

ORDINANCE 2011 - 06

AN ORDINANCE OF CITY OF KUNA, IDAHO, AMENDING TITLE 5, "ZONING REGULATIONS" OF CHAPTER 2A, "OVERLAY DISTRICT" AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, staff has had ongoing discussions with the Kuna City Council about keeping the City's zoning regulations current and useful; and

WHEREAS, this text amendment is in agreement with the spirit and intent of Kuna's recently updated comprehensive land use plan [Plan]; and

WHEREAS, it is deemed to be in the best interest of the city of Kuna to amend its Chapter 2A Title 5 zoning code, which had its last major update in 2009; and

WHEREAS, this zoning amendment is pursued in accordance with KCC 5-13, "ZONING AMENDMENTS"; and

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KUNA, IDAHO that:

Ordinance Section 1. Title 5 Chapter 2A entitled, "OVERLAY DISTRICT" is amended as follows:

**CHAPTER 2A
OVERLAY DISTRICT**

SECTIONS

- 5-2A-1: General Applicability
- 5-2A-2: Purpose and Intent
- 5-2A-3: Approaches
- 5-2A-4: Use of Existing Approaches
- 5-2A-5: Additional Requirements
- 5-2A-6: Exceptions
- 5-2A-7: Design and Construction Standards for State Highway 69 and Kuna Mora Road and Their Further Alignments
- 5-2A-8: Noise Abatement for Residential Uses along Highway 69 and Kuna Mora Road

5-2A-1: **GENERAL APPLICABILITY**

A zoning overlay district is hereby established for all land within the City of Kuna within the following described areas:

The overlay district includes the area within one-quarter (1/4) mile (1,320 feet) east and west aligning with the centerline of State Highway 69, also known as the Meridian Road and its future southern alignments. The portion of State Highway 69 that curves and becomes East Kuna Road is excluded from the overlay district beyond a distance of 1,320 feet west of the north/south aligning township section line underlying State Highway 69. The zoning overlay district is expanded to include the area within one quarter-mile (1,320 feet) north and south aligning with the centerline of Kuna Mora Road and its future alignments. The overlay district only applies within the Kuna City limits (see map attached to Ordinance No. 2009-32).

Areas annexing into the city of Kuna, located within the overlay district are subject to the City's land use codes. All regulations imposed by the city of Kuna in any zone shall continue to apply in areas subject to this chapter. In cases where the chapter provisions are in conflict with other portions of City code the more restrictive standard, as determined by the director, shall prevail. **(Ord. No. 2009-32, § 1, 12-1-2009)**

5-2A-2: **PURPOSE AND INTENT**

The purpose and intent of this chapter is to improve safety conditions, reduce congestion and delays, sustain traffic speeds, provide property owners with safe access to these roadways, and promote desirable land use development patterns to include aesthetic considerations. These roadways are intended to serve, in part, as Kuna's gateway scenic corridors for public presentation purposes.

Provisions of this chapter shall be used to manage and control access to State Highway 69 and Kuna Mora Road and require that properties adjacent to these roadways utilize or obtain access on other public roads as part of the City's access management control strategy. This chapter is enacted pursuant to the following: IC Title 67, Chapter 6501, "Local Land Use Planning Act (LLUPA)"; City of Kuna Comprehensive Plan; and City of Kuna Zoning Ordinance. **(Ord. No. 2009-32, § 1, 12-1-2009)**

5-2A-3: **APPROACHES**

Approaches directly accessing State Highway 69 and Kuna Mora Road within the overlay district shall be limited to the following circumstances:

- A. Continued roadway access is afforded to existing residences on parcels created prior to adoption of this chapter, provided the residential access does not pose a health or safety hazard as determined by the City engineer, and provided, access closure as part of some future land use action would not landlock the property.
- B. Agricultural field access (for lands designated agriculture and in active use); the access shall be located at a place with good sight distance.
- C. When local fire districts or other emergency service providers require a secondary access onto these roadways to provide for emergency services. These accesses shall be limited to emergency use only and closed except during an emergency. The fire district shall determine the method of access closure.

Approach permits shall be required by the Idaho Transportation Department (ITD) and the Ada County Highway District (ACHD). Traffic counts, traffic studies and improvements may be required by Idaho Transportation Department, Ada County Highway District, or the city of Kuna.

(Ord. No. 2009-32, § 1, 12-1-2009)

5-2A-4: **USE OF EXISTING APPROACHES**

Use of existing State Highway 69 approaches as identified on the 2002 ITD access map and existing approaches on the Kuna Mora Road, within the city limits, as of the date of this text amendment adoption, shall be allowed to continue provided:

- A. The existing approach use is lawful, safe and properly permitted;
- B. The type of land use does not change (for example, a residential use is not converted to a commercial use);
- C. Intensity of commercial or industrial zoned use does not increase as determined by the director;
- D. The number of parcels served by the approach does not increase; and
- E. The approach is not expanded in its dimensions or relative to the nature of its use. **(Ord. No. 2009-32, § 1, 12-1-2009)**

5-2A-5: **ADDITIONAL REQUIREMENTS**

- A. New approaches directly accessing State Highway 69 or Kuna Mora Road shall not be allowed, except as provided in this chapter.
- B. Public or private street connections shall access State Highway 69 and Kuna Mora Road at the section line road and the half-mile mark (mid-mile) between section line roads. These mid-mile connecting streets shall serve as collector roads. The street shall be designed to collect and distribute traffic.
- C. The applicant shall dedicate lands and participate in the construction of a frontage street to ACHD's collector standard. The frontage street shall generally parallel State Highway 69 or Kuna Mora Road. The frontage street shall be designed to accommodate future land use connectivity and provide an alternative means of roadway access to all properties fronting State Highway 69 and Kuna Mora Road. The frontage street is a feature of the City's access management control process.
- D. The applicant shall be responsible to construct the segment of the frontage street within the property subject to future land use application.
- E. The frontage street shall connect to the section line, mid-mile collector or existing roadways at a distance that is no closer than 660 feet from the centerline of State Highway 69 or Kuna Mora Road, unless that distance is modified through the City's variance process.
- F. The frontage street shall accommodate public roadway access for buildable lots located between State Highway 69 or Kuna Mora Road and the collector road.
- G. Frontage streets shall be considered by the City Council at the time of a development application.
- H. All structures placed within this overlay district shall meet the setback requirements of the underlying zone. *(KCC 5-3-4-2:A)*
- I. If there is a change in the use a special use permit shall be approved prior to the issuance of building permits.
- J. When the land use is approved for change, the existing approach(es) onto State Highway 69 and Kuna Mora Road shall be abandoned and removed, provided this action does not landlock the subject property. New accesses shall meet the requirements for location, design, right-of-way and other standards of the Ada County Highway District, ITD, and the city of Kuna. Ada County Highway District may require public access road dedication.
- K. A traffic impact study (TIS) and public infrastructure improvements may be required by Idaho Transportation Department, Ada County Highway District, and the city of Kuna.
- L. A circulation plan shall be required for any new nonresidential or subdivision plat or planned unit development (PUD) located in the overlay district.
 - 1. Plans shall be designed to create a safe flow of vehicular and pedestrian circulation to and through the subject parcel(s).
 - 2. Plans shall be drawn to scale and include the following features:
 - a. Identification of easements, irrigation easements, new and existing roads.

- b. Identification and overall design of parking lots, stormwater treatment and sidewalks.
 - c. Other items as requested.
- M. The applicant shall be responsible for construction to ACHD road standards quarter-mile and mid-mile collector roads approximately paralleling the subject lands fronting on State Highway 69 or Kuna Mora Road, to the extent these lands extend these distances as to prompt these road improvements.
- N. All signs placed in the overlay district shall be according to the city's sign ordinance; except, no offsite signage shall be permitted within the confines of the overlay district, other than on property that is zoned commercial. Offsite signage on commercially zoned property shall be limited to one sign per lot or parcel.
- O. No street or driveway approach may be placed along roadways running generally perpendicular to State Highway 69 or Kuna Mora Road within 660-foot distance of the road centerline; any modification to this distance standard requires a City variance.
- P. No wireless communication facilities (WCF) shall be installed in the overlay district within a distance of 660 feet from the centerline of the designated overlay district roadways. WCF shall not exceed a height of 100 feet above the natural ground surface, within the overlay district. A special use permit shall be required to place a WFC within the overlay district. *(KCC 5-3-4-2:B)*
- Q. Property that is landlocked but can meet the underlying zoning requirements necessary to its development, but constrained by the following impediments: a) without access onto State Highway 69 or Kuna Mora Road; b) without the ability to access a frontage road; c) without a road easement or prescriptive access to adjoining property not landlocked; and d) not adjacent to property in the same ownership with public or private road access; may be granted public access to State Highway 69 or Kuna Mora Roadway by the controlling authorities, on an exception basis, and provided, such consideration does not pose an undo public health or safety hazard.
- R. Pathways shall be placed along waterbodies located within the overlay district. The pathway shall be placed on one side or the other of the waterbody in such a fashion as to provide a continuous alignment. The pathway shall connect with pathways constructed parallel to the State Highway 69 or Kuna Mora Road. Pathways shall be a minimum ten feet (10') wide, lighted at appropriate distances and directionally signed.

Pathways shall feature park benches and vistas at appropriate locations. Pathways shall be separated from the waterbody by appropriate fencing. Pathways shall be constructed of a material that does not impede the access of American with Disabilities (ADA).

(Ord. No. 2009-32, § 1, 12-1-2009)

5-2A-6: **EXCEPTIONS**

Requests for exceptions from any section of this chapter shall follow the standards and procedures as outlined into this code. ***(Ord. 2009-32, §1, 12-1-2009)***

5-2A-7: **DESIGN AND CONSTRUCTION STANDARDS FOR STATE HIGHWAY 69 AND KUNA MORA ROAD AND THEIR FURTHER ALIGNMENTS**

- A. *Permit required:* The applicant shall have approved permit(s) from the Idaho Transportation Department (ITD) for construction of any access to the State Highway 69 or construction done in the highway right-of-way. The

applicant shall have an approved permit(s) from Ada County Highway District, and/or the city of Kuna for construction of any access to Kuna Mora Road and/or construction done in the roadway right-of-way.

- B. *Right-of-way width:* State Highway 69 right-of-way width reservations shall be established by ITD. Right-of-way width reservations for Kuna Mora Road shall be established by ACHD in consultation with the city of Kuna.
- C. *Commercial office and industrial zoning district buffer requirements:* Within the overlay district the developer shall provide a minimum 30-foot wide landscape buffer extending inward from the road right-of-way and install in this buffer area, a 10-foot wide concrete sidewalk located within a public use easement. Within the buffer area the developer shall install street lights, noise attenuation devices, signage, landscape and an irrigation source for the landscape; all consistent with the city of Kuna Land Use Codes. The sidewalk shall be separated a minimum of fifteen feet (15') from the road right-of-way. (KCC 5-3-4-2:C)

The applicant shall acquire a permit from ITD, ACHD or the city of Kuna for care and maintenance of the landscape strip lying between the edge of pavement and the property line; along the subject property frontage within the overlay district. All landscaping shall comply with the landscape requirements contained in chapter 5-17 of this code.

- D. *Residential zoning district buffer requirements:* Within the overlay district the developer shall provide a minimum 50-foot wide landscape buffer extending inward from the road right-of-way and install in this buffer area, a 10-foot wide concrete sidewalk located within a public use easement. The applicant shall install street lights, noise attenuation devices, signage, landscape and irrigation source for landscape; all consistent with the city of Kuna land use codes. The sidewalk shall be separated a minimum of fifteen feet (15') from the road right-of-way.

The applicant shall acquire a permit from ITD, ACHD or the city of Kuna for care and maintenance of the landscape strip lying between the edge of pavement and property line along the subject property frontage within the overlay district way. (KCC 5-3-4-2:D) (**Ord. No. 2009-32, § 1, 12-1-2009**)

5-2A-8: **NOISE ABATEMENT FOR RESIDENTIAL USES ALONG HIGHWAY 69 AND KUNA MORA ROAD**

- A. *Overlay district noise abatement strategies:* Within the overlay district the developer shall apply traffic noise abatement strategies to residential property, or property used for residential purposes, by constructing a berm or wall approximately parallel to State Highway 69 and/or Kuna Mora Road. (KCC 5-3-4-2:E)
- B. *Overlay district berm and wall application:* The top of the berm or wall shall be a minimum ten feet (10') higher than the elevation at the centerline of State Highway 69 and/or Kuna Mora Road, unless this height standard is modified through a special use permit. (KCC 5-3-4-2:F)
- C. If a wall is proposed, the wall shall meet the following standards:
 - 1. Wall materials shall be constructed of impervious concrete or stucco or other appropriate sound attenuating material. The wall and its footing shall be engineered to accommodate loading and stress impacts it may be subject to. The wall is subject to the City's design review and appropriate building codes, permits and inspections.
 - 2. Intermittent breaks in the berm or berm and wall in combination will degrade its function and shall not be allowed.

3. The applicant shall avoid construction of a monotonous wall. To accomplish this goal, the wall shall be offset by a minimum relief distance of three feet (3') every 300 linear feet. If walls are used in combination with a berm, the wall shall be placed behind the berm, and under no circumstances, placed on the berm. The proposed wall will be evaluated for its design, color and texture.
4. The director may approve alternative noise abatement compliance strategies where the applicant has a substitute noise abatement proposal that is in accord with ITD, ACHD or city of Kuna standards and prepared by a qualified sound engineer.

(Ord. No. 2009-32, § 1, 12-1-2009)

Ordinance Section 2. Higher Standard. Should this Chapter contain language that suggests different standards of application or competing assessments; the more restrictive language shall be relied upon for interpretive purpose.

Ordinance Section 3. Severability. If some provision of the law or certain application of these provisions are found to be unconstitutional. The remaining provisions, or the remaining applications of these provisions, will, nonetheless, continue in force as law.

Ordinance Section 4. Full Force and Effect. This Ordinance shall be in full force and effective from and after its passage, approval and publication as required by law.

CITY OF KUNA
ADOPTED this 20th day of December, 2011

CITY COUNCIL OF THE CITY OF KUNA
Ada County, Idaho

J. SCOTT DOWDY, MAYOR
CITY OF KUNA

ATTEST:

BRENDA BINGHAM, CITY CLERK
CITY OF KUNA