

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

**MEETING MINUTES
Tuesday, June 25, 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	x	Troy Behunin, Planner II	x
Commissioner Dana Hennis	x	Travis Jeffers, Planning Technician	x
Commissioner Cathy Gealy	x	Richard Roats, City Attorney	x
Commissioner Mike Bundy	x		

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

Call to Order and Roll Call

Chairman Young called the meeting to order at 6:00 p.m.

1. CONSENT AGENDA

- a) Special Meeting – June 5, 2013
- b) Meeting Minutes – June 11, 2013

Commissioner Hennis motioned to approve consent agenda; Commissioner Wierschem seconds, all aye and motioned carried 4-0.

Commissioner Gealy did not provide an approval vote for consent agenda item (a.) because she did not attend the meeting.

2. OLD BUSINESS:

13-02-S and 13-02-DR; Silver Trail Subdivision-A request from LEI Engineers and Planners & DBTV Applewood Farm LLC to Preliminary Plat approx. 30 acres with 126 residential and common lots. Approx. 20 acres of this site will be a Re-Plat of Danskin Ridge Sub No. 5. The site is located at the SE Corner of Ten Mile Road & Mason Creek Street, Kuna, ID. (APN#'s: R1727740012 & S1311336210; Sec 11, T2N, R1W, BM).

Senior Planner Troy Behunin with the City of Kuna, located at 763 W. Avalon St. in Kuna explained that the original hearing date for this agenda item was heard on May 28th, 2013. On that date the Applewood HOA asked for a time extension to work through some differences with the developer. The original allowance of time granted to the HOA was 45 days; however the developer promptly contacted and set up a meeting with the HOA that same night for the 11th of June. The developer then asked for a reconsideration of the original 45-day time extension, which the Planning and Zoning Commission

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granted. The new hearing date was then set for June 25th, 2013. Staff understands that the June 11th meeting between both parties successfully worked towards resolving the majority of their concerns and questions as previously discussed at the May 28th hearing.

The ACHD staff report missing from the May 28th hearing has been received by the City, Planning and Zoning Commission and the Developer. The report was submitted in draft form, but ACHD felt confident enough that the report will remain in tacked when the final is completed.

Questions for staff:

Vice Chairman Wierschem asked for clarification that the applicant had in fact received the ACHD report and that they were willing to accept the conditions set forth.

P/Behunin and the applicant both confirmed receipt and the applicant accepted the conditions set forth by ACHD.

No further questions for staff.

Public Hearing officially opened at 6:05pm.

Chairman Young started the hearing by explaining the hearing procedures as specified by Idaho Code.

The hearing procedures, as required by the Idaho Code, are: (The following is a condensed summary)

1. The purpose of a public hearing is to provide an opportunity for citizens to present their views on issues that may affect them plus an understanding of whether or not the proposal is in compliance with city code.
2. You must sign the sign-in sheet to provide oral testimony. A time of three (3) minutes is observed by all speakers except the applicant/representative which has 20 minutes.
3. No person is permitted to speak until recognized by the Chair.
4. Speakers shall not be interrupted. At the conclusion of speaker's comments, the commission is allowed to question the speaker and the speaker shall be limited to answers of the questions asked.
5. When testifying before us, you must come to the podium, state your full name and address for the record.
6. We ask everyone to treat all parties with fairness and respect. Please turn off your cell phones and if you must answer your phone, please go to the hallway.

[Testimony Procedure]

- Applicant or Applicant's Representative (20 minutes) (State Name & Address)
- Those in Favor (3 minutes) (State Name & Address)
- Those in Neutral (3 minutes) (State Name & Address)
- Those in Opposition (3 minutes) (State Name & Address)
- Applicant's Rebuttal (10 minutes) (State Name & Address again for the record)

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Laren Bailey with LEI Engineers located at 2040 S. Eagle Road in Meridian, ID 83642. Laren reiterated the overall project as a whole and reconfirmed that the developer accepts the conditions of approval as set forth in the staff report along with ACHD's draft staff report.

Meeting with the Applewood HOA

The meeting took place at Ling and Louies in Meridian on the evening of June 11th. The overall meeting was successful in that both parties were able to discuss their concerns and work towards solutions. The storm drainage retention area currently under Applewood's HOA control will involve easement language allowing the Silver Trail subdivision to landscape and maintain. It will not include landscaping or maintenance of the strip of land along Ten Mile Road because the developer does not own the land. Traffic control devices have been discussed with ACHD and they will provide a traffic count on 6.25.13 and again at a future date, if necessary to determine whether additional measures are needed and to prevent cut-through traffic. As of today, ACHD does not feel it warrants additional measures beyond its current design and road network. Applewood's HOA had asked that the pedestrian pathway adjacent to Lot 21/Block 1 extend through to Ten Mile Road. The developer agreed to install the asphalt pathway to Ten Mile Road as shown in the landscape plan.

Project Recap (Laren Bailey)

The applicant is DBTV Applewood Farm, LLC and LEI Engineers. Silver Trail Subdivision is a re-plat over a portion of what was known as the greater Danskin area, currently Applewood subdivision. There will be approximately 115 residential lots and 11 landscaped lots. The density works out to be around 3 DU/acre, which is below the maximum allowed under the zoning designation of the land. The property is zoned R-6, which allows up to a maximum of 6 DU/acre. The road network is designed to be consistent with the original plat with some minor variations. The increase in lots is a result of the Equivalent Dwelling Units (EDU) assigned by the City to this area and because they have been prepaid by the developer. The developer wishes to exercise those EDUs as effectively as possible while maintaining a complimentary feel to Applewood's development.

As far as building height restrictions along Ten Mile Road, the developer would rather not restrict those lots. The original Applewood Development Agreement (DA) did not include such restrictive language. It was however a part of the City Council conditions of approval at the time. Silver Trail is an entirely new development and the developer feels that those restrictions should not apply. They will be installing a six-foot vinyl fencing product along Ten Mile Road, which will also match Applewood's fencing.

Questions:

C/Bundy asked about the City Forrester letter regarding differentiating tree selection for the development. Laren explained that yes they have reviewed the report and they are willing make some minor changes to the species selection. The original plan was to pick similar species currently present in Applewood today.

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C/Hennis asked for confirmation that the developer and the HOA could not reach an agreement on landscaping the strip along Ten Mile. Laren reiterated that the area of concern is out of their control. They do not own the land. The responsibility of landscaping that strip of land should have been completed by the original developer before the final plat was signed off by the City. The developer understands that this is an unfortunate situation and empathizes with the HOA and also realizes that this will not appeal to buyers looking at Silver Trail.

C/Hennis asked if quit claiming that portion of land to the developer as discussed at the May 28th hearing was a viable option. Laren explained that the final plat clearly states that the land cannot be subdivided out and therefore a Quit Claim in this case is not a feasible option.

C/Bundy asked if combining the two HOA's was a possibility. Laren explained that it is problematic and that discussions with Applewood have taken place. However, the legalities of doing so would be difficult to define and create. It sounds great in theory, but in reality it would be difficult to accomplish successfully.

3. PUBLIC HEARING

In Favor:

Brad Isner, President of the Applewood HOA located at 9289 S. Cherry Apple in Kuna. Brad expressed his appreciation to the developer for setting up a meeting so quickly after the original hearing. The two parties had a very constructive meeting on June 11, 2013 in attempting to rectify many of the issues/concerns facing Applewood and Silver Trail subdivisions. The remaining differences are small; however there are some existing issues that Applewood's HOA does not have the ability or the desire to address. One of the main issues is the strip of land along Ten Mile Road. The HOA does not have the necessary funds to landscape and maintain that area. The cost alone is greater than the yearly collected HOA assessments. They believe the landscaping should have been completed during the original time of development, but was not.

Tim Eck, 6152 W. Half Moon Lane, Eagle, ID 83616. Tim Eck is the developer of Silver Trail Subdivision and expressed his gratitude to the Applewood HOA board members for meeting with him to discuss possible solutions to help one another. He also expressed his thanks to the City for assisting in the process to move things along accordingly. Tim made an offer to the HOA that in the future if the strip of land along Ten Mile Road is landscaped, then Silver Trail HOA would assume responsibility to maintain it. Tim suggested that once the area is landscape that the two parties enter into a landscape easement to allow proper authority to maintain. They also agreed to extend the pathway to the sidewalk as discussed earlier. Traffic measure concerns were addressed in the ACHD staff report. The retention basin currently owned by Applewood would be exclusively used by Silver Trail and therefore, they agree to landscaping that area and maintaining it through an easement. The meeting also covered Applewood's CC&R's. Tim has agreed to comply with a significant portion of those as well to assure current property owners that they intend on building a complimentary product.

Sheri Russell located at 71 S. School St. in Kuna. Sheri owns approximately 25 acres adjacent/across to

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this development. Sheri feels that the strip of un-landscaped land along Ten Mile Road directly affects her property the most. One of the original stipulations of the original development agreement suggested that properties along Ten Mile Road be single-level only. She asked openly, if the original Development Agreement (DA) was still in place or if a new one had been formed for Silver Trail. Her hope is that the original restriction of single-level homes is adhered to in the new subdivision. The main reason for this request pertains to the aesthetics along the Ten Mile corridor. She also wants to see 6' vinyl fencing along Ten Mile.

Question for Staff:

The Commission asked Planner Behunin if the original DA stipulated single-level homes along Ten Mile Road. Troy explained that DA's do not actually expire and therefore remain in effect. However, single-level homes along Ten Mile Road were not a part of the original agreement. They were simply a condition of approval placed by City Council. The original DA was recorded, but the Developer has not signed it officially. The DA only included 7 or 8 conditions.

Neutral:

Richard Parrish located at 9499 S. Cherry Apple Avenue in Kuna is the Chairman of the Architectural Control Committee for Applewood Subdivision. Richard upon reviewing Title 6 "Subdivision Regulations" did not find anything closely resembling Applewood's situation in terms of having a Developer dissolve his/her company and not complete the project. It did not specifically outline responsibility. Richard would like to see changes made to help protect homeowners from developers who fail to complete the job as originally planned. If Planning and Zoning does not have the authority to correct the failures as presented in this case, then who does?

Randy Jones located at 9137 S. Red Delicious Avenue in Kuna was one of the first homeowners in the Applewood Subdivision. Randy is one of many disappointed homeowners who were promised many things from the original developer, but never saw those things come to fruition. Randy felt that it was each parties (Developer, HOA and the City of Kuna) best interest to come up with a solution for landscaping Ten Mile Road. Ultimately, Randy felt that it shouldn't be the HOA responsibility to landscape and maintain the land because of the original Developer's/City's failures. Randy would like to see the City of Kuna help find a solution to this problem even if that includes seeking legal means.

Applicant's Response:

Laren Bailey with LEI Engineers first clarified that the original developer was JLJ Enterprises not Divert Development. In regard to houses along Ten Mile Road, the original restriction of single-level homes was not a part of the DA. It was part of the Conditions of Approval by City Council. The developer would prefer not to have that restriction and feels that the trees and landscaping would adequately block most of the view from two-story houses. The issue of storm drainage maintenance would be handled in the CC&Rs of Silver Trail Subdivision and is a legally binding document.

C/Hennis asked if the fencing along Ten Mile Road was going to be 6' vinyl. Laren responded, yes.

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C/Bundy asked if the Developer would be open to the idea of entering into an easement that would allow the Developer to landscape the property along Ten Mile Road. Laren reiterated that the Developer is willing to enter into an easement agreement to maintain the landscaping once it has been installed, but does not plan on installing landscaping.

C/Gealy asked if irrigation is in place for the land along Ten Mile Road. Laren believed it was, but wasn't sure if all the runs have been installed.

VC/Wierschem asked if they could transfer EDU's from one property to another.

City Attorney Richard Roats explained that generally, the EDU allotment for bare land was 3 EDU/acre. The City's position has been consistent. EDUs can be transferred. This is a different circumstance because the EDUs on this property have been assessed, so the developer is entitled to develop at that density.

C/Gealy asked how much the landscaping would cost along Ten Mile Road. Laren explained that the developer had a quote performed and it came to approximately \$45,000.

VC/Wierschem asked what the timeline was for the final phase of this project. Laren felt 3-5 years depending on the market, which can fluctuate.

Public Testimony closed at 7:10pm.

C/Bundy asked the City Attorney about the original DA of Applewood Subdivision and its enforceability.

Richard Roats explained the problems with that. The first problem is that the original developer never signed the DA. The second issue is determining which properties the DA encompassed. That will require some research on his part.

Commissioner Hennis motioned to recommend approval of 13-02-S given the proposed conditions as stated in the staff report. The motion also includes recommendation that City Council review the single-story requirement along Ten Mile Road, the developer works with the City Forrester, they match and install 6' vinyl fencing along Ten Mile Road and work with the City to install the correct fencing around the retention pond. Commissioner Gealy seconds, all aye and motion carried 5-0.

Commissioner Hennis motions to approve 13-02-DR for Silver Trail Subdivision with the conditions proposed in the staff report and the pathway extension at Lot 21/Block 1 to Ten Mile Road; Commissioner Bundy seconds, all aye and motion carried 5-0.

4. NEW BUSINESS:

13-02-AN, 13-01-DA, 13-01-ZC and 13-01-S; Merlin Point Subdivision-Requests for Annexation, a Zone Change, Development Agreement and Preliminary Plat for approx. 52 acres over 2 parcels, into the City of Kuna, from Steve Arnold (A Team Consultants), requesting C-1 Zoning for commercial and residential

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uses on site. The site is located at 1380 E. Kuna Road, Kuna, ID. (APN#'s: R0645254601 & S1324449005).
TABLED to a date certain.

Senior Planner Behunin explained the reason for tabling the hearing for a second time is that ACHD has not provided a staff report. Staff proposed moving the date certain out two weeks to July 9th, 2013.

Commissioner Gealy motioned to table 13-02-AN, 13-01-DA, 13-01-ZC and 13-01-S; Merlin Point Subdivision until July 9, 2013; Commissioner Hennis seconds, all aye and motion carried 5-0.

5. DEPARTMENT REPORTS

None

6. CHAIRMAN / COMMISSIONER DISCUSSION

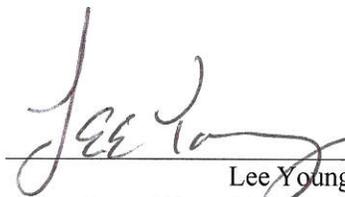
None

7. ADJOURNMENT

Commissioner Wierschem motions to adjourn at 7:40 PM; Commissioner Gealy seconds, all aye and motion carried 5-0.



Travis Jeffers, Planning Technician
City of Kuna Planning Department



Lee Young, Chairman
City of Kuna Planning Commission

ATTEST: