

**Kuna Planning & Zoning Commission Meeting
August 26, 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 Stan Sanders, Commissioner Curt James, Commissioner Stephanie Wierschem, Vice Chairman Carl Trautman, Director Steve Hasson, Planner II Troy Behunin, Planner Maranda O'Bray and Planner Tracy Rushlow,
Absent:

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:

August 12, 2009 with correction to minutes stating Commissioner James as being there.

Facts and Findings, Conclusions of Law:

ADKINS 09-12-AN, 09-06-DA, 09-01-LS

09-04-ZOA – Lot Line Adjustment Text Amendment Kuna City Code 5-16-2

09-03-ZOA – Overlay District Ordinance Amendment Kuna City Code 5-2A

Commissioner Sander's motions to approve consent agenda, Commissioner James seconds, all approve, motion carries. Commissioner's Wierschem and Trautman abstain from voting due to being absent.

Amend agenda to continue the following projects:

David & Helen Tidwell – 09-04-AN / 09-06-ZC / 09-05-DA

Reed & Leah Jarvis – 09-05-AN / 09-07-ZC / 09-07-DA

Gary Herriott – 09-06-AN / 09-08-ZC / 09-08-DA

Until 9-23-2009 Commission hearing.

Commissioner Sander's motions to continue the applications until September 23, 2009 and Commissioner James seconds, all approve motion carries.

| |
|---------------------|
| OLD BUSINESS |
|---------------------|

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

Staff: The applicant has request to continue this application until September 9, 2009 so that he can check out the construction costs on pulling the pressurized irrigation across Avalon.

Commissioner Sanders motions to continue the application until 9-9-09, Commissioner James seconds the motion, all approve, and motion carries. Commissioner's Wierschem and Trautman abstain from voting due to being absent.

| |
|---------------------|
| NEW BUSINESS |
|---------------------|

1. City of Kuna – 09-01-AN / 09-03-ZC / 09-02-DA, Steven Hasson, Planner Director, 763 W Avalon, presents and is the applicant for the City of Kuna’s application. I am going to provide some general comments about all of the annexations and specific comments about the City property being brought before you now. I also will reserve the right to comment later as well as the rest of the staff on all of the projects. Each annexation should stand on its own merit and approved so in that regard.

First a bit of history, the City has been working on a treatment plant for the last three years. It has just finished that effort and in regards to the effluent water discharged, the new regulations that have come into effect regarding phosphorous. We could discharge it into Indian Creek as we have a permit to do so, we could pump it up to our other treatment facility or land discharge it. With those alternatives on the table, and the more stringent regulations that have and will go in effect for the phosphorous levels, it was more prudent to do the land discharge. So we started looking for land close by, where it could discharge its waters when it was difficult to discharge those waters into a water body. The City came across this 107 acre parcel which was in the vicinity of the treatment plant which is located on North Ten Mile Road on the west and North Linder to the east and north of Lake Hazel. The City is requesting that these four parcels come into the City. This is a class “A” annexation where all the property owners are in agreement of the annexation and be contiguous. We meet those qualifications. Last year when we update our comp plan we asked this body and the City Council to approve the map that went up to Amity, and it was approved. All of these properties are in that area. Another consideration is that this area is identified as the area of impact for Meridian. It is on our comp plan map as a planning area and that map was approved last year and the area is also in the Meridian’s impact area. Under category “A” it allows us to annex those properties that are in our planning area, even if they are in the impact are of another City so this is all legal. The City has an agreement with Ada County that in our negotiations and agreements with Ada County that we can annex areas outside of our area of impact. So with this provisions as well as state code, this allows us to annex this land into the City of Kuna. These are some of the things that you need to consider when hearing all of these annexations.

As a secondary notation, this land that we purchased for that discharge will make a great regional park, which is what the City intends to do with the remaining land.

Open public hearing at 6:23 pm

Support: none

Oppose: none

Neutral: none

Close public hearing at 6:23pm

Commission Discussion:

Commissioner Sanders: Since the City has stepped out and bought this property for the discharge use that we need to control it so it makes sense to annex it so it is under our control.

Commissioner James, the only problem that I have is about the Development Agreement. It’s for the City, and yet approved by the City.

Planning Director Hasson: That’s a good point. A development Agreement is for when other successors or heirs come in to play they would be obligated to follow the Development Agreement. For example we want to lease out a portion of this property to some one for a different use. They would be obligated to follow the conditions of the Development Agreement and for consistency of application; we have a Development Agreement specifically developed for each and every annexation, including the City’s property. It is also in the City code that states for every annexation and rezone a Development Agreement is to be constructed.

Commissioner Trautman: This is the first annexation north of Lake Hazel and I know that infrastructure is at Lake Hazel, is there any above Lake Hazel at this time?

Planning Director Hasson: Correct, at this time the infrastructure just goes to Lake Hazel and not north of it at this time, Last year when the Council and this body decided to move that boundary to Amity, we did so on the basis of public testimony. Those property owners represent about 600 acres of land, a full section of land, and they have expressed an interest to annex in to the City of Kuna at some future date provided they could get some path of contiguity. Mr. Jarvis has been speaking to us for more than a year about the prospects of annexing his land into the City because with the treatment plant nearby it gives him development opportunities. Since we were bringing the park/discharge land into the City we asked if there were any other interested parties who wished to come in at the same time. There were many interested parties, unfortunately for a lot of them they were further west and not contiguous. There were several around the City's land that wished to come in at the same time and that is where we are now, with these annexations.

Commissioner Trautman motions recommendation of approval of annexation to City Council of 09-01-AN / 09-03-ZC / 09-02-DA with the following conditions: Meet all staff, agency and special requirements. Commissioner Wierschem seconds, all approve, motion carries.

2. Richard Sr. & Mary Jarvis – 09-02-AN / 09-04-ZC / 09-03-DA

Becky McCoy, Meridian: The Jarvis's retained me and my firm a little over a year ago for the potential of a concept and possible annexations to the City of Kuna. It was a desire to be a part of this community and they had heard that our firm was working on a design for a residential development on 107 acres that is now owned by the City. We want to make sure that if you are doing some master planning for this area that we want to be included so that collectors and interconnecting pathways are connect. They had us come up with a concept and that is what you see in your packet. Our client had us represent them when the discussion took place about expanding the comp plan map to Amity. We asked for inclusion with a intent to annex into the City so that these properties can develop and City Council approved the map up to Amity. In the interim the City came to me and asked if my client was interested in selling that 107 acres because they had some great ideas for that area such as a regional park and some land application for the sewer treatment plant. With the current economic times, my client was willing to sell that land to the City. The concept plan is a great idea and real excited to see the park move forward. As far as that phosphorous issue that Steve brought up, that is an issue that is hitting all the cities at this time including the City of Meridian. Who is now exploring different options of land application, waste water reuse because it is anticipated to cost the City of Meridian 25 million dollars to upgrade there plant to bring it to compliance to meet the new standards for phosphorous discharge. I think that the City is on the right track on acquiring the 107 acres and proceeding forward with this plan. The Jarvis were contacted by Steve to inform them that this land was purchased, they consulted with my firm and wanted my opinion about annexing into the City of Kuna along with the park, I thought that it made sense. The City has made a substantial investment in the treatment facility that was planned to service this area as well topographically to your new facility. Even though the Jarvis's at this time do not intend to come forward with a development plan in the near future, it is currently under agricultural production and they still live on the property. It is their desire to be part of Kuna and be involved in planning of the regional park which they believe will be a huge asset to their property and future development. We ask for an "A" designation so that this property will come back for a rezone when it does get developed. At this time we feel that it is important to be part of this annexation and as far as the home parcels, both Jarvis, senior and junior have homes on them and I believe that those parcels have come in under a R-4 and were included in this annexation.

Commissioner Sanders: Since this property is in the Meridian School, Library, police and fire district what is the motivation in coming in to Kuna?

Applicant: When annexing or including land into land use maps, serviceability is important. The primary thing in evaluating the property is in providing central sewer and water. Meridian's treatment plant is over 7 miles away located at north of Ustick on the west side of Ten Mile Road. All the trunk lines that cross the road are at or exceed capacity with the exception of the Black Cat trunk that just came across here about a year ago and it goes to Victory and Meridian Road. Public sewer and water are a ways a way and it will be years, even if growth picks up, that they will ever be able to service these properties.

Commissioner Sanders: Isn't the City of Meridian building a lift station about a mile away?

Applicant: They are building one at Ten Mile, but we are not in the same shed as that trunk line.

Commissioner Sanders: Does this property want to join the LID and help pay for the construction of the sewer plant?

Applicant: My understanding is at such time the property develops they will have to deal with the issue for their proportion share of the upgrade of that plant. At this time we are annexing in only and not developing and we are not required to join the LID at this time. As far as the school districts, the school districts overlap city limits all the time, Meridian's overlap into Boise, the school district boundaries do not follow city limits, they never have. Once it is annexed of then the Kuna Fire District will provide fire protection and for police it is under Ada County Sheriffs department. For the issue of providing differing services, this is not unusual, it happens and we see this all the time.

Open Public Hearing at 6:40

Support: none

Oppose: none

Neutral: none

Close Public Hearing at 6:40

Chairman Discussion:

Commissioner Sanders: I think that we are getting ahead of ourselves. The only thing that is pushing the annexation is the final consideration of the property owner. After reading the other letters in the packet I can't see that this is something necessary that we need to do at this time maybe sometime in the future, I think it is too early.

Commissioner Trautman: 80-90 percent of this annexation complies with the process of being approved, the part that may not totally apply is the part that is zoned R-4 but that makes sense since there are homes there and that is the best use for that portion of the property. I do not see any reason not to annex in.

Commissioner Wierschem: I do not see any reason not to annex in. I understand the other Commissioners concern from the letters from in the packet, but the land owners have legal right to annexation and go through this process and should be given that right even if others don't necessarily like it or it differs from what they want.

Commissioner James: I had similar thoughts concerning about stretching that far north but at the same time I showed support for the map and the extension of that area which includes this land and we established this as an area where we will grow, so I think that there is no legal reason why this should not go through. I am fine with the zoning that they have requested.

Commissioner James motions to recommend approval to City Council of 09-02-AN / 09-04-ZC / 09-03-DA with the following conditions: Meet all staff, agency and special requirements.

Commissioner Trautman seconds, 3-1approve except Commissioner Sanders who opposes. Motion passes.

Richard Jr. & Rebecca Jarvis – 09-03-AN / 09-05-ZC / 09-04-DA

Beck McCoy, Engineer Solutions, Meridian: Represent the Jarvis's Jr. The statements that I made for Jarvis Senior are the same. I addressed both properties at the same time so I would like those statements entered for the record here also. This is just one lot that is already developed with a home and we request the zoning of R-4.

Open Public Hearing at 6:46

Support: none

Oppose: none

Neutral: none

Close Public Hearing at 6:46

Commissioner Discussion:

Commissioner Trautman: Due to the same reasoning as the previous annexation application, it makes sense to have the zoning of R-4, see no reason not to approve the request.

Commissioner Sanders: I still have the same reasons as the previous annexation request.

Commissioner Wierschem: I stand with the same reasons as before.

Commissioner James: I also stand with the same reasons as before.

Commissioner Trautman motions to recommend approval to City Council of 09-03-AN / 09-05-ZC / 09-04-DA with the following conditions: Meet all staff, agency and special requirements.

Commissioner James seconds, 3-1approve except Commissioner Sanders who opposes. Motion passes.

Doris Beaudreau – 09-07-AN / 09-09-ZC / 09-09-DA

Applicant: Doris Beaudreu, 1150 W King Road, Kuna; We are asking to be annexed into the City because we are in the County and we have a little under 5 acres. Several years ago we put a temporary accessory dwelling on the property for my son to live on to help at that time as my late husband was ill and we needed the help so there are two dwelling units on the property at this time. We have all the permits from the county and everything is on the up and up. My husband has passed away, the accessory dwelling is a permanent home and I would like to split off about an acre so that my son can continue to live there, but under the County we can not divide the land. We are asking for an R-4 zoning, after splitting off the acre or so for my son the remaining acreage is part of my retirement, when I retire I would like to maybe sell it or have it developed and this gives us the opportunity to do something later on that property.

Planner Director Hasson; this property is contiguous, staff is supporting this annexation, it reflects on the natural growth and development of the City and it reflects on peoples determination whether they want to remain in the County and the consequences of

remaining in the County. All things considered, progress is coming and they want to participate in the progress.

Commissioner Sanders: You talked about the Ten Mile overlay district is this going to affect this property?

Commissioner Trautman: And what about the pathways for water looks like a canal is on the property?

Planner Director Hasson: If this property was on Ten Mile it would affect it and we would expect it to participate in the over lay district as well as if the canal was on their property to participate in pathways, but this property is on King and Ash and the canal is not on their property but in fact across the street from them, but had it been we would have put in the Development Agreement a provision to make sure that pathways were included for the future.

Chairman Case: In the e-mail sent from Ada County Services, paragraph 2 it states the west parcel contains a temporary living quarters TLQ, and it was applied for in 2005 and renewed in 2007 and this renewal is good until October 2009 and will need to be renewed.

Planner Director Hasson; the City generally honors land use actions already in place, and in this case it is for a temporary living quarter. Their goal is to do a lot split and place their son's house in that lot split and will take place of the County's TLQ assessment and will not be a temporary living quarters, but a house on its own lot in the City of Kuna after annexation. If they are in the process of going through a resolution that if it expires, I believe they will honor it as long as they are making progress.

Open Public Hearing at 7:01

Support: none

Oppose: none

Neutral: none

Close Public Hearing at 7:01

Commissioner Discussion:

Commissioner Sanders: It is consistent with the area and growth and we can help this individual out with the County.

Commissioner Trautman: Does look like it is in compliance with the comp plan and see no reason to not annex it in.

Commissioner Wierschem: I think that it is in compliance and I am in favor of the annexation.

Commissioner James: I to believe that it is in compliance and this is further south and the desired growth area.

Chairman Case motions to recommend approval to City Council – 09-07-AN / 09-09-ZC / 09-09-DA with the following conditions: Meet all staff, agency and special requirements.

Commissioner Wierschem seconds, all approve, motion carries.

8. Leland & Kim Rice – 09-08-AN / 09-10-ZC / 09-10-DA

Troy Behunin presented the application. Lee and Kim Rice own acreage on the east side of Highway 69. For years the Rice's have had a agricultural operation and a seasonal roadside stand. They have a problem this year in procuring a permit from the County with a lot of red tape. They thought now would be a good time to annex into the City of Kuna because the

City of Kuna does allow a seasonal roadside stand in the zoning designation that they are requesting. They have approximately 20 acres, and this is a good use and they are anxious to continue to provide the service that they have in the past by producing and selling local, organically grown produce.

Chairman Case: The entrance to their property is it on Mason Creek Lateral?

Staff: It is the Mason Creek alignment but right now it is a private road. They take access off of there. The roadside stand is permitted outright in the zoning that they are requesting.

Commissioner Sanders; in the District Overlay text it talks about the frontage road and how far it has to be back, it looks like if they put the frontage road in it would go through their house and it looks like at some point in the future that road will be a main access point and I don't see where it is addressed anywhere in here about provisions for that road.

Staff: That is because it is an annexation only. If they decide to develop it at a later date they would have to rezone it, have a new development agreement and the conditions would be spelled out then. As for the frontage road, it does not have to be a straight road, it can wind so it can be further back, it does not have to be exactly 660-feet and that's it, it needs to be a minimal of 660 feet so it can be further back.

Planner Director Hasson: We have put in there about the provisions of the irrigation canal and possible pathways where they will have to participate when they go to develop, as we like to include these conditions when we can at the get go.

Commissioner James: In the letter about the accessory dwelling it says that in the future the City of Kuna is planning on providing an ordinance to provide for temporary dwelling units is this true?

Staff: Yes, we feel that it is important for families, we are in the baby boomer age and there are a lot of people who have aging parents and it would be easier and more economical to have them living on the same property but not necessary in the same home for some form of independence or for children who are disabled in some way or not ready to leave home, but want the independence of not living in the same home per say. And we have had a lot of request for this and we are trying to explore ways to accommodate this issue. In this case unless they change, such as expand or enlarge the use they will be grandfathered in. It would be considered a non-conforming use.

Applicant: Evelyn Grime, Boise. I have been working with the Rice's on this as well as with the County so that they could come to you on a clean slate, in good working order and compliant. In reviewing the County's code and where it is going and the City of Kuna's code and its growth, the Rice's feel that the City of Kuna is in tune to their needs more than the County and feel that it would benefit the City of Kuna with the services that they provide and at the same time help themselves so that they can enjoy the same quality of life that they had previously and continue forward. Regarding the second dwelling unit, the history is that the Rice's had approval about 8 years ago to provide that dwelling unit to provide a living place for Lee Rice's father, who is close to 90 and farms with him. Under the County code this is allowable for family members and residual income. The Rice's have no desire for the residual income from this dwelling unit it is only for Lee Rice's father. This dwelling unit is in compliant with the County and was recently approved for another extension so that when it came before you there would not be any issues. 86 percent of the aging population actually lives with family members and not in assisted living or nursing homes. So this is something that you might want to consider when you move forward with your own ordinance about accessory dwelling units.

On the frontage road if you look at your map, the road would be actually behind the second home on the second lot of this property. I believe that there is plenty of room to have the frontage road and not interfere with the existing homes at such a time that it is developed. For the zoning we tried to request the zone for the actual use and what is happening such as the roadside farm stand and the dwelling units. The Rice's would like to stay with the current use of the land in the organic farming so they are not looking to develop. I believe

that the Development Agreement is well served, it spells out what will need to be done it is develops so it benefits not only the Rice's but the City as well.

Commissioner Trautman: which parcel is being zone R-2?

Applicant: The parcel where the homes and out building are will be zoned R-2.

Public Hearing at 7:35 pm

Support-none

Oppose-none

Neutral-none

Close public hearing at 7:35 pm

Commissioner Discussion:

Commissioner James: I think that it is a great fit, and we need to embrace the agricultural part of the area. I understand the concern about the frontage road, but I understand that when they change the zoning they will have to be back in front of us and change the Development Agreement so I feel that is this a good fit and look forward to seeing the roadside stand back in operation.

Commissioner Wierschem: Have we received any letters or comments from the other people around this property for or against or anything?

Planner Maranda OBray: We did have a neighbor hood meeting and the only neighbors who came are the ones to the west and the only questions they had was what the thought was a commercial use, they wanted to know if the roadside stand was considered commercial use. We informed them that the roadside stand was permitted in agricultural zone and they are selling goods grown on the property. They were concerned about CCR's for that subdivision and we informed them that we do not enforce CCR's and as long as they meet our code that is what we look at.

Commissioner Sanders: did they indicate whether they wanted to annex into the City?

Staff: They did not want to annex in, they are happy where they are at in the County.

Commissioner Trautman: our we comfortable with the R-2 zoning?

Staff: we updated the map on the last changed for the comp map to accommodate the 2 dwelling units and the greenhouses so it would be allowed and not require a special use. This way it is permitted.

Commissioner Trautman have no objection to this annexation.

Commissioner Sanders: I too was a little concerned about the R-2 zone, and I am a little concerned about the grandfathering of the second dwelling unit. I think that we need to take each case that has something grandfathered in on a individual basis and not just sheppard them through just because it is grandfathered. We need to be very concerned. I will go along with the approval of this site; I think that it is fantastic about the organic farm and the produce that we can purchase there.

Planner II Behunin: One thing that we, current staff, are very adamant about is that people do not try to use us as a refuge for there problems that they have in the County. We are telling them that they need to have their problems solved with the County before we will look at them. If they are non-compliant in the County, we let them know that they have to be compliant before we will look at them.

Commissioner Trautman motions to recommend approval to City Council of 09-08-AN / 09-10-ZC / 09-10-DA with the following conditions:

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

Chairman Case seconds, all approve motion carries.

REPORTS

City Attorney Grove: none.

Planner Director Steve Hasson: The building permit activity has been doing great. For the sidewalks along 4th street we have another meeting on Friday at 1:30 with ACHD and their engineer to have them look at the substandard sidewalk that they have constructed.

We are having a lot of developers come in to have some changes on their developments so that will be coming to you soon.

CHAIRMAN DISCUSSION

NO DISSCUSSION

ADJOURNMENT

Commissioner Sanders motions to adjourn at 7:50 pm

Commissioner Trautman seconds, all approve, motion carries.

David Case, Chairman

ATTEST:

Tracy Rushlow, Planner