

**Kuna Planning & Zoning Commission Meeting  
February 10, 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.*

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**Those present:**

Chairman David Case, Commissioner Stan Sanders, Commissioner Curt James, Vice Chairman Carl Trautman, City Attorney Richard Johnson, Planner II Troy Behunin and Planner Tracy Rushlow,

Absent: Commissioner Stephanie Wierschem, Director Steve Hasson,

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.

<b>Consent Agenda</b>
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Vice Chairman Trautman opened the meeting at 6:10 pm

Planning and Zoning minutes:  
January 13, 2010

**Facts and Findings, Conclusions of Law:**

**09-15-ZC, 09-15-DA Rezone, Development Agreement-Boren  
09-16-ZC, 09-16-da Rezone, Development Agreement-Young  
Commissioner Trautman motion to approve the consent agenda,  
Commissioner Sanders seconds, all approve, motion carries.**

<b>OLD BUSINESS</b>
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None

<b>NEW BUSINESS</b>
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**Danskin Ridge 6 Subdivision** – Planner II Troy Behunin presented. 09-02-CPF. This is a subdivision request intended to cure a land use conflict resultant from the applicant splitting a portion of a large land holding without sufficient land splits available through the lot splitting process to accomplish that task. Accordingly, this combined preliminary and final plat (short plat) should compensate for the lack of lot split opportunity. This cure is necessary to provide the Kuna school district the opportunity to timely purchase a portion of this land without zoning conflict encumbrance. We have heard this once before, but under a different set of circumstances. The original application was to cure an illegal lot split and accomplish a lot line adjustment. The talks at the time were to correct the lot split and a lot line adjustment so that the school district could purchase land for a school site. We went forward with the application, had a special meeting for Planning and Zoning in December in order to hear the application but on January 6 of this year, about 13 days before it was to go before City Council, staff discovered that the lot line adjustment component of the request had already taken place. Staff does not believe that this was a malicious act or that they were deliberately intended to skirt around the hearing process. But according to our GIS maps it showed this was accomplished without the hearing process being completed. In talking with Jim Jewett and Jack Clark, senior land records surveyor for Ada County, in which the land parcels did indeed change configurations by lieu of warranty deeds for those two parcels. The plats in which these

parcels were contained in were not changed, but two parcels themselves had changed dimensions and were assigned new parcel numbers which did not match the information in the original application. In order to rectify this was to go back through the public hearing process. The major reason for this is that staff felt that the due process and the public hearing process had been compromised. The application that was present to staff in October of last year has changed before all the approvals are in place. Staff conferred with City Attorney Richard Johnson, and his opinion was in order to preserve the public interests, public hearing process and due process we needed to re-notice the application and have it reheard in a public hearing so that the application matches what is being approved. This is an action to err on the side of caution, so that if it is ever challenged, it will not be on the hearing process which is typically where it gets tripped up. We seek an action of approval.

Commissioner James: Besides procedural missteps that we have read about in the e-mails, nothing has changed materially since we heard this last time? This is a housekeeping item then?

Staff: some view it as a housekeeping item, but staff views it differently. The City has a code that lets you do a lot line adjustment and they can change configuration and therefore the characteristics of their property lines which is what happened with the warranty deeds, ownership was transferred with the warranty deeds and then the parcel numbers changed as did the configuration of the parcels themselves without completing the public process. In this case they had the cart before the horse. Some may say that this is a housekeeping item we view it as more of a missed step. If this had happened on January 20 or the day after then this would not have been a problem. The original action was to cure an illegal lot split by going through public process and hearings and at City Council.

Commissioner Sanders- This is not a question more of a comment but this material, plus the material from last time is a lot of effort, duplication and waste. Have you put anything in place so that this does not happen again so we do not have to go through this? In reality this much to do about nothing at least from my point of view. I have read this three times and I still cannot get a grasp on where the ball got dropped. Have there been some procedures put in place in the planning department so that this does not happened again?

Staff: We are putting changes in to correct issues that have been brought to our attention. There are code and ordinances that are out of date on a lot of things and we are constantly updating to fix them to stop things like this from happening. There are good number of them that are weak and do not define how things have to be or should be. A lot of these codes go back as far as the 1970's and things have really changed since then. As thing come up that we notice are not up to code or are outdated we are rectifying them. This process takes time and you don't always know what is broke until you go to use it.

Applicant: Carl Porter, Sawtooth Land Surveying, 6081 W Highway 52, Emmett. I really do not have a lot to add. I agree with staff 100%. I hope that the City of Kuna can put something in place so that this does not happen again and we are disappointed that we are here again. I would like to say that we were not trying to pull over the wool over any one's eyes. This is something that we have done in the past in other cities and counties, a developer has a piece of property, and he has a buyer he sells it. We were just trying to stay ahead of the game in this development process; mostly for the school district because they also had a time frame.

Chairman Case: and who are you representing?

Applicant: I am here representing the HOA, School District and Viper investments.

Chairman Case: I also need to mention this, but it is widely known, but I am a School Board Trustee and I have no vested interested in this nor do I benefit from it. It is my contention that I will participate in this discussion.

Open public hearing at: 6:20pm

Support: Layne Saxton: School District-As Troy and Carl mention, time is of the essence and we want to get the bid out for construction as soon as possible as we feel that it would benefit our patrons of the district as we feel that we can get a better bid. I believe that there has been some water under the bridge with the "new Kuna". We were not trying to pull the wool over someone's eyes and there are few bad reputations out there that that sometimes we need to wake up and make sure that things are being done right. I think that the cart got before the horse and this gets resolved and we can build the elementary school.

Tim Eck: 6152 W Half Moon Lane, Eagle; I will apologize if we have stepped over any bounds. We thought that everything was ok and proceeding on a proper course when the transaction occurred and it did change a parcel number because the size of a parcel did change and there has been some conversation between councils and the decision was to avoid any thoughts of wrong doing was to re-notice and go back through the process.

Oppose-None

Neutral-None

Close public hearing at 6:25 pm

Commissioner Discussion:

Commissioner Sanders: We went over this before so I have nothing to add; but my take on this whole process is kind of ridiculous, but if this leads shrinking of the procedures of the planning department and they can be upfront all the better for the people coming in and what is required and advise them of any changes before preliminary meeting and the final meeting it will make our jobs much easier.

Commissioner Trautman: I agree and that we learn from our mistakes and change things to rectify these mistakes.

Commissioner James: I Agree, I do think that it was the appropriate action in this case, but maybe have some changes put in place so that this does not happen again.

Chairman Case: I think that it is good, and that we erred on the sides of caution and that it was taken care of and that there was opportunity for testimony. We learn as we grow and our ordinances are a growing process that as we find errors we refine them so it does not happened again. I do not see this as a negative thing but something good came out of it.

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

- The applicant shall comply with all of the stated conditions of this staff report or as they may be amended.
- The approval is conditioned on the applicant or future heirs and / or assigns following this application with a re-platting of the short plat that requires a full blown subdivision application.
- This approval is predicated on the applicant modifying the original Danskin Ridge (257 acre) Master Plan and development agreement to include adding the development conditions contained in this land use application, as well as, providing an illustrative Master Plan that depicts these land use conditions.
- No land use actions, land divisions, or parcel boundaries shall be changed, altered or reconfigured culminating in a recordation of documents, until all approvals are obtained.

Commissioner James seconds, all approve, motion carries.

## REPORTS

**Planner Director Steve Hasson:** none

**City Attorney Richard Johnson:** none

## CHAIRMAN DISCUSSION

Chairman Case: The only thing different that I would like to see, after something like this, is to have the main contributor here so that we can ask them questions and get more information, in this case Mr. Jewett. It is important that these people show for these hearings and we can hear from his point of view. One way we can enforce that is to table it until they do show up.

I did get reappointed so we need to discuss on whether or not we want to re-elect officer positions or keep them as they are. I would not mind staying in this position; I would like to concede sometime in the future so that someone else can have the opportunity to step in if they would like to. We can wait until Stephanie is back to decide.

Commissioner Sanders-James, I think that we need to keep it how it is to keep consistency like we have in the past year and it is good to maintain this consistency.

Commissioner Trautman: I agree, and you did not have a relapse before you were reappointed. I am comfortable with it as it is.

## ADJOURNMENT

Commissioner James motions to adjourn at 6:40 pm

Commissioner Sanders seconds, all approve, motion carries.

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David Case, Chairman

ATTEST:

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Tracy Rushlow, Planner