

**Kuna Planning & Zoning Commission Special Meeting  
May 27, 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.*

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**Those present:**

Chairman Brian Stewart, Commissioner Stephanie Wierschem, Vice-Chairman Justin Touchstone, Commissioner Holly Kerfoot (late 7:20pm) Commissioner David Case, Planning & Zoning Director Steve Hasson Attorney Randy Grove, City Engineer Gordon Law, Planner II Stacey Yarrington, Planner Tech I Maranda Schindel, and Planner Tech I Tracy Rushlow.

The Kuna Planning & Zoning meeting was called to order by Chairman Stewart at 7:10 p.m., located at the Kuna City Hall, 763 W. Avalon, Kuna.

Chairman Stewart motion to adjust the agenda as follows:

Add minutes for May 13, 2008 meeting under consent agenda.

Table item 4F Guido/Ironhorse subdivision 08-02-AN/08-03-DA until August 26, 2008, re-notice and send out notices.

Commissioner Case seconded

Motion approved.

**Consent Agenda**

Commissioner Case motioned to approve the consent agenda of:

Planning and Zoning minutes from April 29, 2008 and May 13, 2008.

Facts and Finding and Conclusions of Law for:

Stephanie's Daycare 07-04-SUP

Brother's property 08-05-AN, 08-06-DA

Heinrich property 08-04-AN, 08-05-DA

Abbott property 08-03-AN, 08-04-DA

Chairman Stewart seconds, all approve, motion carries.

**OLD BUSINESS**

Chairman Stewart motions to move Crimson Point Pool and Clubhouse, 08-03-SUP/ 08-05-DR to the end of agenda as item 4-H; as the applicant was not present at the time. Commissioner Case seconded, all approve and motion carried.

**NEW BUSINESS**

A. Time extension for Waters Edge/ Laketown Subdivision-Preliminary Plat. Planner II Stacey Yarrington presented the extension. Applicant asked for a one (1) year extension on an approved preliminary plat with development agreement. The City Council approved the preliminary plat on November 24, 2003. The development agreement stated that the commencement of construction for the infrastructure was to take place within 365 days of the completion of the Hubbard (Danskin) lift station. The lift station was completed and brought online in mid April 2007; therefore a time extension has been requested. The funding that the applicant previous had was lost due to the fact that the market has been tight since the lift was completed and the applicant has had to seek new funding to complete the project and this is taking longer than anticipated.

Applicant; Steven Ribeiro, 6586 Battle Creek Rd., Salem OR.

Staff has pretty well said it all. We do have options on funding, but this takes time; that is why we wish to have the one (1) year time extension.

Vice Chairman Touchstone motions to approve the one year time extension for the Preliminary Plat for Water Edge/ Laketown Subdivision to expire on April 30, 2009.

Commissioner Case seconds, all approve, motion carries.

**B. Lisa and Dale Whitney, 08-08-AN, 08-04-ZC, 08-09-DA.** Planner Tech. I Maranda Schindel presented the project. The applicant recently purchased a parcel of land located on the northeast corner of Hubbard and Linder roads to provide the community with a Heating and Air Conditioning Company. Unfortunately, the property was zoned Rural Residential under the County and therefore was not permitted for commercial use. The applicant is now requesting the approval of an annexation into the City and rezone the property from an RR (Rural Residential) to a C-1 (Neighborhood Business District) so as to continue the commercial use. The commercial land use is subject to design review as a feature of the annexation; upon approval of the annexation and rezone, the applicant will submit the necessary applications so as to further comply with City Code. The property is approximately 1 acre with a 2,000 square-foot home and a small accessory building. The home will be converted into office space and the accessory building will be used for extra storage. The applicants currently have 10-17 employees and operate the business between the hours of 7:30am and 5:00pm, Monday through Friday. Currently the property accommodates 4 employee parking spaces on a gravel surface; however, the applicant intends to provide ten (10) additional parking spaces as part of general improvements to the business. City Code 5-9-3 requires that the applicant have a minimum of 5 parking spaces with 1 ADA space on impervious material properly striped. Upon the redevelopment of the parking area the applicants will be subject to the design review process, landscaping, and the relocation of the driveway ingress and egress.

Ada County Highway District (ACHD) policy 72-F4(1) requires driveways located on arterial roadways near a signalized intersection to be located a minimum of 440-feet from the signalized intersection for a full-access driveway and a minimum of 220-feet from the signalized intersection for a right-in/right-out only driveway. Both Hubbard and Linder roads are considered arterial roadways; leaving the only possible driveway entrance to be located along the eastern boundary of the property off of Hubbard Road

The applicants are residents of Kuna and feel that keeping their business within the City provides the community service with the capacity to accommodate new and replacement services to include repair, emergency and maintenance services. This local service will be advantageous to Kuna citizens because many Boise companies charge Kuna out of area fees. The applicants are looking to change that and will offer Kuna customers a discount.

Applicant: Dale Whitney Meridian ID. The land according to the comp plan is designated commercial and we thought it would be a great idea and we live just right down the street from it too. Development wise we are not doing to much right now, the house is being used as a office, there is a shop and we have a few commercial rigs there gone during the day, but back in the evening, and a few delivery trucks stop in a couple times a week.

Commissioner Case Do you have some kind of time line for when the property is to be developed?

Applicant: I would have to get with somebody on that to find out what we need to do.

Lisa Whitney: Meridian Id. I don't understand about moving the whole entrance over to the east side of the property.

Planner Director Hasson: Because it is very close to an intersection on a minor arterial, there has to be a minimum setback from the intersection for the driveway. And this is for your best interest too. When the area starts to develop, cars will be queuing back and if you are to close to the intersection, it makes it very hard to get out.

Chairman Stewart: Unfortunetaly you are caught between a rock and a hard spot, when you changed the use of this from Rural Residence to light commercial, as you change the use you are required to change the parking lot use. As you do that, now you have started development on the property which is causing the property to need to comply with all the standards as well.

Lisa Whitney, These requirements are all ok.

Vie Chairman Touchstone: Do we have a sight plan?

Staff: They are working on it. It was brought in from the county and the county gave them time to get annexed in and time to get the business license etc. from the City. It is good to have a time line on when this needs to have a sight plan and be completed.

Chairman Stewart: My recommendation is to give them 90 days to submit the site plans and design review application to the City.

Open Public Hearing: 7:45pm

Support: none

Oppose: none

Neutral: none

Close Public Hearing at 7:45pm

Discussion:

Commissioner Kerfoot: Now this was from the county, and they had their business license and such from the county?

Staff: Yes and no. The applicants have to be annexed in before they can get a business license and that will follow the annexation process. The problem was, our comp plan map shows commercial, but the property was still in the county and is zoned Rural Residence and that was when Ada County code enforcement realized that a commercial business was going on there but it was not zoned for commercial, hence the annexation process to come into the City of Kuna. They already had the business, so we have been trying to work with the property owners in getting this worked out.

Commissioner Case: this is a high visibility corner on a mile road and it needs a good project. This will be a good spot if done right.

Commissioner Case; It seems like a catch 22. It hasn't gone through Design Review; we haven't given them a business license from the City of Kuna, yet they are operating a business and will be annexed in before the other parts get through the process.

Staff: It is a catch 22. They have to be annexed before they can get the business license and go through the design review process. The business license should go through the annexation process at the same time. You might want to make that a development agreement condition.

Vice Chairman Touchstone motions to recommend approval to City Council 08-08-AN, 08-04-ZC, 08-09-DA with the following conditions:

- Meet all staff and agency requirements.
- Modify the development agreement as follows:
- 3.1.31.1: The applicant shall apply for a Business License congruent with Annexation/Rezone/Development Agreement application before City Council.

- 3.1.3.1: Within 90 days of approval of application, the Developer agrees to submit a Design Review application for any proposed commercial buildings, landscape, parking area and signage use.

**Public Hearing: Dennis and Tracy Vander Stelt – 08-09-AN (Annexation)/ 08-12-DA (Development Agreement)/ 08-03-LLA (Lot Line Adjustment):**

Planner II Stacey Yarrington presented the application. The applicants are requesting to be annexed into the City of Kuna with an R-2 (Low Density Residential) designation with a Development Agreement and a lot line adjustment to expand their one (1) acre home site parcel into two (2) acres.

The applicants also own the Vander Stelt Dairy, which was annexed back in 2006 and the applicants had thought the home site was to be included in that annexation, but it was not. The applicant is now wanting to put an accessory building (shop) on his property, and wants to enlarge the home site to two (2) acres.

The total annexation area consists of approximately one (1) acre; with the proposed lot line adjustment, the property size would increase to two (2) acres. The dairy parcel consists of 119-acres currently and would be reduced to 118-acres with the proposed lot line adjustment.

Dennis Vander Stelt, 2777 S Swan Falls Rd. We annexed in to give the City a path to the City farm and we had somewhat of an agreement. But with the LID and other stuff going on somehow this piece of property fell through the crack. I assumed I was in the city and I can't add an acre from my farm, which is in the City, until I annex this one acre where the house sits so I can build my shop, where I can store some of my toys and work on some equipment. It will look like an RV garage.

Open Public Hearing at 8:15pm  
 Support: Dennis Vander Stelt  
 Oppose: none  
 Neutral: none  
 Close public hearing at 8:15

Discussion: no discussion  
 Vice Chairman Touchstone motions approval to recommend to City Council with the following conditions:

- Meet all staff and agency requirements.

Commissioner Case seconds, all approve.

**Public Hearing: KSP Idaho – 08-10-AN (Annexation)/ 08-11-DA (Development Agreement):**

Planner II Stacey Yarrington presented the application. The applicants are requesting to be annexed into the City of Kuna as an "A" Agriculture zone from Ada County "RR" Rural Residential zone to be followed later by a general plan amendment, rezones, and possibly special use permits with future development. The developers are relying on the category "A" annexation process as noted in Idaho Statute 50-222. The category "A" annexation is available for annexations wherein all private landowners raise no objection to the annexation process. All of the properties noted in the staff report are being proposed to be developed as a whole. The developers of KSP Idaho are not part of the Local Improvement District (LID) and will therefore be required to purchase EDU connections when property is developed. The properties are contiguous to city limits via the Osprey Ridge annexation at the most southern property boundary located at Kuna Mora Road, as will all properties be contiguous to one another.

The developers are subject to a Development Agreement which is included with this application and contains the initial conditions of approval associated with this development application.

This property is part of the comp plan map amendment which will be before you later.

Commissioner Kerfoot: Could you please clarify again about the path of the comp plan map amendment.

Staff: The annexation and comp plan map amendment will be heard on the same public hearing schedule. The comp plan map amendment would be heard first, then the annexation. The annexation application would be contingent upon the map being approved and covering this area. This is not the map our consultants are working on, but an expansion of areas that we have applications on, or people have come in the door and asked us to make application on prior to our revising the map with our consulting firm. We can only amend the map once every six months and if we wait until the consulting firm is done with the map that it could be over a year from now. After July 1st we can not take an application or even talk to someone regarding annexation if they are not in our planning area.

The applicants will not be doing any development for a while as they will have to wait until the consulting firm has completed its update of the comp plan map and that area has the designations of what is going to be developed there with the many meetings and input from the public with the comp plan update.

Applicant: Denton Kelly, KSP Idaho, Sacramento CA. Stacey has done a good job of summarizing what we are wanting to do. We are in support of the annexation and comp plan map amendment update and the comp plan update.

Open Public Hearing: 8:25pm

Neutral: Bill Clark, 3543 Ambrosia Lane: I have been reading the planning act to try and figure out the order of and way things ought to be done. Planning, zoning, annexation. It is in my view that planning is and has always been done first for any annexation and any significant zoning changes. Idaho State codes 67-6525 states: Prior to the annexation of any property Planning and Zoning must recommend and City Council must possess an amendment to the plan or at least their recommendation from Planning and Zoning. Those are the laws that stand now. I realize that the request is being submitted with this application, but I want to stress that is the requirement as of today. Idaho Statute 67-6508, we need to consider the desired goals, objectives or future situations for each planning component and the plan has to be updated in a comprehensive way and all 15 components must be considered. That is just one piece of the land use component recommendation. If we know that something more is going in, really the law says we need to do some kind of study.

My request is that the City Council has your recommendation before the annexation and that the 15 components be considered.

Support: none

Oppose: none

Steve Hasson Planner Director: With any land use application which involves annexation, which you look at the comp plan process and the 15 component parts. This area is outside of our current comp plan area and is not identified on the planning map. That shows you just how fast this area is growing. It is very typical for jurisdictions to annex lands within their jurisdiction that they have not identified on their comp land use map. The thought is always that the comp plan itself is a work in progress. Even though we may have some identified land, neither the less, you apply the goals and objectives that are in place at that time. The comp plan that we are using

now is the 2003 plan. Not a very good one, but it does have goals and objectives and they are used to evaluate the annexation.

Mr. Clark mentioned the 15 component parts, actually there are 14 and the legislature added the 14<sup>th</sup> about 4 years ago, the private property rights component. The newest one always goes to the tail end. And now property rights rate as number one. One of the things staff does when we consider a land use application is, do we think that we can accommodate the rules of engagement of our City, can we adequately service that area, is it in our trade area, can we reasonably represent the public's best interest to do that; and then we give respect and consideration to the person knocking on our door. We feel very comfortable that this application meets the spirit and intent, not only statutorily, but also meets and reasonably meets the public's best interest.

Chairman Stewart: I want to mention that we are only a recommending body to the City Council.

Vice Chairman Touchstone: It seems a little bit of the cart before the horse. Why the rush to annex this in before the comp plan amendment in place?

Steve Hasson Planner Director: There is this perception of the cart before the horse; I have noted before that if you are in a very fast growth mode, you can find yourself in the circumstance that you had not really planned or predicted for. Of all the municipalities in Idaho, I am sure that there are others in the same situation where there is fast growth. We are going to try and reconcile this as a short term solution looking for a longer, better solution. But if there are a lot of properties that want to knock on our door and come in, this lets us have a broad brush approach to their inclusion and then refine that as time goes on instead of ignoring them. We can no longer ignore their presence as legislature spoke and they said, "it's not enough of what we said three or four years ago about private property rights and you can knock on the door and as long as your touching you can come in; but now we are going to change the rules of engagement. Now, not only do you have to be touching, but you also have to be identified on the map. So trying to be proactive where are those areas that we can serve within a reasonable amount of time and provide water to, and that is where these boundaries reflect. I have heard that it is going to be years and years before we get sewer and water before we get to these areas, but they are in the process of putting sewer and water lines in now, and within a year, everything on that map, we can provide sewer and water to if the developer is receptive to making that happen. What we are looking for in the comp plan map update is to refine and have a strategy on what the area should be, but until that time we need a base level from which to start.

Close Public Hearing at 8:40

Discussion:

Commissioner Case: I appreciate Steve's comments, it gave some information that I believe a lot of people were not aware of and gives me a little more insight in the process.

Chairman Stewart: They are coming in under an "A" zone which is not different than what they are now, so they are not changing anything at this time. The development agreement just sets some basic boundary agreements until the property actually develops.

Vice Chairman Touchstone: Under analysis, number 3, it talks about the comp plan land use map, about the agricultural zoning designation and it will be required to rezone according to the future land use comp plan map amendment, it that talking about 2008 map or future map?

Staff: It will be according to which ever map is in place at the time of submittal of the rezone application. If they require a zone that is outside the map amendment they would have to apply for

a comp plan amendment, whether it is the current map or one in the future and they will only be able to apply once every six months either way.

Chairman Stewart: The developer is not part of the LID and will purchase EDU from the LID holders?

Staff: Correct: They are not in the LID and they can purchase an EDU from a LID holder or wait until those are gone and purchase from the City.

Commissioner Case motions to recommend approval to City Council with the following conditions:

- Meet all staff and agency requirements.

Commissioner Kerfoot seconds, all approve motion carries.

**08-04-ZOA, Septic Tank/System Zoning Ordinance Amendment:**

Steve Hasson, Planner Director presents his ordinance changes: The Kuna City Council amended the City's subdivision ordinance in February of 2007 for purpose of prohibiting the installation of new septic tanks or septic systems within City limits. Recently, the City Council revisited that action, and after further consideration, has determined there may be certain limited circumstances where it is appropriate to install new septic tanks or septic systems in lieu of public sewer connection on residentially zoned lands. Accordingly, the Council requested that staff identify these possible circumstances, craft them in the form of a zoning text amendment and schedule them for public hearing. As part of constructing this text amendment, staff relocated the City's septic tank policies from the subdivision section of City code to the special development section (Chapter 16) because that section of code is more in keeping with the nature of this land use application. Let me state what the changes are:

A. Septic Tank/Systems: Use of septic tanks or septic systems is allowed in the following circumstances:

1. Septic tank failure:

If an existing residence on a property zoned residential experiences septic system failure, and the closest public sewer connection point is located a distance of more than 300-feet from the property (as measured at the property line), and the City has no plans to extend public sewer to the subject property within ninety (90) days, it is eligible for septic tank replacement. Central District Health may grant the property owner a permit for replacement of the septic system.

The replacement of a septic system under this circumstance shall not be considered an enlargement or an expansion of a nonconforming use.

If, however, public sewer is available within 300 feet distance of the property (as measured at the property line) and capable of serving the residence, the property owner shall immediately dismantle the septic system according to the provisions of section "C" noted below. The property owner shall connect to the City's sewer system according to provisions of subsection "4" below.

Potable water issues will be evaluated separate from wastewater issues.

Septic tank failure associated with existing non-residential properties shall be addressed on a case by case basis.

2. Constraints make it unlikely the residentially zoned land will ever be connected to public sewer:

When a property owner applies for permits to construct a single family residence on a lot, tract or parcel where the City Engineer determines it is unlikely the land will ever receive public sewer service due to some extraordinary constraint, the property owner may install a septic system. An example of an extraordinary constraint would be extension of a public sewer line across Indian Creek where benefit is limited to a single family residential property.

The septic tank installation shall comply with Central District Health standards.

The single family lot shall be of sufficient size to accommodate septic tank placement and the accompanying drainage lines, while also meeting the statutory distance separation requirements for public or private potable water facilities, including future public facilities such as those noted in the City's Water Master Plan.

Potable water issues will be evaluated separate from wastewater issues.

3. Replacement of a single-family dwelling reliant upon a viable septic system.  
If a property owner submits an application to replace a single-family dwelling served by an existing septic system with another single-family dwelling that is constructed to City codes, the existing septic system may be relied upon under the following conditions:

The dwelling's replacement does not require additional land use actions.

The property owner shall demonstrate to the City's satisfaction that the septic system is viable and the availability of public sewer is more than 300 feet from the property (as measured at the property line). Additionally, the City engineer shall determine that there are no publicly initiated plans to extend sewer to the property within three years.

Central Health District shall qualify the continuance of the septic system does not pose a health concern. If the property is reliant upon a well for potable water use, the property owners shall demonstrate to the City's satisfaction that the distance separation between on and offsite wells and the septic system is according to statutory distance separation requirements.

Only one residence may be connected to a septic tank system per lot, tract or parcel and/or only one septic system is allowed per lot, tract or parcel.

The replacement of a septic system under this circumstance shall not be considered an enlargement or an expansion of a nonconforming use.

Potable water issues will be evaluated separate from wastewater issues.

"Staff does not support the fourth section of this ordinance change for several reasons, but let me read it to you."

4. A single family dwelling constructed on vacant land zoned residential and not requiring other land use actions.  
A property owner possessing a vacant land parcel that is zoned and comprehensive plan map designated for single family use may install a septic tank system where the closest public sewer connection point is more than 300 feet from the property (as measured at the property line) and the City Engineer determines there are no publicly initiated plans to extend public sewer to the property contemplated within three years.

Septic tank installation shall be limited to a single family lot, tract or parcel, not a part of an existing subdivision, where the installation does not require additional land use actions. Only one residence may be connected to a septic tank system per lot, tract or parcel and only one septic system is allowed per lot, tract or parcel. The septic tank installation shall be according to Central District Health standards.

The septic system shall not be placed within a 100 year flood plain. The single family lot shall be of a size and configuration to accommodate septic tank placement and accompanying drainage lines, while also meeting statutory on or off-site well-to-septic tank distance separation requirements. The single family residence shall be installed according to all applicable zoning, building and other statutory requirements.

The property owner shall pay the City's standard sewer connection fee at time of septic tank installation and enter into an agreement to connect to public sewer when it becomes available within 300 feet of the property (as measured at the property line). This agreement will be recorded and run with the land. The City Engineer may require the residence to be double plumbed to facilitate future public sewer connection, participate in an LID petition and provide necessary easements.

At time of public sewer availability, the property owner shall immediately dismantle the septic system according to the provisions of section "C" noted below.

Potable water issues will be evaluated separate from wastewater issues.

The property owner shall acknowledge that in the event they do not connect to public sewer when it is available and within ninety days of being informed of that fact in writing, the City shall designate the land and structure as nonconforming and file a notice of sewer connection non-compliance violation with the Ada County Records Office. This enforcement document will be recorded and follow the land until public sewer is installed according to the provisions of this section.

Septic system installation in Kuna is subject to a city-wide septic tank threshold limit, whereby no more than two (2) single-family septic systems shall be installed and functioning, at any given time, from the date of this ordinance's adoption within each of Kuna's township quarter sections. Accordingly, septic tanks will be allowed within each township quarter section on a first-come first-served basis until the two dwelling threshold is achieved; the area septic tank limitation shall apply only to this subsection.

The City's planning staff shall be responsible for monitoring septic tank replacement processes. Septic tanks in current use will not be included as part of this quarter section septic tank limitation unless they experience failure and are replaced with another septic system according to the provisions of subsection "1".

The intent of the cap is to minimize contamination of ground water, lessen the formation of septic system enclaves that may discourage future public sewer installation and to protect the City's public sewer rate base.

The reasons staff does not support this last option. One, is it has a de-valuate problem, it will be difficult to monitor; then there is the problem where we have invested in a new public sewer plant, and the equity in fairness on all of those who have to connect. It opens the door for health issues and inequities in rate base, and later on when they have to connect they say "why it works fine so to heck with you."

Open public hearing at 9:23

Support-none  
Neutral-none  
Oppose-none  
Close public hearing at 9:23

Discussion: none

Vice Chairman Touchstone motion to recommend to City Council 08-04-ZOA, Septic Tank/System Zoning Ordinance Amendment as submitted.

Commissioner Case seconded. Motion carried 32 with Chairman Stewart and Commissioner Kerfoot dissenting.

**08-01-CPA – Amendment to the City of Kuna Future Land Use Map:** Planner II Stacey Yarrington presented the amendment. The City is initiating an amendment to the City's Future Land Use Map to include the recently annexed lands of the Osprey Ridge Development as well as lands that have made or have expressed an interest to make application for annexation, as well as lands of interest to the City. The map amendment is for planning purposes only and does not affect the current zoning or use of any property. It will allow to us at least talk to people and allow us to get the people in the door that we currently have applications with or want to come in the door soon. As referenced on the proposed map, site one (1) is an active commercial site. Site two (2) is currently zoned commercial as well. Site three (3) is property coming into the City that Planning and Zoning recommended approval and is going to City Council so we needed to amend those to reflect the commercial and potential commercial zones. The fourth (4) site is Profile Ridge and is known as the big box location, this again reflects what has passed and been approved for zoning. In your exhibits you have received a letter from the Mayor of Nampa City; it was not very favorable and told us to basically to stay on our side of the line. We are just trying to go forward to accommodate those who asked us to provide services to.

Steve Hasson, Planner Director: There are several things that factor in to this map update of our current comp plan use map boundaries. The legislation has amended the state statues that come into effect in July. In short the new law states that in order to annex into the City, not only does it have to touch an annexed piece or property, but has to be included in the planning boundaries. Currently our planning boundaries are very small and limited and if we do not change it and enlarge it to include these properties that wish to come in or that we have talked to, we would not be able to service the people who want to be included into the City of Kuna. I think the only area that may take some considerations is to the west. The north, south and east are fine maybe a little tweaking on the lines. If our map does not comport with the market place then we will not be able to service the people who wish to be included.

In Canyon County, currently the boundary is McDermott Road. One of the reasons we want to include this area is, one (1) they are in our library district, two (2) it is in our fire district and three (3) it is in our school district. Also it is in our address area. This would be a good spot for open space and agricultural land and that would give us some control on what goes on over there. On the map in the north corner there is a section of land that is in Nampa's area of impact and I think that area should be taken out. The rest we feel pretty strongly that we have a presence there and we have had discussions with the City of Nampa and Canyon County. Nampa says they have plans to develop that area. They also alleged we would have to have dialog, but we have had four (4) or five (5) conversations with Canyon County and we would be very respectful of them. Finally, it is the Canyon County Commissioners who would ultimately make the decision and we have been having dialog with them. This is the last crack that the public has to have some say so on these boundaries.

Commissioner Kerfoot: Does the county line have any degradation in this, just because it is a different county, does that mean we can not cross over into it?

Steve Hasson, Planner Director: I always look first for guidance in what does the legislature say; what have they directed and what did they put in the land use planning. And what they said is if a municipality is within three (3) miles of a county line, they can knock on the next county's door and ask to plan, participate and develop in that county. We are less than a mile from the boundary now. We went five and half mile east to accommodate a development, and already we have an affinity over there with our school district, fire district and library district already being over there it just seems prudent to talk to those folks over there. We are just planning and predicating.

Chairman Stewart: One of the issues that comes up is who is going to maintain those roads. They do not have ACHD over there.

Steve Hasson: There are some different issues, the roads, different tax differentials, but by and large there are not that big of differences. Star did it.

Open Public Hearing: 10:00 pm

Neutral: Ralph Hoffman 1835 S Hobnobbin Lane: I would like to ask that the area shown as site three (3) be extended to include the property just east of the Brothers, just across the ditch next to the LDS Church. We own that property and would like it to reflect the zoning, light commercial, as the properties it borders, and it shows consistency.

Oppose; Terry White, City Attorney for the City of Nampa, 5700 Franklin Rd. In order for you to cross county lines you have to comply with state laws and state laws requires that you have the consent of County Commissioners, which at this time you do not have. I appreciate that you have removed that piece that is already in the impact area. We can understand where you are coming from, and when you have the growth that you have had, you need to plan, and how do you plan for that growth. The City of Nampa has done a lot of planning for this area already by doing studies for water, sewer and roads. I believe that the logical line would be the Ada County line. What does make a difference is take a look at your police and prosecutorial services. Right now I don't believe that you have a police department, I believe that you contract with Ada County. Now you would be contracting with Canyon County and Ada County if you go over there. If you start your own police department, you would have to contract with Canyon County and when they arrest someone they would probably be taken to a jail on the Notus exit. That translates to cost. Who is going to pay it? You would be dealing with Canyon County planning and zoning, tax policy, all of which is different and you would be duplicating services. The biggest issue is, you do not have ACHD and now you are in the road business. Your only hope to fund that is to contract with Canyon Road District. Sewer, you would have to have a force sewer pump, and then there is the opinion of the people in that area. Good planning is great but the county line is where it should end.

Rodney Ashby: Nampa Planning and Zoning: On the map I just handed out to you in green is the impact area of Nampa and we are in discussions with Canyon County to expand the area of impact in yellow and since 2005 we have been initiating studies, expensive studies, to look at this area to see if we needed to be in this area and if it was feasible to run services there. The studies indicated that we could run sewer to this area. Some of the studies we have or are in the process of doing are the water irrigation master plan, demographic, transportation plan, forecast and land use analysis for the Nampa study area. Making a comp land use map that includes Canyon County is putting the cart before the horse because in the normal process the area of impact is identified before the comp plan map is amended. I would argue that this is not good planning.

Commissioner Kerfoot: If you have these studies done why has Nampa not included this area in their impact area and have there been any requests to annex into Nampa?

Rodney Ashby: We are just doing the study to see if we want to include this area and if it is financially feasible to go there. That is a long term perspective; it is a long term approach, we are just looking at it for the future and no there have not been any requests to annex in.

Staff: For the record I would like to ask for a copy of the map to include in the file and it will be exhibit 15.

Moreella Stewart: 5459 Deer Flat: I have a petition that I would like to have go on record that was canvassed from the area in question. We do not want to be in Kuna's annexed property. There are a number of reasons why and some of them have been stated already. I spoke to your planner before I went to the Canyon County Commissioners, and it was somewhat different than the information they provided you. I spoke with one of the principals who bombarded into Canyon County from Star. We were not notified in any way that this map was going on. I have been involved in enough land use actions to understand what is going on. When I talked to the person from Star the first thing they suggested is to hire an attorney so we do not get annexed into Kuna. There are two counties involved and this will be problematic. We farm, we dairy, we do not want in Kuna. It will create a real messy problem with us and is not in our best interest. The problem is the mess from two different counties with two different municipalities.

Jacob Jarivs, 5565 S Linder, Meridian: I'm on the opposition list because I was left out, unlike these guys, I want in. It makes more sense to make the Rawson Canal over to Amity to be the boundary line. Otherwise it will split mine and other peoples properties in half. I don't have a future development planned, but I want to be part of Kuna. I'm neutral, I'm for more on the amendment, not less and I wasn't sure where to sign it at. This would be a more natural break with the canal as the boundary line than where it is on the map.

Bill Clark: 3543 Ambrosia Lane: Provide a handout showing several sections of the Idaho land use act. I am mostly interest in the process for the amended boundary of the map amendment expansion. The bulk of these lands have not been study in the plan and a simple map update is not enough. It is only one part of the components in the state statutes. Idaho Statute 67-6508 says that we need to consider the desired goals; objectives or future situations for each planning component and the plan update must be comprehensive. In the case of Osprey Ridge, City Council operated without any plan update. The comp plan is suppose to guide our decisions, not just a map we update after the fact. Idaho Statute 67-6525, Prior to the annexation of any property Planning and Zoning must recommend and City Council must possess a amendment to the plan, or at least their recommendation from Planning and Zoning. What is on the plan does not show what Osprey Ridge wants, and there have been a couple of other properties that have been annexed in without the proper map amendment updates, these actions invalidate our planning process and our participation in it and the decisions have already been made. Which comes first, planning or zoning? Secondly it's your duty spelled out by Idaho code to conduct a comp plan process to base the update on the analysis on all 15 components to the desired outcome and third, call the attorney generals office, its their mission to provide legal explanation at low cost to the city.

Steve Hasson Planner Director: In regards to the petition that you received, it seems the concern is annexation. Kuna has a policy that we do category "A" annexations. Your property touches the City, we can provide services, we would consider you for annexation, but you have to initiate the annexation. One thing that I saw that was interesting, is that 21 of these property owners and there are about 25-26 on the list, all put Kuna ID. as their address, they didn't put Nampa, you have five that put Nampa. So it begs the question of where do they really live, it puts the infinity with this community whether they realize it or not. Second, are we doing something illegal or something that is behind the scenes? No. Truly we have had conversations with Canyon County, Leon Jensen, just this last week in fact and the County Commissioners are very aware of what we are asking. In regards to the Attorney Generals office, we are

very fortunate to have council in-house. The City's attorney's guidance in this matter lets us know that we are not doing anything illegal in any way. Third, when you go across a county line there are different service providers and one that was mentioned is ACHD, we are not trying to cause waves, but we have talked to the Nampa Highway District about providing service in the event we went over there and people annexed in. They would provide one of three accommodations. One, they are not in the municipal transportation business that they would try to accommodate us or do something in tandem with us. The City just hired Gordon Law and when he was in Caldwell, he was in charge of the transportation authority there. He is a person on staff that has knowledge and has run a transportation system. And the third thing was if we wanted ACHD to go over into Canyon County they would work out some inter-local agreement with them so we could have transparency. I don't see this as a land grab and I do not discount Nampa's desire to look at this area and spend monies on plans there, but again we need to go where we need to be. It is up to you to decide if this is where we want to go.

Commissioner Kerfoot: if this map does not go through, then the annexations and rezones that have gone through would not go through and fall down, am I correct?

Staff: Correct, this map amendment is for those properties plus where we have had some interest in and again the issue is the time frame because of the new law going into effect on July 1.

City Engineer Gordon Law: I am in the unique position of owning property in the planning area and I am the City Engineer so I have the perspective of dealing with the City of Nampa in a fairly congenial side, from the Caldwell side. I am not without the knowledge and am aware of the risks that cities take in their planning process that are outside of their corporate limits. I detect some concern about efforts that they may have expended in planning in areas that they do not currently have annexed into their city limits. This is the game, this is the way it's played. Do not take too much stock in the idea that someone else has looked beyond its borders and planned as the reason why this City should not look beyond its borders and plan as well. It is not terribly important in the process in Kuna's determining what its destiny is going to be. As a property owner in that area and having sent my kids to the Kuna schools, my sympathies are with the City of Kuna and not the City of Nampa, it is not anything bad to Nampa, it is just that my preferences are here. I believe that there are others as well who feel the same way. This document is not an annex document; it just gives the property owners an option to choose. That may be the motivation of Ms. Stewart. To be opposed to this document is to take away that choice.

Commissioner Wierschem: What are some of the reasons why we should look beyond the Happy Valley boundary? In regards to public service?

Gordon Law: Mainly the school district boundaries. I believe that the planner from Nampa expressed it adequately; it is certainly possible in almost any place. On their west and north side they have to pump almost everything back to their sewer plant just like we do. Providing services, technically the engineer can take care of that. The City of Kuna is already building an advanced treatment plant that other cities are going to have to convert to in some fashion in the future and Kuna has already taken that step.

Dave Tidwell, 5700 Linden Road, we share Mr. Jarvis's opinion that the border be extended to the Rawson Canal on the north boundary. It just makes more sense. The land slopes south from the canal on the south side and slopes north on the north side. It would make a better boundary than the quarter mile section and would not divide our land in half so half would be in one city and the other half in another city.

Vice Chairman Touchstone: Are they going to be feasible studies with the comp plan update and with our consultants?

Steve Hasson, Planner Director: There are several things done in the comp plan process, one we are getting a new comp plan and second we are doing a capital facilities plan that is trying to anticipate where we are going to need our public services. We are going to have a 5-6 year benchmark and a 20 year benchmark. It may include treatment plants, roads, satellite police stations, fire stations, etc. and where they should be considered in location; and third to craft a city impact boundary. We are trying to

establish some reasonable boundaries that we think reflect the public interest and where our service delivery is and craft planning boundaries. It may be the same area of impact, or it may be different, but we will try to meet a mutual planning accord between us and Nampa, Meridian and Boise City so we can all work and coordinate together the best we can. There is always a political component there which makes it difficult. But with the amount of people who are expected to come into the valley in the coming years we need to work together to make it happen. All of our planning tools can be subject to modification and are works in progress. The septic ordinance is one, the lot split last month; signs are coming up, so again it is a work in progress.

Chairman Stewart: Just to make this clear, this is not an annexation, just a planning map, to give the ability for those in that area to have a choice and making it available for them if they choose to come too.

Close Public Hearing: 10:50 pm

Discussion:

Chairman Stewart: Looking at the line to the north, I think that we should adjust it to the Rawson Canal, as we have annexed property in that area and we have property owners requesting to annex in. The Deer Flat sites are a logical change and to the East, to the South and the Vander- Stelts, it isn't a problem.

To the west, I think that we should exclude the area that Nampa already has included in their impact area but we need to decide where or how far do we want to go? I am fine with what is proposed with the corner that Nampa has claimed taken out. We are not forcing them to annex in, and nothing would change except to give them a choice of where they would like to go. This is just a planning map. We are looking at what is going to happen in the next five (5) years. They have a Kuna address, they are served by the school district, fire district and library district so this should be a consideration.

Vice Chairman Touchstone: My concern is that we are being forced to show our cards early in regards to the fact we have onboard now a consultant who is going to do our new comp plan and associated with that, the various studies and to just open the door to talk to properties that may want to annex in Kuna. I think that we should push and pull here and there, but I am not comfortable with the west boundary as we have not had full dialogs with the people to the west and different cities and we need to include them and have input and I feel that we are being backed into a corner because of the new laws going into effect.

Commissioner Case: Here is my opinion, pull it in on the west, extend the north and go east.

Commissioner Wierschem: I like what I see, and appreciate the people coming out and letting us know what they think. I think that we should extend it north to accommodate the people who are here now knocking on our door and asking for it, but I believe that we should extend it to the west to include the area in our City and stand by it and consider it to include all of the area where our school services are. If we don't allow others the opportunity to decide, they may not be able to have a choice with the new laws going into affect.

Commissioner Kerfoot: I agree with Commissioner Wierschem, I can't help wonder if we were to pull back the services we now offer over there would there be more people here? I think we would. So as messy as it sometimes can be, I think it could be worse if we did not offer these services and allow these people the choice to decide for themselves and extend to the school district boundaries. The other areas I agree we should extend or keep where they are at.

Vice Chairman Touchstone motions to approve the planning map amendment 08-01-CPA with the following changes:

Include the properties on Deer Flat, extend the boundary along the north to the Rawson Canal to Amity and west to McDermott, include the Vander-Stelts and east and south, but on the west pull the boundary in to McDermott Road.

Commissioner Case seconds

The motions fails 2-3 with Chairman Stewart, Commissioner's Wierschem and Kerfoot dissenting.

Commissioner Kerfoot motions to approve the planning map amendment 08-01-CPA with the following changes:

Include the properties on Deer Flat, extend the boundary along the north to the Rawson Canal to Amity and west to McDermott, include the Vander-Stelts and east and south, but on the west to exclude the portion that the City of Nampa has claimed but extend the western boundary to include all of the Kuna school district into Canyon County.

Commissioner Wierschem seconds.

The motion fails 2-3 with Chairman Stewart, Vice Chairman Touchstone, and Commissioner Case dissenting.

Vice Chairman Touchstone: I think that we need to wait until the consultants for the comp plan and the plan has had a chance to look at this, and we get more input from the public. If we had someone begging to come in from than area I would not hesitate to agree. But we have not.

Commissioner Case: I am going to piggy back on that what Vice Chairman Touchstone said and with the police services there are going to be issues, and it is a long way to Notus for them to take to jail and the logistics' and commitments between both municipalities needs to be worked out first.

Chairman Stewart motions to reinstate the motion that Vice Chairman Touchstone made to approve the planning map amendment 08-01-CPA with the following changes: Include the properties on Deer Flat, extend the boundary to the north along the Rawson Canal to Amity and west to McDermott, include the Vander-Stelts, and east and south, but on the west pull the boundary in to McDermott Road.

The motion passes 3-2 with Commissioners Kerfoot and Weirschem dissenting.

## REPORTS

**Planner Director Hasson: no reports**

**City Attorney Grove: no reports**

## CHAIRMAN DISCUSSION

Commissioner Case requests that all the information be included in the packet again for the next hearing the project is being heard at and for projects that have been tabled or carried over as he does not keep past packets.

Commissioner's requested that all information be included in the packets, if not able to get it in, to please table the project instead of handing out information at the meeting. It does not give them enough time to go over any of the new information in order to make a good decision.

## ADJOURNMENT

Chairman Stewart motions to adjourn the meeting at 11:55 pm  
Vice Chairman Touchstone seconds, all approve.

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Steve Hasson, Planner Director

ATTEST:

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Tracy Rushlow Planner Technician