

Hilliard's ruling. In the municipal court of Roswell case no. C-00-866 it talks about the contentions of the parties. The defendant contends that the chickens are pets and that pets are not prohibited in the R-1 zoning district. Pets are not prohibited but pets are regulated and pets are restricted. Obviously the city does not have anything for cats apparently, Light does not know, she has never had a cat so she has never known about cats. But that may be something to talk to city council about. Light knows that the city has a dog ordinance and she knows as a resident of the city of Roswell that she cannot own more than three dogs. So, if they are talking about pets and if this whole ruling came down on the 5th day of June, 2009 by the Hon. Maurice H. Hilliard, Jr. and it came down based on an argument of pets then the Commission needs to position the city that they are thinking about pets. She does not know what the answer is but she doesn't like the idea. They had Ms. Bauhar comment that she feels like there are some people or the people who live in the city of Roswell live on fairly tracts of land and you happen to live on a large tract of land. There are a number of residents in the city who live on very small pieces of property that are single homes and this is going to address them in the same way as it stands, and in the same way as it addresses someone that lives on two acres or five acres or whatever. Light asked where is Solomon when one needs to divide that baby. She does not know that she has a solution but she does not think that saying a finite number is necessarily correct not does she think that saying everybody across the board can have chickens if they so choose without any regard to the size of property where they live fundamentally because this ruling was brought forth by the judge on the issue that they are talking pets. That is how he ruled. That is the direction...Light stated that she sees heads shaking and all she has is what is written in front here for her that is the decision by the judge. She is not trying to be disrespectful but she wasn't there, all she has is what is in front of her. She agrees with the representatives of subdivisions and homeowners here that the city gets in a situation where they are not allowed to have or there is a short amount of period of time where they are not allowed to have large illuminated signs, billboards. So, there is a window of opportunity there where the city says, "Oh my goodness, we need to construct these ordinances so that we don't have them." And that is really what their job is as a city is to determine these rules. So, when something like this comes into the front of the public it becomes an issue, it is the Commission's responsibility to not put their heads in the sand and say, "Oh well, it's really not a problem therefore it will go away." Well it won't go away. It has become an issue, it is a problem. They cannot walk away from it; they have got to do something.

Light thinks that the Commission needs to either define what a pet is, define a grading scale as if one lives on a piece of land that is zoned whatever he can't do it. If he lives on a larger piece of land, he can or they should come up with a number that is reasonable. Light would like to have 25 dogs. She is a real dog lover, she can't do it.

Brad Townsend cited that section of the code that deals with animal control. This is the definition. It talks about companion animals, which is a domesticated animal kept as a pet for the pleasure rather than a utility. It includes but is limited to birds, cats, dogs, hamsters, horses, mice, reptiles, domesticated wild animals.

Susan Baur stated that she does not see how chickens could fall under...she understands that these people love their animals. She is an animal lover and understands that they love their chickens. She respects that. These animals do perform some utilitarian function, they help fertilize and they help catch bugs and they produce eggs and so they don't to Baur exactly fall under this particular definition of companion animal.

Sarah Winner stated that she thinks one of the individuals who shared with the Commission tonight had an interesting comment that it is not a problem until it is a problem. So, the next person that is going to come up is somebody who has five Vietnamese pigs running around in their yard creating a nuisance or the next person is going to have 17 snakes in their yard that are terrifying the neighbors. She is wondering if they could maybe be more generic than just poultry where they are limiting the number of animals kept on a piece of property. If one looks through most of these things, the purpose, the number, the housing, the personal use. If one substituted poultry for pets one could almost make this pretty generic with the exception of the required housing, which they could say to be left to the discretion of the code enforcement office whether it is appropriate or not for that type of pet deemed by commonly accepted standards or something that would allow Roswell to have sole discretion in saying that it is okay the way it is. Winner is wondering if they need to say like on a smaller lot...she thinks most residential lots were not designed to be small farms. When one is talking about 60 chickens, to her he is talking about almost an agricultural type environment. Maybe they come up with something that says the number of pets of any combination of animals or so many of each particular breed is limited to a certain number on a typical residential lot. Maybe the number is five or maybe the number is six. Then after one gets over an acre maybe they will have some other type of discretion. But to avoid the next person coming in saying that he has too many rabbits and the next person coming in and saying he has too many of this or too many of that. Winner is just wondering if maybe they should have a pet ordinance even controlling the number of cats. Is it appropriate for one household to have 12 cats that just roam the neighborhood? How they are confined and how they are kept is left to the discretion of maybe someone in code enforcement. It is their job to be responsible for saying that he is the Roswell person who is responsible for saying if these animals are being well-maintained and housed appropriately and fed appropriately. Winner is just wondering if maybe that is a long term, a more viable way than just saying that they are just honing in on chickens and nothing else.

Susan Baur stated that they are not re-inventing the wheel here. In other municipalities they deal with this issue.

Karen Geiger stated that her thinking is based on what she has heard tonight and based on what she has read there is a movement now for local foods, which will include more and more people wanting to have chickens so that they can have fresh eggs, which are fantastically delicious. Although she understands that the people who came and presented to the Commission tonight have a long history of chicken caring and interaction and taking care of, she thinks that Roswell can't not have an ordinance because she thinks there will be a lot of new people in the coming years who will want to dabble and experiment with this. The city has to make sure that they put reasonable, not too tight limits on what it is people can do so that other people are not bothered or have their health affected by that. That is Geiger's logic for saying that they do need to have some ordinance. Whether it is the ordinance that is presented here with changes or whether it is taken back to the drawing board and try to re-invent something that deals with all pets with some kind of table. The main problem Geiger sees with pets is that having 10 chickens like Ms. Ford does is going to be a whole different story than having 10 snakes or 10 dogs because they just take up bigger amounts of space and need different things. Different animals need different things. It would have to take a lot of thinking and what the limits need to be. But she does think it is the Commission's job as a zoning body to think about not having commercial encroaching into residential. And because of that Geiger thinks that the number of chickens needs to be limited. She personally thinks it needs to be limited based on the zoning.

Laura Light clarified that Geiger meant with the residential zoning, the size. Geiger stated that it should be the size of the lot. And then the Commission also needs to worry that the regulations that they put in not create nuisances for neighbors. It seems to her that they need to deal with the rooster issue. Now whether that is to say don't have roosters or to say that it creates some kind of expedited system where one can have a rooster but the first time a neighbor complains the rooster has got to go.

Brad Townsend stated that some of the other research that he was able to find had a neighbor's consent. The municipality was issuing a permit for a person to have poultry in their backyard. That person who was requesting the poultry was required to get neighbor consent of all of the surrounding neighbors before the municipality would issue him or her for that location the allowable poultry.

Karen Geiger stated that was a different tact than Roswell is taking because they are not asking for any kind of permits for poultry. Brad Townsend stated that they would be required to get a permit.

Sarah Winner asked Townsend if that person lives there for 20 years is that permit good for 20 years? Townsend stated that the one municipality that he saw had a five year limit. Winner clarified that every five years one would have to go back and get approval again. Townsend stated they would from the neighbors.



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The permit part is under the non-conforming section where they are able to keep the additional 15.

Sarah Winner stated that in that scenario someone could get approval from their neighbors and then five years later because their neighbors have all changed they suddenly would have to get rid of all of their chickens? That would be a horrible scenario.

Brad Townsend stated that scenario that the Commission has run into and they have discussed all evening is the nuisances that are being created between adjoining neighbors. If there is consent that this property will now house chickens, will have roosters, will have a backyard with a certain amount of activity and the neighbors are consenting that that is going to happen then the rub is gone. The rub is no longer there. One does not need to surmise that five years from now the neighbors have all changed. When the neighbors move in, if it is within less than five years the neighbors are moving in knowing that something exists. Maybe they have not consented particularly but the roosters and the chickens are there when they move in next door.

Winner asked that the Commission take the example of down on Riverside Road where there are roosters down there and one can hear those things from 10 houses away in either direction when they are...it doesn't bother her but say one person moves in and it bothers them and six months later the five year boundary is up and they say they don't consent. Then the person who has raised and loved and has their farm environment suddenly has to get rid of all of....she thinks that would be a really horrible thing to put anybody through. Winner would not want to be told in five years if someone decides they don't like her dog she has to get rid of her dog.

Brad Townsend stated that putting it on the flip side is the city adopts the ordinance and says one can have 25. If one does not have a neighbor consent that person having the chickens has introduced something into a neighborhood that standardly is not there. Yes, this may be a growing thing but of the 20,000 single family homes in Roswell, they have 20 or 30 that may have chickens. For it to be a growing movement to what degree is the city going to write rules for the movement. Sometimes Townsend agrees with Andrew Wordes, what are they writing this for? They are writing this for the masses and it has not been easy for anybody to determine what words go on the page.

Laura Light stated that she does not disagree with what Wordes has said in that the city has a noise and a nuisance ordinance. She knows that Karen Geiger said they have to do something about the roosters. Light thinks that they have things in place that could take care of that with the noise issue, a noise ordinance or a nuisance ordinance. Giving someone a mandate of either he puts his rooster in the house at night or in the enclosed soundproof...if one is putting a rooster in

a place where it can't lift its head, Light guessed that was animal cruelty. She does not know anything about roosters so she does not have a problem with that. She thinks that what she is concerned with is just the large quantities that they are talking about. Quantities vis a vis the size of the property.

Susan Baur stated that she does believe that the city of Roswell does need an ordinance controlling this. If there is no ordinance there is no control whatsoever. She thoroughly agrees with tying the number of chickens to the lot size. She thinks that is very important for this ordinance. She is warming up to the roosters. Like Laura Light said there are noise and nuisance ordinances that can deal with that. And just like a dog owner who has a dog that barks or a dog that is making noise, if they bring that dog in at night or that dog in when he is barking, Baur does not have a problem with that dog. She guessed that she is warming up to the roosters.

The Commission is here to decide and make a decision about this ordinance, this proposed text amendment that is sitting in front of them. Susan Baur thinks that as it is sitting in front of them she can't support it because it is not tying the number of animals to the lot size.

Sarah Winner asked if they could make suggestions. What if Baur took the Commission through each of the five sections and they put out their suggestions on what could be changed because Winner thinks they all agree that "A" is probably okay as written. If they got to "B" could they start with them saying that one could have no more than four unless his lot size exceeded a certain amount of acreage and then it goes up from there?

Susan Baur stated that she does not feel like she is in a position or if any of the Commissioners are in a position...

Brad Townsend suggested that they go to the table which has the zoning districts. E-1 and E-2 are the larger two acre, one acre minimum size parcels. The R-1 and R-2 districts are the next size smaller which goes to 12,000 and 18,000 square feet. Then the R-TH all the way to the rest, most of them are minimum lot sizes of 9,000 square feet. Those are probably three pretty good breaks if one is dealing with categories of lot area.

Susan Baur stated that her only concern is someone like Ms. Ford; she didn't say how many acres she has. But if one had five acres... Ford stated that she had three. Brad Townsend stated that she was zoned R-1. Baur asked what the minimum size for R-1? Townsend stated that it was 18,000. Laura Light asked what that collates to in acreage. Townsend stated that it was less than half of an acre. Baur stated that she was thinking that maybe someone like Ford would be restricted to a number of chickens that she would live on in a half of an acre. But if everybody who gets chickens has to come and get a permit then it is incumbent on them to come and show how many acres they have. They city could then do it

by square feet, square yards or something and then...some more individualized that the person comes in and says here's my deed, he has three acres and three acres equals 36 chickens.

Brad Townsend stated that there could be definitely some scale or...Jackie Deibel stated that then if someone complains because she has got a rooster that is making noise then the zoning ordinance people go out and she has got to show her permit for starters that she is even allowed to have chickens and then you go from there.

Laura Light asked if she missed that in there. Are they required to have a permit to have chickens? Brad Townsend stated only if they go over the 25.

Susan Baur was suggesting that that might be a way to just be able to more tailor the number of chickens on a piece of property because if they just do it by zoning then the people at the very high end, there could be people around here with 10 acres she is guessing.

Sarah Winner stated that they would have to bring a survey in saying that there lot is this many square feet. That could be part of their process for getting approval for how many chickens. Then code enforcement has a document of how much each lot is allowed to have as far as chickens.

Karen Geiger stated that they would have to have a cap because the other concern is that one does not want to have people doing commercial poultry raising in a residential area. She would think that it would be graduated per square yard or whatever the squared ness is, until X amount. And then after that amount one would not go over that no matter how big his property is.

Laura Light stated that another point that she would like to go back to is, again, she goes back to this decision made by Judge Hilliard based on a contingent that it was pets and couple that with the fact that the city's definition of poultry includes chickens and roosters but also ducks, geese, guinea, quail, pigeons and turkeys. What really concerns Light are the geese and the turkeys and she does not know that they have...are turkeys any more or less pets than chickens? Are geese any more or less pets than chickens? Light thinks they ought to take a look at what is the definition of poultry versus what are they really trying to do. If the "movement" is to have chickens because they lay eggs and they are pets and it is wonderful to have the fresh eggs. Then do they need turkeys allowed in Roswell?

Sarah Winner stated that she does not have a problem with restricting it to some smaller animal. They definitely need to have different numbers if they are going to have them.

Laura Light stated that she never hears people talking about turkey eggs.

Susan Baur stated that this can be a starting point. They can always break out turkeys and geese later. Right now they need something to just pertain to chickens and to try to move this forward. Can the Commission kind of agree on something that should be appropriate or their recommendation for "B" as far as the number of poultry allowed in a normal size R-3 or R-4 if they want to do it by square footage? If they use the numbers that Andrew Wordes gave them, which were that normally six chickens lay approximately three to four eggs a day. One could break that out and say, 24 chickens would lay, let's use the smaller number, say 3x12, three eggs times for would be 12 eggs a day. She would say that most families would probably not eat more than 12 eggs a day. She thinks that is for a normal household. So one starts talking about more than 25 chickens he is probably getting to the point that that is more than a single family can eat.

Laura Light stated that no one restricts the size of a garden and how many zucchini one grows. Susan Baur stated no, but these are pets. This is not a vegetable thing. She is trying to think as far as where they are saying 25 chickens....Light stated that they can't talk about it in terms of family consumption. She thinks they need to talk about number of animals and not what they predict a family to consume. Susan Baur stated that she is just saying that the 25 chickens that is suggested her is probably a reasonable number of chickens. A family could say that their family consumes that many, it is not anything that is commercial in use.

Karen Geiger asked Winner if she was suggesting that they start with 25 for R-3 and go up from there. Winner stated that she is saying that in a residential environment maybe they would start with something smaller based on lot size and go up to 25, wherever the scale goes. Right now, they have suggested to the Commission 25. Does the Commission think that is too many or too little? She thinks they are looking to them for some kind of recommendation or guidance or...

Susan Baur stated that her recommendation would be that they find people who are experts in chickens per acre and they ask them and that the staff would come up with those numbers based on doing that research. That is her suggestion. She does not think the Commission should sit up there and come up with numbers per acre. She really does not because she does not feel qualified to come up with those numbers.

Sarah Winner stated that she was not suggesting that it is a chicken raising establishment. She is thinking in Martin's Landing, of one's next door neighbors, how many chickens does the Commission think would a reasonable number...

Susan Baur stated that she does not think she is qualified to say that because she has never lived to chickens. When that woman brought her chicken in this evening, Baur did not realize how small and how quiet that chicken was. She

does not know enough about chickens. She knows what her concern would be not knowing anything about chickens. But there is her fear and what she thinks she might be comfortable with versus what she could really live...based on her knowledge of chickens, what she could reasonably live with or what someone could reasonably live with. Baur does not feel qualified to come up with numbers like that.

Karen Geiger stated that she would like to make a recommendation here and that is that the Commission pass on...she thinks they are not necessarily wanting to vote as it is presented. But that they say this is what they would like to see changed. They would like to see under the definition, geese and turkeys excluded. She is still laboring about the roosters but she thinks they can reach a consensus that the roosters could fall into the nuisance. They would delete geese and turkeys. Then in the second section the provisions other than section B can pretty much be what they are. The Commission has not really discussed any of those. Under section B that they recommend....Geiger would recommend permitting and the permitting numbers based on the size of the lot with a maximum. But she does not know if she has consensus on that but at least that there is some kind of a graduated number as opposed to just everybody who lives in residential areas of Roswell can have 25 chickens.

Geiger asked the Commission how they feel about the permitting based on lot size. Susan Baur and Sarah Winner stated that they were okay with that. Cheryl Greenway stated that she agrees with what Karen Geiger is saying. She would like to add that also consideration has to be given to D, on the personal use only from the standpoint that was brought up earlier. If someone is having extra eggs and they want to take them down to the market and sell them, she kind of thinks they ought to have the right to do it. The city is not trying to stop that, they are just trying to stop big trucks coming in because one is loading up full of eggs to go to some huge market. She thinks there has to be some reasonable information there to guide that issue. She also thinks that it is a little unfair to the people who already have numerous chickens to just say, "Okay, well as of tomorrow he can only have 25 of 40." She thinks there has got to be some grandfathering, some reasonable phase in. They are looking at the world's biggest animal lover and she doesn't care what it is, she couldn't kill it. Greenway thinks there has got to be consideration for that because she thinks it is one of those things where they have a changing trend and that is what necessitating the Commission having to do this. It is not because one person has chickens because he sounds like he is trying to take good care of them and they are not really creating a problem, but they are dealing with an issue of more and more people are going to be doing his so they have got to set some guidelines. But he should not be punished for that just because the city is having to do these guidelines.

Brad Townsend agreed.

Laura Light stated that she does not think that anyone on the Commission, she is not trying to speak for anyone but she does not think anyone is opposed to the idea of having chickens in Roswell. She does not want anyone to leave here thinking that anyone is opposed.

Andrew Wordes stated that he appreciated everyone's mindedness. He just wants to sit down and discuss this.

Brad Townsend asked Karen Geiger if her comments were a motion. Geiger stated that it is not a motion to approve as written; it is a motion to make these recommended changes. Townsend stated that was fine.

Susan Baur stated that Cheryl Greenway's changes that they talk about incidental... that D maybe be exclude incidental. There has got to be some different language. She does not think that they could just say any farmers' market.

Brad Townsend stated that that needs some clarification and he will definitely get with the attorney and say here is the situation, what language clarifies this. So that they are not creating a commercial situation but they are not limiting the utilization of someone having eggs available for the local marketplace.

Karen Geiger added the grandfather in... Laura Light added with the subdivision to table market. Townsend agreed. Light stated that this is not the farm to table, the subdivision to table market.

Karen Geiger stated that the grandfathering part would need a little clarification for her. She thinks it is okay to grandfather in what they already have but she would really think that as the chickens die, come into conformity with the number of chickens that are permissible with their size.

Brad Townsend agreed.

Karen Geiger stated that it wouldn't be grandfathering in the number it would be grandfathering in these chickens.

Susan Baur added that it would not be for perpetuity. It would be for, as Geiger is saying, one would eventually come down into conformance.

Brad Townsend agreed.

Sarah Winner stated that she would like to throw out that in E, that they make sure and this is subject to everybody else saying whether they think it is appropriate...making sure that the verbiage includes the mobile fencing units or

the mobile tractors that move around. In F, the final sentence that only motion activated lighting shall be used to light any fenced area. That is either deleted or modified so that if chickens are in a backyard and there is lighting in the backyard that it is not a violation that causes issues for the chicken owners.

Cheryl Greenway seconded the recommendation. The recommendation received unanimous approval.

TEXT AMENDMENT

RZ09-12

Text Amendment regarding Animal Hospitals and Veterinary Clinics

Brad Townsend stated that text amendment deals with animal hospitals and veterinary clinics to be permitted in the O-P zoning district as a conditional use.

Susan Baur asked if there was anyone who would like to speak in favor of or in opposition to this text amendment.

Motion

Karen Geiger made a motion to approve the text amendment. Cheryl Greenway seconded the motion. The text amendment was approved unanimously.

TEXT AMENDMENT

RZ09-13

Text Amendment regarding parking requirements in the Historic District.

Brad Townsend stated that there is a request by the mayor and city council to in essence grandfather historic buildings that did not provide any parking in the area. So the way this is limited, they have to be in the C-1 zoning district in the HR Overlay District and 50 years or older. The issue they are having is the buildings on Canton Street, the buildings next to the square did not provide any parking in those locations. So, to reuse those buildings and to get next level of uses into them they have to, in essence tell them where they are going to find parking. They are getting limited by the business licenses to say okay, one can only go back in there as a use that exists and not increase the parking demand. A retail store goes back to a retail store. The concern they are having is when retail goes to restaurant, office goes to medical, something that would require additional parking. This in essence grandfathers those types of building. Also the term that they are using is they are having no net loss of parking. If someone tries to expand they can't take parking spaces away. But they can't exacerbate the parking numbers. That is the directive of the discussion.

Susan Baur asked if this is going to be something that is automatically a right or is this at the discretion of...Brad Townsend stated that the land owner has to