

**Polson Development Code Update
Advisory Committee Meeting Notes
December 1, 2009, 1:00-3:00 p.m.
Polson City Hall, Commission Chambers**

ATTENDEES

Bruce Agrella, PDC Advisory Committee
Bob Fulton, PDC Advisory Committee
Lee Manicke, PDC Advisory Committee
Dennis Duty, PDC Advisory Committee
Cora Pritt, Polson Building and Planning Department
Dave DeGrandpre, Land Solutions, LLC
Joyce Weaver, Polson Building and Planning Official
Todd Crossett, Polson City Manager
Sue Shannon, Lake County Planning Director

DISCUSSION

Polson Area Parks Map

- Dave reported that he spoke with Karen Sargent who indicated she received base maps from Lake County and has contacted some interested citizens to help put together a parks and trails map for inclusion in the PDC but they have not yet met. Karen indicated she has a couple of higher priorities at the moment so it will be some time before a map is prepared.

Polson Planning Area Boundaries

- Dave distributed a map of land uses and potential zoning designations for Section 30, T23N, R20W, which may be annexed into the Polson planning area. The committee pointed out several issues with the map and asked Dave to make appropriate changes for accuracy. Dave proposed sending a copy of the revised map and a letter to all landowners in Section 30 describing the proposed zoning and asking for comments. The committee indicated this would be an appropriate way to proceed.
- The discussion focused on potential commercial zoning along Highway 93. Bob and Lee stated there is some expectation that parcels with highway frontage will and should be developed commercially. Lee said he would like to avoid multiple future requests for zone changes and variances when landowners would like to change the zoning designation from residential to commercial. Dennis and Sue indicated that it is a question of what the area wants to become—an extended commercial strip or not. They stated there is no inherent right to commercial land

use along a highway, although the committee acknowledged living along a highway is not ideal.

- Sue indicated that the HCZD designation requires a special use permit for all highway commercial proposals while the CIZD designation only requires a special use permit for proposals within the wellhead protection zones. Sue suggested that land use proposals in the CIZD should also require a special use permit and the committee agreed, especially where highway frontage is concerned. The committee asked Dave to look whether CIZD or HCZD is more appropriate in this area.

Special Use Permits

- Dennis brought up the issue of creating commercial lots through subdivision in the HCZD, then having to go through a special use permit process when the lots are to be developed. He indicated this is duplicative and the criteria for each review are not clear. Sue stated a special use permit review examines things like buffering, lighting, signage and other things that may not be determined during a preliminary plat (subdivision) review. The committee agreed the criteria for each review must be clearly defined, and findings of fact that address the criteria must be adopted.

Subdivision Regulations

- Dave brought up an issue he has been discussing with Sue and Joyce for some time: which subdivision regulations—the Lake County Subdivision Regulations or the PDC—Lake County will use when it reviews subdivision applications in the City-County Planning Area. Dave indicated that currently the PDC lacks many of the current state-mandated procedural requirements, but those can be added fairly easily. The trouble is the new Lake County Sub. Reg., which are currently in the adoption phase, include some traditional zoning measures and therefore overlap with the PDC on many subjects such as landscape buffers, commercial signs, parking requirements, road specifications, etc.
- Sue stated her office will use the Lake County Sub. Regs. and the Lake County Attorney has stated there can't be more than one set of subdivision regulations within a jurisdiction. She said it may be possible to include a statement in the new Sub. Regs. that where a conflict exists, the PDC is to be used.
- Todd said it would be helpful to know exactly where overlap exists and suggested comparing the Sub. Regs. and the PDC so he could discuss this with the County Commissioners. Todd also stated he would ask other city managers how they handle this sort of arrangement. Todd indicated that perhaps we won't be able to solve every issue with this update project. The committee agreed to make evaluating the subdivision procedure and rules mandatory as a part of the to-be-added periodic evaluation.

- The committee asked Dave to compare the two codes and let them know where overlap exists.

Annexation

- Bob brought up an instance where landowners sought annexation and subdivision approval concurrently. They expended significant resources putting together the applications and were denied annexation at the City Commission stage. Bob stated the landowners could have avoided the expense if they had sought annexation first, and the PDC should highlight this option. Joyce and Dennis said there is some trepidation regarding property being within the city limits so sometimes people don't want to annex unless they know they will receive subdivision approval.

Incentives for Affordable/Workforce/Special Needs Housing

- Dave discussed his findings regarding affordable housing incentives (11/30/09 memo) and recommended focusing on modifying the code to encourage affordable housing “by right” through increased density as opposed to waiving fees and providing bonuses because this requires a complex administrative program. Dave suggested the committee view the Bozeman workforce housing program to understand how such administrative programs are typically set up.
- Bob said impact and application fees should not be waived because this simply transfers costs to other residents.
- Lee asked if there is anything that can be done to incentivize the development of modest scale homes. Bob said smaller lot sizes will necessitate smaller homes.
- Dennis said in some places, Bozeman for example, inclusionary zoning is necessary to provide for affordable housing but in other places, like Polson, it is not.

Resort Zoning District

- Dennis stated density in the RZD should not be calculated on a unit-per-acre basis because this is arbitrary and doesn't accurately reflect impacts. He said performance standards should be the key—compliance with impervious surface, setback, parking and other requirements should determine the allowed density on a parcel.

Access

- Bob said subdivisions that abut a substandard public street should be allowed to access that street and not be forced to bring it up to adopted standards because this

will benefit the public as a whole, not only the future subdivision residents. As an example he indicated impact fees are targeted at the impact of the subdivision only, but are not used to pay for a service for all of the public.

Administrative Issues

- Lee stated it is necessary to make clear that a decision by the Planning Board or Board of Adjustment can be made by a majority of the members in attendance at a hearing, as opposed to a majority of the total number of board members. Lee also indicated it should be clear that a board member may make a motion to approve, conditionally approve, or deny a proposal. In the past there has been debate whether a “negative” motion can be made.
- Lee stated the PDC must clearly state what the contents of an application must be and also when an application is sufficient for review. Submittal requirements must be included. He also stated the PDC must state under what circumstances an application can be tabled and for how long.
- Lee indicated there have been cases in the past when the authority of the Planning Board and Board of Adjustment have been questioned during hearings, so he would like the PDC to state the Boards’ authority. He also said that from time to time the Planning Board has found problems with the code and he would like the amendment procedure that applies to the Board to be clear and simple. Also, because there is sometimes overlap with different land use rules, the PDC should unequivocally state the more restrictive measure shall apply.

Future Meetings

- Dave stated that the PDC Advisory Committee has discussed the major issues in his 8/27/09 memo and he now feels as though he has sufficient direction to develop a revised draft of the PDC and zoning map. He said he expects to take about 8 weeks to produce the revision, then would distribute it to the committee for review. Joyce asked that the committee have ample time to review the revision prior to meeting.