



KUNA PLANNING AND ZONING COMMISSION
Agenda for September 24, 2013

Kuna City Hall ■ Council Chambers ■ 763 W. Avalon ■ Kuna, Idaho

REGULAR MEETING
6:00 pm

1. CALL TO ORDER AND ROLL CALL

Chairman Lee Young
Vice Chairman Stephanie Wierschem
Commissioner Dana Hennis
Commissioner Cathy Gealy
Commissioner Mike Bundy

2. CONSENT AGENDA

- a. Meeting Minutes – September 10, 2013
- b. Kuna Event Center – Enrique Contreras, **F of F & CL**, 13-07-SUP

3. OLD BUSINESS:

4. PUBLIC MEETING

5. PUBLIC HEARING

6. DEPARTMENT REPORTS

7. CHAIRMAN / COMMISSIONER DISCUSSION

8. ADJOURNMENT

**CITY OF KUNA
REGULAR PLANNING & ZONING COMMISSION**

**MEETING MINUTES
Tuesday, September 10, 2013**

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.*

PZ COMMISSION MEMBER	PRESENT	CITY STAFF PRESENT:	PRESENT
Chairman Lee Young	x	Wendy Howell, Planning Director	x
Vice-Chairman Stephanie Wierschem	<i>Absent</i>	Troy Behunin, Planner II	x
Commissioner Dana Hennis	x	Travis Jeffers, Planning Technician	x
Commissioner Cathy Gealy	x		
Commissioner Mike Bundy	x		

6:00 P.M. –COMMISSION MEETING & PUBLIC HEARING

Call to Order and Roll Call

Chairman Young called the meeting to order at 6:03pm

1. CONSENT AGENDA

- a. Meeting Minutes – August 27, 2013
- b. Kuna Event Center – Enrique Contreras, **F of F & CL**, 13-07-SUP
- c. Merlin Pointe Sub **F of F & CL** 13-01-AN, 13-01-DA, 13-01-S

Commissioner Gealy motioned to approve consent agenda; Commissioner Hennis seconds, all aye and motioned carried 3-0.

Commissioner Bundy was not present at the August 27th, 2013 meeting and therefore withheld his vote.

2. OLD BUSINESS:

None

3. PUBLIC MEETING

- a. **13-04-DR; Merlin Point Subdivision**-Design Review for Landscaping. The site is located at 1380 E. Kuna Road, Kuna, ID. (APN#'s: R0645254601 & S1324449005). **The landscaping, parking lot, lighting plan and signage will all go through design review as the parcels/phases are developed in the future, and not at this time.**

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4. PUBLIC HEARING

- a. **13-07-SUP; Kuna Event Center** – Enrique Contreras, RECONSIDERATION - Applicant is requesting reconsideration of the commission's decision requiring the connection to, and installation of pressurized irrigation lines, and to modify the application to include consumption of liquor on site.

Troy Behunin, Senior Planner located at 763 W. Avalon St. in Kuna. A request has been made for two items to be reconsidered. The first item is a request from the applicant that the City Engineer's recommended condition of approval (#4), that the applicant extend and connect to pressurized irrigation (PI) be excluded from the Special Use Permit (SUP) approval. The reconsideration is requested due to the significant cost required to extend and connect to (PI). They would be required to extend the lines more than 150', with an estimated cost of \$35-45/lineal foot. That expense would be burdensome upon the applicant for this type of application. Staff has spoken with the City Engineer and although he feels that there is a great need to extend (PI) to that part of town, he agrees that the cost is unmerited at this time. Planning and Zoning staff and the City Engineer are in agreement on this matter. Staff would like to point out that had the applicant not needed a SUP to serve alcoholic drinks that this would not have been addressed all together.

The second request by the applicant is to amend the SUP to not just include beer and wine, but to add liquor as well. The applicant recently received permission from the State to serve liquor on premises for their business. Staff also understands that the applicant has discussed this with the neighboring church and they have given their blessing including a letter of support. The reason this is coming up is because according to state law, the consumption, sell and or distribution of alcohol including beer, wine and liquor is prohibited any less than 300' from a church unless the decision making body grants a reduction in the distance. That reduction was given for the beer and wine and the applicant wishes to add liquor to that approval.

Questions:

C/Bundy asked for clarification that the City Engineer is okay with (PI) not being a requirement. Troy explained that yes he did not have any objection to that waiver.

C/Young asked if the City had a timeframe planned for extending (PI) to that area. Staff does not believe there is a known timeline.

No further questions for staff.

Applicant Representative, Dave Szplett located at 970 Ashwood Ct. in Kuna. Dave felt that Staff provided a good overview of the two main needs the applicant is requesting. The (PI) system is quite expensive and they came up with a cost estimate slightly above what Staff estimated. The approximate cost is roughly \$13,000 and given that the SUP is tied only to the liquor license and not the business, that it seems excessive to require that of the applicant.

Liquor is being added for reconsideration because the applicant was unaware at the original hearing that they would be a granted approval from the State to serve liquor so fast. The applicant is asking the Planning and Zoning Commission to change the approval to include beer, wine and liquor. The new business is located

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within 300' of the church and they have discussed the addition of liquor with Pastor, Karen Hernandez and she supports the addition. She wrote a new letter of support and the applicant has provided city staff with a copy. They did re-notice all of their signs and did not receive any phone calls or neighbors objecting.

The applicant is not seeking any further changes to the original plan.

Questions:

C/Bundy asked what the basis for the \$13,000 cost estimate was. Dave assumed that it would be roughly \$.50/foot cost and they would also have to do all of the mobilization and there would be engineering fees on top of that. It would also have to go down ACHDs Right-Of-Way (ROW) which would require a lot more work/investment.

C/Gealy asked if the applicant was willing to connect to (PI) when it became available. Dave concurred that they would be okay with that request. It could be added as a condition of approval if desired.

Public Testimony opened at 6:16pm

3 people total are in favor.

In Favor

Mitchell Jaurena, 7776 S. Old Farm Ln. in Meridian. Mitchell supports the new business venture because the applicant(s) have a proven track record within the community and have been serving Kuna for over 15 years at their restaurant. Mitchell is an ACHD Commissioner, but is speaking on his own behalf. Mitchell believes it would behoove the City to support this new business.

Stan Sanders, 250 W. 4th St. in Kuna supports the new business. Stan is in favor of taking out the (PI) requirement from the SUP approval for two reasons. The first reason is that two other businesses in the past year have opened up on 4th Street and have not been required to connect to (PI) and have been given leniency from the City to defer certain improvements because of the cost burden they would incur. The second reason is several years ago the City Engineer sent out a letter to residents asking if they would be interested in paying for (PI) to be run to their property. Most of the residents are elderly or retired and on fixed income and therefore declined what the City Engineer was proposing. Stan believes that the City Engineer is asking the applicant to run (PI) so that the City can then require nearby residents to also connect into the system. He feels that this request is unnecessary and unwanted.

Applicant Rebuttal:

Dave Szplett explained that the City has two letters of support from the church with the latter including liquor.

C/Gealy wanted to include the new letter including liquor from the Church in the applicant's file.

Public Testimony closed at 6:25pm.

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No further questions.

Planning and Zoning Commission Discussion:

C/Bundy is comfortable with the (PI) reconsideration request, but is not in favor of adding liquor to the applicant's approval. He considers the Church a public gathering place and feels that the event center is too close to give a full recommendation to include liquor. The rest of the Planning and Zoning Commissioner's present agree that the (PI) reconsideration is justifiable, but also feel that adding liquor to the approval would not create an issue with the church especially considering they have given their blessing. The event center will not be open for consistent public use. It will be used specifically for events and will only serve those invited for the special occasion.

Commissioner Hennis motioned to approve 13-07-SUP for the Kuna Event Center with the recommended conditions set forth in the Staff Report including the addition that the applicant will connect to (PI) when it becomes contiguous to the property; Commissioner Gealy seconds, motion carried 3-1.

Commissioner Bundy, nay

3. DEPARTMENT REPORTS

None

4. CHAIRMAN / COMMISSIONER DISCUSSION

None

5. ADJOURNMENT

- *Commissioner Gealy motions to adjourn at 6:31 PM; Commissioner Hennis seconds, all aye and motion carried 4-0.*

Lee Young, Chairman
Kuna Planning and Zoning Commission

ATTEST:

Travis Jeffers, Planning Technician
Kuna Planning and Zoning Department



City of Kuna

P.O. Box 13
Kuna, ID 83634
Phone: (208) 922-5274
Fax: (208) 922-5989
Kunacity.Id.gov

Reconsideration – F of F, Conclusions of Law

To: Planning and Zoning Commission; acting as P&Z and Design Review Committee

Case Numbers: 13-07-SUP (Special Use Permit) Kuna Event Center
13-03-DR (Design Review)

Location: 321 W. 4th Street
Kuna, Idaho 83634

Planner: Troy Behunin, Senior Planner

Meeting Date: September 10, 2013

Findings of Fact: **September 24, 2013**

Applicants: Enrique Contreras & Ana Paz
1922 W. Ardell Road
Kuna, ID 83634
(208) 922.5169

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- F. Proposed Conclusions of Law
- G. Proposed Decision by the Commission

A. Course of Proceedings

1. Proposing a Banquet Facility (event center), as described in Kuna City Code 5-3-2 and 5-1-6-2 (Banquet Facility; Definitions) KCC is a permitted use in the Central business District (CBD). Proposing an establishment which serves alcoholic (including hard liquor) beverages in the CBD requires obtaining a Special Use Permit (SUP). A Banquet Facility is defined as: *An establishment, which is rented by individuals or groups to accommodate private functions including, but not limited to, banquets, weddings, anniversaries and other similar celebrations.*
 - A. Kitchen facilities for the preparation or catering of food;
 - B. The sale of alcoholic beverages for on-premises consumption, only during scheduled events and not open to the general public; and
 - C. Outdoor gardens or reception facilities
 - a. **Notifications**

i. Agencies	June 14, 2013
ii. 300' Property Owners	July 16, 2013
iii. Kuna, Melba Newspaper	July 24, 2013
iv. Site Posted	July 31, 2013
v. Re-Posted	August 28, 2013
2. In accordance with KCC Title 5, Chapters 1 and 3, this application seeks SUP approval for a banquet facility to hold public and private gatherings which may include consumption of food (prepared offsite), alcoholic and hard liquor beverages. All alcoholic beverages being served in the Central Business District requires acquisition of a Special Use Permit.

B. General Project Facts, Staff Analysis:

1. **New Request:** The applicant requests reconsideration of the commission’s decision requiring the connection to, and installation of off-site pressurized irrigation lines as the request for an SUP does not match the cost of these public improvements. Applicant also would like to modify the application to include consumption of liquor on site as a state license has now become available for this location.

Original request: The applicant is seeking SUP approval for a banquet facility (which may serve foods and limited alcoholic beverages) at 321 W. 4th street, here in Kuna. The site is within 300 feet of a church. According to Title 23, Chapters 10 (11B) and 13 (07A) of Idaho State code, the approval of the governing body of the municipality to reduce the distance between the two uses is required. The applicant is also requesting Design Review for a change in color to the exterior of their building.

2. The applicants have submitted all necessary documents and materials for review and have held the appropriate neighborhood meeting and posted the site in accordance with KCC posting requirements. The applicant is proposing to open a banquet facility (events center) for people to rent out for celebrations, gatherings, meetings, weddings, Christmas parties and other private/public events.

3. **History:** The building is currently unoccupied and was used as a day-care facility and a church in the past.

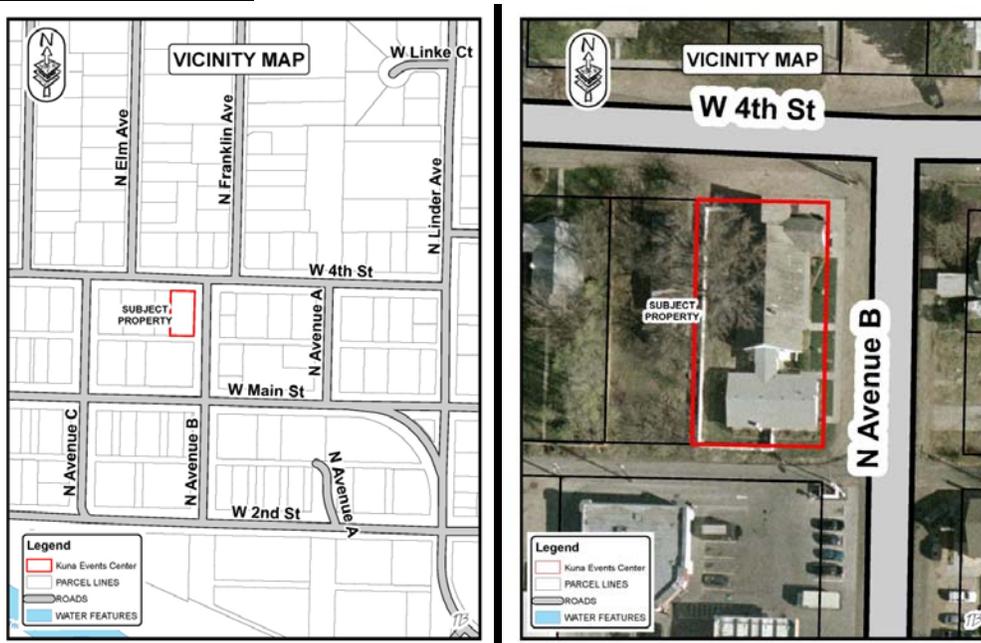
4. **Legal Description:** See (Exhibit A2c) Affidavit of Legal Interest.

5. **Comprehensive Plan Designation:** The Future Land Use map (FLU) approved by City Council, indicates the site as Central Business District (CBD). In accordance with KCC 5-3-2, staff views this banquet facility request to be consistent with the FLU map as the applicant has applied for a SUP.

6. **Land Use:**

Direction	Current Zoning	
North	R-6, CBD	Medium Residential Density & Central Business District – Kuna City
South	CBD	Central Business District – Kuna City
East	CBD	Central Business District – Kuna City
West	CBD	Central Business District – Kuna City

6.1 **Vicinity and Aerial Maps:**



6.2 Parcel Number: APN: R5070000880

6.3 Parcel Sizes and Current Zoning: (CBD) .24 acre parcel and (approximately 10,454 square feet)

6.4 Services:

Fire Protection – Kuna Fire District
Police Protection – Kuna City Police (Ada County Sheriff's office)
Sanitary Sewer– City of Kuna
Potable Water – City of Kuna
Irrigation District – Boise-Kuna Irrigation District
Pressurized Irrigation – City of Kuna (KMID)
Sanitation Services – K&M Sanitation

6.5 Existing Structures, Vegetation and Natural Features: It currently has a commercial building on site which has been used as a day care facility and a church in the past. The site has sidewalks along West 4th Street, and North Avenue B. The site has Street frontage to the north, and to the east.

6.6 Transportation / Connectivity: Access to the site is from West 4th Street, and North Avenue B.

6.7 Public Services, Utilities and Facilities: The City Engineer has reviewed the SUP application and provided comments in (Exhibit B2). Central District Health Department had no objections to this proposal as noted in (Exhibit B3). The Kuna Rural Fire District has reviewed the SUP application and provided comments in (Exhibit B6). Department of Environmental Quality submitted a template letter shown as (Exhibit B5). Notifications to government agencies were sent out for this land use action and the public is invited to attend.

C. Applicable Standards:

1. City of Kuna Zoning Ordinance No. 230.
2. City of Kuna Design Review Ordinance, 2011-08.
3. City of Kuna Landscape Ordinance No. 2006-100.
4. City of Kuna Comprehensive Plan.
5. Idaho Code, Title 67, Chapter 65, Local Land Use Planning Act.

D. Comprehensive Plan Analysis:

The Planning and Zoning Commission may accept the Comprehensive Plan components as described below.

1. The proposed Special Use Permit for the site is consistent with the following Comprehensive Plan components:

GOALS AND POLICIES – *Property Rights*

Goal 1: *Ensure that the City of Kuna land use policies, restrictions, conditions and fees do not violate private property rights. Establish an orderly, consistent review process for the City of Kuna to evaluate whether proposed actions may result in private property “takings”.*

Policy 1: As part of a land use action review, the staff shall evaluate with guidance from the City's attorney; The Idaho Attorney General's six criterion established to determine the potential for property taking.

GOALS AND POLICIES – *Economic Development*

Goal 1: *Promote and support a diverse and sustainable economy that will allow more Kuna residents to work in their community.*

Policy 1.3: The City will develop a policy to provide incentives and/or assistance in order to competitively attract firms.

GOALS AND POLICIES – Land Use

Goal 2: Encourage a balance of land uses to ensure that Kuna remains a desirable, stable, and self-sufficient community.

Objective 2.2: Plan for areas designed to accommodate a diverse range of businesses and commercial activity, within both the community-scale and neighborhood-scale centers; to strengthen the local economy and to provide more opportunities for social interaction.

Policy 2.3: Retail and residential land uses should be appropriately mixed and balanced with professional offices and service facilities to provide residents with a broader mix of services within walking distance from their homes.

E. Findings of Fact:

1. All required procedural items have been completed as shown in the staff report.
2. The proposed commercial use complies with Section 6.0 of Kuna's Comprehensive Plan.
3. Public services exist and are adequate to accommodate this site's development.
4. The proposed commercial use does not appear it will be detrimental to the public's health, safety and general welfare.
5. The site is zoned CBD and intended for use as a banquet facility, a permitted use in the CBD.
6. This site is zoned CBD and requires a SUP for all alcoholic beverages to be sold and consumed.
7. This site is within 300 feet of a church and as stated in Title 23, Chapters 9 (13), 10 (11B) and 13 (07A) of Idaho State code, the approval of the governing body of the municipality to reduce the distance between the two uses is required.
8. A shortfall for off-site parking spaces exists, however arrangements have been made with surrounding land owners to compensate for its parking needs.
9. The project description, staff analysis and findings of fact are correct.

F. Conclusions of Law:

1. The proposed banquet facility use is consistent with Kuna City Code.
2. The proposed banquet facility use meets the general objectives of Kuna's Comprehensive Plan.
3. The site is physically suitable for a banquet facility.
4. The proposed banquet facility use is not likely to cause substantial environmental damage or avoidable injury to wildlife or their habitat.
5. The proposed banquet facility use is not likely to cause adverse public health problems.
6. The proposed banquet facility use is in compliance with all other ordinances and laws of the City.
7. The proposed banquet facility use is not detrimental to the present and potential surrounding uses; to the health, safety, and general welfare of the public taking into account the physical features of the site, public facilities and existing adjacent uses.
8. The existing and proposed street and utility services in proximity to the site are suitable and adequate for banquet facility purposes.
9. Based on the evidence contained in Case #13-07-SUP, this proposal complies with KCC Sections 5-3-2 and 5-1-6-2.
10. Based on the evidence contained in Case #13-07-SUP, this proposal complies with Section 6.0 of the Comprehensive Plan and the Kuna Comprehensive Future Land Use Map.
11. The Planning and Zoning Commission of Kuna, Idaho, has the authority to approve or deny this SUP application.
12. The public notice requirements were met and the public hearing was conducted within the guidelines of applicable Idaho Code and City Ordinances.

G. Decision by the Commission:

Note: This proposed motion is for approval or denial of this request. However, if the Planning and Zoning Commission wishes to approve or deny specific parts of the requests as detailed in the report, those changes must be specified.

On September 10, 2013, the Planning and Zoning Commission voted 3-1, to approve case No. 13-07-SUP (Reconsideration) based on the facts outlined in staff’s report the case file and public testimony at the public hearing. The Planning and Zoning Commission of Kuna, Idaho, hereby approves the reconsideration of Case No.s 13-07-SUP, and 13-03-DR, a Special Use Permit and Design Review request by Enrique Contreras and Ana Paz, with the following conditions of approval:

Conditions of Approval:

- The applicant will connect to (PI) when it becomes contiguous to the property.
 - The consumption of Liquor on site shall be allowed after acquiring a state license for such.
1. The applicant shall obtain written approval of the construction plans from the agencies noted below. The approval may be either on agency letterhead referring to the approved use or may be written or stamped upon a copy of the approved plan. All site improvements are prohibited prior to approval of these agencies.
 - a.) The Kuna Fire District shall approve all fire flow requirements and/or building plans.
 - b.) Approval from Ada County Highway District / Impact Fees, if any shall be paid prior to building permit approval.
 2. Parking within the site shall comply with Kuna City Code (except as specifically approved otherwise).
 3. Maintain a good working relationship with surrounding land owners to accommodate the shortfall in parking spaces for the site.
 4. The applicant shall follow all of the requirements for sanitary sewer, potable water, pressure irrigation system connections, and all other requirements of the City engineer, as outlined in the Engineers memorandum dated April 4, 2013.
 5. In the event the uses or the building on this parcel are enlarged, expanded or altered in anyway (even for a temporary purpose), the applicant shall seek an amendment to the approvals of this SUP.
 6. The applicant shall obtain a beer and wine license from the state and the City of Kuna in accordance with state and local laws.
 7. Signage for the site shall comply with current Kuna City Code.
 8. This SUP is valid as long as the conditions of approval are adhered to continuously. In the event the conditions are not continuously followed, this SUP may be revoked by the Planning and Zoning Commission.
 9. The applicant shall follow all agency and staff recommendations.
 10. The applicant shall comply with all Federal, State and Local Laws.
 11. Applicant will not be required to connect to the City’s pressurized Irrigation System until further development or re-development occurs.
 12. The consumption of Liquor on site shall be allowed after acquiring a state license for such.

DATED: This 24th day of September, 2013.

Lee Young, Chairman
Kuna Planning and Zoning Commission

ATTEST:

Troy Behunin, Senior Planner
Kuna Planning and Zoning Department