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IDAHO PUBLIC
UTILITIES COMMISSION

Donovan E. Walker
Senior Attorney
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September 14, 2009

HAND DELIVERED

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-09-26
In the Matter of the Application of Idaho Power Company for a Certificate of Public Convenience and Necessity for the Columbia Substation, the Columbia to Kuna 138 Kv Transmission Line, Reconstruction of the Caldwell to Hubbard 230 Kv Transmission Line, and Related Transmission and Distribution Facilities

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of the Company's Application for a Certificate of Public Convenience and Necessity for the Columbia Substation, the Columbia to Kuna 138 Kv Transmission Line, Reconstruction of the Caldwell to Hubbard 230 Kv Transmission Line, and Related Transmission and Distribution Facilities. Also enclosed are nine (9) copies of the testimony and exhibits of Idaho Power witness David M. Angell, with one copy designated as the Reporter's Copy. A computer disk containing Mr. Angell's testimony is also enclosed.

I would appreciate it if you would return a stamped copy of this transmittal letter for our files in the enclosed self-addressed stamped envelope.

Very truly yours,

Donovan E. Walker

DEW:sh
Enclosures

DONOVAN E. WALKER, ISB No. 5921
BARTON L. KLINE, ISB No. 1526
Idaho Power Company
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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Idaho Power Company

Street Address for Express Mail:
1221 West Idaho Street
Boise, Idaho 83702

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR A) CASE NO. IPC-E-09-26
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY FOR THE COLUMBIA) APPLICATION
SUBSTATION, THE COLUMBIA TO KUNA)
138 KV TRANSMISSION LINE,)
RECONSTRUCTION OF THE CALDWELL)
TO HUBBARD 230 KV TRANSMISSION)
LINE, AND RELATED TRANSMISSION)
AND DISTRIBUTION FACILITIES)
_____)

Idaho Power Company ("Idaho Power" or the "Company"), in accordance with Idaho Code §§ 61-501, 61-502, 61-503, 61-508, 61-526, 61-527, 61-528, 67-6528, and RP 52, 54, 112, and 211, hereby respectfully makes Application to the Idaho Public Utilities Commission ("IPUC" or the "Commission") for an Order granting the Company a Certificate of Public Convenience and Necessity for the construction of the Columbia substation, the Columbia to Kuna 138 kV transmission line, reconstruction of the Caldwell to

Hubbard 230 kV transmission line, Columbia distribution circuits, and related facilities necessary to provide adequate and reliable service to the Kuna, Idaho area within the Company's service territory.

The Company requests, pursuant to Idaho Code §§ 61-508 and 61-526 that the Commission find it to be in the public convenience and necessity that Idaho Power construct facilities in and around the City of Kuna's area of impact and within the City's proposed "Overlay District." The proposed facilities are necessary and required in order to continue to provide reliable and adequate electricity to Idaho Power's customers in and around Kuna and in order for the Company to operate its integrated electric system in western Ada county and across its southern Idaho/eastern Oregon service territory.

In the alternative, if the City of Kuna requires that the facilities be constructed underground or on an alternative route(s) outside of the Overlay District, that the Commission order Idaho Power to file tariffs to establish a surcharge to be added to the rates charged to the Company's customers within the boundaries of the City of Kuna to recover the incremental additional costs thereof.

In support of this Application, Idaho Power represents as follows:

CORPORATE STATUS

1. Idaho Power is a corporation incorporated under the laws of the state of Idaho. Idaho Power is engaged in the business of generating, purchasing, transmitting, and distributing electric energy and providing retail electric service in the states of Idaho and Oregon. Idaho Power's principal

offices are situated in Boise, Idaho, and its address is 1221 West Idaho Street, Boise, Idaho, 83702. Copies of Idaho Power's Articles of Incorporation and Certificates of Convenience and Necessity are on file with the Commission.

KUNA OVERLAY DISTRICT ORDINANCE

2. Electric loads in western Ada County have increased steadily over most of the last decade, and persist despite the current economic conditions. *See generally*, Case No. IPC-E-09-03. In order to reliably serve the existing and future electrical loads in and around the City of Kuna, the construction of new substations, new 138,000 volt (138 kV) sub-transmission facilities, new/upgraded 230,000 volt (230 kV) transmission facilities, and new/upgraded distribution lines into and within this area are required.

3. The specific facilities at issue in this proceeding are a new substation to be constructed at the corner of Columbia Road and Kuna-Meridian Road/State Highway 69 (the Columbia substation), a 138 kV transmission line from the new Columbia substation to the existing Kuna Substation, reconstruction of the Caldwell to Hubbard 230 kV line with double-circuit towers from the Mora/Hubbard substations to the new Columbia substation, and eight distribution circuits which will exit the Columbia substation along major roads. A map showing these facilities is included as Attachment A hereto. Also included as Attachment B is a larger overview of these facilities and their relation to the City's area of impact and city limits. Included as Attachment C is a picture showing what typical transmission and distribution structures look like.

4. On August 12, 2009, the City of Kuna Planning and Zoning Commission approved an amendment to a city ordinance establishing an "Overlay District" that bans utility power poles within the area that generally follows the highways of Kuna-Meridian Road/State Highway 69 (north-south) and Kuna Mora Road (east-west) within the City's Area of Impact. Included as Attachment D is a copy of the proposed ordinance for the Amended Overlay District. Included as Attachment E is a map depicting the Overlay District. The City's Area of Impact is generally bounded by Cole and McDermott Roads on the east and west, and from Amity to south of Kuna Mora Road from north to south. See, Attachment B, showing the City of Kuna's Area of Impact, the City limits, and the general location of the required facilities.

5. As shown on page 6, subsection N, of the Overlay District Ordinance, the City completely bans the placement of **ANY** new above-ground utility power poles in the overlay district to a distance of 660 feet from the centerline of State Highway 69 and Kuna Mora Road. Additionally, all existing power poles are restricted to their present height in the same identified area. Attachment D at p. 6. The ban of power poles in the Overlay District effectively removes the option of siting facilities in the right of way along these highways, and is contrary to the franchise agreement between the City of Kuna and Idaho Power. The Columbia substation is located within the Overlay District. Idaho Power, prior to the proposal to ban and restrict power poles in the Overlay District, had all ready purchased the land to build the Columbia substation and received a conditional use permit for the site.

6. The Overlay District Ordinance has been approved by Kuna's Planning and Zoning Commission and recommended for approval to the City Council. The Ordinance was mailed to government agencies on July 14, 2009; was published in the official newspaper of general circulation, the Kuna Melba News on July 22, 2009; and was reviewed and accepted by the Planning and Zoning Director. The City held a public hearing on August 12, 2009, with the Planning and Zoning Commission, which resulted in a recommendation to the City Council to approve the Ordinance. This Ordinance is scheduled to go before the Kuna City Council for approval on September 15, 2009.

7. Idaho Power has an existing franchise agreement with the City of Kuna. A copy of this agreement is included as Attachment F hereto. The franchise agreement provides for the construction maintenance, and operation of facilities, such as transmission lines, in the streets, alleys, and public places in Kuna:

There is hereby granted to Idaho Power Company, its successors and assigns . . . the right, privilege or franchise for a term of fifty years from the date of passage hereof, to construct, maintain and operate in the present and future streets, alleys and public places in the Village of Kuna, Ada County, Idaho, and its successors, electric light and power lines (together with all the necessary wires, transmission lines and telegraph and telephone lines for its own use), for the purpose of supplying electricity to said Village, the inhabitants thereof and persons and corporations beyond the limits thereof, for light, heat, power and other purposes.

Attachment F at p. 1. The franchise agreement does not expire until 2015. *Id.*

8. The comprehensive plan of the City of Kuna is required by State law to identify "utility transmission corridors" and other public facilities. Idaho

Code § 67-6508(h). The City of Kuna's current comprehensive plan lacks any provision what-so-ever for transmission corridors or facilities. The City's proposed draft comprehensive plan cites to, and references Idaho Code § 61-1701 *et seq.* which relates to national interest electric transmission corridors designated by the secretary of the United States Department of Energy ("DOE") under § 1221 of the Energy Policy Act of 2005. The DOE has thus far designated only two such corridors in the United States. DOE issued an order on October 2, 2007, for two National Interest Electric Transmission Corridor ("National Corridor") designations: 1) The Mid-Atlantic Area National Corridor (includes some or all counties in DE, OH, MD, NJ, NY, PA, VA, WV, and DC)(Docket No. 2007-OE-01); and 2) The Southwest Area National Corridor (seven counties in Southern California and three counties in western Arizona)(Docket No. 2007-OE-02). With regard to transmission corridors, the new draft comprehensive plan states, "Should the Idaho State Public Utilities Commission notify the County of other federally mandated corridors, this Plan and its reference maps will be updated to reflect further analysis." Kuna Proposed Comprehensive Plan, p. 192.

9. On May 27, 2009, the Kuna Planning and Zoning Commission recommended that the City Council reject a proposed Idaho Power transmission corridor siting on the City's Area of Impact and future land use map. See, Attachment I, p. 7, 8, 9. On July 7, 2009, the City Council removed the comprehensive plan amendment's public hearing from the agenda and set it for a workshop with the Planning and Zoning Commission on July 28, 2009. It is

unclear what if anything has happened since that time. Because it only addresses National Corridors, the draft comprehensive plan fails, as does the current comprehensive plan, to designate corridors or spaces for the required transmission and electric utility facilities that are required for Idaho Power to provide adequate and reliable service to the area. Both comprehensive plans fail to meet the requirements of Idaho Code § 67-6508(h).

10. Idaho Power, mindful of the Commission's guidance in its final Order in the City of Eagle case from 2004, has undertaken extensive public involvement activities with regard to local land-use and transmission planning activities with local governments, citizens, and the public generally. The Commission's parting words in its Findings and Discussion from that Case are:

Finally, we note that this case should serve as a reminder to utilities that they should monitor and participate in local land use planning activities. In particular Idaho Code § 67-6508(h) requires that city and county comprehensive plans consider and identify "utility transmission corridors" and other public facilities. For purposes of transmission planning, utilities must advise local governments that the construction of electric transmission lines normally entails tall poles and structures. We also encourage cities and counties to be realistic in designating transmission corridors within their areas. It may not be enough to simply designate that public streets and road right-of-ways will serve as transmission corridors. Aerial transmission lines are the most cost-effective construction method and represent 99% of all transmission line miles in the nation. Tr. at 305.

Order No. 29634 at 7, Case No. IPC-E-04-04.

11. Following the Eagle Case in 2004, Idaho Power initiated several Community Advisory Committees and undertook a comprehensive, cooperative transmission planning exercise with the communities and leaders across its

service territory. Idaho Power has completed three Community Advisory Committee's and will complete the fourth later this year. These committees were created to provide a cooperative effort between the Company and the communities it serves in developing an outline for prioritized improvements and additions to the Company's transmission and substation infrastructure. Each committee was created from and reviewed a specific geographic region. The committees formed to date have been from the Treasure Valley, Wood River Valley, Magic Valley, and Eastern Idaho. Each of these committees were composed of elected officials, jurisdictional planners, civic leaders, business leaders/developers, and residents. Each committee met on a monthly basis with each session lasting most of a day. The process included educational sessions which began with a bus tour of Idaho Power facilities. The committee was presented with a view, from production to delivery, of Idaho Power's electrical system including an introduction to electrical generation, substations, transmission, demand-side management, and regulatory affairs. The committee then developed a list of goals and siting criteria that would guide them in their plan development. The committee was presented with growth statistics and anticipated load data based on the planned build-out of the community. Using the education gained through these meetings, the committee then spent a few meetings to lay out proposed transmission lines and substation sites. The committee then determined a preferred plan by consensus with some alternatives identified. This process of education and development of the plan takes just over a year and is the result of hundreds of hours of involvement from

the community. The Kuna area was included in the Community Advisory Committee that worked on the Treasure Valley Electrical Plan from August 2005 through October 2006. The former mayor of Kuna, Dean Obray, was a member of the Committee.

12. The Company has not only undertaken numerous public involvement efforts across its service territory, it has also undertaken specific efforts with regard to the City of Kuna. The Company has about twenty documented communications, i.e., meetings with City officials, presentations to committees, open houses, etc..., with the City of Kuna regarding transmission siting in and around Kuna's area of impact from July 2008 to the present, in addition to the numerous other informal discussions, phone calls, and contacts about this matter. One such meeting in July 2008 was to specifically describe the Columbia to Kuna 138 kV line at issue in this case. This happened prior to the City's proposal to ban new poles within the Overlay District.

13. On November 25, 2008, Idaho Power sent a formal letter to Randy Grove, City Attorney for Kuna, regarding the Overlay District ordinance. A copy of this letter is included as Attachment G. This letter clearly voices and memorializes Idaho Power's concerns regarding the complete prohibition of new power poles, and the restriction upon upgrading any existing facilities to the City of Kuna. The letter also questions the City's authority to regulate a land use all the way to a total prohibition of the use. Additionally the letter points out that the Overlay District ordinance undermines goals of the Treasure Valley Electrical Plan and of the City itself, i.e., the preferred upgrade of existing facilities before

building completely new corridors, and a recommendation that power lines be located in major transportation corridors whenever possible would be prohibited with passage of the ordinance. The letter also points out that new utility poles, or the extension of existing utility poles is going to be essential to Kuna's ability to carry out the goals, i.e., develop, as stated in its Comprehensive Plan.

14. On November 26, 2008, Qwest Corporation also sent a formal letter to the City of Kuna. A copy of Qwest's letter is included as Attachment H. Qwest's letter expresses similar concerns as Idaho Power's letter: i.e., objecting to the ban of new utility poles and height restrictions on existing poles in the Overlay District.

15. Additionally, as can be seen on page 10 of Attachment D, Idaho Power was involved in the public process for this particular Ordinance, and voiced its concerns with the ban and restriction upon power poles contained in the Ordinance at the August 12, 2009, Planning and Zoning Commission meeting. The Company specifically noted to the Planning and Zoning Commission that a ban and restriction upon power poles as proposed may restrict the Company's ability to serve new customers, would make it more costly and time consuming to serve new customers, and could restrict the Company's ability to meet its obligation to provide the Kuna area with adequate and reliable electric service. Attachment D, p. 10. Idaho Power also reiterated its willingness "to work with the City to identify electric utility corridors that minimizes the impact to a community but allow for cost-effective, timely installation of electric facilities." *Id.* Although the City has generally stated that it too is willing to work with the

Company on accomplishing this task, it has nonetheless proceeded forward with its public process to enact the Overlay District ordinance to accomplish a complete ban on new power poles.

16. The Company must construct facilities in the Kuna area to meet its continuing obligation to serve customers, and thus is requesting an Order from the Commission affirming that the public convenience and necessity requires the same. The proposed facilities are what is required in order to provide adequate and reliable service to the City, and the area. Alternatives to the proposed facilities are more costly, and will be less reliable not only for Kuna, but also for the larger transmission system. If the Company is not allowed to erect new utility poles in the Overlay District, the City will be severely limited in the service that it can receive. The new Columbia substation would have to be located elsewhere, outside of the Overlay District, and the existing Kuna substation will be limited to a less reliable radial feed. Future large load industrial and commercial customers would not be able to be served with the existing infrastructure, and would require their own special facilities to be constructed on a case-by-case basis if located in the City's area of impact. A more detailed description of Idaho Power's need to construct facilities in the Kuna area, and why the facilities promote the public convenience and necessity is contained in the testimony of Mr. David M. Angell. Mr. Angell is Idaho Power's Manager of Delivery Planning and his testimony is filed concurrently herewith in support of this Application.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

17. A Certificate of Public Convenience and Necessity (“CPCN” or “Certificate”) represents the exercise by the Commission of foundational authority and principles that are necessary in Idaho’s system of permitting regulated monopoly public utilities to exist and to provide necessary services to the public. Certificates have been utilized in various ways from the time that Idaho’s statutory system of public utility regulation was enacted by the Legislature in 1913, Idaho Code § 61-101 *et seq.*, to the present time. After nearly 100 years of legislative enactments, Commission Orders, and Idaho Supreme Court reviews, the Certificate remains the embodiment of the Commission’s fundamental power and authority to, at the most basic level, authorize and direct a public utility to serve in the public interest. *See, Idaho Power & Light Co. v. Blomquist et al.*, 26 Idaho 222, 141 P.1083 (1914); *Idaho Op. Atty. Gen. No. 87-2*, 1987 WL 247587 (Idaho A.G.).

18. In the broadest sense, a Certificate allows a company that meets the definition of a “public utility” pursuant to Idaho Code § 61-129 to exclusively provide its service to the public in a specified geographic region, its service territory. It is a codified part of the “regulatory compact” whereby the utility takes on the exclusive obligation/right to serve all those requesting service within its service territory and, correspondingly, submits itself to the rate and service quality regulation of the Commission.

19. In a more literal sense, a Certificate from the Commission is required for the construction or extension of a line, plant, or system by any street

railroad, gas, electrical, telephone, or water corporation. Idaho Code § 61-526. A Certificate is not required if such corporation is extending within any city or county where it had previously commenced lawful operation, or the extension into territory contiguous to the territory already served by it, and not served by another public utility of like character. *Id.* If the proposed construction or extension interferes with, or is about to interfere with, the operation of another all ready existing public utility of like character, the Commission may prescribe terms and conditions regarding the location and type of plant the utility may construct. *Id.*

20. However, Idaho Code § 61-526 also provides that, "if the public convenience and necessity does not require or will require such construction or extension [of a line, plant, or system] the commission ... may, after hearing, make such order and prescribe such terms and conditions for the **locating or type** of line, plant or system affected as to it may seem just and reasonable." (Emphasis added). Consequently, in cases such as the present where the Company is not *required* to obtain a Certificate in order to construct, extend, and upgrade its transmission and distribution facilities within its service territory, the Commission may grant the Company a Certificate if the public convenience and necessity so requires.

21. Similarly, the Commission has the express authority to order a utility to build new structures, or to upgrade and/or improve existing plant and structures, in order to secure adequate service or facilities. Idaho Code § 61-508.

Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to or changes in the existing plant, scales, equipment, apparatus, facilities or other physical property or any public utility . . . ought reasonably to be made, or that a new structure or structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing such additions, extensions, repairs, improvements, or changes be made or such structure or structures be erected in the manner and within the time specified in said order.

Id.

22. Idaho Power has experienced continuing and substantial growth and development in its service territory, along with a correspondingly rapid increase in electrical loads on its system. This growth trend has been particularly pronounced over the last decade, and electrical load continues to grow, albeit at a reduced rate, through the current downturn in economic conditions across the country. The growth has been most pronounced in the Company's Treasure Valley load center consisting of Boise, Meridian, Nampa, Caldwell, Eagle, Star, and Kuna as well as other communities. Idaho Power has an obligation to provide adequate, efficient, just, and reasonable service on a non-discriminatory basis to all those that request it. Idaho Code §§ 61-302, 61-315, 61-507. The Commission must assure that the rates Idaho Power charges its customers and that the rules and regulations by which it provides service are just, reasonable, nondiscriminatory, and non-preferential. Idaho Code §§ 61-501, 61-502, 61-503, 61-507, 61-508.

23. Chapter 65 of Title 67 of the Idaho Code addresses local land use planning. Idaho Code § 67-6528 addresses the interaction of Commission Orders and land use planning actions by other government agencies:

If a public utility has been ordered or permitted by specific order, pursuant to title 61, Idaho Code, to do or refrain from doing an act by the public utilities commission, any action or order of a government agency pursuant to titles 31, 50 or 67, Idaho Code, in conflict with said public utilities commission order, shall be insofar as it is in conflict, null and void if prior to entering said order, the public utilities commission has given the affected governmental agency an opportunity to appear before or consult with the public utilities commission with respect to such conflict.

Idaho Code § 67-6528, Applicability of ordinances.

24. Despite offers and efforts by the Company to work with the City of Kuna to develop workable transmission siting in the City's area of impact, Kuna has moved forward, at a rapid pace, with the approval and enactment of its Overlay District Ordinance that completely bans new overhead power poles and restricts existing poles to their current height within the Overlay District. The new Columbia substation, the Columbia to Kuna 138 kV transmission line, portions of the Caldwell to Hubbard 230 kV transmission line, as well as other associated transmission and distribution facilities, fall within the designated Overlay District. The City was informed about this specific Columbia to Kuna project prior to proposing the ban and restriction through amendment of the Overlay District ordinance. The City was informed of the problems associated therewith and was informed of Idaho Power's objections to the Overlay District's ban and restriction at least as early as November 2008. The City proceeded with its formal process

to adopt the ordinance, has approved it through the Planning and Zoning Commission, and recommended it to the City Council for approval.

25. Although the specific siting of facilities is generally an area of local concern in the State of Idaho, the Idaho Legislature has granted the Commission the ultimate authority for determining whether the public interest, convenience, and necessity require the construction of certain facilities by expressly providing that land use actions or orders of other governmental agencies or local governments that are in conflict with an order of the Commission are null and void. Idaho Code § 67-6528. The Company is not seeking any specific rate recovery for the facilities involved herein at this time, and will do so in a proper rate recovery proceeding in the future. The Company is also not seeking to avoid or thwart any city or county permitting processes or procedures. The Company is asking the Commission to find it to be in the present and future public convenience and necessity that Idaho Power constructs facilities in and around the City of Kuna's area of impact and within the city's proposed "Overlay District." The Company also requests the Commission find that the proposed facilities are necessary and required in order to continue to provide reliable and adequate electricity to Idaho Power's customers in and around Kuna and in order for the Company to operate its integrated electric system in western Ada county and across its southern Idaho/eastern Oregon service territory.

INCREMENTAL COST SURCHARGE

26. If the City of Kuna requires that the facilities be constructed underground or on an alternative route(s) outside of the Overlay District that

increases the cost of such facilities, Idaho Power maintains that it is appropriate to require the City to contribute the additional incremental cost associated with their required line routing or underground facilities. As the Commission noted in Case No. IPC-E-04-04, the City has available to it the Underground Conversion of Utilities Law, Idaho Code § 50-2503, which authorizes and provides a method for cities to convert overhead electric facilities to underground locations. Order No. 29634 at 7. If the City does not bear that incremental additional expense, Idaho Power's other customers will ultimately pay higher rates as a result of the City's dissatisfaction with the aesthetics of overhead transmission facilities located within or through the City. The Idaho Legislature has vested the Commission with the exclusive power to regulate public utilities for the State of Idaho and with the authority to carry out its regulation. Any other arrangement would place the public utility and its general body of utility customers in an untenable situation. Local governmental agencies could require public utilities to expend unreasonably large amounts of money to satisfy local aesthetic or other concerns. Those additional expenses would then be passed on to all of the public utility's other customers, outside of the local jurisdiction, thereby resulting in unreasonable, preferential, and discriminatory rates. Idaho Power is requesting that the Commission exercise its statutory authority to protect both the Company and its customers from such a result.

COMMUNICATIONS AND SERVICE OF PLEADINGS

27. Communications and Service of Pleadings with reference to this Application should be sent to the following:

Donovan E. Walker
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bkline@idahopower.com

John R. Gale
Vice President, Regulatory Affairs
Idaho Power Company
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Boise, Idaho 83707
rgale@idahopower.com

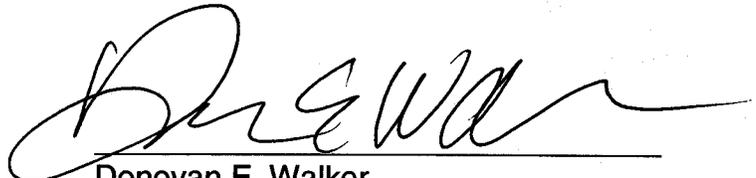
REQUEST FOR RELIEF

28. Idaho Power respectfully requests that the Commission issue an Order: 1) specifically finding that the present and future public convenience and necessity requires the construction of the Columbia substation, the Columbia to Kuna 138 kV transmission line, the reconstruction of the Caldwell to Hubbard 230 kV transmission line, the Columbia distribution circuits, and related facilities, and ordering the Company to construct the same; 2) specifically granting the Company a Certificate of Convenience and Necessity for the construction of the Columbia substation, the Columbia to Kuna 138 kV transmission line, the reconstruction of the Caldwell to Hubbard 230 kV transmission line, the Columbia distribution circuits, and related facilities necessary to provide adequate and reliable service to the Kuna area, and necessary for the reliable operation of Idaho Power's larger transmission and distribution system in the Treasure Valley; and 3) in the alternative, if the City of Kuna requires that the facilities be constructed underground or on an alternative route(s) outside of the Overlay District that increase the cost of such facilities, that the Commission order Idaho Power to file tariffs establishing a surcharge to be added to the rates of the

Company's customers within the boundaries of the City of Kuna to recover the incremental additional costs thereof.

29. Idaho Power requests that the Commission convene a prehearing conference in this matter at its earliest convenience to establish a proper procedure to expedite the orderly conduct and disposition of this proceeding. RP 211.

DATED at Boise, Idaho this 14th day of September 2009.

A handwritten signature in black ink, appearing to read "D. E. Walker", written over a horizontal line.

Donovan E. Walker
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of September 2009 I served a true and correct copy of the within and foregoing Application upon the following named parties by the method indicated below, and addressed to the following:

Commission Staff

Idaho Public Utilities Commission
472 West Washington
P.O. Box 83720
Boise, Idaho 83720-0074

Hand Delivered
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 Overnight Mail
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Donovan E. Walker

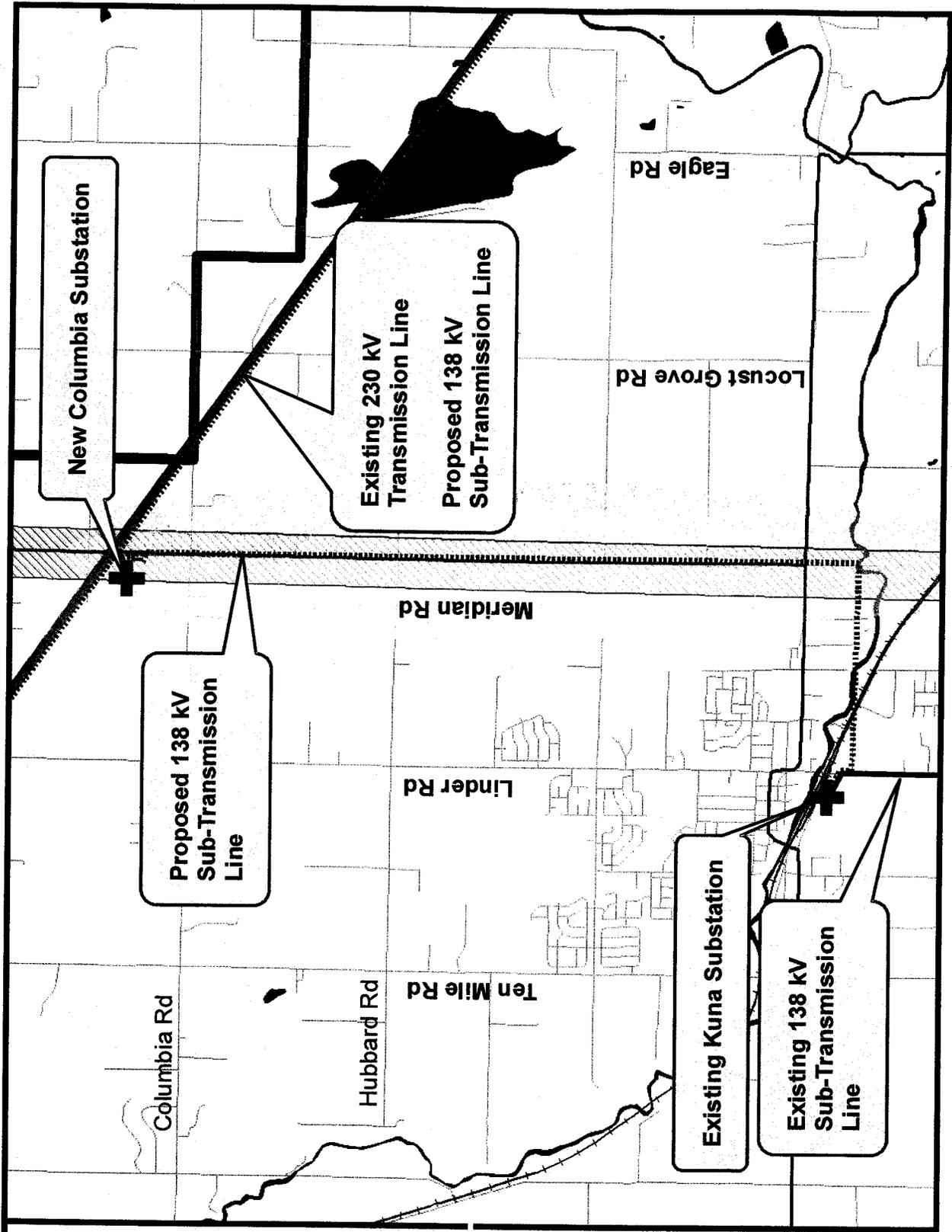
**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-09-26**

IDAHO POWER COMPANY

**ATTACHMENT A
Map of Required Facilities**

Legend

- Substations Build Out
- Substation - Status
- Existing
- Future
- 138 kV Build Out
- 138 kV - Status
- Existing
- Future
- 230 kV Build Out
- 230 kV - Status
- Existing
- Future
- Areas Of Concern
- Railroads
- Kuna
- Kuna Areas
- Kuna Area of Impact
- Kuna Overlay Area



New Columbia Substation

Existing 230 kV Transmission Line
Proposed 138 kV Sub-Transmission Line

Proposed 138 kV Sub-Transmission Line

Existing Kuna Substation

Existing 138 kV Sub-Transmission Line

Eagle Rd

Locust Grove Rd

Meridian Rd

Linder Rd

Ten Mile Rd

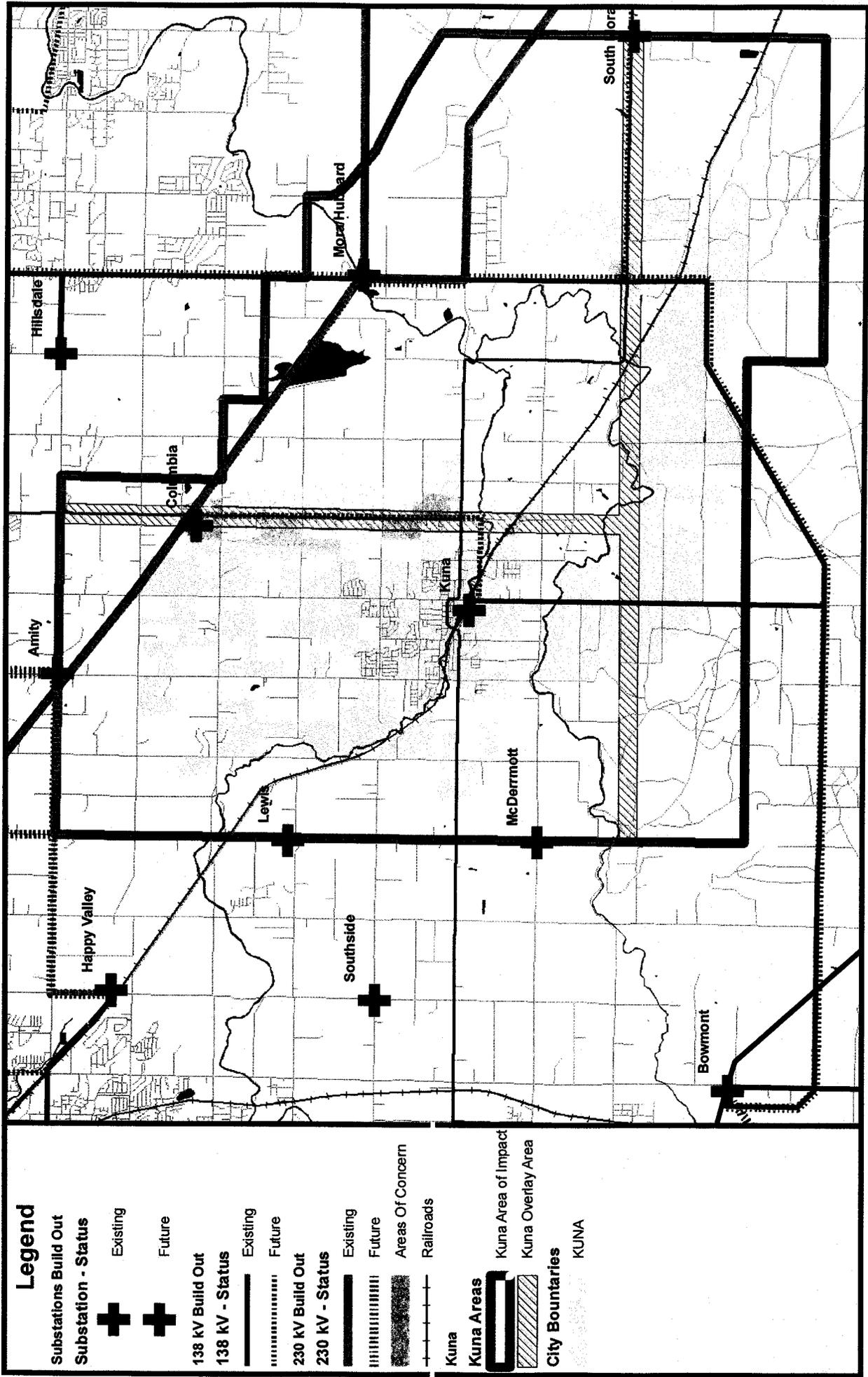
Hubbard Rd

Columbia Rd

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-09-26**

IDAHO POWER COMPANY

**ATTACHMENT B
Overview Map – Kuna Area**

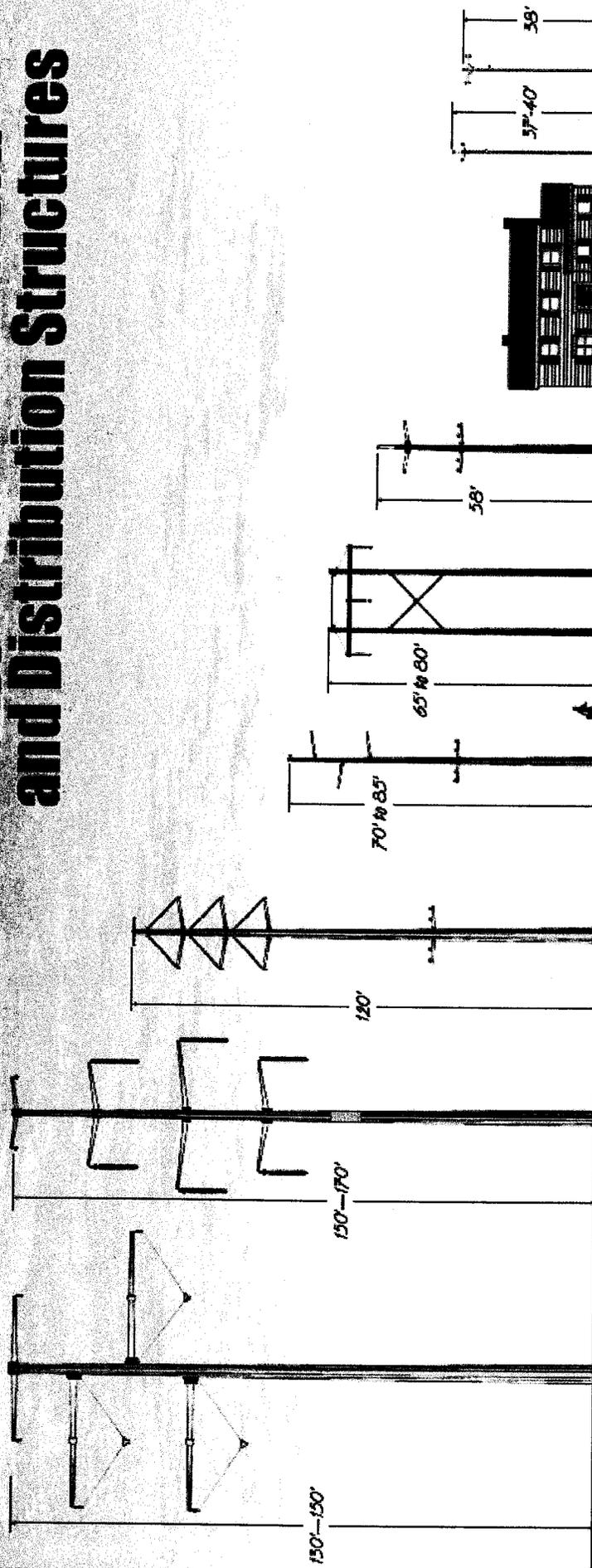


**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-09-26**

IDAHO POWER COMPANY

**ATTACHMENT C
Picture of Typical Transmission Distribution
Structures**

Typical Transmission and Distribution Structures



SINGLE-CIRCUIT
500 KV
STEEL POLE
STRUCTURE

DOUBLE-CIRCUIT
346 KV
STEEL POLE
STRUCTURE

DOUBLE-CIRCUIT
250 KV
STEEL POLE
STRUCTURE

SINGLE-CIRCUIT
138 KV
WOOD or STEEL POLE
STRUCTURE
AT 300' SPACING

SINGLE-CIRCUIT
138 KV
H-FRAME STRUCTURE
AT 600' SPACING

SINGLE-CIRCUIT
64 KV
WOOD POLE STRUCTURE

TWO-STORY HOUSE

SINGLE-CIRCUIT
12 KV or 34.5 KV
WOOD POLE STRUCTURES



Transmission and Sub-Transmission Lines

Distribution Lines

REVISED 10/2000 (07/01/04)

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-09-26

IDAHO POWER COMPANY

ATTACHMENT D
Overlay District Ordinance



City of Kuna

P.O. Box 13
Kuna, ID 83634

Phone: (208) 922-5274
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To: Kuna Planning and Zoning Commission

File Numbers: 09-03-ZOA – Overlay District Ordinance Amendment
Kuna City Code 5-2A

Director: Steven Hasson

Hearing Date: August 12, 2009

Applicant: City of Kuna Planning and Zoning Department
PO Box 13
Kuna, Idaho 83634

Project Summary:

Staff proposing a text amendment that revises the zoning overlay district; among the more significant changes to this text are the following:

- Improves existing text language;
- Expands the overlay zone to include the Kuna Mora Road and its future alignments as well as future Highway 69 alignment to the south;
- Identifies that these roadways will serve as Kuna's gateway scenic corridors;
- Reduces the overlay district from one half (1/2) mile east and west aligning with the centerline of Highway 69 to one quarter mile (1,320') from the same point of origin to include its future southern alignment. Eliminates the portion of Highway 69 that curves and becomes Avalon Street from the overlay district at a distance 1,320 feet west of the north/south aligning township section line underlaying Highway 69. Expands the district to include the area within one quarter mile (1,320') north and south aligning of the Kuna Mora Road centerline and its future alignments within the Kuna city limits;
- Qualifies that when provisions of this chapter are in conflict with other portions of City code the more restrictive standard shall prevail;
- Qualifies these roadways are subject to City's access management control standards;
- Clarifies driveway approaches will not be closed off if it would landlock the property;
- Provides the City Council may afford a right-in only property access onto these roadways at the ¼ mile mark of a section line based on the city Engineer's favorable recommendation;
- Provides clarification about the location and construction of frontage streets;
- Advises no new utility power poles or height extensions to existing utility power poles shall be allowed in the overlay district;
- Advises no height extensions to existing utility power poles shall be allowed in the overlay district;
- Qualifies all signs placed in the overlay district shall be according to the City's sign ordinance; except, no off-site signage shall be permitted within the confines of the overlay district, other than on property that is zoned commercial. Offsite signage on commercially zoned property shall be limited to one sign per lot or parcel;
- Directs that no wireless communication facilities (WFC) shall be installed in the overlay district to a distance of 660 feet from the centerline of these roadways. WFC shall not

exceed a height of 100 feet above the natural ground surface, within the overlay district, other than on property that is zoned commercial. Offsite signage on commercially zoned property shall be limited to one sign per lot or parcel;

- Clarifies no street or driveway approaches may be placed along roadways running generally perpendicular to Highway 69 or Kuna Mora Road within a 660 foot distance of their centerline;
- Qualifies all landscape shall have an irrigation source;
- Provides the applicant is responsible for the care and maintenance of the land strip lying between edge of pavement and property line along the subject property frontage within the overlay district;
- Clarifies use of a wall and its design and placement for noise attenuation purpose;

Staff Recommendation:

Based on Staff's review of the application, Staff concludes that this application complies with Section 5-1A-2 thru 5-1A-7 of Kuna City Code (KCC), and recommends approval of the Overlay District ordinance amendment; subject to the conditions and recommends approval.

Commission Recommendation:

Commission should consider the evidence and testimony presented at the public hearing prior to rendering its decision.

Council Decision:

Staff Report Table of Contents:

| Section | Subject |
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| A | Procedural Items |
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| C | Government Agency Comments |
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| E | Conclusions of Law |

A. Required Procedure for a Zoning Ordinance Amendment:

1. Application Requirements and Fees (KCC 5-1A-2(C-E))

- *Staff Comment: No formal application was submitted to staff; PZ Director is responsible for the text amendment request.*
- *Staff Comment: A public hearing is required for a Zoning Ordinance Amendment. The date scheduled date for the public hearing is set for August 12, 2009 to be heard by the Planning and Zoning Commission.*
- *Staff Comment: A fee of \$800.00 was waived by Planning and Zoning Department; Staff has taken all responsibility in proposing the text amendment.*

2. Notice to Agencies and Political Subdivisions (KCC 5-1A-3(B))

- *Staff Comment: The proposed Zoning Ordinance Amendment application was sent to government agencies on July 14, 2009 in accordance with City Code.*

3. Notice to Public (KCC 5-1A-4(A))

- *Staff Comment: The Zoning Ordinance Amendment was published in the official newspaper of general circulation within the jurisdiction, the Kuna Melba News on July 22, 2009. In the event of a Zoning Ordinance Amendment, there is no posting requirement.*

4. Decision by the Director (KCC 5-1A-5(A & C))

- *Staff Comment: The PZ Director has accepted and reviewed the purposed Zoning Ordinance Amendment in accordance with City code.*

5. Decision by the Commission (KCC 5-1A-6(A-E))

- *Staff Comment: A hearing before the Commission was scheduled within sixty (60) days of the application acceptance. The Commission shall issue a dedication (recommendation to City Council) no later than September 6, 2009 in accordance with City code.*

B. Proposed Overlay District (KCC 5-2A): Dated July 6, 2009

AN ORDINANCE OF CITY OF KUNA, IDAHO, AMENDING TITLE 5, "ZONING REGULATIONS" OF CHAPTER 2A, "OVERLAY DISTRICT", AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, discussions have been held by the Kuna City Council, and

WHEREAS, this amendment complies with the Kuna Comprehensive Plan; and

WHEREAS, it is deemed to be in the best interest of the City of Kuna to amend Chapter 2A Title 5.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KUNA, IDAHO that:

SECTION 1. Title 5 by amending Chapter 2A entitled OVERLAY DISTRICT with the following:

OVERLAY DISTRICT

5-2A-1: GENERAL APPLICABILITY:

A zoning overlay district is hereby established for all land within the City of Kuna within the following described areas:

The overlay district includes the area within one quarter mile (1,320') one-half (1/2) mile east and west aligning with the centerline of State Highway 69 also known as the Kuna Meridian Road / Meridian Road and its future southern alignments. The portion of State Highway 69 that curves and becomes East Kuna Road is excluded from the overlay district beyond a distance of 1,320-feet west of the north/south aligning township section line underlying State Highway 69. The zoning overlay district is expanded to include the area within one quarter mile (1,320') north and south aligning with the centerline of Kuna Mora Road and its future alignments. The overlay district only applies within the Kuna city Limits (see attached map).

Areas annexing into the City of Kuna, located within the overlay district are subject to the city's land use codes. Any annexations must meet the City of Kuna requirements. The permitted uses, the building site areas, setbacks, and a All other regulations imposed by the City of Kuna zoning ordinance in any zone shall continue to apply in areas subject to this chapter. In cases where the there are conflicting ordinance chapter provisions are in conflict with other portions of city code requirements of this chapter the more restrictive standard, as determined by the director, shall prevail. (Ordinance 2006-103, 12-19-2006)

5-2A-2: PURPOSE AND INTENT GOALS:

The purpose and intent of and goals behind this chapter is are to improve safety conditions along State Highway 69, reduce congestion and delays, sustain traffic speeds, provide property owners with safe access to these roadways highway, and promote desirable land use development patterns to include aesthetic considerations. These roadways are intended to serve, in part, as Kuna's gateway scenic corridors for public presentation purposes. Provisions of this chapter shall be used to manage and control access to State Highway 69 and Kuna Mora Road and require that properties adjacent to these roadways highway utilize or obtain access on other public roads as part of the city's access management control strategy. This chapter is enacted pursuant to the following: Idaho Code Title 67, Chapter 6501, "Local Land Use Planning Act (LLUPA)"; City of Kuna comprehensive plan; and City of Kuna zoning ordinance. (Ord. 2006-13, 12-19-2006)

5-2A-3: APPROACHES:

Approaches directly accessing onto State Highway 69 and Kuna Mora Road within the overlay district shall be limited to allowed only in the following circumstances:

- A. Continued roadway access is afforded to existing residences on parcels created prior to adoption of this chapter, provided the residential access does not pose a health or safety hazard as determined by the City engineer, and provided, access closure as part of some future land use action would not landlock the property.
- B. Current Agricultural field access (for lands designate agriculture and in active use); the access shall be located at a place with good sight distance.
- C. When local fire districts or other emergency service providers require a secondary access onto these roadways to provide for emergency services. These accesses such access shall be limited to emergency use only not be open for non-emergency uses and shall be maintained by the landowner as a closed access except during an emergency ies. The fire district shall determine the method of access closure.

Approach permits shall be required by the Idaho Transportation Department (ITD) and the Ada County Highway District (ACHD). Traffic counts, traffic studies and improvements may be required by either the Idaho Transportation Department, and/or the Ada County Highway District, and/or the City of Kuna. (Ord. 2006-103, 12-19-2006)

5-2A-4: USE OF EXISTING APPROACHES:

Use of existing State Highway 69 approaches as identified on the 2002 ITD access map onto Highway 69 within the overlay zone and existing approaches on the Kuna Mora Road, within the city limits, as of the date of this text amendment adoption shall be allowed to continue provided:

- A. The existing use and approach use is lawful, safe and properly permitted;
- B. The type of land use does not change (for example, a residential use is not converted to a commercial use); or
- C. Intensity of commercial or industrial zoned use does not increase as determined by the director. For purposes of this chapter, an "increase of intensity" is defined as additional businesses or an increase in lot coverage greater than twenty five percent (25%), as identified on the 2002 ITD access map; and
- D. The number of parcels served by the approach does not increase; change (Ord. 2006-103, 12-19-2006)
- E. The approach is not expanded in its dimensions or relative to the nature of its use.

5-2A-5: ADDITIONAL REQUIREMENTS:

- A. No New approaches directly accessing State Highway 69 or Kuna Mora road shall not be allowed, except as provided in this chapter.
- B. Public or private street connections or private driveways shall access to the State Highway 69 and Kuna Mora Road shall only be allowed at the section line road and the half mile mark (mid mile) between section line roads. These mid mile connecting streets shall serve as be collector roads. The street shall be designed to collect and distribute traffic. The City Council may afford a right-in only property access at the ¼ mile mark of a section line based on the City Engineer, ITD and/or ACHD's favorable recommendation.
- C. The applicant shall dedicate lands and participate in the construction of construct a frontage street to ACHD's collector standard. The frontage street shall generally paralleling the State Highway 69 or Kuna Mora Road. The frontage street shall be designed to accommodate future land use connectivity and provide an alternative means of roadway access to all properties fronting the State Highway 69 and Kuna Mora Road, that lie between the applicant's property and the nearest section line road and/or mid mile collector road. The frontage street is a feature of the city's access management control process.
- D. The applicant shall be responsible to construct the segment of the frontage street within the applicant's property subject to future land use application. This standard is not intended to require off site improvements.
- E. The frontage street shall connect to the section line, mid mile collector or existing roadways road at a distance that is no closer than six hundred sixty feet (660') from the centerline of Highway 69 or Kuna Mora Road unless that distance is modified through the city's variance process, way (measured from the centerline to centerline) from the intersection with the state highway.

- F. The frontage street shall provide for accommodate public roadway access for buildable lots located between the State Highway 69 or Kuna Mora Road and the collector road.
- G. Frontage streets shall may be considered by the City Council at the time of a development application. Frontage streets shall be limited to areas where there is sufficient access to surrounding properties.
- H. All structures within this overlay district zone shall meet the setback requirements of the underlying zone from the date this chapter amendment is approved.
- I. If there is a change in the use a special use permit shall be required, reviewed and approved as required by the city of Kuna zoning ordinance prior to the issuance of any new building permits.
- J. When the land use is approved for change, the use of the existing approach(s) onto State Highway 69 and Kuna Mora Road shall cease and the approach shall be abandoned and removed, provided this action does not landlock the subject property. New accesses The access shall meet the requirements for location, design, right of way and other standards of the Ada County Highway District, and/or ITD, and for the City of Kuna. Based on the specific project or specific use, the Ada County Highway District or ACHD may require public dedication of the access road dedication.
- K. A traffic impact count study ies (TIS) and public infrastructure improvements may be required by either the Idaho Transportation Department, and/or Ada County Highway District, and for the City of Kuna.
- L. A circulation plan shall be required for any new nonresidential or subdivision plat or planned unit development (PUD) located in the overlay district.
1. Plans shall be designed to create a safe flow of vehicular and pedestrian circulation to and through the subject parcel(s).
 2. Plans shall be drawn to scale and include the following features:
 - a. Identification of easements, irrigation easements, new and or existing roads.
 - b. Identification and overall design of parking lots, storm water treatment, and sidewalks.
 - c. other items as requested.
- M. The applicant shall be responsible for construction to ACHD road standards to construct quarter mile (1/4 mile) and mid mile (1/2 mile) collector roads approximately paralleling Highway 69 the subject lands fronting on Highway 69 or Kuna Mora Road, to the extent these lands extend these distances as to prompt these road improvements. (Ord. 2006-103, 12-19-2006)
- N. The placement of new above ground utility power poles shall not occur in the overlay district to a distance of 660-feet back from the centerline of these roadways from the date of this text amendment approval. Additionally, all existing power poles will be restricted to their present height in the overlay district to a distance of 660 feet back from the centerline of State Highway 69 and Kuna Mora Road.

- O. All signs placed in the overlay district shall be according to the city's sign ordinance; except, no off-site signage shall be permitted within the confines of the overlay district, other than on property that is zoned commercial. Offsite signage on commercially zoned property shall be limited to one sign per lot or parcel.
- P. No street or driveway approach may be placed along roadways running generally perpendicular to State Highway 69 or Kuna Mora Road within a 660 foot distance of the road centerline; any modification to this distance standard requires a city variance.
- Q. No wireless communication facilities (WFC) shall be installed in the overlay district to a distance of 660 feet from the centerline of these roadways. WFC shall not exceed a height of 100 feet above the natural ground surface, within the overlay district. A special use permit shall be required to place a WFC within the overlay district.
- R. Property that is landlocked but can meet the underlying zoning requirements necessary to its development – but constrained by the following impediments: a) without access onto State Highway 69 or Kuna Mora Road; b) without the ability to access a frontage road; c) without a road easement or prescriptive access to adjoining property not landlocked; and d) not adjacent to property in the same ownership with public or private road access; may be granted public access to State Highway 69 or Kuna Mora Roadway by the controlling authorities, on an exception basis, and provided, such consideration does not pose an undo public health or safety hazard.

If a landlocked property is afforded public or private access to these roadways through exception, and the controller intends to further split the land that may create more landlocked property; they shall provide the split parcel's - road access opportunity through the excepted access, unless the additional traffic generated at that access location would likewise pose an undo public health or safety hazard.

5-2A-6: EXCEPTIONS:

Requests for exceptions from any section of this chapter shall follow the standards and procedures as outlined in this code. (Ord. 2006-103, 12-19-2006)

5-2A-7: DESIGN AND CONSTRUCTION STANDARDS FOR STATE HIGHWAY 69 AND KUNA MORA ROAD AND THEIR FURTHER ALIGNMENTS:

- A. Permit Required: The applicant shall have an approved permit(s) from the Idaho Transportation Department (ITD) for construction of any access to the State Highway 69 and/ or any construction done in the highway right of way. The applicant shall have an approved permit(s) from Ada County Highway District, and/or the City of Kuna for construction of any access to Kuna Mora Road and/or construction done in the roadway right of way.
- B. Right of Way Width: The width of State Highway 69 right of way width reservations shall be established as set forth by the ITD. Right of way width reservations for Kuna Mora Road shall be established by ACHD in consultation with the City of Kuna.
- C. Commercial and Industrial Zoned Land Strip Requirements: Along the overlay district portions of State Highway 69 and Kuna Mora Road, the applicant shall provide a minimum thirty foot (30') wide landscape buffer and be responsible for constructing within that buffer area a ten foot (10') wide concrete sidewalk located within a public use easement. The applicant shall and install streetlights, noise attenuation devices, signage

and landscape ing and irrigation source for landscape, all consistent with the City of Kuna landscaping land use codes. The sidewalk shall be separated a minimum of fifteen feet (15') from the road or highway right of way. The applicant shall acquire a permit from ITD, ACHD or the City of Kuna for care and maintenance of the land strip lying between edge of pavement and the property line, along the subject property frontage within the overlay district. All landscaping shall comply with the landscape requirements contained in Chapter 5-17 of KCC.

- D. Residential Buffer Requirements: Along the overlay district portions of State Highway 69 and Kuna Mora Road, the applicant shall provide a minimum fifty foot (50') wide landscape buffer and be responsible for constructing within that buffer area a ten foot (10') wide concrete sidewalk within a public use easement. The applicant shall and install streetlights, noise attenuation devices, signage and landscape ing and irrigation source for landscape, all consistent with the City of Kuna landscaping land use codes. The sidewalk shall be separated a minimum of fifteen feet (15') from the road or highway right of way.

The applicant shall acquire a permit from ITD, ACHD or the City of Kuna for care and maintenance of the land strip lying between edge of pavement and property line along the subject property frontage within the overlay district. (Ord. 2006-103, 12-19-2006)

5-2A-8: NOISE ABATEMENT FOR RESIDENTIAL USES ALONG HIGHWAY 69 AND KUNA MORA ROAD:

- A. The applicant shall apply provide traffic noise abatement strategies to the subject property by constructing a berm or a berm and wall combination approximately parallel to State Highway 69 and/or Kuna Mora Road within the overlay district.
- B. The top of the berm or berm and wall in combination shall be a minimum of ten feet (10') higher than the elevation at the centerline of State Highway 69 and/or Kuna Mora Road within the overlay district unless the height is modified through a special use permit.
- C. If a wall is proposed, the wall shall meet the following standards:
1. Wall materials shall be constructed of impervious concrete or stucco or other appropriate sound attenuating material. The wall and its footing shall be engineered to accommodate loading and stress impacts it may be subject. The wall is subject to the city's design review and appropriate building codes, permits and inspections.
 2. Intermittent breaks in the berm or berm and wall in combination will degrade its the function and shall not be allowed.
 3. The applicant shall avoid construction of a not construct a monotonous wall. To accomplish this goal in order to achieve this standard the applicant shall do the following: a The color and/or texture of the wall shall be offset by a minimum relief distance of three (3) feet varied every three hundred (300) linear feet. If walls are used in combination with a berm, the wall shall be placed behind the berm, and under no circumstances, placed on the berm. The proposed wall will be evaluated for its design, color and texture.
 4. The director may approve alternative noise abatement compliance strategies where the applicant has a substitute noise abatement proposal that is in accord with ITD, ACHD or City of Kuna standards and prepared by a qualified sound engineer. (Ord. 2006-103, 12-19-2006)

C. Government Agency Comments:

1. Ada County Highway District (ACHD) – Ryan Cutler, Senior Transportation Planner

Based on our review, below are the items that were commented on and should be clarified before the ordinance is adopted:

- *An attached map of the Overlay District would be helpful for visualization of the area and reference to ACHD and State roadways.*
- *No reference was made to ACHD's Kuna-Mora policy for access or any inclusion of its recommendations. This policy has been adopted by the ACHD commission (November 19, 2008) for the 200' Kuna-Mora corridor.*
- *ACHD's recommendations would be not to allow any private driveways onto SH69 or Kuna-Mora Road by ordinance. Any allowed access should be public streets only.*
- *Is the desire to have the ½ mile collectors signalized? Signalization or spacing was not mentioned in reference to the collector roadways.*
- *Properties that are currently landlocked should be granted temporary access only until such time that a public street is available to them. The access should then be closed.*
- *Noise abatement structures or amenities will have to be constructed on private property, outside of the right-of-way.*

2. Ada County Development Services – Engineering Division – Kelly Woodworth

Engineering staff has reviewed the City of Kuna's transmittal for the Highway 69/Kuna Mora Road Overlay District text amendment. We would like to express concerns regarding the alias for Highway 69, as referenced in 5-2A-1, paragraph two: Meridian Road has been stricken leaving Kuna Meridian Road.

As you are aware the Ada County Engineer is pursuing a request to officially recognize this portion of Highway 69 as Meridian Rd. in order to correct inconsistencies in name usage over the years. Ada County formally transmitted this application to your agency on June 24, 2009 to solicit any comments or concerns and as notification of the public hearing before the Board of Ada County Commissioners (BOCC) on July 29, 2009. We respectfully request that, if the BOCC votes to approve the street name change application, officially changing the street name to Meridian Rd., that the street name referenced in 5-2A-1, paragraph two be amended to Meridian Rd.

Thank you for you for the opportunity to comment on this proposal. We await any comments your agency may have pertaining to the street name change application (2009020-NC), and we hope to see you at the BOCC public hearing on July 29, 2009.

3. Boise Project Board of Control (BPBC) – Tim Page, Assistant Project Manager BPBC

Due to numerous federal facilities operated and maintained by the BPBC the above-mentioned zoning ordinance and overlay district ordinance may or may not affect BPBC facilities depending on the application and/or circumstances that may arise.

The easements, which are held in the name of the United States through the Bureau of Reclamation under the authority of the Act of August 30, 1890. (26 Stat. 391; 43 U.S.C. 945) must be free to access at all times by the BPBC and must not be affected by ordinances and/or encroachments, which would hinder our ability to operate and maintain these facilities.

Permitting by the Bureau of Reclamation and the BPBC is allowed at times depending on the request.

4. Central District Health Department (CDHD) –

5. City Engineer – Gordon Law

The City Engineer has reviewed the above referenced Zoning Ordinance Amendment and has no conceptual objections to the proposal. A few wording exceptions were noted and conveyed to the director in person.

6. **DEQ – Tiffany Floyd, Assistant Regional Administrator**

It is not apparent from the information provided, that there are issues within our regulatory authority. At this time, we do not have any comments; however, we do request that this project consider the state and federal rules and regulations for air, water, waste and the overall environment.

7. **Idaho Power Company – Blake Watson**

*This writing is in reference to **09-03-ZOA – Kuna City Code 5-2A: Overlay District Ordinance, Additional Requirements, item N.** In this item, the City is proposing no new above ground utility power poles shall occur in the overlay district to a distance of 660-feet back from the centerline of roadways; State Highway 69 and Kuna Mora Road. Additionally proposed is that all existing power poles be restricted to their present height within the overlay district (to the distances described above).*

While we understand the desire of the City to create this district, Idaho Power is concerned that with such a code in place our ability to adequately provide for and plan for the installation of electrical facility installations may be impacted. The impacts to the Kuna community are related to both distribution and transmission facilities.

From a transmission standpoint, the company has considered the Highway 69 corridor as a potential corridor to construct a second feed to the Kuna Substation. The second feed would increase reliability and provide greater capacity to serve additional loads in the Kuna area. Elimination of that corridor may require locating in another existing corridor that may be more developed and affect more property owners. Locating a transmission line along a frontage road would be fine, but the issue would be related to timing. Timing of both the transmission line and when the frontage road would be built could prove to be a challenge.

No new poles in the overlay district may restrict our ability to serve new customers in or near the overlay zone. It will be costlier and more time consuming to serve new customers in the area as underground installations are typically more expensive than overhead. (Operationally, it could make it more difficult to build a robust distribution system with built-in redundancy, thereby affecting electric reliability.

Idaho Power wants (and is obligated) to provide the Kuna area with adequate capacity and reliability, so when prospective companies consider Kuna as a place to locate, they have a level of confidence in our ability to meet their electrical needs. Our concern with this proposed ordinance will restrict our ability to provide future customers with the level of service they expect. Maintaining ongoing reliable service to the current residents of Kuna may be impacted as well. We are willing to work with the City to identify electric utility corridors that minimizes the impact to a community but allow for cost-effective, timely installation of electric utility facilities. Please consider the points as you discuss the proposed overlay district ordinance. Thank you for your consideration.

8. **Idaho Transportation Department (ITD) – had no comments**

9. **Qwest – no response**

D. Exhibit:

| | |
|------------------|---|
| Exhibit 1 | Staff Report – dated 07-09-09 |
| Exhibit 2 | Letter from Director Hasson – dated 06-08-09 |
| Exhibit 3 | Proposed Amendment – dated 07-09-09 |
| Exhibit 4 | Current KCC 5-2A Overlay District – dated 03-08 |

| | |
|-------------------|---|
| Exhibit 5 | Ada County Highway District (ACHD) – dated 07-28-09 |
| Exhibit 6 | Ada County Development Services – Engineering Division – dated 07-17-09 |
| Exhibit 7 | Boise Project Board of Control (BPBC) – dated 07-27-09 |
| Exhibit 8 | City Engineer – dated 07-21-09 |
| Exhibit 9 | Department of Environmental Quality (DEQ) – dated 07-27-09 |
| Exhibit 10 | Idaho Power – dated 08-05-09 |
| Exhibit 11 | Idaho Transportation Department – dated 07-16-09 |
| Exhibit 12 | Overlay District Map – dated 10-28-08 |

E. Conclusions of Law:

If any of the following Conclusions of Law are determined to be Findings of Facts, they shall be included on that section.

- i. Based on the evidence contained in File #09-03-ZOA, the Kuna Planning and Zoning Commission found that File #09-03-ZOA complies with Kuna City Code.
- ii. Based on the evidence contained in File #09-03-ZOA, the Kuna Planning and Zoning Commission found that File #09-03-ZOA complies with Kuna Comprehensive Future Plan Map.

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION**

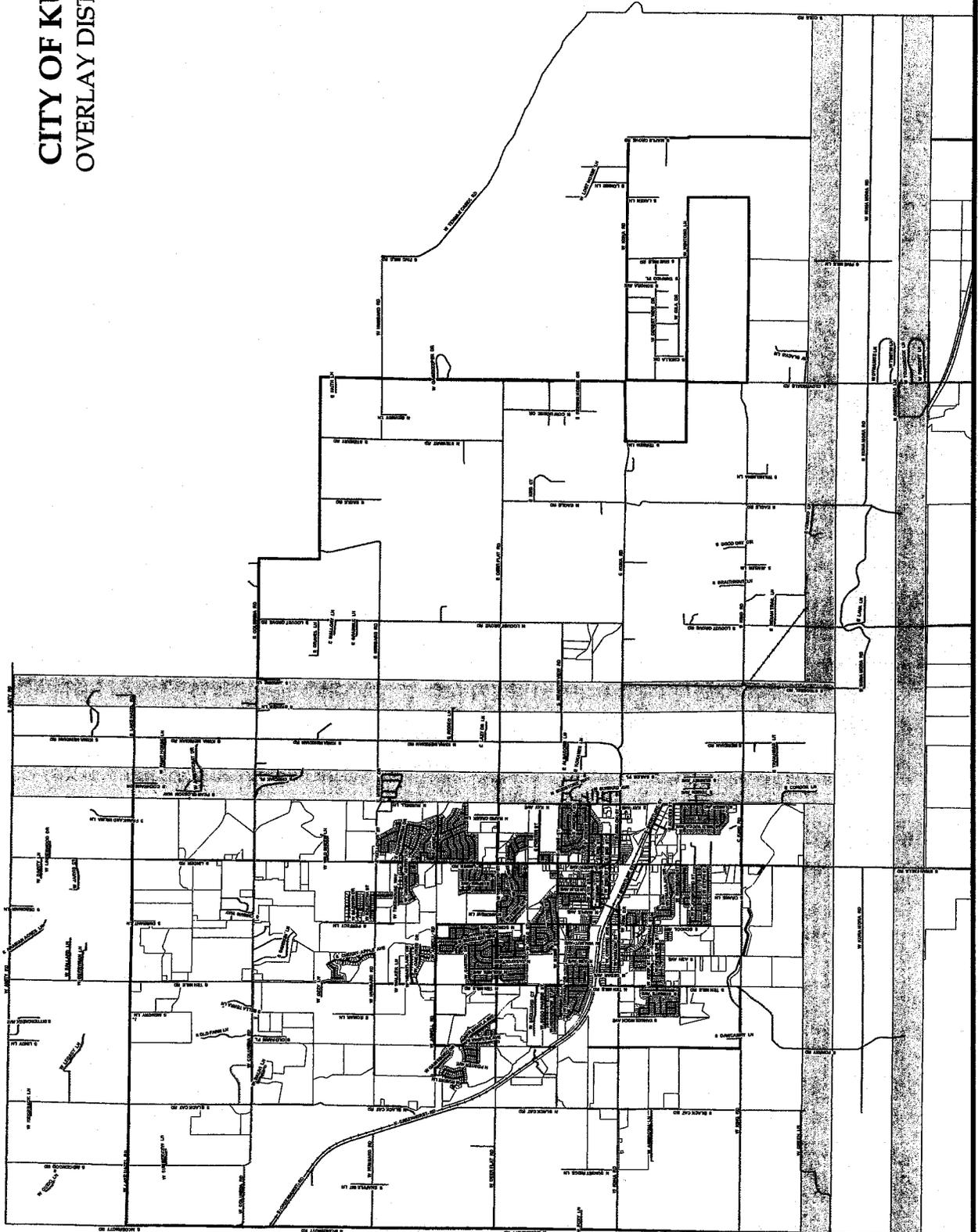
CASE NO. IPC-E-09-26

IDAHO POWER COMPANY

**ATTACHMENT E
Overlay District Map**



CITY OF KUNA OVERLAY DISTRICTS



LEGEND

- CITY LIMITS
- ADA COUNTY BOUNDARY
- OVERLAY DISTRICT (NEW)
- OVERLAY DISTRICT (OLD)
- ROADS
- RAILROAD
- WATERBODIES


CITY OF KUNA
1400 W. KUNAWAY LN.
KUNA, ID 83638

MICHAEL L. BORZICK, GISP
APPROVED ON OCTOBER 28TH, 2008
PRINTED ON OCTOBER 28TH, 2008

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION**

CASE NO. IPC-E-09-26

IDAHO POWER COMPANY

**ATTACHMENT F
Franchise Agreement**

4

ORDINANCE NO 151

AN ORDINANCE GRANTING TO IDAHO POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, AN
ELECTRIC LIGHT, HEAT AND POWER FRANCHISE

BE IT ORDAINED BY THE CHAIRMAN AND BOARD OF TRUSTEES OF THE VILLAGE
OF KUNA, ADA COUNTY, IDAHO, THAT:

Section 1. There is hereby granted to Idaho Power Company, its successors and assigns (herein called the Grantee), the right, privilege or franchise for a term of fifty years from the date of passage hereof, to construct, maintain and operate in the present and future streets, alleys and public places in the Village of Kuna, Ada County, Idaho, and its successors, electric light and power lines (together with all the necessary wires, transmission lines and telegraph and telephone lines for its own use), for the purpose of supplying electricity to said Village, the inhabitants thereof and persons and corporations beyond the limits thereof, for light, heat, power and other purposes.

Section 2. Poles and towers shall be constructed in a good and substantial manner, and shall be so erected as to interfere as little as possible with traffic over streets and alleys. The location of poles, towers and conduits shall be fixed under the supervision of the Board of Trustees of the Village, but not so as to interfere unreasonably with the proper operation of the Grantee's lines.

Section 3. The Grantee shall indemnify and save the Village harmless from any and all expenses or liability which may accrue to it by reason of the negligence or misconduct of the Grantee in the construction, operation or maintenance of its system hereunder.

Section 4. The Grantee shall file with the Clerk of the Board of Trustees of the Village an acceptance in writing of this franchise, on or before thirty days after the final passage hereof.

Section 5. This ordinance shall cancel, supersede and replace that certain franchise adopted as Ordinance No 14 on December 12, 1916, and shall take effect upon its passage, approval by the Chairman of the Board of Trustees, acceptance as required herein, and publication within one month after its passage.

PASSED by the Board of Trustees of the Village of Kuna, Ada County, Idaho, this 7th day of September, 1965.

Lawrence Kaye
Chairman of the Board of Trustees of
the Village of Kuna, Idaho

(CORPORATE SEAL)

ATTEST:

John C. Vreugdenhil
Clerk of the Board of Trustees of
the Village of Kuna, Idaho

After the consideration of the above ordinance, Trustee Marion

Nikirk presented the following resolution in writing, and after it was read to the meeting, moved its adoption:

"WHEREAS, this Board believes that no beneficial purpose will be served by reading the above ordinance - relating to an electric franchise to be granted to Idaho Power Company, its successors and assigns - at meetings of this Board on three different days;

"NOW, THEREFORE, BE IT RESOLVED BY THE CHAIRMAN AND BOARD OF TRUSTEES OF THE VILLAGE OF KUNA, IDAHO: That the requirements of Section 50-2804, Idaho Code, and also the requirements of any laws, rules or regulations of this Board or Village, requiring ordinances to be fully and distinctly read on three different days, be, and the same are hereby, dispensed with insofar as they relate to the foregoing proposed ordinance granting to Idaho Power Company, its successors and assigns, an electric light, heat, and power franchise, and this board shall immediately take action on the adoption of said ordinance."

The motion to adopt the above resolution was seconded by Trustee Allen Hubble and a "yes" and "nay" vote was thereupon taken upon the adoption of the resolution with the following result:

Those voting "yes" or in favor of the adoption of the resolution:

Aman, Hays, Hubble, Hutchings and Nikirk

Those voting "nay" or against the adoption of the resolution:

None

More than three fourths of the Trustees elected to the Board having voted in favor of the adoption of the resolution, it was declared adopted, and ordered spread at length on the minutes.

Trustee Marion Nikirk thereupon moved that the proposed ordinance granting a franchise to Idaho Power Company as read by the Clerk, be adopted. The motion was seconded by Trustee Allen Hubble.

The roll was thereupon called and a "yea" and "nay" vote was taken with the following result:

Those voting "yes" or in favor of the adoption of the ordinance:

Aman, Hays, Hubble, Hutchings and Nikirk

Those voting "nay" or against the adoption of the ordinance:

None

A majority of the whole number of Trustees elected to the Board having voted in favor of the adoption of the ordinance, it was declared duly adopted and ordered spread at length on the minutes.

The Chairman thereupon signed the ordinance, and the Clerk countersigned it, affixed the corporate seal of the Village thereto, and attested it. The Clerk was instructed to cause a full and true copy of the ordinance as passed to be published within one month after its passage in at least one issue of Kuna Herald, a newspaper printed and published in Kuna, Ada County, Idaho, and having a general circulation in the Village of Kuna.

* * * * *

There being no further business to come before the meeting, it was, on motion duly made, seconded and carried, declared adjourned.

John C. Vreugdenhil
Clerk of the Board of Trustees

(SEAL)

7

CERTIFICATE

STATE OF IDAHO)
) ss
COUNTY OF ADA)

I, John C. Vreugdenhil, the duly qualified and acting Clerk of the Board of Trustees of the Village of Kuna, Idaho, hereby certify that:

1. The foregoing consisting of 5 pages, is a full, true and correct copy of that portion of the minutes of a regular meeting of the Board of Trustees of the Village of Kuna, Idaho, duly held in said Village on September 7, 1965, at 8:00 o'clock, P. M., at which meeting all the Trustees recited in the minutes as present were present during the entire meeting; that such portion of the minutes contains all parts of the minutes which relate to the regularity of the meeting or to any proceedings had with reference to the granting of an electric light, heat and power franchise in said Village to Idaho Power Company, its successors and assigns.
2. Said portion of the minutes contains a full, true and correct copy of:
 - (a) Application of Idaho Power Company for a franchise;
 - (b) The resolution dispensing with three readings of the proposed ordinance on three different days; and
 - (c) The ordinance as adopted; as said application, resolution and ordinance appear of record and on file in my office.
3. Attached hereto is also a full, true and correct copy of the ordinance entitled "AN ORDINANCE GRANTING TO IDAHO POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC LIGHT, HEAT AND POWER FRANCHISE," passed by the Board of Trustees at the above mentioned meeting, as such ordinance appears on file in the records of my office.
4. Said ordinance has never been altered, amended or repealed and is now in full force and effect.
5. At the time of the adoption of said ordinance, there were no rules or regulations of the Board of Trustees requiring ordinances or franchises to be passed or adopted in any manner or form different from that followed.
6. I am the legal keeper and custodian of the original records from which the attached copies purport to be made, and that I have compared said copies with the original records, and have found them to be true copies thereof.
7. Within one month after the passage of said ordinance, I caused a full, true and correct copy of the same to be published in Kuna Herald, which is a newspaper printed and published in Kuna, Ada County, Idaho, and having a general circulation in said Village of Kuna, Idaho, and said ordinance was also posted in said Village.
8. At the time of the passage of the above ordinance, the said Village of Kuna was a village duly incorporated under and governed by the general laws of the State of Idaho, and the Board of Trustees of said Village was composed of the following members:

Aman, Hays, Hubble, Hutchings, Nikirk.

9. On September 10, 1965, being within thirty (30) days after the passage of said ordinance, the Grantee, Idaho Power Company, duly filed with me, as Clerk of the Board of Trustees of said Village, its written acceptance of the franchise granted by said ordinance.

IN WITNESS WHEREOF, I hereunto set my hand and affix the corporate seal of said Village this 10 day of September, 1965.

(CORPORATE SEAL)

John C. Vreugdenhil
Clerk of the Board of Trustees

September 10, 1965

To the Honorable Chairman and Board of Trustees
Kuna, Idaho

Gentlemen:

Idaho Power Company, for itself, its successors and assigns, hereby
accepts the franchise contained in the ordinance passed by your Honorable
Board on the 7th day of September, 1965, entitled:

**"AN ORDINANCE GRANTING TO IDAHO POWER COMPANY, ITS
SUCCESSORS AND ASSIGNS, AN ELECTRIC LIGHT, HEAT AND POWER
FRANCHISE."**

according to all its terms and conditions, and files this, its written
acceptance of said ordinance, in accordance with the requirements thereof.

Yours respectfully,

IDAHO POWER COMPANY

By AS Bailey
Vice President

(CORPORATE SEAL)

ATTEN:

James E. Bowen
Assistant Secretary

The above acceptance was received in duplicate, and one original
thereof was duly filed in my office as Clerk of the Board of Trustees of the
Village of Kuna, Idaho, this 10th day of September, 1965.

(CORPORATE SEAL)

John P. Mendenhall
Clerk of the Board of Trustees of the
Village of Kuna, Idaho

C
O
P
Y

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-09-26**

IDAHO POWER COMPANY

**ATTACHMENT G
Idaho Power Letter to City of Kuna**

SPINK BUTLER

ATTORNEYS AT LAW

LLP

RICHARD H. ANDRUS
JOANN C. BUTLER
T. HETHE CLARK
LAUREN MAIERS REYNOLDSON
MICHAEL T. SPINK

208-388-1093
JBUTLER@SPINKBUTLER.COM

Via Email

November 25, 2008

City of Kuna
Randy Grove, City Attorney
763 W. Avalon
Kuna, ID 83634

RE: Zoning Ordinance Amendments 8-07-ZOA and 8-08-ZOA
SB File No. 22101.4

Dear Randy:

Thank you for taking time last Friday to discuss the concerns of our client, Idaho Power Company, with the two draft ordinances referenced above that will be reviewed by Kuna's Planning & Zoning Commission on November 25th. The first draft amends Kuna City Code Section 5-2A-1 regarding access management and control in an overlay district; the second draft amends Kuna City Code Section 5-16-2 as regarding the definition of "Public Service Facility." It may be that a clarification is all that is required with regard to the second proposed amendment.

More than clarification is needed in connection with the first amendment, however. In a nutshell, we are asking the City to remove the proposed subsection 5-2A-5.N¹ as contrary to the City's authority to regulate land use and also as a violation of the franchise agreement between Kuna and Idaho Power. Should the Planning & Zoning Commission recommend these draft

¹ "No new utility power poles or height extensions to existing utility power poles shall be allowed in the overlay district."

251 E. FRONT STREET
SUITE 200
P.O. BOX 639
BOISE, IDAHO 83701

208-388-1000
208-388-1001 (F)
WWW.SPINKBUTLER.COM

ordinances to the City Council at all, we respectfully request that the recommendation be made without subsection 5-2A-5.N.²

We hazard a guess that these draft ordinances are a hurried response to mis-information prompted by a presentation given by Idaho Power regarding the Treasure Valley Electric Plan showing a 230 kV line planned through the Kuna area. Recent articles in Kuna Melba News and the Idaho Business Review also identified the 230 kV line through Kuna based on the information presented. We understand the concerns Kuna residents have; however, let me take the opportunity with this letter to say that currently it is not factually correct that a 230 kV line is planned for Kuna.

The presentation given by Idaho Power Company that showed a 230 kV line in the vicinity of Kuna was a snapshot in time of the Treasure Valley Electric Plan. The Plan's general guidelines for transmission locations were compiled by a Committee of area planners, transportation authorities, elected and appointed municipal officials, including from Kuna, business interests, special interest and advocacy groups, and interested citizens. The Plan did show a 230 kV line in Kuna's area. However, the Plan is intended to be a guideline and not static. As load densities change and corridors are evaluated, the plan and location of the electric transmission lines may change. That is what has happened in Kuna's area - changes in load densities and other transmission reconfigurations have resulted in a change to the Plan. By the way, Idaho Power corresponds or meets with the Committee annually to let the Committee know what has changed, including the change I'm describing, making the Plan an ever evolving guideline. We certainly encourage Kuna to take a more active role in these meetings.

Whatever reason prompted this draft ordinance, the ordinance goes far beyond the City's authority to regulate a land use all the way to total prohibition of the use. The total prohibition of both new power poles and the extension of existing power poles does not appear to support the purpose and intent of the overlay district to manage and control access on public roads. If the purpose of this ordinance is to promote scenic corridors, then we question whether the total ban is in accord with the City's Comprehensive Plan. Certainly the City's Comprehensive Plan makes no sweeping statements about the banning of power poles along gateways to the City but rather promotes creative landscape designs and landscape buffers (which creative landscape can surely occur without banning power poles).

Given that the particular use that we are talking about -- new utility poles or the extension of existing utility poles -- is essential to the success of Kuna and essential to Kuna's ability to carry out the goals of its Comprehensive Plan, we have to believe that a more reasonable approach to regulating electric facilities can be devised.

² The reason for suggesting that this draft ordinance not be recommended for approval at all is because there are several vague and conflicting paragraphs and terms that are either undefined or contrary to the existing City Code definitions. Even without considering the substance of the draft ordinance, if adopted, we believe the ordinance could be readily challenged on procedural grounds. We hazard a guess that, as the person who has the responsibility of defending challenges to the City's ordinances, the City Attorney would rather not spend the City's time defending obvious procedural issues.

The City should also understand that this draft ordinance may serve to undermine very important goals of the Treasure Valley Electric Plan and the City of Kuna itself. As one example, the Committee recommended that existing power line corridors should be upgraded first before building completely new corridors. This will more fully utilize existing power corridors versus creating a web of new corridors. This draft ordinance would prevent height extensions or upgrades to power lines currently existing in the overlay corridor, resulting in the need for additional corridors.

As a similar example, the Committee recommends that power lines should be located in major transportation corridors whenever possible. Idaho Power has long been an advocate of that policy. State law allows for the location of electrical facilities to be placed in the public-right-of-way. Under the draft ordinance, if power poles are prevented from locating within the overlay district (1320 feet on either side of State Highway 69, Kuna Mora Road and undefined future alignments), the City will force Idaho Power out of public transportation corridors that have been commonly recommended by siting committees for locating electrical facilities. Before the overlay district prohibits all utility poles (which includes other utility service providers and private entities beyond Idaho Power facilities), all alternatives should be evaluated.

As always, Idaho Power is willing to work with Kuna to help ensure that electric facilities are sited in a manner that balances the technical needs of the electric system, with land use and environmental constraints, as well as to meet the growing electrical needs for regional economic development. Toward that end, our client would be pleased to work with the City to draft special use requirements addressing electric transmission facilities.

Finally, the point of clarification that I mentioned above; it is not clear why the definition for Public Service Facility is being changed. Perhaps that can be discussed at the Commission hearing. The Commission might also wish to discuss the October 17th Memorandum sent to interested parties from the Planning Director in which Mr. Hasson states that approval of Public Service Facilities will be at the discretion of the Planning Director. Further clarification should be made as to whether the Planning Director has such authority and whether such authority should rest solely with the Director.

We look forward to meeting with the Commission this evening.

Sincerely,



JoAnn C. Butler

JCB:gs

c (via email): Client
Planning & Zoning Commissioners
Steve Hasson
Hethe Clark

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-09-26**

IDAHO POWER COMPANY

**ATTACHMENT H
Quest Letter to City of Kuna**

Mary S. Hobson
Attorney & Counselor
999 Main, Suite 1103
Boise, ID 83702
208-385-8666

November 26, 2008

VIA EMAIL DELIVERY

Steve Hasson, AICP
Planning & Zoning Department
City of Kuna
Kuna, ID 83634

RE: Zoning Ordinance Amendment 08-07-ZOA

Dear Mr. Hasson:

I represent Qwest Corporation, the incumbent local and long distance telecommunications provider in the City of Kuna. In that capacity I have been asked to review certain proposed amendments to the City of Kuna's Overlay District Ordinance including paragraph "N" to section 5-2A-5.

This provision proposes banning "new utility poles or height extensions to existing utility poles" in the overlay district. Qwest strongly objects to the addition of this language to the Overlay District Ordinance because it eliminates an important, cost-effective method of placing telecommunications facilities without regard whether any particular pole installation impacts public safety. Idaho Code § 62-701 provides that "telephone corporations may construct or install telephone lines along, beneath the surface of or upon any public road or highway. . . and may erect or install poles, posts, piers or abutments for supporting . . . fixtures of their lines in such manner and at such points as not to incommode the public use of the road or highway. . ." Since the proposed ordinance language purports to prohibit utility poles without regard to whether their placement "incommode[s]" the public use or road or highways, it appears to be inconsistent with the statute and the right of Qwest and other telephone corporations to use the public right of way to provide service.

The proposed ordinance language also overlooks critical policy considerations. Telephone corporations and other utilities have historically been granted use of public rights-of-way for installation of their facilities because such use serves to keep the costs of telephone and utility services low thereby serving the public interest. A blanket prohibition of the use of utility poles will force up costs to the detriment of companies like my client and the public they serve. In the absence of a legitimate public safety concern, forcing more expensive placement alternatives on service

providers unfairly shifts the costs of optional public improvements (e.g., the "scenic corridor" concept) from those who directly benefit (commercial interests, land developers, etc.) to utility and telephone customers including the poor, the elderly and those on fixed incomes. While scenic improvements are certainly legitimate and even laudatory undertakings, the costs of such projects should be clearly understood and properly borne by those that will enjoy a direct economic benefit from them. The proposed ordinance language will serve to obscure the real costs of such projects and spread those costs to many who cannot afford them.

Qwest understands the City's interest in maintaining the safety and utility of the roads and highways within its city limits and pledges to work with the City to assure that use of the public rights-of-way is not adversely impacted by the installation of its facilities. However, a blanket prohibition goes too far and creates the potential for cost shifts that will harm some City residents and unfairly benefit those who have the ability to pay.

Thank you for your consideration of these comments. If you would like to discuss this matter further, please feel free to contact me.

Very truly yours,

Mary S. Hobson

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-09-26**

IDAHO POWER COMPANY

**ATTACHMENT I
Planning and Zoning Commission Denial of
Idaho Power's Transmission Corridor Proposal**



City of Kuna

P.O. Box 13
Kuna, ID 83634

Phone: (208) 922-5274
Fax: (208) 922-5989
Web: www.cityofkuna.com

June 16, 2009 Version

To: City Council

From: Troy Behunin, Planner II

Subject: An update of the City's 2003 Comprehensive Plan to include an accompanying Future Land Use Plan Map that features a proposed Area of City Impact (ACI) and a future planning area (referral area). City staff is also proposing the adoption of a future acquisition map and a Capitol Improvement Plan (CIP) as part of the update process.

File Number: 08-02-CPA

Hearing Date: July 7, 2009

Applicant: City of Kuna

Planning and Zoning Commission Recommendation:

On May 27, 2009 the Kuna City Planning and Zoning Commission voted 3-0 recommending approval of the proposed Comprehensive Plan update including an accompanying Future Land Use Map (FLU) which features a proposed Area of City Impact (ACI), a future planning area (referral area), adoption of a future acquisitions map and a Capitol Improvement Plan (CIP), with David Case absent at time of the vote; subject to the following recommendations:

- The FLU Map without the proposed Idaho Power Transmission line easement.
- Inclusion of the lands north of Lake Hazel and south of Amity Road into the Planning area boundary.
- Inclusion of the Desert View Subdivision into the Area of City Impact boundary.
- Remove the Brad Thornton 40 acre parcel along Peon Road from the Area of City Impact boundary.
- Deny Margo Whales request to change the land use designation on surrounding parcels not in her ownership.

City Council Decision:

Summary of the Plan:

A Comprehensive Plan is equivalent to the City's constitution and is intended to articulate the conditions and objectives which guides the community's future growth and development. It is considered a work in progress and therefore needs to be updated on a regular basis to assure it reflects the community's land use beliefs.

The City's current Comprehensive Plan was constructed in 2003 when Kuna was a fraction of its current size.

In recognition of this fact, the City Council, with cooperation from the Kuna Planning and Zoning Commission, initiated a Comprehensive Plan update to refine the community's growth and development blueprint.

As part of this evaluation pursuit, the City acquired the services of a planning firm known as CRSA. This action occurred in the fall of 2007. This firm was hired to help the City construct various land use products including a future acquisitions map, Area of City Impact (ACI), Capital Improvements Plan (CIP) and Comprehensive Plan.

The Comprehensive Plan includes a map (known as the Future Land Use Map) that is intended to provide a vision of how and where the City intends to grow and develop.

To aid in the establishment of the future land use map boundaries, the City Council conducted a series of public hearings in the summer of 2008 for purpose of gaining citizen input into the establishment of this area.

After receiving testimony from approximately 100 individuals, the City Council determined to establish an approximate 70 square mile study area to serve as the starting point for construction of the City's future land use planning area and corresponding map.

The future land use planning map includes an expanded ACI that encompasses the City within the unincorporated area of the County. The ACI is the area where the City anticipates it will grow and extend City services as the need for that action arises.

The construction of this portion of the future land use map involved the participation of more than 50 property owners who live within the designated area.

The ACI delineation went through many iterations before arriving at its present construction. The map's formation is intended to assist Kuna and Ada County determine the City's area of impact in accordance with the provisions of an agreement Kuna has with Ada County regarding ACI boundary formation and jurisdictional protocol within that area.

The Plan update features an analysis of the 14 planning components identified in Idaho Statute 67-6508 that need to be addressed in a Comprehensive Plan to include maps, charts and reports based on those components.

Staff, with significant input from our consulting firm, and the general public has constructed policy statements, goals and objectives for each of these component parts that are believed to reflect on local constituency's current land use beliefs and community values.

The Plan update includes a future acquisition map intended to designate lands proposed for acquisition by a public agency for a maximum 20 years in keeping

with the provisions of Idaho Statute 67-6517. The Plan also features a method of benchmarking the community's goals and objectives should the City be inclined to measure them.

The Plan update includes a Capital Improvement Plan that identifies the community's near future capital improvements needs, their approximate location based on best available information, year of construction and proposed methods of financing.

The construction of a Capital Improvement Plan makes the City eligible to conduct an impact fee evaluation for purposes of enhancing the City's revenue stream.

As part of this planning effort, the Kuna City Council assembled a Comprehensive Plan Steering Committee to help guide the development of these land use products.

These dedicated citizens have met several times over the past two years and helped refine this document and its various attachments.

Since this Plan's initiation, the Kuna City Council, Planning and Zoning Commission, City staff, Steering Committee and the general public have spent countless hours considering a host of issues and concerns relevant to the Community's long term growth and development.

The City staff believes this document and its many attachments are ready for public review and possible adoption.

A copy of the updated Comprehensive Plan document to include charts, maps and graphs is available for public inspection or purchase at the Kuna Planning Department.

Plan Adoption Process:

The Plan adoption process has two parts: First, the Kuna Planning and Zoning Commission will hold a public hearing and after the public input, arrive at a recommendation which is forwarded to the Kuna City Council who will act upon the recommendation.

The Commission must give public notice prior to the hearing to include the time and place of the public hearing and a summary of the Plan. The Plan summary and future land use plan map need to be placed in the newspaper of general circulation at least 15 days prior to the Commission's public hearing. Public service notices shall also be made available to other media outlets and according to the same 15 day timeframe.

Notice of the Plan update and map amendment need to be sent to all political jurisdictions providing services within the planning jurisdiction, to include the school districts, within the same notification time period.

If the Commission recommends a material change to the plan after conducting the public hearing it must give notice of the change and conduct another public hearing concerning the matter if the governing board is not going to conduct its

own hearing (the assumption is they will hold a second public hearing and more if necessary).

After the Commission has concluded the public hearing process, it will recommend to the City Council they consider adopting or amending the Plan.

The City Council may act upon the Commission's recommendation, or may choose to conduct its own public hearing on the comprehensive plan update. If the City Council determines to hold its own hearing, it must include a description of the Commission's recommendations in its noticing procedure.

The Council's notice requirements are the same as the Commission's. If the Council makes material changes to the recommendation, it must provide further notice and hearing.

The Plan is not effective until the governing board approves a resolution adopting it. A copy of the amended map shall accompany the resolution and be kept on file with the City Clerk.

It should be noted the Comprehensive Plan update public notices feature two future land use maps for the Commission and Council's consideration after appropriate public input.

The one map identifies future land use assemblages and map designations relying upon citizen input to date. The second map reflects the public input received to date as well as a recent land use proposal submitted by Idaho Power to extend a 500,000 kV line through the southern reaches of the City.

Hence, the second map has been constructed to depict the power transmission corridor because it is a prominent land use feature which warrants public assessment as part of the Plan update.

Conclusions of Law:

The Kuna Planning and Zoning Commission and City Council conclude that:

The City has followed the procedure for adoption of a Comprehensive Plan according to the provisions of Idaho Code 67-6509.

The City has also followed its procedures for adoption of a Comprehensive Plan in accordance with City Code 5-1A-3(B).

The City has considered previous and existing conditions, trends, desirable goals and objectives or desirable future situations for each planning component in accordance with the provisions of Idaho Code 67-6508

A map has been prepared indicating suitable projected land uses for the jurisdiction in accordance with Idaho Code 67-6508(e).

A future acquisition map has been constructed in accordance with the provisions of Idaho Code 67-6517.

A Capital Improvement Plan has been constructed according to Idaho Code 67-8208.

The proposed Plan is not detrimental to the health, safety and general welfare of the public.

The proposed Plan meets the general objectives of the existing Comprehensive Plan and those of the City.

Findings of Fact:

The Kuna Planning and Zoning Commission and City Council Find:

The City of Kuna has gone through an extensive Comprehensive Plan update process that has involved ongoing citizen participation over an approximate 18 month period of time.

The Plan as proposed includes maps, charts and reports consistent with the expectations of the Local Land Use Planning Act (LLUPA).
The Plan includes the fourteen specific components required by LLUPA.

The Plan includes all land within the jurisdiction of the governing board to include the designated area of city impact outside the city boundaries.

The Plan anticipates the City of Kuna and Ada County will decide which jurisdiction's comprehensive plan applies in the area of city impact according to Idaho Code 67-6526.

Public notices were published in the Kuna Melba on April 29, May 6, and May 13, 2009 in anticipation of the Planning and Zoning Commission meeting – these providing a summary of the Plan, future land use maps and date, place and time of public hearing.

The Kuna Planning and Zoning Commission held a properly posted and noticed public hearing on May 14 and 27, 2009; a transcribed record was made of the public hearing.

The Kuna Planning and Zoning Commission reviewed correspondence and staff reports and received public testimony on May 14th and 27th, 2009.

Public notices were published in the Kuna Melba News on June 17, 2009, June 24, 2009 and July 1, 2009 in anticipation of the City Council meeting – these providing a summary of the Plan, Future Land Use Maps and date, place and time of public hearing.

The Kuna City Council held a properly posted and noticed public hearing on July 7, 2009; a transcribable record was made of the public hearing.

The Kuna City Council reviewed the Kuna Planning and Zoning Commission's recommendation and received public testimony about the proposed comprehensive plan update during the course of the council meeting.

All procedural items have been completed.

The project description is correct.

The summary of the Plan is an accurate portrayal of the comprehensive planning process.

The proposed Plan is consistent with applicable Idaho State statutes and City code.

The Comprehensive Plan Future Land Use Map of the City of Kuna was last updated in 2003, more than six (6) months prior to this proposal.

Project Description(s):

The proposed planning boundary of the Comprehensive Plan Future Land Use Map (F.L.U.) is shown with a blue line on the F.L.U. Map. The proposed Area of City Impact (ACI) is shown with a red line on the F.L.U. Map.

LEGAL DESCRIPTION FOR KUNA'S PROPOSED PLANNING AREA:

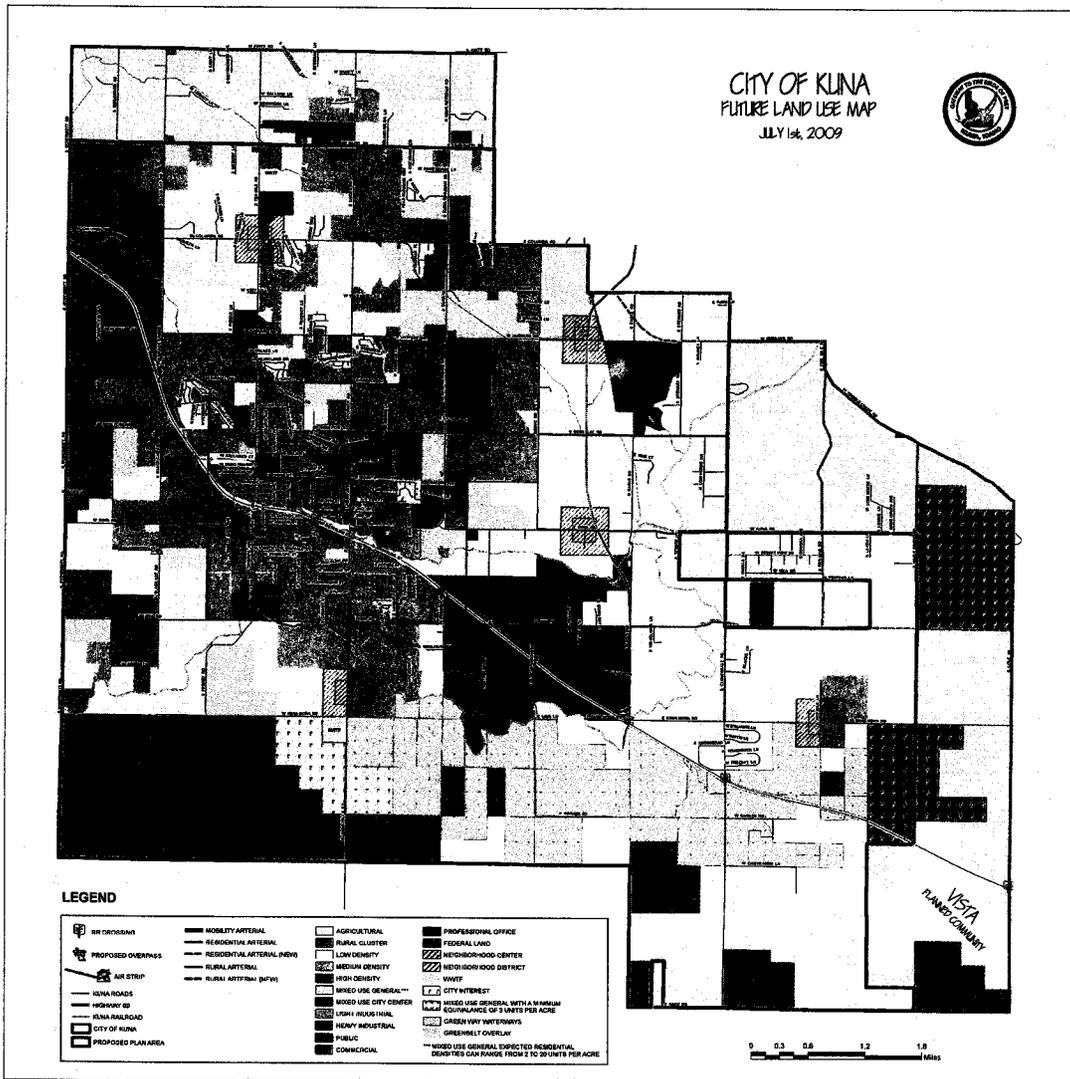
Commencing at the northwest corner of Section 33, Township 3 North Range 1 West also being the intersection of W Amity Rd and S McDermott Rd, Thence south 8.5 miles to the corner common with Sections 8 & 9 of Township 1 North Range 1 West; Thence east 6 miles to the corner common with Sections 8 & 9 of Township 1 North Range 1 East; Thence south 1.5 miles to a point in the center of the E Poen Rd; Thence east 4 miles along the E Poen Rd alignment; Thence north 5.33 miles along the S Cole Rd alignment to the intersection of W Ten mile Creek Rd; Thence in a northwesterly direction for 2.79 miles more or less to the intersection of W Hubbard Rd; Thence west 1 mile along W Hubbard Rd to the intersection of S Cloverdale Rd; Thence north 0.5 miles along S Cloverdale Rd; Thence west 0.5 miles to the center of said Section 28; Thence north 0.5 miles along S Terben Ln to a point at the intersection of E King Rd; Thence meandering briefly northeast prior to heading due east along E King Rd to the intersection of said road and S Cloverdale Rd; Thence north 0.5 miles along S Cloverdale Rd to a point that is 660'+/- north of the intersection of S Cloverdale Rd and E Faith Ln; Thence west 1.5 miles to the center of Section 8, Township 2 North Range 1 East; Thence north 0.5 miles to a point in the center of E Columbia Rd; Thence west 1 mile along E Columbia Rd to the intersection of S Jardine Ln; Thence north 2 miles to a point in center of W Amity Rd; Thence west 4.5 miles along W Amity Rd to the Point of Beginning;
Said area contains 74.60 square miles more or less.

LEGAL DESCRIPTION FOR KUNA'S PROPOSED IMPACT AREA:

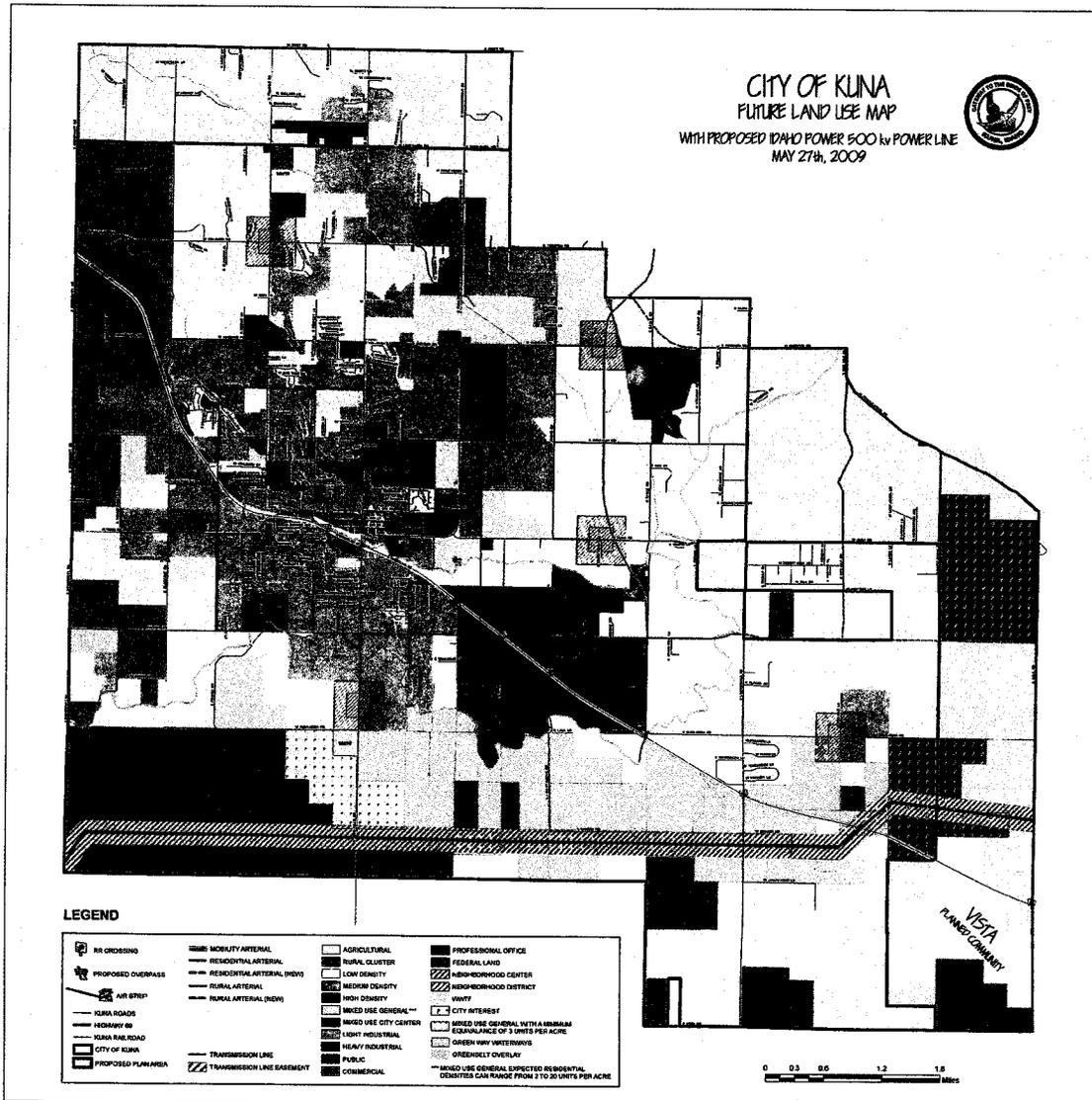
Commencing at the southwest corner of Section 33, Township 3 North Range 1 West also being the intersection of Lake Hazel Rd and S McDermott Rd, Thence south 7.5 miles to the corner common with Sections 8 & 9 of Township 1 North Range 1 West; Thence east 6 miles to the corner common with Sections 8 & 9 of Township 1 North Range 1 East; Thence south 1.5 miles to a point in the center of the E Poen Rd; Thence east 3 miles along E Poen Rd; Thence north .25 miles along the east boundary of said Section 14; Thence west .5 miles along the south 1/16th line of said Section 14; Thence north 1.5 miles to a point being the southwest corner of the Northwest ¼ of the Northeast ¼ of Section 11, Township 1 North Range 1 East; Thence east .5 miles to a point being the southeast corner of the Northeast ¼ of the Northeast ¼ of Section 11, Township 1 North Range 1 East; Thence north .94 leagues to the intersection of W Kuna Rd and S Maple Grove Rd; Thence west 80 chains to the intersection of W Kuna Rd and S Five Mile Rd; Thence south .5 miles along S Five Mile Rd; Thence east .5 miles to the center corner of said Sections 26; Thence south .5 miles to the common corner of Sections 26 & 35 Township 2 North Range 1 East; Thence west 1.5 to the intersection of S

Cloverdale Rd and E King Rd; Thence north 40 chains along S Cloverdale Rd; Thence west .5 miles to the center of said Section 28; Thence north .5 miles along S Terben Ln to a point at the intersection of E King Rd; Thence meandering briefly northeast prior to heading due east along E King Rd to the intersection of said road and S Cloverdale Rd; Thence north 2.5 miles along S Cloverdale Rd to a point that is 660' +/- north of the intersection of S Cloverdale Rd and E Faith Ln; Thence west 1.5 miles to the center of Section 8, Township 2 North Range 1 East; Thence north .5 miles to a point in the center of E Columbia Rd; Thence west 1 mile along E Columbia Rd to the intersection of S Jardine Ln; Thence north 1 mile to a point in center of Lake Hazel Rd; Thence west 4.5 miles along Lake Hazel Rd to the Point of Beginning; Said area contains **58.79** square miles more or less.

Map 1 – Kuna’s Future Land Use Map – As of July 1, 2009



Alternate Map 2 – Kuna’s Future Land Use Map with proposed Idaho Power’s 500 kV Line –
As of May 27, 2009



Procedural Notification Process (draft format subject to change):

1. Application was initiated by April 24, 2009
2. On April 24, 2009 copies of the proposed land use action were sent out to governmental agencies.
3. On April 29, May 6, and May 13, 2009 a summary of the proposed land use action was published in the Kuna/Melba Newspaper, the official paper of the City, and more than fifteen (15) days prior to the hearing.

4. A public hearing is scheduled for May 14, 2009 before the Planning and Zoning Commission to allow interested persons an opportunity to be heard.
5. The Planning and Zoning Commission will forward a recommendation to the City Council after hearing public testimony and due consideration.
6. A public hearing is scheduled for July 7, 2009 before the City Council to allow interested persons an opportunity to be heard.
7. A summary of the Kuna City Council's proposed land use action will be published in the Kuna/ Melba Newspaper on June 17, 24, and July 1, 2009, and more than fifteen (15) days prior to the hearing.

Exhibits:

| | |
|------------------|---|
| Exhibit 1 | City staff report |
| Exhibit 2 | Agency Transmittal dated April 24, 2009 |
| Exhibit 3 | Copy of Notice for Publications sent |
| Exhibit 4 | Copy of Idaho Statute Section 67-6509 |
| Exhibit 5 | Copy of the proposed Comprehensive Plan - Text |
| Exhibit 6 | Map 1 - Future Land Use Map |
| Exhibit 7 | Map 2- Future Land Use Map with proposed Id power transmission line |
| Exhibit 8 | Citizen and Property owners request letters |

Staff Recommendations:

After a thorough review and analysis of this Comprehensive Plan proposal to include an evaluation of its components and compliance with Kuna City Code sections 5-1A – 1, 2, 3 and 7 and 5-15 - 3, 4 and 5 as well as Section 67-6507, 8, 9, 17 and 26 of Idaho State Code, staff recommends approval of these comprehensive planning products with the following clarification:

Two future land use maps are presented for the Commission and Council's consideration. The one map identifies land use assemblages and designations relying upon citizen input. The second map reflects the public input received as well as a proposal by Idaho Power to extend a 500,000 kV line through the southern reaches of the City.

Staff recommends approval of the Comprehensive Plan future land use map without the Idaho Power 500,000 kV line running through the southern portion of Kuna (and specifically through Osprey Ridge Subdivision).

ATTEST:

 J. Scott Dowdy
 Mayor, Kuna City

 Lynda Burgess
 City Clerk