

WHITEFISH CITY COUNCIL
May 16, 2022
SPECIAL SESSION AT 5:15 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Feury, Caltabiano, and Davis. Councilors Sweeney and Norton were absent. City Staff present were, City Clerk Howke, City Manager Smith.

2) INTERVIEWS

City Council interviewed Matt Gebo for the Whitefish Convention and Visitors Bureau.

3) PUBLIC COMMENT

None

4) APPOINTMENTS

Councilor Caltabiano made a motion, seconded by Councilor Feury to appoint Matt Gebo to the Whitefish Convention and Visitors Bureau. The motion carried.

5) ADJOURNMENT

Mayor Muhlfeld adjourned the meeting and opened the Work Session at 5:30 p.m.

WHITEFISH CITY COUNCIL
May 16, 2022
7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Feury, Caltabiano, Davis, Sweeney (via Webex). Councilor Norton was absent. City Staff present were, City Clerk Howke, City Manager Smith, City Attorney Jacobs (via Webex), Senior Planner Compton-Ring, Public Works Director Workman, Parks and Recreation Director Butts, Police Chief Kelch and Long-Range Planner Osendorf. Approximately thirty people were in the audience and attended virtually.

2) PLEDGE OF ALLEGIANCE

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

3) PROCLAMATION

- a) [Kids to Parks Day](#) - May 21, 2022(p.46)

Mayor Muhlfeld read the Kids to Parks Day proclamation.

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)

Paul McCann, 340 Somers Avenue, concerned with the logistics of the mandatory curbside animal resistant refuse containers along with aesthetics of container storage that will occur in the front of homes.

Mayor Muhlfeld stated he normally does not respond during Communications from the Public. He stated Council has received over twenty pages of comment pertaining to the curbside service for the animal resistant containers. There could be some discussion about this topic at the end of the meeting pertaining to this topic. Council shares the concerns of the community.

John Ellis, 636 Somers Avenue shared his concerns about the logistics of the curbside animal resistant container service. He asks Council to rethink the logistics of curbside for those who share a 300-gallon container.

Jean Petersen, 415 Central Avenue, shared her concerns about the curbside animal resistant container service.

Leora Muraoka, 16 Pine Avenue, shared her concerns about the curbside animal resistant container service.

Chris Schustrom, 504 Spokane Avenue, a board member of the Heart of Whitefish and helped organize the downtown sidewalk cleaning project. He thanked Director Workman and Manager Smith for partnering with the downtown businesses. Over seventy businesses have partnered in the latest spring sidewalk pressure washing. They are looking better every time. The next cleaning will be in the fall season.

Mayre Flower, Citizens for a Better Flathead, summarized a letter she submitted earlier that is appended to the packet on the website regarding Ordinance No. ~~22-0722-06~~ Accessory Dwelling Unit regulations. She asks the Council to take the Accessory Dwelling Unit (ADU) ordinance off the Consent Agenda and give it further consideration. She has concerns creating ADUs as a permitted use across all categories of zoning will only increase buying frenzy of real estate corporations that come in and buy up houses. She encourages the Council to classify the ADUs and to add them only to where they are deed restricted rather than just add them outright. The ordinance should address issues like tree removal in existing neighborhoods, issues of privacy through design standards, and ways to provide the public some notice for concerns that can be addressed at the architectural review. All of those nuances make for a policy that is better tailored for Whitefish.

Nathan Dugan, 937 Kalispell Avenue, stated the accessory dwelling unit ordinance, which passed unanimously at the last council meeting is really great. Passing the ordinance as is demonstrates a commitment to tackling our affordable housing crisis. He asks the Council not to remove the ADU ordinance from the Consent Agenda and further delaying solutions to our housing crisis. He asks Council to unanimously approve the second reading tonight.

Marijke, five hundred Bootjack Lake Road, is asking the Council to vote in favor for the new ADU ordinance because as the Council knows, how great of a change that will be our city.

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 four votes for passage – Section 1-6-2 (E)(3) WCC)

- a) [Minutes](#) from May 2, 2022, Special Session (p.48)
- b) [Minutes](#) from May 2, 2022, Regular Session (p.49)
- c) [Consideration](#) of a request from Ben Davis, Seven Hills Construction, requesting a 24-month extension until May 6, 2024, of the preliminary plat for the Orchard Lane 4 Subdivision, a 5-lot subdivision on 1.74 acres located off Colorado Avenue (p.57)
- d) [Ordinance No. 22-0722-06](#); An Ordinance amending Zoning Regulations Title 11, Chapter 2, Article A (WA Agricultural District), Article B (WCR Country Residential District), Article C (WSR Suburban Residential District), Article D (WER Estate Residential District), Article E (WLR One-Family Limited Residential District), Article F (WR-1 One-Family Residential District), Article G (WR-2 Two-Family Residential District), Article H (WR-3 Low-Density Multi-Family Residential District), Article I (WR-4 High-Density Multi-Family Residential District); Chapter 3, Section 1 (Accessory Apartments); and Chapter 9, Section 2 (Definitions), of the Whitefish City Code (WZTA 22-04) (Second Reading) (p.64)

Councilor Caltabiano made a motion to approve the Consent Agenda.

Councilor Sweeney made a motion to remove item d from the Consent Agenda and reconsider after the Public Hearings and before Communications from the Park and Recreation Director.

The motion made by Councilor Caltabiano to approve the Consent Agenda with the omission of item d was seconded by Councilor Sweeney. 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 four votes for passage – Section 1-6-2 (E)(3) WCC)
 - a) [Ordinance No. 22-07](#); An Ordinance rezoning approximately 7.035 acres of land located at the northwest corner of the terminus of Pheasant Run, known as Tract 1 of COS Nos. 19966 in Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana , from County R-3 (One-family Residential) to WB-2 (Secondary Business District) and WR-2 (Two-family Residential), and adopting findings with respect to such rezone (WZC 22-02) (First Reading) **POSTPONED FROM MAY 2, 2022 PUBLIC HEARING OPEN**(p.82)

In the absence of Director Taylor, Long-Range Planner Osendorf reported there are no changes from staff.

Mayor Muhlfeld opened the Public Hearing.

Kurt Vickman, 4303 Oakdale Avenue, the applicant stated the reasons for choosing the WR-2 and WB-2 zoning designations are. 1) It is consistent with the Highway 93 South Corridor Plan. 2) It felt like the appropriate residential zoning alongside a busy arterial. 3) It addressed one of the biggest concerns of providing more affordable housing. 4) It was a good transition for the surrounding properties. He has met with the neighbors since the last meeting, and they came to an agreement to reduce the density along the southwest portion of the property by committing to doing five single family WR-2 lots; two along the south side of the property; and three more along the west side of the property. He also is committing to 25-foot setbacks along the south side of the property and along the entire western boundary of the property.

Adam Kincheloe, 90 Park Knoll Lane, stated they had a couple of meetings, and he has been here in opposition of it twice. He thinks the current discussion with the applicant is the best of both worlds that will allow to protect their borders.

Karen Giesy, 121 Park Knoll Lane, spoke in opposition of this zoning designation at the previous hearing. They have come to agreements with the applicant and support the WR-2 zoning designation. She still has concerns regarding the intersection of Pheasant Run and Highway 93 S.

Charlie Duffy, 117 Park Knoll Lane, stated the neighbors in Park Knoll the primary concern was high density and max building along the western boundary of the parcel, in addition to buffers and setbacks. After multiple session with the applicant, they were able to have some positive conversations. As a result, he does support the applicants zone change request. He also added it seems there needs to be something in place for the annexation policy. He asks the City not to put the onus on neighbors and developers to work something out with the applicants.

David Hunt, 113 Park Knoll Lane, has spoken against this request at the Planning Board and the prior Council session. He is going to support this zone request. He encourages the Council to move forward to pass this request. There are some gaps in the processes for rezoning and development that should be a better model moving forward if there is a required citizen participation step.

Mayre Flowers, Citizens for a Better Flathead appreciates that the neighbors and the developer found a compromise. She has concerns as to how the agreement gets codified so that it is enforced. She thinks Finding #6 that was proposed, needs to be modified. Baker Avenue is not surveyed out.

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

Councilor Qunell made a motion, seconded by Councilor Caltabiano to adopt Ordinance No. 22-07, and adopt the Findings of Fact with respect to such rezone WZC 22-02 and the Findings of Fact in the staff report.

Councilor Davis asked, and Attorney Jacobs stated that zoning is not an agreement between the neighbors and the city.

The motion to adopt Ordinance No. 22-07 carried.

- b) **Consideration of a request from Ben and Melissa Haigh for a Conditional Use Permit to develop a guesthouse at 1001 Creek View Drive, zoned WR-1 (One-Family Residential District) (WCUP 22-15) (p.143)**

Senior Planner Wendy Compton-Ring presented her staff report that is provided in the packet on the website.

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

Councilor Caltabiano made a motion, seconded by Councilor Qunell to approve consideration of a request form Ben and Melissa Haigh for a conditional us permit to develop a guest house at 1001 Creekview Drive, zoned WR-1. The motion carried.

- c) **Consideration of a request from Karrow Whitefish Investment LLC, for an Amended Preliminary Plat, to slightly adjust nine of the ten lots within the approved Preliminary Pat at 95 Karrow Avenue, zoned WI-T (Industrial Transitional District) and WT-3 (Neighborhood Mixed-Use Transitional) (WPP17-04A) (p.179)**

Senior Planner Wendy Compton-Ring presented her staff report that is provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing.

Casey Malmquist, 160 Walker Creek Lane, applicant stated this is a housekeeping item. After coming to the Council in the Fall for some significant changes, they found the lot lines did not necessarily align with some of the changes they did. This is a big development, and it is important to the community. They want to do it the right way. He also mentioned that they have gone through a branding and naming process and the development is now known as Whitefish Yards.

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

Councilor Caltabiano made a motion, seconded by Councilor Qunell to approve WPP 17-04A, the Findings of Fact in the staff report and recommended conditions of approval as recommended by the Whitefish Planning Board on April 21, 2022. The motion carried.

- d) **Consideration of a request from Peregrine Automotive LLC for a Preliminary Plat for a seven (7) lot commercial subdivision, located at Tract 6BGA in S1-T30N-R22W, zoned WI/WB-2 SC (Industrial and Warehousing District/Secondary Business District with Special Conditions) (WPP 22-02) (p.411)**

Senior Planner Wendy Compton-Ring presented her staff report that is provided in the packet on the website. This is the first plat project being reviewed under the expedited process, so there is no recommendation from the Planning Board. This was a bill that was passed by the Montana State Legislature at their last session. Projects that are going through subdivision review that are in the city limits, meet the zoning, have all the public services and facilities and are not asking for any zoning variances can get this quicker process. This application was submitted, and Council is the public forum for this meeting.

Mayor Muhlfeld opened the Public Hearing.

Donna Valade Surveying, 2 Village Loop, Kalispell, applicants representative was available for any questions the Council may have. The applicant is also available along with Brent Foley with Foley Engineering.

Abby Hughes, co-president of the Baker at Commerce COA, 1820-1832 Baker Avenue spoke on behalf of the COA and provided a letter from Chris Hyatt at 1826 Baker Avenue. The COA is concerned with the shared driveway. They suggest there be no usage of this driveway by construction vehicles or any other vehicle using the premises at Peregrine. There is an easement agreement between the two parcels to allow nine parking spaces on the adjoining property line.

Alex Keuylian, 465 Armory Road, applicant, commented on the parking easement and stated they have fulfilled the nine-space requirement as per the easement agreement.

Alison Hakala, co-owner of 1824 Baker Avenue, echoes her fellow tenants concerns regarding parking. She also is a bit concerned about the expediated process. She does not want their condominium association to suffer because of the expediated process. She stated the parking easement agreement does not guarantee any access or the use of their driveway. The driveway is owned and maintained by the COA and is not to be used by the construction traffic.

Joy Keuylian, 465 Armory Road, as a previous owner of the project property and the COA property. When the business owners purchased 1820-1832 Baker Avenue, they agreed to the parking and were very aware of the limited parking. This land has been vacant for a long time. She sees it as an eye sore. This improvement will be beneficial to the city. Subdividing it gives people the opportunity to own their own lot with their own business.

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

Mayor Muhlfeld raised a concern pertaining to the future expansion of Baker Avenue and the entrance to this development. He also feels there has been other information presented this evening on behalf of the Baker at Commerce COA that he would like Attorney Jacobs to review.

Councilor Davis made a motion, seconded by Councilor Caltabiano to approve WPP 22-02.

Councilor Qunell made a motion, seconded by Councilor Davis to add condition #17 that the nine parking spaces provided for 1820-1836 Baker Avenue is not used in any way that contradicts the easement and the subdivision no use the access. After some discussion between Council and the applicant, Councilor Qunell withdrew his motion. Councilor Davis withdrew his original motion to approve, with agreement from Councilor Caltabiano.

Councilor Qunell made a motion, seconded by Councilor Feury to postpone this item to June 6th. The motion carried.

Mayor Muhlfeld called for a recess at 9:01 pm and reconvened at 9:07 pm.

6d) [Ordinance No. 22-0722-06](#); An Ordinance amending Zoning Regulations Title 11, Chapter 2, Article A (WA Agricultural District), Article B (WCR Country Residential District), Article C (WSR Suburban Residential District), Article D (WER Estate Residential District), Article E (WLR One-Family Limited Residential District), Article F (WR-1 One-Family Residential District), Article G (WR-2 Two-Family Residential District), Article H (WR-3 Low-Density Multi-Family Residential District), Article I (WR-4 High-Density Multi-Family Residential District); Chapter 3, Section 1 (Accessory Apartments); and Chapter 9, Section 2 (Definitions), of the Whitefish City Code (WZTA 22-04) (Second Reading) (p.64)

Mayor Muhlfeld reported Councilor Sweeney motioned to remove item 6d from the Consent Agenda.

Councilor Sweeney made a motion to direct staff to amend Ordinance No. 22-06 to require that should an ADU be built pursuant to this program or the incentives, and if the house wishes to be rented the primary residence wishes to be rented as well, that house shall have a deed restriction placed on it that it can only be leased for 12-month period and no less. Councilor Davis asked, and Attorney Jacobs stated this is substantive and we should go back through the process of the City Council. The motion failed due to a lack of a second.

Councilor Feury made a motion, seconded by Councilor Caltabiano to approve Ordinance No. [22-0722-06](#) on a second reading. Councilor Feury stated he has some concerns about both units being rented. The Housing Committee, Planning Board and Council did a good job. If his concerns play out over time that is something they can adjust. At this point he thinks it is a step in the right direction and he firmly believes in ADUs. The motion to approve Ordinance [22-0722-06](#) carried on a 4-1 vote, Councilor Sweeney voting in opposition.

8) COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR

- a) [Ordinance No. 22-08](#); An Ordinance amending Title 7, Chapter 5, Grounds and Vegetation (“City of Whitefish Tree Ordinance”), of the Whitefish City Code (First Reading) (p.462)

Parks and Recreation Director Maria Butts presented her staff report that is provided in the packet on the website.

Councilor Caltabiano made a motion, seconded by Councilor Feury to adopt [Ordinance No. 22-08](#); An Ordinance amending Title 7, Chapter 5, Grounds and Vegetation (“City of Whitefish Tree Ordinance”), of the Whitefish City Code (First Reading). The motion carried.

- b) [Consideration](#) to award the Armory Park Master Plan Phase III construction contract (p.469)

Parks and Recreation Director Maria Butts presented her staff report that is provided in the packet on the website.

Councilor Caltabiano made a motion, seconded by Councilor Qunell to award the Armory Park Master Plan Phase III construction contract as presented by the staff. The motion carried.

9) COMMUNICATIONS FROM CITY MANAGER

- a) [Written report](#) enclosed with the packet. Questions from Mayor and Council? (p.475)

None

- b) **Other items arising between May 11th through May 16th**

Manager Smith reported she was contacted by the U.S. Postal Service regarding slips of paper that were placed in mailboxes pertaining to the animal resistant container regulations. A reminder to the public and the individual who placed the note in individual mailboxes, it is a federal offense. We have heard the comments from the individuals and has reached out to Republic Services. They are amenable to looking at how to shift the curbside services to alley services for certain neighborhoods.

She also reported there will be a filming company coming to town who has requested through our Special Event permit process to film in Whitefish. Some of it is being filmed inside a local business but they are requesting to use our sidewalks and have some traffic control as well as parking. The request is to use three parking spaces, and some sidewalk usage, keeping five feet space open and very intermittent traffic control. It is limited between 9:00 am and 1:00 pm on May 23rd for the outdoor filming so it will not interfere with school traffic.

10) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) [Letters](#) from citizens with concerns with the animal resistant containers (p.482)

Councilor Qunell asked, and Manager Smith stated that Republic Services and Director Workman are working on how to continue to maintain services in the alley for those who currently share a 300-gallon container.

Councilor Comments

Councilor Caltabiano stated he read an article in the May 11th edition of the Flathead Beacon, page 13, citing what the Council did as work on May 2nd. There is a sentence in the second paragraph about the ADU ordinance; “the vote came with a promise that the topic would be revisited at a council meeting

later in May when more members are present.” Given the rules are the rules and we all know there is a second reading and there is an option to pull off the Consent Agenda, he wanted record to show that this Council serves voluntarily elected and abiding to an oath of office. He for one of the members would like to be stated in the record that is motion and vote on May 2nd, was made with no promises attached.

Councilor Qunell stated he read what the White House released today. One of the initiatives is to reward jurisdictions that have reformed zoning and land use policies that is called out specifically in the White House statement. That is something we have done here tonight and hopefully there will be access to money that can help us. He also mentioned May is trail month, if you have Strava, get out there, join the Whitefish Trail Challenge. Every mile that you do on the trail earns a dollar for the Whitefish Legacy Partners. They are trying to make \$25,000 this year.

Councilor Davis thanked the public for bringing that to Council’s attention the difficulties of the curbside containers were for some residents. He hopes it can be conveyed to Republic Services that this is an item of significant concern and that they can work with staff expediently to find a solution for those affected. With respect to the discussion about the viaduct during the work session held prior, he agrees with some of the comments made about the fact that this is an important improvement for the community. He would hate to sell ourselves short. He would like to see some consideration give to future upgrades that gets us back in compliance with our Downtown Master Plan. He also responded to comments made earlier with respect to the annexation policy. He finds our annexation policy is difficult. Council does not see them often. It would be important to keep our eye on the ball long term about annexation policy as a long-term planning objective that we should try to accomplish.

Councilor Feury mentioned and asked staff to look into the property that is located northeast of Edgewood Place and Wisconsin Avenue intersection that is currently being utilized for parking. If it is public right-of-way, they should not be parking there, if it is privately owned, we have a requirement in our zoning code that it should be paved and landscaped. It looked terrible last summer and looks even worse this spring and will not get any better as the summer goes on.

Councilor Sweeney stated he agrees with Councilor Feury pertaining to the viaduct discussion during the work session prior to the meeting. It is a very high-profile spot and has been in our work plans for years to do something about it. He would rather do the right thing rather than something we would not be happy with.

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 9:42 p.m.

/s/John Muhlfeld

Mayor Muhlfeld

Attest:

/s/Michelle Howke

Michelle Howke, Whitefish City Clerk