

**CITY OF POLSON COMMISSION
AMEND THE REVISED ZONING REGULATIONS FOR THE CITY OF
POLSON 2016 DEVELOPMENT CODE
PUBLIC HEARING AGENDA**

COMMISSION CHAMBERS

June 6, 2016

6:30 P.M.

1. CALL TO ORDER

Mayor Knutson

2. PLEDGE OF ALLEGIANCE

Mayor Knutson

3. APPROVAL OF PROPOSED AGENDA

Mayor Knutson

4. PUBLIC COMMENT ON SIGNIFICANT MATTERS TO THE PUBLIC **NOT ON THE AGENDA (address items to the Chair. Commission takes no action on items discussed**

NEW BUSINESS

5. AMEND THE REVISED ZONING REGULATIONS FOR THE CITY OF POLSON 2016 DEVELOPMENT CODE

City Planner Kyle Roberts

6. ADJOURN

The City of Polson encourages public participation in its public meetings and hearings. In doing so the City holds its meetings in handicapped accessible facilities. Any persons desiring accommodations for a handicapping condition should call the City Clerk at 883-8203 for more information.

Table II.24. HMZD Land Use

| Permitted Uses | Special Uses |
|--|--|
| Single-family and two-family dwelling | Hospital complexes |
| Multiple-family dwelling, up to 4 units per structure | Multiple-family dwelling, 5 to 8 units per structure |
| Medical offices, medical support services | Religious institutions – day care centers - schools |
| Community residential facilities, 8 or fewer residents - day care home | Community residential facilities, 9 or more residents |
| Public parks and recreation areas | Private parks and recreation areas |
| Home occupations up to 1 on site employee in compliance with IV.Z | Home occupations 2-4 on site employees in compliance with IV.Z |
| Social services, government, public safety/service, non-profits | Wireless communication facilities (see IV.DD) |
| Minor utility installations (see III.C.6) | |
| Bed and breakfasts (see IV.AA) | |
| Accessory uses customarily associated with the permitted and special permit uses | |
| Community gardens | |

c. **Commercial Development.** Commercial uses should use the limited shoreline available to link local residents and travelers with the lake and river. Uses that can as effectively be located away from the shoreline should be. Also, the uses permitted in the RZD must pose no special threat to water quality. Examples of commercial uses that would be appropriate in the RZD include: i. hotels; ii. recreational vehicle parks; iii. restaurants – but not with drive-in service; iv. sporting goods sales and rentals; v. guide services; and, vi. marinas in compliance with **hg.**, below.

d. **Landscape.** There shall be a coherent planting plan for the entire development, with special attention given to the role of vegetated surfaces in channeling and absorbing surface runoff, and to the shoreline buffer, which shall serve as an effective vegetative filter strip. See IV.W for landscape requirements.

e. **Access to the Shore.** Any development that provides safe, continuous public pedestrian/bicycle access to or along the shoreline shall be permitted to increase its maximum building height from 35 to 50 feet. Examples of access that may qualify for this bonus include a public trail along the waterfront, a public park with parking, a restaurant open to the public with lakefront facilities, or similar. Award of such bonus does not eliminate the requirements of IV.C. for shoreline buffers.

f. **Outdoor Sales and Storage.** Outdoor sales, including outdoor dining areas, shall be permitted. Outdoor storage shall also be permitted but shall be screened from public view by any effective combination of the placement of buildings, landscaping, and screening fences or walls. Watercraft storage is exempt from the screening requirement. Temporary storage of construction materials and equipment being used for work in progress is exempted from this screening requirement.

- g. **Marinas.** A marina may be an appropriate use in the RZD, but because marinas involve extensive lakeshore disturbance and the handling of fuel and other potential contaminants, the developer shall be required to:
- i. Provide for a professionally prepared environmental assessment, including recommended mitigation measures;
 - ii. Provide plans sufficient to demonstrate compliance with the most current edition of National Fire Protection Association (NFPA) 303, *Fire Protection Standards for Marinas and Boatyards*, and other fire and building codes specifically applicable to marinas; and
 - iii. Provide shoreside pumpout facilities.

The need for an environmental assessment shall be established ~~at the pre-~~during application review and the production of the assessment will follow the procedure provided for community impact reports in Chapter IV. Compliance with the appropriate city, and/or tribal Lakeshore Protection Regulations is also required.

PAGE 53

K. Special Use Permit Procedure. The special use permit procedure requires public review of developments that may have a significant impact on the landscape setting, public facilities, or neighboring land uses. Special uses are those that may be compatible with the land uses permitted by right in a zoning district, but require individual review of their location, scale, design, and configuration, and may include the imposition of conditions or mitigations in order to ensure the appropriateness of the use at a particular location within a given zoning district.

A special use permit application may be submitted along with a zoning amendment or subdivision application and review may take place concurrently.

~~1. Pre-Application. The purpose of this procedure is to ensure that a properly completed application is filed.~~

~~a. The developer shall submit to the administrator a properly completed pre-application form, supplementary materials, and fee adopted by the governing body.~~

~~b. The administrator shall, within 15 working days, conduct a pre-application review unless this time period is waived by the developer. The administrator shall provide written notice to the developer indicating what information must be submitted for the review to proceed. At any time during the review process the administrator may require additional information necessary to demonstrate compliance with these regulations.~~

~~c. Pre-application review is not a regulatory proceeding, but an opportunity for the applicant to be made aware of the requirements of these regulations. The need for a community impact report or environmental assessment shall also be determined at the pre-application review.~~

~~d. If the developer is willing to provide written notice waiving the 15 working day requirement in K.1.b., above, a pre-application review may take place before the city-county planning board during~~

~~the next public meeting for which notice may be published. At the meeting, the administrator, members of the public, and the planning board may provide feedback to the developer regarding compliance with these regulations, project design and issues to be addressed in the special use permit application.~~

21. Application.

a. The developer shall submit a properly completed application form, preliminary plat or site plan, narrative describing the project in light of the evaluation criteria (see K.32., below), any supporting materials necessary to demonstrate compliance with these regulations, and the required application fee.

b. Within 10 working days of receiving the application, supporting materials and fee, the administrator shall determine whether the application is complete and sufficient. When an application is determined incomplete or insufficient, the administrator shall provide written notice to the developer indicating what information must be submitted for the review to proceed.

c. The administrator shall place a hearing on the proposed special use on the agenda of the next regular planning board meeting for which these notice requirements can be met, and at which time will allow for its proper consideration. Notice of the hearing shall be provided as follows:

i. By certified mail, at least 15 calendar days before the hearing, to the developer and all adjoining property owners (including purchasers of record under contract for deed);

ii. By newspaper publication, at least calendar 15 days before the hearing, one legal notice in the official newspaper; and

iii. By first class mail, at least 15 calendar days before the hearing, to all potentially affected public agencies and public utilities, and any person who has requested mail notice of such hearings and paid the annual fee for that service. All notices shall comply with III.M.

d. The administrator shall prepare, or contract for preparation of a report that describes the proposed special permit use, its site, its context, and its compliance, or failure to comply, with the applicable requirements of these regulations. In preparation of the report, the administrator may seek input from the police, fire, parks, sewer and water, streets, solid waste and other departments as well as other agency and service providers including the Montana Department of Transportation, Polson School District, Mission Valley Power, Montana Department of Environmental Quality and others. In the report the administrator shall propose findings of fact and a recommendation of approval, approval with conditions or denial of the proposal for the planning board's consideration.

e. The planning board shall conduct a hearing on the proposed special permit use following the procedure established in III.VI. At that hearing, the planning board shall review the particular facts and circumstances of the proposed special use and adopt findings of fact in support of its recommendation. If the board finds the application complies with the evaluation criteria in K.32., below it shall recommend approval of the application. If the planning board finds the application fails to comply, it shall recommend denial of the application. Conditions may be attached to a recommendation of approval of any special use permit, as provided in III.L.

f. Following the public hearing, the administrator shall forward the public comments, report,

recommendation and findings to the City Commission.

g. The CC shall then consider the request at its next meeting for which public notice posting requirements can be met. At the meeting, the CC shall review the particular facts and circumstances of the proposed special use and adopt findings of fact in support of its decision. If the CC finds the application complies with the evaluation criteria in K.32., below it shall approve the application. If the CC finds the application fails to comply, it shall deny the application. Conditions may be attached to an approval of any special use permit, as provided in III.L.

h. Consideration of a special use permit application may be tabled for no more than 35 days.

i. The administrator shall notify the developer and other interested parties who have specifically requested such notice of the governing body's decision within 10 days after it is made.

32. Evaluation Criteria. The CC, after weighing and evaluating the proposed use in light of the criteria set forth below, shall grant a special use permit if the application, supplemental information, public hearing and other evidence demonstrate that:

a. The proposed use complies with the applicable specification standards, performance standards and the requirements of any base and overlay zoning districts in which the project is proposed;

b. The proposed use, including mitigation measures, shall have no more adverse effects on the health, safety, or welfare of persons living or working in the neighborhood, or shall be no more injurious to property or improvements in the neighborhood than would any other use generally permitted (including special permit uses) in the same district. In making such determination, consideration shall be given to the location, type, height, scale, layout, and the type and extent of landscaping and screening on the site, as well as measures proposed by the developer to minimize impacts to neighborhood;

c. Adequate facilities and services are, or will be, through the application of these regulations and the adoption of conditions, made available to serve the proposed use including police, fire, parks, sewer, water, streets, motorized and non-motorized transportation, drainage, solid waste, schools and other facilities and services as appropriate;

d. Adequate measures shall be taken as necessary to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads; and

e. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, runoff or glare.

43. Exemption from Special Use Permit Review. The administrator shall have the authority to waive special use permit review of development on parcels of land that have been subdivided in accordance with the Polson Development Code since 1993 when:

a. The use is listed as a special permit use in the zoning district (Chapter II.);

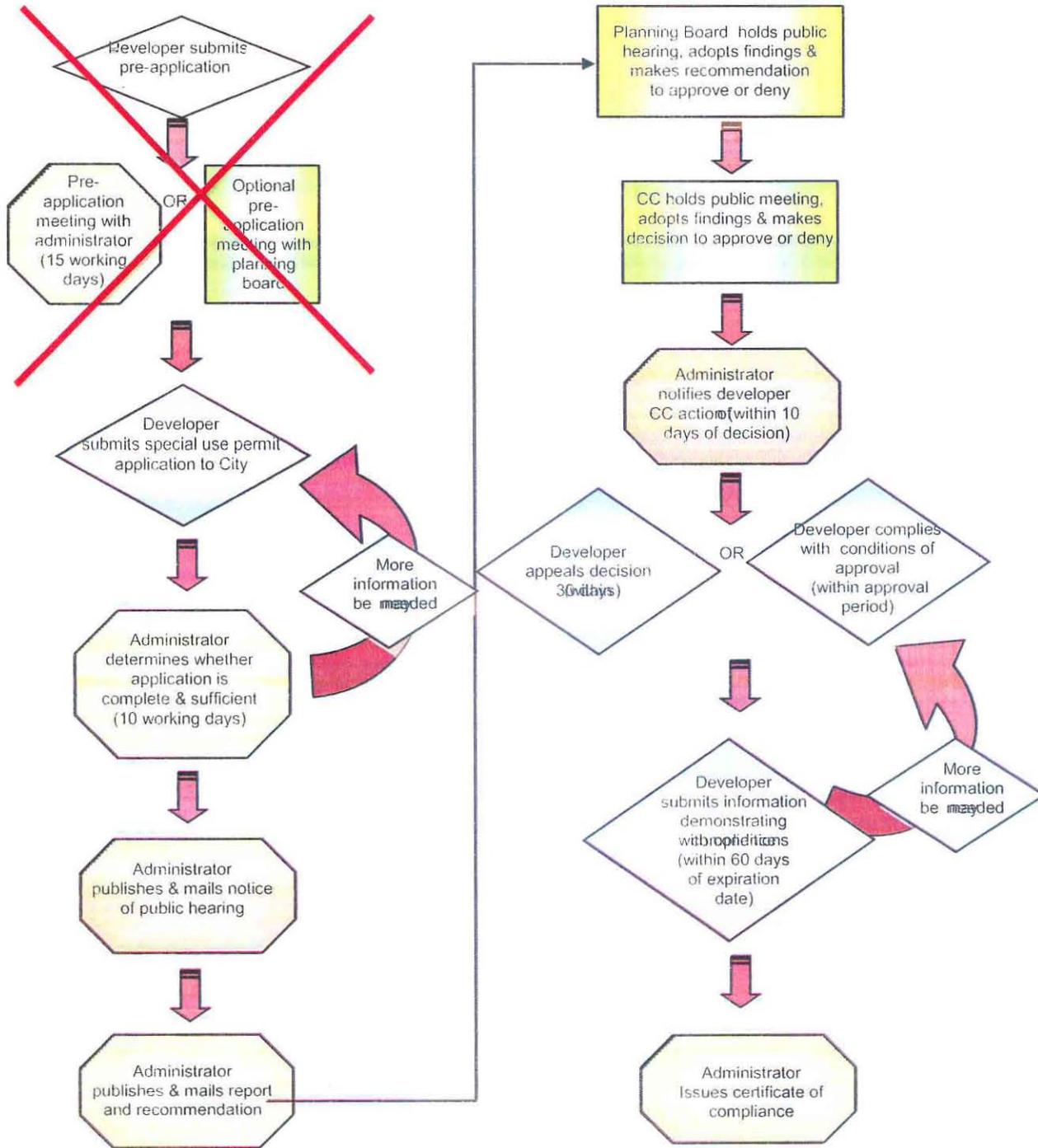
b. The use was contemplated and reviewed under the Polson Development Code and Montana Subdivision and Platting Act (Chapter VI);

c. The use is of the same or lesser scale as was contemplated during subdivision review. Scale shall be measured by traffic generation, water and sewer demand, storm drainage, signage and parking requirements; and

d. All elements of the preliminary subdivision approval are complied with.

After determining the proposed development meets the requirements for use of this exemption, the administrator shall process the development request as a permitted use through the issuance of a zoning conformance permit (see III.J.). The administrator's decision may be appealed to the BOA (see III.P.). Development shall comply with all portions of the current Polson Development Code.

Special Use Permit Procedure Flow Chart*



*This flow chart shows a typical special use permit application and review process. The administrator or board may require additional information during the review, applications may be amended and other changes in the process may occur.

PAGE 59

O. Annexation. Annexation of property into the city may occur prior to or in conjunction with a permit application according to the provisions of Title 7, Chapter 2, Parts 42 through 46, Montana Code Annotated. However, annexation does not guarantee permit approval. ~~All territory which may hereafter be annexed to the city shall be zoned at the time of annexation regardless of county adopted zoning designation. Prior to such annexation and zoning, the Zoning Administrator shall have made a recommendation to the Planning Board, and the Planning Board shall have made its investigation and shall make a recommendation to the City Commission. Public hearings on the question of zoning shall be held in conjunction with the necessary annexation procedures. See section (R) below for the zoning procedures.~~

PAGE 74-75

C. Shoreline Buffers (20 feet in RZD). A shoreline buffer is a structural setback designed to protect water quality and the natural characteristics of the land/water interface where only limited development and vegetation disturbance is allowed to occur. It includes the 100-year floodplain or special flood hazard area, all wetlands adjacent to the shoreline, and the land area within 50 feet of the high water line of the lake or river. The Lakeshore Protection Regulations should be consulted prior to development within 20 feet of the high water mark of Flathead Lake.

1. Shoreline buffers shall be left in wetlands, riparian, hay meadow, or other vegetation capable of serving as an effective vegetative filter strip. Shoreline buffers may, however, be disturbed as follows:
 - a. Clearing and grading to prepare for plantings and other activities required to restore or enhance the beauty and function of wetlands and riparian areas;
 - b. Repair or replacement of existing irrigation works, roads, bridges, boat houses, pumping facilities, utility lines, and similar structures;
 - c. Construction of new roads, bridges, boat houses, pumping facilities, and utility lines, provided that the area disturbed by such work is minimized;
 - d. Construction of pedestrian and bicycle trails of a maximum 10 feet in width, including associated benches and picnic tables;
 - e. Installation of boat ramps, piers, docks, and observation decks provided that such structures disturb no more than 10% or 24 lineal feet of shoreline, whichever is less, of the lake frontage on any lot or parcel; and

f. Development of marinas, as provided in Chapter II, PN.4.hg

PAGE 117

G. Pre-application Process.

1. Prior to submittal of a subdivision application, the subdivider shall submit a complete Subdivision pre-application form ~~(see Administrative Materials)~~, appropriate fee and the information

listed on the form to the Polson Building & Planning Department. Within 30 calendar days of receiving the complete **Subdivision** pre-application form, fee and supporting information, the subdivision administrator, acting as the authorized agent of the governing body to review subdivisions, and the subdivider and/or his or her agent(s) shall meet either in person or by telephone to discuss the proposed subdivision.

2. At the pre-application meeting, the subdivision administrator shall:
 - a. Identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision and review process including, but not limited to, zoning regulations, performance standards and floodplain regulations.
 - b. Provide the subdivider with a list of public utilities, those local, state and federal agencies, and any other entities, such as a homeowners association, that may have an interest in the subdivision that the subdivider will be required to contact prior to submitting a subdivision application and that the subdivision administrator may also contact. If, during the course of the subdivision review, the subdivision administrator contacts a public utility, agency or other entity that was not included on the list originally made available to the subdivider, the subdivision administrator shall notify the subdivider of the contact and timeframe for response.
 - c. Provide the subdivider with a list of information that must be submitted for a preliminary plat application to be deemed complete and sufficient for review. This does not limit the ability of the subdivision administrator to request additional information at a later time that will enable the subdivision administrator to determine whether the application is sufficient for review or to answer questions that emerge during the review process.
3. Unless the subdivider submits a subdivision application and preliminary plat within one year of the pre-application meeting, the subdivider must re-submit a complete **Subdivision** pre-application form, appropriate fee and the information as required in this section prior to submitting the subdivision application. The subdivision administrator has the discretion to extend this time period for one additional year if she/she determines the information contained in the **Subdivision** pre-application response would be the same based on site and area specific conditions and the regulations in effect at the time of the request.