

Jackson Planning Commission Minutes Special Meeting of July 05, 2006

COMMISSION MEMBERS PRESENT:

Dave Butow,
Warren Carleton, Vice-Chair
Wayne Garibaldi
Letitia Sexton
Terri Works, Chairman

CITY STAFF PRESENT:

Susan Peters, City Planner
Michael Daly, City Manager
Carlyn Drivdahl, City Attorney
Candy Collins, Accounting Services II

COMMISSION MEMBERS ABSENT:**CITY STAFF ABSENT:**

Vice-Chairman Carleton steps in for Chairman Works, who is present, but has laryngitis.

Vice-Chairman Carleton called the meeting to order at 6:00 p.m.

Vice-Chairman Carleton introduces Letitia Sexton, newly appointed Planning Commissioner for the City of Jackson, who will replace Rosemary Faulkner.

1. Public Matters Not on the Agenda.

None were presented.

2. Public Workshop - General Plan Land Use Element Update, Designation Map Review on APNs 020-070-025, 020-070-027, and 044-010-031 (Surian Property).

City Planner Peters read the following report.

Discussion

At their June 12, 2006 meeting, the City Council reviewed a request by Mr. Thornton Consolo to designate the Surian Property, the proposed Home Depot site, historic, open space, recreation, or agricultural. After some discussion as to the process for addressing this issue, the City Council directed staff to place this item on a special Planning Commission meeting agenda as a re-review of the General Plan Land Use Element Update Land Use Designation Map for this specific property.

Background

Early in 2003, the updated Land Use Element of the City of Jackson General Plan and the associated Land Use Designation Map was completed and approved by the Steering Committee to be forwarded to the Planning Commission. The Land Use Designation Map is intended to replace both the existing General Plan Map along with the City's existing zoning map. The new map, as

prepared by the Steering Committee, proposed a change in designation and zoning for over 400 properties within the City of Jackson.

To ensure that the public was informed and allowed to comment on the proposed changes, certified letters were sent to each property owner whose property was proposed to be re-designated. Publicly noticed hearings were advertised in the newspaper as well. The Surian's were notified that their property, zoned Commercial, would be modified to be Commercial (C) with a Planned Development Overlay (Pd). The Steering Committee's rationale for designating the property C (pd) was to allow for commercial development but to require discretionary review of any project to better protect the City. The Pd overlay was placed on most large, undeveloped parcels of land within the City. In July of 2003, Mr. Romano Surian contacted staff to determine the impacts to the family property as a result of the proposed changes but did not submit any requests to the Planning Commission for reconsideration.

In December 2003, the updated Land Use Element and Land Use Designation Map were forwarded to the City Council for review and approval. The City Council determined that property owners and the public be provided the opportunity to address the Council regarding the proposed changes. Again, certified letters were sent to affected property owners and the newspaper was noticed of the public hearings. The City Council made no changes to the Surian property.

The Planning Commission and City Council did receive comments from owners of approximately 95 of the 400 parcels proposed for change during the land use map hearings. The public hearings drew many interested citizens to these meeting and over ten hours of public testimony was accepted.

Action

Re-review the Land Use Element Land Use Designation Map designation for the Surian property (APN 020-070-025, 027, and 044-010-031) and provide a recommendation to the City Council.

City Planner Peters adds that the request of Thornton Consolo is essentially for a rezone. The City Council after much consideration, decided the best way to tackle the request was to have the Planning Commission re-review the specific 3 lots and determine if they still want to keep the proposed designation Commercial with a (pd) overlay on the draft Land Use Designation Map. The property is currently zoned Commercial (C). The proposed General Plan and ultimately zoning on the property is proposed to be Commercial with a Planned Development Overlay (pd). The Planned Development Overlay was applied to any large property within the City of Jackson, whether its based designation is commercial or residential. This was to allow for discretionary review. There is a difference between ministerial and discretionary. If a property is zoned straight commercial with no Planned Development Overlay, someone can walk in and submit a building permit without having to go to the Planning Commission for review. Discretionary projects require Planning Commission review and are subject to California Environmental Quality Act (CEQA). So the Steering Committee and ultimately the Planning Commission and the City Council proposed a (pd) overlay on any large property in the City to provide the City with some ability to protect the attributes of the City of Jackson, by forcing projects to go through a discretionary review process.

City Planner Peters and Commissioners discussed what the purpose of this meeting was all about.

Ms. Peters further explained that what is being done right now is the Environmental Impact Report (EIR) on the Land Use Element and associated Land Use Designation Map, which will ultimately be the zoning. If the Planning Commissioners and the City Council decide to propose something different, then process will have to be stopped and rewound a little bit to redo some of the EIR. No legislative action will be taken at this meeting, only a recommendation to City Council. Legislative action will be taken during the public hearing on the EIR for the General Plan Update.

Vice-Chairman Carleton introduced the City's attorney Carlyn Drivdahl and stressed that because there were so many members of the public that wish to speak, the 5-minute time rule would be in effect.

City Planner Peters and Chairman Works stressed that the meeting was not to discuss Home Depot, only the proposal of a rezone request on the Surian property.

Vice-Chairman Carleton opened the public hearing.

Following is the list of public speakers and a brief summary of their request.

Thornton Consolo discussed what he understood it to be zoned prior to 1965, which was residential, changed to C2, and how it perplexed him on how this property could sit for 50 years vacant and stay C2. He also stated that he felt the property was not appropriate for a business that would generate lots of traffic.

Linda Heinz requested that, as a citizen of Jackson and downtown business owner, the zoning for the Historic Corridor of Jackson not to be made vulnerable to the insipid attempts of big box stores to intrude onto the cultural pathways that make Jackson such a rare treasure.

Bill Braun, Rep. of the Kennedy Mine Foundation, stated that their proposal was for the City to consider preserving the land as open space and/or recreation space and/or for minor development. Mr. Braun also proposed that the City consider giving the owners fair market value through eminent domain, preserving the property, floating a bond issue working with the City, county, state and federal for matching funding and he felt that by doing a 30-50 year bond it was financially feasible. He stressed that they felt this was the only way to stop this.

Elaine Zorbas, Rep. Foothill Conservancy strongly recommended a change to the designation on the property to open space, recreation or a combination of both. Consider adding a historical overlay to the site. Adding a creek flood plain overlay to protect the creek's flood zone and add a visual corridor overlay on the property that is visible from the highway and nearby properties.

Harry Vela strongly advised that a search be done on the history of the site because of the underground mining done next to the proposed site in question.

Lisa Laura supported the previous speakers, and wondered if maybe the site could house a college to keep some of the young adults in our City and to be able to utilize their expertise in the future.

Sue Hobbs shared that she was one the property owners that came to the rezoning meetings and felt maybe she was short sighted by only addressing the rezoning of her property. She wanted it to be known that she was grateful it was not too late to unite with her fellow citizens and do everything she could to help protect the proposed site.

Margaret Haddorff stated that she was one of the young adults who lived in Jackson and intends to grow up in Jackson. She expressed her love of her "cute little town" and doesn't want to see the proposed site developed with large retail, but to stay open space or recreational.

Toni Fancher stated that she was here for two reasons, one as a long time resident who grew up hearing the history of Jackson, but also because she is now the president of the Historic Jackson Business Association and strongly feels the need to preserve the historic corridor and the history of Jackson for the future generations.

Joan North; Question: What are the zoning choices for the Surian property? City Planner Peters answered that the City Council and Planning Commissioners have essentially two (2) options. They can utilize the proposed General Plan Designation which consist of anywhere from Public Open Space, Recreational, 4 densities of residential, professional offices, historic commercial, limited commercial, commercial and industrial. They can use any one of these or create new designation to be considered to be part of the General Plan Update. **Joan North** further stated that her proposal would be open space.

Jack Georgette made the following statement to City Manager Daly and the Planning Commissioners; "If you let the Jackson City Council set this aside and carry business on as usual, then you and the City Council can expect voter remedies for all future proposed large developments in the City of Jackson."

Mary Ann Endres strongly felt the tourist trade the City of Jackson is known for, will be destroyed unless the right decision is made for this property.

Alba Arosio stated that as a member of several boards such as Tri County Wildlife and the Arts Council, she felt it would not only hurt the historical area of Jackson but also if it was to remain commercial, it would further destroy the roads.

Kathy duBois stated that she is currently researching the infrastructure in the City of Jackson in its present stage and where it will be pushed in the near future if this property were to remain commercial. She also questions where the needed resources will come from if this property remained commercial.

Mike Lemasters expressed his desire for the Surian property to remain open space. He also stated that in the 18 years he has lived on North Main he has watched the increased traffic flow and seen the road crumble, so any more traffic would be a disaster.

Larry Watson, Attorney for Doris and Ramono Surian expressed how the Surians came to the meeting to ask that their rights as property owners be respected. Mr. Watson also stated that the Surians have owned the property for 40 years and as far as they are aware it has been zoned commercial all that time. Even though it has been looked at several times, it has always remained commercial. Mr. Watson also addressed the concentration of arsenic found in the adjacent properties and if it were to be zoned residential rather than commercial it would effectively deny all economic viable use for this property.

Lynette Lipp stated that the Surians could probably get the price they were asking even if it was zoned residential and then they would be pleasing their community too.

Tony D'Arcy, commercial real estate broker stated that he is currently involved in a deal with the Surians. Mr. D'Arcy also stated that at the time the General Plan Update was being approved, which now is under review because of a lawsuit, every single property owner who would be affected by the zone change was sent a certified letter. The Surians, as did many, came to the public hearing to retain their commercial zoning. Mr. D'Arcy expressed his desire for the property to remain commercial.

Allen Picardo stated that as a commercial property owner that borders the Surian property he did not want the zone to change because it could affect his ability to lease his property as he is currently doing.

Ron Regan expressed the need for everyone to handle this carefully to make sure that all

rules, regulations and laws are followed so that the City of Jackson does not get themselves into a position that could lead into another lawsuit. He strongly stressed that the rights of the property owners be met as well as the opinions of the public be heard.

Connie Pagura expressed her opinion after listening to the previous speakers that the statement made by one of the Commissioners that this is not a done deal when is in fact a done deal.

Mike Rolf stated that the reason he and his neighbors were here was to speak out for a chance to change the zoning on the Surian property before it was too late. He further expressed that this is a real eye opener for himself and others to come to the public meetings and present their opinions.

Susan Lemasters proudly expressed her love of living on N. Main street but it upsets her to see the way her street is in such a poor condition right now and can't even begin to imagine the way it could get even worse if this property were to remain commercial and the possibility of large trucks traveling N. Main as well as the other connecting streets. She also thanked the staff and Commissioners for the privilege to be heard.

Richard Cavaliere stated that he supports the community for standing up and saying that they want something different for the Surian property and feels if they didn't do it now it might not get done.

Eldia Malick, DVM stated that the fear of unrestrictive commercial on this site is what has brought so many people to the meeting. She also suggested that if the final outcome was for this property to remain commercial than perhaps it could be with severe conditions and limitations to keep the sensitivity of the area in tact.

Bill Condershoff stated that the Surian property was currently 58 acres of commercial land that could supply a huge amount of traffic and buildings. He also suggested that the community buy it and make it into open space and/or recreational to benefit the community.

Jimmy Laughton stated that this property has been zoned C2 for 50 years and it concerned him that if this property got down zoned, then maybe he could be next as well as some of his neighbors who also owned large parcels of land. Mr. Laughton expressed his desire that this property not be rezoned but he would be in support of a bond issue to buy this property and he would gladly pitch in his share.

Marilyn Heaval (sp) expressed the need for an area where a community building could go to benefit the special needs children or a halfway house. She hoped that maybe if the City bought the property it could be used for these types of uses.

Kevin Clark stated that it was his opinion that the people of Jackson envisioned commercial to mean what they had back in the 70's and 80's and not what it is today.

Carla Bowers encouraged the Planning Commissioners to listen to what the majority of the community wants and recommend a down zoning change for the Surian property.

Jim Harrington stated that on a recent trip to Durango Colorado he observed what he felt his community is asking for. The large commercial buildings were on the perimeter of the town and not in the historical part of their downtown. Mr. Harrington recommended that the City of Jackson does the same and put a historic overlay on this property to make it more consistent with Jackson's historic community.

Vice-Chairman Carlton closed the public hearing.

Chairman Works asked if a historic overlay could be put on open space and does it change the value of the property.

City Planner Peters answered by stating the City has a historic overlay that extends mostly to the residential area north and a little bit to the south of the downtown corridor and there are some vacant properties in there. The value of the property in some respect would lessen because there

are more regulations and some limitations on what you can do with it but some would say there is more value to it because the neighborhood is being protected.

Commissioner Butow asked if the zoning was changed to open space or anything along that line, would that constitute a taking?

Carlyn Drivdahl, City Attorney answered by stating, if it is kept commercial or changed in something else like open space does not necessarily take away all beneficial economic use. This is not something that is easily explained or determined without knowing what zoning it's going to be changed to and its potential uses.

Commissioner Butow stated that he was not of an opinion to go ahead and rezone the Surian property but he would be amendable of putting a pd overlay on it.

Commissioner Sexton stated that she was opposed to a taking of the property but not opposed to a historical overlay because it seemed to her to give a more stringent use of the property than a pd overlay does. Ms. Sexton asked Ms. Peters to further explain the difference.

City Planner Peters answered that a pd overlay affords the City the opportunity to have discretionary review, which then requires California Environmental Quality Act (CEQA) review in the form of a document that is either a negative declaration, categorical exemption or an Environmental Impact Report (EIR). What it affords the property owner is flexibility from the standards of the City, to maybe make the roads not quite as wide, to minimize grading, or to vary the standard 25-foot front yard setbacks to create for a more interesting streetscape. With this flexibility, the City still has the ultimate say on what happens on that piece of property. The historical overlay, the way it's being developed right now, as part of the Land Use Element and the new Development Code mandates more stringent structures in terms of their appearance in the historical corridor.

Commissioner Garibaldi questioned on whether there could a recommendation to the City Council to restrict the uses of North Main/Jackson Gate Road. Mr. Garibaldi also wanted clarification that any recommendation made tonight would only affect any future applications and not be allowed to "spot zone."

City Planner Peters answered by stating, "spot zoning" was prohibited. Existing application's outcomes will not change because as of right now a Planned Development requires discretionary review and the project has to comply with CEQA. The existing application on this property is already doing this and it will come before the Planning Commission for discretionary review with an EIR.

Commissioner Garibaldi further stated that he did not see a material reason to change the zoning on this property but he would support a bond for the City of Jackson to purchase the property.

Chairman Works stated that she feels the property should stay commercial with maybe an historical overlay. She furthers stated that if the property were rezoned it could affect future projects that would benefit the City of Jackson. Ms. Works also stated that she would support a bond but felt it would be hard to pass.

City Planner Peters further addressed questions by stating the Development Code that is in the process of completion addresses guidelines for LREs, but it could be amended to include discussion on extending the boundary of the historic corridor and to include commercial as well as residential. When asked about the existing view shed, Ms. Peters stated that the City of Jackson does have a view shed corridor, but she was still in the process of fine-tuning a map to show all the parcels included and also stated that the Land Use Element included guidelines on what can go into that view area.

Commissioner Carleton stated that he feels the property should remain commercial and that he also supports the idea of acquiring the property with public money, but like Chairman Works, feels it will be a hard sell.

Moved by Commissioner Garibaldi, seconded by Chairman Works and unanimously carried to recommend to City Council that the Surian Property's existing zoning of Commercial with a (pd) Overlay remain intact and to consider extending the proposed historic corridor overlays over the property.

Adjourn 8:55 pm.

Attest:

Candy Collins, Accounting Services II

Date Approved: October 16, 2006