completed a major reconstruction of the Central School facility and a major upgrade of the High School Facility and a complete rebuild of Muldown Elementary. The proposed subdivision in its current form does not appear to negatively impact the school system.

5. Payment for extension of Capital Facilities

a. Indicate how the subdivider will pay for the cost of extending capital facilities resulting from expected impacts directly attributable to the subdivision.

Developer is aware that these extensions are part of the project. The developer will use a combination of investors and construction loans from lending institutions to raise the capital to build the infrastructure required for the subdivision.
WARRANTY DEED

For Value Received Ryan Ulvin, the grantor(s), do(es) hereby grant, bargain, sell and convey unto David Dodrill, of 6247 Shiloah Avenue, Whitefish, MT 59937, the grantee(s), the following described premises, in Flathead County, Montana, to wit:

Tract 1:

Tract 1 of Certificate of Survey No. 15180, a tract of land located in the North Half of the North Half of Section 32, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana.

Tract 2:

Tract A of Certificate of Survey No. 15574, a tract of land located in the Northeast Quarter of Section 32, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana.

TO HAVE AND TO HOLD unto the Grantee and to the heirs and assigns forever, subject, however, to:

A. All reservations and exceptions of record and in patents from the United States or the State of Montana;
B. All existing easements and rights of way of record, building, use zoning, sanitary and environmental restrictions;
C. Taxes and assessments for the year 2021 and subsequent years;
D. All prior conveyances, leases or transfers of any interest in minerals, including oil, gas and other hydrocarbons;

Except with reference to items referred to in paragraphs above, this Deed is given with the usual covenants expressed in §30-11-110, Montana Code Annotated.

This conveyance is made and accepted upon the express agreement that the consideration herefore paid constitutes an adequate and full consideration in money of money's worth.
WARRANTY DEED
(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Ryan Ulvin

State of

County of

This instrument was acknowledged before me on _______ , 20____ by Ryan Ulvin.

Notary Public for the State of
Residing at
My Commission Expires:

(SEAL)

NATE HIDALGO
NOTARY PUBLIC for the State of Montana
Residing at Whitefish, Montana
My Commission Expires
February 22, 2022
## General Information

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<td>07-033403</td>
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<tr>
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<td>DODRILL DAVID</td>
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## Value History

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## Property Characteristics

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<th>Type</th>
<th>VAC_U - Vacant Land - Urban</th>
</tr>
</thead>
<tbody>
<tr>
<td>Living Units</td>
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<tr>
<td>Topography</td>
<td>Utilities</td>
</tr>
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</tr>
<tr>
<td>Fronting</td>
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<tr>
<td>Parking</td>
<td>Parking Qty.</td>
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### Market Land

<table>
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<tr>
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### Permits

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<tr>
<td>06183</td>
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## General Information

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<tbody>
<tr>
<td>Assessment Code</td>
<td>0000233050</td>
</tr>
<tr>
<td>County</td>
<td>Flathead</td>
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<tr>
<td>Levy District</td>
<td>07-033403</td>
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<td>Neighborhood</td>
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<td>Situs Address</td>
<td>1600 E 2ND ST, WHITEFISH, MT 59937</td>
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<tr>
<td>Legal Description</td>
<td>S32, T31 N, R21 W, C.O.S. 15180, PARCEL 1, TR 1DBB IN NE4NW4 &amp; NW4NE4</td>
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<tr>
<td>Owner Name</td>
<td>DODRILL DAVID</td>
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<td>Property Last Updated</td>
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## Value History

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## Property Characteristics

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<tr>
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<td>Fronting</td>
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<td>Parking</td>
<td>Parking Qty.</td>
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<tr>
<td>Type</td>
<td>Value</td>
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<td>-------------</td>
<td>-----------</td>
</tr>
<tr>
<td>Category 5</td>
<td>$177,766</td>
</tr>
</tbody>
</table>
1. **Edgewood 90**: The applicant is proposing to do a zone change on the east side of E. 2nd Street to WCR and WA (at the time of annexation) to get nine units of estate lot density with a PUD. These would be 5–10-acre tracts. On the west side of E. 2nd Street, they would rezone approximately 7.5 acres of the industrial property to WR-2 to get 90 units of density for apartments and specifically some work force housing, some of which would be deed restricted. The applicant would like to add some light industrial such as laundry facilities. They plan to bring in sewer by boring under the railroad and installing a lift station on the north side of the tracks. They will likely ask for a variance for parking, 1 parking spot for studios and 1 bedroom; 2 parking spots for 2 bedrooms. Applicant is creating a more rural subdivision on the ease side of E. 2nd Street.

**Planning:**

Zone change would happen at annexation. Growth Policy map amendment and zone change.

The plans show a road from E. 2nd Street to Edgewood that the applicant was considering a public road including a bridge over wetlands. Concerned with the primary access through a parking lot. The applicant will consider changing from 1 public road to 2 private loops. A variance would still be needed for a sidewalk on one side. Consider a shared use path through the site.

The storm water ponds would need to be moved to the outer 25% of the wetland buffer.

Recommend bringing in an arborist that can give recommendations for tree thinning.

Recommend modifying parking to move spaces to the sides and back of apartment buildings.

**Public Works:**

There is concern about water line going under the parking lot.

More than 10,000 feet of road requires storm water treatment. Storm water treatment cannot be in an easement, it would need to be on a lot.

The Quiet Zone permit would have to be updated for the required pedestrian crossing.
DEQ approval is needed before any public water or sewer utilities are extended. All infrastructure must be installed, approved, and accepted (if public) before any building permits are issued.

**Fire:**

A 2nd access off of Edgewood would be agreeable.

**Parks:**

Trees will be required but not maintained by the City (if roadways are private).

2. **Dodrill Subdivision:** 9-Lot major subdivision, all lots are over the 15k square foot threshold, 2 flag lots.

**Planning:**

Due to no subdivision variances, this project may be eligible for expedited review, would bypass planning board and go straight to City Council.

**Recommend fee in lieu of parkland.** Fee is based on property value at the time of final plat.

**Public Works:**

There is a public right of way off of Ponderosa that could have a driveway installed to the property.

**Fire:**

If there is not room for a turnaround for the fire truck the homes would need fire suppression systems. Adding a driveway from Ponderosa would be agreeable.

**Parks:**

**Recommendation of fee in lieu of street trees,** Trees would be planted after development. Tree species and spacing would be approved by the City but trees are maintained by the property owner.
APPENDIX B

PRELIMINARY PLAT DOCUMENTS
This map complies with FEMA’s standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA’s basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 8/30/2021 at 3:31 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.
April 13, 2022

Mr. David Dodrill  
High Water, LLC  
drdave@mtlaserdentistry.com

RE: DODRILL SUBDIVISION – WHITEFISH, MONTANA  
TD&H ENGINEERING JOB NO. K21-063-001

Dear Mr. Dodrill,

Per your request, TD&H Engineering completed a geotechnical investigation of the proposed Dodrill Subdivision located in Whitefish, Montana, in accordance with our proposal. This letter is intended to summarize the findings of our field investigation and provide a recommended pavement section suitable for use on the project.

**FINDINGS**

As part of our field investigation, five test pits were excavated within the subdivision limits to depths of 7.2 to 9.5 feet. The test pits were logged by our field engineer and samples sent to our AASHTO accredited laboratory in Great Falls for processing. In general, the subsurface conditions are comprised of primarily fine-grained clay soils containing varying amounts of sand and gravel which increase with depth. Test pits TP-1 through TP-4 encountered clayey gravel containing large cobbles at depth in each excavation. This zone was generally observed at depths below 5.0 to 6.5 feet. Test pit TP-5 did not show similar clayey gravel; however, a notable increase in gravel content was observed at approximately 6.0 feet, where the material was determined to be gravelly lean clay. A single layer of silt was observed in TP-3 from 3.7 to 5.0 feet. The surficial topsoil extends to depths of approximately 0.5 to 0.7 feet. Ground water was not encountered in any of these test pits during excavation.

Laboratory testing included measurements of soil moisture, material gradation, Atterberg Limits, standard proctor tests, and California Bearing Ratio (CBR) tests. Soil moistures of the topsoil ranged from 12 to 41 percent and generally reflect the high concentration of organic material within the samples. The underlying soils exhibit moisture contents ranging from 10 to 21 percent depending on the amount of sand and gravel within the fine-grained matrix. Four samples of the lean clay were tested and contained between 4 and 19 percent gravel, between 9 and 15 percent sand, and between 70 and 82 percent fines. The fines portion was classified as lean clay based on the Atterberg Limits analysis which resulted in liquid limits ranging from 25 to 44 percent and plasticity indices ranging from 8 to 25.
percent. A single sample of silt was also observed which exhibited a liquid limit of 21 percent and plasticity index of 1 percent.

Two proctor tests using the standard method outlined in ASTM D698 performed on samples of the lean clay with sand, the anticipated subgrade soil, resulted in maximum dry densities of 108.6 and 114.0 pounds per cubic foot (pcf) and optimum moisture contents of 17.1 and 14.0 percent, respectively. The same samples were compacted at the approximate optimum moisture content and tested using the California Bearing Ratio (CBR) method outlined in ASTM D1883 to measure its strength as a pavement subgrade. This test indicated CBR values of 3.3 and 5.4 percent when compacted to at least 95 percent of the maximum dry density.

ENGINEERING ANALYSIS

The on-site soil conditions pose no appreciable engineering risk to the proposed development provided the infrastructure is properly designed and construction utilizes the typical standard of care of the industry. Proper compaction and subgrade preparation will be critical to the long-term performance of the site development and future structures within the subdivision. Ground water was not observed in any of the test pits at the time of our investigation; however, ground water, subsurface seepage, or areas of high moisture may still be encountered depending on the time of construction for the various components. The moisture levels measured are not anticipated to preclude compaction; however, moisture conditioning may be required to reach the desired compaction levels for the project.

Based on our limited geotechnical scope for this project, we anticipate the use of conventional foundation systems complying with the minimum building code requirements to be feasible for small single-story structures. If larger buildings are considered, they may warrant subsurface improvements or alternative foundation systems to mitigate potential settlement of the fine-grained clay. Our investigation was not intended to evaluate foundation performance or provide recommendations for the design and construction of buildings. Thus, additional investigation and evaluation is warranted for all building construction within this development area to assess site-specific engineering concerns and provide recommendations suitable for each building.

Pavement Section

Our geotechnical scope of work for this project was limited to the assessment of the subsurface conditions and preparation of geotechnical recommendations pertaining to the pavement systems required for the development. A pavement section is a layered system designed to distribute concentrated traffic loads to the subgrade. Performance of the pavement structure is directly related to the physical properties
of the subgrade soils and the magnitude and frequency of traffic loadings. Pavement
design procedures are based on strength properties of the subgrade and pavement
materials, along with the design traffic conditions. Traffic information was not
available at the time of this report. We have assumed that traffic for the subdivision
will be limited to passenger-type vehicles with occasional mid-size truck traffic
associated with trash collection and deliveries. This project is not anticipated to
include any main truck routes that would warrant consideration of large commercial
traffic. Based on these assumptions, use of a minimum design equivalent single
axle load (ESAL) of 50,000 is generally sufficient.

The potential worst-case subgrade material is the lean clay which is classified as an
A-4 or A-6 soil in accordance with the American Association of State Highway and
Transportation Officials (AASHTO) classification depending on variations in the soil
plasticity and sand / gravel content. AASHTO considers this soil type to be fair to
poor subgrade material due its reduced drainage properties and strength when
wetted. Typical California Bearing Ratio (CBR) values for this type of soil range
from 3 to 5 percent, which was confirmed by our laboratory testing which measured
CBR values of 3.3 and 5.4 percent. As part of the roadway construction, it will be
necessary to properly compact the subgrade soils prior to placing fill material
associated with the pavement section. This often requires moisture conditioning of
the subgrade stratum, which should incorporate scarification for fine-grained soils.

Based on our analysis of the pavement system using the AASHTO design equation
and the minimum laboratory measured CBR value of 3.3 percent, the pavement
section needs to incorporate a minimum structural number of 2.26 for the anticipated
traffic conditions. The City of Whitefish requires that all city streets satisfy their
minimum section requirements, which consist of 4 inches of asphalt pavement, 4
inches of ¾-inch-minus crushed aggregate, and 10 inches of 1½-inch subbase. This
minimum pavement section provides a structural number of 2.90; thus, the minimum
pavement section is adequate with no modification.

RECOMMENDATIONS

1. All topsoil and organic material should be removed from the proposed
   building and pavement areas and any areas to receive site grading fill.

2. All fill and backfill should be non-expansive, free of organics and debris and
   should be approved by the project geotechnical engineer. The on-site soils,
   exclusive of topsoil, are suitable for use as general site grading fill on this
   project. All fill should be placed in uniform lifts not exceeding 8 inches in
   thickness for fine-grained soils and not exceeding 12 inches for granular
   soils. All materials compacted using hand compaction methods or small walk-
behind units should utilize a maximum lift thickness of 6 inches to ensure adequate compaction throughout the lift. All fill and backfill shall be moisture conditioned to near the optimum moisture content and compacted to the following percentages of the maximum dry density determined by a standard proctor test which is outlined by ASTM D698 or equivalent (e.g. ASTM D4253-D4254).

a) Below Streets .................................................................95%  
b) General Landscaping or Nonstructural Areas .......................92%

3. The City of Whitefish minimum section for city streets is suitable for this project and should be utilized in design.

4. Where the existing grades will be raised more than the thickness of the pavement section, all fill should be placed, compacted, and meet the general requirements given in Item 2 above.

5. The asphaltic cement utilized on this project should be a Performance Graded PG 58-28 binder. This oil is the most commonly available product in the local market which will provide a reasonable pavement reliability. Alternative oil grades are not recommended for this project.

LIMITATIONS

This report has been prepared in accordance with generally accepted geotechnical engineering practices in this area for use by the client for design purposes. The findings, analyses, and recommendations contained in this report reflect our professional opinion regarding potential impacts the subsurface conditions may have on the proposed project and are based on site conditions encountered. Our analysis assumes that the results of the exploratory test pits are representative of the subsurface conditions throughout the site, that is, that the subsurface conditions everywhere are not significantly different from those disclosed by the subsurface study. Unanticipated soil conditions are commonly encountered and cannot be fully determined by a limited number of test pits and laboratory analyses. Such unexpected conditions frequently require that some additional expenditures be made to obtain a properly constructed project. Therefore, some contingency fund is recommended to accommodate such potential extra costs.

Our scope of work excluded the consideration of building foundations within the subdivision limits; thus, no laboratory testing or analysis was performed regarding potential structures. Based on our experience, we do not anticipate the need to specialized foundation systems on this project; however, additional geotechnical engineering is warranted for all future building construction to evaluate the site-specific requirements for the intended
construction and recommend the necessary design parameters appropriate to properly support the foundations and mitigate any potential settlement concerns.

The recommendations contained within this report are based on the subsurface conditions observed in the test pits and are subject to change pending observation of the actual subsurface conditions encountered during construction. TD&H cannot assume responsibility or liability for the recommendations provided if we are not provided the opportunity to perform limited construction inspection and confirm the engineering assumptions made during our analysis. A representative of TD&H should be retained to observe all construction activities associated with subgrade preparation. Unforeseen conditions or undisclosed changes to the project parameters or site conditions may warrant modification to the project recommendations.

TD&H should be involved throughout the construction process to observe construction, particularly the subgrade preparation and placement and compaction of all fill. Retaining the geotechnical engineer who prepared your geotechnical report to provide construction observation is the most effective method of managing the risks associated with unanticipated conditions.

This report was prepared for the exclusive use of the owner and architect and/or engineer in the design of the subject facility. It should be made available to prospective contractors and/or the contractor for information on factual data only and not as a warranty of subsurface conditions such as those interpreted from the test pit logs and presented in discussions of subsurface conditions included in this report.

We trust this information is sufficient for your needs at this time. Please let us know if you have any additional questions or if we can be of any additional assistance.

Sincerely,

Craig Nadeau  
Geotechnical Manager  
TD&H ENGINEERING

Peter Klevberg  
Geotechnical Engineer  
TD&H ENGINEERING

ATTACHMENTS:  
TEST PIT LOCATION MAP (FIGURE 1)  
TEST PIT LOGS (FIGURES 2 THROUGH 6)  
LABORATORY TEST REPORTS (FIGURES 7 THROUGH 18)  
SOIL CLASSIFICATION AND SAMPLING TERMINOLOGY  
CLASSIFICATION OF SOILS FOR ENGINEERING PURPOSES

J:\2021\K21-063 Dodrill Subdivision\GEOTECH\REPORTS\Dodrill Subdivision.doc
DESCRIPTION
TRACTS 1DBB, 1R, SECTION 32, T31N, R21W, PMM, FLATHEAD COUNTY, MONTANA
ASSESSOR # - 0223050, 0006007
PROPOSED USE
SINGLE FAMILY RESIDENTIAL
ZONING
CURRENT ZONING IS CITY OF WHITEFISH ZONING ORDINANCE DESIGNATION WLR - WHITEFISH ONE FAMILY LIMITED RESIDENTIAL
SETBACKS ARE BASED ON SAID DESIGNATION
MUNICIPAL SERVICES
SANITARY SEWER AND WATER SERVICE BY THE CITY OF WHITEFISH. SERVICE EXTENSIONS REQUIRED
SOLID WASTE DISPOSAL BY CONTRACT HAULER
STORM DRAINAGE TO BE COLLECTED AND TREATED ON SITE THEN DISCHARGED
MAIL DELIVERY
GROUP MAILBOX
EMERGENCY SERVICES
POLICE AND FIRE PROTECTION PROVIDED BY THE CITY OF WHITEFISH
LANDSCAPE
LANDSCAPING PER CITY OF WHITEFISH STANDARDS
TRAFFIC
OFF STREET PARKING
LIGHTING
SITE LIGHTING WILL BE INSTALLED PER CITY OF WHITEFISH STANDARDS
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<th>MOISTURE CONTENT</th>
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<td>SURFACE ELEVATION: Not Measured</td>
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### Soil Description

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<td>6.0</td>
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</table>

**TOPSOIL: SILT**, appears loose to medium dense, dark brown, wet

Sandy Lean CLAY, relatively firm, orangish brown, moist

Lean CLAY, relatively stiff, gray, slightly moist, trace gravel

Lean CLAY with Sand, relatively stiff, gray, slightly moist, some gravel

- See Figures 15 and 17 for proctor and CBR result.

Clayey GRAVEL with Sand, relatively dense, gray, slightly moist

**Bottom of Test Pit**

Ground water not encountered

---

**Legend**

- Field Moisture content
- Groundwater Level
- Grab/composite sample

**Note:** The stratification lines represent approximate boundaries between soil types. Actual boundaries may be gradual or transitional.

**Log of Test Pit TP-1**

**Doddril Subdivision**

**Whitefish, Montana**

Logged by: Andrew Ferris

Excavated by: Cutting Edge Excavation

CAT Mino-Excavator

March 7, 2022

K21-063-001

Figure No. 2

Sheet 1 of 1
TOPSOIL: SILT, appears loose to medium dense, dark brown, wet
Sandy Lean CLAY, relatively firm, orangish brown, moist
Lean CLAY, relatively stiff, gray, slightly moist, trace gravel
Lean CLAY with Gravel, relatively stiff, gray, slightly moist
Clayey GRAVEL with Sand, appears very dense, gray, slightly moist, large cobbles
Bottom of Test Pit

GROUND WATER

G

G

G

G

G

G

Note: The stratification lines represent approximate boundaries between soil types. Actual boundaries may be gradual or transitional.
**LOG OF TEST PIT TP-3**

**Doddrell Subdivision**

**Whitefish, Montana**

Logged by: Andrew Ferris

Excavated by: Cutting Edge Excavation

CAT Mini-Excavator

March 7, 2022

K21-063-001

---

**SOIL DESCRIPTION**

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<th>DEPTH (FT)</th>
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**GRAPHIC LOG**

**SURFACE:** Snow Covered Underbrush

**SURFACE ELEVATION:** Not Measured

**GND WATER**

Ground water not encountered

**LEGEND**

-  Field Moisture content
-  Groundwater Level
-  Grab/composite sample

Note: The stratification lines represent approximate boundaries between soil types. Actual boundaries may be gradual or transitional.
SURFACE: Snow Covered Underbrush
SURFACE ELEVATION: Not Measured

**SOIL DESCRIPTION**

1. **TOPSOIL:** SILT, appears loose to medium dense, dark brown, wet
   - See Figures 16 and 18 for proctor and CBR result.

2. **Lean CLAY with Sand,** relatively firm, gray brown, moist

3. **Lean CLAY with Gravel,** relatively stiff, gray, slightly moist

4. **Clayey GRAVEL with Sand,** appears very dense, gray, slightly moist, large cobbles

5. **Bottom of Test Pit**
   - Ground water not encountered

**LEGEND**

- Field Moisture content
- Groundwater Level
- Grab/composite sample
- Atterberg Limits
- Plastic Limit
- In-Situ Water Content
- Liquid Limit
- Plasticity Index

*Note: The stratification lines represent approximate boundaries between soil types. Actual boundaries may be gradual or transitional.*
SURFACE: Snow Covered Underbrush
SURFACE ELEVATION: Not Measured

TOPSOIL: SILT, appears loose to medium dense, dark brown, wet

Lean CLAY, relatively firm, gray brown, moist

Lean CLAY with Gravel, relatively stiff, gray, slightly moist

Gravelly Lean CLAY, appears very stiff, gray, slightly moist

Bottom of Test Pit

Ground water not encountered

Note: The stratification lines represent approximate boundaries between soil types. Actual boundaries may be gradual or transitional.
**Particle Size Distribution Report**

**Location:** TP-1  
**Sample Number:** A-24959  
**Depth:** 4.2 - 4.5 ft  
**Date:** 3-26-2022

**Soil Description**
Lean CLAY with Sand

**Atterberg Limits**
- \( PL = 17 \)
- \( LL = 25 \)
- \( PI = 8 \)

**Coefficients**
- \( D_{90} = 0.4032 \)
- \( D_{85} = 0.1161 \)
- \( D_{60} = \)
- \( D_{50} = \)
- \( D_{40} = \)
- \( D_{30} = \)
- \( D_{15} = \)
- \( C_{U} = \)
- \( C_{C} = \)

**Classification**
- USCS = CL
- AASHTO = A-4(5)

**Remarks**
Report No. A-24959-206

---

* (no specification provided)
**Soil Description**

Lean CLAY with Gravel

**Atterberg Limits**

- **PL** = 11.5285
- **LL** = 7.4288
- **PI** = 4.0747
- **D_90** = 7.5 mm
- **D_50** = 2.0 mm
- **D_10** = 0.3 mm
- **C_u** = 10
- **C_c** = 1

**Classification**

USCS = **CL**

**Remarks**

Report No. A-24964-206

---

**Location:** TP-2  
**Sample Number:** A-24964  
**Depth:** 4.5 - 5.0 ft  
**Date:** 3-29-2022

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* (no specification provided)
**Particle Size Distribution Report**

**Soil Description**

Lean CLAY with Sand

**Atterberg Limits**

- **PL**: 17
- **LL**: 34
- **Pl**: 17

**Coefficients**

- **D90**: 0.2881
- **D85**: 0.1166
- **D60**
- **D50**
- **D10**
- **C_U**
- **C_C**

**Classification**

- USCS: CL
- AASHTO: A-6(12)

**Remarks**

Report No. A-24970-206

**Location:** TP-4  
**Sample Number:** A-24970  
**Depth:** 0.5 - 2.5 ft  
**Date:** 3-29-2022

---

**Tested By:** WJC  
**Checked By:** [Signature]

City Council Packet, June 5, 2023 Page 241 of 354
Particle Size Distribution Report

**Location:** TP-5  
**Sample Number:** A-24974  
**Depth:** 5.0 - 6.0 ft  
**Date:** 3-29-2022

**Soil Description**
Lean CLAY with Gravel

**Atterberg Limits**

<table>
<thead>
<tr>
<th>CL</th>
<th>D90</th>
<th>D85</th>
<th>D60</th>
</tr>
</thead>
<tbody>
<tr>
<td>CL</td>
<td>16.2158</td>
<td>13.2440</td>
<td>71.9</td>
</tr>
</tbody>
</table>

**Coefficients**

<table>
<thead>
<tr>
<th>D10</th>
<th>C_u</th>
<th>C_c</th>
</tr>
</thead>
<tbody>
<tr>
<td>D10=</td>
<td>C_u=</td>
<td>C_c=</td>
</tr>
</tbody>
</table>

**Classification**
USCS= CL  
AASHTO=

**Remarks**
Report No. A-24974-206
LIQUID AND PLASTIC LIMITS TEST REPORT

Dashed line indicates the approximate upper limit boundary for natural soils.

MATERIAL DESCRIPTION

<table>
<thead>
<tr>
<th>LL</th>
<th>PL</th>
<th>PI</th>
<th>%&lt;#40</th>
<th>%&lt;#200</th>
<th>USCS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lean CLAY with Sand</td>
<td>25</td>
<td>17</td>
<td>8</td>
<td>90.1</td>
<td>82.1</td>
</tr>
</tbody>
</table>

Project No. K21-063- Client: High Water, LLC
Project: Dodrill Subdivision
Whitefish, Montana
Location: TP-1
Sample Number: A-24959
Depth: 4.2 - 4.5 ft

Remarks:
- Report No. A-24959-207
- Date: 3-29-2022

THOMAS, DEAN & HOSKINS, INC.
ENGINEERING CONSULTANTS

Figure 11

Tested By: BC 
Checked By: Craig R. Nashan
LIQUID AND PLASTIC LIMITS TEST REPORT

Dashed line indicates the approximate upper limit boundary for natural soils

MATERIAL DESCRIPTION | LL | PL | PI | %<#40 | %<#200 | USCS
---|---|---|---|---|---|---
SILT | 21 | 20 | 1 | | | ML

Tested By: J B
Checked By: Craig L. Nashawn

THOMAS, DEAN & HOSKINS, INC.
ENGINEERING CONSULTANTS

Report No. A-24967-207
Date: 3-31-2022

Remarks:
- High Water, LLC
- Dodrill Subdivision
- Whitefish, Montana
- TP-3
- A-24967
- 3.7 - 4.0 ft

City Council Packet, June 5, 2023 Page 244 of 354
LIQUID AND PLASTIC LIMITS TEST REPORT

Dashed line indicates the approximate upper limit boundary for natural soils

MATERIAL DESCRIPTION | LL | PL | PI | %<#40 | %<#200 | USCS
--- | --- | --- | --- | --- | --- | ---
Lean CLAY with Sand | 34 | 17 | 17 | 90.8 | 81.0 | CL

Project No. K21-063- Client: High Water, LLC
Project: Dodrill Subdivision
Location: TP-4
Sample Number: A-24970
Depth: 0.5 - 2.5 ft
Remarks:
- Report No. A-24970-207
- Date: 3-31-2022

THOMAS, DEAN & HOSKINS, INC.
ENGINEERING CONSULTANTS

Tested By: BS
Checked By: Craig L. Nadler

City Council Packet, June 5, 2023 Page 245 of 354
### LIQUID AND PLASTIC LIMITS TEST REPORT

Dashed line indicates the approximate upper limit boundary for natural soils.

<table>
<thead>
<tr>
<th>MATERIAL DESCRIPTION</th>
<th>LL</th>
<th>PL</th>
<th>PI</th>
<th>%&lt;40</th>
<th>%&lt;200</th>
<th>USCS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lean CLAY with Gravel</td>
<td>44</td>
<td>19</td>
<td>25</td>
<td></td>
<td></td>
<td>CL</td>
</tr>
</tbody>
</table>

- **Project No.** K21-063
- **Client:** High Water, LLC
- **Project:** Dodrill Subdivision
- **Location:** Whitefish, Montana
- **Location:** TP-5
- **Sample Number:** A-24972
- **Depth:** 1.0 - 2.1 ft

**Remarks:**
- Report No. A-24972-207
- Date: 4-1-2022

**THOMAS, DEAN & HOSKINS, INC.**
ENGINEERING CONSULTANTS

**Tested By:** BC
**Checked By:** Craig L. Nashan

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Moisture-Density Test Report

Test specification: ASTM D 698-12 Method A Standard
ASTM D4718-15 Oversize Corr. Applied to Each Test Point

<table>
<thead>
<tr>
<th>Elev/Depth</th>
<th>Classification</th>
<th>Nat. Moist.</th>
<th>Sp.G.</th>
<th>LL</th>
<th>PI</th>
<th>% &gt; #4</th>
<th>% &lt; No.200</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.2 - 4.5 ft</td>
<td>CL</td>
<td>A-4(5)</td>
<td>2.65</td>
<td>25</td>
<td>8</td>
<td>5.7</td>
<td>82.1</td>
</tr>
</tbody>
</table>

**ROCK CORRECTED TEST RESULTS**

Maximum dry density = 114.0 pcf
Optimum moisture = 14.0 %

**UNCORRECTED**

111.9 pcf
14.8 %

**MATERIAL DESCRIPTION**

Lean CLAY with Sand

**Remarks:**
Report No. A-24959-204
Date: 3-27-2022

**Location:** TP-1
**Sample Number:** A-24959

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Moisture-Density Test Report

Test specification: ASTM D 698-12 Method A Standard

Maximum dry density = 108.6 pcf
Optimum moisture = 17.1 %

<table>
<thead>
<tr>
<th>Elev/ Depth</th>
<th>Classification</th>
<th>Nat. Moist.</th>
<th>Sp.G.</th>
<th>LL</th>
<th>PI</th>
<th>% &gt; #4</th>
<th>% &lt; No.200</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.5 - 2.5 ft</td>
<td>CL</td>
<td>A-6(12)</td>
<td>2.65</td>
<td>34</td>
<td>17</td>
<td>4.6</td>
<td>81.0</td>
</tr>
</tbody>
</table>

TEST RESULTS

Lean CLAY with Sand

Remarks:
Report No. A-24970-204
Date: 3-27-2022

Project No. K21-063- Client: High Water, LLC
Project: Dodrill Subdivision
Whitefish, Montana
Location: TP-4 Sample Number: A-24970

Figure 16
**BEARING RATIO TEST REPORT**  
**ASTM D1883-16**

**Project No:** K21-063-001  
**Project:** Dodrill Subdivision Whitefish, Montana  
**Location:** TP-1  
**Sample Number:** A-24959  
**Depth:** 4.2 - 4.5 ft  
**Date:** 3-26-2022

**Test Description/Remarks:**  
ASTM D698 with 6-inch mold  
96-hour soak prior to testing  
Report No. A-24959-210  
Date: 4-4-2022

---

**Material Description USCS**  
Lean CLAY with Sand

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
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<tbody>
<tr>
<td>1</td>
<td>101.0</td>
<td>88.6</td>
<td>13.7</td>
<td>100.5</td>
<td>88.2</td>
<td>21.9</td>
<td>1.7</td>
<td>1.5</td>
<td>0.000</td>
<td>10</td>
</tr>
<tr>
<td>2</td>
<td>106.2</td>
<td>93.2</td>
<td>13.7</td>
<td>105.3</td>
<td>92.4</td>
<td>20.0</td>
<td>3.7</td>
<td>3.5</td>
<td>0.000</td>
<td>10</td>
</tr>
<tr>
<td>3</td>
<td>115.0</td>
<td>100.9</td>
<td>13.9</td>
<td>113.1</td>
<td>99.3</td>
<td>17.1</td>
<td>13.7</td>
<td>13.8</td>
<td>0.038</td>
<td>10</td>
</tr>
</tbody>
</table>

**Penetration Resistance (psi)**  
Penetration Depth (in.)

**Penetration Resistance (psi)**  
Penetration Depth (in.)

**Swell (%)**  
Elapsed Time (hrs)

**CBR (%)**  
Surcharge (lbs.)

**Max. Swell (%)**  
Max. Dens.

**Optimum Moisture (%)**  
LL

**CL**  
114.0

**14.0**

**13.7**

**13.8**

**13.7**

**13.8**

**14.0**

**25**

**8**
**Material Description**

<table>
<thead>
<tr>
<th>USCS</th>
<th>Max. Dens. (pcf)</th>
<th>Optimum Moisture (%)</th>
<th>LL</th>
<th>PI</th>
</tr>
</thead>
<tbody>
<tr>
<td>CL</td>
<td>108.6</td>
<td>17.1</td>
<td>34</td>
<td>17</td>
</tr>
</tbody>
</table>

**Test Description/Remarks:**

ASTM D698 with 6-inch mold
96-hour soak prior to testing

Report No. A-24970-210
Date: 4-4-2022
STANDARD PENETRATION TEST (ASTM D1586)

<table>
<thead>
<tr>
<th>RELATIVE DENSITY*</th>
<th>Granular, Noncohesive (Gravels, Sands, &amp; Silts)</th>
<th>Standard Penetration Test (blows/foot)</th>
<th>Fine-Grained, Cohesive (Clays)</th>
<th>Standard Penetration Test (blows/foot)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Loose</td>
<td>0-4</td>
<td>Very Soft</td>
<td>0-2</td>
<td></td>
</tr>
<tr>
<td>Loose</td>
<td>5-10</td>
<td>Soft</td>
<td>3-4</td>
<td></td>
</tr>
<tr>
<td>Medium Dense</td>
<td>11-30</td>
<td>Firm</td>
<td>5-8</td>
<td></td>
</tr>
<tr>
<td>Dense</td>
<td>31-50</td>
<td>Stiff</td>
<td>9-15</td>
<td></td>
</tr>
<tr>
<td>Very Dense</td>
<td>+50</td>
<td>Very Stiff</td>
<td>15-30</td>
<td></td>
</tr>
</tbody>
</table>

* Based on Sampler-Hammer Ratio of 8.929 E-06 ft/lbf and 4.185 E-05 ft^2/lbf for granular and cohesive soils, respectively (Terzaghi)

PARTICLE SIZE RANGE

<table>
<thead>
<tr>
<th>Sieve Openings (inches)</th>
<th>Standard Sieve Sizes</th>
</tr>
</thead>
<tbody>
<tr>
<td>12”</td>
<td>3”</td>
</tr>
<tr>
<td>3/4”</td>
<td>No. 4</td>
</tr>
<tr>
<td>No. 10</td>
<td>No. 40</td>
</tr>
<tr>
<td>No. 200</td>
<td>&lt; No. 200</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BOULDERS</th>
<th>COBBLES</th>
<th>GRAVELS</th>
<th>SANDS</th>
<th>SILTS &amp; CLAYS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coarse</td>
<td>Fine</td>
<td>Coarse</td>
<td>Medium</td>
<td>Fine</td>
</tr>
</tbody>
</table>

(Distinguished by Atterberg Limits)

PLASTICITY CHART

For classification of fine-grained soils and the fine-grained fraction of coarse-grained soils.

Equation of "A"-line
Horizontal at PI = 4 to LL = 25.5, then PI = 0.73 (LL-20)

Equation of "U"-line
Vertical at LL = 16 to PI = 7, then PI = 0.9 (LL-8)

GW - Well-graded GRAVEL  SW - Well-graded SAND  CL - Lean CLAY
GP - Poorly-graded GRAVEL SP - Poorly-graded SAND  ML - SILT
GM - Silty GRAVEL        SM - Silty SAND        OL - Organic SILT/CLAY
GC - Clayey GRAVEL       SC - Clayey SAND       CH - Fat CLAY
                      MH - Elastic SILT          MH - Elastic SILT
                      OH - Organic SILT/CLAY

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DRAFT
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
THE HIGH WATER SUBDIVISION

ARTICLE I. DECLARATION AND PURPOSE

Section 1.1: Declarants: The undersigned is the Declarants, David Dodrill and High Water, LLC, original owners of all property encompassed in The High Water Subdivision. The Declarants hereby declares for itself, its successors, and assigns, that all property in The High Water Subdivision shall always be owned, held, used, and occupied subject to the provisions contained in this Declaration of Covenants, Conditions, and Restrictions. The Declarants is to hold all rights and responsibilities of the future Homeowners Association as detailed in this declaration in order to care for and manage The High Water Subdivision during the Period of Declarants Control.

Section 1.2: Property: shall mean all residential lots and common areas in The High Water Subdivision according to the final plat on record in the office of the Clerk on Recorder of Flathead County, Montana. Additional property to be added to The High Water Subdivision shall also be subject to and comply with this declaration. Declarants has the right to modify property and easements during the Period of Declarants Control.

Section 1.3: Purpose: The purpose of these Covenants, Conditions, and Restrictions is to establish and maintain guidelines for developing, building, maintaining, living, and governing in The High Water Subdivision in order to ensure and preserve attractiveness, safety, livability, and values for the benefit of homeowners and residents in the subdivision. This declaration is meant to ensure all properties maintain a minimum standard of care and quality and to guard against improper use of homes or property.

Section 1.4: Term: These Covenants, Conditions, and Restrictions shall be binding to all property within The High Water Subdivision and shall transfer to all future owners.

Section 1.5: Amendments: Shall there be a need to modify these Covenants, Conditions, and Restrictions, an amendment(s) signed by a majority of property owners in agreement of any changes must be recorded.

ARTICLE II. DEFINITIONS

Section 2.1: Architectural Review Committee or ARC means the committee formed to review project proposals for architecture, design, construction, landscaping, fencing, and exterior improvements to ensure compliance with this declaration and attractiveness and harmony throughout The High Water Subdivision.

Section 2.2: Articles of Incorporation shall mean Articles of Incorporation of The High Water Subdivision Homeowners Association, as the same may be amended from time to time.

Section 2.3: Assessments means the annual, special, and default assessments levied to meet the estimated financial requirements of The High Water Subdivision Homeowners Association.

Section 2.4: Board of Directors means board of directors of the Homeowners Association.
Section 2.5: Bylaws shall mean the bylaws of The High Water Subdivision Homeowners Association which establish methods and procedures of its operation, as the same may be amended from time to time.

Section 2.6: Common Area shall mean all property in The High Water Subdivision subject to this declaration but excluding individual lots within the property. Common areas are for common use and benefit to all homeowners. Common area maintenance is the responsibility of the Homeowners Association.

Section 2.7: Common Expenses means expenses to maintain The High Water Subdivision as defined by The High Water Subdivision Homeowners Association. Common Expenses include road and common area maintenance, servicing, conserving, management, administration, duties to comply with this declaration, and any other expenses deemed necessary by the Homeowners Association for care of The High Water Subdivision.

Section 2.8: Declarants means the undersigned, its successors, or assigns acting as the original owner(s) of the property.

Section 2.9: Declaration means this Declaration of Covenants, Conditions, and Restrictions for The High Water Subdivision.

Section 2.10: Design Guidelines are guidelines specified in this declaration meant to provide design standards for the exteriors of any lot or common area.

Section 2.11: The High Water Subdivision shall mean The High Water Subdivision as defined on recorded plat.

Section 2.12: Homeowners Association or HOA means Homeowners Association of The High Water Subdivision.

Section 2.13: Improvements means all buildings, parking areas, fences, walls, landscaping, lighting, driveways, roads, trails, gates, signs, changes in any exterior color or shape, excavation and all other site work, including, without limitations, grading, road construction, utility improvements, removal or maintenance of trees or plants, and any new exterior construction or exterior improvement which may not be included in the foregoing. Improvements do not include turf repair or negligible improvements which will not affect colors or exterior appearance. Improvements means all current and future improvements.

Section 2.14: Lot means parcel of land designated as a lot on the recorded plat.

Section 2.15: Member means any person or entity holding membership in The High Water Subdivision Homeowners Association.

Section 2.16: Owner means the person or persons, entity or entities, who own of record, according to the real property records of Flathead County, Montana, fee simple title to a Lot, except that a person purchasing a Lot under contract for deed which is recorded in the records of Flathead County, Montana.

Section 2.17: Period of Declarants Control means the period beginning on the date this declaration is first recorded in the office of the Clerk and Recorder of Flathead County, Montana, and
ending on the earlier of: (a) the date which is 20 years later, or (b) the date on which the Declarants has sold 90% of the Lots on all of the plats.

Section 2.18: Plat means recorded survey of all or part of the property.

Section 2.19: Utilities: For this declaration, utilities shall mean water, sewer, electricity, and natural gas.

ARTICLE III. HOMEOWNERS ASSOCIATION

Section 3.1: Homeowners Association: The Homeowners Association, or HOA, shall act as a homeowner’s association for The High Water Subdivision. The Homeowners Association shall be established at the expiration of the Period of Declarants control as defined in this declaration or at a specified point in time which is written, recorded, and agreed upon between the majority of owners and the Declarants.

Section 3.2: Membership: All owners of lots within The High Water Subdivision shall be members of the Homeowners Association. The owners of any lot shall automatically become members of the HOA until ownership of the lot(s) ceases for any reason. The Declarants shall be a member to the extent of the lot ownership of the same.

(a) Contact Information: Upon acquiring ownership of a lot, the owner shall immediately inform HOA of names and contact information. Owners shall be responsible for informing HOA of any change in contact information.

Section 3.3: Board of Directors: At the establishment of the Homeowners Association, there shall be inaugurated a manager of the HOA who will sit on the board of directors. The HOA may establish other directors as necessary. The Board of Directors is responsible for organizing and managing all duties of the HOA. The Board of Directors shall schedule HOA meetings from time to time as needed and shall manage expenses and assessments. Except for management and execution of obligations of the HOA, the Board of Directors shall have no other powers except those granted to all members. The HOA shall establish terms for members of the board of directors as they see fit.

Section 3.4: Voting: There shall be one vote for each lot.

Section 3.5: Powers and Duties: Subject to the rights and obligations of this declaration, the HOA will be responsible for the administration and operation of The High Water Subdivision.

(a) Common Areas: The HOA is responsible for maintaining common areas for safe use by all and visual appeal. Common areas include roads, common sidewalks, boulevards, and any other areas within The High Water Subdivision that are not on individually owned lots. The HOA may grant easements, rights-of-way, leases, licenses, and concessions through or over the common area for the purpose of accommodating minor encroachments by utilities, adjacent property owners, or other purposes that do not unreasonably interfere with the use of the Common Area by owners.

(b) Utilities: HOA is responsible for coordinating maintenance and repair of underground utilities in common areas as needed. Owners are responsible for repair of utilities serving individual lots and at connections to main utility lines in the street. Owners are responsible for repair of utilities
serving an individual lot, even if the location of repair is in a Common Area. HOA is not responsible for utility repairs at connections or to individual lots.

(c) Common Expenses: The HOA is responsible for managing common expenses shared by all owners. Common expenses shall include road maintenance, snow removal in common areas, common area maintenance, servicing, conserving, management, administration, duties to comply with this declaration, and any other expenses deemed necessary by the Homeowners Association for care of The High Water Subdivision.

(d) Weed Control: Weed Control in Common Areas is the responsibility of the HOA. The HOA shall guard against noxious weeds as defined by Flathead County, Montana. The HOA shall control weeds and landscaping in common areas in order to maintain visual appeal throughout the subdivision. The HOA is not responsible for weed control on individual lots or on easements which are on individual lots. If an owner of a lot is not exercising weed control deemed necessary by the HOA, the HOA may take action on account of non-compliance with this declaration.

(e) Road Maintenance: The HOA is responsible for maintaining roads in The High Water Subdivision, including but not limited to snow removal, drainage features, pavement chip sealing, new striping, new pavement, and a means to accumulate funds for these expenses.

(f) Sidewalks and Boulevards: The HOA is responsible for snow removal, weed control, and other repairs and maintenance on common area sidewalks and boulevards in order to maintain safety standards and visual appeal.

(g) Easements: The HOA has the right to easements on individual lots for the purpose of inspections and maintenance of utilities or access to common areas. Except for underground utility maintenance, upkeep of easements on individual lots is the responsibility of the corresponding owner(s) of the lot.

(h) Books and Records: The HOA is responsible for keeping updated books, records, documents, and financial statements and will make them available for inspection by Owners upon request.

(i) Budget and assessments: The HOA is responsible for keeping a budget and estimating yearly expenses for The High Water Subdivision. The HOA is responsible for setting and collecting annual assessments and managing money and expenses throughout the year.

(j) Committees: The HOA may delegate duties and responsibilities to any committee or other entity that the HOA may choose to form. The HOA shall support and maintain an active Architectural Review Committee to review ongoing improvements in the subdivision.

(k) Remedies for non-compliance with the Declaration of Covenants, Conditions, and Restrictions: The HOA may establish and charge fines for violations of this declaration. The HOA has the right to take action for violations to this declaration to the extent allowed by law.

(l) Meetings: The HOA is responsible for scheduling and holding meetings from time to time. All owners shall be notified of all HOA meetings not less than 30 days in advance of any meeting.
ARTICLE IV.    ASSESSMENTS

Section 4.1: Assessments: Each owner of any lot, by acceptance of the deed to a lot, is deemed to covenant and agree to pay to the HOA assessments for common expenses. All types of assessments shall be payable to the HOA in installments and on dates determined by the HOA. The HOA shall notify owners of assessments, installments, and due dates no less than thirty (30) days prior to due dates.

Section 4.2: Annual Assessments: The HOA shall figure and collect annual assessments from each owner in an amount equal for each lot based on estimated common expenses for the year. Annual Assessments shall be prorated for lots which transfer ownership during a year.

Section 4.3: Special Assessments: Special Assessments may be collected for capital improvements or other purposes agreed upon within the HOA and not included in annual assessments. Special Assessments shall be equal for each lot.

Section 4.4: Default Assessments: Default assessments may be assessed against a lot pursuant to this declaration for the Owner’s failure to perform an obligation under this declaration or because the HOA has incurred an expense on behalf of or caused by the owner.

Section 4.5: Remedies for Nonpayment of Assessment: Any installment of an Assessment which is not paid within thirty (30) days after its due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The HOA or manager may bring an action at law against the owner personally and/or place and foreclose a lien against the property. No owner may not waive or otherwise escape liability for the assessments or charges provided for herein by non-use of the common area or abandonment of their unit. If there is a default in payment of an installment of an assessment or charge, the HOA may accelerate the remaining balance of the annual or special assessment due by giving ten days written notice to the defaulting owner.

Section 4.6: No refunds: No owner shall be entitled to any rebate, return, or refund of any amount of assessments paid to the HOA which are held as cash on hand or in any reserve account.

Section 4.7: No Assessments for Declarants: Notwithstanding the ownership of any empty lot, the Declarants shall not be obligated to pay any assessments.

ARTICLE V.    PROPERTY USE RESTRICTIONS

Section 5.1: Easements: The property will be subject to all easements shown on any recorded Plat.

Section 5.2: Land Use: Each lot may be used for a single-family home. There shall be no commercial use on the property. Rentals or home office or related uses which do not result in increased vehicular traffic shall not be considered commercial use. Garage sales shall be permitted, as long as no more than two such sales are conducted per year on any lot.

Section 5.3: Rentals: No short-term rentals shall be allowed. No lot may be used as a rental for less than 30 days at a time.

Section 5.4: No subdivision of Lots: No Lot shall be further subdivided in any manner.
**Section 5.5: Structures:** There shall be no more than one single family home on any lot. No basements allowed. Structures, including fences, must conform to setbacks and height restrictions set by Flathead County. Accessory structures for storage and recreation may be allowed per Flathead County Zoning regulations and upon approval of the Architectural Review Committee. Fencing must be in accordance with the design guidelines and must be approved by the Architectural Review Committee.

**Section 5.6: Driveways:** Each home shall have a driveway paved in asphalt or concrete. Driveways shall be constructed to not interfere with drainage and shall include culverts where necessary.

**Section 5.7: Dwelling Construction:** All dwellings shall be constructed on the lot with new materials. There shall be no trailer homes, mobile homes, modular homes, or prefabricated homes placed on any lot. Used materials in good condition, such as brick, stone, or timber beams may be utilized provided advance approval has been obtained from the Architectural Review Committee. All construction must conform to Local Building Codes and Fire Codes. All construction shall be completed within 12 months after the start of construction.

**Section 5.8: Drainage Control:** Reasonable precautions shall be taken during construction and thereafter to prevent erosion and drainage problems. All disturbed soil areas shall be revegetated with a reasonable time is such a fashion to minimize erosion.

**Section 5.9: Utilities:** All utilities shall be placed underground. The subdivision shall be connected to Evergreen water and sewer systems. No private water or sewer systems may be constructed.

**Section 5.10: Antennas, Poles, and other structures:** No antennas, poles, cellular telephone towers, communication towers, or other structures shall be erected unless approved by the Architectural Review Committee prior to installation. Any satellite dish receiver must be 24 inches or less in diameter and shall not be visible from any road.

**Section 5.11: House numbers:** Owners shall maintain house numbers which are clearly visible from the street.

**Section 5.12: Vehicles:** All vehicles shall be parked in garages or driveways. The parking or storage of campers, camping trailers, recreational vehicles, boats, snowmobiles, trailers, or unlicensed vehicles is prohibited unless in an enclosed garage or screened from view.

**Section 5.13: Animals:** Dogs (no more than 2) or cats (no more than 2) or other small household pets may be kept, providing that they are not kept, bred, or maintained for any commercial purpose. No livestock or poultry of any kind shall be raised, bred, or kept on any lot. Household pets must be contained upon owner’s lot. In common areas, pets must be kept on leashes and cleaned up after. All pet enclosures shall be kept in the rear yard of a lot. No dog which barks and can be heard on any frequent or continuing basis shall be kept on any lot. Pets constituting a nuisance may be ordered by the HOA to be kept within the residence of the owner or ordered expelled from The High Water Subdivision.

**Section 5.14: Signs:** No signs, billboards, banners, or advertising devices of any nature except as may be authorized by the Architectural Review Committee shall be erected on any lot except for temporary For Sale signs.

**Section 5.15: Outdoor Lighting:** All outdoor lighting must be dark-sky friendly. Lighting shall serve only the lot on which it is located. A reasonable effort should be exercised to limit light pollution and lights shining onto neighboring properties.
Section 5.16: Landscaping: Landscaping of an entire lot must occur within 1 year of excavation or other ground disturbance following approval of landscaping plans by the Architectural Review Committee.

Section 5.17: No Noxious weeds: No Noxious weeds, as defined by Flathead County, may be allowed on any lot or in any common area.

Section 5.18: No hunting: No hunting of any kind shall be permitted in The High Water Subdivision.

Section 5.19: No fuel tanks: No fuel tanks, whether above or below ground, shall be permitted in The High Water Subdivision.

Section 5.20: No oil drilling: No oil drilling, oil development operations, oil refining, quarrying, or mining operation of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structures designed for use in boring for natural gas shall be erected, maintained, or permitted upon any lot.

ARTICLE VI. OWNERS RIGHTS AND RESPONSIBILITIES

Section 6.1: Abide by Declaration: Agreed upon at acceptance of a deed to any lot, all owners and residents in The High Water Subdivision must conform and abide to all portions of this declaration.

Section 6.2: Homeowners Association: All owners are automatically equal members of the Homeowners Association as of its initiation. All owners have equal voting rights, however all votes must be collected at times given and through methods established by the HOA in order to be counted.

(a) Contact Information: Owner is responsible for providing to the HOA current contact information and notifying the same of any updates to contact information immediately.

Section 6.3: Assessments: All owners must pay assessments as levied by the HOA. Nonpayment of assessments is subject to action as allowed by this declaration and by law.

Section 6.4: Property taxes: It is acknowledged that, for property tax purposes, Flathead County and the State of Montana may allocate to each Lot a fractional, proportional portion of the value attributable to the Common Areas. By accepting a deed to a Lot, the Owner agrees to this mechanism for property taxation and agrees to pay a proportional share, as allocated by Flathead County and the State of Montana, of the taxes attributable to the value of the Common Areas, while at the same time allowing the HOA to administer and control the Common Areas.

Section 6.5: Maintenance: Owners are responsible for maintaining all structures, land, driveways, sidewalks, and any other features on the lot in working order and in appealing condition to promote safety, health, visual attractiveness, and value in the neighborhood. All expenses incurred as a result of maintenance shall be the responsibility of the owner. If reasonable maintenance is not being exercised in the opinion of the HOA, the HOA may take action for non-conformance to this declaration.

Section 6.6: Improvements: Improvements are encouraged to maintain quality and increase value. Improvements that change the exterior of the home or the lot must be submitted to and approved by the Architectural Review Committee prior to initiation of any project.
Section 6.7: Weeds: Owners are responsible for guarding against and treating weeds on any part of the lot.

Section 6.8: Easement Access: Access must be granted to easements by the HOA or utility companies for inspections and maintenance.

Section 6.9: Easement Maintenance: Easements on any individual lot shall be maintained by the owner of the lot.

Section 6.10: Trash: Trash removal for each lot is the responsibility of the owners. No trash or debris shall be collected, piled, or burned on any part of any lot. The HOA may choose to organize trash pickup for the subdivision and add the expense to annual assessments.

Section 6.11: Snow Removal: Snow removal on any driveway or private sidewalk is the responsibility of the owner. Driveways and sidewalks shall be cleared as needed to maintain safety for residents and visitors.

Section 6.12: Landscaping: Landscaping shall be maintained regularly to promote health, safety, value, and guard against weeds. Landscaping on any lot is the responsibility of the owner. Landscaping shall be established and maintained on each entire lot to provide erosion control and visual appeal. Lawns and landscaping features shall be irrigated and mowed/trimmed as needed. Any improvements to landscaping which change the look or character of the lot shall be submitted and approved by the Architectural Review Committee prior to commencement of any project.

Section 6.13: No noxious activity: No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

ARTICLE VII. DESIGN GUIDELINES

Section 7.1: Purpose: The purpose of design guidelines is to provide guidelines and expectations for the exterior appearance and quality of all structures in The High Water Subdivision to owners, builders, or any other entities involved in establishing, maintaining, or improving all areas in The High Water Subdivision except the interiors of residences. The Design Guidelines are meant to ensure all structures in The High Water Subdivision meet a high standard of quality and appearance in order to maintain pride and value throughout the subdivision.

Section 7.2: Applicable Features: All exterior structures, landscaping, hardscapes, fencing, and all other exterior features, whether permanent or temporary, shall be subject to these design guidelines. Any exterior improvement that changes the appearance or quality of the lot or structures on the lot must comply with the design guidelines.

Section 7.3: Enforcement: All new structures or improvements to exteriors must be submitted and approved by the Architectural Review Committee prior to commencement of any project as described in Article VIII. If any feature is created which has not been approved by the Architectural Review Committee, the HOA may take action for non-compliance with this declaration including but not limited to demanding removal of the unapproved feature, charging a fine for a violation, or taking action as allowed by law.
Section 7.4: Architecture: Homes and secondary structures shall be of complementary architecture to other structures in the neighborhood.

Section 7.5: Exterior Finishes: Exterior colors shall be pleasant and complementary to surrounding exterior finishes in the neighborhood. Colors in the subdivision shall be complementary, but not matching in order to achieve pleasing variation. The primary home structure on each lot must have at least two colors. Neighboring homes must have reasonable variation in color. No structure on any lot shall have a roof or exterior siding which is silver or metallic colored, reflective, or shiny. Only Class A or B roofing materials, as rated by the National Fire Protection Association, shall be allowed on all structures.

Section 7.6: Secondary structures: sheds, canopies, or other yard structures must complement the primary structure in architecture and exterior finishes and must be approved by the Architectural Review Committee prior to construction or installation.

Section 7.7: Landscaping: Each lot shall be landscaped completely to provide erosion control and visual appeal. A mixture of grass lawn, trees, hardscape areas, and garden areas is encouraged. Plant species natural to the area are encouraged.

Section 7.8: Fencing: Fencing must comply with Flathead County zoning restrictions. No fencing is allowed forward of the front of the primary residential structure. Allowable fencing options include but are not limited to wood, chain link, and vinyl. Other fencing materials may be permitted at the discretion of the Architectural Review Committee.

ARTICLE VIII. ARCHITECTURAL REVIEW COMMITTEE

Section 8.1: Committee and Purpose: An Architectural Review Committee (ARC) shall exist to review and ensure compliance with the design guidelines and property use regulations in order to ensure standards of quality and visual appeal throughout The High Water Subdivision. During the Period of Declarants Control, the ARC shall consist of at least two members appointed by the Declarants.

(a) Members and Management: The HOA shall manage the ARC and establish membership practices and terms. Members of the ARC may be HOA members, or the HOA may choose to hire external consultants as members for the ARC. The ARC must be comprised of at least two committee members at all times. One member of the ARC shall be the main contact person and shall receive submittals and communicate on behalf of the ARC.

Section 8.2: Scope: The Architectural Review Committee must review and approve of the appearance and materials of all structures on the exterior of the home on any lot. The ARC is NOT responsible for reviewing construction methods or practices for safety or compliance with building codes. The ARC shall not have control of or influence over anything on the interior of any structure. Items that must be submitted and approved by the ARC include but are not limited to: new homes, new accessory structures, fencing, landscaping, tree removal, and improvements, including new paint colors, to any of the same. ARC review for the foregoing is necessary for work on all lots and in all common areas. ARC approval is not necessary for planting small gardens, bushes, or trees. The ARC must review submittals based on this declaration and the design guidelines. The ARC may use its judgement and interpretation of this declaration while reviewing submittals. Wherein a submittal, or portion of a submittal, is not addressed in this declaration, the ARC may use discretion based on the appearance and values of the subdivision. Previous or existing construction or installation of exterior features or elements in the subdivision does not justify future approvals of similar elements, and each submittal will be reviewed individually and considered on a case by case basis.
Section 8.3: Required Submittals: An owner, builder, or other representative must provide detailed plans for new construction or improvements for ARC review. Plans shall show location and the exterior appearance of the structure. Plans must include colors and types of materials. Plans and other necessary documents may be emailed to the designated ARC contact person. The HOA shall keep current contact information for the ARC contact person and shall share the information when requested. The ARC may request additional information or materials such as color or material samples if they feel it is necessary to review any given project.

Section 8.4: Fees: The HOA may decide to charge a fee for Architectural Review to compensate for review time, meeting and submittal management, or outside hires if applicable. The fee and any details regarding the fee must be disclosed to all owners prior to being charged for any project.

Section 8.5: Review Process: The ARC may choose to have regular meeting or scheduled meetings, but meeting may not be required in all cases. The ARC members may choose to communicate in person or in any other manner about submittals. The designated ARC contact shall collect submittal documents and disperse them to the committee using a method agreed upon by the committee. The ARC contact person shall respond to the submittal in writing with the conclusion of the review agreed upon by all members of the ARC. The conclusion may be approval, disapproval, or conditional approval. Commencement of any project shall not occur until final approval has been granted by the ARC and any applicable fees have been paid.

Section 8.6: Timeline: The ARC shall have thirty (30) days from the date of submittal to complete the review process and issue a response. The ARC shall issue a written response within 30 days. Construction or installation of approved projects may begin when approval is issued provided any appropriate fees have been paid. Where disapprovals exist, future submittals for the same project shall be treated as new submittals and are subject to an additional 30 day review timeline. Where conditional approvals exist, work may commence after the required conditions are agreed upon in writing, providing any applicable fees have been paid. In an event in which no response is issued by the ARC within the 30 day review timeline, the project shall be deemed approved, however it is the responsibility of the owner to ensure it meets standards in this declaration.

Section 8.7: Revisions to Processes: The ARC and the HOA jointly shall have the power to change, add, or modify ARC processes, applications, and practices as necessary. Any change must be written and recorded prior to initiation on new or changed processes.

ARTICLE IX. MISCELLANEOUS

Section 9.1: Limited Liability: Neither the Declarants, the HOA, the ARC, nor their respective members shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

Section 9.2: Severability: Invalidity or unenforceability of any provision contained in this declaration in whole or in part shall not affect the validity or enforceability of any other provision of the declaration.

Section 9.3: No Waiver: Failure to enforce any provision contained in this declaration shall not operate as a waiver of any such provision or of any other provision of this declaration.

Section 9.4: Entirety: This declaration shall be binding in its entirety and any article or section of this document cannot stand alone.
Signature of Declarants

__________________________________________ Date:___________________________
David Dodrill - Declarant

__________________________________________ Date:___________________________
High Water, LLC - Declarant

STATE OF MONTANA, COUNTY OF FLATHEAD

On this ____________ day of ____________, 20__, before me, the undersigned, a Notary public for
the State of Montana, personally appeared the Declarants, known to me to be the persons whose name is
subscribed to the within instrument and acknowledged to me that such person executed the same.

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

______________________________
Notary Public
April 3, 2023

Doug Kauffman
TD&H Engineering
450 Corporate Drive, Suite 101
Kalispell MT 59901

RE: K21-063 HIGH WATER - DODRILL SUBDIVISION, FLATHEAD COUNTY. SHPO Project #: 2023040310

Dear Mr. Kauffman:

I have conducted a cultural resource file search for the above-cited project located in Section 32, T31N R21W. According to our records there has been one previously recorded site within the designated search locale. In addition to the site there have been a few previously conducted cultural resource inventories done in the area. I’ve attached a list of the site and reports. If you would like any further information regarding the site or reports, you may contact me at the number listed below.

It is SHPO’s position that any structure over fifty years of age is considered historic and is potentially eligible for listing on the National Register of Historic Places. If any structures are within the Area of Potential Effect, and are over fifty years old, we would recommend that they be recorded, and a determination of their eligibility be made prior to any disturbance taking place.

As long as there will be no disturbance or alteration to structures over fifty years of age, we feel that there is a low likelihood cultural properties will be impacted. We, therefore, feel that a recommendation for a cultural resource inventory is unwarranted at this time. However, should structures need to be altered or if cultural materials are inadvertently discovered during this project, we would ask that our office be contacted, and the site investigated.

If you have any further questions or comments, you may contact me at (406) 444-7767 or by e-mail at dmurdo@mt.gov. I have attached an invoice for the file search. Thank you for consulting with us.

Sincerely,

Damon Murdo
Cultural Records Manager
State Historic Preservation Office

File: LOCAL/SUBDIVISIONS/2023
Bill To:
Contact Name: Doug Kauffman
Organization: TD&H Engineering
Address: 450 Corporate Drive, Suite 101
City/State/Zip: Kalispell MT 59901

Project Name: K21-063 HIGH WATER - DODRILL SUBDIVISION, FLATHEAD COUNTY

File Search Fee Structure
$35 / Section Searched

For questions contact:
Damon Murdo
dmurdo@mt.gov
406-444-7767

Total Cost: $35.00

Total sections searched for SHPO Project #: 2023040310 1

Please make all checks payable to:
Montana Historical Society
PO Box 201201
Helena, MT 59620

** PAY ONLINE HERE **
https://svc.mt.gov/doa/opp/HISSHPO/cart
Due upon receipt. Please pay within 30 days.
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<tr>
<td><strong>MCLEAN GARY A.</strong></td>
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<td>7/5/1990</td>
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<td>WILLOW BROOK DEVELOPMENT</td>
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<tr>
<td>CRABS Document Number: FH 6 3215</td>
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<tr>
<td><strong>NEWTON CODY</strong></td>
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<td>1/24/2014</td>
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<tr>
<td>CULTURAL RESOURCES RECONNAISSANCE EVALUATION OF THE MT1 BLACKFISH TELECOMMUNICATIONS PROJECT; 322 FIR AVENUE, WHITEFISH, FLATHEAD COUNTY, MONTANA</td>
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<td>CRABS Document Number: FH 6 36784</td>
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<td><strong>HOPE SHANE S.</strong></td>
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<td>EAS: T-MOBILE WEST MT01067E</td>
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<td>CRABS Document Number: FH 6 38428</td>
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<td>Agency Document Number:</td>
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ORDINANCE NO. 23-___

An Ordinance of the City Council of the City of Whitefish, Montana, amending Ordinance Nos. 18-01, 19-02 and 21-14, which approved and subsequently amended the 95 Karrow, LLC Preliminary Plat and Planned Unit Development, to develop a mixed-use development on the former Idaho Timber property located at 95 Karrow Avenue, Whitefish.

WHEREAS, on January 2, 2018, the Whitefish City Council adopted Ordinance No. 18-01, which approved the 95 Karrow, LLC Preliminary Plat and Planned Unit Development to develop a 22-lot mixed-use development on the former Idaho Timber property located at 95 Karrow Avenue, Whitefish; and

WHEREAS, the Whitefish Planning & Building Department received a request from Casey Malmquist of 95 Karrow, LLC, to amend the 95 Karrow PUD to add clubs, private and semi-private recreation facilities to the list of uses and thereafter the City Council approved the request by the adoption of Ordinance No. 19-02 on January 24, 2018; and

WHEREAS, the Whitefish Planning & Building Department received a request from Casey Malmquist of 95 Karrow, LLC, to amend the 95 Karrow PUD to add significantly more housing, reduce commercial space by 50%, reconfigure the footprint of the marketplace building, and to relocate the microbrewery and thereafter the City Council approved the request by the adoption of Ordinance No. 21-14 on September 20, 2021; and

WHEREAS, the Whitefish Planning & Building Department received a request from Casey Malmquist on behalf of Karrow Whitefish Investment, LLC, to amend the 95 Karrow preliminary plat to adjust several lots within the subdivision and thereafter the City Council approved the request on May 16, 2022; and

WHEREAS, the Whitefish Planning & Building Department received a request from Casey Malmquist on behalf of Karrow Whitefish Investment, LLC, to deviate from the setbacks and lot coverage across the project and amend the 95 Karrow PUD to reflect such deviations; and

WHEREAS, in response to such application, the Whitefish Planning & Building Department prepared Staff Report No. WPUD 23-01, dated May 11, 2023, which reviewed the request and recommended in favor; and

WHEREAS, at a lawfully noticed public hearing on May 18, 2023, the Whitefish Planning Board considered the request, staff report, and public input, and thereafter recommended approval of the request; and

WHEREAS, at a lawfully noticed public hearing on June 5, 2023, the Whitefish City Council reviewed Staff Report WPUD 23-01 and letter of transmittal dated May 30, 2023, received an oral report from Planning staff and invited public comment; and

WHEREAS, the Whitefish City Council approved the request, as described in the WPUD 23-01 application dated April 20, 2023; and
WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to amend Ordinance Nos. 18-01, 19-02 and 21-14 to allow the following zoning deviations: (1) structural setbacks of 5-feet; (2) 0-foot lot line setback for awning and roofs adjacent to common areas and public ways; (3) 60% lot coverage on Lots 3, 4, 5, 6, and portions of 7; and (4) 80% lot coverage on Lot 10, all as set forth in Exhibit A; and

WHEREAS, amending Ordinance Nos. 18-01, 19-02 and 21-14 to allow the applicants to reduce setbacks and increase lot coverage will not adversely affect the appropriate development of the community.

NOW, THEREFORE, be it ordained by the City Council of the City of Whitefish, Montana, as follows:

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

Section 2: The City Council hereby adopts as Findings of Fact Staff Report No. WPUD 23-01 dated May 11, 2023, together with the May 30, 2023 letter of transmittal from the Whitefish Planning & Building Department.

Section 3: The City Council hereby approves the zoning deviations and condition set forth in Exhibit A.

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

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

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS ________ DAY OF _______________ 2023.

__________________________________________
John M. Muhlfeld, Mayor

ATTEST:

__________________________________________
Michelle Howke, City Clerk
Zoning Deviations:
- 5-foot structural setback
- 0-foot lot line setback on awnings and roofs adjacent to common areas and public ways
- 60% lot coverage Lots 3, 4, 5, 6, and portions of Lot 7
- 80% lot coverage on Lot 10

Condition:
1. All twenty-seven conditions of the amended preliminary plat (approved May 16, 2022), conditions and zoning deviations set forth in Ordinance 18-01 (approved January 2, 2018), with the exception of the setbacks which are recommended for approval in this request, conditions and zoning deviations set forth in Ordinance 19-02 (approved January 22, 2019), and conditions and zoning deviations set forth in Ordinance 21-14 (approved September 20, 2021), remain in effect with the exception that the development approval is hereby extended for three years from the date this amendment approved by the City Council goes into effect.
May 30, 2023

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

RE: Karrow Whitefish Investment LLC; 95 Karrow Avenue (WPUD 23-01)

Honorable Mayor and Council:

Summary of Requested Action: A request by Karrow Whitefish Investment LLC for an amendment to previously approved Mixed Use Planned Unit Development (M-PUD) overlay to deviate from the underlying zoning for a 5-foot structural setback, 0-foot lot line setback on awnings and roofs adjacent to common areas and public ways, 60% lot coverage Lots 3, 4, 5, 6, and portions of Lot 7, and 80% lot coverage on Lot 10 at 95 Karrow Avenue (legally described as Tract 1, COS 9540 in Section 35 & 36, Township 31N, Range 22W, P.M.M., Flathead County).

Planning & Building Department Recommendation: Staff recommended approval of the amendments.

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

Planning Board Action: At the May 18, 2023, Whitefish Planning Board meeting, the Board considered the request and following the hearing, a motion to approve the project passed unanimously.

Proposed Motion:
• I move to approve WPUD 23-01, the Findings of Fact in the staff report and one condition of approval, as recommended by the Whitefish Planning Board on May 18, 2023.

This item has been placed on the agenda for your regularly scheduled meeting on June 5, 2023. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

/s/ Wendy Compton-Ring

Wendy Compton-Ring, AICP
Senior Planner

Att: Exhibit A: Planning Board Recommendation, 5-18-23
Exhibits from 5-18-23 Staff Packet
1. Staff Report – WPUD 23-01, 5-11-23
2. Ordinance No. 18-01, 1-2-18
3. Ordinance No. 19-02, 1-22-19
4. Ordinance No. 21-14, 9-20-21
5. Approval Letter, 95 Karrow Amended Preliminary Plat, 5-16-23
6. Adjacent Landowner Notice, 4-28-23
7. Map of Adjacent Landowners, Flathead County GIS, 4-25-23
8. Advisory Agency Notice, 4-28-23
9. Application for Planned Unit Development, 4-22-23

c: w/att Michelle Howke, City Clerk

c: w/o att Casey Malmquist, 160 Walker Creek Lane Whitefish, MT 59937
Cate Walker, NW Design Studios, Inc 940 Spokane Avenue, suite 3 Whitefish, MT 59937
Exhibit A
Karrow Whitefish Investment LLC
WPUD 23-01
Whitefish Planning Board
Recommended Conditions of Approval
May 18, 2023

Staff recommends the Whitefish City Council adopt the findings of fact in staff report WPUD 23-01 be approved and that the deviations to the zoning be granted subject to the following condition of approval:

Zoning Deviations:
- 5-foot structural setback
- 0-foot lot line setback on awnings and roofs adjacent to common areas and public ways
- 60% lot coverage Lots 3, 4, 5, 6, and portions of Lot 7
- 80% lot coverage on Lot 10

Condition:
1. All twenty-seven conditions of the amended preliminary plat (approved May 16, 2022), conditions and zoning deviations set forth in Ordinance 18-01 (approved January 2, 2018), with the exception of the setbacks which are recommended for approval in this request, conditions and zoning deviations set forth in Ordinance 19-02 (approved January 22, 2019), and conditions and zoning deviations set forth in Ordinance 21-14 (approved September 20, 2021), remain in effect with the exception that the development approval is hereby extended for three years from the date this amendment approved by the City Council goes into effect.
<table>
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<tr>
<th><strong>CALL TO ORDER AND ROLL CALL</strong></th>
<th>Chair Steve Qunell called the regular meeting of the Whitefish Planning Board to order at 6:00 pm. Board members present were Steve Qunell, Whitney Beckham, John Middleton, and Allison Linville. Scott Freudenerberger, Chris Gardner, and Toby Scott were absent. Planning Director David Taylor, and Senior Planner Wendy Compton-Ring represented the Whitefish Planning &amp; Building Department and Craig Workman represented Public Works. There were approximately thirty-nine people attending in addition to Board members and staff.</th>
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<td><strong>AGENDA CHANGES 6:00 pm</strong></td>
<td>None.</td>
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<td><strong>APPROVAL OF MINUTES 6:00 pm</strong></td>
<td>Beckham made a motion, seconded by Linville, to approve the April 20, 2023, minutes without corrections. <strong>Board members voted 4-0 to pass the motion.</strong></td>
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<td><strong>COMMUNICATIONS FROM THE PUBLIC (ITEMS NOT ON THE AGENDA) 6:01 pm</strong></td>
<td>None.</td>
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<td><strong>UNFINISHED BUSINESS: 6:02 pm</strong></td>
<td>None.</td>
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<tr>
<td><strong>PUBLIC HEARING 1: CITY OF WHITEFISH REZONE REQUEST 6:05 pm</strong></td>
<td>A request by Karrow Whitefish Investment LLC is requesting a Planned Unit Development (PUD) amendment for a 5-foot structural setback, 0-foot lot line setback on awnings and roofs, 60% lot coverage Lots 3, 4, 5, 6, and portions of Lot 7 and 80% lot coverage on Lot 10. The property is under development and is zoned WI-T (Industrial Transitional District) and WT-3 (Neighborhood Mixed Use Transitional District) with a WPUD overlay on the entire project. The property is located at 95 Karrow Avenue and can be legally described as Tracts 4BA, 4C, 4G, 4F in Sections 35 &amp; 36, T31N, R22W, P,M.M., Flathead County.</td>
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<td><strong>STAFF REPORT WPUD 23-01 (Compton-Ring)</strong></td>
<td>Senior Planner Compton-Ring reviewed her staff report and findings. As of the writing of WPUD 23-01, no written public comments had been received, and none have been received since then.</td>
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</table>
Staff recommended adoption of the findings of fact within staff report WPUD 23-01 and for approval of the zoning map amendment to the Whitefish City Council. She mentioned the maintenance agreement would come at a later date.

**BOARD QUESTIONS OF STAFF**
Chair Qunell asked about the lot coverage and whether it would change the open space. Planning Compton-Ring stated open space stays the same.

**PUBLIC HEARING**
Chair Qunell opened the public hearing.

**APPLICANT / AGENCIES**
The applicant’s representative Casey Malmquist, 160 Walker Creek Lane, spoke. All wet utilities are in on the site, they are working on dry utilities, hardscape and paving. The PUD has been fluid, things changing somewhat and working to optimize it. The amended plat was focused on civil and adjusted lot lines, now the architectural component has required lot lines being integrated into PUD, they found opportunities for outdoor spaces, and better site planning. The requested deviations are minimal, still 10% over open space requirement. It is just an update to clarify the project as designed.

Beckham asked how zero lot lines and no awnings affect snow sliding off roofs. Malmquist deferred to Scott Elden. Elden, 444 O’Brien Avenue, spoke on behalf of Montana Creative stated the awnings are designed to mimic downtown type urban commercial. Snow slides and capture of drip water will be contained and the five-foot setbacks will be maintained.

Public Works Director Workman stated all streets and roadways will be privately maintained as its private property although it will be open to the public.

Malmquist stated the roofs would not create conflicts between buildings.

**PUBLIC COMMENT**
There being no comments, Chair Qunell closed the public hearing and turned the matter over to the Planning Board for consideration.
MOTION / BOARD DISCUSSION
Beckham made a motion, seconded by Linville, to adopt the findings of fact within staff report WPUD 23-01 as proposed by City Staff.

Beckham stated she’s been following the process and likes the progress.

VOTE
The motion passed unanimously. The matter is scheduled to go before the Council on June 5, 2023.

PUBLIC HEARING 2: CITY OF WHITEFISH REZONE REQUEST 6:10 pm
A request by Ruis Texco LLC for a Planned Unit Development (PUD) to develop a 146-unit multi-family project in seven (7) buildings. Currently the property is partially developed with several single-family homes and is zoned WR-4 (High Density Multi-Family Residential District) and WR-2 (Two-Family Residential District). The property is located at 105 Colorado Avenue, 709 Waverly, 60, 124, 136 and 152 Texas Avenue and can be legally described as Lot 1, Whitefish Cottages; Lots 1 & 2, Amended Lot 2 Whitefish Cottages; Lots 1A & 2, Linton Subdivision; Lot 2, Reeb Subdivision in S25 T30N R22W, P.M.M., Flathead County.

STAFF REPORT WPUD 22-04 (Compton-Ring)
Senior Planner Compton-Ring reviewed her staff report and findings. As of the writing of the staff report for WPUD 22-04, about 25 public comments have been received split both for and against the project. Some additional comments were presented on the dais for the Board.

Staff recommended adoption of the findings of fact within staff report WPUD 22-04 as well as the proposed deviation and the added conditions for approval.

BOARD QUESTIONS OF STAFF
Chair Qunell asked about 40’ building height and whether that was a PUD deviation. Planner Compton-Ring replied it is not a deviation but an incentive for affordable housing Legacy Homes program. Qunell asked about the traffic study and E Second Street and Baker Avenue and Public Works Director Workman stated that Montana Department of Transportation (MDT) worked on signal timing there and at E Second Street and Spokane Avenue. They stated no more capacity could be earned. He stated the Colorado lift station would need upgrades and final engineering plans would need to do a collection summary along with possible upgrades the developer would be on the hook for. Chair Qunell asked about fill put on the property owner and whether it would affect drainage. Workman stated the property owner wanted the fill and it will be incorporated.
A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by Karrow Whitefish Investment, LLC for a third amendment to the Planned Unit Development to establish reduced setbacks and increased lot coverage standards across the project. A public hearing is scheduled before the Whitefish Planning Board on May 18, 2023 and a subsequent hearing is set before the City Council on June 5, 2023.

BACKGROUND

January 2, 2018: The Whitefish City Council approved the 95 Karrow preliminary plat with a planned unit development (PUD) overlay (Ord. No. 18-01). The original project was a 22-lot subdivision with proposed uses included residential (23-units), professional office, lodging, restaurant, limited retail, light manufacturing, artisan workshop space, studio and gallery, personal service and other similar uses. The residential uses included live-work units (Lots 7, 8 & 9 – 12 units) and upper floor condominiums (Lots 4 & 5 – 10 units) This project included a PUD overlay on the 14.06 acres. The applicant originally proposed six phases. The original PUD was subject to 29 conditions of approval, and it allowed deviations to setbacks, parking, and approved building footprints and uses that would have otherwise required a CUP.

January 22, 2019: The PUD was amended to add “clubs, private and semi-private recreational facilities” to the list of conditionally permitted uses.

September 20, 2021: The PUD was amended to eliminate three live-work units, introduce seventy-four proposed residential units, reduce professional office space by 3,250 square-feet, reduce more than 25,000 square-feet of “marketplace” uses (changing to parking and residential uses) and reduce approximately 6,400 square-feet of ancillary use space in the 70-room condo-hotel (adding restaurant, spa).

May 16, 2022: The Council approved an amended preliminary plat to rearrange the lots but the open space, circulation and general layout remained the same.

Since that time, the applicant has been working toward final plat and meeting the conditions. They have done significant site work and are working through permitting for work along the river.

I. PROJECT SCOPE
As the application describes, at the time of the original application there was limited detailed information showing the exact dimensions and locations of buildings on the
proposed lots. Over the past few years, actual building design development has occurred necessitating the current amendment. The purpose of the amendments is to maintain a cohesive, urban-influenced community keeping in character with the original intent of the project. As such, the applicant is requesting an amendment to the PUD to the following development standards:

- 5-foot structural setback
- 0-foot lot line setback on awnings and roofs adjacent to common areas and public ways
- 60% lot coverage Lots 3, 4, 5, 6, and portions of Lot 7
- 80% lot coverage on Lot 10

**PUD TYPE:** Mixed-Use PUD (M-PUD): A Mixed-Use PUD is primarily intended to provide for the mixing of compatible non-residential uses allowed in the underlying zone with residential units of various types in urban areas. Residential product types include single-family, two-family, and multi-family in any ownership configuration. Residential types also include units integrated into primarily non-residential structures, including above office and retail space. Where the zoning is both residential and non-residential, the amount of land dedicated to any non-residential component shall generally be consistent with and give due consideration to the location and extent of the non-residential zoning.

**ZONING DEVIATIONS:** The applicant is proposing to vary from the underlying zoning setbacks and lot coverage to the following:

- 5-foot structural setback
- 0-foot lot line setback on awnings and roofs adjacent to common areas and public ways
- 60% lot coverage Lots 3, 4, 5, 6, and portions of Lot 7
- 80% lot coverage on Lot 10

**EXISTING ZONING STANDARDS:**

**WT-3 (Neighborhood Mixed Use Transitional District):**

Setbacks:
- 25-feet front
- 15-feet side (2 story+)
- 20-feet rear

Lot Coverage:
- 50%

**WI-T (Industrial Transitional Zone):**

Setbacks:
- 25-feet front
- 10-feet side or 20-feet if adjacent to residential zone or park
- 20-feet rear

Lot Coverage:
- 70%

**Previously Approved Zoning Deviations (Ord No. 18-01):**

- Parking (shared across the site versus on a lot-by-lot basis)
- Exceeding Building Footprints on lots 4, 5, 6, and 10 (a Conditional Use Permit (CUP) are required for buildings greater than 3,500 square feet in the WT-3 and 15,000 square feet in the WI-T)
• Conditional Uses Approved through the PUD rather than a CUP (hotel, microbrewery, manufacturing, artisan, personal services, professional artist studio gallery and professional offices)

BENEFITS PROVIDED: The benefits of the project remain the same as the previous approved applications. These include:
  • Public Trails
  • Public Access to Whitefish River
  • Public Access to Open Space within the Development
  • Public Parking for the Great Northern Veteran’s Peace Park

A. Owner: Karrow Whitefish Investment LLC
   Attn: Daniel Kohler
   13701 W Jewell Ave, suite 200-28
   Lakewood, CO 80228

B. Location:
The subject properties are located at 95 Karrow Avenue and can be legally described Tract 1, COS 9540 in Section 35 & 36, Township 31N, Range 22W, P.M.M., Flathead County.

Applicant:
Casey Malmquist
160 Walker Creek Lane
Whitefish, MT 59937

Technical Assistance:
Cate Walker
NW Design Studios, Inc
940 Spokane Avenue, suite 3
Whitefish, MT 59937
C. **Existing Land Use and Zoning:**
The property is a former industrial site. The property is zoned WI-T (Industrial Transitional District) and WT-3 (Neighborhood Mixed-Use Transitional).

D. **Adjacent Land Uses and Zoning:**
- **North:** BNSF Railroad  
  - I-2
- **South:** Residential  
  - WR-3
- **East:** BNSF Railroad  
  - I-2
- **West:** Veteran’s Peace Park  
  - I-2

E. **Utilities:**
- **Sewer:** City of Whitefish
- **Water:** City of Whitefish
- **Solid Waste:** Republic Services
- **Gas:** Northwestern Energy
- **Electric:** Flathead Electric Co-op
- **Phone:** CenturyLink
- **Police:** City of Whitefish
- **Fire:** City of Whitefish
- **Schools:** Whitefish School District #44
F. Public Notice:
A notice was mailed to adjacent landowners within 150-feet of the subject parcel on April 28, 2023. Advisory agencies were noticed on April 28, 2023. A notice was published in the Whitefish Pilot on May 3, 2023. As of the writing of this report, no comments were received.

II. REVIEW AND FINDINGS OF FACT
The Planned Unit Development district is intended to encourage flexible land use development by allowing development based upon a comprehensive, integrated and detailed plan rather than upon specific requirements applicable on a lot-by-lot basis. Planned Unit Developments are reviewed for substantial achievement of the purpose and intent of the PUD chapter (§11-2S-1), the review criteria (§11-2S-8B) and there being a clear community benefit and proper justification for any proposed deviations from standards (§11-2S-6).

CHAPTER 2 – ARTICLE S. WPUD PLANNED UNIT DEVELOPMENT DISTRICT:
Review Criteria (§11-2S-9B):

1. Environmentally sensitive areas of the site must be preserved and protected by the proposed development to the greatest extent possible. Environmentally sensitive areas include, but are not necessarily limited to, wetlands and marshes, slopes in excess of twenty five percent (25%) average grade, and water bodies such as lakes or streams on and/or adjacent to the site. All lakeshore protection and water quality standards must be met. No changes are being proposed to the restoration plans and the public access to the river via the trail along the river. As the Planning Board will recall, the site has considerable fill that has been removed over the past several years. They found fill ranging in depth from 2 to 14-feet that included wood chips, concrete, metal and other debris. Due to this extensive debris removal, the top of bank was indiscernible; therefore, the applicant used the 75-foot buffer standard. In addition, they reduced by 25% with a buffer restoration plan. The applicant intends to take advantage of this option and conduct restoration of highly impacted areas (§11-3-29C(3)). Within the buffer they are proposing to construct an extension of the Whitefish River trail, constructed to meet City standards for a public path, which is permitted through the WQP (§11-3-29C(5)).

2. Development must be sensitive to and respectful of wildlife habitat and/or seasonal migration corridors as identified by a competent wildlife assessment or verified by empirical evidence. No changes are being proposed to the restoration plans along the river.

3. Open space, either planned for persons expected to reside in the completed development (children, young adults, seniors, etc.) or available to the public in general, must be provided by the development. No changes are being proposed to the open space plans from the preliminary plat the Planning Board and City
Council reviewed and approved last Spring. The total acreage in the Common Area is 8.776 (62% of the project). Common area includes open space within the development, the river buffer and trail and the private streets and parking areas.

4. The character and qualities of existing neighborhoods must be preserved and protected. Proposed PUDs are to be integrated into the existing neighborhood in terms of scale, quality, character, and street continuity. When, in the judgment of the City Council, such integration is not possible, practical, or will otherwise not produce desired outcomes for the existing neighborhood, effective buffering and transitions must be provided by the proposed development. These amendments will not change the character and qualities of the existing neighborhood. This request will simply allow the project to move forward with the envisioned design.

5. Street continuity must be maintained through extending the Whitefish street grid and other established street systems consistent with adopted transportation plans. The proposed amendments do not change the circulation patterns of the streets, sidewalks or bike paths approved originally or with the most recent amendments.

6. New development must provide attractive, high-quality streetscapes through the use of landscaping, sidewalks/bikeways, street trees, and quality street lighting fixtures, including design consideration for and integration with adjacent structures. The proposed amendments are designed to enhance and provide a high-quality streetscape and design a walkable streetscape regardless of the weather with the potential for awnings. The design of the street includes sidewalks, streetlights and quality landscaping throughout.

7. Proposed development must, to the greatest extent possible, provide pedestrian, transit, and bicycle facilities, and encourage transportation alternatives consistent with the Whitefish Growth Policy, adopted transportation plans, and the Bicycle and Pedestrian Master Plan. The proposed amendments do not change the pedestrian, bicycle or vehicle circulation. The plans continue to implement the Connect Whitefish Pedestrian-Bicycle Plan.

8. New development must avoid a monotonous and/or institutional appearance through varied architecture and orientation of buildings, and where appropriate, varying the type of residential units within the project. The proposed amendments do not change the proposed varied architecture of the buildings which are required to obtain Architectural Review approval prior to issuance of a building permit.

9. Preliminary designs for necessary public facilities, infrastructure, and services including but not limited to water, sewer, and stormwater, shall be deemed adequate. Infrastructure is currently being installed. All public facilities were reviewed and approved by the Public Works Department.
10. All new development must demonstrate substantial compliance with and/or implementation of the growth policy, including adopted neighborhood plans and corridor plans. The project is split by two Land Use designations:

**Industrial Transitional.** This designation is for areas that are proximate to the downtown and have traditionally been used for heavy manufacturing. These areas are either vacant or underutilized and have opportunities for a gradual transition to adaptive, clean industries and business incubators. There are existing high capacity utility services and existing multi-modal transportation opportunities such as rail and highway access in these areas. Transitional areas can be the catalyst that generates new jobs and new economic development as businesses achieve success and relocate appropriately in the community. These areas have easy access to the downtown where the new workforce creates additional demand for goods and services and existing police and fire services can be utilized. The applicable zoning district is WI-T.

**Neighborhood Mixed Use Transitional.** This designation is applied to neighborhoods near downtown Whitefish and along major transportation routes that have a strong historic character that varies across a range of uses from manufacturing to residential workforce housing. Key characteristics of the neighborhood include being a community gateway, frontage along the Whitefish River, employment and recreational uses close to homes, opportunity for adaptive use or zoning that allows for a variety of uses and within walking distance of shopping in downtown. These characteristics create opportunities for the transition from historic uses to more contemporary uses. As new, diverse uses appear in these traditional neighborhoods a land use trend is created where professional uses and higher density residential uses appear. Densities generally range from 2 to 16 units per acre. Townhomes, apartments and condominiums are also acceptable. The neighborhood may include single-use or mixed-use buildings. The applicable zoning districts are WR-3, WR-4, and WT-3 with appropriate conditional uses and PUD options as well as Architectural Review Standards.
Other GOALS related to the Growth Policy include:

**Economic Development - Goal**

2C. Seek ways to diversify the local base economy with compatible business and industries such that the character and qualities of Whitefish are protected.

Finally, this is an infill project served by all public services and facilities within the city limits which is a priority and main theme in the 2007 Growth Policy versus expanding urban densities and uses into rural areas surrounding the community that would require the extension of public services and facilities.

**Highway 93 W Corridor Plan**

This property was the subject of much scrutiny during the development of the Highway 93 West Corridor Plan. Design charrettes were done, and the plan outlined the highest and best use of the property. The public vision for this site included an adaptive use or redevelopment of the site beyond the industrial uses. Lower intensity industrial uses were recommended that could advance economic development. The Plan ultimately suggested new zoning districts for the property in order “to gradually transition away from heavy manufacturing to adaptive, clean industries and a mixed-use environment while developing the Whitefish River as a recreational amenity.” The Highway 93 West Corridor Plan envisioned uses such as artisan manufacturing, multi-family residential, recreational facilities, small grocery stores, coffee and sandwich shops, micro-brewery, and a limited hotel. Better connectivity to the rest of the community was also noted as
important by developing a riverfront trail to connect to the Skye Park Bridge area and W 2nd Street to the south.

**Finding 1:** With the imposition of the original conditions, staff finds that the first ten criteria found in the intent of the PUD chapter are being met or are not applicable because the project meets the requirements and has already, under previous approval, shown to provide adequate community benefit.

**CHAPTER 2 – ARTICLE S. WPUD PLANNED UNIT DEVELOPMENT DISTRICT: Purpose and Intent (§11-2S-1):**

**Finding 2:** The project complies with the Purpose and Intent of the Planned Unit Development chapter because it meets the review criteria outlined in the PUD chapter, as conditioned.

**CHAPTER 7 – ADMINISTRATION AND ENFORCEMENT: Amendments (§11-7-12E):**

The following considerations from §11-7-12E are intended to guide both the Planning Board and the City Council when considering an amendment to the official zoning map.

<table>
<thead>
<tr>
<th>Considerations from Section 11-7-10(E)</th>
<th>Staff Report Section Reference/Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning Regulations Must Be:</td>
<td></td>
</tr>
<tr>
<td>Made in Accordance with a Growth Policy</td>
<td>see Section II.10.</td>
</tr>
<tr>
<td>Designed to:</td>
<td></td>
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<tr>
<td>Secure safety from fire and other dangers</td>
<td>At the time of development, the project will be reviewed to comply with all Fire and Building Code requirements and amended preliminary plat, zoning deviations in Ordinance 18-01 with the exception of the setbacks, which are recommended for approval in this request, Ordinance 19-02, and Ordinance 21-14.</td>
</tr>
<tr>
<td>Promote public health, public safety and general welfare</td>
<td>At the time of development, the project will be reviewed to comply with all Fire and Building Code requirements and amended preliminary plat, zoning deviations in Ordinance 18-01 with the exception of the setbacks, which are recommended for approval in this request, Ordinance 19-02, and Ordinance 21-14.</td>
</tr>
<tr>
<td>Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements</td>
<td>At the time of development, the project will be reviewed to comply with all City requirements and amended preliminary plat, zoning deviations in Ordinance 18-01 with the exception of the setbacks, which are recommended for approval in this request, Ordinance 19-02, and Ordinance 21-14. At the time the Subdivision was reviewed and approved, review of adequate provision for services was considered and determined to comply with City standards.</td>
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</table>

**In the adoption of zoning regulations, the city shall consider:**
<table>
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<tr>
<th>Considerations from Section 11-7-10(E)</th>
<th>Staff Report Section Reference/Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reasonable provision of adequate light and air</td>
<td>The applicant will be required to meet all applicable Building Code requirements and amended preliminary plat, zoning deviations in Ordinance 18-01 with the exception of the setbacks, which are recommended for approval in this request, Ordinance 19-02, and Ordinance 21-14. The applicant did not apply for any variances to the Building Code that would affect “light and air.”</td>
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<tr>
<td>The effect on motorized and nonmotorized transportation systems</td>
<td>At the time of development, the project will be reviewed to comply with all City requirements and amended preliminary plat, zoning deviations in Ordinance 18-01 with the exception of the setbacks, which are recommended for approval in this request, Ordinance 19-02, and Ordinance 21-14. At the time the Subdivision was reviewed and approved, review of the effect on motorized and nonmotorized transportation systems was considered and determined to comply with City standards.</td>
</tr>
<tr>
<td>Promotion of compatible urban growth</td>
<td>At the time of development, the project will be reviewed to comply with all City requirements and amended preliminary plat, zoning deviations in Ordinance 18-01 with the exception of the setbacks, which are recommended for approval in this request, Ordinance 19-02, and Ordinance 21-14. At the time the Subdivision was reviewed and approved, review of promotion of compatible urban growth was considered and determined to comply with City standards.</td>
</tr>
<tr>
<td>The character of the district and its particular suitability of the property for the particular uses</td>
<td>At the time of development, the project will be reviewed to comply with all City requirements and amended preliminary plat, zoning deviations in Ordinance 18-01 with the exception of the setbacks, which are recommended for approval in this request, Ordinance 19-02, and Ordinance 21-14. At the time the Subdivision was reviewed and approved, review of the character of the district was considered and determined to comply with City standards. The proposed modifications are consistent with the character of the approved development.</td>
</tr>
<tr>
<td>Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and</td>
<td>This criterion is subjective at best, but staff can identify no instances where “buildings” will be subject to a diminution in value because of the request to add additional residential units and decrease commercial space. However, it is permissible for the Board to consider testimony from nearby residents as prima facie evidence of adverse impact. Based on the previous PUD and Preliminary Plat approvals, it is the most appropriate use of land.</td>
</tr>
<tr>
<td>That historical uses and established uses patterns and recent change in use trends will</td>
<td>The Planning Board and the City Council should consider the historical and established use patterns,</td>
</tr>
</tbody>
</table>
Considerations from Section 11-7-10(E)  |  Staff Report Section Reference/Comments  
--- | ---  
be weighed equally and consideration not be given one to the exclusion of the other.  |  including trends, when making a decision on the project.

**Finding 3:** The review criteria for a zone change are met because the project has been reviewed according to City standards and conditioned accordingly.

**Finding 4:** The subject property is suitable for the proposed modifications to the 95 Karrow development because the proposal complies with the lot development standards, including the previously approved zoning deviations, access to the site, and the plan to address the environmental constraints on the property remain unchanged.

**CHAPTER 2 – ARTICLE S. WPUD PLANNED UNIT DEVELOPMENT DISTRICT: Community Benefit and Justification for Proposed Zoning Deviations (§11-2S-6):**
The Community Benefits test requires justification to deviate from underlying zoning regulations by providing one or more community benefits as identified in the list of possible community benefits and must be something that would not otherwise be required.

The applicant, as described earlier in this report, is requesting a zoning deviation to the setbacks and lot coverage standards according to the following:

- 5-foot structural setback
- 0-foot lot line setback on awnings and roofs adjacent to common areas and public ways
- 60% lot coverage Lots 3, 4, 5, 6, and portions of Lot 7
- 80% lot coverage on Lot 10

**EXISTING ZONING STANDARDS:**

**WT-3 (Neighborhood Mixed Use Transitional District):**
Setbacks:
- 25-feet front
- 15-feet side (2 story+)
- 20-feet rear

Lot Coverage:
- 50%

**WI-T (Industrial Transitional Zone):**
Setbacks:
- 25-feet front
- 10-feet side or 20-feet if adjacent to residential zone or park
- 20-feet rear

Lot Coverage:
- 70%

**Previously Approved Zoning Deviations (Ord No. 18-01):**
- Parking (shared across the site versus on a lot-by-lot basis)
- Exceeding Building Footprints on lots 4, 5, 6, and 10 (a Conditional Use Permit (CUP) are required for buildings greater than 3,500 square feet in the WT-3 and 15,000 square feet in the WI-T)
- Conditional Uses Approved through the PUD rather than a CUP (hotel, microbrewery, manufacturing, artisan, personal services, professional artist studio gallery and professional offices)
In exchange for this zoning deviation request, the applicant is providing the following approved Community Benefits:

**Public Access (§11-2S-6C)**
- The project is continuing to provide public access to trails, pedestrian-bicycle bridge and the river.

**Public Facilities (§11-2S-6E)**
- The project is continuing to provide public parking for the adjoining Great Northern Veteran’s Peace Park along the western edge of the project.

- The project is continuing to provide extensions of trails and bike paths along the Whitefish River open to the public and in compliance with the Connect Whitefish Plan.

**Overall Design (§11-2S-6J)**
- The project, especially with the most recent preliminary plat amendment, is providing a superior design than what could be obtained through a standard development. There are larger open space areas throughout the development including exceptional connectivity between the project and the River and trail system. The project includes exceptional landscaping, transportation circulation for motorized and nonmotorized, and quality site and building design.

**Finding 5:** The applicant has demonstrated clear community benefit to deviate from the adopted standards to develop to the identified setbacks and lot coverage because the project is providing community benefits for public access, public facilities, rights-of-way, and overall design.

**RECOMMENDATION**
It is recommended that the Whitefish Planning Board adopt the findings of fact within staff report WPUD 23-01 and recommend to the Whitefish City Council the amended Planned Unit Development for the 95 Karrow project be **approved** and the zoning deviations be granted subject to the following additional condition:

1. All twenty-seven conditions of the amended preliminary plat (approved May 16, 2022), conditions and zoning deviations set forth in Ordinance 18-01 (approved January 2, 2018), with the exception of the setbacks which are recommended for approval in this request, conditions and zoning deviations set forth in Ordinance 19-02 (approved January 22, 2019), and conditions and zoning deviations set forth in Ordinance 21-14 (approved September 20, 2021), remain in effect with the exception that the development approval is hereby extended for three years from the date this amendment approved by the City Council goes into effect.
ORDINANCE NO. 18-01

An Ordinance of the City Council of the City of Whitefish, Montana, approving the 95 Karrow, LLC Preliminary Plat and Planned Unit Development, to develop a 22-lot mixed-use development at the north end of Karrow Avenue on the former Idaho Timber property located at 95 Karrow Avenue, Whitefish.

WHEREAS, Casey Malmquist of 95 Karrow, LLC (Applicant), applied to the Whitefish Planning & Building Department for a Preliminary Plat and Planned Unit Development (PUD) overlay to develop 14.06 acres into a 22-lot mixed-use development, on the real property located at 95 Karrow Avenue, and legally described as Tract 1, COS 9540 in Sections 35 and 36, Township 31 North, Range 22 West, P.M.M., Whitefish, Flathead County; and

WHEREAS, in exchange for the requested zoning deviations, the applicant proposes the following community benefits: a public trail along the Whitefish River and W. 1st Street that implements the Connect Whitefish Plan and will be maintained by the property owners, public access to the Whitefish River and open spaces within the development, and public parking for the Great Northern Veteran's Peace Park; and

WHEREAS, in response to such application, the Whitefish Planning & Building Department prepared Staff Report WPP 17-04/WPUD 17-02, dated November 9, 2017, which reviewed and analyzed the proposed Preliminary Plat and PUD, the requested deviations to the zoning standards regarding setbacks, parking, building footprints and conditional uses, and the proposed community benefits and recommended the Whitefish City Council approve the proposed Preliminary Plat and PUD, adopt the proposed findings of fact, and grant the requested deviations to zoning standards, all subject to 28 conditions of approval; and

WHEREAS, following adjacent landowner notice, at a lawfully noticed public hearing held November 16, 2017, the Whitefish Planning Board received an oral report from Planning Staff and the Applicant, reviewed Staff Report WPP 17-04/WPUD 17-02, the proposed findings of fact, the requested deviations to the zoning standards, the proposed community benefits, and the 28 conditions of approval, invited public comment, and thereafter amended the proposed conditions of approval and recommended approval of the Preliminary Plat and PUD, subject to the 28 amended conditions of approval, attached as Exhibit "A;" and

WHEREAS, at a lawfully noticed public hearing on December 4, 2017, the Whitefish City Council received an oral report from Planning Staff and the Applicant, reviewed Staff Report WPP 17-04/WPUD 17-02, the proposed findings of fact, the requested deviations to the zoning standards, the proposed community benefits, the 28 conditions of approval, as amended by the Planning Board, and the Planning Board's recommendation of approval, invited public comment, and thereafter voted to approve the 95 Karrow, LLC Preliminary Plat and PUD, Staff Report WPP 17-04/WPUD 17-02, the findings of fact, and the requested deviations to zoning standards, all subject to the amended 29 conditions of approval attached as Exhibit "A," and incorporated herein by reference; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to approve the 95 Karrow, LLC Preliminary Plat and PUD, Staff Report WPP 17-04/WPUD 17-02, and the requested deviations to zoning standards, subject to the 29 conditions of approval, attached as Exhibit "A," and adopt the findings of fact.

- 1 -
NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of
Whitefish, Montana, as follows:

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

Section 2: The City Council hereby approves the 95 Karrow, LLC Preliminary Plat and
Planned Unit Development and the deviations to the zoning standards, subject to 29 conditions of
approval, shown on Exhibit "A," and incorporated herein by this reference, and Staff Report
WPP 17-04/WPUD 17-02, and adopts the findings of fact.

Section 3: The official zoning map of the City of Whitefish, Montana, shall be amended,
altered and changed to provide that the real property identified as: Tract 1, COS 9540 in
Sections 35 and 36, Township 31 North, Range 22 West, P.M.M., Whitefish, Flathead County,
shall have a Planned Unit Development Overlay, which shall modify the requirements of the
underlying WI-T (Industrial Transitional District) and WT-3 (Neighborhood Mixed-Use
Transitional) zones and shall be subject to all of the requirements shown on Exhibit "A."

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

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

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

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
WHITEFISH, MONTANA, THIS 2ND DAY OF JANUARY 2018.

ATTEST:

Michelle Howke, City Clerk

John M. Muhlfeld, Mayor
Zoning Deviations:

- **Setbacks.** The application has proposed particular setbacks for each of the lots.

- **Parking.** The applicant is proposing shared parking throughout the entire site rather than the standard of requiring parking on-site. In addition, due to the unique nature of some of the uses, the applicant has developed a parking count to accommodate their proposed uses that is linked to the Traffic Impact Study.

- **Building Footprints.** Both the WT-3 and the WI-T have maximum building footprints where a Conditional Use Permit is required. They are proposing larger than 3,500 square feet on Lots 4, 5, and 6 and Lot 10 currently has a building in excess of 15,000 square feet in the WI-T.

- **Conditional Uses.** Through the PUD application, rather than also issuing a separate CUP for each use, the applicant is requesting these particular uses be reviewed through the PUD. The uses include: hotel, microbrewery, manufacturing, artisan, personal services, professional artist studio gallery and professional offices.

Conditions of Approval:

1. The subdivision shall 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.

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.

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 shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works. (City Engineering Standards, 2009)
4. Approval of the preliminary plat is subject to approval of detailed design of all on and off-site improvements, including drainage and a plan for snow removal and storage. 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, 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 shall include a strategy for long-term maintenance. Fill on-site shall be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion. (City Engineering Standards, 2009)

5. Prior to the start of Phase 1 of the project, an agreement with the Great Northern Veteran's Peace Park must be recorded to allow for the usage of the off-site parking and secondary emergency access in perpetuity. Such plan shall address retention of the trees to the south of the parking lot. (Finding 8)

6. The off-site parking must meet city standards including stormwater, paving and landscaping. The plans must be reviewed and approved by the City. (Finding 8)

7. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the Public Works and Planning/Building Department. The plan shall include, but may not necessarily be limited to, the following:
   - Dust abatement and control of fugitive dust.
   - Hours of construction activity.
   - Noise abatement.
   - Control of erosion and siltation.
   - Routing for heavy equipment, hauling, and employees.
   - Construction office siting, staging areas for material and vehicles, and employee parking.
   - Measures to prevent soil and construction debris from being tracked onto public roadways, including procedures to remove soil and construction debris from roadways as necessary.
   - Detours of vehicular, pedestrian, and bicycle traffic as necessary.
   - Notation of any street closures or need to work in public right-of-way. (City Engineering Standards, 2009)

8. 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. All noxious weeds, as described by Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner or homeowners' association. (Subdivision Regulations §12-4-30)

9. Street lighting shall be required in accordance with the Whitefish Standards for Design and Construction. Street and other on-site lighting shall be dark sky compliant and meet the requirements of the City's Outdoor Lighting ordinance. (Zoning Regulations §11-3-25; City Engineering Standards, 2009)
10. The Fire Marshal shall approve the placement and design of all fire hydrants prior to their installation and fire access. (UFC; Subdivision Regulations §12-4-18; Engineering Standards, 2009)

11. The secondary emergency access onto Birch Point Drive must be installed along with Phase 1. Such emergency access must be maintained year-round and meet all emergency access standards. The design must be reviewed and approved by the Fire Marshal. (Finding 1)

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

13. 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)

14. Install an intersection signal when warranted by Montana Department of Transportation and meet their requirements. Coordinate this installation with the Public Works Department. (Finding 1)

15. A report shall be submitted with the final Whitefish River buffer averaging details. This report shall indicate the overall area required, the amount being reduce and a 'to scale' drawing showing the minimum width of no less than 50-feet. (Staff Report, Finding 3; Zoning Regulations §11-3-29C)

16. The Whitefish River trail shall be installed the entire length of the river connecting to Karrow Avenue, as depicted on the site plan. The final details of the trail installation shall be submitted to the Parks, Public Works and Planning Departments for review and approval. An easement granting public access to the trail must be recorded with Phase I of the development. (Findings 3, 4 and 8, §11-3-29C(5)(c))

17. The trail within the unimproved W. 1st Street right-of-way must be designed in such a way so as to not foreclose the possibility of future use of the road by adjacent properties. This plan will be reviewed and approved by the Public Works and Planning Departments. (Finding 4)

18. A pedestrian-bicycle connection must be made from the subject property to W. 2nd Street. Improvements must be reviewed and approved by Montana Department of Transportation and the Public Works Department. (Finding 4)

19. All on-site signage must meet §11-5, Sign Regulations. (Zoning Regulations §11-5)

20. The following notes shall be placed on the face of the plat:
   - Building numbers shall be located in a clearly visible location.
   - The internal roads 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 City requirements for public roadways. 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. (Subdivision Regulations §12-4-6; Staff Report Finding 5; City Engineering Standards, 2009)

21. A common off-street mail facility shall be provided by the developer and approved by the local post office. (Subdivision Regulations §12-4-24)

22. No short-term rental of any residential use is permitted with the exception of the hotel. (Zoning Regulations §11-2W)

23. The public dock must remain open to public use. No private slip leasing is permitted. (Finding 4, 8)

24. The live-work units must comply with §11-3-41, artisan manufacturing must comply with §11-3-39, the microbrewery must comply with §11-3-40 and professional artist studio and galleries must comply with §11-3-15. (Zoning Regulations §11-3)

25. Prior to approval of the final plat, the applicant shall produce a copy of the proposed Covenants, Conditions and Restrictions (CC&Rs) Owners' Association (OA) providing for:
   • Long-term maintenance of the open spaces;
   • Long-term weed management plan. The 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 storm water management facilities. (Subdivision Regulations §12-4-30; Staff Report Finding 3; City Engineering Standards, 2009)

26. Other permits may be required by other governmental agencies and the owner is responsible for obtaining these permits which may include: a floodplain permit, a permit from the conservation district and a water quality protection permit.

27. The range of uses shall fall within the permitted and conditionally permitted uses for both the WT-3 and WI-T, as well as those listed in the application. (Zoning Regulations §11-2W, §11-2X)

28. The 95 Karrow preliminary plat and planned unit development is approved for three years from Council action. (Subdivision Regulations, §12-3-8)

29. Any formula business that will locate in the 95 Karrow project must be reviewed under a Conditional Use Permit.
ORDINANCE NO. 19-02

An Ordinance of the City Council of the City of Whitefish, Montana, amending Ordinance No. 18-01, which approved the 95 Karrow, LLC Preliminary Plat and Planned Unit Development, to develop a 22-lot mixed-use development at the north end of Karrow Avenue on the former Idaho Timber property located at 95 Karrow Avenue, Whitefish.

WHEREAS, on January 2, 2018, the Whitefish City Council adopted Ordinance No. 18-01, which approved the 95 Karrow, LLC Preliminary Plat and Planned Unit Development to develop a 22-lot mixed-use development at the north end of Karrow Avenue on the former Idaho Timber property located at 95 Karrow Avenue, Whitefish; and

WHEREAS, the Whitefish Planning & Building Department received a request from Casey Malmquist of 95 Karrow, LLC, to add clubs, private and semi-private recreation facilities to the list of uses within the 95 Karrow PUD; and

WHEREAS, in response to such application, the Whitefish Planning & Building Department prepared Staff Report No. WPUD 18-08, dated December 13, 2018, which reviewed the request and recommended in favor; and

WHEREAS, at a lawfully noticed public hearing on December 20, 2018, the Whitefish Planning Board considered the request, staff report, and public input, and thereafter recommended approval of the request; and

WHEREAS, at a lawfully noticed public hearing on January 7, 2019, the Whitefish City Council reviewed Staff Report WPUD 18-08 and letter of transmittal dated December 24, 2018, received an oral report from Planning staff and invited public comment; and

WHEREAS, in response to concerns raised by the public, the Whitefish City Council approved the request, subject to amending the description of the allowed conditional uses to commercial recreational facilities, as described in WPUD 18-03 application dated 11-5-18; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to amend Ordinance No. 18-01 to allow commercial recreational facilities, as described in WPUD 18-03 application dated 11-5-18, as conditional uses within the 95 Karrow PUD; and

WHEREAS, amending Ordinance No. 18-01 to allow the applicants to add commercial recreational facilities, as described in WPUD 18-03 application dated 11-5-18, as conditional uses within the 95 Karrow PUD will not adversely affect the appropriate development of the community.

NOW, THEREFORE, be it ordained by the City Council of the City of Whitefish, Montana, as follows:

Section 1: All of the recitals set forth above are adopted as Findings of Fact.
Section 2: Staff Report No. WPUD 18-08 dated December 13, 2018, together with the December 24, 2018 letter of transmittal from the Whitefish Planning & Building Department, are hereby adopted as Findings of Fact.

Section 3: The fourth zoning deviation of Exhibit "A" of Ordinance No. 18-01 is hereby amended as follows:

- **Conditional Uses.** The applicant is entitled to the following uses without being required to obtain a CUP: hotel, microbrewery, manufacturing, artisan, personal services, professional artist studio gallery, professional offices, and commercial recreational facilities, as described in the WPUD 18-03 application dated 11-5-18.

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

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.


ATTEST:

[Signature]
John M. Mihlfeld, Mayor

Michelle Howke, City Clerk
ORDINANCE NO. 21-14

An Ordinance of the City Council of the City of Whitefish, Montana, amending Ordinance Nos. 18-01 and No. 19-02, which approved and subsequently amended the 95 Karrow, LLC Preliminary Plat and Planned Unit Development, to develop a 22-lot mixed-use development at the north end of Karrow Avenue on the former Idaho Timber property located at 95 Karrow Avenue, Whitefish.

WHEREAS, on January 2, 2018, the Whitefish City Council adopted Ordinance No. 18-01, which approved the 95 Karrow, LLC Preliminary Plat and Planned Unit Development to develop a 22-lot mixed-use development at the north end of Karrow Avenue on the former Idaho Timber property located at 95 Karrow Avenue, Whitefish; and

WHEREAS, the Whitefish Planning & Building Department received a request from Casey Malmquist of 95 Karrow, LLC, to add clubs, private and semi-private recreation facilities to the list of uses within the 95 Karrow PUD and thereafter the City Council approved the request by the adoption of Ordinance No. 19-02 on January 24, 2018; and

WHEREAS, the Whitefish Planning & Building Department received a request from Casey Malmquist of 95 Karrow, LLC, to amend the 95 Karrow PUD to add significantly more housing, reduce commercial space by 50%, reconfigure the footprint of the marketplace building, and to relocate the microbrewery; and

WHEREAS, in response to such application, the Whitefish Planning & Building Department prepared Staff Report No. WPUD 21-02, dated August 19, 2021, which reviewed the request and recommended in favor; and

WHEREAS, at a lawfully noticed public hearing on August 19, 2021, the Whitefish Planning Board considered the request, staff report, and public input, and thereafter recommended approval of the request; and

WHEREAS, at a lawfully noticed public hearing on September 7, 2021, the Whitefish City Council reviewed Staff Report WPUD 21-02 and letter of transmittal dated September 7, 2021, received an oral report from Planning staff and invited public comment; and

WHEREAS, the Whitefish City Council approved the request, as described in the WPUD 21-02 application dated July 7, 2021; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to amend Ordinance Nos. 18-01 and 19-02 to allow adding up to 84 total residential units, reducing the commercial space by 50%, reconfiguring the footprint of the marketplace building, and relocating the proposed microbrewery; and

WHEREAS, amending Ordinance Nos. 18-01 and 19-02 to allow the applicants to add additional residential units, reduce commercial space, reconfigure the marketplace building, and relocate the microbrewery will not adversely affect the appropriate development of the community.
NOW, THEREFORE, be it ordained by the City Council of the City of Whitefish, Montana, as follows:

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

Section 2: Staff Report No. WPUD 21-02 dated August 19, 2021, together with the September 7, 2021 letter of transmittal from the Whitefish Planning & Building Department, are hereby adopted as Findings of Fact.

Section 3: The Zoning Administrator is authorized and directed to amend the official zoning map to carry out the terms of this Ordinance.

Section 4: 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, or Deputy Mayor, thereof.


ATTEST:

Francis J. Sweeney, Deputy Mayor

Michelle Howke, City Clerk
May 17, 2022

Karrow Whitefish Investment Group LLC
Attn: Daniel Kohler
13701 W Jewell Ave Ste 200-28
Lakewood, CO 80228

Re: 95 Karrow; (WPP 17-04A)

Dear Mr. Kohler:

On May 16, 2022, the Whitefish City Council approved your request for an amended preliminary plat subject to 27 conditions of approval, enclosed herein. The preliminary plat approved was shown on a set of plans submitted with the application dated February 22, 2022.

The preliminary plat is valid for a period of three years from the date of approval or until May 16, 2025.

Sincerely,

/s/ Wendy Compton-Ring
Wendy Compton-Ring, AICP
Senior Planner

C: Public Works Department
   Fire Department
   Building Department
   Cate Walker, Northwest Design Studio, Inc 301 E 2nd Street, suite 1B
   Whitefish, MT 59937
   Casey Malmquist 160 Walker Creek Lane Whitefish, MT 59937
   Doug Peppmeier, TD&H Engineering 450 Corporate Drive, suite 101 Kalispell,
   MT 59901
1. The subdivision shall 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.

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.

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, streetlights, 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 shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works. (City Engineering Standards, 2009)

4. Approval of the preliminary plat is subject to approval of detailed design of all on- and off-site improvements, including drainage and a plan for snow removal and storage. 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, 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 shall include a strategy for long-term maintenance. Fill on-site shall be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion. (City Engineering Standards, 2009)

5. Prior to the start of Phase 1 of the project, an agreement with the Great Northern Veteran’s Peace Park must be recorded to allow for the usage of the off-site parking and secondary emergency access in perpetuity. Such plan shall address retention of the trees to the south of the parking lot. (Finding 8)
6. The off-site parking must meet City standards including stormwater, paving and landscaping. The plans must be reviewed and approved by the City. (Finding 8)

7. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the Public Works and Planning/Building Department. The plan shall include, but may not necessarily be limited to, the following:
   - Dust abatement and control of fugitive dust.
   - Hours of construction activity.
   - Noise abatement.
   - Control of erosion and siltation.
   - Routing for heavy equipment, hauling, and employees.
   - Construction office siting, staging areas for material and vehicles, and employee parking.
   - Measures to prevent soil and construction debris from being tracked onto public roadways, including procedures to remove soil and construction debris from roadways as necessary.
   - Detours of vehicular, pedestrian, and bicycle traffic as necessary.
   - Notation of any street closures or need to work in public right-of-way.
   (City Engineering Standards, 2009)

8. All areas disturbed because of road and utility construction shall be re-seeded as soon as practicable to inhibit erosion and spread of noxious weeds. All noxious weeds, as described by Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner or homeowners’ association. (Subdivision Regulations § 12-4-30)

9. Street lighting shall be required in accordance with the Whitefish Standards for Design and Construction. Street and other on-site lighting shall be dark sky compliant and meet the requirements of the City’s Outdoor Lighting ordinance. (Zoning Regulations § 11-3-25; City Engineering Standards, 2009)

10. The Fire Marshal shall approve the placement and design of all fire hydrants prior to their installation and fire access. (UFC; Subdivision Regulations §12-4-18; Engineering Standards, 2009)

11. The secondary emergency access onto Birch Point Drive must be installed along with Phase 1. Such emergency access must be maintained year-round and meet all emergency access standards. The design must be reviewed and approved by the Fire Marshal. (Finding 1)

12. The refuse and recycling location shall be reviewed and approved by the Public Works Department and Republic Services. (§4-2, WCC)

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

14. The following must be submitted with the first phase of development in order to ensure the traffic signal is installed at the intersection of Karrow Avenue and W. 2nd Street:
   - Complete intersection designs for the intersection of Karrow Avenue and W. 2nd Street.
   - A detailed cost estimate for the intersection construction.
   - A financial guarantee in the amount of 125% of the engineer’s estimate for the intersection construction.
   - A Signal Warrant Plan to be reviewed and approved by the City of Whitefish and Montana Department of Transportation that will ensure proper tracking of traffic as new buildings are constructed and describe how City staff and the developer will keep MDT informed as the project is phased in to help determine when the signal is warranted. (Finding 1)

15. A report must be submitted with the final Whitefish River buffer averaging details. This report shall indicate the overall area required, the amount being reduced and a ‘to scale’ drawing showing the minimum width of no less than 50-feet. (Staff Report, Finding 3; Zoning Regulations §11-3-29C)

16. The Whitefish River Trail shall be installed the entire length of the river connecting to Karrow Avenue, as depicted on the site plan. The trail shall be 8-feet wide and the final details of the trail installation shall be submitted to the Parks, Public Works and Planning Departments for review and approval. An easement granting year round public access to the trail must be recorded with Phase 1 of the development. (Finding 3, 4 & 8, 11-3-29C(5)(c))

17. The trail within the unimproved W 1st Street right-of-way must be designed in such a way as to not foreclose the possibility of future use of the road by adjacent properties. This plan will be reviewed and approved by the Public Works and Planning Departments. (Finding 4)

18. All on-site signage must meet §11-5, Sign Regulations. (Zoning Regulations §11-5)

19. The following notes shall be placed on the face of the plat:
   - Building numbers shall be located in a clearly visible location.
   - A geotechnical letter with recommendations must accompany building permits on Lots 3, 4, 5, and 6.
   - The internal roads 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 City requirements for public roadways. 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.

(Subdivision Regulations §12-4-6; Staff Report Findings 3, 5; City Engineering Standards, 2009)

20. A common off-street mail facility shall be provided by the developer and approved by the local post office. (Subdivision Regulations §12-4-24)

21. No short-term rental of any residential use is permitted with the exception of the hotel. (Zoning Regulations §11-2W)

22. The public dock must remain open to public use. No private slip leasing is permitted. (Finding 4, 8)

23. The live-work units must comply with §11-3-41, artisan manufacturing must comply with §11-3-39, the microbrewery must comply with §11-3-40 and professional artist studio and galleries must comply with §11-3-15. (Zoning Regulations §11-3)

24. Prior to approval of the final plat, the applicant shall produce a copy of the proposed Covenants, Conditions and Restrictions (CC&Rs) Owners’ Association (OA) providing for:
   • Long-term maintenance of the open spaces;
   • Long-term weed management plan. The 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 storm water management facilities.

(Subdivision Regulations §12-4-30; Staff Report Finding 3; City Engineering Standards, 2009)

25. Other permits may be required by other governmental agencies and the owner is responsible for obtaining these permits which may include: a floodplain permit, a permit from the conservation district and a water quality protection permit.

26. The range of uses shall fall within the permitted and conditionally permitted uses for both the WT-3 and WI-T, as well as those listed in the application and as amended by Ordinance Nos. 19-02 and 21-14. (Zoning Regulations §11-2W, §11-2X)

27. The 95 Karrow preliminary plat and planned unit development is approved for three years from Council action. (Subdivision Regulations, §12-3-8)
The City of Whitefish would like to inform you that Karrow Whitefish Investment LLC is requesting a Planned Unit Development (PUD) amendment for a 5-foot structural setback, 0-foot lot line setback on awnings and roofs adjacent to common areas, 60% lot coverage Lots 3, 4, 5, 6, and portions of Lot 7 and 80% lot coverage on Lot 10. The property is currently under development and is zoned WI-T (Industrial Transitional District) and WT-3 (Neighborhood Mixed Use Transitional District) with a WPUD. The property is located at 95 Karrow Avenue and can be legally described as Tracts 4BA, 4C, 4G, 4F in Sections 35 & 36, T31N, R22W, P,M.M., Flathead County, P.M.M., Flathead County.

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

**Thursday, May 18, 2023**
6:00 p.m.
Whitefish City Council Chambers, City Hall
418 E 2nd Street, Whitefish MT 59937

The Whitefish Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on **Monday, June 5, 2023** at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department and on the Planning Department webpage – Current Land Use Actions: [www.cityofwhitefish.org](http://www.cityofwhitefish.org). The public is encouraged to comment on the above proposal and attend the hearing. Please send comments to the Whitefish Planning Department (address below) or email at wcompton-ring@cityofwhitefish.org. Comments received by the close of business on May 5, 2023, will be included in the packets to Board members. Comments received after the deadline will be summarized to Board members at the public hearing.
The areas depicted on this map are for illustrative purposes only and do not necessarily meet mapping, surveying, or engineering standards. Deriving conclusions from this map is done at the user's risk.
Date: April 28, 2023

To: Advisory Agencies & Interested Parties

From: Whitefish Planning & Building Department

The regular meeting of the Whitefish Planning Board will be held Thursday, May 18, 2023 at 6:00 pm at the Whitefish City Council Chambers in City Hall. Upon receipt of the recommendation from the Planning Board, the Whitefish City Council will hold a subsequent public hearing on Monday, June 5, 2023. City Council meetings start at 7:10 pm at City Hall.

1. A request by Ruis Texco LLC is requesting a Planned Unit Development (PUD) for a 146-unit multi-family development in seven (7) buildings. The property is currently partially developed with several single-family homes and is zoned WR-4 (High Density Multi-Family Residential District) and WR-2 (Two-Family Residential District). The property is located at 105 Colorado Avenue, 709 Waverly, 60, 124, 136 and 152 Texas Avenue and can be legally described as Lot 1, Whitefish Cottages; Lots 1 & 2, Amended Lot 2 Whitefish Cottages; Lots 1A & 2, Linton Subdivision; Lot 2, Reeb Subdivision in S25 T30N R22W, P.M.M., Flathead County. (WPUD 22-04) Compton-Ring

2. A request by Karrow Whitefish Investment LLC is requesting a Planned Unit Development (PUD) amendment for a 5-foot structural setback, 0-foot lot line setback on awnings and roofs, 60% lot coverage Lots 3, 4, 5, 6, and portions of Lot 7 and 80% lot coverage on Lot 10. The property is under development and is zoned WI-T (Industrial Transitional District) and WT-3 (Neighborhood Mixed Use Transitional District) with a WPUD overlay on the entire project. The property is located at 95 Karrow Avenue and can be legally described as Tracts 4BA, 4C, 4G, 4F in Sections 35 & 36, T31N, R22W, P.M.M., Flathead County. (WPUD 23-01) Compton-Ring

Documents pertaining to these agenda items are available for review at the Whitefish Planning & Building Department, 418 E Second Street, during regular business hours and the application and site plans are available HERE. The full application packet along with public comments and staff report will be available on the City’s webpage: www.cityofwhitefish.org under Planning Board one week prior to the Planning Board public hearing date noted above. Inquiries are welcomed. Interested parties are invited to attend the meeting and make known their views and concerns. Comments in
writing may be forwarded to the Whitefish Planning & Building Department at the above address prior to the hearing or via email: dtaylor@cityofwhitefish.org. For questions or further information regarding these proposals, call 406-863-2410.
3rd AMENDED PUD APPLICATION

95 KARROW

SUBMITTED BY:

NORTHWEST DESIGN STUDIO

940 Spokane Ave, Ste. 3 Whitefish, MT 59937
406 / 862-4755 info@nwds-mt.com
State of Montana License No: 17951
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3rd AMENDED PUD APPLICATION

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  Letter of Application
  PUD Application
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Site Plan
Lot Coverage Summary Table
Building Summary & Parking Calculations Table
April 20, 2023

Mr. Steve Qunell, Chairman
Whitefish Planning Board
418 2nd Street East
Whitefish, MT 59937

Re: 3rd Amended Planned Unit Development (PUD) Request
95 Karrow (WPUD-17-02)

Chairman Qunell and Members of the Board:

On January 2, 2018, the Whitefish City Council adopted Ordinance #18-01 approving the 95 Karrow Preliminary Plat and Planned Unit Development (PUD). On January 22, 2019, the Council approved an Amendment to the PUD which added clubs, private and semi-private recreational facilities to the list of conditionally permitted uses within the development (Ordinance #18-08). A second Amendment to the PUD was adopted on November 3, 2021 (Ordinance #21-14). This amendment added housing units and a proposed reduction in commercial space. The owners of 95 Karrow, in response to design development activities and architectural feasibility assessments, are seeking approval of a third amendment to the approved PUD.

The requested amendments address lot setback deviation and permitted lot coverage within the PUD. Building locations, parking orientation, open space and circulation all remain largely as approved.

The changes, if approved, will allow for increased flexibility in providing thoughtfully designed buildings for residential and commercial application throughout the PUD.

All proposed improvements in this amended request adhere to the development standards of the respective underlying zoning districts where possible. Traffic generated by the PUD will not increase because of the proposed changes, and adequate parking is provided (see site plan for parking counts and locations).

The amendments requested provide clarity and flexibility to the ongoing design and development of the individual lots within the PUD. The uses herein are consistent with the requirements of the previously approved PUD, with the underlying and PUD zoning designations of the property, with the Highway 93 West Corridor Plan, an element of the city’s adopted Growth Policy, and are in direct response to the current and foreseeable needs of the community.

Through an Amended Preliminary Plat approved in May of 2022, the Lot configuration has adjusted from the previously amended PUD. This was completed in an effort to simplify the layout, and respond to the amended uses outlined in the Second Amendment to the PUD while increasing the connectivity of the development. The essence and intent of the PUD remains unchanged.
REQUEST:
The applicant is seeking approval of deviations to the approved Planned Unit Development as described below

- Implementation of a standard five-foot minimum property line setback on all individual lot lines. This would apply to all front, back and side setback requirements.
- A Zero(0)-foot lot line setback on awnings and roofs on lot lines adjacent to common areas. Wherever possible, additional space will be allotted.
- Adjustment of the underlying WT-3 zoning allowable lot coverage to 60% on lots 3, 4, 5, 6, and portions of Lot 7.
- Adjustment of the underlying WI-T zoning allowable lot coverage on Lot 10 to 80%.

If approved the amendments will result in:

- Architectural design flexibility resulting in usable, market-value priced units that are attractive to buyers.
- Maintaining a cohesive, urban-influenced community keeping in character with the original intention of the PUD.

DISCUSSION/RATIONALE

Setbacks
There are two underlying zoning districts within the PUD, WI-T and Wt-3. The WI-T underlying zoning district applies to lots 1, 2, portions of 7, 8, 9, and 10. The WT-3 underlying zoning district applies to lots 3, 4, 5, 6, and portions of lot 7. In the originally approved PUD, setbacks were not clearly defined, but intended to be flexible to allow for adjustments in use or architectural requirements. Deviations to the setbacks were outlined in the original application applying to lots 7, 9, and 10, however adjustments to the preliminary plat (WPP 17-04A), approved May 16, 2022, have rendered these deviations outdated and no longer in congress with the developing plans.

At the time of the original application, no detailed information was available to represent architectural development of the site. Building placeholders were imposed with the intention of development at a later date. Setback requirements, and intended deviations were thoughtfully anticipated but did not consider eventualities for changes in design or use within the PUD. Since that time, and through thoughtful analysis and implementation of design development, it has become apparent that the underlying zoning setbacks do no support the intent of the development in all locations. The original plans for the PUD featured some design aspects that required adjustment for a successful project to occur. These adjustments resulted in an increase of the overall building footprints. Generally, the original building designs failed include exterior windows in the indoor living spaces with the exception of the bedrooms. To accommodate windows in living rooms and kitchens, adjustments were needed to add outside wall area and building footprint. The number of units, bedrooms and bathrooms counts originally proposed has not been altered since the second amended PUD. An effort to provide onsite parking under the buildings has also impacted the building footprint area on Lots 1 and 2. At least one space per unit is proposed.
The PUD has always intended to emulate the character of the downtown corridor, promoting pedestrian circulation, ease of access between adjacent buildings, and a relaxed urban feel. In developing the plans further, certain adjustments have occurred to promote that character - buildings have shifted closer to sidewalks along the roads, under-building parking facilities are proposed to be added providing comfortable access to living units for future owners. While these adjustments do not abide by the zoning setback requirements, the intent of the PUD has been and continues to be to maintain the character and feel of a cohesive urban setting, similar to standards adhered to for the downtown corridor (WB-3 zoning). Special consideration has been taken in the selection of potential tenants and future owners to ensure that the character is maintained throughout.

At this time, a deviation from all designated zoning setbacks is requested. A proposed five-foot minimum for building footprints at all property lines and a zero-foot lot line for awnings and roofs adjacent to common areas within the PUD is requested. The underlining zoning setbacks of twenty-five foot front, ten-foot/fifteen-foot side and twenty-foot rear is not in accordance with the intended character of an urban setting. The approval of a five-foot setback will more closely represent the intent of the PUD at its conception.

This deviation will have very limited impact on adjacent properties:

Lot 1 is directly adjacent to a separate property owner (Great Northern Veterans Peace Park, GNVPP). 95-Karrow has a shared-use agreement in place with GNVPP for the intended use of providing shared parking area. This agreement in good standing and no alterations to the plan have impacted the agreement. BNSF property is located to the north of Lot 1, with the rail line set back a fair distance from the property line.

Lot 7 is located along the First Street right of way at the south limits of the development. Per the Conditions of Approval at the time of the second-amended PUD, 95 Karrow was asked to maintain access via the First Street right of way to the Hendrix Subdivision Lots located south of the right of way for as long a length as is possible. By creatively working through the proposed residential structures for Lot 7, that condition has been met while maintaining a functional dwelling unit and a direct connection to the PUD.

With the exception of the two lots outlined above, all other lots are directly adjacent to one-another, or to common area within the property and have no direct impact to adjacent land owners.

Lot Coverage
The PUD adheres to the underlying zoning lot coverage standard where possible. Adjustment of the allowable lot coverage on lots 3, 4, 5, 6, and portions of Lot 7 (WT-3) to 60%, and up to 80% for Lot 10 (WI-T) – a 10% increase, will allow for buildings to be designed with modern amenities while maintaining the proposed density outlined in the PUD. The inclusion of onsite parking for residential units, on-site storage, common spaces, exterior decks, and patios all count toward the lot coverage. In conjunction with the above request for implementation of a five-foot setback, an increased allowable building space on the proposed lots will allow for flexibility where anticipated architectural designs would exceed the underlying allowed lot coverage.
Parking
Parking requirements for the PUD will remain the same if the proposed amendments are approved. The approval of the overall parking plan for the initial PUD included the Traffic Impact Study prepared for the project, the traffic engineer’s shared-parking analyses and recommendations, and a shared parking agreement with an adjacent landowner. It was agreed that all outdoor parking on (and off of) the site will be shared parking, available to all businesses, employees, clients, guests and residents of the PUD. To meet the needs of plan adjustments in recent months, six additional parking spaces have been added to the plan. The traffic analysis was updated and included in the most recent application for amended preliminary plat. With the revision of use to decrease commercial space, and include more residential units, the daily trips anticipated were decreased.

The approved PUD plan also acknowledged that due to the mixed-use nature of the project that a 15% “trip-capture” rate was appropriate in calculating parking requirements. The trip-capture factor has been applied only to the non-residential uses within the PUD. This is a recognition that many visitors to the PUD will frequent multiple entities within the neighborhood in a single trip but will occupy only one parking space while doing so. See site plan for building sizes and uses and the modified parking plan.

In adopting Ordinance #18-10 and approving the original 95 Karrow PUD the Whitefish City Council also adopted findings of fact relative to the development. Specifically, Council found that the PUD will:

- Preserve and/or enhance environmentally sensitive areas of the site.
- Preserve crucial wildlife habitat and/or daily or seasonal migration corridors.
- Provide usable open space.
- Preserve and protect the character and qualities of existing neighborhoods.
- Make efficient use of infill property.
- Provide effective buffers or transition between potentially incompatible uses of land.
- Facilitate street continuity and connectivity, and attractive streetscapes.

The amendments requested will have no measurable negative impact on the approved PUD or surrounding properties. Traffic generation will not exceed that identified in the original PUD as a result of the amendments, and adequate, code-complying parking is provided. Findings similar to those made to support the initial and amended PUDs, the owners believe, can again be made for this third amendment.

The result of the amendment will provide the community with a unique mix of housing opportunities in close proximity to the downtown core (as well as other city services and amenities) and, further establish the 95 Karrow PUD’s identity as a mixed-use development complementary to and supportive of the business core of the city. Key additions and connections to the city’s bike/pedestrian path system will also provide a city-wide benefit.

An approved amendment to the PUD as requested will result in:

- No increase in traffic generation by the PUD
- Diverse housing options in Whitefish
- No change to approved circulation or infrastructure plans
• Maintained open space areas in excess of the minimum required for a PUD development.
• No new land uses being introduced in the PUD
• No additional impact on the neighborhood
• No significant impact on municipal services or utilities
• No light or noise impacts
• No change in building locations

We look forward to presenting this request to the Planning Board, and thank you for your consideration.

Sincerely,

[Signature]

Catherine A. Walker, ASLA
On Behalf of Karrow Whitefish Investment, LLC

Attachments
Amended Planned Unit Development Site Plan
Building Square-Footage/Parking Calculations Chart
Lot Coverage Table
Application
3rd Amended PUD
**PLANNED UNIT DEVELOPMENT**

**FEE ATTACHED $ _______________**  
(see current fee schedule)

**INSTRUCTIONS:**

- A Site Review Meeting with city staff is required. Date of Site Review Meeting: ________________________
- Submit the application fee, completed application, and appropriate attachments to the Whitefish Planning & Building Department a minimum of **forty-five (45) days prior** to the Planning Board meeting at which this application will be heard.
- The regularly scheduled meeting of the Whitefish City Planning Board is the third Thursday of each month at 6:00PM in the Council Chambers at 418 E 2nd Street.
- After the Planning Board hearing, the application is forwarded with the Board’s recommendation to the next available City Council meeting for hearing and final action.

**A. PROJECT INFORMATION:**

Project Name: 95 Karrow Ave

Street Address: 95 Karrow Ave

Assessor’s Tract No.(s) 0977729 Lot No(s) Tract 1 of COS 9540

Block # ___________ Subdivision Name ___________

Section 35/36 Township 31N Range 22W

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

_________________________ ________________________
Owner’s Signature Date

Karrow Whitefish Investment, LLC

______________________________________________
Applicant’s Signature

Casey Malmquist, Member

Print Name

_________________________
Date

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 application and supplemental materials.

☐ Site Plan – drawn to scale, which shows in detail the proposed use; property lines and setback lines; topography; density of dwelling units per gross acre; and other pertinent information. A narrative may also be submitted to supplement the site plan requirements. For full list of required items see §11-2S-8(B)

☐ Written report of any adjacent neighborhood citizen outreach completed, and any concerns raised. Full requirements can be found in §11-2S-8(A)(1)

☐ Written statement of the extent to which the plan deviates from zoning and/or “Standards for Design and Construction” (public works standards). For full description of written statement requirements, see §11-2S-8(A)(9)

☐ Ownership designation and management plan for all open space and common areas, including maintenance and weed control responsibilities. [§11-2S-8(A)(4)]

☐ Will this project provide affordable housing: ☐ Yes ☐ No

If yes, complete a Housing Mitigation Plan

☐ Proposed schedule of completion and phasing of the development, if applicable.

☐ Proposed covenants, conditions, and restrictions (CC&Rs)

☐ Written description of how the project meets the criteria in Section F

☐ Where new buildings or additions are proposed, building sketches and elevations shall be submitted

☐ Any other information that may be deemed relevant and appropriate to allow for adequate review including:

☐ The manner in which services will be provided such as water, sewer, storm water management, schools, traffic management, recreational facilities and/or other applicable services and utilities that may not be already included on the submitted site plan.

☐ Any special design standards, materials and/or colors

☐ Any additional information requested during the pre-application process

☐ If the project accompanies a Subdivision request, a preliminary plat shall be prepared in accordance with the requirements of the Subdivision Regulations (see applicable form).

When all application materials are submitted to the Planning & Building Department, the application will be scheduled for public hearing before the Planning Board and City Council.

C. GENERAL DESCRIPTION OF PROJECT


☐ PUD Type: ☐ Residential ☒ Mixed-Use ☐ Commercial ☐ Light Industrial or Industrial

☐ Initial Planned Unit Development

☒ Amendment to an Approved/Existing Planned Unit Development
D. OWNER/APPLICANT INFORMATION

OWNER(S) OF RECORD:

Name: Karrow Whitefish Investment, LLC Phone: 303-819-7770
Mailing Address: Attn: Daniel Kohler, 13701 W Jewell Ave, Ste 200-28
City, State, Zip: Lakewood, CO 80228
Email: dkoehler@vcmgam.com

APPLICANT (if different than above):

Name: Casey Malmquist Phone: 406-249-3100
Mailing Address: 160 Walker Creek Lane
City, State, Zip: Whitefish, MT 59937
Email: caseym@kcmenterprises.com

OTHER TECHNICAL/PROFESSIONAL:

Name: Cate Walker, Northwest Design Studio, Inc Phone: 406-862-4755
Mailing Address: 940 Spokane Ave, Suite 3
City, State, Zip: Whitefish, MT 59937
Email: cate.walker@nwds-mt.com

E. DESCRIBE PROPOSED USE: Include an overall description of the goals and objectives for the development of the project.

SEE ATTACHED

F. FINDINGS: The following criteria form the basis for approval or denial of the Planned Unit Development (§11-2S-9). The burden of satisfactorily addressing these criteria lies with the applicant. Review the criteria below and discuss how the proposal conforms to the criteria. If the proposal does not conform to the criteria, describe how it will be mitigated. Each criteria below shall be addressed with an eye toward community benefit and how the project goes above and beyond the standard requirements.

1. Explain how the project substantially achieves the applicable Purpose and Intent items found in §11-2S-1:

SEE ATTACHED
2. Explain how the project provides a clear community benefit and why there is proper justification for any proposed deviations from standards:

SEE ATTACHED

3. Explain how environmentally sensitive areas of the site are being preserved and protected by the proposed development. A full description of environmentally sensitive areas can be found in §11-2S-9(B)(1).

SEE ATTACHED

4. Explain how the development is being sensitive to and respectful of wildlife habitat and/or seasonal migration corridors as identified by a competent wildlife assessment or verified by empirical evidence.

SEE ATTACHED

5. Explain how the open spaces, either planned for persons expected to reside in the completed development (children, young adults, seniors, etc.) or available to the public in general, are being provided by the development.

SEE ATTACHED
6. Explain how the character and qualities of existing neighborhoods are being preserved and protected. Proposed PUDs are to be integrated into the existing neighborhood in terms of scale, quality, character, and street continuity. When, in the judgement of the City Council, such integration is not possible, practical, or will otherwise not produce desired outcomes for the existing neighborhood, effective buffering and transitions must be provided by the proposed development.

SEE ATTACHED

7. Explain how street continuity is being maintained by extending the Whitefish street grid and other established street systems consistent with adopted transportation plans.

SEE ATTACHED

8. Explain how the new development is providing attractive, high-quality streetscapes through the use of landscaping, sidewalks/bikeways, street trees, and quality street lighting fixtures, including design consideration for and integration with adjacent structures.

SEE ATTACHED

9. Explain how the proposed development is, to the extent possible, providing pedestrian, transit, and bicycle facilities, and encourage transportation alternatives consistent with the Whitefish Growth Policy, adopted transportation plans, and the Bicycle and Pedestrian Master Plan.

SEE ATTACHED
10. If the proposed development taking advantage of the density bonus pursuant to §11-2S-3, explain how the development is providing affordable/workforce housing of the unit type(s) and quantity set forth in the Whitefish Growth Policy, Housing Needs Assessment, and/or the Whitefish Housing Strategic Plan.

SEE ATTACHED

11. Explain how the project is avoiding a monotonous and/or institutional appearance through varied architecture and orientation of buildings, and where appropriate, varying the type of residential unit within the project.

SEE ATTACHED

12. Explain how the project is avoiding or effectively mitigating adverse impacts identified through the development review process.

SEE ATTACHED

13. Explain how the new development is demonstrating substantial compliance with and/or implementation of the growth policy, including adopted neighborhood plans and corridor plans.

SEE ATTACHED
E. DESCRIBE PROPOSED USE: Include an overall description of the goals and objectives for the development of the project.

The proposed Planned Unit Development, on the former Idaho Timber site, will be a phased, diverse mixed-use development featuring residential, professional office, lodging and restaurant, limited retail, light manufacturing, artisan workshop, studio and gallery, personal service, and other similar uses. Approximately 32% of the 14-acre site will be devoted to public parkland, open space and amenities adjacent to the Whitefish River. An extensive network of bike/pedestrian trails is proposed on-site; these trails will eventually tie in to the City’s existing and planned trail system, and make downtown, City Beach and other City parks and amenities easily accessible from the neighborhood, and from this west end of the Highway 93 Corridor.

The residential component of the PUD is comprised of a mix of live-work units and condominiums, and provides a small year-round residential presence within the development. Short-term rental of residential units – aside from the hotel building – is not permitted.

The PUD design and the uses proposed within the development are consistent with and implement the vision of the Highway 93 West Corridor Plan, which was adopted by the city council as an amendment to the city’s Growth Policy.

**Goal: Diverse but synergistic mix of tenants/owners/residents**
The new zoning districts introduce new permitted and conditionally-permitted land uses including live-work units, business incubators and artisan manufacturing. Both live-work units and artisan manufacturing uses are proposed in the PUD, and while a business incubator is not proposed, it is the goal of the developers to create an atmosphere within the PUD supportive of entrepreneurship and creativity, and it is hoped that artists, artisans, small manufacturers and others can get their businesses off the ground here. The phased proposal includes six mixed-use buildings, offering a wide variety of spaces and configurations in order to accommodate the needs of an array of potential owners and tenants.

**Goal: Serve as a hub for and provide links to numerous bike/pedestrian trails**

**Goal: Provide another public access point to the Whitefish River**
Given its location the Corridor Plan recognized an opportunity for the former Idaho Timber site to provide public access to the river (thereby increasing recreational opportunities), and a neighborhood that would benefit from increased community connectivity. To that end, the proposed PUD includes a 0.65 acre river-side park, and approximately 2,400 lineal feet of paved bike/pedestrian trails. It is the developer’s desire to work with the City to make key off-site improvements to the trail system which will link this neighborhood (and this side of town) to City Beach, downtown Whitefish, the golf course, and other city parks and amenities.

**Goal: A sustainable development**
The developers of the PUD are working with their design team to ensure that the overall development is built as sustainably as possible through use of local materials and re-use of excavated or recycled site materials.

F. FINDINGS: The following criteria from the basis for approval or denial of the Planned Unit Development. The burden of satisfactorily addressing these criteria lies with the applicant. Review the criteria below and discuss how the proposal conforms to the criteria. If the proposal does not conform to the criteria, describe how it will be mitigated. Each criteria below shall be addressed with an eye toward community benefit and how the project goes above and beyond the standard requirements.

1. Explain how the project substantially achieves the applicable Purpose and Intent items found in Ch11-2S-1:
The PUD is being developed as a cohesive, community-oriented property. The development adds 99 residential units which includes 13 Live-Work units, offering residents the opportunity to expand and explore their craft. In addition, a condo-hotel is planned to offer 70 additional units. Nightly-rental is limited to the condo-hotel.

The uses of the PUD are spread throughout the development, offering six mixed-use buildings with a variety of uses throughout including commercial, artisan/manufacturing, and professional office space. Residential units are integrated mostly in upper floors, offering straightforward access to more public-use units and providing privacy for residential units.

The buildings offer a variety of arrangements and materials, which speak to the historical uses of the site. The overall placement and orientation of the buildings is a direct reflection of the site, taking into account the natural grade drop-offs and proximity to the river. Where possible, buildings are intended to traverse steep grade changes through the use of lower-level walk-outs, providing additional occupiable space and an incomparable view of the Whitefish River. Care has been taken to ensure that a strong connectivity component is carried throughout the development, offering many common spaces to explore and use. This connectivity not only applies from building to building, but to the greater Whitefish community through the expansion of the river-adjacent trail.

2. Explain how the project provides a clear community benefit and why there is proper justification for any proposed deviations from standards:

The goal of the PUD has been to maintain a cohesive, urban-influenced community which promotes pedestrian circulation and community open space. The architectural design, currently in development, seeks to create well-planned, functional units which take advantage of outdoor living space and the views of the surrounding mountains. The proposed setback deviations allow for Architectural design flexibility that respond to the mixed-uses of the buildings. Additionally, this promotes connectivity between the buildings by decreasing the distance between the building and the adjacent sidewalk – further promoting the intent of an urban community.

3. Explain how environmentally sensitive areas of the site are being preserved and protected by the proposed development.

The Whitefish River bank’s mixed-woodland vegetation will be preserved and protected. The existing streambank will be preserved. A plan for weed control and forest and riparian restoration has been developed for the bank areas. Other portions of the site have native and ornamental plantings typical of an urbanized environment. The highly disturbed site does not contain any other environmentally sensitive areas.

4. Explain how the development is being sensitive to and respectful of wildlife habitat and/or seasonal migration corridors as identified by a competent wildlife assessment or verified by empirical evidence.

Although not mapped as crucial wildlife habitat, wildlife – including Whitetail Deer, Moose, and Bear - use the river corridor. The degraded portions of the Whitefish River bank areas will be restored and will continue to provide habitat for these species. The highly disturbed site does not contain any other wildlife habitat.

5. Explain how the open spaces, either planned for persons expected to reside in the completed development (children, young adults, seniors, etc.) or available to the public in general, are being provided by the development.

Active and passive usable open space is proposed on site. The common areas include space along the Whitefish River bank with a ADA accessible public bike/ pedestrian and multi-use trail. A 0.65-acre park is proposed in the Southeast area of the site with dock access to the Whitefish River. Usable plaza areas consisting of a river promenade and streetscape are proposed throughout the
site. The proposed open space areas function as a system with the proposed bike/pedestrian trail. (See #8 below for a description of transportation alternatives.)

Open space requirement is being met through the PUD overlay. Site statistics and open space requirements are as follows:

The site is 14.08 acres per COS 9540.
32% of Site will remain as open space (30% required by code).
14.08 x 0.3 = 4.224 acres of open space required
4.51 Acres of open space are proposed

6. Explain how the character and qualities of existing neighborhoods are being preserved and protected. Proposed PUDs are to be integrated into the existing neighborhood in terms of scale, quality, character and street continuity. When, in the judgement of the City Council, such integration is not possible practical, or will otherwise not produce desired outcomes for the existing neighborhood, effective buffering and transitions must be provided by the proposed development.

The Highway 93 West Corridor Plan was created to document and address the evolving character of the corridor and adjacent neighborhoods and, “to respect the existing land uses and zoning while allowing for the sensitive, timely and appropriate transition from existing uses to future land uses to benefit the community.” The plan identified a range of land uses “to be integrated into the fabric of the Whitefish community, conform to the goals and objectives of the downtown and can be accepted by use, process and performance standards by the occupants of the corridor and the community.”(p.4)

7. Explain how street continuity is being maintained by extending the Whitefish street grid and other established street systems consistent with adopted transportation plans.

Karrow Avenue provides primary access to the PUD. At the point that Karrow Avenue reaches the subject property, the right-of-way will be increased to 90 feet. The west First Street right of way is being improved to allow access for the Hendrix Subdivision lots located south of the development. The proposed streets within the PUD (private streets open to the public) will resemble downtown Whitefish. The streets are 22’ wide with angled parking. The proposed streetscape features 8’ wide sidewalks. Gathering plazas are accessible to the public and are intended for pedestrian activity. Street trees and planting beds are incorporated to soften the hardscape, produce shade and to reduce the heat island effect.

8. Explain how the new development is providing attractive, high-quality streetscapes through the use of landscaping, sidewalks/bikeways, street trees, and quality street lighting fixtures, including design consideration for and integration with adjacent structures.

Buffers are proposed between the proposed development and adjacent residential lots to the south. In the southwest corner of the site a planting area is proposed to buffer the proposed 14’ multi use trail from Lot 1 of Murray’s Homes subdivision. The proposed multi use trail, boulevard planting strip, park access drive and additional planting strip create horizontal buffer space from the proposed structures on Lot 8. Along the south property boundary, planting areas are proposed. The proposed garages on the south boundary of lot 7 serve as a vertical element to buffer the activity on-site from the residential uses to the south. The west First Street right of way has been enhanced to promote shared access to the Hendrix lots located south of the PUD. Additional vegetation will occupy the open space including parkland.

9. Explain how the proposed development is, to the extent possible, providing pedestrian, transit, and bicycle facilities, and encourage transportation alternatives consistent with the Whitefish Growth Policy, adopted transportation plans, and the Bicycle and Pedestrian Master Plan.

The plan calls for constructing all proposed bike/pedestrian trails on the site. Two trail routes are proposed within the development. The first running along the southern site boundary in an east-west...
direction. The other runs parallel to the Whitefish River in a north-south direction. The proposed Whitefish River trail terminates at the north property boundary where a small section of trail across the BNSF right-of-way would be required to connect the proposed development trails to the City trail system. This new trail connection will connect to the Whitefish River Trail, BNSF Loop and the 93 Trail. The trails in this development will act as a trail hub, linking downtown, City Beach and many City parks and neighborhoods to the East and South with the Great Northern Veteran’s Peace Park and the Golf Course to the West. Along with the completion of the viaduct (Baker Avenue) trail tunnel, all of these sites will be accessible to one another without having to cross a single street.

To accommodate bike users, parking facilities are proposed throughout the site. As the development is built out and the area grows, it is possible that a shuttle service could connect this site with downtown and/or could become a snow bus stop.

10. If the proposed development taking advantage of the density bonus pursuant to §11-2S-3, explain how the development is providing affordable/workforce housing of the unit type(s) and quantity set forth in the Whitefish Growth Policy, Housing Needs Assessment, and/or the Whitefish Housing Strategic Plan.

There is not an affordable housing component to this Planned Unit Development. The City’s Growth Policy does not encourage a significant amount of residential growth at this location.

11. Explain how the project is avoiding a monotonous and/or institutional appearance through varied architecture and orientation of buildings, and where appropriate, varying the type of residential unit within the project.

The project is basing its design on a historical railroad, lumber mill, and industrial area that has been redeveloped with contemporary elements and character. There are no existing buildings on the site. Proposed buildings are being designed to emulate a historical, industrial character that have been added onto or redeveloped in a new manner over time. This is being accomplished through use of brick and metal building materials with traditional forms and shapes. Other buildings are planned on being entirely new with contemporary design characteristics complimenting the proposed historic elements. The project is intended to have urban downtown characteristics and the requested setback changes will align the buildings closer to the streetscape with entrances and overhangs to promote that feel. Buildings are orientated in varying directions due to the varied street locations, public ways, and the main view corridors of the river and mountains to the north. As such, the buildings incorporate four-sided architecture. The design of the buildings offers varying unit types including one, two, three, and four-bedroom units on ground floor through third floor levels. Further variety is provided through a mix of multi-floor and single-story units.

12. Explain how the project is avoiding or effectively mitigating adverse impacts identified through the development review process.

This is an ongoing, approved PUD. All requirements are being met to mitigate adverse impacts.

13. Explain how the new development is demonstrating substantial compliance with and/or implementation of the growth policy, including adopted neighborhood plans and corridor plans.

The amendments requested herein are consistent with the requirements of the previously approved PUD, with the underlying and PUD zoning designations of the property, with the Highway 93 West Corridor Plan, an element of the city’s adopted Growth Policy, and are in direct response to the current and foreseeable needs of the community by establishing much-needed housing units, providing professional office and artisan manufacturing opportunities, and filling a missing piece in the City’s trail system.
Site Plan

95 Karrow
I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly registered architect under the laws of the State of Montana, practicing in Whitefish, Montana.

THESE PLANS AND SPECIFICATIONS ARE THE SOLE PROPERTY OF MONTANA CREATIVE ARCHITECTURE AND DESIGN. ANY REPRODUCTION OR REUSE OF THESE DOCUMENTS IS FORBIDDEN WITHOUT WRITTEN PERMISSION FROM MONTANA CREATIVE ARCHITECTURE AND DESIGN.

Date: 23-04-2023

MONTANA CREATIVE ARCHITECTURE + DESIGN
158 RAILWAY ST.
WHITEFISH, MT 59937
406.862.8152
FAX# 406.862.8153

Reg. No. 2932
AARON J. WALLACE

LOT 1:
- 9 RESIDENTIAL UNITS

LOT 2:
- 3 BUSINESS UNITS
- 3 LIVE / WORK UNITS
- 3 RESIDENTIAL UNITS

LOT 3:
- 3 BUSINESS UNITS
- 3 LIVE / WORK UNITS
- 3 RESIDENTIAL UNITS

LOT 4:
- 3 BUSINESS UNITS
- 3 LIVE / WORK UNITS
- 3 RESIDENTIAL UNITS

LOT 5:
- 3 BUSINESS UNITS
- 3 LIVE / WORK UNITS
- 3 RESIDENTIAL UNITS

LOT 6:
- 3 BUSINESS UNITS
- 3 LIVE / WORK UNITS
- 3 RESIDENTIAL UNITS

LOT 7 (EAST / WEST):
- 7 RESIDENTIAL UNITS (EAST)
- 7 RESIDENTIAL UNITS (WEST)

LOT 8:
- 6 BUSINESS UNITS
- 6 LIVE / WORK UNITS
- 6 RESIDENTIAL UNITS

LOT 9:
- 2 BUSINESS UNITS
- 6 LIVE / WORK UNITS
- 4 RESIDENTIAL UNITS

LOT 10:
- 3 BUSINESS UNITS
- 32 RESIDENTIAL UNITS
- ELEVATED OUTDOOR COMMON SPACE

HOTEL:
- RESTAURANT
- INDOOR / OUTDOOR SPA
- 70 ROOM AVAILABILITY

WHITEFISH RIVER
PEACE PARK
(N) BIKE PATH
(E) RAIL BRIDGE
IN) PEDESTRIAN BRIDGE
KARROW AVE.
U.S. 93
COURTYARD
WHITEFISH YARDS
95 KARROW WHITEFISH MONTANA 59937

SITE PLAN
NOT FOR CONSTRUCTION 4-3-23

REVISION SCHEDULE

# DESCRIPTION DATE

AR 0.0
## Lot Summary

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<td>12371.69</td>
<td>70%</td>
<td>8660.18</td>
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<td>23581.29</td>
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RESOLUTION NO. 23-___

A Resolution of the City Council of the City of Whitefish, Montana, adopting an Annexation Policy.

WHEREAS, the City adopted an Extension of Services Plan, last updated on June 15, 2021, which contains an outline of an annexation policy; and

WHEREAS, it was recognized by the City Council that a more concise and complete Annexation Policy should be adopted by resolution to guide it in making annexation decisions; and

WHEREAS, the City Council held multiple public work sessions with staff on the Annexation Policy and gave direction to bring the attached documents forward for consideration of adoption by resolution; and

WHEREAS, the City Council recently adopted a change to the zoning regulations that authorized the use of zoning upon annexation, as allowed by § 76-2-303(3), MCA, further facilitating the need for an updated and revised Annexation Policy; and

WHEREAS, at a lawfully noticed public hearing on June 5, 2023, after reviewing the written staff recommendations, receiving an oral report, and inviting public comment, the City Council found it is in the best interests of the City and its inhabitants to adopt the proposed Annexation Policy as set forth in Exhibit A.

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

Section 1: The forgoing recitals are hereby adopted as findings of fact.

Section 2: The Annexation Policy set forth in Exhibit A is hereby adopted.

Section 3: This Resolution is effective upon its adoption by the City Council and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 5TH DAY OF JUNE 2023.

______________________________
John M. Muhlfeld, Mayor

ATTEST:

______________________________
Michelle Howke, City Clerk
MEMORANDUM

To: Mayor Muhlfeld and City Council
From: David Taylor, AICP, Planning Director
Date: June 5, 2023
RE: City of Whitefish Annexation Policy Resolution

Background Information

Attached is an updated City Annexation Policy, which has been put together for adoption of the City Council by resolution. While our current Annexation Policy is contained in our adopted Extension of Services Plan, staff recommends that the city adopt a standalone Annexation Policy. This Annexation Policy was previously reviewed by the Council at two work sessions.

The Annexation Policy outlines the policy for both city-initiated annexations of wholly surrounded properties or properties already on city services, as well as annexations requested by landowners needing services. The Annexation Policy document includes a purpose statement and a series of evaluation criteria the City Council should use when making decisions related to annexation. This includes the process to allow for zoning upon annexation, as we recently updated the city code to allow for rezones to city zoning to occur simultaneously with annexation petition approvals.

A companion document providing answers to Frequently Asked Questions (FAQ) is also included. It explains the annexation process and provides explanation of why annexation might be desirable. It answers questions that often come up about City-initiated annexations of wholly surrounded properties, including concerns about property tax increases and whether there are requirements to connect to City sewer and water services.

A map is also included of the Urban Growth Boundary adopted in our Extension of Services Plan.

Recommendation

Staff recommends that the City Council adopt the attached resolution updating the City Annexation Policy.
City of Whitefish Annexation Policy

PURPOSE
Annexation is the process by which land in Flathead County becomes incorporated into the City of Whitefish. The City of Whitefish Annexation Policy is intended to provide City Council with a set of comprehensive policies and objective guidance for making decisions about annexation within the Whitefish Urban Growth Boundary. The impetus behind owner-initiated annexation is usually related to the provision of City services, typically access to municipal water and sewer services. Services provided to city residents also include fire and police protection and other emergency services, street maintenance including snow plowing for public streets, as well as access to parks, recreation, the library, and other City facilities. The City of Whitefish also provides protection to city residents through specific planning, zoning, and building ordinances which protect property owner investments and encourage beautification and maintenance of Whitefish neighborhoods. Annexation may be initiated by property owners of undeveloped land, by owners of existing developed lands, or initiated by City Council when a parcel is wholly surrounded by city property, already on city water or sewer, or otherwise meets the criteria for annexation. Annexation results in taxpayers who use City services equitably sharing the cost of such services. This annexation policy is tied to the Urban Growth Boundary as prescribed in the City of Whitefish Extension of Services Plan. The City Council shall consider land annexations within the Urban Growth Boundary that adhere to the provisions specified in Montana Annexation Statutes (7-2-4201 through 7-2-4761, MCA).

The City Council shall have the authority to waive guiding principles of this policy in order to continue to best provide the continued delivery of efficient services and maintain orderly development for the health, safety, and welfare of all citizens within its jurisdiction. The Council may approve, deny, or conditionally approve petitions for annexation based on the following criteria.

ANNEXATION EVALUATION CRITERIA

A. Area and Boundary

Areas must be located within the Urban Growth Boundary to be considered for annexation. For areas outside the Urban Growth Boundary, the City Council may choose to amend the Extension of Services Plan and revise its Urban Growth Boundary to consider those areas for annexation.

The City should prioritize the annexation of the following areas:

- Areas that contribute to the logical growth pattern of the City by creating orderly and contiguous municipal boundaries
- Properties that will fill in gaps left by previous annexations that created islands and other non-contiguous boundaries
- Properties already connected to city water or sewer services
- Areas where the proliferation of on-site septic systems may pose a threat to water quality and environmentally sensitive areas
• Areas advantageous to the residents of both the annexation area and the City as a whole
• Areas that would provide additional community housing
• Areas where property owners are generally favorable toward the annexation, or
• Areas where there are existing annexation agreements, signed annexation petitions, or signed waivers of protest of annexation

In cases where immediate annexation may be undesirable, the City should:

• Only extend city services in situations that help reach City planning goals or to address environmental issues
• Require the property owner receiving City services to sign a waiver of protest for future annexation of the property

B. Public Improvements and Service

Extension of sewer and water mains and connection to City services are at the expense of the property owners. Once constructed by the property owner and accepted by the City, the cost of operating and maintaining the infrastructure is shared by all City taxpayers.

• A property owner may continue to rely on private wells and septic sewage systems after annexation and is not required to connect to City water and sewer services until those systems require expansion, upgrading, or replacement
• Property owners that install water or sewer across longer distances may qualify to have latecomer agreements to share costs for other property owners wishing to connect
• Existing private roads and utilities shall remain private after annexation unless road right of way is needed for future transportation grid connectivity. If they remain private, the cost to maintain existing infrastructure will continue to be borne by the property owner or homeowner’s association

The City should

• Prioritize annexation of lands located within the water and sewer service areas
• Prioritize annexation of areas where roads and utilities meet current City standards
  o Developed properties must upgrade existing utilities and facilities to City standards prior to receiving new service
• Evaluate direct and indirect costs of service and maintenance needs
• Evaluate the potential demand for various municipal services, especially those requiring capital improvements
• Equitably provide the same levels of service and infrastructure as other parts of the municipality with similar topography, land use, and population density
• Avoid annexations that involve substantial utility and service extension obstacles or other physical constraints
C. Cost and Benefit

The City should:

- Pursue cost-effective annexation opportunities that advance equal sharing of community and financial resources by those areas of the community who are using and benefitting from community resources

D. Compliance with City Plans and Policies

Any annexation by the City should:

- Be guided by adopted corridor plans, neighborhood plans, the Extension of Services Plan, and/or the Future Land Use Map of the City Growth Policy, as amended
- Supports goals included in the Whitefish Community Housing Road Map
- Pursue opportunities to preserve environmentally sensitive areas and open space
- Include neighborhoods or properties that promote walking, biking, and other forms of non-motorized transportation.
- Avoid development of flood plains, other environmentally sensitive lands and/or lands with significant development constraints

E. Approval of Annexations

For annexation approval:

- City may choose to annex any property in accordance with the provisions of the following state statutes:
  - Annexations of Additions to Municipalities (7-2-4201 et. seq., MCA)
  - Annexations of Contiguous Land (7-2-4301 et. seq., MCA)
  - Annexations of Contiguous Government Land (7-2-4401 et. seq., MCA)
  - Annexations of Wholly Surrounded Land (7-2-4501 et. seq., MCA)
  - Annexations by Petition (7-2-4601 et. seq., MCA)
  - Annexations with the Provision of Services (7-2-4701 et. seq., MCA)
  - Municipal Annexations with Zone Change (76-2-303 (3)(a), MCA)
- The City reserves the right to condition annexation approvals
  - Conditions can include required upgrades to existing streets and utilities and other infrastructure
  - Conditions can include a requirement to provide access and utility easements
  - Conditions can’t include approval or denial of development plans that would require conformance with other code criteria or review processes beyond the zoning map amendment review criteria
- Municipal boundaries are amended upon adoption of City zoning
F. Zoning

At annexation, applied City zoning should be:

- Consistent with current Growth Policy Future Land Use Map as well as adjacent city zoning of the same Future Land Use category
  - and/or
- The closest City zoning equivalent of prior Flathead County zoning

Annexation petitions meeting the above criteria qualify for an annexation zone change expedited process Zoning Upon Annexation where the City Council can adopt a resolution of “intent to annex and apply city zoning” and then hold a later public hearing wherein they vote whether to adopt both items concurrently.

If annexation applicants want to pursue zoning different from either of the above, they must apply for Growth Policy Map Amendment and/or a Zoning Map amendment separately. In that event, the City Council may adopt interim zoning.
WHAT IS ANNEXATION?
Annexation is the process of expanding the boundaries of a city.

WHY ARE THE BENEFITS OF ANNEXATION?
- Land is annexed so city services, such as municipal water, sewer, can be made available to the property. Extension of services is a key part of the annexation process.
- Annexation results in taxpayers who use City services equitably sharing the cost of such services.
- Public streets are maintained with sweeping and snow plowing.
- City residents receive protection from the Whitefish Police Department. Non-city residents receive protection from the Flathead County Sheriff’s Office.
- City residents are able to vote in municipal elections and are eligible for city offices and volunteer boards and committees.

WHAT LAND CAN BE ANNEXED TO THE CITY?
Land to be annexed into the City must be included within the Urban Growth Boundary found in the City’s Extension of Services Plan. The City of Whitefish must follow Montana State Law which includes different procedures for annexation, some of which are initiated by the City (annexation of contiguous or wholly surrounded land) and some of which are initiated by property owners of the land to be annexed (annexation by petition).

What if your property is surrounded by City land, but you don’t want to be annexed?
Properties that are islands within or directly adjacent to city limits generally have already been receiving City services such as police and fire protection, access to parks and recreation facilities, and road maintenance of city streets for no cost. Once annexed, access to those services continues. Support for these services is shared by all City taxpayers. For the City to annex land, it must first meet certain criteria such as being wholly surrounded by property already inside the city or only accessed via city streets. The City would first pass a resolution of intent, give notice to the affected property owners, and then they would proceed with the annexation, regardless of whether any property owners protest.

Will the City pay to extend water and sewer to my property?
Extension of sewer and water mains and connection is at the expense of the property owner, though the cost of maintaining municipal sewer and water facilities, once constructed, is shared by all City ratepayers. A property owner may continue to rely on private wells and septic systems after annexation, and they are not required to connect to City water and sewer services unless their existing systems are failing or inadequate.

WHAT IS THE ANNEXATION PROCESS?
For Annexation Initiated by City:
- City Council passes a resolution of “intent to annex and apply city zoning”
- The City Clerk notifies affected property owners in writing and a notice of a public hearing is published twice in the newspaper
- Property owners within proposed annexation area can protest the annexation.
- Upon request, the Extension of Services (EOS) Plan, which outlines how all City services can be provided to the properties and how future infrastructure improvements will be funded, is made available to the property owner explaining the process, type of zoning expected, and the impacts of annexation on their property
- City Council holds a public hearing and votes on a resolution of annexation and new zoning upon annexation that is either equivalent with previous county zoning or is zoning more compatible with the Growth Policy.

For Annexation Requested by Property Owner Petition:
- The property owner submits
  - a Petition for Annexation to the City Clerk signed by 50% or more of the property in the area to be annexed, along with
  - a contract agreement for annexation and city water and/or sanitary sewer service, and
  - a request for an annexation zone change to a city zoning either comparable to county zoning or consistent with the Growth Policy
- The City Council then passes a resolution of “intent to annex and apply city zoning” to the parcel, publishes a notice in the paper twice for successive weeks, then holds an annexation/zone change public hearing where they either accept or reject the annexation and zone change.
- Once zoning is applied, City services can be extended to annexed properties at the property owner’s expense as outlined in the Extension of Services Plan

Owner Petition of Waiver of Right to Protest Future Annexation
There may be instances in which owners of properties outside City limits desire access to City services and petition for annexation, but annexation is not preferred by the City at that time. This may occur when undeveloped land exists between the petitioner and the City limits, or when owners of existing development between the two...
locations do not require services or desire annexation. In this case, the owner would submit a petition for annexation to the Planning Department. The Public Works Director would then review the petition and make a recommendation that City services be extended without concurrent annexation to the City Council. When City Council concurs, and City services are to be extended without concurrent annexation:

- the property owner signs, and the City records, a waiver of the right to protest participation in, and the formation of, any special improvement district that may be formed to improve the existing services, utilities, streets, or other improvements.
- City staff monitors development over time and makes a recommendation to Council when annexation appears to be appropriate.
- the City will annex this property at its own discretion, without protest from property owners, after giving due notice to the property owners of the intent to annex.

**Can I construct my dwelling, and then petition for annexation later?**

- Construction of any dwelling which is not equipped with adequate facilities for the sanitary disposal of sewage is a violation of the Flathead County Regulations for Onsite Sewage Treatment Systems. If an approved publicly owned sewage collection and treatment system is readily available within 200 feet of the property line, the County will not issue a septic permit and the property owner must connect to the public system. A connection is *not readily available* if the cost of the connection, as determined by the County, is greater than three times the cost to install an onsite wastewater treatment system.

- The City requires new or expanded residences outside city limits that want to connect to city sewer to annex prior to any construction and obtain all required permits.

- After-the-fact connections may result in additional costs to the property owner associated with digging up or exposing installed water and sewer lines and connections for inspections to ensure compliance with state and local plumbing codes and city engineering standards. The City Council could also choose to not annex the property nor provide sewer and water services.

- In addition to impact fees and other charges to connect to services, after-the-fact connections may result in surcharges.

**Will my taxes go up once I am annexed?**

- Property tax levies and assessments are set by the City Council annually and are based on the taxable valuation of your property established by the Montana Department of Revenue. While your taxes may increase after you annex due to established tax rates, the City of Whitefish offers a property tax rebate to property owners in city limits through the collected 3% Resort Tax.
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Staff Report

To: Mayor John Muhlfeld and City Councilors
From: Joe Page, Fire Chief
Date: June 5, 2023
Re: Award Rescue Boat contract

Introduction / History
The Fire Department provides fire, rescue, hazmat, and EMS services to the City of Whitefish, the Whitefish Fire Service Area, and portions of the Flathead Fire Service Area. Within our response are a number of waterways including the Whitefish Lake, Spencer Lake, Tally Lake, plus the Whitefish River. The ability to operate year round on frozen, partially frozen, and in shallow area waterways along the shorelines, specifically providing initial containment of a hazardous materials spill is vital.

Current Report
Our previous rescue boat, a 1990 Achilles Inflatable, was taken out of service due to numerous air leaks and the inability to obtain parts for the outboard engine. Our 2006 Hovercraft is capable of operating year-round on frozen and partially frozen and shallow area waterways, but lacks the space to carry hazmat booms or if used in a rescue operation, a place to bring a patient onboard.

Speaking with FWP Warden Captain Nathan Reiner, Montana Fish, Wildlife and Parks would grant us administrative privileges to operate an air boat, even if it exceeds the noise limitations set forth in MCA §23-2-526.

On March 9th we sent out six requests for proposals to known airboat manufacturers, published legal notices in the Whitefish Pilot and Daily Inter Lake on March 15th and 22nd plus listed the notice on our website. Bids were opened on May 4th. Nirbuilt Airboats out of Ashland, NE was the only bidder at $101,663.42 for an 18-foot air boat and trailer with an October build date.

Financial Requirement
The Fire Department’s FY23 Budget has $100,000.00 appropriated for a new rescue boat with a portion of that cost funded through a $25,000 grant from BNSF and a
$10,000 grant from the Whitefish Community Foundation, both of which have already been awarded. The FY24 Proposed Budget assumed this project would be carried forward into the next year and continues an appropriation of $100,000.00 for the purchase of an airboat. The additional $1,663.42, will be adjusted in the final FY24 Budget if the contract is awarded by the City Council. Additionally, BNSF has also offered to help provide training with their Sandpoint operations which also deploys an airboat.

**Recommendation**
Staff respectfully recommends that the City Council awards a contract to Nirbuilt Airboats to provide an airboat as specified for $101,663.42.
MEETINGS
I attend the annual conference of the Government Finance Officers Association (GFOA) May 21st through May 24th in Portland. This conference not only focuses on finances of local governments, but also challenges we are all facing such as the shortage of affordable housing. One class covered ways of funding affordable housing projects which is especially beneficial as the Whitefish Community Housing Committee kicks off work on the Housing Development Plan and the Financial Plan for the Roadmap.

On May 17th, Councilor Davis and I met virtually with representatives involved in a large low-income housing project underway in Big Sky (https://nbcmontana.com/news/local/big-sky-to-break-ground-on-low-income-local-employee-housing#). The Big Sky Resort Area District, Big Sky Community Housing Trust, and Lone Mountain Land partnered together to bring income restricted housing to Big Sky. While part of the project was funded through the Low-Income Housing Tax Credit Program, it was great to learn how other units were kept affordable including the use of Resort Tax monies and philanthropy.

2023 MONTANA LEGISLATIVE SESSION
The 2023 Montana Legislative Session officially wrapped up on May 3rd, the 87th day of the session. A total of 1,644 bills were introduced by legislators which makes the 2023 session only second to the number of bills introduced in 1973 per to the Montana Legislative Branch. Given the number of bills and analysis needed, staff is still working through the impacts and intends to have a summary provided within the next month. Most of the bills affect zoning and land use codes.

NEXT CITY COUNCIL MEETING
The next City Council meeting is scheduled for Monday, June 19th, in the City Council Chambers with remote participation available to the public.

Upcoming work sessions:
June 12th – Budget Work Session #2
June 19th – Whitefish Fire Department Strategic Plan

Respectfully submitted,

Dana M. Smith, CPA
City Manager
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To: Whitefish City Council

From: Jan Metzmaker

Date: May 30, 2023

I have attended numerous City Council meetings over the past 4 years regarding the issue of nuisance deer. At my initial presentation, I provided a great deal of information about the many problems deer are causing in our community. They include collisions with vehicles, aggressive deer, landscaping destruction and most importantly, the threat of Chronic Wasting Disease. The City Council did vote to work on a deer management plan. As of this writing, I have not seen any movement to address the issue.

I am asking the Council to consult with Fish Wildlife and Parks to discuss options. I have included a recent editorial by former Whitefish resident Mary Moe which reinforces the concerns I and many other residents have expressed.

Thank you for your attention to this matter.
Deer me!

We didn’t hide Easter eggs last month. That would have transformed our property into what tort lawyers affectionately call an “attractive nuisance.” Any children fishing around anywhere in our yard for eggs would be plunging their innocent little fingers into piles and piles of something rounder, smaller, and nastier than eggs. We’re talking deer poop, folks. (Sorry if you’re eating breakfast.)

Remember that line from “The Shawshank Redemption” extolling the main character, who “crawled through a river of [waste] and came out clean on the other side?” By March I fully expected to see Andy Dufresne rising at the border of my back yard, a plastic bag containing the warden’s clothes strapped to his ankle. But even Andy couldn’t come out clean on the other side of the open sewer in my backyard.

When deer eat your flowers, you shrug it off. When they rub the bark off your trees, you tell yourself it’ll grow back (until the day you fork over an extravagant sum to have the dead tree removed). But when the never-ending slog of onion heads quite literally has you “up [waste] creek,” it’s not funny. It’s unsightly. Unsanitary. Unacceptable.

I know what you’re thinking: This is Montana, woman. You don’t like deer? Move back to wherever. And that’s when I tell you I was born in Montana. I’m somewhere between a second-generation and fourth-generation Montanan, depending on where you start counting, and I seem to be the only native Montanan not counting. I’m well-acquainted with deer. Out in the wild, dipping their little deer lips into a gurgling brook, I’m simply mad about them. But after three decades (and counting) in a front-row seat watching urban deer, I would very much like to turn the channel.

In Helena, Whitefish, Great Falls, and now Missoula, I’ve seen deer chest-deep in my garbage can, “foraging” for food; looting like a leper colony on my lawn; spitting out my deer-resistant flowers and leaving a row of carefully clipped stems in their wake; chasing frightened children under parked trucks during “the rut”; springing out in front of traffic; lying dead or injured on city streets. Friends in Billings, Choteau, Havre, Malta, Roundup and White Sulphur Springs tell me they’re watching the same show.

But the omnipresence of deer on our current property represents a new low. Every tree is damaged. Countless shrubs have been tortured to death. This winter and early spring you couldn’t take one step in any direction without stepping into what we now refer to as “[Waste] Creek.” Unlike the similarly named silt-corn, there is no finale in sight. We’d love to have our grandchildren over but between the excrement and the ticks, we don’t dare.

I’ve tried scaring the idiocit ungulates away with all manner of menacing tactics. They just stare and poop, forage and poop, chew and poop. My husband shoots them with anything the law allows. They sashay away, only to mosey back “home” when he goes inside.

We cleaned up the yard this month while they’re off fawning. Waste not, want not. But they’ll be back...in even greater numbers. We’re left with two choices — get a dog or get a fence. Since getting a dog will require getting a fence anyway, with dog poop added to the mix, we might as well just get a fence.

“Just get a fence” — ha! Sounds so easy. Then you contact your city and your state and as you peruse your permit application and animal control questions languish “in the queue,” dreams of get-er-done die. In future columns, in between the usual political harangues, I’ll keep you posted on my progress in the queues. If you have sob stories, data, or solutions that might enlighten or console me, I’m all ears. Just mail me at mary.sheehy.moe@gmail.com.
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.
Dear City Council,

I bought my wonderful little house on Somers Ave and Third Street 13 years ago. As soon as I walked up the sidewalk to the front door, I was already imagining myself gardening. I knew that tending flowers was what I needed to get grounded after a painful divorce. And grow flowers I did! Growing things feeds the human soul.

I took so much pride in developing the flowerbeds and having the most magnificent planters on the front porch. I am writing in the past tense because as each year has gone by, the deer have decimated my flowers and deformed my spruce and vines. They know no fear and are aggressive. I was charged by a big buck two summers ago! He was bedded down in my front yard.

I am not the only one in this heritage neighborhood that is discouraged. It is THE topic of conversation. People are discouraged.

Their population is seriously out of control.

This deer problem directly and indirectly affects the whole community of Whitefish. When people give up and no longer take pride in their yards, the soul of the community is negatively impacted.

It is my understanding that in 2019 City Council was aware of this problem and pledged to look into it. I think it is time for the City to take ACTION.

The City went to great expense with these over-the-top bear proof individual garbage cans. The pressing problem in our inner-city neighborhoods is not the unlikely event of problem bears, it is the deer.

I am asking City Council to find ways to control the population. I think we need euthanize quite a number of them to bring a healthy balance to the population. I know this sounds harsh, but I believe that this is the best solution. Do it humanely and make their meat available to the Food Bank.

I know you will encounter blowback, but this approach has been used successfully in many towns and cities. These animals have become “domesticated”. Before long, they will not be able to survive in their natural habitat. Left unchecked in town, the deer will suffer from wasting disease. Both of these scenarios is inhumane.

Sincerely,
June 2, 2023

Whitefish City Council

Subject: RE: Who owns the trees?

**Vince Caciari**, a long-time Whitefish resident and Whitefish City Councilor, faced a similar proposal when an ordinance was drafted which would have required City Council approval to remove a tree or any living green thing on one’s property. You will please excuse my attempt to re-create Vince’s emphatic and effective rebuttal to this sort of government. Keep in mind that back in the day, one could purchase a ‘view lot’ for about one-tenth of today’s prices.

Says Vince, “In a nineteen-thirty-nine, I left the old country to get away from this kind of government! Let me tell you, if I’m gonna pay fifty-thousand dollars for a lot, I’m not gonna live behind a G_dd mn’ a bush!”

Accompanying this statement, Vince was said to have pounded his fist on the table to make sure everyone knew he objected to this kind of governing! That proposed regulation died at that moment.

For those who don’t get the broken English, I’ll translate: “In 1939, I left the old country to get away from this kind of government, and let me tell you, if I’m going to pay $50,000 for a lot, I’m not going to live behind a… bush!”
When Vince got worked up about something, his Italian ancestry came to the forefront in his speaking voice, and in this instance, he was very, very adamant that he believed that attempting to dictate landscaping on one’s property was a giant leap too far!

Furthermore, to require any alteration to one’s property to require a licensed landscaping plan is to impose a fee that for many would be outlandishly expensive and prohibitive to their personal budgets.

Perhaps this current ordinance should more properly be called, “The Landscape Architect’s Welfare Bill.”

By the way, in 1939, I believe the Italian government was fascist. Of course, no parallels should be drawn here!

Ironic, isn’t it, that opposition on the Council pertaining to governmental control of landscaping features should come from Councilors who both came from the ‘Old Country.’ Forty-some years separating the two, Vince & Giuseppe, but we should thank them both for representing we who live in the real world, not in la-la land.

Let me tell you, if I want to plant a rock in my yard, or cut down a bush or a tree on my own property, I will NOT ask “Mother, may I?” from a micro-managing control-freak group of folks playing government. Oops! My bad! This body of regulations applies only to commercial and multi-family, eh? Toe in the door, soon it will be ‘interpreted’ to extend to everything and everyone!

Ultimately, will permits be required to mow your lawn? Oh, and by licensed lawn-care businesses only?

**Adopted rules and regulations should be written such that they can be applied across the board objectively, not subjectively interpreted on a case-by-case basis by agents of the government, i.e. staff, who purportedly, work for ‘We the People.’**
Michelle, could you please forward this to the mayor and council?

Mayor and Council,

I briefly mentioned this during the public hearing on the topic, but wanted to point out something in the new landscaping code that might require attention, specifically around duplexes.

SB 323 was signed by the governor and will allow for duplexes to be built where single-family homes are permitted. Per the language of that bill:

"In a city with a population of at least 5,000 residents, duplex housing must be allowed as a permitted use on a lot where a single-family residence is a permitted use, and zoning regulations that apply to the development or use of duplex housing may not be more restrictive than zoning regulations that are applicable to single-family residences."

SB 382 will eventually make this moot (assuming that nothing changes during the next legislative session, which I would think is unlikely), but by my reading of the bill, not until the city is in full compliance with SB 382, which will not happen before the next legislative session. The relevant portion of that bill is in Section 5(4):

"A local government that complies with [sections 1 through 38] is not subject to any provision of Title 76, chapters 1, 2, 3, or 8."

Enforcing the new landscaping code in regards to duplexes is likely not legal based on my reading (Angie cc'd for an actual legal opinion). If that's the case, then I think there are two ways to address this. First, do not subject duplexes to the new landscaping code (how the current code is structured). Second (and better), subject single-family homes to the new landscaping code requirements. If the ultimate goal is tree preservation, then subjecting single-family homes makes a lot of sense given that they make up 60% of the homes in the city and even more of our land area.

Nathan

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Nathan Dugan (he/him)
President