

SANDPOINT PLANNING COMMISSION  
NOVEMBER 2, 2004 MINUTES

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

COMMISSION MEMBERS ABSENT: Gary Maxwell

STAFF MEMBERS PRESENT: City Attorney/Planning Director William Herrington, Associate Planner Joan Bramblee, and Planning Clerk Larry Falk.

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

APPROVAL OF MINUTES: Chairman Lockwood stated a correction is needed on page 4 of the October 5 minutes to reflect that it was Vice Chairman O'Hara who had closed public testimony on the School District issue. It was **moved by Commissioner Hutter, seconded by Commissioner O'Hara**, to approve the minutes of the October 5, 2004, meeting as amended. The motion carried with no opposition.

Chairman Lockwood polled the Commission members for any conflict of interest with the one agenda item. No conflicts were expressed.

ZC04-02 – Condo del Sol Condominium Area

Mr. Falk reviewed the Staff Report, noting that this zone change application was precipitated by the recent discussion regarding vacation rentals. City Council asked that the change be considered because the site's current Residence "A" zone allows only single-family residences, making the existing multi-family units a nonconforming use. The proposed zone is Residence "C" because it allows multi-family units and is more in keeping with the character of the site. The units at 108 and 110 Pacific have also been included because it makes sense to bring the existing triplex at 108 Pacific into compliance with *City Code*. The Commission does have the option of not including those additional units in their recommendation.

Mr. Falk stated there are some additional uses provided for in the Residence "C" zone that are not allowed in the "A" zone. The covenants of the Condominium Homeowners' Association, although not enforceable by the City, would have an affect on whether any of those uses would be pursued. The issue before the Planning Commission, though, has more to do with bringing the existing use into conformance with *City Code*. He noted the total number of units at Condo Del Sol is 108 rather than 256 as indicated in the Staff Report, which means the development would comply with the multi-family square footage requirement if a zone change to Residence "C" is approved.

Commissioner O'Hara asked about the use of the existing triplex. Mr. Falk stated he believes two of the units are owner-occupied. Mr. Herrington stated the Commission should be considering the appropriateness of the proposed zone for the additional parcels. If they remain included and one became a bed and breakfast, it could generate an additional 10-20 trips a day on Pacific Street.

Chairman Lockwood inquired if the appropriateness of the proposed zone should be looked at from the perspective of whether the zone change would be approved if the site were vacant. Mr. Falk stated with the property's access to downtown, it could be viewed that density may be a good thing. However, that density may not be approved on this site if the property were vacant. Chairman Lockwood clarified that the fact the site is built on has a substantial impact on what zoning should be considered.

Chairman Lockwood asked if the Homeowners' Association's bylaws could impact the vacation rental issue. Mr. Falk indicated that would be an option for the homeowners. Chairman Lockwood verified that if the area remained zoned Residence "A" and vacation rentals were restricted in that zone, the owners of the condominiums could be required to phase them out.

Commissioner Monahan questioned how many units would be allowed on the site with the existing acreage under the Residence "C" zone. Mrs. Bramblee noted that up to 206 units would be allowed.

Chairman Lockwood opened public testimony.

**Thomas Jenkins**, 517 S. First Avenue, Sandpoint, Idaho, stated he personally does not have an issue with the proposed zone change if it means the owners at Condo Del Sol can continue using their units as vacation rentals. He is concerned and would be opposed if the zone change resulted in any increase in the density that is currently there.

**Jim Parsons**, 301 Iberian Way, Sandpoint, Idaho, is the manager of Condo Del Sol. He noted there originally were 5 phases in the condominium project. Phase 4 was ultimately developed as the adjoining gas station, and Phase 5 is where the open space and tennis courts are located. He said he does not believe the current owners would want to reduce their open area to allow additional units, and a majority of the owners would have to agree before it could be pursued. The units are all percent ownerships and some are owner-occupied. Approximately 23 percent of the owners rent their units for less than 30 days; he does not know how many may rent the units for longer than 30 days. The majority of the units are not rented. The condominium declarations require a 7-day minimum for any rentals.

Mr. Parsons stated the zone change issue was discussed at their last Board meeting. One of the owners' concerns relates to potential tax impacts; however, the County Assessor has indicated taxes are based on sales not zoning. Another concern relates to possible impacts to services, but he and the Public Works Director have discussed the possibility of the City taking over their water and sewer systems. One of the primary concerns if the property were to remain in the Residence "A" zone is the possibility that a unit could not be replaced if it were destroyed. The Board also believes it would be unfair to owners who purchased units in order to rent them out not to be able to in the future.

Chairman Lockwood said there appears to have been some concerns about the proposed change but the zone change to Residence "C" would be preferable. Mr. Parsons stated they do not want to have to deal with the possibility of not being able to replace units. He reiterated he does not see the current owners wanting to add any more units. He has not heard any objection from the Homeowners' Association to changing the zoning to Residence "C."

Commissioner Kester asked if the gate towards the rear of Condo Del Sol always remains open. Mr. Parsons indicated the gate is on the Condo Del Sol property, not at the property boundary. The gate used to be closed at night to prohibit through traffic through the site, but currently the gate is being left open.

Mr. Herrington stated that, as a general principal, nonconforming uses are frowned upon. If a building is destroyed, the City currently allows rebuilding if it is brought as much into compliance with current *City Code* requirements as possible. However, that may not be allowed in the future. Rezoning the site to Residence "C" would allow more flexibility in rebuilding. He noted there should not be any changes in City services with a zone change because the use would still be treated as residential. With regards to the density allowed in Residence "C," it is very seldom that anyone builds to the maximum allowed. The zone change would allow up to 206 units, but some developer would have to buy more than half of the current units in order to have the majority vote needed to approve the increase.

Chairman Lockwood inquired if Condo Del Sol has an existing Nonconforming Use Permit. Mr. Herrington indicated it does not. Mrs. Bramblee explained that Nonconforming Use Permits have typically been issued when a permit is requested to rebuild a structure that falls under the Nonconforming Use provisions in *City Code*.

Chairman Lockwood closed public testimony.

Commissioner Saied said he likes the idea of changing the zoning on the property.

Commissioner Hutter concurred, adding that the additional parcels should be included.

Commissioner O'Hara agreed, stating it does not make sense to create another nonconformity by leaving Tax #11 or Tax #18 in the Residence "A" zone. He noted that a Conditional Use Permit would be required if any increase in the multi-family unit density were sought, which would require a public hearing.

Commissioner Kester stated the traffic impacts of a bed and breakfast in one of those units would be a concern.

Chairman Lockwood stated it seems logical to include the additional parcels. The Conditional Use Permit process required for such a use would allow the neighbors an opportunity to have input.

Commissioner Hutter said he was formerly President of the Westwood Homeowners' Association and, from his experience, he believes it would be unlikely for the owners in Condo Del Sol to agree give up their open space.

It was **moved by Commissioner O'Hara, seconded by Commissioner Saied**, that the Planning Commission, after consideration of the criteria and relevant standards of *Idaho Code* and *Sandpoint City Code* as noted on Pages 1 through 4 of the Staff Report, make a recommendation to City Council to **approve** the proposal to change the zoning of the **Condo del Sol Condominium** area from Residence "A" to Residence "C" in order to more closely match the

property's existing use. The site is located east of vacated Riverside Avenue and south of Superior Street off Iberian Way. The site is generally described as: Tax Nos. 11, 16, 19A, 19B, and 19C, in Sections 22 and 23, Township 57 North, Range 2 W.B.M. The properties are more commonly known as 108 and 110 Pacific Avenue and 301 Iberian Way.

Based on evidence, records, and testimony, the reasons for approving this request are:

1. Particular consideration has been given to the effects of this proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction.
2. Staff has followed the notice procedures applicable to zone changes contained in *Idaho Code 67-6511* and *Sandpoint City Code Title 9, Chapter 9*.
3. The proposed zoning designation of Residence "C" matches the existing land use patterns and is in accordance with the goals and policies of the Sandpoint Comprehensive Plan.

The motion passed with no opposition.

#### MATTERS FROM STAFF:

Mr. Falk stated the Planning Department's web page has been updated, and that Staff intends to include links to staff reports and ordinances for downloading with the meeting agendas. Commission members may download information from the website if they don't have their notebooks. Application forms will also be added to the site in the future.

Mrs. Bramblee noted that Crystal Schoonover would soon be leaving City employment.

#### MATTERS FROM THE COMMISSION:

Commissioner Kester asked about the *City Code* amendment previously considered by the Planning Commission regarding reader board signs for churches. Mrs. Bramblee said that amendment had been denied by the City Council.

Commissioner O'Hara passed out a copy of an article he had read in *High Country News* regarding development in communities in Colorado. It talks about issues such as zoning laws, vacation rentals, and affordable housing, and he thought the information might be helpful.

Commissioner Saied declared he believes members sitting on the Planning Commission need to forget their personal goals and think about growth and the reason the Commission is here. Several of the Commission members went to a Smart Growth seminar last year and shared the information they had learned, a lot of which he agrees with. It appears, however, that some of the Commissioners are thinking more from the standpoint of how something will affect themselves when an issue comes before them. The lot size question is a good example of this. Allowing development on 6,000-square-foot lots would allow the majority of lots in Sandpoint to be built on, which would be in keeping with Smart Growth. However, Commission members get caught up in the zoning designations and the reason they bought property in a certain zone and

do not want to see it change. He pointed out that Sandpoint today is not the same as it was in the past, adding that he would like to see more Smart Growth training for the Commission.

Chairman Lockwood adjourned the meeting at 6:40 p.m.

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Steve Lockwood, Chairman