

**95 KARROW  
STAFF REPORT  
PRELIMINARY PLAT AND PLANNED UNIT DEVELOPMENT  
WPP 17-04/WPUD 17-02  
November 9, 2017**

A report to the Whitefish Planning Board and the Whitefish City Council regarding a request by 95 Karrow LLC for a Preliminary Plat and a Planned Unit Development to develop a 22-lot mixed-use at the north end of Karrow Avenue on the former Idaho Timber property. A public hearing is scheduled before the Whitefish Planning Board on November 16, 2017 and a subsequent hearing is set before the City Council on December 4, 2017.

**BACKGROUND**

The subject property was part of the Highway 93 W Corridor Plan, adopted by the Whitefish City Council 2015 (applicable sections are attached and the full plan is on the City's webpage). This property was included in the plan, as the business had recently shut down and it was seen as an opportunity for community compatible redevelopment. The public process, which included an ad hoc steering committee, worked for over two-years developing the plan, including a charrette process for this property in particular. The result of the plan included transitional new land use designations to redevelop the site from a heavy industrial use into an adaptive reuse site that compliments the downtown and takes advantage of surrounding facilities and amenities including the railroad, highway access and the Whitefish River. The Plan also include the development of new zoning districts WI-T (Industrial Transitional District) and WT-3 (Neighborhood Mixed-Use Transitional) for application on this property. The City Council approved rezone of this site in October 2017 in order to set up the request for development through a Planned Unit Development and Subdivision.

**I. PROJECT SCOPE**

The applicant is proposing a mixed-use development with a variety of uses anticipated through the Highway 93 W Corridor Plan including: residential, professional office, lodging, restaurant, limited retail, light manufacturing, artisan workshop space, studio and gallery, personal service and other similar uses. The residential uses include live-work units (Lots 7, 8 & 9 – 12 units) and upper floor condominiums (Lots 4 & 5 – 10 units) This project will be developed as part of a PUD overlay and a 22-lot subdivision on a total of 14.06 acres.

The applicant is proposing six phases. Phase 1 is mainly the parking and circulation throughout the site along with the Whitefish River trail/open space. This phase also includes the existing building and one of the mixed-use buildings. Phase 2 is additional parking, the southwesterly artisan spaces and a microbrewery. Phase 3 is a professional office/condominium space, phase 4 is the hotel, Phase 5 is the professional office/condos to the west of the hotel and Phase 6 is the restaurant with private railcar parking and the final mixed-use artisan building.

Access to the site will be via private streets that include on-street parking from the north end of Karrow Avenue. Parking will be located throughout the site and shared among all the users of the development. The developer is also proposing a shared parking lot to the west of the subject property on an adjacent lot, the Veteran's Peace Park, which is in the County, but not a part of the development request nor part of the PUD request.

The applicant is proposing extensive open space which includes developed urban-type open spaces with plazas and open space areas along the Whitefish River that includes an extension of the Whitefish River trail. Restoration of the Whitefish River buffer area to remove noxious weeds and maintain the natural setting will also be a part of the open space development. The site plan also shows a bridge across the Whitefish River connecting to the BNSF Loop Trail. The applicant is not proposing to construct this trail and the City currently does not have any plans for the bridge, but it is an idea that could happen at some point in the future, as it would better connect the site to the City's path system and the downtown.

In addition to the subdivision, the applicant is proposing a Planned Unit Development (PUD) to overlay the entire development. The PUD is not needed for a density bonus, but rather to accommodate the design of the project.

Nine **zoning deviations** are being requested through the Planned Unit Development, as outlined in the PUD application:

- **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 s.f. on Lots 4, 5, and 6 and Lot 10 currently has a building in excess of 15,000 s.f. 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.

In exchange for these zoning deviations, the applicant is proposing a number of **community benefits** outlined in the application including a public trail along the Whitefish River and W 1<sup>st</sup> Street that implements the Connect Whitefish Plan and will be maintained by the property owner, public access to the Whitefish River and open

spaces within the development and public parking for the Great Northern Veteran's Peace Park.

**A. Owner:**

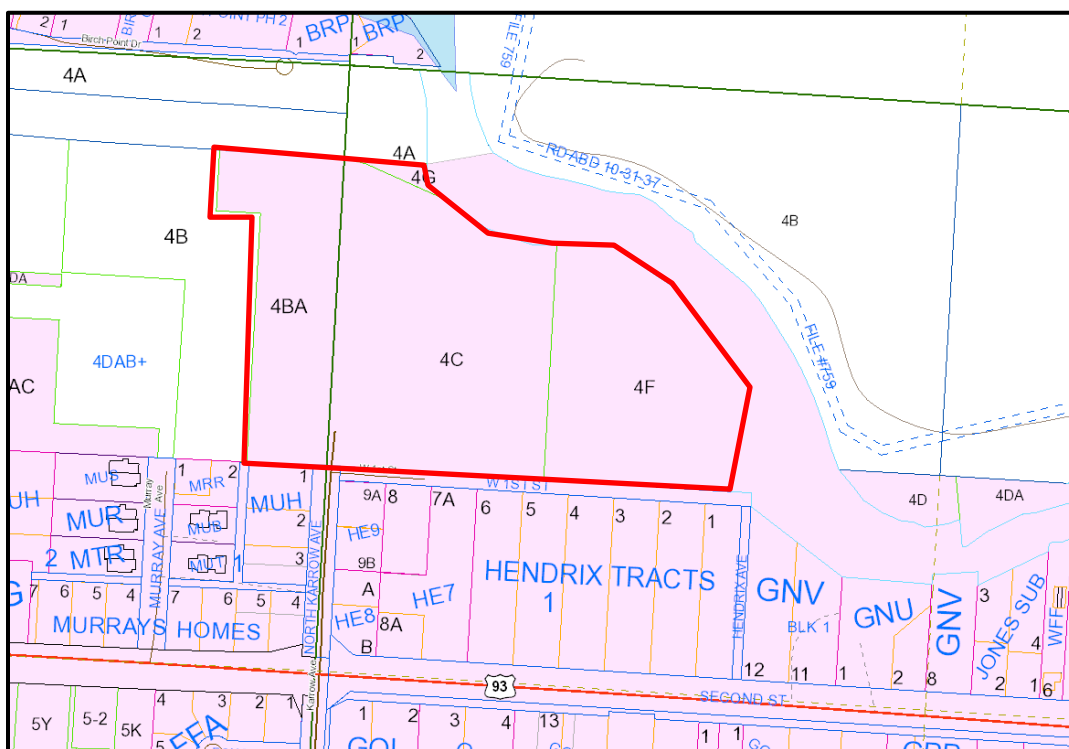
95 Karrow Ilc  
Casey Malmquist  
335 Spokane Ave  
Whitefish, MT 59937

**Technical Assistance:**

Bruce Boody Landscape Architect  
301 E 2<sup>nd</sup> St  
Whitefish, MT 59937

**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.



**C. Existing Land Use and Zoning:**

The property is a former industrial site with an empty industrial building and extensive paving. The owners applied for and received approval for two new zoning designations – WI-T (Industrial Transitional District) and WT-3 (Neighborhood Mixed-Use Transitional). These



rezones take effect on November 15, 2017.



**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: | North Valley Refuse           |
| Gas:         | Northwestern Energy           |
| Electric:    | Flathead Electric Co-op       |
| Phone:       | CenturyLink                   |
| Police:      | City of Whitefish             |
| Fire:        | Whitefish Fire Department     |
| Schools:     | Whitefish School District #44 |

**F. Public Notice:**

A notice was mailed to adjacent land owners within 300-feet of the subject parcel on October 27, 2017. A sign was posted on the property on October 27, 2017. Advisory agencies were noticed on October 27, 2017. A notice was published in the Whitefish Pilot on November 1, 2017. As of the writing of this report, one email was received with a number of questions/concerns regarding compatibility.

**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. The Fire Marshal will approve the placement and design of all fire hydrants prior to their installation and emergency access.

Wildland Urban Interface: The property is within the city limits and within the city's fire district. The property will be served by City water and hydrants and meet all Fire Department emergency access requirements. The Fire Marshal recommends the open space areas be properly mitigated for wildland fire protection and maintained yearly.

Flooding: The FEMA designated base flood elevation for this section of the Whitefish River is 3003.7-feet. The area with the mapped floodplain is within a dedicated open space area and no development is proposed with the possible exception of a trail for the public. The exact alignment of the trail is yet to be finalized.

Access: The subdivision has one main vehicular access off Karrow Avenue. It will be the primary access for this development and the Great Northern Veteran's Peace Park. In addition, the Fire Department has requested an emergency access through the Veteran's Peace Park to the west onto Birch Point Road. This will need to be constructed to meet emergency access standards and be constructed with Phase 1.

Traffic Impacts: The application included a Traffic Impact Study, as required by the City Engineering Standards. According to the Environmental Assessment and Traffic Impact Study, the project will generate an average of 5,778 daily trips at full build-out. Sixty percent of the trips will use W 2<sup>nd</sup> Street toward downtown and 25% of trips will use W 2<sup>nd</sup> Street toward the golf course and the remaining trips (15%) will use Karrow Avenue south of W 2<sup>nd</sup> Street. According to the engineer's report, the intersection at W 2<sup>nd</sup> Street and Karrow Avenue will require the installation of a signal at the time of full build-out. The applicant will need to work with the City and Montana Department of Transportation for its installation.

**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; a portion of the property is within a mapped floodplain, but it will be within dedicated open space; access is off an existing public road; and the amount of traffic generated will require the installation of a signal at the time of full buildout.

**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 travel through the property and along the Whitefish River. The preservation of buffers and other open areas help to maintain these patterns.

**Finding 2:** The subdivision should not have a negative effect on wildlife and wildlife habitat because there are no mapped crucial wildlife habitat nor migration corridors on this property; the stream and its buffer are being maintained and enhanced; and other open areas are located throughout the development.

### **C. Effects on the Natural Environment:**

Surface and groundwater: The developer will extend Municipal water and sewer to the subdivision thereby minimizing any potential impacts to the groundwater. The property is not mapped as being within the high groundwater area.

Slopes: The site has been extensively graded and filled over the years and is nearly entirely flat. These are sloped areas along the river bank.

There are building sites within 200-feet of water on slopes that likely exceed 10%. According to the Water Quality Protection regulations, if a building is located within 200-feet of a water body and is constructed on a slope of 10% or more, a geotechnical letter will need to be supplied along with the building permit.

Whitefish River: The applicant is proposing to protect the Whitefish River with buffers and setbacks that meet the Water Quality Protection (WQP) regulations. The buffer requirement is top of bank or 75-feet, whichever is greater plus a 20-foot setback from the edge of the buffer. (§11-3-29C(1)) In addition, any structure within 200-feet of the buffer on a lot that abuts the river is required to submit a geotechnical letter along with the building permit. There are four lots proposed along the Whitefish River – the restaurant, two professional offices with residential on the top floors and the hotel. The project site, as described in the application, was extensively filled over the years ranging in depths from 2 to 14-feet. The applicant intends to remove the fill which includes wood chips, concrete, metal and other debris. As such the exact location of the top of bank is indiscernible; therefore, the applicant is using 75-feet as the buffer.

*Restoration Incentive - §11-3-29C(3).* The buffer can be reduced by 25% with a buffer restoration plan. The applicant intends to take advantage of this option and conduct restoration of highly impacted areas. As described above, there is considerable fill on-site as well as noxious weeds and debris.

*Allowed Activities within the Buffer- (§11-3-29C(5)).* 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. Staff proposes the details of the trail construction be a condition of approval.

Storm Water Conveyance: There are no mapped storm water conveyances within the project boundaries.

Drainage: The applicant is proposing to utilize Sustainable Sites standards with the installation of bioswales throughout the site. A standard condition of approval notes that the preliminary plat may be changed, including density, based on the city's review of the drainage plans. All drainage plans will meet the city of Whitefish standards and be reviewed and approved by the Public Works Department.

**Finding 3:** The subdivision should not have a negative impact on the natural environment because the river buffer is being preserved and restored and staff will review the storm water plan with the final engineering plans.

**D. Effects on Local Services:**

Water: The project proposes to utilize the City water system. The extensions from the main will be designed and constructed to City specifications.

Sewer: The project proposes to utilize the City sewer system. The sewer facilities will be designed and constructed to City specifications.

Streets: The private streets will be privately constructed, owned and maintained, but open to the public. See discussion above regarding traffic impacts.

Schools: The site is within the Whitefish School District #44. At completion, using 2011 census information for Flathead County student generation rate of 0.31 students per single family unit, this subdivision is proposing condominiums and live-work units which would likely generate less school-age children, if any, than a typical detached single-family home subdivision.

Parks and Open Space: The applicant is proposing to set aside 30% of the project in open space area. These open spaces include areas along the river and within the development. The area along the river will include restoration areas with native plants and construction of a pedestrian-bike path. Other open space areas include large grassy areas, a public access dock and developed 'urban' open spaces such as plazas. All of the open spaces areas will be held in private ownership and will be maintained privately, but be open to the public.

Pursuant to §12-4-11C(4) & (6), this preliminary plat is exempt from Parkland dedication as required under the Subdivision Regulations because they are proposing a Planned Unit Develop where they are permanently setting aside open spaces that exceed that which is required for subdivisions and they are providing long-term protection of a water quality protection area which exceeds the requirements of the subdivision regulations. Under the Subdivision Regulations, nonresidential subdivisions are exempt from parkland dedication – assuming only the lots with residential development would be calculated for parkland, this would require only 0.23 acres of open space; however, the project is providing 5.05 acres of open space. In addition, the Water Quality Protection area along the Whitefish River is 2.94 acres, which again, exceeds that which would be required under the Subdivision Regulations.

The applicant is proposing a major extension of the Whitefish River pedestrian-bike path along their property and connecting up the unimproved W 1<sup>st</sup> Street. The Whitefish Connect Plan shows a connection between the path on the subject property site and the path/sidewalk system on W 2<sup>nd</sup> Street. It will be important for this new trail system to connect to the larger path system. Staff will recommend this as a condition of approval.

The Pedestrian & Bike Path Advisory Committee met on November 6, 2017 to review the plans for the trail. They wanted to ensure the path meets all the City standards for the public paths and that it meets all the requirements of the Water Quality Protection regulations. They were in support of the trail and were excited that the applicant will be providing the maintenance of the trail. They recommended a temporary pedestrian signal be installed at the intersection of Karrow Avenue and W 2<sup>nd</sup> Street until Montana Department of Transportation fully signalizes the intersection. As the trail will be completed with Phase 1 of the development and the intersection will not warrant a signal until full-buildout, staff will recommend this as a condition of approval.

Police: The project is in the City of Whitefish and will be served by the City 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. See discussion above regarding Fire. (Section II.A.)

Solid Waste: North Valley Refuse 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 with North Valley Hospital within a couple of miles 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; the Fire Department has preliminarily reviewed the proposal for conformance with the Fire Code; additional services, such as police and schools, are not anticipated to be affected; adequate park and open space is being set aside for the neighborhood that includes pedestrian and bicycle trails open for the public and Whitefish River buffer areas are being preserved; and, as conditioned the installation of a pedestrian activated signal, will allow safe access for pedestrians and bicyclist to and from the project and the trails. The 95 Karrow preliminary plat is exempt from Parkland dedication as required under the Subdivision Regulations because they are proposing a Planned Unit Development where they are permanently setting aside open spaces that exceed that which is required for subdivisions and they are providing long-term protection of a water quality protection area which exceeds the requirements of the subdivision regulations.

#### **E. Effects on Agriculture and Agricultural Water User Facilities:**

This property has not been used for agricultural purposes. 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 the city limits and has direct access to public services and facilities.

**F. Compliance with Growth Policy:**

The Growth Policy identifies the parcels as 'Industrial Transitional' and 'Neighborhood Mixed Use Transitional' in the Highway 93 W Corridor Plan, which is an amendment to the 2007 Whitefish City-County Growth Policy.

Industrial Transitional classification states:

"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 classification states:

"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.

*Economic Development - Policy*

**2C.** It shall be the policy of the City of Whitefish to promote beneficial job growth in the base economy, and especially in those areas that tend to diversify the base economy beyond development related and visitation based business and industries.

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*

The public vision for this site include an adaptive use or redevelopment of the site beyond the industrial uses. Lower intensity industrial uses were recommended that could advance economic development. 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 2<sup>nd</sup> Street to the south. 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.”

**Finding 6:** The project complies with the Growth Policy because it supports aspect of the Economic Development chapter, the uses falls within the guidelines for the ‘Industrial Transitional’ and ‘Neighborhood Mixed Use Transitional’ designations, it is infill, it is protecting environmentally sensitive areas within the development, it is complimentary to the surrounding neighborhoods and it is implementing the Highway 93 W Corridor Plan.

**G. Compliance with Zoning:**

The property is zoned WI-T and WT-3 and it compliant with the permitted and conditional uses.

**Finding 7:** The proposed subdivision complies with the zoning because the range of proposed uses are consistent with the acceptable permitted and conditional uses for the zoning districts.

The Planned Unit Development is intended to encourage flexible land use development by allowing development based upon a comprehensive, integrated and detailed plan rather than upon specific requirements applicable on a lot by lot basis. The development, according to the Purpose and Intent of the PUD chapter, provides the following benefits, as applicable. As many of the following items were evaluated earlier in this report, the pertinent section is referenced:

1. Preserve and/or enhance environmentally sensitive areas of the site. (See Section II.C.) Pursuant to the Water Quality Protection regulations and as described above, the applicant is preserving the buffer along the Whitefish River. Due to the extensive fill on the site, the actual top of bank undiscernible; therefore the 75-foot buffer setback is the standard for this site. The applicant is proposing to stabilize the river bank in key locations, remove unwanted debris from the site and restore with native vegetation.
2. Preserve crucial wildlife habitat and/or daily or seasonal migration corridors. See Section II.B.
3. Provide usable open space. As described above, the applicant is proposing to set aside 35% of the site (5.05 acres) in open space. These open space areas exceed the 30% required in the PUD chapter. They are located along the Whitefish River with a portion of this area being the bike path. They are also proposing a public dock for the public to access the river. A large open area between the bike path and the hotel will also provide a usable component in the form of a large grassy area.
4. Preserve and protect the character and qualities of existing neighborhoods. This property has historically been used for heavy industrial purposes and only recently has been vacated or used for limited industrial uses. The design of the site considers the residential uses to the south by implementing the Highway 93 W Corridor Plan through zoning and landscaping buffers. The majority of the project has a buffer of the unimproved W 1<sup>st</sup> Street that will be partially developed as a Pedestrian-Bicycle Trail
5. Make efficient use of infill property. The proposed project is served by City water and sewer and is located in the City limits. The applicant is making efficient use of this infill property by implementing the Growth Policy and Highway 93 W Corridor Plan.
6. Provide effective buffers or transition between potentially incompatible uses of land. As described above, the project is providing buffering along its the south side through landscaping and the unimproved W 1<sup>st</sup> Street right of way. The site plan has also located uses that could have noises and activities less than compatible with residential uses on the north side of the project – the hotel, restaurant and microbrewery – far from residentially zoned properties. Uses closest to the residentially zoned areas are buffered through landscaping, driveways and pedestrian paths.
7. Facilitate street continuity and connectivity, and attractive high quality streetscapes. The project is located at the end of a public right-of-way and access within the development will be via a private street system. The design of the circulation pattern within the development will have an urban-commercial feel with sidewalks and on-street parking with street trees. This design will have the feel of

commercial streets, but be privately maintained. The streets and access will connect to Birch Point Drive for emergency connection.

8. Provide pedestrian and bicycle facilities and encourage transportation alternatives. There are sidewalks and paths throughout the development that implement the Whitefish Connects Plan for a trail along the Whitefish River from the edge of the BNSF railway right-of-way toward the W 1<sup>st</sup> Street right-of-way and along the south edge of the project. The trail continues across the street toward the Great Northern Veteran's Peace Park. Within the development there are a number of sidewalks along the private streets connecting all the uses within the development to one another. All the paths and sidewalks will be open to the public for access.



9. Provide affordable housing. The application is not requesting a density bonus; therefore, is not required to provide affordable housing nor are they proposing an affordable housing component.
10. Provide a variety of residential product type while avoiding a monotonous and institutional appearance. The applicant is providing a variety of building types and sizes, but with a common theme.

The Architectural Review standards require a development with multiple multi-family buildings be designed so they do not all look the same and this will be a requirement for this project. The standards also require no garage-forward design for multi-family projects.

11. Compliance with and/or implementation of the growth policy. (See Section II.F.)

**Finding 8:** With the imposition of conditions, staff has finds that the above twelve criteria found in the intent of the PUD chapter are being met or are not applicable because the project meets the requirements or provides adequate community benefit to allow for the deviations to the zoning standards.

#### Amendments – Section 11-7-10D:

The following considerations from §11-7-10D are intended to guide both the Planning Board and the City Council when considering an amendment to the official zoning map.

| Considerations from Section 11-7-10(E)                                                                                                                                       | Staff Report Section Reference/Comments                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Zoning Regulations Must Be:</b>                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Made in Accordance with a Growth Policy                                                                                                                                      | see Section II.F.                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Designed to:</b>                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Secure safety from fire and other dangers                                                                                                                                    | see Section II.A.                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Promote public health, public safety and general welfare                                                                                                                     | see Section II.A.                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements                                                           | see Section II.D.                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>In the adoption of zoning regulations, the city shall consider:</b>                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Reasonable provision of adequate light and air                                                                                                                               | The applicant will be required to meet all applicable Building Code requirements. The applicant has not applied for any variances to the Building Code that would affect "light and air."                                                                                                                                                                                                                                                            |
| The effect on motorized and nonmotorized transportation systems                                                                                                              | see Section II.A. and D.                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Promotion of compatible urban growth                                                                                                                                         | see Section II.F., G.                                                                                                                                                                                                                                                                                                                                                                                                                                |
| The character of the district and its particular suitability of the property for the particular uses                                                                         | see Section II.G.                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and                                                   | <p>This criterion is subjective at best, but staff can identify no instances where "buildings" will be subject to a diminution in value because of the proposed development. However, it is permissible for the Board to consider testimony from nearby residents as prima facie evidence of adverse impact.</p> <p>This proposal only applies to the subject property, and sets no binding precedent for any other zone change or PUD proposal.</p> |
| That historical uses and established uses patterns and recent change in use trends will be weighed equally and consideration not be given one to the exclusion of the other. | The Planning Board and the City Council should consider the historical and established use patterns, including trends, when making a decision on the project.                                                                                                                                                                                                                                                                                        |

## H. Compliance with Whitefish Subdivision Regulations:

**Finding 9:** With the imposition of conditions, the subdivision complies with the Whitefish Subdivision Regulations.

### **I. Compliance with the Montana Subdivision and Planning Act:**

Staff has reviewed the proposal for compliance with the Montana Subdivision and Platting Act and found that the requirements have been met.

**Finding 10:** The proposed subdivision complies with the Montana Subdivision and Platting Act, MCA 76-3.

**Finding 11:** The subject property is suitable for the proposed uses because the proposal complies with the lot development standards, with the exception of the requested zoning deviation; access to the site is off Karrow Avenue; and the environmental constraints on the property are being preserved as open space and will be restored with native vegetation.

**Finding 12:** The quality and functionality of the proposed development is adequate because the applicant meets the required number of parking spaces; the proposed use will require a traffic signal at the intersection of Karrow Avenue & W 2<sup>nd</sup> Street at the time of full buildout; signage will meet the sign regulations; and all new utilities will be undergrounded.

**Finding 13:** The subject property has adequate availability of public services because the property is currently served by sewer and water; is within the jurisdiction of the Whitefish Fire Department and the City of Whitefish Police Department; and is located off a city street that has direct access to a paved state highway.

**Finding 14:** The proposed development is not anticipated to have a negative neighborhood impact because the proposed development will access a city street that will include a pedestrian/bicycle path to connect to W 2<sup>nd</sup> Street; the intersection will be required to install a traffic signal at the time of full buildout; there may be noise or vibration beyond associated with the conditional uses; however, they are within the realm of permitted and conditionally permit uses within the zoning districts; there will be some temporary short-term construction noises; and there will be no unusual hours of operation.

**Finding 15:** The proposed uses are compatible with the surrounding neighborhood because the uses were identified through the Highway 93 W Corridor Plan and the final review of the building design will be reviewed by the Architectural Review Committee.

### **III. STAFF ANALYSIS OF ZONING DEVIATIONS.**

*Setbacks* The applicant is proposing a variety of setbacks for the lots. Because the development of the project is through private streets and is an overall cohesive project; staff is supportive of the thoughtful design and deviation request to setbacks.

*Parking.* The applicant is proposing shared parking throughout the entire site rather than the standard of requiring parking on-site. Due to the comprehensive nature of the

project, this enables the project to not be dominated by parking, but allows for development to meet the zoning and Highway 93 W Plan.

The use of off-site parking on the adjacent Great Northern Veteran's Peace Park as part of the shared parking agreement is a good solution to serve both the 95 Karrow project and the Park, as well as providing better access for the Park. Staff is concerned about approving a project where the required parking is located off the project site, which is not part of the PUD application and is located in the County. A recorded agreement prior to the start of Phase 1 development will be required in order for staff to have a certain level of comfort with the parking situation.

In addition, due to the unique nature of some of the uses, the applicant has developed a parking count to accommodate their proposed uses. Using the Traffic Impact Study to determine parking standards and shared parking is a thorough approach and staff supports this request.

*Building Footprint.* 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 s.f. on Lots 4, 5, and 6 and Lot 10 currently has a building in excess of 15,000 s.f. in the WI-T. These buildings will be required to obtain Architectural Review approval and there are design standards that specifically address issues surrounding buildings with large footprints. Staff supports this request.

*Conditional Uses.* Through the PUD application, rather than also issuing a CUP, the applicant is requesting these particular uses be reviewed through the PUD as 11-2S-2B allows a PUD to request "any other uses for which justification can be derived on the basis that the use will be compatibility and harmoniously incorporated into the unitary design of the PUD." The uses include: hotel, microbrewery, manufacturing, artisan, personal services, professional artist studio gallery and professional offices. The applicant has justified these uses in the application and staff supports their inclusion in the project. In addition, they are proposing to use the train track siding to be used for private railcar parking. This is a permitted use in the WI-T, but the train track is located within the WT-3 zoning district and the zoning is located where the Highway 93 W Plan intended it to be located. Staff supports this use in the WT-3 where the tracks are located.





## **RECOMMENDATION**

It is recommended that the Whitefish Planning Board adopt the findings of fact within staff report WPP 17-04/WPUD 17-02 and recommend to the Whitefish City Council the preliminary plat for the 95 Karrow Subdivision be **approved**, as submitted by the applicant, subject to the following conditions and the deviations from the zoning standards as requested by the applicant, be **approved**:

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 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 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. (Finding 3, 4 & 8, 11-3-29C(5)(c))
17. The trail within the unimproved W 1<sup>st</sup> 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 2<sup>nd</sup> Street and must include the installation of a pedestrian activated light until such time as the intersection signal can be installed. 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)