

PLANNING AND ZONING COMMITTEE

MAY 23, 2017

The meeting was called to order at 5:30 p.m. by Chairman Tim McCarthy. Committee members present were Tim McCarthy, Jonathan Smith and Becky Williams. Also present were Karlene Henderson, Law Director, Brody Walters, Planning and Zoning Administrator and Mark Easterling, Deputy Planning and Zoning Administrator.

REZONING – SUMMERFIELD SUBDIVISION

Mr. Walters explained that the applicant, MB Investments, LLC, has requested that the eastern portion of the proposed Summerfield Subdivision, consisting of approximately 17.157 acres, be rezoned from R4 (Single Family Residential) to R5 (Two Family Residential). This portion of the subdivision is adjacent to PBP (Planned Business Park) zoning to the east and I2 (General Industrial) to the south. The Planning Commission voted 5-0 to recommend approval of the rezoning and a public hearing was held May 2, 2017.

Steve Mitchell was present on behalf of the applicant. He said that they feel the R5 zoning is an appropriate buffer or transition zoning between the single family and commercial uses. Mr. Smith said the property to the north looks like it is zoned R3 and then goes to R5. He asked if there is any thought to rezoning more of the R3 to R5. Mr. Walters said that the property is part of the Horseshoe Bend subdivision and two family zoning would be in conflict with the approved preliminary plat. The Committee agreed 3-0 to recommend approval of the rezoning request.

SPECIALIZED ANIMAL RAISING & CARE

Mr. McCarthy explained that there are two proposed code amendments regarding specialized animal raising and care. Both of these were the subject of a public hearing on May 2, 2017 and both amendments were sent on to City Council with no recommendation from the Planning Commission. The amendment put forth by the Planning and Zoning Administrator clarifies what is the current practice of the City which only allows chickens in Agricultural and R1 zoning districts with a Special Approval Use. The other proposed code amendment has been brought forth by Krista Kiessling and would permit chickens in R2 and R3 zoning districts. Mr. McCarthy acknowledged that the Committee has received information from the Toledo Municipal Code, information from Salem, Oregon and the list of issues presented by the Police Chief. Mr. McCarthy said that they get the point that the chickens are thought of as pets and they don't dispute that. Ms. Kiessling gave a PowerPoint presentation that had been distributed to all Council members. In addition, Ms. Kiessling made the following statements regarding backyard chickens: the noise from six chickens would not be as loud as street noise; ten chickens don't produce as much waste as one dog; wild birds, not chickens, spread disease; coyotes and foxes don't like to jump fences; the ten hottest real estate markets for investors all allow chickens; 93% of major U.S. cities allow hens; when communities allow hens there is actually a decrease in the number of calls and complaints because now they only have to respond to nuisance properties; the enforcement section of the Code would not need

to be changed much because of the rules already in place for other animals, that could apply to chickens.

Mr. McCarthy noted that in 1235.04(vv) the total size of the coop and outside run should be 150 square feet for six hens, not the 110 shown. Mr. McCarthy asked if a fenced in yard is required as part of this proposal. Ms. Kiessling said that her yard is fenced so the run is fenced in within the fenced yard, and she would propose that those with fenced in yards be permitted to let the hens have free range, and the run does need to be fenced in. She said that the chickens are fed with feeders; feed is not thrown on the ground. She added that chickens eat mice and moles and acknowledged that there are natural predators like hawks that want to eat chickens. However, her eight pound chickens are too difficult for hawks to get. She said that the required education segment will teach about waste and compost or it can be bagged.

Ms. Williams told Ms. Kiessling that she appreciated all the work she has done and for allowing her to visit her residence. Ms. Williams asked Ms. Kiessling why she chose to get chickens. Ms. Kiessling said her father got backyard hens a year before she got hers and the kids enjoyed them and they produced beautiful eggs. She said that she researched for a year what kind to get and she looked in the Code and didn't see that she could not have them. Ms. Williams asked why she is proposing adding this to R2 and R3 only. Ms. Kiessling said that from her discussions with Mr. Walters it seemed like a reasonable option. Ms. Williams noted that the Code currently permits chickens in A (Agricultural) zoned properties and is permitted with a special approval use in R1 and the way the proposed amendment is written, it would also require a special approval use in R2 and R3 zoning districts. Ms. Kiessling said that she did not know that, and she doesn't think that process is necessary. Mr. Walters stated that the special approval use process allows review on a case by case basis and is an additional hurdle, but it sometimes gives City Council reassurance. Mr. McCarthy said that he does not foresee this as a special approval use that would have to come to City Council, but he does think that if we went this way, it would at least start as a special approval use.

Ms. Williams asked if the coop would be considered an accessory structure. Mr. Walters said that it would be and it would count towards the square footage of permitted accessory structures. Ms. Williams asked about the setback for coops. Mr. Walters said that the latest thing City Council reviewed as far as setbacks was pools which have a potential to bother neighbors, so they have a 15' setback and sheds are required to be 5' from the property line. He said that his recommendation would be that coops have a 15' setback. Ms. Kiessling said that does not seem unreasonable to her. Mr. Smith called attention to an article published by the CDC regarding salmonella from chicken droppings. He said there are also questions about who is going to enforce these requirements.

Scott Strzesynski, 1010 Mulberry Street, said that the special approval use for Agricultural and R1 districts could be for 50 chickens because there is no limit in the Code. Ms. Williams asked Mr. Walters if those districts would also be limited to 6 with the proposed Code amendment. Mr. Walters said that the way it is written, they would be limited.

Jim Wolfe, 500 Pauly Drive, said that he is against allowing chickens. He expressed concern about food attracting possums, skunks, and raccoons.

Kristine Romp, 338 E. Seventh St., said that when looking for a house she saw the chickens and they don't smell, and this is the up and coming thing and she does not see the negative side. Ms. Romp said that she is a nurse and regarding the salmonella issue, people need to wash their hands.

Chief Paez said that they will get calls and there are responsible chicken owners, but not everyone will be responsible. He said that Planning and Zoning is not around in the evenings or on weekends and the police will get calls like they do about other animals. He said that he is neutral on the subject, he just wants the tools in place to deal with it. Mr. McCarthy referenced Chapter 618 and Chief Paez said that the Code needs to be written so it can be enforced. He added that the Prosecutor will want to see certain things in the Code to be able to regulate it properly.

The Committee had a lengthy discussion regarding enforcement should there be chicken owners who are not responsible and do not follow the rules. There was discussion regarding a possible pilot program and limiting the number of permits issued.

Ms. Williams and Mr. Smith both expressed concern with the amendment as proposed and said that they would like to see City Council as a whole vote on it. Mr. McCarthy said that he would like the Law Director to draft an ordinance for the Committee to review at its' June meeting that adds the 15' setback requirement and is structured so we're not approving horses and ponies. He said that the Toledo ordinance has some useful things in it. Ms. Henderson said that she will get together with Ms. Kiessling to come up with a draft ordinance for their review.

There being no further business, the meeting adjourned at 7:42 p.m.

Respectfully submitted,

Tim McCarthy, Chairman
Planning and Zoning Committee

Next meeting: Wednesday, June 21, 2017 at 5:30 p.m.