

SANDPOINT PLANNING COMMISSION
NOVEMBER 30, 2004 MINUTES

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

COMMISSION MEMBERS ABSENT: Raffat Saied.

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: It was **moved by Commissioner Maxwell, seconded by Commissioner O'Hara**, to approve the minutes of the October 19, 2004 and November 2, 2004, meeting as amended. The motion carried with no opposition.

MATTERS FROM THE PUBLIC: None.

A04-01, ZC04-03, & PUD04-02 – Star Development and The Goodman Trust

Chairman Lockwood polled the Commission members for any conflict of interest. He indicated he was approached outside the hearing regarding this issue; however, based on what was said, he felt he could perform his duties in an impartial manner and would be able to continue with the scheduled hearing. No one indicated a problem with him proceeding.

Mrs. Bramblee gave a summation of the entire project. She said the applicant was requesting initial RR1 zoning which is in compliance with the Comprehensive Plan. The Public Works Director has indicated he would like to see the adjoining rights-of-way of Woodland and Mountain View Drives included in the annexation. Staff is recommending that the applicant be required to request annexation of the property by the Independent Highway District because this would increase funds the City would receive to maintain the roads. The applicant is attempting to purchase railroad right-of-way adjoining the property, which would allow him to add 2 additional lots. The 2 commercial lots would be for mini-storage while the residential lots are proposed to be developed as 2-unit townhouses. Two additional letters have been received against the proposal; both comments voiced concerns about changing the rural character of the area and the infrastructure being inadequate.

Terry Lee, 4101 N. Monroe Street, Spokane, Washington, representing Star Development and the Goodman Trust, spoke about the project. After reviewing his development experience, Mr. Lee explained that issues with the site (railroad crossing noise and crossing difficulties, road conditions, septic system requirements, the transmission line easement, etc.) make development in the City a more economical proposition than in the County. Townhouse development was chosen for economical reasons that will benefit both the home buyer and the developer. It will keep the rural feel to the area and make the development more affordable.

Mr. Lee stated he would meet any standards imposed by the City. This project will include a school bus turnout, a covered school bus seating area, a walkway to the next subdivision for children, a landscape buffer of spruce and cherry trees between the Pines subdivision and this development, a gravel walkway with trees and ponds, open space under power lines available for additional parking, and an oversized stormwater collection pond. All of these features show his commitment to quality. He indicated his company would put \$5000 into a trust for railroad crossing signal improvements; he also will pay \$3000 to the school district, and \$1000 each for police, fire, and ambulance services.

Mr. Lee explained the commercial lots would be for RV parking and mini-storage units primarily to benefit the owners within the development, with some units rented to the general public. He does not believe these two lots would not cause adverse traffic because of the nature of this type of business. He is also willing to reimburse the property owners who paid for the reconstruction of Mountain View Drive for the portion adjoining this property. He indicated his company would hire local construction and real-estate people for this project.

The Commissioners asked Mr. Lee for some clarification regarding the location of the stormwater pond, the lot depth measurement, townhouse concept, and what alternatives would be available if the townhouse lots do not sell. Mr. Lee declared he is confident these lots given their price range. Commissioner Hutter disagreed with Mr. Lee's observation that there are only around 6-8 trains a day on those tracks; he believes it would be closer to 30-40 trains a day. He indicated he would be concerned about the potential of trains blocking access for emergency services.

Mr. Lee stated the wet area on the property is not a natural wetland; it is the result of a hole dug by Avista for their power poles and roadwork which prevented the natural drainage and has been compounded by all of the new development and lack of gutter maintenance above the project site. Mr. Herrington explained that the issue in front of the Commission is not the wetland or the cause of the wetland, but the annexation/initial zoning/PUD. Also, he responded to a Commissioner's question that the City has impact fees for parks but they are collected when building permits are issued.

Chairman Lockwood opened public testimony. He read a comment into the record from **Nancy McCandlies**, 101 Osprey Lane, Sandpoint, Idaho, regarding the need for affordable housing.

Tammy Damiano, 22 Woodland Road, Sandpoint, Idaho, indicated she is the farmer that currently uses the land proposed for development. She is in favor of the development because the land is not useful for farming anymore because of the effects of encroaching development. Two examples of this are kids terrorizing her animals and the growing wetlands which has lessened the usable acres for farming.

Christine Bailey, 410 Washington Avenue, Sandpoint, Idaho, indicated she is a realtor. She agrees the site is a 'problem' property for redevelopment, but affordable housing is a needed in this community. In answer to a question, she said homes in Sandpoint start around \$125,000.

Fred Van Nostrand, 142 Leisure Lane, Sandpoint, Idaho, stated he is concerned about additional motorists that would further degrade the road surfaces which are not in very good

shape. He questioned what the future plans are for improvements to roads around the proposed development.

Marianne Love, 2800 Great Northern Road, Sandpoint, Idaho, stated her parents once owned the land in question and the railroad is very bad with their use of horns at that site. She questioned the need for 56 homes on a site which would subject so many people to train noise.

Joan Fish, 185 Crooked Lane, Sandpoint, Idaho, is a former teacher and knows a little bit about the present school situation. In general, the schools are close to or exceed their capacity. This development would impact the schools negatively by introducing more children into the school system.

Gordon Fish, 185 Crooked Lane, Sandpoint, Idaho, is concerned about the high density and its effect on property values. He states Mountain View Drive is too narrow for that many cars and Woodland Road is not paved. Great Northern Road is consistently in terrible condition and the railroad crossing is dangerous. All of these infrastructure problems add up and he is against this project.

Steve Prince, 106 Crooked Lane, Sandpoint, Idaho, thinks there is some confusion between low income housing and affordable housing. This project represents affordable housing, but the definition is a loose one. He feels this is the wrong type of development for the site because it is too dense and there are problems with the railroad crossings.

Lucas Webster, 531 Monarch Road, Sagle, Idaho, indicated the area needs affordable housing and if not at the proposed area, it must be built somewhere.

Doyle Reader, 356 Mountain View Road, Sandpoint, Idaho, stated there is a compatibility issue with current big homes and the proposed dense development; the two densities do not fit well together. He cited problems with the proposed development including trains blocking the roads all the time, the negative impacts to the wetland area and geese, and the impact to Gooby Road when trains block the crossings and all of the cars are diverted.

Judy Pederson, 261 Leisure Lane, Sandpoint, Idaho, believes this is the wrong type of development for the area as it is too dense. She noted the conditional use permit standards a Planned Unit Development is to be evaluated under indicate that the proposed use should not change the essential character of an area, as she believes this project would. She is also against commercial zoning for this area.

Nick Nicolls, 340 Leisure Lane, Sandpoint, Idaho, lives next to the development and sees a lot of birds using the wetlands and would hate to see that destroyed. He stated that the road improvements proposed for the development are fine, but there still is inadequate infrastructure to warrant this type of density.

Chuck Mione, 180 Serenity Lane, Sandpoint, Idaho, does not want to see farmland disappear, especially with an inappropriate high density. Without paving, the roads could not withstand the amount of traffic the project would generate, and he is worried about the money he and others have already put into the road.

William Love, 2800 Great Northern Road, Sandpoint, Idaho, opposes the annexation and thinks the \$40,000 dollars projected for tax revenue from this development would not compensate for the expenses incurred with annexation.

Marcy Mione, 180 Serenity Place, Sandpoint, Idaho, is a realtor and her kids go to the Farmin-Stidwell School. She believes the addition of this many families would increase the amount of children which would not improve her kids schooling. The trains are a safety hazard and the roads are terrible.

Mark Lockwood, 176 Crooked Lane, Sandpoint, Idaho, declared the existing single-family nature of the area is nice, but this duplex development may put too much pressure on the current infrastructure. He questioned what standards are in place for the future.

James Chabiel, 206 Serenity Lane, Sandpoint, Idaho, indicated this project is too dense because of traffic and school considerations. He also believes the development will hurt property values.

Karla Petermann, 702 N. Boyer, Sandpoint, Idaho, is opposed to this development because it would increase traffic on North Boyer Avenue. Other negative impacts include the library and the schools. Commercial zoning is not appropriate for this particular area.

Lynn Stevens, 153 Leisure Lane, Sandpoint, Idaho, owns 2 acres bordering the proposed development and is concerned her views of the mountains will be affected. She also wants to stay in the County and is concerned with annexation creeping her direction.

Gary Stevens, 152 Leisure Lane, Sandpoint, Idaho, stated that Sandpoint is going through many changes, but he does not think this development is appropriate for this specific area.

John Bowman, 141 Crooked Lane, Sandpoint, Idaho, does not believe this is an appropriate development for the site.

Kathleen Hubener, 70 Leisure Ln., Sandpoint, Idaho, is not in favor of annexation because it will put too much pressure on the surrounding inadequate roads. She would be concerned with emergency service response times and kids playing near the trains.

Terry Lee, 4101 N. Monroe Street, Spokane, Washington, stated the growth in the Sandpoint area is increasing the need for affordable housing, which his project is trying to address. He believes the mixture of housing types is beneficial for a City. He indicated that he intends to install a cedar fence and landscaping around the mini-storage units. He pointed out that the City's growth boundary was in place when the Pines subdivision was developed; therefore, owners should have known at the time of purchase that annexation was a possibility. He stated he is willing to put his commitment on the funds he would give to the schools, police, fire, etc. in writing.

Chairman Lockwood closed public testimony.

Commissioner Kester asked about the costs of annexation to the City. Mr. Herrington indicated that the Planning Commission was not deciding the annexation of the property; only the City Council can annex land into the City. The Commission is making a recommendation on the

initial zoning if the site is annexed. It was noted the developer would be responsible for improvement of the roads, curb, gutters, sidewalks, water, and sewer adjacent to the property.

Commissioner Lockwood asked about off-site impacts. Mr. Herrington said that the current ordinances do not lend themselves to require developers to mitigate offsite impacts.

Commissioner Hutter stated that he is worried about the impacts to the wetlands, the railroad track crossings affecting access, kids around the railroad tracks, and the density of the project.

Commissioner Kester said it does not appear to her that the goals of the Comprehensive Plan match the development, particularly protecting the safety of residents. Commissioner O'Hara agreed with Commissioner Kester's assessment of the Comprehensive Plan as it relates to the density of the project. He also questioned whether this was low income housing or affordable housing.

Commissioner Monahan stated his primary issues relate to the potential impact on services, but he is also concerned about the lack of affordable housing.

Commissioner Maxwell said he is not opposed to the annexation, but does have concerns about the condition of Great Northern Road in regards the amount of traffic. He does not think there is enough infrastructure in place to handle the proposed level of use, and the site location next to the power lines is not ideal.

Chairman Lockwood declared he is a proponent for density, but he does not think the proposed project's location with this density is logical at this time. He is also not comfortable making a judgment when many of the details are not in writing.

Moved by Commissioner O'Hara, seconded by Commissioner Hutter, 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 5 of the Staff Report, make a recommendation to City Council to **DENY** the request by **Star Development and the Goodman Trust** for Rural Residential RR1 zoning in conjunction with annexation of an approximately 21-acre parcel lying west of and adjoining the Burlington Northern Santa Fe Railroad right-of-way between Woodland Drive and Mountain View Drive. The property is described as the E ½ of the SE ¼ of the NE ¼ in Section 9, and that portion of the SW ¼ of the NW ¼ less the SW ¼ of the SW ¼ of the NW ¼ east of the county road in Section 10, all in Township 57 North, Range 2 W.B.M.

1. Staff has followed the notice procedures applicable to zone changes contained in *Idaho Code* 67-6509 and *Sandpoint City Code* Title 9, Chapter 9.
2. The property included in the request for annexation is not a logical extension of the boundaries of the City of Sandpoint.
3. The requested zoning designation of Rural Residential RR1 is not in keeping with Sections 6, 7, 8, 9, and 12 of the City's Comprehensive Plan.

The motion passed unanimously.

Moved by Commissioner O’Hara, seconded by Commissioner Hutter, 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 5 of the Staff Report, make a recommendation to City Council to **DENY** the request by **Star Development and the Goodman Trust** for conceptual planned unit development approval of a 28-lot subdivision development to include 2-unit townhouses, with 2 lots designated for possible commercial use on an approximately 21-acre parcel lying west of and adjoining the Burlington Northern Santa Fe Railroad right-of-way between Woodland Drive and Mountain View Drive. The property is described as the E ½ of the SE ¼ of the NE ¼ in Section 9, and that portion of the SW ¼ of the NW ¼ less the SW ¼ of the SW ¼ of the NW ¼ east of the county road in Section 10, all in Township 57 North, Range 2 W.B.M.

1. Staff has followed the notice procedures applicable to zone changes contained in *Idaho Code* 67-6509 and *Sandpoint City Code* Title 9, Chapter 9.
2. The proposed conceptual Planned Unit Development is not in compliance with the standards set forth in *Sandpoint City Code* Title 9, Chapter 8.
3. The proposed conceptual Planned Unit Development is not in compliance with the overall planning goals and objectives outlined in the Sections 6, 7, 8, 9, and 12 of the City’s Comprehensive Plan.

The motion passed unanimously.

ZC04-04 Vacation Rentals

Mr. Falk reviewed some of the history of the vacation rental issue and summarized the proposed ordinance. As written, the ordinance would define a tourist home as a short-term rental of between 5 and 30 days, would prohibit them in the Residence “A” zone, and would allow them as a Conditional Use in the Residence “B” and “C,” Rural Residential RR1 and RR2, and Professional Office zones. In all affected zones, any current tourist homes would have a 5-year sunset clause to either cease existence or secure a Conditional Use Permit to come into compliance with the ordinance. In response to questions from the Commission, he indicated long-term rentals (30+ days) would not be affected.

Chairman Lockwood opened public testimony.

Gretchen Ward, 532 Marion, Sandpoint, Idaho, declared that a tourist home is a commercial use and she bought her home on the assumption zoning would protect her from commercial uses occurring near her property. She regards all of the recent discussion as a non-issue because, as she understands it, commercial uses are not allowed in the Residence “A” zone.

Dan Tonnemacher, 111 Elm, Sandpoint, Idaho, stated he is against the proposed ordinance, as he does not see any point in regulating something that is not causing anyone any trouble. He has asked for and has not seen any documentation that there have been any problems experienced from this type of use.

Michael Boge, 332 S. Euclid, Sandpoint, Idaho, recommended that the Planning Commission not attempt to reinvent the wheel, but rather look at what other communities have done regarding the tourist home issue.

Gretchen Heller, 401 St. Claire Avenue, Sandpoint, Idaho, stated she regards rentals on a qualitative basis and a tourist home is not a quality rental because it puts the social structure of the City in peril. She regards Tourist Homes as a commercial use as evidenced by a tax being collected. Commercial uses should not be in a residential zone; therefore, tourist homes should be banned in all residential districts.

Brad Golphenee, 389 Upland Dr., Sandpoint, Idaho, said he does not see any problems with vacation rentals, as they are well kept and have responsible renters. He believes that, despite written definitions delineating the difference between long- and short-term rentals, in reality, the actual use is very similar. In general, these regulations will be very hard to enforce because of the nature of the business. He added that the tourist homes fill a niche in Sandpoint's overall lodging options.

Helen Newton, 423 Huron, Sandpoint, Idaho, indicated she understands that all places change but it is still important to try to maintain Sandpoint's small town atmosphere. From her perspective in working for the City, she believes the City does enforce their laws and the potential inability to enforce this law should not be a factor in the Planning Commission's decision.

Karla Petermann, 702 N. Boyer, Sandpoint, Idaho, is concerned about the Residence "B" and "C" zones and why they are not being protected in the same manner as the Residence "A" zone. She pointed out there are a finite amount of houses in Sandpoint and if they are being bought for use as tourist homes, then there are fewer houses for families and permanent Sandpoint residents.

Paul Vogel, 1028 Janish Dr., Sandpoint, Idaho, stated he is a lawyer representing 5 clients who have hired him out of concern regarding the 5-year sunset clause in the proposed ordinance. One of his clients has a very expensive house that has been used as a short-term rental to pay the mortgage. At the time the house was purchased, his client checked with the City and was told there would not be a problem with its use as a short-term rental. The 5-year amortization is not fair; it is too short of a time limit and denies his client the opportunity to pay off his mortgage. The Idaho Supreme Court has ruled that short-term rentals are a residential, not commercial, use. The amortization time is not reasonable for the level of investment involved. Amortization ordinances are enabled by the State to terminate dangerous businesses, and the State of Idaho, and City Code, provides protection for nonconforming uses. He would recommend that there either be no amortization clause, or it be of a length reasonable to his client's position.

Martina Sanders, 26 Harbor View, Sagle, Idaho, stated that tourist homes have been allowed for the 34 years she has owned a home, and tourist homes have been supported by the Sandpoint Chamber of Commerce and the Planning Department. She gives her phone number to all of her neighbors in case renters cause problems and she has had very few. She declared that tourist homes are well-maintained which benefits the community.

Charley Frame, Bainbridge Island, Washington, said he has been President of a Chamber of Commerce and believes he has a good idea of the effects of vacation rentals on housing prices in

respect to affordable housing. He believes most, if not all, tourist homes are in the geographically nicer areas of cities and these are usually too expensive for many families. The result is that low-income families and high-income families are not competing for the same housing stock.

Lucas Webster, 531 Monarch Rd., Sagle, Idaho, said that licensing is a good strategy so that there is accountability and the City can easily evaluate whether these types of activities are really a problem.

Michael Whelp, 606 Lakeview, Sandpoint, Idaho, is neutral on the issue, but is concerned about a loss of rights as he believes the IRS allows all homeowners 14 days to rent their homes. Even though he does not plan to use this privilege, he is comforted by the fact that if he is in a financial bind, he could use his home as a short-term rental to make some money.

Nancy McCandlies, 101 Osprey Lane., Sandpoint, commented that it is very hard to distinguish between the activities of a short-term rental and long-term rentals.

Chairman Lockwood closed public testimony.

Gretchen Ward wanted clarification on the Ordinance. Commissioner O'Hara explained the intent and details of the ordinance, noting that Bed and Breakfasts are allowed in the Residence "B" and "C" zones and tourist homes are a similar use. Chairman Lockwood asked about the Resort City Tax as it pertains to the ordinance. Mr. Herrington remarked that the potential grandfathering of a vacation rental would be on a case-by-case basis and that payment of the Resort City Tax would be a consideration. Chairman Lockwood asked about the legal issues raised by Mr. Vogel. Mr. Herrington said the arguments Mr. Vogel made could very well prevail in a court of law. The only certainty regarding tourist homes is that the Commercial "D" zone lists them as a permitted use. Regarding amortization, the 5-year limit could be too short, but there is a great deal of case law on the subject and it would have to be studied further. Commissioner Hutter explained the difference between gross and net return on rentals to point out that the comparison by Mr. Vogel is not exactly accurate. Mr. Herrington said if the Commission wanted a longer amortization time it would be appropriate to change the figure.

Moved by Commissioner Maxwell, seconded by Commissioner Monahan, that the Planning Commission make a recommendation City Council to **APPROVE** the proposed amendment concerning tourist homes.

Under discussion, Commissioner O'Hara declared he does not understand what problem tourist homes are creating in the City. The Commission has not seen any evidence to base the whole discussion upon. He believes a licensing ordinance would be a good the first step so that the City could collect data and not rely on personal feelings to make decisions.

Commissioner Hutter said he would like to plan proactively. It would be easier to revoke a law in the future if it is determined tourist homes are not a problem than to not take any action now and try to control them later if they are a problem.

Commissioner O'Hara agreed with the idea of proactive planning, but declared there is not any data on which to base such a policy.

Commissioner Maxwell cited tourist homes as one of the many reasons housing prices are going up.

Commissioner Monahan indicated he sees the ordinance as a control measure as growth will bring more problems.

Commissioner Kester said she wants to do something so neighborhoods are protected. Many people would rather have neighbors, even with the potential for bad neighbors.

Chairman Lockwood stated the sense of community is more important than the property rights question and that if we do not do something now, it will be very hard to later. He cited Seaside, Oregon as a place that might not have evolved in the most healthy manner. Before a problem arises is the appropriate time to enact a law so things do not get out of hand. He noted he is also concerned with the difference in the ordinance in regulating the use in the different residential zones and he is marginally comfortable with the Conditional Use Permit process as a way to regulate the use.

Commissioner Hutter questioned if it would be easier to separate the provision for the sunset clause from the remainder of the ordinance. Mr. Herrington responded that any change would need a motion to amend the draft ordinance.

The motion passed by a majority vote, with Commissioners O'Hara and Kester opposing the motion.

MATTERS FROM THE COMMISSION: None

MATTERS FROM STAFF: Mr. Herrington noted the Tourist Homes Licensing Ordinance would be going to the Administrative Committee and that he would like to the Planning Commission to provide their input before it goes before them.

Chairman Lockwood adjourned the meeting at 9:25 p.m.

/s/
John O'Hara, Chairman