

MINUTES OF A CONTINUED MEETING OF THE  
COEUR D'ALENE CITY COUNCIL  
HELD IN THE LIBRARY COMMUNITY ROOM  
ON JANUARY 14, 2016 AT 12:00 NOON

The City Council of the City of Coeur d'Alene met in continued session with the Planning Commission in the Library Community Room held at 12:00 NOON on January 14, 2016, there being present upon roll call a quorum.

Steve Widmyer, Mayor

Woody McEvers ) Members of Council Present  
Dan Gookin )  
Dan English )  
Kiki Miller )  
Amy Evans )  
Loren Ron Edinger )

Brad Jordon ) Members of the Planning Commission Present  
Lynn Fleming )  
Michael Ward )  
Peter Luttrupp )  
Lewis Rumpler )  
Jon Ingalls )  
Tom Messina ) arrived at 12:08

STAFF PRESENT: Jim Hammond, City Administrator; Mike Gridley, City Attorney; Randy Adams, Deputy City Attorney; Renata McLeod, City Clerk; Kathy Lewis, Deputy City Clerk; Ed Wagner, Building Services Director; Shawn Youngman, Code Enforcement Officer; Police Chief White; Hilary Anderson, Community Planning Director; Sean Holm, Planner; Tami Stroud, Planner; Mike Behary, Planner; Mike Becker, Wastewater Project Manager; and Bill Greenwood, Parks Superintendent.

**CALL TO ORDER:** Mayor Widmyer called the meeting to order.

**APPROVAL OF MINUTES FROM PLANNING COMMISSION MEETING  
DECEMBER 8, 2015**

**MOTION:** Motion by Luttrupp, seconded by Ward to approve the Minutes of the Planning Commission meeting held on December 8, 2015. **Motion Approved.**

**APPROVAL OF PLANNING COMMISSION FINDINGS AND ORDER: A-3-15 - PUD-2-15, S-4-15, 2810 & 2960 W. PRAIRIE AVENUE**

**MOTION:** Motion by Ingalls, seconded by Fleming to approve the Findings and Order for A-3-15: PUD-2-15 and S-4-15.

**ROLL CALL:** Fleming Aye; Ward Aye; Luttropp Aye; Rumpler Aye; Ingalls Aye. **Motion Carried.**

## **USE OF PORTA POTTIES FOR “SEASONAL” BUSINESSES**

**STAFF REPORT:** Community Planning Director Hilary Anderson explained that staff has received a request from a local business owner to use porta potties on a seasonal basis for a beer garden. The current Municipal Code prohibits the use of privies in the City other than for construction activities. Currently porta potties are used at special events and at several city parks. She noted that the City would need to create a definition of seasonal and amend the code to allow for the park usage and, if desired, to allow for the use of porta potties for seasonal businesses. Parks Superintendent Bill Greenwood provided examples of porta potties used at local parks, all of which are within covered shells. He clarified that the porta potties are removed during the off season in parks that are not used year round.

**DISCUSSION:** Councilmember Gookin asked if the reasoning behind using the porta potties in the parks was due to the cost of built in facilities. Mr. Greenwood said the cap fee and the cost to construct a restroom facility are very expensive, often over \$200,000. However, it is approximately \$20,000 to build a structure for the porta potties. Commissioner Ingalls asked if the seasonality is what is used by the City to determine whether or not to have a plumbed facility versus porta potties. Mr. Greenwood explained that McEuen Park was an opportunity to build heated restroom facilities, unlike other City built restrooms, but mostly it is a cost consideration. Commissioner Jordon recalled a presentation to the Commission by the previous Parks Director Doug Eastwood regarding the use of porta potties, which in his mind gave approval for the use. Councilmember Edinger asked staff if porta potties will be used when improvements are done at Person Field. Mr. Greenwood said that water and sewer connections are already on site so he would like to put in a facility not porta potties; however, it could cost over \$200,000.

City Attorney Mr. Gridley noted that he did not feel that the parks had illegal use of porta potties since they are not really the same as privies. Councilmember Gookin said that he preferred the brick and mortar facilities to be installed at parks. Mayor Widmyer noted that enclosed restrooms have a much higher vandalism rate. Mr. Greenwood concurred and noted that vandalism has been an issue at city restroom facilities in the past versus the porta potties. He also clarified that they have not received negative comments from the public regarding the porta potties, although he gets calls when porta potties need service. Councilmember English felt that a hybrid approach for city parks could be used by having built in facilities and then use porta potties during the winter. Councilmember Gookin believes the code language should be amended to clearly allow porta potties within parks.

Mike Becker, Wastewater Project Manager, explained the way cap fees would be calculated and can be estimated based on water records. He noted that it is important to focus on sanitation, i.e., hand washing, and not focus solely on the use of porta potties.

Mr. John Magnusson explained that he represents Crafted, who made the initial request, and briefly described the intended seasonal use. He clarified that it was not intended to be for more than 90 days of use, and understands it would be subject to the design review commission review

and that hand washing stations would be no problem. Additionally, they don't intend to do any food preparation outside and people would be welcome to use bathroom inside.

Councilmember Gookin expressed concern with use in the park as setting a precedent. Mayor Widmyer noted that the customers have embraced the use with no negative feedback. He reiterated that cost is important for the City to consider when developing parks. Councilmember Miller said she approves of the use of porta potties in the parks, as they can be used year round and are a value to tax payers. Additionally, she would support the continued use of porta potties for the Centennial Trail and large events. Councilmember Miller said that the use by commercial business should be reviewed; with the Health District concerns and zoning under consideration. Additionally, she would support a code amendment for porta potty use in parks. Councilmember Gookin suggested creating a park zone where the use of porta potties is allowed, temporary usage for city sponsored events, and special use permits for other uses so the public can provide input. Councilmember McEvers would like staff to work on the commercial aspect, taking under consideration examples from other cities, as well as update the current code to allow for park use. He would support hand washing stations. Councilmember Edinger believes that any code amendment should include a requirement for servicing the porta potties. Councilmember English would like to have a staff summary outlining the ramifications of each option. Commissioner Fleming felt that the City should apply the letter of the law from building codes and liquor laws to ensure the correct number of seats per bathroom facility so there isn't an increase in public urination.

Discussion ensued regarding handwashing stations; the definition of seasonal business; public land versus business use; special event use; practical application of use at a commercial business; and costs to build porta pottie structures and enforcement.

**MOTION:** Motion by McEvers, seconded by English to direct staff to develop codes regulating porta potties including provisions for public use, special events, commercial use, seasonal guidelines/definition, and enclosures/aesthetics related thereto. **Motion carried.**

## **VACATION RENTALS**

**STAFF REPORT:** Planner Sean Holm noted that the number and popularity of the vacation rental use in Coeur d'Alene has increased over the years. The current city code does not allow for vacation rentals within a residential zone; however, it has not been strictly enforced. A 1995 legal interpretation set forth the standard that rentals of less than one month are not allowed as they are deemed transient rather than a semi-permanent use. He also noted that the only city code that most closely relates to vacation rentals is the bed and breakfast code; however, there are some clear differences. Mr. Holm explained some of the positives and negatives of the possible use of vacation rentals including travelers having choice, revenue to owners, more money spent locally with some of the negatives being possible disturbances to the neighborhood; vacant property during slow times, excess parking, trash and safety issues. He reviewed items for possible consideration that included a registration process; inspection of site for safety and parking; and noted enforcement as the key to the program.

**DISCUSSION:** Councilmember Edinger asked how many complaints the City has received. Mr. Holm said that he has received complaints regarding signage that has been posted in front of rental properties by vacation rental companies. Councilmember Edinger asked how the vacation rental signs differ from for sale signs. Mr. Holm explained that business signage is different than the temporary use for home sale signs. Code Enforcement Officer Sean Youngman stated that he received one official complaint last summer regarding signage. Chief White noted that police patrol receives calls regarding noise complaints associated with vacation rentals. Municipal Services Director Renata McLeod said that the business licensing division receives calls from vacation rental business's inquiring if the City has regulation or a registration process, as that is the norm in the industry. She noted that her staff has received approximately 10 inquiries in the last couple of weeks.

Mayor Widmyer clarified that staff needs direction as to what should be allowed or not and that the city will need to demonstrate the ability to enforce proposed regulations. He said that he would not like a code as restrictive as Sandpoint. Councilmember Miller requested that staff seek input from vacation rental business operators, the Idaho Lodging Association, Chamber and other stakeholders before drafting the ordinance. Councilmember Gookin suggested staff look at two regulations; one for owner occupied; the other for non-owner occupied investment properties. Commissioner Messina believes that enforcement will be important to include and for staff to research how other cities do their enforcement.

Discussion ensued regarding reasonableness of occupancy; what length of time is reasonable to regulate; neighborhood preservation; parking; and investment properties.

Motion by Edinger to table the issue until next winter. Motion Failed due to the lack of a second.

**MOTION:** Motion by Gookin, seconded by McEvers to direct staff to develop codes regulating vacation rentals including registration; inspection; enforcement; a two week per year exemption; and to gather public input during code development.

**DISCUSSION CONTINUED:** Councilmember Edinger expressed concern with enforcement of another code with current staff resources. Chairman Jordon expressed concern with differing opinions, but assured the Council that the Commission will take input during the drafting of these regulations.

**Motion carried with Edinger voting no.**

## **NEIGHBORHOOD COMPATIBILITY ORDINANCE REQUEST**

**STAFF REPORT:** Ms. Anderson explained that the Fort Ground Homeowner's Association (Fort Grounds) has requested an amendment to the zoning code to allow for an overlay district regulating future development within the neighborhood. She reviewed the specific elements requested by the Fort Grounds and clarified that several residents/property owners who attended a Planning Commission meeting in August voiced concerns about the proposal and its potential to limit property rights. She also noted that staff believes that most of the components of the

Fort Grounds proposal would be supported by staff including additional tools to clarify compatibility of new development and that the Zoning Code could be improved to provide more guidance for infill development in established neighborhoods, such as Fort Grounds. However, staff expressed concern regarding the 3-D “virtual tent” mechanism proposed, as it would be time consuming to staff and difficult to include on building permits. However, there is an option for a 2-D “virtual tent” that would be easier to manage or some other design standards could be used to result in the same overall effect desired by the homeowners association. She shared that Sandpoint has successfully incorporated many of these design and performance standards into their Zoning Code. Ms. Anderson said that the Fort Grounds could be used as a pilot project for such regulations or that the ordinance could be drafted to apply to all established neighborhoods. She also presented the recommendation from the Economic Development Clinic at the University Of Idaho College Of Law for an updated survey of properties in the Fort Grounds neighborhood.

**DISCUSSION:** Councilmember McEvers expressed concern with all neighborhoods thinking they have special issues and drawing circles around themselves to not allow mcmansions. Additional discussion ensued regarding measurement of natural grade; front set back requirements; storm water management; impervious surface; homeowner association regulations outside of city ordinances; and how such regulations would be implemented.

Commissioner Ingalls asked if the survey would be needed if the ordinance was citywide or could the survey be more global than Fort Grounds. Ms. Anderson explained that the proposed survey was specific to Fort Grounds because the base line survey was completed within the Fort Grounds neighborhood, so it would not be applicable city-wide. Ms. Anderson also clarified that the proposed survey would actually be more of an existing conditions report to compare the current conditions of lots in the Fort Grounds neighborhood to the conditions of the lots as documented in the 1992 survey, which included photos and descriptions of the residences, architectural style, and year of construction. There was also a question from Commissioner Messina about having the neighborhood implement CC&Rs instead of having the additional restrictions in the zoning code. A Fort Grounds representative, Denny Davis, stated that the neighborhood has a very old plat as original homeowner documents, which did not include any CC&R’s. A modern day development would have that type of guiding document, so it would be very difficult to create them now and would require 100% agreement of the property owners. Commissioner Luttrupp expressed support for the Fort Grounds to be used as a pilot project to determine good and bad points before making city-wide regulations. Councilmember Gookin said that he is a member of the Fort Grounds and expressed concern about various developments throughout the City that changed the character of the neighborhood. Councilmember McEvers believes that a new property owner should have the right to develop a parcel under the current laws and would not support a change limiting one’s property rights. Councilmember Gookin noted that the code would allow for the preservation of an established neighborhood.

Commissioner Fleming said that it is not difficult to determine elevation by comparing a proposed structure to the two abutting lots and ensuring that it would not be out of place or shadow the other properties. She noted that there are other special neighborhoods within the City, but agreed that the Fort Grounds could be a pilot project before a code is implemented city-wide. Councilmember English expressed concern regarding the minimum gross floor area of

2,300 square feet, as that would eliminate the ability to construct affordable housing. Commissioner Messina felt that the Fort Grounds was asking the City to solve a neighborhood issue and taking property rights. He felt that it should not go citywide unless a neighborhood requests it. Councilmember Evans asked Deputy City Attorney Adams if he was in agreement with the opinion of Director Stephen Miller of the University of Idaho about conducting an updated survey to ensure that if the requested code amendment only applied to the Fort Grounds neighborhood, that it would not have the potential to implicate constitutional protections or be subject to equal protection challenges. Mr. Adams said that the City would have to regulate on a rational basis and concurs with Miller at this time regarding a survey of the Fort Grounds neighborhood if a code amendment were to apply only to a small area of the City. Otherwise, the code amendment would need to be applied equally throughout the City. Councilmember McEvers supported the implementation of Commissioner Fleming's concept regarding elevation.

**MOTION:** Motion by Gookin, seconded by Edinger to request staff to modify the code to clarify that if a house is destroyed, it can be rebuilt on the existing foundation/footprint.

**DISCUSSION CONTINUED:** Ms. Anderson clarified that if a house were destroyed, it would still need to meet current building code.

**Motion Carried.**

**MOTION:** Motion by McEvers seconded by Gookin to have staff research the implementation of an adjacency code, such as the 2D virtual tenting. **Motion Carried.**

**MOTION:** Motion by Edinger, seconded by English to direct staff to complete a survey of the Fort Grounds as recommended by the University of Idaho and provide feedback to Council thereafter.

**DISCUSSION:** Ms. Anderson clarified that the survey would demonstrate how much has changed within the Fort Grounds since the prior survey, and what the potential impact of the ordinance would be. Councilmember Miller concurred that the Fort Grounds would be a great incubator for potential regulations. Councilmember Edinger said that the Fort Ground neighborhood is a historical area and is important to protect. Mayor Widmyer felt that more information is needed, such as the information that will come forward from the study. He also concurred that the Fort Grounds would be good as a pilot after more information is received.

**Motion carried.**

**ADJOURN:** Motion by Edinger, seconded by Gookin that there being no further business, this meeting is adjourned. **Motion carried.**

The meeting adjourned at 2:33 p.m.

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Steve Widmyer, Mayor

ATTEST:

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Renata McLeod, CMC  
City Clerk