SANDPOINT PLANNING COMMISSION
MAY 25, 2004 MINUTES

COMMISSION MEMBERS PRESENT: Dick Hutter, John O'Hara, Raffat Saied, Steve Lockwood, Kevin Monahan, and Christine Kester

COMMISSION MEMBER ABSENT: Gary Maxwell.

STAFF MEMBERS PRESENT: City Attorney/Planning Director William Herrington, Recording Secretary Crystal Schoonover, and Planning Clerk Larry Falk.

Chairman Lockwood called the meeting to order at 5:30 p.m.

CONSENT CALENDAR: **Moved by Commissioner O'Hara, seconded by Commissioner Saied**, to approve the items on the Consent Calendar. Commissioner Hutter requested that item C, the minutes of May 11, 2004 be removed from the Consent Calendar. The motion to approve items A and B of the Consent Calendar carried with no opposition.

Commissioner Hutter noted that he had informed staff at the May 11th meeting that the legal description in the Commercial "D" Overlay Ordinance is incorrect and the basis of having the Overlay zone is flawed. He requested that those comments be added to the minutes. Mrs. Schoonover explained that the legal description actually delineates the area included in the Overlay zone. She asked if Commissioner Hutter objected to the boundaries set forth in the Ordinance or the references to Fifth Avenue. Commissioner Hutter stated that the references to Fifth Avenue in the sections concerning requirements for parking lot location and building frontage are incorrect. He noted that the Overlay zone extends south of Fifth Avenue and therefore those requirements have no relevance in that area. Commissioner Hutter also stated that the goal of the Overlay zone was to reflect the historical character of Fifth Avenue. He pointed out that the area historically contained railroad tracks, oil depots, coal yards, feed mills, and gas stations; everything the Overlay zone prohibits. Commissioner Hutter stated that the intent of the Overlay zone is to change the character of the area, not to reflect its historical character.

NEW BUSINESS:

Chairman Lockwood summarized the appeal process.

PUBLIC HEARING: CP04-01 Revisions to the City of Sandpoint Comprehensive Plan

Mr. Falk stated that there are four Comprehensive Plan amendments before the Commission: Affordable Housing, School Facilities and Transportation, Hazardous Areas, and Protection of Private Property Rights. Idaho Code requires municipalities to have a Comprehensive Plan which includes certain components. The City of Sandpoint is currently lacking sections on Property Rights and School Transportation and the sections on Hazardous Areas and Affordable Housing need to be expanded. Mr. Falk noted that the last amendment to the Comprehensive Plan was completed in 1999.

Mr. Falk stated that research shows there is a growing disparity between income and housing prices. There has been an increase in rental property in Sandpoint and about 17% of the City's population is currently living below the poverty level. The proposed Affordable Housing goals and policies will try to mix income levels appropriately, recognize and help non-profit housing agencies, encourage flexibility in zoning regulations, and consider reductions in City service fees and density bonuses when appropriate. Commissioner Hutter asked that Commissioner Maxwell's written comments be incorporated in the discussion. Chairman Lockwood offered to introduce Commissioner Maxell's remarks where appropriate.

Commissioner Saied asked who calculated the figures cited in the proposed amendment. Mr. Falk stated that some of the preliminary numbers were calculated incorrectly but the figures in the current handout should be accurate. Commissioner Monahan asked Mr. Falk to define affordable housing; is it affordable home ownership or affordable dwelling units? Mr. Falk stated that housing is affordable if you spend less than 30% of your income on where you live. Mr. Herrington stated that both affordable home ownership and affordable rental units would comprise affordable housing.

Commissioner Monahan asked if waiving service fees is feasible at this time considering the state of the City's budget. Mr. Falk indicated the Comprehensive Plan is designed to be applicable for over twenty years. Commissioner Monahan stated that he would be opposed to fee waivers for certain projects if it would require the City to raise overall service fees. Chairman Lockwood clarified that Commissioner Monahan is referring to monthly service fees while the proposed waivers would be for connection fees. Mr. Falk pointed out that the proposed amendment would give the City financial flexibility concerning affordable housing projects. Mr. Herrington noted that fee waivers are not practical in the present circumstances. However, the proposed amendment would give the Council flexibility to waive building permit fees for a Habitat for Humanity house, for example, if feasible in the future.

Commissioner Kester asked if the policy to allow accessory dwelling units was drafted in response to the existing units found throughout Sandpoint. Mr. Falk stated that the proposed provision is intended to allow a method of providing affordable housing through the private sector. He pointed out that the provision states "in appropriate areas" in order to limit where the units could be located. Mr. Falk noted that accessory dwelling units are currently allowed in the Residence "B" and "C" zones. Commissioner Hutter remarked that there are a high percentage of senior citizens living in Sandpoint, and that lowers the City's average income. He indicated that we should be careful about using statistics without taking into account the number of retired people living in the City. Mr. Falk indicated that the data is simply an inventory which shows the direction of the housing market. Commissioner Hutter noted that there is a great deal of subsidized housing in Sandpoint and it should be indicated in the research.

Commissioner Monahan asked for clarification on the accessory dwelling unit provision. Mr. Falk reiterated that such units are already allowed in the Residence "B" and "C" zones, and there is a possibility they could be permitted in the Residence "A" zone. Commissioner Monahan asked if the proposed provision would allow a change in Code to allow accessory dwelling units in the single-family zone without a public hearing. Mr. Herrington stated such a change would require a code amendment to be approved through the public hearing process. Commissioner

Hutter pointed out that, with the proposed addition, the Comprehensive Plan would support allowing accessory dwelling units in the Residence "A" zone. Not necessarily, stated Mr. Falk, because whether the use is appropriate in the single-family zone would still be debatable.

Commissioner Kester asked for an explanation of the proposed policy stating "Support State property tax reform measures that provide increased local options that contribute to housing choice, diversity, and affordability." Mr. Falk explained Bonner County and the State of Idaho have determined that property tax assessments and tax reform could make housing more affordable. Commissioner Hutter asked what types of tax reform would qualify. Mr. Falk gave the example of changing the way property is assessed so that retirees don't see a large increase in property taxes over time. Chairman Lockwood summarized Commissioner Maxwell's comments as set forth in a letter distributed to the Planning Commission.

Chairman Lockwood inquired as to how an applicant could use the proposed amendments. Mr. Herrington stated that the section of affordable housing would bring about new ordinances. In addition, applicants would be able to cite the Comprehensive Plan to support Planned Unit Developments or argue for a zone change to allow multi-family development. Mr. Falk pointed out that it's highly effective to quote a City's goals and policies as set forth in its Comprehensive Plan in grant applications. Mr. Herrington stated that the purpose of the proposed amendments is to provide tools for effective planning. The amendments would primarily effect new development but would also be a source for ordinances which support affordable housing. Resort communities often find that common citizens can't afford to live in the community they work in. Places like Sun Valley, Idaho and Jackson Hole, Wyoming are prime examples of that and Sandpoint should prevent that from happening.

Commissioner O'Hara stated that the presence of affordable housing fosters the notion that Sandpoint is open to people of all income levels. He indicated that there should be walkable neighborhoods in all price ranges. Commissioner Hutter declared that the proposed changes would put the City in the position of defending against new development. He stated that affordable housing is determined by the market. Commissioner Saied noted that Sandpoint is very limited in how much it can grow. He wondered where the affordable housing could be located. Mr. Falk stated that Comprehensive Plans should be designed to withstand the test of time and to be appropriate if the City annexes property into the City. The section is designed to give options for providing affordable housing as well as encourage creativity. Commissioner Monahan stated that the proposed amendments should have been made 10 years ago.

Commissioner O'Hara noted that any Comprehensive Plan is susceptible to argument and challenge but that should not stop the City from making changes. He stated the document can be a very powerful planning tool. Chairman Lockwood asked to what degree the proposed language reflects State policy. Mr. Falk indicated the amendments reflect the concepts of State policy but not the specific language. Commissioner Monahan stated that he would not support the proposed amendments if they are intended to allow more low-income multi-family housing. Chairman Lockwood asked what a desirable alternative would be. Commissioner Monahan maintained that duplex and single-family housing is preferable because they allow for individual ownership. Commissioner Hutter noted that single-wide trailers are no longer permitted in the City, but they are the most affordable housing. Mr. Herrington clarified that single-wide trailers

are allowed in the T-zone and the proposed provisions would help someone get a zone change to a T-zone.

Commissioner Hutter stated there are enormous areas outside City limits that could be developed but the City won't provide services. Chairman Lockwood declared that it costs more for the City to provide services to outside areas because there is less density and infrastructure than within City limits. He also indicated that providing water to areas outside City limits actually deters annexation. Commissioner Hutter noted that places like Dover, Kootenai, and Ponderay have dense development and infrastructure in place. He stated that the City of Sandpoint is a micro-cosm and affordable housing is an issue that should be addressed for the entire surrounding area. Chairman Lockwood asserted that cities are most capable of serving a wide variety of economic levels because there is more infrastructure and facilities. He stated that the demand for affordable housing in Sandpoint is much larger than the supply.

Chairman Lockwood stated that having a mix of housing types and income levels in an area is socially beneficial. He cited a study which showed that children raised in mixed neighborhoods have better outcomes than those raised in stratified neighborhoods. Commissioner O'Hara maintained it is the duty of the Commission to take into account what is best for all of the citizens of Sandpoint. In response to the County Assessor's letter, Chairman Lockwood argued that higher density actually results in higher property values. Commissioner Monahan asserted that if someone chooses to live in a stratified neighborhood, the City should not be allowed to change it. Chairman Lockwood pointed out that if the top social level chooses to stratify, the bottom has no choice.

Commissioner Saied stated that the proposed Comprehensive Plan amendment is intended to give the tools to develop affordable housing. He indicated the changes should have been made 10 years ago. Chairman Lockwood stated that he would like to remove some of the ineffectual language in the proposed amendments. For example, "~~Consider~~ utilizing zone changes" and "Allow and encourage accessory dwelling units ~~in appropriate areas~~." Commissioner Hutter expressed concern that a developer could force the City to allow accessory dwelling units in the Residence "A" zone because the Comprehensive Plan states they should be allowed and encouraged. He advocated that the phrase "in appropriate areas" be kept in the provision because it gives the City capability to determine where accessory dwelling units are suitable.

Chairman Lockwood asked if the City could be attacked for its failure to address affordable housing in the Comprehensive Plan if none of proposed changes are made. Mr. Herrington replied no, the problem is that the City currently lacks the tools to consider different types of innovative developments. He stated that the City pays the cost when people move outside the City limits for affordable housing. Mr. Herrington stated he thought the section on accessory dwelling units should retain the phrase "in appropriate areas" because that gives the Planning Commission the right to make a finding that the units are inappropriate in certain areas. Commissioner Monahan agreed, stating that would allow the Commission the ability to prevent such a use if it would be detrimental to the neighborhood.

Commissioner Saied indicated that the proposed amendments, as written, give the City the necessary tools while retaining the Planning Commission's power. Commissioner Kester stated

that she thinks the amendments are appropriate as presented. Commissioner O'Hara stated that given the intent of the amendments, the wording is satisfactory. Commissioner Hutter indicated he would support the changes if the City Attorney can assure him that the amendments can't be used to force the City to allow accessory dwelling units in the Residence "A" zone. Mr. Herrington pointed out that the proposed language on affordable housing would be added to the existing section on housing. He noted that a number of the current provisions are intended to protect neighborhoods. Mr. Herrington indicated the Commission could add a provision stating that "the foregoing policies must be weighed with the need to protect the character, livability, and property values in existing neighborhoods."

Chairman Lockwood opened public testimony. As there were no members of the public in attendance, public testimony was then closed.

Moved by Commissioner Hutter that the Sandpoint Planning Commission **approve** the proposed amendments to the Comprehensive Plan as shown in Exhibit 1, with the addition suggested by Mr. Herrington. The Commission decided to wait until they had discussed all of the proposed amendments before making a motion. Commissioner Hutter withdrew his motion.

Mr. Falk stated that the proposed language on hazardous areas would make the section more complete. He indicated that the amendments have three main goals; to educate the public, enforce building codes, and coordinate with other agencies. Commissioner Hutter pointed out that the section on Man Made Hazards should be changed to refer to the Burlington Northern Santa Fe Railroad. He also noted that the Sandpoint area has non-porous soil as opposed to porous. Commissioner O'Hara indicated the reference to State Route 200 should be changed to read U.S. Highway 2. Commissioner Monahan stated that the proposed amendments should refer to the Albeni Falls and Chuck's Slough, rather than Albini Falls and Chuck Slough.

Commissioner Saied asked why there are two different classifications in the section on earthquakes. Mr. Falk indicated that there is distinction between an 'earthquake' and 'shaking' and that is why Sandpoint is in both a "moderate earthquake threat" area and a "High Risk Shaking Area." Commissioner Monahan asked if Policy 1, "Proposed development in any hazardous areas shall be subjected to and must pass special review," would require the City to review all development along Highway 2. Mr. Falk noted that the language in Policy 1 is currently in the Comprehensive Plan. Mr. Herrington indicated that in floodplain areas all building foundations have to be above the 500 year flood level. Commission Hutter asked who would complete the 'special review.' Staff stated that any development along Highway 2 would be reviewed by the Planning Department; either through the building permit process or during Site Plan Review.

Mr. Falk indicated the current Comprehensive Plan does not address the subject of school facilities and transportation. He then summarized the goals and policies of the proposed section titled School Facilities and Transportation. Commissioner Kester noted that the second goal, "That planning be used to assist the School District in providing the highest quality education to students," has nothing to do with transportation. Mr. Falk stated one could argue that transportation is part of the overall school experience. Commissioner Hutter recommended the City be mindful of stormwater runoff when requiring sidewalks. Chairman Lockwood noted that

sidewalks and stormwater management can be handle separately. Commissioner Saied stated, in response to the policy encouraging a reduction in school bus emissions, that there are no EPA smog regulations in Idaho.

Mr. Herrington remarked that the section is intended to address school facilities as well as transportation; not just the two issues as they relate to each other. Most cities' Comprehensive Plans have extensive sections on planning future school sites. Since the Lake Pend Oreille School District does not currently have any plans for new schools, the proposed amendments focus on transportation. Mr. Herrington pointed out that the layout of the Comprehensive Plan has been changed. There is now a narrative regarding each section being amended, instead of just a statement of the goals, policies, and implementation. Mr. Herrington asked for the Commissioners' comments on the inclusion of a narrative. Chairman Lockwood indicated he thinks the narratives are important; the other Commissioners agreed.

Commissioner Kester suggested the provisions on School Facilities and Transportation be treated as a whole new section. Chairman Lockwood noted that such a change would emphasize the importance of the section. Mr. Herrington noted that the entire Comprehensive Plan would have to be readopted anyway and he would prefer the provisions as a separate section. Commissioner Monahan stated that Post Falls has already determined where its future schools will be located. As a result, the City tries to obtain potential school sites in conjunction with a planning action, such as annexation or subdivision. Commissioner Monahan asked if the proposed amendments would encourage Sandpoint to do the same. Mr. Herrington stated the provisions are intended to reflect a static situation in regard to the number of schools. Commissioner Monahan suggested that the references to 'children' in the proposed amendments be changed to read 'students.'

Mr. Falk stated that the proposed section on Protection of Private Property Rights is intended to limit government rights and to prevent regulatory takings without compensation. The additions set forth reasonable police power, assure that viable economic uses are available for all properties in the City, and require a takings analysis if requested. Commissioner O'Hara asked for a history of takings analysis. Mr. Herrington indicated that prior to two years ago, municipalities were required to complete a takings analysis for any action requiring dedication of private land. Idaho Code currently requires a takings analysis only if one is requested. If the analysis indicates the action was unfair, the City should reconsider the requirements placed upon it. Commissioner Hutter asked if the provision requiring compensation in the event that private property must be acquired for public use would prohibit donations. Mr. Herrington indicated the provision allows for donation and would only be invoked when necessary. He stated that the City does not have to offer compensation to property owners unless they refuse to deed the necessary land to the City.

Moved by Commissioner Saied, seconded by Commissioner O'Hara, that the Planning Commission, after consideration of the criteria and relevant standards of *Idaho Code* as noted on Page 1 of the Staff Report, make a recommendation to City Council to **approve** the request by the City of Sandpoint to amend the Comprehensive Plan. The reasons for this decision are these provisions are required by the Local Planning Act and the amendments improve the wording of the existing Comprehensive Plan.

Commissioner O'Hara pointed out, in response to Commissioner Hutter's earlier concerns, that a number of the provisions in the current Comprehensive Plan protect existing neighborhoods. Commissioner Hutter indicated that he would like Mr. Herrington's proposed language to be included to reaffirm that intent.

Moved by Commissioner Hutter, seconded by Commissioner Saied, to amend the previous motion to add the following language to the Affordable Housing section:

> The foregoing policies must be weighed with the need to protect the character, livability, and property values in existing neighborhoods.

The motion for amendment carried with the following roll call vote:

Commissioner Hutter	Yes
Commissioner O'Hara	No
Commissioner Saied	Yes
Chairman Lockwood	No
Commissioner Kester	Yes

The amended motion carried with no opposition.

MATTERS FROM STAFF: None.

MATTERS FROM THE COMMISSION:

Commissioner Kester stated she would like to request a map of what the Idaho Transportation Department is planning for the new Dover highway. Commissioner Hutter noted that ITD has not yet decided whether to have the plans done in-house or hire an outside firm. Mr. Herrington stated he thinks it's appropriate for the City to be concerned with the planning and to be involved in the process. He noted that the highway could be like Fifth Avenue or it could feature medians and safe crosswalks. Commissioner Hutter stated that he previously recommended a frontage road along Fifth. Chairman Lockwood suggested asking an ITD representative to attend the Commission's next meeting. The rest of the Commission agreed. Mr. Herrington indicated that it would be premature to have a representative at the next meeting, but that inviting someone from ITD in the future would be a good idea. Staff indicated it would forward the request to ITD. Commissioner Kester asked for a copy of the plans for new yield signs and sidewalks throughout the City. She expressed concern over places where the sidewalk ends and there is no crosswalk, such as near Memorial Field.

Chairman Lockwood adjourned the meeting at 7:25 p.m.

/s/

Steve Lockwood, Chairman