

**POLSON CITY COUNCIL MEETING MINUTES
CITY HALL COUNCIL CHAMBERS
106 1ST STREET EAST, POLSON, MONTANA 59860-2137
TUESDAY, JANUARY 18, 2005 6:30 P.M.**

ATTENDANCE: Council - Lou Marchello, Mark MacDonald, Jules Clavadetscher, Mike Maddy, Tom Corse, Dan Morrison. Mayor Ingram presiding. City Attorney James Raymond present. Others Present: Elsa Duford, Dave Sheesley, Dick Molenda, Jim Hinshaw, Tony Porrazzo, Greg Hertz, Kate Hertz, Greg Duncan, Rory Horning, Ethan Smith, Margie Hendricks, Lee Manicke, Doug Chase, Bonnie Manicke, Wilma Mixon-Hall, Fred Phillips.

PUBLIC HEARING:

ZONE CHANGE REQUEST - KEN DONOVAN - PARCEL B C.O.S. 5202 - FROM LOW DENSITY RESIDENTIAL ZONING DISTRICT TO HIGHWAY COMMERCIAL ZONING DISTRICT: Joyce Weaver, City Planning and Zoning Official, referred to the maps she displayed which showed the 29.379 acres proposed for the zone change. She clarified that it includes the 1.11 acres owned by MDOT, and Ken Lambeth verified that MDOT also wishes to have the zone change. She presented a summary of her staff report and noted that she received letters from five individuals and received one phone call on this issue, copies of which are included in Council's agenda packet. The petitioners, which include Donovan, Donovan and Duncan and MDOT, are requesting both a zone change from LRZD to HCZD and annexation of the two parcels, at the same time. She continued with her staff report, referring to page 2 which includes the standard review process which quotes the Montana Codes Annotated, page 3 has the staff analysis and conditions one through thirteen. After reviewing the information submitted, and reviewing the proposal for compliance with local and State regulations addressing zoning and annexation, the Planning Department and the City County Planning Board recommended Council approval of annexation and the approval of the zone change proposal, with the thirteen conditions and any additional or modified conditions that the City Council would approve.

Councilman Clavadetscher asked and Joyce Weaver clarified that the City County Planning Board is the approving authority for special use permits. The process includes a public notice advertisement of a public hearing after which the CCPB has the option to table, approve or deny the request. Councilman Clavadetscher asked if it is correct that the City effectively loses control once they act this evening to annex and approve the zone change. Joyce Weaver replied that the CCPB is an agent of the City Council. Also, that parcel is very large and would likely be divided when it is developed but it is possible that a single development could develop all 28 acres through a special use permit which is all the review that is required. If the developer should want to divide the property into even just two pieces, they would have to go through the subdivision process and it would have to go before Council for approval.

Greg Duncan, stated that he is one of the owners of the property and Mr. Donovan has done most of the work on this project but extended his apologies because he was unable to attend this meeting. Greg Duncan noted that his father, sister and he purchased this property a number of years ago as an investment. Now his father is nearly eighty years old and they would like to sell this property and get some money to his father. They have been approached in the last year by six or seven groups of people who were interested in purchasing this property and every one of them have indicated that they would be interested in purchasing if the property were annexed into the City and the zoning was changed from LRZD to HCZD zoning although they don't have a specific plan or any particular purchaser in mind at this time. They have looked at the properties available in Polson and feel that there is a shortage of larger commercial lots which are four to five acres in size which would provide the required off street parking facilities for the business' clientele. They have been approached by two different restaurants in the Polson area and by another developer to build a lakeview hotel facility, they are finding that there seems to be a potential demand for larger commercial lots. They analyzed it in a limited way and as residential zoning the property could be developed into a fairly high density development with a residential house every 7,000 square feet, which doesn't sound reasonable to him. They tried to look at it from the point of view of what would be the benefit to Polson for developing this property. If it was developed as residential which is what it is zoned for right now, it would put more burden on the City's services, streets, water and sewer systems than commercial zoning types of uses. They have looked at tax revenues generated from Super 8 which is approximately \$12,000 for a couple acres, where if it was zoned residential with houses the tax revenue would be only \$2,000. They believe that developing that property would be a benefit for Polson by providing more resources. The potential buyer contacts they have had indicate that it would enhance and compliment the downtown Polson businesses and not take away from them, for example a hotel facility. There is a lot of traffic on Highway 93 that turns off at Highway 35 that the Polson downtown misses out on and goes on to Bigfork and Kalispell. It seems like if there was a development in that location it would be a potential for some

of the traffic to stop at the Polson City limits and spend money not only at a hotel or restaurant on that property but to also spend money in the downtown area and enhance the economy which would be a potential benefit to Polson. They received approval for highway access to that property from MDOT and it is incorporated into the new highway designed for improvements at the intersection. It is right across the road from the access to Mike Maddy's subdivision. Since the Highway Department approved the access they don't feel that would be a problem for the City. In addition to complimenting the downtown area, there doesn't seem to be an issue with the water and they are ready and willing to comply with the requirements as set forth by the City County Planning Board. They are asking that the Council approve the zone change with the understanding that in the event that someone does want to develop it, as stated by Joyce Weaver, there would be a level of regulations that have to be met to ensure appropriate set backs and appropriate uses, or special use permits. They have no intentions of subdividing the property and whoever does go through that process would present their proposal to Council for their approval. They respectfully ask that Council approves the zone change but if for some reason they feel they can't approve it, then they would like to withdraw their request for annexation into the City and leave it as it is for the time being.

Greg Hertz, owner of Super 1 Foods, agreed with Mr. Duncan that the best use for the property is for commercial development, however at this time the Council has no idea how it will be developed. He compared Mr. Maddy's Cougar Ridge Subdivision to this request, which is just across the highway, and has gone through several meetings, about which detailed plans were submitted showing everything that will happen. This request is to bring 29 acres into the City with no idea of what type of development will be built and how it will affect traffic or how the access will be provided. He agrees that there are a lot of businesses that would compliment Polson but some would not. For example if Wal Mart would buy that piece of property to expand their store from 50,000 to possibly 200,000 square feet, it would have a dramatic impact on his business personally, and Safeway and other businesses too. Plus it would be a real traffic nightmare on that corner. An example of what could happen is Reserve Street and what the Super Wal Mart has done to that intersection. Wal Mart is very detrimental to small towns when they come in with large super centers. A good example is the town of Othello in Washington which is about 60 miles south of Moses Lake. It is a little smaller than Polson and had two grocery stores in town. Three years ago Wal Mart built a 120,000 square foot super center and right now one grocery store is shut down and the other is about 8,000 square feet. It has really hurt that town and now individuals have to drive sixty miles to Moses Lake. Although he believes the best use of the property is commercial there is no plan at this time giving Council and the public no idea how this twenty nine acres will affect the entire community or the neighborhood there. There is no reason that this property couldn't be sold on a contingency basis, to be annexed into the City. At that time they would present their plans to the Council and it would give an idea of the impact it might have, not only on City services but the effect on people living in that area. His opinion is that the Council should delay a decision on this issue until they provide some more detailed plans which show exactly what type of development is being proposed for that property.

Dick Molenda, resident of Clearview Drive, said he is one of the neighbors that is adjoining this property and cannot honestly say that he is ready to see this property changed into a Highway Commercial Zoning. He agrees with Greg Hertz that there should be a plan for development and that they can sell the land with the stipulation that annexation and proper zoning is built into the sale agreement. The land is useless as farmland which has a few horses and cattle tromp over the 29 acres during the summertime to keep the grass down which does not provide any money for the Donovan family and therefore understands their reasoning. He believes that as neighbors to the backside of whatever development occurs, they should have a say. He proposed that if a Target store is placed on that property, to compete with the existing Wal Mart store there would be no need for the Main Street downtown businesses and questioned if that is what the community really wants to happen. From the viewpoint of what it does to the neighbors of this property, most of them have invested a quarter of a million dollars in their property which is a lifetime investment for most of them. They would like to have something other than the back view of a commercial development and their garbage cans to look at. Prior to the City County Planning Board's vote to recommend Council approval of this proposal, he walked behind Gil Mangel's place, Les Schwab's Tires and Nickel Cars, which is what they would be seeing if this property were developed as Highway Commercial Zoning. For a quarter of a million dollars that the residents of Clearview Heights have invested in their property, they will be seeing the backside of garbage cans, the backside of buildings with the front side facing the highway. He asked Council to seriously think about what it does to eleven homes in that vicinity and what effect it will have on the taxable valuation of those properties. What might be better is to have the developer present a specific plan for developing the property. He reviewed the City's buffer zone rules and regulations which aren't much, requiring only 20 feet, which he doesn't think is fair for a quarter of a million dollar investment. If Council were in his boots, he doesn't think they would personally consider that to be fair. He listened to presentations by Mike Maddy for the Cougar Ridge development at the City County Planning

Board Meeting for which he has the design and lots all laid out. That was turned down because of roads, safety, traffic and water problems. Yet developing this property which is just across the street is not considered to have any problems which he finds the comparison amazing. He has no personal problems with Ken Donovan, who has been his neighbor for fifteen years, and understands that they would like to sell the land but wonders at whose expense. He came here tonight to ask the Council to give some consideration to the comments and concerns of the residents of Clearview Heights. He would like to see some plans when it does get developed as to the kinds of buffer zones would be provided, and questioned if 20 feet was adequate, or if even 30 feet and what type of buffer would be required and who would decide that. He would not consider a six foot high mound of dirt to be an adequate buffer zone and knows there are laws stating the things that can be done. He came to plead with the Council to give this issue some thought. He doesn't see why there couldn't be some plan developed and presented to the Council and to the community which requires highway commercial zoning, giving everyone a chance to see what the development would be. He knows there are a number of steps that take place to develop the property no matter what happens tonight, but he would like to take a look at the plans first before the zone change is approved. The other issue he has is traffic which he knows from personal experience, is currently a mess. The highway improvement plan is to put in some frontage roads and some lights, and eventually there will be lights all the way up to Mission Valley Auto to slow the traffic down. Currently during the summertime the traffic is backed up on the hill from the existing traffic light and he thinks the Council should take a look at that. He knows that water connects have been on a moratorium in the City and this property will use more water, which needs to be looked at seriously. The safety of the people who live in this area is a concern and Polson doesn't need another Reserve Street such as there is in Missoula. He believes Council has the talent and commitment to make decisions that would be favorable to some growth patterns which would be compliant with the prior rules of the City without changing the rules of the game.

Jim Hinshaw said he also lives in Clearview Heights and would like to echo what Dick Molenda stated regarding property values, safety values particularly dealing with the way the roads are now. Clearview Heights has covenants which regulate their properties in that subdivision and then to turn someone loose on the other side of the fence is scary from their perspective. He also asked that Council take a good hard look at the possible consequences of this issue.

Elsa Duford asked if there is adequate water for all this proposed expansion because of the compact discussions between the State and Tribes which is in limbo. Polson has a well down and hasn't heard a response from the Tribes regarding the Hellroaring Watershed and all the issues relating to water. She wondered if, in light of all this, the Water Moratorium was lifted too soon. She is raising the question about adequate water for whatever is being proposed, besides the existing water uses.

Tony Porrazzo, Water and Sewer Superintendent, replied that the Water Moratorium was lifted because of legal issues. With the addition of the West Shore well, right now the City is in good shape with water availability and the City should receive the document to support that by the end of the month. In his opinion the City has to grow or die and there is enough water to provide for the current rate of growth. The City is actively searching for new water sources that appear to be promising and it can't go backwards. Elsa Duford stated that she didn't mean that the City should go backwards, and doesn't want to give that impression, but because of all the circumstances she wanted to raise the question. She asked what the legal issue is. Mayor Ingram replied that City Attorney James Raymond could answer that legal question better.

Jules Clavadetscher asked Greg Duncan if in their discussion with potential buyers, do they have a possibility of a contingency sale. Greg Duncan replied that Ken Donovan handled most of that and he would be the best person to answer that. To the best of his knowledge no one has offered to sign a buy sell agreement but the interested buyers have verbally requested that the zone change be done before they would put more time and effort into the purchase of the property until that is done.

Greg Duncan stated that he understands the concerns expressed tonight but he felt that if the zone change is approved then the projects would be presented to the City County Planning Board where those concerns would be addressed. Regarding the concern of a shortage of water, he suggested that it could be a condition placed on the development to find the City more water. When the request is made for a specific project then the appropriate conditions, limitations and requirements can be placed on that developer.

Lou Marcioni, said he agreed with Greg Hertz's comments in that the City of Polson doesn't have a lot of restrictions right now for commercial development, to put limits on what people can and can't do. He is concerned that once the zone change takes place, the developer could do what they want to do and the City of Polson doesn't have a lot of planning restrictions on what could be done. For example, in the City of Whitefish there are several types of restrictions on commercial development