

**Kuna Planning & Zoning Commission Meeting
April 14, 2010**

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:

Chairman David Case, Commissioner Stan Sanders, Vice Chairman Carl Trautman, Commissioner Stephanie Wierschem, Director Steve Hasson, City Attorney Richard Johnson, Planner II Troy Behunin, Planner Maranda Obray and Planner Tracy Rushlow,

Absent: Commissioner Curt James

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

Vice Chairman Trautman opened the meeting at 6:01 pm

Planning and Zoning minutes:
February 10 , 2010

Motion to amend agenda:

Commissioner Trautman motions to remove from the agenda 3B: Arbor Ridge #2 and 3C: Lil Angels Daycare from the agenda, and to be re-noticed when they proceed forward.

Commissioner Sanders seconds, all approve, motion carries.

Consent Agenda:

Chairman Case motions to approve consent agenda from February 10, 2010; Commissioner Trautman seconds, all approve motion carries.

OLD BUSINESS

Chairman Case: Just so everyone knows I am a school board trustee, I do not have any vested interest in the project and will be participating in the discussion.

10-03-SUP Kuna Elementary School No. #3. Planner Maranda Obray presented the project. The applicant is requesting to put in a school on Ten Mile and Hubbard off of a mid-mile road, Mason Creek. The school will be places on approximately 11 acres of a 54.57 acre a parcel that the school has purchased. The remaining 43 acres will not be utilized at this time it will be continued to be farmed. I want to address the Design Review's comments and the conditions that they placed. See exhibit 21, on the drawing there is a brown area along the road that the Design Review placed as a condition. It is tilled soil, unplanted and reserved as a buffer for future development on that part of the parcel. We asked that the Commission require more landscaping in that brown strip, such as grass. The reason we asked this is because we are looking at the children that walk to school and if this is just dirt and they walked off the sidewalk there is mud and a mess.

Also there will be chain link fencing along the perimeter, ordinarily we do not allow chain link fencing but in the text amendments that follow this application, we are changing that to be allowed in certain situations, such as a school.

Steve would like some time after the school has presented to make some additional comments.

Commissioner Sanders: In the current economic condition that the school is in I question the requirement for additional landscaping like the trees and such. This seems to be pushing the envelope over the Design Review recommendations, is there are reason why?

Staff: The reason why is because it is the presentation road to the school and technically it is a full site and not two separate parcels and it is required in our code that they fulfill that obligation. However, we are also allowing it to not be planted except for minimal landscaping until further development of that additional acreage is done. If it would have been any other application, this landscaping would be required. Even with the additional landscaping that we would like it does not meet the minimum standards that would normally be required of a development this size and on a collector road.

Chairman Case: Has staff talked to the Design Review Committee on these additional requirements that you would like?

Staff: Yes, we talked to them recently and they did not feel that we were stepping on their toes and did not have a problem with the additional landscaping that we would like to request.

Commissioner Sanders: on the property to the west, if that would be converted to commercial property it would require vinyl fencing and we are putting in chain link, would the chain link come down and vinyl come up or what?

Staff: no the chain link would not come down, it is the perimeter fencing of the schools 11 acres and any commercial, if it did come in would be required to have a buffer between the different uses, not to mention that that area is medium residential on the comprehensive plan so there would have to be multiple hearings to change the comp plan map, rezone the area for commercial and that would be addressed at that time.

Layne Saxton; 1450 Boise, Kuna ID School District #3 project manager: To start they labels us a developers and purchasers of the 54 acres. We are building a elementary school on a 11 acre donated site. It was donated by the developer and we purchased the remaining 43 acres adjacent to the site. The 11 acres was donated back in 2006 and in September of 2007 we passed a bond 25.5 million for additions to the high school, build a new elementary school, fix and repair broken things in the various schools and we built the alternative high school. Since this bond there have been a lot of subdivisions that have fallen down around us. As we speak, it is the only site that was donated. We purchased the remaining 43 acres because it was a great deal. We have gone through fallen down subdivisions, illegal lot splits and several other problems that has plagued us in trying to get this school built. I am here with the architecture that has built several other schools for Kuna School District, like Reed Elementary, Crimson Point and the High School. I will let him give more details on the school.

Wayne Thowless, 2400 E Riverwalk Dr, Boise 83706: I am the architecture for the Kuna School District. There is a lot involved in this project. The elementary school is 65,000 square feet, single story building and is similar to Reed and Crimson Point elementary schools. There are two entrance driveways off of the collector road. The parking lot to the west is primarily for staff and a buss drop-off and loop. The parking lot in front of the school is a parent drop off loop and parent parking. They are segregated for safety. The entire northern half is playfield, there is paved playground around the building, it is to be fenced with chain link. It was discussed extensively at Design Review and staff had requested vinyl or powered coated chain link we felt that was an unnecessary expense and the Design Review Committee agreed. The site will be nicely landscaped. The additional 8 ½ x 11 that I gave you shows the additional trees that we have added as the request of Design Review. The building is the same as the other elementary schools just vastly differently in colors. The colors are taupe in scheme. On page 3 of the staff report is the requirements of the Design Review and we

commend Design Review on coming to a compromise and are comfortable with these conditions and request that they are not modified.

The hand-out that staff just gave you shows a street section in front of the school from the engineering firm that is designing the road. It substantially complies with the requirements of the City of Kuna and with ACHD standards for the design of that roadway. The new road design that meets the request design measures, but I need to point out to you there are some deviations on this finally design for technical review. The problem with the design is that City staff required instead of a 50 foot wide right of way with a standard two lane collector with attached sidewalks, staff has request a three lane roadway section in front of the school, a bike lane on each side of the street, a planter strip and eight foot sidewalk in a 70 foot instead of a 50 foot. The design review has 3 travel lanes, has the bike lanes, and a sidewalk; however where the City has requested a 2 foot planter strip, ACHD requires a eight foot planting strip if there are trees or vegetation planted. With that wider planting strip we asked if we could stay with the 5 foot sidewalk, and were told that was acceptable, however in the staff report it states an eight foot sidewalk is required. The design does not show the eight foot sidewalk but a five foot with the eight foot planter strip that ACHD requires. As you can see all of this does not fit in a 70 foot right-of-way. It can be standard practice that sidewalks are out of the right-of-way, at least in part by easements from the adjacent property owner which would be the case here. One foot would be outside of the right-of-way for the sidewalk and one foot for the easement so the school district would be granting two feet of easement to complete the sidewalk. The school district are comfortable with a five foot sidewalk as being adequate especially since there is the eight foot planting strip and bike lane between the sidewalk and the roadway.

One thing that has been brought up to ACDH by the developer who is constructing the roadway (not the school district), is instead of a cul-de-sac at the end of the street in front of the school they would like to construct the road, but put up barriers to barricade the road so that they cannot go down the street, they would use the school driveway to turn around in, which would be safer. The school district is ok with this proposal.

Landscaping beyond the boundaries of the 11 acres school site, staff wanted 20 feet behind the collector road and 30 feet on Ten Mile to be landscaped and maintained, we felt it was a burden since that property will remain agricultural use. We believe that the planter strip is a good start and further landscaping behind the sidewalk when the balance of the property is developed. As a safety measure that tilling the first 20 feet and no farming that close and we agree and we feel that is adequate.

Commissioner Sanders: Why did they not want the cul-de-sac there?

Wayne Thowless, I cannot give you an explanation of the whys and wherefores for that developer who is putting in the road. The engineer for that developer has requested that, they contacted us and asked if we object to not putting in the cul-de-sac and we did not have a problem with that. I know that they had contacted the fire department on that, but I would guess it had to do with cost.

Layne Saxton: We have put in escrow 250,000 dollars for that road section; the developer who donated the 11 acre school site is putting in that road. They have told us that if there were any money left or saved from putting in that road the school would get it. I don't have that in writing but I will get it. It would be cheaper to not have to put in that cul-de-sac.

Chairman Case, enterer into the report the 3 page handout as exhibit 23.

Planner Director Steven Hasson: We want to stress a few point and clarify a few things. By and large this is a good project. It will be a great addition to the community. We disagree that the school district is not a developer, but in fact the school is the largest developer in our City. That is

demonstrated by all the projects that Mr. Saxton has just alluded to. Prior to this coming before you there was a short plat because of a illegal lot split. As part of the Danskin short plat, there are two things that need to be addressed. There was a development agreement that had to be amended for this short plat and at the time before Council the question asked was what conditions will be added to the development agreement for the school portion of the this development? We have crafted a development agreement that will fold in the conditions of the Special Use permit after it has been decided. One of the things that was talked about early on, was the schools need to get started. The solution to the illegal lot split was a subdivision process. The only liability of a short plat is there are no roads that have not already been put in. We struck a agreement that says they will follow this short plat with a re-plat after the special use permit was put in place so they could construct the street. We also agreed that a warranty deed would serve in place of the planning procedure until such times as they re-plat the property. As far as a motion that they will follow suit with a re-plat that is very important so that road can be dedicated as a public road.

There are a couple of other items: there is this laboring conversation that this was a 50 foot right-of-way and that we jumped out in front of that and said no it has to be 70 feet. This is where the 70 feet came from, last year when we approve the comprehensive plan, and with the comp plan was a function classified road map that shows all the roads in Kuna, and this road, Mason-Creek is shown on the function map as a collector road. Since 2006 in our subdivision ordinance, it says when there is a collector road, particular a mid-mile collector road it has to be 70 feet wide. So that this idea that we came out of left field and made a 50 foot road to 70 feet and placed an imposition on the school district is false. To make sure that there was no misunderstanding, last December, after our conversation with the school and Wayne, I wrote an e-mail, which you have a copy of that explains that this road is a mid-mile collector and it needs to incorporated these features, three lanes, one is center turn lane, no parking on the street, bike lane on one side of the street, vertical curbs, a five foot planter strip, eight foot sidewalks on both sides of the roadway and a two foot utility easement on the backside of the sidewalks. They had this couple of hours after the meeting. They have come to you in the last minute to massage that and it is not fair.

Commissioner Trautman; you haven't had a chance to review this street section then?

Steven Hasson: No I have not. It is important to have the 8 foot sidewalk for consistency. We have about 4 other applications that will be coming before you and we will required them to have the eight foot sidewalk and they are also on collectors and mid-mile collectors. If the issue becomes- you can have five foot sidewalks, the other will want the same and we can't have that.

Chairman Case: Is there an agreement, or have we reached an impasse or is what? What is the rub or the difference in the designation of the developer, the school district says that they are not a developer they are a school district and you say that they are a developer?

Steven Hasson: I thought that we had an agreement, and this is a school and if there is not an 8 foot sidewalk it puts the kids at a little bit of risk. And we would have said that but no one came and talked to us about these issues. Our view is that the school district is going out and generating an impact, they are creating a school that is going to have students, it is going to create traffic, which impacts the traffic, which in turn causes people to want to live closer to a school and they will move in for that benefit. With respect to the traffic analysis they did not do themselves as a developer but they were not responsible for the impacts that the school created. Understand they are not so much the developer but the cause agent or the magnet that causes this growth and development. From that point of view they are the developer not the innocence bystander that bought some land and they did not cause anything to happen, I do not buy that. And where we saw that was from the get go we told the school district representatives that they would have to have a impact study done and we wanted to insure the integrity of it, but we never got to see it. ACHD said the one that they received was not sufficient and according to laws enacted in 2006, they got tired of school districts cutting corners, so they said from this point forward when you do a traffic analysis school there are

certain criteria that has to be in it. The school district paid for a study that did not include the criteria that was required and was inaccurate. ACHD could have said until you provide us with a correct traffic study we will not move forward; instead ACHD took it upon themselves to do a supplementary traffic study to reconcile the differences that did not get into the original study so that the it would not be held up, which is something that we or ACHD did not want to happen. Then the school representatives disputed those additional studies done by ACHD. As I read through the amended traffic study that ACHD did, there is not a lot of language that talks about safety for the kids to school. It says that they will bus the kids to school, but it is left open where they can also not buss and we wanted them to show where the paths will be for that safety in case that happens. ACHD had the same concerns that we did on that. That is an issue that has not been resolved yet.

Commissioner Sanders: I notice that they show the street narrowing down after the school, I assumed that the street would be the same width all the way. And if you make an exception here then it would just keep going because everyone is going to want an exception. This is a mid-mile collector and needs to be to the standards we have put in place.

Commissioner Trautman: if you look around Kuna, most of the traffic issues are around schools, just look at Deer Flat, they have to widen the road because it is not large enough for the high school. So this is one issue that I believe we cannot compromise on.

Commissioner Weirschem: You stated that the school district had a meeting on Wednesday with ACHD are you anticipating a follow up letter or recommendation or notification from ACHD with those changes? Why was the City not informed prior to tonight?

Steve Hasson; We told that we wanted to see the Traffic Study, I put that in the letter I sent them that the City of Kuna, even though ACHD has care and custody of the streets, Kuna is a active participant in the transportation process and not to ask ACHD what is their druthers but then rely upon directives but it also important to understand our expectations as well. Pat Doby needs to understand our needs in regards to this traffic study or we will not accept his traffic study. He called me one time about working together and that was it. It is important that we all be on the same page, these schools will be here for 50 years.

Why Layne was over at ACHD was he was asking for relief from some of ACHD requirements like the turn lanes onto Ten Mile from Mason Creek and that was needed for safety issues.

Chairman Case; The same question I asked Steve, what is the rub or the difference in the designation of the developer, the school district says that they are not a developer they are a school district and you say that they are a developer?

Layne Saxton: There has been a rub, the rub started at the first meeting before Christmas, on the traffic comment when we construct the High School on Deer Flat, we met ACHD requirements and we paved Kay Street, although I don't believe in blacktop before books, we complied and met those requirements. I believe the school district is not a developer; we are meeting a need from those developers. Before it use to be you come and we build it, but it is not that way anymore. Safety for kids is the upmost for our kids. We provide safety bussing that is not required from the State because we want the kid to be safe and we do not get reimbursed for that. And the argument, we do not meet the vehicle traffic per day that ACHD says, when full build out we are not even close to full build out. It should be on the backs of the developers not the school district to provide the road issues. We are trying to build a school on donated property. We are just trying to answer the call of the community and the developers for the school. When this school is build out this will be a walk to school and the traffic will be less. It is the person who donated the property to build that road for the 70 foot.

Commissioner Wierschem- do you recall that meeting with Mr. Hasson before Christmas and do you recall the e-mail? Do you agree or disagree with any items listed on it? Did you ever contact the City on any items that you may have disagreed on?

Layne Saxton: I turned it over to the architecture and we decided to wait until Design Review to go over; and pretty much was discussed at the Design Review meeting on that list.

Wayne Thowless: to follow up with your question, there was no disputing that City staff made the City requirements clear, where the narrow 50 foot street section notion came from was the from the person who donated the property to the school, the developer. This is the party who is responsible in designing and constructing this roadway not the school district. We have had to run interference on these design issues and the seller was under the impression at the time we were having negotiations with the school district for the site, that this road would be a standard road not a mid-mile collector . Before the deal was decide, the seller's engineer was under the impression that this was going to be a standard collector of 50-foot width. Mr. Hasson was very clear from the beginning that this was not a standard collector and was in fact a mid-mile collector which is the 70 foot width. I was told that a copy of the traffic study ws sent to the City, the engineer who did the study told me that he would personally see that Mr. Hasson would receive a copy of that traffic report and I apologize if he did not get that.

Steve Hasson: I have a copy of the traffic report because I got one from ACHD. I never received a copy of the traffic study from the school district.

Wayne Thowless: Layne has discussed some of the difficulties and hurdles that we have with dealing with multiple agencies that we have had to overcome. One of the largest hurdles in my estimation is the fact that you have the City of Kuna and ACHD; two different entities claiming control or jurisdiction and design of these roadways. So we meet with City staff and they have one criterion and then we meet with ACHD and they have a different set of criteria and we have been trying to juggle the two. Then we have to have a independent engineer do a traffic study, he has different opinions and he is suppose to be a licensed professional who is suppose to be advising the political jurisdiction on what is necessary and appropriate and what is not. It is not an easy process to manage. I apologize for bringing in this road design at the last minute; I just received it this morning from the engineer that is working for the developer who is putting in this road. I do need to make clear that ACHD's final staff report dated 4-8-2010 was copied to the City of Kuna and their early draft report was copied to the City of Kuna. Both of these reports clearly point out the approved ACHD road design for Mason Creek Road. In the final report it clearly indicates that ACHD is approving five -foot, not eight-foot sidewalks. I believe that is the primary design difference between what ACHD, has approved, the engineer has designed and what the City of Kuna desires. To widen the sidewalk plus a little buffer behind is over a 1000 linear feet that is a lot of real estate for the school district to be giving away. We were not compensated for the right-of-way. Improvement costs have been a issue, but the real estate value that this road is taking up is a lot money that could be have a better use.

Steven Hasson: I would like to comment about the relationship between ACHD and the City of Kuna. In Idaho Statute it says that transportation districts have no authority over land use decisions. So when ACHD comments on a land use, you will notice in their comments they are all recommendations and the reason is they are recommendations is because they do not have the final say so on land use applications because they do not have the authority. They have control of the right-of-way but do not have any say so on any land use decisions and the City does not have any authority on the right-of-ways. So the laws have tried to reconcile that by saying if push came to shove if it is a land use matter the City and their jurisdictions and their prescriptions finally prevail. It is also very clear in our subdivision ordinance that if there is a difference between standards the stricter standard will apply. I don't think that is understood by the school district.

Chairman Case: What we are talking about here is about 10 feet of land, has there been given any though on leaving the roadway the 70 foot but back off on the buffer? Is that something that would work?

Steve Hasson: It says in our subdivision ordinance that a collector must be 70 feet. The school district is responsible for half of that and Applewood Subdivision is responsible for the other half. The planter strip is eight feet and I thought that it was going to be 5 feet but ACHD said that if trees were going to be planted in it, the planter strip had to be a minimum of eight feet. If there are not going to be trees in it, so my thought if we are going to look for negotiations the planter strip is the area to that we can reduce or even eliminate. We cannot reduce the street from what it is now, and the sidewalk needs to be 8 feet, but the planter strip is open for negotiations.

Commissioner Trautman: You are willing to remove the trees to meet those requirements?

Steve: I would rather remove the trees than reduce the road or sidewalk.

Open Public hearing at 7:29pm

Neutral: none

Oppose: none

Support: none

Close public hearing at 7:29

Chairman Discussion:

Commissioner Sanders: I think that the school district is in the position to go along with the comprehensive plan or continue to butt heads with the comprehensive plan and do business like it has done in the past. I think that we can be proud as a Commission with what we have accomplished with Walgreens and Les Schwab's coming in, and saying this is the way we want Kuna to look like in the future and we need to continue to look towards the future and I think that the school district also needs to look toward the future and not the past. The wants and needs of this community have worked together to pass a comprehensive plan and this is our blue print for the future. What happened three years ago and five years ago and ten years ago is no longer applicable to what is going on with the future from now on. The school district has a chance to be a partner in that or continue to butt heads. I think that this whole thing needs to be tabled and go back to planning and zoning department. I agree that a compromise is available on the planting strip and it would save the school some money, but I don't see how we can pass things as they are.

Commissioner Trautman: I think that I agree with Stan that a lot of details need to be worked out but I don't think that we need to be the ones work that out up here. I am in favoring it in tabling it until they can reach a compromise that would be more apt to approve and go against the comp plan that we have already approved.

Commissioner Weirschem: First I want to say that I am disappointed in the friction that this project has brought between the two agencies. You had a great relationship in the past, but from it sounds like is the school had an agreement with the party that donated the property, that they would do the road and it seems like maybe that party should of taken on that role and not the school district. There is so many disagreements that everyone needs to look at again and do what is right for the kids and the community. We are here to improve our City, my love is children, and it seems like here is no coming together here.

Chairman Case: There is a couple of ways that we can handle this, one is to table this, as a Commission we can send it to a vote on what needs to be done, in my notes the biggest problem seems to be the road, the landscape along the road until the other parcel is developed, a discussion about the chain link fence. We can proceed forward with some direction on what they need to accomplish and we can give direction on what we want to see. Time is of the essence, in two weeks

time we need to have some firm agreement with each other. I am disappointed with the friction that is going around and I realize that personalities play into it but we need to set that aside and do what is right and come to a consensus.

Commissioner Sanders: I don't think that we need a laundry list at this moment, I am more concerned with the overall project and the plans that we have in place. I think that it needs to go back to the two parties involved and come back with a plan.

Layne Saxton: Mr. Eck has had meeting with the City and he is responsible is to have that road in place. It seems that the only rub here is the difference between the 5 foot sidewalk and the 8 foot sidewalk I will guarantee that we will put in a 8 foot sidewalk if we can proceed with this hearing. It is the best bidding climate right now, I asked the board to go to bid. If the only rub is the 8 foot sidewalk and the buffer we will build that 8 foot sidewalk. As you can see we have been confused as to has been driving the bus, ACHD or the City. And Mr. Eck and ACHD should be here tonight. Commissioner Sanders, I support the comprehensive plan 110 percent there is no rub there, my concern is the cost that we are faced with building a school in today's world. I am just trying to build a school and save the taxpayers' money. The only rub is the 8 foot sidewalk and I am willing to build a 8 foot sidewalk if we proceed tonight.

Steve Hasson: If he can construct that 8 foot sidewalk and if we have to remove that 8 foot planter strip I do not see any problems, the road will be 70 feet with the bike lanes and the 20 foot buffer and it will meet all the City standards the new do not have a problem.

Commissioner Trautman: I am ready to move forward. Is there a way for them to do a half width past that entrance of that road to save costs? I am concerned about where the road narrows down after the school that is something that needs to be worked out.

Steve Hasson: I believe that Mr. Eck wants to build the whole piece of that road.

Wayne Thowless: I don't believe that it says anywhere in the ACHD report that the road can or will be allowed to be narrowed down on the length of this road. The drawing I showed you tonight has not been approved, it reflects what the engineer felt was in compliance with ACHD requirements. I don't think that they would accept this narrowing down and the main sticking point is the 8 foot sidewalk and if put in that the street will be the full length with the 8 foot sidewalks, bike lanes and three lanes the school is in agreement with that and will have no problem.

Troy Behunin, P&Z, This is a full length 3 lane street section, and in order to accommodate our requirements and to meet theirs we are willing to reduce or eliminate the planter strip for the 8 foot sidewalk and the removal of those trees in the planter strip for the 70 foot right-of-way and bike lanes and 8 foot sidewalks.

Wayne Thowless: The traffic lanes, bike lanes, 8 foot sidewalk and planter strips all that is agreeable to us. The utility strip behind the sidewalk, is that utility 2 feet negotiable or not?

Staff: Yes we can shift the planter strip to accommodate the utility strip.

Wayne Thowless: As a good will gesture from the school district, if the planting strip is reduced to such a width that trees cannot go in we are willing to plant those trees in the 20 foot buffer area. The cul-de-sac if you have a position please put that in the motion and action.

Commissioner Sanders: I would like to make a motion to continue this for two weeks, clean up the language that is in green and yellow and blue in the report, new drawings on the road.

Chairman Case: I have a motion to continue this for two weeks, do I have a second?

Chairman Case; Motion dies to lack of second. Do we have another motion?

Commissioner Trautman: I motion that we approve the special use permit 10-03-SUP Kuna Elementary School No 3. With the following conditions:

- *The Controller shall meet all requirements for a collector roadway with a 70-foot right-of-way section; providing 3 lanes (the entire length), 2 bike lanes, a planter strip and 8-foot sidewalks, all within right-of-way.*
- *The Controller shall proceed forth with a subdivision application to plat the Mason Creek Road portion of the school property.*
- *The Controller shall meet all of Staff and Government Agency requirements.*

Commissioner Weirschem seconds, all approve, motion carries.

Chairman Case: We will take a 5 minute break. Meeting back to order at 8:10pm

NEW BUSINESS

10-03-ZOA Text Amendment of KCC 6-2-4 (Final Plat Process), KCC 6-4-2 (Required Public Improvements) and KCC 6-4-3 (Financial Guarantee). Steve Hasson presents the application. We have some major amendments to the subdivision text. Staff is providing for your consideration several subdivision related text amendments intended to improve aspects of the Kuna subdivision development process. This action is part of an ongoing effort to keep our development requirements current and useful.

In this text amendment application - staff has focused on three areas of the subdivision ordinance - that have not been updated for a number of years - whose current language poses long term liabilities to the City if not modified.

The first text amendment relates to the final subdivision platting process. At present a developer is not obligated to do any improvements between the preliminary plat approval and the final plat application – rather the developer has the discretion, at the time of final plat application, to bond for all of the improvements.

In the past, subdivisions were small and the developer was interested in getting the work done as fast as possible [time is money]. Seldom did you see a developer applying for a final subdivision plat where the work was not completed, or, if they did, very little work remained and those remaining items generally related to improvements that could not be completed due to inclement weather [such as landscaping].

Now, subdivisions can be huge with many phases and intended to be completed over many years with multiple ownerships and a variety of lending organizations involved in the development transactions. Some developers find it expedient to bond for all the improvements as a way to receive final plat approval - they can take that approval to a financial lending institution and leverage it as an entitlement to help them finance their projects. This is a risky strategy that can impact the public interests.

Bonding in lieu of improvement installation is intended to provide the City assurances the developer will follow through to completion with the development and if they do not then the City can call their bond to have the remaining work completed. In actuality, it is difficult to secure the bonding proceeds. Then, when the City finally has the bonding proceeds it has to expend them judiciously to assure the development is completed timely. This effort of assuming another's duties takes time and energies away from the City staff's abilities to do their regular work duties. A small staff does not necessarily have the expertise to address the remaining subdivision items to include the acquisition of specialty equipment necessary to the development's completion.

Accordingly, staff is of the opinion there are certain subdivision items, which must be in place at the time the developer seeks final plat application and we have amended the City's subdivision text to reflect that belief.

Specifically, we are proposing a text amendment that requires certain items to be installed prior to final subdivision plat application rather than pledged to be completed, these being:

- Construction of the domestic water system;

- Installation of fire hydrants;
- Construction of the sanitary sewer system;
- Construction of an all around weather road system;
- Installation of street signs; and
- Construction and testing of the pressure irrigation system

It should be noted that a number of municipalities require a portion of the subdivision work to be completed prior to acceptance of the final plat application. We believe these are bread and butter development items that need to be completed prior to final plat application to assure the public's interests are protected.

The second text amendment deals with the means and methods of financial guarantee related to subdivision improvements.

In the past the City has allowed the development community to rely upon surety bonding as the method of financial pledge to assure all construction work - initiated gets completed.

A surety is a method of pledging for work performance whereby the first party (the obligee) calls upon a second party (principal) to perform duties in contract form, a surety bond is issued by a third party (surety), guaranteeing that the second party will fulfill an obligation or series of obligations to the first party. In the event that the obligations are not met, the first party will recover its losses via the bond.

City staff is of the belief that this method of financial pledge is risky and should be substituted with a cash deposit and/or cash-backed irrevocable standby letter of credit. These methods of financial guarantee are viewed as less risky and it is important that a municipality do everything within its capacity to minimize financial risk.

The other important part of this text amendment relates to determining cost estimate for financial guarantee: It is important to have a method or calculation to rely upon to assess what the developer should provide in the way of a financial guarantee. This text amendment is constructed to provide a number of factors that will be considered to determine the amount of risk associated with any given development or improvement [anticipating it may not be completed] whose reconciliation needs to be matched by sufficiently pledged funds.

This method should provide better assurance that in the event the developer is unable to finish a project there is sufficient monies available for its completion because the city has estimated an adequate financial guarantee to do the work.

Finally, the amendment provides some additional controls with respect to oversight and duration.

The third text amendment deals with the City's subdivision improvement requirements. This is not a list of new subdivision improvements the City is requiring of the development community, rather the City has required the installation of a majority of these improvements - in some form or fashion since the subdivision code was written in 1976.

What this text does is provide the parameters that are to be relied upon for the installation of these improvements and this dialog is intended to provide the developer or contractor with a better

understanding of how to plan their development project. Having the improvement prescriptions written out with a number of the development standards qualified - assures consistency of development practice.

Thus, the text has been reconstructed to lessen the subdivision requirement guesswork. The more the City can spell out its development requirements - the less likelihood there will be interpretation misunderstandings or City staff will need to further qualify the nature of the required improvements - after the fact.

The Fire District and other public agencies have all had a chance to comment on these changes in the subdivision process that we are asking so everyone has had a chance to weigh in.

Commissioner Sanders; on page 2 under your bullets I don't see anything that has to do about perimeter fencing. And I don't see mentioned water rights. Shouldn't fencing and water rights be placed before the final plat? It is mentioned by I would like it up front.

Steven Hasson: We have a wonderful section on fencing; we do speak of them but they are not in the first text amendment but in the third one. One of the standard conditions of approval is you need to dedicate sufficient water rights to cover your development. What I think that I am hearing is that we need to have that before final plat is the dedication of water rights as opposed to a condition of approval.

Commissioner Weirschem: On page 3 at the bottom under final plat, you have that the term developer is interchangeable with subdivider and that they are the one and the same. I don't believe that we should label school districts, fire department, police departments, and entities like that as developers or subdivider, just because they are putting in a school or new fire or police department.

Steve Hasson: The reason that I put that in there, the subdivider and developer, is in our code we have parts of our subdivision and zoning text that refers to the subdivider as developer and other parts where it calls then developer. So to clarify it we want them interchangeable so either way they are used it means the same thing. But in the same breath I am not saying that the school is a developer. My view is whoever is doing the work and developing that property they are the developer. But normally a school if they are going to develop, they get a bond first, then they go out and do the bidding and they pay as they go, they do not bond or do surety bonds for this so I don't think that it would really qualify. And I don't want to put anything in where someone could come I and say I want the same special treatment that the school has and not be treated as a developer and I don't want to go there.

Commissioner Trautman: is this because of the times or is this a less risky way of doing things? What I am worried about is the developers having to come up with that kind of money and I don't want to discourage developers.

Steve Hasson, On risk management it is how do we strengthen our financial picture? There are a lot of things out there being repossessed and Gordon and John just want to watch the risk management. We need to protect public interest. And one way is with the money up front or a letter of irrevocable credit.

Open public hearing at 8:45pm

Neutral: none

Oppose: none

Support: none

Close public hearing at 8:45

Commissioner Sanders motions a recommend of approval of **10-03-ZOA Text Amendment of KCC 6-2-4 (Final Plat Process), KCC 6-4-2 (Required Public Improvements) and KCC 6-4-3 (Financial Guarantee)** to the City Council with the following conditions:

- *Changes shown in blue highlight – as discussed during hearing.*
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1.) The subdivider shall dedicate all sanitary sewer and domestic water facilities and provide all applicable documentation as required by the City Engineer.

2.) Construction and testing of the pressure irrigation system by the subdivider and inspection and approval by the City's engineering staff, where applicable. The City must receive documentation requesting that the system be annexed into the Kuna Municipal Irrigation District if annexation is applicable. All applicable fees must be submitted with the annexation request. Under circumstances where seasonal restrictions prevent the total completion of the irrigation system, the City Engineer may allow, at his/her sole discretion, those portions of the system under the purview of seasonal restriction to be deferred. Any portion of the irrigation system that is deferred shall be included in the financial guarantee.

8) Dedicate water rights to the City in sufficient quantities to offset the Subdivisions potential water demands as determined by the City engineer.

9) Provide permanent approved perimeter fencing along the subdivisions outer perimeter.

A. Street and Alleys: All streets and alleys shall be constructed in accordance with the standards and specifications adopted by the city of Kuna [City], Ada County Highway District [ACHD] and Idaho Transportation Department [ITD]. Street functionality shall be determined according to the City's adopted 2030 Functional Classified Road map. The street right-of-way widths shall be according to the street typologies identified in Kuna City Code 6-3-4. The distance separation from the edge of the street pavement to the developer's right-of-way requires a landscape treatment. For distance separation distances of less than ten feet, provide a City approved landscape treatment to include a non potable underground irrigation source.

For distance separations of greater than ten feet, provide the remainder of the area separation with a rock application treatment acceptable to the City and the transportation authority. The developer shall enter into a license agreement with the transportation authority for landscape maintenance within the public right-of-way. Highway treatment applications will be determined on a case by case basis. A subdivider shall provide a non-connecting [dead end] subdivision street, whose length is longer than 500 feet, with a secondary access. If the non-connecting street terminates in a turn around, the maximum 500 foot street length is to be measured from the center point of the turn around to the point where it intersects with an intersecting street. Should the Fire District approve a longer roadway length, the City may defer to their judgment (Ord. 231, 12-7-1977)

Commissioner Trautman second, all approves motion carries.

REPORTS

Planner Director Steve Hasson: Just a note that building activity is very solid this year at least as good or better than last year, Walgreens has started construction and Les Schwab's is out to bid. I have been working on for the last three weeks is the Gateway Transmission line on BLM land. We are a cooperating agency and we get to comment on. We commented last year and again this year and why they should not run it through Kuna land and instead on BLM land. This year they have reverted the order where it goes on BLM land first and Kuna second if an alternative route is needed.

City Attorney Richard Johnson: none

CHAIRMAN DISCUSSION

No discussion:

Commissioner Trautman has a conflict with schedule and will not be at the next meeting.

ADJOURNMENT

Commissioner Wierschem motions to adjourn at 8:51pm

Chairman Case seconds, all approve, motion carries.

David Case, Chairman

ATTEST:

Tracy Rushlow, Planner