

**Kuna Planning & Zoning Commission Meeting
April 28, 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.*

Those present:

City Attorney Grove, Chairman David Case, Commissioner Sanders, Commissioner James, Director Steve Hasson, Planner II Troy Behunin, and Planner Tracy Rushlow

Absent: Vice Chairman Carl Trautman, Commissioner Wierschem

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

Consent Agenda

Chairman Case opened the meeting at 7:00 pm

Planning and Zoning minutes:

March 31, 2009

Facts and Findings, Conclusions of Law:

09-01-RZ, 09-01-DA, City of Kuna, Avalon property.

Commissioner Sanders motion to approve the consent agenda from March 31, 2009

Commissioner James seconded, all approved, motion carries.

OLD BUSINESS

None

NEW BUSINESS

**09-01-ZOA - Septic Tank/System Zoning Ordinance
Amendment / Kuna City Code (KCC) 5-16-4**

Presented by Planner Director Steven Hasson. The Kuna City Council amended the City's subdivision ordinance in July of 2008 for purpose of providing for the installation of new septic tanks or septic systems within City limits in certain circumstances.

Now the Kuna Planning and Zoning Commission and City Council are asked to consider an amendment to the septic tank ordinance that would afford the interim placement of a septic system on a vacant property identified as public or quasi public until such times as public sewer was available in proximity to the site for public connection purpose.

Any one can ask for a text amendment; the protocol is staff writes it up; you evaluate it for content and then make some determination such as a recommendation to City Council. In the old days in Kuna septic tanks were fairly common feature of the community. Up until February 2007, they were allowed on a exception basis for large parcels of land. That month the City Council determined to band all septic tanks in the City. They held that posture until the fall of 2007 where they realized there were certain circumstances where it might be prudent to have septic tanks on a limited basis in the City. So they ask me at the time to construct some language to provide some relief values on septic tanks. So in 2008 we passed an amendment to sewer ordinance and put it in a new section

in our City Code, Chapter 16, called Special Development section. At that time we came up with four instances that a septic tank is permit -able. We felt that would carry the day. More recently we were approached by the Idaho Baptist College which we have been working with in the last couple of years. They are contemplating a large campus on the corner of Columbia and Highway 69. From our conversations they are a good neighbor and they would like to get started on their development except for one thing. And that is public sewer is a couple miles away. At the current rate of development it could be two or three years before the sewer can reach them. I had a primarily conversation with Central District Health and they advised me that they would be receptive to some on-site septic system with this facility. More recently I had conversations with Idaho Baptist College and they have representatives here tonight. By perhaps by amending our Special Development section to add a fifth exception to our septic tank provisions. I just want to read this into the record.

1. It offers a direct remedy to the Idaho Baptist College who would like to start construction of this quasi-public facility at the corner of Columbia Road and Highway 69 where it finds public sewer more than two miles away. The cost to extend sewer that distance is cost prohibited. Thus without a text amendment they may have to wait several years to construct that facility which is of considerable value to Kuna in terms of our growth and development.

The text amendment was written very narrowly to apply to public or quasi-public use. Our City zoning text has definitions on what public and quasi-public use. And it numerates that it could be schools, administrative, public safety, colleges, hospitals or similar type building or structures. This provision number 5 will just apply to just public or quasi-public facilities.

2. And maybe more important reason this amendment is being offered up is there may be some type of public facility at a location in Kuna where public sewer is not available in the near future. I can envision the need for a fire station, a police substation, fairgrounds, emergency medical facility, park and ride, or Community Park at a location in Kuna where public sewer is not extended.

Accordingly, this amendment is offered as both a economic tool and as means of addressing certain public health and safety needs should they arise. This text amendment allows Kuna some level of development flexibility and Kuna is growing faster than we may be able to accommodate the infrastructure. This is not any kind of carte-blanche and if it feels good do it in respect to the installation of septic tanks, but again it is verily narrow written to cover public and quasi public facilities. I have inserted the language to suggest accommodating the public or quasi public uses. It is pretty stringent here; it says that if public sewer is available within 300 feet as measured from the property line and the City Engineer has determined that it is available, then the applicant would be obliged to extend it that 300 feet and connect. It has provisions in here that if they don't connect up there are some kinds of "hammers" we have to ensure that performance. For instance it cannot be in a flood plain, and there are distance separations for septic tanks and drinking wells.

Commissioner Sanders: How big is this hammer really? Enforcement documents are recorded with the land; so what?

Planner Director Hasson: On the recordation of the property, and I have used this instrument in other jurisdictions; this impedes the land owner from getting them to get lending money but it also makes it hard to sell because it is encumbered. Randy can tell you that there are different ways for legal remedies in addition to this one, but I am suggesting this as a way to meet that performance that I have used in the past and it has worked.

Commissioner James: I have a question about exhibit 1 section 4 about single family dwellings being zoned residential and it wraps up saying that they have (3) three years to connect, but the new section is similar but does not state a time frame is there a reason for this?

Planner Director Hasson: The question is "do I need rigorous language in this fifth section as I did in the previous sections". I didn't think that it was appropriate, and the reason why is with public – quasi public facilities you have a governing body and it is a lot easier to deal with a governing body and easier to get them to comply. But you as a Commission have the right to modify the language if you feel that it does not fit.

Chairman Case: About six months ago we had a gentleman that came in that had a piece of property that was in an area that dealt with him wanting to divide about ten acres and put two other homes on, Columbia and Linder I think, but we are accommodating a public, quasi-public element, but not a residential site.

Planner Director Hasson: In my opinion we already accommodated the residential side last year when we rewrote the septic tank ordinance giving circumstances when a septic tank is allowed instead of flat out saying no septic tanks ever. When the Baptist College came in I looked at the septic tank ordinance to see if we could accommodate them, but it is so tightly wrapped that I could not. And in looking further, I realized that it does not have any provision for other areas that are public or quasi-public, like a fire station or substation for the police. There are areas in Kuna where it might be a long time before public infrastructure is going to be there and we need those types of services now, but would not be able to have them as the current ordinance reads.

Commissioner Sanders: 5;16,4 page 3, it talks about the septic tank threshold for two single family homes, how are you going to make that applicable to the public-quasi-public facilities, there are going to be more people there than would be in the 2 family households, a much larger system.

Planner Director Hasson: ,And again when I looked through the first 4 things that let us allow a septic tank in the City, it deals with single family residences, not public, quasi-public that's why we added section 5. Section 5 is only for public-quasi public and has different standards than the other section of this ordinance and it has to be in order to get where we need to be. Again, there are places where sewer may never go. For example I have one piece of property on the other side of Indian Creek, and it is the only piece of property there, it is not feasible to extend sewer to that property. We really discourage septic tanks, and with the new treatment facility coming on line we would be cutting our nose off to spite our face if we just allowed septic tanks where ever and when ever. And to my knowledge, since this ordinance passed there has not been a instance where it has been used yet. And I don't think that there will be much use of it.

Open public hearing at 7:25 pm.

Neutral: none

Oppose: none

Support:

Barbara Brandon, 4381 Cochees Way, Boise. The reasoning of needing the sewer now is finalizing our plans for building and we have to have the utilities in place in order to get our permitting. When we first started this process we thought that we would have sewer in by 2009 and that would fit right into our plans. But with the economy and things slowing down so much that is not going to happen. But we felt that if you let us do this on a temporary basis we will be able to hook into the sewer when it is available. That is our plan. We are putting the buildings in phases and the health department is working with us on that to plan to make sure that we have facilities that will meet the demands of each phase. So perhaps we will just need the septic for the first phase. We want to lay the sewer lines to the right of way for when sewer is available we can just hook up and just cap right into it.

Jim Coslett, Civil Engineer, 4947 Douglas Fir St, Boise; It is a 17.75 acre site and we have had several meetings with DEQ and Central District Health and we are following all the steps and procedures that they have set out. The first phase has a building of about 42,000 square building and we are looking at a large soil absorption system and we are trying to determine how many people will use the facility in order to set the drain fields to handle the loads efficiently and properly. It is hard to say when the sewer is going to get to us.

Commissioner James: Can you give us some idea of cost compared to the septic to taking the lines down to where you need to get them now? Not exact figures.

Jim Coslett; I am just throwing this out there but there were two different directions we could of gone. West a couple of miles to the new treatment plant, or do a lift station south to a subdivision down that way about 1.25 miles but your looking at a minimum of \$250,000 to \$500,000 to do it that way, very cost prohibited. So a septic system is very good cost alternative. There are three drain fields, one in reserve in case one of the other ones plugs up
Rich Whipple, 12009 Golden Road, Agree with what was already said.

Close public hearing at 7:30pm

Chairman Discussion:

Commissioner James: I can see where they are coming from. Not to long ago the area was booming with building and then it came to a complete stop, so in cases like this who knows how long it may be before it starts up again and you cant put a time frame on it.

Commissioner Sanders: I agree, in this present economic situation who knows when it may build up. But by allowing this septic tank change and allowing the college to come in it may bring more business and then the sewer may come sooner than later. Septic tanks are very safe if done properly.

Chairman Case: I think that we need to look at this thing as a whole, I know the college representatives are here, but we need to look at this in content of everything that it will affect. It could be as minimal as a couple of years or ten years depending on when the development gets back on a building spree. We need to look at the big picture like Osprey Ridge; something like this could fit in for public or quasi-public facilities. It is really hard to judge and realistically, with the expense of bringing in the sewer, the septic system seems to be the best bet at this time.

Commissioner Sanders: I agree and with the Linemans College right there also, it might push the development faster when they do hook into sewer.

City Attorney Randy Grove: Chairman, Commissioners; In the first paragraph of the proposal; it is unlikely to happen but strange things have happened; but I believe that you need to add in *"and is intended to construct"* so it reads as follows, "A property owner possessing a vacant land parcel that is zoned to allow ***and is intended to construct***, a public or quasi public use such as a school, administrative, public safety, cultural, church, college, hospital or similar type building or structure may install a septic tank system on the parcel 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 the cost of providing a public sewer extension from its present location(s) would be prohibitive and provided there are no immediate plans to publicly extend sewer to within 300 feet of the property." And my other concern is there might be a little bit of conflict with the last paragraph and subsection E. By the definition of this edition it starts out as vacant land so we can only be having a new facility here but in subsection E a new facility can not be placed within 150 feet of a the well head. But in the last paragraph it states *"The septic system shall not be placed within a 100 year flood plain. The land parcel shall be of a size and configuration to accommodate the septic system placement. The separation distance between the septic system and any on or offsite well shall be one hundred and fifty feet (150') in accordance with subsection E of this section or according to other distance separation requirements established by regulatory agencies with oversight control.* I think that there is a possible problem with when it says after "subsection E or according to other distance separation requirements established by regulatory agencies with oversight control." We have in subsection E that it has to be a minimum of 150 feet and I think that we need to stick with just that.

Chairman Case: so what we want to do is strike *according" to other distance separation requirements established by regulatory agencies with oversight control"* and the add *"A property owner possessing a vacant land parcel that is zoned to allow ***and is intended to construct***, a public or quasi public use such as a school, administrative, public safety, cultural, church, college, hospital or similar type building or structure may install a septic tank system on the parcel where the closest public sewer connection point is more than 300 feet from the property" and the rest of the sentence, and so forth the rest of the sentence. With these recommended changes I will stand for a motion.*

Commissioner Sanders: I motion that we recommend approval to City Council of 09-01-ZOA Septic Tank System Ordinance Amendment with the following changes to the amendment:

- *"A property owner possessing a vacant land parcel that is zoned to allow ***and is intended to construct***, a public or quasi public use such as a school, administrative, public safety, cultural, church, college, hospital or similar type building or structure may install a septic tank system on the parcel 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 the cost of providing a public sewer extension from its present location(s) would be prohibitive and provided there are no immediate plans to publicly extend sewer to within 300 feet of the property.”

- *“The septic system shall not be placed within a 100 year flood plain. The land parcel shall be of a size and configuration to accommodate the septic system placement. The separation distance between the septic system and any on or offsite well shall be one hundred and fifty feet (150’) in accordance with subsection E of this section. ~~or according to other distance separation requirements established by regulatory agencies with oversight control~~*

Commissioner James seconds, all approve motion carries.

REPORTS

City Attorney Grove: In regards to the mention of a gentleman that wanted a couple of septic tanks on his property, a couple of years ago we had something similar and we had a unfavorable ruling in the lower courts but we appealed it to the Supreme Court and the decision this month they reversed the lower court decision, but it was this case that caused us to revise our septic tank ordinance. There are situations where we can not justify having sewer pulled there.

Chairman Case: I heard Steve say that the sewer plant will be operational in about 60 days, is that right.

City Attorney Grove: I think that they are looking at June for completion and then testing.

Planner Director Steve Hasson: Just a little about the comprehensive plan process, it will be coming to you on May 14, it will be held at 6pm, we have been working on it for about 20 months and have gone through tons of irritations. We now have for your consideration a document of about 220 pages. It has four parts. The forward, the body, which look at the fifteen or sixteen component parts, capital facilities plan, and maps. And another thing that is very important is the future land use map is an adopted map and its function is when someone wants to develop there land we look to the general plan since it is a guidance plan, generally speaking it says that this is how your community is going to development and these are the kind of land uses associated with it. We try to have our zoning agree with the general plan.

And our building permit for Kuna for the year activity is greater than Meridian and Boise so far. It gives you some idea of how fast we area growing.

Now the comp plan is a legislative matter and you are free to discuss legislative matters with people as compared to quasi-judicial maters where you cannot discuss this with other people.

CHAIRMAN DISCUSSION

Commissioner James: Just want to make sure our next meeting is on Thursday, at 6 pm?

Planner Director Hasson: Correct, we moved it to a special meeting on Thursday in order to meet noticing in the paper.

City Attorney Grove; Now just for your information, since you have moved the meeting to Wednesdays, in July the second and fourth Tuesday is on the next day after City Council because the first is on a Wednesday, so you will have two meetings in a row.

Chairman Case: I handed out to everyone the public hearing rules of procedures for our next hearing, since the comp plan is such a big thing, just so everyone is clear on what they are in case of any confusions.

Commissioner Sanders: Do you have any update on Idaho Power?

Planner Director Hasson: the last meeting we had with Idaho Power was with the engineers, Thursday, and the purpose of that meeting was if the City was going to suggest some options and

what were the electrical perimeters that had to be kept in mind because there has to be certain distances separation between power structures depending on voltage and they can only have certain turning radius. Gordon wanted some ideas because I believe that he is going to suggest some alternatives. He wanted to know so that when he does have the alternative so that they don't come back and say they can go that way or the turning radius won't work. Meantime Randy is trying to acquire some kind of NEPA.

City Attorney Grove: The NEPA process requires the lead agency to include all those entities that cooperate with that agency. Usually it is other federal agencies that have some expertise in dealing with the issue at hand. Also it includes other state and county governments. The person in charge of the NEPA said that he has never heard of a City requesting to be included in that, but we are trying to be included in that group. That is how Parma got it's status in that, they just kept at it. We request cooperating status about two weeks ago. We do not any official word yet. They can not just ignore us. If they grant us that request they have to include us in all decision making, copied on all information, and get to see all information before they make a decision. They can deny us that request and there is no way to appeal.

Planner Director Hasson; We have had conversations with Congress Walt Mimicks office and Senator Crapo's and they are trying behind the scenes to help us. And Congress Mimick reminded us that 61 percent of the land in Idaho is federal land and by saying that you can't go here you can't go there on federal land, here is not that much developed private land. They are trying to work with us and do different things and we should hear some thing soon.

ADJOURNMENT

Chairman Case motions to adjourn at 8:05 pm

Commissioner James seconds, all approve, motion carries.

David Case, Chairman

ATTEST:

Tracy Rushlow Planner