



Planning & Zoning Commission

Community Development Department

Regular Public Hearing
Tuesday, August 31, 2010

The Planning & Zoning Commission met in a regular public hearing on Tuesday, August 31, 2010 at 6:00 p.m. In attendance were Commission Chairman Kurt Kraft; Commissioner Robert Francis; Commissioner Les Vogel; Councilman Shirley Marchman; City Manager Larry Wood; Community Development Director Taurus Freeman, Assistant Zoning Administrator Rita Peele. Commissioners Mike Gill and Bakari Turner were absent with notification. There were eight (8) members of the public in attendance.

Commissioner Kraft called the meeting to order at 6:00 p.m., than Peele read the agenda. Commissioner Vogel recommended approval of the agenda and Commissioner Francis seconded. The motion carried 3/0.

Old Business: Commissioner Vogel motioned to approve the minutes from the July 27, 2010 meeting. Commissioner Francis seconded and the motion carried 3/0.

New Business: **CU-03-10** was presented by Freeman. James Butler of Villa Rica, GA, requests a Conditional Use for property located at 309 Elm Drive, parcel number V05-015-0073, in Land Lot 161 of the 6th District, in Carroll County, for the purpose of keeping poultry for personal pleasure. The property consists of 0.31+/-acres and is located within Ward 1.

James Butler spoke and stated that he has nine (9) chickens consisting of five (5) hens and (4) pullets. There are no roosters, so therefore there is no noise. Butler keeps the pens sanitary by placing pine shavings in the chicken pen. Butler has a signed petition from the neighbors with their support of him keeping the chickens. The chickens are only kept for his own personal pleasure and all the eggs are given away to the neighbors.

Commissioner Francis asked Freeman if Butler's request was approved for poultry, at some point in time could Butler also have cows. Freeman responded that a condition could be placed on the request to have poultry only.

Commissioner Vogel asked if the quantity could be limited. Butler said he already agreed to have no more than twelve (12) chickens at any given time.

Commissioner Kraft asked Butler if he was selling any of the chickens. Butler responded that he was not.

Commissioner Francis stated that he had seen ads on *Crags List* advertising chickens for sale and one of the contact names and phone number was for Butler. Butler responded that he gave some chicks to his daughter for her to raise and sell from her own property in Carrollton. If a buyer is unable to get in touch with his daughter, they can contact Butler and he can act on her behalf.

Brian Benedict of 306 Elm Drive spoke in support of the applicant. Benedict said he lives across the street and was not aware Butler had chickens because there is no noise or odor. He stated that Butler had one rooster, but had gotten rid of it.

Frank Vacanti of 305 Elm Drive, agreed there isn't any noise or odor.

Carolyn Stephens of 311 Elm Drive stated that there is no noise or odor and Butler gives away the eggs to the neighbors.

Brian Benedict spoke again and explained they are a small neighborhood and the proposed use does not affect anyone but the neighbors, and they are all supportive of it.

Commissioner Kraft asked Freeman if a Conditional Use application should have been applied for when Butler first started keeping poultry on his property. Freeman said yes.

Commissioner Vogel asked Freeman if there are any sanitation guidelines for keeping livestock. Freeman said they would need to follow the codes established by the Department of Agriculture through the Carroll County office.

Commissioner Kraft asked if precedence would be established if the request were approved. Freeman said that it could, but each case would be based on individual merit and staff would perform due diligence in evaluating all the criteria on each conditional use application.

Freeman passed out copies of House Bill 529, Section B, of Section 1. This bill was passed by the State of Georgia and it states, "This code shall not prohibit or impair the power of any local government to adopt or enforce any zoning ordinance or make any other zoning decisions as used in this subsection." The city is within their legal right to enforce a conditional use upon this applicant.

Commissioners Kraft and Francis concerned about setting a precedence.

Commissioner Francis motioned to recommend approval with the following conditions:

1. Poultry only, the amount not to exceed twelve (12), and no roosters.
2. Abide by agricultural requirements through Carroll County.
3. There will no sales of the eggs or poultry.

Commissioner Kraft seconded the motion. Before a vote was taken, Freeman said the last condition could be arbitrary and capricious. Freeman will need to consult with the city attorney about the legalities of the last condition.

Commissioner Kraft motioned to table the application until consultation with legal counsel. Commissioner Francis seconded and the motion carried 3/0.

Staff Comments: were made by Freeman and at that time he updated the Commission on last month's cases.

Public Comments: Brian Benedict concerned about the lack of a skateboard park, or something similar, for kids to use. Benedict will donate time and materials and knows other people that will volunteer. Commissioner Kraft suggested that Benedict go before City Council with his proposal.

There being no other public comments, a motion to adjourn was made by Commissioner Francis and seconded by Commissioner Vogel. The motion carried 3/0 and the meeting adjourned at 6:30 p.m.

Commission Chairperson

Date

Community Development Director

Date