



Planning & Zoning Commission

Community Development Department

Regular Public Hearing
Tuesday, April 26, 2011

The Planning & Zoning Commission met in a regular public hearing on Tuesday, April 26, 2011 at 6:00 p.m. In attendance were Chairman Kurt Kraft, Commissioner Robert Francis, Commissioner Bakari Turner, Community Development Director Taurus Freeman and Assistant Zoning Administrator Rita Peele. Commissioners Mike Gill and Les Vogel were absent with notification. There were forty eight (48) members of the public in attendance.

Commissioner Kraft called the meeting to order at 6:00 p.m., and then Peele read the agenda. Commissioner Kraft asked for LUD-01-11 to be heard first on the agenda. All voted in favor of the change.

Old Business: Commissioner Francis recommended approval of the minutes, Commissioner Turner seconded and the motion carried 3/0.

New Business: **LUD-01-11**, was presented by Freeman. A Land-Use Determination is requested for the placement of a crematory in the Commercial Mixed-Use overlay district of the Downtown District. Section 3.03 of the U.D.C. states, “in cases when a use is not specifically listed in any district regulations, the Community Development Director shall determine the appropriate district or districts whereas such a use shall be allowed, based on the comparison of other uses which most closely resemble the unlisted use or if the Community Development Director is unable to determine clear placement, the application shall be made to the City Council for interpretation”. This request comes before the Planning Commission because Staff was unable to find a clear destination for a crematory and the case will also; go before City Council for final determination. Staff received a letter asking for postponement of the case for thirty (30) days, however, since it was publicized, the case will be heard tonight.

Doug Dillard, attorney representing the applicant, spoke and asked for a thirty (30) day postponement to allow time to meet with the residents and the Downtown Development Authority (DDA). Dillard explained that this is a determination on whether a crematory is a permitted use under the definition of “Funeral Home” within the zoning district. We feel that a funeral home is a permitted use in the downtown overlay district; therefore, we are consistent with that designation and the funeral home has been in business in Villa Rica, since 1950. Dillard handed out provisions for this type of facility from the Environmental Protection Agency (EPA), and requested that they be included in the record. Also, a letter was given to Freeman, which raises constitutional issues. We contend that a crematory is a logical extension of a funeral home. The funeral home is prepared to meet all state and federal requirements for this type of use. Dillard passed out copies of the state and federal requirements to the Commission.

Applicant Dana Wynn spoke next and explained that she wants to be able to offer cremations to families that choose that option but wants to do what is best for the community.

Freeman said the DDA had submitted a letter of opposition to the request and provided copies to the Commission.

Bill Taylor, representing the DDA spoke in opposition to the request. Taylor said the Authority had voted unanimously to oppose this rezoning for several reasons. The overlay district was designed to enhance downtown living, to foster new business and to create a viable downtown. A crematory is an industrial process and is not included in the downtown overlay district. Taylor asked for respect for the downtown overlay district and warned of the potential for setting an industrial precedence in the downtown overlay district, if approved. The Downtown Development Authority (DDA) supports the withdrawal to allow the petitioners to consider other options.

Brandon Swafford, 222 Westview Drive, spoke in opposition. Swafford presented a petition signed by forty three (43) residents in opposition of the request. Swafford read the concerns from the petition, which included a decrease in property values, odors, view of the smoke stacks and a negative emotional psychological effect. The subdivision is very dense and when the neighbors were polled, no one was in favor of the proposal.

Freeman asked for the record to reflect that forty three (43) people signed the petition.

Commissioner Francis asked Swafford what the distance was between his property and the funeral home. Swafford replied that Spring Street was the only thing separating his property from the funeral home.

Billy Nix, 318 Westview Street, spoke about his concerns. Nix is familiar with this type of facility and is concerned about the odor, he stated this type of use needs to be in an industrial area, not in a residential area.

Chairman Kraft closed the floor to those in opposition.

Dillard spoke again and reminded everyone they are asking for a thirty (30) day deferral, not a withdrawal of the proposal. He stated that although this type of facility had historically caused issues of odors and air pollution, they are now regulated heavily by the Environmental Protection Agency (EPA) and Environmental Protection Division (EPD). This issue is whether the crematory is a logical extension to the funeral home. Having a crematory on site is a part of the funeral home, which eliminates the one thousand (1,000) feet distance requirement, as long as it's part of an existing funeral home. The use will be self enclosed within a 28' by 24' facility in a portion of the garage located in the rear of the funeral home. Funeral homes combined with crematories are included in land use designations used in the Land Based Classification System. The emissions will be regulated by the Department of Natural Resources (DNR) and there will be only one retort with no additional impervious surface or additional traffic.

Commissioner Francis asked Dillard why he thinks the state made a requirement of one thousand (1,000) feet set back?

Dillard responded that since the funeral home is already a non-residential use it is located within a residential district.

Commissioner Francis said there is a lot of misinformation on both sides and he questioned why the state would have a requirement of a one thousand (1,000) feet setback from residential districts. Commissioner Francis asked Dillard why the applicant didn't consider

putting the crematory in an industrial area and does Dillard think the property values would go down in the immediate area of a crematory?

Dillard replied there is no historical data available that property values were diminished in areas in close proximity to an existing crematory attached to a funeral home.

Freeman said there are state rules and regulations regarding crematories, however, it does not list what type of land use classifications they may be placed in and it is up to the local issuing authority for determination. The Unified Development Code does not list crematories as a land use, but funeral homes and mortuaries are identified. Those uses are permitted within the General Commercial, Heavy Commercial, Office-Institutional and the downtown districts. It's also permitted in the sub-areas of Commercial and Commercial Mixed-Use in the Downtown Overlay District. Research was conducted for locations of crematories in other jurisdictions and found it to be very inconsistent. In some jurisdictions a crematory was allowed in the downtown area, in other jurisdictions, it was only permissible in industrial areas.

Chairman Kraft asked for a motion to defer the land use discussion for thirty (30) days. Commissioner Turner motioned for the deferral, Commissioner Francis seconded and the motion carried 3/0.

RA-01-11, was presented by Freeman. Villa Rica Metals, LLC of Villa Rica, GA, request a rezoning from RD (Rural Development) to HC (Heavy Commercial), for property located at 1627 W. Highway 78, Parcel Number V07-010-0187, in Land Lot 166 of the 6th District, in Carroll County. The request is for the purpose of a metal supply, sales and storage facility. The property consists of 5+/- acres and is located in Ward 2.

Staff has reviewed the request and has recommended ten (10) conditions, which are as follows:

1. Loading, storage and service areas shall be visually screened from the right-of-way with a decorative fence or wall, dense landscape plantings or berms. Such screening shall provide at least seventy-five (75%) percent overall visual screening of the loading and service area(s) as viewed from vantage points on lines perpendicular to the surfaces of the object(s) being screened.
2. An eight (8) foot tall, opaque fence shall be employed to enclose the storage areas to prevent unauthorized entry and to ensure public safety.
3. Driveways within the site shall be dust free. Driveway access to the public right-of-way shall be permanently paved.
4. The lot area surface used for storage shall be gravel, at a minimum.
5. Unusable items that cannot be reused shall be disposed of on a regular basis and shall not be allowed to collect on the premises.
6. No garbage or other foul smelling waste likely to attract vermin shall be kept on the premises.
7. Gasoline, oil or other hazardous materials shall not be stored at the site.
8. The applicant shall provide a written statement that the area will be cleaned up to the satisfaction of the Community Development Director should this land use be abandoned, moved in whole or in part.

9. No salvage materials shall be stored within twenty-five (25) feet of any property line.
10. All materials, associated with the land use, shall be located within the designated bins, and not on the ground for a period longer than 24-hours.

The applicant, Scott Rakestraw explained that the business will only use the existing trailer on the property, they will add some scales for weighing, put the metal in a bin and haul it off.

Commissioner Turner asked Rakestraw if the metal would be hauled out daily. Rakestraw replied that he would hope to haul the metal daily, but it would depend on the quantity. Commissioner Turner asked if the property would look like a junkyard. Rakestraw said no,

Commissioner Turner motioned to recommend approval with the ten (10) conditions recommended by Staff. Commissioner Kraft seconded and the motion carried 3/0.

CU-01-11 was presented by Freeman. Barinowski Investments, Co. L.P. of Grovetown, GA, requests a Conditional Use for property located at 905 Rockmart Road, Parcel Number V04-009-0012, in Land Lot 194 of the 6th District, in Carroll County. The request is for the purpose of installing a monopole for use of cellular antennas. The property consists of 13.15+/-acres and is located within Ward 3.

The applicant, Mark Barinowski spoke about the request and is taking the necessary step in applying for a Conditional Use, for the tower.

Commissioner Francis asked if the request was located in the General Industrial area. Freeman replied that it was.

Commissioner Turner asked if the construction of the tower would cause any traffic concerns. Barinowski said it would not, since they are located at the rear of the property.

Commissioner Kraft asked if there are any height or lighting restrictions. Barinowski said there wasn't any height restrictions in that area and the tower would not have lights.

Val Runyon, 2137 S. Van Wert Road asked Barinowski who the cellular service is and if the tower is required to have lighting. Barinowski said initially it will be AT&T and the tower is not required to have lighting unless it's over two hundred (200) feet in height and his tower will be one hundred and eighty (180) feet in height.

Commissioner Turner asked if the property has to be lighted. Freeman said if lighting is required, staff will review it and there is a lighting ordinance that will be followed.

Commissioner Francis motioned to recommend approval of the request, Commissioner Kraft seconded and the motion carried 3/0.

CU-02-11 was presented by Freeman. Mount Olive Christian Church of Villa Rica, GA requests a Conditional Use for property located at 313 E. Montgomery Street, Parcel Number V06-001-0023, in Land Lot 160 of the 6th District, in Carroll County, for the purpose of a church. The property consists of .19+/- acres and is located in Ward 1. Staff recommends approval with one condition; the applicant shall provide a written agreement to the Community Development Department, for additional parking provided, within three hundred (300) of the site. The applicant was not present and Chairman Kraft motioned to table the request until the next meeting. Commissioner Turner seconded and the motion carried 3/0.

ORD-01-11, An ordinance for the purpose of amending, Article 3, Section 3.05, Overlay Districts of the Unified Development Codes, of the City of Villa Rica Code of

Ordinances; by adding (G) thereto a Hospital Overlay District, an effective date; and for other purposes. Staff has drafted an overlay district for properties north on Old Stone Street that are adjacent to Tanner Medical Center. This extension will allow for supportive services and uses of the hospital as well as allowing for mixed use and residential uses along those properties. It currently affects approximately ten (10) lots that are on the north side of Old Stone Road. Freeman said this area has been in transition for a few years and all the surrounding property will probably transition within the next five (5) years to some type of supporting use for Tanner Medical Center. There being no other questions or comments, Commissioner Turner motioned to recommend approval, with Commissioner Francis seconding. The motion carried 3/0.

Staff Comments: were made by Freeman and at that time he updated the Commission on their last cases from November, 2010. Freeman asked the Commissioners to stay after the meeting to be sworn in for their new term.

Public Comments: Valerie Wilhelm, 203 Peachtree Street, commented on the discussion of a crematory. She said this is very emotional for the neighborhood especially the elderly people. Some of them have nothing but their homes and that's all they'll have to leave their families. Wilhelm has sold real estate and was unable to show any home for sale which was located near a crematory.

Val Runyon, 2137 South Van Wert Road, requested if an attorney or representative for an applicant is allowed rebuttal of a case, the public should be allowed the same courtesy. Runyon said she felt the Wynn's could afford to purchase property elsewhere to locate a crematory while some on the home owners cannot afford to move elsewhere. Although a lot of people may buy cremation, it doesn't mean they want a crematory nearby, and while the Wynn's currently offer crematory service, there must already be a service available to them.

John Wesley Moore, 313 Westview Drive spoke. He lives directly across from the Jones-Wynn Funeral Home and would probably have the best view of the proposed facility and it would be an emotional effect.

Freeman said Staff is more than willing to help Jones-Wynn Funeral Home facilitate any type of public meetings with the community in the next thirty (30) days.

There being no other public comments, Commissioner Turner motioned to adjourn at 7:03 p.m. and Commission Francis seconded. The motion carried 3/0.

Commission Chairperson

Date

Community Development Director

Date