

**Kuna Planning & Zoning Commission Special Meeting
April 8, 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 Holly Kerfoot, Commissioner David Case, Commissioner Stephanie Wierschem, Planning & Zoning Director Steve Hasson, Attorney Randy Grove, Planner II Stacey Yarrington, and Planner Tech I Tracy Rushlow.

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.

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| Consent Agenda |
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Approve minutes for Planning and Zoning Commission meetings on March 25, 2008 and Findings and Facts and Conclusions of Law for:

Troy Todd, Indian Creek Sports, 07-12-ZC, 07-15-DA

Vice Chairman motioned to approve minutes and facts and findings and conclusions of law.

Commissioner Kerfoot seconded, all approve, motion carried.

Chairman Stewart and Commissioner Case recused themselves from voting, they were not here at the last meeting.

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| OLD BUSINESS |
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Public Hearing Closed: Best Bath 08-01-SUP (Special Use Permit) Commission Discussion:

Chairman Stewart: Just want to make it clear that the public hearing is closed and there will be not be any testimony given or received. Commissioner Case and I will recuse ourselves from the discussion as we were not here for the public hearing and have not heard the testimony. A decision will be made tonight.

Planner Director Steve Hasson: We heard lengthy testimony two weeks ago, both pro and con and the commission did close the public hearing and testimony. There are three of you eligible to vote on the Best Bath decision. This is a final decision unless someone wanted to appeal. To appeal they would have to do so after the findings have been approved, and up to ten days subsequent to the findings being signed they will have the opportunity to appeal the decision. By close of business May 9, 2008 is the last date a appeal may be filed. If an appeal would occur, it will go before the City Council.

City Attorney Grove: According to code the City Council will be reviewing the proceedings that have taken place before this body and no new testimony. They will allow for argument from both sides but no new testimony will be allowed, only on what has transpired before this body.

Planner Directory Hasson: After you closed testimony we did receive additional information as well as a request to submit that information to you. I advised them that the public hearing was closed and the only way it could be received is if the hearing was reopened. If the hearing was reopened it would have to be re-noticed to the general public. As you decide I recommend that you rely on the general standards of the Special Use Permit in making this decision. There are nine general standards that apply to the Special Use Permit.

Vice Chairman Touchstone: first we need to decide if we want to reopen the public hearing or if we want to make a decision. Do we want to include this additional information and reopen the public hearing or go on to make a decision? I personally am ready to make a decision.

Commissioners Kerfoot and Wierschem: We are ready to make a decision. We do not want to reopen the hearing.

Commissioner Wierschem: There are a couple of things that I would like to go over.

Vice Chairman Touchstone: I think that we should go over the facts starting with Item A. Item A, B and C is pretty standard. The ones that likely will need clarification are D, E, F, and G.

Commissioner Wierschem: I would like some clarification on item D, page 11 number 6. I believe that we need a qualified air quality chemist or consultant to review the reports and documents. I don't believe, even as great as Steve is, that he has the qualifications as an air quality chemist or trained personnel. I know that he would do to the best of his ability, but I would like to propose that the City hire a competent and qualified person with air quality qualifications whether it is a chemist or consultant and have Best Bath pay for that person. I would like the reports and site monitoring to be read and reported back bi-annually by a consultant hired by the City but paid for by Best Bath.

Planner Director Steve Hasson: the main thing is to identify a person with competencies' to monitor and read reports. There seemed to be two potential conflicts. 1) The idea that IDEQ may not do a good job of monitoring the situation and 2) having them do self monitoring. It is the idea a of having the fox guard the hen house. That would require modification of Item 6 if we have a consultant do the monitoring.

Commissioner Wierschem: The citizens deserve to have a qualified person assess the air quality instead of a staff person who would try their best, but not have the qualifications.

Commissioner Kerfoot: I believe that there are checks and balances already in place with the government agencies and the conditions in place, but will agree to have an air quality consultant.

Vice Chairman Touchstone: We need to agree if these things that are listed are excessive or not excessive. If it is excessive that would violate the qualifications of what a Special Use is. If is not, then we need to start on conditions and modifications. First we need to decide if this is excessive.

Commissioner Kerfoot and Wierschem: We do not believe that it is excessive; however the conditions in place could be clarified or reworded.

Commissioner Wierschem: Looking over the documentation, the only inspection made here in Kuna was done in May of 07 and there were six violations stated by DEQ and I believe that we need and agency that will oversee and report in than what is done now. Catch it before it gets to the point and not wait until it is a violation.

Vice Chairman Touchstone: This is excessive in the fact that we have never had to deal with this kind of situation and for the area. It is not excessive in maybe for a larger place, but I think it is here in Kuna because it is the first and we have no standards to go by or to compare them too locally. I know there are checks and balances to help keep things from being excessive, but I am still hung up on the word excessive. Now let's get started; reword item 6 to read, the City will hire a competent air quality consultant that would bi-annually review all of Best Baths air quality documents and provide some insight and Best Bath is to pay for this consultant.

Commissioner Wierschem, I have a question about item 7 page 11, on the odor management plan? I realize that the applicant put together this odor management plan and the current one he plans to uphold. Has it been revised or is he going to use the one he has planned?

Vice Chairman Touchstone: We can add to the end of that the plans would have to be reviewed by the air quality consultant. And the developer addresses any recommendations given by the consultant.

Commissioner Wierschem: On item 8 page 11, what is the maximum of the stack heights? I don't see where it states how high and how many?

Staff: the maximum height for an M-1zone is 60 feet. I'm not sure how many stacks there are going to be. The higher the stack the more opportunity to disperse the odor, smoke, and byproducts further away.

Commissioner Wierschem: On item # 9, how long do they keep the reports on site?

Vice Chairman Touchstone: Need to modify that the reports be available for staff to review

Staff: Not sure, there are I'm sure State and Federal regulations that require them to keep reports on site for a certain length of time for analysis, trends, air quality reports, etc.

Commissioner Wierschem: On item #11 in regard addressing citizen or community complaints in a timely manner. I would like to add in language to specify what timely means exactly. A reasonable time would be like 14 business days.

Staff: On page 10 under V item #3. "Provide information to Kuna City staff when air quality emission standards have been exceeded, along with the actions pursued to address the circumstances. This information shall be provided to an identified City staff person within three (3) days of any occurrence. "This I believe is a higher standard than the State requires. Clarify three working days.

Commissioner Wierschem: Page 11 of 16 not sure if it falls under D or E. On item W if this in not in compliance what happens? Do we give them the 3 days to address this before we notify them or what? The reason is because it has been proven in their violations that some of their failures were their reports were not done in a timely manner and turned in when they were suppose to be. What, as a City are we going to do if they are not in compliance? I would like some clarification.

Planner Director Hasson: If someone does not adhere to our standards, we as the City have a number of recourses available as a City for enforcement purposes. We try to work with the agencies and if we felt we were not receiving the attention we can call in IDEQ and it has been my experience that when you call attention to a state agency they are really responsible. They have wider authorities than a City does to attend these manners.

Commissioner Wierschem : If the City has not received the quarterly report, the City would send out a letter saying that they had 5 working days to respond and to provide reports.

Commissioner Wierschem : Item E, clarify this and how often IDEQ addresses?

Staff; Standard City violation is a misdemeanor and subject to provisions in Idaho and City Code.

City Attorney Grove: Most Cities have in their code a penalty clause, violating any of the Cities ordinances to enforce its Code to pursue criminal remedies. In recognition of violation of this permit is in essence a violation of our City Code and therefore could be a misdemeanor offense. If something happens for a long period of time, each and every day is a separate offence and could result in a 6 months jail sentence and/or a \$1000 fine. The City does not prosecute it own cases, Ada County does that for us.

Vice Chairman Touchstone: I would like to add to page 12, if this application is to move forward that the Developer will pay for a traffic impact study to address transportation and traffic impacts commissioned on behalf of the City of Kuna.

To recap what the conditions are:

Under specific conditions of approval add in “the City shall commission a traffic study to determine what impacts, if any, may result from Best Bath’s operation expansion upon the City’s road system needing transportation mitigation. The applicant shall pay for the study and participate proportionally toward traffic improvements identified in that study.

Under V item 7, the city shall hire a competent air quality consultant familiar with this type of operation and new air quality technologies. The consultant shall evaluate Best Baths air quality reports and review its quality procedures and adherences to air quality compliance on a bi-annual basis.

Under V item 8 comply with the odor management plan approved by DEQ to mitigate odor issues identified by the air quality consultant.

Under V item 12 upon notification of an air quality related complaint, the management shall work cooperatively with the City and the community to address the air quality issues within three working days.

Under W, on a quarterly basis, Best Bath will provide the City a list of all chemicals employed in the operation, the average quantity stored on site and the methods used to handle, monitor and store those chemicals safely. If the list is not submitted at the time agreed, City staff will send a letter within five working days and provide them five working days to respond.

Commissioner Kerfoot motioned to approve 08-01-SUP, Best Bath, with the conditions of approval mentioned before and to confirm those modifications, and meet all State and agency requirements. Commissioner Wierschem seconded.

Roll Call:

Commissioner Kerfoot: Yes

Vice Chairman Touchstone: No

Commissioner Wierschem: Yes.

Motion carries with majority.

NEW BUSINESS

Amend Agenda: Chairman Stewart motioned to amend agenda under “new” to table items 4 C, D & E: **Public Hearing: Joe & Kathy Guido/ Ironhorse Subdivision – 08-02-AN (Annexation), 08-03-DA (Development Agreement), : 07-04-AN (Annexation)/ 07-08-S (Subdivision)/ 07-06-DA (Development Agreement) – Criterion Orchards Subdivision, and 07-05-AN (Annexation)/ 07-09-S (Subdivision)/ 07-07-DA (Development Agreement) – Napa Vineyards Subdivision, Commissioner Case seconds, all approve.**

Public Hearing: 08-03- ZOA/ Lot Split/ Zoning Ordinance Amendment:

Planner Director Hasson presents the project. It has been brought to the City’s attention that the current Lot Split Ordinance is insufficient and thus new language has been incorporated in this document for review and comment. The reason for the change is that the old ordinance was vague and did not address a lot of issues that it should. One example is when someone wants to split a large piece of property it is unrealistic to expect them to provide sidewalks and put in city services from miles away. Usually when they split parcels, it will be when a development comes in anyway and those improvements are required under the subdivision provisions. If the lots are less than five acres then sidewalks and city services will be required. As for the smaller lots, it usually is for residential purposes.

Open Public Hearing at 8:45pm

Neutral-none

Support-none

Oppose-none

Close public hearing at 8:45pm

Discussion: There was clarification regarding the five-acre minimum. Five acre minimum is all that is allowed in an Agricultural zone and are not considered or allowed as buildable lots.

Chairman Stewart motions to recommend to City Council

Meet all staff and agency requirements.

Vice Chairman Touchstone seconds, all approve.

Public Hearing: 08-02-ZOA/ Planned Unit Development /Zoning Ordinance Amendment:

Planner Director Hasson presents the project. Kuna Planning and Zoning department is proposing to amend the PUD ordinance. A PUD is a type of a development that allows for more flexibility in development practices than a standard subdivision proposal. This PUD ordinance before was practically non-existent and had a lot of holes and left a lot to be desired. It was used by developers who did not want to follow the rules; they looked at it as a way to get around those rules. The proposed PUD Ordinance tightens up a lot of those holes and yet affords flexibility to do a lot of creative things not being able to be done in traditional subdivisions.

Open Public hearing 8:55pm

Neutral-none

Support-none

Oppose-none

Close Public Hearing at 8:55pm

Discussion:

Commissioner Case. I like the provision for open space in this PUD. Now they cannot say they have provided open space; space before that was unusable for anything else and call it a park, like a drainage swale or swamp land. Now they have to provide viable land for open space use. I commend you on that.

Vice Chairman motions to recommend 08-02-ZOA to City Council for approval.

Meet all staff and agency requirements

Commissioner Case seconds, motion approved.

REPORTS

Planner Director Hasson: Building permits are doing great for the first three months of this year. We are at twice the amount issued last year in the same time period and this month started out looking good. There have been 21 new residential permits issued already. We have a signed contract with CRSA for the comp plan and we will be having our first meeting tomorrow at noon and you are all invited to attend.

City Attorney Grove: No report.

CHAIRMAN DISCUSSION

Vice Chairman Touchstone- will have updated contact information to give to you tomorrow on new work numbers and e-mail. I have a new job.

Commissioner Kerfoot-what about that red shack-kind of like the snow-shack down by the 4E's, what is up with that?

Staff: believe it is going to be a hot dog stand and will have to go in front of City Council for Temporary Business permit- I believe right now they are working out the issues with CDH before they apply for that permit.

Commissioner Wierschem: what about the cement mess there on Linder just pas the flower shop on the left.

Staff: That is an in-fill, Kamies Place; they are in the process of submitting construction plans-back and forth between the City Engineer and them. It was from a house or building that was torn down.

ADJOURNMENT

Chairman Stewart moves to adjourn the meeting at 9:10 pm
Commissioner Case seconds, all agree, meeting adjourned.

Brian Stewart, P & Z Chairman

ATTEST:

Tracy Rushlow
Planner Technician