

Kuna Planning & Zoning Commission

JANUARY 31, 2006

NOTE: These minutes are an unofficial record of this Planning & Zoning meeting until reviewed, corrected if deemed appropriate, and formally approved by the Kuna Planning & Zoning Commission at a subsequent Planning & Zoning meeting.

Those present:

Chairman Brian Roth, Vice Chairman Mel Coulter, Commissioners Gary O'Dell, Justin Touchstone & Brian Stewart, Attorney Randy Grove, Interim Director Diana Sanders, and Planners Lisa Bachman & Michelle Blackmer.

The Kuna Planning & Zoning meeting was called to order by Chairman Brian Roth at 7:00 p.m., located at the Kuna City Hall, 763 W. Avalon, Kuna.

CHAIRMAN AND VICE CHAIRMAN ELECTION

Vice Chairman Coulter moved to re-elect Brian Roth as Chairman.
Commissioner O'Dell seconded the motion and it passed unanimously.

Commissioner Stewart moved to nominate Mel Coulter as Vice Chairman.
Commissioner O'Dell seconded the motion and it passed unanimously.

REPORTS

PLANNING & ZONING INTERIM DIRECTOR/DIANA SANDERS: Diana Sanders gave the Commissioners the following information:

- In January there were 49 building permits, 44 new residential with an average sq. ft. of 2,054 and average price of \$170,686.
- Design Review requirements for other cities.
- Requirements for posting of signs by the applicant.
- An overview of the January 24, 2006 Town Hall meeting.

CITY ATTORNEY/RANDY GROVE: Randy Grove reported that there would be a special meeting this Thursday about the sewer treatment plant. The City is trying to set up a meeting with Meridian City Council to discuss future city limits.

CITY ENGINEER/KEVEN SHREEVE: Keven Shreeve was absent.

MINUTES

January 10, 2006 Special Meeting Minutes:

Vice Chairman Coulter had the following changes to the January 10, 2006 P&Z Special Meeting Minutes:

KUNA PLANNING & ZONING MINUTES
January 31, 2006

- Pg. 7, 5th paragraph, 2nd to last sentence add, “enclosure” after trash.
- Pg. 8 under motion, “Deer flat”, Flat needs to be capitalized and needs to be corrected throughout document.

Chairman Roth – Pg. 8 under Chairman Discussion add, “City Council Meeting” after December 6, 2005. Vice Chairman Coulter moved to approve the meeting minutes with corrections. Commissioner O’Dell seconded the motion and it passed unanimously.

OLD BUSINESS

1. DESIGN REVIEW/05-09-DR/KUNA LIFE CENTER/500 W. DEER FLAT RD.:

Commissioner Stewart moved to table the Design Review until the February 14, 2006 meeting. Vice Chairman Coulter seconded the motion and it passed unanimously.

NEW BUSINESS

1. JENNIFER PROCTOR/05-15-SUP/SPECIAL USE/1096 FOSSILSTONE CT./SPECIAL USE:

Michelle Blackmer reported that this is an application for a Special use permit to allow for an in-home daycare located at 1096 Fossilstone Ct., in Tomorrow Subdivision.

Chairman Roth opened the public hearing at 7:21.

APPLICANT PRESENTATION:

Jennifer Proctor, 1096 E. Fossilstone Ct., Kuna, explained that they just recently moved into the house in November. Jennifer is requesting a Special Use Permit to continue her daycare business.

APPLICATION DISCUSSION:

Vice Chairman Mel voiced his concerns about the following items:

- The backyard not being landscaped.
- Security envisioned for the building to keep unwanted people from coming in.
- Only providing one parking space.

Jennifer Proctor stated:

- Landscaping will be completed as the weather permits.
- The front door remains locked during business hours.
- Locks will be installed on all of the gates for the back yard.
- There is one dedicated parking space, but there is a three car garage with parking available and parking on the street.

SUPPORT:

Jennifer Proctor, 1096 E. Fossilstone Ct.

OPPOSE:

None

NEUTRAL:

None

Chairman Brian Roth closed the public hearing at 7:29 p.m.

CHAIRMAN DISCUSSION:

The Commissioners discussed the following items:

- State Daycare license added to the packets.
- The landscaping and fencing in the backyard.
- Security in and out of the building.

MOTION:

Vice Chairman Coulter moved to approve the Special Use Permit, 05-15-SUP, for an in-home daycare with the following conditions:

- Meet all staff requirements.
- Meet all agency requirements.
- Seed or Sod the backyard, as soon as weather permits.

Commissioner Touchstone seconded the motion and it passed unanimously.

2. ROCKWOOD PROPERTIES/05-13-ZC/E. 2ND – 3RD ST./REZONE:

City Attorney Randy Grove said there is a provision in Kuna City Code 5-13-4C that states, "If the request is not in accordance with the adopted comprehensive plan, the request shall be submitted to the planning and zoning commission, or in its absence, the council, which shall recommend and the council may adopt or reject an amendment to the comprehensive plan under the notice and hearing procedures provided in section 67-6509, Idaho Code. After the comprehensive plan has been amended, the zoning regulations may then be amended." Randy Grove said the meaning of "accordance with" guides the interpretation of the code to reflect that the comprehensive plan is a guiding tool and the Commission is not strictly bound to the Comprehensive Plan. The Commission must determine surrounding circumstances, the existing development and proposed development and if they reflect the goals of the Comprehensive Plan. The Commissioners need to look at the magnitude of the change.

Lisa Bachman reported the applicant is proposing to rezone 4 parcels from R-6 to R-12. The lots are located between Linder and Orchard, on 2nd & 3rd Street. On September 20, 2005, the Kuna City Council approved the lot line adjustment for this site. The lot line adjustments did not create the needed minimum frontages for an R-6 zone. In order for the lots to be buildable and comply with zoning district requirements, the sites shall be rezoned to R-12.

Chairman Roth opened the Public Hearing at 7:39 p.m.

APPLICANT PRESENTATION:

Dan Dixon, 3483 Williams Brook Way, Boise, Idaho. Dan Dixon stated that this is basically an infill project. Dan Dixon explained that in September a lot line adjustment was approved on the property and he believed that these were buildable lots. He was unable to obtain building permits, due to the frontage requirements. Staff recommended that he apply for a rezone to an R-12 zone, to meet the dimensional standards for the R-12 zone. Commissioner Touchstone was concerned about the size of the lots, the buildable area, and if multi-family housing is being proposed. Diana Sanders explained that the original lots were 25' in the old Kuna Townsite. The lots currently do not meet the frontage requirement in the R-6 zone and the applicant has indicated that there would be single family dwellings on the property. Lisa explained that with the lot line adjustment, the properties need to construct sidewalks, curb and gutter. Commissioner Touchstone asked the applicant if he had solved the property line issue with the neighbors and if there will be a cross access agreement for the driveway. Diana Sanders explained that the disputed lot line is a civil matter and the Commissioners need to look at the re-zone.

SUPPORT:

**KUNA PLANNING & ZONING MINUTES
JANUARY 31, 2006**

Dan Dixon, 3483 Williams Brook Way, Boise, Idaho.

Lisa Dabel, 40 Hope Arms.

NEUTRAL:

None.

OPPOSE:

Bill Reid, 310 E. 2nd St., Kuna, is opposed because their property line is in dispute, due to the new survey of this property. He is also concerned that this survey will create problems for all of the property owners in the area.

Tom Swanson, 222 E. 2nd St., Kuna, opposes this project because of the density.

Charles Johnson, 213 E. 3rd St., Kuna, explained that he is not opposed to change in Kuna, but if the rezone was approved it would not meet the Kuna Comprehensive Plan.

Janice Johnson, 213 E. 3rd St., Kuna, is opposed to the project and has the same comments as her husband.

Karen Reid, 310 E. 2nd St., Kuna, is concerned with the density and the possible height of the structures.

Betty Royer, 212 E. 2nd St., Kuna, stated that she is concerned about the traffic, noise, and privacy issues.

Mary Grover, 316 E. 3rd St., Kuna, explained that there is already a parking problem. She is concerned with the amount of open space for the children in the existing multifamily complex.

Maggy Bacher, 525 Linder, Kuna, is concerned about parking and, privacy for her property.

James Shepard, 348 E 2nd St., Kuna, is concerned about additional traffic and noise.

REBUTTAL:

Dan Dixon explained that he understands the concerns of the neighbors. He stated that he can't change the outcome of the survey. The lots were buildable lots prior to the lot line adjustments on the property. The developer is proposing single family dwellings.

Chairman Roth closed the public hearing at 8:15 p.m.

CHAIRMAN DISCUSSION:

Commissioner Stewart was concerned with the an R-12 zone. He understands the reason the applicant requested the re-zone, but is concerned with the height allowance in the R-12 zone. Diana Sanders stated that the Commission could require a development agreement to address the issues of height of the structure and allow only single family dwellings.

If the Commission requires a development agreement, they will need to table the re-zone until a development agreement is notice and brought back to the Commissioners for review.

Commissioner Touchstone is concerned with the width of the lots. The Commissioners discussed if the lots were non-conforming. Since the lots were changed, with the lot line adjustment, it does not qualify as non-conforming. Randy stated that the purpose of the R-12 zone describes the maximum not the minimum that is allowed in the zone. Single family is allowed on the R-12 zone. Diana explained the problem with the current zone and the lot frontage requirement, which the lots cannot meet. Vice Chairman Coulter is opposing the re-zone due to the inconsistent zoning it would create.

Randy Grove explained spot zoning from case law. Spot zoning is change of a zone that is not in accordance with the Comprehensive Plan. There are two types of spot zoning:

- Re-zoning of property for a use prohibited by original zoning classification.
- Zone change that singles out a parcel of land for use inconsistent with the permitted use in the rest of the zoning district for the benefit of an individual property owner. This latter type is invalid.

Approving this re-zone may give rise to spot zoning challenge by the neighbors.

MOTION:

Vice Chairman Coulter moved to recommend to the City Council, denial of the re-zone to an R-12 zone in the absence of a development agreement and inconsistent zoning. Motion dies due to a lack of a second.

CHAIRMAN DISCUSSION:

Commissioner Stewart explained that these houses could benefit the City by having new homes in the area. Vice-Chairman Coulter wants consistent zoning within the City.

The Commission and staff discussed the following items:

- Lot line adjustments.
- Single family dwellings.
- The contents and process of a development agreement.

MOTION:

Vice Chairman Coulter recommended denial of the re-zone; file #05-13-ZC, to the City Council “due to the absence or request of a development agreement and based on the erratic zoning that would be created by granting this zoning change”.

Commissioner O’Dell seconded the motion and it passed 4-1.

Chairman Roth – Yes Vice Chairman Coulter – Yes

Commissioner O’Dell – Yes Commissioner Stewart – No

Commissioner Touchstone - Yes

FINDINGS OF FACT/CONCLUSIONS OF LAW

1. DESIGN REVIEW/05-12-DR/KUNA’S LIL’ SPUDS DAYCARE/368 E. AVALON:

Commissioner Touchstone moved to approve the Findings of Fact for Kuna's Lil' Spud's.

Vice Chairman Coulter seconded the motion and it passed unanimously.

2. SPECIAL USE/DESIGN REVIEW/05-13-SUP/05-10-DR/JW PROPERTIES/GODSILL SUB.:

Vice Chairman Coulter moved to approve the Findings of Fact for J&W Properties.

Commissioner O’Dell seconded the motion and it passed unanimously with Commissioner Touchstone abstaining.

3. SPECIAL USE/DESIGN REVIEW/05-14-SUP/05-11-DR/JAMES WYLIE/1075 E. KUNA RD./EMPTY POCKETS SUB.:

Vice Chairman Coulter moved to approve the Findings of Fact for James Wylie.

Commissioner Stewart seconded the motion and it passed unanimously.

4. ANNEXATION/SPECIAL USE/05-13-AN/05-10-SUP/KUNA LIFE CENTER/500 E. DEER FLAT RD.:

Vice Chairman Coulter moved to approve the Findings of Fact for the Kuna Life Center.

Commissioner O’Dell seconded the motion and it passed unanimously.

CHAIRMAN DISCUSSION

The Commissioners discussed the provisions in the by-laws for the second Tuesday of the month meeting. Vice Chairman Coulter stated that he believed that no new applications were to

be placed on that meeting, only the applications that would be carried over from the last Tuesday of the month. Lisa Bachman stated the Findings of Facts need to be signed to move them forward to the City Council with the applications.

ADJOURNMENT

Commissioner Touchstone moved to adjourn the meeting. Vice Chairman Coulter seconded the motion and it passed unanimously. Chairman Roth adjourned the meeting at 9:10 p.m.

Brian Roth, P & Z Chairman

ATTEST:

Michelle Blackmer, Secretary