

Kuna Planning & Zoning Commission
September 11, 2007

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 Stewart, Vice-Chairman Justin Touchstone, and Commissioner Stephanie Wierschem, Planning & Zoning Director Steve Hasson, Planner Tech's Tracy Rushlow and Maranda Schindel.

Absent: Commissioner David Case, Commissioner Holly Kerfoot, Attorney Randy Grove,
The Kuna Planning & Zoning meeting was called to order by Chairman Stewart at 7:00 p.m., located at the Kuna City Hall, 763 W. Avalon, Kuna.

OLD BUSINESS

A. Chairman Stewart motioned to table **2A** / 07-12-S / PAWNEE CREEK SUBDIVISION / DEER FLAT ROAD and **3A** / 07-02-SUP (Special Use) 07-06-DR (Design Review) / 07-14-D Development Agreement) Idaho Baptist College Inc until September 25, 2007. Vice Chairman Touchstone seconded, all approved, motion carried.

B. Public Meeting- Season Creek Estates / 07-06-ZC (Rezone) / 07-10-S (Preliminary Plat) / 07-08-DA (Development Agreement) / 07-01-PUD (Planned Unit Development)

Open Public Hearing continued from August 28, 2007: Chairman Stewart: have the 300 foot notices gone out again? And the question last meeting was do we have the new preliminary plat?

Planner Technician Maranda Schindel: the notices went out on August 28, so they were notified. And you have received the new preliminary plat.

Diana Sanders 1115 Blackcat Road. The notices that were sent out were wrong, the date for written comment was dated August 24 and these notices were sent out on August 29. Since

Attorney is not here don't know if this needs to be re-noticed. This is a procedural issue, and the out-parcels that were split needs to be addressed.

Chairman Stewart: was the website updated with the posting?

Staff: Yes.

Chairman Stewart: Steve I don't know if you have had any other conversations with Randy, he did not indicated that there was anything on the agenda that he was concerned about and that we could not move forward on.

Planning and Zoning Director Hasson: No. Staff should always give adequate notices and be professional capable as we can be. Was available by telephone if anyone wanted to talk to him on any issues. General impression that I got was these things need to be improved upon but just a simplicity fundamental flaw.

Support:

Tim Gordon Blackcat: The basic element that we are doing is to try and provide to the city is to help build the infrastructure, help build the sewer treatment plant and by providing a park that we can give to the city.

Neutral:

Jessica Cowan: 821 N Blackcat: Has a couple of concerns. One is the question of safety on the road. I would like to see the speed limit drop down to 35pmh from the turn off from Kuna Road on to Blackcat to the curve just past Deer Flat. Would like to see two separate turn lanes into the subdivision, and the residential zoning should be lower than the R-6. I don't believe that the commercial demand is there so the commercial area is not needed and would be inappropriate to

have storage units or a gas station. What about community response, emergency response? This needs to be addressed. Are we going to get regular patrols by the police? Is the Fire and emergency going to be able to respond in a timely manner?

Diana Sanders: 1115 Blackcat Road, some of the issues that I asked last time I don't think have been answered. About the out-parcels, a contagious parcel in the county it is not allowed to split off a piece, and you can't pull a piece out of a parcel and not develop the whole thing. On the turn lane I want the developer to build a actual turn lane in the middle of Blackcat that goes not only to the subdivisions but to the other residential properties. More for safety for people turning into the subdivision and onto other properties so there won't be any accidents. Crimson Point lift station needs to be addressed. Is there capacity to service something this size, previously there wasn't. And Idaho Power serviceability; is there the capacity to serve that area. In previous developments this issue came after approval, that Idaho power wanted a substation and the developer did not want to pay for that. Also the developer said he would look at the R-4 zone instead of the R-6, and has the date of acceptance for this project been looked at? The procedural items need to be addressed and will create problems, the city needs to follow there own procedures and not deviate from them.

Jean Plummer: 804 N Blackcat: About the contract for the sidewalk and they just contacted us last Friday and that has not given me enough time to contact the people that I need to make a decision and find out about certain issues like liability , maintenance, etc on the sidewalk/driveway issue.

Applicant Joe Canning: Bailey Engineer, Boise ID, We did provide a new preliminary plat but it is the same as the landscape plan that we provide to you last time. In regards to out parcels, specifically those we did address in the re-submittal as far as separation and we do not want to develop them and not make them part of the subdivision. They do access to the parcels.

Addressing the speed limit on Blackcat. We think it would be a great idea to reduce the speed limit but I believe it is controlled by Ada County Highway District. In regarding the turn lanes we had a traffic study done, there will be turn lanes installed but not continuous but will be at the intersections of where the project meets Blackcat.

Chairman Stewart: Does that include acceleration and deceleration or just turn lanes?

There is a center turn lane for left turn on Blackcat going south, and a stacking lane not a real deceleration lane. There is some right turn lanes. But not any deceleration or acceleration lanes mostly stacking and turn lanes.

As far as commercial we haven't had any real opposition to the commercial on Blackcat. As far as the Crimson Point lift station the engineers report says there need to have some upgrades, this issue has been addressed. The power grid was brought up again, at this time we do not have any response from Idaho Power at this point in time, this is usually addressed at time of construction. The zoning from R-6 and R-4, this is a PUD and the gross density is 3.45 so it meets the density requirements of the R-4 but in order to make it a better fit for the project we requested the R-6.

The sidewalk on the Plummer out parcel, we are willing to work with the Plummers and we are hoping to have this resolved soon, but in the staff report we would like to request a change, have the Plummers respond in a certain time frame so as not to keep it hanging out there indefinitely. As for the easement of the North-South collector, we are open to suggestions on preserving the corridor.

Chairman Stewart: Can the staff address the emergency services issues? Are there any developments are there going to be any?

Planning and Zoning Hasson: Haven't had any contact with the agencies, but will as time goes on these issues will need to be addressed. On the out parcel issues. A couple of out parcel were left out of the development because they were not pertinent to what they were going to develop. What needs to be done is have 2 legal descriptions done. One that encompasses the whole project and a separate one that addresses the out parcels and have on it " not a part of" described on them so that they have been identify, that they have been locked out of the development. A pretty standard process way to handle something like this. This is what Mr. Canning did.

Chairman Stewart: On prem. plat it should state "not a part of"...it does say it on the new one.

Vice Chairman Touchstone: On the commercial have you distinguished the difference between a C-1 and a C-2?

Applicant: I really didn't see that much of a difference.

Public Hearing closed at 7:37 pm

Discussion:

Chairman Stewart: I don't see any major concerns on this application after talking to the City Attorney Randy Grove. He did not indicate anything concerning him.

Vice Chairman Touchstone: In regards to the Plummer's and the sidewalk, I think he will need more time to figure this out and make a decision.

Chairman Stewart: This is my take on it. No major construction going on as far as utilities for buildable lots for at least a year, so if we placed a time limit on when Mr. Plummer has to make that decision, that way once he made that decision then they can move forward, would like to see the sidewalk continuous, several reasons for that, economically for one. The sidewalk would be built for Mr. Plummer and when he develops it he would not have to address that or if he sells it, that issue is already dealt with. A disadvantage would be issue of liability, and other things that he needs to look into. In my opinion if not constructed, who ever is using that sidewalk along that road, will go across that property and this would give it a controlled access instead of random. I think it would give them more privacy instead of leaving it open and have them tramping along across this area.

Commissioner Wierschem: I agree with comments made, its crucial for the sidewalk to be built because that subdivision there will be children riding there bikes or are walking and that is a busy road, it would be a safety issue. I would also like to know about the utility issue like the lift station, power grid and emergency services.

Chairman Stewart: I would like to address the utilities: they are noting going to proceed unless they have utilities therefore they are encouraged to get that resolved.

Planning and Zoning Hasson: They are certainly motivated to do that, because if they don't have the utilities they can't sell the lot. I there are some uncertainly, make some kind of provision that its contingent of some kind of approval that it is contingent of adequate lift station capability and applicant will enter a agreement with Idaho Power that is Idaho Power's liking, can put into Development Agreement or as a condition.

Vice Chairman Touchstone: are you happy with the traffic study and the turn lanes?

Chairman Stewart: Has advantages, like on Linder north of Deer Flat. The road has turn lanes and for a bout a mile it jag's to one way because of the turn lanes, another advantage is the more turn lanes the more ACHD can be persuaded to lower the speed limits.

Commissioner Wierschem: What about Kuna School district, will the buses go in there or will the kids have to catch the bus on Blackcat?

Vice Chairman Touchstone: If the buses can move around they will go into the subdivision. They cant back up or go into a dead-end.

Applicant: We have several places designated for bus stops; maybe we can put in a cement slab and some shelter.

Commissioner Wierschem: what is the difference between a R-6 and a R-4?

Planning and Zoning Hasson: The difference is for a R-4 you can have 4 homes per acre and for a R-6 you can have 6 homes per acre. There are differences in the lot sizes also and street frontages.

Vice Chairman Touchstone: Have some more commercial uses that I would like to have taken off the list. I would like to see Appliance Repair taken off- they usually have a lot of broken appliances around, equipment rental and repair, should be in a industrial area. A shop/building contractor building, cell tower, storage units, upholstery shop service station or garage. Think in this area maybe professional office.

Planning and Zoning Hasson: On the cell phone tower, because of federal laws for emergency usage, you can't exclude cell towers. The towers now blend in with the area; they can look like a palm tree or are blended into buildings so you don't even see them.

Tim Gordon: our thoughts on the storage units were to have them in the back as a buffer against the rail road tracks and the subdivision and something more professional up against the road.

Chairman Stewart: I don't have any thing against the storage units and this would be addressed during design review.

Chairman Stewart: Collector road construction easement- should be addressed

Vice Chairman Touchstone: in the past we had made trust funds so the money is there.

Chairman Stewart : Who holds that money for that fund?

Planning and Zoning Hasson: If there was a trust it would be held by ACHD. But I think that we are e talking about preservation of this half mile collector , it is spelled out in comp plan that we will preserve the half mile. May not need it, but they could dedicate it to the city and then in interim the city could dedicate to ACHD.

Vice Chairman Touchstone: Do we need a trust board?

Chairman Stewart: No as long as it is deeded to the city, dedicated as a easement, for that purpose and easement is register and everyone understands that it is possible that a road may go through the park. The sidewalk issue against Plummers property need to be addressed.

One year for approval or of approval

The agreement can go, have a written agreement within one year,

P&Z Make a requirement that the applicant will put in the sidewalk consistent with the remainder of Blackcat unless the Plummers say within that one year period do not want to have any improvements to there property, it is their property and that has to be respected, but at the same time if they don't want the improvements it needs to be noted and there could be trespass issues.

Kevin Schreeve: we would like instead of the one year time limit on the Plummer sidewalk issue, make it a condition that before construction plans be approved or attempted that way it would be part of the construction plan approval. Those arrangements have been made or attempted to be made to adjoining the property owner.

Chairman Stewart: How soon would you have construction plan approval?

Applicant: Couple months depends on easements and things. But may not even start construction plan for three years.

Chairman Stewart: It gives the Plummers time to decided, that's why we give them up to a year to decide.

Vice Chairman Touchstone: in 3.5 of the Development Agreement it says they have to start construction within 365 days of completion of the sewer treatment plant.

Chairman Stewart motions to approve file Season Creek Estates / 07-06-ZC (Rezone) / 07-10-S (Preliminary Plat) / 07- 08-DA (Development Agreement) / 07-01-PUD (Planned Unit Development) with the following conditions:

- Proposed development is an R-6 (Medium-Low Density Residential) zone.
- Developer and City Council work together in suggesting ACHD to provide a 35 mile per hour (mph) speed designation along Black Cat abutting the development.
- Upon construction sufficient and adequate services must be available.
- Preservation of the Mid-Mile Arterial road be maintained per ACHD. That an easement be dedicated to the City who will upon future construction dedicate to ACHD.
- Plummer Property - Sidewalk
 - Developer must provide a signed agreement between the 2 parties within 1 year of City Council approval decision.
 - Have a signed document between the two (2) parties with an agreement to proceed with improvements of Plummer Property.
 - If not agreed upon development will move forward without improvements, with signed document stating so.
- Development Agreement: Revisions
 - 3.1.7: (Remove)
 - Appliance Repair
 - Equipment rental
 - Meet Market
 - Mortuary
 - Service Station
 - Shop for Building Contractor
 - Upholstery shop

o 3.2.14: (add)

- Upon proposal of Storage Unit within Commercial designation, it is placed as a buffer between the residence and the railroad tracts. Storage Units are not to be allowed on the immediate corner, being Deer Flat Rd. and Black Cat Rd.

- Meet all Staff and Agency conditions / requirements.

Vice Chairman seconded, all approve motion carried.

NEW BUSINESS

A. PUBLIC HEARING: 07-02-AA/ Michelle Jackson, appeal decision of Building Inspector. Planner Technician Tracy Rushlow presented the case. The house was initially built in 1976, with an un-finished basement. The applicant applied for a building permit to finish the basement. According to the applicant the header and stairs were not modified and was pre-existing prior to construction work being done on the basement. The Building Inspector (Jerry Coulter) did the final inspection and determined the header did not pass the standards.

This Applicant is appealing the Building Inspectors (Jerry Coulter) decision of *not* passing the inspection for headroom on the stairway. The headroom does not meet minimum standards. The Building Inspector uses the building codes from the 2006 International Residential Code, which has been adopted by the City, for this decision. This code reads: **R311.5.2 Headroom:** The minimum headroom in all parts of the stairway shall not be less than 6 feet 8 inches (2036mm) measured vertically from the sloped plane adjoining the tread nosing or from the floor surface of the landing or platform.

Applicant Michelle Jackson: We contacted the building inspector for a courtesy inspection before any construction on a house that we purchased that a full unfinished basement. We told the inspector we would be doing the work ourselves so we wanted to see what if any issues we needed to be aware of before we started this project. After the inspection we pulled the permits needed. There was never any mention in any of the inspections that was done prior to the request of the final that this would be an issue and needed to be addressed. This part of the house was already done and is part of the upstairs, the finished portion of the house that we did not touch. It was finished down to the header itself and from that point forward was the basement which we finished. Had okay to insulate and to cover from inspections previously done as seen on the sign off sheet. This issue was never brought up. We worked with about 6 months with the plumber inspector due to a issue he found during a courtesy inspection from the previous owner, so I think that shows proof that we are diligent and tried to resolve any issue that were brought to our attention before construction was started. I don't believe it is a safety issue, no who has been in our house has had a problem. If we had known in the beginning that this was going to be a issue then we probably would of reconsidered because it calls for a entire upstairs wall moved and the ceiling of the basement and floor of upstairs, a lot more involved that what we planned or wanted to do.

Vice Chairman Touchstone: There was a header and existing stairs already there, was that approved previously? Any comments of on the building permit previously?

Staff: they had occupancy; the house was built in 1976 and has been lived in.

Applicant: When Jerry came over for the courtesy inspection the first thing he did was pull out his tape measure and measured the width of the stairs and said it was a little under the width of code, but because it was part of the main structure of the house and a load bearing wall he would not require us to do anything with that and that was the only issue that was brought up.

Chairman Stewart: On the stairs was there any finished material or were they just framed? Carpet on the stairs? The header, was it covered with sheetrock and finished?

Applicant: the stairs were finished but not with carpet, and the header was finished, covered and textured down to where the upstairs floor would be.

Vice Chairman Touchstone: what is the measurement for that?

Jean Jackson: We don't know, we have never received any thing from Jerry to say where it was measured from, no code anything, but I believe he said it was a couple to 3 inches off. I work in the electrical field and I know that if we get a red tag, you have a document that tells you what needs to be fixed, and then we know it has to be fixed and not to go any further until it is. We have not received anything from Jerry, nothing in writing and we were not told that this needs to be done and now he wants us to rip out sheetrock and move a exterior wall upstairs out a ways to make room for the header.

Chairman Stewart: So the sheetrock ws in place before?

Applicant: the sheetrock was in place down to the front part, not the bottom part that went into the basement.

Chairman Stewart: how ws the unfinished basement closed off from the rest of the house?

Applicant: it wasn't; no doors at top or bottom, always been open, he gave the okay to cover now he wants us to rip it out to fix the header.

Commissioner Wierschem: Can we see the report the inspector did?

Staff: you have a copy of the inspections that was signed off on. There is no report or notice that we are aware off noting the problems.

Vice Chairman: shouldn't there be a red tag or sticker or something that shows that this doesn't meet code?

Applicant: we did not receive anything, red tag or other wise about this. We called for final inspection and that is when he said it did not meet code. It would cost thousands to fix this.

Chairman Stewart: the framing was signed off and if the framing had not been signed off and caught at that point, that is where I would of said it was not covered and not to code. It concerns me in the way it was inspected in the first place and signed off. If the framing had not been signed off and caught at that point that is where I would have said yes that is not covered and does not meet code. But to come back in on a non structural issue and to change that it, concerns me on the way it was inspected to begin with and if it was a structural issue and it was not safe.

Closed Public Hearing at 8:55

Discussion;

Chairman Stewart: The code is there to protect to set standards, unfortunately we are dealing with a home that was built in 1977 that was covered with sheetrock and no preliminary inspections brought up this issue until final inspection, and brought to our intention that it does not meet code, I personally see this a anomaly. Code has changed since this was built and a over sight of the inspector that it should have been caught be fore the sheetrock was put up. Once they are given permission to cover, it gets expensive to fix. I don't think that this is a safety issue.

Vice Chairman Touchstone: I concur, there was plenty of time to have this brought up so it could be corrected and fixed and not be a hardship and not at final. If they were already were existing they probably didn't spend anytime inspecting them and this is where the oversight occurs and is not a life safety issue.

Chairman Stewart: This is a previous existing condition that can't be addressed, if it is off by 2 or 3 inches the width of the sheet rock is not going to make that much of a big difference. And as long as the stairs treads and the header were not modified as part of this construction if they were modified then it would be a issued because they were modified.

Commissioner Wierschem: I agree with your comments.

Chairman Stewart: I motion to recommend to

- allow Certificate of Occupancy,

- the stairs and header are pre existing conditions of the house and were not a part of the construction permitted
- does not present a life safety issue
- And the stairs and header was not modified during construction therefore approve occupancy.

Commissioner Wierschem seconds, all approve, motion carries.

REPORTS

PLANNING & ZONING DIRECTOR: The PUD text amendment is just about finished and I am also looking to amend our open space. We do not have a provision for open space as far as open space in our subdivision and it is not very definitive and as we grow in this community we need to have some standards. Then we might to see about a whistle free zone. If the intersections are adequately protected the train can go through without blowing the whistle. Might want to take a look at the process to see if this is something Kuna can do.

Commissioner Wierschem: Is there a joint meeting again soon with City Council,

Planning and Zoning Director Hasson: No, not to my knowledge.

Chairman Stewart: there are enough things to discuss that I am sure that we can get a agenda together.

CITY ATTORNEY RANDY GROVE: Absent

MINUTES

August 28, 2007 Kuna Planning & Zoning Commission Meeting Minutes:

Chairman Stewart motions and Vice Chairman Touchstone seconds, all approve, motion carries.

FINDINGS OF FACTS/CONCLUSIONS OF LAW

Facts and Findings for August 28, 2007

1. 07-01-AA (Administrative Appeal) Chad Urwin

Chairman Stewart motions to approve, Commissioner Wierschem, seconds, all approve, motion carries.

CHAIRMAN DISCUSSION

NONE

ADJOURNMENT

Chairman Stewart motions to adjourn

Vice Chairman Touchstone Seconded the motion and it passed unanimously.

Chairman Stewart adjourned the meeting at 9:30 p.m.

Brian Stewart, P & Z Chairman

ATTEST:

Tracy Rushlow
Planner Technician