

**Kuna Planning & Zoning Commission Meeting
January 13, 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 (7:15pm), Commissioner Stan Sanders, Commissioner Curt James, Vice Chairman Carl Trautman, City Attorney Richard Johnson, Director Steve Hasson, Planner Maranda OBray and Planner Tracy Rushlow,

Absent: Commissioner Stephanie Wierschem

The Kuna Planning & Zoning meeting was called to order by Vice Chairman Trautman at 6:10 p.m., located at the Kuna City Hall, 763 W. Avalon, Kuna.

Consent Agenda

Vice Chairman Trautman opened the meeting at 6:10 pm

Planning and Zoning minutes:

Special Meeting, December 16, 2010

Facts and Findings, Conclusions of Law:

Danskin Ridge 6 Subdivision – 09-02-CPF

09-01-CPA Comprehensive Plan amendment

08-01(DA, Development Agreement modification):

Planning Director Hasson requests that the facts and findings and conclusions of law be pulled from the consent agenda for 09-02-CPF, The Danskin Ridge #6 and tabled to a date certain such as the next meeting. The reason that Planner Director Hasson is requesting this request is because of some new information that has come up with in regards to Danskin #6. This application came before you to remedy some conflict that existed with some parcels of land. Last summer City staff became aware that a large parcel of land, north of Applewood, had been split without going through any formal process. We have two processes for creating new lot, if you have opportunity for a lot split or if you don't the subdivision process. Instead a portion of property had been split off by a quit claim deed to give a parcel of land to the Danskin Homeowners Association. When the City became aware of that we informed the owner, Mr. Jim Jewett that he would have to go through a formal process to divide the land. At first he said no he did into have to do that, he said he could do it through a lot line adjustment or a bunch of other stuff. Eventually he realized that he needed to go through a formal process, and that formal process would be a combination plat process. You have heard the application and you are in the position to approve recommendation to Council on that land use. But we believe that we have come to find out that while all this process has been going on, someone affiliated with this project has gone ahead and recorded these parcels of land with the recorders office. And if that has occurred then it has side stepped the whole public process. It has trespassed against the notice procedure, due process and most important has denied the public from participating in that process. We do not know this for fact but I have provided you with some e-mails from Planner II Troy Behunin, where there appears to be new parcels numbers, a new map and the response that I wrote to Mr. Jewett last week. Mr. Jewett never responded, I asked him again this morning and you can see that he wrote back that he forgot and would get back to me within an hour, as you can see, he has not responded yet and here it is after 6 in the evening and I still haven't had a response. I would like to ask the Commission is to continue this item to a date

certain to confirm that someone has created two parcels without due process. If that is the fact, then we need to start this process over. Not to just to do it out of spite but to protect the public's best interest. Whenever there is a challenge in court on a land use procedure, it is almost always in the noticing procedure. So if Mr. Jewett sells this property to the School District and someone begrudges this they could challenge the notice procedure and if they found it defective they can throw out the whole land use action so we need to back the train up and make it right.

Vice Chairman Trautman: So do you want to table this or start the whole process over?
Planning Director Hasson: We have not heard from Jim yet, so until we have all the facts and clarification, I would like to table it.

Commissioner James motions to approve minutes for 12-16-09 special meeting and facts and finding and conclusions of law for 09-01-CPA Comp Plan amendment and 08-01-DA Development Agreement and to table 09-02-CPF Danskin Ridge #6 Subdivision until January 27, 2010.
Commissioner Sanders seconds, all approve motion carries.

OLD BUSINESS

None

NEW BUSINESS

08-14-SUP (Amendment Les Schwab). This is a new Les Schwab Special Use Permit application. On two previous occasions, the Commission has granted SUP approval for this business at other proposed locations. The Les Schwab Company has determined to choose a new location for their store after further market analysis. They believe this new location will serve their client's best interests. Accordingly, this application is in keeping with previous applications. The new location is on Kuna Road and immediately east of the site recently approved for the Walgreen's Store; on land presently owned by Mr. Nicholson. The Developer is requesting SUP approval for an 11,700 square foot commercial building to provide a retail and auto-service center for tires, wheels and related products, as well as front-end alignment, brakes and shock absorber services, (no engine repair, no oil changes). Along with the special use permit, the Les Schwab Tire Center is subject to design review and sign permitting review. Additionally, the business is subject to a lot line adjustment process that will be submitted to the City Council for their review and possible approval. They have not changed any part of the building, but we ask them to move the bullpen and trash enclosure to the east side of the property for better traffic flow. On the new revised plans it shows a sidewalk on the new road on the east side of the property. The applicant will provide curb, gutter and 24 feet of the road on the east side. ACHD did not comment because they did not see the local road. They have the new plans, and they are reviewing it and will give comment. I have several e-mails with them and they don't seem to think that there will be any problem with this road section. The applicant will want to talk to you about the gravel road that we want extended past the pavement for about 200 feet, and that is to keep down the dust, and to help preserve the edge of the pavement. They would like to reduce that or eliminate that completely.

Vice Chairman Trautman: Why did they do the curb and gutter on the road to the east since it will be only half a section?

Staff: It is required. If the property to the east gets developed, they would have to develop that half section of the road.

Commissioner Sanders: Was there any consideration of lining up this street with the street a on the other side of Avalon? The previous plans the bays were facing the main street, why are these the facing east west instead of north-south?

Staff: We had that conversation when Walgreens came in and it was not a viable option, and it would be a full access. They are still the same, on the other plans they were all facing east-west and the design review wanted it so that the bays were not the focal point facing the road.

Commissioner James: What triggers the special use permit again and exhibit 4 the drainage rates is this something that we need to consider when we make a decision?

Staff: the special use permit is for the fact that they are tires. On the drainage, Gordon Law, the City Engineer, touched on that and I had a discussion with him on that and he feels that the City should not get involved with that, it is a between the two property owners. We will make sure that the drainage is to City standards and that it is adequate, but we are not getting involved with the legalities that is currently going on with those property owners.

Vice Chairman Trautman: Do we know the timing of Walgreens in regards to that offsite to the west where that driveway ends?

Staff: They are trying to come in at the same time; they are using the same engineer and landscaping architecture. The applicant will answer any more of those questions I don't really know all the answers.

Mike Oxman, Pineville Or, Les Schwab's Tires; We are asking approval of the amended Special Use Permit. We are moving to the property directly to the north-east of the previous site. Choice is not the easiest made and we wanted to maximum our exposure and decide that this was a better location and that is why I am back. We have not changed anything about the building, just the location of the building for the road access. But the City did not want the bays facing Avalon. The sales and showroom are facing the street and the bays are facing east-west. The road on the east side we design the road that we did not have to remove those mature maple trees. Right now Walgreens is to bring in the pressurized irrigation, if they don't come in, we will deal with that at that time. For the right-in, right-out, that is on their property, but we will work with them to see what can be done. We know the value of the access so we will do what we can. We did have the neighborhood meeting, there was some concern about the noise, construction of the property, we don't solve those problems we address them and I believe that we addressed them adequately. We are asking for your approval for the third time and we are looking forward to being a part of this community.

Open public hearing at: 6:46pm

Support: None

Oppose-James Vincent 903 E Resort Lane, Kuna. I live across the street from this project. I am very opposed to this. My biggest concern is the noise from the business, dirt and increased traffic. My work hours vary so I can be working nights and sleeping days or vice versa, and with the noise from air guns and traffic, it will be very disruptive. I asked could they keep their bays shut why they are working and they said no. Mr. Oxman said they are working from 7am to 7pm and this can be very disruptive.

Neutral-None

Close public hearing at 6:51 pm

Commissioner Discussion:

Commissioner James: One of the land uses said that one of the properties next this subdivision is zone C-1, what business is this?

Staff :This is the bank and the subdivision is east of the bank on the same side of the road.

Planner Director Hasson: One of the issues that we run into is incompatible issues with land use. Certainly if you look at our Comp plan you will see that the south side of Avalon, it identifies that as commercial. Its long term and best use is commercial. And the public input when we were crafting the comp plan, was that use being commercial. What we try to do is limit the commercial uses that would lead to real discordant relations between residential and commercial but in this case it is going to be real difficult because this is a state highway as we are participating lots of industrial and commercial enterprises along this corridor. Unfortunately when consideration was give to this subdivision to the north, they did not have the vision of this issue and I don't see there is any way to resolve this problem; unfortunately this is an inherent nuisance that is going to exist.

Commissioner James: there is quite a bit of landscaping along Avalon and they have both kinds of trees, evergreen and shade trees, so I don't see where additional landscaping would make a difference, the sound is going to travel and unfortunately this is state highway and is just going to get busier with more and more traffic. I agree with the applicant but at the same time on the gravel on the end of the road, I think that we need to comprise and instead of 200 feet of extra road at the end of the pavement since there is no residence at the end, make it 100 feet because it will keep the dust down and help save that end of the street from to much damage if nothing is done at all.

Planner Director Hasson; something else that we did, is normally we require two inch (2") caliper trees for landscaping and along Avalon we required three inch (3") caliper trees so that we would have more mature trees for landscaping and as a buffer. And at certain time of the year it will help buffer the noise more with more mature trees.

Commissioner Sanders: I also want to point out that this only residential subdivision that butts up against the highway and unfortunately the traffic is only going to get worse as the City grows. Maybe in the future we can look at some kind of sound barrier, but this is going to continue to be a problem as we develop and just get worse.

I believe that Mr. Nicholson is going to develop the rest of this property and it will be his responsible to extend that road on so it is a temporary solution to keep the dust down, to me it seems like a waste to require the applicant to provide this.

Vice Chairman Trautman: This is a temporary measure but it will help protect the road and keep the dust down. I am with Curt and I think a compromise is in order. The applicant wants 50-feet and staff wants 200-feet so I too feel that 100 feet is a good compromise of two inch deep standard width.

Planner Director Hasson: I think that this is a good compromise. As we grow we are going to be more scrutinized for air quality, and what will posed to this agency is what you are doing to impose dust impact.

Vice Chairman Trautman: I encourage 100 feet to knock the mud down and to protect the end of the pavement.

Commissioner James motions to recommend approval to City Council with the following conditions:

- Follow all staff and agency recommendations.
- Amend 1.12.5 to read: must provide a 25 foot wide, two inch deep, 100 feet long gravel driving surface.

Commissioner Sanders seconds, all approve, motion carries.

09-15-ZC, 09-15-DA, Rezone, Development Agreement- Louise Boren: Planner Tracy Rushlow presents the application. The applicant is requesting to rezone the property located at 780 W

Avalon from R-6, Medium Resident to C-1, Light Commercial. At this time the applicant has no plans to develop the property. It should be noted that the subject property is located in an area that is in transition to non-residential land uses and thus, a rezone of the property should not pose issues of land use inconsistencies with the adjoining land uses. This rezone action is consistent with the City's Comprehensive Future Land Use Map that designates the subject property and area as CBD (Central Business District). The Commission and Council have the discretion to approve the rezone but limit the approved uses that they view as incompatible with the immediate area. Rezones are subject to development agreements and the City Staff is recommending this land use application be subject to that land use action.

Planner Director Hasson: I have a few comments. This is the property across the street over here. I think that this is wise of the property owner. It is a residence right now and this area is in transition from residential to commercial and that computes with the comp plan. The City property does not have much potential and likewise with their property. But I can see someone coming in and purchasing both properties and it is a great spot from City Hall. The other thing that we did, is we have limited in the Development Agreement the uses that can apply to that this property since it is of smaller size and we did the same thing with the City property. This just gives us some control so that this is not a free for all, but if they buy the whole block, they can amend the development agreement to see if the use is compatible for the size of land used.

Applicant: Louise Boren, 780 Avalon: I feel that it is time to change the use on this property. The other properties are changing, across the street is the Irrigation office, the City property next to me, across the street is City Hall and the Lumber Yard, I believe that this will be the best use, a lot of commercial through here. A lot of traffic goes through this area and this would make a good spot for commercial and hopefully will bring up my property value. I don't plan on developing it, but I believe that it will make a great spot for someone who is looking for a smaller commercial site.

Commissioner Sanders: Do you feel that the restrictions put on this piece of property will hinder the sale?

Applicant: No I don't believe so. The list is pretty good.

Open Public Hearing at: 7:20pm

Support: None

Oppose: None

Neutral: None

Close Public Hearing at 7:20 pm

Commission Discussion:

Commissioners: None it is right in with the comp plan

Vice Chairman Trautman **recommending approval** to City Council with the following conditions:

- *Meet all Staff and Government Agency requirements and recommendations.*

Commissioner James seconds, all approve motion carries.

09-16-RZ/09-16-DA /Re-zone and Development Agreement –Young Construction

Planner Tracy Rushlow presented. Just to clarify, lot line adjustments are determined by City Council and this rezone is contingent on the approval of City Council for the lot line adjustment. The applicant is requesting the opportunity to lot line adjust several parcels to reflect the current land use. One of the lot line adjustments results in two different zones on one parcel of land. The zones are C-3 and R-4. The City's lot line adjustment policies now require overlapping zones on a parcel to be cured through a rezone process whereby the parcel has one zone. In this circumstance to rezone the C-3 zone designation so the lot adjusted parcel is entirely R-4. The area that will need

to be rezoned is part of the parcel(s) (parcel "A" and "C", This lot line adjustment is to provide direct access to the residential parcel and to adjust the boundaries so the structures located on this parcel ("D") do not encroach onto adjoining parcels. The main reason for the lot line is to give access to parcel "D" and the residential property buildings on that lot are not encroaching on other parcels.

Commissioner James: So this rezone will be out of line with the comp plan?

Staff: correct.

Planner Director Hasson: The property is non-conforming, the use is out of alignment with the comp plan, but it is a existing use and under Idaho law something non-conforming does not have to conform unless it enlarges or expands. There is not intent to expand or enlarge so it does not have to conform until such time a triggering mechanism occurs. This is a continuing effort to clean these parcels up so that it all makes sense. In the scheme of things I think it is in the public's best interest to move these forward in this regard. And in the City mixed use land it does allow for some residential.

David Crawford, B&A Engineers, 5505 W Franklin Road, Boise. I am to request a rezone to compote with the lot line adjustment and development agreement. The rezone is more of a housekeeping item that was required by new Kuna code, so it is a more intensive land to a less intensive land use from a C-3 to a R-6 somewhere years ago the property line hits the north side of the building and does not include the driveway, so that is to reflect the driveway and landscaping along the driveway. This is to accommodate the existing access from Orchard Ave. with a large amount of trees that line that drive.

Open Public Hearing at: 7:30pm

Support: None

Oppose: None

Neutral: None

Close Public Hearing at 7:31 pm

Commissioner Discussion:

Commissioner James: I am satisfied with the housekeeping of cleaning up that area. It seems pretty straightforward.

Commissioner Trautman: I agree with Commissioner James and it is going to a les intensive land use so in the long term I believe that it will not conflict with the comp plan.

Commissioner Sanders: no objections, cleans up some properties.

Commissioner Sanders recommends 09-16-RZ/09-16-DA /Re-zone and Development Agreement – Young Construction approval to City Council with the following conditions:

- *Meet all Staff and Government Agency requirements and recommendations*
- *The Rezone is contingent on the approval of the Lot Line Adjustment with City Council*

Commissioner Trautman seconds, all approve, motion carries.

REPORTS

Planner Director Steve Hasson: Just a note that recently our City Attorney Randy Groves resigned and through the selection process acquired two new attorneys. Both attorneys name is Richard. Richard Johnson will be here for the Planning and Zoning hearings. David Case is being recommended through Council for another 3 year term on next City Council meeting. And finally on the Statesman there was an article on the front page of the Idaho Statesman that talks about

housing in general and in the Valley and the substance of the story is that housing is been distressful but in the scheme of things there is a bright spot here and that is the City of Kuna and that is because our single residential building permits went up 20% from last year. And a ten percent increase during a good year is great but a 20 percent in a down year is outstanding.
City Attorney Richard Johnson: none

CHAIRMAN DISCUSSION

Commissioner James: there was a article about sustainable land use and the revitalizing downtowns. This is in regard to the Urban Land Institute have we talked about participating in that? Planner Director Hasson; Yes we have and we are not going to participate in that and the reason why is in order for a City to participate they have to provide a stipend and in this case it was \$500. I then told Ms. Cushlin that to do business in the City of Kuna, if you are going to do something we will need receipts so that there is transparency and she said that ULI did not do business that way and were advised by attorneys not to provide bills or contractual arrangements. We said that the City has only one way of doing business and all transactions have to be transparent and she said we will be seeing you. Instead we are going to do reverse engineering and when the other communities come out with their reports and analysis's we are going to take theirs apart and see what we can use to plan for Kuna.

ADJOURNMENT

Commissioner Trautman motions to adjourn at 7:45 pm
Commissioner James seconds, all approve, motion carries.

David Case, Chairman

ATTEST:

Tracy Rushlow, Planner