



City of Marietta
Meeting Minutes
PLANNING COMMISSION

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

(Col. Ret.) Kenneth Dollar, Ward 2 - CHAIRMAN
William Florence, Ward 1 *Carol Ann Sonnenfeld, Ward 3*
Donald Gillis, Ward 4 *Kenneth Carter, Ward 5*
Bob Kinney, Ward 6 *Benjamin Parker, Ward 7*

Tuesday, May 6, 2008

6:00 PM

City Hall Council Chambers

Present: (Col. Ret.) Kenneth Dollar, R. W. "Bob" Kinney, Benjamin Parker, Carol Sonnenfeld, William Florence, Kenneth Carter and Donald Gillis

Staff:

Brian Binzer, Development Services Director
Rusty Roth, Development Services Manager
Patsy Bryan, Secretary to the Board
Shelby Little, Urban Planner
Michael Cullen, Urban Planner
Daniel White, City Attorney

CALL TO ORDER & ROLL CALL:

MINUTES:

20080452 April 1, 2008 Regular Planning Commission Meeting Minutes

Review and Approval of April 1, 2008 Planning Commission Meeting Minutes

Mr. Kinney made a motion to accept the April 3, 2007 Planning Commission Meeting Minutes as submitted, with minor correction in work session, seconded by Mrs. Sonnenfeld. Motion carried 7 - 0.

A motion was made by Commissioner Kinney, seconded by Sonnenfeld, that this matter be Approved. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

ANNOUNCEMENT:

At this time, Chairman Dollar acknowledged Commissioner Florence for his 7 years of dedicated service, his outstanding leadership and strong support to the Planning Commission.

REZONINGS:

20080354 Z2008-03 Gene Atkinson (First Methodist Church) 75, 87 and 99 Polk Street

Z2008-03 [REZONING] GENE ATKINSON request rezoning for property located in Land Lot 1219, District 16, Parcels 520, 020 and 0500, 2nd Section, Marietta, Cobb County, Georgia and being known as 75 Polk Street, 87 Polk Street and 99 Polk Street from PRD-MF (Planned Residential Development Multi-Family) to OI (Office Institutional). Ward 3.

File #20080354 (Z2008-03) was presented by Mr. Roth for property located at 75 Polk Street, 87 Polk Street and 99 Polk Street. The applicant for First Methodist Church, Gene Atkinson, is requesting rezoning from PRD-MF (Planned Residential Development Multi-Family) to OI (Office Institutional).

Roy Barnes, on behalf of the First Methodist Church, stated that this is a down zoning for a 6.5 acre parcel of land next to Winnwood Retirement Home. The Church wants to develop this as a park, a pavilion and a replica of the original log cabin church. According to Mr. Barnes there will be low level electricity in the log cabin.

The park area will have a pavilion with a natural amphitheatre, and will include 3 activity fields and an ADA compliant walking path with interlocking pavers, with the log cabin on the Polk Street side. The existing chain-link fence will be removed and replaced with a decorative fence.

Roy Barnes introduced Pastor Sam Matthews, Judge Robert Flournoy and Betzy Mitchell.

Mr. Kinney verified the location of the original church.

Betzy Mitchell, church administrator, clarified the location of the replica chapel.

Mr. Kinney questioned the status of the trees and arborist and master gardener Tim Gerlarden and Pam Bohlander have started a study and will follow regulations for trees and landscaping. Roy Barnes pointed out that there are dead and diseased trees that need to be removed.

Roy Barnes stated that they do not have a problem with removal of interior property lines except they are trying to avoid another costly survey.

This project will take 175 days and will be completed by October 19, 2008. According to Betzy Mitchell, all setback requirements will be honored for the different property lines, although everything is zoned the same and belongs to the First Methodist Church. This whole project is about celebrating 175 years in Cobb County as told by Betzy Mitchell.

Master Land Planner Charles Franzman assisted in retaining as many trees and green space as possible.

Chairman Dollar confirmed that there will not be a fee assessed for the use of facility. It will be open to the public.

Mr. Kinney moved to recommend to city council that this property be rezoned to OI, subject to the stipulation that the use of this property be limited to church related uses, a community center, park or recreational facility, seconded by Mr.

Carter.

Motion carried 7 - 0.

A motion was made by Commissioner Kinney, seconded by Commissioner Carter, that this matter be Recommended for Approval as Stipulated. The motion carried by the following vote:

Vote: 7 - 0 - 0

Recommended for Approval as Stipulated

20080346 Z2008-04 Mary Lorraine Morrison-Ross and William L. Ross 317 Camp Street

Ord 7157 Z2008-04 [REZONING] MARY LORRAINE MORRISON-ROSS AND WILLIAM L. ROSS request rezoning for property located in Land Lot 1148, District 16, Parcel 0790, 2nd Section, Marietta, Cobb County, Georgia and being known as 317 Camp Street from R-3 (Single Family Residential - 3 units/acre) to PRD-SF (Planned Residential Development - Single Family). Ward 4.

File #20080346 (Z2008-04) was presented by Mr. Roth for property located at 317 Camp Street from R-3 (Single Family Residential) to PRD-SF (Planned Residential Development Single-Family).

Pete Waldrep, Jr. is representing Mary Lorraine Morrison-Ross and William L. Ross. William L. Ross is Pastor of the First Baptist Church in Marietta.

In 2003, a building permit was granted for a lot that had been subdivided off of 160 Stewart Avenue and subsequently a home built. Variances were granted thru the administrative variance process with written approval from adjacent property owners. When the permit was granted in 2003 and the administrative variance was granted, it was indicated that the house being constructed was a guest house which was never the intent.

As explained by Mr. Waldrep, the intent here is to construct a 2 car garage with living space above and clean up any misconceptions about the house. Mr. Waldrep requested that the zoning be changed from R-3 to PRD-SF, site plan specific.

Mr. Kinney questioned John Palmer's name being crossed out and the hand written name of James C. & JoAnne Taylor indicating an address of 347 Camp Street, which has a pending variance application.

Mrs. Ross explained that prior to going before the BZA, they had obtained the neighbors' permission and that this is a very recent change in ownership.

Mr. Waldrep stated that the fire department has requested the use of a sprinkler system and they agree to sprinkle only the addition.

Mr. Gillis made a motion to approve the rezoning subject to the Marietta Fire

*Department stipulations that the addition be sprinkled, seconded Mr. Florence.
Motion carried 7 - 0.*

A motion was made by Commissioner Gillis, seconded by Florence, that this matter be Recommended for Approval as Stipulated. The motion carried by the following vote:

Vote: 7 - 0 - 0

Recommended for Approval as Stipulated

OTHER BUSINESS:

20080454 CA2008-02 Proposal to amend the Comprehensive Development Code of the City of Marietta relating to Section 708, Places of Assembly

Ord 7156 CA2008-02 [CODE AMENDMENT] Amendment to the Comprehensive Development Code. Proposal to amend Section 708 of the Comprehensive Development Code of the City of Marietta specifically related to Places of Assembly.

File #20080454 (CA2008-02) was presented by Mr. Roth for a proposal to amend the Comprehensive Development Code of the City of Marietta related to Section 708, Places of Assembly.

Daniel White explained that this originated thru the legal department, and the changes are being made due to litigation that the city is currently involved in through Federal Court. This is an attempt by the city to correct any problems with the zoning ordinance that might treat religious places of assembly separate from secular places of assembly. The City wants to be in compliance with the court's order. In order to remedy this, a code amendment proposing to allow all places of assembly, including churches, secular and other places of assembly in addition to private parks, playgrounds, recreational centers or swimming pools as uses that can be included in a residential area with the special use permit through city council.

Opposition to this amendment included:

Pastor Warren Dillon, Pastor of In His Image Ministry and Church asked that this item be postponed or tabled for 30 days in order to give clergy of the city and concerned people an opportunity to understand the impact of this Amendment. Pastor Dillon explained the vagueness of the stipulation for special use.

Pastor Frederick Anderson, Pastor of Covenant Christian Ministries also stated that it is not clear and leaves sole discretion to council to choose from one church to another.

Pastor Larry Collins, Sr., Senior Minister of New Hope Christian Fellowship Ministries, is also opposed because of vagueness of Amendment and is requesting an additional 30 days.

Pastor Frederick Anderson explained that his colleagues have discussed this issue and the concern is the vagueness and council having sole discretion which is an unfair process.

Pastor Anderson stated to Mr. Gillis that during these 30 days, he would be hopeful that the city would meet with the religious community.

As far as the request to table, Daniel White explained that this is an amendment brought at the direction of council by legal counsel and it is their prerogative to table. The request would need to be made at the City Council meeting since the Planning Commission does not have authority to table.

Mr. Kinney asked staff as to how they respond to their objections of vagueness.

As far as the Special Land Use Permit is concerned, Daniel White explained that there is an entire section for Special Land Use Permits, Section 712.01. In 712.01, there are no less than 11 considerations that have to be taken into account including:

- 1. Whether or not there will be significant adverse effect on the neighborhood or area in which the proposed use will be located.*
- 2. Whether or not the use is compatible with the neighborhood.*
- 3. Whether or not the proposed use will constitute a nuisance as defined by state law.*
- 4. Whether or not the property values of surrounding property will be adversely affected.*
- 5. Whether or not adequate provisions are made for parking and traffic considerations.*
- 6. Whether or not the site or intensity of the use is appropriate.*
- 7. Whether or not adequate provisions are made regarding hours of operation.*
- 8. The location or proximity of other similar uses (whether conforming or non conforming).*
- 9. Whether or not adequate controls and limits are placed upon commercial deliveries.*
- 10. Whether or not adequate landscaping plans are incorporated to ensure appropriate transition.*
- 11. Whether or not the public health, safety and welfare of the surrounding neighborhoods will be adversely affected.*

These 11 items have to be considered in all Special Use Permit situations. These 11 items in addition to the 3 standards that are set forth in the proposed amendment will have to be considered as relevant factors in any Special Use Permit application.

Further discussion continued between Pastor Anderson and members of the Commission.

Mr. Carter made a motion to give the church thirty (30) days to be able to work out whatever business is to be done, seconded by Mr. Parker.

As a point of order, clarification for the record is whether you are recommending that the city table the request.

Mr. Kinney made a substitute motion to progress this proposed change to this ordinance to city council with a recommendation that it be delayed for a period of time so that explanations can be passed out to the community as to exactly what is involved, seconded by Mr. Parker.

Chairman Dollar offered an amendment to Mr. Kinney's motion to specify a 60-day period; Mr. Kinney accepted Chairman Dollar's friendly amendment and included it as part of his motion, seconded by Mr. Carter.

Daniel White stated that there is pending litigation. The city still has their summary judgment claims and this is the city's attempt to come into compliance with the court's order as quickly as possible.

According to Chairman Dollar, in summary the motion is that it goes before city council with the recommendation that action on this proposed code change be held in abeyance for at least 60 days. Motion carried 6 - 1 - 0 with Mrs. Sonnenfeld in opposition.

A motion was made by Commissioner Dollar, seconded by Commissioner Carter, that this matter be Tabled. The motion carried by the following vote:

Vote: 6 - 1 - 0

Tabled

Vote Against: 1 - Carol Sonnenfeld

ADJOURNMENT:

The May 6, 2008 Planning Commission Meeting adjourned at 7:23 p.m.

KEN DOLLAR, CHAIRMAN

PATSY BRYAN, SECRETARY