

MEMORANDUM

To: Bruce Agrella, PDC Advisory Committee (PDCAC)
Dennis Duty, PDCAC
Bob Fulton, PDCAC
Lee Manicke, PDCAC
Joyce Weaver, PDCAC and Polson Planning & Zoning Official
Todd Crossett, City Manager
Cora Pritt, Building and Planning Department

From: Dave DeGrandpre, Land Solutions, LLC

Date: August 27, 2009

Re: Polson Development Code Update progress report and proposed changes

This memorandum contains three parts: 1) A progress report on the Polson Development Code Update project (PDC Update); 2) Suggestions for significant changes to the text and zoning district map, and 3) Suggestions for how to move forward from here.

PROJECT UPDATE

Scoping Meetings

In May I held two public scoping meetings at City Hall to inform the public of the project and solicit ideas for changes to the PDC. Despite newspaper ads and posters hung around the community to advertise the meetings, only 16 people attended the meetings (including Bruce and Cora). However, we had some good discussions and I garnered useful suggestions for the update project. Attached is a summary of the meetings. Pages 3 and 4 summarize the public comments.

Personal Interviews

I have interviewed Joel Nelson and Tiffany Lyden of the Lake County Planning Department, Lake County Commissioner Paddy Trussler, former City Councilman and developer Mike Maddy, Joyce Weaver, Janet Camel of the Confederated Salish & Kootenai Tribes, land surveyor Marc Carstens and Stan Peterson. All have provided useful information and suggestions. I have not yet caught up with former Polson Building and Planning Official Monte Sipe but hope to soon.

Project Website

A website intended to provide information to the public is up and running. The address is <http://www.cityofpolson.com/dcode/index.htm>. The website contains the current PDC map and text, project background information and contact information. It will be updated over time.

Zoning District Map Update

The existing PDC zoning map was last updated in August of 2006 and does not reflect numerous zone changes and annexations. I have been working with City and County staff to update the map and a final round of reviews is currently underway. I expect the final draft map update will be complete and ready for distribution by September 7.

RECOMMENDED CHANGES TO THE PDC

Based on reviewing the PDC, the Polson Growth Policy, on-the-ground conditions in and around Polson, reviewing model land use codes and the codes of other jurisdictions, talking with interested parties at the public scoping meetings and around the community, a number of changes are recommended below. Many smaller issues such as clarifications, clerical changes and smaller text changes are not addressed here. You will see those proposed changes when I present updated PDC sections over the next several months. Also please keep in mind these recommended changes are a work in progress and more ideas are sure to emerge as the PDC update continues.

CHANGES BASED ON THE POLSON GROWTH POLICY

As stated in 76-1-605 and 76-2-304, MCA, a growth policy is intended to guide the pattern of development in an area, particularly when adopting or revising zoning regulations. The Polson Growth Policy lists at least 13 policy statements that are to either be considered or carried out through amending the PDC. Below is a description of 13 Growth Policy statements and how I recommend addressing them.

Growth Policy Statement 1

Section 9.0, Introductory Paragraph: The PDC will include specific criteria for zoning changes, variances and special uses.

Proposed Changes

Include specific criteria for zoning changes, variances and special uses. For zone changes and special uses, items such as potential impacts on neighboring lands, impacts on health, safety and welfare, public need and purpose and helping to implement policy statements of the Polson Growth Policy should be considered. For variances, the criteria provided in 76-3-323, MCA related to unique property conditions, hardship and similar factors are recommended.

Growth Policy Statement 2

Section 9.0, Land Use, Goal 1: Encourage development mixes and land use policies that minimize sprawl and maximize efficiency of existing infrastructure.

Objective 1a: Consider allowing additional development mixes within existing density parameters.

Implementation Strategy i: Review and revise regulations to include additional TZD areas.

Implementation Strategy ii: Include a hospital zoning district allowing small business and health care offices near the St. Joseph Medical Center

Proposed Changes

- Amend the zoning district map to make all of the Salish Point area north of Highway 93 TZD as recommended in *Consider the Possibilities*. Also amend the TZD text to allow small scale restaurants, coffee shops, government buildings and similar uses;
- TZD zoning should be extended to the south half of the block directly northeast of the County Courthouse and the block south of Riverside Park;
- Allow all types of housing in the CBD. There are currently a number of single- and multi-family residences in the CBD that are nonconforming uses. This change would legitimize those homes and promote additional mixed use development in the downtown area;
- Add an allowance for small scale, neighborhood commercial to be located in the MRZD. Neighborhood commercial businesses could sell frequently needed goods for household consumption such as food and beverages, limited household supplies and hardware, but would not to include motor vehicle fuel sales;
- Modify the text to allow an accessory dwelling unit in all zoning districts as a permitted use so long as it meets certain performance standards to limit impacts on neighbors. To accomplish this I recommend changing the definition of the word accessory to include a secondary dwelling unit that may be physically separate from the primary dwelling unit, and also to eliminate the definition for guest house. Overall this change would encourage infill, the use of existing infrastructure, encourage multi-generational housing and affordable/attainable housing, and
- Create a hospital overlay in the St. Joseph's area of the MRZD that would allow for small medical related businesses and offices that are compatible with residential development.

Growth Policy Statement 3

Section 9.0, Land Use, Goal 2: Identify appropriate areas for outward expansion.

Objective b: Require engineered designs in areas with steep slopes or erodible soil.

Implementation Strategy i: Review and revise the PDC Performance Standards for Hillside Development to more clearly define the requirements for development on land areas with steep slopes.

Proposed Changes

Clarify the hillside development standards including better definition of how slope is determined. Also allow development on slopes 25%-35% so long as a licensed engineer designs and certifies the development. Also review the lot coverage requirements and allow greater impervious coverage within MRZD and possibly elsewhere when storm drainage, erosion control and other factors are adequately addressed.

Growth Policy Statement 4

Section 9.0, Land Use, Goal 2: Identify appropriate areas for outward expansion.

Implementation Strategy iii.: Research methods to encourage and reward landowners for preserving certain undeveloped lands, including programs for purchase of development rights, transfer of development rights, planned unit development regulations and density bonuses.”

Proposed Changes

Add a section permitting planned unit developments (PUDs) in order to provide flexibility in design standards such as road design, setbacks, lot sizes/density in exchange for community benefits and quality design. A PUD could be both a site specific zoning designation and a multi-phase master plan. It could be residential or mixed use with some or all of the following components:

- A minimum project size, for example 5-10 acres;
- A functional neighborhood center that is the focal point of the neighborhood with indoor and outdoor spaces and a mixture of uses. Opportunities for civic engagement as well as public art (also recommended in the growth policy) could be encouraged;
- Pedestrian facilities throughout;
- A mixture of housing types targeted toward different demographic segments of the population;
- The majority of dwellings located within a 5-minute walk (+/-2,000 feet) of the neighborhood center;
- Interconnected roads, preferably lots and blocks with alleys;
- Distinct architectural design features and standards, and
- Significant open spaces such as playground or park areas designed for active and passive users with the scale, type and natural features depending on the nature of the project. Drainages, wetlands and unique natural features could be encouraged to be included.

This designation could be made available in all of the residential zoning districts as well as the rail yard area. The procedure could be an initial zoning and PUD master plan approval process, then phase-specific approvals similar to final plats could follow. Also recommended are an extended preliminary approval period, such as 5-10 years, with a requirement that each phase be developed according to an agreed upon schedule.

Growth Policy Statement 5

Section 9.0, Housing, Goal 4: Encourage the development of additional housing units for low-income and elderly populations.

Objective 4a: Provide incentives for the development of affordable and special needs housing when approving new developments.

Implementation Strategy i: Look into streamlined development review and permitting processes.

Implementation Strategy iii: Consider inclusionary zoning within transitional zoning districts.

Proposed Changes

- Establish definitions and criteria used to determine whether a housing proposal qualifies as meeting one of the needs described above. The determination would take place at the pre-application stage;
- Ensure only one public hearing for qualified projects;
- Reduce review fees by a certain percentage for qualified projects, and/or
- Waive the impact fees for qualified projects;
- As described above, modify the text to allow an accessory dwelling unit in all zoning districts as a permitted use;
- Increase the maximum building height in the CBZD to accommodate up to four floors above the ground surface to provide more opportunity for downtown housing, and
- Also allow for PUDs that could encourage different housing types as described above.

You may recall our discussion in April of inclusionary zoning---the practice of requiring a minimum percentage of housing for low and moderate-income households in new housing developments and condominium conversions. During our discussion I got the impression the Advisory Committee thought it would be better to not include this concept in the PDC Update.

Growth Policy Statement 6

Section 9.0, Housing, Goal 5: Give the city additional tools to assist with the real costs of development.

Objective 5a: Require the construction of infrastructure that meets current city code concurrent with the construction of all new developments.

Implementation Strategy i: Require subdividers and developers to demonstrate how a proposed subdivision will impact fire and emergency services and existing infrastructure, including public sewer, water and street facilities.

Proposed Changes

The City of Polson currently requires impact fees for sewer, water, fire protection and parks. The PDC requires developers to provide adequate infrastructure improvements and at their own expense concurrent with development. The PDC also requires a community impact report to assess the impacts of large scale development (1,000

average daily vehicle trips). The only substantive change I recommend is to enable the administrator to require a traffic impact study or other specialized report when there is reason to question whether the existing infrastructure can support it---for example, if a 50-lot subdivision were to be accessed from Skyline Drive. Another option is to consider whether large-scale development should be re-defined to mean development of 50 residential lots or that will generate an average of 500 average daily trips.

Growth Policy Statement 7

Section 9.0, Economic Conditions, Goal 6: Encourage economic revitalization in order to provide additional employment and economic development opportunities.

Implementation Strategy ii and iii: Implement the regulatory and planning recommendations for Salish Point and the railyard district in “Consider the Possibilities.”

Proposed Changes

“Consider the Possibilities” essentially recommends that the entire Salish Point area north of Highway 93 be zoned TZD to allow for a mixture of recreational, residential and low impact commercial development. This is recommended above.

Regarding the railyard, “Consider the Possibilities” recommends performing an environmental investigation, writing a redevelopment plan, negotiating with Montana Rail Link, developing design standards and a number of other steps. For the purposes of the PDC update, I suggest keeping the current CIZD zoning in place and developing a new overlay district that would allow for a wide range of uses including government, institutional, housing, commercial, mixed use, PUD, etc. with projects reviewed through a special permit process.

Growth Policy Statement 8

Section 9.0, Economic Conditions, Goal 9: Maintain and enhance Polson’s natural beauty in order to create a more attractive place to live, work and conduct business.

Objective b: Encourage context sensitive design in commercial developments, particularly along US 93 and MT 35.

Implementation Strategy: Establish gateway overlay districts along routes leading into Polson with design specifications requiring attractive and welcoming infrastructure, architectural and design standards, tree planting and landscaping in all gateway areas.

Proposed Change

Either establish gateway overlay districts along Highway 93 and 35 or modify the HCZD text to include architectural design and landscaping standards. At this point I recommend the latter because design standards can be applied elsewhere as well (discussed below).

Growth Policy Statement 9

Section 9.0, Transportation, Goal 17: Address the community's need for a US 93 bypass.

Objective b: Consider appropriate development restrictions to preserve a potential US 93 bypass corridor.

Proposed Changes

None at this time. Previous efforts to identify a potential bypass route have focused on placing a bypass along the southern Polson Planning Area limits from US 93 west along Caffrey Road, then north in the vicinity of Kerr Dam Road and across the Flathead River. Possible northern connections with existing US 93 have been considered across from Rocky Point Road and east of the airport.

Most of the previously identified routes would travel through PLZD, RRZD and LRZD, which already do not allow commercial development. The northern end would go through either areas currently zoned as CIZD or RZD and HCZD. In the event a bypass is pursued further and a route is chosen, it may be appropriate to limit commercial development along the northern extent to protect existing businesses and facilitate efficient travel, but this step would be premature at this time.

Growth Policy Statements 10

Section 9.0, Transportation, Goal 18: Enhance Polson's non-motorized transportation systems.

Objective a: Expand and improve Polson's sidewalks and trail routes.

Implementation Strategy i: Amend the PDC to require the dedication and development of non-motorized transportation facilities in conjunction with new development.

Implementation Strategy iv: Develop policies and procedures for obtaining easements or rights-of-way for non-motorized transportation corridors throughout the community.

Implementation Strategy v: Encourage potential developers, the private sector, foundations and individuals to participate in enhancing non-motorized transportation facilities.

Proposed Changes

The PDC currently requires all developments to include sidewalks along all street frontages and/or an effective off-street pedestrian circulation system. It also requires that non-motorized transportation facilities line up with or connect to other existing or planned facilities, and that the facilities be installed concurrent with development. However, the PDC does not explicitly require the dedication of non-motorized transportation facilities, which should be changed. Otherwise, the existing language seems sufficient so long as it is enforced.

Growth Policy Statement 11

Section 9.0, Natural Resources, Goal 23: Reduce sources of non-point pollution affecting water quality in Flathead Lake.

Implementation Strategy i: Monitor the amount of development adjacent to Flathead Lake in accordance with the PDC Performance Standards for Shoreline Buffers, the Lake County Lakeshore Protection Regulations, and the Tribal Shoreline Protection and Aquatic Lands Protection Ordinances. Adjust zoning regulations to minimize development pressure on the natural system, as appropriate.

Implementation Strategy ii: Promote best management practices to ensure compatible and suitable land development.

Proposed Changes

The PDC already requires the development and implementation of a runoff management plan for all developments that are adjacent to the lakeshore. The PDC also requires 50-foot wide vegetated buffers along Flathead Lake and river, adjacent wetlands and floodplains. However, after looking at recent condominium development along the lake and river, it appears the buffer requirements are not being carried out to a large degree. Perhaps requiring a shoreline buffer plan to be submitted as part of a permit application would help, along with specific review criteria and implementation requirements. The somewhat vague language should also be made more clear to let all parties know the requirements.

Growth Policy Statement 12

Section 9.0, Natural Resources, Goal 24: Maintain public access to Flathead Lake and other natural resources.

Objective: Preserve a portion of the lakefront for public recreational use.

Implementation Strategy iii: Acquire public right-of-way for recreational purposes through existing and proposed development that is acceptable to adjoining residences.

Proposed Change

Realistically, a developer is unlikely to dedicate a portion of highly prized lake or river frontage to the public as part of a development project. However, in the event this were to take place, the current park dedication standard of a minimum area of six acres is prohibitively large for a new lakefront park. I suggest changing the park dedication section to encourage the dedication of water frontage and provide for different specifications for waterfront parks as well as provisions intended to minimize impacts on neighboring landowners such as parking and landscaping. On a related note, the park section should also be amended to allow for linear parks that include trails and paths that may not be as large as six acres.

Growth Policy Statement 13

Section 9.0, Cultural Resources, Goal 25: Identify a central historic and cultural theme for Polson.

Implementation Strategy iv: Encourage private developments to include art in their projects.

Proposed Changes

Encourage PUDs to include public art (also see Growth Policy Statement 4) and develop design standards that reflect a general theme for Polson (also see Growth Policy Statement 8).

OTHER PROPOSED CHANGES (not based specifically on the Growth Policy or discussed above)

General Comment 1---Extend approval period to three years.

After a detailed development permit, subdivision permit, special use or variance review and in order to allow for unforeseen circumstances that developers may encounter, I recommend making all approvals valid for a period of three years instead of two.

General Comment 2---Remove references to the Standard Land Use Code (SLUC).

The SLUC was written in 1965 and is no longer in print. I recommend providing definitions for different types of land uses and addressing proposed land uses by their scale and likely impacts.

General Comment 3---Add an index of key words

Adding an index of key words should help users identify where to find important concepts efficiently.

General Comment 4---Add design standards

Design standards could be created for the commercial and resort zoning districts and for certain types of development such as highway commercial, large-scale residential/mixed use and PUDs. Kalispell and many other communities require submittal of an architectural or site plan with a special use permit or similar application that is reviewed for compliance along with the permit application.

General Comment 5---Small scale agriculture

Allow community gardens in CIZD and all residential districts. Also allow a limited number of chickens in all residential districts. These land uses would be subject to performance standards intended to minimize impacts.

General Comment 6---Coordination with the Confederated Salish & Kootenai Tribes

Tribal Land Use Planner Janet Camel requested that her office be sent a copy of significant land development applications such as special use permit and major subdivision applications. Ms. Camel also asked that development applications obtain a

cultural clearance from the Tribal Cultural Preservation Office. The Lake County Planning Department implements these practices and it seems to foster communication and good will while not slowing down the review process.

Chapter I, Section F, Nonconforming Uses and Buildings

This section says that nonconforming uses may continue. However, for maintenance and repair, minor changes of occupancy and replacement to occur the buildings must comply with the city's fire and building codes (among other requirements). Because the PDC is also adopted by Lake County and the County Commissioners are not likely to require compliance with fire and building codes, it should be clarified that this statement only applies within the city limits.

Chapter II, Section I, Minor Subdivision Permit Procedure

- Add text describing a pre-application procedure for minor subdivisions including a list of submittal documents that may be required for an application to be deemed complete and criteria for the administrator to determine application completeness and sufficiency;
- Add more detail about the preliminary and final plat review such as the number of required application copies, review criteria, timeframes, an allowance for minor changes between preliminary and final plats, and that findings of fact and conclusions of law are to be developed and adopted by the City Commission, and
- Generally update this section to reflect recent statutory changes.

Chapter I, Section J, (Major) Subdivision Permit Procedure

- Add a statement that unless otherwise exempted, a pre-application may be presented to the City-County Planning Board at an advertised public meeting if the administrator and the applicant are willing;
- Add more detail about the preliminary and final plat review such as a list of required application submittal documents, the number of required application copies, review criteria, timeframes, an allowance for minor changes between preliminary and final plats, and that findings of fact and conclusions of law are to be developed and adopted by the City Commission, and
- Generally update this section to reflect recent statutory changes.

Chapter II, Q, Variances

Given the inherent rigidity of zoning regulations, variances are sometimes necessary in order to provide a reasonable degree of flexibility. The current criteria for judging a variance request is too strict by stating that the property would have no beneficial use if the regulations are strictly enforced. I recommend replacing the idea of property having no beneficial use with the idea that due to conditions unique to the property, strictly enforcing the regulations would result in an undue hardship. Hardship is commonly used to consider variances during subdivision review.

Chapter II, BB, Amendments

- Add a statement indicating that PDC amendments must be approved by both the City Commission and Board of Lake County Commissioners unless the amendment only impacts one jurisdiction;
- Add criteria for reviewing amendment requests, such as compatibility with the existing and planned area, minimizing impacts on surroundings, impacts on the natural and built environment, etc.
- Schedule a mandatory text review each year and a map review every other year to keep the PDC reflective of changes in the community. At those times the city and county administrators would propose a comprehensive clean up package.

Chapter IV, Productive Lands Zoning District (PLZD)

Currently the PLZD seems to limit residential development to one additional home on a tract per 160 acres. Given the fact land to the south of the PLZD (farther from city services) is zoned under the Lake County Density Map at one unit per 20 acres, this density seems excessively restrictive. I recommend changing the PLZD text to allow one unit per 20 acres instead of one unit per 160.

Chapter V, Rural Residential Zoning District (RRZD)

- The RRZD requires a minimum lot size of one acre for properties with lake frontage and two acres for properties without lake frontage. In order to provide greater flexibility I recommend changing the language from a minimum lot size to an average density;
- Accessory buildings are listed as being allowed in rear yards, but not in the required front or side yards. This language is confusing because it is not clear whether the “required” front or side yards are the building setbacks or if accessory buildings are not allowed in front or side yards at all.

Also, many parcels in the RRZD have lake frontage. On these parcels the “front” yard is really the lake side instead of where the property is accessed and addressed. Therefore I recommend allowing accessory structures in front and side yards in the RRZD so long as the structures are not located within the required setbacks and they are visually buffered by landscaping.

Chapter VI, Low Density Residential Zoning District (LRZD)

- Allow accessory structures to be located in front and side yards in the LRZD so long as the structures are not located within the required setbacks and they are visually buffered by landscaping.

Chapter III, Zoning Districts, Medium Density Residential Zoning District (MRZD)

- Reduce the minimum lot size for single family residences to 6,250 square feet (e.g. 125' x 50'); and
- Reduce the front setback for front porches to 20 feet.

Chapter VIII, Transitional Zoning District (TZD)

- Add some additional small scale commercial uses to the TZD such as ice cream and similar vending stands, farmers markets and sidewalk sales, live outdoor entertainment, small restaurants, coffee shops and perhaps other low impact non-residential land uses; and
- Also allow hours of operation to be extend until 10 p.m. instead of 8 p.m.

Chapter XVIII, Performance Standards, C., Shoreline Buffers

- Make it clear the 50-foot buffer is also a structural setback within which only limited clearing and development is to occur.

Chapter XIX, Required Improvements, D, Time of Installation/Development Agreements

The section on development agreements (bonding for infrastructure improvements) is confusing and should be re-written for clarity and taxpayer protection.

Appendix D, Detailed Performance Standards for Home Occupations

I suggest allowing a special use permit process to review requests to allow more than one employee in a home occupation. This could be limited to MRZD, TZD, CIZD and CBZD with a maximum number of non-resident employees up to 4. The purpose would be to promote mixed use development and local economic diversity while minimizing impacts on the neighborhood through performance standards (traffic, parking, signage, noise, etc.).

Appendix E, Detailed Performance Standards for Off-Street Parking and Loading Areas

- Performance Standard #5 currently requires off-street parking to be located on the same lot and under the same ownership as the use it serves. I suggest adding flexibility by modifying #5 to state all handicap parking must be located on the same lot as the use it serves, but the remainder of the required off-street parking may be located within up to 500 feet of the use, regardless of ownership. For this to be possible would require adopting ADA guidelines for handicap parking.
- Performance Standard #5 also requires that where two or more uses share the same parking area, the total number of spaces shall not be less than the required sum of each use. I propose allowing a reduced number of spaces where the proposed uses are found likely to use the shared parking area at different times of day, such as an office and a pub.
- Expand the list of land uses on Table E.1.

Appendix G, Detailed Performance Standards for Design and Construction of Streets, Sidewalks and Trails

- Performance Standard #4 limits private streets to internal circulation systems of multiple family mobile home parks and commercial and industrial developments. But because Lake County does not accept new streets, I suggest adding a clarification that the above statement only applies within the city limits.

- Performance Standard #6 allows the City Council to waive the requirement for sidewalk on any street segment that serves fewer than 15 dwelling units. I suggest eliminating this statement.

Add performance standards for sexually oriented businesses

Add a new performance standards section for adult uses which would 1.) require a minimum distance from “sensitive uses” such as schools, parks, playgrounds, churches and child care centers and establish hours of operation. The rationale would be to limit adverse secondary effects—potential for crime and lower nearby property values. Such businesses must be allowed to operate in a reasonable area by right, as opposed to as special permit use, and can be operated currently in the CIZD.

HOW TO PROCEED

Because all of these recommended changes are a lot to digest, I suggest we meet every 2-3 weeks to work our way through these and other topics you may have. At the first meeting I would like to discuss the proposed approaches for implementing the appropriate statements in the Polson Growth Policy. You may want to review Section 9 of the Growth Policy to make sure I have not overlooked other policy statements you think should be addressed by the PDC Update. I will call you on September 3 to try to arrange the first meeting date.

Thank you for your participation and I look forward to talking with you soon.

Sincerely,

Dave DeGrandpre