

**PLANNING COMMISSION
STAFF REPORT**

To: Planning Commission
Date: May 13, 2009
Item: Bruce Pedersen Church Zone Change (ZC09-02)

GENERAL INFORMATION:

Applicant: Bruce Pedersen

Requested Action: Zone change of approximately 1.2 acres from Residence "B" to Residence "C" and of approximately 0.9 acres from Residence "B" to Professional Office "PO."

Purpose: To allow for development of a multi-use community complex. Subsequent to this application, the Commission will consider a Conditional Use Permit application for a non-municipally-owned recreation center and inclusion of multi-family residents on a portion of the site.

It is noted the proposed Conditional Use Permit application could be processed under the existing Residence "B" zoning. Additionally, the overall complex extends beyond the boundaries under consideration for the zone change and Conditional Use Permit.

Location: The site is that block bounded by Oak Street to the north, Church Street to the south, Boyer Avenue to the west, and Sixth Avenue to the east, and is described as Lots 1 through 7, Block 30, West End Addition "D," Lots 1 through 4, Block 2, Law's Third Addition, and Lots 1 through 6, Block O, Farmin's Fifth Addition.

Size: The total parcel is approximately 2.1 acres.

Existing Land Use and Zoning: The block includes the St. Joseph's Catholic Church, parsonage, associated buildings, a parking area, and several residences. The site is zoned Residence "B."

Surrounding Land Use and Zoning: North: The south half of the block bounded by

Boyer and Sixth Avenues and Oak and Cedar Streets is Residence “B”, the north half of the block, as well as property north of Cedar and Main Streets, is zoned Residence “A” / former church parking lot, single and multi-family residences.

South: Commercial “D” within the Commercial “D” Overlay District, / commercial office, retail and service businesses.

East: Commercial “D” within the Commercial “D” Overlay District extending from Pine to Cedar Streets / commercial office, retail and service businesses. The block immediately east of Sixth Avenue, which is the site of the former grain elevator, is to be part of the overall multi-use community complex design.

West: Residence “A” from Church to Cedar Streets, with Residence “A” and Commercial “D” south of Church Street / single-family residences, with single-family residences and commercial retail and office buildings south of Church Street.

Comprehensive Plan: The following Comprehensive Plan provisions should be considered for this application:

Chapter 3, Community Design:

Goal CD-1: Historic Town - *Retain Sandpoint’s position and image as an historic town.*

Policies

- A. Ensure that all commercial, single and multi-family development respect the town’s unique historic character, in architecture, density and in site planning.
- B. Facilitate reinvestment in and adaptive reuse of historic structures, districts and neighborhoods.

Goal CD-3: Quality Growth - *Make higher density areas dynamic, attractive and desirable places to live and operate businesses.*

Policies

- B. Arrange land uses to focus public activity in CA-3B, CA-4 and CA-5 districts.
- C. In higher density areas locate buildings to emphasize the relationship to the street, encourage pedestrian access, and establish identities of individual districts and mixed use neighborhoods.

Chapter 4, Land Use

Goal LU-1: Efficient Land Use - *Achieve an efficient use of land in and around Sandpoint, reducing pressure to expand into the Area of City Impact to accommodate population growth.*

Policies

- A. Encourage increased density in CA-3 and CA-4 areas while requiring multi-family housing to respect neighborhood character.
- B. Encourage provision of housing above ground floor retail in CA-3B, CA-4 and CA-5 districts.

Goal LU-2: Traditional Patterns - *Emulate traditional neighborhood development in areas identified for more intensity; ensuring new population is housed close to services.*

Policies

- A. Mix land uses in CA-3B, CA-4 and CA-5 areas.

Chapter 5, Housing

Goal H-2: Existing Neighborhoods - *Protect and enhance the charm and comfort of Sandpoint's existing neighborhoods.*

Policies

- A. Implement appropriate controls in consideration of transition areas between existing neighborhoods and adjoining CA-3B, CA-4 and CA-5 districts.
- B. Create street environments that would be appropriate for historic single-family neighborhoods.

Chapter 8, Public Services, Facilities & Utilities

Goal PS-1: Public Services - *Provide public services to keep pace with changes in community demand, while increasing sustainability to reduce infrastructure cost.*

Policies

- C. Arrange land uses and public services systems to make them as efficient as practicable.

Chapter 9, Economic Development

Goal E-3: Workforce Needs - *Provide Sandpoint workers with affordable housing options near jobs, public transportation, and non-motorized transportation options.*

Policies

- A. Encourage diversity of housing types as appropriate in land use districts.
- B. Help reduce household transportation costs by allowing housing near jobs.

Goal E-4: Downtown Revitalization - *Support Downtown Sandpoint's historic role as a major economic, social and civic center of Bonner County.*

Policies

- G. Encourage preservation of historic buildings.

Chapter 11, Special Areas or Sites

Goal SA-1: Preservation - *Identify, preserve, protect, and enhance areas of special interest, historic value and scenic beauty in Sandpoint.*

Policies

- A. Encourage owners of historic structures to go through the process to be listed on the Register.
- C. Protect the residential character of existing neighborhoods by providing for transitional boundaries between residential, commercial and industrial uses
- D. Identify and recognize sites of historic significance to Sandpoint.

SPECIAL INFORMATION:

Public Services and Utilities:

The parcel is served by existing utilities. The Public Works Director has indicated a change in use may require an upgrade of utilities, which could include increasing water pipe sizes to improve fire flow, and upsizing of the sewer line. The proposed use may require payment of additional water, sewer, and/or development impact fees, although credit toward new hookup fees will be allotted for existing uses. Any main extensions (including fire hydrant line) will require stamped engineered drawings. The Fire Chief has noted he will require all buildings within the project to be fully equipped with automatic fire sprinklers.

BACKGROUND INFORMATION:

The property in question was first zoned by the City of Sandpoint in 1950 (Residence 3). The Residence "A," "B," and "C" zones were first adopted in 1958. A Comprehensive Plan amendment and zone change from Residence "A" to Residence "B" were approved for the block bounded by Boyer and Sixth Avenues and Church and Oak Streets and the south half of the block bounded by Boyer and Sixth Avenues and Oak and Cedar Streets in 1988 in conjunction with a Conditional Use Permit to allow expansion of the church's parking lot.

In 2008, the Applicant made a request to change the zone from Residence "B" to Commercial "D" for the block in question, as well as the church parking area on the block to the north. The Planning Commission recommended denial of that application on a 3-2 vote. The City Council voted unanimously to remand the application to the Planning Commission for consideration of a development agreement between the City and the property owner, if the property owner wished to continue to pursue a change in use of the site, with the requirement that the exterior of the church be preserved, and with Context Areas 3 and 3B from the current draft of the Comprehensive Plan to be consulted for guidance.

In February 2009, the Planning Commission considered a revised application for zone change to Commercial “D” which included a proposed Development Agreement. They recommended approval of this request, with amendments to the Agreement, on a 4-1 vote. In March 2009, the Council denied the revised application on a 3-2 vote.

ANALYSIS:

Proposed Zoning: Approximately 1.2 acres = Residence “C”

A. Use Regulations:

1. Permitted Uses:

- An existing single-family residential structure may be remodeled or modified into a duplex or a new duplex may be constructed subject to the following conditions:
 - a. The parcel of property contains a minimum of seven thousand one hundred (7,100) square feet;
 - b. There is fifty feet (50') road frontage;
 - c. The duplex be attached units;
 - d. All required permits and approvals be obtained;
 - e. The duplex structure meets all other standards and requirements of this code.
- Any use permitted in the Residence A or Residence B zone except conditional uses. Included within said uses shall be manufactured homes pursuant to the following provisions, conditions, and regulations:
 - a. The manufactured home shall be multi-sectional.
 - b. The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter in such a manner that the home is located not more than twelve inches (12") above grade.
 - c. The manufactured home shall have a pitched roof with a minimum slope of three feet (3') in height for each twelve feet (12') in width.
 - d. The manufactured home shall have exterior siding or roofing which in color, material, and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings.
 - e. In addition to the provisions of subsections a through d of this use, a manufactured home shall be subject to any development standard, architectural requirements and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subjected.
- Clubs, lodges, fraternal organizations, when not operated for profit.
- Multi-family housing up to and including sixplex, according to the following:
 - a. Minimum lot size: Ten thousand six hundred fifty (10,650) square feet for a triplex; three thousand five hundred (3,500) square feet additional space for each additional unit up to and including six (6) units.
 - b. Minimum yard sizes:
 - Front: Twenty feet (20')
 - Side: Ten feet (10')
 - Rear: Fifteen feet (15')
 - c. Corner lot setbacks: Same as single-family dwellings.

- d. Maximum height: Thirty five feet (35'), no more than two and one-half (2 1/2) stories.
 - e. Lot coverage: Not to exceed forty percent (40%) building footprint and thirty percent (30%) impervious surface.
 - f. Parking: As per city parking ordinance requirements.
 - g. Road frontage: Seventy five feet (75') plus twenty five feet (25') for each additional unit up to six (6) units; one hundred twenty five feet (125') maximum required.
2. Conditional Uses: Those uses designated as conditional uses in the Residence A and B zones as well as the following uses may be permitted provided a conditional use permit authorizing such use has been granted:
- Cemeteries.
 - Daycare center.
 - Group daycare facility.
 - Multi-family housing of seven (7) units and greater which meets the following standards: All such property must meet the minimum requirements for a sixplex above described plus an additional one thousand five hundred (1,500) square feet per unit of lot size of which three hundred (300) square feet shall be open space or recreational area. Lot coverage shall comply with subsection A1 of this section.
 - Performance standards that apply to bed and breakfast uses in this zone consist of, but are not limited to, the following criteria:
 - a. The premises must be owner occupied with a maximum of three (3) bedrooms rented as bed and breakfast use.
 - b. Two (2) parking spaces for the owner plus one parking space per bedroom rented are required.

Proposed Zoning: Approximately 0.9 acres = Professional Office “PO”

- C. Permitted Uses: The following uses are permitted in the professional office district:
- Accessory buildings limited to storage space for items incidental to the permitted use.
 - Administrative office; private, public, government.
 - Apartments, multi-family and two-family dwellings, provided they are located above the first floor and above a business use permitted in this district.
- OR
- Residential use may be allowed on a first floor, where the permitted business use fronts any adjoining street and the first floor commercial component is at least 20% of the building’s gross square footage.
- Barber, beauty shop.
 - Churches.
 - Hospitals, homes for the aged, nursing homes, sanitariums, or similar welfare institutions.
 - Laboratories; medical, dental, optical.
 - Offices; medical, dental, optical.
 - Parking lots when serving an adjacent business.
 - Photographic studio.
 - Professional offices.
 - Reducing salon, masseur.

- Single-family dwelling.

D. Conditional Uses: The following uses are permitted subject to the granting of a conditional use permit pursuant to the provisions of this title, and subject to all other applicable regulations:

- Apartments, multi-family dwellings, and two-family dwellings where apartments are proposed for a first floor when attached to a permitted business use where the applicant is requesting waiver of the frontage or square footage standards required to qualify as a permitted use as set forth in subsection C of this Section.
- Banks, financial institutions.
- Community assembly.
- Employment agencies.
- Galleries.
- Hospitals.
- Laboratories.
- Libraries.
- Rooming, boarding houses.
- Schools; elementary, secondary, college, nursery schools, daycare centers.
- Tourist homes.
- Veterinary office or clinic when completely indoors.

Compliance with Comprehensive Plan: The west half of the blocks bounded by Boyer and Sixth Avenues, extending from Church Street north to Main Street, is designated CA-3. The east half of this area is designated CA-3B.

According to the Comprehensive Plan, CA-3 development patterns increase the density of housing through the use of smaller lot sizes, smaller setbacks, options for shared open space and the inclusion of attached and detached multi-family units. CA-3 supports the traditional street grid pattern, sidewalks and walkable proximity to services exemplified by many of Sandpoint's traditional neighborhoods. CA-3 is limited to residential uses only. The bulk, mass and architecture of multi-family and single family units should seamlessly integrate with one another, encouraging a balanced streetscape where no one structure or development dominates. This pattern exists or is designated primarily in the area bounded by Boyer, Lincoln, Lake and Spruce Streets, and serves to buffer CA-2 neighborhoods and CA-4 centers. Within city limits, this designation reflects the on-the-ground densities and uses including collections of duplexes, and high density housing along Main and Division.

CA-3B (Business Overlay) development patterns are identical to CA-3 patterns, but envision mixed-use, neighborhood-compatible retail. These areas are typified by pedestrian-focused activities such as, salons, coffee shops, and residentially-scaled professional or institutional offices. All commercial structures should have a residential component to prevent these areas from becoming vacant islands of inactivity after the close of business hours. CA-3B designations are established on the comprehensive plan map where such patterns already exist, or may aid to buffer or provide continuity between future higher-intensity areas, such as along Division north and south of Highway 2.

Compatibility with Neighborhood: According to the Applicant, this project will positively benefit the citizens of Sandpoint financially, physically, emotionally and socially. Development of the project is to include preservation of the former Catholic Church on the property in question, as well as the Granary structure on the adjoining block.

One response has been received in response to the public hearing notice indicating a neutral position one response has been received in opposition to the request which indicates the commercial creep should stop at Sixth Avenue.

Environmentally Sensitive Areas: N/A

Historic Building Sites: According to the Applicant’s narrative, the architecture of the project with its multiple point of historic celebration will be inviting and welcoming. The preservation of the former Catholic Church and the Granary structure on the adjoining block will bring a strong foundation of history with a celebration of our future.

Archeological Sites: N/A

Traffic and Parking Implications: The site in question does not fall within the area approved for removal of parking requirements; therefore, compliance with the City’s parking regulations will be required. Parking for the project is proposed to be accommodated through structured parking.

Access and Street Design: The Applicant indicates the project has been designed to direct the flow of activity and traffic to the east and southeast portion of the project through placement of entries and traffic flow patterns. At the time the zone change application is presented to City Council, they will also be asked to consider vacation of the alley within the block in question.

The Public Works Director has noted standard frontage improvements will be required on all street frontages, including 5-foot wide sidewalks along Church and Oak Streets and Sixth Avenue. The Applicant will be responsible for dedication of an

additional 5 feet of right-of-way along Boyer Avenue and widening of the right-of-way to City standards, to include a 6-foot wide sidewalk. A Traffic Concurrency Analysis will be a requirement of the subsequent Conditional Use Permit.

The Police Chief has indicated he would like more information regarding how traffic flow will be addressed when the facility is used for special events.

Neighborhood Parkland:

N/A.

Stormwater Management:

Future development of the site will be required to receive approval of a stormwater management plan.

Infrastructure:

Infrastructure to the existing buildings is in place. Redevelopment of the site may require upgrading of existing utilities.

Summary:

The requested zoning designations of Residence “C” and Professional Office “PO” are in keeping with the Comprehensive Plan’s CA-3 and CA-3B designations. Conditions for development of the project will be addressed in the subsequent Conditional Use Permit and future Site Plan Review applications.

PROPOSED CONDITIONS & STAFF RECOMMENDATION:

As noted, conditions for development of the project will be addressed in the subsequent Conditional Use Permit and future Site Plan Review applications.

DEFICIENCIES AND DISCREPANCIES: N/A

ATTACHMENTS:

1. Application and Narrative
2. Planning Commission August 5, 2008, Minutes
3. City Council September 17, 2008, Minutes
4. Planning Commission February 17, 2009 Minutes
5. City Council March 18, 2009 Minutes
6. Public Comment

If approving:

MOTION FOR PROPOSED DECISION

“I move the Sandpoint Planning Commission, after consideration of the criteria and relevant standards of *Idaho Code* and *Sandpoint City Code*, make a recommendation to City Council to **APPROVE** the request by **Bruce Pedersen** for a zone change from Residence “B” to Residence “C” for approximately 1.2 acres described as Lots 1 through 7, Block 30, West End Addition “D,” and Lots 1 through 4, Block 2, Law’s Third Addition, and for a zone change from Residence “B” to Professional Office “PO” for approximately 0.9 acres described as Lots 1 through 6, Block O, Farmin’s Fifth Addition.

The reasons for this decision 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 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 Residence “C” and Professional Office “PO” zoning designations are consistent with the existing land use patterns and are in accordance with the goals and policies of the Sandpoint Comprehensive Plan.

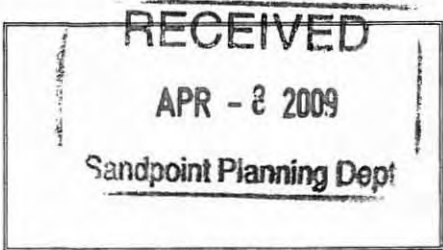
If denying:

MOTION FOR PROPOSED DECISION

“I move the Sandpoint Planning Commission, after consideration of the criteria and relevant standards of *Idaho Code* and *Sandpoint City Code*, make a recommendation to City Council to **DENY** the request by **Bruce Pedersen** for a zone change from Residence “B” to Residence “C” for approximately 1.2 acres described as Lots 1 through 7, Block 30, West End Addition “D,” and Lots 1 through 4, Block 2, Law’s Third Addition, and for a zone change from Residence “B” to Professional Office “PO” for approximately 0.9 acres described as Lots 1 through 6, Block O, Farmin’s Fifth Addition.

The reasons for this decision 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 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 Residence “C” and Professional Office “PO” zoning designations are not consistent with the existing land use patterns and are not in accordance with the goals and policies of the Sandpoint Comprehensive Plan.



**CITY OF SANDPOINT
PLANNING DEPARTMENT
ZONE CHANGE APPLICATION**

R File #: 2009-02

Please read and complete the application carefully. Failure to provide all required information could result in a delay in processing your application.

Applicant Information

Applicant's Name: Bruce Pedersen
Address: 291 Syringa Heights Road, Sandpoint, Idaho 83864
Phone: (H) 208-255-8983 (W) 208-255-8983
E-mail: bruce@bookcrossing.com

Holder of Legal Title: See above
Address: _____
Phone: (H) _____ (W) _____
E-mail: _____

Representative Information

Business Name: N/A
Surveyor: CTA Group
Address: 334 N. 1st Ave. Suite 210, Sandpoint, Idaho 83864
Phone: (H) (208) 265-5087 (W) (208) 265-5087
E-mail: info@ctagroup.com

Project Information

Legal Description of Site: Lot(s) _____ Block # _____ Addition _____
(or) _____
Section _____ Township _____ Range _____
Total Size of Parcel: _____

Current Comprehensive Plan Designation: CA3/ CA3B

- | | | |
|---|-------------------------------------|--|
| <input type="checkbox"/> Rural | <input type="checkbox"/> Business | <input type="checkbox"/> Public Facilities |
| <input type="checkbox"/> Low Density Residential | <input type="checkbox"/> Industrial | <input type="checkbox"/> Airport |
| <input type="checkbox"/> Medium Density Residential | <input type="checkbox"/> Park | |

Current Zoning:

- | | | |
|--|---|---|
| <input type="checkbox"/> Rural Residential RR2 | <input checked="" type="checkbox"/> Residence "B" | <input type="checkbox"/> Professional Office "PO" |
| <input type="checkbox"/> Rural Residential RR1 | <input type="checkbox"/> Residence "C" | <input type="checkbox"/> Commercial "D" |
| <input type="checkbox"/> Residence "A" | <input type="checkbox"/> Trailer "T" | <input type="checkbox"/> Light Industrial "ER" |
| <input type="checkbox"/> Residence "A7" | <input type="checkbox"/> Commercial Neighborhood "CN" | <input type="checkbox"/> Industrial "E" |

Proposed Zoning:

- | | | |
|--|--|---|
| <input type="checkbox"/> Rural Residential RR2 | <input type="checkbox"/> Residence "B" | <input checked="" type="checkbox"/> Professional Office "PO" <i>East side</i> |
| <input type="checkbox"/> Rural Residential RR1 | <input checked="" type="checkbox"/> Residence "C" <i>West side</i> | <input type="checkbox"/> Commercial "D" |
| <input type="checkbox"/> Residence "A" | <input type="checkbox"/> Trailer "T" | <input type="checkbox"/> Light Industrial "ER" |
| <input type="checkbox"/> Residence "A7" | <input type="checkbox"/> Commercial Neighborhood "CN" | <input type="checkbox"/> Industrial "E" |

Proposed Land Use: _____

To obtain a conditional use permit that is allowed in the current zone with a simultaneous rezone for increased density.

What land uses border the site? Describe lot sizes, structures and uses:

North: CA3/CA3B
 South: Commercial
 East: Commercial
 West: Residential

What Zones border the site?

North CA3/CAB South Commercial East Commercial West Residential

What Comprehensive Plan designations border the site?

North CA3/CA3B South CA4 East CA5 West CA2

Site Information

Provide detailed descriptions on the following:

- Topography (lay of land), including estimated maximum slope, rock outcroppings, benches, etc.: Land is flat. Slope, etc. N/A
- Water courses (springs, streams, rivers, etc.): N/A
- Existing structures (size & use): Existing structure is a large multi-use religious facility.

4. Land cover (timber, pasture, etc.): N/A

5. Other pertinent information: To follow with narrative.

Effects of Proposed Zone Change

1. How will the proposed Zone Change affect such elements as noise, light glare, odors, fumes and vibrations on adjoining property? See narrative.

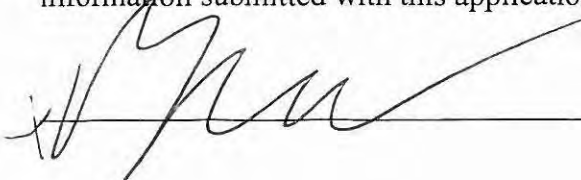
2. How will the proposed Zone Change be compatible with adjoining land uses? It provides residential transition into the commercial zone and is buffered by a main traffic artery on Boyer avenue

3. Why is the proposed Zone Change compatible with the environmental characteristics, both physical and social, of the site and surrounding property? It is a unique parcel that affords walking distance to the core residential services in proximity to five major social hubs within the city.

4. What extensions of water or sewer lines, roads or other public or private services would be necessary if this Zone Change were approved? None known at this time.

The Planning Director reserves the right to **not** officially accept this application until all if the above required information is submitted. The date of the Planning Commission review will be established by the Planning Department upon the acceptance of a complete application.

I am the sole owner of the property described in this application. I further attest that all information submitted with this application is true and accurate to the best of my knowledge.



March 26, 2009

Narrative

This project promises to be a large step forward for the citizens of Sandpoint and the surrounding areas. From economic vitality to multi-generational interactions, this mixed use community complex will have far reaching benefits.

The project is allowable under the current zone as a conditional use. We are simultaneously requesting rezoning in alignment with the goals of the recently adopted comp plan. This request is to fully utilize the location and intended use and density of the area. Accompanying this is a request for vacation of the alley running east to west in the block.

The architecture with its multiple points of historic celebration will be inviting and welcoming. It is with great effort that we have incorporated the preservation of multiple historic points into the project. The structural integrity of the original portion of the former Catholic Church and the Grainery Structure will remain. These elements bring a strong foundation of history with a celebration of our future. The flow of activity and traffic has been directed to the east and southeast portion of the project through placement of entries and traffic flow patterns. Utilities are abundant on all four sides of the project. An onsite co-generation unit and LEED certified buildings will help establish a local standard.

The creation of this community center is meant to enhance the essential character of Sandpoint, changing it in a positive direction. With goals of unity, the generation of economic growth, and the creation of a centralized meeting place, this center would positively benefit the citizens of our town financially, physically, emotionally and socially as its purpose of embracing community and facilitating support of our youth as its main goal.

Square footage areas;

Underground 107,600 First Floor 123,730 Second Floor 54,400 Third Floor 34,000
319,730

BookCrossing.com
Bruce Pedersen President/CEO
323 Pine Street
Sandpoint, ID 83864
208-255-8983

EXHIBIT 2

SANDPOINT PLANNING COMMISSION
MEETING
5:30 P.M. CITY HALL COUNCIL CHAMBERS
MINUTES OF AUGUST 5, 2008

COMMISSION MEMBERS PRESENT: Gary Maxwell, Raffat Saied, Richard Hutter, Kevin Monahan, John O'Hara, Barbara Ridley.

COMMISSION MEMBER ABSENT: None

STAFF MEMBERS PRESENT: Senior Planner Joan Bramblee, City Attorney Will Herrington, Planning Assistant Melissa Bethel

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

A. Approval of Minutes:

Commissioner Hutter moved and Commissioner Ridley second the approval of the July 15, 2008 minutes. Motion passes unanimously

B. PUBLIC HEARING: ZC08-03 – A request by **Bruce Pedersen** for a zone change from Residence "B" to Commercial "D" for approximately 1.7 acres located north of Church Street, south of Cedar Street, east of Boyer Avenue, and west of Sixth Avenue. The property includes the site of St. Joseph's Catholic Church, parsonage, associated buildings, and parking area, and is described as Lots 1 through 3, Block O, Farmin's Fifth Addition, Lots 1 through 7, Block 30, West End Addition "D," Lots 2 through 4, Block 2, Law's Third Addition, and the West 80 Feet of Lot 2, Block 29, West End Addition "D." The City has added Lots 4 through 6, Block O, Farmin's Fifth Addition, and Lot 1, Block 2, Law's Third Addition to this request to maintain consistency.

Chairman Maxwell removed himself from the meeting due to a conflict of interest.

Introduction of project:

Senior Planner Joan Bramblee gave a brief introduction of the application. Bramblee used a power point presentation to reiterate the boundaries of the application and the surrounding zones. Bramblee read into the record comments received from Sharon Lewis, Anne-Luise Parker, and Allan Bopp all opposed to the application.

Commissioner Monahan clarified the existing surrounding zoning.
Commissioner Saied clarified the property is not within the Commercial Overlay zone.
Bramblee pointed out the existing nonconforming uses in the area.

Vice Chairman Saied opened the Public Hearing:

Applicants Presentation:

Bruce Pederson spoke as applicant. Pederson explained the requested zone change is from Residential "B" to Commercial "D". Pederson stated the City has spent a sizeable amount of money and time on a new Comprehensive Plan and the zone change is compatible with the proposed Comprehensive Plan. He used a power point to explain

why the requested zone change including the church parking lot is not considered spot zoning.

Pederson explained where existing utilities are located. He explained the current issue with the existing zoning and that the church has a commercial kitchen. Pederson indicated he would like to keep the existing building, however, with the current zoning limitations providing the best use of the building is difficult. Pederson stated the site is close to downtown and within walking distance to banks and shops. He explained his goal is to create a mixed use project and sees it as a reasonable extension of what already exists. Pederson explained this site has the utilities to hold higher density. He addressed issues such as spending radius, infill, mixed use, sprawl, and growing trends.

Commissioner O'Hara inquired what the highest and best use of the property would be. Pederson stated a mixed use development, which preserves the main building would be the highest and best use. Commissioner O'Hara inquired if Pederson would consent to the property being included in the Commercial "D" Overlay District. Pederson stated he would have to look at those limitations. Pederson reiterated the building is not on the historic registry, but the goal is to maintain the structure. Commissioner O'Hara inquired if he would enter into a development agreement which would stipulate the building remain, and require the development maintain residential components. Pederson stated he would not be in favor of restricting his rights as an owner.

Comments from the Public:

In Favor:

Seth Burnett, 1591 Selle Rd: Did not speak

Heather Pederson, 291 Syringa Heights: Did not speak

Dr. Robert Pierce: 320 S Ella, Dr. Pierce stated the planet is growing and this area is no different. Dr. Pierce stated it is important residents understand the tax base comes from businesses. He stated if taxes are high, then the goal should be to increase businesses. Dr. Pierce spoke on growth and planning. He stated he is in complete support for opening up areas where commercial has been designated and stated it would be a mistake to let businesses move to other towns.

Tom Puckett, 1851 Sunnyside Rd: Did not speak

Todd Hostetler, 6032 Helmsman Way, Clarksville MD: Did not speak

Neutral:

Carol Kunzeman, 1175 Fontaine, Ponderay- Ms. Kunzeman stated she owns two houses on Oak. She stated she is neutral because she does not have enough information to make a decision. Ms. Kunzeman inquired if the applicant will actually develop the site or let it sit vacant. She inquired if her property across the street will be rezoned. Ms. Kunzeman commented a lot of the people who signed the petition do not live in the area.

Jim Austin, 707 Oak Street: Mr. Austin stated he understands the Church property needs to be sold, but has concerns. Mr. Austin read a prepared statement.

Opposed:

Tom Letourneau, 604 Oak Street: Mr. Letourneau stated he lives across the street from the property. He stated the latest rendition of the Comprehensive Plan designates this area as CA-3B. Mr. Letourneau stated he is not against progress but commercial business

needs to be downtown. He stated he is against a Commercial “D” zoning but not opposed to CA-3b.

Gail Lyster, 806 Oak Street: Did not speak.

Susanne Letourneau, 604 Oak Street: Mrs. Letourneau stated she likes the idea that there already exists a buffer between their homes and the commercial zone. Mrs. Letourneau reiterated she would like to see the building maintained.

Tom “Zep” Lyster, 806 Oak Street: Mr. Lyster stated he has been at his address for 22 years. He stated there is already a lot of commercial space around Sandpoint.

Carol Camp, 521 N. 6th Ave: Mrs. Camp stated she is against the zone change for Commercial “D” zoning. Mrs. Camp stated the building should be preserved and is an historic building. She stated the neighborhood is over a century old. She stated when commercial moves into neighborhoods they deteriorate.

David Fio, 513 Euclid: Mr. Fio inquired if the property is in negotiations with the Calvary Chapel Church.

Bob Camp, 521 N. 6th Avenue: Mr. Camp stated he is an advocate for neighborhoods. Mr. Camp gave a brief history of the neighborhood. He reiterated the Comprehensive Plan has not been finalized and stated transition zones have been reiterated over and over. Mr. Camp stated once the property is zoned commercial there is no control over what business goes in. Mr. Camp stated he is an advocate of Commercial neighborhoods, meaning the downtown core. He stated land in downtown should be utilized and stated there is enough commercial creep and sprawl.

Sharon Lewis, 608 Oak Street: Ms. Lewis reiterated the Comprehensive Plan is not a final document and there has been a lot of talk regarding buffer zones. She stated the current use does not impact the neighborhood like a commercial building would. Ms. Lewis stated the applicant has a very strong interest in his property and the people who have shown up have a strong lifestyle interest. Ms. Lewis stated people need to live in town in order to spend money in town and reiterated she would like to see the block preserved predominately as residential. She stated she is happy to hear the applicant intention is to preserve the church. She stated she does believe in mixed use, but does not understand the need to have more business and commercial interest in this area

Evalyn McIntire, 618 W. Oak: Did not speak.

Applicants Rebuttal:

Mr. Pederson stated he is in a hard spot, He stated he is willing to enter into a development agreement stating there will be a residential component. Pederson reiterated the Commercial “D” zone mirrors the existing neighboring use. He stated there is no use for this building except as a church so the best use has to be explored. Pederson stated his plans are for a mixed use development and to accomplish it, the property needs a zone change. He stated Boyer Avenue is an existing natural buffer and reiterated he would like to maintain the history and character of the building.

Commissioner Ridley inquired what the use could be without the zone change. Pederson stated the existing use is non conforming within a residential zone. Commissioner Ridley inquired if Pederson had contemplated a Commercial D overlay zone. Pederson stated the overlay would be too restrictive, but would agree to a residential component. Commissioner Ridley inquired if CA-3B would fit within his plans. Pederson stated no.

Commissioner Saied inquired if Pederson was going to be the developer. He stated yes, but it would be in phases of mixed use higher density residential. Commissioner Saied inquired why the applicant would not be willing to enter into a development agreement. Pederson stated it would seem unfair unless development agreements become standard for all zone changes. Bramblee reminded the Commissioners the last several successful zone changes have all included development agreements. She reiterated the only way conditions could be placed on a zone change is through a development agreement and informed the Commissioners a condition of preserving the building could not be imposed.

The Commissioners and the applicant discussed development agreements and the process for imposing them. Options dealing with deferring a decision until staff could bring back a development agreement were discussed. Herrington stated the Commission may recommend a less intense zone. Pederson stated he would be open to entering into a development agreement with the City.

Vice Chairman Saied closed the Public Hearing

Discussion:

Commissioner Hutter inquired if the property is in the urban renewal district. Staff indicated the property is not within the urban renewal district.

Commissioner O'Hara inquired if the recommendation to Council could include a development agreement. Herrington stated staff would need to know what uses the planning commission would not think appropriate.

Commissioner Hutter stated the change is so broad; it would be difficult to come up with a development agreement to accommodate a potential project.

Commissioner Ridley inquired where the City Council is with the adoption of the proposed Comprehensive Plan, and questioned whether planning should cease because of it.

Commissioner Monahan reiterated the context areas of the proposed Comprehensive Plan do not automatically change zoning. Herrington stated a church can currently operate on the property, but if the use is abandoned for a period of time, it can no longer operate as a church.

Commissioner Hutter reiterated his position that he is against making decisions before the Comprehensive Plan is adopted. Commissioner O'Hara stated it is important the Commission enter into discussion on this application. He stated his biggest issue is timing and indicated the Comprehensive Plan is a document for 20 years, and is not sure commercial zoning is the best use right now. Commissioner O'Hara stated he has doubts whether Sandpoint needs more commercial area at this time.

Commissioner Monahan stated without a clear idea of what a development agreement might entail, he would not support it. Commissioner Monahan pointed out that the Overlay zone did include some buffering and setback requirements.

Commissioner Hutter stated he is not sure Boyer Avenue is ready to become a commercial street.

Commissioner Ridley stated she would like to see the existing structure maintained. She stated Commercial zoning is a strong change and is not sure the area is ready for it, however she may be in favor of a development agreement.

Motion:

Commissioner Hutter moved and **Commissioner Saied second** to continue the meeting until a proposed development agreement could be drafted and brought back to the Commission with guidelines such as professional office uses fronting on Boyer Ave. Greater setbacks on Oak/Church. Commissioner Hutter stated the intent would be to not have hard commercial facing Boyer Avenue. Commissioner Hutter stated Pederson should meet with the neighbors.

No action was taken on the above motion and discussion continued.

Discussion:

Commissioner Monahan inquired if lesser intensive zones could be considered. Herrington stated it is proper.

Commissioner O'Hara inquired if the meeting were tabled one month, would the Comprehensive Plan be adopted. Commissioner Hutter stated probably not, but he was hoping the development agreement would take awhile and the City Council would adopt the Comp Plan.

Commissioner Saied stated it comes down to denying the application or working on a development agreement.

Commissioner Hutter stated the City Council should be the ones to draw the line and say where commercial should be, but if the Commission tables the matter at least the applicant and staff can work on a development agreement.

Commission Monahan stated he would like to see a development agreement which incorporates buffering and setbacks.

Motion:

Commissioner O'Hara moved and Commissioner Monahan second the Sandpoint Planning Commission, after consideration of the criteria and relevant standards of *Idaho Code* and *Sandpoint City Code*, make a recommendation to City Council to **DENY** the request by **Bruce Pedersen** for a zone change from Residence "B" to Commercial "D" for approximately 1.7 acres located north of Church Street, south of Cedar Street, east of Boyer Avenue, and west of Sixth Avenue. The property includes the site of St. Joseph's Catholic Church, parsonage, associated buildings, and parking area, and is described as Lots 1 through 3, Block O, Farmin's Fifth Addition, Lots 1 through 7, Block 30, West End Addition "D," Lots 2 through 4, Block 2, Law's Third Addition, and the West 80 Feet of Lot 2, Block 29, West End Addition "D."

The reasons for this decision 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 zone changes contained in *Idaho Code* 67-6511 and *Sandpoint City Code* Title 9, Chapter 9.
3. The proposed Commercial "D" zoning designation is not consistent with the existing land use patterns and is not in accordance with the goals and policies of

Discussion:

Commissioner Monahan clarified that the decision is based upon the existing Comprehensive Plan. Commissioner O'Hara stated that is his intent and the question still remains whether the request is in keeping with the proposed Comprehensive Plan in timing.

Commissioner Hutter stated if the motion to deny is approved, if the proposed Comprehensive Plan is adopted with the area designated as commercial, then part of the motion would contradict itself. Commissioner O'Hara stated he would hope the issues discussed such as setbacks and buffering are resolved.

Commissioner Hutter inquired if reasons could be added to give direction to the applicant why this zone change is being denied. He gave examples such as he doesn't think Commercial should front Boyer Avenue and better buffering than what currently exists.

Roll call vote to deny the request for zone change:

Commissioner Ridley: No
Commissioner O'Hara: Yes
Commissioner Monahan: Yes
Commissioner Hutter: No
Commissioner Saied: Yes
Motion passes 3-2.

Commissioner Monahan stated his main objection to the proposal is Commercial D zoning is too extreme zoning without adequate buffering. Commissioner Saied agreed saying a development agreement should have accompanied the application.

Commissioner Hutter stated a reason for denial is commercial should not front Boyer Avenue.

Commissioner O'Hara questioned engaging in discussion after the motion, adding that comments from the Commission after the motion are not appropriate. He stated there was only a motion to deny and that motion was based upon the three reasons as stated. He stated any other information or reasons given are not attached to the motion, saying it should have been handled before the vote. Commissioner O'Hara reiterated the reasons given by other members are not part of his motion or reasons for his motion.

Motion:

Commissioner Hutter moved and **Commissioner Saied second** that additional comments regarding the recommendation of denial be forwarded to the City Council including lack of adequate buffering, the potential for intense commercial along Boyer Avenue and lack of development agreement.

Roll Call Vote:

Commissioner Ridley: No
Commissioner O'Hara: No
Commissioner Monahan: No
Commissioner Hutter: Yes
Commissioner Saied: Yes

Motion fails with Commissioners Hutter and Saied voting yes in favor of adding additional comments.

The Commission took a 5 minute break

PUBLIC HEARING: OA08-01 – The City has initiated an amendment to *Sandpoint City Code*, Title 9, to revise existing standards for attached accessory dwelling units, create standards for detached accessory dwellings units, and to allow accessory dwellings units as a permitted use in the Residence “B,” “C,” and Rural Residential “RR1” zones, and by Conditional Use Permit in the Residence “A” and “A7” zones.

Introduction of project:

Bramblee stated this ordinance has been worked on by the Commission several times and reflects the previous concerns and discussion of the Commissioners.

Chairman Maxwell opened the Public Hearing:

Comments from the Public:

In Favor:

Leslie Gillet, 2023 Winchester Way: Ms. Gillet stated she supports the inclusion of ADU's in all residence zones including residence “A” zones. She stated the latest CA areas of the proposed Comprehensive Plan include accessory dwelling units. Ms. Gillet reiterated she would like to have CA-2 areas included when addressing where Accessory dwelling units should be located. She stated caring for her elderly parents in the past 12 years, and with the current economy it is necessary to provide for accessory dwelling units. Ms. Gillet explained accessory dwelling units could be done very nice.

Opposed:

Aric Spence, 520 S. First Ave: Mr. Spence stated mixed use, infill, and affordable housing offend him. He stated residents who bought into Residence “A” zones wanted to live within that zone. He stated with increase density the space between neighbor's decreases. Mr. Spence stated if people would like to have accessory dwelling units they can buy in those zones. He stated ADUs double the density of Residential A. He questioned how grandfathered structures would be treated and who would enforce the ordinance. Mr. Spence stated the policing of this ordinance would be up to the neighbors and create conflict.

Chairman Maxwell closed the Public Hearing

Discussion:

Commissioner Hutter stated he appreciates the comments from the public.

Commissioner Monahan stated C1c refers to newly constructed ADUs. He questioned the intent and what happens to garages already existing. Herrington stated new construction can meet the setbacks. He stated in the Resident “A” zone a conditional use permit would be required and therefore have a public hearing.

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Subject to Condition 1 through 6 as follows:

1. The Applicants shall request annexation of this site by the Independent Highway District.
2. The subject property shall be de-annexed from the City of Dover.
2. In conjunction with the extension of the water main, new hydrants will be installed no greater than every 500 feet to the end of the city limits.
3. The City will require dedication of a minimum of 5 feet additional right-of-way along Ontario Street. An agreement for widening and reconstruction of Ontario Street (on the north side of Ontario adjacent to the subject property) to C-3 standard will be required.
4. A 12-inch water main will be extended through the property to the City limits.
5. The sewer main shall be extended to a point that adequately serves the subject property.

with Condition 4 amended to add at the time of development. **Councilman Reuter seconded the motion.**

Councilman Reuter moved to amend and insert an additional condition the property owner agree not oppose any future rezone initiated by the City of Sandpoint. **Councilman Hawkins seconded the motion. The motion to amend passed unanimously by a roll call vote of council present.**

Councilwoman Newton said this is item is not ready for annexation at this time, the comprehensive plan is still under development and this should wait for future consideration. **Councilwoman Logan** concurred and is concerned with the incomplete application, IHD issues and the domino effect of extending the water boundary.

The motion passed by a majority roll call vote of council present with Councilwomen Newton and Logan opposed.

H. PUBLIC HEARING – REQUEST BY BRUCE PEDERSEN FOR A ZONE CHANGE FROM RESIDENCE “B” TO COMMERCIAL “D” FOR APPROXIMATELY 1.7 ACRES LOCATED NORTH OF CHURCH STREET, SOUTH OF CEDAR STREET, EAST OF BOYER AVENUE, AND WEST OF

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SXTH AVENUE

Mayor Hellar announced that the next order of business would be a public hearing at the request by Bruce Pedersen for a zone change from Residence "B" to Commercial "D" for approximately 1.7 acres located north of Church Street, south of Cedar Street, east of Boyer Avenue, and west of Sixth Avenue. The property includes the site of St. Joseph's Catholic Church, parsonage, associated buildings, and parking area, and is described as Lots 1 through 3, Block O, Farmin's Fifth Addition, Lots 1 through 7, Block 30, West End Addition "D," Lots 2 through 4, Block 2, Law's Third Addition, and the West 80 Feet of Lot 2, Block 29, West End Addition "D." The City has added Lots 4 through 6, Block O, Farmin's Fifth Addition, and Lot 1, Block 2, Law's Third Addition to this request to maintain consistency. The Planning Commission has recommended denial. In accordance with Idaho Code, notice of this public hearing has been published in the Bonner County Daily Bee on August 27, 2008.

Planning Director Jeremy Grimm said the property was first zoned in 1950 Residence 3. Residence A, B and C zones were first adopted in 1958. A comprehensive plan amendment and zone change from Residence A to Residence B were approved for the block bound by Boyer and Sixth Avenue and Church and Oak Streets and the south half of the block bound by Boyer and Sixth Avenue and Oak and Cedar Streets in 1988 in conjunction with a conditional use permit to allow expansion of the church's parking lot. He said the Roman Catholic Diocese of Boise is under contract to sell the property and supports the zone change. He noted the applicant owns one of the lots on the block bounded by Boyer and Sixth Avenues and Church and Oak Streets included for consistency. The remaining three property owners have submitted comments in support of the requested zone change. He said comments have been received in response to the public hearing notice including three in favor, one in favor of the requested change for the block bounded by Boyer and Sixth Avenues and Church and Oak Streets and opposed to a change for the property to the north, one response indicated a neutral position, one indicated a neutral position to the block bounded by Boyer and Sixth Avenues and Church and Oak Streets and opposed to the property to the north and nine responses opposing the request as well as a petition with fifty-one signatures. In response to the Council notice, one comment was received in favor and ten comments have been received in opposition. He referred to the September 17 letter from Carol Camp in opposition. He said the applicant stated the requested zone change will optimize the use of the existing building and Mr. Grimm stated Council has the option of considering a less intensive zone and the applicant is willing to include the site within the boundaries of the overlay zone. He said the Planning Commission public hearing was held on August 5 and Planning Commission recommended denial by a vote of three to two.

Mr. Herrington said council could proceed more efficiently by asking all questions of the

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applicant during that presentation instead of directing questions to the applicant during the staff presentation. He noted his prediction for finishing this meeting ran from a short prediction of 9:45 p.m. to a long prediction of 1:00 a.m., and currently this meeting is a half-hour behind his long prediction. He noted people that had come for later hearings have already left. **Councilwoman Logan** noted she had spoken to the Letourneau's in response to their yard sign stating "No zone change". She invited them to attend the comprehensive plan workshops as she believed that was what their sign referred to. The Letourneau's informed her the sign was regarding this application and she therefore told them she could not discuss this application with them any further in case the matter came before council. She said she does not believe that conversation will affect her deliberation on this matter. **Councilman Reuter** said Karla Petermann has spoken of this item at a comprehensive plan workshop and was told of council's limitation of discussing this item. He noted the full conversation is on the record of that workshop. **Councilwoman Logan** noted council is efficient but the agenda is too long. **Mayor Hellar** said many questions could be answered by staff before the meeting with **Councilwoman Newton** responding the rest of council would not receive the benefit of the information, especially when the questions are asked in person instead of email. Will Herrington noted it is staff policy to provide all council members with information in response to any member's inquiries.

Bruce Pedersen, applicant, 291 Syringa Heights, Dover, said he originally planned to remand his request back to Planning, but in meeting with staff they discussed reaching a compromise with the density allowed in Commercial D which is the zoning of the two lots to the south and east. He noted he would be referring to the comprehensive plan as recommend for adoption by the Planning Commission and said the plan had been paid for by the taxpayers. He said the comprehensive plan determines the best land usage within the city limits and to think the plan is irrelevant is untrue and said he spoke with Studio Cascade who felt this block should be included in the commercial zone as it is a natural expansion. He noted existing commercial on Boyer Avenue and the argument that this zone change is not in compliance with the existing neighborhood does not take into account the direction Sandpoint is going. He suggested council look at this objectively and utilize the expertise of professional planners.

He stated this change would not be an example of spot zoning, as it would not create an island. He noted the parking lot cannot remain zoned residential. He said as no moratorium is in place, council must make a decision on this request. He said he can't wait due to the closing of his real estate transaction. He said the property has a commercial kitchen and the area has more traffic than a residential area with the nearby commercial areas. He said infill housing is a desire of the proposed comprehensive plan and his goal is a mixed use project allowing walk to work, live and work. He said he is in agreement to fall under the guidelines of the Fifth Avenue Overlay which addresses set-backs and eliminates some higher intensity uses which were of concern.

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He said he will need to return to the Planning Commission for approval of Fifth Avenue Overlay and noted the limited number of properties available for infill to fight sprawl. He noted the city will continue to grow and increase in density.

He noted major sewer, water and utilities surround the property to support the existing capacity. He said under the current conditional use, the property can only be used as a church and noted he has been approached by many community oriented groups to retain the character of the building while expanding the uses beyond a church. He said this zone change is congruent with the comprehensive plan change and he noted the opposition is to property further north beyond Cedar Street. He is including the parking lot with the request and believes the block to the north will eventually become commercial. He said the overlay allows for additional review before groundbreaking. He noted Boyer is a delineation of zones and responded to Councilwoman Logan that streets and waterways are accepted boundaries.

Councilman Snedden said the applicant referred to infill housing, making the property acceptable for a broader variety of uses, preserving the church on the property and asked Mr. Pedersen if plans are to make the property more marketable or develop in a specific manner. Mr. Pedersen said he doesn't currently have a set of working drawings, but his goal is mixed use residential with light commercial on the bottom. He noted the building is a landmark and a goal is to preserve the building. He responded to Councilman Snedden that he is seeking commercial designation as the highest and best use of the property because ultimately he must fill the property with tenants which may or may not be a church which is the only thing allowed currently other than Residential B. He noted for Councilman Reuter preserving the church is consistent with his goals of zone change, preserving the church and then exploring options. Profitability follows use and good design. He understands the concerns of Commercial D with some of the available uses which is why he met with staff and is requesting the Overlay Zone. He said he may request conditional use, but this would allow him to pursue commercial tenants and begin the planning process.

In response to Councilman Snedden, he noted he doesn't see a shortage of professional office and it would not allow for the density he needs. He said the height limits and setback requirements of professional office leave fewer options than Commercial D. He said he could back the opposition to commercial creep if the property weren't already commercial on two sides and the comprehensive plan agreed the area should be commercial. He noted it is a rare thing for council to take an action without opposition. He noted council should be objective and he notes the next block will be commercial. He said those that own property cannot be objective and are biased if coming from the stance of preserving their own way of life. He responded to Councilwoman Logan that a development agreement has been discussed and his goal is to acquire commercial tenants. He said the Fifth Avenue Overlay is essentially a

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development agreement and his goal is to transition the property. He said his timeline is such that it will not happen this year and is unlikely for next year and would not consider a development agreement.

Jeremy Grimm noted the Planning Commission has recommended the comprehensive plan to council. He noted the Fifth Avenue Overlay allows height of forty foot to peak or thirty-five feet to flat roof. He said he did not recommend to the applicant that commercial is the highest and best use for this property and cautioned that determination from other planners is more complicated than looking at a map. He said staff has worked to consider reuse of the church and noted Residential B or C would allow infill housing. He said the current version of the comprehensive plan map council is working on has CA-3B and CA-3. He noted a development agreement could allow the applicant to define and restrict uses while allowing Planning Commission and council more security by not allowing all uses permitted in the zone. He noted studies on land use monitoring and commercial property available have not been conducted.

Councilwoman Logan complimented the Planning Commission on extremely detailed minutes. Mr. Grimm replied to Councilwoman Logan the property does not lie within the overlay district and stated residential is an allowable use. He said the parking is the greatest limitation to residential in the commercial overlay.

Councilwoman Newton noted for Mayor Hellar she had done a spreadsheet on the residence address of the signers of the petition and found only 27 of the 51 signers are in the proximity of the property under consideration. She clarified with Mr. Grimm that her church's current zoning is Residential B and is proposed CA-2.

The mayor advised that the hearing would be conducted in compliance with the previous rules of procedure read.

The mayor opened the public hearing.

Mayor Hellar read the comment of **Ken Lawrence, 1517 Hemlock Court**. His comment stated "As the pastor of River of Life Church located on the west side of Boyer by this subject property, I would like to support the zoning change as very helpful to our area".

Tom Puckett, 1851 Sunnyside Road, stated he is in favor of keeping the church with support of commercial as Boyer Avenue is near and two sides of the property are commercial.

Robert Pierce, 9868 Colburn-Culver Road, stated he knows Bruce Pedersen and his goal is to save the church. He said by providing Mr. Pedersen the latitude now to

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develop his goals allows him to bring a plan forward for another layer of review.

James Austin, 707 Oak, said he has lived in the neighborhood for forty years in Residential A and the Catholic Church has been a good neighbor with beautiful trees, low impact, a park-like setting. He appreciates the buffer zone provided and is concerned with Commercial D with no limits. He would prefer lower impact zoning such as 3A/B and said the commercial kitchen could be used as a soup kitchen like the Methodist and Lutheran churches. He requested council to preserve the neighborhood and the buffer area.

Tom Letourneau, 604 Oak, said he is not against progress or moving forward or change, but has attended Planning and Zoning and comprehensive plan meetings and is trying to preserve the neighborhoods. He noted the applicant is requesting a change from Residential B to Commercial D, which provides no buffer zone to the historic neighborhoods. Even on the east side which includes the Red Tail Gallery, this is a very low impact Commercial D and noted further north as Commercial D should be designated as 3B. Buffer zones are very important and have been discussed in comprehensive plan meetings. He noted the planners of the comprehensive plan were not from Sandpoint, expressed his appreciation in allowing personal input and opposes the Commercial D.

Bob Camp, 521 N. Sixth Avenue, noted Mr. Pedersen wants a blank check with Commercial D and said the city has no control over what happens in Commercial D. He noted in the Fifth Avenue Overlay district occurrences happen outside the intent of the district. He does not feel it is appropriate to grant Mr. Pedersen a blank check and noted this is not a natural progression in a historically Residential A neighborhood. He said the neighborhood has been residential for the last 100 years and would like to see residential for the next 100 years. He said the proposed transportation plan allows for a boundary at Highway 200 from the commercial core with a buffer from Fifth Avenue as CA3-B/Professional Office to Sixth Avenue west. He said this zone change is not consistent with the current or proposed comprehensive plan and hopes council will deny.

The mayor **closed the public hearing.**

Bruce Pedersen, applicant, noted in an attempt to compromise he changed his request from Commercial D to Fifth Avenue Overlay which places significant restrictions on what is allowed. He said the Highway 200 boundary has a commercial neighborhood within a few hundred feet and stated the natural buffer zone is Boyer Avenue, which is highly trafficked and used as a cut-off road. He noted when he referred to planners, he was referring to planners of the comprehensive plan and said he spoke with Mr. Grimes who recommended this area be commercial. **Councilwoman Logan** stated with the overlay

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zone, a long list of permitted uses would only go through planning staff site plan review, not an additional review by the Planning Commission or council.

Councilman Reuter moved this zone change be remanded to the Planning Commission for consideration of a development agreement between the city and the property owner, if the property owner wishes to continue to pursue a change in use of this site with the requirement the exterior of the church be preserved. **Councilman Hawkins seconded the motion.**

Councilman Reuter said extension of the commercial zone to this site is only permissible because of the structure currently on the site. He noted an abundance of commercial land, over ten acres which could be developed in the downtown if parking regulations were changed, and commercial areas vacant in the downtown. He said the city and the neighborhood has an interest in preserving the park-like place. He said he believes a development agreement can be created which has better rules than the Fifth Avenue Overlay which would allow creativity and give the developer flexibility. He said he is not opposed to building the site but is important to preserve the church. He is committed to a mixed use that preserves the park-like atmosphere that has existed for nearly 100 years. **Councilman Hawkins** said without a development agreement, he is fearful of what could become of this property. He said he is comfortable with commercial development but not comfortable with unregulated commercial buffering against residential. This development agreement in place allows development while keeping the feel of this. **Councilman Reuter** said the church may not exist in twenty years if changed to Commercial D, he has full faith in this developer to preserve the church and the atmosphere, but after ownership changes with Commercial D or Overlay zone, he doesn't have faith this would stay compatible with the neighborhood which is why the development agreement is necessary. He noted this conforms with the proposed comprehensive plan and suggests thinking about form-based zoning, structures instead of uses and this site offers that opportunity.

Councilman Snedden requested the city planner's thoughts on the motion. Jeremy Grimm said he believes the motion is a good proposal in allowing future use of the structure without allowing the most broad use allowed for the land. **Councilwomen Logan and Newton** noted a zoning designation should be recommended to the Planning Commission. **Councilman Reuter** said his main concern is that the structure, function and mixed-use park-like atmosphere is preserved, therefore many stipulations of Commercial D could be acceptable. Mr. Herrington stated council would be suggesting a commercial but limited use of the church, such as a restaurant or gallery eliminating 75-80% of the commercial zone uses. Mr. Herrington responded to Mayor Hellar that the limitations cannot be changed for four years without the city's permission and noted for Councilwoman Logan even with a change of ownership, the limitations run with the zone and can't be changed unless the underlying zone is changed. Mr.

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Grimm suggested it would be helpful if council noted specific uses to strike as options while allowing the applicant's interests to be achieved. **Councilman Reuter** stated his desire to provide as many options as possible with the limitations he has noted. He said he understands Councilwoman Newton's desire to limit commercial zoning to the church parcel, but would prefer to leave those specifics to the development agreement and not overly restrict the process at this point. Mr. Herrington suggested individual council members strike the uses that are unacceptable for this property of the Commercial D and Fifth Avenue Overlay as guidance for the Planning Commission. **Councilwoman Newton** said council has designated this area CA-3B in the comprehensive plan workshops, and even though this is not the designation the applicant desires, she would be comfortable recommending this designation to the Planning Commission. **Councilman Reuter** suggested the context area designation is an appropriate place to begin the discussion on this development agreement. **Councilwoman Logan** noted the requirement differences in zone designations for the development agreement and the desire to shift to context areas in the comprehensive plan. She said areas 3 and 3B cover Residential B, C, Professional Office and Commercial Neighborhood.

Councilman Reuter moved to amend the motion that context area 3 and 3B from the current draft of the comprehensive plan be consulted for guidance. **Councilman Hawkins seconded the motion.**

Mr. Herrington advised council the applicant may respond if he would be willing not to enter into development agreement discussions with the planning commission. Mr. Pedersen said he would.

The motion passed by a unanimous roll call vote of council present.

Council recessed for a break from 8:47 p.m. until 8:54 p.m.

I. PUBLIC HEARING – A REQUEST BY ROBERT PIERCE FOR A ZONE CHANGE FROM PROFESSIONAL OFFICE TO COMMERCIAL D FOR APPROXIMATELY 0.16 ACRES LOCATED ON THE SOUTHEAST CORNER OF FIFTH AVENUE AND CHURCH STREET

Councilwoman Newton raised a point of order regarding the motion to reconsider which brought this item before council. She noted she had sought the opinion of Margery Price, Professional Registered Parliamentarian. She read said opinion into the record and provided copies to council members. She said this issue is inappropriately before the City Council.

Jeremy Grimm stated code does not prohibit the applicant from reapplying and that the

EXHIBIT 4

SANDPOINT PLANNING COMMISSION MEETING 5:30 P.M. CITY HALL COUNCIL CHAMBERS MINUTES OF FEBRUARY 17, 2009

COMMISSION MEMBERS PRESENT: Raffat Saied, Richard Hutter, Shelby Rognstad, Rob Herrera, Barbara Ridley,

COMMISSION MEMBER ABSENT: Gary Maxwell, Cate Huisman

STAFF MEMBERS PRESENT: Planning Director Jeremy Grimm, Senior Planner Joan Bramblee, Planning Assistant Melissa Bethel, City Attorney Will Herrington

Vice-Chair Saied called the meeting to order at 5:30 p.m.

Matters from the public: None

A. Approval of Minutes:

Commissioner Ridley noted the votes for prohibiting drive-thrus were conflicting stating the Commission had agreed to leave drive-thrus as conditional use in the Overlay but not allow them in the Commercial zone. Commissioner Ridley clarified the discrepancy may be due to Commissioner Saied's absent when the second vote was taken. Grimm stated he will bring back the ordinance with the appropriate changes.

Commissioner Hutter thanked Commissioner Ridley for taking notes during the workshop.

Commissioner Hutter moved and Commissioner Ridley second to approve the February 3, 2009 minutes. **Motion passes unanimously.**

B. Public Hearing: ZC09-01 – A request by **Bruce Pedersen** for a zone change from Residence "B" to Commercial "D" for approximately 1.7 acres located north of Church Street, south of Cedar Street, east of Boyer Avenue, and west of Sixth Avenue. The Applicant has proposed a Development Agreement in conjunction with the request. The property includes the site of St. Joseph's Catholic Church, parsonage, associated buildings, and parking area, and is described as Lots 1 through 3, Block O, Farmin's Fifth Addition, Lots 1 through 7, Block 30, West End Addition "D," Lots 2 through 4, Block 2, Law's Third Addition, and the West 80 Feet of Lot 2, Block 29, West End Addition "D." The City has added Lots 4 through 6, Block O, Farmin's Fifth Addition, and Lot 1, Block 2, Law's Third Addition to this request to maintain consistency.

Staff Report:

Bramblee gave the staff report. She stated the applicant's proposal includes a Development Agreement which reduces the permitted uses in the Commercial D zone and adds a requirement that the applicant go through a Conditional Use Permit for heights greater than 35 feet. Bramblee advised the Commission that after reviewing the agreement item number 15 is in conflict with other provisions added and staff proposes it be deleted. She advised the Commission that landscaping and surfacing requirements for

the parking lot will be brought up to City code if it is to be maintained as a parking lot. She read into the record comments from the following citizens all opposed to the request for zone change.

Mrs. Geraldine Davis, 723 Church Street
Deanna Johnson, Owner of Mothers of the Universe, 502 Church Street
Mr. Benoit, 716 Church Street

Questions from the Commission:

Commissioner Rognstad received clarification regarding the height limitation.

Vice Chair Saied opened the public hearing

Applicants Presentation:

Bruce Pedersen spoke as applicant. Mr. Pedersen showed a power point to explain his zone change request. He stated the property is unique in that it is close to the downtown core, but still touches residential areas. He stated he has been working on the Development Agreement with the City, and have attempted to instill buffering by reducing the number of permitted uses. Mr. Pedersen stated he was attracted to the property by the walking distance to downtown. He reiterated the zone change request is not spot zoning and the request is within the new Comprehensive Plan designation. He showed pictures of the Church and parking lot and explained the surrounding zones. Mr. Pedersen stated the premises already has a commercial kitchen and has been used in a more intense use than residential. He stated the long term goal would be a mixed use project, but does not have any plans at this time. Mr. Pedersen added he would like to utilize the existing structures. He proposed the zone change as an infill project, stating most planning standards dictate a higher dense project for this type of property.

Commissioner Ridley inquired which properties the applicant already owns in this proposed zone change. Pedersen stated there are only 3 properties he is not in negotiations with or already owns.

Vice Chair Saied clarified this public hearing is for a zone change only.

Bramblee clarified the City has just passed the new Comprehensive plan, but is still operating under the existing zoning. She stated the Commission needs to take into account the Development Agreement and how it fits with the vision of the new Comprehensive Plan. She stated the Commission may add provisions or make changes to the Development Agreement. Bramblee stated the City has never entered into a Development Agreement with an expiration date. She advised the Planning Commission may reduce the area, or recommend a less intense zone. Bramblee explained some of the clauses of the Development Agreement.

Vice chair Saied inquired what the radius is for parking requirements. Bramblee stated in a commercial zone parking may be located within 600 feet of the business.

Commissioner Ridley clarified that even though the request is for Commercial D zoning this is really a CA3B designation. Bramblee stated the Development Agreement is to help formulate what would be consistent with the future CA3B.

Commissioner Ridley stated she liked the analysis that the Comprehensive Plan is a broad brush stroke, not straight lines.

Public Comment:

In Favor: None

Opposed:

Mr. Jim Austin, 707 Oak Street – He stated the Catholic Church submitted a letter in support, but they are in Boise, ID. Mr. Austin stated the applicant has not stated what is planned for the site. He urged the Commission to consider the rights of the small homeowners, and stated this is not a commercial zone.

Mr. Bob Camp, 521 N. Sixth Avenue – Mr. Camp stated he is a strong advocate of neighborhoods and commercial neighborhoods. He stated the Catholic Church is a historical building over 100 years old and one of the last original platted Farmins Addition to Sandpoint. Mr. Camp stated a natural barrier between commercial and residential will be Highway 2. He stated this would be a spot zone and only 8 uses have been struck out of the Commercial D permitted list. He stated it is not a good idea to do full scale commercial.

Did not wish to speak (comments as submitted):

Suzanne and Tom Letourneau, 604 Oak Street: We are still opposed to the zone change. Commercial encroachment should not be permitted in existing residential areas. The traffic impact alone will detract from the neighborhood and drive housing prices down.

Tom and Gail Lyster, 806 Oak Street: No comment

Rebuttal:

Mr. Pedersen stated the objections he has heard relate to maintaining the status quo. He stated the reality is if the property stays Residence “B” it is not the highest and best use for this property. Mr. Pedersen stated Boyer Avenue is a natural barrier, and stated the Development Agreement is a reasonable compromise for the zone change. He stated he understands the concerns of the neighbors, but the concerns are not based on principals of smart growth or the long term plan of the community.

Vice Chair Saied closed the public hearing.

Discussion:

Commissioner Hutter stated he would like to see some of the uses listed in the Development Agreement as permitted deleted. Commissioner Hutter stated some of the uses would be short term lease type businesses and could see some go in this area. He stated a lot of the concerns could be eliminated with no commercial facing Boyer

Avenue. Commissioner Hutter suggested a solution could be to create a buffer strip of residential zoning along Boyer Avenue.

Vice-Chair Saied stated the Commissioners should delete any uses they feel not necessary. Herrington advised the Commissioners they may delete any uses they wish or make an amendment to a motion.

Commissioner Rognstad inquired if there is currently a residence located along Boyer Avenue where the zone change would impact. Grimm stated there is one residence. Commissioner Rognstad stated he agrees with Mr. Pedersen and thinks there is a better use for the property. He suggested a Professional Office zone may be a good compromise. Commissioner Rognstad inquired if the church had more than weekly services which filled the parking lot. He inquired what kind of intensity the use previously had. Commissioner Hutter stated the church use was probably not as intense as a lot of different other uses which could be permitted under the Commercial zone. Commissioner Hutter stated the eastern half would be fine for a commercial zone, but the western half should be maintained as residential.

Vice-Chair Saied inquired if the City needs more Commercial or Residential land. Commissioner Hutter stated the commercial zone may have a residential component. The Commissioners discussed the idea of zoning an 80 foot strip of land along Boyer Avenue residential and to the west commercial.

Commissioner Ridley stated Boyer Avenue is the busier street and it would make more sense to allow commercial uses. She stated the property to the north along Oak should be protected through buffers. Commissioner Hutter stated the worse place to make a zone change is in the middle of the street. Grimm stated it is better to have symmetry.

Commissioner Herrera stated he is conflicted. He stated he is not sure he likes the idea of a buffer of residential and wonders if it will limit the property from being fully developed. Commissioner Herrera stated scale is important to him. He stated he would definitely like to have buffers in the form of setbacks along Boyer Avenue. Commissioner Herrera stated certain businesses have a unifying element. He disagreed professional office would be a good use, adding the City already has enough and would limit Mr. Pedersen's ability to be creative. Commissioner Herrera stated he loves the idea of mixed use and would love to see that guaranteed, he added he would love to see the church building kept, but knows the developer has the ability to tear it down.

Vice Chair Saied inquired what type of buffering Commissioner Herrera was implying. Commissioner Herrera stated he meant staggering the height of buildings. Grimm stated because of the height requirements; there would not be the massive scale.

Commissioner Rognstad inquired what are the setbacks for a Residence "B" zone. Bramblee explained the Residence "B" setbacks. The Commission discussed setbacks. Commissioner Ridley inquired if the setbacks could be increased. Bramblee stated yes.

Commissioner Hutter stated multifamily would be the best use. He indicated if the developer really wanted to develop it well, the setback could be left at 80 feet along Boyer Avenue.

Commissioner Ridley inquired if there are any concerns with the parking lot being included in the zone change. Vice-Chair Saied stated the parking requirements will apply in this area and the developer will need to have the necessary parking. Commissioner Hutter stated the parking lot will be used more frequently. Bramblee agreed and stated that is the reason the agreement states the parking will be brought to City standards.

Commissioner Hutter requested a straw vote to see where the Commission stands on creating an 80 foot buffer of Residence "C" along Boyer Avenue. The buffer would be zoned Residence "C" with the remainder of the parcel to the west zoned Commercial D with the Development Agreement in place. He added the property should be CA3B in the future. Grimm advised there may be a problem with creating split zoning on some of the lots by drawing the line 80 feet down along Boyer Avenue as some of the lots are different widths. Grimm stated it might be helpful to create the different zones at lot lines where the parking lot is located.

Discussion followed on how to create the Residence "C" buffer zone without split zoning some of the lots.

Commissioner Hutter suggested creating an 80 foot buffer along Boyer Avenue where the parking lot is located, a 90 foot buffer where the parsonage is located, and a 50 foot buffer for the southern end of the Boyer Avenue side of the property.

Commissioner Hutter yes

Commissioner Herrera no

Vice Chair Saied yes

Commissioner Ridley stated no

Commissioner Rognstad stated it sounds reasonable.

Commissioner Herrera stated he is uncomfortable sectioning off the property into two different zones. He added he would rather have additional language with respect to scale.

Commissioner Ridley stated she agrees with Commissioner Herrera. She stated she would like to see the parking lot remain a parking lot. Commissioner Ridley stated her greater concern is for the neighbors to the north not those across Boyer Avenue. She stated she would like to see the church building stay and be developed because it is a great area. Commissioner Hutter stated the City does not have a mixed use zone right now.

Commissioner Rognstad inquired what the setback would be along Oak Street. Bramblee stated as residential the front setback would be 20 feet, commercial would be 10 feet.

Commissioner Rognstad suggested if the property was zoned Commercial the 10 foot setback be maintained along the west and a 20 foot setback remain along the north side. Commissioner Ridley agreed.

**The Commission took a break **

The Commission discussed each use listed in the Development Agreement and agreed to delete the following permitted uses in addition to staff recommendations in the Pedersen Development Agreement:

7 Automobile sales and service shops conducted wholly within completely enclosed buildings and each one as an integrated business operation, but not including automobile painting, upholstering, rebuilding or body and fender work.

#14 Billiard and pool rooms

26 Expressing, baggage and transfer delivery service

#45 Plumbing, heating and roofing supply and workshops.

#56 Signs, outdoor advertising

#60 Telegraph service stations

#68 Wholesale establishments, excluding a building the principal use of which is for a storage warehouse.

The Commission deleted the following words from #67, “and sale of automobile fuel and lubricants.”

The Commission agreed to move the following uses from permitted to Conditional Use:

#10 Banks

#16 Bookbinding

#23 Dry cleaners employing facilities for not more than one thousand pounds of dry goods per day and using carbon tetrachloride or other nonflammable cleaning agents.

#32 Hand Laundries

#36 Launderettes and Laundromats

#37 Laundry employing facilities for not more than one thousand pounds of dry goods per day.

#42 Painting and decorating shops.

#46 Printing, publishing and issuing of newspapers, periodicals, books and other reading matter.

#47 Printing shops

#52 Recreation places

#65 Trailer sales when conducted within buildings.

Vice Chair Saied explained the Commission needs to decide if they want to divide the property into residential and commercial zones or make the whole piece Commercial with setbacks. The Commission agreed a 20 foot setback along Oak Street should be maintained.

Commissioner Saied inquired if there is a time limit on the Development Agreement. Commissioner Hutter inquired if the 6 year extensions are at the option of the City or developer. Grimm stated the option would be at the City’s discretion.

Bramblee advised the Commission of the additional staff recommendations. The Commission agreed to add a requirement for a 20 foot setback along Oak Street to the Development Agreement.

Commissioner Rognstad inquired if additional restrictions for signage on Boyer Avenue would help with some of the concerns of having the commercial along Boyer Avenue. Grimm stated restricting signage may be problematic.

Commissioner Ridley stated Boyer Avenue is a natural buffer and she reiterated she is more concerned for the residences north on Oak Street. She stated she would like to see the property developed mixed use and hopes as workshops ensue regarding the new zoning, the site will develop in conjunction with the Comprehensive Plan. Commissioner Herrera agreed. Commissioner Herrera inquired if Commissioner Ridley approves of a 20 foot setback along Oak Street. She agreed saying Oak Street had a more residential feel. She stated the mixed use and walkability close to downtown is perfect for this area. Commissioner Hutter stated a multifamily residential strip will help maintain a buffer along Boyer Avenue. Commissioner Rognstad inquired if Commissioner Herrera would rather see the whole property zoned Commercial with a setback of 20 feet along Boyer Avenue and Oak Street and the 35 foot height restriction. Commissioner Herrera stated yes.

Vice Chair Saied reiterated the decision is now at zoning the property into two different zones, or zoning the whole piece commercial with the 20 foot setbacks on both Boyer Avenue and Oak Street.

Commissioner Hutter stated 20 feet is not a lot. He stated it only takes one person to mess the neighborhood up and is skeptical of good intentions. Commissioner Herrera stated Boyer Avenue provides the buffer, stating 5 feet of landscaping and 5 feet of sidewalk works well. He stated he likes the 20 foot setback along Oak, but would rather have the property all zoned Commercial. Commissioner Rognstad stated he would go with a 10 foot buffer on Boyer Avenue and is comfortable with the property zoned Commercial D and the Development Agreement.

Commissioner Ridley stated the rezone for Commercial D and the Comprehensive Plan designation of CA3B is confusing. Grimm stated there is not a CA3B zone; however the Development Agreement helps limit the property to what would be envisioned as a CA3B type zone. Commissioner Hutter suggested the Commission rezone the property with the buffer of Residence "C" along Boyer and when the new zones are adopted, rezone the whole property then. Commissioner Ridley stated that is a long process for a developer to not know what the outcome will be.

Motion

Commissioner Herrera moved and Commissioner Rognstad second the Sandpoint Planning Commission, after consideration of the criteria and relevant standards of *Idaho Code* and *Sandpoint City Code*, make a recommendation to City Council to **APPROVE** the request by **Bruce Pedersen** for a zone change from Residence "B" to Commercial "D" for approximately 1.7 acres located north of Church Street, south of Cedar Street, east of Boyer Avenue, and west of Sixth Avenue and described as:

Lots 1 through 3, Block O, Farmin's Fifth Addition
Lots 1 through 7, Block 30, West End Addition "D,"
Lots 2 through 4, Block 2, Law's Third Addition
The West 80 Feet of Lot 2, Block 29, West End Addition "D (parking lot on north side of Oak)
Lot 4, Block O, Farmin's Fifth Addition (owned by the Applicant)

Subject to the provisions and staff recommendations of the proposed Development Agreement between the City and the property owner. With the following changes, additions and modifications:

The following uses are not permitted:

7 Automobile sales and service shops conducted wholly within completely enclosed buildings and each one as an integrated business operation, but not including automobile painting, upholstering, rebuilding or body and fender work.
#14 Billiard and pool rooms
26 Expressing, baggage and transfer delivery service
#45 Plumbing, heating and roofing supply and workshops.
#56 Signs, outdoor advertising
#60 Telegraph service stations
#68 Wholesale establishments, excluding a building the principal use of which is for a storage warehouse.

The following uses are moved from the permitted list to Conditional Use:

#10 Banks
#16 Bookbinding
#23 Dry cleaners employing facilities for not more than one thousand pounds of dry goods per day and using carbon tetrachloride or other nonflammable cleaning agents.
#32 Hand Laundries
#36 Launderettes and Laundromats
#37 Laundry employing facilities for not more than one thousand pounds of dry goods per day.
#42 Painting and decorating shops.
#46 Printing, publishing and issuing of newspapers, periodicals, books and other reading matter.
#47 Printing shops
#52 Recreation places
#65 Trailer sales when conducted within buildings.

The following setbacks will be required:

A ten (10) foot setback along Boyer Avenue
A twenty (20) foot setback along Oak Street.

The following language will be added to #4: "Continued use of the existing parking area located in Block 29, West End Addition "D" will require it be brought into compliance

with the surfacing, screening and landscaping requirements of City Code. Removal of the former church building will require written approval of the City.”

The Development Agreement shall include a provision for improvements to the adjoining sidewalks.

Lots 5 and 6, Block O, Farmin’s Fifth Addition, and Lot 1, Block 2, Law’s Third Addition, be included with this proposed request to maintain consistency.

The reasons for this decision 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 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. With the proposed Development Agreement, the proposed Commercial “D” zoning designation is consistent with the existing land use patterns and is in accordance with the goals and policies of the Sandpoint Comprehensive Plan.

Motion passes 4-1 with Commissioner Hutter voting no.

ADJOURNMENT:

The meeting adjourned at 7:42 p.m.

 /S/
Vice-Chair Raffat Saied

EXHIBIT 5

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and an effective date” pass its first reading by title only and, if applicable, the summary be approved. **Councilwoman Newton seconded** the motion.

A roll call vote of the council resulted as follows:

Councilman Boge	Yes
Councilman Hawkins	Absent
Councilwoman Logan	Yes
Councilman Reuter	Yes
Councilwoman Newton	Yes
Councilman Snedden	Yes

The motion passed by a unanimous vote of the council present and the proposed ordinance passed its first reading by title only. The second and third reading will be scheduled at the April 15, 2009 regular city council meeting.

NEW BUSINESS

R. PARKS DEPARTMENT TRACTOR AND ATTACHMENTS PURCHASE

Councilwoman Newton commented that the reason she dissented at the Administrative Committee meeting is that this was not the time to be spending money for the purchase of equipment. The Parks and Recreation Director provided bids from Ragan Equipment in the amount of \$52,174.00; Boundary Tractor in the amount of \$50,400.00 and from Columbia Tractor in the amount of \$48,676.25. **Councilman Reuter moved** that city council accept the low bid from Columbia Tractor in the amount of \$48,676.25 for the purchase of a John Deere 4520 e-hydro tractor, loader, backhoe and mower. **Councilman Snedden seconded the motion. The motion passed by a majority roll call vote of council present with Council members Boge and Newton dissenting.**

J. **CATHOLIC CHURCH S. LINCOLN WATER DEPOSIT WAIVER** – moved to consent calendar

K. **BONNER COUNTY AIRPORT FBO REMODEL PERMIT FEE WAIVER** – moved to consent calendar

L. PUBLIC HEARING – PEDERSEN ZONE CHANGE

Mayor Hellar announced that the purpose of this public hearing was at the request by **Bruce Pedersen** for a zone change from Residence “B” to Commercial “D” for approximately 1.7 acres located north of Church Street, south of Cedar Street, east of Boyer Avenue, and west of Sixth Avenue. The Applicant has proposed a Development Agreement in conjunction with the request. The property includes the former site of St.

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Joseph's Catholic Church, parsonage, associated buildings, and parking area, and is described as Lots 1 through 3, Block O, Farmin's Fifth Addition, Lots 1 through 7, Block 30, West End Addition "D," Lots 2 through 4, Block 2, Law's Third Addition, and the West 80 Feet of Lot 2, Block 29, West End Addition "D." The City has added Lots 4 through 6, Block O, Farmin's Fifth Addition, and Lot 1, Block 2, Law's Third Addition to this request to maintain consistency. The Planning Commission has recommended approval of the request with modifications to the proposed Development Agreement. In accordance with Idaho Code, notice of this public hearing has been published in the Bonner County Daily Bee on February 25, 2009.

Planning Director Jeremy Grimm explained that the existing land use for the entire site is Residence "B", the land use to the east is Commercial "D", and to the north and west is Residence "A". He stated there are a number of goals and policies in the 2009 comprehensive plan that should be considered for this application. He noted that the parcel is served by existing utilities which the public works director stated may include an increase in water pipe sizes to improve fire flow, upsizing of the sewer line with an additional requirement of development impact fees and that the fire chief and police chief dictated requirements by the site's future use. He stated that the applicant made a similar request in 2008 to change the zone from Residential "B" to Commercial "D" with the Planning Commission recommending denial with a three to two vote and city council voted unanimously to remand the application to the Planning Commission for consideration of a development agreement between the City and the property owner. He said if the property owner wished to continue to pursue a change in use of the site, it would be required that the exterior of the church be preserved, and that the Context Areas CA-3 and CA-3B from the current draft of the comprehensive plan be consulted for guidance. He said the proposed zoning is Commercial "D" subject to a development agreement because there currently is no zoning for Context areas CA-3 and CA-3B in the new comprehensive plan. He stated the west half of the blocks bounded by Boyer Avenue and Sixth Avenues, extending from Church Street north to Main Street, is designated CA-3 and the east half of this area is designated CA-3B. He said the proposed agreement reduces the permitted and conditional uses otherwise allowed in the Commercial "D" zone, sets a limitation on expansion of existing building footprints, requires a conditional use permit to exceed the neighboring residential zones building height, and proposes a term limit for the agreement of 72 months, subject to two renewal terms of equal length. He explained at the end of the term of the agreement, the zoning would revert to its previous designation of Residence "B" or such other zoning in keeping with the comprehensive plan and zoning ordinance in effect at that time.

He stated that the Planning Commission recommended approval of the zone change subject to the term of a development agreement including the removal of additional

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uses from either the permitted or conditional use lists, changing a permitted use to a conditional use, requiring compliance with the surfacing, screening and landscaping requirements for parking lots no later than eighteen months after the recordation of the agreement, prohibition of the removal of the former church building without written approval of the City, requirement of a twenty-foot setback to be maintained for buildings on Oak Street, and two-foot setback to be maintained from Boyer Avenue, and with the exception of sidewalks replaced as part of the 2006 LID on Boyer Avenue, requirement that the adjoining sidewalks be replaced at the time a building permit is issued, but no later than three years after the recordation of the agreement. He said that staff notes that currently the City of Sandpoint holds 14% of our lands zoned as Commercial "D", totaling approximately 340 acres and that approximately 10% of existing Commercial "D" lands are undeveloped.

Bruce Pedersen, applicant, 291 Syringa Heights, noted the original proposal was brought forward to city council when the comprehensive plan was in the discussion phase. He said he would have a two phase approach utilizing the existing building and a future mixed use project with a goal to be congruent with the recently adopted comprehensive plan. He said the property is within the walking distance of downtown and community anchors with an incredible aspect for high density and commercial uses. He said the project would expand economic benefits and that the property is currently not on the city's tax roll. He said the zone change would promote infill housing to increase density and to allow for use of existing space because it's land locked, prevents urban sprawl as a maximum use of infrastructure, and urban growth boundary proposing that Boyer Avenue is a natural urban growth boundary and a natural connection artery. He noted there are several roads serving as boundaries in the comprehensive plan. He challenged the statement that there's approximately 10% of existing Commercial "D" undeveloped land because the market is speculative and the current economic condition is unpredictable. He didn't feel the reason of having too much commercial space was not a reason not to grant a zone change. He felt strongly that the zone change would be congruent with the needs as identified as well as concerns voiced by citizens at the Planning Commission workshop. He said there should be consideration of existing divine rights that could allow commercial use with the existing structures. He said he is trying to work with the planning department and Planning Commission to try to create something that falls under the CA-3 and CA-3B context areas. He said it didn't make sense to protect and apply zoning protection on something that was temporary and could have permanent limitations for something that was intended.

Councilman Reuter asked what Mr. Pedersen's immediate goal was for the existing structure. Mr. Pedersen replied that the project would have two phases with a mixed use project that would address those as outlined at the Planning Commission workshop. He stated his biggest concern was with existing divine rights. He explained

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to **Councilwoman Newton** that he would request a ten foot setback instead of a 20 foot setback on Oak Street. He responded to **Councilman Snedden** that he can't rent the buildings based on the current zoning that Boyer Avenue is a sufficient buffer and based on the expansion and limitation of the existing building, there would be another public hearing where he would provide his design elements. **Councilman Reuter** noted that the term in the comprehensive plan is transition not buffer.

Jeremy Grimm stated there's a unique situation based on the recent adoption of the comprehensive plan as it directs to specific zoning and whether or not it's warranted. He said because there's no CA-3 and CA-3 B zoning, Planning Commission spent several hours looking at each use and created a development agreement with Commercial "D" stripped of all offenses. He said the applicants are in a transition mode because those zones currently don't exist. He explained to **Councilman Boge** that the allowed uses outlined in the development agreement would allow hotels. He explained to **Councilwoman Logan** that the CA-3 B would be similar to the existing zoning of "Residence C" and CA-3B would be similar to Professional Office with the addition of retail use.

The mayor advised that the hearing would be conducted in compliance with the following rules of procedure: Before persons testify at public hearings, they are to fill out the sign up sheet available at the front of council chambers and hand deliver to staff. If you desire, you may note your objection or approval on the form provided; if you wish to comment during the public hearing, please come to the microphone and state your name and residence address for the record; if you do not wish to comment but have written comment that reflects your opposition or support, please provide to the city clerk and she can read your letter into the record; please limit your comments to no more than three minutes; testimony shall directly address the subject at hand and shall not be personally derogatory nor shall it be personally directed at any individual, organization or business; members of the council may ask questions of persons who testify. If they do so, it will be only for the purpose of clarifying information; once the public hearing portion of this meeting is closed, there will be no further opportunity for public input on the proposal; the council will then discuss among themselves the testimony they have heard and what, if anything, they may propose as a result of this hearing; those testifying should clearly indicate their name and address for the clerk.

The mayor opened the public hearing to accept testimony.

THOSE WHO TESTIFIED IN FAVOR:

Larry McCormick, 614 Church St., supported the request to rezone all the parcels to commercial so that they could be available to investors and that there wouldn't be concern with variances. He said the proposal would be an advantage for the

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neighborhood and noted that some surrounding property is zoned commercial.

Father Dennis Day of the Catholic Church, 1801 Meghan Lane, stated that Boyer Avenue is not a quiet residential street and is used for truck travel. He felt that Boyer Avenue was an appropriate buffer and boundary.

Bo Whitley, 755 Jeffres Lane, stated that she has approached Mr. Pedersen about allowing her to have a community based service on his location to teach children to be community servants. She said Bruce Pedersen promotes community services for kids and families. She said this would be a positive aspect for the community.

Larry Hellhake, 3837 N. Holl Drive, Eagle, Idaho, stated he has worked for the Roman Catholic Church as a real estate agent. He said he conducted a feasibility study for the location of the Church and looked at the use surrounding it. He said the reason the Church moved to Lincoln Street was because the church couldn't expand on Oak Street and hoped to sell their entire site for a commercial area. He felt Mr. Pedersen was bending over backward to work with the City in order to transition the property to commercial.

Heather Pedersen, 291 Syringa Heights Rd, supported the zone change and stated that her husband, Bruce Pedersen, takes pride in his work. She stated the property would benefit the community as a whole and would retain the beauty of a small town. She said his plans would benefit the city in a positive way.

Tom Puckett, 1851 Sunnyside Rd., stated that he has lived in this area his entire life. He stated Mr. Pedersen wants to build a project that will ensure raising children in a good environment and will retain citizens to live here. He said that Bruce Pedersen is not in the area to disrupt and supported the project.

Bernie McGovern, 1225 Birch St., stated that the proposal is appropriate additional growth and that it's a logical zoning change. He felt Boyer Avenue was the logical boundary.

Selk Pedersen, 291 Syringa Heights, supported the requested zone change.

Blake Crockwell, 206 Syringa Heights, supported the zone change and felt it would make a better Sandpoint.

Damon Dryden, 2690 Ontario, stated that he is a current small business owner in Sandpoint and has done many projects for Bruce Pedersen. He said this would be a good progression toward growth and would help his business grow with future projects.

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Jeremy Grimm reported that he received a letter of support from River of Life Church, 702 Church St., David Garner, Vice President.

THOSE WHO TESTIFIED IN OPPOSITION:

James Austin, 707 W. Oak St., stated he attended many hearings expressing his and neighbor's concerns by requesting a buffer strip to protect the residential areas along Boyer Avenue. He noted that the Dover Highway does handle highway frontage on the bike path side that relieves congestion on Boyer Avenue. He requested to setback the requirement to protect the beauty of maple canopies, avoid parking issues, and protect the historic value of the church. He said the setback zoning should conform to CA-3B within the comprehensive plan and should have a signed document of intention of performance in order to protect all parties if enforcement issues arise. He said he didn't contest Mr. Pedersen's request to development but felt his neighborhood was a very special place.

Susan Austin, 707 W. Oak St., stated she has been a resident of the City of Sandpoint for 43 years and was involved with the comprehensive plan process many years ago. She felt it was important to consider Mr. Pedersen's request but to have an amendment to assure he will do what he says he intends to do with the property. She stressed the need to have a proposal in writing so that he follows through with his promises. She also requested an amendment to oppose unwanted development if it had a negative impact on the community.

Bob Camp, 521 North Sixth Ave., felt Mr. Pedersen's proposal is in conflict with the 2009 comprehensive plan. He stated that the request is for a zone change and has not provided a blueprint as to what he wants to build. He felt Mr. Pedersen was asking for a blank check and noted that the Residence "A" and "B" neighborhoods were one of the last of the original platted Farmin block that are still zoned residential. He said that once the property is zoned commercial, they won't have to come to city council for approval of their plans. He noted that at the Sandpoint Growth Task Force meetings in February, a group of young people who didn't attend comprehensive plan process meetings, came up with similar ideas of what the City wanted and stressed they didn't want to see growth on North Boyer but to retain it as a neighborhood street.

Carol Camp, 521 North Sixth Ave., noted there are several empty commercial parcels throughout Sandpoint and didn't feel a need to expand another 1.7 acres as commercial. She felt there were still several offensive allowed uses. She didn't feel it was the answer to zone this property Commercial "D". Planner Jeremy Grimm noted that city council could strike any of the uses they felt were offensive.

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Mr. Grimm read a letter of opposition from **Geraldine Davis, 723 Church St.**

Bruce Pedersen rebutted that he is working with city staff to address that the uses would have to fit in with the existing structures which has limitations. He felt the property is within the downtown core and would accent the community.

Mayor Hellar closed the public hearing.

Councilwoman Logan moved that the Sandpoint City Council, after consideration of the criteria and relevant standards of Idaho Code and Sandpoint City Code, **DENY** the request by **Bruce Pedersen** for a zone change from Residence "B" to Commercial "D" for approximately 1.7 acres located north of Church Street, south of Cedar Street, east of Boyer Avenue, and west of Sixth Avenue and described as Lots 1 through 3, Block O, Farmin' s Fifth Addition, Lots 1 through 7, Block 30, West End Addition "D," Lots 2 through 4, Block 2, Law' s Third Addition, and the West 80 Feet of Lot 2, Block 29, West End Addition "D. This recommendation includes the following property added by the City maintain to consistency: Lots 4 through 6, Block O, Farmin's Fifth Addition, and Lot 1, Block 2, Law's Third Addition to this request.

The reasons for this decision 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 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 inventory and availability of developable Commercial "D" land within the City is sufficient at this time and demand and existing vacancy rates do not warrant the creation of additional Commercial "D" zoned lands.
4. This request is out of compliance with the language and intent of the comprehensive plan CA-3 and CA-3B designations.
5. The Development Agreement does not fully address the requirements of City Code 9-9-11.

Councilwoman Newton seconded the motion.

Councilwoman Logan commented that the request is totally out of compliance with the current adopted comprehensive plan. **Councilwoman Newton** pointed out that City

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Code 9-9-11 states that a specific use has to be specified and that the development agreement needs to include the permitted or conditional use desired, the proposed zone, a concept plan for the property, maximum height, size, and location of all the structures proposed, construction schedule, and type and color of materials used. She noted none of these were in the proposal and makes it difficult for the council to address.

Councilman Reuter raised concern that the council was acting too hastily. He said the applicant should have the ability to use the current structures and is in line with the current comprehensive plan particularly when preserving historical structures. He requested to have them meet the requirements with City Code and bring back to the Planning Commission for a solution. **Councilwoman Logan** shared the concern of preserving the building and that the proposal lacked in detail and was flawed.

Councilman Boge commented that the applicant has the right to develop but felt the project was very vague. He said the City needs to be respectful with the preservation of residential neighborhoods when changing zoning.

Councilwoman Newton stressed that denying the request was not stopping the process and could go back to Planning Commission. She said there was no need for additional space of 1.7 acres of commercial space in Sandpoint right now. Jeremy Grimm stated this would not extinguish the process that it could go back to the Planning Commission with the required notices.

The motion to deny passed by a majority roll call vote of council present with Council members Snedden and Reuter dissenting.

M. RESOLUTION NO. 09-16 ACCEPTING ASSESSMENT ROLL AND FIXING TIME OF HEARING IN ASSESSMENT ROLL FOR LID 2007-1

Public Works Director Kody Van Dyk explained that the 2007-1 LID project evolved because a developer built one half the street with the city wanting to build the other half of the street. He stated the reason his report was late as he hoped to consolidate this LID with the 2008-1 LID in order to share the costs with bond counsel. He said the project was to build a full street from Oak Street from Halley one block north and noted the project was under budget. City Attorney Will Herrington explained that hiring bond counsel is necessary in order to facilitate bonding and the cost with local improvement districts are passed onto the property owners.

Councilwoman Logan moved that the proposed resolution, "Accepting Assessment Roll and Fixing Time of Hearing in Assessment Roll for LID 2007-1" be approved. **Councilman Reuter seconded the motion. The motion passed unanimously by**

PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Notice is hereby given that the Sandpoint Planning Commission will hold a public hearing at their meeting on Tuesday, May 19, 2009, at 5:30 p.m. in the council chambers at City Hall, 1123 Lake Street, Sandpoint, ID, to consider the following:

A request by **Bruce Pedersen** for applications **ZC09-02** and **CUP09-02**, which are:

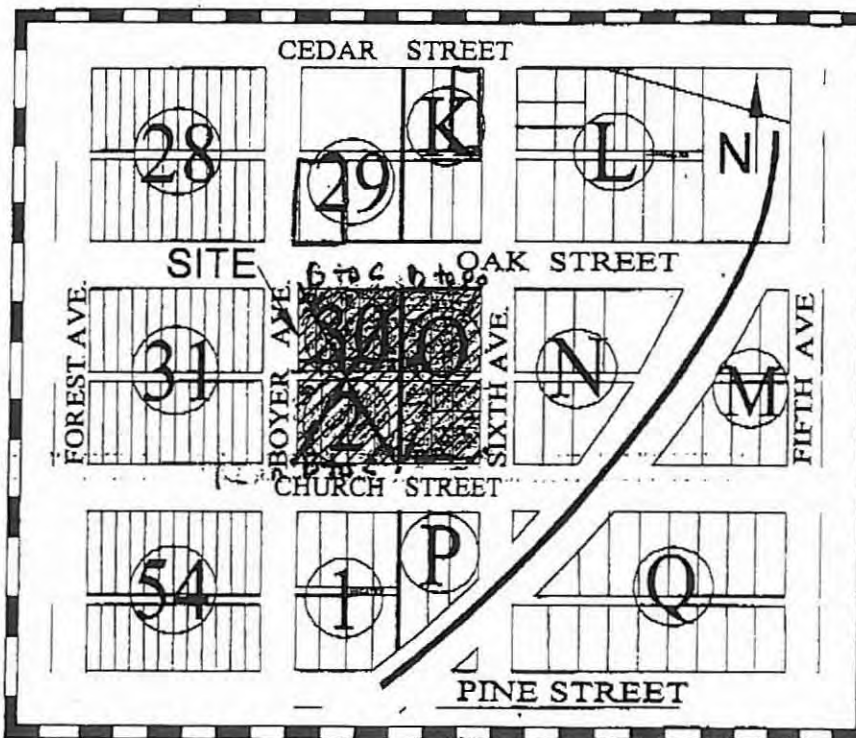
- a. A zone change from Residence "B" to Residence "C" for approximately 1.2 acres described as Lots 1 through 7, Block 30, West End Addition "D," and Lots 1 through 4, Block 2, Law's Third Addition. 1.2
- b. A zone change from Residence "B" to Professional Office "PO" for approximately 0.9 acres described as Lots 1 through 6, Block O, Farmin's Fifth Addition. .9
2.1
- c. A Conditional Use Permit to allow for development of a TOTAL SITE non-municipally-owned recreation center on 2.1 acres in the Residence "C" and Professional Office "PO" zones on property that is described as Lots 1 through 7, Block 30, West End Addition "D," Lots 1 through 4, Block 2, Law's Third Addition, and Lots 1 through 6, Block O, Farmin's Fifth Addition.
- d. A Conditional Use Permit in the Residence "C" zone to allow inclusion of multi-family housing units on that portion described as Lots 1 through 7, Block 30, West End Addition "D," and Lots 1 through 4, Block 2, Law's Third Addition.

The foregoing sites are the Block bounded by Oak Street to the north, Church Street to the south, Boyer Avenue to the west, and Sixth Avenue to the east.

Copies of the complete file for the above are available for review at the Sandpoint Planning Department. Due to time constraints, testimony may be limited to three minutes. If you require more time, contact the Planning Department at least three days in advance of the hearing. Any written testimony of more than one page to be considered at this meeting must be delivered to the Planning staff before May 13th at 5:00 p.m. Any person needing special accommodations to participate in the above noticed hearing should contact the City of Sandpoint 24 hours prior to the meeting at City Hall, 1123 Lake Street, Sandpoint: 63-3370

Please detach before mailing and save this portion for a reminder of the meeting

You can send us your opinion in writing by using the space provided at the bottom of this notice, fax your response to 263-3678, E-mail us at cityplanning@ci.sandpoint.id.us, phone us at 263-3370, or you can come to the public hearing and voice your concern or your support. Please note that written comments must include your name and address to be placed in the public record.



Sandpoint Planning Dept.

MAY - 6 2009

RECEIVED

PLEASE RESPOND: (✓) SUPPORT DO NOT SUPPORT NEUTRAL

COMMENTS: THIS PROPOSAL HAS NO SPECIFICS AND IS MUTCH TO VAGUE FOR ME TO SUPPORT IT. IN MY OPINION THE COMMERCIAL CREEP TAKING PLACE SHOULD STOP AT 6TH AVE AT LEAST! HOW ABOUT SOME SENIOR HOUSING WITH ACCESS TO DOWN TOWN.

Name: E PAUL KELLY Address: 601 CEDAR ST

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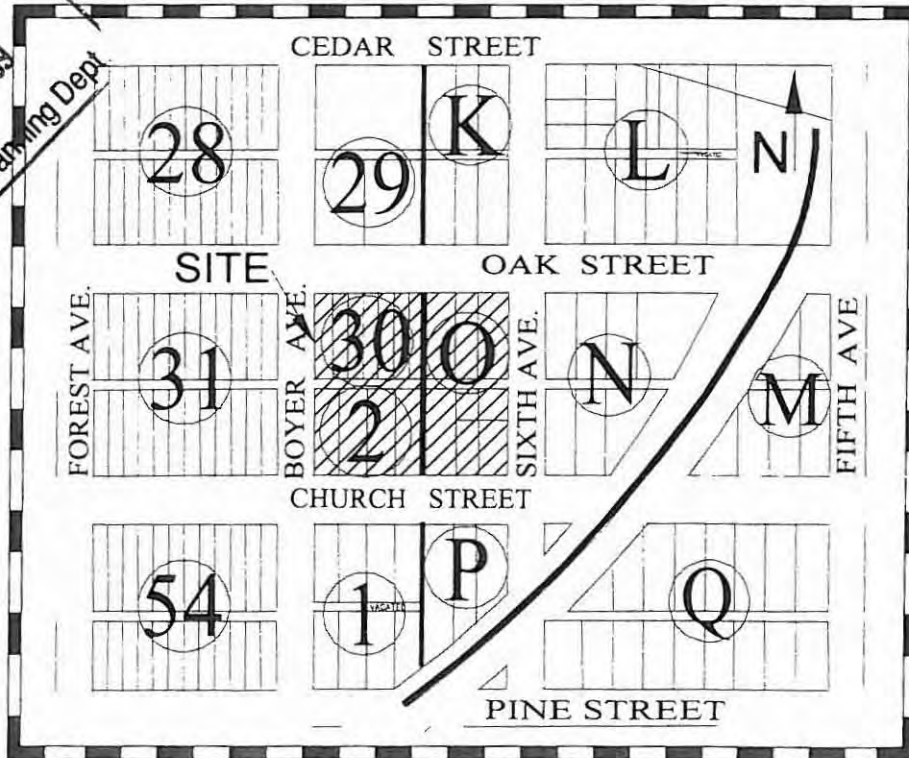
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APR 29 2009
Sandpoint Planning Dept



PLEASE RESPOND: (✓)

SUPPORT

DO NOT SUPPORT

NEUTRAL

COMMENTS: _____

Name: Edna E. B. Johnson

Address: 719 Cedar St. Sandpoint,

ZC09-02 and CUP09-02 - Pedersen