

**Kuna Planning & Zoning Commission Meeting  
March 10, 2009**

**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:**

Commissioner Wierschem, Commissioner Sanders, Commissioner James, City Attorney Grove, Planner II Troy Behunin, and Planner Tracy Rushlow

Absent: Chairman David Case, Vice Chairman Carl Trautman, and Director Steve Hasson,

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

<b>Consent Agenda</b>
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Commissioner Wierschem opened the meeting at 7:05 pm

Planning and Zoning minutes:  
February 10, 2009

Commissioner Sanders motion to approve minutes from February 10, 2009  
Commissioner James seconded, all approved, motion carries.

<b>OLD BUSINESS</b>
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None

<b>NEW BUSINESS</b>
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**09-01-SUP (Special Use Permit) –O’Leary’s “ARLENE Building”**

Planner Tracy Rushlow presented the application. 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 site, recognized through City zoning requirements, to house the license. The property is zoned (CBD) Central Business District, requiring a special use permit for the bar/lounge, as does a privacy wall/fence if over six feet (6) which the applicant wishes to construct in the rear of the building. Since this application is for commercial it was required to have a design review (File #09-01-DR) which was done on February 26, 2009 and carried over to March 5, 2009. The Design Review Committee recommended the following requirements:

- Recommend approval to Commission regarding the proposed block wall for the back patio. The wall shall match the existing wall to the east, constructed with 6’ x 2’ x 2’ blocks (ready block) with a coble stone pattern. The wall is required to obtain a building permit and be inspected and constructed as the building inspector sees fit. ***The Commission shall decide the maximum height allowed.***
- The paint shall match the existing; providing San Francisco Used Brick Red for the building and Green for the Trim.
- Any light fixtures provided for the patio area shall maintain the historical era of the building and keeping with the City’s dark skies policies.

- A wall or freestanding cast iron (antique looking / 1910 era) clock shall be provided in 2010 as an anniversary dedication for the 100<sup>th</sup> birthday of the building. The freestanding clock must have approval from ACHD through a licensed agreement and presented to Council for approval of placement within the right-of-way of the sidewalk.
- Meet all Staff and agency recommendations/requirements.

Commissioner James: There is an allowance in the State Statute for bars/ lounges to be open on Sundays. Is there a reason to have that in there?

Staff: There were discussions between staff and the applicant about being open on Sundays. The applicant and Steve came to a mutual agreement that the bar/lounge would be closed on Sundays; it does not have to do with State Statutes.

Commissioner James: the other question was the wall height. The applicant wants 12-20 feet but staff wants a maximum of 8 feet. Why?

Staff: Planner Director Hasson wanted only a maximum of 6 feet due to what he thought would be a safety issue for police officers; they would be able to see what was going on before having to enter the patio area. The applicant wants the wall to match what is currently there to keep wind and dust out and to also provide shade when it is hot.

Commissioner Sanders: Was there any response from the police department?

Staff: No. They receive a packet like the other agencies but there was not a response, in fact they rarely do respond.

Commissioner Wierchem: We granted a special use permit for the Old Firehouse, was it for alcohol use? And do they still have the permit? The request for the high wall in the back, is the applicant intent to put a roof over it?

Staff: It was for alcohol and I am not sure what is going on with the liquor license for that establishment. For the wall in the rear of the building they are not planning on putting a roof on it, as they want to keep the courtyard area open.

Applicant: Vernon K. Smith 1900 W Main Boise. I represent the O'Leary's. Larry is here, Arlene is at home as their mother passed away this morning. The point of concern that we discussed with the Design Review were worked out for what we believe benefited not only my client but the City as well. The rear wall, we want something that fits in with the rest of the building, the same height as the wall already there. In regards to the foundation, Larry explained to them that the building is constructed with walls on both sides that extend all back, and are supporting walls for buildings on either sides of the Arlene building and there is a foundation already there. He is looking at adding a permanent wall there, not a privacy fence or privacy wall, but a lasting wall that would fit in with the rest of the structure. He would like it to be about 12 feet tall. It would have a nice entryway with curved entryway walls on either side to limit the wind and dust coming in and make a nice presentation. The reason he wants it that tall is to keep with what is currently there, but to also keep the wind and dust down so people can enjoy the outside patio area, and when it is hot it will also help give it some shade.

In regards to the application that came in about the Firehouse; yes we did come in for a special use permit for a bar/lounge. Let me give you some background information first. Several years ago Larry and Arlene applied for a liquor license under the name of Firehouse Restaurant and they also put it under there name Larry and Arlene O'Leary. They received two liquor licenses, but the one for the Firehouse is having problems and we do not know if that restaurant is even going to receive that license. The reason is because the person who is running the restaurant has her business license listed as the Firehouse Restaurant and it is a conflict with the O'Leary's liquor license under the same name. That is why it is imperative that we put this liquor license in the Arlene building. It needs a home and that business has to be open and ready to serve when the license is given. Larry would of have like it to be a restaurant with a lounge but time is of the essence and he does not have the time or money right now to get the building compliant to have the restaurant first. But he can get the bar/lounge ready and then add the restaurant. Upstairs they would like to add maybe a art gallery. One of Larry's daughter's is an artist in Chicago right now and this is something that they want to do, also they are thinking sometime in the future there maybe a ice cream parlor

or a marguerite bar. It has a stairway to get upstairs. Would not have to go through the main building to get up there.

There is a beautiful fireplace in the back that has the means to BBQ in and that may be the first thing that they do as far as the food serving part, but again important that they get the liquor license in and that business going so they do not lose this liquor license as they may have lost the one in the Fire house.

Commissioner Sanders: If this is approved and you get the Firehouse improved, will you keep both liquor licenses?

Applicant: If I get both of them yes, that is part of my inheritance for my children. I have worked a long time and put in a lot of effort, from my mother to myself now for my children.

Commissioner Sanders: We have no pictures of the back wall or where it is going to be on the plans.

Applicant went up and showed them on plans.

Commissioner James: If I remember right, the wall in the back kind of stair-steps down does it not?

Applicant: Yes, it has I believe two drops.

Commissioner Sanders: The parking is accomplished by on-street parking and there really is no parking, I am not sure that there is not enough parking for that, and any of the other businesses will not have any place to park. I am also concerned about downtown and that would be five liquor establishments within a two block area. This is not the picture of what I would like to see for our downtown. I think that it would be more of a deterrent to have other viable businesses of a different type if we allow another business of this type downtown. If it was primarily a restaurant that might be a different thing, but a bar/lounge I just don't know.

Open public hearing at 7:40 pm.

Neutral: none

Oppose: none

Support: none

Close public hearing at 7:41pm

Commissioner Discussion:

Commissioner Wierschem: What are some of the concerns that you have?

Commissioner James: I don't understand why they had to have a special use? A restaurant is allowed as is a restaurant with a liquor license.

Staff: The application came in as a bar/ lounge not a restaurant with liquor. It is required for a bar/lounge in a CBD zone in our City Code to get a special use permit.

Commissioner James: So if they say this is a restaurant they would not need a special use permit correct:

Staff: Correct. But the application came in not for a restaurant but a bar/lounge that is why there is a special use permit. Mr. O'Leary did not have the time or resources to set up a restaurant at this time and time is of the essence for him to receive the liquor license.

Commissioner Sanders: I would welcome a restaurant that served liquor but not just a bar/lounge. I feel there are too many of them now.

Commissioner Wierschem: My take is that Mr. O'Leary intention is to have a classy, upscale bar/lounge and I believe that kind of place is definitely needed here. His intentions to expand to include food and the other additions of maybe an art gallery and this makes it sound like this is something we would want downtown and possible bring in other types of businesses that would complement and enhance the downtown. I understand the concern of adding another business that sells alcohol, but I think that this will be more of an asset and would bring a different type of cliental.

Commissioner Sanders: There are two parts of this special use, one for the bar/lounge and one for the wall/fence for the back of the building. I do not have any objections to the patio and wall, but I don't believe that we need another bar/lounge downtown. If a restaurant was there that served alcohol, I would not have any reservations but I don't think that we need another bar. I think that a maximum of 12 feet for the wall would be high enough. I have no objections to the

wall I just don't want to see another drinking establishment downtown with the many we already have.

Commissioner James: I understand the concern of another bar, but I think that any business downtown Kuna would be refreshing and it sounds like it would be an upscale bar and eventually a restaurant so I am leaning towards allowing this.

Commissioner James motions on March 10, 2009 to approve file #09-01-SUP for the proposed bar/lounge in the Arlene building, subject to the following conditions:

- *Meet all staff and agency recommendations and requirements.*
- *Rear wall is to have a maximum height of twelve feet (12') with construction plans and a building permit approved by the City of Kuna's building official.*

Commissioner Wierschem seconds the motion, voted 2-1 with Commissioner Sanders being the dissenting vote, motion passes.

### REPORTS

**Planner Director Steve Hasson:** No Report

**City Attorney Grove:** No report

### CHAIRMAN DISCUSSION

none

### ADJOURNMENT

Commissioner Wierschem motions to adjourn at 8:48 pm  
Commissioner Sanders seconds, all approve, motion carries.

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Stephanie Wierschem, Commissioner

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ATTEST:

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Tracy Rushlow Planner Technician