

**Kuna Planning & Zoning Commission Meeting
July 22, 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, Vice Chairman Carl Trautman, Commissioner Sanders, , Director Steve Hasson, Planner II Troy Behunin, and Planner Tracy Rushlow,
Absent: Commissioner Wierschem,
The Kuna Planning & Zoning meeting was called to order by Chairman Case at 6:00 p.m., located at the Kuna City Hall, 763 W. Avalon, Kuna.

Consent Agenda

Chairman Case opened the meeting at 6:00 pm

Planning and Zoning minutes:

June 24, 2009

Facts and Findings, Conclusions of Law:

Commissioner Sander's motions to approve consent agenda, Commissioner Trautman seconds, all approve, motion carries.

OLD BUSINESS

Chairman Case: Randy, since Commissioner James was not here at the last meeting, can he or should he weight in on the old business that is being heard tonight?

City Attorney Grove: Ordinarily he would be entitled to hear it. If he has read the packet and minutes he could, but he can choose to hear it or excuse himself.

09-01-VAC (Vacation) Jim Messmer 270 S. Orchard

The applicant is requesting a right-of-way vacation for approximately 1,813 square feet of land adjacent to the property located at 270 S Orchard Avenue. The piece of land that the applicant wishes to vacate is an un-opened, un-improved portion of South Orchard Avenue right-of-way lying south of the proposed Indian Creek Street. Indian Creek Street is also un-opened and un-improved.

Applicant is not present.

Chairman Case: Basically we tabled this from the last meeting because we wanted the applicant to get with City staff and discuss some of the concerns we had with his application. Steve has the applicant done this?

Planner Director Hasson: We were not able to contact the applicant but we did receive the letter, either yesterday or today and it is before you. The letter was from his representative. That is all the correspondence we have from the applicant or his representative. It does not really address any concerns you had, simply stating that Mr. Messmer was gone and his intent to remove the building.

Chairman Case; Is the building the existing shed?

Planner Director Hasson: I believe so. That is what is shown on the plans submitted.

Chairman Case: That can be a condition.

Planner Director Hasson: The Commission has the option of denial if you are not comfortable with the project. This is only a recommendation. It goes to City Council and before the ACHD Commission for final approval or denial.

Commission Discussion:

Commissioner Sanders: Mr. Messmer has opened up a hornets nest here. It is blocking public access that I believe is important for the green belt and access to Indian Creek. I am not leaning towards approval with the applicant not showing up and promises and not doing anything as far as removing any of the obstructing fence and buildings.

Commissioner Trautman: Looking at the site specific conditions in the staff report, it addresses all of the concerns I have, but the biggest concern is enforcement and if the applicant is willing to comply. It is my understanding that we don't have any real enforcement abilities as it is ACHD land and there domain.

Chairman Case: Steve can you tell us what our enforcement abilities are?

Planner Director Hasson: That is correct. It is ACHD land and the enforcement is theirs.

Chairman Case,: My concern is what is he wanting to do with this land? Does he want to block all people from using access from Indian Creek, or just his portion of land? My thoughts, based on the one sentence in his letter about wanting to "secure his property from people using Indian Creek at this location" and the applicant is not here to answer any of these concerns. I don't feel comfortable making a decision on that with the implied answer of "blocking Indian Creek from people using it".

Commissioner James: I am excusing my self from this decision, but it seems pretty much stated in the last letter, that his intention of moving the shed will be upon approval of the vacation process. It seems like well if you do this I will do that.

Chairman Case; The business before us is to recommend approval or denial, so I will stand for a motion.

Commissioner Sanders: I recommend denial to City Council for 09-01-VAC.

Commissioner Trautman; I second that motion.

All approve recommending Denial to City Council.

NEW BUSINESS

A.09-14-RZ/ 09-14-DA; Rezone and Development Agreement: Vito and Monica Rosati:

Planner Tracy Rushlow is presenting this application. The applicant is requesting to rezone the property located at 350 S School Ave from A, Agricultural, to R-4, Medium Residential. The rezone is subject to a development agreement.

The current property has a 35 year old dwelling that is currently going through an upgrade and update to energy saving enhancement inside and out. The current zoning is not in compliance with Kuna City Code hence the rezone. New residences are not allowed in an Agricultural zone.

The applicant is also requesting a lot split to accompany the rezone for the purpose of selling the new parcel to a family member to build a new residence in there pursuit of rehabilitating and enhancing the property.

Lot Splits are determined by City Council only. It is included in this staff report so Planning and Zoning is aware of the land use action.

Applicant: Robert Carney 251 W Tallulah; son-in-law to the applicant. I am representing them tonight. My in-laws bought the property at 350 S School. The house currently there is being renovated and we wish to split the property so that my wife and I can build a new house on that lot. We want it to blend into the rest of the subdivision, right now it is a empty lot and this will enhance the area. The only question I have is the front setback, is states 35' from an arterial. Is that from the middle of the road or is that from the back of the sidewalk.

Staff: Sunwood Court is not an arterial, so the setback will be 20'.

Chairman Case: Have you seen the requirements from ACHD?

Applicant: yes we have but the sidewalks curb and gutter is already there and there is a fire hydrant already there.

Chairman Sanders: Is the access of the house going to be off of Sunwood Court?

Applicant: Yes. The flag area shown is more for the power and utility easement. That way there will not be any easement problems in the future.

Commissioner James: The language in the development agreement, when it goes into default, what happens here does it go back to Agricultural?

Staff: no it will be R-4, which is standard language. We are changing it for future development agreements so there is no confusion.

Commissioner Sanders: that slice along the north side of the property that is not going to be a additional access is it?

Applicant: no that is going to be a utility easement.

Open Public Hearing at 6:29pm

Oppose:none

Support: none

Neutral: none

Close public hearing at 6:29 pm

Commission Discussion:

Commissioner Sanders: No concerns-drove by and they are working on it, it fits well with the surrounding area and recommend approval to Council.

Commissioner Trautman: I think that this is a good fit for the area. It complies with the comp plan and implementing the purposed development agreement is a good thing.

Commissioner James: I agree with both of those reasons as well as it is promoting infill and is a good fit for the area.

Commissioner Trautman recommends approval to City Council 09-14-RZ, 09-14-DA with the following conditions:

- Meet all site specific and standard conditions, staff and agency requirements.

Commissioner James seconds, all approve motion carries.

09-02-SUP (Special Use Permit) – Kuna Commercial Mall

Planner Maranda O'Bray presents the project. The Developer was approved for construction of a multi-tenant commercial building in January of 2006; however, Kuna City Code (KCC) states see **KCC 5-**

12-1: D: *“Expiration of Zoning Permit: If the work described in any zoning permit has not begun within one year from the date of issuance thereof, said permit shall expire; said permit shall be revoked by the Director; and written notice thereof shall be given to the persons affected. (Ord. 570, 6-11-2001).* A Special Use Permit and Design Review are both zoning permits and they have expired and Mr. Wylie was advised he would have to submit a new application.

Accordingly, the Developer has resubmitted the plans in substantially the same format as before. The Developer is requesting design review approval for a 3,750 square foot commercial building to provide a multi-tenant retail building with drive-through window. The building has three (3) potentially separate spaces within the building, seventeen (17) parking spaces and one (1) drive-through use. This is to be considered speculative development. The architect shows the exterior as rock and stucco and has screened the mechanical units by way of a roof parapet. The exterior lighting has been constructed comply with City's requirements.

Commissioner Trautman: Do you have any more insight on the drainage issue that affects this property and others in the vicinity? And is the City involved?

Staff: I do no other than the letter from Mr. Sailor. He has stated that this has been going on for some time and that it will need to be resolved before development.

City Attorney Grove: There is a lawsuit brought on by Mr. Maile to surrounding property owners on the drainage issue of irrigation ditches onto his property. This has been going on for some time.

Commissioner James: Mr. Law states in his report that he recommends a condition that it be resolved prior to any development.

City Attorney Grove: I may have some verbiage that you could use to put in the conditions to help with this issue.

Applicant: James Wylie 1676 N Clarion Way, Eagle. We started looking at this project a couple of years ago, but did not have any tenants to move forward. We are revisiting it, we do not have any tenants but there are a couple of ones that have shown some interest. We are looking for the special use for a drive thru. We do not know what will go in there, but we want to be prepared for all uses that could be present in this location. We have already gone through Design Review and do not have any problems with what they have required. We got this letter today from Mr. Law. There was water and sewer stubbed to the site when they constructed the subdivision behind this lot. And Mr. Law is requesting that we extend the sewer and water mains. The original developers have already done so; at this point I am not sure where to proceed. Why do we need to extend them when they are already in place? I am not sure what he is requiring on the pressure irrigation. I need to discuss this with him. As far as the runoff water it runs to our north east corner and historically it runs south and or west. The west channel is open now, but does not seem to have any water in it, it is running south and onto the property owned or controlled by Mr. Maile. Yes, we have been named in a lawsuit. We are trying to determine what it is that he wants. If he wants us to turn off the water, fine we are not utilizing it and as far as I am concern it could be turned off. I am not sure what is going to happen.

Anyway, the SUP is for a drive thru on the eastern side and I stand for any questions.

Chairman Case: So you just received the letter from Mr. Law tonight?

Applicant: Yes.

Commissioner Trautman: So the extension of the sewer that he is asking for, is it to the south?

Applicant: I believe it is to the west. It doesn't say, I would assume it is on the west side of the Den.

Commissioner Sanders: There is a irrigation box there, when you put in your landscaping will you hook up to the pressure irrigation?

Applicant: That irrigation box is for gravity irrigation. That collects waste water and channels it to the south and /or west, the south path is the one that is in dispute

Chairman Case; the development has been approved, so we are just looking at a special use for a drive thru?

Planner Director: When this was originally submitted in 2006 it ws approved with pretty much what you see. But you have 1 year to so the improvements or it falls down. In this case it fell down because the improvements were not done. He is bringing it back in and it has to conform to standards now in place.

Applicant: My understanding that this SUP is because of the drive thru?

Planner Director: It is triggered by the drive thru, but it still permeates the land use.

Commissioner Trautman: What is the anticipated traffic for there? Do you know if it is going to be a fast food, pharmacy or whatever?

Applicant: at this time we do not have anyone interested in the drive thru but we have to have a separation from residential areas to the east so if we have to do that then we might as well put in a drive thru. Logically maybe a coffee shop but it would depend if someone was interested in that.

Public Hearing at 6:46pm

Support-none

Oppose-none

Neutral-none

Close public hearing at 6:46pm

Chairman Case: Before we go into discussion, I want to ask the applicant if you would like more additional time to get with staff and discuss the sewer and water issues.

Applicant: I am not oppose to that. I may not want to do the special use if it requires me to extend the sewer, water, and irrigation as present here.

Chairman Case motions to table until August 12, 2009 to give the applicant time to discuss the project with staff and Gordon Law and Commissioner Trautman seconds, all approve motion carries.

REPORTS

City Attorney Grove: The City was granted agency status for the Gateway West Transmission project; we received the draft and had a chance to comment on it. Because there was resistance to it and the comments and alternatives that the City had, they are delaying it until February 2010. Walt George the current BLM manager is resigning so there will be a new person in charge and it may take longer for the replacement to get up to speed.

Planner Director Steve Hasson: We have about 24 more land use applications coming your way. We had a good month last month as far as building permits. Last month we had 42 permits issued and this month we have about 31 so far and a lot of them have been picked up. If we can keep this pace up we should do well for the end of the year.

CHAIRMAN DISCUSSION

Chairman Case: Why are we having a joint meeting again for the Comp Plan?

Steve Hasson: Just to make sure that everyone is on the same track and that we all have a consensus.

Chairman Case: I kinda gathered it was a workshop meeting between the Council and the Commission regarding the comp plan, and my initial thought was the Commission has already made a decision on the comp plan. If we have already made a decision, how can we participate in a discussion on something that we have already decided on?

Steve Hasson: This is a legislative decision and that means it can be discussed with each other and others even if you have already made a decision.

Chairman Case: Is there certain areas that they have a problem with. I would like some heads up to prepare for the meeting so I am not left blind going into this.

City Attorney Grove: I think the Council has some questions, there were some issues that they had wondered if you had considered them; if not would it change your decision.

Chairman Case: Is there going to be an agenda or something so we can come prepared or is it a shotgun approach? After we made the decision, I moved on, I have not been studying the comp plan. I was comfortable with the decision we made.

Steve Hasson: I do not know.

ADJOURNMENT

Commissioner Trautman motions to adjourn at 7:08 pm
Commissioner Sanders seconds, all approve, motion carries.

David Case, Chairman

ATTEST:

Tracy Rushlow, Planner