

**Kuna Planning & Zoning Commission Meeting
November 25, 2008**

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 Justin Touchstone, Commissioner David Case, Commissioner Carl Trautman, Zoning Director Steve Hasson, Planner II Troy Behunin, Planner Maranda Schindel and Planner Tracy Rushlow

Absent: City Attorney Randy Grove, Commissioner Wierschem, Vice Chairman Holly Kerfoot

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

Consent Agenda

Planner Director Hasson: Commissioners, Holly Kerfoot called today and has resigned her position on the Planning and Zoning Commission. I have e-mailed the Mayor to ask for a replacement.

Chairman Touchstone motions to agenda the agenda as follows:

Under New Business: Hear Item "A", then move up Item E next, followed by Item F, and G and table Items B, C, D until the December 9, 2008 meeting.

Commissioner Case seconds, all agree, motion carries.

Planning and Zoning minutes:
October 28, 2008

Facts and Finding and Conclusions of Law for:

- 08-09-DA/ Development agreement amendment/ Whitney.
- 08-08-SUP (Special Use Permit) Church of Jesus Christ of LDS

Commissioner Case motions to approve consent agenda with corrections to minutes that include: Chairman Touchstone and Commissioner Case present.

Commissioner Trautman seconds, all approve, motion carries.

OLD BUSINESS

- A.** Amendment to the City Code for Development Agreements concerning conceptual site plans
Kuna City Code 5-14-3

Planner Director Hasson presented the amendment. Recently, staff and City Council had a discussion about the significance of a conceptual site plan as part of a rezone or the initial zoning at time of annexation.

Staff is of the view that just as a development agreement is not warranted with every rezone that requiring the construction of a conceptual site plan with every development agreement is not warranted in every instance; rather it should be left to staff to determine the necessity for a concept plan on a case by case basis.

The reason that staff is of this persuasion that the determination to require a conceptual site plan should be on a case by case basis is that frequently a person seeking a rezone, and especially associated with a commercial or mixed use land application - is not sure how they intend to develop the property.

Often they are annexing into the City or otherwise rezoning their land to gain an entitlement related to density or sewer and water commitment. Often someone desiring a commercial or mixed use designation is relying on the marketplace to further determine how the land should be developed. Accordingly, there is a likelihood that a proposed commercial or mixed use concept plan will not correspond to what is developed and the requirement for a conceptual site plan may be a futile exercise. I am going to read this as it needs to go on record: A concept plan of the project may be required depending on the scope and complexity of the proposed development as determined by planning staff. If required, the concept plan shall include:

1. A description of the density allowed or sought and the uses intended.
2. Total property dimensions, a legend, existing or planned streets, driveway location(s), location of existing structures to remain, placement, size and height of proposed structures, proposed landscape areas, parking placement and configuration, site traffic circulation, placement of onsite retention detention of stormwater drainage, sewer and water connection points, easements, setbacks, irrigation systems, significant natural features and other items as requested.
3. In the circumstance where a development agreement is required a conceptual site plan shall also be required if the applicant's individual or combined land area is greater than 5 acres (to include rights-of-way); involves land to be zoned or designated commercial, industrial or planned unit development (PUD); located at an intersection where one of the roads is functionally classified as commercial or arterial; situated within the Highway 69 (Kuna Meridian) or Kuna Mora Roadway Overlay Districts (to include lands that are partially in the overlay zone); adjoining a public facility or a water body; located in the central business district (CBD); or as determined by the City Council, Planning and Zoning Commission or the director due to unique or special circumstances warranting that action.

Commissioner Trautman: I'm happy with the new changes. It provides a plan is one is needed.

Commissioner Case: I like the fact the staff has implanted the ideas that we discussed at the last meeting on this amendment.

Commissioner Case motions to recommend approval to City Council of 08-05-ZOA – Development Agreements / Conceptual Site Plans Kuna City Code 5-14-3: "Forms.

Commissioner Trautman Seconds, all approve, motion carries.

NEW BUSINESS

- A. Discussion Only:** Leon Baker – request to pursue certain land use actions that are thwarted by current City code regarding septic tanks. Planner Director Hasson. Mr. Baker has property to the north that is not in the City. He is not nor is the City in the position to offer public services yet and he is frustrated in his ability to develop his property and rely upon septic's if he were to come into the City. Noting this last year we revised our septic tank ordinance. None of those changes helped him. This last summer we modified our lot split ordinance and it says that as part of a land use action you have to hook up to public

services. Both of those within our codes were countered to his ability to put septic on the land. There is already a house on the property with a septic system. I could of just chased him away and said these are our City rules and you have to live with them and tuff, but My view is if they really want to get up before you folks and have their say and we should afford them that opportunity.

Leon Baker 8185 S Linder Road, Meridian. Mr. Hasson has stated everything very accurately. When I went and bought this property I was told no problem, and when push came to shove, there is a problem. The people in this room tonight are not the ones who told me to go ahead; there would not be a problem. I have no one to blame but myself. I came in and talked to people, I did not read the code myself when I bought it, but at the same time I felt I had done some reasonable fact checking before I bought the property to see if it could be done. It is a rectangle 5 acre piece of property and we want to split off into three different lots. Two acres in the front, acre and half the house sits on and the back piece and we took this step in anticipation of being able to split this and build. It is now two years later and now we cannot. In March of this year I brought in my application, was not accepted because I did not have sewer to my property. Brought it back in around July and spoke with Mayor Dowdy and said this is what I want to do; can you make an exception if I bring in my property? I would pay ahead the fees for the connections, water and sewer, he was supported of that but he is not a voting member. So I went and talked with Steve and it looked like the text change would accommodate, so I turned in my application again, but I received a letter that said I was not able to do that. One problem that you have is, you would like to help one guy out, but how without helping out the whole City? I would have not bought this property if I was not given the advice I was given and I am in the position where I need to do something. I would appreciate your understanding if there is a way I can make this work.

Commissioner Case: How far is the sewer away from that property?

Planner Director Hasson: I don't know. The sewer will be up around March or April and we will be poised to service people. It is a ways away. The issues are what our septic tank and lot split ordinance says. We have four provisions in the septic tank ordinance because he already has a septic tank on one of the lots it really limits his options. The ordinance is for someone who has some vacant land, and wants to build a house and it will be some time before the sewer get there, that is allowed. The other thing that thwarts him is the lot spilt ordinance specifically says that to do a lot split you have to have public sewer. So we have two places in our City code where it prohibits septic tanks. These are fairly recent legislation. If he would have come in early he might have gotten a different answer. He can annex into the City and split his land, but before he could put another septic tank on this property he would have to have public sewer. Even though he has purchased something and had the belief of some level of assurance and now he is stopped.

Applicant: I don't want to add to the argument against me but this says that no tract of land that has been split be developed until public sewer and water are available. I'm not even sure that I can even split the land whether I want to or not. I don't think I can do the split until sewer is available. I don't need to have everything done right now, there was the talk of two septic tanks available for every quarter section of land. If there is any way I can come up with one more septic tank permit I would be happy. Again I am willing to pay for the sewer and water connections ahead of time for when it is available if that was a possibility. The

closest sewer line is over by Ten Mile that I am aware of. There are several subdivisions coming in, but they are years away if ever. I asked Gordon Law about sewer and it is conjecture, and he thinks about three years away, but again who knows when.

Chairman Touchstone: Let me give you a little bit of history, there was a similar one couple years ago, the gentleman came in, sewer wasn't available a development agreement was made to provide a second septic, but the requirement was when sewer got there had to hook up. But there is some hesitant on my part it does not always go well and the intent is there but three years from now when sewer is there the intent may not be.

Planner Director Hasson: if the option was available in the County we would have had him do it in the county, but their zoning is a minimum of 5 acres. The only recourse that I see available is to do a text amendment. It would have to be for the lot split and the septic tank ordinance, absence that we do not, the Commission, staff and the Council, have the ability to not follow its own code.

Chairman Touchstone: We cannot make a decision tonight on this, but I recommend that you work with Steve and see if you can do a text amendment that would work for you as well as the City. I am in favor of prepayment and mandatory sewer hook-up when sewer is available. I don't know if that can be worked in or not. We do not want septic tanks running rampant in our City. I do have sympathy for you, but we can not do anything for you.

Planner Director: We don't have variance relief in Idaho because that can only be granted with dimension or bulk. He needs to sponsor the text amendment, and staff will not support this text amendment, but that does not mean this wont pass.

B. Crimson Point North Subdivision – 08-03-S (Subdivision) This application was presented by Planner Maranda Schindel. On December 20, 2005; City Council approved the Findings of Fact for the Crimson Point North Subdivision preliminary plat, validating the plat one year to receive final plat acceptance or a one year time extension. Developer, JLJ Enterprises, since then had sold the property to the above applicant, Westpark Company.

Westpark Co. submitted and received construction plan approval in October 2007 from staff and commenced construction under the preliminary plat process. Upon Developer's request to submit for final plat, it was brought to staff's attention that the preliminary plat had expired. The consent to plat entitlement expired because the original Developer did not seek a time extension; consequently, leaving the preliminary subject to resubmittal.

City Code states if a Developer does not complete the preliminary plat conditions within the one year approval time period or seek a one year extension prior to the plat's expiration date the preliminary plat will divest. Because the Developer allowed the subdivision to expire, it must be reactivated by filling out the necessary subdivision paperwork; paying the applicable fees and submit for new public hearings. A new subdivision application may be subject to new or changed conditions.

It is Staff's position that the subdivision's entire development infrastructure that was installed, inspected and approved will be accepted as part of the resubmission process; unless some item or portion has been rendered substandard by the adoption or installment of a new City rule or regulation. Upon approval of the preliminary plat resubmission, the subdivision will receive a new one year time period for development purposes.

Based on Staff's review of the application, staff concludes that this application generally complies with Title 6 of the Kuna City Code, and Sections 4.3, 4.4, and 7.0 of the Kuna Comprehensive Plan. Staff forwards the preliminary plat application to the Kuna Planning and Zoning Commission for its review and approval recommendation.

Applicant: Trent Nieffenegger 660 E Franklin Ste. 240 Meridian ID. We do not have any problems with things requested. Most of the infrastructure is already in place. The sewer, water, pressurized and gravity irrigation, the roads are cut and subgraded and ready for sidewalks and concrete work, the utility trenches are in. The subdivision is ready for sidewalks, paving and landscaping.

Commission Case: Can you give me a brief description of your pond lot?

Applicant: It is just a storm drain retention pond required by ACHD. There are two of them the one on South Shayla.

Chairman Touchstone: So is this part of Crimson Point or part of it under new management?

Staff: This was not part of the original PUD; it was a stand alone project that was under the same owner of the original Crimson Point who has sold it off.

Planner Director Hasson: I believe he was under the impression when they purchased it that they had a viable subdivision only to find out that was not the case. As a side bar I have elude to several text amendments coming this way and one of them really clarifies the subdivision planning process and extends it from one (1) year to two (2) years the initial point of approval before final plat is applied for.

Applicant: On page 4 of 21 there is site specific conditions for approval letter "D", I need it clarified where it says "*The applicant shall provide a plan demonstrating adequate pathway through the development.*" There is no pathway through the development. Is that a requirement?

Staff: The Micro-pathway and the sidewalk on Ardell are the connection to the other parts of Crimson Point Subdivision, the only ones required is the one that is shown.

Commissioner Trautman: On page five (5) under the City Engineers comments: *The City Engineer has listed requirements in Exhibit 10 including a comment that water supply capacity is limited and additional supply will be needed before full the development of this site.* Not quite sure what that means.

Staff: That is a question you will need to ask Gordon Law.

Applicant: The next one is on page six (6) 1.4.2 Developer shall provide 10 buildable lots at a minimum of 1,200 to 1,550 square foot homes; the remaining 34 buildable lots shall be a minimum of 1,550 square feet or greater. Our request on our application was for 1200 square feet. Is there a possibility of having a percentage of having homes?

Chairman Touchstone: Is this the original development agreement?

Staff & applicant: There ws no development agreement to begin with.

Planner Director Hasson: I was not aware that they were going to bring that up. Staff and Council position is they are willing to reduce the size of the homes on a case by case basis to provide relief. They are basing it on building permit activity and square footage and generally in the 1800-2000 square foot range.

Applicant: The original approval in 2005 states the regulations for height, setbacks and square footage and it was called out for a minimum of 900 square footage homes. We are not asking for 900 but we are asking for 1200 square feet. We just want a percentage of 1200 square feet, but overall it would average out to about 1550 square feet. There will be some houses that will be 2100-2200 square feet, some in the 1500 square foot range and we would like some around the 1200 square foot range maybe 30 percent of the 44 lots roughly around 12-13 lots.

Commissioner Trautman: I'm not sure that this size of house is conducive to these size lots and land plan. I have a feeling you are trying to hit some price points due to the housing market. Was this required to go design review?

Planner Director Hasson: No there might be some elements that may need to go through design review, common lots or such but it is not required for most subdivisions.

Commissioner Case: So the other 70 percent of homes what size are you planning for there?

Applicant: We don't have a percentage per say but I was hoping to have some in the 1500-1800 range and then there are some for the larger lots around 2000-2400 square feet. The larger lots are in the low percentage, most of them will be in the 1500-1800 square foot range.

Commissioner Trautman: I don't how you could regulate the percentage of homes.

Applicant: You can tell me I can build only 12 homes that size and that's I will build in the 1200 size range.

Chairman Touchstone: Keep in mind that we are only a recommending body. City Council makes the final decision. I recommend that you set it at a certain number instead of a percentage. A percentage makes it hard on staff when building permits come in. It could take 1 year or 5 years before the houses are built and then there is trying to figure out how many can be in that percentage. So many houses have to be 1200 and the rest have to be 1550 or greater that way there is not a number game and trying to figure out averages.

Open Public Hearing at 8:05pm

Support: Trent Nieffenegger

Oppose: None

Neutral: None

Close Public hearing at 8:05pm

Discussion:

Chairman Touchstone: I guess the only big item to discuss is the square footage.

Commissioner Case: I am ok with setting a certain number at a minimum of 1200 square feet and the rest at or above 1550 square feet.

Chairman Touchstone: We can set say like 12 at 1200 to 1550, so they have some range there and the rest at 1550 or above. I don't have a problem with that. Market dictates a lot of things.

Commissioner Case: I did notice any common lots other than the drainage ones. I know this is a small subdivision but is there some where the children can play?

Chairman Touchstone: Actually there is pretty good access to play areas and the school in the Crimson Point Subdivision that is already built.

Commissioner Case: Ok, then we need to determine how many at 1200-1550 we want.

Commissioner Trautman: I believe that 10 is the best number for a subdivision of that size of 1200-1550. They will likely be the less expensive starter home or rental home.

Commissioner Case: 10 looks like a good number.

Chairman Touchstone: 10 lots of 1200-1550 square feet homes and remainder of the 34 lots will be 1550 or greater square footage.

Chairman Touchstone makes a motion to recommend approval with the vote 3-0 **recommending approval** of File#08-03-S to City Council with the following conditions

- *Change 1.4.2:*
Developer shall provide 10 buildable lots at a minimum of 1,200 to 1,550 square foot homes; the remaining 34 buildable lots shall be a minimum of 1,550 square feet or greater.
- *Meet all Staff and Government Agency recommendations and requirements.*
Commissioner Case seconds, all approve motion carries.

Public Hearing: 08-13-SUP – Walgreens:

Planner Troy Behunin presented the application. The controller is requesting a Special Use Permit and has successfully gone through the Design Review process for the placement of a 24 hour, 14,820 square foot retail store to include retail sales, a pharmacy, a drive thru pharmacy window and health care clinic on a 1.69 acre parcel located at the SEC of Kuna Road and Kay Avenue. The current zoning is C-1. The placement of the Walgreens at this site required the Council to rezone the property from an R-6 single family designation to light commercial C-1. This rezoning action occurred at the City Council's November 18, 2008 meeting. The land was slit from a nine (9) acre parcel through the lot split process which the Council approved November 18, 2008.

Landscaping will include sodded lawns, planting beds with shrubs and trees along Kuna Road and Kay Avenue in the required buffer. Sod, shrubs and trees are proposed along the east and south sides of the property as well to provide a buffer between future uses.

Staff concludes that this application complies with Sections 5-3-2, 5-3-3, 5-4-1, 5-6-, and 5-17-1 of the Kuna City Code and Sections 4.3, 4.4 and 7.0 of the Kuna Comprehensive Plan. Staff forwards the special use application to the Kuna Commission for its review of the Special Use Permit. Just to make you aware there has been a concession made by staff to reduce the district overlay buffer from 30 feet to 20 feet. That request was made by the Controller at our request and requirement that the entrance on Kay Ave line up with the center line of Wythe Creek. With this reduction in the buffer they have been able to satisfy that requirement.

Chairman Touchstone: Was that the buffer on Highway 69, the parking could not be shifted?

Staff: It allowed the building and the parking to shift a little bit. There have been a number of discussions that staff has recommended. Before I get into what those discussion were I would like to enter into record that Kuna City Code 5.6.3-C states "Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area." And behind that is City Code 5-6-7-A; "Upon granting a special use permit, conditions may be attached to a special use permit including, but not limited to, those: 7. Requiring more restrictive standards than those generally required in an ordinance." The reason that I bring that up is there will be a discussion that staff has proposed in terms of the landscaping. Staff has recommended all the trees be a minimum of three inch (3") in caliper on the site rather than two inch (2") caliper. This is for several reasons. This is the gateway into our City. We would like the mature landscape for that presentation. There is a added cost but his will offset itself and is also a benefit for the business as well. Studies have been done one customers and they are more likely to visit a business that has more mature landscaping because it looks like it has been around for while, a established business, not something just thrown in and recent. Gives the customer more confident in purchasing from a establish business as to a new one.

We are happy that Walgreens has applied and wants to come into our City and look forward to them in our City.

Commissioner Trautman: Where is the sign going to be place? And does that comply with our signage ordinance?

Staff: on the west side of the entryway on Kuna Road. The sign permit has been turned in and been reviewed by the Design Review Committee, but no fees have been paid as of yet, as it will expire in 180 days without a inspection and no building has been done. When they are ready to do the sign, the sign permit it will be done by staff.

Chairman Touchstone: Was there any discussion in design review about the right-in/right-out?

Staff: There was some discussion at design review, but not a lot. The applicant stated that they would need a full access and the Design Review Committee did not have a problem

with that, however, the rezone went before City Council last Tuesday and they have it in the Development Agreement that it is to be a right-in/right-out with modification maybe with further development of the property.

Chairman Touchstone: The reason I ask is the Walgreens on 69 and Overland has a right-in/ right-out and seems to work pretty well. I would argue that it works there so I don't see it won't work here. What triggers a full access?

Staff: There was no discussion on that point. However the landscape plans that are turned in are more than willing for cross access to the other portion of the property when it develops.

Chairman Touchstone: Ok let me get this clarified? Our code requires two inch (2") caliper but staff is asking for three inch (3") caliper?

Staff: That is correct.

Commissioner Trautman: Can I get some clarification on the reduction of the buffer so the entrance off of Kay Street would line up, was that a trade off or really need to line up the two streets on Kay Street.

Staff: Was that a mandatory action? It was proposed to us by the applicant and seemed to be the only viable option, we don't have the software to run simulations of the tractor-trailer trucks through the site, we are relying on the information from site plans and the applicant.

Planner Director Hasson: One of the reasons we feel strongly about the three inch (3") caliper trees is because it is a presentation street, and 2, if the issue is cost by our recommending of the reduction of the landscape buffer from 30 feet to 20 feet for 400 feet that gives them 4000 more square feet of commercial property back seems like a tremendous incentive and far exceeds the cost of three inch caliper trees.

Applicant: Jessica Aguilar, Hawkins Co. Broad Street, Boise ID. I would like to clarify a couple of items then talk about the issue at hand which is the special use for the drive through. First is the discussion of the 30 foot buffer being reduced to 20 feet. Yes we did ask the City if that could be reduced it would assist us so we could line up the access point with Wythe Creek. However it was not required to make the alignment happen it just assisted us and staff agreed to do that. That was part of the rezone and development agreement application by the owner of the property, which was not our application. The second item is in terms of the access off of Avalon, yes we did request a full access on that location it is really critical for Walgreens store to open to have a full access to establish a base customer. We provided a traffic study to show at this time we would be providing safe access and no interference off of Kay Street. The speed limit is 35 mph. but Council decided it to be a right-in/right-out.

Chairman Touchstone: Did Council state that it might change to a full access?

Applicant: No. And typically what is usually done is they grant full access temporarily then when traffic becomes more of a problem they restrict it to a right-in/right-out. And what Council and Staff is suggesting is to restrict it now and then if and when the rest of the 9 acres develops there will be a second access point granted most likely a full access and our access would revert to a full access. To me that does not make sense, where they restrict it to a right-in/right-out and then a full access, it is usually the other way around. We will be moving for reconsideration on that to City Council because we were not the applicant on that matter and we did not have the opportunity to discuss a respond any questions on that matter. One thing in regards to the 30 foot buffer if you are familiar with the development to the west of us, Quiznos, the coffee shop, they have a 20 foot buffer and reduction in buffer we thought that would assist us but it was not a requirement to make our access work. It would align with the buffer across the street. We thought it would not make much sense to have 20 foot buffer on one side of the street and a 30 foot one on our side, it would not match up. If you review the Highway District Overlay, I'm not sure but I believe it was

intended for the Highway straight stretch which operates at 55 mph and when you come around the curve it goes down to 35mph. We felt that the Overlay District is not appropriate for this area. We felt there was enough factors there that perhaps that we could have an adjustment made and staff agreed to that. That made us very happy, but I want to make very clear that it was not required or necessary for that access point. At this time this Walgreens is not going to be a 24 hour store and depending on the need there might not have the clinic but we wanted these uses ok'ed for when they are or maybe implemented. The special use was mostly for the drive through which requires a special use permit. The drive-through is critical for this operation approximately 33 percent of prescriptions are filled and picked up at the drive-through. The is usually for people who have children in the car that are sick, elderly, or disable where it is more convenient to stay in the car. If a drive-through was not permitted at this location then we would have to take it back to Walgreens and they would have to take it to the real estate committee to determine if they want to build there.

In the staff report they reply that we have concluded that we comply with the appropriate sections of the ordinance including the landscape ordinance which has been a bone of contention with us.

We went through the design review process twice, meet over the architectural, site and landscape items and we worked with good faith with that committee to come up with a solution that was acceptable to the City and Walgreens, so when we got our approvals with the design review committee we felt that we were done in essence with the architectural, site and landscape items. And I totally understand that this body tonight has the ability to add additional conditions and or restrictions but typically they are items associates with the special use permit in this case the drive through. Like if the lights are to bright, we get ask to do shield lighting or additional screening if next to a residential neighborhood. We feel that we were a little blindsided and staff is being a little arbitrary in terms of adding again these tree conditions into this application after it was discussed in design review. We feel that staff is undermining the design review process and the authority, especially since they made the decision. Had it been the other way around, and P&Z took action first and then went to design review and they changed your action, and you volunteer your time, what's the point of spending all this time and energy if there is another body who is going to modify your decision.

Commissioner Trautman: Is it the cost difference of the three inch tree, have you considered how much that is and the affect and why is that such a sore point?

Applicant: It is the principle. If I come to P&Z with a issue that needs resolved and we meet multiple times and we work together and come to a solution, staff is part of that conversation and you make a decision then you go to another body and they make that recommendation again after it has been intensely discussed. I understand that this is the gateway presentation and the entrance to the City, but we met the landscape ordinance requirements, if you look at the landscape plan and what's out there like the Bank of the Cascade, Quiznos, we greatly exceed what is out there. I ask this body, staff, City Council, that if you want more requirements because that is a gateway that well "A" make that gateway corridor and "B" change the ordinance, that way everyone will have the same requirements and be a fair playing field and you will get what the City desires.

Chairman Touchstone: Can you discuss your sight lighting a little bit? Sign lighting, is it eternally?

Applicant: It is standard and we are complying with the dark sky as requested. In the application there is a cut sheet with a shielded light and meets the dark sky ordinance. Requirements about when the lights should be shut off, what we typically do is 30 minutes after the last employee leaves the lights go down on a timer mechanism so the employees can leave safely. The signs are light eternally.

Chairman Touchstone: The reason that I brought up the right-in/right-out is with the drive through it could cause some problems with turning traffic. The one on Highway 69 and Overland has a right-in/right-out and it works just fine. City Council has addressed it. So I guess the big discussion is the three inch caliper trees. Why wasn't this brought earlier like in design review?

Staff: It was actually discussed multiply times and at length and staff has never recommend less than three inch and the fact of the matter is this is a Special Use and by City Code you do have the authorities to implement anything else on top of, in addition to or above and beyond the minimal code requirements. We feel that with this development in the gateway corridor it warrant a more mature landscape, more mature canopy. This has been discussed several times. Lets take other issue off lining up the street offsets, as a representative of the City it is my duty to its citizens to look after its best interests, what is important and the more mature landscaping. And I can guarantee that if the two streets had not been lined up that would have also been before you tonight in the staff report. You do have the authority to design review the site plan and the landscaping.

Chairman Touchstone: It is in the minutes to.

Planner Director Hasson: Each land use stands on its own merits and this is part of our Highway 69 overlay and it is legally described in our district overlay, it goes all the way to Orchard. There is no exceptions of it being in the overlay district and no oh by the way the City ought to get it right and clarify whether it is or isn't and I think the applicant should simply read our code better to understand it. About this alignment, if you read the ACHD report that is a condition, it has to align with Wythe Creek. This was vacant land with nine acres; there is a lot of different ways they could have done it. Instead they did not buy enough land they scrunched everything up and then cried we need relief, so we provide relief and what do we get for providing relief they throw rocks at us because we have the audacity to ask for an inch more caliper. I find that fundamentality that is not right.

Applicant: Can I clarify that yes I read the staff report and understand the argument about Wythe Creek. My statement was we would have made that work without moving the building if we had the 30 foot buffer to align the road, but with the 20 foot buffer wasn't the thing that made it worked, it help us, but if we did not get the request for the buffer we still would have made it work.

Chairman Touchstone: I am concerned, going back over the minutes of the Design Review, it mentions about 5 times the size of caliper two inch verse 3 inch, and item number 10 on October 30 minutes that you felt providing three inch caliper when code required two inch was something that you were willing to provide. To say that it wasn't discussed and brought up not correct. On November 13, it mentions it several times also in the minutes. I don't have a problem with the special use drive-through, it is not an issue, and I'm glad that City Council addressed the right-in/right-out.

Applicant; I don't think I made that statement. And if I did, it was a misunderstanding because it was discussed intensely.

Chairman Touchstone: The issue is the three inch compared to the two inch, I know that it was brought up and it is more than required by code, and the applicant was not willing to agree with that condition. There is no other question other than what is in the minutes and what we have before us.

Commissioner Case, What I have is not so much a question more of a statement of observation. It seems like this has been a contentious battle with you representing Walgreens and the City. We are here representing the City and I have heard a lot of contention from you in regards to Walgreens and a statement of almost withdrawal if you don't get certain conditions. I think that if you look at the big picture of things you have benefited from something we did for you. We did not have to do it, but we did; at least that is the impression I'm getting. This is not a one way street, it is a negotiation process. I agree I don't have a problem with the special use permit, but I do take issue with you standing there and saying that this is an issue that you do not think you need to do. The comment you made early was that is was not discussed during design review;

Applicant: I miss spoke.

Commissioner Case: I'm just pointing out what you said earlier. And now it comes up it was discussed. Those are the issue that I take exception to.

Applicant: If that is what I said that is not what I meant. We did discuss this at both meetings. Walgreens is my client and I take direction from them. They have strict standards and I have to defend them in front of you. This is the direction that I am getting from them. I understand and appreciate you role and responsibilities in the needs and desires of the City. I am acting on the needs and desires of Walgreens.

Chairman Touchstone: Staff, if we say that they have to meet staff requirements, and it is stated in the staff report that they need to provide the three inch (3") caliper trees, they will have to comply with this condition?

Staff: Yes that is a requirement; it is a condition in the report.

Open Public Hearing at 8:53 pm

Support: none

Neutral: none

Oppose: none

Close Public Hearing at 8:53 pm

Discussion:

Chairman Touchstone: This is a special use permit with some conditions added by staffs that have been a bone of contention. I am fine with the staff recommendation of having the three inch (3") caliper trees.

Commissioner Trautman: I am to, I think that is one of the best things we can do is approve the landscaping and the appearance of the gateway of the community.

Chairman Touchstone: I am also glad that City Council approved the right-in/right-out that was my only other concern.

Commissioner Trautman: I move that we approve file 08-13-SUP, with the following conditions:

- Meet all staff and agency requirements and conditions.

Commissioner Case seconds, all approve, vote 3-0, motion passes.

Chairman Touchstone calls for break at 8:55pm

Chairman Touchstone calls the meeting back to order at 9:00pm

Public Hearing: Napa Vineyards Subdivision Phases 1-22:

08-01-PUD (Planned Unit Development)

08-13-AN (Annexation)

08-06-ZC (Rezone)

08-02-S (Preliminary Plat / Subdivision)

08-11-SUP (Special Use Permit)

08-15-DA (Development Agreement)

08-10-DR (Design Review)

Planner II Troy Behunin presented the application. The site is located on the west side of the Kuna Meridian/State Highway 69, north of Hubbard Road and south of Columbia Road. This development extends westward to Kay Street, except for the northern portion of the site that extends further westward to the Painter Canal (see attached site map). It should be noted that the Painter Canal is not on the controller's property and therefore no conditions have been placed on the controller relative to this irrigation body.

This is a planned unit development (PUD) application – the first to be submitted to the City under the provisions of the new PUD ordinance that went into effect July 1, 2008. This land use is also subject to review by the City's newly constructed design review committee who reviews the site's development components relative to the provisions of the new design review ordinance. The land use is also subject to the Kuna Meridian Highway 69 Overlay

District as a portion of the site fronts along this highway. The land use is also subject to review by a number of public agencies.

This is a large mixed use development to be constructed over a several year period and likely at one year intervals but based on a phasing schedule. The project is complex and the Kuna Planning and Zoning Commission and City Council will need to evaluate its many mixed use components which includes a number of amenities, multiple housing types, a school site, two commercial sites, and a fire station. The site is located west of Highway 69 (Kuna Meridian Road) between Hubbard Road to the south and Columbia Road to the north. The site is located between two irrigation bodies (Mason Creek Lateral and Painter Creek Lateral).

The land application is subject to design review. A design review committee was recently assembled for the purpose of protecting property rights, community values and to enhance important environmental features of the City. Additionally, to ensure the general appearance of buildings and structures, along with development of the land, does not impair or preclude the orderly and harmonious development of the community.

The design review committee has evaluated certain elements of this development including the landscape, commercial and multifamily building designs and accompanying site plans, amenities and signage. The review of the commercial, multifamily and amenity components may include, but is not limited to, the regulation and restriction of the types of building, number of stories, sizes of building, construction, reconstruction, alteration, repair, or use of buildings and structures.

In addition to the design review committee's input, the planning and zoning commission will review the conceptual site plans to assure they are in conformance with requirements noted in the PUD ordinance; essentially a PUD application is subject to two design reviews for the site plan and landscape portions.

As part of the staff and design review evaluation, the controller will be subject to the Highway 69 overlay District, which influences the types and placements of landscaping, access management controls, pathways, connectivity, noise attenuation, monumentation, focal points and land uses

It should be noted that this land use application was originally submitted as a subdivision on or about January 30, 2008. It was accepted by staff and submitted to the planning and zoning commission for their evaluation on April 29, 2008. The planning and zoning commission expressed concerns about a number of issues. Subsequently, the application was withdrawn, reformulated and submitted as a PUD as soon as the PUD ordinance was adopted.

Among the features of this development, the controller is requesting an opportunity to construct a housing layout for parts of the development, featuring recessed lots accessing the public street by way of common driveways; this is essentially a flag lot configuration. The controller has proposed eleven flag lots. City code allows use of a flag lot configuration (see KCC 5-16-2 and KCC 5-3-3). The City code provides, "a flag lot shall have a minimum frontage of 30 feet on a public street." The controller is requesting the common driveways entrances to be 20 feet wide and is relying on the PUD for relief from the standard frontage width of 30 feet.

After review of the project and considering the developer's responses to the City's needs – staff is supportive of the project, subject to certain standard and specific conditions of approval. The commission is advised to consider the evidence and testimony presented during the public hearing prior to rendering its recommendations/decisions concerning this application.

This site upon annexation is seeking the following zone changes: From a RR to a R-6, Medium Residential, which will encompass 657 lots, R-20 High Density, multiple family, which will

encompass 624 lots, 74 senior living units and 144 assisted living units, a C-1 which is a Commercial Neighborhood Business District to the north and a C-3 Service Business District to the south. Total acres are 241 for this project with the R-6 encompassing 179 acres, the R-20, 27.5 acres; C-1 has been adjusted to roughly 3.3 acres and the C-3 17.2. There is a school lot of around 12 acres and a lot for a fire station. There are about 38 common lots which comes to around 13.9 percent of useable open space and this exceeds our 10 percent required. The site over all has a 6.2 percent per acre which includes the fire station lot and the commercial lots. This site has gone before design review twice which covered the landscape requirements, access management control systems, pathways and conductivity, noise continuation, monuments, focal points and land uses. There were some conditions of approval that include keeping the greenbelt along Mason Creek, with required amenities like benches, bollards, etc. There will be 20 different housing styles in four different communities and they are to be dispersed through out the whole project not segregated to one particular area. There will be four community pools and two tot lots throughout the project.

There will be the introduction of a minor local street which is approved by ACHD with a roadway width of 24 feet it is not an alley, it appears to be one but it is not. The applicant will be required to put signage on it stating no parking at any time. The one disadvantage pose that the City Engineer was concerned about is a typical public right-of-way the public is allowed to park between driveways and all the on street parking is extinguished. The Controller has provided a off street parking area. However, staff is a little concerned about some of the parking stalls in the north. They will be backing out into the street and this may be an issue. Maybe a solution would to require the parties to back in the parking stall so they are pulling out into traffic. In the northeast corner they moved the entrance on our request because the cul-de-sac was to long. As a result of several discussions with the City Engineer, exhibit 3 of 3, a City well site, this lot will be designated as a reserve lot in event that the City needs to purchase and develop it, it will go into this spot., In the event that the development across Highway 69 comes in first the City does reserve the right to transfer that reserve lot to the other PUD, Orchards. This well will serve the area. They have also outlined an irrigation pond and meet all requirements. Staff will recommend that fencing will be place along that pond.

Overall staff is supportive of this project and has some great components that can be a asset to the Community.

Commissioner Trautman: Was there any discussion about the parking for the park at the entrance?

Staff: No because the streets that surround that park are public streets and parking is allowed. Also there is great conductivity and so they can also walk to it.

Chairman Touchstone: There are a couple of things in your report that I would like to discuss. The parking along the park side, minor local streets, where they back into; how is that going to get enforced? The police going to patrol and ticket, CCR's what? And in regards to the school lot, is there any discussion of developing the roads to that school site?

Staff: We did discuss that issue related to that. The Controller is willing to change the phasing as the school district dictates. If the need arises it can jump phases.

Commissioner Case: Does that include the replace of utilities if they change the phases?

Staff: I image they would have to, how can they develop if they don't?

Chairman Touchstone: How is this in relationship to the Comp Plan map, how well does this fit in?

Staff: With the exception of the two commercial area it falls in with the comp plan, and with the forthcoming plan it complements it. There will be a comp plan map amendment. As a PUD they are afforded the mixed use. This change to the comp plan map amendment will happen at the next comp plan map window.

Commissioner Truatman: In those parking off street-backing in, there is also a sidewalk, is there a discussion of putting the sidewalk in-front of the parking?

Staff: This is all very new so we have not had any discussion on those, there has not been enough time.

Chairman Touchstone: Are there driveways and garages with these homes on these streets?

Staff: The garages back the minor streets and there is a front-back door in the rear of the house and the true front door faces the green space. There will be two parking spaces per driveway.

Applicant; Kent Brown, 1500 E Iron Eagle; Eagle ID. This site has some challenges in the design. The north boundary is Columbia and south boundary is Hubbard. The mid-mile and backage road is what drove this development to the way it is designed. The gateway overlay in the comp plan allows for the commercial component and proposed density.

On the minor local streets, now the Highway district has had this product popping up all over the valley so ACHD construct these new standards to allow them in this kind of product. It helps in allowing more open, green areas and to offer a different product. It s allowed on short blocks, less than 700 feet long, between two local streets and a park strip has to be on one side. It does requires us to have no parking, we have parking with the driveway and garage in the rear of the house, but it also has a front-back door, but the front of the house opens up to the green space. They look like alley load homes with a big park space in front. We also maintain all the lawns and green space. It works very well. Not every one wants large lots and this provides a variety and makes a more healthy community, with different price lots and the home values stay very competitive and does not loose there value.

There are also products that share a common driveway throughout the village with like a detached garage with zero lot lines, not a lot of them, but what we are trying to get away from is that everything looks the same.

There is the well site with the ability to transfer to the other site if it develops first. It could be five years before we get to the first phase. We tried to make it pedestrian friendly. With the backage road and mid mile road we have had to be creative.

Chairman Touchstone: I notice that there is a flood plane, and you plan on making some changes, is that school site on that flood plane?

Applicant: The school property touches the edge of the existing area, but realistically the area is to the edge of the ditch and not in that area.

Commissioner Trautman: What kind of transition points have gone in between the different types of product? Like the apartments and senior housing? Fencing?

Applicant; The discussion that came up before and we tried to show, that the numbers we are proposing for the number of units, there is space around those building, with parking, but when that product comes in the door to be built it will be addressed more then. This is just a concept; it would depend on who was designing it and what was proposed. We want interaction and walking between them, some screening but again that design is not known. Normally this lot is sold and developed it under the conditions of the development agreement and would go through design review.

Greg Johnson 660 E Idaho. Showed slides of products in Tuscany that will be similar to this project. The products will go through design review. In the commercial area maybe a grocery store. To maintain the vision of the product, we have 4 or 5 builders and they will be given design concepts and the exteriors are controlled, the inside they can do what they want. It gives us greater variety and needs to blended, but with different input and builders it helps keep it from being cookie cutter type products. The assisted care and senior housing will more than likely be from the same builder

Open Public Hearing at 10:19pm

Neutral: None

Support: Kent Brown, 1500 Iron Eagle, Eagle Id (developer)

Greg Johnson 2037 E Teryn, (developer)

Trent Niffenger 660 E Franklin no comment

Oppose: Bill Sieminski 8291 S Chugiak Pl. My property is being back up to the high density area and I would like to see some kind of transitional area. The greenbelt they show is not that big because there is a canal and access easement. Low density to what ever. We bought these homes so we can have a rural type of life. We know that development is coming, but why not something more sensible. Those streets, you know that they are going to park on them. And what a health issue for fire and ambulance, Kuna does not need to be a testing ground. There are a lot of red flags. With all that housing bunched up against our lots it does not seem right. And who is going to widen the streets to take care of all that traffic? This is a small City going in.

Terry Sieminski 8291 S Chugiak: for something so important I am sorry that I only have three minutes to express myself. That greenbelt, there is going to be 5 ½ house backing up to our property looking in our back yard. And to me they did not look like quality houses. I am concern about that. Sounds like staff has already made up there mind and hope I am not wasting my time. At one time there was a school there and we had more of a buffer. We could see the views. This development if approved will decrease the quality of my life, would not see the sunsets, enjoy the birds, would decrease our property, harder for us to sell, with a view of five people looking at you. I pay taxes to the middle of that canal and they are considering that as part of the green belt. Would like to see a school or park instead. Our comp plan it shows low density right now, but seems like you can change the density to whatever you want. It means four houses per acre. Well water, who is going to protect our wells. I don't want ours depleted if they build a well. Is this commission going to protect us and our water? There are over 4000 in Ada county that are not selling why are we looking for more homes and high density ones also. I don't like the idea of a commercial area going in the residential area. What is the crime aspect? These are point you need to consider.

Kim Bunn, 8451 S Chugiak, A draft from Planning and Zoning said that a project that size will garner a signification amount of traffic, on Hubbard, Columbia and Highway 69. 21256 vehicles a day, as neighbors of this area knows, adding more vehicles will make it more dangerous. Then here is the other subdivision of Orchards besides Springhill subdivision in a one mile area, these homes could add over 3000 students which would be three elementary schools half middle and half a high school. With the other subdivisions that would make over 42000 additional vehicles per day on these roadways. This will impact us on wells and septics. Who will pay for our wells and septics when we can no longer use them due to these subdivisions? The map of 9/08 shows low density, this is not. Growth is inevitable, we know that and it was once said that planning and zoning cannot tell a landowner what he can and cannot do with his property. In that case why do we have a Council? It is on the burden of the developer to sell his plans to the planning and zoning yet it is up to planning and zoning to plan wisely. Not what the City can get in revenues and money today, but what impact will this have for the future and for the City of Kuna tomorrow?

Ilie Pop, 8171 S Chugiak I moved here from Portland. The reason I moved is because this is what happened over there. It lost money and the value went down. And now I face the same problem. My neighbors have stated what the problem is. This reminds me of China, where they live so packed together. Not good. We bought the big lots so we could have some privacy.

Kelly Stevenson 7751 S McLintock, Just want to remind the P&Z that they are here to enforce the comp plan for the vision of the community as a whole. It is up to the developer to sell this. It says it is going to preserve more open space, which I don't see, recreational facilities, which are four pools, here are the fields for sports, like baseball, soccer, and tennis courts any type of outside sports. You pay over 100,000 dollars to CRSA for the comp plan then blatantly just say you can bundle up and then change those items. What is going to be so great for the community from this development? You are adding more students and only one small elementary school where are the other children supposed to go. You are putting undue pressure on ACHD when you should be following your comp plan and need more money to take care of these things and they need more money for those projects as far as roads. Where is that going to come from? And just 12 acres for one school that is ridiculous.

Shannon luckle: 7714 S McLintock-had to leave concerns density and zoning

Ginger Yore 7899 Rocky Mt Lane: Submitted a letter regarding my concerns and have them taken into consideration. We have a easement off Columbia Road along Mason Creek to date

we have not been get enough attention. It is currently shown as a green space on the plans. We want the development agreement to have the developer to fence off the easement and restrict usage to our residence only. We are willing to look for other access in the future but under no circumstances will we give up our current easement until a written contract that is satisfactory to us and completed and useable. If the developer wishes other access we require a written agreement outlining the access through the different developments. Another item we would like addressed the impact of the elementary school to the west side of the property. Schools are heavy use in high traffic request every effort to minimize the impact to include traffic flow, noise and lights. This would be in addition to the green belt walkway. We desire to work together to provide a positive project for the community. Also the senior housing it be up against our property instead of the assisted living or apartments for less traffic. Our easement is on the west side of Mason Creek.

Letters from Ginger Yore, John Stone and Rebecca Stone, Margo Whale and anonymous addressing most the same issues brought up.

Kelly Stevenson presents a petition of name against the development.

Applicant: Traffic- we had to defer this meeting for the Highways district we had to improve Columbia Meridian Road and there is going to be a street light. We have generated a traffic study so those issues can be addressed and is in compliance with what ACHD wants. The other way that they pay for those is impact fees from building permits. Density following comp plan, we are not asking for additional plan, it is allowed already allowed for in the current plan and the exception is the quarter is high density and we are not asking for that. The apartment and senior housing will have higher density and tried to keep away from those low density lots. The green space is a total of 8 acres, you look at that, it does not like much, but only portion of that we can not count for, the area in the flood plains. It doesn't look like much but I have scaled from the back of there homes to the back of the lot and it is about 160 feet. We have tried to create a transition area and it is not easy to. Nampa has a percentage, and when you have natural feature like the flood plains, it can not be added in. And Kuna is not a testing area. We have built projects like this in other Cities and they work well. The pictures presented are from projects that are already built here in the valley. Now the parking, that is one place I did not cover, but we do not them to be backed into. It can work; it does over by the Boise Boys and Girls club. Our initial design had less parking. We tried to provide additional parking because staff and City Engineer requested it. We have tried to be compatible with staff. The City Engineer and DEQ have to protect the wells; it should not affect them unless they have shallow ground water wells. The school site, we tried to locate that where the traffic can get out on the road. They have a lot of access road to get on to the streets where they are now and if on the corner it would restrict. Ginger we will work with them to make there access work, fence it, make it go away, whatever will work, we will work with them. Senior housing, we want this map adopted as what is approved. Chairman Touchstone: What about buffering for the school site?

Applicant: When it comes in for design review they should address it at the time. That will be a school application not ours.

Chairman Touchstone Does that easement affect your green space requirement and the irrigation pond?

Applicant: If it does then we will still have the 10 percent and the irrigation pond is not going to as it is not included in that.

Close Public Hearing at 11:14pm

Discussion:

Chairman Touchstone: Even with the high density pockets it still meets the density area of the comp plan for that area so we are ok on that. I think that there is too much information to digest.

Commissioner Case; With the information brought in and the applicant had a year in planning and staff had plenty of time but we had only a weekend, I am looking to table it to be able to digest and form a proper opinion before proceeding forward on something this big.

Commissioner Trautman: I agree there is a lot of information to look over and see where it fits into Kuna's plan, with the citizens.

Commissioner Case motions to table **Vineyards Subdivision Phases 1-22:**

08-01-PUD (Planned Unit Development)

08-13-AN (Annexation)

08-06-ZC (Rezone)

08-02-S (Preliminary Plat / Subdivision)

08-11-SUP (Special Use Permit)

08-15-DA (Development Agreement)

08-10-DR (Design Review)

Commissioner Trautman seconds the motion, all agrees, motion carries.

Chairman Touchstone: Tabling it will not open the hearing; it will be discussion and a motion only. The public is more than welcome to come back and hear the decision. Steve will you notify Stephanie and let her know that if she wants to vote on this what she needs to do.

Planner Director Hasson: Commissioner Wierschem will need to review the tapes and read all information if she wishes to vote on this application.

REPORTS

Planner Director Hasson: none
City Attorney Grove: none

CHAIRMAN DISCUSSION

Commissioner Case: I would ask the Commissioners if the first meeting of the month if we can change it to either Monday or Wednesday, the school board wont that way I can attend the first meeting of the month.

Planner Director Hasson: we will have to check on that, might have to change code.

ADJOURNMENT

Chairman Touchstone motions to adjourn at 11:18pm
Commissioner Trautman seconds, all approve, motion carries.

Justin Touchstone, Chairman

ATTEST:

Tracy Rushlow Planner Technician