September 1, 2022
Ivins City Council Meeting Item 4 A/B

Mayor Chris Hart
Council Members:

- Lance Anderson
- Jenny Johnson
- Dennis Mehr
- Adel Murphy
- Mike Scott

City Manager/Attorney Dale Coulam

FOR PUBLIC RECORDS

At the last City Council meeting, there was a lot of discussion on ambiguity.

Because The City Code details ordinances that govern all aspects of City operations, I thought it would be an important place to start. So, I took the time to read the entire Title 16 Zoning Regulations in the Ivins city code.

Let's start with Title 16 on Zoning Regulations which has very specific uses on what is and what isn't allowed.

16.11.104 ALLOWED USES:
This states "All uses *allowed* within the city are identified in the *tables of uses*, as contained in chapter 33 of this title. (Ord. 2005-13, 2005)"

16.11.105 PROHIBITED USES:
This states "Any use ***not*** *specifically provided in the tables of uses* is hereby declared a *prohibited* use in the city. (Ord. 2005-13, 2005)."

So, if it's in the table of uses its allowed, if not, it's prohibited. That's not ambiguous.

It's not the city's role to bend the code or invent new definitions for the code. As you can see what is on today's agenda and the proposed ordinance, you are to vote **only** on the recommendation for a zone amendment per the application and project plan. It's not your duty to provide alternate uses to a developer on their project plan.

The current Land Use for this project is RMU with an RA-5 zone and today Rize is asking for a zone change to Resort Commercial (or RC) in 3 Planning Areas with the specific plan to have what they call a **"mix of for-sale housing operating as a Resort Hotel."** What is being proposed is not a Resort.

I have repeatedly heard from the city that RA-5 is a "holding zone." RA-5 is an allowed zone that is currently listed on the Land Use maps, Zoning maps, and the Table of Uses -- with no disclaimer that it is a holding zone. In fact, when you use the search function in the code for

"holding zone", nothing comes up. So an RA-5 is an allowed zone under LDR on Land Use. The responsible thing to do with any zone change request is for you to consider the next least impactful zone first which would be RE. You probably wouldn't get opposition.

On page 3 of the applicant's project plan for Planning Area 3, 4 and 5, they clearly state they will *"operate to what is defined in the Table of Uses."*

So let's go to the Table of Use 16.33.102 under Resort Hotel to see how it's defined and what is allowed. This states a Resort Hotel *is "A building or buildings offering temporary lodging accommodations, or overnight accommodations for guests, with a common room reservation system, 4 or more guestrooms, and which may include additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities."*

As stated before on what is and isn't allowed, *this* is the only use allowed under Resort Hotel. The Table of Uses for Resort Hotel doesn't allow for "single family and multi-family residential for sale homes with a Resort Hotel Use" as is stated in the project plan. Resort Hotel also doesn't allow for "single family homes for nightly rental with lock out keys" as the City has tried to invent. You can't make up definitions or bend the code. It's either in the code or it's not. If this was done in the past on other projects, it doesn't make it right for this project.

The Table of Uses does say certain types of residential Dwellings are allowed in RC but this is not in a mixed use district that would involve a host of other requirements and it wouldn't be a Resort Hotel use. And the only way to have short term rentals under Residential is with a STR OVERLAY, code 16.07.802, but then the Land Use would have to be identified as *"recreational resort - short term rental overlay"* which it doesn't. Again, no ambiguity.

If we want to look at ambiguity, let's take a look at the project plan. Ambiguous descriptions, no open space requirements, no market study on the need for yet another hotel or STRs, no sensitive lands, traffic or environmental impact studies, no support from the community and more. Let's not make the mistake of needing to "pass the bill to see what's in the bill."

Your job tonight is to approve or deny the project based on the submitted project plan of Resort Hotel as defined in the Table of Uses. The project is not in compliance with the code. You must vote no. Thank you.

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