

February 14, 2024

Dear Planning Commission Chair and Members

The 200-unit project coming before you on Friday was submitted for zoning permit approval with a new project name, “Moonrise at Yellowstone,” not Moonrise Meadows as stated in the staff report.

On page 2 of the staff report, the staff indicates one "Unresolved Issue": sewer service. Staff notes a condition of approval to address this issue. However, there is another matter unresolved—the proposed clubhouse building height. A condition of approval is needed to allow the clubhouse building, as proposed, to be 21 ft 9” inches in height.

Page 3 of the staff report must include the clubhouse in the project summary. The 4,275 sq ft clubhouse is designed and intended for all residents' social and recreational purposes. The proposed building height is 21 feet 9 inches. It will be owned and operated by a nonprofit homeowners association. The R-4 zone allows this use. Per Town Code Section 17.04.120, the clubhouse meets the definition of a "club." The club is not an accessory use/building as defined in the Town Code Section 17.04.020. Although there is no analysis in the staff report it seems apparent the staff has assumed that the 14 ft height limit specified for "Accessory Use/Building" applies to the clubhouse. See Page 22 (See Zoning Compliance Table Building Height 17.16.060) "Comment". The clubhouse is listed along with garage and maintenance buildings that are clearly accessory to the residential development. However, the clubhouse is a separate land use defined in the Town Code and allowed up to a maximum building height of 32 ft.

Please remove the 14 ft building height restriction on the clubhouse. As defined by the Town Code, this use is not an accessory building.

Also, on page 3 of the staff report, the property's street address is identified as 111 Moonrise Way. The correct address is 1111 Moonrise Way.

Thank you for your kind consideration of this request.

Robert Yeakey
Non-Member Manager
Moonrise Partners. LLC

GALLIK & BREMER, P.C.

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(406) 404 1728

February 15, 2024

Town of West Yellowstone
Planning Board
Town Council
440 Yellowstone Avenue
West Yellowstone, MT 59758
info@townofwestyellowstone.com

BY EMAIL AND POST

RE: Moonrise Partner's Revised Application for a Zoning Permit.

Honorable Members of the West Yellowstone Planning Board and Town Council

As you may know, this firm represents the Madison Addition Owners' Association. The Moonrise property at issue is within the boundaries of the Madison Addition. It is my understanding that my Client, or members of my Client, did not receive information about the revised Moonrise Application until approximately February 8, 2024, (despite requests for the ability to review the application dating back to October 30, 2023) and when they received information, it appeared to be incomplete. When this fact was brought to the Town's attention, representatives of my Client were advised to go to the Town's website apparently because the missing portion(s) of the Application were too large to email. Even then, there appears to be contradictions in the information about what is applied for and information in the staff report and what I understand is a revised traffic study.

Because of the untimeliness of the production of the information, which still appears incomplete and contradictory, we respectfully request that the Town vacate the current hearings on this Application and provide a complete and accurate copy of the application and all related information to allow my Client the right, consistent with the Montana Constitution and MCA §§ 2-3-101 -2-3-201, et. seq. and consistent with their rights to *meaningful* notice and opportunity to be heard.

Thank you.

Sincerely,

GALLIK & BREMER, P.C.

A handwritten signature in black ink, appearing to read 'BG', is written over the text 'GALLIK & BREMER, P.C.'.

Brian K. Gallik

C: client

Jane Mersen (by email)

Public Comment 2-16-24

Public Hearing Planning Board recommendation on Moonrise project

This hearing is premature and should be moved to a future date.

As a homeowner in the Madison Addition represented by the Board of the Madison Addition Owners Association I am aware that information regarding Moonrise Partners request for review of their proposed project has been repeatedly requested under the Montana Public Records Law; those requests have been repeatedly denied, until partially provided by the Town office one week before this hearing. The Traffic study which references 168 condos and 32 Time Share Units does not correspond the Town staff report of 200 Unit apartment complex. Which application is being acted on by the Planning Board and ultimately the Town Council?

The Town has acted with a complete lack of transparency, its Manager and employees, have no authority to disregard a request under the Montana Public Records law. By not providing the requested information in a timely manner it directly inhibited the ability of MAOA to review and to act on items presented in the Moonrise application.

Again, due to the lack of transparency during the DRG review process and Planning Board review process, the Town It has shown complete disregard for the members of the community who will be most affected by the decision that will be made in front of the Town Council, currently scheduled for March 19.

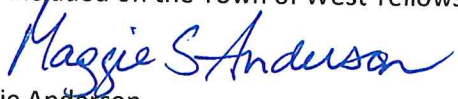
Timeshare Development is not allowed in the Madison Addition by Zoning ordinance of the Town of West Yellowstone. Every taxpaying property owner and homeowner in the Madison Addition purchased and improved their properties with this understanding and definition clearly stated in the Town's zoning ordinance. The Town classifies Timeshares as a commercial endeavor that requires a business license to operate.

Commercial development is specifically not allowed in the Madison Addition since the date the US Forest service authorized the exchange of the property. Specifically outlined on page 6 and 7 of the attached Exhibit. The Forest Service Land Exchange concluded: "The best way to meet our objective of providing homesites for permanent residents is through land exchange." This determination also recommended a 20 acre portion of the exchange be made available for a high school and other school needs. Also concluded in the original land exchange determination by the Forest Service, there was no additional National Forest land needed for Commercial Expansion.

The inability to use Forest Service land for a commercial venture was further emphasized by Nick Musto, the interim representative for the Gallatin- Custer Forest Service, during the Public Hearing in the summer of 2023. He stated that Moonrise's request to the Forest Service for a necessary secondary egress road (for their former application for 416 timeshare units) on Forest Service land would likely be unsuccessful due to the commercial nature of the project. The USDA guidelines do not permit an exchange or purchase for the benefit of a commercial venture.

Timeshare Owners (whether the 'ownership' is deeded or not) are not permanent residents, they are tourists visiting our area for a short span of time and leaving. Timeshare units are a commercial endeavor.

If the Moonrise application includes 32 time share units and 168 apartments as indicated on the Traffic Study included on the Town of West Yellowstone's website, the application must be denied.



Maggie Anderson,
Resident & property owner in the Madison Addition
West Yellowstone MT 59758

Email: xtcmmms@aol.com

ATTACHED Exhibit ①
Maggie Anderson

II. DESCRIPTION

A. Introduction

1. Objectives of the Report

- a. Consolidate existing documentation regarding the exchange.
- b. Recommend a proposed course of action regarding the City of West Yellowstone's request of March 29, 1977.
- c. Document the environmental impacts of exchanging 160 acres of National Forest land for townsite expansion.
- d. Develop mitigating measures for adverse environmental impacts.
- e. Develop management requirements and constraints needed to implement the proposal, including criteria to be used for selection of offered land.
- f. Comply with Forest Service Manual policy (8310.3).

2. Objectives of the Proposal

- a. Satisfy a local public need for residential living and school district expansion. (See Appendix, Exhibit 1.)
- b. Provide for segregation of commercial uses within townsite into commercial core.
- c. Consolidate National Forest land ownership patterns elsewhere on this District or Forest.
- d. Help solve problems of management, protection, and use of National Forest lands around the City of West Yellowstone.
- e. Remain consistent with existing management plans and planning efforts.
- f. Facilitate conservation of Forest and watershed lands and resources under principle of multiple use.

3. Location

- a. Specific legal description of selected lands -- The City of West Yellowstone desires to acquire the following lands: southwest one quarter of Section 27, Township 13 South, Range 5 East, PMM, consisting of approximately 160 acres.

Exhibit ①
Maggie Anderson

b. General description of offered lands -- No firm offer has been made by the city or FLEX. Ronald N. Stickney, representing the Federal Land Exchange of Nevada, Inc. (FLEX), has been working with the city and has agreed, "... to acquire land designated on the Gallatin Canyon Recreation Composite or the other area designated by the Forest Service" (See Appendix, Exhibit 2.) The resultant exchange would be consummated through FLEX, who would act as exchange proponent.

Other possibilities of offered lands include:

(1) Hebgen Lake Ranger District - The land adjustment plan, last updated in 1970, shows land in Sections 7 and 8, T12S, R5E, and land in Sections 7 and 8, T12S, R4E planned for priority II acquisition. (See Appendix, Exhibit 3.) The District is still desirous in acquiring these lands because of their moose, grizzly bear, and fisheries habitat.

In addition to the lands shown on the land acquisition plan, the following private parcels within the Hebgen Lake District boundary are desirable acquisitions: Sections 17 and 18, T12S, R5E, PMM, and Sections 25 and 36 adjacent to the South Fork of the Madison River in T13S, R4E, PMM. These lands, like those in the acquisition plan, are desirable moose, waterfowl, grizzly bear, and fisheries habitat. They would provide tangible benefits from hunting and fishing and intangible benefits from management of classified species and wildlife sightseeing.

(2) The Gallatin River Recreation Composite was approved by the Bureau of Outdoor Recreation on November 21, 1975. This composite plan indicates those lands proposed for acquisition within the Gallatin Canyon. Any lands listed in the composite which FLEX could acquire, and of similar value to the selected lands, would be suitable for exchange.

(3) Other private lands in the Gallatin National Forest which may be available for acquisition by FLEX are six parcels known as the B-Bar Ranch. These lands are in the upper Yellowstone drainage and are valuable as bighorn sheep, elk, and grizzly bear habitat. The lands also have livestock grazing potential and would aid in gaining public access to the National Forest. Petrified wood exists on at least one parcel. (See Appendix, Exhibits 4, 5, and 6 for more detailed description and location.)

B. Background

President Woodrow Wilson, on December 5, 1919, signed Executive Order No. 3195, that excluded from the Madison National Forest 339.73 acres of land in Montana for townsite purposes. (See Exhibit 7.) This tract of land was adjacent to the western boundary of Yellowstone National Park at the terminus of the Yellowstone Park Railroad. This railroad, a

Maggie S. Anderson
Ex. 1

branch of the Oregon Short Line Railroad, had been completed in the fall of 1907. Prior to that time, travelers to the west entrance of Yellowstone National Park had arrived via stagecoach from Monida, Montana. State stops and accommodations had been located about six miles west of the Park along the South Fork of the Madison River. The completion of the rail line, however, presented an opportunity for the creation of a new community that would be oriented towards servicing the needs of the travelers visiting Yellowstone National Park.

In 1908 the Madison National Forest began issuing special use permits to individuals for the business and residential lots. A six-block area was surveyed for this purpose. This plat was revised in 1910. The six-block area covered some 53 acres including streets and alleys. Each block was divided into fourteen 100 X 150-foot lots arranged around 200 X 250-foot public parks with a 50-foot east-west alley. At the time the official survey was completed in 1920, 64 of the 84 original lots were under special use permit, and the Madison National Forest found itself responsible for the day-to-day administration of a town. By the year 1922 the lots under special use were sold to the permittees under preemption or squatters rights. On August 25 and 26, 1924, the U.S. Land Office held an auction sale at which several more lots were sold, bringing the total of lots now in private ownership to about 150.

On August 5, 1929 another auction sale was conducted by the U.S. Land Office and the remaining lots were sold.

In 1911 the road from Bozeman to West Yellowstone was opened to traffic. The first automobile traveled the road in 1913. As roads improved and automobile use increased, the number of tourists and travelers who needed facilities that were not furnished by the railroad nor the Park transportation companies had increased significantly. New services that were oriented to the auto traveler such as service stations, garages, cabin camps, theaters, cafes, grocery stores, and tackle shops began to proliferate. The influx of people to run the service industries created a need for services to cater to the "servers," and then came drycleaning shops, laundrys, hardware stores, sawmills and building supplies shops, a drug store, a fuel supplier, a bakery, an icehouse, a vetrans meeting house, and a lodge hall. There is no indication that a need for more land was evident for the period of 20 years from 1924 to 1944.

On October 5, 1945 Gallatin National Forest Supervisor B.A. Anderson reported to the Regional Forester that a petition was being circulated in West Yellowstone to extend the town's boundaries so that more lots could be added to the townsite. (See Exhibit 8.)

The Regional Forester requested a survey to include the number of lots developed, the number of yearlong residents, and the number of seasonal employees. Also requested was the average daily number of guests who were accommodated for meals and lodging. In the same letter, the

Maggie Anderson
Ex 1

Regional Forester said, "I don't see that the Forest Service appropriately could insist on incorporation of the town or betterment of existing conditions as a requirement to be met before making a favorable report on any proposed further withdrawal."

As a result of the request for a survey, Ranger McConnell reported that as of November 13, 1945 there were 144 unimproved lots and 201 lots having some sort of improvements. The yearlong residents were estimated at 180 persons. The seasonal resident population was estimated to be 350 persons. The itinerant population was estimated to be 2,000.

In January, 1946 Gallatin National Forest Supervisor J.C. Urguhart said in a letter to the Regional Forester, "... There is a land boom on, and land within the present townsite is in demand at high prices. It is reported that two relatively isolated lots recently sold for \$1,000 each."

The need for more land for residential purposes was recognized as early as 1946. The Forest Service began to examine the ways and means of getting public land into private ownership.

In 1949 the local veteran's organization submitted a formal inquiry into the possibility of getting land set aside for veterans. Meetings were held, letters written, and proposals and counter proposals made. All possibilities from outright grants to land exchanges and lottery drawings were considered.

Special use permits, which would give the veterans preemption rights after the land was withdrawn, seemed to be the most expeditious and the only way the veterans could be served exclusively. However, this proposal quickly lost favor when it was determined that the Federal Housing Authority, the Veteran's Administration, and most of the private money-lending institutions would not loan money for construction unless the veteran held free title to the lots. A subsequent proposal by the American Legion was considered impractical by both the Forest Service and the attorneys for the American Legion. An official poll and review of the needs and desires of the veterans revealed that only about 16 veterans were financially able to construct homes. Then the townsite expansion issue remained relatively quiescent until 1965 when the county commissioners began an inquiry into the status of the Park reserves. In the original withdrawal, Block 13 and an area in the center of each of the other blocks had been reserved as public parks.

Block 13, however, was being operated as a trailer park and campground by the deputy sheriff, with full approval of the county commissioners. Local residents had begun to pressure the county commissioners to sell these parcels of public land to private interests and the commissioners were considering doing just that as a solution to the land boom.

Maggie Anderson
Ex 1

ultimate development of the proposed area will be seriously affected by this route. The Forest Service feels that Route B, the bypass bordering the north boundary of the present townsite, is the best alternative. This alternative is favored because: (1) It would keep truck traffic out of the congested commercial area of the town; (2) It would separate the proposed residential area from the existing townsite without interfering with traffic between the two areas; (3) It provides good access to the proposed school area; and (4) It does not cut the old airport with a diagonal road, making it impossible to develop in an orderly manner at a later date.

The old airport has been set aside as a snow-play area for snowmachines.

(2) Proposed Expansion Area Roads

The land classification study, page 102, recommended that all streets in the proposed residential area be 100 feet wide to provide for snow storage and all alleys be 50 feet wide to provide for additional storage. The study also recommended that a 100-foot wide street surround both the residential and school areas, thus providing a firebreak between the proposed addition and the National Forest. The north-south streets of the proposed addition are to be kept in line with those of the present townsite to allow for orderly expansion of sewers, power lines, etc. Only three of these streets will be connected, however, in an effort to reduce tourist traffic into the proposed residential area.

(3) Airport Expansion

The Montana Aeronautics Commission (MAC) believes that by 1980 there will be a need to extend the present runway to 13,500 feet. There is room to expand to 14,000 feet within the State's property without consideration for approach or take-off zones. Any extension beyond 12,000 feet will require relocating U.S. 191, power lines, telephone lines, and the sewer lagoon. The Forest Service feels that there is no demonstrated need at this time for expansion of the airport beyond the State's ownership. The Forest Service will continue to manage the contiguous National Forest land recommended for future airport expansion so no possible conflict could occur which would be adverse to such expansion, should the need arise. The airport and its runway would be no closer than one-half mile to the selected land.

The MAC would like to plan for year-round operation of the Yellowstone Airport. At least one of the commercial airlines has announced a willingness to serve West Yellowstone year-round once sufficient need for winter air service arises.

Maggie Anderson
Ex. 1

In a letter to Mr. E.L. Romney on February 19, 1965, Chief of the Forest Service Ed Cliff explained in some detail the Forest Service requirements that would have to be met before land could be eliminated from the National Forest and made available for private homesites.

Clyde Blake, the District Ranger, made a request for special funds to initiate a multiple use study of the problem. The Regional Forester's reply indicated that multiple use funds could not be used for that purpose but that a land classification study of the area could include data pertinent to future expansion of the townsite.

A land classification study was initiated in 1966 and completed in 1967. This study recognized the need for additional residential housing in West Yellowstone. (The Hebgen Lake Planning Unit, prepared in November of 1976, reiterates the findings of this land classification study.)

Following the publication of the land classification study, the first mayor of the newly incorporated City of West Yellowstone responded in a letter dated December 22, 1967: "The City Council is in agreement with the general recommendations of your study and that the Land Exchange would provide the best opportunity for expansion, holding speculation to a minimum." Since this letter, various other correspondence and meetings between the Forest Service and the City of West Yellowstone have continued to bring the land exchange issue to its present status, resulting in this environmental analysis report.

For further background information, see the Land Classification Study - West Yellowstone, Montana Townsite.

C. Relationship to Other Studies, Plans, and Authority

1. Land Classification Study

The "Land Classification Study - West Yellowstone, Montana Townsite" was approved by the Regional Forester on October 30, 1967. The purpose of the study was to determine what course the Forest Service should follow as a neighbor to the city. Of immediate concern to this analysis are two conclusions:

- (1) Residential land adjacent to the townsite is needed.
- (2) Land adjacent to the townsite is needed for a high school.

With regard to residential expansion, the study recommended that a ten-acre tract of National Forest land north of the present townsite be made available because, (1) building sites in the townsite are priced beyond the reach of most local residents, (2) the number of residences in the townsite is decreasing as commercial development expands, (3) population

Maggie Anderson
Ex 1

growth is estimated at 8.0% per year for 1967-1985, (4) interviews with knowledgeable people substantiate the need for homesites, and (5) between 1967 and 1985, 160 lots are needed.

The study concluded: "The best way to meet our objective of providing homesites for permanent residents is through land exchange." This alternative was chosen over the Townsite Act and special use permit alternatives for several reasons, which are documented on pages 105-109 of the land classification study.

The land classification study also recommended a 20-acre tract of National Forest land be made available northwest of the existing townsite for a high school and other school needs. Three alternatives were studied to accomplish the objectives -- the Townsite Act, special use permit, or land exchange. The study concluded that the local school board be given a choice as to the method they wish to use, whether it be special use permit or land exchange. The Townsite Act alternative was discounted for several reasons, which are documented on page 111 of the study.

In addition to the recommendations regarding residential and school needs, the study recommended the following:

- (1) Commercial expansion - no additional National Forest land is needed.
- (2) Industrial expansion - additional land is needed but private land is available to meet the need.
- (3) Highway 191 relocation - the study recommended any relocation follow alternative Route B. (See Appendix, Exhibit 9.)
- (4) Trailer parks - the study concluded a special issue permit should be used to establish two trailer courts, one west of town (which has since been established) and another north of town.
- (5) Cemetery - the study concluded that National Forest land should be made available for this use. A land exchange for this purpose is nearly complete.

2. Supplemental Land Classification Study

This study, approved by the Regional Forester in April, 1970, is a continuation of the 1967 study. The supplemental land classification study did not alter the recommendations regarding residential area or school needs.

The Madison Addition Homeowners Association (MAOA) submits these comments for the hearing record in the matter of Moonrise LLC's ("MR's") application for a 168 unit condominium and 32 unit timeshare project proposed for development in the Madison Addition (MadAd) in the Town of West Yellowstone (TOWY).

Timeshares are not permitted under TOWY Zoning rules or MadAd Protective Covenants

As mentioned above, the TOWY has zoned the MadAd into four residential zones: R-1 through R-4. Each of those zones has a very extensive and carefully drawn list of permitted uses along with a statement of purpose behind the establishment of the zone. Apartments are allowed, clinics, hospitals and nursing homes are allowed. Efficiency units are allowed. Home occupations are allowed but under strict limits. There's no mention of "timeshares" being a permitted use. The TOWY ordinances do mention the word "timeshare" in Title 5.04.010.B, defining them as "lodging facilities" and requiring timeshare operators to obtain and maintain business licenses on an annual basis.

There is a legal maxim that judges in Montana and across the U.S. apply when interpreting the intent of laws (in this case ordinances and protective covenants) where there might be need for interpretation. The maxim is called *expressio unius est exclusio alterius* meaning that if there's mention of one thing in an ordinance, it usually implies the exclusion of other things. Applied to this case, where the TOWY zoning ordinance contains a comprehensive and exhaustive list of permitted uses in R-1 to R-4 zones, and timeshares are nowhere to be found in the list, it's reasonable to conclude that timeshares are excluded and not permitted in R-1 to R-4 zones. They should be considered an unlawful use under the zoning ordinance through application of the maxim.

To be sure, courts don't always have to use a maxim like the one above when interpreting ordinances (or contracts or any number of other written documents) for the "intent" expressed. In this case, the TOWY zoning ordinance is very clear what the intent of the R-4 zone is: "TOWY ordinance 17.16.010: Intent. The intent of this district is to provide for the development of medium density apartments. The district should provide for a variety of housing types to serve the varied housing needs of area residents. (Ord. 93 §1(8.1), 1982)" (*Italics and underline added*).

MR's timeshare proposal serves MR's partners' needs, not the needs of area residents where there is, for instance, a critical need for employee housing.

If there is still any doubt that timeshares are permissible in the R-4 zone and the TOWY Planning Board or Council feel the need to "interpret" its ordinance, consider this: the TOWY's zoning ordinance has its own guidance where there might, for the sake of argument, be a need for interpretation:

"Sec.17.06.050 Interpretation of Uses:

- A. If questions arise concerning the appropriate classification of a particular use, or if the specific use is not listed, the town council shall determine the appropriate classification for that use.
- B. In interpreting use classification, the town council shall determine:
 - 1. That the use and its operation are compatible with the uses permitted in the district wherein the use is proposed to be located;
 - 2. That the use is similar to one or more uses permitted in the district wherein it is proposed to be located;
 - 3. That the use will not cause substantial injury to values of property in the neighborhood or district wherein it is proposed to be located;
 - 4. That neither the intent of this title nor the intent of the district will be abrogated by such classification."

Taking the above criteria in order we contend that the correct determinations concerning the criteria 1 through 4 above should be:

- 1. The MadAd residents are a mix of full-time residents and seasonal recreational home residents, not tourists spending a week or so with a constant turnover and unfamiliarity with our road system.
- 2. There are no uses similar to timeshares in the MadAd. In fact, short term rentals are strictly prohibited by the covenants and TOWY zoning rules. Over the past 28 years, AC members have consistently rejected such prohibited uses in the MadAd.
- 3. There will be substantial injury to the values of property in the MadAd caused by the substantially increased traffic, noise, congestion, etc., throughout the neighborhood.
- 4. The clearly expressed intent of the R-4 zone is to "serve the varied housing needs of area residents", not timeshare resort developers or timeshare resort guests. Housing needs of area residents are not currently being met. Businesses, the K-12 school, a day-care center, law enforcement agencies, government bodies - the list goes on - are all facing critical challenges when hiring and retaining employees due to a lack of affordable housing in the area. Adding a MR size project requiring a sizable staff to function can only make housing shortages worse. Local residents will most likely never schedule vacations at the MR timeshare resort.

In short, not a single criterion listed in TOWY zoning ordinance Sec.17.06.050 can be satisfied.

The reason why the word "timeshare" does not appear in the TOWY zoning ordinance governing R-1 to R-4 residential zones became abundantly clear after

reviewing documents the U.S. Forest Service ("USFS") provided concerning the 1981 deed that transferred the MadAd property to West Associates, Ltd. The principal document is the "Environmental Analysis Report" (the "EA") that was required prior to the transfer to justify releasing the property to private development. Portions of the EA are attached as EX.2.

There are numerous references in the EA to the purposes and objectives of the transfer. One of the transfer's main goals was to provide the residents of the TOWY with land adjacent to the existing Town to build residences and a school. In fact, another specific objective of the transfer was to "provide for segregation of commercial uses within the town-site into commercial core". (EX. 2, p.2) The EA documents a decades-long history of a lack of affordable residential land near Town leading to a 1967 "Land Classification Study - West Yellowstone Montana Townsite". (EX. 2. pp.3-7) That study focused on determining "what course the Forest Service should follow as a neighbor to the city". (EX. 2, p.6) The study concluded: "The best way to meet our objective of providing homesites for permanent residents is through land exchange" (EX. 2, p.7, emphasis added). The study also recommended that there was no need for additional National Forest land for commercial expansion. (EA, p.7) In an effort to "reduce tourist traffic into the proposed residential area" the study recommended that only three streets in the existing town site be connected to the proposed residential area. (EX.2, p.19. Presumably N. Electric St., Geyser, and N. Hayden St.)

West Yellowstone Mayor E.L."Dutch" Spainhower confirmed the Town's willingness to follow the USFS Land Classification Study in a letter to the District Ranger of the Hebgen Lake Ranger Station dated March 29, 1977. (EX.1 to EX. 2) On January 15, 1981, the TOWY passed resolution No. 128 committing to annex the MadAd property into the Town and "regulate the use of such property through its planning and zoning ordinances so that the only permissible uses thereon will be for residential purposes and for a future site for a school". (EX 3) The USFS Director of Lands, Richard Hull, made annexation and those zoning conditions part of his approval letter concerning the land transfer in his letter of April 7, 1981: "The City must annex the land being conveyed to FLEX and zone it for residential and school purposes as declared in its January 15, 1981 resolution". (EX. 4) The USFS land transfer would never have occurred had the zoning ordinance governing the MadAd allowed timeshares within its border. Timeshares are short term occupancies marketed as tourist oriented commercial operations that require business licenses in West Yellowstone. This history behind the development of the Town's zoning ordinance should leave no doubt that the TOWY zoning ordinance was never intended to and does not now allow timeshares on the Moonrise property.

So, what possible basis can MR point to supporting its claim that it can build timeshares on an R-4 zoned lot in the MadAd?

The first is a development agreement (the "DA") between the MadAd developer - Mr. Lewis Robinson - and the TOWY signed in December 1982. The DA basically committed the TOWY to pay a portion of MadAd infrastructure development costs and

to zone the MadAd according to a proposed zoning plan. The TOWY's approval of the zoning plan was "approval only of the general concept of development" shown in the plan. The DA stated that the Town could also "impose additional requirements on final plats for any portion of land (in the MadAd) consistent with the general scheme of development shown on the zoning plan".

One section of the DA suggests that "timeshares" are to be considered residential uses. This is the "Trojan Horse" clause MR claims gives it the right to build a timeshare project on an R-4 residential lot. But by that logic, anyone could build a timeshare on any R-1 to R-4 lot in the MadAd. This "Trojan Horse" clause never made it into the TOWY zoning ordinance as explained above.

Mr. Robinson and his MR partners have a similar problem if they try to point to the MadAd protective covenants for their claim that timeshares are an allowed residential use. Mr. Robinson, then president of the MadAd's development group, authored and recorded the covenants in October 1984. While the covenants contain a definition section that defines the word timeshare (among 48 other definitions) the covenants do not define timeshares as residences or dwellings. We contend that the mere definition of the word timeshare in the covenants is meaningless for a couple of reasons.

First, the covenants go on to comprehensively describe what kind of uses are to be allowed in R-1 to R-4 residential MadAd zones. But, just like in the TOWY zoning ordinance regarding R-1 to R-4 residential zones, counting up the number of places in the MadAd where the covenants allow timeshares as a permitted use ... you will get a big zero. The *expressio unius est exclusio alterius* maxim comes into play here concerning the covenants.

Second, and just for the sake of argument, if defining the word "timeshare" does create an ambiguity whether or not they are allowed under the covenants, that ambiguity has to be resolved against Mr. Robinson and the Moonrise group. That is because:

- A. Montana courts look at protective covenants like the one Mr. Robinson had drafted in this case just like they would when looking at contracts and - for some reason - find a need to do some interpretation. See *Micklon v. Dudley*, 2007 MT 264: "When interpreting documents containing restrictive covenants, we apply the same rules of construction as are applied to contracts".
- B. Montana courts also use a rule of contract (covenant) interpretation called *contra proferentum*, meaning that any ambiguity in a contract (or covenant) should be interpreted against the drafter.

The E5 Engineering Traffic Study

The project is described in E5's study as consisting of 168 apartments and 32 timeshares. The Study is dated Sept. 2023 and appears to have underestimated the

traffic volume the Moonrise project will generate and otherwise seems to make statements about the traffic that are unreasonable and conceal traffic bottlenecks the project will create.

One example of the traffic underestimate (purposeful?) is the study's use of a category of land use called "Multifamily housing- low-rise" from the Institute of Traffic Engineers handbook to estimate that the 200 units will generate 1,350 vehicle trips per day. (EX. 5 attached) That's an average of 6.75 vehicle trips per /unit per/ day. In a previous E5 traffic study where the "timeshare" category from that Institute's handbook was used, the average trips per timeshare unit was determined to be 8.63 vehicle trips per day. (E5 Dec. 2021 study, p.4, EX. 6 attached)

We also question the study's prediction that 270 of the 1,350 trips per day generated by the project will be using DeLacy. It looks like the study is trying to minimize expected traffic away from the more likely bottleneck at N. Hayden and Gibbon. (See EX.7, attached)

The study estimates that there are currently either 600 or 800 trips per day between Delacy Ave. and Gibbon Ave. (See EX.8 attached) Even that low estimate seems wildly high according to those who live on that stretch of N. Hayden. We believe that the study's diversion of trips away from the bottleneck at N.Hayden and Gibbon via Delacy or N. Electric St. seriously underestimates the additional 880 trips per day that stretch is projected to experience as a result of the project. The projected 880 additional trips will more than double present day traffic.

The study's statement that "N. Hayden St. has 2 travel lanes in each direction" north of 'D' Parkway is plainly false. (See EX. 9, attached) N. Hayden St. has one lane in each direction north of the parkway.

The Town's Planning Board and Town Council have previously considered a somewhat smaller 180 condominium unit proposal from Moonrise in 2019. Records of the Board's and Council's review of that proposal should be reviewed by the current Board and Council especially because Moonrise is for the second time proposing a single access/exit to its development. That configuration, again at the present Moonrise access, was a serious traffic and fire safety concern of many. Concerns expressed about line-of-sight issues on the N. Hayden St. curve where the single access/exit exists and occupant evacuation and access for firefighting were so serious that the Planning Board recommended two points of access and exits. (See attached EX. 10 and EX. 11)

With a somewhat larger project on the table this time, we don't understand why those same concerns seem to have been downplayed in the current Town staff report. At full occupancy, how are residents going to escape a potential incident involving police and/or firefighting crews needing access to the property with only a single point of entry and exit? We see on the E5 Study that it proposes an all-way stop at the Moonrise-North Hayden Street-Grayling Street intersections to supposedly address traffic safety issues. That does nothing to address the fire and/or potential incident safety issue(s) mentioned above. Recent wildfires in Hawaii and California are vivid

catastrophic examples. The spread of a fire beyond the Moonrise property should be a major concern for all Town decision makers.

Background

The MAOA is a non-profit homeowners association incorporated in Montana which all property owners in the MadAd are members of. The MadAd is comprised of 365 lots on about 160 acres zoned R-1, R-2, R-3, and R-4 pursuant to the zoning regulations of the TOWY. Land use in the MadAd is also governed by protective covenants that were recorded in 1984 when the MadAd was established. In many ways the covenants are more restrictive of land use in the MadAd than applicable TOWY zoning regulations.

The MadAd is not yet fully developed. In mid-2023 the following mix of residential uses existed: 208 single family homes (plus 4 under construction), 17 duplexes, 1 triplex, 1 fourplex, an apartment building occupied by employees of a local business, two churches, a K-12 school, some public open space, one derelict condominium project consisting of a concrete foundation only. While the MadAd has many full-time residents, an estimated one quarter of the residences are occupied only on a seasonal basis or intermittent weekender basis. There are well over 100 lots in the MadAd that are not developed, primarily covered by stands of lodge pole pine. Roadways serving the MadAd are delineated on official plat maps and are, at most, a single lane of traffic in each direction. A copy of a plat map showing existing roadways is attached for reference. (EX.1)

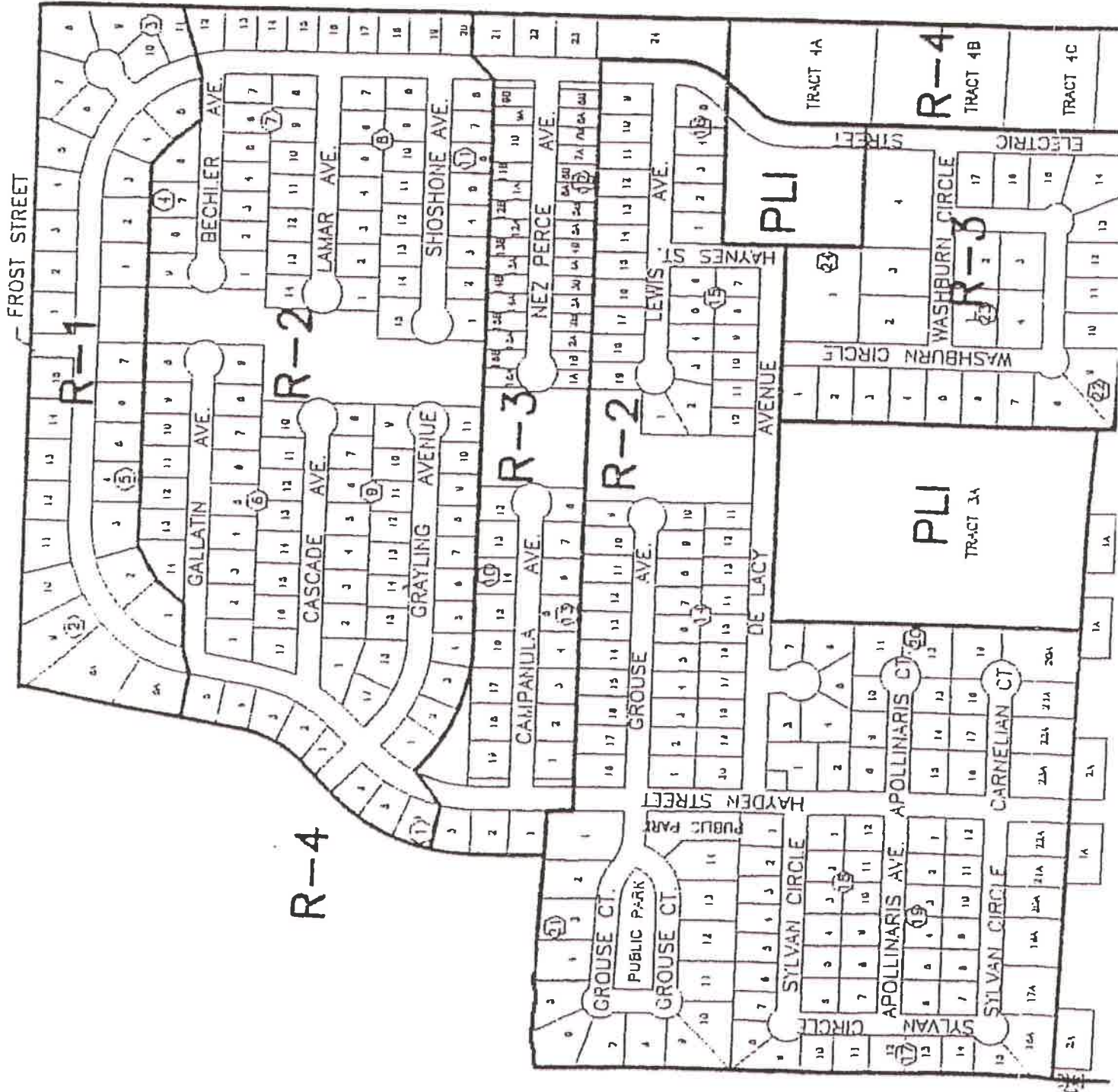
Property tax records obtained from the Montana cadastral in 2023 indicate that the assessed value of all private property in the MadAd is approximately \$111,464,000. In 2023, tax assessment values in the MadAd increased significantly.

The covenants establish the authority of both the MAOA governing board (the "board") and an architectural committee (the "AC"). Although it took about 11 years after the MadAd was established to get the MAOA board and AC functioning, volunteer property owners in the MadAd have served on one or both the board and AC since 1995.

The covenants task the AC with reviewing plans for construction in the MadAd. The AC evaluates proposed construction plans for compliance with standards and prohibitions the covenants spell out. The AC has no authority to approve plans that are inconsistent with covenant standards or violate prohibitions in the covenants. The AC cannot "waive" any rules. The AC acts as an agent for the board when the AC reviews and either approves or rejects building plans.

By: Paul V.P. 2-15-2024
Madison Addition Owners' Association

FROST STREET



EX. 1

II. DESCRIPTION

A. Introduction

1. Objectives of the Report

- a. Consolidate existing documentation regarding the exchange.
- b. Recommend a proposed course of action regarding the City of West Yellowstone's request of March 29, 1977.
- c. Document the environmental impacts of exchanging 160 acres of National Forest land for townsite expansion.
- d. Develop mitigating measures for adverse environmental impacts.
- e. Develop management requirements and constraints needed to implement the proposal, including criteria to be used for selection of offered land.
- f. Comply with Forest Service Manual policy (8310.3).

2. Objectives of the Proposal

- a. Satisfy a local public need for residential living and school district expansion. (See Appendix, Exhibit 1.)
- b. Provide for segregation of commercial uses within townsite into commercial core.
- c. Consolidate National Forest land ownership patterns elsewhere on this District or Forest.
- d. Help solve problems of management, protection, and use of National Forest lands around the City of West Yellowstone.
- e. Remain consistent with existing management plans and planning efforts.
- f. Facilitate conservation of Forest and watershed lands and resources under principle of multiple use.

3. Location

- a. Specific legal description of selected lands -- The City of West Yellowstone desires to acquire the following lands: southwest one quarter of Section 27, Township 13 South, Range 5 East, PMM, consisting of approximately 160 acres.

b. General description of offered lands -- No firm offer has been made by the city or FLEX. Ronald N. Stickney, representing the Federal Land Exchange of Nevada, Inc. (FLEX), has been working with the city and has agreed, "... to acquire land designated on the Gallatin Canyon Recreation Composite or the other area designated by the Forest Service" (See Appendix, Exhibit 2.) The resultant exchange would be consummated through FLEX, who would act as exchange proponent.

Other possibilities of offered lands include:

(1) Hebgen Lake Ranger District - The land adjustment plan, last updated in 1970, shows land in Sections 7 and 8, T12S, R5E, and land in Sections 7 and 8, T12S, R4E planned for priority II acquisition. (See Appendix, Exhibit 3.) The District is still desirous in acquiring these lands because of their moose, grizzly bear, and fisheries habitat.

In addition to the lands shown on the land acquisition plan, the following private parcels within the Hebgen Lake District boundary are desirable acquisitions: Sections 17 and 18, T12S, R5E, PMM, and Sections 25 and 36 adjacent to the South Fork of the Madison River in T13S, R4E, PMM. These lands, like those in the acquisition plan, are desirable moose, waterfowl, grizzly bear, and fisheries habitat. They would provide tangible benefits from hunting and fishing and intangible benefits from management of classified species and wildlife sightseeing.

(2) The Gallatin River Recreation Composite was approved by the Bureau of Outdoor Recreation on November 21, 1975. This composite plan indicates those lands proposed for acquisition within the Gallatin Canyon. Any lands listed in the composite which FLEX could acquire, and of similar value to the selected lands, would be suitable for exchange.

(3) Other private lands in the Gallatin National Forest which may be available for acquisition by FLEX are six parcels known as the B-Bar Ranch. These lands are in the upper Yellowstone drainage and are valuable as bighorn sheep, elk, and grizzly bear habitat. The lands also have livestock grazing potential and would aid in gaining public access to the National Forest. Petrified wood exists on at least one parcel. (See Appendix, Exhibits 4, 5, and 6 for more detailed description and location.)

B. Background

President Woodrow Wilson, on December 5, 1919, signed Executive Order No. 3195, that excluded from the Madison National Forest 339.73 acres of land in Montana for townsite purposes. (See Exhibit 7.) This tract of land was adjacent to the western boundary of Yellowstone National Park at the terminus of the Yellowstone Park Railroad. This railroad, a

branch of the Oregon Short Line Railroad, had been completed in the fall of 1907. Prior to that time, travelers to the west entrance of Yellowstone National Park had arrived via stagecoach from Monida, Montana. State stops and accommodations had been located about six miles west of the Park along the South Fork of the Madison River. The completion of the rail line, however, presented an opportunity for the creation of a new community that would be oriented towards servicing the needs of the travelers visiting Yellowstone National Park.

In 1908 the Madison National Forest began issuing special use permits to individuals for the business and residential lots. A six-block area was surveyed for this purpose. This plat was revised in 1910. The six-block area covered some 53 acres including streets and alleys. Each block was divided into fourteen 100 X 150-foot lots arranged around 200 X 250-foot public parks with a 50-foot east-west alley. At the time the official survey was completed in 1920, 64 of the 84 original lots were under special use permit, and the Madison National Forest found itself responsible for the day-to-day administration of a town. By the year 1922 the lots under special use were sold to the permittees under preemption or squatters rights. On August 25 and 26, 1924, the U.S. Land Office held an auction sale at which several more lots were sold, bringing the total of lots now in private ownership to about 150.

On August 5, 1929 another auction sale was conducted by the U.S. Land Office and the remaining lots were sold.

In 1911 the road from Bozeman to West Yellowstone was opened to traffic. The first automobile traveled the road in 1913. As roads improved and automobile use increased, the number of tourists and travelers who needed facilities that were not furnished by the railroad nor the Park transportation companies had increased significantly. New services that were oriented to the auto traveler such as service stations, garages, cabin camps, theaters, cafes, grocery stores, and tackle shops began to proliferate. The influx of people to run the service industries created a need for services to cater to the "servers," and then came drycleaning shops, laundrys, hardware stores, sawmills and building supplies shops, a drug store, a fuel supplier, a bakery, an icehouse, a veterans meeting house, and a lodge hall. There is no indication that a need for more land was evident for the period of 20 years from 1924 to 1944.

On October 5, 1945 Gallatin National Forest Supervisor B.A. Anderson reported to the Regional Forester that a petition was being circulated in West Yellowstone to extend the town's boundaries so that more lots could be added to the townsite. (See Exhibit 8.)

The Regional Forester requested a survey to include the number of lots developed, the number of yearlong residents, and the number of seasonal employees. Also requested was the average daily number of guests who were accommodated for meals and lodging. In the same letter, the

Regional Forester said, "I don't see that the Forest Service appropriately could insist on incorporation of the town or betterment of existing conditions as a requirement to be met before making a favorable report on any proposed further withdrawal."

As a result of the request for a survey, Ranger McConnell reported that as of November 13, 1945 there were 144 unimproved lots and 201 lots having some sort of improvements. The yearlong residents were estimated at 180 persons. The seasonal resident population was estimated to be 350 persons. The itinerant population was estimated to be 2,000.

In January, 1946 Gallatin National Forest Supervisor J.C. Urguhart said in a letter to the Regional Forester, "... There is a land boom on, and land within the present townsite is in demand at high prices. It is reported that two relatively isolated lots recently sold for \$1,000 each."

The need for more land for residential purposes was recognized as early as 1946. The Forest Service began to examine the ways and means of getting public land into private ownership.

In 1949 the local veteran's organization submitted a formal inquiry into the possibility of getting land set aside for veterans. Meetings were held, letters written, and proposals and counter proposals made. All possibilities from outright grants to land exchanges and lottery drawings were considered.

Special use permits, which would give the veterans preemption rights after the land was withdrawn, seemed to be the most expeditious and the only way the veterans could be served exclusively. However, this proposal quickly lost favor when it was determined that the Federal Housing Authority, the Veteran's Administration, and most of the private money-lending institutions would not loan money for construction unless the veteran held free title to the lots. A subsequent proposal by the American Legion was considered impractical by both the Forest Service and the attorneys for the American Legion. An official poll and review of the needs and desires of the veterans revealed that only about 16 veterans were financially able to construct homes. Then the townsite expansion issue remained relatively quiescent until 1965 when the county commissioners began an inquiry into the status of the Park reserves. In the original withdrawal, Block 13 and an area in the center of each of the other blocks had been reserved as public parks.

Block 13, however, was being operated as a trailer park and campground by the deputy sheriff, with full approval of the county commissioners. Local residents had begun to pressure the county commissioners to sell these parcels of public land to private interests and the commissioners were considering doing just that as a solution to the land boom.

In a letter to Mr. E.L. Romney on February 19, 1965, Chief of the Forest Service Ed Cliff explained in some detail the Forest Service requirements that would have to be met before land could be eliminated from the National Forest and made available for private homesites.

Clyde Blake, the District Ranger, made a request for special funds to initiate a multiple use study of the problem. The Regional Forester's reply indicated that multiple use funds could not be used for that purpose but that a land classification study of the area could include data pertinent to future expansion of the townsite.

A land classification study was initiated in 1966 and completed in 1967. This study recognized the need for additional residential housing in West Yellowstone. (The Hebgen Lake Planning Unit, prepared in November of 1976, reiterates the findings of this land classification study.)

Following the publication of the land classification study, the first mayor of the newly incorporated City of West Yellowstone responded in a letter dated December 22, 1967: "The City Council is in agreement with the general recommendations of your study and that the Land Exchange would provide the best opportunity for expansion, holding speculation to a minimum." Since this letter, various other correspondence and meetings between the Forest Service and the City of West Yellowstone have continued to bring the land exchange issue to its present status, resulting in this environmental analysis report.

For further background information, see the Land Classification Study - West Yellowstone, Montana Townsite.

C. Relationship to Other Studies, Plans, and Authority

1. Land Classification Study

The "Land Classification Study - West Yellowstone, Montana Townsite" was approved by the Regional Forester on October 30, 1967. The purpose of the study was to determine what course the Forest Service should follow as a neighbor to the city. Of immediate concern to this analysis are two conclusions:

- (1) Residential land adjacent to the townsite is needed.
- (2) Land adjacent to the townsite is needed for a high school.

With regard to residential expansion, the study recommended that a ten-acre tract of National Forest land north of the present townsite be made available because, (1) building sites in the townsite are priced beyond the reach of most local residents, (2) the number of residences in the townsite is decreasing as commercial development expands, (3) population

growth is estimated at 8.0% per year for 1967-1985, (4) interviews with knowledgeable people substantiate the need for homesites, and (5) between 1967 and 1985, 160 lots are needed.

The study concluded: "The best way to meet our objective of providing homesites for permanent residents is through land exchange." This alternative was chosen over the Townsite Act and special use permit alternatives for several reasons, which are documented on pages 105-109 of the land classification study.

The land classification study also recommended a 20-acre tract of National Forest land be made available northwest of the existing townsite for a high school and other school needs. Three alternatives were studied to accomplish the objectives -- the Townsite Act, special use permit, or land exchange. The study concluded that the local school board be given a choice as to the method they wish to use, whether it be special use permit or land exchange. The Townsite Act alternative was discounted for several reasons, which are documented on page 111 of the study.

In addition to the recommendations regarding residential and school needs, the study recommended the following:

- (1) Commercial expansion - no additional National Forest land is needed.
- (2) Industrial expansion - additional land is needed but private land is available to meet the need.
- (3) Highway 191 relocation - the study recommended any relocation follow alternative Route B. (See Appendix, Exhibit 9.)
- (4) Trailer parks - the study concluded a special issue permit should be used to establish two trailer courts, one west of town (which has since been established) and another north of town.
- (5) Cemetery - the study concluded that National Forest land should be made available for this use. A land exchange for this purpose is nearly complete.

2. Supplemental Land Classification Study

This study, approved by the Regional Forester in April, 1970, is a continuation of the 1967 study. The supplemental land classification study did not alter the recommendations regarding residential area or school needs.

ultimate development of the proposed area will be seriously affected by this route. The Forest Service feels that Route B, the bypass bordering the north boundary of the present townsite, is the best alternative. This alternative is favored because: (1) It would keep truck traffic out of the congested commercial area of the town; (2) It would separate the proposed residential area from the existing townsite without interfering with traffic between the two areas; (3) It provides good access to the proposed school area; and (4) It does not cut the old airport with a diagonal road, making it impossible to develop in an orderly manner at a later date.

The old airport has been set aside as a snow-play area for snowmachines.

(2) Proposed Expansion Area Roads

The land classification study, page 102, recommended that all streets in the proposed residential area be 100 feet wide to provide for snow storage and all alleys be 50 feet wide to provide for additional storage. The study also recommended that a 100-foot wide street surround both the residential and school areas, thus providing a firebreak between the proposed addition and the National Forest. The north-south streets of the proposed addition are to be kept in line with those of the present townsite to allow for orderly expansion of sewers, power lines, etc. Only three of these streets will be connected, however, in an effort to reduce tourist traffic into the proposed residential area.

(3) Airport Expansion

The Montana Aeronautics Commission (MAC) believes that by 1980 there will be a need to extend the present runway to 13,500 feet. There is room to expand to 14,000 feet within the State's property without consideration for approach or take-off zones. Any extension beyond 12,000 feet will require relocating U.S. 191, power lines, telephone lines, and the sewer lagoon. The Forest Service feels that there is no demonstrated need at this time for expansion of the airport beyond the State's ownership. The Forest Service will continue to manage the contiguous National Forest land recommended for future airport expansion so no possible conflict could occur which would be adverse to such expansion, should the need arise. The airport and its runway would be no closer than one-half mile to the selected land.

The MAC would like to plan for year-round operation of the Yellowstone Airport. At least one of the commercial airlines has announced a willingness to serve West Yellowstone year-round once sufficient need for winter air service arises.

E HBIT NO. 1
CITY OF WEST YELLOWSTONE

Box 579

WEST YELLOWSTONE, MONTANA 59758

JULIE VANFOSSAN
City Clerk

WM. L. NELSON
Chief of Police

LARRY D. WHITMAN
City Attorney

E. L. "Dutch" Spainhower, Mayor

Telephone 406 646-7795

Councilmen
CAL DUNBAR
JERALD SCHMIEB
IRVIN E. DELLINGER
MIKE MATTSO

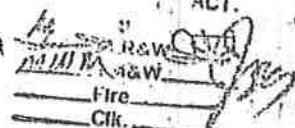
FOREST SERVICE
Hebgen Lake Ranger District
West Yellowstone, Montana

29 March, 1977

District Ranger
Hebgen Lake Ranger District
West Yellowstone, Montana 59758

Dear Mr. Hoskins:

APR 6 1977

Return 
R&W
M&W
Fire
Clt.

In accordance with the March 9, 1977 meeting regarding the Townsite Expansion and the outline of Steps Towards Consummating the West Yellowstone Exchange the Town of West Yellowstone submits the following:

1. Enclosed is a photographic map of the area the subject of the land exchange, outlined in red on said map is the area the Town desires to acquire, the description of the area is the South st one quarter (1/4) of Section 27, Township 13 South Range 5 East consisting of approximatley 160 acres. Included within that description will be a site location for a proposed school. The exact location of which will be decided at a later date after consulation with School officials, but it will consist of approximatley 20 acraes.

2. The future development of the above described site will be in accordance with the Forest Service Classification Study dated in March, 1967, as much as and where possible. Naturally with the incorporation of the school within the proposed area some changes will be made as to the actual use of the land, as opposed to appendix/exhibit D of the above described Classification Study. However, the land will be used strictly for residential and school purposes.

3. Attached hereto is also a letter from the Gallatin County Commissioners which indicates that they are in accordance with the above and give their tentative approval to the proposed land exchange.

We trust that this letter and the attachments hereto complete the Towns initial input into the exchange process and complies with the steps numbered 1 and 2 in the Steps Towards Consummating West Yellowstone Exchange as put forth in the 9 March, 1977 meeting.



EX. 1 TO EX. 2, P. 1

"SNOWMOBILE CAPITAL OF THE WORLD"

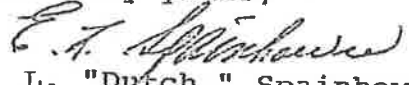
District Ranger
Hebgen Lake Ranger District
29 March, 1977, Page 2

If the contents hereof do not meet your initial requirments please inform the Town immediately in writing so we may act accordingly.

The Town further understands that at this time nothing else is expected from it until step 13, but in the interval between steps 3 and 13 the Town shall proceed to develop such zoning and land use restrictions that it deems necessary and will meet with Forest Service approval. Once again if the above is not the understanding of the Forest Service please notify use immediately.

The Town would also like to take this opportunity to request a further meeting with those Forest Service Personal involved in the 9 March, 1977 meeting, to discuss possible refinement and review of the Steps to consummate the exchange, in the hopes that the time frame allowed and set forth in the Steps can be shortened considerably. We would suggest any early May date for said meeting and the Representative from the Town will invite Ron Stickney from FLEX to be in attendance, and attend at your convenience.

Sincerely yours,


L. "Dutch" Spainhower
Mayor, Town of West Yellowstone

cc

Ron Stickney FLEX
Forest Supervisor Gallatin National Forest

A RESOLUTION DECLARING IT TO BE THE INTENTION OF THE TOWN COUNCIL OF THE TOWN OF WEST YELLOWSTONE THAT WHEN PROPERTY IN THE SOUTH-WEST QUARTER OF SECTION 27, TOWNSHIP 13 SOUTH, RANGE 5 EAST IS EXCHANGED FROM THE UNITED STATES FOREST SERVICE TO PRIVATE OWNERSHIP THE TOWN OF WEST YELLOWSTONE WILL ANNEX SUCH PROPERTY AND ZONE IT FOR RESIDENTIAL AND SCHOOL PURPOSES ONLY.

WHEREAS, it appears to be the intention of the United States Forest Service, Department of Agriculture, Gallatin National Forest, to exchange certain of its property to the end that the Southwest Quarter of Section 27, Township 13 South, Range 5 East shall be placed in private ownership;

WHEREAS, said parcel of property adjoins a substantial portion of the northern boundary line of the Town of West Yellowstone;

WHEREAS, the Town of West Yellowstone has expressed its desire in the past to annex such property to the end that it will be developed and utilized for residential and future school purposes; and,

WHEREAS, the Forest Service requires an affirmative statement of policy by the Town of West Yellowstone with respect to annexation and future use of said property.

NOW, THEREFORE, be it resolved by the Town Council of the Town of West Yellowstone:

RESOLVED, that at such time as the Southwest Quarter of Section 27, Township 13 South, Range 5 East is transferred into private ownership, it is the intention of the Town council of the Town of West Yellowstone to annex such property into the incorporated boundaries of the Town of West Yellowstone, a Montana municipal corporation.

BE IT FURTHER RESOLVED that it is the intention of the Town council of the Town of West Yellowstone to regulate the use of such property through its planning and zoning ordinances so that the only permissible uses thereon will be for residential purposes and for a future site for a school.

PASSED AND APPROVED by the Town Council of the Town of West Yellowstone this 15th day of January, 1981.

Samuel W. Binger
MAYOR
John Hostillo
Larry P. Wanner
David G. Ris
Calvin M. Hunter

ATTEST:

[Signature]
Town Clerk

5430 Exchanges

APR 7 1981

R-1, Gallatin (Montana)
FLEX, City of West Yellowstone - #1-42504

Regional Forester, R-1

The reports and appraisals submitted in support of this land-for-land exchange have been reviewed. The exchange is proposed under the authority of the Act of March 20, 1922, as amended, and the Act of October 21, 1976.

The appraisals are approved.

Your Environmental Assessment Report supports a conclusion that it is not necessary to file an environmental impact statement. The enclosed finding of no Significant Impact and Decision Notice is documentation of this determination.

As indicated in the EA, the transmission line of the Fall River REA, Inc., must be protected by escrow easement or relocated. The city must annex the land being conveyed to FLEX and zone it for residential and school purposes as declared in its January 15, 1981 resolution.

One of the advantages of involving FLEX in land exchanges is their ability to prepare multiparcel exchange packages that will result in a balance environmentally and economically. This includes adding and deleting properties to minimize cash equalization. The EA states that additional lands will be included in another FLEX exchange. It appears that in the present period of budget constraints, FLEX exchanges could be negotiated so it would not be necessary to use limited land exchange dollars to equalize appraised values.

The case will be submitted to the House Subcommittee on Forests, Family Farms, and Energy for their oversight review. You will be advised when the oversight period has expired.

Copies of the review letters are also enclosed.

RICHARD D. HULL
RICHARD D. HULL
Director of Lands

Enclosures

Proposed Study Area Development

Proposed Development Plan

Moonrise Partners, LLC is proposing the Moonrise Meadows development comprised of 200 total units, including 168 condominium units and 32 timeshare units. Access to the development would be provided via North Hayden Street at its intersection with Grayling Avenue. The proposed development is located on primarily vacant land with some limited residences and outbuildings on Tract 1 and Lots 1 and 2 in Block 2 of the Madison Addition to the Town of West Yellowstone. The project is bounded by residential development to the south and east plus United States Forest Service land to the north and west. The area offers a mixture of moderate density residential uses, a K-12 school, and forested lands as well as the West Yellowstone airport to the northwest of the proposed development. The proposed site plan is shown in Figure 1 on the following page. The site location and study area is shown in Figure 2 on page 6.

Development Horizon

It is assumed that the Moonrise Meadows development will achieve full build-out and occupancy by the fall of 2026.

Transportation Elements of the Proposed Development

Trip Generation

Estimated trip generation for the proposed development was derived utilizing rates published by the Institute of Transportation Engineers (ITE) in the *Trip Generation Manual, 11th Edition*. The rates were based on the multifamily housing (low-rise) land use with a general urban/suburban setting or location and the proposed number of dwelling units as the independent variable. Based on the ITE trip generation rates, the proposed project is estimated to generate a total of 1,350 average weekday vehicular trips.

Table 1: Estimated Project Trip Generation

Land Use	ITE Code	Quantity	Average Weekday Trip Ends			Weekday, AM Peak Hour Trip Ends			Weekday, PM Peak Hour Trip Ends		
			Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Total
Multifamily Housing (Low-Rise) 4-, 12-, and 24-Plex	220	200 DU									
Total Estimated Vehicle Trip Ends			675	675	1,350	19	63	82	65	38	103
Total Estimated Walk and/or Bike Trip Ends						2	5	7	5	2	7
Total Units = 200 DU											
Total Estimated Vehicle Trip Ends =			675	675	1,350	19	63	82	65	38	103
Total Estimated Walk and/or Bike Trip Ends =						2	5	7	5	2	7

DU = Dwelling Units

As shown in Table 1, peak hour traffic generation for the weekday, AM and PM periods is estimated at 82 and 103 vehicular trips, respectively, at full build-out. Pedestrian and/or bicyclist related trips were also estimated at 7 trips during both the weekday, AM and PM peak hours at full build-out. The estimated project trip generation for the proposed development is also presented in Appendix C.

Proposed Study Area Development

Proposed Development Plan

Moonrise Partners, LLC is proposing the Moonrise Meadows development in two phases that is to include 242 timeshare units in Phase 1 and 174 timeshare units in Phase 2. Access to the development would initially be provided via North Hayden Street at its intersection with Grayling Avenue with Phase 1 development. Subsequently, additional access would be provided via development of an additional access to North Hayden Street and an access to Iris Street from the western boundary of Moonrise Meadows through a proposed easement across United States Forest Service land then south to Iris Street.

The proposed development is located on primarily vacant land with some limited residences and outbuildings on Tract 1 and Lots 1 and 2 in Block 2 of the Madison Addition to the Town of West Yellowstone. The project is bounded by residential development to the south and east plus United States Forest Service land to the north and west. The area offers a mixture of moderate density residential uses, a K-12 school, and forested lands as well as the West Yellowstone airport to the northwest of the proposed development. The proposed site plan is shown in Figure 1 on the following page. The site location and study area is shown in Figure 2 on page 6.

Development Horizon

It is assumed that the proposed development of Moonrise Meadows will achieve full build-out and occupancy of Phase 1 by the fall of 2023 and Phase 2 by the fall of 2024.

Transportation Elements of the Proposed Development

Trip Generation

Estimated trip generation for the proposed development was derived utilizing rates published by the Institute of Transportation Engineers (ITE) in the *Trip Generation Manual, 11th Edition*. The rates were based on the timeshare land use with a general urban/suburban setting or location and the proposed number of dwelling units as the independent variables. Based on the ITE trip generation rates, the proposed project is estimated to generate a total of 3,592 average weekday vehicular trips with 2,090 during Phase 1 and 1,502 projected with Phase 2.

Table 1: Estimated Project Trip Generation

Land Use	ITE Code	Quantity	Average Weekday Trip Ends			Weekday, AM Peak Hour Trip Ends			Weekday, PM Peak Hour Trip Ends		
			Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Total
Timeshare	265	242 DU	Phase 1 Development								
		Total Estimated Vehicle Trip Ends	1,045	1,045	2,090	58	39	97	61	92	153
		Total Estimated Walk and/or Bike Trip Ends				9	6	15	7	10	17
Timeshare	265	174 DU	Timeshare								
		Total Estimated Vehicle Trip Ends	751	751	1,502	42	28	70	44	66	110
		Total Estimated Walk and/or Bike Trip Ends				4	3	7	3	5	8
		Total Units = 416 DU									
		Total Estimated Vehicle Trip Ends =	1,796	1,796	3,592	100	67	167	105	158	263
		Total Estimated Walk and/or Bike Trip Ends =				13	9	22	10	15	25

DU = Dwelling Units

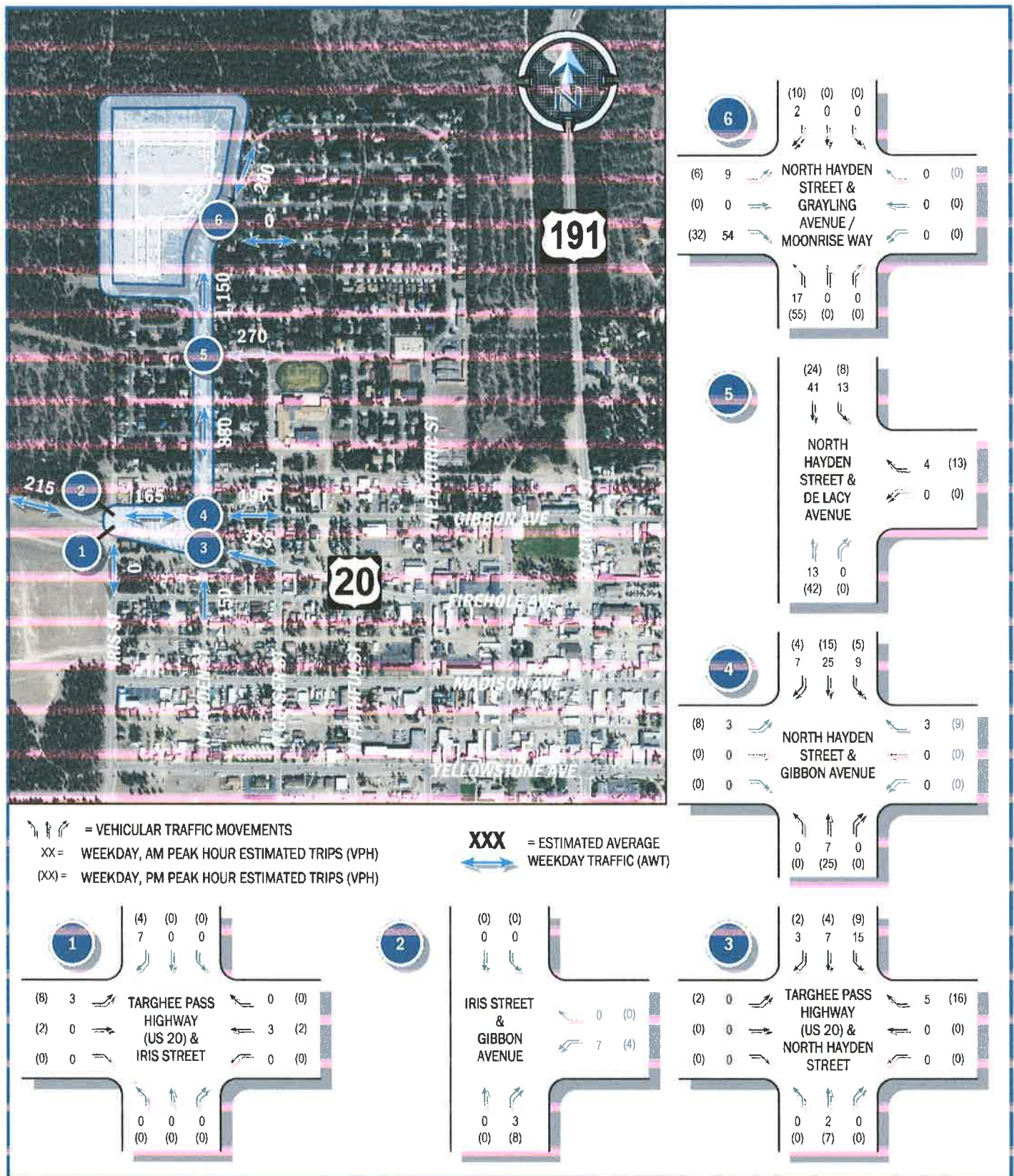


Figure 4: Site Traffic Assignment

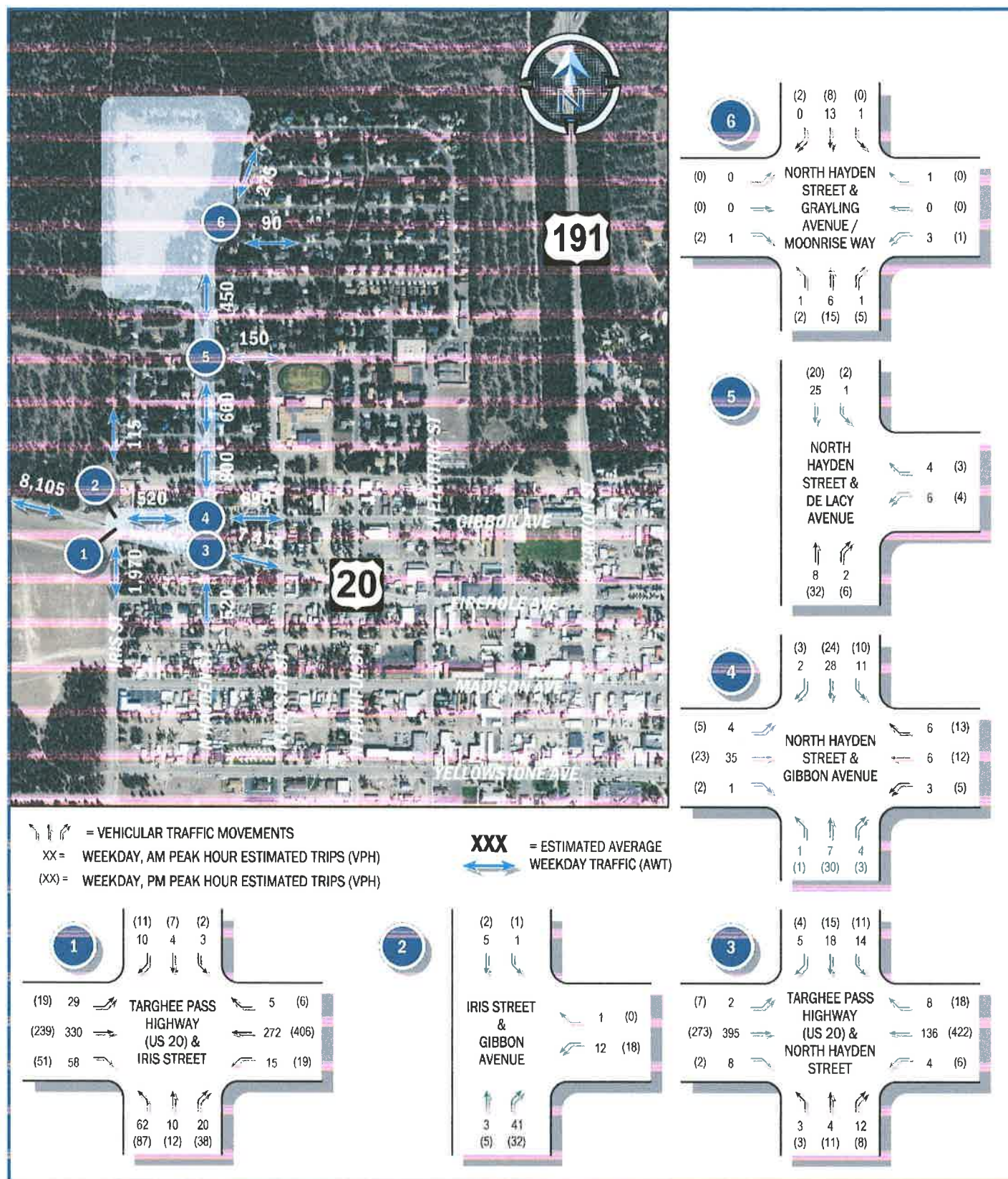


Figure 5: 2021 Existing Traffic Volumes

Within the study area, the Targhee Pass Highway (US 20) is a divided highway with two travel lanes in each direction. Sidewalks are provided on both sides of the roadway east of Iris Street. The posted speed limit on the Targhee Pass Highway (US 20) is 35 miles per hour (35 mph) west of and 25 mph east of Iris Street, within the study area.

North Hayden Street

North Hayden Street (C007909) is considered a local roadway by MDT standards. It serves as a north-south link on the Town of West Yellowstone's grid roadway system, connecting Yellowstone Avenue to the south with the Madison Addition Subdivision residential area on the north end of town. Presently, North Hayden Street has two travel lanes in each direction with no curb and gutter north of D Parkway and curb, gutter, and sidewalk on both sides of the roadway south of D Parkway. Land uses along North Hayden Street within the study area are mostly residential with some hospitality uses. The currently posted speed limit on North Hayden Street is 25 miles per hour; however, it should be noted that at the time of platting and development of the Madison Addition Subdivision the Town of West Yellowstone design standards utilized a design speed of 20 miles per hour for local roadways.

Study Area Intersections

The existing intersections evaluated as a part of this study and their current traffic control plus configurations are summarized in Table 2 on the following page.

Alternative Modes of Transportation

As noted in the descriptions of the study area roadways and intersections, sidewalks are available for pedestrians within the study area on both sides of North Hayden Street south of D Parkway and on both sides of the Targhee Pass Highway (US Highway 20) east of Iris Street. No dedicated bicycle facilities are currently included within the study area. There is not currently a public bus system within the Town of West Yellowstone. The West Yellowstone Foundation does offer twice weekly round trip service between Bozeman and West Yellowstone on a reservation basis. There has been interest within the community for development of a transit/shuttle system to help ease traffic congestion.

Traffic Volumes

Count Locations & Data

To determine current vehicle, pedestrian, and bicycle conditions within the study area, peak period traffic, pedestrian, and bicycle counts were utilized for the following intersections based on averages taken for two weekdays on August 4 and 5, 2021 (Wednesday and Thursday):

- Targhee Pass Highway (US Highway 20) & Iris Street
- Iris Street & Gibbon Avenue
- Targhee Pass Highway (US Highway 20) & North Hayden Street
- North Hayden Street & Gibbon Avenue
- North Hayden Street & De Lacy Avenue
- North Hayden Street & Grayling Avenue / Moonrise Way

**WEST YELLOWSTONE TOWN COUNCIL
Town Council Work Session & Meeting
February 27, 2019**

COUNCIL MEMBERS PRESENT: Jerry Johnson, Brad Schmier, Pierre Martineau, Chris Burke, Greg Forsythe

OTHERS PRESENT: Town Manager Daniel Sabolsky, Finance Director Lanie Gospodarek, Chief of Police Scott Newell, Social Services Director Kathi Arnado

The meeting is called to order by Mayor Brad Schmier 5:30 PM in the Town Hall, 440 Yellowstone Avenue, West Yellowstone, Montana.

Portions of the meeting are being recorded.

The Treasurer's Report with corresponding banking transactions is on file at the Town Offices for public review during regular business hours.

WORK SESSION

Mayor Schmier calls the meeting to order. The purpose of the work session is to discuss the Moonrise Meadows Development subdivision proposal. Dave DeGrandpre, contract planner from Land Solutions and Dave Noel, Town Engineer, are both present at the meeting by speaker phone. Due to an extended winter storm, neither consultant was able to make to West Yellowstone to attend the meeting in person. DeGrandpre explains that next week, the Council will conduct a public hearing on the preliminary plat application and conditional use application for the subdivision. DeGrandpre directs the Council to the staff reports he prepared for Council to review. He directs the Council to the section of his report that outlines how the public hearing needs to be conducted. The Council asks DeGrandpre to summarize the project. DeGrandpre explains that the proposal from the developer is to construct 180 condominium units in the area zoned R-4 at the northwest corner of the Madison Addition. He explains that the developer is asking for one "relaxation" for height, the zoning code limits height to 32' and the developer is requesting permission to build up to 37' for architectural reasons. DeGrandpre says that probably the biggest concern that came out of the public hearings held before the Planning Board is increased traffic. He explains that International Fire Code only requires one ingress/egress to the subdivision, but the Council has the discretion to require more than one ingress and egress to the subdivision. DeGrandpre encourages the Council to review and become familiar with the staff report and the recommendations contained therein. He explains that if the Council disagrees and wants to go a different direction, that needs to be conveyed so the report can be amended. The Council discusses the two options presented by the developer's engineer for ingress and egress. One option provides one ingress/egress that is very wide, the other option provides two ingress/egress that are only separated by less than 150'. The group discusses whether either option addresses the health and safety concerns that will be created by the increased traffic. Dave Noel recommends consulting the Fire Chief and Police Chief as to whether these options provide adequate safety considerations. Fire Chief Shane Grube explains that the exemption in the International Fire Code that allows for a singular ingress/egress at this occupancy is based on the fact that the buildings will be water sprinkled. Noel points out that the water demand for sprinkled fire suppression is not included in the calculations in their plans. DeGrandpre explains that a developer will typically put together preliminary calculations to determine that water demand, and it appears they missed that part. Sabolsky points out that it was made pretty clear at the previous meetings that the developer's engineer needed to contact

Noel expresses concerns about both of the ingress/egress options and says a better option would be an ingress on Cascade and an egress on Gallatin Avenue. The Council addresses that option briefly but points out that the affected lots are owned by a private individual and a house is built on one of them. He says that of the two options, the second option which provides one wide ingress/egress is probably preferable. Noel also expresses concerns about the traffic study and the fact that negative results were averaged in with other results and covered up somewhat. The group discusses an earlier proposal to build one ingress/egress between Grayling Avenue and Cascade. Noel explains that may be an option, but Sabolsky notes that option would require a variance and the developer preferred to avoid that. Johnson says that pedestrian safety in this area really needs to be considered, and DeGrandpre notes that was brought up in both of the planning board hearings. The group discusses the recommendation from the Planning Board to encourage the Town to apply for a second ingress/egress out the west side of the subdivision to connect to Iris Street. The discussion returns to the first ingress/egress option, which provides an entrance to the subdivision off of Grayling and an exit to Cascade. Noel says that the biggest problem is the blind corner coming from the south and the potential liability to the Town if the intersection doesn't meet standards. The Council points out that there is liability with the other option and agrees the real problem is that intersection needs to be redesigned and they discuss whether the developer can share in the cost of that. DeGrandpre says that a developer cannot be held responsible to correct an existing problem, but they shouldn't be allowed to make an existing problem worse. Noel says that he will not recommend approval of the first option based on the lack of geometric site design. He says that the second option is marginally better and the group discusses straightening out the singular wide entrance to align with Cascade. The Council recommends asking Noel to contact the developer's engineer to discuss the options and possibly developing one that straightens out Cascade. Schmier asks Noel to explain to the developer's engineer why the first option will not work and the problems with the second option as well. The group briefly discusses pedestrian traffic and how long it is expected to build the entire development, which is up to ten years. Dave Noel points out that he has concerns with water demands and points out that they are only estimating based on domestic usage and not including irrigation or other uses. He also points out that the storm water drainage is also a concern and the intent of the developer to turn that over to the Town, but DeGrandpre points out that is one of the conditions of approval is that the developer maintain the storm drainage system. Noel also expresses concerns about the stormwater holding pond capacity. The council and consultants agree to meet again on Monday, March 4, 2019 to discuss the project again prior to the public hearings.

ACTION TAKEN

- 1) Motion carried to approve the claims, which total \$164,471.71. (Martineau, Burke)
Burke abstains from #45376 to Morning Glory Coffee & Tea for \$33.75. Schmier
abstains from #45372 to Jerrys Enterprises for \$6.99.
- 2) Motion carried to approve the Consent Agenda, which includes the minutes of the
February 5, 2019 Town Council Meeting. (Martineau, Forsythe)
- 3) Motion carried to approve the new business license application for Mountain Moon
Services, LLC to provide bookkeeping and professional services made by Kaitlin
Johnson. (Martineau, Burke)

7. The final plat shall include the easements and dedications depicted on the preliminary plat. Easements shall include open space easements in favor of the lot owners and/or condominium unit owners. Access and utility ~~easements~~ rights-of-way shall be dedicated to the public and include acceptance of the dedications by the Town Council of the Town of West Yellowstone. *(Staff Report IV.C and WYSR III.A.13)*
8. Easements shall be placed on the final plat for snow storage. The easements shall either encompass all areas shown on the preliminary plat for snow storage and be dedicated to the Town of West Yellowstone and unit or lot owners associations for snow storage purposes, OR the subdivider shall demonstrate sufficient snow storage exists on each lot for snow from the respective lots' roadway and parking improvements, as well as the lots' street frontage. If the subdivider can demonstrate each lot can contain its own snow as well as snow from the street frontage, no snow storage easements are required. *(Staff Report IV.C)*
9. All construction shall adhere to the recommendations of the Fire Hazard Analysis and related plans including all structures to be sprinklered as per the International Fire Code, at least 30 feet of cleared defensible space shall be provided around all structures, fire resistant building materials shall be used for roofs, siding, decking, vents, eaves and gutters, and fire hydrants shall be provided with locations and spacing approved by the Hebgen Basin Fire District. *(Staff Report IV.G)*
10. The developer shall provide a second developed ingress/egress ~~for the subdivision within a minimum 30-foot publicly-dedicated easement. At a minimum, the roadway shall be 12 feet wide with 13 feet of vertical clearance, built to municipal construction standards with a gravel surface, emergency access signage and a breakaway gate. The road must connect the subdivision to a Town or State roadway built to Town of West Yellowstone standards within a minimum 60-foot right-of-way and approved the Town Engineer.~~ *(Staff Report IV.G)*
11. ~~To address sight distance and intersection safety, either Lots one and two of Block 2 of the Madison Addition, located directly to the north of the subdivision entrance, shall be made a part of the subdivision, and easements shall be provided so that the Town of West Yellowstone shall have the right to remove snowbanks from the lots along Hayden Street to improve sight distance, OR the subdivision entrance shall be placed directly across from Cascade Avenue.~~ *(Staff Report IV.C and WYSR III.A.7)*
12. Prior to any construction or obstructions occurring in a publicly-dedicated right-of-way, permission shall be obtained from the Town Council according to Town codes and policies. *(Chapter 12.24 WYMC and ARM 24.183.1107(5)(g))*
13. Prior to final plat approval the subdivider shall build the streets as proposed in the preliminary plat application and in accordance with the Town of West Yellowstone Subdivision Regulations, except as proposed with higher standards and possible relocation of the subdivision entrance street, which are added mitigation for subdivision impacts. All street improvements shall be certified by a registered engineer, with all improvements subject to approval by the Town Council. *(Staff Report IV.H.2 and WYSR III.A.7)*
14. Roadway surfaces shall be constructed on a suitable base. Roadway subgrades shall be free of sod, vegetative or organic matter, soft clay, or other objectional materials, properly rolled, shaped and compacted and certified by a registered engineer, with all improvements subject to approval by the Town Council during final plat approval. *(WYSR III.A.4 and III.A.7(c)(15 & 16))*
15. Electrical, telephone and natural gas utilities shall be installed underground to each lot in the subdivision according to the local service provider requirements and Section III.A.12 of the WYSR. *(WYSR III.A.12)*

Tyler Steinway

From: Elizabeth Roos <eroos@townofwestyellowstone.com>
Sent: Wednesday, February 14, 2024 3:17 PM
To: Tyler Steinway
Cc: Dan Walker
Subject: FW: Moonrise Meadows Permit

Elizabeth Roos, Town Clerk, CMC

Town of West Yellowstone

PO Box 1570

440 Yellowstone Avenue

West Yellowstone, MT 59758

www.townofwestyellowstone.com

From: healingart@baymoon.com <healingart@baymoon.com>
Sent: Wednesday, February 14, 2024 1:59 PM
To: info <info@townofwestyellowstone.com>
Subject: Moonrise Meadows Permit

To: West Yellowstone Planning Advisory Board and Town Council

From: Lynette West, Richard Kline

Date: February 14, 2024

Re: Moonrise Meadows Subdivision Commercial Zoning Permit Application

Hello, my name is Lynette West and I am the homeowner (since 1992) of 325 Bechler Avenue in the Madison Addition. I have been a full-time resident off and on since 1992 but consecutively for the past 12 years. I am writing today on behalf of myself and partner Richard Kline.

Our question: Why is the Planning Advisory Board even considering a commercial zoning permit application within the Madison Addition when there are already rules and regulations against commercial zones within the Madison Addition?

If the Planning board approves this permit application, it would be over-riding the covenants, codes and restrictions of the Madison Addition Home Owners Association without consent or vote of the homeowners. As well, it would seem to contradict the original deed agreement of 1981 between the Town of West Yellowstone and the Forest Service in regards to land use.

On a personal note, as a homeowner and we, as full-time residents, our concerns regarding a project of such significant size, include first and most importantly, FIRE SAFETY. In the event of an emergency, how can all the residents and families of the project and the entire neighborhood safely evacuate, while all the needed fire and rescue equipment, and emergency personnel safely enter?

Additionally, there is the substantial impacts on local traffic, the school and school zone, the maintenance and quality of roads and infrastructure, and even the quality of neighborhood life to be considered.

We respectfully request the Planning Advisory Board to DENY the Moonrise Meadows Subdivision Commercial Zoning Permit Application.

Thank you, Lynette West, Richard Kline (You are welcome to call 831-345-9292 if you have any questions.)

These comments are submitted to the West Yellowstone Planning Board and the West Yellowstone Town Council in the matter of the pending application by Moonrise Partners, LLC's for a zoning permit to build a 200 unit building complex in the Madison Addition. The comments are those of the Board of the Madison Addition Owners Association (the "Board") whose members may be submitting their own individual comments.

As a preliminary matter the Board believes that the process that led to the scheduling of the Feb 16th hearing before the Planning Board was flawed to the point that it must be rescheduled. In spite of our ongoing efforts to obtain copies of the application as far back as Oct 30, 2023, we received nothing until February 8, 2024. (A chronology of our requests for information is summarized below.) What we received on Feb 8th was an obviously incomplete part of the application so we contacted the Town offices on Feb 9th to obtain a more complete application. We were told to find what we were looking for on the Town website because the remaining part of the application was too large to email.

There is an obvious factual inconsistency in the material we received on Feb 8th (a copy of the Town Staff Report) and what we obtained on Feb 9th (Moonrise's traffic study). The staff report discusses Moonrise's proposed 200 unit "apartment" project while the traffic study discusses a 168 unit condominium and 32 unit timeshare project. We also believe what we were able to find on the website is still an incomplete version of the documents we have been seeking since October of last year. In other words, we get a week to review incomplete and conflicting information in the package of documents "too large to email", digest it, summarize it so that we could inform our member property owners, and then somehow contact our members about the contents of the application so they can participate in the process? It appears that the Town has been withholding information we could have had months or even weeks ago, thus hindering our homeowner association's members' the ability to participate in this process.

The obvious discrepancy between the staff report and the traffic study is another reason our board urges the Town to reconsider the schedule for the Planning Board and Town Council hearings. If we as a board and our members don't know if the Moonrise proposal is for apartments or a combination of condominiums and timeshares, how can we be expected to prepare an adequate response to the proposal?

10-30-23 Email to Liz Roos: "Consider this a public records request for.... " Copies of Moonrise's latest application for a building permit, zoning permit or any other type of permit Moonrise is seeking from the Town"

11-2-23 Response from Ms. Roos: "A revised application for Moonrise meadows is under review by staff and has not been released. We will post public notices when the application goes to the Planning board."

12-10-23 Email to Ms. Roos: "I am submitting this "ongoing" public records request for all documents that are contained in the latest proposed development by the Moonrise folks. I'm doing an "ongoing" request so I don't have to do one every week or so. If you think I should do repetitive ones (i.e. once a week or so) to guarantee our group gets the information in a timely manner, I'll do that...just let me know."

12-12-23 Response from Ms. Roos with Town form for public records request: "Attached is the form we require for records requests. This form will need to be completed and submitted to the town, detailing the specific records you are seeking. The Town cannot respond to on-going or open-ended requests. Please let me know if you have any questions..."

12-12-23 Completed form is hand delivered to Ms. Roos requesting, "Copy of Moonrise Partner's LLC recently filed application (and related documents) for a proposed development in the Madison Addition"

Late Dec 2023, a verbal request made to Liz for any response to my public records request.

1-2-24 Response from Ms. Roos: "We have been in communication with Moonrise Meadows and Intrinsik about the status of their application, please refer to the emails below. We will let you know when the public meetings are scheduled"

One of the "emails below" dated Dec. 29, 2023 was from Tyler Steinway of Intrinsik - the Town's planning consultant - to Dan Walker and Rob Yeakey of Moonrise: "I wanted to check in and let you know that collectively we have decided that another DRG Meeting is not necessary. We are going to meet internally next week to outline next steps in the process (planning board meeting, town council meetings) and discuss the staff report."

1-5-24 Email from Dan Walker (Town Manager): "Our staff team met this morning to discuss the Moonrise application. Barring any significant changes, we are aiming to bring the item to the Planning Board on February 16th, and the Town Council on March 5th. These are subject to change, but that is the plan for now. Tyler will be putting together the staff report and it will be released prior to the Planning Board meeting. We will try to get that out to the public with as much advanced notice as possible. We will let you know if things change...."

Town officials have told us on several occasions that they would not release copies of the application or related documents before the application was "complete". We don't see anything in Montana's Public Records Law that excuses the Town from releasing the information for that reason.

Madison Addition Owners Association

By: *Patricia V.P.* 2-15-24

February 16, 2024

TOWY Planning Board
440 Yellowstone Avenue
PO BOX 1570
West Yellowstone, MT 59758

Dear TOWY Planning Board Members;

Please accept this letter as official public comment to be recorded into the public record regarding the Moonrise Meadows development.

In reading the Staff Report for the Commercial Zoning Permit Application, the Moonrise Meadows Application package, and the E5 Engineering Traffic Impact Study Update dated December 2, 2023, I have concerns about incongruencies within these documents. I would like to draw to your attention to these as you discuss recommendations regarding this development:

1. **Number and type of units.** While the Staff Report notes the zoning permit application is to “*construct 200 apartments and associated clubhouse maintenance facilities*”, the E5 Traffic Impact Study notes in multiple places that the development “*consists of 200 total units including 168 condominium units and 32 timeshare units*”. In addition, there are two Conditions of Approval (#11 and 12) on p. 19 of the Staff Report that refer to condominiums. So, what exactly is being built? Apartments or condos and timeshares? By definition, there IS a difference between these dwellings. That difference is ownership and management. Therefore, there needs to be clarification on exactly what is being built before this project moves forward and the community needs the opportunity to comment on the specific dwellings being built.
2. **Date of Traffic Study and Projected Impacts on the Madison Addition Community.** According to the E5 report, the Updated Traffic Impact Study was completed during both weekday AM and PM hours on August 4th and 5th, 2021. There is a great deal of emphasis being placed on two intersections of Highway 20 in this report, and little to no impact analysis on the intersection of Hayden and DeLacy where the report suggested 20% of the traffic with flow. Furthermore, the date this study was completed was two weeks before school started, and when community traffic increases significantly on the streets surrounding West Yellowstone Schools. One can suffice that 200 additional dwellings would most definitely include children attending our local school and those children would be walking and biking or being driven by parents to the school during the hours the study noted. That traffic movement would include pedestrian and bicycle traffic using

the walking/bike path at the east of the MadAdd (though this is challenging in the winter months), and because of the one way into the school, traffic movement would include both AM and PM vehicle traffic from Moonrise to Hayden to Gibbon to Geyser and down Delacy back to Moonrise. Therefore, there needs to be an additional look into the impacts this development will bring to the one way routes going to and from Moonrise to the school and at a minimum, mitigations provided by the developer for crosswalks, signage and potentially sidewalks to protect pedestrians and bicyclists.

3. **Impacts within the Wildland Urban Interface.** According to the Staff Report, Moonrise Meadows and West Yellowstone as a whole, lies within the Wildland Urban Interface (WUI). In examining housing needs for our community, the West Yellowstone Housing Needs Assessment notes that WUIs are areas *"where there is a risk to life, property, and infrastructure in the event of wildfires"* and further notes that the TOWY Growth Policy identifies *"implementation of fire protection and defensible space guidelines and/or regulations. Consideration should be given to neighborhood emergency access and egress. . ."* A single in and out entrance/exit for this 200 unit development with a projected 1350 daily trips (according to the E5 Traffic Impact Study), is simply not promoting what our town's Growth Policy, nor the mitigations the WUI demands. Therefore, I encourage really scrutinize this development's adherence to the Growth Policy and WUI mitigations before this project moves forward.

Thank you for your consideration and for addressing each of these inconsistencies.

Warm Regards,
Paula Strozyk
524 Gneiss Ct
West Yellowstone, MT 59758