

September 17, 2009

Minutes for Public Hearing on Zoning Map for Sugar City

Commission attending: Jess Brown, Joy Ball, Vaun Waddell, Ray Barney, Steve Hawkes, Renee' Christensen, Brian Hawkes.

Others in Attendance: Jan Gallup, Tom Gallup, Dwayne Seiter, Ryan Graivns, Verla Moss, Nathan Sutherland

Brian opened the public Hearing at 7:06 p.m. declared the public hearing quasi judicial. Each member was asked if they had any conflict of interest, all commissioners reported no. Steve Hawkes declared that Cindy Van Wagner called and asked him some questions after the public hearing had been scheduled. Steve told her to come to the public hearing.

Steve representing the Planning and Zoning explained the zoning changes as follows:

The city and commission changed the amount of zones and zoning districts. We are aligning our city with the correct zoning districts.

The commission has made every attempt to contact property owners, Steve personally talked to almost everyone or a representative whose land is being changed. City mailed maps of old zones, zones to be changed and new zones to all citizens who received a city bill, other wise property owners were sent letters.

The properties that are being changed notices were posted stating the old zone, the new zone and when the public hearing was being held.

Two public meetings were held; where the public was welcomed to make comments on how they wanted their property zoned.

Any clarifying questions from planning and zoning? None

Any clarifying questions from the audience.

Craig Cobia concerned about going from old R2 to new R2— and being able to have tenants, it was determined that he should be put on the agenda for another meeting.

Jan Gallup does not understand the rationale for making the changes, she believes that the city is obligated to state that rationale for making the changes. Steve stated that our rationale was that this is what the property owners wanted when he contacted them, along with the land use map and the comprehensive plan as our guide.

Dwayne Seiter-resort property was originally zoned commercial with approval for a residential use. Does that still apply or do they need to re-apply? Agreement with the city predates the zone change.
No one speaking for.

No one speaking neutral.

Speaking against. - Letter submitted by Michael Ball—Brian read the letter into the minutes.

Letter in behalf of I M Ltd, partnership:

Sugar City Planning and Zoning Commission Chairman and Commissioners:

On behalf of the IM Family Limited Partnership (hereafter IMFLP), I would like to thank the Planning and Zoning Commission for sending notice of the Public Hearing for Thursday, September 17, 2009. I am sorry that I will not be able to personally attend that meeting but thought I could express a few thoughts to the Commission with regards to the planned zoning changes as pertains to our affected property. Please kindly read this letter during that public hearing so the commission is aware of our concerns.

IMFLP owns the land parcel which is located west of Walker Road, south of Hwy 20 and north of E 3000 N, a somewhat triangular piece of land. After looking at the small maps sent in your letter, showing the Current Zoning Map, Parcels proposed for rezoning, and the Proposed Zoning Map, it appears the proposal is to change our property from being Heavy Industrial (M-2) to Open (O). This is not in line with our current thoughts. We expected this parcel to be developed as either industrial, commercial, and/or residential. So, we respectfully request this parcel not be rezoned at this time.

As you are also aware, IMFLP owns the property directly north of the above mentioned parcel, north of Hwy 20 and south of E 3500 N. This was designated to be part of the Sugar City impact area. IMFLP also owns the property to the east of the city (just east of Digger Drive/Hwy 33). With regards to the east land parcel, planning maps (impact area) indicate a desire to have open space there along with educational facilities (e.g. a new high school or school complex). We are not aware of the city requirements for public use or open space, but it appears, if plans move forward as indicated, we are being pressed into providing a disproportionate amount of the city's public/open space needs. We would like to know what the requirements are for open space verses developed land. What is the ratio expected? Should a single land owner be required to provide a disproportionate amount (i.e. when compared with other land owners/developers) of public/open space?

We would like, ultimately, to develop the property to the east of Sugar City. However, we feel it could be advantageous to both Sugar City and IMFLP to first produce an "IMFLP comprehensive plan" to work in conjunction with the city's comprehensive plan. This IMFLP plan would include both our east and west properties and could incorporate the city's needs balanced with our partnership needs. We do need more time to produce this plan and consequently, our feeling is that rezoning any of our properties would be premature at this point and may in fact be counter productive.

It appears that considerable effort and planning have gone into developing these zones and maps. Unfortunately, we have not always been informed or have not been made fully aware, of the city's plans with regards to our property, nor have we informed the City of our plans. Our desire is to have better communications between our partnership and the City so future development can be expedited and avoid unnecessary conflict. To that end, we would request the name of a commission member and/or City council member with whom we should communicate as we develop our partnership's comprehensive plan. We would also appreciate a reply to our rezoning request, concerns about required open space verses

developed land, as well as any insights you may have which drive your final zone designation decision.

Thank you for your consideration of the above factors as you finalize your zoning map. We look forward to a positive relationship between IMFLP and Sugar City leaders.

Sincerely,
Michael I. Ball
General Partner
IM Family Limited Partnership

Jan Gallup 309 S. Austin Ave. Does not like that we want to change residential to manufacturing and school and maintenance area to downtown commercial. Jan stated that they are existing R1. Jan stated that the commission is responsible to give the criteria for making those changes. She has not heard the criteria for making those changes. Jan stated that changing those properties to manufacturing and downtown commercial does not bring it into compliance, it creates non-conforming uses. She believes that we don't want to create non-conforming uses. She discourages the commission from changing any property that is in a residential district, and creating non-conforming uses. Jan is concerned about property owners not being able to refinance or get a loan on property if their property is in a non-conforming zone. Jan does not have a problem with any other things we want to do.

Tom Gallup 309 S. Austin Ave. Does not have much to add to Jan's comments. Thinks we need to look closer at the comments that Jan made.

Steve's closing comments: Steve called an appraiser, a bank, and tax assessors office and visited with all of them. All banks that Steve contacted stated that yes they would give a loan if there is a letter from the city stating that their primary use of the land had been in the past and grand-fathered in it would be acceptable and they would give a loan. Steve called the appraiser and the appraiser stated that had appraised homes in similar situations (such as Jan's concern, home being in a non-conforming use.) The assessor said that there is no difference in the taxes. The only time that the taxes would raise if the use of the land has changed.

Brian adjourned the public hearing at 7:40 p.m.

Planning and Zoning meeting September 17, 2009

Commission in attendance: Brian Hawkes, Renee' Christensen; Vaun Waddell, Joy Ball, Jess Brown, Ray Barney, Steve Hawkes

Others in attendance: Scott Landis Jared and Angela Neeley, Brian Sunderland, Bruce King- -city council

Jess moved that we accept the minutes as corrected. Joy seconded the motion, the motion passed.

Cindy Van Wagner stopped by and asked about the cost and use of a special use permit.

Brian thought that we might need to re-open the public hearing, it was decided that Cindy was just discussing a special use permit.

Jared Neeley would like to split land; he is in the impact area. The county will approve the split, if Sugar City allows the split. Commission does not have a problem with Jared splitting his land. Brian will write a letter stating that it is o.k. with us if Jared splits the land.

Bruce King reported on city commission business.

Discussion on public hearing: We could vote not to recommend this to city council- at that point it becomes an open issue and we can't discuss it with anyone. The Ball property we feel would best serve the Ball family and the city to change it to manufacturing.

Vaun thinks that it really important for the city to have a zoning map, even though it may not be perfect.

The Ball property, Ray stated that he thought that we had discussed this, and the city wanted to buy the property and put more ball fields out there. The mayor has not contacted the Ball family like we thought. Jess stated that the Ball property has to be changed because the current zone no longer exists.

Vaun moved that we designated the ball property that is in the city M1, that we designate the Van Wagner property R1 and that we take that to public hearing at 7 p.m. on October 15th. Jess seconded the motion. Discussion on the motion. Motion did not pass.

Brian made the suggestion that we recommend the map to be passed by the city council, and then come back and hold another public hearing to change the one piece of land to industrial, or commercial. We take the risk of the city not passing the map and sending it back to us and we have to hold another public hearing.

Ray made the suggestion that we table the decision until the next meeting and seek legal advice. We don't have to table the decision because we have 21 day

to make a decision. Brian also would like to seek legal advice before we make a motion to send the map to city council.

We don't like the idea of sending a map to city council knowing that we want to change it again.

The decision was made to seek legal advice and make a decision at the next meeting.

Revised wind turbine ordinance, it is ready to take it to a public hearing.

Brian adjourned the meeting at 10:28.

Brian D. Hawkes

1 OCT. 2009