

with the additional town homes in there. So he thinks it will make it less crowded, more appealing, more green space. He likes the way it turned out.

Motion

Loren Conrad made a motion to approve RZ10-02 with conditions as stated.

Sarah Winner seconded the motion. The motion passed unanimously for approval of this project. This recommendation will go forward to mayor and city council next month.

TEXT AMENDMENT

RZ10-01

Text Amendment to Article 10, Chapter 10.23 Home Occupations and to the city code, Article 22, Traffic and Motor Vehicles.

Jackie Deibel stated that this text amendment deals with commercial vehicles which basically are parked in residential neighborhoods. The addition to this text amendment indicates that no one, no person shall park or let stand a commercial vehicle with weight that exceeds 10,001 pounds on a residential lot unless it is completely screened or in a garage except for during the portion of loading or unloading. Basically what this text amendment is indicating is that commercial vehicles are not allowed to be parked in driveways unless they are screened from view or within a garage. That is the basis of this text amendment.

Loren Conrad clarified that this allows moving vans to park for awhile out at the curb while they are loading and unloading. Deibel stated that was correct if someone was moving. Conrad clarified that there could be other large vehicles...Deibel stated as long as they are unloading and loading.

Sarah Winner stated that she had a couple of questions. This 10,000 pounds, is that the break where they have to have that GA DOT number on the side of the car? Deibel stated that it was. Winner clarified that for vehicles that have those magnetic GA DOT numbers that they can pull them off and on...she has encountered problems where people can actually take that GA DOT number and throw it in the back of the truck. There have been issues with code enforcement coming out and there being arguments about if the vehicle was over 10,000 pounds or if it was not because if one can't visibly see the DOT number and people were running around with cameras at 2 a.m. and trying to catch people pulling their trucks in because the board or magnetic sign has come off. How would that be addressed if this is put forward? That puts people in an awkward situation.

Jackie Deibel stated that she understands what Winner is asking. She is trying to figure out how best it would be to indicate that. Winner stated that there is no way to know how much a truck weighs unless it has the DOT number on it. Deibel

stated that maybe the best way would be to require that stay on, but somebody is going to take it off.

Sarah Winner suggested that they could embellish it some way. With homeowners' associations she knows they have had instances where people have actually argued that it is not over 10,000 pounds and they have had to prove that it is. Deibel stated that they may need to add something to the text amendment. Winner asked if it appears to over 10,000 the burden is on the person who owns the vehicle to prove that it is not. Winner is just thinking that there out to be some verbiage in here to not put the onus on the code enforcement officer because typically they work from 9 a.m.-5 p.m. and if these trucks come in at night it is real hard to catch them.

Brad Townsend stated that the code enforcement officer is either going to see the truck or deal with a complaint to come and see the truck. Sarah Winner stated that they do. Townsend stated that once the code enforcement officer is on site he is going to ask for verification one way or another. The owner is either going to provide that or he is going to be cited under this provision. Winner stated that he could say that he does not see the DOT number, which is what Roswell Code Enforcement has said in the past and they say they can't do anything because they don't know that it is over 10,000 pounds. Townsend stated that they are going to get to a situation where the city of Roswell is going to have to require its officers to have the owner prove to him that it is under the 10,000. Winner clarified that Loren Conrad is correct that this becomes a training issue for code enforcement rather than anything they have to put into this. Townsend stated that was correct.

Sarah Winner stated that one could have a pretty good size vehicle, for instance a bread truck that falls under the 10,000 limit. So, for somebody who buys a bread truck and paints it white so that it doesn't have any commercial logo on it, something like that would still be permitted under this ordinance. Is that correct?

Brad Townsend stated that it would be permitted but it would have to be screened in some manner.

Winner stated that it has no commercial logo on it and it is not over the 10,000 pound limit. She is just referring back to HOA questions that have come to her in the past where people are saying, "Can Roswell help us with this?" Winner stated that a bread truck is a pretty good size vehicle but it is definitely under that 10,000 pound limit. Townsend stated that there was no weight to it because it is a simple box in the back. Winner clarified that as long as on spray painted over the commercial logo this ordinance would not apply to that. Is that correct? So this is somewhat limited.

Tom Wilson stated probably only if they turned it into a recreational vehicle. Then there might be an ordinance against that. That would require it being screened. Loren Conrad agreed.

Brad Townsend stated that there is going to be a loophole somewhere. The city is trying to fill the biggest one that they have at this point. Sarah Winner stated that she is just wondering if there should be any kind verbiage in here stating 10,000 pounds or a vehicle that was obviously designed to be a commercial vehicle. If there is some kind of extra verbiage they could put in there that wouldn't complicate it too much.

Loren Conrad stated that they could do that in paragraph B because it talks about...Brad Townsend stated that he thinks any verbiage that the Commission adds... the legal department kept them pretty tight in dealing with the language they included. They tried to create something that covers an ambiguous situation but they make the language more ambiguous. They are going to get in trouble with enforcement as well as when the judge has to make a ruling on it one way or another.

Susan Baur stated that she would give a specific example in the neighborhood that she lives in. It is a cable truck for a cable company; they park their van in front of the house at night. So, it sounds like from what Winner was saying that falls under 10,000 pounds. Brad Townsend stated that it probably was under the 10,000. Baur clarified that it was okay for him to do that. Brad Townsend stated that this ordinance would not prohibit him...Baur stated that it wouldn't prohibit him and it would not require any screening. Townsend stated that was correct. Baur stated that she was just trying to distinguish between like in the paragraph above where it talks about passenger vehicles. What is the definition of a passenger vehicle versus a commercial vehicle? It states that a vehicle used primarily as a passenger vehicle shall be permitted in connection with the conduct of the home occupation. Is that a passenger vehicle over 10,000 pounds?

Brad Townsend stated that what he put up on the screen is some of the standard trucks out there. They are dealing with a weight class of a three or higher. That is kind of the category that they are looking at. To give one a visual example...

Mark Renier asked Townsend if he was saying that the Chevrolet Silverado is a number three. Townsend stated that was correct. Renier clarified that it would be within the weight class of over 10,000. Townsend stated that usually the Silverado 3500 is probably the weight class that would be 10,001 pounds or more.

Tom Wilson inquired about vehicles and combinations of vehicles. He knows that the GDOT definition of a commercial vehicle is any or combination of vehicles greater than 10,000 pounds. Would that be appropriate here to put in

combination of vehicles to take care of the trucks and trailer combinations? Brad Townsend stated that he thinks they could probably use that type of language. That would be a good inclusion in the ordinance. If someone is using the truck with a trailer and they exceed the weight, the city would probably use the commercial vehicle plus the trailer to go over and that would probably be a good amendment in both sections of the code as well as the home occupation location.

Susan Baur asked Brad Townsend if he said he had visual examples. Townsend stated that a couple of the examples...the truck on the bottom would probably be over the 10,000. Once one puts the utility bed on the vehicle it usually then exceeds that. Definitely the vehicle on the top would exceed that because of the way it has been retrofitted as well as the long vehicle definitely would exceed that type of weight.

Laura Light asked Brad Townsend to give her a history on this. Why are they doing it? Townsend stated that it was pretty self-explanatory. This was someone's vehicle on their driveway and a complaint from the next door neighbor indicating that this was something undesirable to be kept in the neighborhood. It was directed by city council to draft an ordinance which includes this vehicle, indicating that it needs to be screened or in the building or not on the property.

Susan Baur stated that she had a question about the first paragraph, which she knows is not the amendment. But it says "only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of a home occupation". Is that like a car? What if one has a van in connection with a home occupation that is not exceeding 10,000 pounds?

Brad Townsend stated that the term is "the vehicle". It could be a van, it could be a car, it is whatever is then...when one thinks of a standard home occupation most of them do not require a vehicle coming and going. Most home occupations, the stock broker, the person that stays at home and does their business. What they have is home occupations in which the gentleman is a contractor, a general contractor. The objective is to store his vehicles for his general contractor business somewhere else. Townsend stated that he knows there are members of the public who would like to speak on this.

Susan Baur asked if there were any more questions for staff.

Susan Baur stated that in the pages there are two additional pages, at the top city of Roswell code section related to parking vehicles and then the next page. It has the red; the amendment is in red in these pages.

Brad Townsend stated that he thinks that is what was taken for initiation to the council. Baur clarified that is not what the Commission is voting on. Townsend stated that they are voting on...Baur stated that the words are slightly different; there is more language in that. Townsend stated that once it was initiated the

council asked the staff to include language of loading and unloading of a lawful activity. That was the one change that was made.

Loren Conrad stated that there is a typo in that red section in the second from the bottom line. "You are within and...." Conrad thinks Townsend meant "an" rather than "and", an enclosed building.

Susan Baur asked if there were any further questions for staff. Hearing none, she thanked Brad Townsend. At this point Baur stated that the Commission would hear from member of the public. She asked if there was anyone in the public that would like to speak in favor of this text amendment. He can please come forward now. No one came forward. Baur asked if there is anyone who would like to speak in opposition to this text amendment. He can please step forward now.

Keith Farver

Keith Farver stated that he thinks he has met with everybody on the city council and in the city of Roswell. He has a neighbor who for 14 years has done contracting out of his home cranking trucks at 5:30 to 6:30 in the morning waking Farver up because the driveway is next to his bedroom and coming in at about 7:00 at night. It definitely is a commercial type of business. The neighbor got a license for a home occupation. He is never done a bit of home occupation work in 14 years. He has continued and Farver has pictures of everything from front end loaders to dump trucks loaded with debris, Bobcats, big trailers all over the front yard, trucks all over the front yard. He comes in with this one pickup that he uses commercially loaded to the gills with all kinds of trash that he picks up anywhere he can pick it up at. He does a commercial business and it is not at his home for which he has a home occupation license. Farver stated that he has discussed it and he would be happy if any of the Commissioners would like to look at the group of pictures he has provided, which identifies the type of equipment that he normally comes in with. Farver stated that he has written innumerable letters, he has met with the mayor and some people; he has met with the council people and some other individuals. Then they had another meeting and he intends of course to be at the next one.

Farver stated that his argument is and always will be that the neighbor is a commercial contractor. He has never been a home occupation person. Farver has yet to see him bring one thing to his house and repair it or do anything with it. This is what Farver is argumentative of is that the neighbor is in violation with the materials that he loads on all of these things. He comes in with wood and trash that he has picked up at a contracting site where he is working and he is loaded with it. Farver stated that he didn't understand the Commission's meeting today and his stupidity he cut a little piece out of the newspaper and he thought this was the main hearing. He didn't realize that brand new people were here to discuss whether or not these things should be on the agenda. He didn't know

that. The meeting he should have attended he guessed is in April. Farver apologized for being here but nonetheless these are the things that he and his wife have put up with. They are ready to move or to get an attorney and see if they can fight it in court against the city of Roswell. They think the whole thing has been wrong. This man was born and raised in Louisiana, out in the country. He had access naturally to a lot of farm land so there is where he sat all of these pieces of equipment that the Commission will see. That sat out in the open in farm land.

Farver stated that he bought a house in Brookfield some 30 years ago thinking that he had purchased a home in an upscale neighborhood where he could be proud of where he lived. He got along fine with his first neighbor. He was a real fine fellow but unfortunately he pulled a lawnmower cart and died in the front yard. So that didn't work out very well. His wife, because of a lack of income had to move away and this fellow came in.

This same man has even bragged...Farver got to griping one day, talking with him that he paid an awful lot of taxes and he said, "Oh, I don't pay any." Farver asked the neighbor if he had a friend somewhere. The neighbor stated that he keeps two sets of books. This is the kind of person that the Commission is dealing with. He hides everything he can hide but Farver does not like his trucks, his trailers, Bobcats and all of the rest. He does not think that that location is any place for it. It is residential. That is why Farver bought there. If he had thought that it was going to be a junk yard he assured the Commission that he would not be living in Roswell.

Susan Baur stated that she had a question Farver for the record. Has Farver contacted code enforcement about this issue? Farver stated innumerable times. Baur stated that Farver had said that. What has been the response he has gotten from code enforcement? Farver stated that they look at the codes and they say that the neighbor has not violated them. Farver stated that he has read every code to them. He said they had violated...in fact, in one case where Vicky Barclay wasn't there and he did not know that she wasn't going to be there he went down and talked to a young lady that is her assistant and showed her what he had and she said, "this is an obvious violation...no, he can't do these things." Two hours later Farver gets a call from Barclay. She told Farver that she called Monty; she called him on her cell phone so she must have his cell phone number. He wasn't home. Barclay said that he told her that his pickup truck was broke. Farver stated that is when the neighbor brought in this dump truck that was up there loaded to the gills. Barclay said that he told her that he didn't have any brakes. Farver stated that the neighbor could take it to Pep Boys and he can have brakes in two hours. So, what did Barclay do? She told the neighbor that he could use the dump truck that was already in the yard for 30 days. At the end of the 30 days the truck left, the neighbor got in his pickup and drove away with no problem at all. He didn't have any brake problems. That was another lie that he told to Barclay to get the use of that dump truck for what he needed to move. It

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was a job he had and he couldn't load that pickup with everything that he had to take somewhere, probably to a junk yard. But he did get approval. On past occasions Farver stated that he called back, sometimes repetitively to get these big tall things...he does not know what they are, he is not a contractor. But this man, by the way alleges to be a contractor. He never puts a sign on a truck. He does not want anybody to know anything about him. He just wants to hide behind the whole mess and keep on going. That is what Farver has had and he thinks 14 years of it is enough. He can take the Commission to the neighbor's first application he got in Roswell in 1994. The first part of 95 he went down and applied for a home occupation. If one reads the answers that he put back on those questions, he lied about half of them.

Susan Baur stated that Farver stepped forward in opposition to this text amendment. It sounds like he is in favor of this text amendment. Farver stated that he does not want that text amendment is necessarily but he wants to see that man and his trucks to disappear and let him and his wife have a normal life where they can sleep in the morning if they want to. Farver stated that he is 83 years old. He is a World War II veteran. He thinks that at his age he should be allowed to live a normal life without having a junk yard beside his home. He is ashamed of it. He doesn't want people coming to see him and to look at this stuff over there. One wouldn't if he thought he lived in a decent looking home, he wouldn't all of this stuff next to him. The man doesn't own the house anyway.

Susan Baur thanked Farver for his feedback. She asked if anyone had any questions for Farver. Farver stated that he knows Brad Townsend quite well and that was another matter brought about by Jarnigan. He caused it all with Townsend. Farver stated that when Jarnigan moved there he didn't have a lawn mower, he didn't have any tools. Farver loaned him tools, loaned him lawn mowers, mowed his yard. Then the step son rolled a truck down the hill right at the end of the driveway. So Farver went and got cables and an extra car and pulled the car back up the hill. He thought he was trying to be a good neighbor. The next thing that he know, Jarnigan gets an old riding lawn mower and he gets it repaired and he does not like to cut grass. He does not want to cut it but once a month if he can get by with it. So, he lowers the mower down against the ground and he cuts his grass. Farver stated that he does not care if he cuts his that way but he found it was very handy to go from his driveway up into Farver's yard, scalp his yard and then make a turn around with a u-turn and go down and come back up and do it again. Farver stated that he put a little rope down the property line. The next thing he knows the code department comes out and said that was not a rope, he had a fence. So Farver took the rope down and went to see Brad Townsend. He said to Townsend, "Here's a nice looking fence, can he put this fence up." Townsend looked at it very long and said, "Yes, you can put that fence up." The next day, there was a little bit of wire in it, not very much, just like there is one up on King Road which they fought him and he won it. He still has the wire on his. The man around the corner from Farver still has the wire. So, Townsend

said he could either take the wire out or he could take the fence down. Farver stated that was another problem, the same neighbor.

Susan Baur stated that the Planning Commission needs to stay on task with the issue of the vehicles for the purpose of what they are talking about tonight. Farver stated that he just wanted to bring that up. Baur thanked Farver for sharing the pictures with the Commission.

Baur asked if anyone had any questions. Is there anyone else from the public that would like to speak in favor or in opposition to this text amendment?

Domingo Donowatka
Brookfield West

Domingo Donowatka stated that he has been a resident of Brookfield for the past 20 years. He moved to Roswell from the Philippines after the war. He bought a home in Brookfield in 1990 and he has been very happy there. He is here tonight to oppose the parking of commercial vehicles. When one buys a home, he looks forward to the value going up. Allowing this, commercial vehicles to be parked on the street and on driveways is sabotaging the value. Donowatka stated that he pays his property taxes every year. He has never been delinquent. He has lived in Roswell and he loves Roswell. But he does not like what is going on. If the Commission allows this, they can kiss the values goodbye. They are prostituting a good neighborhood. Let their conscience be their guide. Do what they want to do.

Sarah Winner stated that she would just like to point out that it sound like both Donowatka and Farver are actually supporting a new rule that Roswell is trying to put in place through this process that would give code enforcement a tool that would allow them to prevent trucks from parking in driveways. So, when he goes to the next meeting when city council discusses this, he and Farver need to understand that they should not speak in opposition to trucks. They should speak in favor of this new rule that would ban big commercial trucks if that is their opinion.

Donowatka asked why it was not worded that way. Sarah Winner stated that it is. Basically they are saying, "are you in favor of this new rule?" They are not saying is one in favor of big trucks. They are asking if one is in favor of this new rule, is he opposed to this new rule.

Donowatka stated that he is opposed. He is opposing...

Winner clarified that Donowatka is opposing the new rule. That is what she believes he is saying. Donowatka stated that if that is what it is then he is in favor of the new rule. But what he is saying is he opposes the parking of commercial, unsightly vehicles on the streets of the subdivision, which could cause accidents

and parking of these unsightly vehicles on the driveways and so forth which brings the value of the village down.

Susan Baur stated that the final closure on this is that basically Roswell is saying that they want to pass a new; they are considering passing a new rule that says no one shall park a big commercial vehicle on any residential driveway unless it is completely hidden from view. She thinks that is something that Donowatka is supporting. It is the consideration of a new rule that the Commission is discussing right now.

Donowatka stated that aside from that it wears out the roads because of the gross vehicular weight of the vehicle. Susan Baur stated that the Commission understands and thanked Donowatka for his time.

Susan Baur asked if there was anyone else from the public who would like to speak in favor or in opposition to this text amendment. Seeing no more members of the public who are going to speak Baur closed the public portion of the hearing and opened the floor for discussion among the Commissioners.

Baur asked if there were any further questions for staff about this proposed text amendment.

Laura Light stated that all of this discussion has led her to think about a question that she has. They have in here that no person shall park or stand any commercial vehicle. Is there anyway someone who might be prone to doing some shenanigans say that this truck isn't commercial it is his own personal truck? In other words, does the word commercial need to be in there?

Brad Townsend stated that it does. The state statutes are pretty clear as to pulling that word in dealing at least different classes, different weights and different uses of the vehicle.

Susan Baur asked if there were any other questions for staff.

Loren Conrad stated that these other pieces of heavy equipment, etc; how is that covered in the ordinances? Brad Townsend stated that unless the equipment is there being utilized on some permit that has been issued for the property, it can't be stored on the property. Conrad clarified that that was covered by another ordinance. Townsend stated that it was covered by other codes. Conrad stated that he was not aware of it. That is why he is asking where...because it is obvious that there is some of that going on, too. Townsend agreed.

Susan Baur made reference to Laura Light's question. If someone has a personal truck, over 10,000 pounds full of junk in their driveway, this ordinance doesn't cover that? It has to be a truck used for commercial purposes?

Brad Townsend stated that there are probably other code sections that one could probably point to if it just that one is hauling trash or he is hauling limbs or things of that nature. He is not going to be able to foresee every instance but if the scenario is over 10,001 pounds labeled commercial it needs to be screened or in a building.

Sarah Winner stated that it was her understanding that whether somebody uses their truck for a massage parlor, for personal use or they use it for hauling junk if it is over 10,000 pounds and has the GA DOT number on it, by definition that vehicle is a commercial vehicle even if somebody uses it as a bedroom. Townsend stated that was correct. Winner stated that there isn't an issue where someone is saying that it is just a personal truck. By definition it is a commercial truck because it is so heavy that it is classified as that. Brad Townsend stated that Winner was correct. Winner stated that she thinks that was the confusion. Townsend stated that was the way the state licenses are.

Laura Light stated that she like what Tom Wilson said. The commercial vehicle and trailer. Wilson stated the combination of vehicles. She likes that so that one does not have a trailer on the back that is loaded to the gills and then a smaller truck.

Brad Townsend stated that is a very good change. He thinks that really helps to tighten it up.

Susan Baur asked if there were any other questions for staff.

Loren Conrad stated that if they do the combination of vehicles here under this paragraph C, could they also apply that to A and B in terms of the eight ton gross limit, etc?

Brad Townsend stated that he guesses that could apply. Conrad stated that one could have a pickup truck that didn't meet the limit but he could have a trailer that is carrying equipment that would bring it over the limit. That would be not attractive either. He would suggest that they put that same language in all of these paragraphs so that the combination weight brings it out of compliance. Brad Townsend agreed.

Motion

Loren Conrad stated that with those suggestions he thinks the Commission should approve this ordinance text amendment RZ10-01 as they have discussed it and as amended. With the "or combination of vehicles" addition to it.

Tom Wilson seconded the motion. The motion passed unanimously. The record shall reflect unanimous approval of this text amendment with additional

recommendations. This recommendation will go forward to mayor and city council next month.

APPROVAL OF MINUTES

Susan Baur asked if there were any comments regarding the January 19, 2010 minutes of the Planning Commission.

Loren Conrad stated that he read a statement in the minutes that he doesn't think...on page 5 of 7, right in the middle it says, "Loren Conrad asked if there were typos. Winner stated that there were a couple. He does not remember how that went. He does not remember raising that question. Laura Light asked Conrad if it really matters whether or not he asked if there were typos. Conrad stated probably not. Light stated that they would like to blame him. Conrad stated that he guessed it was okay.

Susan Baur asked for a motion to approve the minutes.

Motion

Loren Conrad made a motion to approve the January 19, 2010 minutes of the Roswell Planning Commission. Laura Light seconded the motion. The minutes were approved unanimously with the exception of Tom Wilson who was not yet a member of the Planning Commission.

ADJOURN

The meeting adjourned at 8:30 p.m.

Susan Baur, chairman

CC: mayor and city council
community development
applicant's files



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