106 1st Street E., Polson, MT 59860
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City of Polson

AGENDA

Polson City-County Planning Board

Tuesday, April 12, 2016 @ 6:00 P.M.

Polson City Hall Council Chambers

I. Call Meeting to Order

II. Roll Call

III. Pledge of Allegiance

IV. Approve Meeting Minutes: February 16, 2016

V. Approve Meeting Minutes: March 8, 2016

VI. Special Use Permit #16-01

VII. Public Comments Not on the Agenda

VIII. Meeting Adjourn

The City of Polson encourages public participation in its public meetings and hearings. In doing so, the City holds its meetings in handicapped facilities and any persons desiring accommodations for a handicapping condition should call City Hall at 883-8200 for more information

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City of Polson

City-County Planning Board
and City of Polson Zoning Commission Meeting Minutes - *Draft*
Public Hearing Zoning & Subdivision Regulations
Tuesday February 16, 2016
City Hall Council Chambers—6:00 p.m.

Members of the Board Present: Mark McGuyer, Merle Parise, Mike Lies, Tim McGinnis, Joslyn Shackelford, Lou Marchello, Gil Mangles, and Sam Jacobson
Members of the Board Absent: David Rensvold
Staff Present: City Planner Kyle Roberts, City Manager Mark Shrives, Building Official, David Simons and Technician Beth Smith
Staff Absent: Lake County Planner, LaDana Hintz
Public Present (who voluntary signed in): Noma Giffin, Richard Giffin, Chris Balstad, Cort Potter, Carol Plouffe, Lita Fonda, Ken Siler, Jim Anderson, Elsa Duford, Laura Siegelin, Pat Arie, Lee Manicke, Pam Coutts, Pat DeVries, Dennis DeVries, and Irene Marchello

Order of Business: Draft Polson Development Code 2016 - Public Hearing

6:00 PM~ Roll call was taken and Dave DeGrandpre led the Pledge of Allegiance. Tim thanked new Board members for their time and joining the Board. Tim requested nominations for Chair. Motion made by Sam Jacobson to nominated Joslyn Shackelford for Chair position, motion received second. No other nominations. All in Favor. Motion carried. Chair Joslyn Shackelford asked for nominations for Vice Chair. Merle Parise nominated Tim McGinnis. Motion received second. Board discussed rotating Chair and Vice Chair positions. Joslyn Shackelford nominated Lou Marchello for Vice Chair position, motion received second. Joslyn asked for a vote on Lou Marchello for Vice Chair. All in Favor. Motion carried. Lou Marchello motioned to approve January 12, 2016 meeting minutes as presented. Motion received second. All in favor. Motion carried.
(00:58 audio) City Planner, Kyle Roberts presented his staff report addressing each comment received by what was proposed in the draft PDC; the history/rationale; and staff recommendation(s). The 14 hot topics from the Tuesday January 26, 2016 meeting were (2:23 audio)1. Transitional Residential Zoning District (TRZD); 2. 500 Average Daily Trips (ADT) triggering a Special Use Permit in Highway Commercial Zoning District; 3. No Strip language in HCZD; 4. Medium Density Residential Zoning District front yard setbacks; 5. Condominiums-ownership issue not development issue; 6. Performance standard- off street parking regarding shared parking; 7. Creation of Old Town Zoning District (OTZD); 8. Performance Standard – circulation in off-street parking areas; 9. Resort Zoning District (RZD) – 25% View Corridors; 10. Resort Zoning District (RZD) Maximum lot coverage; 11. Resort Zoning District – Minimum set back from lake, river, or stream (shoreline buffer); 12. Resort Zoning District (RZD) Multipal-family dwelling up to eight units per structure; (27:24 audio) 13. Resort Zoning District (RZD) rezone along riverfront (5th Avenue W. – 6th Ave W.); 14. Townhomes in Medium Density Residential Zoning District.

Board comments or questions for Kyle or Dave DeGrandpre: Tim McGinnis questioned Dave DeGrandpre with Land Solutions regarding #9) of staff report- 25% view corridor in Resort Zoning. He asked how do you permit occasional views to the lake? Dave clarified the intent is to require the developer *to preserve 25%* of the view from the street. Merle Parise questioned the staff report where it says a citizen commented on view corridor; Merle asked if the citizen was a true citizen or a Developer. The answer was a Developer. Tim noted does the Citizen living in a particular district; are they looking out for the best interest of the City or have a vested interest in their own neighborhood. Tim discussed with Kyle triggering a Special Use Permit at 500 Average Daily Trips verse his recommendation 1,000 ADT was not good for a community this size and not an effective safe guard. Lou Marchello commented on the Lakeshore set back. Twenty-foot buffer set back is standard. He felt fifty-feet was too much. Joslyn agreed fifty-feet was excessive. Sam Jacobson stated Tribal, Federal and State regulations are all twenty feet. Dave DeGrandpre pointed out

page 73 and 74 discusses the types of activity permitted in the lakeshore area such as landscaping and boathouses within the fifty-feet setbacks.
6:47 p.m. -Dave DeGrandpre with Land Solutions, LLC then gave an overview of the last 6-7 years review process of the Polson Development Code rewrite workshops. No other questions or comments from the Board.
(45:11 audio) Opened Public Comments Public Hearing on Zoning Regulations and Zoning Map for Draft Polson Development Code 2016:
(45:17) Pat DeVries, 502 6th Avenue West – Owns property in many of the Districts. From a Community standpoint, she is worried and does not understand the Central Business District. Requested clarification whether the standard on Central Business District for Main Street and 1st Street West are the same. Would like to see a residential property that changed to commercial the flexibility to revert back to a residence in the Central Business District. Big concern about vacant empty lots. Believes in providing more density. Likes some of the changes made to MRZD. What should be MRZD and currently is MRZD is proposed to be change to the Old Town District; which takes away all those benefits from the property. Her home is now proposed to be changed to a Resort Zoning District, is not in favor of Resort Zoning there, but absolutely not in favor of it being changed to the Old Town Zoning. MRZD - Townhouses are beautiful and make great affordable housing. Rather be next to a townhouse than a duplex because townhouse would more likely be owner occupied than a duplex. Encourages Townhouses. 7th Ave East proposed to be Old Town /Zoning encourage moving to a more flexible plan. Feels the need to enforce current codes and standards. Cannot convert from Commercial back to Residential.
Tim questioned Central Business – Pat clarified residential home that has changed to a commercial business cannot revert to a residence again in Central Business Zoning District.

(49:30 audio) Noma Giffin, 710 4th Ave East- signed petition with 34 opposed the Transitional Zone change on 4th Avenue East. Nobody she talked to were for the change to TRZD. About three homes did not want to sign because of their jobs. Some snowbirds were not available as well as a Alaska resident.

(50:27) Carlissa London, property owner of 25 acres west of town - KOA - created the original Recreation Vehicle Zoning District specifically for Polson Motor coach and RV Resort. Concerned the word Condominium has been removed. They are a RV condominium resort you own your spaces. Requested the language condominium go back in the code. Under permitted uses is where it has been changed from Condominium to Vehicle Development. Development is ambiguous and does not want any confusion down the road. Item number four performance standards, land uses, *Recreational bookings* has also been dropped off and feels that also needs to be put back. Landscape buffers and the point system seemed confusing. Chair Shackelford said she felt the development exceeds the buffer requirements. Storage space was discussed and agreed it was a HOA concern. Carlissa commented the Seasonal/Temporary occupancy has been removed in the new Recreational Vehicle and General Campgrounds Zoning District under the current code they are reduced to nine months as a seasonal/temporary District. Page eighty-eight was maybe a typo because it does not add up to one hundred percent.

(1:07:29) Dennis Duty, Hellroaring Rd- Medium Residential Zoning District – multi- family units portion states they must have direct traffic to collector streets and not channel direct traffic on to local residential streets. Dennis feels it is up to discretion because the definition of a Local vs Collector are so similar. He feels there may be instances where multi-family residences might be coming on to a small street considered a local but then quickly going on to a collector street. It should say recommend not must because it may only be a short distance. 500 Average Daily Trips triggering a Special Use Permit. Using Taco Bell as a perfect example. Dennis said the whole SUP process was undue delays on the project. There was not any public input on the project. He questioned what safe guard you could have. If they meet the requirements, you cannot deny a SUP. Dennis has been against the Special Use Permit process all along. Agrees a 20,000 sq. ft. and a 1000 ADT can have a SUP that is a compromise. Do not make it more difficult for projects to come into the Highway Commercial Zone. Requested to reconsider the 1,000 back to 500 ADT. Agrees removing “no strip”. Currently there is not any side yard setbacks in the HCZD. Five feet side yard setback has been added to the zone. Dennis is opposed to the five-foot set back and said you should be

able to have a common wall. It is being done all over the country. Resort Zoning regarding four units vs. eight, Dennis said he feels it is a long process. If you meet the Development Code and the performance standards what does it matter if it is eight units or four, there are so many restrictions you already have to meet why make it more difficult. Dennis is opposed to fifty-foot lakeshore setback in RZD. Resort Zoning is design for density. Regulations are so strict on stormwater with DEQ and EPA. They would have fewer issues with the lake on controlled stormwater systems than fertilizers with the lake. View corridors- again taking away the ability to do a development based on design – well I have to do this where there is twenty-five percent view corridor. City of Polson has parks, huge highway frontage that has views, people who want to ride their bikes can see the lake. You are taking away the property rights by making people, having to make these restrictions, artificial five feet here and five feet there for the Planning department to make the twenty-five percent. It is not doing the lake any good. It is just a restriction trying to make life more difficult at five feet height. Does not make any since. Dennis does not agree with the twenty-five feet view corridor at all. Maximum lot coverage in Resort Zoning District. This is a zoning district set up for density. Single Family can only have thirty-five percent lot coverage, MRZD fifty-five percent, Understands but does not agree with it. When you get into more of a commercial design fifty-five percent is not a fair number. It needs to be at least seventy or seventy-five percent. DEQ and EPA make you deal with storm water. Dennis is opposed to parking spots required per square footage for drive-thru restaurants. A regular restaurant requires one parking spot per 100 sq. ft. A drive-thru needs less sq. ft. per parking spot. A Drive-thru has less need for parking. Should be at least the same as a regular restaurant.

(1:23:01) Lee Manicke 901 5th Ave E – Said it should not matter whether you live in or out of the districts. Property owners living within one hundred and fifty feet of the zoning opinions, comments and concerns should carry the same weight. Please take that into consideration. Lee said he is not a developer and lives more than one hundred and fifty feet of the proposed transition zoning but still wants the board to take some things into consideration. Lee compared the new Low Residential Zoning District to the proposed Transitional Residential Zoning District. LRZD has a minimum lot size of seven thousand square feet and TRZD is five thousand and down to four thousand with a special use permit. LRZD minimum lot width is fifty feet and TRZD lot width is forty feet. Front yard is thirty feet in LRZD and twenty feet in TRZD. Side yard setbacks are both five feet unless multi family. LRZD rear set back is fifteen feet and TRZD rear set back is 15 if not abutting an alley or five feet if abutting an alley. Both maximum height is thirty five. LRZD maximum lot coverage is forty percent, forty five for cluster development and goes to sixty-five percent lot coverage and seventy-five percent for block conversions in TRZD. Lee said the Board needs to take into consideration page one of what the purpose of the Polson Development Code is. He read Lesson congestion on streets; prevent overcrowding of the land; and protect the rights of the property owners. Lee feels the reductions being made do not meet those requirements. He suggested the Board take that into consideration. Lee feels the statement in the staff report stating there are already *many commercial developments* in the area is not correct. Lee counted 41 lots and maybe six are commercial. Permitted uses is a four-plex. For apartments and parking are up to eight parking spots needed for a four-plex. The staff report states the potential for parking impact is minimal, he questions if that is the case because employee and customer parking would be on the street.

(1:29:02) Lita Fonda, 606 2nd St W –lives in current MRZD, hoping will become OTZD. She has given the board written submission on concerns and comments. Fourth Avenue may have other options with another zone that may be more acceptable than TRZD. Lita said the 2006 Growth Policy talks about more affordable housing and mentions the areas which she is hoping to become OTZD already provides a source of affordable housing. Regarding Average Daily Trips, Lita stated she is fine with 500. The lakeshore regulations are currently 50 feet. Ten page comments submitted by Lita was highlighted starting with page 2 regarding parking needing clarification in the parking off alleys for older single-family residences, the described driveways do not make sense. Sec 3 FF.4 and 5 existing accessory dwelling units that are nonconforming cannot be expanded in size, III.FF.7, Temporary nonconforming uses, surfaces or structures. Giving example as having a gravel yard (being temporary -stuff will grow in it) you cannot go and pave it. Definitions all together at the back was suggested. OTZD 5th Avenue West historically known as Silk Stocking Avenue The new MRZD tends to be better for the new developing neighborhoods and

those with a different style of layout. OTZD is for the well established neighborhoods with the access in the alleys. Note - OTZD does not intend for the area to go on the historical register. Helps preserve protect and prevent harm. OTZD would be a tool to do so. Concerns with infrastructure, roads and parking. Changes on parking coming in are two parking spaces for main residence and less for assessor dwellings. Already problems with current Code not being enforced. One hundred and thirty lots in the entire district and eight to ten lots with main dwelling with accessory units. Discussion on the long time vacant lot located on the South West corner of first street West and fourth Avenue West. Never to be used for a single-family residence and better use for business. Lita feels first Street West is a good divider for Zones. Cars drive fairly fast and feels the zoning is doing its job by keeping single family residence separate from Central Business.

(1:45:03) Monte Garrnett, 502 fifth Avenue West, Proponent for OTZD- concern with second dwellings on a seven thousand sq. ft. lot. Both dwellings are rentals. There is a lot of change over, many dogs, more people in the space than it should hold, a lot of parking in the alley and blocking of the alley. It is a big problem with fire access for trucks and cars blocking the alleys. Monte's opinion is the more space for people to have yards, gardens, and living space the quality of life to be maintained is a good thing. On busier streets he is not opposed to businesses.

Beth Smith 902 13th Ave E- Property owner at 605 5th Street West- Stated special use permits coming into residential neighborhoods affect homeowner's quality of life. She asked the Board to think about using more transitional zonings as buffers.

(1:48:17) Cort Potter, builder and partner in land ownership in Polson, Area adjacent to softballs fields. Use to be Trailer Park. Would like to build townhomes in MRZD which is currently not allowed. Already duplexes and eight-plexs. Buildinging something people can get into at a reasonable/affordable price. Cort is pushing for townhomes/ownership in MRZD.

(1:50:38) Close public hearing on Zoning Regulations and Zoning map Draft PDC 2016

(1:50:51) Open Public Hearing on Subdivision Regulations Draft PDC 2016
City Planner, Kyle Roberts commented on the staff report and how it outlines the Development Code and how the Subdivision Regulations and Platting Act are in complies with the subdivision state statues. Land Solutions, David DeGrandpre, wanted the Board to be aware of a court case out of Ravalli County. The Legacy Ranch case. It was only District Court so it is not law in essence, but Polson will be well advised to be aware of. Subdivision approvals are only valid for up to three years. The governing body can extend those approvals for quite a bit longer but there are two sections in the draft subdivision regulations where this is pertinent. They are the phased subdivisions on page 167 and over development plans pages 167-171- for larger scale projects. Thinks these do not comply with the legacy ranch case and so if the Board is going to make a recommendation to the City Commission the - time periods for approvals in a phased subdivision and overall development sections should be looked at prior to the City Commission. No Questions from the Board.
Open Public Comments. None
Closed Public Hearing on Subdivision Regulations Draft PDC 2016
Public Comments on
(1:56:) Mike Lies commented on the signed petition from the residents in the proposed Transitional Residential Zoning District on and around fourth Ave East. Mike suggested the Board takes a close look at changing the zoning back to LRZD. Sam Jacobson suggested when Fourth Avenue is rebuilt the zoning can be readdressed. There are six non-conforming business in the area. Dr. Bulls office and Mann Mortgage should be moved into Highway Commercial. They both have highway frontage. The Chiropractor is in noncompliance with their permit, there is the Wellness nature path, a Daycare and a couple multifamily rentals that do not comply with LRZD. These would all be complaint driven to get something done with them. Sam feels Fourth Avenue should not have on street parking.

(2:01:52) City Manager, Mark Shrives asked the Board to make some initial decisions on the fourteen hot topic items from the staff report. He is not aware of any new items or comments. The goal is to refine the list and get a good product to the next City-County Planning Board.

(2:04:01) Cort Potter, Builder- noted some of these areas such as the Old Town District, the housing is not that great. There are some great old structures that may be worth keeping forever but there are others that will need torn down in ten or so years and you are limiting what can be done with them in the future. Are there going to be people who will want to rebuild a single-family residence in that area.

Lita stated the name Old Town Zoning District is deceptive. The name and the purpose. The old town is refereeing to the layout with the garage access in the alley. Lita questioned if a townhome was built and then needed torn down how does that lot get split

David Simons Jr City Building Official commented on communal property with Townhomes. In the Code, it says the property can be communal. David clarified accessory dwelling (living space) or accessory unit (shop/garage). It sounds like the secondary dwelling some are not wanting.

(2:10:04) The Board discussed the fourteen issues/comments from the staff report based off the previous public hearing January 26, 2016 and written comments. They made recommendations on the items they felt comfortable with. For number one they chose option b. To remove the TRZD on fourth Ave E and propose to keep the area's current LRZD and MRZD designations. 2. Change Average Daily Trips per day back to 1,000 to trigger a Special Use Permit. Dave DeGrandpre noted - Large-scale developments on page 85 needs to be consistent. The numbers need to match. 3. 'No Strip language option b; eliminate the heading *no strip and bold the first sentence.* The Board skipped number four because of the road language on street titles. Number 5. Condominium ownership was just clarification, 6. They agreed with the staff recommendation; that shared off-street parking be permitted in the RZD and HCZD districts. The Board skipped making a recommendation on seven for more public comments. Dave DeGrandpre commented on options discussed for different districts for residential housing. Looser or more flexible options for more housing, different types of housing, multifamily, originally proposed looser standards than the Old Town. Do you want to try to encourage different types of housing or keep it the way it is? Joslyn questioned Pat DeVries comments on the Central Business District, the Old Town Zoning District and seventh Avenue East and why the zones are split a by lot and not a street or alley. OTZD was skipped for next meeting. Number eight - Performance Standard – Circulation in Off –Street Parking Areas- the Board agreed with the staff recommendation. The Board skipped number 9 as well as number ten, eleven, twelve and thirteen. Number fourteen the Board chose staff recommendation B to allow townhouses in MRZD.

The Board agreed to table eight of the fourteen concerns for more public input and made resolution on the other six concerns for the next public hearing March 8.

(2:55:55) Meeting Adjourned 9:08 p.m.

_____
Chair Joslyn Shackelford

_____
ATTEST: Beth Smith, Planning Technician

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City-County Planning Board
and City of Polson Zoning Commission Meeting Minutes - *Draft*
Public Hearing Zoning & Subdivision Regulations
Tuesday March 8, 2016
City Hall Council Chambers—6:00 p.m.

Members of the Board Present: Mark McGuyer, Mike Lies, Tim McGinnis, Lou Marchello, Gil Mangles, Dave Rensvold and Sam Jacobson
Members of the Board Absent: Merle Parise, Joslyn Shackelford
Staff Present: City Planner, Kyle Roberts, City Manager, Mark Shrives, County Planner, LaDana Hintz and City Planning Technician Beth Smith
Public Present (who voluntary signed in): Ken Siler, Dennis Duty, Lucy McCrumb, Noma Giffin, William Smith, Richard Giffin, Lisa Hochmann, Lita Fonda, Lee Manicke, and Elsa Duford

Order of Business: Draft Polson Development Code 2016 - Public Hearing

(00:05) 6:00 PM~ Roll call was taken and Vice Chair Lou Marchello led the Pledge of Allegiance. Board member Tim McGinnis motioned to move agenda item number seven, the amendment to Special Use Permit #15-02 up to number five after the approval of the January 26, 2016 meeting minutes. Motion received a second. No discussion from public or board. All in favor. Motion carried. Tim McGinnis motioned to approve January 26, 2016 meeting minutes. Motion received second. No discussion from board or public comment. All in favor. Motion carried.
(02:02) Amendment to Special Use Permit #15-02 Polson Youth Soccer Association: City Planner, Kyle Roberts presented the amended staff report to the Board stating the main change is the driveway. It will be one forty foot ingress/egress, where originally it was proposed two twenty foot driveways with egress west of the Mission Valley Aquatics and ingress east of the MVA property. The forty-foot wide driveway with ingress/egress to the West of MVA. There is an Easement Agreement with PYSA and Cougar Ridge Development, LLC. Portable toilets will be used until water and sewer are available to the property and during tournaments. Rick Smith, soccer board member, stated it made since to have one forty foot easement agreement for one access verse two. They planned to seed this spring and have received funding for the concession stand. Lou Marchello asked what the time line was to have the fields available. Rick stated there was a process and the plan is to seed this spring. He believed after five cuttings the fields would ready. He felt the fields probably would not be ready this fall. The PYSA Board agreed not to take short cuts and to get good sustainable fields there needs to be five cuttings. Gil Mangles questioned the paved driveway and whether there would be a centerline. Rick stated the easement/driveway would not be paved right away. He asked if it would be chip sealed. Rick said no they would be graveling the parking lot and driveway and providing dust control. Mike Lies questioned why the City of Polson was on the Easement Agreement B. Kyle stated it was a new condition of approval for the City of Polson not be a part of the easement agreement. Gil Mangles stated concern over dust and felt dust control does not work. Rick Smith said the PYSA Board is prepared for dust control. (12:03)**Sam Jacobson motion to recommend approval of the amendment to PYSA SUP #15-02. Gil Mangles second.** No Board discussion. Public comments: (12:25) Lee Manicke commented on the ten-foot landscape buffer to the East side of the easement between the driveway and the pool. Lee questioned what was going to go in there and who would be responsible for taking care of it. He felt now was the best time address it. Apparently, it stays with Cougar Ridge. No comments or questions from Board or staff. All in favor. Motion carried.

(13:17) Open Public Hearing on Zoning Regulations and Zoning Map Draft Polson Development Code 2016: 6:14 p.m. Kyle Roberts presented staff report Public Hearing #2, March 8, 2016 Part I. Addressing public comments received at the February 16 public hearing as well as the issues from the January 26 public hearing that were tabled for further discussion. The CCPB reached consensus on six of the fourteen

issues – two of the fourteen issues were resolved through clarification. The consensus of the CCPB was to:

- Remove the proposed TZD for 4th Ave East, and propose to keep the area's current LRZD and MRZD zone designations.
- Revert to the threshold of 1000 ADT to trigger a Special Use Permit in the HCZD. Previously proposed was 500 ADT.
- Eliminate the header 'No Strip' from the HCZD performance standards.
- Permit shared off-street parking in RZD and HCZD.
- Insert staff-recommended code language to permit two-way circulation for angle parking I off-street parking areas.
- Modify some MRZD specification standards to allow for townhouses.

The following items were up for further discussion. 1. Side Yard setbacks in Highway Commercial Zoning District (HCZD); 2. Minimum off-street parking space standards-Drive Thru restaurant parking; 3. Medium Density Residential (MRZD) performance standard-multiple-family dwelling complex street access; 4. Recreational Vehicle & General Campgrounds Zoning District (RVZD)-Permitted uses; 5. Creation of Old Town Zoning District; 6. Resort Zoning District (RZD) – View Corridors; 7. Resort Zoning District (RZD) - Maximum Lot Coverage; 8. Resort Zoning District (RZD)-Minimum setback from Lake, River, or stream (shoreline buffer); 9. Resort Zoning District (RZD)-Multiple-family dwelling up to 8 units per structure; 10. Resort Zoning District (RZD) –rezone along riverfront (5th Avenue W.-6th Avenue W.)

(39:58) Open Public Comments on Zoning Regulations and Zoning Map Draft Polson Development Code 2016: 6:39 p.m.

(40:08) Bill Smith, property owner, Old Town Zoning District – He questioned an apartment above a detached garage and if it would be grandfathered in. It is allowed in MRZD, but not in the new zone Old Town. Tim McGinnis asked if it was destroyed could it be rebuilt. The answer was no. Tim questioned Bill if he was opposed to the zoning of Old Town and he said yes. Bill asked for clarification on whether or not two residential units could be built on one lot. The answer was no you cannot in the proposed OTZD.

(44:30) Lita Fonda, 602 2nd Street West: Tried to clarify for Bill that the current code only allows for one dwelling unit on a lot. If you have a larger lot, you can then have an additional attached dwelling. On special uses, she mentioned they happen in residential areas also. Lita said the new code was aimed at having a bit more discretion for something that may not be the right fit for the District. There is a bit more ability to deny a Special Use Permit. Lita appreciated the staff report. As a Citizen number seven maximum lot coverage in Resort Zoning District. The zone is located along the Cities greatest assets the river and the lake. Lita feels 55% is a reasonable number for that area. Lita feels the fifty foot set back from the lake, river or stream is a good recommendation. She also feels the recommendation on number nine is a good recommendation to keep the units at up to four units per structure and special use permit for multiple family 5 to 16 units. She missed the change on highway commercial setbacks when it went from twenty feet to five. She made note regarding the highway commercial butting up to other districts and feels it should be more like twenty feet not five if the commercial property abuts to a residential district. On multiple family dwelling complex street access stay with connector streets rather than local.

(53:03) Dennis Duty, Hellroaring Road: understands everyone is not in agreeance. Side yard setbacks in HCZD. Dennis agrees with the recommendation. He thought five feet was reasonable. Dennis agreed with the staff recommendation number one regarding the minimum off-street parking space standards–drive-thru restaurant parking. Dennis agrees with the staff recommendation for number three MRZD-Multiple-family dwelling complex street access. No comments on RVZD or OTZD. Dennis is against retaining the twenty-five percent view corridors in RZD. Feels the requirement does not help with charm nor does it allure. The Resort Zoning was designed for density. The more people you can get down town the better it

is for downtown. Dennis disagrees with the recommendation for the fifty-foot setback on the lake, river or streams. On Number nine Dennis questioned what public comment impact would be more on four units or eight. If you follow the PDC and the performance standards there is not a denial you can do. Dennis feels eight is not an unreasonable number for per structure. He asked for clarification on page 23 on the sixteen units needing to refer to a Multi-family structure.

(1:02:39) Lee Manicke stated it has been seven years and two months to the date that the Draft PDC has been worked on. Lee feels there is a misconception on direct access. Number three Multi-family dwelling complex street access. Lee used the apartment/condominiums across the street from the Library as an example. They have direct street access. Another concept would be who does not have direct access and that would be Cherry Hill apartments or the Lakeview Village, they have an internal road. Lee believes the intent with the old code and the new code is if there are more than eight units, they will have an internal street /road. He requested the board to think about anything over eight units that they have their own road. Regarding the Transition Zoning in the area of the Library and Dental Clinic. Lee suggested staff checks into that TRZD area, which he believes was recently changed to Central Business when the clinic went in. Lee noted the definition of a Local street and a Collector street needs to be clarified and has not been done yet in the new code. In the old PDC a Local street is defined as fifteen or less residential units on it, over that it would be a Collector.

(1:07:11) Lita Fonda wanted to add that with the accessory dwelling criteria if you wanted to build another unit the owner had to also live there. Lita wanted to note the area she lives in already provides a lot of affordable housing.

Closed Public Hearing on Zoning Regulations and Zoning Map Draft Development Code 2016

(1:08:40) Opened Public Hearing on Subdivision Regulation Draft Polson Development Code 2016
City Planner, Kyle Roberts presented the staff report Public Hearing March 8, 2016 Part II
Public Comments: none
(1:10:35) Closed public comments on Subdivision Regulations
The Board then discussed and made recommendations to the ten items in the staff report part I.
(1:21:16) Sam Jacobson motioned to approve staff recommendation with no side yard setback if the abutting property is HCZD. For all other zones abutting the HCZD property a five-foot side yard setback. Motion received second. All in Favor. Motion Carried.
(1:22:18) Tim McGinnis motioned to approve staff recommendation number two. One parking space per 100 square feet of floor area; minimum of six spaces; stacking spaces in drive-thru lanes may contribute to the parking space requirement. Motion received second. All in Favor. Motion Carried.
(1:28:20) MRZD performance standard-multiple-family dwelling complex street access. Tim motioned to recommend staff recommendation. Motion received second. All in Favor. Motion Carried.
(1:29:25) Sam Jacobson motioned to approval all three points on the staff recommendation for RVZD Permitted uses. Motion received second. All in Favor. Motion Carried.
(1:40:12) Mark McGuyer motioned to recommend approval of item B of the staff report to keep the proposed OTZD and proposed MRZD standards. Motion received second. Discussion. Gil Mangles opposed.
(1:42:47) Tim recommended extending the Central Business Zoning District to the West side of 1st Street West one lot from 7th Avenue West to fourth Avenue West. Motion received second. All in favor. Motion carried.
(1:51:04) Tim McGinnis motioned to not have view corridor in Resort Zoning District. Motion received second. All in favor. Motion carried.
(1:52:47) Mark McGuyer motioned to recommend maximum lot coverage of 80% in Resort Zoning District. Motion received second. Discussion. All in favor. Motion carried.
(1:59:18) Sam Jacobson motioned to recommend 20 foot minimum setback rather than staff recommendation of 50 feet from lake, river, or stream (shoreline buffer) in RZD. Motion received second. All in favor. Motion Carried.

(2:08:28) Sam Jacobson motioned to amend staff recommendation to nine units triggering a Special Use Permit. Allowing eight units per structure for Multiple –family dwellings in RZD. Motion received second. All in Favor. Motion Carried.
(2:12:47) Sam Jacobson motioned to approve the rezoning along riverfront (5th Avenue W. - 6th Avenue W.) from MRZD to RZD. Motion received second. All in favor. Motion carried.
(2:13:43) Dennis Duty requested clarification on special uses for 16 units per structure, whether it applies to Mixed Resort Commercial and multiple-family residential. He does not want to restrict Mixed Resort use to 16 units maximum per structure. He discussed commercial above and residential below. David DeGrandpre discussed with the board special uses on page 23 of the Draft Polson Development Code 2016 by adding an asterisk after and say mixed resort not limited to 16 units. Dennis agreed he wanted clarification. Not an amendment just a clarification was noted.
(2:16:46) Tim McGinnis motioned to recommend approval of the Zoning Regulations and Zoning Map Draft Polson Development Code 2016, Motion received second. Discussion on housekeeping regarding Shoreline Buffers. Everything is 50 feet except RZD. On page 73 change to 20 feet in RZD. All in favor. Motion Carried.
(2:19:22) Tim McGinnis motioned to recommend approval of the Subdivision Regulations Draft Polson Development Code 2016. Motion received second. All in Favor. Motion Carried.

Public Comments Not on the Agenda:

(2:19:55) City Manager, Mark Shrives thanked the City-County Planning Board members for all their hard work over the years. He asked some board members to attend the City Commission meeting for the first reading to adopt the Ordinance for the Development Code on March 21, 2016. The second reading on the Ordinance is planned for April 4, 2016.

Meeting Adjourned 8:20 p.m.

_____
Vice Chair Lou Marchello

_____
ATTEST: Beth Smith, Planning Technician

Duffey Land Surveying

PO Box 531 * Polson, MT 59860
883-1727 or 885-6727
duffeysurvey@gmail.com

March 1, 2016

TO: Kyle Roberts, City Planner

RE: Shrives Application for Special Use Permit

Dear Kyle:

Steven & Nathalia Shrives are the record owners of the subject property (see included warranty deed for legal description). The property is within the City of Polson's Resort Zoning District and is located at 50578 US Highway 93 across from Richwine's Burgerville. There are two existing dwellings on the property. The Shrives are proposing to add four cabins to the site. The cabins and the houses could be rented nightly, weekly or monthly. This proposed use falls under the definition of Hotel/Motel and is considered a Special Use under the RZD Zoning.

The attached site plan shows the existing houses along with the four proposed cabins. Access will utilize the existing approach off US Hwy 93. A paved drive and parking areas are proposed. City water and sewer are existing on site along with electric power. All new electric lines are proposed to be installed underground. Please call with any questions regarding this proposal.

Respectfully,

Jack Duffey, PLS
Agent for Steven & Nathalia Shrives

106 1st Street E., Polson, MT 59860
406-883-8200 Fax 406-883-8238
www.cityofpolson.com

City of Polson

APPLICATION FOR SPECIAL USE PERMIT

PROPOSED USE: Hotel

OWNER(S) OF RECORD

Name: Steven & Nathalia Shrirs

Mailing Address: 11948 David Forti Dr.

City/State/Zip: El Paso, TX 79936 Phone: shriress@gmail.com

PERSON(S) AUTHORIZED TO REPRESENT THE OWNER(S) AND TO WHOM ALL CORRESPONDENCE IS TO BE SENT.

Name: Jack Duffey, PLS

Mailing Address: PO Box 531

City/State/Zip: Polson, MT 59860 Phone: 885-6727

LEGAL DESCRIPTION OF PROPERTY (Refer to Property Records)

Street Address: 50578 US Hwy 93 Sec. No. 3 Town-ship 22N Range No. 20W

Subdivision Name: _____ Tract No(s). _____ Lot No(s). _____ Block No. _____

1. Zoning District and Zoning Classification in which use is proposed:
   RZD

2. Attach a plan of the affected lot which identifies the following items:

   a. Surrounding land uses. ✓
   b. Dimensions and shape of lot. ✓
   c. Topographic features of lot. ✓
   d. Size(s) and location(s) of existing buildings ✓
   e. Size(s) and location(s) of proposed buildings. ✓
   f. Existing use(s) of structures and open areas. ✓
   g. Proposed use(s) of structures and open areas. ✓
   h. Existing and proposed landscaping and fencing. ✓

APPLICATION FOR SPECIAL USE PERMIT Cont.

3. On a separate sheet of paper, discuss the following topics relative to the proposed use:
   a. Traffic flow and control. _____
   b. Access to and circulation within the property. _____
   c. Off-street parking and loading. _____
   d. Refuse and service areas. _____
   e. Utilities. _____
   f. Screening and buffering. _____
   g. Signs, yards and other open spaces. _____
   h. Height, bulk and location of structures. _____
   i. Location of proposed open space uses. _____
   j. Hours and manner of operation. _____
   k. Noise, light, dust, odors, fumes and vibration. _____
   l. Drainage and Stormwater runoff management plan _____

4. Attach supplemental information for proposed uses that have additional requirements (consult Planner).

During the course of review of the application and after final determination by the City of Polson, the Owner/Developer hereby agrees to hold the City of Polson harmless from all claims, expenses, costs and attorney's fees that may arise as a result of the actions or process taken by the Owner/Developer. This "hold harmless" responsibility does not indemnify the City from its acts of negligence, violation of codes or ordinances, or defense of its codes or ordinances.

I hereby certify under penalty of perjury and the laws of the State of Montana that the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as a part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be incorrect or untrue, I understand that any approval based thereon may be rescinded, and other appropriate action taken. The signing of this application signifies approval for the Polson Planning staff to be present on the property for routine monitoring and inspection during the approval and development process.

DISCLAIMER: The Applicant for this Special Use Permit is fully aware of and agrees to the review of the application under the terms and conditions of the proposed Amended Development Code of the City. This review is performed on behalf of Applicant to prevent delay or re-review under the existing Development Code. In the event, the Amended Development Code is not adopted by the City within sixty (60) days from the date of Application, the Applicant may proceed under the terms and conditions of the existing Code.

Jack Duffy — 3/1/2016

Applicant Signature — Date

Agent for Shrives

APPLICATION FOR SPECIAL USE PERMIT Cont.

3). On a separate sheet of paper, discuss the following topics relative to the proposed use:

a. **Traffic flow and control:** Traffic will enter off Highway 93 utilizing the existing approach. The existing paved drive will be utilized. Paved parking areas will be provided for each propose cabin. This will keep the drive open and allow for vehicle turnaround. An existing turnaround area is located on the south side of the north most house.
b. **Access to and circulation with the property:** Access is off an existing approach to Highway 93. Vehicles will utilize the existing drive and new parking areas are proposed for off road parking.
c. **Off-street parking and loading:** Off street parking is provided at each proposed cabin. No regular or continuous truck loading or unloading is anticipated.
d. **Refuse and service areas:** Multiple collection containers are proposed for garbage collection. No service area proposed.
e. **Utilities:** Electric service is existing along the west boundary of the property. City water is existing along Highway 93. An existing City sewer line is located across the northern portion of the property. Developer will work with the City's Water & Sewer Dept. regarding any new connections.
f. **Screening and buffering:** The existing grass lawn will continue to serve as a shoreline buffer. Trees may be planted between cabins to provide shade and screening.
g. **Signs, yards and other open spaces:** A sign is proposed along the highway frontage advertising the cabins. Grass areas between and around structures are proposed. There is a large open space between the north most house and the lake. This area of the property will remain as open space.
h. **Height, bulk and location of structures:** All existing and proposed structures are shown on the site plan. Proposed building heights of new cabins is 16ft to 20ft. The four proposed cabins are 20ft wide by 30ft long.
i. **Location of proposed open space uses:** An open space exists between the north most house and the lake. This open space will be used as a picnic and recreation area for the people utilizing the lodging.

j. **Hours and manner of operation:** Office hours 7 am to 9 pm. Person on site to collect rent and prepare cabins for occupation.
k. **Noise, light, dust, odors, fumes and vibrations:** Noise should be minimal with ordinary noise levels associated with human occupancy. Side-shielded outdoor lights on each cabin. No dust, odors, fumes or vibration anticipated for proposed use.
l. **Drainage and Stormwater runoff management plan:** All surface runoff from new construction will be contained on site. Downspouts from new cabins will connect to infiltrator chambers with perforated pipe to retain runoff. Ditches and swales will be utilized to retain runoff from newly paved areas.

FEE
AGREEMENT

Dear Applicant/Developer:

Please be advised that you are responsible for any and all fees incurred from the City contract engineering firm, per Resolution #942, effective February 21, 2007. These fees begin with the Pre-Application through Final City Council Approval, including inspections. The fees also include any contact or requests from the Applicant/Developer or any person working with the project directly to the City Engineer.

Also, per Resolution #942 there will be an administrative surcharge of 5% to defray the administrative costs hereof, from the requestor, pursuant to the preceding acknowledgement.

Per Resolution #942, paragraph 4: No project or request may move forward thereafter until such time as the City department has been reimbursed the fee and/or cost, together with the five percent surcharge, associated with the City's engineering review of such project or request.

ACKNOWLEDGEMENT

I do hereby acknowledge and accept any and all costs incurred on behalf of the application/development as state in the above paragraphs.

Jack D Wlz _____ Date: 3 / 1 /20 16

Signature of Applicant

Agent for Shrives

Owners within 150 feet of subject property:

9071 S3-T22N-R20W TR-A COS 3259 Brian Rayle, 418 Edith Street, Missoula, Montana 59801

8413 S3-T22N-R20W Remainder COS 3259 Ralph Kirscher, 3922 Bellecrest Drive, Missoula, Montana 59801

9125 S3-T22N-R20W TR-B1 COS 4493 Phillip Donahue, 254 Eden Road, Great Falls, MT 59405

8485 S3-T22N-R20W Tracts in Gov't Lot 1 Linda L. Kosvic Trust Agreement, 18100 Honeysuckle Ln, Wayzata, MN 55391

8812 S3-T22N-R20W TR in SE4SE4 Lucille E. Richwine Trust, 921 11th Street E, Polson, Montana, 59860

9137 S3-T22N-R20W TR-A H-617 Missoula Holdings LLC, 600 Main Street, Butte, Montana 59701

23099 S3-T22N-R20W Unit 2, Narrows Revised Condominium Subd. Michael Bray, 4075 Kaleigh CT, Missoula, Montana 59803

23100 S3-T22N-R20W Unit 3, Narrows Revised Condominium Subd. Thomas Yost, 11071 Sixty Six Ln, Missoula, Montana 59808

23098 S3-T22N-R20W Unit 1, Narrows Revised Condominium Subd. Dirk & Beverly Kenfield, 617 Anglers Bend Way, Missoula, Montana 59802

23101 S3-T22N-R20W Unit 4, Narrows Revised Condominium Subd. James A. Noe, PO Box 373, Red Lodge, Montana 59068

23102 S3-T22N-R20W Unit 5, Narrows Revised Condominium Subd. Jamie & Patrick Darbo, 3015 Erwin Ave, Bozeman, Montana 59715

23103 S3-T22N-R20W Unit 6, Narrows Revised Condominium Subd. Geraldine Arnold, 8031 Anchor Dr., Longmont, CO 80504

542488 DEED Pages: 3
STATE OF MONTANA LAKE COUNTY
RECORDED: 07/20/2015 4:52 KOI: DEED
PAULA A HOLLE CLERK AND RECORDER
FEE: $21.00 BY: Wanda R. Rost, Dep.
TO:

After recording return to:

Steven J. Shrives and Nathalia Shrives
11948 David Forti Dr.
El Paso TX 79936

545036 PO

WARRANTY DEED
TO JOINT TENANTS WITH RIGHT OF SURVIVORSHIP

THIS INDENTURE Is made the 15th day of July, 2015, by and between, **PAUL LAKEHOUSE, LLC**, 1663 Holland Lake Rd., Condon, MT 59826, **Grantor**, and **STEVEN J. SHRIVES** and **NATHALIA SHRIVES**, as Joint Tenants with Right of Survivorship, 1111 Austin Way, Unit 5303, San Antonio, TX 78209, **Grantees.**

WITNESSETH:

That the said Grantor, for and in consideration of the sum of **TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION**, lawful money of the United States of America to Grantor in hand paid by the said Grantees, the receipt whereof is hereby acknowledged, does by these presents grant, bargain, sell, convey and confirm unto the said Grantees, as joint tenants and to the survivor of said named joint tenant, and not as tenants in common, and to the heirs, successors and assigns of the survivor of said named joint tenants forever, all that certain lot, piece or parcel of land, situate, lying and being in the County of Lake, State of Montana, and particularly described as follows:

LEGAL DESCRIPTION

A tract of land situate and being in Lot 1 of Section 3, Township 22 North, Range 20 West, P.M.M., more particularly described as follows:

Beginning at a point which is South 89°50' East 75.7 feet and North 0°02' West 30 feet from the Southwest corner of Lot One of Section 3, Township 22 North, Range 20 West, P.M.M.; thence North 0°02' West 556.1 feet to the meander line of Flathead Lake; thence North 73°00' East 75 feet; thence South 0°02' East 578 feet; thence North 89°50' West 71.7 feet to the point of beginning.

LWR

542488

Excepting therefrom those lands heretofore conveyed to the State of Montana by Instrument dated August 25, 1956, recorded October 11, 1956 in Book 46 of Deeds, Page 72, records of Lake County, Montana. And that portion conveyed to Lake County by Deed recorded July 14, 1925, as Book 3 of Deeds, Page 138.

Recording reference: Instrument No. 454506

SUBJECT TO AND TOGETHER WITH Covenants, Conditions, Restrictions, Provisions, Easements, Reservations, Encumbrances and Matters apparent or of record.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions, remainder or remainders, rents, issues and profits thereof, and also all the right, title, interest and right of homestead property, possession, claim and demand whatsoever, as well in law as in equity of the said Grantor of, in or to the said premises, and every part and parcel thereof, with the appurtenances. **TO HAVE AND TO HOLD**, all and singular, the above mentioned and described premises, together with the appurtenances unto the said Grantees, as joint tenants with right of survivorship, and not as tenants in common, and to the heirs, successors and assigns of the survivor of said named joint tenants forever.

And the said Grantor and Grantor's successors and assigns, do hereby covenant that they will forever **WARRANT AND DEFEND** all right, title and interest in and to the said premises, and the quiet and peaceable possession thereof unto the said Grantees, as joint tenants with right of survivorship, and not as tenants in common, and to the heirs, successors and assigns of the survivor of said named joint tenants, against the acts and deeds of the said Grantor and all and every person and persons whomsoever, lawfully claiming or to claim the same.

IN WITNESS WHEREOF, the said Grantor has hereunto set its hand and seal the day and year first above written.

PAUL LAKEHOUSE, LLC

X Susan Holmes

SUSAN HOLMES, Managing Member

Shawn Holmes

SHAWN HOLMES, Member

SITE PLAN

Warranty Deed No.542488

Located in Gov't Lot 1, Section 3, T22N, R20W, Lake County, City of Polson, Montana

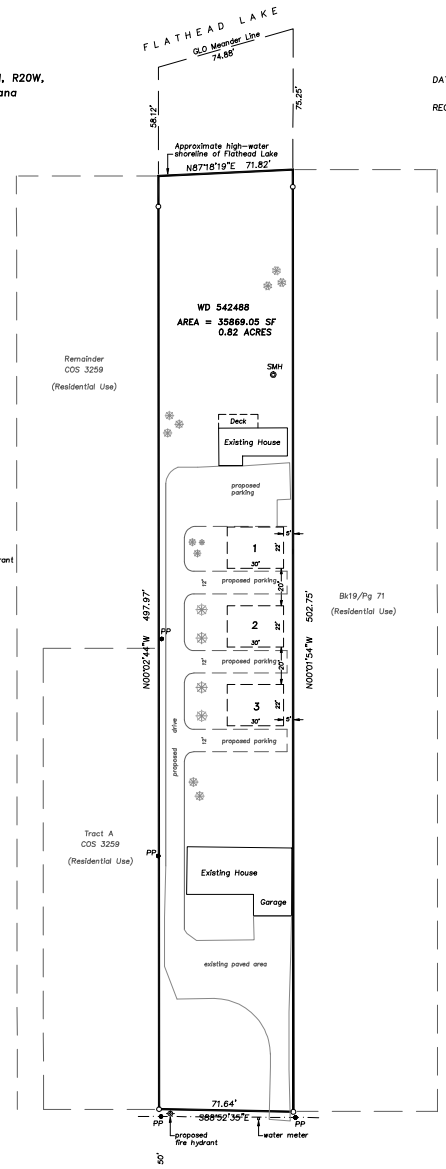
DATE OF SURVEY: FEBRUARY, 2016

RECORD OWNER: STEVEN & NATHALIA SHRIVES

Existing Zoning: Resort Zoning District

- Proposed use: Hotels
- Maximum lot coverage = 80%
  35869.05 x 0.80 = 28,695.24 sf

  Proposed lot coverage:
  Structures = 4,800 sf
  Drive and parking areas = 9,458 sf
  Proposed total lot coverage = 14,258 sf
- Average slope of property is 8% sloping from south to north



SCALE: 1"=30'

30' 15' 0 30' 60'

LEGEND

- FOUND PROPERTY CORNER OR MARKER
- EXISTING POWER POLE
- PROPOSED TREE
- PROPOSED 22'x30' CABIN

DUFFEY LAND SURVEYING
PO Box 531 * Polson, MT 59860
406-883-1727

2016\Shrives\Site rev3 Revised 3-29-16

STAFF REPORT
Polson City-County Planning Board
Tuesday, April 12, 2016 at 6:00 PM
Polson City Council Chambers
Special Use Permit for the proposed Cabin-style Hotels

GENERAL INFORMATION:

Property Owner:	Steven and Nathalia Shrives 11948 David Forti Drive El Paso, TX 79936 shrives@gmail.com
Applicant:	Jack Duffey, PLS PO Box 531 Polson, MT 59860 406-885-6727
Technical Assistance:	Jack Duffey, PLS PO Box 531 Polson, MT 59860 406-885-6727
Applicant Number:	SUP #16-01
Application Type:	Special Use Permit for new development in RZD
Date Application Received:	3/1/2016
Date of Site Review:	3/10/2016

APPLICABLE REGULATIONS:
- Polson Development Code
- Resort Zoning District (RZD)
- Polson Growth Policy
- Montana Dept. of Environmental Quality (Stormwater and MFE standards)
- Polson Building Code

PUBLIC NOTICE:
Lake County Leader: 3/24/2016
Notices for mailing to adjoining property owners: 3/21/2016
Staff Report completed: 4/4/2016

WRITTEN PUBLIC COMMENTS: See attachment

PROPOSAL: The applicant is requesting a Special Use Permit to construct three cabins on site. The cabins and the existing houses could be rented nightly, weekly, or monthly. This proposal includes the construction of three cabins, with building footprints of 660 (30’ x 22’) square feet each and proposed building heights of 16

to 20 feet. There will be a grand total of six parking spaces (two spaces per cabin). The cabins and associated parking areas will be constructed in the area between the two existing houses along with a proposed drive running north-south along the western end of the property. An existing turnaround located on the south side of the northern most house will be utilized. Access to the property will be via an existing approach off of US Highway 93.

PROPERTY DESCRIPTION:

The subject property is located at 50578 US Highway 93 (across from Richwine's Burgerville) in Section 3, Township 22 North, Range 20 West, Lake County. The property is zoned RZD and is the suitable zoning district for the proposed use. Per the Polson Development Code, a Special Use Permit approval is required for all new hotel developments in RZD. Although the proposed development is not what many would consider a traditional hotel, the proposed development fits the description of the Polson Development Code's definition of a 'hotel/motel' and therefore is reviewed as such.

The property is under an acre in size (~42,525 sq. ft.) and has an average slope of 8% sloping from south to north. The property has two existing dwellings; the larger of the two is located on the southern end of the lot, and the smaller on the northern portion, approximately 135 feet from the lake.

This proposal does not meet the definitions of a Large-Scale Development because it will not produce more than 1,000 vehicle trips per day.

REVIEW PROCESS:

The Polson City-County Planning Board shall conduct a public hearing on this request and make a recommendation to the Polson City Commission. Once the public hearing is closed, the City-County Planning Board will evaluate the request under the terms of the Polson Development Code for the Resort Zoning District standards and specifications, the Special Use Permit process and other portions of the Polson Development Code as applicable.

The Polson City-County Planning Board shall make a recommendation to approve, deny, or conditionally approve the Special Use Permit to the Polson City Commission. The City Commission is the permit-issuing authority for all Special Use Permits within the city limits.

If the Special Use Permit is denied, the City-County Planning Board and/or City Commission shall specify the codes, standards, regulations, and/or public input that the applicants have not met and note them under 'Findings of Fact.' Consideration of a Special Use Permit application may be tabled for no more than 35 days.

ANALYSIS:

The applicant is proposing to construct three cabins. The applicant had a Site Review Meeting on 3/10/2016 where Planning, Building, Streets, Water/Sewer, and Fire Department were present to review and comment on the proposal. Comments from that Site Review meeting included:

-Traffic will enter off Highway 93 utilizing the existing approach. Per MDOT request, the applicant will file for a change of access permit and widen the drive based on MDOT requirements. Paved parking areas will be provided for each proposed cabin. This will keep the drive open and allow for vehicle turnaround.

-The current shoreline buffer will not be altered or impacted – the existing grass lawn will continue to serve as a shoreline buffer.

-A sign is proposed to be placed along the highway frontage advertising the cabins. A sign application and fee will be required.

-Multiple collection containers are proposed for garbage collection.

-An existing City water line runs along Highway 93 and an existing City sewer line is located across the northern portion of the property. The existing dwellings on the property are connected to City water and sewer. A new water and sewer service line will be installed along the proposed drive on the west end of the property and will branch off to the proposed cabins.

-An open space exists between the north most house and the lake. This open space will be used as a picnic and recreation area for the people utilizing the lodging.

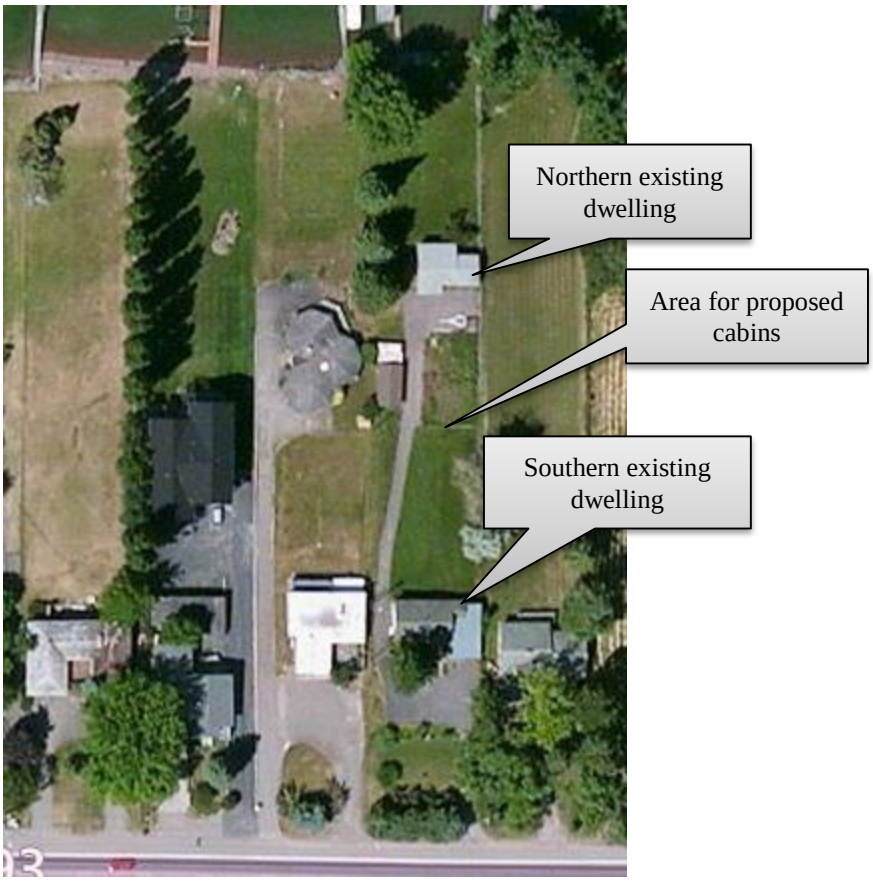
-The proposed site plan depicts supplementary landscaping. Given the scale of this project and that there is existing vegetation, staff feels that the proposed landscaping plan is sufficient. It is recommended that the applicant provide staff with a detailed list of trees/shrubs to be planted.

-It is recommended that cabins have side-shielded outdoor lighting. No dust, odors, fumes, or vibration is anticipated for the proposed use.

-It is projected that office hours will be from 7 AM to 9 PM with a person onsite to collect rent and prepare cabins for occupation.

-The developer will provide buffering along the western property line via fencing and/or hedges.

-All surface runoff from new construction will be contained onsite. Downspouts from new cabins will connect to infiltrator chambers with perforated pipe to retain runoff. Ditches and swales will be utilized to retain runoff from newly paved areas.



FINDINGS OF FACTS:
Primary Review Criteria

Effect on Local Services:
1. The developer will connect to municipal water and sewer systems. The developer pays the cost of connecting and extending. The developer will pay regular water and sewer charges, impact and hook-up fees.
2. The development will receive law enforcement services from the Polson Police Department and fire protection services from the Polson Fire Department.
3. The applicant will develop the driveway from Highway 93 and all of the parking and interior circulation.
4. The developer will be required to contract with the local solid waste removal company for regularly scheduled garbage pickup.

Effect on the Natural Environment:
1. The owners are responsible for managing post development runoff onsite. Stormwater management, drainage and grading plans shall be submitted, and reviewed and approved by the City Engineer prior to construction. No development shall channel surface or irrigation water on to another lot or property.

2. The owners are responsible for weed control and shall prevent the proliferation of weed growth within the property boundaries and their spread to neighboring properties.

Effect on Public Health and Safety:
Based on available information such as FEMA Floodplain Maps and Cadastral Maps, the development does not appear to be at risk to natural hazards such as flooding, high winds, wildfire, nor potential man-made hazards such as high voltage power lines, high-pressure gas lines, or past industrial/railroad use.

EASEMENTS FOR UTILITIES:

1. For public utilities near the property, extension will be at the developer's expense.
2. Legal and physical access is provided by Highway 93.

CONFORMANCE TO ADOPTED GROWTH POLICY:

The development proposal conforms to the Goals, Policies and Objectives as outlined within the Polson Growth Policy adopted by the City of Polson, 2006.

STAFF RECOMMENDATIONS:

After review of the application materials, site plans and site review discussion, the planning staff finds this application meets the requirements of the Polson Development Code and recommends approval of the Special Use Permit with the following Conditions. These Conditions, along with any other Conditions imposed by the Planning Board or City Commissioners, must be met for the approval of this Special Use Permit and to receive a Certificate of Compliance and Certificate of Occupancy.

---

1. Any further modifications or additions to the submitted plans shall be reviewed and approved by the Polson Building and Planning Department. If at any time the applicants, their heirs or assigns propose a major change of use or expansion of the structure/site that is not herein proposed and designated, they shall obtain the necessary applications/permits/approvals through the City processes.

2. Applicant shall apply for and receive building permits from the City of Polson prior to the start of construction of the cabins. Permits shall be on site prior to ground breaking**.**

3. Applicant's drainage and stormwater runoff management plans shall be reviewed and approved by the City Engineer prior to issuance of a building permit. Applicant's drainage and stormwater installation shall be inspected and approved by the City Engineer prior to the issuance of a Certificate of

Occupancy. It may be necessary to complete a SWPP in accordance with *City of Polson Standards for Design and Construction*.

4. The applicant shall develop the driveway for ingress/egress from Highway 93 including the parking lots and interior circulation.

5. Clear vision triangles shall exist at the intersection of the highway and driveway ingress/egress location. The driveway/road intersection shall be designed to safely accommodate the ingress and egress of larger vehicles such as fire trucks.

6. A sign permit and associated fees will be required for the proposed signage.

7. The applicant shall work with the City Water/Sewer department during the installation of the service lines. The developer shall notify the City and pay appropriate fees for hook-ups before a building permit is issued.

8. Developer is responsible for any applicable Impact Fees as determined by the current impact fee schedule (Resolution #2015-17) or any new resolution adopted before an application for a Building Permit is made.

9. LP gas tank, mechanical, plumbing and electrical permits are separate applications/fees. All of these permits are issued by the City of Polson, except for the electrical permit, which is issued by the State of Montana.

10. The City of Polson reserves the right to revoke this permit, terminate or enjoin the use of the structure or property, should the applicants, their heirs or assigns violate the standards of the Polson Development Code, or any Condition on this permit.

11. This Special Use Permit is valid for construction to be completed within three years from the date of issuance. The permit may be extended for a mutually-agreed upon period of time if the applicants request an extension of time prior to the expiration date.

The City-County Planning Board and the City Commission are encouraged to visit the site, ask questions and request additional information (if necessary) from the Planning Department before the hearing.

April 6, 2016

City of Polson Planning Department
106 1st St. E.
Polson, MT 59860
RE: Initial Comments on Shrives Proposal to Add Four Cabins on Lot 1, Sec. 3, T22, R20

To the Planning Board:

We appreciate the opportunity to comment on the Shrives cabin proposal. Our primary concern is our view-shed of the lake; our home was built in 1957 and has eleven 4' x 5' picture windows on two living levels. These large windows were located in nearly every room specifically to capture the view of lake and mountains. We have a large lakeside barbeque deck on each level--again the view-shed from these outdoor living spaces is paramount. We are also concerned about the peace and quiet we enjoy at our property.

Scope and Process. According to the Special Use Process in the new Polson Development Code (Code), now is the time to mitigate the effects of the Schrives plan on both *landscape setting* and *neighboring land uses. (*III.K*).* The Code specifically points the public and this committee to looking at changes in *location, scale, design, and configuration* (III.K) when placing conditions and mitigations on a proposal and all our comments are focused those on those areas.

Insufficient Application. A key insufficiency in the Shrive plan as of this writing (4/7/16) is that it lacks adequate specific information regarding the scale and design of the proposed cabins. The applications fail to:

- include a prototype floor plan.
- specify the number hotel style of rooms and suites to be built.
- stipulate increased number of rooms or sleeping areas, suites in existing structures.
- specify square footage of finished living space in each finished structure.
- set the number of floors or partial floors (lofts) per dwelling.
- indicate which of the five total structures will be fully provisioned dwellings per the definition in the Code has been provided

The total project impacts vary greatly depending on the scale and design of the structures. Detailed floor plans are not needed at this time but without information stipulating the scale and essential design of the cabins, the project cannot be reviewed and assessed. In a meeting with the Shrives family March 5, we were told the plan was to construct two new guest cabins for "a total of four". No mention of suites or [sleeping] rooms was made; we assumed from description at that time these cabins would be small, stand-alone, fully provisioned cabins. We were surprised and alarmed when we received a certified letter that the 4 cabins, and were being evaluated as a "hotel". (Of note, the Special Use Application and Duffy Cover letter also make no mention whatsoever of "rooms" or "suites" and we are left to assume that the all the cabins may be stand alone in nature.)

We have talked to Kyle Roberts, Polson City Planner about these deficiencies and on March 29th we have requested specific additional information, but have not heard back on our request. Of note, it also seems that no determination of the sufficiency of the application has been made. The Code allows 15

days for notification and comment after sufficiency is determined, so it has been hard to pull together comment with scanty, incomplete information--I received the modified site plan only yesterday.

Cabins as Described May Not Qualify as a Hotel. If these structures are fully provisioned *dwelling units*, as defined at the end of the Code, then--given the dearth of travelers from September to June--there is a very real prospect that these dwellings will be rented not to transient users or the general public but to permanent residents of Polson, to families and other households. The application does not discuss the intended winter rental term; the cover letter only states *the* [existing] *houses and cabins could be rented nightly, weekly or* ***monthly***.

In effect the plan will create five dwellings, for designed like and used as, rental homes to Polson families and households, throughout the Code there are prohibitions against establishing more than two dwelling units on any single, undivided lot

Additional Uses. The application and cover letter offer no specifics about the *location, scale, design, and configuration* of two major proposed additional uses.

One is the proposed private recreation/picnic area (Shrives Application, 3.i). In the Code, Table II.16 RZD Land Use, explicitly stipulates special use review of such a development and consideration of shoreline regulations in the Code certainly come into play.

Plans for a multi-slip dock and breakwater were also discussed with us in the March 5 meeting with the Shrives. In the Code, a Special Use Permit is specifically required for a private recreation area and, depending on the scale and design of the enlarged dock, this additional use may also be subject to specific special use review special is a specific special use listed in the RZD regulations as a lake-river use commercial area.

In concert the application allows creation of a five house resort with a small recreation area and multi-slipped doc. This would be an ideal location for a wedding—a common use in Polson—bringing perhaps 150 to 200 people; no mention or consideration of use of the property by large parties is given in the Shrives Application or Cover letter.

Recommendations to Locations, Design, Configuration, Scale. We seek to find solutions to some of these problems particularly, again looking at *location, scale, design, and configuration.*

In an On April 3 e-mail to Shrives agent, Jack Duffy, we asked the Shrives to turn the cabins lengthwise along the north south running fence, and to move the cabins uphill, closer to the large existing house. We pointed out that such a design change will yield many positive benefits:

- The lake view from the Shrives main house picture window will not be blocked.
- The Rayle/Sommer views of the lake and mountains, from picture windows and decks, will be substantially improved, reducing needed mitigation.
- The lowest cabin will not extend as far, creating less impact on the Kirscher's use and enjoyment of a new deck. (Though I need to make it clear I don't know his thoughts on this and am not speaking for him here.)
- The existing garage could be retained for storage, and its current function as a substantial visual break and sound barrier will not be lost.

- The cabins themselves would be stair-cased, possibly offering views from the lofts in each cabin or from decks on the front (west side).
- There would be a bigger west facing "front" yard for each cabin, (32' x 18' +/-) offering increased opportunities for trees, flower beds and outdoor use areas. This in turn will move noise and visual impacts roughly 10 feet further from the Rayle/Sommer property, reducing Dba.
- Most of the existing garden plot could be retained as some sort of open space and possibly the picnic and recreation area could be staged here, reducing use density and user conflict at the lake shore.
- Parking for the lower cabin will be moved to the north side of that cabin, "hiding" that parking impact from the Rayle/Sommer viewshed.

Alternatively, we ask here that only 1 stand-alone cabin be constructed, and the second and third cabins be combined into a larger structure with true "hotel" features of sleeping only rooms and some suites with kitchens. By combining the second and third hotels on the lower, lakeside portion of the property; the larger "hotel" could be oved still further from the lake and the structure would buffer for both noise and allow parking and activities to occur mostly on the north side of the structure mostly hidden from view. We know these are the Shrives design decisions but these requests are specifically what the special use permit contemplate to reduce impact without substantially reducing the Schrive's ability to use/rent their property.

We further ask that the scale and design of each cabins and planned remodels be specifically analyzed and that stipulations to construction be added to reasonably reduce impacts.

We finally ask that additions to the landscape design be made, specifically that fencing and vegetative screening be added along the western boundary to the Shrives plan to reasonably mitigate visual and noise impacts to our property.

Process and Compliance. The RZD is so multifaceted, complex and fluid that it naturally creates a thicket of procedural and legal considerations. As alluded to above, we think the proposed structures--as discussed with us by the Shrives, and described in the special use application--are more *materially similar* to dwelling units than hotels:

- They resemble dwelling units in function, structure, setting and scale, the elements to be considered per the new Code.
- They are bigger than anything that might be rightly called a hotel room.
- There are no provisions in the current application prohibiting construction of *dwelling*s: *complete …* [with] *permanent provisions* [for] *living, sleeping, eating, cooking and sanitation.*
- The rooms are not connected to one another as is typical in every local "hotel" we looked at. (Note, in the application or cover letter actually make no mention of rooms or suites).
- The "cabins" can, and probably will be rented monthly for most of the year to local residents (as opposed to the traveling public' transient.

The performance standards in the new Polson Code *with which all development must comply* stipulate *only one accessory dwelling is permitted per lot.* We don't think that calling dwellings hotels and then reducing the assessment of impacts is the right way to proceed. Further, the city planners and planning board should consider that when the property changes hands or the oweners decide to no longer run a seasonal rental buisness, five single family dwellings will exist on one undivided lot.

The lot on which this development is proposed is unique. It is in a residential setting. It is the second narrowest lot in the remaining undeveloped RZD lots, between the bank and the golf course. It seems to be the smallest lot yet proposed for "resort" style development. The overview of the Polson Code states special use review goes beyond mandated consideration of permitted rights. Again, we seek a complete and substantial review of ***significant impacts*** *on* ***landscape setting[s]*** *or* ***neighboring land uses***—in other words on our viewshed and on our peaceful use and enjoyment of our property. *W*e don't see the application anywhere or in any way addressing these matters which are the heart of special use review established in the Code.

The new Code offers what we think is a means to fully consider these structures, call them cabins, houses or hotels. *A special use permit application may be submitted along with a zoning amendment or subdivision application and review may take place concurrently* (III.K). We would add that something like a variance might be considered in tandem if the Shrives want to proceed with development of several new stand-alone structures.

Specific Plans, Conditions and Mitigations Stated Up-Front.

We want the specifications for *location, scale, design, and configuration* put in now, at the front end of the Schrive's planning. The mitigations and conditions should also be stipulated now.

It can be mutually upsetting and sometimes adversarial to comment on a neighbors plans for development. Postponing plan detail and review until the building phase, or the recreation area phase or the dock phase will only prolong the stress of these negotiations. We don't. want to ride herd on the Shrives for several months or years when specifics can and should be provided now in this Special Use Review. We can then make an informed community decision and all get on about our business, a part of which is appreciating one another as neighbors.

Finally, we love our "home" in Polson and the neighborhood we share with the Schrives. We recognize that their plans call for less than the maximum allowed density; provide provision for some new trees, and seek to provide quality rentals so others may use and enjoy the grandeur of Flathead Lake. The proposed cabins have the potential to be tasteful and beautiful addition to Polson. The Shrives Resort is the sort of place we might book a child's wedding, the sort of place we might see on line and book when we renew our own vows.

We don't wish do delay the Shrives activities. We do want adequate specifics in the plan so that proper review and mitigation may take place. They are proposing much change in a very small lot--a recreation area, a mini marina and several what appear to be stand-alone house/cabins. We hope more detail will be provided and that a level of review considerably beyond what is not occurring will take place.

Kind Regards,
Craig Rayle and Debra Sommer

April 5, 2016

City of Polson Planning Department
106 1st St. E
Polson, MT 59860

RE: Steven and Nathalia Shrives' Special Use Permit

To whom it may concern:

I am writing on behalf of Ralph Kirscher, the owner of the property directly west of the north half of the Shrives' property. As an adjoining landowner, Mr. Kirscher received a legal notice of the Shrives' Special Use Permit application to build a "Hotel" in the RZD zone.

Mr. Kirscher and I have reviewed the application, cover letter and site plan that was submitted to the Polson Planning Department by Jack Duffy, PLS on March 2, 2016. We have also reviewed the revised site plan that was provided to us via email by the Polson Planning Department today. According to the Polson Planning Department, there are no other application materials.

I would like to start off by stating that Mr. Kirscher is not outright opposed to the proposed hotel. In fact, he sees the proposed hotel as a potentially desirable buffer between his property and more intensive land uses to the east. Furthermore, Mr. Kirscher understands that the zoning of the property is RZD and the area will change over time.

However, due to the narrow lot configuration in this area and the proposed hotel being adjacent to an established residential land use, Mr. Kirscher simply wishes for the proposed hotel to mitigate impacts. Unfortunately, the application as submitted raises more questions than it answers for Mr. Kirscher.

I would like to address two primary concerns with the Shrives' Special Use Permit application. We hope that by providing these concerns in advance of the public hearing, the City of Polson Planning Department can work to identify opportunities for resolution.

1. <u>Procedural Concerns</u>

   As previously stated, the Special Use Permit application was submitted on March 2, 2016. At that time, and as of the date of this letter, the effective zoning regulations are the "Polson Development Code 1993." The proposed hotel is not listed as a Special Use in the RZD zone in the currently applicable development code. According to information provided to us by the Polson City Planner on March 31, 2016 the application was submitted for review under the draft Polson Development Code that does list a hotel as a Special Use in the RZD zone. However, this draft code is not yet effective, and will not be effective as of the April 12, 2016 Planning Board public hearing on the Shrives' Special Use Permit. Providing legal notification to adjoining landowners, soliciting public comment, preparing a staff report, holding a public hearing and forwarding a formal recommendation by the Planning Board to the City Commission for a Special Use that does not technically exist under the effective zoning regulations seems awkward.

However, according to Chapter I, Section H of the draft Polson Development Code, a vested right to proceed with development is established when a permit is obtained. If the City Commission approves the proposed Special Use Permit after the effective date of the draft Polson Development Code, the permit would be "obtained" under the new code.

If this is the case, and the proposed Special Use Permit is vested in the regulations in place when a permit is "obtained," then there is another potential procedural flaw. According to Chapter III, Section K of the draft Polson Development Code, a pre-application form shall be submitted to the administrator and a pre-application review shall take place, either with the administrator or, if the developer waives the 15-day timeline, before the city-county planning board. According to information provided by the Polson Planning Department, no pre-application review took place for the Shrives' Special Use Permit.

2. Adequacy of the Application

Assuming the permit will be "obtained" after the effective date of the draft Polson Development Code, and that the applicant is therefore vested in the requirements of the draft Polson Development Code, there are many requirements of the zoning for which information submitted by the applicant is not adequate to assess compliance. According to Chapter I, Section M of the draft Polson Development Code, "The responsibility for demonstrating compliance with these regulations is the developer's." "Insufficient information to determine compliance" shall be proper ground for the rejection of an application. Furthermore, Chapter III, Section K, part 2 requires applications for Special Use Permits to contain "materials necessary to determine compliance with these regulations." The term "these regulations" would indicate that a Special Use Permit Application must adequately demonstrate compliance with all applicable provisions of the draft Polson Development Code.

The applicant's agent addresses the topics that are listed on page 2 of the Special Use Permit Application. However, many of the responses are vague and offer little detail upon which a concerned neighbor could otherwise rely to determine potential impacts and compliance with the applicable regulations. After reviewing the cover letter, application, and revised site plan (showing three proposed buildings), we are unable to determine many potential impacts to adjoining landowners or how the proposed hotel complies with the following regulations:

i. Chapter IV, Section B: No runoff management plan has been submitted, although one appears to be required for the subject property. The property slopes to the west and based on the revised site plan, impervious surface directly adjacent to the west property boundary may direct drainage on to the Kirscher property. Neighbors are unable to determine potential impacts or adequacy of mitigation.

ii. Chapter IV, Section D: No topographic information is shown on the site plan (although the application states on page 1 that is it required) so neighbors are unable to determine if the proposal complies with Lot Coverage requirements.

iii. Chapter IV, Section M & Section N: The applicant does not address the width of internal roadways or specifications for access to US Highway 93 in a manner that allows neighbors to assess impacts to adjoining driveways, or for consideration and determination of compliance with the *City of Polson Standards for Design and Construction.* It is not known if the driveway for the proposed "hotel" is wide enough for two cars to pass or to avoid cars slipping off the driveway and on to adjacent property in the winter. The applicant does not address coordination with MDT for an approach permit. Neighbors and the public are unable to determine if safe access to a US highway has been contemplated or considered.

iv. Chapter IV, Section O: The applicant states that parking will be provided on site. However, the applicant does not state how many parking spaces will be provided and how cars will be oriented so that a neighbor can determine potential impacts of car lights and exhaust. The applicant does not address driveway design to accommodate the specific proposed use (11.f), nor the minimum aisle widths (12.a).

v. Chapter IV, Section P: The applicant does not show the location of required pedestrian access, making it impossible for neighbors and the public to assess and comment on potential impacts.

vi. Chapter IV, Section V: (1) The applicant does not address mitigation of potential noise, nor does the applicant acknowledge the regulatory performance standard for noise and address compliance. (2) The applicant does not provide evidence of compliance with lighting requirements, nor does the applicant address the potential impacts of car headlights shining on to adjacent residential land uses while cars are parking at the hotel. (5) The applicant does not address the location of commercial solid waste disposal in a manner that allows neighbors to assess potential impacts. (7) The applicant does not address surface runoff adequately for neighbors to understand how it will be prevented from running onto another property.

vii. Chapter IV, Section W: It is difficult to gauge if the Development Code requires a landscaping plan for a hotel, but no landscaping plan is available for neighbors to determine compliance. Specifically, Part 5.d.i of Section W appears to be specifically required for the subject development but it not addressed in the Special Use Permit application. There are many other requirements of this Section, but Mr. Kirscher is primarily concerned with mitigation of impacts to his adjoining residential land use.

As stated in Chapter I, Section M of the draft Polson Development Code, "The responsibility for demonstrating compliance with these regulations is the developer's." We feel that the Shrives' application for a hotel on Flathead Lake does not adequately address many potential impacts or compliance with the regulations.

Thank you for the opportunity to provide written comments so they may be included in Planning Board packets.

Sincerely,
WGM Group, Inc.

BJ Grieve, AICP, CFM
Senior Planner

cc: Ralph Kirscher

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SHRIVES PROPOSAL SPECIFIC ANALYSIS AND SPECIFIC COMMENTS

Craig Rayle and Debra Sommer

A--The Submitted Plans Do Not Describe the Activities in Enough Detail to Adequately Evaluate and Place Mitigating Conditions on the Special Use.

The specific building plans for each cabin are not given. In the application only the footprint of the cabins –now 630 sq. ft.—is specified. Several designs for 630 sq. ft., 2-bedroom single family homes were found online some with 2 bedrooms large enough to accommodate queen sized beds. (see https://www.southlandloghomes.com/sites/default/files/Clark_I_First_Floor_0.jpg; https://www.familyhomeplans.com/plan_details.cfm?PlanNumber=52784; http://www.tumbleweedhouses.com/blogs/tumbleweed/14061973-step-inside-a-tumbleweed-cottage)

An additional sleeping loft, murphy bed or screen porch could readily be added to any of these designs adding still further permanent provision for sleeping in these cabins. Futons or hide-beds in the living room could easily be used. The end result of a 630 cabin that might sleep 10 or 12 and could be advertised and rented as such; many of us remember as kids being housed cheek to jowl with relatives when we visited the lake. A good representative example of summer use occurs next to the Schrive's property; at the Kirscher's single-story home the families of their two adult children come to visit with the grandchildren and all reside for the weekend in two bedrooms and a den, without a loft.

Now mention of if dwellings are one or two stories. The Shrives application currently allows each cabin to 22' x 33' with a 20 ft. height which would allow for two story cabins totaling 1360 sq. feet of living space. (For a slab-on-grade house: .66' [8"] above grade, 7.5 foot first floor ceilings, .66 [8" second floor assembly, 2 x 6 second floor joists, 4/12 main roof or gable roof pitch would allow pitch or gables would allow for a second story of 7.5 ft. in average height.) Again online it is easy to locate building plans for such structures, particularly if the roof pitch in the found plans is lessened. A great room with a partial second story sleeping loft or 15' x 20'(two bedrooms or more beds in a common area) would be even easier to design and build. http://www.stocktondesign.com/plans.php?act=detail&f=1_2012.jpg http://www.theplancollection.com/house-plans/home-plan-41 http://www.houseplans.com/plan/1360-square-feet-3-bedrooms-2-5-bathroom-cottage-house-plans-0-garage-37334

Remodeling design for the existing street-side home and lakeside home are not given. While the plan states that the front house will be rented as part of the plan, no details regarding the remodel are given. In particular, the number of planned bedrooms is not specified, nor whether these are "hotel" style sleeping rooms or suites. This is a two story home that could be modified, again to contain 3- 4 bedrooms, or two bedrooms and a large bunk style sleeping room in the lower level.

Were the Shrives to maximize the space in these unspecified plans the result could will be the establishment of five single-family homes on one lot, five with 4 bedrooms or sleeping lofts and one with 2 bedrooms. The resort zoning district allows for a single family dwelling but it does not state that 5 such dwellings could be established/constructed without subdivision of lots.

The Code also allows for a variety of uses but does not specify all the uses would be allowed in a single lot.

Plans for construction of multiple slip "dock" are not included in the application. In our discussions with the shrives family they stated the family's plan is to replace the unsafe dilapidated dock now at the property. The plan was for multiple slips, one for each dwelling; The plans as submitted fail to mention any such dock/marina plans; creation of this would greatly increase noise at the lakeshore from watercraft, would greatly increase use on the property particularly from Polson residents who do not have lake access but would come to the Shrives property to visit family or friends renting the property. Such a large dock would create problems for trailer storage and would also tend to draw larger crowds to the property, discussed more below.

No specifics or consideration of the private recreation area. The Shrives Application proposed a private picnic and recreation area (*Code* 3.i). The code specifically mandates Special Use Review of this additional use (Table II.16 RZD Land Use). Fu8rther, impacts near the shoreline need to be considered per Code IV.C--Shoreline Buffers.

The Shrives make no mention or discussion of large groups using the property. The total property with 20+/ bedrooms and further sleeping on Murphy beds or hide-beds will make an ideal site for a wedding or family reunion. Wedding and receptions are a common use of the lake in Polson.
The Application calls for development of infrastructure ideal for a wedding, a lakeside "picnic and recreation" area for the people utilizing the lodgings and a multi-slipped dock with a breakwater verbally mentioned by the family. Such a space would be ideal for weddings. The event might be—catered by one of several local companies. If the Shrives development is successful, large group use might be a common occurrence in the summer months. The average cost of a wedding is now 28K, and this would be a lucrative source of income.
http://www.prnewswire.com/news-releases/the-knot-the-1-wedding-site-releases-2014-real-weddings-study-statistics-300049675.html
From online sources a medium-size wedding is 150 guests with perhaps fifty more at a reception.
http://www.prnewswire.com/news-releases/the-knot-the-1-wedding-site-releases-2014-real-weddings-study-statistics-300049675.html

Given these realities, it is not difficult or unreasonable to imagine* the property packed with people at celebratory events, cars parked on any available space, including as allowed on Hwy 93 in front of adjacent homes. The use by or large groups is not limited by or addressed in the application.

(It is easy to find local examples where such activities do occur for example Swan Lake Cabins—a smaller property on a much larger more secluded setting has one stand-alone house and five sleeping-only cabins and advertises as *the perfect base for … wedding and family reunions,* https://www.vrbo.com/566375).

Sky Ridge Ranch outside Ronan regular hosts wedding involving a few hundred people and dozens of cars. http://www.skyridgemontana.com/

The impacts on parking, noise and visibility on neighboring properties trying to maintain the quiet use and enjoyment of their homes is not addressed in the Shrives plan. No discussion of the context of the requested special use (the landscape setting and neighboring land uses is given and no assessment of their impacts is made. Specifically no plans exist for:

1) Fences or vegetation along the property line to provide visual screening /sound barriers/traffic screening

2) Routing foot traffic away from the existing residential neighbors, particularly the existing deck adjacent to the Shrives property; a walkway along the east border would accomplish this.
3) Building heights are not considered relative to the existing view shed from our property (we have a second story deck and a lower deck beneath it and the entire property was built with views of the lake in mind with, with long sets of large windows (on both the upper and lower levels) facing the shore.

   The Special Use Process review stipulates consideration and reasonable mitigation for impacts to the landscape setting … [and] neighboring land uses.

The small size of the Shrives lot and amplification of adjacent impacts is not discussed. The Shrives property is one of the undeveloped lots in the RZD. The presence of two existing dwellings limits the manner in which new development can be located. Due to the small nature of the lot, user conflicts are greater, noises are closer to the neighbors, visual impacts are more apparent. The lots sizes of adjacent lots and of lots with developed resorts are given below:

Subject Shrives Lot 75 frontage x 567=42,525

Empty Lots in Front of Glacier Bank 281 x 203= 57,043
Kosvic (now for sale west of Shrives) 216 x 584 = 126,144 216 wide frontage
Lanier 67 x 597 39,999 67 ft wide frontage
Stripling (The Yellow House) 244x696 = 100,224 244 wide frontage
Pebble Beach 448 x 594 = 266,112 448 wide frontage

Country Club Shores = 500,000? +/- fronted on side street
Lake Place 57,934; 210 wide frontage
Sheni LLC Marina and Rentals 200, 000?+/-?? 350 feet
Bear Harbor 300,000 +/- fronts on side street.

Taken from or estimated with Montana Cadastral. http://svc.mt.gov/msl/mtcadastral/

B--The Planned Dwellings Do Not Clearly Fall Into the Hotel Categorization Allowed in the RZD.

The Planned Cabins Might Be Described as Dwelling Units or Hotels. A central question in looking at the plans is whether the Shrives cabins are hotels or dwelling units. A quick intuitive test would seem to be what renters would say as they were leaving Betty's Diner. "Honey I am going back to the cabin." (or house or lakehouse) or "Honey I am going back to the room (or suite)". The definitions from Polson Code reinforce this intuitive test. They are annotated for functionality and design here are:

Hotel/Motel.

A building or a group of buildings containing five (5) or more individual **sleeping rooms or suites**, each having a private **bathroom attached** thereto, for the purpose of providing **overnight lodging** facilities to the general public for compensation **with or without meals**, and usually providing on site recreation services, (Polson Development Code: Pubic Hearing Winter Draft, 2016, Chapter C, 3—Other Definitions, pg. 173.)*

Dwelling Unit.

A **single living space** providing **complete, independent** living facilities for one or more **persons**, including **permanent** provisions for living, sleeping, **eating, cooking** and **sanitation**. (Polson Development Code—Pubic Hearing Winter Draft, 2016, Chapter C, 3—Other Definitions, pg. 173 .
, and the definitions of each are given below.

Hotels are allowed in the RZD and single family dwelling units are allowed, but only one additional "accessory dwelling unit" is allowed per lot (**Polson Development Code; Pubic Hearing Winter Draft**, 2016, Chapter IV, Y. 3a, pg. 98. The Shrives property already has the two allowed dwelling units—a main house along Hwy 93 and an accessory dwelling unit, the small lakeside house. Development of further dwelling units might be disallowed, or considered a variance, subdivision or need an amendment to the Polson Code.

The Shrives in their application, through agent and planner characterize the additional structures as "cabins" and acknowledge that "there are two existing dwellings on the property". They do not differentiate between cabins or the houses stating that each could be rented "nightly, weekly or monthly". They make no mention whatsoever of rooms or suites which are necessary and integral parts of a "hotel" (or motel, or tourist or motor court) The inference is that the cabins are additional houses to be rented in their entirety. (Re: Shrives Application for Special Use Permit, Duffy Land Surveying to Kyle Roberts, Polson City Planner, March 6, 2016). Each of three proposed structures has a 660 sq. ft. main floor and at 20 feet would allow for a 1320 foot "home".

Of Note, Montana Code Annotated 50-51-102 states "Hotel" or "motel" includes:
*(a) a building or structure kept, used, maintained as, advertised as, or held out to the public to be a hotel, motel, inn, motor court, tourist court, or public lodginghouse; and b) a place where **sleeping accommodations** are furnished for a fee to **transient guests, with or without meals**. (13) "Transient guest" means a guest for **only a brief stay**, such as the **traveling public**. From Montana Code Annotated, 50-51-102. (Emphasis added.)*

In their initial review of the application the City erroneously interpreted the meaning of "dwelling". The city assumed that a dwelling unit must be 1000 sq. ft. This minimum size requirement is only for single family dwellings and also applies only to modular homes that are being proposed as single family dwellings. Therefore, the initial review failed to discern between dwelling and hotels and whether the plan should rightly be reviewed as a "hotel".

Mechanism exists for evaluating a use not clearly permitted in a district. The Shrives are clearly not constructing a traditional "hotel" but rather they are modifying existing dwelling units and constructing additional structures which may be construed either as "hotels" (allowed in RZD) or "dwelling units". A procedure for determining which definition is materially closer to the proposed use is delineated in the Development Code, again emphasis is added:

> The administrator shall determine **if a use not listed is materially similar to a permitted or special use** listed in that chapter. Interpretations may be appealed to the city BOA (see III.P).
> .
> **Materially similar means** the use provides a **similar function**, occurs within a **similar structure** or **setting**, and has a **similar scale** to a permitted or special use listed in that chapter.

(Code 2016, II.F. 1-3)

Of note, the Polson Development Code makes specific mention of "cabins" only in Performance Standards for Recreational Development and General Campgrounds. The RDZD district is more restrictive that the RZD and more importantly the cabins defined there seem to me more ramshackle and temporary in nature than those proposed by the Shrives: ***Cabin: A hard-sided structure occupying a camp site that is set on a permanent or temporary foundation.*** These defined cabins also occur in conjunction with a campground with a campground which the Shrives are NOT proposing.

Functionality and structure and design within the various definitions: a room or a house. My wife and I met with the Shrives family, March 5, and they spoke of the plans to construct two rental cabins and described them as small and high end structures; he made no mention of constructing sleeping rooms or construction of suites, and I would not associate small sleeping rooms or suites in a small cabin with high end lodging. So we were surprised when a proposal for a "hotel" with four new structures came to us in the mail; what we had talked about did not seem like a hotel.

Most of us have been to many hotel/motels during our life and know what a motel/hotel feels like or in legal parlance what a motel *materally* is. When the elements for functionality and design are pulled out of the Polson Code and Montana statutory definition of Hotel (MCA 50-51-102) the following is found: **sleeping rooms or suites**, **private bathroom attached, overnight lodging, with or without meal (Polson Code); sleeping accommodations transient guests, with or without meals, brief stay**, **traveling public**. The definitions are in close agreement, use is brief and overnight, the emphasis is on sleeping, meals might be available in an attached restaurant (but are not generally made in the room?)

For a dwelling unit, the design and functionality are clearly more established, private and less temporal: **single living space, complete, independent, [permanently provided] living, sleeping**, **eating, cooking [areas].** Essentially a dwelling unit is complete independent living unit designed for rental short term. The terms *living, eating, and cooking, complete, single and permanent* are absent the hotel concept as stated in law or local code.

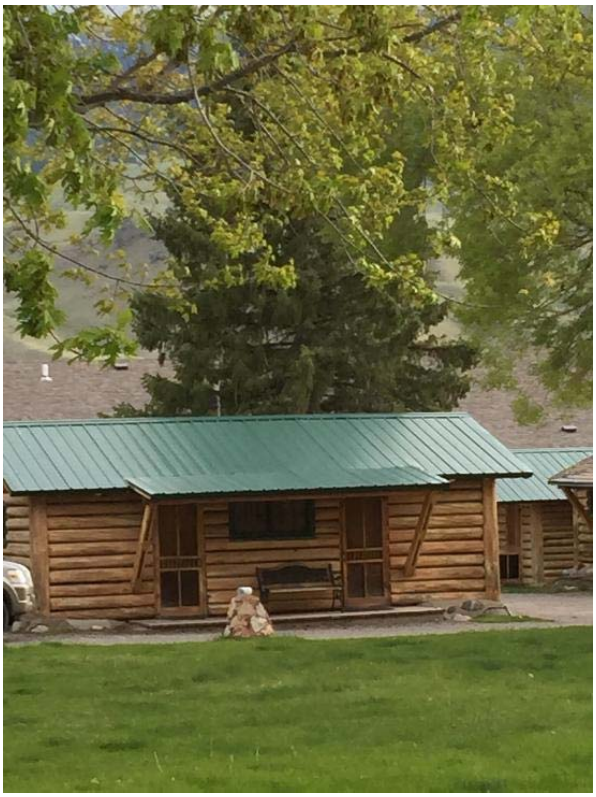
If the Shrives intend to create single, sand-alone cabins rented monthly and perhaps all winter, providing dining (eating) areas with complete cooking and dining facilities then they meet the definition of dwelling units; the subject property already has a primary and accessory dwelling unit.

The Stated Use of the Proposed Cabins Goes Beyond Transient Guest. The cabins and existing houses could be rented nightly, *weekly* or ***monthly***. (From March 1 letter from Duffy Surveying, to Polson City Planner Kyle Roberts, RE: Shrives Application for Special Use Permit.) Presumably the Cabins would be open for monthly rental for most of the year after the tourist trade dies. Most local motels sit empty or rent occasionally during the off-season; the Schrives would do well to find local residents to rent during the slow season and might want an 8-month lease on some or all of their dwellings--their application allows for such long-term monthly rental. Of note that might be primary means of rental from September to May. Put another way the application allows that the structures could be rented like most typical family homes in Polson for most of the year.

Hotel/motel rentals in Polson seem to only be offered overnight. In an extensive though admittedly comprehensive phone investigation found no weekly summer rates (at Kwa Tuk Nuk, Red Lion, Bayview In, Port Polson Inn, *Ninepipes offered no set rate but found after talking to the manager offered a % discount). By contrast the Shrives application states they will offer both weekly and monthly rates in the summer, both beyond normal "hotel" rental terms. Again discerning whether the proposed cabins are dwelling units are motels makes some intuitive sense. As travelers we might expect to rent the fully provisioned lake "house" or "cabin" by the week or longer, whereas we would never expect to pay for a full week if we drove into a Polson Hotel/Motel to book a room.
So, the proposed cabins to not rent in materially the same way as Polson hotel/motels; they might rarely rent for the same one-day time period; in the winter they might rarely rent to the same transient traveling public.

The Size and Facilities at the Cabin are Not Typical of the Historic "Tourist Court" and "Motor Court" referred to in the state definition of "Hotel". There are precedents for considering rental cabins as a motor hotel (the roots of the word motel) but these lodging facilities—called tourist courts and motor courts in a bygone era, exist more in the lore of the past than in present planning. (Numerous web sites serve a public obsession much like antique buying and here you can find old post cards and even a treasured key to room #5 ($16) of the Jim Bridger Court in Gardiner. This is the only Montana tourist court readily located in a Google search.

These court lodgings were generally and typically small, single room cabins, without partial kitchens or certainly full kitchens or dining area and often without plumbing but with parking for cars. Meals were sometimes offered at a restaurant. The photograph of the Bridger below shows a very small cabin with two "units" or rooms. The cabins do not have full kitchens.



Lochsa Lodge on Hwy 12 just over Idaho state line might be the closest thing to the luxury tourist cabins the Shrives have described. It can rightly be described as a tourist court. None of the cabins are stand-alone cabins with fully provisioned dining, eating and cooking (cooking actually prohibited in the cabins.) IF you came back from a vactation to Lochsa Lodge and someone asked you to describe the cabin, you would probably at some point explain to them that it was a sleeping only lodging, a room.

Several definitions for tourist courts (ie motel courts) exist on the Web. Web sites and images can be found on line generally agreeing that "tourist cabins" or a collection of cabins, tourist courts, were very small stand-alone rooms without full kitchens. The extended definitions are below but for clarity the key concepts are pulled out here with emphasis added: **small … attached sleeping rooms**; **individual cabin or room rented for the night** … **usually a series of very small one-room buildings.**

The local Cherry Hill Motel cabins are a very good example of a tourist court, though certain cabins are now rented long-term and as such are better called "dwellings".

- *Tourist courts were usually a series of very small one-room buildings separated from each other by the width of an automobile*. http://www.thefreedictionary.com/tourist+court
- Tourist *camps and* courts *were a common form of lodging for travelers in the United States from the 1930s to the 1960s. The terms "*tourist *camp" and "*tourist court*" were used to describe both an individual cabin or room rented for the night and the business as a whole*. http://www.encyclopediaofarkansas.net/encyclopedia/entry-detail.aspx?entryID=2700
- Online, travelers still colloquially refer to these small one story motels with a row or L of attached sleeping room as "motor courts", part of the state definition of "hotel" (see http://dinerhunter.com/2015/09/20/on-the-road-billings-montana/ & https://www.tripadvisor.com/ShowUserReviews-g45212-d618594-r74123364-Lamplighter_Motel-Helena_Montana.html
- The lamplighter in in Missoula is described as a typical fifties style motor court and a room is described by a patron as containing a mini-fridge and microwave and cable TV.
- https://www.tripadvisor.com/ShowUserReviews-g45212-d618594-r74123364-Lamplighter_Motel-Helena_Montana.html
- A motor court in Glacier is described as … *a cabin duplex, known as a motor court back in the 1940's. These modest duplex cabins updated with a sink and small bathroom with shower in each room …* https://www.tripadvisor.com/ShowUserReviews-g45152-d91219-r230190707-Rising_Sun_Motor_Inn_and_Cabins-East_Glacier_Park_Montana.html#

The proposed cabins are of a different scale than a typical motel. _ A typical motel room (240-325 sq. ft) is roughly half the size of the footprint of the proposed cabins and roughly a third the size of one of the cabins with a loft and one quarter the size of two story cabins on that footprint.
http://loyaltytraveler.boardingarea.com/2009/06/09/my-square-foot-an-examination-of-hotel-room-size/
http://evstudio.com/construction-cost-per-square-foot-for-motels-2012/

Local "hotels" are also materially different than the Shrives proposal. The rental terms for the propose cabins are atypical of "hotels" (motels) in Polson. In the summer none of local motels offered weekly rates as planned by the Shrives, (Kwa Tuk Nuk, Red Lion, Port Polson Inn, Bayview Inn). The Shrive also plan to rent by the month and for that term they will no longer be assessed the state "hotel" taxes. It might be assumed that in the off season, when tourist demand is down, some of the cabins will be rented long term; there is nothing in the plans to prevent this from occurring. Then the cabins would be functioning precisely like rented, single family dwellings. Of note, all the motel suites with kitchens found in Polson were attached to actual sleeping rooms in what is typical of a motel.

Trip Advisor Lists only 4 Hotels in Polson, though if you look hard there are a few more. A review of local hotels and motel indicates the proposed Shrive cabins are atypical of local Polson "hotels" (i.e. motels):

- **Bayview Inn**—No kitchens or kitchenettes. No weekly rental in the summer.
- **Port Polson Inn**—A few rooms did have full kitchens, but the receptionist did not call these motel rooms but explained that they were referred to as "the apartments", a somewhat separate entity from the normal "motel". These kitchened- rooms were not separate stand-alone structures as proposed by the Shrives, but rather were attached to the other rooms of the

motel. They were rented daily weekly or very rarely, monthly and the receptionist said she would have to consult the manager to determine a price. No weekly rental rate was offered in the summer.

- **Flathead Lake Inn of Polson**—No full kitchens, no kitchenettes no dining area. Microwaves only
- **Kwa Tuk Nuk Resort**—King suite, living room, bedroom, Jacuzzi none of the rooms have stoves or ovens, some have a wet bar or dining table but these rooms are the exception not the rule. No weekly rental rate in summer.
- **Red Lion Polson**—Has one room in motel attached to other motel rooms with a "kitchen" a small fridge, two burner stove, no oven, m-wave, small dining area. No weekly rental rate in summer.
- **Swan Hill**—Motel style sleeping rooms with one very large (1200-1500) foot lakeside cabin. Microwave is listed as only kitchen amenity.
- **Nine Pipes**—fridge, microwave only. No detached rooms. No weekly rental rate in summer but discount by special consideration.

From the information above appears that local "hotels (and motels) are structurally, functionally different. True in-room dining areas are rare. If kitchens and dining are available they are of a different scale than that of a stand-alone vacation cabins with complete living amenities which would be allowed under the Schrives current application. The use pattern of the Hotels is materially shorter than a vacation rental or winter rental, reflective of the terms in the code and statute definitions of "hotel", *transient, sleeping, brief, traveling.* These definitional terms can evidently be applied to all the Polson motels, even the largest kitchen-equipped units. The terms found in the code definition of "dwelling" *complete, independent, permanent living* (as it might be thought of in a rental) structures are rarely if ever applicable to local "hotels" but they would be applicable to the Shrives stand-alone cabins rented for a week or month at a time.

Virtually all stand-alone cabin/house short-term rentals in Polson, were found not in suites but in single family residential housing. These summer rentals are vacation rentals, or tourist homes, not hotels. (This from a Google search using the terms "vacation rentals & Polson")

Other local properties sheds more light on the Shrives proposal and hotels v. dwellings. S*wan Lake Cabins* is just over the Mission Mountains from Polson and a phone call did shed some light on the definition "hotel". These cabins do not have full kitchens only a microwave or fridge, one of the biggest has a loft, a futon and added bedroom. But the manager was clear that even the biggest cabin is not stand-alone and fully provisioned. When asked if she would describe the operation as a "hotel" the receptionist said you would not describe Swan Lake Cabins a hotel or motel, and when questioned again she repeated that it would be inaccurate to see them as a hotel or motel. One stand-alone dwelling with a full kitchen was for rent, and it is called Hummingbird **House** (emphasis added) ; when asked more than once the receptionist was clear that it was a separate house. These questions were asked soliciting the receptionist's opinion of what tourists would think to call their operation. It was clear that she did not hold out the cabins as a hotel or motel to callers and even more so that the standalone house was not a "hotel". She was not asked for a legal definition but rather her colloquial understanding. She never held out any of her lodging as a Hotel or motel. Indeed a Google search for motels swan lake Montana at (https://www.google.com/search?num=50&safe=active&q=motels%20swan%20lake%20montana&npsi

c=0&rflfq=1&rlla=0&tbm=lcl&ved=0ahUKEwiTo4KRoevLAhVO0WMKHcDPDdUQ0CcIMw&tbs=lf_hd:-1,lf_maxhp:-1,lf_maxhpitems:75-125-150-175,lf_maxhpcur:USD,lf:1,lf_ui:6&hotel_dates=2016-04-10,2016-04-11&biw=1366&bih=633&rlfi=hd:;si:&oll=47.91991732481636,-113.8407870689331&ospn=0.11804016528876105,0.3248025811329569&oz=12&fll=47.91991732481636,-113.84078706893308&fspn=0.23609442733936703,0.6496439513053929&fz=11&qop=1)

The Swan River Inn in Bigfork offers 9 rooms and suites at the Inn **in one structure**, some of which have full kitchens. They do not offer weekly rates in the summer. They also rent one of four apartments in what appears to be a multifamily structure at another location. They do rent stand-alone cabins but each is on its own large or small lots, properly vacation homes or tourist homes, and the advertised names again reveal an innate understanding that these are not what we would think of, call or rent out as "hotels". Carriage House, Trapper Cabin, Cabin by the Pond. It is not known if these house cabins are on separate legal lots, they are out in the country 9 miles from Big Fork

Swan Hill Bed and Breakfast, a group of rooms under one roofs does also rent a single cabin with a full kitchen but it is 100 yards (300 feet) from the main building set on 12 acres. There are two total "dwellings" on the property.

The Code allows a variance to consider proposals that do not materially meet a specific permitted or special use.

> *Land uses deemed not to be materially similar to a permitted or special use shall be prohibited unless a variance is received (see III.Q.) or amendment to these regulations is made (see III.R.). Code,* II.F.3

We are not generally opposed to the Shrives Proposal; we have some concerns of the location and impacts and wish to see these fully considered. We would be opposed to a planning amendment that would generally allow future creation of multiple dwelling units without on one undivided lot.

The Code allows for concurrent consideration of issues and permits.

> *A special use permit application may be submitted along with a zoning amendment or subdivision application and review may take place concurrently. Code* III.K.i.

We would support an expedited process for the Shrives so long as substantial problems are thoroughly addressed in their application and reasonable mitigations and conditions can be attached. We don't honestly know how to allow these cabins in a way that will not create use problems as sole dwellings down the road, but we trust that a solution can be found.