

Lichtenstein stated the question was asked earlier; what was the original purpose of the Parkway Village design, the corridor? He was a part of that original committee that put that together. He sat on the Design Review Board for a decade or more. The original idea behind the Parkway Village was to maintain the residential integrity of that district. That is what it was all about. This is not maintaining the residential integrity. In other words, it works. This thing works, leave it alone.

Susan Baur closed the public portion. She asked if there were any other comments, discussion. She asked for a motion.

### **Motion**

Cheryl Greenway made a motion that RZ10-06 be denied as written. In discussion, she thinks the Commission is open to the idea of trying to make this one building be able to work for the community but the definition for the commercial recreational facility is just too broad to allow that to be used in all of the Parkway Village areas.

Sarah Winner seconded the motion.

The motion passed 4-2. Mark Renier, Cheryl Greenway, Susan Baur and Sarah Winner voted in favor of the motion. Loren Conrad and Tom Wilson were opposed to the motion.

The motion carried and this recommendation will move forward to mayor and city council next month.

### **09-0822**

#### **TEXT AMENDMENT**

#### **RZ10-04**

Text Amendment regarding companion animals.

Brad Townsend stated that this text amendment was drafted and brought in front of the Planning Commission last month. A couple of requests from staff were to review, ask for or at least get some feedback from local veterinary clinics dealing with the situation. Staff did contact a few veterinary clinics as well as the Chattahoochee Nature Center. Companion animals at the veterinarian clinics are mostly the cat and dog situation. The cross reference that staff is proposing for companion animals is the limitations of three. There was a question as to why they are not including cats and how cats are normally handled. In reviewing most of the language, specifically Fulton County's, they deal with number of cats and the number of dogs is the same. The allow 10, which is an extreme number compared to the three that a normal household in the city of Roswell would be allowed. There was also a request to include the language from the state that deals with exotic and wild animals. Staff included that full page of text straight

from the Georgia code and it deals with a lot of different strange animals that the state has to license including hyenas, orangutans, wolverines... Things of that nature. So if someone gets a state license, has determined that it is a companion animal they can't, at least as currently drafted, maintain more than three. To clarify the actual reasoning this language gets brought up, Townsend stated that through the city's backyard poultry discussions of a year-and-a-half of trying to create that ordinance the companion animal section of the city code, which is in the code of ordinances, Section 8, has a definition. That definition, when reviewing it, staff felt it was inadequate. That definition was to be expanded and the Commission has the expanded definition in front of them in Section 8. Staff was then going to include that in the zoning code. So they would have a definition of companion animals in the zoning code as well as being in the city's regular code when a situation that someone came forward and said that he wishes to have some pot bellied pigs; how does he control it? Townsend stated that one can't have any more than three if the ordinance is adopted the way it currently stands. One wants to have pygmy goats... he can't have any more than three because that is the number of dogs that a normal person keeping their companion animal would be able to have.

The cross references that are also included deal with the nuisance requirements or kennels. They also cross reference definitions dealing with livestock, poultry, as well as this then becomes a permitted use in all of the city's residential districts of keeping a maximum of three companion animals in the residential locations.

Townsend stated that if the Commission has any questions he will be happy to answer them at this time.

Loren Conrad clarified that the ordinance does not include cats. Brad Townsend stated that the limited number... Conrad asked if Fulton County's rule would stand in that case with 10. Townsend stated that they would probably look to Fulton County because they are the animal control entity of the city of Roswell. But they would not have anything that they could cite a person on for keeping more than 10 cats unless the Commission recommends that it be included as a number being controlled. Conrad stated that he does not see why they don't. Ten cats seems like an awful lot to him, more than enough. There should be some limitation. He hears stories about homes with multiple animals in it that are just taking over the home. The city is restricting everything else, why not cats?

Brad Townsend asked Conrad if he would recommend on Section 3, 8.5.1b where they include the limitation of no more dogs, pygmy goats... to include the terms cats in that section of the code. Conrad stated that was correct. Three is plenty for him, but 10 is plenty for Fulton County. Where is the middle? He thinks there needs to be a Number in there to prevent a huge number. Maybe 10 is the right number.

Sarah Winner asked Brad Townsend if the Fulton County 10, they basically have a limit of 10. Would that not apply to cats, too? Susan Baur stated that is cats. Winner stated that Fulton County has a limit of 10. Does Townsend think it should be less than 10?

Loren Conrad stated that he did not know for sure. He is not a cat person but he thinks there should be a limit. He thinks 10 is plenty.

Winner clarified that the rationale for putting it in the ordinance is that at the most local level the city could enforce it. Brad Townsend stated that was correct. Winner stated that she agrees with Conrad. She thinks they should keep it at 10. They should follow Fulton County's guideline because she does not know if that could be challenged if Roswell's was lower than Fulton County's. Loren Conrad stated that it is a good guideline. Winner and Townsend agreed.

Tom Wilson stated that one of the reasons that he recalls that the Commission deferred this last time was to get some more public input. Has there been any other public input on this in the last month? Brad Townsend stated that staff has contacted the local newspapers and asked them to write something and they have not. He has not received any public input. He is sure that once it gets to the city council level it will probably be raised up a little bit more from that point. Townsend stated that he has not received any public input at this point.

Cheryl Greenway stated that she would be willing to bet that if it gets out that they are putting the 10 limit on cats, the city may hear from some people. But she agrees that there ought to be a cap just like there is on the dogs. In a perfect world what she would rather see is something that unfortunately would probably make it too complicated to deal with but she could see someone who has five small dogs versus someone with a Grand Mastiff in a small backyard should not have three. She really wishes there was some way the Commission could look at this based more on the size of the lot and the size of the animals that could be identified through pounds or something. That would make it very complicated and probably very cumbersome.

Brad Townsend agreed that would have very difficult enforceability at times.

Greenway stated that she loves animals, she is an animal nut but she thinks 10 is enough cats for any one person to have in their home. She also agrees with the limit of the 10.

Mark Renier stated that the original definition under the city code, horses was in there. Under here it is taken out. Is that correct? Brad Townsend stated that it was because in adopting the backyard poultry ordinance they included livestock. They did a livestock definition so that was one of the conflicts they were trying to clean up by moving the livestock and the horses to a different category.

Sarah Winner stated that she understands the dogs, pygmy goats and Vietnamese pigs. She is just curious why they did not also include either reptiles or exotic animals. She is thinking of reptiles. They could be small, but one could have some pretty large reptiles and the same way with exotic animals. What are Townsend's thoughts as far as should there be limits on exotic animals or reptiles or larger reptiles? This kind of goes to Cheryl Greenway's point of she doesn't care if someone has three handheld reptiles in their house but if they have huge reptiles in their backyard then at some point she would be concerned about how many are there.

Brad Townsend stated that he thinks it might be completely appropriate to include those as the number limitation. They were starting with the dogs and the goats because those are known entities that they are dealing with. If the Commission wants those expanded, he doesn't see a real problem with that and it probably would be...at least looking at the list of exotic animals...that list is pretty out there. For anyone having more than three of any of those, my goodness.

Tom Wilson stated that exotic animals wouldn't qualify as a companion animal. Brad Townsend stated that it may be included. That is the way the definition is written.

Cheryl Greenway stated that it reads "companion animals may include wild or exotic."

Tom Wilson stated that that seems to be a conflict because he does not think many tigers or gorillas are actually raised to be companions. Pleasure, company or health benefits, there seems to be a conflict there to Wilson. Brad Townsend agreed.

Someone could say that they domesticated them, like a pet cobra.

Loren Conrad asked the Commission if they think the state limitations on those would tend to keep them in control. Brad Townsend stated that he thinks they probably license them very strictly. He does not know of any one that even is licensed in the city of Roswell at this point but that doesn't mean they are not out there. He guessed that coming from south Florida where they had people doing safaris and keeping big cats...the point was big cats at the time. And now it seems to be large snakes that people are licensing and keeping as pets and things of that nature.

Susan Baur stated that in the companion animal definition where it says "companion animals include but are not limited..." and it has the list. That list includes within it some; they pulled some exotic animals and put them in that list. Mice are considered exotic animals and reptiles are considered...

Sarah Winner stated that certain reptiles are considered she thinks.

Susan Baur stated that maybe not all of them, she does not know. But is it confusing to have a couple of those intermingled with...she understands because the second sentence covers it. It states that companion animals may include wild or exotic animals. So, they are including them in the definition. But pulling a couple out and listing them might be confusing. Would it be easier to pull them out all together and just say exotic animals are companion and they are covered by the...

Brad Townsend stated that the difficulty of is considering... for example, his children as kindergartners had little white mice. Baur stated that she did not know they were considered exotic animals. Townsend stated that he would not consider that exotic. It was a school project. His children just thought they were cute and cuddly for six months and then they wanted to get rid of them.

Tom Wilson stated that he had a question about the city of Roswell's nuisance ordinance. Should they leave out those things that are exotic animals and someone actually acquired them and it became a nuisance; would the nuisance ordinance not give them some way to reach in there and at least let this person or these owners speak to a judge about why they are doing what they are doing? They still have that fall back in nuisance ordinance.

Brad Townsend stated that was correct. If there is something which starts to reach into the community outside of their person's property and there is a complaint. The nuisance ordinance definitely gives them an area to reach in there and say hello and figure out what one is doing. It is being detrimental to the community at this level and please come see the judge. They go that route. Tom Wilson stated that he likes that.

Cheryl Greenway stated that in the information that was given to the Commission regarding the state of Georgia guidelines that talk about all of the different types of animals that qualify as exotic, it was mentioned earlier in the writing that Fulton County limits the cats and dogs to 10. Does Georgia limit the number of exotic animals anywhere outside of this context that Townsend gave the Commission? She is wondering if there is something else there that they could fall back on.

Brad Townsend stated that he was sure as the part of licensing, anyone who does receive a license has to provide the capability of proper care. Greenway added proper area, proper care, etc. Townsend stated that was correct. If it is an animal that needs to be able to run outside they have to have that space for them to do that. If it is housed in some type of containment location it has to be in a manner which the animal is not detrimental to its life and something of that nature. There is probably a by default number that gets put into anybody receiving a license to keep these types of animals. One can't imagine that a small single-family home with a shed out back can keep 50 orangutans. It is just

not physically possible to feed them, house them and maintain proper health of those types of animals. It is by default that there probably is, but Townsend has not seen a number from the state or from those locations that say nowhere will someone be able to keep more than three llamas or 10 llamas. If someone in the middle of small county Georgia has got 500 acres, 50 llamas is going to be nothing for the impact of that piece of property.

Cheryl Greenway stated that since someone probably has to get a permit, it is probably more of a case by case decision. Brad Townsend stated that he would assume so, yes.

Tom Wilson stated that when he looks at the list of exotic animals there from the state's definition he does not see a single one that he believes meets the definition of a companion animal. He thinks that line should be stricken from this definition about exotic and wild animals may be considered companion animals. He does not see a single one there that he thinks is appropriate in any residential community. Admittedly there are some that Wilson does not know what are.

Brad Townsend asked Wilson if he was looking at the sixth and seventh line. That starts with "companion animals may include" and ends with "27-5-4" That sentence being removed?

Susan Baur stated that they were just talking about it includes rats and mice. Do they see that on the list? Rabbits? Most of them are pretty exotic sounding to her. Cheryl Greenway added snakes and vipers. Baur stated that then there are rabbits and rats and mice. Those are the only...and certain lizards.

Sarah Winner stated that the second paragraph, if she is reading it correctly states that one cannot have the animals in the second paragraph. But in the third paragraph are exotic animals that one can have with a permit. But there are things on here like carp are basically koi and she knows a dozen people that have 40 koi in their fish ponds in their backyard. Fish, catfish, rabbits, mice, finches...some people have starling houses in their backyard and have starlings. Winner is just wondering if maybe instead of trying to list what they allow and they don't allow that they have some kind of a number that they say one cannot have more than X number of exotic animals if they exceed 10 pounds. Any exotic animals exceeding five or 10 pounds...that gets them out of all of these fish, mice, finches, rabbits, Guinea pigs categories. If B for instance were changed to companion animals that are also recognized as exotic animals are limited to no more than three if the average animal's adult weight exceeds 10 pounds. That would pretty much rule out anything that Winner thinks would be a frightening or a worrisome neighbor.

Susan Baur stated that they were talking about the companion animal definition right now, the second to the last part of it.

 **DRAFT**

Winner stated that they were talking about B, the following companion animals are limited to no more...

Brad Townsend stated that it was Section 3, letter B. They have talked about including a 10 for cats in that location. Now they are discussing when they deal with exotic animals over 10 pounds, no more than three.

Sarah Winner stated that she could see someone coming along and saying that he has a piranha and it is his pet and he has domesticated it. It is in a pond. She is confused on if something is an exotic animal, what prevents someone from saying "I dress it up. I put a sweater on it, I treat it like my child and it is domesticated now." Is there some Georgia rule that says that an exotic animal can't be domesticated or is that a set definition of standard recognized domesticated animals?

Brad Townsend stated that he thinks the exotic animal definition was not even close to domesticated animal in his thought process.

Sarah Winner stated that what is confusing her is when she goes back to Page 1 of 4, section 1 where the Commission is proposing defining companion animals as any domesticated animal or a pet that is kept by a human for pleasure, company or health benefits. That is the part where she thinks somebody could make a valid argument that he has an exotic animal that is a pet, kept by him for pleasure and company. That is the part that Winner thinks the Commission would be leaving themselves open to allow people to say their exotic animal is a pet by this definition. And if they are going to keep that definition then she thinks they have to tighten up the number of exotic animals that they think would be a healthy number to have next door to a residential house.

Cheryl Greenway stated that rather than the Planning Commission trying to limit the number of exotic animals can they not tie into the state. Sarah Winner stated that she does not know if they limit them. Greenway stated that is why she was asking a minute ago that if the state has to grant a permit, then what they are thinking, she does not know for sure, but what they are thinking is that they look at it on a case by case basis to decide how many a person could have. Winner stated that if for instance they follow Greenway's criteria which is, do you have adequate outdoor space or square footage or the safety feature required to have this animal, if so we will grant one permits. If so, Winner stated that she was okay with letting the state regulate it but she does not know if they have that criteria or not or if one just fills out a form and he can have as many as he is willing to pay the permit fee for, which would be her worry. Greenway agreed with Winner. That is why she was kind of asking about that. She would like to know more about what the state does as far as how they approach that. If they take it on a case by case and really look at it as opposed to just a rubber stamp...

Brad Townsend stated that it is something that they would have to research.

Sarah Winner asked Townsend if he would mind checking on that or have someone in his office basically say what, if any restrictions on the number or the ability to house an exotic animal are there. She doubts if they have rules on the number of mice one can have because if a mouse has babies, one has 12 on their hands right away. Townsend asked if the Commission wants that information before making a determination on this. Or do they want this forwarded on to council with that information? It is the Commission's pleasure.

Cheryl Greenway stated that in the interest of time she guessed that they could say that as long as once one checks into it, if the state has good procedures in place to limit the number, then they could tie it into the state. But, if staff finds out that it doesn't, then they would have to be more specific in the definition on the number.

Loren Conrad stated that he was listening to the definition or the limitation of the wild animals. He thinks someone said no more than three over 10 pounds. He is thinking no more than three and all under 10 pounds.

Sarah Winner stated that would apply to things like carp, which anyone who has a fish pond is going to have a heart attack right away because most people who have fish ponds have more than three and carp get up to like 18-20 pounds. Whereas with mice; a lot of people have more than three mice in their little tunnels and things in their kids playrooms. Fish are listed as exotic animals too.

Loren Conrad stated that the city of Roswell has that in their own definition.

Susan Baur stated that she thinks that they are speculating until they know for sure what the state has on its books. How does the Commission want to move forward? Do they want to send it forward to council with the stipulation that as long as the state has limitations and that is covered adequately, or do they want to defer it?

Brad Townsend stated that he was more than willing to bring this back. It is not a pressure issue in dealing with that. It is what the Commission chooses to do.

Loren Conrad stated to Sarah Winner's point that they do say in their own paragraph that companion animals include pigs, mice, fish, reptiles. Winner stated that she was not disagreeing with that, but she is pointing back up to the paragraph ahead of that number 1. She is worried that someone could make the argument that any exotic animal falls into this category as long as it is kept for pleasure or company.

Susan Baur stated that it does, doesn't it as long they have their proper permits. It does fall into the category of companion animal as long as its...Loren Conrad added that one claims it as such and he has a permit. Baur stated that they have



a permit and they are following all of the rules. It is a companion animal. If one has a beaded lizard...Sarah Winner stated that takes them back to does the state then regulate the number of exotic animals they would allow someone to have? That is where their hole is. If the state says that one may have five or six exotic animals as long as he pays a \$25 permit, he registers them and shows a veterinary vaccination. That might be all that they require. Or do they say that there is a limit to the number per property per owner, per space?

Susan Baur asked Sarah Winner if she wanted to make a motion to defer. Does anybody?

Cheryl Greenway stated that she would like to ask Brad Townsend something. Say she has a pet cow. Say she has five pet cows. Where does that fall under in here? Sarah Winner and Susan Baur stated livestock. Brad Townsend stated that bovines would be considered livestock. The agricultural, FC-A or E-1 zoning districts....Greenway stated that no matter how much she thinks that is a pet, it is going to be livestock and it is not going to be....she just wanted to check. Townsend stated that it was going to be livestock. It has some utility in dealing with that situation.

Tom Wilson asked Brad Townsend what is required on the nuisance ordinance in order to issue a citation. Townsend stated that they are usually complaint driven in which....a simple example is a rooster crowing requires at least two or three neighbors to come in front of a judge with a complaint that it is a nuisance to them. There is usually a recurring factor. It happens Friday night, it's again the next Tuesday night and things of that nature where a code enforcement officer is repeatedly going to this owner and saying, "Your animal is doing this in the neighborhood and it has created the nuisance to that." There are actually a couple of different pages in Roswell's current code dealing with nuisances.

Jackie Deibel stated that in Section 8.8.3 Types of Nuisances, letter R states animals which satisfy the conditions in Section 8.1.13, which goes back to public nuisance. It states that any animal which satisfies one of the following conditions is hereby declared to be a public nuisance.

1. It is found at large in violation of Section 8.1.9, it is a vicious animal and while on the property of its owner is not kept in a locked pen or kennel which is secured.
2. Produces because of quantity manner or method in which the animals are domesticated or maintain unsanitary conditions in the city of Roswell.
3. Attacks passers-by or passing vehicles.
4. Violates the leash provisions.
5. Makes or causes frequent or a long continued noise which disturbs the comfort or imposes on any persons in the vicinity.

6. Is ecumenical to the public health, welfare or safety according to rules and regulations propagated by the county Board of Health.

That is the list that is in the nuisance ordinance.

Brad Townsend stated that he understands that it is really directed towards dogs. That is where it was started, that is the way it has been on the books and applied most of the time. He would say that 85 or 90 percent of the time it is applied then. But it is stretched to its implications as to situations where they have other nuisance situations with animals.

Tom Wilson stated that it does seem that anything that gets out of control is pretty much subject to that scrutiny. Brad Townsend stated that was correct and that is one...Wilson stated that he was comfortable with that covering the eventualities that are above and beyond common sense. That is how he feels.

Sarah Winner stated that she had a potential proposal. She has gone through and looked at their list under Section 2, what they are specifically listing as their definition of companion animals, some of which include what is also on the list as exotic animals. If they went to Section 3, paragraph B and they inserted the words, the following companion animals except for those specifically listed in Section 2 are limited to no more than three per residential unit, dogs, pygmy goats, Vietnamese pot bellied pigs and any animals defined as an exotic animal or any animal recognized as an exotic animal or defined as such by the state of Georgia. She thinks that will cover them as far as at least putting a limit...the worst thing is the state might say they could have more or less but at least in Roswell they are saying that one can have up to three exotic animals unless the state says...Winner stated that they could add that as a portion, too...unless state requirements conflict and in which do they say Roswell prevails? Brad Townsend stated that Roswell prevails. The local jurisdiction, their rules would be germane above them. Winner stated that in Section B if they add that they are excluding those specifically listed in Section 2, then that pulls out all of the birds and fish and the Guinea pigs and the other things that were the pound limit consideration anyway. Then they are not leaving themselves open to...if they leave it that any and all other animals not identified or recognized as exotic, something like that, then they are at least putting some kind of limitation on exotic animals.

Loren Conrad stated that he could go along with that and the 10 cat limitation. Sarah Winner stated that could be added as a Section C. Brad Townsend stated that was correct, they could add Section C.

Cheryl Greenway stated that she got a little lost in the first part. Was Winner referring back to Section 2? Greenway asked Winner to read that again.