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AGENDA

Polson City–County Planning Board and City of Polson Zoning Commission

PUBLIC HEARING - DRAFT POLSON DEVELOPMENT CODE

Tuesday, February 16, 2016 @ 6:00 P.M.

Polson City Hall Council Chambers

- I) Call Meeting to Order
- II) Roll call
- III) Pledge of Allegiance
- IV) Chair and Vice Chair selection for 2016
- V) Approve Meeting Minutes: January 12, 2016
- VI) Open up Public Hearing - on Zoning Regulations & Zoning Map (Draft Polson Development Code 2016)
 - a) Staff Report – City Planner, Kyle Roberts
 - b) Public Comments
 - c) Close Public Hearing – on Zoning Regulations & Zoning Map (Draft Polson Development Code 2016)
- VII) Open up Public Hearing – on Subdivision Regulations (Draft Polson Development Code 2016)
 - a) Planner Comments
 - b) Public Comments
 - c) Close Public Hearing – on Subdivision Regulations (Draft Polson Development Code 2016)
- VIII) Public Comments Not on the Agenda
- IX) 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-COUNTY PLANNING BOARD MEETING DRAFT
Tuesday January 12, 2016
City Hall Council Chambers—6:00 p.m.

Members Present: Mike Lies, Mark McGuyer, Merle Parise, Lou Marchello, and Gil Mangles

Members Absent: Sam Jacobson and David Rensvold

Staff Present: City Planner, Kyle Roberts; County Planner, LaDana Hintz; City Manager, Mark Shrives; and Technician, Beth Smith

Public Present: Tim McGinnis, Joslyn Shackelford, Elsa Duford, Ken Siler, Dennis Duty, Lita Fonda, Dennis and Pat DeVries, and Lee Manicke

Order of Business: Polson Development Code rewrite workshop

6:00 PM~ Roll call was taken and Mike Lies led the Pledge of Allegiance. There were no public comments on items not on the Agenda. City Planner, Kyle Roberts stated the process he would be following for the Public Hearing on Tuesday, January 26, 2016 at 6 p.m. for the proposed Draft Development Code. He opened the workshop for discussion and said there is a zoning map projected on the back wall. Lee Manicke questioned the Resort Overlay in the Mission Bay area and the addition of County properties in the zone. Lee also denoted the Airport Overlay was missing. Lita Fonda stated some confusion on the property just south of the City property on Kerr Dam Road being MRZD. Lita suggested leaving the property LRZD. Additional concerns came up whether or not the property should even be in the City limits and that it was possibly County and maybe considered wetlands. Pat DeVries spoke in regards to the vacant lot on the north side of 7th Ave. East and 1st Street East. The block is split zoned within the block with Central Business and Medium Density zoning. Pat felt zoning should be split by a road or an alley and did not think Central Business fit that area. She has requested the zone changed out of Central Business multiple times. Pat then spoke in regards to 1st Street West. The road is very busy since Main Street has been redone with four-way stops down to 7th Avenue. She suggested a Transitional Zone on both sides of 1st Street West. Lee Manicke stated he had suggested that area be Transitional in the past between 3rd and 4th Ave West since there are already some business in that area. It was said a Transitional buffer zone for residents on the busy 1st Street West would be nice. Elsa Duford asked if the new Old Town designation coincides with the original town site. Lita said no not exactly, more like the old style layout of accessing the property via detached garage from the alley. It has nothing to do with any age of any buildings just the layout of the house and garage. Dennis DeVries said he felt there should not be an Old Town District. If there is going to be an Old Town District then the homes along the river should not be a part of that zone. They do not fit the description given for the Old Town Zoning. Agreed, the properties along the river from Riverside Park down the river to the dog park should be in the Resort Zoning District. The Old Town District eliminates having more than one dwelling on a lot. Lee Manicke suggested by eliminating the word "existing" in Central Business District, it would permit Pat to sell her house as a residence in the current Central Business District. Discussion on road distinction in subdivisions. 1st Street West and Main Street are still up for a swap on being State Highway. **City Manager, Mark Shrives recapped having Kyle address a better definition of Transitional Zoning; draft out the discussion on the zoning map; and eliminating the word existing on page 34 allowing a bit more flexibility with the houses or those not built in the Central Business Zone. He also noted looking into the Airport Overlay District being on the map; and the MRZD lot in the far southwest side of town being in the City or County. Gil Mangles said Heritage Lane should be shown connecting south to Highway 93 and Memory Lane as well as the new road Breezy Way behind Eagle Bank was also missing.**

Meeting Adjourned 7:27 p.m.

City-County Planning Board Member, Mike Lies

ATTEST: Beth Smith, Planning Technician

**DRAFT POLSON DEVELOPMENT CODE, WINTER 2016
PUBLIC HEARING, FEBRUARY 16, 2016
STAFF REPORT**

On January 26th, the City-County Planning Board conducted its first public hearing, albeit unofficial, regarding the proposed draft 2016 Polson Development Code (PDC) and Zoning Map. City staff compiled all public comments received and addressed each comment in this staff report. Each issue includes what is proposed in the draft PDC; the public comment(s) received regarding the proposal; the history/rationale for the proposal; and staff recommendation(s).

1. Transitional Zoning District (TZD) – 4th Avenue East

Proposal: The draft zoning map proposes to rezone the blocks of 4th Avenue East from 2nd Street East extending east to the Catholic Church. This area is currently zoned Low Density Residential (LRZD) and Medium Density Residential (MRZD) and is proposed to be rezoned to Transitional (TZD).

Comments received: Citizens expressed concern over the proposal to rezone 4th Avenue East from its current LRZD and MRZD zoning to TZD. Comments included concerns that the primarily residential neighborhood would become more of a commercial zone which would take away from the residential characteristics of the neighborhood, and would exacerbate the existing traffic volume and parking problems. Furthermore, rezoning to TZD would bring existing businesses in the area into compliance.

History/rationale for proposal: To rezone this area was greatly debated. The Polson Development Code Rewrite Committee and City-County Planning Board were split on the issue, ultimately deciding in favor of rezoning to TZD, at least up until this point. The rationale to rezone 4th Avenue East was that there are already many limited-scale commercial developments in the area and rezoning would bring them into compliance, as well as serve as a natural transition between residential development to the south and commercial development to the north, east and west.

Page 19 of the draft Polson Development Code Winter 2016 states that the purpose of the TZD is intended to provide for a well-planned transition from predominantly single-family residential to higher density residential, limited-scale commercial, and mixed uses in specific areas predominantly located near the central business district. Transitional developments must comply with performance standards designed to protect the remaining residences. Proposals for limited scale commercial developments would be reviewed as special uses, which includes a public hearing and the potential for additional conditions intended to protect existing development.

The fact that the TZD allows for limited-scale commercial development and provides specific performance standards to retain residential characteristics of the neighborhood is reason to believe that the area will not morph from a residential to commercial zone. The potential for increased traffic is minimal as the potential for commercial development will be small and limited in scale.

Staff recommendation(s): Open for discussion. Options include:

- a) Keep the proposed TZD for 4th Avenue East.
- b) Remove the proposed TZD for 4th Avenue East, and propose to keep the area's current LRZD and MRZD zone designations.
- c) Modify the area of the proposed TZD for 4th Avenue East, perhaps from 2nd Street East to 4th or 5th Street East.

2. 500 Average Daily Trips (ADT) triggering a Special Use Permit in Highway Commercial Zoning District

Proposal: The draft Polson Development Code proposes that if a proposed development in the Highway Commercial zone is projected to generate more than 500 ADT, the applicant must go through the Special Use Permit process.

Comments received: A citizen expressed concern that a lot of time and money is being expended in processing Special Use Permits and it doesn't make sense if the proposed development already meets the zoning district's performance standards. Furthermore, it has been previously agreed upon by the Polson Development Code Rewrite Committee that the threshold should be 1000 ADT.

History/rationale for proposal: The current Polson Development Code requires that all proposed commercial development in the Highway Commercial zone must go through the Special Use Permit process. This requirement has been eliminated in the draft Polson Development Code. The rationale for proposing to lower the ADT from 1000 to 500 is to provide for a safeguard – that is, the opportunity for both the City and its citizens to review and have a say in a development that may have great impacts on the community.

A development on the higher end of ADT is the Taco Bell in Ridgewater. Taco Bell has been proposed to generate 300-600 ADT. That said, 1000 ADT may be unrealistically too high to act as a safeguard. The intent of a specific threshold to trigger Special Use review is to allow for public review of higher-impact developments under the review criteria. Even though there may be no magic number for creating the threshold, the Planning Department's experience with projects such as Taco Bell suggests that the proposed 500 ADT is a justified number to use as a threshold.

Staff recommendation(s): For a community this size, 1000 ADT is too high to be an effective safeguard. Staff recommends that the proposed 500 ADT remain in place.

3. 'No Strip' language in Highway Commercial Zoning District

Proposal: *No Strip* is a heading for an extensive performance standard under the Highway Commercial Zoning District in the draft Polson Development Code (Page 27, 4. a.).

Comments received: A citizen expressed that the word 'strip' is difficult to define and has connotations that are not accurate in Polson.

History/rationale for proposal: *No Strip* refers to strip development and is intended to mean no commercial land development that provides each individual establishment with direct access to the road and parking areas. The current Polson Development Code includes this statement, but does not include many of the proposed standards to address the sometimes negative appearance and function of typical strip development.

Staff recommendation(s):

- a) Eliminate just the heading *No Strip*.

- b) Eliminate the heading *No Strip* and bold the first sentence: *Development in the HCZD shall be designed and constructed to minimize the functional and appearance problems associated with the strip development pattern.*

4. Medium Density Residential Zoning District front yard setbacks

Proposal: The MRZD in the draft PDC (page 11) proposes that the minimum front yard setbacks be 40 feet along arterial roads and 25 feet along other streets.

Comments received: A citizen expressed concern regarding the 40 foot front yard setback along collector streets in MRZD.

History/rationale for proposal: The proposed minimum front yard setback along collector streets in MRZD is 25 feet. The 40 foot setback applies to development along arterial streets. The current Polson Development code requires front setbacks to be 50 feet along arterials and 25 feet along all other streets. The 10-foot reduction is intended in part to allow for additional buildable area. Arterials are listed as Highways 93 and 35. MRZD only abuts a short stretch of Highway 93 in the La Vista Overlook neighborhood and to the north of Lakeview Cemetery. MRZD does not abut Highway 35.

Staff recommendation(s): Staff recommends keeping the proposed front yard setbacks in the draft PDC.

5. Condominiums – ownership issue, not development issue

Comment(s) received: A citizen recommended that if a zoning district allows for a multi-family dwelling, then the multi-family dwelling should be allowed as any type of multi-family structure ownership, whether it is a condominium, townhome, etc.

History/rationale for proposal: The draft PDC defines a *multiple-family dwelling* as a building designed for permanent occupancy by more than two families or households, which may include apartment or townhouse or condominium building(s) (page 179).

Staff recommendation(s): N/A

6. Performance Standard – Off-street parking regarding shared parking

Proposal: Regarding shared off-street parking, the performance standard for off-street parking in the draft PDC only allows for shared off-street parking in the Central Business and Transitional Zoning districts (page 77).

Comment(s) received: A citizen recommended that shared off-street parking should be permitted in the Resort (RZD) and Highway Commercial Zoning (HCZD) districts as well where it would make sense (i.e. nighttime/daytime businesses). This would reduce the amount of impervious surface for commercial development. In addition, a contract providing for shared parking for a period of 20 years as mentioned in the draft PDC gives the City some confidence.

History/rationale for proposal: The exclusion of the RZD and HCZD districts from permitting shared off-street parking may have been an oversight.

Staff recommendation(s): Staff recommends that shared off-street parking be permitted in the RZD and HCZD districts.

7. Creation of Old Town Zoning District (OTZD)

Proposal: The draft PDC and zoning map propose the creation of a new zoning district, OTZD.

Comment(s) received: The proposal to create a new zoning district, OTZD, has been met with proponents, opponents, and confusion as to what it is and why it was created.

History/rationale for proposal: Goal #4 of the 2006 Growth Policy states the need to encourage the development of affordable housing. This was taken into account at the time when the draft PDC was written. As such, the specification standards of the proposed MRZD were relaxed from the specification standards of the current MRZD to allow for more housing options. Meanwhile the thought was to maintain the current MRZD standards in portions of the more historic residential neighborhoods near the CBZD, preserving the historic residential development pattern, thus an OTZD was proposed. The table below illustrates the similarities and differences between the current MRZD, proposed MRZD, and the proposed OTZD.

	Current MRZD	Proposed OTZD	Proposed MRZD
Minimum lot or mobile home space size	7,000 sq. ft. (permitted use) / 5,000 sq. ft. (special permit use)	7,000 sq. ft.	6,000 sq. ft.
Minimum lot width at front property line	50 ft.	50 ft.	40 ft.
Maximum height	30 ft.	35 ft.	35 ft.
Minimum front yard setback	Along arterials – 50 ft. other streets – 25 ft.	Along arterials – 40 ft. other streets – 25 ft.	Along arterials – 40 ft. other streets – 25 ft.
Mobile home parks	Special use	Not permitted	Special use
Accessory uses	Accessory uses customarily associated with the permitted and special permit uses	Accessory uses customarily associated with the permitted and special permit uses, except detached accessory dwelling units, including an apartment above a detached garage, are not allowed in OTZD	Accessory uses customarily associated with the permitted and special permit uses

Staff recommendation(s): Open for discussion. Options include:

- a) Remove proposed OTZD and keep current MRZD standards in place.
 - a. PRO: No new zone created and MRZD standards allow for retention of residential development pattern.

- b. CON: Keeping current MRZD standards in place does not allow for greater flexibility in affordable housing development options.
- b) Keep proposed OTZD zone and proposed MRZD standards.
 - a. PRO: Proposed MRZD standards will allow for greater flexibility in affordable housing development options and the OTZD zone will preserve the historic residential development pattern in the more historic residential neighborhoods.
 - b. CON: An additional and more restrictive zoning district in a residential zone.
- c) Keep proposed MRZD standards and remove proposed OTZD.
 - a. PRO: Keeping proposed MRZD standards and removing proposed OTZD will allow for greater flexibility in development in the MRZD.
 - b. CON: Removing the proposed OTZD could lead to more intensive development in the more historic residential neighborhoods.

8. Performance Standard – Circulation in Off-Street Parking Areas

Proposal: Page 80, section 12, subsection a. of the draft PDC proposes that all angle parking in off-street parking areas be one-way circulation.

Comment(s) received: A citizen has recommended that two-way circulation be permitted for angle parking in off-street parking areas.

Staff recommendation(s): Staff recommends permitting two-way circulation for angle parking in off-street parking areas and recommends the following code language:

*90° parking: 24 feet for two-way circulation;
 60° angle parking: 18 feet for one-way circulation; 21 feet for two-way circulation;
 45° angle parking: 15 feet for one-way circulation; 21 feet for two-way circulation; and
 30° angle parking: 13 feet for one-way circulation; 21 feet for two-way circulation.*

9. Resort Zoning District (RZD) – View Corridors

Proposal: Page 24, section 4, subsection e. of the draft PDC states that developments in the RZD shall be designed and constructed to afford views from adjoining public streets, sidewalks and trails to the lake and river. No more than 25% of the view of the lake and river, as measured 5 feet above the ground surface along the adjoining public street, sidewalk or trail, shall be blocked by development.

Comment(s) received: A citizen expressed concern that limiting development that otherwise complies with the performance standards merely to preserve public views of the lake and river is inappropriate and that to accomplish that intent is a taking of property rights without compensation.

History/rationale for proposal: The current RZD performance standards (page 24) address this issue by stating, “Developments in the RZD shall be designed and constructed to afford views from adjoining public streets and sidewalks/trails to the lake. Building masses must be: a. below the grade of the adjoining public street, sidewalk, or trail so they do not block views; or b. designed to permit occasional views to the lake through or between buildings. The developer shall submit drawings or electronic simulations demonstrating compliance with this performance standard.”

Part of the rationale for the existing and proposed language is views of the lake from public ways contribute to Polson's charm and allure, and also are part of its economy. The Waterside Condominiums in Lakeside, Montana have been cited as an example of development blocking views to the lake from Highway 93. The proposed language is intended to be more specific for both developers and permit reviewers than the current language.

Staff recommendation(s):

- a) Keep the proposed language.
- b) Modify the proposed language.

10. Resort Zoning District (RZD) – Maximum Lot Coverage

Proposal: The proposed RZD Specification Standards table on pages 23-24 of the draft PDC shows that the maximum lot coverage is 55%; however, the proposed PDC allows for the possibility to increase lot coverage up to 75%.

Comment(s) received: A citizen expressed that the maximum lot coverage of 55% is too low. The Highway Commercial Zoning District allows up to 80%, and commercial development is permitted in the RZD.

History/rationale for proposal: Maximum lot coverage of 55% is intended to limit the density of development; provide for view corridors; and limit the amount of impervious surface located along the community's greatest asset – the river and lake. However, the proposed PDC does provide developers with the option to increase lot coverage from the maximum of 55% to 75% if they provide at least 85% (says 35% in the draft PDC, probably a typo) of the view of the lake and river, as measured 5 feet above the ground surface along the adjoining public street, sidewalk or trail.

Staff recommendation(s): Staff recommends that the proposed 55% maximum lot coverage remain in place as there is already an incentive/option provided to allow for increased maximum lot coverage.

11. Resort Zoning District (RZD) – Minimum setback from lake, river, or stream (shoreline buffer)

Proposal: The draft PDC proposes a minimum setback of 50 feet from the lake, river, or stream in the RZD (pages 23-24). The shoreline buffer must also be included within the 50 foot setback.

Comment(s) received: A citizen expressed that the proposed 50 foot minimum setback is excessive considering that there is already a shoreline buffer requirement in place and is sufficient.

History/rationale for proposal: The shoreline buffer (part of Lakeshore Protection Regulations) requires a 20 foot setback which acts as a structural setback designed to protect water quality and the natural characteristics of the land/water interface where only limited development and vegetation disturbance is allowed to occur.

The Lakeshore Protection Act allows communities to increase setbacks if certain steps are taken, and 50 foot setbacks and buffers are very common in the jurisdictional area of Lake County, both in the PDC

area and in many of the lakefront zoning districts. The 50 foot setback provides added protection by enhancing and working in concert with the Lakeshore Protection Regulations.

Staff recommendation(s): None. Open for discussion.

12. Resort Zoning District (RZD) – Multiple-family dwelling up to 8 units per structure

Proposal: The Land Use table on page 23 of the draft PDC shows that a multiple-family dwelling up to 4 units per structure is a permitted use, and a multiple-family dwelling of 5 to 16 units per structure is a special use.

Comment(s) received: A citizen has recommended that a multiple-family dwelling up to 8 units per structure be a permitted use without a special use permit.

History/rationale for proposal: The RZD zoned parcels are located along the river and lake side – the community’s greatest asset. Intensive development in these areas should go through the special use process to provide opportunity for both the City and its citizens to review and have a say in a development that may have great impacts on the community.

Staff recommendation(s): Staff recommends keeping the proposed standards. That is, a multiple-family dwelling up to 4 units per structure be a permitted use, and a multiple-family dwelling of 5 to 16 units per structure be a special use.

13. Resort Zoning District (RZD) – rezone along river front (5th Avenue W. – 6th Avenue W.)

Proposal: The draft zoning map proposes to rezone a block of river front between 5th Avenue West and 6th Avenue West from its current zone of MRZD to RZD.

Comment(s) received: Citizens have expressed that rezoning the block from MRZD to RZD is not recommended. This block contains all single-family residences. RZD does permit commercial development, and as such the roads in the area would not be able to accommodate extra traffic generated from potential commercial development.

History/rationale for proposal: The area abuts the Flathead River and is located across 7th Avenue West from the Polson Sports Complex. It also abuts multi-family housing that is currently zoned RZD and is located close to Riverside Park and the CBZD.

Staff recommendation(s): None. Open for discussion.

14. Townhomes in Medium Density Residential Zoning District (MRZD)

Proposal: According to the draft PDC, a duplex is a structure containing two separate dwelling units, under one ownership. Whereas a townhouse is defined as property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.

Comment(s) received: Citizens have expressed that under the proposed MRZD, a duplex is permitted, but a townhouse of the same exact size would not be permitted. The only difference is ownership. To permit a townhouse, thus splitting a parcel down the middle to create separate ownership of land and half ownership of the townhouse, the specification standards would have to be modified to permit for townhouses. This is common elsewhere around the country, and does not change density or impact in the community. Instead it provides more options for starter homes.

Staff recommendation(s): Open for discussion. Options include:

- a) Keep the proposed MRZD Specification Standards
- b) Allow for townhouses in MRZD by making the following modifications to the specification standards: i) Minimum lot size: Townhouse 3,500 sq. ft; ii) Minimum lot width, at front property line: Townhouse 25 feet; iii) Minimum front yard setback: building wall - 20 feet; iv) Minimum side yard setback: common wall – 0 feet.

PRELIMINARY REPORT
TO THE POLSON ZONING COMMISSION AND CITY-COUNTY
PLANNING BOARD ON DRAFT UPDATES TO SUBDIVISION
REGULATIONS

FEBRUARY 8, 2016

A) Introduction:

This report is submitted by City of Polson City Planner, Kyle Roberts to the Polson Zoning Commission and City-County Planning Board along with the draft Polson Development Code (PDC) which includes Subdivision Regulations. The Zoning Commission and City-County Planning Board is scheduled to hold a public hearing on the draft Polson Development Code on February 16, 2016 at 6:00 p.m. at City Hall.

B) Report/Findings:

This report is intended to be a baseline report by the primary author of the latest draft Polson Development Code, which can be used by the Zoning Commission and City-County Planning Board to create its preliminary report required by 76-2-307, MCA. Section D of the report outlines applicable local regulation of subdivisions statutes and preliminary findings regarding the draft regulations' compliance with state law.

C) Winter 2016 Public Hearing Draft of the Polson Development Code:

Draft Subdivision Regulations:

The draft subdivision regulations in the Polson Development Code are intended to replace the subdivision regulations of the current PDC. The draft subdivision regulations are intended to apply only to land within the municipal boundaries. It is intended that all development within the municipal boundaries will be subject to the city-adopted PDC as updated through this process, whereas development outside of the municipal boundaries will remain subject to the current Lake County-adopted Polson Development Code as adopted and administered by Lake County. This is the primary change in the current draft PDC relative to previous drafts.

D) Local Regulation of Subdivisions Statutes:

The following are applicable local regulation of subdivisions statutes and criteria and draft preliminary findings in *italics* for consideration by the Zoning Commission and City-County Planning Board:

- 1) **76-3-501. Local subdivision regulations.** The governing body of every county, city, and town shall adopt and provide for the enforcement and administration of subdivision regulations reasonably providing for:
 - (1) the orderly development of their jurisdictional areas;
 - (2) the coordination of roads within subdivided land with other roads, both existing and planned;

- (3) the dedication of land for roadways and for public utility easements;
- (4) the improvement of roads;
- (5) the provision of adequate open spaces for travel, light, air, and recreation;
- (6) the provision of adequate transportation, water, and drainage;
- (7) subject to the provisions of [76-3-511](#), the regulation of sanitary facilities;
- (8) the avoidance or minimization of congestion; and
- (9) the avoidance of subdivisions that would involve unnecessary environmental degradation and danger of injury to health, safety, or welfare by reason of natural hazard, including but not limited to fire and wildland fire, or the lack of water, drainage, access, transportation, or other public services or that would necessitate an excessive expenditure of public funds for the supply of the services.

***Finding 1:** The draft subdivision regulations provide for the enforcement and administration of subdivision regulations reasonably providing for items 1-9.*

- 2) 76-3-503. Hearing on proposed regulations.** Before the governing body adopts subdivision regulations pursuant to 76-3-501 or 76-3-509, it shall hold a public hearing on the regulations and shall give public notice of its intent to adopt the regulations and of the public hearing by publication of notice of the time and place of the hearing in a newspaper of general circulation in the county not less than 15 or more than 30 days prior to the date of the hearing.

***Finding 2:** The draft subdivision regulations address the requirements of 76-3-503, MCA, and its requirements shall be met through this adoption process. The proposed regulations will not become effective without a successful vote of the City Commission.*

3) 76-3-504. Subdivision regulations – contents.

- (1) The subdivision regulations adopted under this chapter must, at a minimum:
- (a) list the materials that must be included in a subdivision application in order for the application to be determined to contain the required elements for the purposes of the review required in 76-3-604(1);
 - (b) except as provided in 76-3-509, 76-3-609, or 76-3-616, require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;
 - (c) establish procedures consistent with this chapter for the submission and review of subdivision applications and amended applications;
 - (d) prescribe the form and contents of preliminary plats and the documents to accompany final plats;
 - (e) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development. The regulations must prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques or other mitigation measures authorized under 76-3-608(4) and (5). Approved construction techniques or other mitigation measures may not include building regulations as defined in 50-60-101 other than those identified by the department of labor and industry as provided in 50-60-901.

(f) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;

(g) prescribe standards for:

(i) the design and arrangement of lots, streets, and roads;

(ii) grading and drainage;

(iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that meet the:

(A) regulations adopted by the department of environmental quality under 76-4-104 for subdivisions that will create one or more parcels containing less than 20 acres; and

(B) standards provided in 76-3-604 and 76-3-622 for subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres; and

(iv) the location and installation of public utilities;

(h) provide procedures for the administration of the park and open-space requirements of this chapter;

(i) provide for the review of subdivision applications by affected public utilities and those agencies of local, state, and federal government identified during the preapplication consultation conducted pursuant to subsection (1)(q) or those having a substantial interest in a proposed subdivision. A public utility or agency review may not delay the governing body's action on the application beyond the time limits specified in this chapter, and the failure of any agency to complete a review of an application may not be a basis for rejection of the application by the governing body.

(j) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:

(i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(iii) reserve and sever all surface water rights from the land;

(k) (i) except as provided in subsection (1)(k)(ii), require the subdivider to establish ditch easements in the subdivision that:

(A) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

(B) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

(C) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

(ii) Establishment of easements pursuant to this subsection (1)(k) is not required if:

(A) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

(B) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

(l) require the subdivider, unless otherwise provided for under separate written agreement or filed easement, to file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

(m) require the subdivider to describe, dimension, and show public utility easements in the subdivision on the final plat in their true and correct location. The public utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of public utility facilities for the provision of public utility services within the subdivision.

(n) establish whether the governing body, its authorized agent or agency, or both will hold public hearings;

(o) establish procedures describing how the governing body or its agent or agency will address information presented at the hearing or hearings held pursuant to 76-3-605 and 76-3-615;

(p) establish criteria that the governing body or reviewing authority will use to determine whether a proposed method of disposition using the exemptions provided in 76-3-201 or 76-3-207 is an attempt to evade the requirements of this chapter. The regulations must provide for an appeals process to the governing body if the reviewing authority is not the governing body.

(q) establish a preapplication process that:

(i) requires a subdivider to meet with the authorized agent or agency, other than the governing body, that is designated by the governing body to review subdivision applications prior to the subdivider submitting the application;

(ii) requires, for informational purposes only, identification of the state laws, local regulations, and growth policy provisions, if a growth policy has been adopted, that may apply to the subdivision review process;

(iii) requires a list to be made available to the subdivider of the public utilities, those agencies of local, state, and federal government, and any other entities that may be contacted for comment on the subdivision application and the timeframes that the public utilities,

agencies, and other entities are given to respond. If, during the review of the application, the agent or agency designated by the governing body contacts a public utility, agency, or other entity that was not included on the list originally made available to the subdivider, the agent or agency shall notify the subdivider of the contact and the timeframe for response.

(iv) requires that a preapplication meeting take place no more than 30 days from the date that the authorized agent or agency receives a written request for a preapplication meeting from the subdivider; and

(v) establishes a time limit after a preapplication meeting by which an application must be submitted;

(r) require that the written decision required by 76-3-620 must be provided to the applicant within 30 working days following a decision by the governing body to approve, conditionally approve, or deny a subdivision;

(s) establish criteria for reviewing an area, regardless of its size, that provides or will provide multiple spaces for recreational camping vehicles or mobile homes.

(2) In order to accomplish the purposes described in 76-3-501, the subdivision regulations adopted under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster development.

Finding 3: *The draft subdivision regulations address: subdivision application and preliminary plat submittals [76-3-504, (1)(a)(b)] in Chapter VI, section I; subdivision submission and review procedures [76-3-504, (1)(c)] in Chapter VI, division 2 – General Procedures; the contents of preliminary plats and documents to accompany final plats [76-3-504, (1)(d)] in Chapter VI, sections I and P; lands unsuitable for subdivision [76-3-504, (1)(e)] in Chapter VI, section Z; floodplain provisions [76-3-504, (1)(f)] in Chapter VI, section AA; the design and arrangements of lots, streets, and roads; grading and drainage; and water supply and sewage and solid waste disposal [76-3-504, (1)(g)] in Chapter VI, sections BB, CC, and OO; procedures for the administration of the parks and open space requirements [76-3-504, (1)(h)] in Chapter IV, section S; required public agency, service provider and utility contacts [76-3-504, (1)(i)], Chapter VI, section H; disposition of water rights and irrigation related operation and maintenance assessments [76-3-504, (1)(j)] in Chapter VI, section JJ; irrigation easements [76-3-504, (1)(k)(l)(m)] in Chapter VI, section II; holding public hearings [76-3-504, (1)(n)] in Chapter VI, section M; addressing information presented at governing body public hearings [76-3-504, (1)(o)] in Chapter VI, sections W and X; exemptions from the Subdivision and Platting Act [76-3-504, (1)(p)] in Chapter VI, section Y; pre-application process [76-3-504, (1)(q)] in Chapter VI, section G; written decision by governing body [76-3-504, (1)(r)] in Chapter VI, sections W and X; (76-3-504, (2) the draft subdivision regulations address 76-3-509, in Chapter IV, section CC and Chapter VI, section MM.*

4) 76-3-506. Provision for granting variances.

(1) Subdivision regulations may authorize the governing body, after a public hearing on the variance request before the governing body or its designated agent or agency, to grant

variances from the regulations when strict compliance will result in undue hardship and when it is not essential to the public welfare.

(2) Any variance granted pursuant to this section must be based on specific variance criteria contained in the subdivision regulations.

(3) A minor subdivision as provided for in 76-3-609(2) is not subject to the public hearing requirement of this section.

***Finding 4:** The draft subdivision regulations address provisions for granting subdivision variances in Chapter VI, section L.*

5) 76-3-507. Provision for security requirements to ensure construction of public improvements.

(1) Except as provided in subsections (2) and (4), the governing body shall require the subdivider to complete required improvements within the proposed subdivision prior to the approval of the final plat.

(2) (a) In lieu of the completion of the construction of any public improvements prior to the approval of a final plat, the governing body shall at the subdivider's option allow the subdivider to provide or cause to be provided a bond or other reasonable security, in an amount and with surety and conditions satisfactory to the governing body, providing for and securing the construction and installation of the improvements within a period specified by the governing body and expressed in the bonds or other security. The governing body shall reduce bond or security requirements commensurate with the completion of improvements.

(b) In lieu of requiring a bond or other means of security for the construction or installation of all the required public improvements under subsection (2)(a), the governing body may approve an incremental payment or guarantee plan. The improvements in a prior increment must be completed or the payment or guarantee of payment for the costs of the improvements incurred in a prior increment must be satisfied before development of future increments.

(3) Approval by the governing body of a final plat prior to the completion of required improvements and without the provision of the security required under subsection (2) is not an act of a legislative body for the purposes of 2-9-111.

(4) The governing body may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security under subsection (2)(a) for purposes of filing a final plat. The requirement is applicable to approved preliminary plats.

***Finding 5:** The draft subdivision regulations address the requirements of 76-3-507, MCA, in Chapter VI, section V, as well as in Chapter V.*

6) 76-3-509. Local option cluster development regulations and exemptions authorized.

(1) If the governing body has adopted a growth policy that meets the requirements of 76-1-601, the governing body may adopt regulations to promote cluster development and preserve open space under this section.

(2) Regulations adopted under this section must:

(a) establish a maximum size for each parcel in a cluster development;

(b) subject to subsection (3)(d), establish a maximum number of parcels in a cluster development; and

(c) establish requirements, including a minimum size for the area to be preserved, for preservation of open space as a condition of approval of a cluster development subdivision under regulations adopted pursuant to this section. Land protected as open space on a long-term basis must be identified on the final subdivision plat, and the plat must include a copy of or a recording reference to the irrevocable covenant prohibiting further subdivision, division, or development of the open space lots or parcels, as provided in Title 70, chapter 17, part 2.

(3) Regulations adopted under this section may:

(a) establish a shorter timeframe for review of proposed cluster developments;

(b) establish procedures and requirements that provide an incentive for cluster development subdivisions that are consistent with the provisions of this chapter;

(c) authorize the review of a division of land that involves more than one existing parcel as one subdivision proposal for the purposes of creating a cluster development;

(d) authorize the creation of one clustered parcel for each existing parcel that is reviewed as provided in subsection (3)(c); and

(e) establish exemptions from the following:

(i) the requirements of an environmental assessment pursuant to 76-3-603;

(ii) review of the criteria in 76-3-608(3)(a); and

(iii) park dedication requirements pursuant to 76-3-621.

(4) Except as provided in this section, the provisions of this chapter apply to cluster development subdivisions.

Finding 6: *The draft subdivision regulations address 76-3-509, MCA in Chapter IV, section CC.*

7) 76-3-510. Payment for extension of capital facilities. (1) A local government may require a subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. A local

government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.

(2) All fees, costs, or other money paid by a subdivider under this section must be expended on the capital facilities for which the payments were required.

***Finding 7:** The draft subdivision regulations address provisions to ensure that required improvements will be installed and maintained in Chapter V.*

8) 76-3-511. Local regulations no more stringent than state regulations or guidelines.

(1) Except as provided in subsections (2) through (4) or unless required by state law, a governing body may not adopt a regulation under 76-3-501 or 76-3-504(1)(g)(iii) that is more stringent than the comparable state regulations or guidelines that address the same circumstances. The governing body may incorporate by reference comparable state regulations or guidelines.

(2) The governing body may adopt a regulation to implement 76-3-501 or 76-3-504(1)(g)(iii) that is more stringent than comparable state regulations or guidelines only if the governing body makes a written finding, after a public hearing and public comment and based on evidence in the record, that:

(a) the proposed local standard or requirement protects public health or the environment; and

(b) the local standard or requirement to be imposed can mitigate harm to the public health or environment and is achievable under current technology.

(3) The written finding must reference information and peer-reviewed scientific studies contained in the record that forms the basis for the governing body's conclusion. The written finding must also include information from the hearing record regarding the costs to the regulated community that are directly attributable to the proposed local standard or requirement.

(4) (a) A person affected by a regulation of the governing body adopted after January 1, 1990, and before April 14, 1995, that that person believes to be more stringent than comparable state regulations or guidelines may petition the governing body to review the regulation. If the governing body determines that the regulation is more stringent than comparable state regulations or guidelines, the governing body shall comply with this section by either revising the regulation to conform to the state regulations or guidelines or by making the written finding, as provided under subsection (2), within a reasonable period of time, not to exceed 12 months after receiving the petition. A petition under this section does not relieve the petitioner of the duty to comply with the challenged regulation. The governing body may charge a petition filing fee in an amount not to exceed \$250.

(b) A person may also petition the governing body for a regulation review under subsection (4)(a) if the governing body adopts a regulation after January 1, 1990, in an area in which no state regulations or guidelines existed and the state government subsequently establishes comparable regulations or guidelines that are less stringent than the previously adopted governing body regulation.

Finding 8: *The draft subdivision regulations are in compliance with 76-3-511 MCA, as noted in Chapter VI, section A.*

CITY OF POLSON ZONING DISTRICTS

Low Density Residential Zoning District (LRZD):

The Low Density Residential Zoning District is intended to provide for neighborhoods of single-family dwellings that are typically connected to municipal utilities.

Medium Density Residential Zoning District (MRZD):

The Medium Density Residential Zoning District is intended to permit the development of single-family, two-family and multiple-family dwellings with municipal services.

***Old Town Zoning District (OTZD):**

The Old Town Zoning District is intended to permit the development of single-family, two family and multiple-family dwellings with municipal services in accordance with the City's historic development pattern.

Mixed Residential District (XRZD):

The Mixed Residential Zoning District is intended to provide for the continuation of a residential neighborhood with single-family, two family and multi-family structures that are connected to municipal services.

Transitional Zoning District (TZD):

The Transitional Zoning District is intended to provide for a well-planned transition from predominantly single-family residential to higher density residential, limited-scale commercial, and mixed uses in specific areas predominantly located near the central business district. Transitional developments must comply with performance standards designed to protect the remaining residences.

Resort Zoning District (RZD):

The Resort Zoning District is intended to permit mixed higher density residential and resort commercial development primarily along the Flathead Lake and Flathead River shoreline. Because the lakeshore and riverfront is so critical to the City's prosperity and quality of life, new uses in the RZD require a special use permit.

Highway Commercial Zoning District (HCZD):

The Highway Commercial Zoning District provides a place for commercial uses that rely on easy automobile access. It is also the appropriate location for any commercial development that needs outdoor sales space.

Central Business Zoning District (CBZD):

The Central Business Zoning District is intended to encompass the "commercial core" of the city, and provide a place for the redevelopment or development of uses that depend on pedestrian circulation and a central location.

General Commercial-Industrial Zoning District (CIZD):

The General Commercial – Industrial Zoning District is intended to provide a place for a wide range of commercial uses that do not rely on direct highway access or a CBZD location, and industrial development in the city jurisdictional area.

Recreational Vehicle and General Campgrounds Zoning District (RVZD):

The Recreational Vehicle and General Campgrounds Zoning District is intended to permit recreational vehicle (RV) developments and campground developments within the city. The RVZD is intended to allow for condominium ownership of certain recreational vehicle developments in addition to the rental/lease of individual sites and the permitted and special permit uses, as applicable. This district is appropriately applied to areas where recreational facilities are available. All applicable permitted uses shall adhere to the Administrative Rules of Montana, Title 37, Chapter 111, subchapter 202-230 (ARM 37-111-202-230).

***Hospital Mixed Zoning District (HMZD):**

The Hospital Mixed Zoning District is intended to permit medically related services and mixed residential development.

*Newly proposed zoning district

12/12/15

To Those Considering the Revised Polson Development Code:

Hello! Please consider the following topics and fine tune as appropriate. Please note that page numbers given are approximate as a result of multiple similar drafts. I write from a number of perspectives and would be happy to clarify and/or listen should you have questions and/or comments. I've recently learned that planning boards should preserve, protect and prevent harm but that they should not promote unless it's a by-product or in harmony with preserving, protecting and preventing harm. Please keep this in mind. Thank you for your time and thought, and good luck!

Respectfully,
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Polson, MT 59860
883-1776
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Lot coverage (Definitions section, VII.Lot Coverage, approx. pg. 200):

Please change last sentence to read, "Slotted decks are considered lot coverage."

Please change this to match the view that's been historically true for the CityPlanning Dept. The consideration on slotted decking is a concern, since this proposed change would allow someone to completely cover a lot with decking. This has a direct effect on me since my neighbor was improperly permitted for excess lot coverage in early 2010 and wanted to add more coverage in the form of decks. Please see the attached picture to see the concern I'm talking about. Changing this long-running view of slotted decking would potentially make that situation and similar ones worse. A deck covers part of a lot. Slotted decks do not allow direct infiltration of water, so the long-running view is in keeping with the definition. Please keep the situation with slotted decks consistent with the long-running view of the City.

Zoning district reassignments

Please support the addition of OTZD. This supports more appropriate zoning for residential areas in town with the older setup utilizing alley entries for mostly 7000 square foot lots in much older well-established neighborhoods. This includes 5th Ave West, historically known as 'Silk Stocking Avenue'. The other zoning tends to fit better for developing neighborhoods and those with a different style and layout than for these older well-established neighborhoods. Down the road, I think additional areas may fit into this OTZD zoning in place of district assignments that seem like they are becoming less appropriate over time, such as lower density areas occurring oddly in the middle of town. The purpose of the OTZD (pg. 19) would benefit from a tweak. It mentions the City's historic development pattern. What was intended was a reference to the City's historic residential pattern of 7000 square foot lots for single-family residences with alleys, which was the City's original pattern in this area.

Parking and drives

(IV.O.11.f, approx. pg. 86)

Please clarify here that for parking off of alleys for older single-family residences, the described driveways don't make sense.

If someone living in an older section with parking off an alley wanted to replace or remodel a garage, putting in a 20-foot paved driveway would be weird and probably difficult or impossible in those areas. Committee members that reviewed the draft Code suggested a particular interpretation so that parking areas off of alleys didn't involve drives. I don't recall exactly how they thought that would work and don't see it clarified in the code. Clarification would help avoid confusion on this. The alleys are generally unpaved and so are many of the parking facilities. **The alleys seem to provide the drive up and the lots provide the parking, which may offer a way to clarify.**

(IV. Table IV.2, approx. pg. 87)

Please consider rounding up the required number of parking spaces to 2 per unit for multi-family dwellings and accessory dwelling units.

The multi-family dwelling that I often pass tends to have at least 2 cars per unit parked around it. People say that those living in multi-family units or accessory dwelling units would have fewer cars per unit than that. Perhaps that's so but in practical usage, I haven't seen it and would appreciate your added observations and consideration.

(IV.O.11.c, approx. pg. 85)

Nonconformities and existing nuisances (III.FF, approx pg. 76-77)

For III.FF.4 and 5, is it clear that existing accessory dwelling units that are nonconforming cannot be expanded in size?

III.FF.7, approx pg. 77

Please adjust the beginning of the first sentence to read "Temporary nonconforming uses, surfaces or structures..." and please adjust the examples. The examples were to illustrate that you can't use the presence of something 'temporary' to just replace it with something permanent. A tent sitting somewhere, for example, cannot be used as a rationale to automatically replace it with a building. Gravel is a temporary surface (stuff will grow in it, and you can stick a shovel through it, unlike paving). Gravel is also more pervious than paving, with the degree dependent on the amount of compaction. To pave nonconforming gravel is to increase its nonconformity, so you can't just go out and replace it with paving. They aren't equivalent. This was to be clarified in this revision from what the City told me after a problem arose, and this seems a good place to do so.

A note on 'nonconforming': Please be aware of the change in the definition of nonconforming. The current code differentiates between legal nonconforming items and other nonconforming items. The proposed code's definition for nonconformity narrows the definition to cover just what was previously termed 'legal nonconforming'. Noncompliant lots or situations that were out of compliance with the code at the time of emplacement do not meet this definition, so now there would be nonconforming lots which met previous code, and noncompliant lots which did not. Please be aware of the change, since the term 'nonconforming' tends to be used more broadly in general usage. This is of direct concern to me since I am adjacent to a noncompliant lot.

Clear vision triangles (IV.O.11.d & e, approx. pg. 86)

Please consider changing this section to reduce impacts on surrounding properties.

Please look into two issues:

1. Clear vision triangles are specified to be 15 feet for driveways, except those on arterials or those expected to carry large amounts of traffic (300 or more ADT). In a clear vision triangle, visual obstructions are limited to heights below 3 feet and above 8 feet. The appropriate size for a clear vision triangle is dependent on speed. In spite of asking, I've never seen data on what size applies to what speed nor did the others on the committee. What does the data say? Is this really an appropriate size for an entry/driveway onto a quiet residential street? How fast is it reasonable for a driver to go who is entering or exiting from a driveway on a quiet residential street?
2. Clear vision triangles solve a problem when applied properly but they create issues, too.
 - a. For areas where lots are 50 feet wide, if someone puts a driveway at the property edge, then this restricts the neighboring lot of use of a 15-foot triangle chunk of land. It restricts 15 feet of the 50 feet of frontage and 15 feet along the side property line. If both neighbors did this, it would restrict 30 feet, leaving only 20 unencumbered feet of frontage of 50 for the landowner.
 - b. If someone adds a driveway, then it appears that the neighbor is then required by code to change or take out vegetation, fencing and so forth, to accommodate someone's new driveway. Some committee members who looked at the code revision expressed that in the case where there's already blockage in the vision triangle, the driveway wouldn't be permitted. I see nothing written in the proposed revised code to support that nor have I seen evidence of driveways or parking areas being shifted or denied under the current code because of the neighbor's fence or vegetation pattern.
 - c. The driver exiting or entering the driveway still has the responsibility for traveling an appropriate speed and checking appropriately for children, pedestrians, pets and other obstacles.
 - d. Some portions of town have the type of layout developed where access was intended from the alleys with a walkway along the fronts. Fences and vegetation are far more common along the front than driveways. A person who wants or needs a fence has limited options if a vision triangle is involved. When someone adds a driveway into the front, that can adversely affect what the neighbor can have in their yard if it's near the edge of the lot, and also reduces street parking.
 - e. Example: I have a 4-foot white picket fence and also vegetation along the front and side of my lot on a fairly quiet residential street. My neighbor was improperly permitted to put in a second drive/parking pad in excess of lot coverage along the edge of the property bordering mine. In terms of clear

vision triangles, his drive/pad becomes even further out of compliance. Should an issue arise, will the City order the drive/pad that was installed contrary to the Code removed or the vegetation and fence? I moved into an older neighborhood and enjoy that style with front walks and alley access. The picket fence fits well with that style. Front driveways do not. And among the functions of the vegetation, it helps to screen out the improperly permitted lot coverage next door.

Accessory units (IV.Z, approx pg. 119-120 and Definitions section, VII.Accessory.3, approx pg. 195)

Please consider that rentals simply are not accessory units: they are homes, in and of themselves. Also, please consider the following.

1. *Please change IV.Z.3.d either to read, "The lot must be a minimum of one acre in size" or to establish some other across-the-board minimum of at least 14,000 square feet.*

Two lines of reasoning support changing IV.Z.3.d, and a third asks a question.

- a. Essentially, as the draft currently reads, this would allow for a second dwelling unit on a 7000-square foot lot, which has generally been the traditional minimum-size residential lot for one single-family dwelling for the main residential districts in town. The districts so affected would be MRZD, HMZD (which is currently MRZD), TZD (much of which is currently MRZD or LRZD) and RZD. So you'd take neighborhoods where the 7000-square foot lots have been developed and purchased for single-family residences only for a long time and change that.

Someone who has invested years of their time and effort into a family home in a single-family neighborhood will suddenly find a huge change when someone builds a second home on a neighboring single-family lot. I don't know of resident owners of 7000-square foot lots who want this. People who favor this don't seem to live on smaller lots in areas where their personal homes/neighborhoods would be directly affected.

The lots and infrastructure haven't been designed or planned for a doubled density, in addition to the increased problems that come when you increase density and put people closer together. This seems a bizarre choice for a rural town, with no college population, where part of the appeal is that it IS a rural town with less density than big city living. When residents have been asked what they like about living in Polson, people tend to mention they like the small town feel and rural character of Polson, not that they want to double density in residential districts. (And if you've got 2 dwellings and associated cars and so forth on a 7000 square foot lot, where do kids play?)

- b. Requests for second dwellings have come from those with larger lots that have the space to more sensibly accommodate a second dwelling, often for guest houses, which would seem like a true accessory use. Yet those requests have often been in the very districts where an acre lot size is required as a minimum

in the current draft. For perspective, one side of a common residential city block with 6 houses on 50' x 140' lots (7000 square feet) is roughly an acre so both sides of the street would currently represent 12 dwellings on 2 acres. As written, this proposal would change that block from potentially 12 dwellings to potentially 24 dwellings if the area was zoned in one of the districts without the acre minimum. Meanwhile, on a half-acre LRZD lot (equivalent to roughly three 7000 square-foot lots where elsewhere this accessory dwelling proposal would allow 6 dwellings), someone with one dwelling couldn't have a guest house.

- c. A question: For a time, I think the 7000-square foot minimum in MRZD was interpreted to mean you could have 2 separate dwellings if you had 14,000 square feet or more. Given a comment with an old permit (CC 95-47) and my own recollections (from 2001), I think this may have been true for both County and City. Based on discussion at the May 18, 2015 City Council meeting regarding the Norman subdivision (which involved the same property as permit number CC 95-47), it sounds like currently the interpretation is that for 1 lot, you can have only 1 dwelling as one primary use, regardless of the lot size. What is the source of this interpretation? It would be good to understand that, and applicable changes in state law, before allowing additional dwellings.

2. ***Please consider that IV.Z.1 (regarding the stated purpose of the accessory dwelling units) is inaccurate, and revise.*** IV.Z.1 incorrectly states that accessory dwelling units 'allow efficient use of the existing housing stock and infrastructure, provide housing options that respond to changing household sizes and needs, provide a means for residents—particularly seniors, single parents and empty-nesters—to remain in their homes and neighborhoods, obtain extra income, security, companionship and assistance, and to provide a broader range of affordable housing options.'

- a. This is inefficient use of the existing housing stock and infrastructure and does not provide a broader range of affordable housing options. A predictable result is it will reduce affordable housing stock available for purchase. Chapter 3 of the Growth Policy describes the older housing stock as the more affordable housing where lower income people are more likely able to buy a home. The costs of adding a second unit are unlikely to be covered by those who this statement purports to help, and adds another source of competition for these lots from those who can afford to build rentals. Per past conversations with Lake County Community Development personnel, the biggest need for affordable housing falls more in the range of 3 bedroom houses (or more) for families. Infrastructure in areas with 7000-square foot lots is generally already developed and as currently drafted, this allows for the density of houses to double. That also doubles the burden on the existing and established infrastructure. The established infrastructure doesn't appear to be up to dealing with a doubled demand upon it. (And who pays then?)
- b. This is an ineffective and cumbersome way to provide housing options that respond to changing household sizes and needs. An option for an accessory

apartment already exists that provides an option for changing household with a lesser impact on the neighborhood. Given concerns with elder housing, such as concern on stoves and availability of companionship, the accessory apartment better addresses those needs. For adult children, the accessory apartment also would meet that need. The needs in both of these cases tend to be temporary. Both the elder and the adult children tend to move on. Lots are also sold. The unit eventually becomes a rental. With an apartment internal to the single-family dwelling, the residents of the house would tend to be more closely involved with the rental and the neighbors would be less impacted.

- c. It is false that accessory dwelling units would “provide a means for residents—particularly seniors, single parents and empty-nesters—to remain in their homes and neighborhoods, obtain extra income, security, companionship and assistance”. Those who could afford to build a second residence are not necessarily resident owners who are seniors or single parents living in houses on 7000-square foot lots. If someone can afford to do so, they can also afford to pursue other options. By adding rentals, you increase density. Problems such as conflict and crime tend to increase with greater density, for less security. As far as companionship and assistance, those are better provided by the accessory apartment, as is security. A renter in a separate dwelling would provide as much or as little companionship and assistance as any other neighbor.

3. ***Please consider whether IV.Z.4 regarding additional criteria for rentals would effectively be enforced, and how.***

IV.Z.4 outlines criteria for renting an accessory dwelling unit. Two issues to consider exist here. One is that rentals simply are not accessory units: they are homes, in and of themselves. The second is that although having the landowner occupy the main dwelling as a permanent residence is certainly an excellent idea in theory, when it comes to practical fact, CAN that be enforced and WILL that be enforced? If it can't or won't, then this section does little to help. Also, what exactly does it mean that the property owner will reside on the property? This section intends to address or mitigate problems that need to be addressed but in practicality, will this work as intended?

4. ***Please consider changing IV.Z.3.k to “At least two off-street parking spaces....”***

Regarding parking, IV.Z.3.k specifies at least one off-street parking for the accessory dwelling unit. Please consider requiring at least two parking spaces. These units are as likely to have two or more people in them as one. My observation in Montana is there's a higher value on having a car, especially outside the big cities. Additional occupants and visitors will already add to on-street demands.

Definintions (Definitions section, VII, approx. pg.195; II.T.F, approx. pg.42; IV.W.14, approx pg.103; IV.X.11, approx. pg. 115, if this section is kept; IV.EE.9, approx. pg. 128, and possibly elsewhere, including IV.W.5.b, approx pg. 96):

Please combine the definitions into one section at the end of the document. The back of the document is a standard place to look for definitions so they are all easy to find. By having the definitions together, it helps ensure that the definitions are consistent through the document,

without changing from section to section. You could certainly repeat a definition somewhere, but they should all be represented in the back.

Special uses (III.K.3, approx pg. 62)

Please take care not to water down the criteria or requirements for special use. Please make sure these have enough teeth to be modified or denied when the combination of the project and the location are not a good fit.

One point of the special use process is to allow scrutiny of a proposal that will have potentially larger impacts than projects that fall under the ‘permitted use’ category, and to consider if those impacts will have a negative effect. These happen in residential areas as well as the other districts. Do you think this has adequate ‘teeth’ for denial when the fit is poor? In the overhaul of the special use permitting, one aim was to put in some teeth, for an ability to deny a proposal that is a bad fit for a particular place. The fit might be bad due to the specifics of the project or due to the specifics of the location or due to a combination. (This ties in to II.L, Conditions, approx. pg 61, also.) For instance, one proposal for something like a home occupation or a bed and breakfast might work on a particular lot while another proposal does not, due to specifics of the projects. A specific proposal that doesn’t work in one place might work fine in another due to characteristics of the location and parcel. Requested changes in (legal) non-conforming buildings or lots are also processed as special use applications.

Slope (IV.D, approx pg. 81)

Please realize the changes to the slope section are huge and consider them carefully. Please add increased setback for projects on slopes with engineering.

Please consider moderating the changes as appropriate.

The attitude of many committee members seemed to be since engineering can be done, high coverages should be allowed as long as an engineer was willing to sign off on it. I don’t think that’s necessarily a wise approach. I asked an engineer for an opinion. His comments included that it would be good to have an increased setback for an engineered project on a slope to minimize impact on neighbors. Please incorporate this suggestion. He commented the setbacks maybe could be doubled for lots with slopes of 25% or greater. If you prefer, setbacks for engineered plans could be increased by a set amount, by a percentage, or maybe by adding a set amount to the setback for each percent increase of average slope.

Changes in the slope section include lumping the categories in the table IV.1 from four categories to three, and substantially increases in the ranges. The original chart had ranges of 0-8 (coverage dependent on district), 8-15 (20% coverage if erosion hazard not severe), 15-25 (5%) and 25+ (1%). The draft chart has ranges of 0-8 (coverage dependent on district), 9-35 (20% if erosion hazard not severe or same as 0-8 with engineering) and 36+ (1% or 10% maximum with engineering). It would seem more reasonable to break the middle category (9 to 35) into two, perhaps 9-24% and 25-35% to incorporate the suggestion in the last paragraph. It just seems extreme to allow the same amount of development for an engineered project on a 30% slope as for the same project on a property with 0 to 8 %. How does this compare to cities with a similar geology and climate? How has this worked? I’ve not seen hard data presented for these changes—just that ‘you can have it engineered and the engineer signs off’ from those eager for the increases. What about the surrounding people who are potentially affected?

Signs

Thank you for removing the sign ordinance from the current process. Please consider working with the original draft sign code rather than the one presented in the draft PDC when the sign ordinance is addressed. The draft included in the revised PDC code was presented at only one Code committee meeting and contained significant problems, whereas the other draft received a great deal of thought from a group of people specifically interested and/or involved in the sign code.

Potential nuisances (IV.V, approx pg. 92-94)

Please consider whether these are enforceable and if so, who could best provide enforcement.

IV.V.1: Noise:

How will this be measured? It seems likely that noise complaints would be likely in evenings, nights and weekends, when planners aren't available. Would this make more sense to have noise enforcement through law enforcement personnel?

IV.V table IV.3 Noise

Not all districts are included in this chart. CBZD does have a residential component and is not included.

IV.V.2.c Light, glare

How will illumination be measured? Since this is more likely to be a complaint at night, who will measure and enforce this?

IV.V.7 Surface runoff

What happens if water is channeled onto another property? On what sort of scale does it need to be to require enforcement?

Other Items for Thought

Providing adequate infrastructure--Private utilities (IV.K.1, approx pg. 82)

Please take note and consider that the requirement for provision of phone service has been eliminated.

III.Q.6.b, approx pg. 65: What is the basis required by state to approve a variance? Does 6.b adequately cover this?

IV.GG.4 approx pg. 128-129 The governing body seems to have huge leeway to modify standards for PUDs—perhaps require something to define or support 'public benefit'.

Various places: Where does the public find 'City of Polson Standards for Design & Construction'? (I just recently received a copy—thank you!)

Pg. 177-178 VI.BB.3 Why form new lots with high slope? Are the numbers and percentages given reasonable?

VI.BB.5 Would a lower percentage be more appropriate?

Approval period extensions: (III.N.2, approx pg. 63): This seems overly open-ended. Please add some sort of parameters to operate within, and possibly mention that a fee may or will be paid for the extension request.

Approx pg. 118-119 IV.Y to include RV use on residential lots

This allows living in an RV for 14 days maximum.

14 days seems like kind of a lot— when does the clock start? Does it have to be called in before the clock starts? Does this mean 14 days total per season? Can this be clarified? Would this be better with some sort of parameter to allow more on someone's lakeshore lot but less in dense residential neighborhoods?

SUP Threshold for HCZD (pg. 31); Is the threshold of 20,000 square feet appropriate? The change from 1000 to 500 average daily vehicle trips may make sense, depending on your reasoning. The change from 1000 to 500 average daily vehicle trips may make sense, depending on your reasoning.

CBZD For outdoor sales, please specify to allow adequate clear sidewalk width for wheelchair passage. (*approx pg. 35*)

TZD Is reliance on shared public parking for customers and employees for TZD businesses appropriate? (Area also contains residences.), *approx pgs.26 and 87*)

Pg. 54 III.C.1 zoning administration, exemptions for development activity: clearing and grading No permit should be necessary for installation or maintenance of landscaping & gardens, but possibly add some sort of maximum for amount of ground moved, or slope disturbed without a permit to avoid misuse or a loophole.

HMZD (pg. 45) 65 % max lot coverage: This percentage sounds okay for medical uses, but high for houses and low for hospital. Fine tune this?

IV.table IV.2 regarding parking, approx pg. 87: Does the hotel/motel amount of parking make sense?

Pg. 97 IV.W.5.h (landscaping in parking lots): Is this realistic?

Pg. 100 IV.W.table IV.7, under '5 total points': Does this make sense?

Administrative Materials (approx pg. 206): Please keep forms and fees out of this document so flexibility to adjust them exists. It's beneficial to be able to tailor or adjust the forms.

(Thank you for your time, patience and thought, and good luck.)



Source: Esri, DigitalGlobe, GeoEye, I-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community