

POLSON CITY COUNCIL MEETING
CITY HALL COUNCIL CHAMBERS
MONDAY, JANUARY 6, 2003, 7:00 P.M.

CITY COUNCIL PRESENT: Lou Marchello, Mark MacDonald, Mike Maddy, Tom Corse, Dan Morrison. Clint White absent. City Attorney James Raymond present. Mayor Randy Ingram presiding.

OTHERS PRESENT: Gerald L. Newgard, Lee Manicke, Dennis DeVries, Pat DeVries, Rod Hanson, Tony Porrazzo, Tom Maloney, Don Wester, Lee Coble, Rory Horning, Doug Chase, Joyce Weaver.

CITY COUNCIL MEETING MINUTES - DECEMBER 16, 2002: Councilman Corse stated that he read the minutes of the public hearing and the council meeting and found no significant errors. Motion made by Councilman Corse to approve the City Council Meeting Minutes of December 16, 2002 as printed. Motion seconded by Councilman MacDonald. Motion carried unanimously.

CLARIFICATION OF MEDIUM RESIDENTIAL DENSITY ZONING DISTRICT - POLSON DEVELOPMENT CODE: City Planning and Zoning Official, Joyce Weaver noted that this is a continuation of the discussion at the last Council Meeting on December 16th, based on pages 23 and 25 of the Polson Development Code. She has been interpreting the code in a way that allows a single family dwelling, a two family dwelling and a multiple family dwelling up to four units, in an MRZD zoning district, as long as the conditions listed are met. The controversy is that she and her predecessors have interpreted the codes to require that an additional 1,000 square feet be added to the minimum lot size of a 7,000 square foot lot for each additional unit above one unit, or require the developer to apply for a special use permit or a variance.

As requested at the last meeting, she prepared a past history of the multiple family developments which were allowed in MRZD zoning districts. Lloyd Thorsrud's file indicates that the minimum lot size was 7,000 square feet and for each additional unit 1,000 square feet was added with the project requiring a total of 10,000 square feet. The 1998 permits for Boettcher Tracts shows four permits issued and all the lots are over 10,000 square feet. In 1984 there was a four-plex tribal development which was placed on less than 10,000 square feet which shows that there was one exception made because of tribal status. In 1974 a tri-plex was placed on a 7,000 square foot lot but the developer received a variance based on the lot size. The Rolfson and Lewis Additions have multiple family dwellings also and all are on oversized lots. Weaver noted that Eric Malcahey, who is a senior planner in Whitefish, Kalispell and Columbia Falls also had the same understanding of the City's codes, that each unit above one requires 1,000 additional square feet unless they go through a special use approval process. This issue is now before Council to decide what they want for the City.

Mayor Ingram asked James Raymond if he has anything to add. City Attorney James Raymond noted that the PDC pages 23 and 25 are ambiguous and can be interpreted in more than one way which represents a problem. This problem can be cleared up by Council, whichever way they wish to proceed, whether it will require a larger lot size or not. Mayor Ingram noted that the City has exposure the way it currently reads. Councilman Corse stated that the least ambiguous way to read it is that four units are allowed in an MRZD zoning district on a 7,000 square foot lot. Councilman Marchello agreed. James Raymond said upon reading the code, that was his first understanding also.

Joyce Weaver noted that it states under special use permits, that five to eight units are allowed, starting at a 5,000 square foot lot. Mayor Ingram said the Board of Adjustments would decide based on the individual characteristics of the request for a special use permit. Councilman Maddy said in that case two special use permits would be required. One for five to eight units and another permit for the 7,000 square foot lot. Joyce Weaver said she would ask the applicant to apply for one special use permit and address both issues at the same time. Mayor Ingram said he fairly certain that the BOA would not allow an eight-plex on a 5,000 square foot lot. Councilman Marchello said he read the code many times and interprets that a four-plex is allowed on a 7,000 square foot lot. Motion made by Councilman Marchello to amend the Polson Development Code and approve the first reading of the ordinance to remove the ambiguity in MRZD to permit a four plex unit on a 7,000 square foot lot. Motion seconded by Councilman Corse.

Rory Hornig asked what the effective date of this change would be. City Attorney James Raymond clarified that it will take effect thirty days after the second reading of the ordinance, a total of approximately six weeks. Mayor Ingram asked if the Council has the capacity to direct the developers that they can proceed with the four-plex units as proposed, subject to the other

requirements of the PDC. City Attorney James Raymond agreed, and said that he believes that to be true.

Gerald Newgard thanked Council for clarifying that four-plex units can be placed on a 7,000 square foot lot in an MRZD zoning district without a special use permit. He suggested inserting under the standard lot size, for each additional unit exceeding a four-plex, that 1,000 additional square feet for each unit is required. Mayor Ingram said they will do their best to clarify it so there is no ambiguity.

Lee Manicke said he doesn't think there is an ambiguity in the way it is written. On page 23 in the top right column, under the heading of lot size, for each additional lot for multi family dwellings, it doesn't have a starting point such as stating above two or three. Therefore you have to read that it applies to all units above a one unit dwelling, which is what it is saying. He believes the way it has been interpreted in past years is correct. He noted that Joyce made a point earlier, that a special use permit is 5,000 square feet and special use permits are five to eight units, using that reasoning you could just plug in those five to eight units. Mayor Ingram disagreed and said that a special use permit requires looking at all the aspects of the permitted use. Lee Manicke said there is no starting point and therefore it has to apply to the first additional unit which is how five professionals have historically interpreted the code. Cramming a four-plex in a 7,000 square foot lot is not in keeping with safety, health and welfare of the citizens of Polson, which is what the Development Code calls for. Mayor Ingram agreed it is ambiguous. Lee Manicke said he agrees there are parts of the code that are ambiguous but the part where the additional 1,000 square feet is required is not ambiguous, it starts at two units, anything above one is the way it reads. Mayor Ingram said his point is taken. Gerald Newgard said it reads well and agrees with the requirement for a special use permit if they cannot comply with the standards set forth in the provisions.

Motion carried unanimously, to approve the first reading of the ordinance to clarify and amend pages 23 and 25 of the Polson Development Code allowing a four-plex unit on a 7,000 square foot lot in an MRZD zoning district. Mayor Ingram asked City Attorney James Raymond to work with City Planning and Zoning Official Joyce Weaver on this amendment.

PRELIMINARY APPROVAL OF HEGLIE MINOR SUBDIVISION: Joyce Weaver referred to her staff report and noted that this is a request for preliminary approval of the Heglie Minor Subdivision located at 436 Shoreline Drive, owner is Heglie Living Trust c/o Kathleen Heglie, further described as COS 5465. The property is currently one lot containing 2.10 acres and has a single-family dwelling unit and a shed, located in the Low Density Residential Zoning District. The owner proposes to subdivide the property into two lots, lot 1 consisting of 0.801 acres having the existing house and shed and lot 2 is proposed at 1.287 acres and is currently undeveloped.

The analysis of the subdivision is that all utilities are available to the sites and the subdivision will not require any additional easements. No building shall be placed in any utility easement, public or private. Fire protection consideration requires payment of a capital improvement fee of \$100 per additional lot and fire hydrants are located on Shoreline Drive. Curbs, gutters and sidewalks are not currently present in this area. Parking space requirements are satisfied because the lots are sized large enough to meet future, normal parking space requirements for residential development. Additional impervious surface; LRZD allows for maximum impervious lot coverage of 35% with a slope of 0-8%. Greater degrees of slope will reduce the allowed maximum lot coverage, per the PDC. Setback and buffers; these lots are large enough to meet future requirements for residential development. The standard findings of fact, primary review criteria, effect on agriculture and agricultural water use facilities are none. The effect on local services; the subdivision will connect to the municipal water and sewer systems in Shoreline Drive and the subdivider or lot buyers will pay the connection fees and be subject to monthly utility charges. The subdivision will receive law enforcement services from the Polson Police Department and fire protection services from the Polson Fire Department. No extension of public roads will be needed and there is negligible impact on cost of road maintenance. The subdivider will be required to post a street bond for street replacement involved with water and sewer line extensions.

Effects on Natural Environment require that the owner is responsible for weed control and will prevent the proliferation of weed growth within the subdivision and the areas disturbed by construction. Also, to provide protection to the lakeshore during any ground disturbance by placing a silt fence or hay bales between said disturbance within 50 feet of the mean high water line. The subdivision will not affect wildlife and wildlife habitat or limit public access. The effects on public health and safety are not significant and no

easements for utilities are required. The legal and physical access is provided by Shoreline Drive which is required to be written on the face of the final subdivision plat and any instruments of conveyance as follows, "Legal access is provided from Shoreline Drive, a public street located adjacent to the property". The subdivision conforms to the City of Polson Master Plan. This subdivision proposal received recommendation from the City County Planning Board with twenty (20) conditions of approval as stated in the staff report provided to Council.

Joyce Weaver noted that the plat presented to the City County Planning Board has been changed by the developer making one lot smaller as shown on the revised plat presented to Council tonight. Don Wester noted that the change was made because there was an encroachment of a sidewalk over that property line that was on the original plat, so they included the sidewalk within the lot and jogged the property line.

Councilman MacDonald noted that the City needs an easement for the park irrigation lines to get to the lakeshore which are located between the City's parkland and Shoreline Drive. City Attorney James Raymond said there is an existing irrigation line but there are no easements on record. Rod Hanson, Street Superintendent said Don Dubuque ran a line down to the lake and put a pump in that easement area to irrigate the park, but that pump burned up. Councilman Morrison noted that several years ago the park board approved the cost of replacing the pump and said that the City needs ten feet on each side of the property line for the easement. James Raymond said that he mailed the easement documents four to five weeks ago and the reason for the delay in that process is probably that Jack Heglie has been ill.

Councilman Maddy asked if the whole lot could be made into a 122 foot width because a fence line wouldn't look good the way it is proposed. Don Wester said when he recently inherited this project he followed up what was done before which prompted a need to delineated the property line to find out why the easement was there. When it was determined that it was for a piece of sidewalk, Jack Heglie instructed them to include it in the property but not to include additional shoreline. Councilman MacDonald stated that it is a low impact subdivision and the City should pursue the easement for irrigation lines to the parkland. Motion made by Councilman MacDonald, to grant preliminary approval of the Heglie Minor Subdivision subject to twenty (20) conditions of approval as recommended by the City County Planning Board. Motion seconded by Councilman Morrison. Motion carried unanimously.

DECEMBER 2002 CLAIMS: Mayor Ingram asked if there are any questions regarding the December 2002 claims as presented. Motion made by Councilman Marchello to approve the December 2002 Claims, #81042 to #81317 for a total of \$106,399.37 as presented. Motion seconded by Councilman MacDonald. Motion carried unanimously.

Mayor Ingram asked if there are any further comments or questions from those present. Lee Coble asked if Council made a determination of ownership of the alley proposed to be abandoned at the December 16th City Council Meeting. City Attorney James Raymond said without having seen the title, his best determination is that the alley in question was subdivided by Lake County and is dedicated to the public. At this time Pat Trussler of the County and the City has determined that it remains a public street over which Lake County has jurisdiction.

Pat DeVries said that at the time of subdivision approval, the City closed that street, and according to Kyle Karstens, thereby taking the position that they had control over it. She questioned if that means the City should take its boundaries down and open the street again. Councilman MacDonald said a title report is needed to clarify this issue. Pat DeVries said when the subdivision was approved it was unusual that it was determined to be County property until there were homes built on it which she believes now are all in the City limits. She asked the City to reconsider and reopen the alley to provide better access to 15th Avenue by creating a second access also for safety reasons. Mayor Ingram noted that it is quite steep. Pat DeVries replied that it is not as steep as 15th Avenue is. Sandy Huntley told her that when the 15th Avenue corner, where others also had problems, was too icy to drive she could always use that alleyway and be able to make it because it was not paved and it isn't as steep and it doesn't have a bad turn like 15th does. Rod Hanson, Street Superintendent, said his problem is that it is a one lane road and it would be hard to maintain with a grader. Pat DeVries suggested it be designated as a one way street.

Lee Coble said he is concerned that there are more houses being built using 15th Avenue as the only access, especially for children and pedestrian traffic. There are people in the community who are interested in developing that alley as a pedestrian walkway and makes good sense to have an open access, however, until

ownership is determined they can't proceed with their plans. Mayor Ingram said that issue is complex and the City has a little more research to do before coming to a conclusion.

Councilman Morrison said he recalls the alley was closed and designated as an emergency access only. Lee Coble said he recalls that the fire martial at that time did not want it abandoned because he needed another access which the alley provided. The City might want to consider that they will be held accountable for fire protection in that area.

Dennis DeVries noted that there are many no trespassing signs posted for that alley which are very intimidating to the general public. Mayor Ingram said he asked the person who posted those signs to remove them and advised that the public should feel free to traverse that alley property and know that the City Attorney will not prosecute. Lee Coble said he understands that but children should be able to walk on a vacant lot without being threatened. Councilman Morrison said the City is still working on this issue.

Councilman Maddy asked if Lee Coble has a community group in mind to develop that alley. Lee Coble replied that they met on site with Carlos Rodriguez of the Soil Conservation District and one of his assistants, and Lori Peterson of the Polson Middle School 6th grade teacher, who is looking for a community project. It was pointed out as one area that the knapweed is taking over where adjacent landowners requested that the City burn off the area which they have done. Now it appears that burning off knapweed might not be the best solution in the long term. They are willing to consult a University Professor to meet with the community and surrounding landowners to discuss plans for a pedestrian walkway by planting primarily native plant species. The proposal is to pay for it through a grant and the City's obligation would be to give permission to use the property. It is ideally situated near an irrigation ditch making water readily available which is necessary for this type of project. There is a need for pedestrian access not only there but throughout the hillside where new houses are being built having residents with younger children. He noted that the school is looking at that as a way to enhance our community and meet the need for public walkways.

Mayor Ingram assured them that the process to clarify ownership of the alley has not stopped and they will be kept informed. Lee Coble noted that he and his neighbor have maintained a portion of public land behind his house by pulling the knapweed and planting grass seed which allowed choke cherries and native bushes to thrive and increased the bird population. With recommendations from the university on what to plant, they can provide screening and some privacy for the adjacent landowners, enhancing the value of their property. He feels it would benefit all those involved.

Councilman Morrison said he met with the group and felt they could develop a walking trail for school children. Mayor Ingram said the City would continue to determine ownership of the alley.

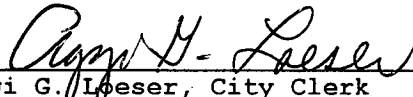
Councilman Marchello said the Council had recent discussions about hiring a City Administrator and developing a growth plan. He would like Council to make a decision on where they want to go and what they want to do. Councilman Maddy said Dave DeGrandpre will make a presentation to Council at the next city council meeting about the process the County went through to prepare their growth plan. Councilman Marchello said the City needs to move forward with the growth plan.

Councilman Marchello said the other issue that needs to be finalized is to draw up a new lease for the golf course restaurant with a full beverage alcohol license. Mayor Ingram said in order to obtain a full beverage license the City will have to hire a manager for the restaurant. He asked that Council give their comments on the draft lease which was prepared by the golf board and distributed to them for review. The lease will be on the agenda at the next meeting.

Councilman Morrison gave notice that he will be out of the area for two weeks and will not be able to attend the next council meeting.

Meeting adjourned at 7:45 p.m..

ATTEST:


Aggi G. Loeser, City Clerk


Randolph B. Ingram, Mayor