

**Kuna Planning & Zoning Commission Special Meeting
March 11, 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 Brian Stewart, Vice-Chairman Justin Touchstone, Commissioner David Case late came in at 8:00pm, Commissioner Stephanie Wierschem, Planning & Zoning Director Steve Hasson, Attorney Randy Grove, Planner II Stacey Yarrington, and Planner Tech I Tracy Rushlow. Commissioner Holly Kerfoot, was absent
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.

Consent Agenda

Approve minutes for Planning and Zoning Commission meetings on February 26, 2008 and Findings and Facts and Conclusions of Law for:
Chad Queen, 07-13-DR, Design Review
Cement Falls Subdivision Lot 1 & 2 Block 2 - 07-03-DR (Design Review) / 07-09-DA (Development Agreement)
Chairman Stewart motion to approve minutes of February 26, 2008, and facts and findings and conclusions of law for Chad Queen, 07-13-DR, Design Review
Cement Falls Subdivision Lot 1 & 2 Block 2 - 07-03-DR (Design Review) / 07-09-DA (Development Agreement)
Vice Chairman Touchstone second, all approve, motion carried.

OLD BUSINESS

NONE

NEW BUSINESS

Amend Agenda: Vice Chairman Touchstone motioned to amend agenda under “new” to table items 4 C & D: **Public Hearing: Joe & Kathy Guido/ Ironhorse Subdivision** – 08-02-AN (Annexation), 08-03-DA (Development Agreement, **Public Hearing: Joe & Kathy Guido** – 08-02-SUP (Special Use Permit) until the March 25, 2008 meeting.
Commissioner Wierschem seconded; all approved, motion carried.

Mellin Properties 08-01-AN (Annexation), 08-01-DA (Development Agreement)

Planner Tech I Tracy Rushlow presented the project. The applicant is requesting to annex approximately 36.87 acres with a rezone to CDB (Central Business District) and R-6 (Medium Density Residential) with a Development Agreement. The project is located West of Linder, South of Deer Flat and North of Boise Street.

Approximately 30.39 acres will be zoned CBD and 6.48 acres will be zoned R-6; 2.48 of the 6.48 acres will be townhouses and the remainder of approximately 4 acres of the R-6 will be donated to the City for open space, park expansion and future recreational use which may include the long

sought after Boys and Girls Club project. This will be an infill project that will be phased over the course of several years and is expected to have key business and services for Kuna.

Applicant Van Elg, Land Group, Boise ID. The project is an infill project that will be CDB and R-6. When Mr. Mellin looked at this project there were a lot of commercial and residential properties surrounding it and he was trying to decide what would be the best fit for Kuna and the community. The Teed lateral runs the length of the western edge of the property and it can be problematic especially when kids are walking along it all the time. So Mr. Mellin decided to donate that portion of the Teed Lateral that he owns as well as the 4 acres to the City for the Boys and Girls club, to be incorporated in with the existing park to the west of his property. This will be accomplished by a lot line adjustment and there are committees looking into having it tiled so it will not be a safety issue.

Open Public Hearing at 7:15

Opposed-none

Neutral –Mike Wagner Kuna ID. Like the idea of the Boys and Girls Club, but had some concerns about Mendi being too narrow and if they have three stories are there requirements about the view being blocked. The subdivision where he lives does.

Support- Belinda Gordon, Blackcat Rd., Kuna, This is an ideal site for a Boys and Girls Club. It is in walking distance of the schools, backs up to a city park and will benefit the community in many ways in addition to the children of the community. She would like to thank Mr. Mellin for his generosity in donating this piece of land and giving the community a chance to help its young people.

Don Johnson- Encourage the Commission to annex and rezone this property. It is a nice piece of property for the Boys and Girls Club, a great location for the young people to go, with the park and the schools within walking distance..

Tim Gordon-Blackcat Rd., Kuna, Not only is the stie a good place for the Boys and Girls Club, but a good place for commercial. With the downtown area limited this will expand the downtown area with more choices, more businesses and a better tax base which benefits all. The enlargement of the current park to include the Boys and Girls Club will open up more positive uses for the community. It will be within walking distance of the schools, and help the young people of the community make positive choices and this project is supported by the Ada County Sheriffs department for positive reinforcement of the young people.

Judy Yamamoto, 341 Ave A, The young people of Kuna need activities and a place to go. This will give them opportunities for our children and promote positive changes in addition to providing the community benefits as well.

Joe Lupins- Kuna is a former principle and this is a wonderful opportunity for the community and the kids. In a survey done in 2004 over 2/3 of the kids were latch key kids and home by themselves until the parents got home. This will give them a place to go, someone to help with home work and activities and a positive place to spend their time and keep out of trouble. I would like to thank Mr. Mellin for the foresight in this golden opportunity, and his generosity in donating this piece of property for the Boys and Girls club that will benefit the community in many ways.

Dwayne Yamamoto- Currently there is no place for our children to go and with this opportunity there will be some place for the kids. And I would like to thank Mr. Mellin for his generosity in donating this property.

Wilma Thornton- 2800 S Ten Mile. With this generous gift from Mr. Mellin the community will gain a valuable asset. The gym that will be built can be used by the community for other activities besides the Boys and Girls Club and as a life time member of Kuna; I believe that this project will add positive aspects to the community.

Levar Thornton- 2800 S Ten Mile- appreciates the generosity of Mr. Mellin and this will be a successful project; it will be an asset to the community in the commercial aspect as well as the Boys and Girls Club.

Ralph Mellin, Boise When I looked to develop this land I looked around to see what surrounded my property and tried to provide something that would give back to the community as well as be an asset to Kuna. This development, I believe, will do that. In the R-6 zone will provide townhouses and there will be for different commercial opportunities in the CBD area. It will enhance the downtown area, give it some revitalization as well as add to the tax base that it is needed in Kuna for the Downtown area. It was decided to donate the portion of the Teed Lateral to the City as part of the park area as it is already used by the kids to get to the current park and the City will be better able to utilize that area and take away some of the headache for me in developing the commercial area that abuts that area.

Chairman Stewart: staff- what are the height requirements for the CBD district?

Planning Director Hasson; in the CBD it is 80 feet. When we asked the applicant if he wanted a building that high, he said he wants only up to 3 stories, which is roughly about 52 feet, so we put in the conditions that he will build only up to 3 stories. In the subdivision where the other gentleman lives there might have been covenants or conditions where they could only go a certain height. That does not reflect on this property as this is a separate property and came in with its own conditions.

Close Public Hearing at 7:45 pm

Discussion:

Chairman Stewart: I have no objections to this project. It is a good fit; it is surrounded by the City already.

Commissioner Wierschem; has no concerns. Is very pleased to see the citizens of Kuna looking to our children's future and the impact that this will have on them as well as the City in such a positive way. It's great that citizens have stepped forward to fill this much needed project.

Vice Chairman Touchstone: Has no problems with the annexation. Is looking forward to seeing this project come to life and appreciates the citizens of Kuna stepping forward and donating the land, time, and resources to provide a much needed project as well as extending the commercial downtown area and providing some much needed lift to the downtown area. Is looking forward to seeing this go forward in all ways.

Vice Chairman Touchstone motioned to recommend of approval of the file 08-01-AN (Annexation), 08-01(DA, Development Agreement) to the City Council with the following conditions:

- Meet all staff and agency requirements.

Commissioner Wierschem seconds, all approve, motion carries.

Public Hearing: Arlene & Larry O'Leary – 08-02-ZC (Rezone), 07-06-SUP (Special Use Permit)

Planner II Stacey Yarrington presented the project. This is an application for a rezoning of property located at 271 N Avenue B from "P" Public to "CBD" Central Business District and a Special Use Permit to allow for a bar/lounge for the purpose of serving alcohol located within the same building as a restaurant. The application for a special use permit, was accepted with the thought that the property was zoned CBD.

There are two (2) zoning certificates and a staff report for a special use permit dated in 1998 that reflect the property being zoned as CBD. Also, there is currently a restaurant that is being run and has been for the past two (2) years, from this site that would not be allowed in a public zoning designation, but would be allowed in the CBD zone. Staff had done some preliminary research which lead to the thought that the property had been rezoned at some time. However, with further research through the Ada County Assessor's office and City records, a zoning process could not be determined.

The applicants have been on the State Liquor License list to receive a permit for a liquor license for several years and are now at the top of the list. However, in order to acquire the liquor license the

applicants must have a place, allowed through City zoning requirements to house the license. The property must be re-zoned to Central Business District, which a special use permit is required for the bar/lounge, as well as design review (File #07-12-DR), which is being reviewed at administrative level which is for some improvement inside but no exterior or major changes that would require it to go to P&Z for review. The bar/lounge will be low key, casual lounge and will fit in with the surrounding uses. There are some conditions made that are in the staff report, like wheel stops, dress it up planting in pots and planters. The building practically sets on the property line so there is not a lot of room for improvements. The applicants have asked for hours consistent with a liquor license which is typically Monday through Sunday 10: am to 1: am. They anticipate 2-5 employees and there is additional parking behind the building.

Vice Chairman Touchstone: Is there a dumpster behind the building?

Staff, there is a dumpster and part of the design review requires that it will be an enclosed by cement block or something acceptable by staff

Chairman Stewart: the curbing, is that going to be sidewalk and curbing according to ACHD and ADA compatible along Ave. B?

Staff: ACHD has actually not made any standards because the use is not being intensified and they are not looking for any new conditions. There is limited right-of-way area parking is on the street with 45 degree angle parking in order for the vehicles to get off the road and park. The wheel stops should be about 2-3 feet off of the building so there is room to walk.

Chairman Stewart: I am becoming a little concerned about the zone change to CBD which has very clear standards under the design review and not having adequate or any ADA sidewalk and safe pedestrian traffic or continuous curb and sidewalk. For the bay doors, they can always have curb cutouts and still provide the sidewalk.

Staff; we struggle a little bit with that ourselves; a lot of it had to do with the vehicle trips per day. Add maybe 10-12 trips extra, and ACHD did not feel that with the nature of the extra traffic, the historic building, limited setbacks, that any improvements needed to be done. In order to not have the vehicles too far out in the road, we felt that wheel stops were the best idea, the building sets on the property line and room for improvements is very limited. Any improvements would be in the ACHD right-of-way and not the City's or the property owners.

Chairman Stewart: I can see where ACHD is coming from them where they do not want to have parking in the road and the traffic, and it is not really a through street. But as a destination with cars parking there and bringing traffic in there, we are short changing the community.

Planner Director Hasson: it is your prerogative to add conditions such as a sidewalk; we were just looking at ACHD right-of-way and the minimal amount of traffic increase. We do not want to put that obligation on the Highway district, and we felt it was not that big of a deal.

The City did not enter into a development agreement, as there could be a lot of potential for a lot of different uses. If there is a changed of the use of the building they would have to come in for a business license and that could trigger design review if the change is drastic. The restaurant has been there about 3 years and they are very happy with their arrangement and the bar use will be very low key, with minor interior changes and the intensity of the use did not justify extensive improvements.

Chairman Stewart: The biggest hang up is when a land use changes, every other property we would require that they meet the design review standards, and if we don't, we can not go back and make them meet those standards.

Staff: True, but the rezone should have changed a long time ago, we even tracked down the former director who would have been in charge at that time, Melody Halstead, and no one can recall whether the property was supposed to be part of a mass rezone of that area and they believed it was changed to CBD at that time and there are building permits issued with the CBD zoning on them, but there was not a clear history about the zone change, staff could not find where it had legally changed with an ordinance and we want to make sure that all our ducks are in a row and it is done legally with no chance of it being in this situation again.

Chairman: Ok

Applicant: Vernon K Smith, Attorney for the O'Leary's, Boise ID. In a great degree you have raised some of the issues we want solved. The O'Leary's purchased the Firehouse and an additional building when they applied for a liquor license, which they now have received. The firehouse use of a beer and wine license in 2000. Historically, the firehouse looks to be zoned public, not sure of that but that is staffs thoughts. It is an old structure so it should be preserved for historical value. There are several issues in the staff report that I would like clarified or mentioned. Item #16, about preserving the historical character of the building seems like that is in contradiction when you want to have curb, gutters, sidewalks, and planters. That goes against the historical character of the building. Then on item #2, where they are to submit application for approval of the business license to be in conjunction with the liquor license? Does that mean they can't have one with out the other? Does the special use permit go with the land or with the license? Why would having the license change the use of the special use permit?

Planner Director Hasson: the special use permit follows the land use unless there are onset provisions, which in this case there are. It is a recurring provision provided that these things, or provisions, are followed through and it is for the whole building not just portions of the building. Item #5 where it states it is to be reviewed annually, is this sunset clause? Will they loose the liquor license if they don't? Do they have to install concrete barriers? It doesn't say where. Part of the property in the back is the Cities; do they put it on the property? If they have to put in curb, gutter and sidewalk it would change the historical character of the building. From the ACHD report, I don't think they want it there and are we authorized to do what we want in their right-of-way? What about the grandfather clause? Does that not give us the right to do what they did in 2000? Then there is item #12 about the dumpster enclosure. Do we need an enclosure in the alley way, so it too can get banged up? After a while it won't look any better than the dumpster already does? Is the enclosure really necessary? Regarding item #13 to install 4 planter boxes. Where do we put them? In front of the bay doors which we wish to keep open and what do you plant in them?

Then as we go to item#15 to participate in the downtown local improvement district on Main Street, the building faces Ave B not Main Street, does that mean we need to put a door on Main Street? Of courser they will want to do what is right to improve the property and they will participate in doing their part to make their property look good because it is the right thing to do and they want it done right.

Commissioner Case: are you disputing these items or just questioning them being needed as conditions?

Applicant: just raising some points because of the historic nature of the building and use and just want to be consistent, fair and have therefore brought it up in the public hearing.

Staff: we need to clarify a few things. This property was first zoned in 1940 as "P" public for the firehouse, which was there until the property was sold in 1996. In 1998 there was a mass rezone of that area to CBD and staff believes that the assumption was that the firehouse was also rezoned to CBD. Although we could not find any paper work with the County Assessor or in the Planning and Zoning office or City Hall to show where it was ever rezoned to CBD.

As for the grandfather clause; if after 12 months the existing use has not been implemented or continued it will lose any grandfather clause rights.

If the rezone does not go through, they will not be able to keep the restaurant either because there is a very limited use for what is allowed in a "Public" zone.

The building has retained its historical use, it is still the same building with no change in the structure, the color is the same or similar, the doors have remained from when it was the firehouse. But adding wheel stops, or planters or even a sidewalk does not change the historic look of the building; it only enhances the appearance of the surrounding area.

As for the annual review of the special use permit and liquor license. This is for the protection of the City and its citizens. If we get 20 complaints a month of disturbances that is not something that we want around and is not good for Kuna and the liquor license would be pulled. The restaurant and the liquor license are compatible uses and we encourage them to be combined.

Open Public Hearing at 8:25pm

Opposed-none

Neutral-none

Support: none

Mr. O'Leary: I have to borrow money to pay the taxes on this property. It has to make money that is why the liquor license for it. It needs a new roof. I need to make money.

Chairman Stewart: This community is growing and it is family oriented. We want to do what is right as we have to live here. We do not want to put any undue pressure on the property owner, but things change you have to step up and make improvements. There is a time period of when these changes have to be made in. They do not have to be done as soon as that piece of paper is on the wall, so the conditions have time to be done; they are not required the first day after approval.

Mr. O'Leary: This is my property so are those my conditions or yours?

Chairman Stewart: Our intent is to make it work for you, but we live here and have to look at it on a daily basis, that is why we have standards and conditions. That is why they need to be addressed

Close public hearing at 8:35 pm

Discussion: Strike item #11 Rewrite to be worked out with ACHD for the parking and sidewalk, strike item #12 altogether, on item #14 maybe restate that the review of conditions of the special use approval be part of the annual review. Item #13 Placement of the planters to be worked out with ACHD.

Vice Chairman Touchstone motioned to approve the special use permit and recommend approval of the rezone to City Council for 08-02-ZC (Rezone), 07-06-SUP (Special Use Permit) with the following conditions:

- Meet all staff and agency requirements.
- #12 and #14 to be struck out.
- #11 to be revised to say that staff and applicant will work with ACHD regarding parking, striping and pedestrian access.
- #13 add; the location and placement of the planter boxes need to be negotiated between applicant, staff and ACHD.
- #14 rewrite that the conditions of the special use permit are to be reviewed at the time of the annual review.

Commissioner Case seconded, all approve, motion carried.

Public Hearing: Design Review Committee 08-01-ZOA (Zoning Ordinance Addition and Amendment) Planner II Stacey Yarrington presented the application. This application is to create a new Zoning Ordinance Chapter in the Kuna City Code for a Design Review Committee and associated amendments to the existing Design Review Overlay District Chapter to give the Design Review Committee authority to review Design Review applications. The amendment also designates the Planning & Zoning Commission as the appealing body.

Open public hearing at 9:35 pm

Oppose-none

Neutral-none

Support-none

Close Public hearing at 9:35 pm

Chairman Stewart: would like to change 2-3-4 where it is to be recommended to Planning and Zoning.

Chairman Stewart motions to approve with the changes to 2-3-4.

Commissioner Case Seconds, all approve, motion carries.

REPORTS

Planner Director Hasson: Compass has forecast the growth for Ada County and Canyon County and Kuna has the #1 highest growth rates of 4% of the six cities, with the other Cities

coming in around 2%. The building permits issued from last year to this year have increased 196% in the first two months compared to the first two months of last year. We are wrapping up the negotiations of CRSA for them to do the Comp Plan and should have a contract to show to Council soon. The PUD ordinance is scheduled to come to you soon as well as a lot split ordinance.

City Attorney Grove: Tom for ACHD is considering the proposition for the Good Growth plans that call for giving up some of the planning of the Cities and giving them to ACHD. This is a concern of the City; we do not want to go down that path. There are a some of the smaller cities in Ada County that feel the same way. We will not be signing this as this is not a practice that we wish to have.

CHAIRMAN DISCUSSION

Chairman Stewart and Commissioner Case brought up that they will not be able to attend the next Planning and Zoning meeting on March 25, 2008.

ADJOURNMENT

Commissioner Case moves to adjourn the meeting at 9:45pm
Vice Chairman Touchstone seconds, all agree, meeting adjourned.

Brian Stewart, P & Z Chairman

ATTEST:

Tracy Rushlow
Planner Technician